



EUROPEAN COMMISSION

Directorate-General for Trade

The Director General

Brussels, 08 AOUT 2013
DG TRADE/F2/D(2013)2981964

Ms Cecilia Olivet

Email: ask+request-691-5d4f2f3e@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2103/3812

Dear Ms Olivet,

We refer to your email dated 19 July 2013 in which you make a request for access to documents, registered on 19 July 2013 under the above mentioned reference number.

Your application concerns documents in which the Commission was informed about, analysed or discussed the following investor-to-state disputes against EU Member States:

1. *Ping An Life Insurance Company of China, v. Belgium (ICSID Case No. ARB/12/29)*
2. *Inversión y Gestión de Bienes, IGB, S.L. and IGB18 Las Rozas, S.L. v. Spain (ICSID Case No. ARB/12/17)*
3. *Charanne and Construction Investments v Spain (SCC rules in Stockholm)*
4. *Rreef Infrastructure v Spain (UNCITRAL)*
5. *Poštová banka, a.s. and ISTROKAPITAL SE v. Greece (ICSID Case No. ARB/13/8)*
6. *Cyprus Popular Bank Public Co. Ltd. v. Greece (ICSID case)*
7. *Laiki Bank v Greece*
8. *Marfin Investment Group (MIG) v Cyprus*

The Directorate General for Trade only follows investment protection agreements between Member States and third countries. Your request concerning disputes arising out of investment protection agreements between Member States is being considered by the Directorate General for the Internal Market and this response therefore only relates to the following cases:

1. *Ping An Life Insurance Company v Belgium (ICSID Case No. ARB/12/29)*
2. *Inversión y Gestión de Bienes, IGB, S.L. and IGB 18 Las Rozas, S.L. v Spain (ICSID Case No. ARB/12/17)*

I can confirm that the Commission does not presently have any documents relating to *Inversión y Gestión de Bienes, IGB, S.L. and IGB 18 Las Rozas, S.L. v Spain* in its possession.

With regard to *Ping An Life Insurance Company v Belgium*, we have identified 13 documents in our possessions that fall under the scope of your request: 7 letters, 2 e-mail messages, 1 meeting report, 1 procedural order, 1 procedural agenda, 1 request for arbitration.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The documents which you seek to obtain, both those originating within the Commission and those originating from third parties, concern on-going court proceedings between an investor and a Member State and therefore the exception laid down in Article 4(2) second indent of Regulation 1049/2001 apply.

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. The parties have elected not to make documents relating to the arbitration public. The disclosure by the Commission of any such documents, or documents originating within the Commission in relation to the on-going legal proceedings would risk undermining the conduct of the proceedings and risk prejudicing the parties' legal positions with regard to the issues at stake.

However, you may seek to request that the parties and/or the tribunal consider whether the documents submitted in the course of the dispute be made public.

Please note that the Commission is keen to encourage transparency in investor-to-state dispute settlement and is committed to ensuring a high level of openness in agreements on investment protection entered into by the Union. To this end, it has actively promoted and contributed to the UNCITRAL rules on transparency for investor-to-state arbitration, which shall apply to all Union investment protection agreements. Under such rules, all documents submitted by the parties to a dispute will be made public, subject to specific rules concerning business confidentiality.

In addition, we have considered whether partial access could be granted to the documents requested. However, it is considered that, as the documents are fully covered by the invoked exception, no such access can be granted.

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

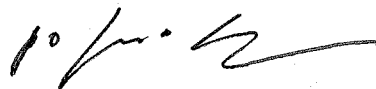
Transparency unit SG-B-5

BERL 5/327

B-1049 Bruxelles

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

Yours sincerely,



Jean-Luc DEMARTY

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