Council of the European Union

Brussels, 21 April 2016
(OR. en)

7509/16

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NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public Access to documents - Confirmatory application No 09/c/03/16

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 22 July 2015 and registered on the same day (ref. 15/1896) (Annex 1);
- request for access to documents sent to the General Secretariat of the Council on 2 September 2015 and registered on the same day (ref. 15/2110) (Annex 2);
- extract from e-mail of 23 October 2015, by which the applicant agreed to narrow the scope of his request (Annex 3);
- replies from the General Secretariat of the Council of 7 March 2016) (Annex 4);
- confirmatory application dated 30 March 2016 and registered on the same day (Annex 5).

ANNEX 1

[E-mail message sent to access@consilium.europa.eu on 22 July 2015 - 14:32]

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Council of the European Union

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General Secretariat / DG Economic Affairs and Competitiveness
Wetstraat 175
1048 Brussel
Belgium

Subject: Application for access to documents on the Code of Conduct (Business Taxation) in accordance with Regulation 1049/2001 on public access to Council documents

Dear Sir,

I would first like to thank you once more for our pleasant and helpful meeting on 7 May 2015.

As you know, I am a Phd researcher at **DELETED**, writing a dissertation on harmful tax competition in the EU. My pièce de résistance is a discussion and evaluation of the work of the Code of Conduct Group on the implementation of the Code of Conduct (Business Taxation) and the Code of Conduct Group's Work Packages, including an evaluation of the Code's effectiveness and a discussion of its overlap with legal instruments such as state aid decisions, infringement actions, preliminary rulings on fundamental freedoms, and market distortion measures.

As we discussed, I made quite some progress, and I already published some comments and evaluations of the important work of the Code of Conduct Group. Unfortunately, apart from the Code of Conduct Group Progress Reports to the Council, very little information on the work of the Code of Conduct Group is publicly available. This makes it difficult or impossible to accurately describe and evaluate (the progress of) the work of the Code of Conduct Group in many respects, such as, notably, one-country issues (i.e., standstill, rollback, investment funds, etc.), two-country issues (i.e., anti-abuse, inbound profit transfers, administrative practices, etc.), and third-country issues (i.e. the dialogue with neighboring third countries). Room Documents, Non-Papers, Aide-mémoires, and similar documents for the Code of Conduct Group meetings and its Subgroups meetings are of vital importance for my research. These documents are not, however, available for downloading in the public register of Council documents.

I would therefore like to make a request to the Council for access to the Room Documents, Non-Papers, Aide-mémoires, and similar documents related to the Code of Conduct Group (Business Taxation) and its Subgroup(s). Considering that the Code of Conduct Group is a Council working group, the involvement of the Council Secretariat, and your position as Head of the Unit Tax Policy of the Council, I turn to you.

In order to reduce the workload of your Unit as much as possible, I have already drawn up the enclosed list – based on a detailed review of all publicly available Code of Conduct Group Progress Reports to the Council – of specific subject matters of interest for my research. I hope this detailed list provides sufficient basis for efficient processing my application for access to documents.

I would like to point out that earlier, I have made a similar request to the Commission, but experienced that apparently, the Commission does not properly apply Regulation 1049/2001 on public access to documents, as it did not identify most of the relevant documents, and as it does not reply within the prescribed time limits – and sometimes not at all. It would seem that the Commission Services doubt my scientific intentions; I, for my part, begin to question the Commission's willingness to identify relevant documents and to loyally apply the EU public access rules. My supervisor, **DELETED**, suggested that I turn to the Council instead of the Commission, as to his knowledge, the Council simply applies the rules of the said public access Regulation as regards Code of Conduct Group documents, without leaving documents unidentified.

If it would help to speed up the process and to reduce your effort, **DELETED** would be happy to accompany me to Brussels to coordinate with your Unit as much as possible, to avoid wasting effort and to possibly further reduce my request to documents relevant for my research. For instance, for the years 1998-2007 I am especially interested in 'agreed descriptions' and 'initial/final evaluations' (incl. clarification) of national tax measures tabled within the Code of Conduct Group.

Thank you very much for you guidance and support in processing this information request.

I look forward to hearing from you.

Kind Regards,

DELETED

- Annex – Information Request: Documents Code of Conduct Group; list of subject matters and dates

<u>Information Request: Documents Code of Conduct for Business Taxation Group</u>

Request submitted by:

DELETED

<u>Within the scope of this information request:</u> Room Documents, Non-Papers, Aide-mémoires on the Code of Conduct Group (Business Taxation) and (Subgroup). These documents are not available for downloading in the public register of Council documents.

<u>Not within the scope of this information request:</u> Code of Conduct Group (Progress) Reports to the Council. These documents are already available for downloading in the public register of Council documents.

<u>2015</u>

Following a detailed review of Council Document 9620/15 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 4 February, 7 April, 8 April and 2 June, particularly in relation to:

- Relation to the European Parliament - Questions on the work of the Group
- Notification of Rollback and Standstill returns including administrative practices
- Standstill: Patent box
- Rollback – Gibraltar Income Tax Act 2010
- Anti-Abuse – Mismatches (including hybrid entities and hybrid permanent establishments)
- Administrative Practices (including implementation of the model instruction)
- Profit inbound Transfers
- Links to Third Countries
- Future of the Code of Conduct

2014

Following a detailed review of information available to me and in light of the subject matters of interest for my research, I kindly request access to the documents for 2014, particularly:

