



EUROPEAN COMMISSION
Directorate-General for Trade

The Director General

Brussels, 23 September 2013
DG Trade/Ares save (2013) 3142552

Ms Pia Eberhardt

By email only:
ask+request-666-19cc3151@asktheeu.org

Subject: Request for access to documents -- Gestdem no. 2013/3666

Dear Ms Eberhardt,

We refer to your e-mail dated 11/07/2013 in which you make a request for access to documents, registered on 12/07/2013 under the above mentioned reference number.

Your application concerns the minutes and other reports of the meetings held in 2011, 2012 and 2013 by the EU Economic and Commercial Representatives from the EU Delegation in Ottawa.

We have identified 26 documents falling under the scope of your request. Having examined the documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that all 26 documents are partially covered by Article 4 of the Regulation and can only be partially released.

The Commission is still very much engaged in negotiations for a Comprehensive Economic and Trade Agreement (CETA) with Canada. These negotiations are currently in a crucial phase where both sides are trying to solve some of the most sensitive issues. Mutual trust is therefore of critical importance. The withheld parts of the documents mainly concern:

- Summaries of the state of play of the negotiations;
- A detailed analysis of the EU's negotiating position but also that of Canada;
- Commercially sensitive information;
- EU's assessment of various aspects of the political situation in Canada.

The full release of the documents would be prejudicial to the climate of confidence and trust necessary for the successful outcome of the negotiations, and therefore undermine the EU's international relations (Article 4.1 (a) third indent of the Regulation). Given that the negotiations are still ongoing, the disclosure of this information would also seriously undermine the institution's decision-making process (Art. 4, par.3, 1st sub-paragraph of the Regulation).

The assessment relating to these 26 documents is set out below.

Document 1: ECR meeting, January 2011

The 8 paragraphs of the *Public diplomacy and communication strategy around CETA* part have been withheld as they describe the Canadian Government approach to communication on CETA talks. Its disclosure could be harmful to the EU international interests and its relations with Canada (Article 4.1 (a) third indent of the Regulation).

In the section “*Report on the stocktaking between Minister Van Loan and Commissioner De Gucht*”, the 3rd sentence of the 2nd paragraph, the 3rd paragraph, the 2nd and 3rd sentences of the 4th paragraph and the 3rd sentence of the 5th paragraph describe the EU’s strategy in relation to the CETA negotiations. Disclosure of these parts would reveal EU’s tactical approach and undermine its position when tackling the issue and consequently undermine the protection of the EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Document 2: ECR meeting, February 2011

In the section “*Debriefing by Steve Verheul, Canadian Chief Negotiator*”, the last sentence of the 4th paragraph and the 5th paragraph describe the Canadian Government assessment of possible problematic issues in CETA talks. Its disclosure could be harmful to the EU international interests and its relations with Canada (Article 4.1 (a) third indent of the Regulation).

Paragraphs 7th to 11th contains reporting on question and answer session between Member States and Steve Verheul expressing concerns and the substance of concerns Expressed by Member States with regard to CETA talks. Disclosure of this information could undermine protection of international relations of those Member States and be harmful to the EU international interests and its relations with Canada (Article 4.1 (a) third indent of the Regulation).

The 2nd and 3rd paragraph in the section “*State of play after the 6th round*” describing the EU Delegation’s assessment of internal situation in Canada in relation to the CETA negotiations have been withheld as its disclosure could lead to a misleading interpretation of EU’s bilateral relations with Canada and consequently undermine the EU’s international relations (Article 4.1 (a) third indent of the Regulation).

The parts withheld (the 2nd and 3rd sentences of the 1st bullet point) under the item “Other business” describe the EU’s strategy towards CETA negotiations. Putting this information into the public domain could be harmful to EU’s international interests (Article 4.1 (a) third indent of the Regulation).

Document 3: ECR meeting, March 2011

Under point 2 “*CETA State of Play*”, paragraphs 2nd to 6th and the 2nd and 3rd sentence of the 11th paragraph have been withheld as these parts describe EU’s strategy within CETA talks as well as the management of other EU-Canada related files. Their disclosure could be harmful to EU’s international interests and its relations with Canada (Article 4.1 (a) third indent of the Regulation).

Under point 6 “*Investment – Canadian experience with NAFTA, Chapter 11 – presentation by Megan Clifford, Deputy Director, Investment Trade Policy Division, DFAIT*”, the 4th paragraph

and the 1st, 2nd, 4th, 5th and 6th bullet points of the 5th paragraph have been withheld as these parts describe the Canadian Government approach towards investor-to-state dispute settlement. Disclosure of this information could undermine the protection of the EU's international relations (Article 4.1 (a) third indent of the Regulation) as well as the EU's relations with Canada.

