



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Director-General

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By registered letter with acknowledgment of receipt

Peter TEFFER
EU observer
Rue Montoyer 18B
1000 Brussels

Copy by email:
ask+request-5896-427d44a5@asktheeu.org

Subject: Your application for access to documents - GestDem 2018/4681

Dear Mr Teffer,

I refer to your e-mail dated 3 September 2018 in which you make a request for access to documents, registered on 4 September 2018 under the above mentioned reference number.

You request access to documents which contain the following information

- All communication since 8 January 2018, including but not limited to e-mails and reports or minutes from phone conversations, from the European Union to the United States, and vice versa, about the eighth United States-European Union Energy Council
- All internal European Commission communication, including but not limited to e-mails, lines to take, presentations, verbatim reports, (hand-written) notes and minutes from conversations, prepared for, at, or after the eighth United States-European Union Energy Council held on 12 July 2018 in Brussels

With respect to your first request for all e-mails and reports or minutes from phone conversations between the EU and the US, I regret to inform you that your application cannot be granted as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The disclosure of these documents would undermine the public interest as regards international relations within the meaning of Article 4(1)a, third indent, of Regulation (EC) No 1049/2001. Disclosure would undermine the position of the European Union in its relations with the United States of America, as it would reveal the bilateral deliberations, exchanges of opinions and exchange of sensitive information on the practical and political preparations of the EU-US Energy Council.

With respect to the second request, your application concerns the following documents:

	type
1	EU-US Energy Council meeting agenda
2	Briefing for the Trans-Atlantic Working Group of the Council (COTRA)
3	Briefing for COREPER
4	Annotated agenda of the EU-US Energy Council
5	Briefing book
6	Press release – final draft
7	Debrief to the Member States
8	Internal report of the Commission and EEAS
9	Debriefing for the Energy Working Group
10	Debriefing for COREPER

Following an examination of these document under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I can inform you that:

- full access can be granted to documents 1 and 6;
- partial access can be granted to documents 3, 7 and 10;
- and access cannot be granted for documents 2, 4, 5, 8 and 9.

i) Full access - documents 1 and 6.

Document 1 is the agenda of the EU-US Energy Council meeting and is publicly available on the website of the Council at:

<http://data.consilium.europa.eu/doc/document/ST-10810-2018-INIT/en/pdf>

Document 6 is the final draft version of the press release that was issued immediately following the EU-US Energy Council meeting. It is identical to the version released on the website of the EEAS at: https://eeas.europa.eu/headquarters/headquarters-homepage/48322/joint-press-release-european-union-and-united-states-america-held-their-eighth-energy-council_en.

ii) Partial access - documents 3, 7 and 10.

With respect to the partial release of documents 3, 7 and 10, and the refusal of access for documents 2, 4, 5, 8 and 9, the documents or parts of documents withheld are covered by the exceptions to the right of access laid down in Article 4 of this Regulation.

Document 3 is the briefing that the EEAS and Commission gave to the Member States in COREPER prior to the meeting of the EU-US Energy Council.

Document 7 is the draft version of the written debrief that was provided to the Member States.

Document 10 is the de-briefing that the EEAS and Commission gave to the Member States in COREPER after the meeting of the EU-US Energy Council.

Documents 3, 7 and 10 contain some information the disclosure of which would reveal the opinions of the United States with respect to its energy relations with the EU. These elements have been redacted pursuant to Article 4(1)a, third indent, of

Regulation (EC) No 1049/2001, since full disclosure would undermine the public interest as regards international relations and impact in the future on the open and frank nature of the discussions held in the context of the EU-US Energy Council.

Documents 3 and 10 also contain personal data, in particular the names and e-mail addresses of Commission and EEAS staff not occupying senior management positions.

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 Union 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 Union institutions and bodies and on the free movement of such data.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable.

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.

I 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, I am disclosing a version of the documents requested in which these personal data have been redacted.

iii) Access denied - documents 2,4, 5, 8 and 9.

Document 2 is the brief that the EEAS and Commission provided orally to the Member States in advance of the EU-US Energy Council in the Trans-Atlantic Working Group of the Council (COTRA).

Document 4 is the annotated agenda of the EU-US Energy Council meeting which was used by the Principals to steer the discussions.

Document 5 consists of the steering brief, key messages and suggested speaking and defensive points for HR/VP Mogherini, Vice President Šefčovič's and Commissioner Arias Cañete's participation in the EU-US Energy Council meeting. The disclosure of this document would undermine the public interest as regards international relations within the meaning of Article 4(1)a, third indent, of Regulation (EC) No 1049/2001.

Document 8 is the internal, detailed report of the EU-US Energy Council meeting prepared by the EEAS and Commission.

Document 9 is the debriefing that was given orally to the Member States in the Energy Working Group of the Council by the Commission on the EU-US Energy Council meeting.

Disclosure of documents 2, 4 and 5 would jeopardise the position of the European Union in its relations with the United States as it would reveal the EU's internal strategies and deliberations in approaching the meeting of the EU-US Energy Council.

Disclosure of documents 8 and 9 would jeopardise the position of the European Union in its relations with the United States as it would undermine the confidence of the United States interlocutors in having an open and frank discussions and exchange of sensitive information on energy issues with the European Union.

We have also considered whether partial access to these documents can be granted. However, the exception pursuant to Articles 4(1)a, third indent, of Regulation (EC) No 1049/2001 covers almost the entire documents, to the extent that the remaining parts after expunging the confidential information would be meaningless or illegible.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled 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,


Dominique RISTORI