



EUROPEAN COMMISSION  
Directorate-General for Trade

The Director General

Brussels, **10 DEC. 2013** *Ares 3813763*  
Mr Thomas Breetzke  
via [www.asktheeu.org](http://www.asktheeu.org)

**Subject: Request for access to documents GESTDEM 2013-5757**

Dear Mr Breetzke,

Thank you for your request registered on 19 November 2013, for access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents ("the Regulation").

We understand from your request that you would like to receive a copy of the draft directives for the negotiations of an investment agreement with the People's Republic of China which were adopted by the Council of the European Union on 18 October 2013 on the basis of the negotiating directives proposed by the European Commission on 23 May 2013. As a classified document of the Council any final decision on its declassification and eventual public release would be a political decision to be taken by that institution. Nevertheless as a document which is also held by the Commission, we should in any event, take a view on its potential release pursuant to the Regulation.

Having examined the document requested under the provisions of the Regulation, I regret to inform you that this document is covered by some of the exceptions provided in Article 4 of the Regulation and therefore could not in any event be made available to you by the Commission.

The requested document sets out the EU's objectives for investment negotiations with China and establishes the margins and negotiating room envisaged in the context of these negotiations. Placing this information in the public domain could affect the negotiating position of the EU and the outcome of the negotiations by providing, inter alia, our negotiating partner with elements of the EU's negotiating strategy and a benchmark against which it could assess the outcome of the negotiations. This could unduly influence its attitude towards negotiating an investment agreement in line with EU's objectives and would result in undermining the protection of the International Relations of the EU contrary to Article 4.1(a) third indent of the Regulation. In addition, the release of the requested document would have a negative impact on the EU's decision-making process with regard to future negotiations of agreements (Article 4.3 of the Regulation).

We have also considered whether the risk of undermining the EU's decision-making process for future agreements is outweighed by the public interest in accessing the requested document. We do not believe this to be the case.

The possibility of granting partial access to the document requested has also been examined in accordance with Article 4.6 of the Regulation. However, it is considered that, as all parts of this document are covered by the invoked exceptions, no such access can be granted.

We would also like to indicate that the above reasoning would similarly apply to the negotiating directives proposed by the European Commission in May 2013.

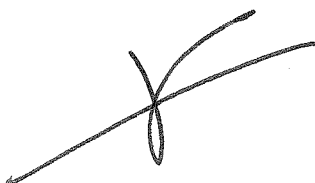
Should you wish this position to be reviewed, you should write to the Commission's Secretary-General at the address below, confirming your initial request. Following receipt of this letter you have fifteen working days to do so, after which your initial request will be deemed to have been withdrawn.

The Secretary-General will inform you of the result of this review within 15 working days from the registration of your request, either granting you access to the documents or confirming the refusal.

All correspondence should be sent to the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-5  
BERL 5/327  
B-1049 Bruxelles  
sg-acc-doc@ec.europa.eu

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' and 'D' intertwined, with a long horizontal stroke extending to the left.

Jean-Luc DEMARTY