



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Consumer, Environmental and Health Technologies
Chemicals

Brussels
grow.ddg1.d.2(2017)6013033

Mr Mihkel Poola
[ask+request-4653-
46c35cc0@asktheeu.org](mailto:ask+request-4653-46c35cc0@asktheeu.org)

Dear Mr Poola,

**Subject: Your application for access to documents –
Ref GestDem No 2017/5418**

We refer to your request for access to documents, registered on 19 September 2017 under the above mentioned reference number.

1. SCOPE OF YOUR REQUEST

You request access to "*[d]ocuments related to the Proposal of the European Commission for a regulation of the European Parliament and of the Council laying down rules on the making available on the market of CE marked fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 (hereafter: the "Proposal") and more specifically related to the topic of limits for contaminants in fertilizers, or at which such limits were discussed:*

(a) Any document related to meetings or other communications, such as, but not limited to

1) meeting requests,

2) list of participants and parties on whose behalf such meetings were requested or whose interests were represented,

3) any materials submitted before, during or after such meetings,

4) any correspondence related to such meetings or to topics discussed or to be discussed at such meetings,

5) any follow-up documents, such as minutes, conclusions or summaries generated after such meetings, with private parties (including third parties), their representatives, associations, or other collective bodies, held or requested or received between 1 January 2012 and 17 March 2016, of which the topic was, or turned out to be, limits for contaminants in fertilizers, or at which such limits were discussed;

(b) Any document related to meetings or other communications, such as, but not limited to

1) meeting requests,

2) list of participants and parties on whose behalf such meetings were requested or whose interests were represented,

3) any materials submitted before, during or after such meetings,

4) any correspondence related to such meetings or to topics discussed or to be discussed at such meetings,

5) any follow-up documents, such as minutes, conclusions or summaries generated after such meetings, with private parties (including third parties), their representatives, associations, or other collective bodies, held or requested or received between 17 March 2016 and 18 September 2017, of which the topic was, or turned out to be, limits for contaminants in fertilizers, or at which such limits were discussed;

(c) Any document, including, but not limited to,

1) internal correspondence of EC officials, as well as with outside parties, relating to limits to be proposed,

2) documents showing why specific numbers (and not other numbers) were proposed and chosen as limits for specific contaminants in the Proposal,

3) different drafts of Proposal related to contaminants and Annex I prior to its finalization,

4) your version of the Proposal,

5) your input during the inter-service consultations on the Proposal with respect to contaminant limits,

6) any opinions of lawyers relevant to contaminant limits, held or requested or received between 1 January 2012 and 18 September 2017, related to the adoption of the Proposal in the part relevant to limits on contaminants in fertilizers."

2. INFORMATION AVAILABLE FROM OTHER SOURCES

As mentioned to you in our communication dated 10 October 2017, which was sent to your correct e-mail address on 12 October 2017, many interesting databases with information on this topic are already publically available, or available to anyone following simple registration. We refer to the links we included in that communication, and reiterate our readiness to assist you in navigating towards the parts of the databases that might be most relevant for your topic of interest, because of the large number of documents contained therein.

3. DISCLOSURE OF 41 DOCUMENTS

On top of those documents, we have until now managed to identify 41 documents that match the scope of the request.

Due to the large number of documents concerned by your request, we are still working in preparing the relevant documents. The list of the 41 documents ready to be disclosed is in annex. A reply concerning the second batch of documents will follow in the coming days.

You may reuse the documents originated from the Commission 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. Please note that the Commission does not assume liability stemming from the reuse¹. Instead, the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

Some of the documents to which you have requested access contain personal data.

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 data².

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³. 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 this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, 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.

¹ See the Decision of the Commission of 12 December 2011 (2011/833/EU), OJ L 330/39 of 14 December 2011 for details; this Decision does not apply to documents for which third parties hold the copyrights, Article 2 (2) (b).

² Official Journal L 8 of 12.1.2001, p. 1

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

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-4
BERL 5/282
B-1049 Bruxelles

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

Yours sincerely,

-e-signed-

Luisa Prista
Head of Unit

Annexes: Document register
 Zipped file containing 41 documents

| DATE | TITLE | ARES reference | AUTHOR | ADRESSEE |
|-------------|---|-----------------------|------------------------------------|---------------------|
| 16/01/2012 | Study on options to fully harmonise the EU legislation on fertilising materials | Ares(2017)5302787 | Bipro | European Commission |
| 16/01/2012 | Annexes to Study on options to fully harmonise the EU legislation on fertilising materials | Ares(2015)4535306 | Bipro | European Commission |
| 16/01/2012 | Annex VI to Study on options to fully harmonise the EU legislation on fertilising materials | Ares(2017)5302787 | Bipro | European Commission |
| 01/2012 | Thought starter for Working Groups | Ares(2017)4893952 | ENTR D2 | WG participants |
| 18/01/2012 | Report of meeting of "Working Group 3" | Ares(2017)4893952 | ENTR D2 | WG participants |
| 20/04/2012 | Report of meeting of "Working Group 3" | Ares(2017)4893952 | ENTR D2 | WG participants |
| 20/09/2012 | Report of meeting of "Working Group 3" | Ares(2017)4893952 | ENTR D2 | WG participants |
| 02/04/2014 | Mission report | Ares(2016)6494685 | ENTR D2 | Internal |
| 20/04/2015 | Letter from KV and EB to Azoty | Ares(2016)6494685 | Commissioners Bieńkowska and Vella | Groupa Azoty |

