



V. Cann

By e-mail to: [REDACTED]@asktheeu.org

Open Government Directorate

Rue de la Rhine 8
2515 XP The Hague
PO Box 20061
2500 EB The Hague
The Netherlands
www.rijksoverheid.nl
Netherlands
www.nederlandwereldwijd.nl
Contact
woo@minbuza.nl

Date 24 July 2024

Subject Response to your Woo request

Dear Ms Cann,

In your request 26 January 2024, invoking the Open Government Act (Woo), you requested disclosure of information regarding contacts between the Permanent Representation of the Netherlands to the European Union third parties regarding lobbying for per- and polyfluoroalkyl substances (PFAS).

Receipt of your request was acknowledged by e-mail dated 6 February 2024. The decision period was adjourned by two weeks on 20 February 2024. This was done by applying section 4.4(2) of the Woo.

On 8 March 2024, the decision period was suspended by two weeks under section 4.4(3) of the Woo in connection with views.

With regard to your request for information, I inform you as follows.

Legal framework

Your request falls within the scope of the Woo. For the relevant Woo articles, please refer to the annex.

Document inventory

Based on your request, a total of 1 document was found.

Views

There is a third interested party who submitted a view before the disclosure of the document. I have considered this view in my weighing of interests.

Decision

I have decided to comply with your request and partially disclose the information you request.

For the rationale for non-disclosure of certain information, please refer to the 'Considerations' section of this decision.

Considerations

General consideration: openness to all

First, let me point out the following.

Everyone has the right to be able to request government information without having to give a reason. This is stated in the first article 1.I. of the Woo. This is an important right of citizens. Thereby, the starting point is that government information is public, unless there are exceptional grounds that make this limit. The grounds for exception are set out in Chapter 5 of the Woo. Here, I have to weigh up the public interest in disclosure against the interests protected by the grounds for exception. In general, the rule here is that when I provide information to you, it is public for everyone. The Woo does not apply to information that is already public.

General principles in assessing the grounds for exception

The test for the grounds for exception is as follows. First, I check whether one of the grounds for exception is in play. I usually do this paragraph by paragraph, sometimes sentence by sentence. Then I check what kind of ground for exception it is. If it is an absolute ground for exception, I am not allowed to provide the information. If it is a relative ground for exception, I have to weigh up the general interest of public access against the specific interest that the ground for exception protects. In doing so, the interest of publicity weighs heavily. On the document, I have listed which grounds for exception apply.

Company and manufacturing data

Under section 5.1(1)(c) of the Woo, I may not disclose information if it is business and manufacturing information that has been disclosed to the government in confidence. The confidentiality of the information communicated to the government may, for example, be evidenced by an explicit statement. It is also possible that confidentiality could be assumed by the provider. This is data from which information can be read or inferred about suppliers. This information has been shared in confidence and is business-sensitive. I therefore do not disclose this information.

In the partially disclosed document, the application of this ground for exception is marked "5.1.1.c".

Respect for privacy

Under Section 5.1(2)(e) of the Woo, I cannot disclose information if it would violate personal privacy and this interest outweighs the interest of public access. Most documents contain personal data. This concerns data that can be traced back to a person, such as

including names, e-mail addresses, job titles and telephone numbers. I consider that in respect of the said personal data, the privacy of data subjects prevails over the interest of disclosure.

As far as personal data of civil servants are concerned, I am of the opinion that, with regard to these data, the importance of respecting privacy should outweigh the importance of public access. This is to protect the privacy of the official concerned. This also applies to personal data of officials from other ministries. What is important here is that this is not a matter of giving a name to an individual citizen who comes into contact with an official, but of disclosure of the name within the meaning of the Woo.

In the partially disclosed document, the application of this ground for exception is marked "5.1.2.e".

Method of disclosure and internet posting

Copies of the documents disclosed by me under the Woo are attached to this decision. The disclosed documents are posted with an anonymised version of the decision at www.rijksoverheid.nl.

If you have any questions following this decision, please contact the Directorate of Open Government at woo@minbuza.nl.

