EUROPEAN COMMISSION

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[redacted]
Bird & Bird LLP
12 New Fetter Lane
London EC4A IJP
United Kingdom

DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) NO 1049/2001[1]

Subject: Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2019/1658

Dear [redacted],

I refer to your letter of 13 May 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 documents[2] (hereafter 'Regulation (EC) No 1049/2001').

1. SCOPE OF YOUR REQUEST

In your initial application of 13 March 2019, addressed to the Directorate-General for Trade, you requested access to:

'(a) the applicable minimum price level under the Undertaking as at 30 October 2014 (so that the Company can assess whether the price paid for the Goods was in accordance with the Undertaking as at 30 October 2014) or, alternatively, confirmation that the applicable minimum price level under the Undertaking as at 30 October 2014 was the same as the level as at 16 October 2014; and

(b) confirmation that the permissible volumes under the Undertaking had not been exceeded on 30 October 2014.'

1 Official Journal L 345 of 29.12.2001, p. 94.
2 Official Journal L 145 of 31.5.2001, p. 43.

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

– Undertaking issued by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (hereafter: 'CCCME') to the European Commission, dated 27 July 2013, reference Ares(2013)2766693 (hereafter the 'requested document' or 'Undertaking'), which includes eleven annexes.

In its initial reply of 16 April 2019, Directorate-General for Trade refused access to the requested document based on:

– the exception of the third indent of Article 4(2) (protection of the purpose of inspections, investigations and audits) of Regulation (EC) 1049/2001;

– Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union (hereafter: 'Regulation (EU) 2016/1036');

– Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (hereafter: 'Regulation (EU) 2016/1037'); and

– Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (hereafter: 'Decision 2013/707/EU').

In your confirmatory application, you request a review of this position. You support your request with detailed arguments, which I will address in the corresponding sections below to the extent necessary.

2. REGULATIONS (EU) 2016/1036 AND 2016/1037, AND REGULATION (EC) 1049/2001

The European Commission is responsible for initiating and investigating unfair dumping practices or unfair subsidised imports by exporting producers in non-EU countries. On the basis of sufficient evidence, the Commission can decide to open an investigation either on its own initiative (*ex officio*) or following a complaint from the EU industry concerned.

Regulations (EU) 2016/1036 and 2016/1037, in particular their Articles 19 and 20 and 29 and 30, respectively, provide a complete set of rules to guarantee the confidential treatment of information collected during the any of the above investigations conducted by the European Commission. The principle according to which access to investigation files is organised under EU law can be summarised as follows:

– firstly, access to the investigation file may only be granted to the extent that the Union legislator provides for. Only the interested parties may have access to the investigation file, as defined by the Union legislator[3];

– secondly, the investigation file is divided in two parts: a non-confidential file, to which all interested parties have access without any restriction, and a confidential file, to which only the Commission has access.

The European Commission already granted access to interested parties to the non-confidential file in the anti-dumping and anti-subsidy proceedings that led to the adoption of Decision 2013/707/EU. I note that your client, too, could have requested access to that file at the time as interested party..

While it is true that access to the investigation file is linked to the exercise of the rights of defence in administrative proceeding by interested parties[4], disclosure of information to an interested party under Regulations (EU) 2016/1036 and 2016/1037 does not imply that the information becomes public, contrary to the consequences of such access under Regulation (EC) No 1049/2001. Access provided under Regulation 1049/2001 would indeed be *erga omnes*, enabling anyone to have access to the sensitive and confidential information contained in the file[5].

Against this background, in its *TGI* and *Bavarian Lager* judgments[6], the Court has confirmed that administrative actions are to be clearly distinguished from legislative procedures, for which the Court has acknowledged the existence of wider openness. The judgment also recognises that the application of Regulation (EC) No 1049/2001cannot have the effect of rendering the provision of another regulation, over which it does not have primacy, ineffective. This applies in particular where that other regulation sets out a complete sectoral system governing the access to documents and information for a specific area of Union law.

In this context, it must be taken into account that the initiation and conduct of anti-dumping and anti-subsidy investigations are parts of the European Commission's administrative functions.

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3 Judgment of 28 November 1991, *BEUC v. Commission*, C-170/89, EU:C:1991:45, paragraph 30.