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|------------|---|------------------|--------------------------------|--|
| 25/01/2016 | Review of the regulation on the placing on the market of fertilizers | ARES(2016)978086 | Zentralverband Gartenbau (ZVG) | Jyrki Katainen |
| 05/02/2016 | Letter from Fertilizers Europe regarding proposal for new fertilizer regulation | ARES(2016)648259 | Fertilizers Europe | Timmermans, Bienkowska, Katainen, Vella, Hogan, Malmström, Italianer, Evans, Calleja Crespo, Plewa |
| 09/02/2016 | Position of the group AZOTY on the new regulation on fertilizers | ARES(2016)688033 | Groupa Azoty | Bienkowska Elzbieta |
| 09/02/2016 | Position of the group AZOTY on the new regulation on fertilizers (cover letter) | ARES(2016)688033 | Groupa Azoty | Bienkowska Elzbieta |
| 09/02/2016 | Position of the group AZOTY on the new regulation on fertilizers (cover letter) | ARES(2016)688033 | Groupa Azoty | Bienkowska Elzbieta |
| 15/02/2016 | Spanish Magrama Position on Cadmium content in phosphate fertilisers | Ares(2017)719875 | MAGRAMA | GROW/D2 |
| 15/02/2016 | Cover letter Spanish Magrama Position on Cadmium content in phosphate fertilisers | Ares(2017)719875 | MAGRAMA | GROW/D2 |

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|------------|---|-------------------|-------------------------------------|--|
| 18/02/2016 | Letter from Polish Chamber of Chemical Industry | ARES(2016)902727 | Polish Chamber of Chemical Industry | Bienkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli |
| 19/02/2016 | Fertilizer regulation and cadmium in phosphate fertilizers | ARES(2016)885646 | Fertilizers Europe | Husak Tomasz |
| 19/02/2016 | Fertilizer regulation and cadmium in phosphate fertilizers (cover note) | ARES(2016)885646 | Fertilizers Europe | Husak Tomasz |
| 22/02/2016 | Cover note PIPC to Cabinets | ARES(2016)902727 | Polish Chamber of Chemical Industry | Bieńkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli |
| 23/02/2016 | Letter from Tervalis (Fertinagro) regarding concerns on proposed EU limits on Cadmium in phosphate fertilisers | ARES(2016)947904 | Tervalis | Bieńkowska Elzbieta |
| 24/02/2016 | Letter from OCP S.A. to Ms. Lowri Evans, dated 24/02/2016 on the "Proposed EU limits on cadmium in phosphate fertilisers" | Ares(2016)6299935 | OCP | Evans Lowri |
| 24/02/2016 | Letter from OCP S.A. to Ms. Elzbieta Bieńkowska, dated 24/02/2016 on the "Proposed EU limits on cadmium in phosphate fertilisers" | Ares(2016)967280 | OCP | Bieńkowska Elzbieta |

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|------------|---|-------------------|---------------------------------|-------------------------------------|
| 25/02/2016 | Email ANFFE to Cabinets | ARES(2016)970467 | ANFFE | Bieńkowska Elzbieta |
| 25/02/2016 | Letter from ANFFE | Ares(2016)970467 | ANFFE | Bieńkowska Elzbieta |
| 02/03/2016 | Cadmium in Phosphate fertilisers | ARES(2016)1065600 | ROULLIER | Bieńkowska Elzbieta |
| 11/03/2016 | Letter from Bieńkowska to Fertilisers Europe | ARES(2016)1240435 | Bieńkowska Elzbieta | Fertilisers Europe |
| 11/03/2016 | Reply from Lowri Evans to Tervalis (Fertinagro) | Ares(2016)1252873 | Lowri Evans | Tervalis (Fertinagro) |
| 16/03/2016 | Reply from Unit D2 to Zentralverband Gartenbau e.V. | Ares(2016)1319605 | GROW/D2 | Zentralverband Gartenbau e.V. |
| 17/03/2016 | Reply from Bieńkowska to OCP | Ares(2016)6299935 | Bieńkowska Elzbieta | OCP |
| 17/03/2016 | Reply from Unit D2 to ANFFE | Ares(2016)1361833 | GROW/D2 | ANFFE |
| 20/04/2016 | R- Position of the Group AZOTY | ARES(2016)1873964 | Bieńkowska Elzbieta | Group AZOTY |
| 22/04/2016 | Polish Permanent Representation to the EU | Ares(2016)1997883 | Polish Permanent Representation | Cabinet Bieńkowska Husak Tomasz |
| 12/05/2016 | Reply from Jyrki Katainen | Ares(2016)2228425 | Jyrki Katainen | Polish Chamber of Chemical Industry |

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|------------|--|-------------------|-------------------------------------|--|
| 24/05/2016 | Revision of EU Fertilizer Regulation | ARES(2016)2498434 | Polish Chamber of Chemical Industry | Bienkowska, Katainen; Timmermans, Vella, Hogan, Malmström, Italianer, Pettinelli |
| 09/06/2016 | R-Letter Deputy Prime Minister of Poland Mateusz Morawiecki - CE marked fertilising products | ARES(2016)2691849 | Bieñkowska Elzbieta | Morawiecki Mateusz |
| 13/06/2016 | Cover note to briefing paper by OCP S.A. | Ares(2016)5883374 | OCP | DG GROW |
| 13/06/2016 | Briefing paper by OCP S.A. | Ares(2016)5883374 | OCP | DG GROW |
| 15/06/2016 | Report from a meeting with the legal representatives of OCP | Ares(2016)3477575 | DG GROW | Internal |
| 06/07/2016 | Report from a meeting with OCP | Ares(2016)5861100 | DG GROW | Internal |
| 15/09/2016 | Email from Phosagro | Ares(2016)5359974 | Phosagro | Cabinet Bieñkowska |