- "OBSERVATIONS FROM EUROPEAN COMMISSION SERVICES ON DRAFT GUIDANCE ON HYBRID ENTITY MISMATCHES AND HYBRID PERMANENT ESTABLISHMENTS" 14 January 2014
- "Standstill: patent boxes" 27 January 2014
- "CY- INTELLECTUAL PROPERTY REGIME” 27 January 2014
- "Administrative practices - Model instruction" 27 January 2014
- "MODEL INSTRUCTION FOR THE SPONTANEOUS EXCHANGE OF CROSS-BORDER RULINGS AND UNILATERAL ADVANCE TRANSFER PRICING AGREEMENTS - MEETING N° 7 OF 28-29 NOVEMBER 2013" 27 January 2014
- "COUNCIL DIRECTIVE 2011116/EU - STATISTICS: GUIDELINES AND TABLES APPLICABLE AS OF 1.1.2014" 27 January 2014
- "CACT 038 - Statistics" 27 January 2014
- "Standstill UK: Gibraltar -Income Tax Act 2010" 18 March 2014
- "Standstill -Patent Boxes - Review of EU Regimes" 18 March 2014
- "Standstill - Patent Boxes - Tax incentives for research and development" 18 March 2014
- "MEMBER STATES' COMMENTS ON PATENT BOXES" 18 March 2014
- "Standstill -patent boxes - Revised OECD proposals on substantial activities" 18 March 2014
- "Code of Conduct - Standstill - Interpretation of criterion 3 in the context of patent boxes" 18 March 2014
- "Standstill - patent boxes - Revised OECD proposals on substantial activities" 3 June 2014
- "BE Comments on the Second Supplemental Note on Substantial Activities in the Context of intangible Regimes" 3 June 2014

- "STANDSTILL - PATENT BOX REGIMES - DRAFT DESCRIPTIONS AND WAY FORWARD" 3 June 2014
- "DESCRIPTION OF KEY FEATURES OF THE INTANGIBLE REGIMES UNDER REVIEW" ["Confidential" origin OECD] 3 June 2014
- "Agreed Description of Patent Box Regime - Cyprus" 3 June 2014
- "Patent Box -summary table - Belgium" 3 June 2014
- "ES/BASQUE COUNTRY - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 18 September 2014
- "ES/NAVARRE - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 18 September 2014
- "CY- INTELLECTUAL PROPERTY REGIME" 18 September 2014
- "ES - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 18 September 2014
- "MT-EXEMPTION ON ROYALTIES DERIVED FROM PATENTS" 18 September 2014
- "NL- INNOVATION BOX REGIME" 18 September 2014
- "FR - REDUCED RATE FOR LONG TERM CAPITAL GAINS AND PROFITS FROM THE LICENSING OF JP RIGHTS" 18 September 2014
- "PT - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE PROPERTY" 18 September 2014
- "BE-PATENT INCOME DEDUCTION REGIME" 18 September 2014
- "LU- INTELLECTUAL PROPERTY REGIME" 18 September 2014
- "HU- IP REGIME FOR ROYALTIES AND CAPITAL GAINS" 18 September 2014
- "UK -PATENT BOX" 18 September 2014
- "Agreed Description of Patent Box Regime - Cyprus" 18 September 2014
- "Patent Box -summary table - Belgium" 18 September 2014
- "Code of Conduct - Standstill - Interpretation of criterion 3 in the context of patent boxes" 18 September 2014
- "LINKS TO THIRD COUNTRIES - DISCUSSIONS WITH LIECHTENSTEIN" 22 October 2014
- "Standstill -patent boxes - OECD progress report on substantial activities" 22 October 2014
- "ES/BASQUE COUNTRY - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 22 October 2014
- "ES/NAVARRE - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 22 October 2014
- "ES -PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE ASSETS" 22 October 2014

- "FR - REDUCED RATE FOR LONG TERM CAPITAL GAINS AND PROFITS FROM THE LICENSING OF IP RIGHTS" 28 October 2014
- "BE-PATENT INCOME DEDUCTION REGIME" 22 October 2014
- "NL -INNOVATION BOX REGIME" 22 October 2014
- "LU- INTELLECTUAL PROPERTY REGIME" 22 October 2014
- "HU- IP REGIME FOR ROYALTIES AND CAPITAL GAINS" 22 October 2014
- "CY- INTELLECTUAL PROPERTY REGIME" 22 October 2014
- "MT-EXEMPTION ON ROYALTIES DERIVED FROM PATENTS" 22 October 2014
- "UK- PATENT BOX" 22 October 2014
- "PT - PARTIAL EXEMPTION OF INCOME FROM CERTAIN INTANGIBLE PROPERTY" 22 October 2014
- "Standstill -patent boxes - Application of criterion 4" 22 October 2014
- "Code of Conduct - Standstill - Interpretation of criterion 3 in the context of patent boxes" 22 October 2014
- "Standstill -patent boxes - Member States' comments on room document 15" 22 October 2014
- "Comments of the Luxembourg delegation on the modified Nexus methods" 22 October 2014
- "Agreed Description of Patent Box Regime - Cyprus" 22 October 2014
- "Patent Box -summary table-Belgium" 22 October 2014
- "MONITORING THE IMPLEMENTATION OF THE GUIDANCE AGREED ON INBOUND PROFIT TRANSFERS – ASSOCIATED AND DEPENDENT TERRITORIES" 22 October 2014
- "WORK PACKAGE 2011 - MONITORING GUIDANCE ON INBOUND PROFITS" 22 October 2014
- "Work Program 2011 - Links with Third Countries - Mauritius" 20 November 2014
- "Standstill - UK: Gibraltar - Scope of the Code of Conduct" 20 November 2014
- "Work Program 2011 - Monitoring Guidance on Inbound Profit Transfers - Dependent and Associated Territories" 20 November 2014."

2013

Following a detailed review of information available to me and in light of the subject matters of interest for my research, I kindly request access to the documents for 2013, particularly:

- "ANTI-ABUSE: HYBRID ENTITIES & HYBRID PE'S - MEMBER STATES' RESPONSES" 30 January 2013
- "PREPARATION OF GUIDANCE NOTES - REVISED DRAFT GUIDANCE" 30 January 2013
- "MONITORING GUIDANCE ON INBOUND PROFITS" 20 March 2013.
- "ADMINISTRATIVE PRACTICES: CROSS BORDER RULINGS & TRANSPARENCY AND EXCHANGE OF INFORMATION IN THE AREA OF TRANSFER PRICING" 20 March 2013
- "PREPARATION OF GUIDANCE NOTES - REVISED DRAFT GUIDANCE" 20 March 2013
- "ADMINISTRATIVE PRACTICES: CROSS BORDER RULINGS & TRANSPARENCY AND EXCHANGE OFINFORMATION IN THE AREA OF TRANSFER PRICING - MEMBER STATES' RESPONSES" 29 May 2013
- "MONITORING GUIDANCE ON INBOUND PROFITS" 29 May 2013
- "MONITORING GUIDANCE ON INBOUND PROFITS" 11 September 2013
- "Cyprus -Intellectual Property Regime - Agreed Description" 22 October 2013
- "Belgium - Patent Income Deduction - 2013 Amendment - Small Companies - Agreed Description" 22 October 2013
- "UK Patent Box" 22 October 2013
- "UK -PATENT BOX" 22 October 2013
- "MONITORING GUIDANCE ON INBOUND PROFITS - MEMBER STATES' RESPONSES" 22 October 2013
- "CY- INTELLECTUAL PROPERTY REGIME" 20 November 2013
- "BE - AMENDMENT TO PATENT INCOME DEDUCTION REGIME" 20 November 2013

