



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

The Director-General

Brussels, 15/02/2023
ENER.TF3/MG/FE ener.a.1(2023)1367346
Ms Douo Myriam

By email: ask+request-12326-
22fe72f5@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2022/7267 and GESTDEM 2022/7268

Dear Ms Douo,

We refer to your email of the 15th of December 2022 in which you make a request for access to documents related to:

- *all correspondence, including attachments (i.e., any emails, mail correspondence or telephone call notes) regarding the EU-US task force on Energy Security;*
- *a list of all meetings and/or calls attended by DG ENER, including any Cabinet Members and/or official, regarding the EU-US task force on Energy Security- including but not limited to the task force meetings of April 28th and November 3rd and the task force technical convenings of April 20th and 25th and June 30th;*
- *specifically, all correspondence, meetings and participants lists having to do with the dialogue initiated by the task force among the EU, the US Government, EU Member States, industry, NGOs and private sector representatives (as mentioned here: https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_6582). The list should include:*
- *date, individuals attending and organisational affiliation, list of issues discussed, as well as minutes and other reports of these meetings and/or calls;*
- *all documents prepared for the purpose of the meetings issued both in preparation and after the meetings took place.*

The following documents fall within the scope of your application:

1. US-EU Task Force_meeting_agenda_28.04.2022; Ares(2022)5949083
2. US-EU Task Force_meeting_agenda_22.06.2022; Ares(2022)5925971
3. US-EU Task Force_technical convening_agenda_20.04.2022; Ares(2022)5949118
4. US-EU Task Force_technical convening_agenda_25.04.2022; Ares(2022)5949178
5. US-EU Task Force_technical convening_agenda_30.06.2022; Ares(2022)5959592
6. US-EU Task Force_technical convening_agenda_17.10.2022; Ares(2023)637516
7. US-EU Task Force_technical convening_invitation and agenda_03.11.2022; Ares(2023)667319
8. US-EU Task Force_technical convening_invitation_20.04.2022; Ares(2022)5950017

9. US-EU Task Force_technical convening_invitation_25.04.2022; Ares(2022)5950045
10. US-EU Task Force_technical convening_invitation_30.06.2022; Ares(2022)5950090
11. US-EU Task Force_technical convening_invitation_17.10.2022; Ares(2023)667214
12. Letter Regarding the US-EU Joint Energy Security Statement_19.05.2022; Ares(2022)5950134
13. Briefing for Director-General Juul Jørgensen ahead of the US-EU Task Force technical meeting of 20 April 2022, Ares(2023)190825
14. Briefing for Director-General Juul Jørgensen ahead of the US-EU Task Force technical meeting of 25 April 2022, Ares(2023)191187
15. Briefing for Director-General Juul Jørgensen, Visit to Atlantic City and Washington (26-30 April 2022), Ares(2023)191414
16. Briefing for Director-General Juul Jørgensen ahead of the US-EU Task Force technical meeting of 30 June 2022, Ares(2023)191730
17. Briefing for Director-General Juul Jørgensen ahead of the US-EU Task Force technical meeting of 17 October 2022; Ares(2023)663907
18. Briefing for Director-General Juul Jørgensen, Visit to Washington (2-4 November 2022); Ares(2023)664170
19. Flash Report – US - EU Energy Security Task Force meeting of 20 April 2022, Ares(2023)199094
20. Flash Report - US - EU Energy Security Task Force meeting of 25 April 2022, Ares(2023)191542
21. Flash Report - US - EU Energy Security Task Force meeting of 17 October 2022, Ares(2023)664416
22. Flash Report - US - EU Energy Security Task Force meeting of 3 November 2022, Ares(2023)664531

1. Background on the EU-US Energy Security Task Force

The work of the Task Force is documented by public readouts, accessible on the Commission websites: [Joint EU-US Statement on European Energy Security](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_2750)¹ of 28 April, [Readout EU-US Task Force European Energy Security Meeting](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6582)² of 22 June, and [Latest meeting of the EU-US Task Force on Energy Security](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6582)³ of 3 November 2022.

The Task Force was set up to establish a political framework for the United States and the European Commission's commitments to reduce Europe's dependency on Russian energy. Its main role is to monitor the progress for security on reducing dependence on fossil fuels and to discuss and identify solutions for addressing the emergency energy security objective in Europe of ensuring appropriate levels of gas storage ahead of next winter and the following one.

Between its creation and the end of 2022, the EU-US Energy Security Task Force **met three times**. All meetings were co-chaired by Björn Seibert, Head of Cabinet of the European Commission President, and Amos Hochstein, US Special Presidential Coordinator, and under the

1 https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_2750

2 https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6582

3 https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6582

leadership of Ditte Juul Jørgensen, European Commission Director General for Energy, and Melanie Nakagawa Stephanie (two first meetings) and Stephanie Epner, Special Advisor and Acting Senior Director for Climate and Energy at the White House National Security Council:

- 1) High-level meeting of 28 April 2022 (in Washington)
- 2) High-level meeting of 22 June 2022 (virtually)
- 3) High-level meeting of 3 November 2022 (in Washington)

In parallel, **four thematic Task Force convenings** took place:

- 1) Convening of 20 April 2022 (LNG supply)
- 2) Convening of 25 April 2022 (clean tech: with a focus on heat-pumps)
- 3) Convening of 30 June 2022(clean-tech: thermostats) ⁽⁴⁾
- 4) Convening of 17 October 2022 (energy saving, demand reduction)

The Task Force convenings were chaired by Director-General Ditte Juul Jørgensen and the senior representative of the US National Security Council/White House with the participation of US Government officials, Member States and EU and US industry stakeholders. The goal of the convenings was to identify any immediate actions that could ease the energy situation in Europe by offering solutions to replace energy produced from Russian fossil fuels. All these meetings took place virtually.