4 Judgment of 28 November 1991, *BEUC v. Commission*, C-170/89, EU:C:1991:45, paragraph 19.

5 Judgment of 21 October 2010, *Agapiou Joséphidès v Commission and EACEA*, T-439/08, EU:T:2010:442, paragraph 116.

6 Judgment of 29 June 2010, *European Commission v Technische Glaswerke Ilmenau Gmbh*, C-139/07 P, EU:C:2010:376, paragraphs 53-55 and 60; Judgment of 29 June 2010, *European Commission v the Bavarian Lager Co. Ltd*., C-127/13 P, EU:C:2010:378, paragraphs 56-57 and 63.

In their *Odile Jacob/Agrofert*[7], *LPN*[8] and *Netherlands/Commission*[9] case law, the Court and the General Court further confirmed that, in order to ensure the *effet utile* of the regime and the objectives set out by other regulations, the existence of privileged access rules in the framework of specific administrative procedures even implies that institutions may base themselves on general presumptions in this respect.

Neither Regulation (EC) No 1049/2001 nor Regulations (EU) 2016/1036 and 2016/1037 contain any provision expressly giving one regulation primacy over the other. Therefore, it is appropriate to ensure that each of those regulations is applied in a manner which is compatible with the other, and which enables a coherent application of them.

3. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001 AND THE SECTORIAL RULES

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.

Having examined your confirmatory application, I have to inform you that the decision of the Directorate-General for Trade to refuse access to the Undertaking has to be confirmed on the basis of Article 4(2), third indent (protection of the purpose of inspections, investigations and audits), Article 4(2), first indent (protection of commercial interests), and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001, for the reasons set out below.

3.1. Protection of the purpose of investigation and of commercial interests

The third indent of Article 4(2) of Regulation (EC) No 1049/2001provides that, 'the institutions shall refuse access to a document where disclosure would undermine the protection of (…) the purpose of inspections, investigations and audits.'

The first indent of Article 4(2) of Regulation (EC) No 1049/2001provides 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.'

In accordance with the case-law of the Court of Justice, the Commission, 'when assessing a request for access to documents held by it, may take into account more than one of the grounds for refusal provided for in Article 4 of Regulation No 1049/2001 and two different exceptions can be closely connected[10].'

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7 Judgment of 28 June 2012, *Commission v Odile Jacob*, C-404/10 P, ECLI:EU:C:2012:393, paragraphs 130-131; Judgment of 28 June 2012, *Commission v Agrofert Holding*, C-477/10 P, EU:C:2012:394, paragraphs 56-59 and 64-66.

8 Judgment of 14 November 2013, *LPN and Finland v Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraphs 47-48.

9 Judgment of 13 September 2013, *Kingdom of Netherlands v Europan Commission*, T-380/08, EU:T:2013:480, paragraph 35.

10 Judgment of 13 September 2013, *Netherlands v Commission*, T-380/08, EU:T:2013:480, paragraph 34.

The link between the exceptions follows from the close similarities between the investigative powers of the Commission in competition and anti-dumping investigations (including anti-subsidy investigations). In such situations, the Commission relies on submissions by the parties concerned, which invariably contain sensitive data, including information related to the economic activities of undertakings, and greatly depends on the continuous and repeated cooperation of those parties in order to carry out its investigation as foreseen in the sectoral rules governing them. The Court of Justice confirmed this in its *Odile Jacob* judgment, where it stated that, '… the Commission gathers, in the context of such a procedure, sensitive information about the commercial strategies of the undertakings concerned, their sales figures, their market shares or their business relations, so that access to documents in such a procedure can undermine the protection of the commercial interest of those undertakings. Accordingly, the exceptions relating to the protection of commercial interests and that of the purpose of investigations are closely connected.'[11]

The European Commission observes that although the provisions of the Undertaking are not in force anymore, the anti-dumping / anti-subsidy procedure should still be considered as on-going because the following procedures are closely related to the Undertaking and currently open before the Court of Justice of the European Union:

- Jiansu Seraphim Solar System v Commission (T-110/17);
- Kraftpojkarna v Commission (T-781/17); and
- Wuxi Saijing Solar v Commission (T-782/17).

A number of national proceedings in, inter alia, Germany, the United Kingdom, and the Netherlands relating to violation of the terms of the undertaking are also pending.

