Subject: Reply to your access to documents requests registered under Gestdem 2019/6941

Dear Mr Dauphin,

I refer to your request for access to documents under Regulation (EC) No. 1049/2001 ("Regulation 1049/2001")\(^1\) dated 28 November 2019, and registered under the above-mentioned reference number.

1. **Scope of your request**

You request access to the following documents:

- A list of meetings since January 2018 between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of companies; representatives of business associations (including, but not exclusively, the International Association of Oil and Gas Producers, Eurocoal, Eurogas, FuelsEurope, the International Association of Drilling Contractors, The International Gas Union, the World Coal Association, Gas Infrastructure Europe, Eurelectric, Cefic and BusinessEurope) or other organisations (including law firms) representing the interests of companies; in which the Energy Charter Treaty (ECT) was discussed;

- The minutes and other reports of these meetings;

- All correspondence (including emails, letters, phone conversations) since January 2018 between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of companies; representatives of business associations (including, but not exclusively, the International Association of Oil and Gas Producers, Eurocoal, Eurogas, FuelsEurope, the International Association of Drilling Contractors, The International Gas Union, the World Coal Association, Gas Infrastructure Europe,

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Eurelectric, Cefic and BusinessEurope) or other organisations (e.g law firms) representing the interests of companies; in which the Energy Charter Treaty (ECT) was discussed.

We would like to share with you 2 documents that fall within the scope of your request and which concern exchanges of correspondence in which the Energy Charter Treaty, among other issues, was discussed:

(1) A letter sent by the Deutsches Aktieninstitut to a member of Commissioner Malström’s Cabinet dated 4 July 2018 (Ares(2018)3663081) ("Document 1");

(2) The reply to the above-mentioned letter by DG Trade’s Director General dated 1 August 2018 (Ares(2018)4057032) ("Document 2").

I am glad to inform you that access can be granted to the content of the two documents, except for the information subject to personal data protection.

1.1. Protection of the privacy and the integrity of the individual

Article 4.1(b) of Regulation 1049/2001 provides that "[t]he institutions shall refuse access to a document where 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 Court of Justice has ruled that "where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data [...] the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety".

Article 2(a) of Regulation 45/2001 provides that "personal data' shall mean any information relating to an identified or identifiable natural person [...]". The Court of Justice has confirmed that "there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'" and that "surnames and forenames may be regarded as personal data", including names of the staff of the institutions.

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" and additionally "if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced". The Court of Justice has clarified that "it is for the person applying for access to establish the necessity of transferring that data".

Documents 1 and 2 contain names and other personal information that allows the identification of natural persons.

I note that you have not established the necessity of having these personal data transferred to you. Moreover, it cannot be assumed on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned. On the other hand, we do disclose the names of senior management of the Commission starting from the Director level (included), members of Cabinet, senior representatives of external stakeholders, and public figures.
If you wish to receive the personal data that have been removed, we invite you to provide the Commission with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

You may reuse the documents requested 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. The Commission does not assume liability stemming from the reuse.

Yours faithfully,

[Signature]

Carlo PETTINATO
Head of Unit

Enclosure: disclosed documents as listed.