Appeal against DG Trade’s decisions on access to documents, 27 May 2013

Dear Madam,

in an access request under Regulation No 1049/2001 via asktheeu.org dated 4 March 2013 (see www.asktheeu.org/de/request/high_level_working_group_on_jobs#incoming-1312 for the whole correspondence) I had asked for access to the full membership list of the High Level Working Group on Jobs and Growth (HLWG)¹ which has recommended the launch of free trade negotiations between the EU and the US.

Raluca Moldovan from DG Trade responded to this request on 5 March 2013, claiming that there is no full membership list of the HLWG. This was followed by an exchange between myself and Ms Moldovan, during which I specified that I would like to know who the actual authors of the reports produced by the HLWG. I also referred to the Code of Good Administrative Behaviour;² under which, according to DG Trade’s internal Vademecum on Access to Documents, access to information requests should be handled in cases where no document exists in which the requested information can be found.³ To that, Raluca Moldova responded that my “request does fall outside the purpose of Regulation No 1049/2001”. The last email from our exchange dates from 8 April 2013.

With this letter I would like to confirm my initial request. I do not agree with DG Trade’s non-disclosure of the requested information and would like to ask you to review the decision.

According to the EU’s transparency initiative, which was established with the aim of strengthening public trust in EU institutions through increased openness and accessibility,

¹ http://ec.europa.eu/enterprise/policies/international/cooperating-governments/usa/jobs-growth/index_en.htm
² http://ec.europa.eu/civil_society/code/dealing_en.htm
³ In DG Trade’s Vademecum on Access to Documents from October 2010, which was sent to Corporate Europe Observatory by the Commission, it is stated: “The right of access applies to existing documents. This may sound obvious, but it means that the Regulation does not require us to create documents to meet a given request (although we do normally provide lists of meetings or documents covered in a request) nor to reply under the Regulation to requests for information rather than documents per se. Requests for information should be handled under the Code of Good Administrative Behaviour (see: http://ec.europa.eu/civil_society/code/dealing_en.htm).
European citizens “have a right to know how the European institutions are preparing decisions, who participates in preparing them”.

Article 15 EU Treaty similarly states that “in order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.”

The EU and US are currently preparing negotiations for an encompassing free trade agreement on the basis of the conclusions of the HLWG. This trade agreement will have implications for billions of people on both sides of the Atlantic. Hence, the public has a right to know who actually participated in the HLWG and wrote the recommendations.

Furthermore, following an access to documents request to the United States Trade Representative, the documents have been produced, proving that, contrary to claims made by DG Trade, they do in fact exist.

I therefore ask you to reconsider the case and grant me access to the withheld information, as well as explain why a document containing the information I requested is available in the US but not in the EU, despite the names in the document pertaining to EU officials.

Yours sincerely,

Pascoe Sabido

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4  http://ec.europa.eu/transparency/
THE SECRETARY-GENERAL
EUROPEAN COMMISSION
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