



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels
MARE/A2/

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BY REGISTERED LETTER WITH ACKNOWLEDGMENT OF RECEIPT

Subject: Your application for access to documents – GESTDEM 2021/0579

Dear Sir,

We refer to your e-mail dated 5 February 2021 in which you make a request for access to documents, registered on 5 February 2021 under the above-mentioned reference number.

You request access “For the period between 1 January 2020 to date” to “all documents - including but not limited to policy papers, proposals, briefings, reports - which have been produced and/or issued by DG MARE and include any of the following words/phrases: “deep-sea mining”, “seabed mining”, “marine minerals”.

My services have examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and concluded that access can be fully or partially granted to some of them.

A – Full access

1. Annual report on the EU blue Economy 2020 - https://blueindicators.ec.europa.eu/published-reports_en - 11/06/ 2020
2. Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union at the meetings of the International Seabed Authority Council and Assembly - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC00011>- 5/01/2021
3. Evora workshop report - Ref. Ares(2020)2154017: https://isa.org.jm/files/files/documents/evora_workshop.pdf - 24/02/ 2020
4. Regional Environmental Assessment Document - <https://www.isa.org.jm/files/documents/rea-feb2020-reduc.pdf> - 24/02/ 2020
5. Data Report: Background document for the Workshop on the Regional Environmental Management Plan for the Area of the Northern Mid-Atlantic Ridge – 24/02/2020

B – Partial Access – no personal data

6. Email to Citizen – Ares(2020)246939 – 11/05/ 2020
7. Reply to PELAC letter – Opinion paper on deep-sea mining activities – Ares (2020)4238015 – 13/08/2020
8. ISA standards and guidelines on draft regulations - report of the call between MARE ENV and GROW – Ares(2020)4840056 – 16/09/ 2020
9. ISA Consultations on draft standards and guidelines - comments from the European Commission - Ares(2021)1474006

C – No Access

10. Note for the attention of Mr Virginijus SINKEVIČIUS: Deep-Sea mining Code negotiations at the International Seabed Authority: EU Strategy and policy options – Ares(2020)897753-12/02/2020
11. 2nd interim report of REMP project - Ares(2020)2983909 – 09/06/2020
12. Report of meeting between Commissioner SINKEVIČIUS and Michael Lodge, ISA SG – Ares (2020)3172210 - 18/06/2020
13. Flash report – Call with ISA on the sustainable Seabed Knowledge Initiative (SsKi) - Ares(2020)5649756 – 19/10/2020
14. Call on Deep Sea Mining with IASS - Ares(2020)7208562 – 30/11/2020
15. Position Paper on the competences of the European Union with regard to matters governed by the draft regulations on exploitation of mineral resources in the Area - Ares(2021)1634730
16. The High Level Panel for Sustainable Ocean Economy - Ares(2021)111978 – 06/01/2021

1. DOCUMENTS FOR WHICH ACCESS IS FULLY OR PARTIALLY GRANTED

Documents under **category A** have already been made public. Therefore, we provided a link to these documents (see list above). However, please note that **documents 3 to 5** form part of a study carried out by external experts. It does not reflect the position of the Commission and cannot be quoted as such.

We enclose a copy of the documents requested under **category B**. You may reuse them free of charge for non-commercial and commercial purposes provided that the source is acknowledged, and that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

With regard to documents under **category B**, i.e. **documents 6 to 9**, listed above, a complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons;
- other information relating to an identified or identifiable natural person (contact details including office number and direct phone number).

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you did not express any particular interest to have access to these personal data, nor did you put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data for the following reasons:

- the need to obtain access thereto for a purpose in the public interest 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.

2. DOCUMENTS TO WHICH ACCESS IS NOT GRANTED

As regards documents under **category C**, i.e. **documents 10 to 16**, I regret to inform you that access cannot be granted, as disclosure is prevented by the exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001 as follows:

- **Document 10:** This document contains internal views and recommendations drafted in preparation of ongoing international negotiations with the International Seabed Authority. Its disclosure would undermine the protection of the public interest as regards international relations as laid down in article 4(1)(a), third indent of Regulation (EC) No 1049/2001. For the negotiations to have a successful outcome, it is essential that the European Commission's room for manoeuvre is not restricted by the disclosure of preliminary views and strategic considerations expressed in an internal document. In addition, disclosure of this document would also affect the room for manoeuvre of the Commission in the context of the corresponding decision-making process as regards the position to be taken by the institution. Therefore, the exception provided for in Article 4(3), first paragraph of Regulation (EC) No 1049/2001 concerning the protection of the ongoing decision-making process applies also to this document.
- **Document 11:** This document is an internal report on the ongoing "REMP project" (see documents 3 to 5), funded under the European Maritime and Fisheries Fund (EMFF) to support the International Seabed Authority Secretariat in developing a regional Environmental Management Plan for the Area in the North Atlantic. In this document, the contractor shares his opinion on ongoing processes within the International Seabed Authority (ISA), made in the legitimate expectation that it would not be made public. Quality relations and mutual trust with ISA, a strategic partner of the EU, are paramount for the conclusion of future agreements. In support of this view, the General Court has acknowledged in a recent judgment² that the way in which the authorities of a third country perceive the decisions of the European Union is a component of the relations established with that third country. This applies to relations with international

