



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 May 2014

**8851/1/14
REV 1**

LIMITE

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API 48**



"I/A" ITEM NOTE

from: Working Party on Information
to: Coreper (part 2)/Council

No. prev. doc.: 8850/14

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

Delegations will find enclosed a draft reply from the Council to confirmatory application No 11/c/01/14, approved by the Working Party on Information by written consultation which ended on 2 May 2014.

The Spanish delegation indicated that it would vote against the draft reply.

The following statements were made:

ES: *"TPC members are civil servants following instructions from their capitals so that their personal identity should be irrelevant for the general public."*

HU: *"Hungary believes that the personal data requested to gain access to by the applicant (names and functions of the members of the Trade Policy Committee) are typical examples of personal data that should be made public without requiring an explicit consent of the data subject. The members of the TPC act in their official capacity not as private individuals, hence the requirement of their explicit consent for the publication of personal data in connection with their membership seems to be neither a necessary nor a proportionate limitation to the right to access to official documents. Thus Hungary finds it necessary to create the possibility of granting public access to certain personal data of individuals (e.g. name and function) acting in their official capacity without requiring explicit consent of these individuals for such access."*

A majority of delegations agreed to publish the result of the vote.

The Permanent Representatives Committee is accordingly asked to suggest that the Council, at its next meeting:

- record its agreement to the draft reply annexed to this document, as an "A" item, with the Spanish delegation voting against;
- decide to publish the result of the vote.

The annex is available in English only.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON
TO CONFIRMATORY APPLICATION No 11/c/01/14,
made by e-mail on 8 April 2014,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to the full list of members of
the Trade Policy Committee (Full Members)
in the Council of the European Union

The Council has considered this confirmatory application under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43) (hereafter "Regulation No 1049/2001") and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. On 26 March 2014, the applicant introduced an initial request for public access to a list of members of the Trade Policy Committee (TPC) (Full Members). Following a telephone conversation with a member of the Access to documents service, the applicant specified that the request covered the full list of TPC (Full Members), containing the name and function of each member.
2. In its reply dated 8 April 2014, the General Secretariat of the Council informed the applicant that it was only in a position to grant partial access to the requested list of members of the TPC (Full Members). Pursuant to Article 4(1)(b) of Regulation No 1049/2001 (protection of the privacy and the integrity of the individual), it refused access to those personal details covered by the request for which no explicit consent to disclosure had been obtained from the respective members concerned.

3. Following the applicant's confirmatory application dated 8 April 2014, the Council re-consulted the members from whom the General Secretariat had not obtained an explicit consent to disclose their data in the first instance. Given that all those members have now given their consent to the release of their names and functions, the Council has come to the conclusion that public access may be granted to the requested list of members of the Trade Policy Committee (Full Members).
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