Document 4: ECR meeting, April 2011

The 1st, 2nd, and 4th paragraphs of section 2 "*CETA State of Play*" describe the EU's strategy within CETA talks. They also describe internal assessment of the political situation in Canada and its impact on CETA. Disclosure of this information could lead to a misleading interpretation of the EU's bilateral relation with Canada and potentially undermine the protection of the EU's international relations (Article 4.1 (a) third indent of the Regulation).

Under point 4 "*Market Access Issues*", the last two paragraphs of the 2nd bullet point have been withheld as they describe challenges concerning specific market access issues in Canada. Their disclosure could be harmful to the EU's international relations with the country and undermine its position when tackling the issue (Article 4.1 (a) third indent of the Regulation).

Under "*Other Business*", the 2nd paragraph of the 1st bullet point describes the EU's assessment of Canada's approach to the discussion on a particular subject relevant to the EU-Canada relations. Putting this information into the public domain could lead to a misleading interpretation of EU's bilateral relations with Canada and consequently undermine the EU's international relations (Article 4.1 (a) third indent of the Regulation).

Under point 6 "*Guest speaker: Campbell Clark, Deputy Bureau Chief, of the Globe and Mail*", the 2nd sentence of the 1st paragraph and the 3rd, 4th and 5th paragraphs have been withheld. These parts describe an exchange of views on political reality in Canada between a journalist and EU Member States. Its disclosure could be harmful to EU-Canada relations, as issues related to ongoing bilateral trade negotiations were discussed (Article 4.1 (a) third indent of the Regulation).

Document 5: ECR meeting, May 2011

The 1st sentence of the 1st paragraph under point 2 "*CETA State of Play*" contains the EU's assessment of the Canadian political situation at the moment and its relevance for the EU-Canada trade talks. Disclosing this information would be harmful to EU's international interests (Article 4.1 (a) third indent of the Regulation).

Point 3 "*Trade and Investment Sub-Committee (TISC) meeting – debriefing*" has been withheld as it describes Canada's and EU's internal assessments of their policies. Their disclosure would be harmful to EU's international interests (Article 4.1 (a) third indent of the Regulation).

Under point 4 "*Federal elections results- exchange of views*", the last sentence of the 2nd paragraph and the 4th paragraph contain the EU's assessment of the Canadian political situation and its relevance for the EU. Their disclosure would undermine the protection of the EU's international interests (Article 4.1 (a) third indent of the Regulation).

Document 6: ECR meeting, June 2011

Under the point "*New Harper government and new International Trade Minister: exchange of views*" the 2nd and 3rd paragraphs have been withheld as they describe the EU's internal

assessment of the Canadian political situation. Their disclosure could be harmful to EU international interests (Article 4.1 (a) third indent of the Regulation).

The last four sentences of 2nd paragraph under point 3 “*CETA update*” describe EU's strategy within CETA talks as well as the management of other EU-Canada related files. Their disclosure could be harmful to EU international interests (Article 4.1 (a) third indent of the Regulation).

The 2nd paragraph of the 2nd bullet point under “*Debriefings*” has been withheld as this paragraph describes the EU's strategy within CETA talks and the management of other EU-Canada related files. Their disclosure could be harmful to EU international interests (Article 4.1 (a) third indent of the Regulation).

Document 7: ECR meeting, July 2011

The last four sentences of the 1st paragraph under “*CETA update*” have been withheld as they describe the EU's strategy within CETA talks and the management of other EU-Canada related files. Their disclosure could be harmful to EU international interests as well as the EU relations with Canada (Article 4.1 (a) third indent of the Regulation).

Under point 5 “*LSE/TMX merger – state of play*”, the 2nd and 4th paragraphs have been withheld as these paragraphs describe the EU's internal analysis of the Canadian investment policy. Placing this information into the public domain could be harmful to EU's international interests and relations with Canada (Article 4.1 (a) third indent of the Regulation).

Under point 7 “*Other Business*” we refrain to disclose the 2nd paragraph of the 1st bullet point as it describes specific industry concerns in Canada's procurement market. Its disclosure could be harmful to the EU's international interests (Article 4.1 (a) third indent of the Regulation). Similarly, placing information in the public domain could be damaging to the commercial interests of the company concerned (Article 4.2 first indent of the Regulation).