In this regard, it is recalled that the Court of Justice has already explained that the right of access to documents is not absolute, but subject to certain limits based on reasons of public or private interest, as is apparent from Article 4 of Regulation (EC) No 1049/2001.

As explained by the Court of Justice and referred to in point 2 of this decision, it is consistent case-law that when two or more regulations govern the right of access to documents, without one of them having precedence, as in the present case, 'it is appropriate to ensure that each of those regulations is applied in a manner compatible with the other and which enable a coherent application of them'[12].

[11] Judgment of 28 June 2012 in case C-404/10 P, *Commission v Odile Jacob*, ECLI:EU:C:2012:393, paragraph 115.

[12] Judgment of 28 June 2012, *Commission v. Odile Jacob*, C-404/10 P, EU:C:2012:393, paragraph 110.

The case-law has already established that such a coherent application of rules on access to documents leads in certain fields of EU law to a general presumption which applies to certain categories of documents. As the Court of Justice confirmed, '[a]ccordingly, the Court has already acknowledged the existence of such presumptions in four particular cases, namely with regard to the documents in the administrative file relating to a procedure for reviewing State aid (…), the documents exchanged between the Commission and notifying parties or third parties in the course of merger control proceedings (…), the pleading lodged by one of the institutions in court proceedings (…) and the documents concerning an infringement procedure during its pre-litigation stage…'[13].

Anti-dumping / anti-subsidy investigations have strong similarities with administrative files drawn up in the framework of other types of Commission investigations, for which the Court of Justice has acknowledged the existence of a general presumption of non-disclosure. In those other investigations, similarly to anti-dumping / anti-subsidy investigations, any final decision of the European Commission has to be based on a complex assessment of facts collected during an investigation, to which many interested parties, including States, participate.

It follows that use of the presumption based on the exceptions defined in the first and third indents of Article 4(2) of Regulation (EC) No 1049/2001 is also justified in the case of anti-dumping / anti-subsidy files. This means that the European Commission is not required to carry out a specific and individual assessment of the content of the requested document.

I should add that the European Commission does not have any power to oblige an interested party to cooperate in an investigation and that there are no sanctions for not participating to an investigation. This means that, while the investigation is essential for the establishment of facts[14], cooperation to such investigation is purely voluntary, as the Court of Justice has confirmed: '… the fact remains that the Basic Regulation [now, Regulation (EU) 2016/1036] does not give the Commission any power of investigation allowing it to compel the producers or exporters complained of to participate in the investigation or to produce information. In those circumstances, the Commission depends on the voluntary cooperation of the parties in supplying the necessary information within the time-limits set.[15]'

In such circumstances, a strict guarantee of confidentiality is essential for parties to be induced to provide data to the investigating authority. Therefore, disclosure of the documents requested would undermine the perception of the value of the guarantee of confidentiality offered by Regulations (EU) 2016/1036 and 2016/1037.

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13 Judgment of 28 February 2014, *European Commission v EnBW Energie Baden-Würtenberg*, C-365/12 P, EU:C:2014:112, paragraph 66.

14 Judgment of 25 October 2011, *Transnational Company 'Kazchrome' AO and ENRC Marketing AG v Council of the European Union*, T-192/08, EU:T:2011:619, paragraph 272.

15 Judgment of 13 July 2006, *Shandong Reipu Biochemichals Co. Ltd v Council of the European Union*, T-413/03, EU:T:2006:211, paragraph 65.

This guarantee of confidentiality also ensures that cases are examined in a climate of frank cooperation in the framework of the Anti-dumping Advisory Committee.

For all these reasons, disclosure of the documents requested would jeopardise the Commission's authority, both vis-à-vis the industry and the Member States, thereby leading to a situation where the Commission would unable to properly carry out its task of enforcing EU law and its international commitments by applying trade defence instruments in compliance with EU law and WTO rules. Consequently, the purpose of trade defence investigations and, implicitly, of the effective protection of the EU industry, would be undermined.

Given its purpose and content, the Minimum Import Price and the annual volume in the Undertaking should be considered as sensitive, strategic business information. They were submitted to the Commission on the premise that they would not be publicly divulged.

