



EUROPEAN COMMISSION

Brussels, 6.9.2018  
C(2018) 5943 final

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Denmark

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE  
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation (EC) No 1049/2001 - GESTDEM 2018/1923**

Dear Mr Haar,

I refer to your e-mail of 1 June 2018, registered on 8 June 2018, 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<sup>2</sup> (hereafter ‘Regulation 1049/2001’).

**1. SCOPE OF YOUR REQUEST**

In your initial application of 4 April 2018, registered under reference GESTDEM 2018/1923 and dealt with by the Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 of the TEU (hereafter ‘the Task Force’), you requested access to ‘documents which contain the following:

- A list of meetings between representatives for financial companies and/or associations representing financial companies AND members of the Task Force on Article 50 negotiations with the UK, including the chief negotiator and his staff;

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<sup>1</sup> Official Journal L 345 of 29 December 2001, p. 94.

<sup>2</sup> Official Journal L 145 of 31 May 2001, p. 43.

- Minutes of meetings between representatives for financial companies and/or associations representing financial companies AND members of the Task Force on Article 50 negotiations with the UK, including the chief negotiator and his staff;

[and]

- Any written communication, including emails, between representatives for financial companies and/or associations representing financial companies AND members of the Task Force on Article 50 negotiations with the UK, including the chief negotiator and his staff”.

You specified that your request should cover the time since 14 June 2017.

Through its initial reply dated 18 May 2018, the Task Force provided you with a list of meetings held with representatives of financial organisations between 14 June 2017 and 4 April 2018, on the basis of the Code of Good Administrative Behaviour. Moreover, it sent you the link to the webpage containing the list of meetings held by the Chief Negotiator<sup>3</sup>.

The Task Force had identified 49 documents containing correspondence and 36 documents containing minutes of meetings as falling under the scope of your request.

It granted partial access to the correspondence, pursuant to Article 4(2), first indent (protection of commercial interests), Article 4(1)(a), third indent (protection of the public interest as regards international relations) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation 1049/2001.

Furthermore, the Task Force refused access to the minutes of meetings, based on the same exceptions of Regulation 1049/2001.

Through your confirmatory application you request a review of the position of the Task Force.

By letter of 20 June 2018, the Secretariat-General, as part of its confirmatory review, informed you that your application concerned 87 documents<sup>4</sup> that would need to be assessed individually.

Consequently, in accordance with Article 6(3) of Regulation 1049/2001, the Secretariat-General asked you to specify the objective of your request and your specific interest in the documents requested<sup>5</sup> and whether you could significantly narrow down the scope of your request, so as to reduce it to a more manageable amount of documents. In this context, the Secretariat-General provided a detailed calculation regarding the estimated

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<sup>3</sup> List of meetings between the Chief Negotiator and organisations and self-employed individuals: <http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=fa02e4e1-d738-413e-8b4e-ed8381a90e86>.

<sup>4</sup> Two further documents containing correspondence have been identified at confirmatory level as falling within the scope of your request.

<sup>5</sup> Judgment of 22 May 2012 in Case T-344/08, *EnBW Energie Baden-Württemberg v Commission*, EU:T:2012:242, paragraph 105.

work load required for the various steps of the process. It explained to you in detail the administrative burden that the handling of your confirmatory application would entail.

With a view to reaching a fair solution concerning the handling of your confirmatory application, taking into account the amount of work already engendered by assessing the work load associated with the handling of your request, and to respect the time-limits set by Regulation 1049/2001, the Secretariat-General proposed to deal with documents relating to a maximum of seven organisations which you could select on the basis of the list of meetings provided at initial stage.

Through your reply of 21 June 2018, you did not contest the administrative burden that the examination of your confirmatory application would entail and agreed to limit the scope of your request to documents related to the following seven entities selected by you: Deutsche Bank, Association for Financial Markets in Europe/Securities Industry and Financial Markets Association, BNP Paribas, Barclays, Freshfields/Lloyd's of London, Fédération Bancaire Française and Citigroup.