2012

Following a detailed review of Council Document 16488/12 and 10903/12 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 7 February, 17 April, 4 June,

10 September, 17 October and 8 November, particularly in relation to:

- UK: Guernsey - Zero-Ten Corporate Tax Regime
- UK: Gibraltar - Income Tax Act 2010
- Work Package: Anti-Abuse
- Work Package: Preparation of guidance or application notes
- Work Package: Monitoring the implementation of agreed guidance
- Work Package: Administrative Practices
- Work Package: Links to third Countries
- Work package: Investment Funds

2011

Following a detailed review of Council Document 17081/1/11 and 10857/11 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 17 February, 11 April, 26

May, 13 September, 20 October, and 16 November, particularly in relation to:

- UK Jersey - Zero-Ten Corporate Tax Regime
- UK Isle of Man - New Tax Legislation
- UK Guernsey - Zero-Ten Corporate Tax Regime
- UK Gibraltar - Income Tax Act 2010
- Hungary - Determining the tax base for interest payments received from abroad
- Luxembourg - Group Financing Companies - Advance Confirmation of Margins
- Bulgaria - Remit of corporate tax for agricultural
- Developments in French and Dutch overseas territories (under standstill)
- Work Package - Anti-Abuse
- Work Package - Links to third Countries
- Work Package - Administrative Practices
- Future/New Work Program (2011)

2010

Following a detailed review of Council Document 16766/10 and 10033/10 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 14 January, 4 March, 25

March, 22 April, 12 May, 23 September and 19 November, particularly in relation to:

- UK Jersey - Zero-Ten Corporate Tax Regime
- UK Isle of Man - New Tax Legislation
- UK Guernsey - Zero-Ten Corporate Tax Regime
- Hungary - Determining the tax base for interest payments received from abroad
- Luxembourg - Group Financing Companies – Advance Confirmation of Margins
- Slovenia - Tax Relief Pomurje region
- Slovenia - Amendments to the Economic zones Act
- Cyprus - Changes in legislation regarding taxation of interest and the participation exemption
- Poland - Special Economic Zones (original rules and amended rules)
- Netherlands - Interest Box
- Bulgaria - Remit of corporate tax for agricultural
- Developments in French and Dutch overseas territories (under standstill)
- Transparency and exchange of information in the area of transfer pricing
- Work Package - Anti-Abuse
- Work Package - Links to third Countries
- Work Package - Administrative Practices

2009

Following a detailed review of Council Document 16233/09 and 10200/1/09 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 5 February, 15 May, 29 June, 23 September, 27 October, 18 November, particularly in relation to:

- UK Jersey - Zero-Ten Corporate Tax Regime
- UK Isle of Man - New Tax Legislation
- UK Guernsey - Zero-Ten Corporate Tax Regime
- Belgium - Profit Participating Loan
- Slovakia - Investment Aid Tax Credit
- Gibraltar - Corporate tax reform
- Netherlands - Interest Box
- Bulgaria - Remit of corporate tax for agricultural
- Transparency and exchange of information in the area of transfer pricing
- Work Package - Anti-Abuse
- Work Package - Links to third Countries
- Work Package - Administrative Practices

2008

Following a detailed review of Council Document 16084/1/08, 16084/08 and 9633/08 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 6 February, 22

April, 7 May, 9 September, and 18 November, particularly in relation to:

- UK Jersey - Zero-Ten Corporate Tax Regime
- UK Isle of Man - New Tax Legislation
- UK Guernsey - Zero-Ten Corporate Tax Regime
- UK Isle of Man - Distributable Profits Charge
- Belgium - Profit Participating Loan / Hybrid Finance Ruling
- Belgium - Patents Regime
- Luxembourg - Intellectual Property Regime
- Portugal - Madeira Free Zones
- Slovakia - Investment Aid Tax Credit
- Spain - Intangible Assets Regime
- Future Work Package

2007

Following a detailed review of Council Document 15545/1/07 and 9047/07 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 13 February, 17 April, 19

September, 16 October, and 20 November, particularly in relation to:

- Netherlands - Interest Box
- Netherlands - Patent Box
- Netherlands Antilles - Free Zones
- Malta - International Trading Companies Measure
- Malta - Dividends from (other) Maltese companies with Foreign Income
- Malta – Advance Corporate income tax with refund
- Slovakia - Foreign Income measure and respective anti-abuse provisions
- Slovakia - Exemption of Dividends and Capital Gains
- Slovakia - Venture Capital Scheme
- Slovakia - Amending the Economic Zones Act
- UK Isle of Man - International Business Companies
- UK Isle of Man - Exemption for Non Resident Companies
- UK Isle of Man - Exempt Insurance Companies
- UK Isle of Man - Fund Management
- UK Isle of Man - Offshore Banking Business
- UK Isle of Man - International Loan Business
- UK Isle of Man - Distributable Profits Charge
- Bulgaria - Foreign Investment Act
- Bulgaria - Amendment to BG 4 Investment Tax Credit
- Future Work Package

2006

Following a detailed review of Council Document 15472/06, 10879/06 and 9655/06 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 28 March, 27
April, 16 May, 11 October and 8 November, particularly in relation to:

