



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels,
SANTE E3/AT/gk (2021)1075466

***By registered letter with
acknowledgment of receipt¹***

Ms Lora Verheecke
Rue du Bronze, 9
1070 Anderlecht

***Advance copy by e-mail to
[ask+request-8917-
b88d23e5@asktheeu.org](mailto:ask+request-8917-b88d23e5@asktheeu.org)***

Dear Ms Verheecke,

Subject: Your application for access to documents – GestDem 2021/0161

We refer to your email dated 11 January 2021 in which you make a request for access to documents under Regulation (EC) No 1049/2001 regarding public access to documents², registered on 21 January 2021 under the above-mentioned reference number.

We also refer to our email dated 11 February 2021, in which we, in accordance with Article 7(3) of Regulation (EC) No 1049/2001, extended the time-limit to respond to your request.

1. Scope of the request

You have requested access, on the basis of Regulation (EC) No 1049/2001, to:

“1) the report and the list of participants of the 3rd meeting of the CETA Biotech Market Access Issues held on 21 October 2020 via video conference

2) the name of the soybean which was discussed during the meeting of the bilateral dialogue on biotech market access issues on 4th March 2019 in Brussels and by videoconference.”

¹ According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice. We would therefore appreciate if you could confirm receipt of the present e-mail.

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. Identification and assessment of the documents

We have identified two documents as falling under the scope of your request, namely:

- 12th Canada-EU Biotech Market Access Dialogue - list of participants to the meeting of 21 October 2020 [*Document No 1*];
- 11th Canada-EU Biotech Market Access Dialogue - list of applications of interest for meeting of 4 March 2019 [*Document No 2*].

We regret to inform you that the Commission does not hold any documents that would correspond to “*the report of the 3rd meeting of the CETA Biotech Market Access Issues held on 21 October 2020*”.

Since document No 2 originates from a third party, in accordance with Art. 4(4) of Regulation (EC) 1049/2001, the originators of the document have been consulted in order to assess whether an exception established in Article 4 applies to this document.

Having examined these documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the following conclusion:

- document No 1 can be partially disclosed
- no access can be granted to document No 2 as its disclosure is prevented by an exception to the right of access laid down in Article 4 of the Regulation.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the document disclosed free of charge and 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 document. Please note that the Commission does not assume liability stemming from the reuse.

We enclose a copy of the document No 1 redacted of the parts which cannot be disclosed as further explained below.

2.1 Justifications for partial disclosure

Article 4(1)(b) of Regulation (EC) No 1049/2001 – Protection of privacy and the integrity of the individual

Document No 1 contains the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons.

A complete disclosure of the documents that contain personal data is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that

the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested document, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In accordance with the above mentioned, partial access is granted to document No 1, expunged of personal data.

2.2 Justification for refusal of disclosure

Article 4(2), first indent, of Regulation (EC) No 1049/2001 – Protection of commercial interests

Since document No 2 originate from a third party, the originator of the document has been consulted.

The third party has objected to disclosure of the document invoking the argument that it includes information that was provided to Canadian authorities by a company on the basis of commercial confidence. In this context, the disclosure would undermine protection of commercial interests of this company.

This document was developed by the third party and contains specific information regarding applications under assessment by the EU. The purpose and manner in which the information was gathered and compiled represents confidential commercial interests of specific companies and its release would undermine the competitive position of the companies.

Therefore, having considered the opinion of the third party we have concluded that disclosure of this document would undermine the protection of the commercial interests of the third party guaranteed by Article 4(2), first indent, of Regulation (EC) No 1049/2001.

Therefore, we consider that the exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies to the document.

We have considered whether partial access could be granted to the document, but we have concluded that it is entirely covered by the exception.

Therefore, no access can be granted to document No 2.

3. Overriding public interest

The exceptions to the right of access provided for in Articles 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested documents. In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected in Regulation (EC) No 1049/2001 would have to be overridden and we could not identify any such ground

either. In these circumstances, we have to conclude that there is no evidence of an overriding public interest in disclosure, in the sense of Regulation (EC) No 1049/2001.

4. Means of redress

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its 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
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Bruxelles

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

Yours sincerely,

[e-signed]
Sandra GALLINA

Enclosures: Document No 1 - list of participants_REDACTED