



EUROPEAN COMMISSION

**DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION**

The Director-general

Brussels, **12. 03. 2015**
Taxud R2/SV – ARES(2015)1015370

Mrs Vicky Cann
CEO
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by e-mail and registered mail

Dear Mrs Cann,

Subject: Your application for access to documents – Ref GestDem No 2015/1192

I acknowledge receipt of your message dated 24 February 2015 in which you make a request for access to documents as follows:

" (...) the agendas and minutes of any meetings held between the director general and/ or his staff with Jack Straw (UK MP) and / or ED&F Man to discuss sugar regulations and any other topic since 1 January 2013. In addition I would like to know: what efforts DG TAXUD made to ascertain who Jack Straw MP was working for at the time of the meeting(s), whether DG Agri checked if ED&F Man was in EU lobby register at the time, and what changes were subsequently made to EU regulations or policy on sugar".

The Directorate-General for Agriculture and Rural Development will deal directly with the part of your request related to it.

Following your request we have identified the following documents:

- 1) letters from the Right Honorable Jack Straw MP sent to DG TAXUD on the 3rd of February 2013 and the 27th of March 2013;
- 2) e-mail sent by Mr. Heinz Zourek to the Right Honorable Jack Straw MP on 8th of February 2013;
- 3) e-mail sent by Mr. Mirosław Zielinski's office to the Right Honorable Jack Straw MP on 5th of April 2013 in view of organizing a meeting;
- 4) "*Minutes of the meeting ED&F MAN-EU Commission (Brussels, June 4th 2013)*" sent by the Right Honorable Jack Straw MP to DG TAXUD (including comments made by DG TAXUD).

These documents describe the process that led to the meeting organised on June 4th 2013 between DG TAXUD and Mr. Jack Straw, who introduced himself from the start of the correspondence as a consultant for ED&F Man, a commodities broker.

During the meeting, which gathered representatives from ED&F Man as well as from DG TAXUD, ED&F Man pointed out certain issues on the interpretation of Commission Regulation (EEC) No. 2454/93, more especially on the subject of how the inward processing of sugar on the equivalence system should be understood.

The topic was brought for discussion during a meeting of the Customs Code Committee held on September 30th and October 1st 2013¹ in the framework of a regular comitology procedure. After a debate and a positive vote² by the representatives of the Member States, a draft Regulation amending Regulation (EEC) No 2454/93³ was adopted by the Commission in order to ensure legal certainty in the sugar sector in connection with the use of equivalent goods. It was published as Commission Implementing Regulation (EU) No 1063/2013 of 30 October 2013⁴.

Having examined the four documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that certain of their parts cannot be made public, as their disclosure is prevented by several exceptions to the right of access laid down in Article 4 of this Regulation.

Some redacted parts of documents 1 and 4 are related to activities of ED&F MAN-EU which have no direct relation with the meeting. As such, their disclosure would undermine the protection of commercial interests in accordance with the first indent of Article 4(2) of

¹ Cf. agenda, draft implementing act, voting sheet and minutes in dossier CMTD(2013)1152 of the public Register of Comitology: <http://ec.europa.eu/transparency/regcomitology>

² Doc. V030484/01 in above-mentioned dossier CMTD(2013)1152.

³ Doc. D029377/01 in above-mentioned dossier CMTD(2013)1152.

⁴ Commission Implementing Regulation (EU) No 1063/2013 of 30 October 2013 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code as regards the use of the equivalence system in the sugar sector: OJ L 289, 31.10.2013, p. 44.

Regulation 1049/2001 which states that: "*The institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property*".

Please note that there is no overriding public interest in disclosure of the documents which would outweigh the need to protect the commercial interests of the legal person concerned.

Moreover, all of the listed documents to which you have requested access contain personal data of natural persons, citizens and officials, their names and contact details.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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 applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁵.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable⁶. 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 to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from such personal data.

If you wish to receive these personal data, we invite you to provide us 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.

⁵ OJ L 8 of 12.1.2001, p. 1

⁶ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported

You may reuse documents 2 and 3 free of charge for non-commercial and commercial purposes provided that the source is acknowledged, 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.

Please note that documents 1 and 4 were received by the Commission from Mr. Straw. They are disclosed for your information only and cannot be re-used without the agreement of the originator, who holds a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

In case you would disagree with this decision you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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

Yours faithfully,



Heinz Zedek

Annex: the documents listed above.