In accordance with your selection, the scope of this confirmatory review covers the following documents:

- minutes of the meeting between representatives of Deutsche Bank and the Chief Negotiator of 25 July 2017, Ares(2018)3054056 (hereafter 'document 1');
- minutes of the meeting between representatives of Deutsche Bank and representatives of the Task Force as well as of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union of 11 January 2018, Ares(2018)208948 (hereafter 'document 2');
- email correspondence between staff members of Deutsche Bank and the Task Force between 13 December 2017 and 8 January 2018, Ares(2018)158238 (hereafter 'document 3');
- minutes of the meeting between representatives of the Association for Financial Markets in Europe as well as the Securities Industry and Financial Markets Association and representatives of the Task Force and of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union of 5 December 2017, Ares(2017)6003112 (hereafter 'document 4');
- email correspondence between staff members of the Securities Industry and Financial Markets Association and the Task Force of 14 November 2017, Ares(2017)5762285 (hereafter 'document 5');
- email correspondence between staff members of the Securities Industry and Financial Markets Association and the Task Force between 14 and 24 November 2017, Ares(2017)5762300 (hereafter 'document 6');

- email correspondence between staff members of the Securities Industry and Financial Markets Association and the Task Force between 14 and 28 November 2017, Ares(2017)5837437 (hereafter ‘document 7’);
- minutes of the meeting between representatives of BNP Paribas and representatives of the Task Force as well as of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union of 13 September 2017, Ares (2017)4663459 (hereafter ‘document 8’);
- minutes of the meeting between representatives of BNP Paribas and representatives of the Task Force as well as of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union of 8 February 2018, Ares(2018)1014906 (hereafter ‘document 9’);
- minutes of the meeting between representatives of Barclays and of the Task Force of 28 June 2017, Ares(2017)3495592 (hereafter ‘document 10’);
- minutes of the meeting between representatives of Freshfields/Lloyd's of London and of the Task Force of 19 September 2017, Ares(2017)4692157 (hereafter document 11);
- email correspondence between staff members of Freshfields/Lloyd's of London, and the Task Force between 26 July and 1 September 2017, Ares(2017)4333834 (hereafter ‘document 12’);
- minutes of the meeting between representatives of the Fédération Bancaire Française and of the Task Force of 20 February 2018, Ares(2018)1074523 (hereafter ‘document 13’);
- email correspondence between staff members of the Fédération Bancaire Française and the Task Force between 1 September 2017 and 2 February 2018, Ares(2018)644977 (hereafter ‘document 14’);
- minutes of the meeting between representatives of Citigroup and representatives of the Task Force as well as of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union of 28 June 2017, Ares(2017)3538133 (hereafter ‘document 15’);

and

- email correspondence between staff members of Citigroup and the Task Force between 15 and 22 May 2017, Ares(2017)2593392 (hereafter ‘document 16’).

You support your confirmatory application with several arguments that have been taken into account in the assessment of the Secretariat-General, the results of which are described under point 2 below.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001**

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

As part of this review, the Secretariat-General consulted the third parties, from which parts of the correspondence originate and whose views are reflected in the meeting minutes, on the possible disclosure of the (relevant parts of the) documents.

Following the confirmatory review, and taking into account the opinion of the consulted third parties and their lawful interests on the basis of the information available to the European Commission, I regret to inform you that I have to confirm the initial decision of the Task Force to refuse access to documents 1, 2, 4, 8, 9, 10, 11, 13 and 15 as well as to parts of documents 12 and 14.

This refusal is based on Article 4(2), first indent (protection of commercial interests of a natural or legal person, including intellectual property), Article 4(1)(a), third indent (protection of the public interest as regards international relations) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation 1049/2001.

The detailed reasons for the refusal are set out hereafter.

Wider partial access is granted to documents 3, 5, 6, 7 and 16 as well as to the other parts of documents 12 and 14.

### **2.1. Protection of commercial interests of a natural or legal person, including intellectual property**

Article 4(2), first indent of Regulation 1049/2001 stipulates that '[t]he 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'.

The General Court found that documents, the disclosure of which would seriously undermine the commercial interests of a legal person, 'contain commercially sensitive information relating, in particular, to the business strategies of the undertakings concerned or their commercial relations or where those documents contain information particular to that undertaking which reveal its expertise'<sup>6</sup>.

In the framework of the meetings, the financial companies and the associations concerned shared with the European Commission their preliminary assessment of the specific market where they carry out their activities, information on their market share as well as their concerns and strategies that they pursue to mitigate the consequences of the United

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<sup>6</sup> Judgments of 5 February 2018 in Case T-718/15 *PTC Therapeutics Ltd v. European Medicines Agency*, EU:T:2018:66, paragraphs 84-85 and in Case T-729/15 *MSD Animal Health Innovation GmbH v. European Medicines Agency*, EU:T:2018:67, paragraphs 67– 68 and also confirmed by judgment of 11 July 2018 in Case T-643/13, *Rogesa v. Commission*, EU:T:2018:423, paragraph 70.

Kingdom's withdrawal from the European Union. For these reasons, the information contained in the documents reflecting the minutes of these meetings clearly relates to the business strategies and the commercial relations of these entities.

