



EUROPEAN COMMISSION

Brussels, 29.3.2019
C(2019) 2622 final

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1050 Brussels
Belgium

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 - GESTDEM 2019/0767**

Dear [REDACTED],

I refer to your email of 18 February 2019, registered on the same day, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation (EC) No 1049/2001’).

1. SCOPE OF YOUR REQUEST

In your initial application of 11 February 2019, you requested access to ‘D060624/01 - Draft UCCIA amendment - UK withdrawal’.

The European Commission has identified the following document as falling within the scope of your request:

- Draft version of the Commission Implementing Regulation (EU) amending Implementing Regulation (EU) 2015/2447 as regards the forms for guarantor’s undertakings and the inclusion of air transport costs in the customs value in view of the withdrawal of the United Kingdom from the Union.

¹ Official Journal L 345 of 29.12.2001, p. 94.

² Official Journal L 145 of 31.5.2001, p. 43.

In its initial reply of 19 December 2018, the Directorate-General for Taxation and Customs Union refused to give you access to the document, based on the exception to the right of access provided for in Article 4(3) first subparagraph (protection of the decision-making process) of Regulation (EC) No 1049/2001.

In your confirmatory application, you request a review of this position. You argue that disclosure of the document would not seriously undermine the institutions' decision-making process. You further specify that '[u]nlike discussions taking place in the trade defense committee, agenda, minutes, and documents discussed at Customs Code Committee are not confidential. Further, the measures that the EU is proposing to adopt as a consequence of Brexit are discussed with trade through the Trade Contact Group, and by Member States through their own outreach forums (such as Belgium's forum national)'.

Furthermore, you argue that 'even if there were now to be a claim that disclosure of the document would seriously undermine the institutions' decision-making process, there would be an overriding public interest in disclosing it: business needs to know early what the Commission intends to do to address Brexit, so that it is placed in a position to inform the Commission in time about whether the contemplated measures are adequate'.

Your arguments have been taken into account in our assessment, the results of which are described below.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

I can inform you that, following an assessment of the requested document, which constitutes the draft version of the Commission Implementing Regulation, full access is granted to the latter, since the disclosure of its content does not seriously undermine any of the interests protected by the exceptions to the right of access provided for in Article 4 of Regulation (EC) No 1049/2001. Please find attached to this decision a copy of the requested document.

Furthermore, I can inform you that the Commission Implementing Regulation has been adopted and is publicly available at the following address:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0444&from=FR>

You may reuse the requested document free of charge, for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original

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Yours sincerely,



For the Commission
Martin SELMAYR
Secretary-General

Enclosure: (1)