- Malta - Measures International Trading Companies
- Malta - Dividends from (other) Maltese Companies with Foreign Income
- UK Isle of Man - Information on progress rollback
- UK Isle of Man - Distributable Profits Charge
- UK Jersey - Information on progress rollback
- UK Guernsey - Information on progress rollback
- Poland - Changes to regulations on Special Economic zones
- Slovenia - Enlargement of the period for a loss carry-over
- Slovenia - Relief for investment in research and development
- Slovenia - Harmonization with the amendments to the Mergers Directive
- Tax measures in the acceding Member States (Bulgaria and Romania) and commitments for rollback
- Implementation of rollback (various tax measures)
- Future of the Code of Conduct

2005

Following a detailed review of Council Document 15434/05, 9427/05 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 24 February, 24 May, 15 September,

18 October, 23 November, particularly in relation to:

- Malta - Measures International Trading Companies
- Malta - Dividends from (other) Maltese Companies with Foreign Income
- Hungary - Interest from affiliated companies
- Hungary - Royalty Income
- Hungary - Revenue from Stock Exchange Operations
- Spain - Holding Company Regime ETVE
- Slovenia - various tax measures, including measures relating to participation exemption of revenues from profit participation, exempt entities, investment incentives allowance, taxation of interest and royalties, and implementation EU-directives (PSD, IRD, and MD).

- Greece - Tax Incentives for investment
- Ireland - Holding Company Measure
- Netherlands - New Fiscal Framework in Aruba
- Implementation of rollback (various tax measures)
- Future of the Code of Conduct

<u>2004</u>

Following a detailed review of Council Document 15317/04 and 9805/04 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 23 March, 29 April, 16 July,

11 October, and 8 November, particularly in relation to:

- Hungary - Interest from affiliated companies
- Hungary - Royalty Income
- Hungary - Revenue from Stock Exchange Operations
- Greece - Tax Incentives for investment
- Italy - Holding Regime
- Italy - International Tax Ruling Practice
- Sweden - Holding Regime
- Netherlands - New Fiscal Framework in Aruba
- Netherlands - Measures in Netherlands Antilles
- Malta - International Trading Companies Measure
- Malta - Dividends from (other) Maltese companies with Foreign Income
- Implementation of rollback (various tax measures)

<u>2003</u>

Following a detailed review of Council Document 14361/03, 13213/03 and 7018/1/03 and in light of the subject matters of interest for my research, I kindly request access to the documents for 2003, particularly in relation to:

- Netherlands - New Fiscal Framework in the Netherlands Antilles, including tax measures: (i) tax treatment of holding companies and (ii) tax treatment of exempt companies.
- Netherlands - New ruling Practice in Netherlands Antilles
- Implementation of rollback (various tax measures)
- Adoption of the Tax Package
- Harmful tax measures in the acceding Member States and commitments for rollback
- Work of exchange of information in the area of transfer pricing
- Belgian Coordination Centres
- Luxembourg 1929 Holding Companies
- Spain Basque Country Coordination Centres
- Ireland International Financial Service Centre of Dublin
- Netherlands International financing activities
- Italy Trieste Financial Services and Insurance Centre
- Netherlands Intragroup Finance Activities
- Luxembourg Finance Companies
- Netherlands Group Financing Branch (profit allocation)
- Luxembourg Financing Branch (profit allocation)
- Netherland informal Capital
- Belgium informal Capital

Comment: Please be informed that the list of meetings and agenda for the year 2003 is not available for downloading in the public register of Council documents. For this reason I was unfortunately not able to lodge a more precise information request.

1998-2002

Following a detailed review of various Council Documents (available for downloading in the public register of Council documents) and in light of the subject matters of interest for my research, I kindly request access to the documents for 1998-2002, particularly in relation to final ‘agreed descriptions’ and final ‘(initial) evaluations’ [incl. grids with explanation and overall assessment] in respect to the following tax measures:

- Tax Measures with Harmful Features listed in Annex C of Council Document SN 4901/99 (‘Primarolo Report’):
- Austria AAM002b: Holdings (Schachtelbegünstingung-Intra Group Relief)
- Austria EAM009: Tax Exemptions
- Belgium A001: Co-ordination Centres
- Belgium A002: Distribution Centres
- Belgium A003: Service Centres
- Belgium E001: US Foreign Sales Companies Ruling
- Belgium E002: Informal Capital Ruling
- Denmark AAM021: Holding Companies
- Finland B008: Åland Islands Captive Insurance
- France A006: Headquarters and Logistic Centres
- France A012: Royalty Income - Patents
- France CAM058 Provisions for Renewal of Mineral Reserves
- France CAM059: Provision for Renewal of Oil and Gas Reserves
- Germany AAM019: Control and Coordination Centres of Foreign
- Companies in Germany
- Greece B011: Offices of Foreign Companies under the Law 89/67
- Ireland B001: The International Financial Services Centre (Dublin)
- Ireland C024: 10% Manufacturing Rate
- Ireland C025: Petroleum Taxation
- Ireland D017 Shannon Airport Zone (SAZ)
- Ireland E007: Foreign Income
- Italy B002: Trieste Financial Services and Insurance Centre
- Luxembourg A007: Co-ordination Centres
- Luxembourg A0013: 1929 Holding Companies
- Luxembourg B003: Luxembourg Finance Companies
- Luxembourg B007: Provisions for fluctuations in reinsurance
- Luxembourg Z002: Finance Branches
- Netherlands A008: Cost Plus Ruling
- Netherlands A009: Resale Minus Ruling
- Netherlands A010: Intra Group Finance Activities
- Netherlands A014: Holding Companies