The Minister of Foreign Affairs on their
behalf,
The Deputy Permanent Representative



Drs M.A. Stibbe

You may lodge a notice of objection to this decision within six weeks of the day it was announced. The notice of objection must be signed by the objector and must at least contain his/her name and address, the date, a description of the decision against which the objection is directed and the grounds for the objection. The notice of objection should be addressed to: the Minister of Foreign Affairs, for the attention of the Legal Affairs Department, Dutch Law Section, PO Box 20061, 2E00 EB, The Hague.

Annex 1 - Relevant articles from the Woo

Article 1.1

Everyone has the right to access public information without having to declare an interest, subject to restrictions imposed by this Act.

Article 2.1

In this Act and the provisions based thereon, the following definitions shall apply:

Document means a document issued by a body, person or college as referred to in Article 2.2(1),

written document or other set of recorded data made or received that is referred to its nature relates to the public duty of that body, person or college;

environmental information: what is meant by this in section 19. 1a of the Environmental Management Act;

Our Minister: Our Minister of the Interior and Kingdom Relations; *public information*: information recorded in documents held by a body, person or college referred to in Article 2.2(1), or information provided under Article 2.3

can be claimed by an administrative body. Article 2.5

The application of this law is based on the public interest of public information for democratic society.

Article 4 1

1. Any person may address a request for public information to a governing body or An institution, service or company. In the latter case, the responsible administrative body decides on the request.

2. A request may be made orally or in writing and may be transmitted electronically in the manner specified by the governing body.

3. The applicant need not have an interest in his application.

4. The applicant shall specify in his application the matter or the matter relating to have document, about which he wishes to receive information.

5. If a request is formulated too generally, the administrative body shall request within

two weeks after receipt of the request the applicant to specify the request and it is assisting the applicant in doing so.

6. The administrative body may decide not to process a request if the applicant does not cooperate with a request for clarification as referred to in the fifth paragraph.

In

Notwithstanding Article 4:5(4) of the General Administrative Law Act, the decision to

not to process the request notified the applicant within two weeks of the request is specified or after the deadline set for it has expired unused.

7. A request for information shall be granted subject to the provisions of chapter 5.

Article 5 1

1. Disclosure of information pursuant to this Act shall be withheld to the extent that:

- a. could jeopardise the unity of the Crown;
 - b. could harm the security of the State;
 - c. concerns business and manufacturing data confidentially communicated to the government by natural or legal persons;
 - d. personal data as referred to in section 3.1 respectively paragraph
 - e. numbers serving to identify persons prescribed by law or order in council as referred to in Article 46 of the Implementation Act
- General Data Protection Regulation, unless the disclosure is manifestly not a breach on privacy.

2. The disclosure of information shall also be withheld to the extent that its importance does not outweigh the following interests:

- a. the Netherlands' relations with other countries and states and with international organisations;
- b. the economic or financial interests of the State, other public bodies or administrative authorities, in the case of environmental information only to the extent that the information is relates to acts of a confidential nature;
- c. the detection and prosecution of criminal offences;
- d. inspection, monitoring and supervision by administrative bodies;
- e. respect for privacy;
- f. the protection of other than in subsection (1)(c) competitively sensitive business and manufacturing data;
- g. protection of the environment to which this information relates;
- h. the security of persons and companies and the prevention of sabotage;
- i. the proper functioning of the State, other public bodies or governing bodies.

3. If a request for disclosure on one of the grounds is rejected, the decision shall contain explicit reasons for this.

4. Disclosure may be temporarily withheld if the interest of the addressee of the information to be the first to know the information manifestly requires it required. The administrative body shall notify the applicant of the period within which the disclosure will still take place.

5. In exceptional cases, disclosure of information other than environmental information

shall also be withheld if publication would cause disproportionate disadvantage to an interest other than those referred to in the first or second paragraph and the general interest is not at stake.

interest of publicity does not outweigh this disadvantage. The administrative body bases a

decision to withhold I disclosure of any information on this ground

in respect of the same information not also on one of the grounds specified in paragraphs 1 or 2

said grounds.

6. Disclosure of information remains, notwithstanding subsection 1(a)

(c) in the case of environmental information, also omitted to the extent that this would result in the requirement in the first

paragraph (c) is seriously prejudiced and the public interest of

disclosure of information does not outweigh these damages.

7. The first and second paragraphs do not apply to environmental information that relates to

has on emissions into the environment.

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