



Brussels,
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By registered letter with acknowledgment of receipt

Pia Eberhardt
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Advance copy by email:

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Subject: Your application for access to documents – Ref GestDem 4928

Dear Ms. Eberhardt,

I refer to your request for access to documents dated and registered on 20/09/2018 under the above-mentioned reference number and apologise for the delay the reply has taken.

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, you requested the following documents:

- 1) a list of the members of the “executive working group”, which was set up by US President Donald Trump and European Commission President Jean-Claude Juncker in July 2018 to explore a path forward on trade talks between the EU and the US;
- 2) the mandate of the group or any other descriptions of its tasks;
- 3) a list of all meetings of the “executive working group” as well as of individual members in the context of the group’s mandate. The list should include the names of the individuals and organisations attending; the date; and any agendas / minutes / notes produced.

I would like to inform you that, in relation to point 2 above, the mandate of the group is described in the Joint U.S.-EU Statement issued following President Juncker's visit to the White House on 25 July, which is publicly available.¹

¹ STATEMENT 18/468: http://europa.eu/rapid/press-release_STATEMENT-18-4687_en.htm

In relation to points 1 and 3 of your request, I can confirm that the Commission does not hold any specific list of members and meetings of the executive working group. As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

However, by way of information, we can confirm that this executive working group is steered by Commissioner Cecilia Malmström and the United States Trade Representative Robert Lighthizer, and they are supported by staff of the European Commission and the US Administration. There is no participation of persons or organisations other than officials from the respective administrations.

We can also inform you that, in the context of the executive working group, the following meetings have taken place:

- Preparatory meetings of Mr O'Sullivan, EU Ambassador to the US, Mr Delvaux, member of cabinet of President Juncker, and Mr Garcia Bercero, Director in DG Trade, with members of the offices of the US Trade Representative and the National Economic Council on 20 August.
- Meeting between Commissioner Malmström and US Trade Representative Lighthizer on 10 September
- Technical meetings of Mr Demarty, Director-General of DG Trade, and Commission staff with members of the offices of the US Trade Representative and the National Economic Council between 23 and 26 October
- Meeting between Commissioner Malmström and US Trade Representative Lighthizer on 14 November.

Concerning your request under point 3 regarding agendas, minutes and notes produced until the date of registration of your request, i.e. 20 September 2018, I would like to inform you that the following documents fall within the scope of your request:

- Report of meetings of Mr O'Sullivan, EU Ambassador to the US, Mr Delvaux, member of cabinet of President Juncker, and Mr Garcia Bercero, Director in DG Trade, with members of the offices of the US Trade Representative and the National Economic Council on 20 August (Ref. Ares(2018)4327738).
- Report of a meeting between Commissioner Malmström and US Trade Representative Lighthizer on 10 September (Ref. Ares(2018)5574354);

Having carefully examined both documents listed, in accordance with the Regulation, we regret to inform you that we cannot grant access because there is a reasonably foreseeable and not purely hypothetical risk that its disclosure would undermine the protection of the public interest as regards international relations, as set out in Article 4(1)(a) third indent of Regulation (EC) 1049/2001. In particular, the documents contain opinions for internal use regarding the deliberations between the Commission and its US interlocutors.

Disclosure of these documents would undermine the protection of the public interest as regards international relations because it would reveal information that can be used by third countries to bring an undue pressure on the Commission in support of European interests and unduly limit the room for manoeuvre of the European Union on the international stage as well as jeopardise the European Union's international position.

In addition, Article 4(1) (b) of Regulation 1049/2001 applies, covering the protection of privacy and the integrity of the individual, in particular regarding the protection of personal data. The documents contain names of individuals and, on the basis of your application, we consider that the conditions for disclosure have not been established, namely the necessity of having the data transferred and the assumption that there is no reason to assume that the legitimate interest of the data subjects might be prejudiced.

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
Secretariat General
Transparency, Document Management & Access to Documents, Unit SG. C1
BERL 5/282
BE - 1049 Bruxelles

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

Yours sincerely,



Ilze Juhansone