

Trilogue Negotiations on Commission's Proposal for Trade Secrets Directive

To: Ms. Constance Le Grip
MEP Rapporteur

Mr Georges Friden
Deputy Permanent Representative for Luxembourg to the EU

Mr Slawomir Tokarski
European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

3 December 2015

Dear Ms Le Grip, Mr Friden and Mr Tokarsky and all representatives of Member States,

Trilogue negotiations on the Commission's proposal for a Trade Secrets Directive: legal uncertainty endangers access to information and worker mobility

With the third trilogue meeting taking place today, there is wide agreement among the Commission, the Parliament and the Council that trade secrets should not always be protected from disclosure. However, the texts of all three EU institutions have failed to ensure that the directive's scope is limited to commercial practices, as foreseen in Article 39 of the TRIPS Agreement. In addition, the Commission's proposal and the Council's General Approach contain too much uncertainty surrounding the situations in which business secrets can be acquired and disclosed without the risk of being sued for compensatory damages. Such uncertainty will prevent the disclosure of information unduly qualified as trade secrets, such as information on the impact of products and production processes on public health and the environment that should be in the public domain, by journalists, whistleblowers, worker representatives and public authorities. This goes against the best interests of EU citizens, does nothing to promote the competitiveness of EU businesses and defies the logic of EU harmonisation.

We therefore urge the Council and the Parliament to...

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