



EUROPEAN COMMISSION

Directorate-General for Trade

The Director General

Brussels, 12 June 2014
Trade/dga2.e.1 (2014) 1048145

Mr Olivier Hoedeman
Corporate Europe Observatory (CEO)
Rue d'Edimbourg 26
B – 1050 Brussels

By email:
ask+request-473-06cb5b10@asktheeu.org

Dear Mr Hoedeman,

Subject: Document request pursuant to Regulation (EC) No 1049/2001 (GESTDEM 2013/2132)

Thank you for your request Gestdem 2013/2132, registered on the 19th of April 2013, for access to documents under Regulation No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents ("the Regulation").

We understand from your request that you would like to have access to:

- 1) minutes and other reports of meeting of DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of individual companies, including lobby consultancies and law firms, and/or industry associations, in which the upcoming trade negotiations with the US were dealt with between the 1st of January 2012 and the 19th of April 2013);
- 2) all correspondence (including emails) between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and representatives of individual companies (including lobby consultancies and law firms) and/or industry associations, in which the upcoming trade negotiations with the US were dealt with between the 1st of January 2012 and the 19th of April 2013.

We have already sent you on the 17th of July 2013 part of what you asked for, namely: a list of meetings where EU-US trade negotiations have been discussed. In addition, on the 4th of October 2013, we have sent you a first batch of 85 documents that had been fully released. These documents related to the second part of your request.

On the 8th of January 2014 we have sent a 2nd batch of 44 documents corresponding to the first part of your request in which you request minutes and other reports of meetings.

¹ OJ L 145, 31.5.2001, p. 43.

I am pleased to send you a 3rd batch of 39 documents corresponding to the first part of your request in which you request minutes and other reports of meetings. You will find a list of these reports annexed to this reply (Annex I).

Out of the 39 documents we are pleased to grant you:

- Full access to 6 documents (54, 61, 68, 72, 73 and 76) ;
- Partial access to 31 documents out of which:
 - 13 documents (45, 48, 51, 52, 58, 60, 63, 65, 66, 67, 71, 82 and 83) are fully released except for the details (i.e. name and position) of our interlocutors which have been removed in application of the exception concerning the privacy of an individual (Article 4.1(b) of the Regulation). Consequently only the name of the industries and/or companies with whom the meeting took place are released;
 - 18 documents (46, 47, 49, 50, 53, 55-57, 59, 62, 64, 69, 70, 74, 75, 78, 80 and 81) are covered partially by Article 4.1(b) and/or other exceptions foreseen in Article 4 of the Regulation, namely Art. 4.1(a) third indent (protection of international relations), Article 4.2 first indent (protection of commercial interests of a natural or legal person) and Article 4.3 (protection of institution's decision making process); and
- No access could be granted to 2 documents (77 and 79). In accordance with Article 4.6 of the Regulation the possibility of granting partial access to these two documents has also been examined. However, it is considered that, as all parts of this document are covered by the invoked exceptions, no such access can be granted.

Please note that parts of some of these documents have been removed for not being relevant to your request.

A detailed assessment of the reasons why we understand that such documents are partially or fully covered by the exceptions of Article 4 of the Regulation is annexed to our reply (Annex II). Please note that the assessment does not cover the parts withheld in application of Article 4.1(b) of the Regulation.

The exceptions laid down in Articles 4.2 and 4.3 of the Regulation apply unless there is an overriding public interest in disclosure of the documents. Accordingly, the presence of an overriding public interest in disclosure has also been assessed. In the present case, there is no such evidence. On the contrary, the prevailing interest in this case rather lies in protecting the EU's decision making process and the commercial interests of the concerned industries and companies.

Concerning the application of Article 4.1(b) on the protection of privacy and the integrity of the individual, please note that when access is requested to documents concerning personal data, Regulation (EC) No 42/2001² becomes fully applicable³. According to Article 8(b) of

² OJ L8 of 12.1.2001, p.1

³ Judgement 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.

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. 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.

We hope this information will meet your needs. I must, however, remind you that these documents cannot be reproduced or disseminated for commercial purposes unless the European Commission has first been consulted.

If you would like the position taken by our service to be reviewed, you should write to the Commission's Secretary-General at the address below, confirming your initial request. In accordance with Article 7.2 of the Regulation, you have fifteen working days in which to do so from receipt of this letter, 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 fifteen working days from the registration of your confirmatory request, either granting you access to the document or confirming the refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Brussels

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

Yours sincerely,



Jean-Luc DEMARTY

Enclosures:

Annex 1 – List of meeting reports with industry
Annex 2 – Assessment
Thirty seven documents (sent via e-mail only)