



EUROPEAN COMMISSION

Directorate-General for Trade

Director General

Brussels,
TRADE/G3

10 JUIN 2014

Ms. Pia Eberhardt
Corporate Europe Observatory (CEO)
Cranachstraße 48
50733 Cologne
Germany

Subject: Request for access to documents – Gestdem Reference 2013 - 3650

Dear Ms. Eberhardt,

Thank you for your request Gestdem 2013/3650, for access to documents under Regulation No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents ("the Regulation").

In your request you have asked for:

- 1) minutes and other reports of the meetings of the market access advisory committee (MAAC) which took place between February 2012 and the date of your request (11 July 2013);
- 2) minutes and other reports of the meetings of the market access working groups (MAWG) on automotives, chemicals, distribution services, medical devices, textiles, postal services and SPS in between January 2012 and the date of your request (11 July 2013).

I would like to note that on the 8th of January 2014 you have received a first batch containing sixteen reports of the market access advisory committee (MAAC). This reply covers reports of meetings of the market access working groups (MAWG).

Minutes of the following meetings have been identified and are therefore attached:

- (1) MAWG on Textiles of 7 June 2012
- (2) MAWG on Textiles of 4 December 2012
- (3) MAWG on Textiles of 18 July 2013
- (4) MAWG on Services (Postal courier) of 4 October 2012
- (5) MAWG on Alcoholic Beverages of 6 June 2012
- (6) MAWG on Alcoholic Beverages of 22 January 2013
- (7) MAWG on Cars and Car parts and Tyres of 9 February 2012
- (8) MAWG on Cars and Car parts and Tyres of 13 September 2012
- (9) MAWG on Cars and Car parts and Tyres of 19 December 2012
- (10) MAWG on Cars and Car parts and Tyres of 18 April 2013

¹ OJ L 145, 31.5.2001, p. 43.

- (11) MAWG on Medical Devices of 22 May 2013
- (12) MAWG on Chemicals of 15 February 2012
- (13) MAWG on Chemicals of 18 October 2012
- (14) MAWG on SPS of 8 February 2012
- (15) MAWG on SPS of 30 May 2012
- (16) MAWG on SPS of 7 November 2012
- (17) MAWG on SPS of 11 April 2013

However, in order to protect their opinions and political strategies as well as the substance of their market access concerns and based on the confidentiality clause set out in the rules of procedures of the MAWG which were adopted on 15 December 2011 and based on the Comitology Regulation (Regulation (EU) No 182/2011 of 16 February 2011) names of EU Member States or business associations which intervened in the meetings are not disclosed in the documents. This is in accordance with article 13 of the rules of procedure, "*the committee's discussions shall be confidential*". Based on this confidentiality clause, and in line with the Regulation 1049/2001, as a general rule, we have replaced reference to EU Member States by [MS] to protect their international relations with the third country (Art. 4.1 (a) third indent of Regulation No 1049/2001) and reference to business associations by [BU] to protect their commercial interests (Art. 4.2 second indent of Regulation No 1049/2001).

Other parts of the documents cannot be released because they are covered by Articles 4.1, 4.2 and 4.3 of the Regulation, which allow, respectively, the refusal of access to a document which could *inter alia* undermine the protection of international relations, commercial interests of natural or legal person or decision making process.

In preparing our response we have tried to ensure as much transparency as possible, in accordance with the Regulation, so for example we are able to release information regarding specific market barriers in most cases but have to withhold information which might indicate the identity of specific companies or organizations, whose commercial interests may be harmed by placing their identity in the public domain and in particular to avoid opening up the risk of retaliation against specific organisations or putting into the public domain information which may reveal commercial strategy or data of particular organisations or sectors.

In other cases, the sentences or passages withheld involve the identity of third countries, with whom a joint approach to a particular barrier may have been pursued. Revealing such details would harm the EU's international relations vis-à-vis both these third countries and the country in which the market barrier exists.

Furthermore, the tactical approaches towards specific problems have been withheld as release of such information would undermine our position when tackling the issue and could have an impact on the EU's international relations.

In the Annex you will find a detailed reasoning for withholding particular parts of these documents.

The exceptions laid down in Article 4.2 and 4.3 of the Regulation apply unless there is an overriding public interest in disclosure of the documents. Accordingly, the presence of an overriding public interest in disclosure has also been assessed. In the present case, there is no such evidence. On the contrary, the prevailing interest in this case rather lies in protecting decision making process and the commercial interests of the concerned industries and companies.

I must remind you that the enclosed documents cannot be reproduced or disseminated for commercial purposes unless the Commission has first been consulted.

If you want this position to be reviewed you should write to the Commission's Secretary General at the address below, confirming your initial request. You have fifteen working days to do so, after which your initial request will be deemed to have been withdrawn.

The Secretary General will inform you of the result of this review within fifteen working days from registration of your request, either granting you full access to the documents or confirming partial refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Brussels
sg-acc-doc@ec.europa.eu

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'X' or 'K' shape with a long horizontal stroke extending to the right.

Jean-Luc DEMARTY

Enclosures:

Annex – detailing reasons for partial non-disclosure
Seventeen MAWG reports (sent via email only)