

## Recommendations submitted to EU Directorate General for Trade

### On improving internal guidelines on access to documents

Access Info Europe and Corporate Europe Observatory this week submitted a new round of comments to the EU's Directorate General for Trade on its internal guidelines for access to documents, the controversial "Vademecum" first leaked to the public in March 2009 and revised by DG Trade in June 2009 following a strong reaction by the public.

According to the civil society organisations, further steps are needed to bring the guidelines into line with the EU access to documents regulations. These include:

1. **Removal of language which seems to discourage keeping full records of all meetings and the removal of crucial information such as follow-up points from documents considered for release.** There is nothing in Regulation 1049/2001 which permits follow-up points and evaluations of meetings to be excluded *per se* from the right of access.
2. **Removal of language which seems to encourage non-release of any written record which contain evaluations on the grounds that these are "personal".** An example is the section which states "*one of the more difficult elements is how to handle personal comments or reflections in notes, meeting reports or flash e-mails which may often fall under the exceptions foreseen in the Regulation.*"
3. **Revision of language to make clear that e-mails are documents for the purposes of the EU access to documents rules.** The current version implies that they may not always be considered documents and that e-mails sent by public officials are "personal" information.
4. **Rewriting of the explanation of the "public interest test" to make clear that this should override the application of some exceptions.** The Vademecum simply states that the public interest test requires that "*exceptions must be justified on a case-by-case basis according to the document's content*". In the comments submitted to DG Trade, Access Info and CEO provide relevant Court of Justice jurisprudence which clarifies how this test should be applied.
5. **Revision of language which seems to encourage the application of the international relations exception to documents about relations with non-EU countries.** The CSOs note that a mere objection by a non-EU country is not sufficient as it may have different openness standards from the EU and might object to publication of documents even when disclosure would not, in fact, harm or "undermine protection of" international relations.

The two civil society organisations were invited by DG Trade to submit comments following an exchange of e-mails and a meeting in November 2009.

#### ***For further information, please contact:***

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