Public disclosure of these documents would damage these organisations' commercial interests, as it would put into the public domain confidential commercial information, thereby harming the position of the (members of the) above-mentioned organisations on the market and their ability to exercise commercial and business activities in the future. This information could indeed be exploited by other companies competing in this very specific market and competitors would be able to align their action on the basis of the information, thereby gaining a commercial advantage which they would otherwise not have had, undermining in this way the commercial interests of the financial organisations concerned.

Indeed, the representatives of these organisations shared their views and commercial information on the understanding that the discussions would be treated in a confidential manner.

The same applies to parts of documents 12 and 14 containing correspondence between Freshfields/Lloyd's of London and Fédération Bancaire Française and the Task Force. The redacted parts of the correspondence from these organisations also include issues and concerns with regard to the withdrawal of the United Kingdom from the European Union in preparation of their meetings with representatives of the Task Force<sup>7</sup>. This information is to be considered as commercially sensitive because it reflects the issues that are relevant for the business strategies of these entities and their members in order to deal with the consequences of the United Kingdom's withdrawal from the European Union in the financial services and insurance sector.

In this respect, I refer to Article 339 of the Treaty on the Functioning of the European Union, which requires members of the staff of the EU institutions to refrain from disclosing 'information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their costs components'.

Based on the foregoing, I consider that there is a real and non-hypothetical risk that public access to these documents would negatively affect the commercial activities of the entities and the members of the respective associations, in particular in the existing competitive context, thereby seriously undermining the commercial interests of the latter.

Therefore, I conclude that access to documents 1, 2, 4, 8, 9, 10, 11, 13 and 15 as well as to the relevant parts of documents 12 and 14 has to be refused on the basis of the exception laid down in the first indent of Article 4(2) of Regulation 1049/2001.

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<sup>7</sup> This applies to the message of 26 July 2017 from Freshfields/Lloyd's of London contained in document 12 as well as to the messages of 11 January 2018 (4:42 PM) and 19 January 2018 originating from Fédération Bancaire Française contained in document 14.

## 2.2. Protection of the public interest as regards international relations

Article 4(1)(a), third indent of Regulation 1049/2001 provides that the ‘institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] international relations [...]’.

The General Court has acknowledged that ‘the institutions enjoy a wide discretion when considering whether access to a document may undermine the public interest and, consequently, [...] the Court’s review of the legality of the institutions’ decisions refusing access to documents on the basis of the mandatory exceptions relating to the public interest must be limited to verifying whether the procedural rules and the duty to state reasons have been complied with, the facts have been accurately stated, and whether there has been a manifest error of assessment of the facts or a misuse of powers’<sup>8</sup>.

Moreover, the General Court recently ruled that as regards the interests protected by Article 4(1)(a) of Regulation No 1049/2001, ‘it must be accepted that the particularly sensitive and fundamental nature of those interests, combined with the fact that access must, under that provision, be refused by the institution if disclosure of a document to the public would undermine those interests, confers on the decision which must thus be adopted by the institution a complexity and delicacy that call for the exercise of particular care. Such a decision requires, therefore, a margin of appreciation’<sup>9</sup>.

On 29 March 2017, the United Kingdom notified the European Council of its intention to leave the European Union, in accordance with Article 50 of the Treaty on European Union. On 29 April 2017, the European Council adopted political guidelines<sup>10</sup>, which defined the framework for the negotiations and set out the European Union's overall positions and principles.

The first phase of negotiations began on 19 June 2017 with the aim to settle the disentanglement of the United Kingdom from the European Union. Following the achievement of sufficient progress in the first phase of negotiations (in December 2017), the European Union and the United Kingdom are currently working on key aspects of the Withdrawal Agreement, which will make up an international agreement on the United Kingdom’s orderly withdrawal from the European Union. In accordance with Article 50 of the Treaty on European Union, the Withdrawal Agreement should take account of the framework for the future relationship of the United Kingdom with the European Union.

The meetings, the minutes of which are reflected in the requested documents, took place in the margin of these negotiations in order to enable the European Commission to obtain as much information as possible for exploring its negotiation options. Through the meetings with the financial organisations concerned, as through meetings with stakeholders in general in this context, the European Commission gathers evidence of the

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<sup>8</sup> Judgment of 25 April 2007 of the General Court, at the time Court of First Instance, in Case T-264/04, *WWF European Policy Programme v Council of the EU*, EU:T:2007:114, paragraph 40.

