Subject: Request for access to documents under Regulation (EC) No. 1049/2011 – GESTDEM 2011/2579

Dear Mrs Cingotti,


(1) "[T]he copies of all the documents related to the exchanges between the European Commission and British Petroleum (BP) regarding the calculation of BP’s lobby registration, including all correspondences held by the Secretariat General with BP’s representatives, agendas and minutes of every meeting held between the two parties, and in respect to the calculation of BP’s lobby registration and that support the argument that the registration of BP is correct."

(2) "[T]he copies of all the documents related to the exchanges between the European Commission and British Petroleum (BP) regarding the calculation of Shell’s lobby registration, including all correspondences held by the Secretariat General with Shell’s representatives, agendas and minutes of every meeting held between the two parties, and in respect to the calculation of Shell's lobby registration and that support the argument that the registration of Shell is correct."

According to our analysis, some parts of the following documents are concerned by this request:

A) Regarding the documents related to BP:

(1) Minutes of the informational meeting with BP on the 28th of October 2010

1 OJ L 145 of 31.5.2001, page 43
(2) An internal note containing an analysis of the complaint made by Friends of the Earth Europe on 27 July 2010 with regard to British Petroleum

(3) E-Mail from BP of 5 November 2011

B) Regarding the documents related to Shell:

(4) Minutes of the informational meeting with Royal Dutch Shell on the 21st of October 2010

(5) An internal note containing an analysis of the complaint made by Friends of the Earth Europe on 27 July 2010 with regard to Royal Dutch Shell

(6) E-Mail from Royal Dutch Shell of 25 October 2011

The relevant parts of these six documents with regard to your request can be disclosed. However the figures communicated by both these companies, as well as the identification of the beneficiaries of their payments and the personal data elements related to their staff contained in the documents have been blanked out.

Putting these figures and information in the public domain would be prejudicial to the commercial interests of Shell and BP. Indeed, the combination of information contained in the Register of interest representatives with figures contained in the requested documents would reveal confidential business information concerning these two companies. It would, in particular, put them in a more disadvantageous position than the other organisations registered in the Register of Interest representatives, as it would disclose information which organisations are not obliged to disclose through the registration.

Furthermore, the elements which have been blanked out are data which were communicated in confidence to the Commission's staff for the sole purpose of the investigation. Disclosing such information to the public would make organisations listed in the Register more reluctant to provide the Commission with information which it needs in order to properly investigate possible infringements of the code of conduct. This would lead to a situation where the Commission is prevented from effectively monitoring compliance with the Code of conduct and ensuring its enforcement. This would undermine the purpose of the Commission's investigations regarding the application of the Code of conduct.

For these reasons, I consider that the exceptions laid down in article 4(2) first and third indent of Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents prevent disclosure of the elements that have been blanked out. According to this provision, "the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person [...] the purpose of inspections, investigations and audits".

The above mentioned exceptions apply "unless there is an overriding public interest in disclosure". I have balanced the public interest in disclosing the withheld data against the interest to protect commercial interest of the investigated organisations as well as the purpose of this type of investigation. Disclosure of the documents without the blanked elements enables members of the public to understand the reasons of the Commission's decision regarding the complaint. I consider that the possible added value of disclosing the figures does not outweigh the need to protect the commercial interests of BP and Shell, as well as the purpose of the investigation regarding the Code of conduct.
Pursuing to Article 7(2) of the Regulation, you have the right to make a confirmatory application asking the Commission to reconsider its position, within 15 working days after receiving the reply. Should you decide to do so, the confirmatory application should be submitted to:

Secretary General of the European Commission
C/o Unit 'Transparency, relations with stakeholders (...)
Brl 05/388
B-1049 Brussels

Or by e-mail to: sg-acc-doc@ec.europa.eu

Yours sincerely,

[Signature]

Hubert Szlaszewski