- Netherlands A015: Royalties
- Netherlands B004: International Financing Activities
- Netherlands B005: Finance Branch
- Netherlands E003: US Foreign Sales Companies Ruling
- Netherlands E004: Informal Capital Ruling
- Netherlands Z003: Non Standard Rulings (including Greenfield-rulings)
- Portugal B006: Madeira and Sta Maria (Azores) Free Zones
- Spain A004: Basque Country Co-ordination Centres
- Spain A005: Navarra Co-ordination Centres
- Spain CAM025: Investigation and Exploitation of Hydrocarbons
- UK: Gibraltar A017: Gibraltar 1992 Companies
- UK: Gibraltar B012: Exempt (offshore) Companies and Captive Insurance
- UK: Gibraltar B013: Qualifying (offshore) Companies and Captive Insurance
- Aruba F027: Offshore Companies
- Aruba F028: Exempt Companies (AVVs)
- Aruba F030: Free Zones
- Aruba F032: Captive Insurance
- British Virgin Islands F056: International Business Companies
- Guernsey (incl Alderney) F037: Exempt Companies
- Guernsey (incl Alderney) F038: International Loan Business
- Guernsey (incl Alderney) F040: International Bodies
- Guernsey (incl Alderney) F042: Offshore Insurance Companies
- Guernsey (incl Alderney) F043: Insurance Companies
- Isle of Man F061: International Business Companies
- Isle of Man F062: Exemption for Non Resident Companies
- Isle of Man F063: Exempt Insurance Companies
- Isle of Man F065: International Loan Business
- Isle of Man F066: Offshore Banking Business
- Isle of Man F067: Fund Management
- Jersey F045: Tax Exempt Companies
- Jersey F046: International Treasury Operations
- Jersey F047: International Business Companies
- Jersey F048: Captive Insurance Companies
- Netherlands Antilles F020: Offshore Companies
- Netherlands Antilles F023: Captive Insurance
- Netherlands Antilles F024: Free Zones

Comment: Please be informed that the list of meetings and agenda for the years 1998-2002 is not available for downloading in the public register of Council documents. For this reason I was unfortunately not able to lodge a more precise information request.

<u>Information Request: Documents High Level Working Party</u>

<u>Within the scope of this information request:</u> Room Documents, Non-Papers, Ad Mémoires on the Code of Conduct Group (Business Taxation) and (Subgroup). These documents are not available for downloading in the public register of Council documents.

<u>Without the scope of this information request:</u> High Level Working Party (Progress) Reports to the Council. This documents is already available for downloading in the public register of Council documents.

<u>2011</u>

Following a detailed review of Council Document CM 1135/1/11 and CM 1135/11 and in light of the subject matters of interest for my research, I kindly request access to the documents for the meetings of 31 January 2011, particularly in relation to

- Code of Conduct (Business Taxation) and Tax Regimes Jersey and Isle of Man

ANNEX 2

[E-mail message sent to access@consilium.europa.eu on 2 September 2015 - 15:16]

From: DELETED

Sent: Wednesday, September 02, 2015 3:16 PM

To: SECRETARIAT DGF Access

Subject: RE: Ref. 15/1896-ws/jt/mi

Dear Mr. Jakob Thomsen,

It would be very much appreciated if you could provide me with a brief update on my information request per phone or email.

Please let me know if I could assist your Unit in speeding up this information request. As indicated in my letter dated 26 July 2015, I would be happy to come over to Brussels to discuss my information request.

In addition I would like to ask you to include the following documents (for the years 2003 and 2006) within my information request:

Documents (including room documents, non-papers, aide-memoires, etc) regarding the following tax measures which have been assessed in the framework of the EU Code of Conduct (Business Taxation):

Country/ Year	Name/conclusion	Reference nr. Doc.
CZ 2003	Investment incentive harmful	13213/03 of 6 Oct 2003
CY 2003	International business companies / international branches harmful	13213/03 of 6 Oct 2003
CY 2003	Insurance companies harmful	13213/03 of 6 Oct 2003
CY 2003	International financial services companies harmful	13213/03 of 6 Oct 2003
CY 2003	International Banking Units harmful	13213/03 of 6 Oct 2003
CY 2003	International general and limited partnerships harmful	13213/03 of 6 Oct 2003
CY 2003	(International) Collective investment schemes harmful	13213/03 of 6 Oct 2003

CY 2003	Shipping Not harmful	13213/03 of 6 Oct 2003
CY 2003	Capital gains Not harmful	13213/03 of 6 Oct 2003
CY 2003	Investment incentive harmful	13213/03 of 6 Oct 2003
CY 2003	Foreign income harmful	13213/03 of 6 Oct 2003
CY 2003	Export services harmful	13213/03 of 6 Oct 2003
CY 2003	Companies listed at the Cyprus stock exchange not harmful	13213/03 of 6 Oct 2003
CY 2003	Exports of goods harmful	13213/03 of 6 Oct 2003
CY 2003	Co-operative societies not harmful	13213/03 of 6 Oct 2003
CY 2003	Auxiliary tourist buildings or projects not harmful	13213/03 of 6 Oct 2003

CY	Holding regimes (treatment of foreign dividend)	
2003	not harmful	13213/03 of 6 Oct 2003
CY	Foreign branches	
2003	not harmful	13213/03 of 6 Oct 2003
HU	Offshore companies	
2003	harmful	13213/03 of 6 Oct 2003
HU	10 years tax holidays	
2003	not harmful	13213/03 of 6 Oct 2003
HU	Venture capital companies	
2003	not harmful	13213/03 of 6 Oct 2003
HU	Holding companies	
2003	not harmful	13213/03 of 6 Oct 2003
HU	Investment tax relief subject to special approval	
2003	not harmful	13213/03 of 6 Oct 2003
LV	Special economic zones	
2003	harmful	13213/03 of 6 Oct 2003
LV	High-tech companies	
2003	not harmful	13213/03 of 6 Oct 2003

LV 2003	Big investment schemes not harmful	13213/03 of 6 Oct 2003
LV 2003	Shipping not harmful	13213/03 of 6 Oct 2003
LT 2003	Free economic zones harmful	13213/03 of 6 Oct 2003
LT 2003	Benefits in respect of reinvested profits Not harmful	13213/03 of 6 Oct 2003
LT 2003	Enterprises with foreign invested capital harmful	13213/03 of 6 Oct 2003
LT 2003	Strategic investors harmful	13213/03 of 6 Oct 2003
MT 2003	Offshore trading and non-trading companies harmful	13213/03 of 6 Oct 2003
MT companies 2003	Offshore insurance companies / insurance harmful	13213/03 of 6 Oct 2003