Following the last Convening on energy savings of 17 October, a technical exchange with the EU stakeholders was organised on 3 November to discuss possible next steps on energy savings and demand reductions that would be planned in cooperation with the US. The meeting offered the EU stakeholders an opportunity to share their ideas on how to move forward in the framework of the EU-US Energy Security Task Force in line with the conclusions of the convening of 17 October.

2. Assessment of your request to access documents

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I am glad to inform you that full access to **Documents 1, 2, 3, 4 and 5** can be granted.

As for **documents 7, 8, 9, 10 and 11**, partial access can be granted and some parts of the document have been blanked out. A complete disclosure of the identified documents is prevented by the exception concerning the **protection of privacy and the integrity of the individual** outlined in Article 4(1) (b) of Regulation (EC) No 1049/2001, because they contain the following personal data: the names/initials and contact details of natural persons not being part of senior management of the European Commission.

Finally, I regret to inform you that access to **documents 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22** cannot be granted as disclosure is prevented by the exceptions of the right to access laid

(4) This convening was based on an explicit Presidential agreement to encourage Member States and European and US companies to reach an initial goal of deploying at least 1.5 million energy saving smart thermostats in European households this year; Joint Statement on European Energy Security (europa.eu) of 27 June 2022

down in Article 4(1) (a) third indent of this Regulation. Disclosure of these documents would undermine the protection of the **public interest as regards international relations** within the meaning of Article 4(1) (a), third indent, of Regulation (EC) No 1049/2001.

2.1. Protection of public interest as regards international relations

Document 12 is a letter written by members of the United States Congress and members of the European Parliament to President Biden and President von der Leyen, to give an opinion on the Task Force's work. Documents 13, 14, 15, 16, 17 and 18 are briefings drafted for Director-General Juul Jørgensen, to prepare for meetings of the U.S.-EU Task Force. Documents 19, 20, 21 and 22 are internal flash reports circulated in DG Energy after the meetings of the U.S.- EU Task Force.

Disclosure of these documents would undermine the protection of the public interest as regards international relations within the meaning of Article 4(1) (a), third indent, of Regulation (EC) No 1049/2001.

The disclosure of the documents concerned would put in the public domain the negotiating positions and related internal policy considerations of the EU, and in some cases those of the US. Their full public release by the Commission would undermine the trust enjoyed by the institution to hold free exchange of views concerning the work it carries out with the US authorities and would negatively affect efforts to build constructive and effective relations with them, thus having a negative impact on our international activity. Moreover, this information could also be used by third countries to bring undue pressure on the Commission in support of their own interests, unduly limit the room for manoeuvre of the EU on the international stage and jeopardise the EU's international position.

In this regard, the General Court found that 'it is possible that the disclosure of European Union positions in international negotiations could damage the protection of the public interest as regards international relations' and 'have a negative effect on the negotiating position of the European Union' as well as 'reveal, indirectly, those of other parties to the negotiations'⁵. Moreover, 'the positions taken by the Union are, by definition, subject to change depending on the course of those negotiations and on concessions and compromises made in that context by the various stakeholders. The formulation of negotiating positions may involve a number of tactical considerations on the part of the negotiators, including the Union itself. In that context, it cannot be precluded that disclosure by the Union, to the public, of its own negotiating positions, when the negotiating positions of the other parties remain secret, could, in practice, have a negative effect on the negotiating capacity of the Union'⁶.

There is therefore a reasonably foreseeable and not purely hypothetical risk that the disclosure of these documents by the Commission would undermine the international relations between the EU and US. Consequently, I must conclude that access to documents 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 needs to be refused under the exception laid down in the third indent of Article 4(1)(a) of Regulation (EC) No 1049/2001.

⁵ Judgment in *Sophie in 't Veld v Commission*, T-301/10, EU:T:2013:135, paragraphs 123-125.

⁶ *Id.*, paragraph 125.

2.2. Protection of privacy and the integrity of the individual

A complete disclosure of documents 7, 8, 9, 10 and 11 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1) (b) of Regulation (EC) No 1049/2001, because they contain the following personal data: the names/initials and contact details of natural persons not being part of senior management of the European Commission.

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 European Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 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/EC⁷ ('Regulation 2018/1725').

In its judgment in Case C-28/08 P (Bavarian Lager)⁸, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.⁹ 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 '[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'.

Consequently, I conclude that, pursuant to Article 4(1) (b) of Regulation 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 assume that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

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

⁷ Official Journal L 205 of 21.11.2018, p. 39.

⁸ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, EU:C:2010:378, paragraph 59.

⁹ Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

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 sincerely,
Ditte Juul Jørgensen

Enclosure:Ares(2022)5949083;Ares(2022)5925971;Ares(2022)5949118;Ares(2022)5949178;
Ares(2022)5959592;Ares(2023)637516;Ares(2023)667319;Ares(2022)5950017;Ares(2022)5950
045;Ares(2022)5950090;Ares(2023)667214;Ares(2022)5950134;Ares(2023)190825;Ares(2023)
191187;Ares(2023)191414;Ares(2023)191730;Ares(2023)663907;Ares(2023)664170;Ares(2023
)199094; Ares(2023)191542; Ares(2023)664416; Ares(2023)664531