

Letter to the Italian Presidency of the Council of the EU in relation to the EU's TTIP negotiating directives

Correspondence - 30/09/2014

Case OI/11/2014/RA - **Opened on** 29/07/2014 - **Decision on** 31/10/2014 - **Institution concerned** Council of the European Union (Settled by the institution) |

Mr Carlo Calenda Deputy Minister of Economic Development Ministry of Economic development
via Vittorio Veneto, 33 IT - 00187 Roma ITALIE

Strasbourg, 30/09/2014

Re: The TTIP negotiating directives (OI/11/2014/RA)

Dear Mr Calenda,

I am writing to let you know how very much I welcome, and am encouraged by, your efforts to inject greater transparency into the ongoing Transatlantic Trade and Investment Partnership (TTIP) process, including in relation to the EU's negotiating directives.

I wrote to the Council on 29 July 2014 on this subject [1] . Specifically, I invited the Council, in the interests of transparency, good administration, the effective use of resources and, ultimately, encouraging public trust, to consider proactively publishing the EU's negotiating directives. I shared with the Council the Ombudsman's analysis, based on our daily experience dealing with questions of transparency and public access to documents, outlining why, in this specific case, it would be in the public interest to publish the document.

I understand that one of the main concerns expressed by those who are reluctant to do so is the risk of establishing a precedent that might bind the Council's hands in other trade negotiations.

While I understand that concern, I would suggest that it is misguided. By releasing this particular document, while reserving the right to refuse public access to similar documents in the future if the specific circumstances make it appropriate to do so [2] , the Council could send a clear signal that there is no blanket refusal of disclosure and that each case is judged on its merits. As such, the decision not to publish such a pivotal document could be understood by citizens to result from reasoned reflections, based on the specific content of the document in question, rather than from a general view that citizens should remain passive outsiders in relation to



negotiations that have great potential impact on their lives.

Releasing this particular document could thus serve to enhance the legitimacy, in the eyes of citizens, not only of the negotiating process, but also of the Council's balancing of the interests in disclosure and confidentiality in future cases.

Please allow me in this context to reiterate my firm support for the efforts of the Italian Presidency to promote a more transparent, accountable and democratic Union.

Yours sincerely,

Emily O'Reilly

cc: Mr Uwe Corsepius, Secretary-General of the Council of the EU

[1] The Ombudsman's letter can be found at:
<http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/54634/html.bookmark>

[2] If disclosure would (seriously) undermine the protection of any of the public or private interests provided for in Article 4 of Regulation 1049/2001, access can be validly refused. See 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 2001 L 145, p. 43.