MT	Offshore banking companies / banking companies	
2003	harmful	13213/03 of 6 Oct 2003
MT	International trading companies	
2003	harmful	13213/03 of 6 Oct 2003
MT	Dividends from (other) Maltese companies with foreign	
income		
2003	harmful	13213/03 of 6 Oct 2003
MT	Shipping	
2003	Not harmful	13213/03 of 6 Oct 2003
MT	Investment service companies	
2003	Harmful	13213/03 of 6 Oct 2003
MT	Business promotion act	
2003	Not harmful	13213/03 of 6 Oct 2003
MT	Onshore free port	
2003	Not harmful	13213/03 of 6 Oct 2003

MT 2003	Business promotion regulations Not harmful	13213/03 of 6 Oct 2003
MT 2003	Non-resident companies Not potentially harmful;	13213/03 of 6 Oct 2003
MT 2003	Special granted tax exemption harmful	13213/03 of 6 Oct 2003
PL 2003	Special economic zones (original rules) harmful	13213/03 of 6 Oct 2003
PL 2003	Special economic zones (amended rules) harmful	13213/03 of 6 Oct 2003
SK 2003	10-years tax holiday for foreign owned companies harmful	13213/03 of 6 Oct 2003
SK 2003	Tax exemption for newly started companies harmful	13213/03 of 6 Oct 2003
SK investors 2003	100% corporate income tax credits for foreign harmful	13213/03 of 6 Oct 2003

SK	100% corporate income tax credits for foreign investors (first amendment)	
2003	harmful	13213/03 of 6 Oct 2003
SK	100% corporate income tax credits for foreign investors (second amendment)	
2003	Harmful	13213/03 of 6 Oct 2003
SI	Special economic zones	
2003	Not harmful	13213/03 of 6 Oct 2003
SI	foreign income	
2003	Harmful	13213/03 of 6 Oct 2003
SI	Newly established companies	
2003	Not harmful	13213/03 of 6 Oct 2003
BU	Insurance Companies	
2006	Harmful	10879/06 of 26 Jun 2006
BU	Gambling activities	
2006	Not harmful	10879/06 of 26 Jun 2006

BU 2006	Telecom activities Harmful	10879/06 of 26 Jun 2006
BU 2006	Investment tax credit for investors Not harmful	10879/06 of 26 Jun 2006
BU 2006	Foreign investment act Harmful	10879/06 of 26 Jun 2006
BU 2006	Tonnage tax Not harmful	10879/06 of 26 Jun 2006
RO 2006	Free zones Harmful	10879/06 of 26 Jun 2006
RO 2006	Disadvantaged zones Not harmful	10879/06 of 26 Jun 2006
RO 2006	Large investments deduction Harmful	10879/06 of 26 Jun 2006
RO 2006	Export activities Harmful	10879/06 of 26 Jun 2006
RO 2006	Special tax exemptions Harmful	10879/06 of 26 Jun 2006

RO 2006	Patent profits exemption Harmful	10879/06 of 26 Jun 2006
RO 2006	Industrial parks Not harmful	10879/06 of 26 Jun 2006

By mistake I did not included these tax measures in the annex of my initial information request ("Annex – information request: documents Code of Conduct Group; list of subject matters and dates") as these measures were not included in the Code of Conduct Group Progress Reports but in the report of the Working Party on Enlargement (see 10879/06) and Enlargement Group Tax Experts (see 13213/03). Please be informed that I am specifically interested in the (agreed) descriptions and evaluations (incl overall assessment, clarification, grids, etc) of these tax measures.

Thank you very much for considering this additional information (request).

Looking forward to your response.

Kind regards,

DELETED

<u>ANNEX 3</u>

[Extract from an E-mail message sent to access@consilium.europa.eu **on 23 October 2015 - 12:58]**

From: **DELETED**

Sent: vrijdag 23 oktober 2015 12:58

To: 'SECRETARIAT DGF Access'

Subject: RE: Meeting with General Secretariat of the Council

Dear Mr. Thomsen,

I would first like to thank you and your colleagues once more for our pleasant and helpful meeting yesterday.

….

Please find below a few points that we agreed upon during our meeting. Please accept my apologies for any inaccuracies/misunderstanding.

…

In order to find a time efficient solution that would also speed up the process and reduce the efforts and workload of the Council we agreed to focus on the documents relating to the period 1998-2008. We agreed to leave out the scope of my request documents relation to the period 2008-2015.

…

ANNEX 4

Council of the European Union
General Secretariat
Directorate-General Communication and Document Management
Directorate Document Management
Transparency and Access to Documents Unit

Brussels, 7 March 2016

DELETED
Email: **DELETED**

Ref. 15/1896/mw-ws

Request made on: 23.07.2015

Dear **DELETED**,

Following our letter of 18 December 2015, we can inform you that we have identified and assessed an additional number of documents covered by your request.[1]

These documents are:

Standard documents (ST)

1998

ST 13559 1997 INIT	ST 5013 1998 INIT	ST 5904 1998 INIT	ST 6037 1998 INIT
ST 6038 1998 INIT	ST 6197 1998 INIT	ST 6330 1998 INIT	ST 6333 1998 INIT
ST 6613 1998 INIT	ST 6619 1998 INIT	ST 8784 1998 INIT	ST 9873 1998 INIT
ST 9875 1998 INIT	ST 9928 1998 INIT	ST 10051 1998 INIT	ST 11518 1998 INIT

[1] The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35).

