



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
The Director-General

Brussels
TAXUD/GT/Svdv – taxud.e.2(2020)7869079

Mrs Venetia Roxburgh
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(via e-mail and registered mail)

Dear Mrs Roxburgh,

Subject: Your application for access to documents – Ref GestDem No 2020/6470

We refer to your e-mail dated 27 October 2020, in which you make a request for access to documents, registered under the above-mentioned reference number.

You request access to: *“All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to the meeting listed below: **1. Between David Boubli, Cabinet member of Pierre Moscovici and ArcelorMittal on the 16th July 2019**”.*

Following your request we have identified following documents:

1. *mail from ArcelorMittal to the Commission dated 3 July 2019;*
2. *mail from ArcelorMittal to the Commission dated 23 May 2019;*
3. *Border Adjustment Proposals- GIDE/NCTM (attachment to mail 3/7/2019);*
4. *Eurofer Paper State Aid Guidelines (attachment to mail 23/5/2019);*
5. *NERA – Steel Indirect CO2 costs – Executive Summary (attachment to mail 23/5/2019);*
6. *NERA – Steel Indirect CO2 costs (attachment to mail 23/5/2019).*

Your application has been dealt with in accordance with Regulation 1049/2001 on public access to Commission documents. In accordance with Article 4(4) of the Regulation, the

third party (ArcelorMittal) was consulted as concerns the e-mails and documents originating from them. In particular, they have been consulted because personal data of their representatives and staff is mentioned in some of the documents.

Documents 1 to 5

Following from Regulation (EC) No 1049/2001 and based on the consultation with ArcelorMittal, we have considered that documents 1 to 5 can be disclosed. Some references to persons' names and other personal data have been redacted (see below under Personal data). Note that documents 4 and 5 are also publicly available on the website of Eurofer.

Document 6

Following an examination of the document, and based on the consultation with ArcelorMittal, I regret to inform you that access cannot be granted. The document is an analysis prepared by NERA (economic consulting) exclusively for Eurofer.

Note that this document has a confidentiality provision: *Our clients' industries are extremely competitive, and the maintenance of confidentiality with respect to our clients' plans and data is critical. NERA Economic Consulting rigorously applies internal confidentiality practices to protect the confidentiality of all client information.*

Similarly, our industry is very competitive. We view our approaches and insights as proprietary and therefore look to our clients to protect our interests in our proposals, presentations, methodologies and analytical techniques. Under no circumstances should this material be shared with any third party without the prior written consent of NERA Economic Consulting.

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In conclusion, disclosure of the document would undermine the protection of the commercial interests of the company (and its clients), in accordance with the first indent of Article 4(2) of Regulation (EC) No 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, unless there is an overriding public interest in disclosure"*.

Please note further that there is no overriding public interest in the disclosure of the document which would outweigh the harm a disclosure would cause to the interests protected by the invoked exceptions. It is considered that this risk is foreseeable and not purely hypothetical.

Personal data

The documents 1 and 2 to which you have requested access contain personal data (Commission/company staff names and functions, telephone numbers and office addresses)

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

2018/1725. Pursuant to Article 9(1)(b) of Regulation 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

Disclaimer

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

Confirmatory application

In accordance with Article 7(2) of Regulation(EC) No 1049/2001, you are entitled 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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Yours faithfully,

(e-signed)

Gerassimos THOMAS

Annexes: as stated above