Therefore, by analogy, there is also a general presumption that the disclosure of documents that are part of an anti-dumping / anti-subsidy investigation files would undermine the commercial interests of the companies concerned. In this regard, the General Court held in the *Bitumen* case that publication of sensitive information concerning the economic activities of the undertakings involved is likely to harm their commercial interests, regardless of whether the proceedings are still pending[16]. This general presumption can apply up to 30 years and possibly beyond[17].

In the Commission's view, the obligation of 'limitation of use' constitutes an integral part of the professional secrecy obligation and serves the purpose, essential for the functioning of the system, of protecting the fundamental rights of the undertakings concerned by establishing the purpose and the limits of the Commission's encroachment on the private activities of the undertakings concerned.

As confirmed in the *Agrofert* judgment, the application of Regulation (EC) No 1049/2001 cannot have the effect of depriving the aforementioned provisions of their practical effect. The Court stated that, '[g]eneralised access, on the basis of Regulation No 1049/2001, to the documents exchanged in the context of such a procedure, between the Commission and the notifying parties or third parties would … jeopardise the balance which the Union legislature wished to ensure in the EC merger regulation between the obligation on undertakings to communicate possibly sensitive commercial information to the Commission in order that it may assess the compatibility of the proposed transaction with the common market, on the one hand, and the guarantee of increased protection, by virtue of the requirement of professional and business secrecy, for the information so provided to the Commission, on the other hand[18].'

16 Judgment of 13 September 2013, *Netherlands v Commission*, T-380/08, EU:T:2013:480, paragraph 43.

17 Judgment of 28 June 2012, *Commission v Agrofert Holding*, C-477/10 P, EU:C:2012:394, paragraph 67.

18 Ibid, paragraph 62.

In the *Odile Jacob* and *API* judgments[19], where the Court applied *TGI* judgment[20], the Court acknowledged the existence of a general presumption that disclosure of documents exchanged between the Commission and undertakings during merger control proceedings undermines, in principle, not only the protection of the commercial interests of the undertakings involved in such a procedure, but also the objectives of investigation activities.

As indicated above, this also applies by analogy to anti-dumping / anti-subsidy investigations.

Having regard to the above, I consider that the use of the exceptions under the third indent of Article 4(2) (protection of the purpose of investigations) and the first indent of Article 4(2) (protection of commercial interests) of Regulation (EC) No 1049/2001 is justified, and that access to the requested document must be refused on that basis.

3.2 Protection of privacy and the integrity of the individual

Article 4(1)(b) of Regulation (EC) No 1049/2001 provides that '[t]he institutions shall refuse access to a document where 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'.

In its judgment in Case C-28/08 P *(Bavarian Lager)*[21], the Court of Justice ruled that when a request is made for access to documents containing personal data, 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 data[22] (hereafter 'Regulation (EC) No 45/2001') becomes fully applicable.

Please note that, as from 11 December 2018, Regulation (EC) No 45/2001 has been repealed by Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC[23] (hereafter 'Regulation (EU) 2018/1725').

However, the case law issued with regard to Regulation (EC) No 45/2001 remains relevant for the interpretation of Regulation (EU) 2018/1725.

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19 Judgment of 21 September 2010, *Sweden and Others v API and Commission*, C-514/07 P, EU:C:2010:376, paragraphs 99 and 100, as well as judgment of 28 June 2012, *Commission v Odile Jacob*, C-404/10 P, EU:C:2010:54, paragraphs 108-126.

20 Judgment of 29 June 2010, *Commission v Technische Glaswerke Ilmenau.* C-139/07, EU:C:2010:376.

21 Judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd* (hereafter referred to as *'European Commission v The Bavarian Lager* judgment') C-28/08 P, EU:C:2010:378, paragraph 59.

22 Official Journal L 8 of 12.1.2001, page 1.

23 Official Journal L 205 of 21.11.2018, p. 39.

In the above-mentioned judgment, the Court stated that Article 4(1)(b) of Regulation (EC) No 1049/2001 'requires that any undermining of privacy and the integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with […] [the Data Protection] Regulation'.[24]

Article 3(1) of Regulation (EU) 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person […]'.

As the Court of Justice confirmed in Case C-465/00 (*Rechnungshof*), 'there is no reason of principle to justify excluding activities of a professional […] nature from the notion of private life'.[25]

The Undertaking contains personal data such as the names, contact details (such as email addresses and telephone numbers) and initials of persons who do not form part of the senior management of the European Commission. Moreover, it contains a handwritten signatures.