ST 12993 1998 INIT	ST 12993 1998 ADD1	ST 13764 1998 INIT	ST 14321 1998 ADD1

1999

SN 2783 1999 INIT	SN 4901 1999 INIT	ST 5036 1999 INIT	ST 5038 1999 INIT
ST 5686 1999 INIT	ST 5770 1999 INIT	ST 5771 1999 INIT	ST 5772 1999 INIT
ST 5773 1999 INIT	ST 5775 1999 INIT	ST 5777 1999 INIT	ST 5971 1999 INIT
ST 5973 1999 INIT	ST 6106 1999 INIT	ST 6386 1999 INIT	ST 6386 1999 COR1
ST 6386 1999 COR2	ST 6705 1999 INIT	ST 6705 1999 COR1	ST 6709 1999 INIT
ST 6890 1999 INIT	ST 6891 1999 INIT	ST 6892 1999 INIT	ST 6893 1999 INIT
ST 6975 1999 INIT	ST 6977 1999 INIT	ST 7058 1999 INIT	ST 7128 1999 INIT
ST 7128 1999 COR1	ST 7129 1999 INIT	ST 7130 1999 INIT	ST 7131 1999 INIT
ST 7132 1999 INIT	ST 7268 1999 INIT	ST 7269 1999 INIT	ST 7270 1999 INIT
ST 7271 1999 INIT	ST 7303 1999 INIT	ST 7303 1999 REV1	ST 7304 1999 INIT
ST 7305 1999 INIT	ST 7522 1999 INIT	ST 7737 1999 INIT	ST 7737 1999 COR1
ST 7857 1999 INIT	ST 8086 1999 INIT	ST 8231 1999 INIT	ST 8332 1999 INIT
ST 8335 1999 INIT	ST 8686 1999 INIT	ST 9176 1999 INIT	ST 9176 1999 ADD1
ST 9176 1999 ADD2	ST 9384 1999 INIT	ST 9561 1999 INIT	ST 9563 1999 INIT
ST 9619 1999 INIT	ST 9620 1999 INIT	ST 9621 1999 INIT	ST 9626 1999 INIT
ST 9627 1999 INIT	ST 9628 1999 INIT	ST 9686 1999 INIT	ST 9687 1999 INIT
ST 10061 1999 INIT	ST 10230 1999 INIT	ST 10230 1999 ADD1	ST 10287 1999 INIT
ST 10669 1999 INIT	ST 10669 1999 REV1	ST 10671 1999 INIT	ST 11149 1999 INIT
ST 11339 1999 INIT	ST 11742 1999 INIT	ST 12255 1999 INIT	ST 12332 1999 INIT
ST 12335 1999 INIT	ST 12337 1999 INIT	ST 12338 1999 INIT	

2000

SN 4980 2000 INIT	ST 6523 2000 INIT	ST 7428 2000 INIT	ST 7435 2000 INIT
ST 7918 2000 INIT	ST 7954 2000 INIT	ST 8860 2000 INIT	ST 11255 2000 INIT
ST 11510 2000 INIT	ST 11920 2000 INIT	ST 11923 2000 INIT	ST 11945 2000 INIT
ST 12266 2000 INIT	ST 12521 2000 INIT	ST 12562 2000 INIT	ST 12748 2000 INIT
ST 12944 2000 INIT	ST 13112 2000 INIT	ST 13236 2000 INIT	ST 12373 2000 INIT
ST 13563 2000 INIT	ST 13623 2000 INIT	ST 14430 2000 INIT	

2001

ST 5670 2001 INIT	ST 6078 2001 INIT	ST 6421 2001 INIT	ST 6844 2001 INIT
ST 6867 2001 INIT	ST 6981 2001 INIT	ST 7140 2001 INIT	ST 7141 2001 INIT
ST 7142 2001 INIT	ST 7177 2001 INIT	ST 7497 2001 INIT	ST 7552 2001 INIT
ST 7603 2001 INIT	ST 7603 2001 COR1	ST 7839 2001 INIT	ST 8119 2001 INIT
ST 8159 2001 INIT	ST 8160 2001 INIT	ST 8376 2001 INIT	ST 8457 2001 INIT
ST 8622 2001 INIT	ST 8789 2001 INIT	ST 9007 2001 INIT	ST 10275 2001 INIT
ST 10592 2001 INIT	ST 12164 2001 INIT	ST 12409 2001 INIT	ST 12410 2001 INIT
ST 12771 2001 INIT	ST 12866 2001 INIT	ST 12953 2001 INIT	ST 13228 2001 INIT
ST 13860 2001 INIT	ST 14467 2001 INIT		

2002

SN 3835 2002 INIT	ST 5895 2002 INIT	ST 5904 2002 INIT	ST 5910 2002 INIT
ST 6453 2002 INIT	ST 8577 2002 INIT	ST 8848 2002 INIT	ST 9437 2002 INIT
ST 9751 2002 INIT	ST 10383 2002 INIT	ST 10384 2002 INIT	ST 11077 2002 INIT
ST 11877 2002 INIT	ST 12229 2002 INIT	ST 13459 2002 INIT	ST 14812 2002 INIT

2003

SN 1412 2003 INIT	ST 5566 2003 INIT	ST 5930 2003 INIT	ST 5931 2003 INIT
ST 6425 2003 INIT	ST 7018 2003 INIT	ST 7018 2003 REV1	ST 11524 2003 INIT
ST 13213 2003 INIT	ST 13431 2003 INIT	ST 13737 2003 INIT	ST 14245 2003 INIT
ST 14361 2003 INIT			

Room Documents 2004-2008

2004	
29.04.2004	Room document # 3
2005	
15.09.2005	Room document # 1
23.11.2005	Room document # 1
2006	
28.03.2006	Room document # 1
	Room document # 1 REV1
	Room document # 2
27.04.2006	
	Room document # 4
	Room document # 5
11.10.2006	
	Room document # 1
	Room document # 2
08.11.2006	
	Room document # 2
2007	
13.02.2007	Room document # 1
	Room document # 2
17.04.2007	Room document # 2
	Room document # 2 REV1
	Room document # 3
	Room document # 3 REV1
19.09.2007	Room document # 1
2008	
06.02.2008	Room document # 1
22.04.2008	Room document # 2
	Room document # 3
09.09.2008	Room document # 7
	Room document # 10
	Room document # 10 REV1

You may have access to these documents.

We have also identified and assessed the following documents:

ST 6476 2000 INIT	ST 10302 2001 INIT	ST 10302 2001 REV1	ST 12093 2001 INIT

Only partial access can be given to these documents, for the reasons set out below:
You may have access to these documents except for the parts containing information about individuals as disclosure of this information would undermine the protection of privacy and the integrity of these individuals, in particular in accordance with Community legislation regarding the protection of personal data. Accordingly, pursuant to Article 4(1)(b) of the Regulation (protection of privacy and the integrity of the individual), the General Secretariat is unable to give you access to these parts of the documents. However, pursuant to Article 4(6) of the Regulation, you may have access to those parts of the documents which are not covered by this exception.