<sup>9</sup> Judgment of 11 July 2018 in Case T-644/16, *Client Earth v Commission*, EU:T:2018:429, paragraph 23.

<sup>10</sup> <http://www.consilium.europa.eu/en/meetings/european-council/2017/04/29/>.

impact of the United Kingdom's withdrawal on a given area, concretely on the financial markets sector and the activities of financial entities in the United Kingdom and in the remaining 27 EU Member States.

The meetings provided a platform for presenting the confidential views and concerns of the financial organisations and for discussing different options. Disclosure of such discussions would give rise to undue speculation and premature conclusions related to the European Union's negotiating position. There is a risk that the content of the discussions, if disclosed, would be used as part of the political debate and wrongly interpreted as the European Commission's and the financial organisations' public position on the United Kingdom's withdrawal from the European Union.

This also applies to the parts of documents 12 and 14 that contain confidential views of the financial organisations concerned provided for the preparation of the meetings, as specified above.

Furthermore, if confidential information submitted by relevant stakeholders to the European Commission were to be released, there would be a clear risk that such stakeholders would not share similar information in the future. This means that the European Commission would be deprived of the possibility to obtain precise and relevant information allowing it to objectively assess its negotiating options, thus exercising effectively the political responsibility assigned to it as negotiator of the European Union.

Public disclosure, at this stage, would thus risk upsetting the negotiations on the very sensitive issue of the impact of the withdrawal of the United Kingdom from the European Union on the financial services sector, thus negatively affecting the negotiating stance of the European Commission and jeopardising the successful outcome of the negotiations. This would clearly undermine the public interest as regards international relations.

The European Commission needs to preserve a 'safe space' for confidential preliminary exchanges, which is an inherent feature of preparing and consequently also for conducting international negotiations.

Indeed, the General Court has acknowledged 'that initiating and conducting negotiations in order to conclude an international agreement fall, in principle, within the domain of the executive, and that public participation in the procedure relating to the negotiation and the conclusion of an international agreement is necessarily restricted, in view of the legitimate interest in not revealing strategic elements of the negotiations'<sup>11</sup>.

Moreover, the Court of Justice has stated that there is less need for openness in the context of administrative procedures<sup>12</sup>.

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<sup>11</sup> Judgment of 11 July 2018, *Client Earth v Commission*, quoted above, paragraph 56.

<sup>12</sup> Judgment of 29 June 2010 in Case C-139/07 P, *Commission v. Technische Glaswerke Ilmenau GmbH*, ECLI:EU:C:2010:376, paragraph 60.

Having regard to the above, the use of the exception under Article 4(1)(a), third indent of Regulation 1049/2001 on the grounds of protecting the public interest as regards international relations is justified with regard to documents 1, 2, 4, 8, 9, 10, 11, 13, and 15 as well as the relevant parts of documents 12 and 14.

### **2.3. Protection of privacy and the integrity of the individual**

Article 4(1)(b) of Regulation 1049/2001 provides that ‘access to a document is refused 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*)<sup>13</sup>, 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<sup>14</sup> (‘Regulation 45/2001’) becomes fully applicable.

In this judgment the Court stated that Article 4(1)(b) ‘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 Regulation No 45/2001’<sup>15</sup>.

Article 2(a) of Regulation 45/2001 provides that personal data ‘shall mean any information relating to an identified or identifiable 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’<sup>16</sup>.

All the documents contain information such as names, functions, descriptions of areas of responsibility and contact details of staff members of the European Commission not forming part of senior management as well as of financial organisations who are not the latter’s main representatives.

This information clearly constitutes personal data in the sense of Article 2(a) of Regulation 45/2001.

Pursuant to Article 8(b) of Regulation 45/2001, the European Commission can only transmit personal data to a recipient subject to Directive 95/46/EC if the recipient establishes the necessity of having the data transferred and if there is no reason to assume

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<sup>13</sup> 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.

<sup>14</sup> Official Journal L 8 of 12 January 2001, page 1.

<sup>15</sup> Quoted above, paragraph 59.

<sup>16</sup> Judgment of 20 May 2003 in Joined Cases C-465/00, C-138/01 and C-139/01, preliminary rulings in proceedings between *Rechnungshof and Österreichischer Rundfunk*, EU:C:2003:294, paragraph 73.

that the data subject's legitimate interests might be prejudiced. Those two conditions are cumulative<sup>17</sup>.

Only if both conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 45/2001, can the transfer of personal data occur.

