



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Consumer, Environmental and Health Technologies
Chemicals

Brussels
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Mr Mihkel Poola
[ask+request-4653-
46c35cc0@asktheeu.org](mailto:ask+request-4653-46c35cc0@asktheeu.org)

Dear Mr Poola,

**Subject: Your application for access to documents –
Ref GestDem No 2017/5418**

We refer to your request for access to documents, registered on 19 September 2017 under the above mentioned reference number.

1. SCOPE OF YOUR REQUEST

You request access to "*[d]ocuments related to the Proposal of the European Commission for a regulation of the European Parliament and of the Council laying down rules on the making available on the market of CE marked fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 (hereafter: the "Proposal") and more specifically related to the topic of limits for contaminants in fertilizers, or at which such limits were discussed:*

(a) Any document related to meetings or other communications, such as, but not limited to

1) meeting requests,

2) list of participants and parties on whose behalf such meetings were requested or whose interests were represented,

3) any materials submitted before, during or after such meetings,

4) any correspondence related to such meetings or to topics discussed or to be discussed at such meetings,

5) any follow-up documents, such as minutes, conclusions or summaries generated after such meetings, with private parties (including third parties), their representatives, associations, or other collective bodies, held or requested or received between 1 January 2012 and 17 March 2016, of which the topic was, or turned out to be, limits for contaminants in fertilizers, or at which such limits were discussed;

(b) Any document related to meetings or other communications, such as, but not limited to

1) meeting requests,

2) list of participants and parties on whose behalf such meetings were requested or whose interests were represented,

3) any materials submitted before, during or after such meetings,

4) any correspondence related to such meetings or to topics discussed or to be discussed at such meetings,

5) any follow-up documents, such as minutes, conclusions or summaries generated after such meetings, with private parties (including third parties), their representatives, associations, or other collective bodies, held or requested or received between 17 March 2016 and 18 September 2017, of which the topic was, or turned out to be, limits for contaminants in fertilizers, or at which such limits were discussed;

(c) Any document, including, but not limited to,

1) internal correspondence of EC officials, as well as with outside parties, relating to limits to be proposed,

2) documents showing why specific numbers (and not other numbers) were proposed and chosen as limits for specific contaminants in the Proposal,

3) different drafts of Proposal related to contaminants and Annex I prior to its finalization,

4) your version of the Proposal,

5) your input during the inter-service consultations on the Proposal with respect to contaminant limits,

6) any opinions of lawyers relevant to contaminant limits, held or requested or received between 1 January 2012 and 18 September 2017, related to the adoption of the Proposal in the part relevant to limits on contaminants in fertilizers."

2. INFORMATION AVAILABLE FROM OTHER SOURCES

As mentioned to you in our communication dated 10 October 2017, which was sent to your correct e-mail address on 12 October 2017, many interesting databases with information on this topic are already publically available, or available to anyone following simple registration. We refer to the links we included in that communication, and reiterate our readiness to assist you in navigating towards the parts of the databases that might be most relevant for your topic of interest, because of the large number of documents contained therein.

3. DISCLOSURE OF 41 DOCUMENTS

On top of those documents, we have until now managed to identify 41 documents that match the scope of the request.

Due to the large number of documents concerned by your request, we are still working in preparing the relevant documents. The list of the 41 documents ready to be disclosed is in annex. A reply concerning the second batch of documents will follow in the coming days.

You may reuse the documents originated from the Commission free of charge for non-commercial and commercial purposes provided that the source is acknowledged, and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse¹. Instead, the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

Some of the documents to which you have requested access contain personal data.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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 data².

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged 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.

¹ See the Decision of the Commission of 12 December 2011 (2011/833/EU), OJ L 330/39 of 14 December 2011 for details; this Decision does not apply to documents for which third parties hold the copyrights, Article 2 (2) (b).

² Official Journal L 8 of 12.1.2001, p. 1

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

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,

-e-signed-

Luisa Prista
Head of Unit

Annexes: Document register
 Zipped file containing 41 documents

DATE	TITLE	ARES reference	AUTHOR	ADRESSEE
16/01/2012	Study on options to fully harmonise the EU legislation on fertilising materials	Ares(2017)5302787	Bipro	European Commission
16/01/2012	Annexes to Study on options to fully harmonise the EU legislation on fertilising materials	Ares(2015)4535306	Bipro	European Commission
16/01/2012	Annex VI to Study on options to fully harmonise the EU legislation on fertilising materials	Ares(2017)5302787	Bipro	European Commission
01/2012	Thought starter for Working Groups	Ares(2017)4893952	ENTR D2	WG participants
18/01/2012	Report of meeting of "Working Group 3"	Ares(2017)4893952	ENTR D2	WG participants
20/04/2012	Report of meeting of "Working Group 3"	Ares(2017)4893952	ENTR D2	WG participants
20/09/2012	Report of meeting of "Working Group 3"	Ares(2017)4893952	ENTR D2	WG participants
02/04/2014	Mission report	Ares(2016)6494685	ENTR D2	Internal
20/04/2015	Letter from KV and EB to Azoty	Ares(2016)6494685	Commissioners Bieńkowska and Vella	Groupa Azoty