The names[26] of the persons concerned as well as other data from which their identity can be deduced undoubtedly constitute personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if '[t]he 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'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

In Case C-615/13 P (*ClientEarth*), the Court of Justice ruled that the institution does not have to examine by itself the existence of a need for transferring personal data.[27] This is also clear from Article 9(1)(b) of Regulation (EU) 2018/1725, which requires that the necessity to have the personal data transmitted must be established by the recipient.

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24 *European Commission v The Bavarian Lager* judgment, cited above, paragraph 59.

25 Judgment of the Court of Justice of 20 May 2003, *Rechnungshof and Others v Österreichischer Rundfunk*, Joined Cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

26 *European Commission v The Bavarian Lager* judgment, cited above, paragraph 68.

27 Judgment of the Court of Justice of 16 July 2015, *ClientEarth v European Food Safety Agency*, C-615/13 P, EU:C:2015:489, paragraph 47.

According to Article 9(1)(b) of Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for the lawful processing of personal data only if the first condition is fulfilled, namely if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your confirmatory application, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subjects' legitimate interests might be prejudiced.

Notwithstanding the above, there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by the disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

As to the handwritten signatures appearing in the Undertaking, which constitute biometric data, there is a risk that their disclosure would prejudice the legitimate interest of the person concerned.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by the disclosure of the personal data concerned.

4. PARTIAL ACCESS

I have also examined the possibility of granting partial access to the documents concerned, in accordance with Article 4(6) of Regulation (EC) No 1049/2001. However, it follows from the assessment made above that the requested document is manifestly and entirely covered by the exceptions laid down in the first and third indents of Article 4(2) and point (b) of Article 4(1) of Regulation (EC) No 1049/2001.

Indeed, as elaborated by the General Court[28], where the documents requested are covered by a general presumption of non-disclosure, such documents do not fall within an obligation of disclosure, in full, or in part.

[28] Judgment in *Sea Handling v Commission*, cited above, EU:T:2015:185, paragraph 93.

5. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exceptions laid down in the first and the third indents of Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

Your confirmatory application and the additional correspondence of the case actually confirms the absence of a public interest. In your confirmatory application, you refer only to the right of defence of the private company you represent.

In this respect, it must be noted that the individual interest that an applicant may invoke when requesting access to documents cannot be taken into account for the purpose of assessing the possible existence of an overriding public interest[29].

With regard to the public interest in transparency of anti-dumping / anti-subsidy rules, I note that general considerations cannot provide an appropriate basis for establishing that a public interest prevails over the reasons justifying the refusal to disclose the requested document[30].

In consequence, I consider that in this case there is no overriding public interest that would outweigh the public interest in safeguarding the protection of the purpose of investigations and commercial interests protected by the first and third indents of Article 4(2) of Regulation (EC) No 1049/2001.

The fact that the document relates to an administrative procedure and not to any legislative act, for which the Court of Justice has acknowledged the existence of wider openness[31], provides further support to this conclusion.

Please also note with regard to personal data that Article 4(1)(b) of Regulation (EC) No 1049/2001is an absolute exception which does not require the institution to balance the exception defined therein against a possible public interest in disclosure.

The above being said,I recall that access to the information you require may be requested by a national judge under the *Zwartveld* case-law to ensure the application and enforcement of Union law in the national legal order.[32]

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29 Judgment of 20 March 2014, *Reagens v Commission*, T-181/10, EU:T:2014:139, paragraph 144.

30 Judgment of 14 November 2013, *LPN and Finland v Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 93.

31 Judgment in *Commission v Technische Glaswerke Ilmenau*, cited above, EU:C:2010:376, paragraph 60.

32 Order of 13 July 1990, *Zwartveld e.a.*, C-2/88 IMM, EU:C:1990:315, paragraph 10. *See also* the judgments of 28 February 1991, *Delimitis*, C-234/89, EU:C:1991:91, paragraph 53; of 26 November 2002, *First et Franex*, C-275/00, EU:C:2002:711, paragraph 49; of 11 July 1996, *SFEI e.a.*, C-39/94, EU:C:1996:285, paragraph 50; and of 3 July 2019, Case C-644/17 *Eurobolt*, EU:C:2019:955, paragraph 30.

6. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

For the Commission