In Case C-615/13 P (*ClientEarth*), the Court of Justice ruled that the institution does not have to examine of its own motion the existence of a need for transferring personal data<sup>18</sup>. In the same ruling, the Court stated that if the applicant has not established a need to obtain the personal data requested, the institution does not have to examine the absence of prejudice to the person's legitimate interests<sup>19</sup>.

In your confirmatory application, you do not put forward any arguments to establish the necessity of, or any particular interest in obtaining access to the above-mentioned personal data.

Furthermore, there are reasons to assume that the legitimate interests of the individuals concerned would be prejudiced by 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.

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 has not been substantiated, and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

### **3. PARTIAL ACCESS**

No meaningful partial access can be granted to the documents 1, 2, 4, 8, 9, 10, 11, 13 and 15 without undermining the protected interests described above.

In accordance with Article 4(6) of Regulation 1049/2001, wider partial access is herewith granted to documents 3, 5, 6, 7, 12, 14 and 16.

### **4. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exception laid down in Article 4(2), first indent of Regulation 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.

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<sup>17</sup> Judgment of 29 June 2010, *Bavarian Lager*, quoted above, paragraphs 77-78.

<sup>18</sup> Judgment of 16 July 2015 in Case C-615/13 P, *ClientEarth v European Food Safety Agency*, EU:C:2015:489, paragraph 47.

<sup>19</sup> *Ibid*, paragraphs 47-48.

You take the view in your confirmatory application that ‘it is in the public interest to know what outcomes the companies are pushing for. Instead, the Task Force argues implicitly that secret talks with powerful economic players is a natural and legitimate part of the process. This is a step back from transparency provided in the framework of other trade negotiations’.

In this respect, I would like to point out that the negotiations on the United Kingdom’s withdrawal from the European Union are of an unusual nature and not to be compared with other trade negotiations. In the first stage, the process is about managing the disentanglement of the United Kingdom from the European Union on the basis of Article 50 of the Treaty on European Union. In this framework, the European Commission proactively publishes on its website<sup>20</sup> all relevant documents related to the negotiations on the United Kingdom’s withdrawal from the European Union. The public has therefore been able to follow progress made in the various stages of the negotiations on the Withdrawal Agreement.

During the negotiations on the Withdrawal Agreement and the framework of the future relationship between the European Union and the United Kingdom, the scope for stakeholder input on the policy approach chosen is limited, since the approach of the European Union is being defined by the European Council.

In line with the European Council guidelines of 23 March 2018<sup>21</sup> and the European Council conclusions of 29 June 2018<sup>22</sup> the European Union is currently working towards the finalisation of the Withdrawal Agreement and scoping the framework of the future relationship with the United Kingdom. This will lead to a political declaration and not yet to actual trade negotiations with the United Kingdom. Therefore, the objective is to finalise the Withdrawal Agreement, including such a political declaration, by autumn 2018. This will give the necessary time for the Withdrawal Agreement to be concluded by the Council after obtaining the consent of the European Parliament, in accordance with Article 50 of the Treaty on European Union, and to be ratified by the United Kingdom in accordance with its own constitutional requirements before 29 March 2019.

The agreement on the future relationship will be finalised and concluded once the United Kingdom is no longer a Member State. Therefore, the trade negotiations, as referred to in your confirmatory application, will only take place once the United Kingdom will have become a third country. Future negotiations with the United Kingdom at that stage will be handled according to the procedure for such negotiations enshrined in the EU Treaties.

Against this background, I consider that in this case, the public interest is best served by avoiding disclosing preliminary discussions and confidential and internal views, which could give rise to premature conclusions. It is in the public interest that the negotiations pursuant to Article 50 of the Treaty on European Union are conducted effectively and that the future trade negotiations are not negatively affected.

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<sup>20</sup> [https://ec.europa.eu/commission/brexit-negotiations\\_en](https://ec.europa.eu/commission/brexit-negotiations_en).

<sup>21</sup> <http://www.consilium.europa.eu/media/33458/23-euco-art50-guidelines.pdf>.

<sup>22</sup> <http://www.consilium.europa.eu/media/35966/29-euco-art50-conclusions-en.pdf>.

I conclude, therefore, that the protection of the commercial interests of the organisations concerned as specified above prevails.

Please note also that Articles 4(1)(a), third indent and 4(1)(b) of Regulation 1049/2001 have an absolute character and do not include the possibility to demonstrate the existence of an overriding public interest.

## **5. MEANS OF REDRESS**

I would like to draw your attention to the means of redress that are available against this decision concerning public access to the requested documents, that is, judicial proceedings and complaints to the 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 European Commission*  
*Martin SELMAYR*  
*Secretary-General*

Enclosures: (7)