The paragraph of the 5th bullet point under “*Other Business*” has been withheld this paragraph describes EU's assessment of Canada's position on the asbestos issue. Its disclosure could be harmful to EU relations with Canada (Article 4.1 (a) third indent of the Regulation).

Document 8: ECR meeting, September 2011

The first three sentences of the 2nd paragraph as well as paragraphs from 5th to 9th of point 2 “*CETA update*” describe the EU's assessment of the Canadian attitude as well as the EU's strategy within CETA talks and the management of other EU-Canada related files. Their disclosure could jeopardise the EU's international interests (Article 4.1 (a) third indent of the Regulation).

Under point 4 “*Green Energy Act – EU's WTO complaint*”, the 2nd and 3rd sentence of the first paragraph, the last sentence of the 2nd paragraph and the 3rd paragraph have been withheld as these parts contain an assessment of Canada's Green Energy Act. Putting this information on the public domain could be harmful to the EU's international interests (Article 4.1 (a) third indent of the Regulation).

One section containing 5 paragraphs under point 7 “*Other Business*” have been withheld as they describe the approach by a specific company to market access issue. The withheld part also

describes the EU's internal analysis of the issue concerned. The disclosure of this paragraph could be harmful to commercial interests of that company (Article 4.2 first indent of the Regulation) and also undermine the protection of the EU's international relations (Article 4.1 (a) third indent of the Regulation).

Document 9: ECR meeting, October 2011

The last sentence of the debriefing of the "*Official visit of EU Head of Delegation to New Brunswick*" has been withheld as it describes EU's tactical approach on a specific issue within CETA negotiations. Its disclosure could be harmful to EU international interests (Article 4.1 (a) third indent of the Regulation).

Document 10: ECR meeting, November 2011

Under point 2 "*CETA update – INTA Visit*", the last two sentences of the 3rd paragraph cannot be disclosed as they describe the EU's internal assessment of various Canadian policies and its impact on CETA talks. Its disclosure could be harmful to EU international interests (Article 4.1 (a) third indent of the Regulation).

Under point 2 "*CETA update – European Economic and Social Committee Visit*", the last sentence of the 1st paragraph provides information on the Canadian response to the EESC proposal. Its disclosure could be harmful to the EU's international relations (Article 4.1 (a) third indent of the Regulation).

The last sentence of the 2nd paragraph under point 2 "*Fuel Quality Directive- developments*" relates the discussion between the EU Delegation to Canada and Member States on the FQD. Release of this part could be harmful to EU relations with Canada and therefore damage the EU's international relations (Article 4.1 (a) third indent of the Regulation).

Document 11: ECR meeting, December 2011

Under point 1 "*CETA update - Minister Fast at the EU HoMs lunch*", the second paragraph describes the EU's internal assessment of the Canadian trade policy. Disclosing this information could jeopardise the EU's international interests (Article 4.1 (a) third indent of the Regulation).

One bullet point containing one paragraph under "*Other business*" has been withheld as this paragraph relates to a specific company active in the field of public procurement. Its disclosure would be harmful to company's commercial interest on Canadian market and therefore would undermine their commercial interests (Article 4.2 first indent of the Regulation).

Document 12: ECR meeting, January 2012

Paragraphs from the 2nd to the 5th under point 1 "*Guest speaker – 10:00 – Steve Verheul, CETA Chief Negotiator*" have been withheld as they describe the Canadian Government position on CETA. Its disclosure would be detrimental to EU's international relations and harmful to the relation with Canada (Article 4.1 (a) third indent of the Regulation).

The last sentence of the 1st paragraph under point 5 "*EU-Canada Strategic Partnership Agreement (SPA)*" describes specific issues related to SPA negotiations whose disclosure would be harmful to EU international relations with Canada (Article 4.1 (a) third indent of the Regulation).

Document 13: ECR meeting, February 2012

Under point 1 “*Guest speaker – 10:00*”, the last four sentences and five bullet points of the 1st paragraph, as well as the 2nd paragraph have been withheld as they describe the presentation on the Security Perimeter and policy discussions between CBSA and the EU Member States. The disclosure of this text could be detrimental to EU international relations (Article 4.1 (a) third indent of the Regulation).

Document 14: ECR meeting, March 2012

Under point 1 “*ECR Functioning – EU presence in Canada*”, the last two sentences of the 3rd paragraph and footnote n° 1 have been removed as these parts present the EU’s assessment on the management of their networks in Canada by EU Member States. Its disclosure could be detrimental to EU decision making process (Article 4.3 of the Regulation).

