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Directorate-General for Trade
Directorate E – Neighbouring countries, USA & Canada
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The Head of Unit

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By registered letter with acknowledgment of receipt

Mr Hans Wetzels
Potsdamer Strasse 101
10785 Berlin
Germany

Advance copy by email:
ask+request-4778-7daa827f@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2017/6810

Dear Mr Wetzels,

I refer to your application dated 13 November 2017 in which you make a request for access to documents under Regulation (EC) No 1049/2001¹ ("Regulation 1049/2001"), registered on the same date under the above mentioned reference number.

In your application you request access to:

- *"Any study, impact assessment, forecast, paper or other document authored by the Trans-Atlantic Business Council (TABC) and/or the Trans-Atlantic Business Dialogue (TABD) in which the TTIP-negotiations, the Trade in Services Agreement (TiSA) as well as future US-EU trade relations in general were mentioned or discussed between June 2016 and October 2017";*

- *"All correspondence (including emails) between DG Trade officials (including the Commissioner and the Cabinet) and members and/or representatives of the Trans-Atlantic Business Council (TABC) and/or the Trans-Atlantic Business Dialogue (TABD) in which the TTIP-negotiations, the Trade in Services Agreement (TiSA) as well as future US-EU trade relations in general were mentioned or discussed between June 2016 and October 2017";*

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

- *"A list of meetings including detailed minutes and any other reports of such meetings between DG TRADE's officials (including the Commissioner and his Cabinet members) and members and/or representatives of the Trans-Atlantic Business Council (TABC) and/or the Trans-Atlantic Business Dialogue (TABD) in which the TTIP-negotiations, the Trade in Services Agreement (TiSA) as well as future US-EU trade relations in general were mentioned or discussed between June 2016 and October 2017";*

- *"All correspondence (including emails) between DG Trade officials (including the Commissioner and the Cabinet) themselves, and members and/or representatives of the Trans-Atlantic Business Council (TABC) and/or the Trans-Atlantic Business Dialogue (TABD) about or mentioning the Transatlantic General Counsel Summit held in London on June 7, 2016".*

We have identified 2 meetings with the TABC and/or the TABD, which have been listed in the Annex I to this reply. In addition, 6 documents related to these meetings and correspondence have been listed in the Annex II and attached to this reply. As regards your specific question on the Transatlantic General Counsel Summit of 7 June 2016, no documents relevant to your request have been identified by DG TRADE.

Having examined the documents in light of the applicable legal framework, I am pleased to inform you that access can be granted to their content. However, some personal data have been withheld in all the documents, in accordance with Article 4(1)(b) of Regulation 1049/2001. The legal reasoning underlying the protection of these personal data is provided below. A copy of these documents is enclosed.

In relation to document 3a, part of this document has been marked as falling outside the scope of your request as its concerns topics different from those mentioned in your request.

Article 4(1) (b) of Regulation 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".

The applicable legislation in this field is 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 data².

² OJ L 8, 12.1.2001, p. 1. The Court of Justice has ruled that "where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data" "the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety" (see judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64).

Article 2(a) of Regulation 45/2001 provides that *"personal data' shall mean any information relating to an identified or identifiable natural person [...]"*. In this respect, the jurisprudence of the EU Courts has clarified that activities of a professional nature may fall within the notion of *'private life'*³ and that *"surnames and forenames may be regarded as personal data"*⁴, including names of the staff of the institutions⁵.

In accordance with Article 8(b) of Regulation 45/2001 personal data may be transferred to recipients if they establish *"the necessity of having the data transferred"* and additionally *"if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced"*⁶. I consider on the basis of your application, that these conditions have not been met. Therefore, in order to ensure the protection of the privacy and integrity of the individuals concerned, the personal data in question cannot be transferred.

In accordance with Article 7(2) of Regulation 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
Secretary-General
Transparency unit SG-B-4
BERL 5/282
BE-1049 Bruxelles

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

Yours sincerely,



Hiddo HOUBEN

³ Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

⁴ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁵ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

⁶ The Court of Justice has clarified that *"it is for the person applying for access to establish the necessity of transferring that data"* (C-127/13 P, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77).