

Ms Stéphane Horel
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Sent by email only: horel@lemonde.fr;
CC: tjluimes@gmail.com; sarah.pilz@protonmail.com

Subject: Partial reply to your request for access to documents – Batch 3

Reference: ATD/029/2022

Dear Ms Horel,

I refer to your request of 28 June 2022, registered on 29 June 2022, under the above-mentioned number.

First, we would like to confirm to you that, ECHA has identified a total of 1393 documents as falling within the scope of your request.

On 1 August 2022, ECHA sent you a communication covering 401 documents pertaining to correspondence exchanged between ECHA and lobby groups on the proposed restriction of PFAS in fire-fighting foams (part (a) of your request).

On 30 September 2022, ECHA sent you a second communication covering 226 documents pertaining to the additional correspondence exchanged between ECHA and lobby groups on the proposed restriction of PFAS in fire-fighting foams and the restriction proposal for PFAS in other uses (remaining part (a) of your request).

This reply covers part of third batch of documents falling within the scope of your request. It covers 437 out of the 766 documents pertaining to correspondence exchanged:

- Between ECHA and the European Commission
- Between ECHA and European Union (EU) Member States, the UK and Norway (partly)

ECHA has consulted the Commission, Member States and Norway on the disclosure of the above mentioned documents in accordance with Article 4(4) of the ATD Regulation. As regards 329 documents, the consultation with the Member States and Norway is still pending. In the context of third party consultations, some Member States and Norway have raised objections to the disclosure of a substantial number of documents. Due to the large number, ECHA is still assessing these objections and we were unable to finalise the processing of your request within the agreed timeline. We sincerely apologise for this delay. A reply covering these remaining 329 documents will be sent to you as soon as possible with the aim to provide the remaining documents by mid-November.

As regards the precise description of the scope of your request and the procedural history, I refer to ECHA's communication of 1 August 2022 mentioned above.

Decision

Based on Article 7(1) of the ATD Regulation¹

ECHA has decided:

- to grant you partial access to 322 of the requested documents
- to grant you full access to 109 of the requested documents
- to refuse access to 6 of the requested documents

You can find the non-confidential version of the documents enclosed to this letter.

Reasons

Following an individual assessment of the documents requested under the provisions of the ATD Regulation and taking into account the comments received from the consulted third parties, ECHA has concluded that their disclosure is partly prevented by exceptions to the right of access laid down in Article 4 of this regulation. The reasons as to why specific redactions have been performed are provided below.

Protection of privacy and the integrity of an individual

- i. Names (and work title when identifiable), email addresses and phone numbers of individuals*

Where applicable, ECHA protects the privacy and integrity of individuals in accordance with Article 4(1)(b) of the ATD Regulation, read in conjunction with Article 9(1)(b) of Regulation (EU) 2018/1725 and therefore has decided not to disclose the names (and work title when identifiable), email addresses and phone numbers of natural persons contained in the requested documents. The related information, when located in the requested document, has therefore been redacted.

- ii. Curriculum vitae and photos of an identifiable natural person*

According to Article 3(1) of Regulation (EU) 2018/1725 the term 'personal data' means any information relating to an identified or identifiable natural person.

The exception referred to in Article 4(1)(b) of the ATD Regulation, read in conjunction with Article 9(1)(b) of Regulation (EU) 2018/1725, has been found to apply to the entirety a document containing different curriculum vitae and pictures:

- "WP5_1-4_WP5 meeting March 2021_File_Received_26-03-2021"

¹ [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.](#)

ECHA concluded that partial access could not be granted without depriving of effect the protection granted under Article 4(1)(b) of the ATD Regulation. Accordingly, the above-mentioned enclosures have been removed entirely.

Protection of defence and military matters

- i. Information related to the countries submitting the requested feedback and identification of system architecture of military ships in relation to discussions on the restriction of PFAS in fire fighting foams*

The slides 3 and 6 of document “MS 7_1B_MOD input_Email_Thread_08-09-2021_ATT” have been redacted in their entirety. Any information allowing the identification of the country submitting the requested feedback in the following documents has also been redacted:

- MS 9_1C_MOD input_Email_Received_04-08-2021_ATT
- MS 7_1A_MOD input_Email_Thread_08-09-2021
- MS 9_1A_MOD input_Email_Received_04-08-2021
- MS 5_1A_MOD input_Email_Thread_21-09-2021

The information contained in the PowerPoint slides would allow the identification of system architecture of military equipment and localisation of military and defence materials (e.g. weapons, ammunition, Petroleum, Oil and Lubricants used in the army). In addition, the information relating to the country submitting the requested feedback and contained in the PDF document and emails would allow conclusions to be drawn about the operational readiness of the armed forces of the country in question. The exception provided for in Article 4(1)(a) second indent of the ATD Regulation on the protection of the public interest as regards defence and military matters was found to apply to the information at issue.

Advice and further observations

You are reminded that the documents attached may be subject to intellectual property rights of third parties, such as copyright as mentioned in Article 16 of the ATD Regulation.

Means of redress

You are entitled to make a confirmatory application requesting ECHA to review this position by writing to the Executive Director of ECHA (P.O Box 400, 00121 Helsinki, Finland or executive-director@echa.europa.eu). This needs to be done within 15 working days, as applicable in your country, of receiving this letter.

Yours sincerely,

(e-signed)²

Simone Doyle
Head of Risk Management I Unit

Optional

- Zip file archive containing the non-confidential version of documents pertaining to point (b) and (c) of your request. Please note that this archive comprises 26 individual files. To open the archive please put all 26 files in the same folder and extract by clicking on the 001 file.
- List of documents identified within the scope of this second batch, with an indication of type of disclosure (i.e. full access, partial access, refusal) and the exception applied under the ATD Regulation.

² As this is an electronic document, it is not physically signed. This communication has been approved according to ECHA's internal decision-approval process.