25/01/2016	Review of the regulation on the placing on the market of fertilizers	ARES(2016)978086	Zentralverband Gartenbau (ZVG)	Jyrki Katainen
05/02/2016	Letter from Fertilizers Europe regarding proposal for new fertilizer regulation	ARES(2016)648259	Fertilizers Europe	Timmermans, Bienkowska, Katainen, Vella, Hogan, Malmström, Italianer, Evans, Calleja Crespo, Plewa
09/02/2016	Position of the group AZOTY on the new regulation on fertilizers	ARES(2016)688033	Groupa Azoty	Bienkowska Elzbieta
09/02/2016	Position of the group AZOTY on the new regulation on fertilizers (cover letter)	ARES(2016)688033	Groupa Azoty	Bienkowska Elzbieta
09/02/2016	Position of the group AZOTY on the new regulation on fertilizers (cover letter)	ARES(2016)688033	Groupa Azoty	Bienkowska Elzbieta
15/02/2016	Spanish Magrama Position on Cadmium content in phosphate fertilisers	Ares(2017)719875	MAGRAMA	GROW/D2
15/02/2016	Cover letter Spanish Magrama Position on Cadmium content in phosphate fertilisers	Ares(2017)719875	MAGRAMA	GROW/D2

18/02/2016	Letter from Polish Chamber of Chemical Industry	ARES(2016)902727	Polish Chamber of Chemical Industry	Bienkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli
19/02/2016	Fertilizer regulation and cadmium in phosphate fertilizers	ARES(2016)885646	Fertilizers Europe	Husak Tomasz
19/02/2016	Fertilizer regulation and cadmium in phosphate fertilizers (cover note)	ARES(2016)885646	Fertilizers Europe	Husak Tomasz
22/02/2016	Cover note PIPC to Cabinets	ARES(2016)902727	Polish Chamber of Chemical Industry	Bieńkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli
23/02/2016	Letter from Tervalis (Fertinagro) regarding concerns on proposed EU limits on Cadmium in phosphate fertilisers	ARES(2016)947904	Tervalis	Bieńkowska Elzbieta
24/02/2016	Letter from OCP S.A. to Ms. Lowri Evans, dated 24/02/2016 on the "Proposed EU limits on cadmium in phosphate fertilisers"	Ares(2016)6299935	OCP	Evans Lowri
24/02/2016	Letter from OCP S.A. to Ms. Elzbieta Bieńkowska, dated 24/02/2016 on the "Proposed EU limits on cadmium in phosphate fertilisers"	Ares(2016)967280	OCP	Bieńkowska Elzbieta

25/02/2016	Email ANFFE to Cabinets	ARES(2016)970467	ANFFE	Bieńkowska Elzbieta
25/02/2016	Letter from ANFFE	Ares(2016)970467	ANFFE	Bieńkowska Elzbieta
02/03/2016	Cadmium in Phosphate fertilisers	ARES(2016)1065600	ROULLIER	Bieńkowska Elzbieta
11/03/2016	Letter from Bieńkowska to Fertilisers Europe	ARES(2016)1240435	Bieńkowska Elzbieta	Fertilisers Europe
11/03/2016	Reply from Lowri Evans to Tervalis (Fertinagro)	Ares(2016)1252873	Lowri Evans	Tervalis (Fertinagro)
16/03/2016	Reply from Unit D2 to Zentralverband Gartenbau e.V.	Ares(2016)1319605	GROW/D2	Zentralverband Gartenbau e.V.
17/03/2016	Reply from Bieńkowska to OCP	Ares(2016)6299935	Bieńkowska Elzbieta	OCP
17/03/2016	Reply from Unit D2 to ANFFE	Ares(2016)1361833	GROW/D2	ANFFE
20/04/2016	R- Position of the Group AZOTY	ARES(2016)1873964	Bieńkowska Elzbieta	Group AZOTY
22/04/2016	Polish Permanent Representation to the EU	Ares(2016)1997883	Polish Permanent Representation	Cabinet Bieńkowska Husak Tomasz
12/05/2016	Reply from Jyrki Katainen	Ares(2016)2228425	Jyrki Katainen	Polish Chamber of Chemical Industry

24/05/2016	Revision of EU Fertilizer Regulation	ARES(2016)2498434	Polish Chamber of Chemical Industry	Bienkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli
09/06/2016	R-Letter Deputy Prime Minister of Poland Mateusz Morawiecki - CE marked fertilising products	ARES(2016)2691849	Bieńkowska Elzbieta	Morawiecki Mateusz
13/06/2016	Cover note to briefing paper by OCP S.A.	Ares(2016)5883374	OCP	DG GROW
13/06/2016	Briefing paper by OCP S.A.	Ares(2016)5883374	OCP	DG GROW
15/06/2016	Report from a meeting with the legal representatives of OCP	Ares(2016)3477575	DG GROW	Internal
06/07/2016	Report from a meeting with OCP	Ares(2016)5861100	DG GROW	Internal
15/09/2016	Email from Phosagro	Ares(2016)5359974	Phosagro	Cabinet Bieńkowska