



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 15 April 2014**

**8849/14**

**INF 118  
API 46**

**NOTE**

---

Subject:       Public access to documents  
              - Confirmatory application No 11/c/01/14

---

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 26 March 2014, registered the same day ([Annex 1](#)).
- reply from the General Secretariat of the Council dated 8 April 2014 ([Annex 2](#))
- confirmatory application dated 8 April 2014, registered on the same day ([Annex 3](#)).

**[E-mail message sent on 26 March 2014 - 4:46 PM]**

**From:** **DELETED**

**Sent:** Wednesday, March 26, 2014 4:46 PM

**To:** KEMPPINEN Reijo

**Subject:** Trade Policy Committee

Dear Mr Kemppinen,

Transparency International EU Office would be interested in having the full list of members of the Trade Policy Committee in the Council of the European Union. Is this list publicly available? If so, would you please kindly send it to our global email address: [Brussels@transparency.org](mailto:Brussels@transparency.org)

Thank you for your time.

**DELETED**



## ANNEX 2

### COUNCIL OF THE EUROPEAN UNION

#### GENERAL SECRETARIAT

*Directorate-General F  
Communication  
Transparency*

*- Access to Documents/  
Legislative transparency*

RUE DE LA LOI, 175  
B – 1048 BRUSSELS  
Tel: (32 2) 281 67 10  
Fax: (32 2) 281 63 61  
E-MAIL:

[access@consilium.europa.eu](mailto:access@consilium.europa.eu)

Brussels, 8 April 2014

**DELETED**

**e-mail:**

**DELETED**

**Ref. 14/0565-mjb/jj**

Dear **DELETED**,

We have registered your request of 26 March 2014 for access to the full list of members of the Trade Policy Committee in the Council of the European Union. Following the phone contact between you and a member of Access to documents service, you explained that you wish to obtain the a Trade Policy Committee list containing the names and function of each member. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents<sup>1</sup> (hereafter the "Regulation") and specific provisions of the Council's Rules of Procedure<sup>2</sup> and has come to the following conclusion:

The list of members of the Trade Policy Committee is not a public document and it has been compiled for internal administrative purposes. Pursuant to 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, data of this kind may not be published without the consent of the individuals concerned.

Under these circumstances, and in accordance with the provisions of Article 4(1)(b) of Regulation No 1049/2001 (protection of the privacy and the integrity of the individual), the General Secretariat is unable to grant you access to those parts of the document which contain data relating to persons whose consent was not obtained.

In accordance with Article 4(6) of the Regulation, you will find in annex the list of the Trade Policy Committee with the parts for which consent was obtained.

---

<sup>1</sup> Official Journal L 145, 31.5.2001, p. 43.

<sup>2</sup> Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

If you wish to have a relevant contact at the Permanent Representations, you can use the following link: <http://europa.eu/whoiswho/public/index.cfm?lang=en> (search by entity - choose "Council of the European Union" under "Institution" and indicate "Permanent representations" under "Organisational entities") which lists the different departments of the Permanent Representations of the Member States.

#### Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply<sup>3</sup>.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosure

---

<sup>3</sup> Confirmatory applications are published in the Council's Register of documents. If you introduce a confirmatory application, your personal data will be published in the documents related to your confirmatory application only if you have given your explicit consent for this. Your reply relating to the publication of your personal data will in no way prejudice your rights under Regulation (EC) No 1049/2001.

**[Confirmatory application - sent by e-mail on 8 April 2014 - 14:44]**

**From:** **DELETED**

**Sent:** Tuesday, April 08, 2014 14:44

**To:** SECRETARIAT DGF Access

**Subject:** Ref. 14/0565-mjb/jj

Dear Mr Thomsen,

Thank you for your letter of 8 April, and for providing the requested document. I wish, however, to submit a confirmatory application for full access to the list of members of the Trade Policy Committee in the Council of the European Union, as I originally requested on 26 March 2014. While recognising the exception provided for the protection of personal data under Regulation 1049/2001, I would maintain that disclosure of the names of the members of the Trade Policy Committee is in the public interest, given that these individuals are public officials exercising a public function.

It is my assertion that the members of the Trade Policy Committee are acting in their capacity as public officials and therefore not acting in a private capacity. Indeed, the last paragraph of Article 15 of the TFEU requires that “the Council shall ensure publication of the documents relating to the legislative procedures”, a requirement which should also be read in the light of Article 15 paragraph 1 which states that “In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible” and Article 15 paragraph 2 which requires that “The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.” Hence, full information of the process in the Trade Policy Committee should be public and disclosure of the names of the participants cannot be construed as undermining the privacy of these individuals, as the data provided is data which relates exclusively to their public function: their names as public officials.

Furthermore, Article 8(a) of Regulation 45/2001 permits the transfer of personal data to recipients, other than Community institutions and bodies, if the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority. The refusal of this information prejudices my ability, on behalf of Transparency International, to provide views based on our expertise in the field of anti-corruption and to participate in legislative decision making, which is contingent upon such openness.

In addition, given that the committee members from 18 member states were willing to allow their names to be disclosed does further suggest that they do not believe their legitimate interests will be prejudiced by disclosure (duly allowing disclosure under Article 8(b) of Regulation 45/2001). I would argue that this holds for all members of the committee. That the names of these individuals may be available via the EU Who is Who directory, as you indicated in your response, does also support the assertion that disclosure of their names and official functions per se does not prejudice their legitimate interests, and that such harm would not arise merely through disclosure of the fact that they participate in meetings of the Trade Policy Committee.

I request that the Secretariat General of the Council therefore gives due weight to these considerations and accepts that there is a necessity and prevailing interest in full access to the requested document.

Thank you in advance for your consideration of this confirmatory application.

With kind regards,

**DELETED**

---