Brussels,
SG.B.5/MF/rc -

Mr Pascoe SABIDO
Corporate Europe Observatory
Rue d'Edimbourg 26
1050 Bruxelles

Decision of the Secretary General pursuant to Article 4 of the Implementing Rules to Regulation (EC) N° 1049/2001¹

Subject: Your application for access to documents pursuant to Regulation No. 1049/2001 – GestDem N° 2013/1192

Dear Mr Sabido,

I refer to your confirmatory application of 11 June 2013, registered on 17 June 2013, in which you request, pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents², a review of the position taken by the Directorate General for Trade (DG TRADE) on 13 and 27 May 2013 in reply to your initial application of 4 March 2013.

In your initial application, you requested access to documents which contain the following information: the full membership list of the High Level Working Group on Jobs and Growth.

In its initial reply of 13 March 2013, DG TRADE specified that the request fell outside the purpose of Regulation 1049/2001, as there was no existing document containing the requested information.

DG TRADE also indicated that it had fully respected its duties according to the Code of Good Administrative Behaviour, as it had shared with you, within the stipulated deadlines, the information which is publicly available, namely, the two reports as well as the names of the two chairs and managers of the joint EU-US High Level Working Group on Jobs and Growth (HLWG).

DG TRADE also specified that, on the EU side, the work of the HLWG has been managed by Jean-Luc Demarty, Director General for Trade.

As regards the various public consultations held and expert evidence gathered since the launch of the work of the HLWG, DG TRADE provided you on 8 April with a link to the impact assessment on the future of the EU-US trade relations (section 1.2. and Annexes 5a and 5b), where this information can be found.

² Official Journal L145, 31.05.2001, p.43.
In a subsequent message to DG TRADE dated 19 April 2013 (interpreted by DG TRADE as a specification of your initial request), you maintained your request. By letter of 27 May 2013 DG TRADE re-confirmed that a membership list of the HLWG does not exist.

In your confirmatory application, you reiterate your request to obtain access to the full membership list of the High Level Working Group on Jobs and Growth (HLWG) which has recommended the launch of free trade negotiations between the EU and the US. You specify that you would like to know who are the actual authors of the reports produced by the HLWG. You state furthermore that following an access to documents request to the United States Trade Representative, the documents have been produced, proving that, contrary to claims made by DG Trade they do in fact exist.

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Secretariat General conducts an independent review of the reply given by the Directorate General concerned at the initial stage.

Following this independent review, I have come to the conclusion that your confirmatory application falls outside the purpose of Regulation 1049/2001, as the Commission has not been able to identify any document falling within the scope of your confirmatory request. Indeed, the HLWG does not have any formal membership and therefore a membership list does not exist. Nor does the Commission have a document listing the Commission and EU staff who contributed to drafting the two reports produced by the HLWG.

I therefore have to confirm the analysis of DG TRADE that your application under Regulation 1049/2001 is devoid of purpose.

Nevertheless, in application of the Code of Good Administrative Behaviour, please be informed:

- that the information provided to you by the United States Representative concerns only contact details of technical experts, exchanged between parties to facilitate daily work. Therefore, this list (i.e. the names of staff from the EU and US administrations) does not constitute a list of the members of the HLWG, which you requested under this application.

- that the drafting of both reports has been a common effort of various European Commission services. The coordination of the drafting of both reports, the daily work of the HLWG and the gathering of the input provided by other Commission services, civil society and stakeholders has been ensured by Directorate E of DG TRADE ("Neighbouring countries, USA and Canada"), and in particular Unit E1 ("USA and Canada").

Finally, I draw your attention to the means of redress available against this decision. You may, under the conditions of Article 263 TFEU, bring proceedings before the General Court or, under the conditions of Article 228 TFEU, file a complaint with the European Ombudsman.

Yours sincerely,

[Signature]

Catherine Day