The last two paragraphs under point 2 “*CETA update*” cannot be disclosed as they contain the EU’s assessment of CETA negotiations. Its disclosure would be detrimental to EU international relations (Article 4.1 (a) third indent of the Regulation).

Document 15: ECR meeting, April 2012

The 2nd paragraph, the last two sentences of the 3rd paragraph and the 5th paragraph have been withheld under point 1 “*CETA State of Play*” have been withheld as these parts describe the EU’s internal assessment of CETA talks and the Canadian political situation. Their disclosure would be harmful to EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Under point 5 “*The new EU initiative on the access to the EU Public Procurement Market*”, the 1st sentence of the 2nd paragraph relates to comments made by EUDEL as regards to CETA negotiations whose disclosure would be detrimental to EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Document 16: ECR meeting, May 2012

The last two paragraphs of point 1 “*CETA State of Play*” have been withheld as one of them relates to bilateral policy discussions between EU Member States and the Canadian government and the other one to management of the EU’s communication strategy on CETA. Disclosing both paragraphs would jeopardise the EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Under point 2 “*Visit of EP Delegation (Quebec City and Ottawa – April 28th to May 3rd)*”, the last two sentences of the 2nd paragraph, the 4th paragraph and the last sentence of the 6th paragraph have been withheld as these parts relate to discussions that the EP Delegation had on topics related to CETA talks. They describe internal the EU position on certain CETA chapters. Their disclosure would be detrimental to EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Document 17: ECR meeting, July 2012

The 2nd sentence of the 2nd paragraph under point 1 “*Follow-up on Montreal Visit*” has been withheld since it relates to a commercial proposal regarding transportation of Member States representatives and EUDEL staff to Toronto by a specific company. Its disclosure could be harmful to the commercial activities of this company (Article 4.2 first indent of the Regulation).

Access to the last two sentences of the 3rd paragraph under point 3 “*Canada Trade Policy – Japan*” is denied as it contains the EU’s internal assessment of a particular aspect of the Canadian trade policy. Its disclosure would be detrimental to EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Under point 5 “*Rio+20 Summit*”, the last sentence of the 4th paragraph contains the EU’s assessment on the position of other parties to the Conference. Disclosure of the comment related to a third country could be harmful to the EU’s relations with that country and therefore undermine EU’s international relations (Article 4.1 (a) third indent of the Regulation).

Document 18: ECR meeting, September 2012

The last 4 sentences of the paragraph “*CETA update – Quebec Elections*” have been withheld as they describe the EU’s internal assessment of Canadian Provincial and Federal politics. Its disclosure would be detrimental to EU’s international relations since it could lead to a misleading interpretation of EU’s bilateral relations with Canada (Article 4.1 (a) third indent of the Regulation).

The 4th, 5th and 7th sentences of the section “*CETA update – Visit of Chancellor Merkel*” have been deleted. These sentences describe parts of the content of the discussions between Canadian and German political leaders. They also relate to ongoing CETA talks. Their disclosure would be detrimental to EU’s international relations with Canada since it could lead to a misleading interpretation of EU’s bilateral relations (Article 4.1 (a) third indent of the Regulation).

Sentences 3rd and 4th of point 2 “*Developments of the Canadian trade policy - Trans-Pacific Partnership (TPP)*” contain the EU’s internal assessment of the Canadian trade policy in relation to TPP. Its disclosure would be detrimental to EU’s international relations with Canada since it could lead to a misleading interpretation of EU’s bilateral relations (Article 4.1 (a) third indent of the Regulation).

Document 19: ECR meeting, October 2012

Under point 1 “*CETA debriefing and state of play*”, the 2nd, 5th, 6th and 7th paragraphs describe the EU’s tactical approach to CETA talks as well as certain political issues that are being linked to the CETA process. Their disclosure would be detrimental to EU’s international relations with Canada and would have an impact on EU’s position when tackling the issue (Article 4.1 (a) third indent of the Regulation).

Under point 4 “*Other issues – ECR activities*”, the 3rd sentence has been suppressed as it describes commercial aspects of transportation services provided to the ECR group. Its disclosure could be harmful for company’s position on the market and therefore could undermine its commercial interests (Article 4.2 first indent of the Regulation).

Document 20: ECR meeting, December 2012

The last sentence of the 1st paragraph and the last three sentences of the 5th paragraph under point 1 “*CETA State of Play*” have been withheld as they provide an internal analysis of aspects of CETA talks whose disclosure would be harmful to EU’s interests in CETA negotiations and have an impact on EU’s relations with Canada (Article 4.1 (a) third indent of the Regulation).

