



EUROPEAN COMMISSION

Directorate-General for Trade
Directorate G - Trade Strategy and Analysis, Market Access
Market Access, Industry, Energy and Raw Materials
Head of Unit

Brussels,
trade.dga2.g.3(2016)5570824

By registered letter with acknowledgment of receipt

Mr Thomas O'Neill
40 Bermondsey Street
London, SE1 3UD
United Kingdom

Advance copy by email:
ask+request-3145-5373e7c0@asktheeu.org

Subject: Your application for access to documents – Ref. GestDem No 2016/4167

Dear Mr O'Neill,

I refer to your application of 25 July 2016 in which you make a request for access to documents in accordance with Regulation (EC) No 1049/2001,¹ registered under the above mentioned reference number, and to your email of the same day in which you clarify the scope of such request.

In particular, you would like to receive access to

- "- a list of meetings of DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of the companies Royal Dutch Shell and Exxon-Mobil, and the trade associations BusinessEurope and The European Chemical Industry Council (Cefic), including lobby consultancies and law firms acting on their behalf, in which TTIP policy on energy and or raw materials were discussed in reference to forthcoming negotiations (between December 1st 2015 and July 25th 2016).*
- minutes and other reports of these meetings;*
- all correspondence (including emails) between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of Royal Dutch Shell, Exxon-Mobil, BusinessEurope and CEFIC, including lobby*

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

consultancies and law firms acting on their behalf, in which TTIP policy on energy and or raw materials were discussed in reference to forthcoming negotiations (between December 1st 2015 and July 25th 2016)."

We have identified the following two documents that fall within the scope of your request:

- Report of a meeting with the International Relations Committee of Business Europe (29/01/2016);
- Report of a meeting with Corporate Advisory and Support Group of Business Europe (22/02/2016);

I am glad to inform you that full access can be granted to the content of these documents. However, some personal data have been withheld in one of the documents in accordance with Article 4.1(b) of Regulation 1049/2001. However, in line with the Commission's commitment to ensure transparency and accountability,² the names of the Director-General and members of Cabinet are disclosed.

Article 4.1 (b) of Regulation 1049/2001 provides that "*[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.*"

The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.³

The Court of Justice has ruled that "*where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data*" "*the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety*".⁴

Article 2(a) of Regulation 45/2001 provides that "*'personal data' shall mean any information relating to an identified or identifiable natural person [...]*". The Court of Justice has confirmed that "*there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'*"⁵ and that "*surnames and*

² See Commission decisions C(2014) 9051 and C(2014) 9048 of 25 November 2014.

³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and the free movement of such data, OJ L 8, 12.1.2001, p. 1.

⁴ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64.

⁵ Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

forenames may be regarded as personal data",⁶ including names of the staff of the institutions.⁷

In accordance with Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish "*the necessity of having the data transferred*" and additionally "*if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced*". The Court of Justice has clarified that "*it is for the person applying for access to establish the necessity of transferring that data*",⁸ including names of the staff of the institutions.⁹

I consider that you have not established the necessity of having the aforementioned personal data transferred to you. Moreover, it cannot be assumed on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

In case you would disagree with the assessment that the withheld data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Francisco PEREZ CANADO

⁶ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁷ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

⁸ *Id.*, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77.

⁹ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.