² Judgment of the General Court of 27 February 2018, Case T-307/16, CEE Bankwatch Network v European Commission, EU:T:2018:97, paragraphs 88- 90

organisations as well. In this light, the pursuit and the quality of those relations depend on that perception and can justify the application of the exception of Article 4(1)(a) third indent of Regulation (EC) No 1049/2001.

- **Document 12:** this document is an internal report from a high-level meeting between Commissioner Sinkevičius and the International Seabed Authority Secretary General. This meeting was organised at the request of the latter to discuss upcoming international meetings and conferences. Its disclosure is prevented by the international relations exception as laid down in article 4(1)(a), third indent of Regulation (EC) No 1049/2001, for the same reasons stated as regards document n. 11.
- **Document 13:** This document is a short report of a call held with representatives of the International Seabed Authority. It contains opinions of Commission staff, which were made for internal use and in the legitimate expectation that these would not be made public. In addition, this document is related to ongoing international negotiations between the EU and the International Seabed Authority concerning the Sustainable Seabed Knowledge Initiative. Such initiative is still in discussion and the opinions were expressed on both sides in the legitimate expectation that they would not be made public. Disclosing this document could affect the relations and mutual trust with the International Seabed Authority, since the document would reveal internal considerations from both parties in the framework of that process. Its disclosure is therefore prevented by exception to the right of access laid down in Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 concerning international relations.
- **Document 14:** This document is a short report of a call held between Commission staff and representatives of the Institute for Advanced Sustainability Studies (IASS), and contains their views on ongoing processes within the International Seabed Authority. Those opinions were made in the legitimate expectation that these would not be made public. In addition, the document contains information related to ongoing international negotiations between the EU and the International Seabed Authority. Therefore, this document cannot be disclosed as it is covered by the exception relating to the protection of the international relations provided for in Article 4(1)(a), third indent of Regulation (EC) 1049/2001 for the same reasons as those stated as regards document n. 11.
- **Document 15:** This document contains elements of the position of the European Commission on an ongoing negotiation at the international level, protected by Article 4(1)(a), third indent of Regulation (EC) No 1049/2001. The views and recommendations in this position paper were expressed in preparation of international negotiations with the International Seabed Authority. For the negotiations to have a successful outcome, it is essential that the European Commission's room for manoeuvre is not restricted by the disclosure of the positions expressed in that paper. Disclosure of this document would reveal internal strategic considerations in the framework of ongoing international negotiations and would undermine their successful outcome. It would thus also affect the room for manoeuvre of the Commission in the context of the corresponding decision-making process and would undermine such process. Therefore, the exception provided for in Article 4(3), first paragraph of Regulation (EC) No 1049/2001 also applies to this document.

Document 16: This document contains opinions of Commission staff regarding the EU's participation in the High Level Panel for sustainable Ocean Economy launched by the Norwegian Prime Minister in 2018, including on ongoing actions launched by this Panel. The document contains preliminary views, internal strategic considerations and positions in the framework of international negotiations. The exception related to the protection of international relations provided for in Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 therefore applies to this document. In addition, disclosing this document would also affect the room for manoeuvre of the Commission in the framework of the decision-making process related to the actions to be developed by the Panel and would

seriously undermine the decision-making process protected by Article 4(3), first paragraph of Regulation (EC) No 1049/2001.

We have considered whether partial access could be granted to those documents. However, no meaningful partial access is possible, as the whole content of these documents are covered by the exceptions provided for in Articles 4(1) and 4(3) of Regulation (EC) No 1049/2001.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. I note that you do not put forward any elements to demonstrate the existence of an overriding public interest in disclosure of the documents requested. Nor have I, based on my own analysis, been able to identify any elements capable of demonstrating the existence of a public interest that would override the need to protect the independence of the Commission's decision-making process grounded in Article 4(3) of Regulation (EC) No 1049/2001.

In accordance with Article 7(2) of Regulation (EC) No 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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Yours faithfully,

Charlina VITCHEVA

Annexes: Documents 6 to 9