The 5th paragraph under point 7 “*Next ECR meeting – Guest speaker*” relates to an internal analysis of CETA talks whose disclosure would be harmful to EU's international relations with Canada since it could lead to a misleading interpretation of EU's bilateral relations (Article 4.1 (a) third indent of the Regulation).

Document 21: ECR meeting, January 2013

The 2nd paragraph under point 4 “ECR mission to Toronto” has been withheld as it relates to commercial arrangements with a transportation company. Its disclosure could be harmful to for company's position on the market and therefore could undermine to its commercial interests (Article 4.2 first indent of the Regulation).

Document 22: ECR meeting, February 2013

The 2nd sentence under point 5 “ECR mission to Toronto” has been withheld as it relates to commercial arrangements with a transportation company. Its disclosure could be harmful for company's position on the market and therefore could undermine its commercial interests (Article 4.2 first indent of the Regulation).

The last sentence of the 1st paragraph, the last five sentences of the 2nd paragraph, and the last paragraph under point 8 “*Next ECR meeting – Guest speaker*” relates to a political assessment of third countries trade policies. Disclosure of this information could be harmful to EU's international relations since it could lead to misleading interpretation of EU's bilateral relations with those countries (Article 4.1 (a) third indent of the Regulation).

Document 23: ECR meeting, April 2013

The last paragraph under point 1 “*CETA update*” has been withheld as it relates to political assessment of the Canadian trade policy concerning CETA. Its disclosure could jeopardise the EU's international interests since it could lead to misleading interpretation of EU's bilateral relations (Article 4.1 (a) third indent of the Regulation).

Under point 4 “*Toronto Trip: feedback and future activities*”, the 5th paragraph has been deleted as it relates to EU delegations assessment on the meeting in Toronto. Its disclosure could jeopardise the EU's international interests since it could lead to misleading interpretation of EU's bilateral relations (Article 4.1 (a) third indent of the Regulation).

Under point 4 “*Toronto Trip: feedback and future activities*”, the 7th and 8th paragraphs have been deleted as they relate to political strategy taken by Member States towards further ECR trips. Revealing information towards next steps envisaged and strategic approach towards this decision could jeopardise EU's international relations with Canada (Article 4.1 (a) third indent of the Regulation) and also undermine EU's the internal decision making process (Article 4.3 of the Regulation).

Document 24: ECR meeting, May 2013

The last two sentences of the 2nd paragraph under point 4 “*Proposed joint ECR mission to Alberta – state of play*” are not disclosed as they relate to financial arrangements linked to the ECR mission to Alberta. Its disclosure would be harmful to EU's foreign relations (Article 4.1 (a) third indent of the Regulation).

Document 25: ECR meeting, June 2013

The last three sentences of the 1st paragraph under point 1 “*CETA update*” cannot be disclosed as they contain elements explaining the situation of particular CETA aspects still under negotiation. Its disclosure would be harmful to EU's foreign relations and undermine its positions when tackling the issue (Article 4.1 (a) third indent of the Regulation).

Under point 3 “*ECR mission to Alberta – update*”, the last three sentences of the 1st paragraph, the 3rd and 4th paragraphs have been withheld, as these parts focus on the political assessment of the planned visit. Full disclosure of these parts could be harmful to EU international interests and relations with Canada (Article 4.1 (a) third indent of the Regulation).

Under point 5 “*PEI Visit (=Economic Forum)*”, the last sentence of the 1st paragraph contains elements explaining particular aspect of the CETA negotiations whose disclosure would be harmful to EU's foreign relations (Article 4.1 (a) third indent of the Regulation).

Document 26: ECR meeting, July 2013

The last two paragraphs of point 1 “*CETA update*” are not disclosed as they relate to the EU's internal assessment of the Canadian political approach to CETA. Its disclosure would be harmful to EU's foreign relations (Article 4.1 (a) third indent of the Regulation).

Accordingly, the presence of an overriding public interest in disclosure has also been assessed. In the present case, there is no such evidence. On the contrary, the prevailing interest in this case rather lies in protecting the decision making process.

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-5
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

The Secretary-General will inform you of the result of this review within fifteen working days from the registration of your request, either granting you access to the documents or confirming the refusal. In the latter case, you will be informed of how you can take further action.

Yours sincerely,



Jean-Luc DEMARTY