I regret to inform you that access to the following documents cannot be given for the reasons set out below.

2004	
29.04.2004	Room document # 2
	Room document # 10
2005	
23.11.2005	Room document # 4
2006	
08.11.2006	Room document # 3
2007	
20.11.2007	Room document # 2

These room documents concern difficult tax issues, which are still the subject of ongoing discussions, and contain informally voiced internal opinions and assessments related to tax measures.

The General Secretariat considers that release of this information would trigger reactions by businesses which would interfere with the economic and fiscal policy of the European Union and of the Member States. It would therefore undermine the protection of the public interest as regards the financial, monetary or economic policy of the EU and of the Member States.

Release of these documents would also affect the negotiating process and diminish the chances of the Council reaching an agreement. Disclosure of the documents would thus seriously undermine the decision-making processes concerned.

As regards protection of the decision-making process and having examined the contexts in which the documents were drafted and the current state of play on these matters, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in their disclosure.

As a consequence, the General Secretariat has to refuse access to these documents both to protect the public interest as regards financial, monetary of economic policy and the decision-making process2.

We have also looked into the possibility of releasing parts of each of these documents.[3] As mentioned above, partial access is indeed possible for some documents. However, as the exceptions to the right of access apply to the entire content of the remaining documents, the General Secretariat is unable to give partial access to them.

You can ask the Council to review this decision within 15 working days of receiving this reply.[4]

Yours sincerely,

Jakob THOMSEN

Enclosures

2 Article 4(1)(a), fourth indent, and Article 4(3), second subparagraph, of Regulation (EC) No 1049/2001, respectively.
3 Article 4(6) of Regulation (EC) No 1049/2001.
4 Article 7(2) of Regulation (EC) No 1049/2001.
Council documents on confirmatory applications are made available to the public. Pursuant data protection rules at EU level (Regulation (EC) No 45/2001), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

Council of the European Union
General Secretariat

Directorate-General Communication and Document Management
Directorate Document Management
Transparency and Access to Documents Unit
Head of Unit

Brussels, 7 March 2016

DELETED
Email: **DELETED**

Ref. 15/2110/mw-ws

Request made on: 02.09.2015

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.[5]

The following documents have been identified:

DOCUMENTS	CONTENT
MD 133/03	CZECH REPUBLIC-METHODOLOGY OF BASIC DATA EVALUATION
MD 121/03	CY - ANSWER TO FRANCE4S QUESTION REGARDING MEASURE 13: CO-OPERATIVE SOCIETIES

5 The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35).

MD 122/03	CY - COMMENTS ON MEASURE 15: HOLDING REGIME AND MEASURE 16: FOREIGN BRANCHES
MD 127/03	CY - COMMENTS ON MEASURE 15: HOLDING REGIME AND MEASURE 16: FOREIGN BRANCHES
MD 136/03	CY - ANSWERS TO ITALY4S QUESTIONS REGARDING MEASURE 13: CO-OPERATIVE SOCIETIES
MD 148/03	CY - COMMENTS ON ITALY4S RESERVATIONS IN RESPECT OF MEASURES 13, 15 AND 16
MD 125/03	HU - THE REPLIES OF HUNGARY TO THE QUESTIONS POSED ON THE MEETING OF THE ENLARGEMENT GROUP OF 5 SEPTEMBER 2003
MD 138/03	HU - THE REPLIES OF HUNGARY TO THE QUESTIONS POSED ON THE MEETING OF THE ENLARGEMENT GROUP OF 12 SEPTEMBER 2003
MD 142/03	HU - THE REPLIES OF HUNGARY TO THE QUESTIONS ON HU3 AND HU4 POSED ON THE MEETING OF THE ENLARGEMENT GROUP OF 19 SEPTEMBER 2003
MD 143/03	HU - THE REPLIES OF HUNGARY TO THE QUESTIONS ON HU2 POSED ON THE MEETING OF THE ENLARGEMENT GROUP OF 19 SEPTEMBER 2003
MD 131/03	LV - CONTRIBUTION FROM THE REPUBLIC OF LATVIA
MD 123/03	LT - DOCUMENT SUBMITTED IN RELATION TO THE COMMISSION'S REPORT TO THE COUNCIL ENLARGEMENT GROUP DATED 5 JUNE 2003
MD 118/03	MT - DOCUMENT SUBMITTED IN RELATION TO THE COMMISSION'S REPORT TO THE COUNCIL ENLARGEMENT GROUP DATED 5 JUNE 2003

MD 124/03	MT - DOCUMENT SUBMITTED IN ORDER TO CLARIFY MATTERS RAISED BY MEMBER STATES DURING THE ENLARGEMENT GROUP MEETING ON 5 SEPTEMBER 2003
MD 139/03	MT - DOCUMENT SUBMITTED IN RELATION TO THE RESERVATION RAISED DURING THE MEETING ON THE CODE OF CONDUCT GROUP FOR BUSINESS TAXATION WITH REGARD TO MEASURE ML 12 (SPECIAL GRANTED TAX EXEMPTION) HELD ON 12 SEPTEMBE 2003
MD 144/03	MT - DOCUMENT SUBMITTED IN RELATIONTO THE CLARIFICATION REQUESTED DURING THE MEETING ON THE CODE OF CONDUCT GROUP FOR BUSINESS TAXATION WITH REGARD TO MEASURE ML 7 (INVESTMENT SERVICE COMPANIES) HELD ON 19 SEPTEMBE 2003
MD 145/03	MT - DOCUMENT SUBMITTED IN RELATIONTO THE CLARIFICATION REQUESTED ON MEASURE ML 12 (SPECIAL GRANTED TAX EXEMPTION) DURING THE MEETING ON THE CODE OF CONDUCT GROUP FOR BUSINESS TAXATION ON 19 SEPTEMBE 2003
MD 151/03	MT - DOCUMENT SUBMITTED IN RELATION TO THE CLARIFICATION REQUESTED DURING THE MEETING ON THE CODE OF CONDUCT GROUP FOR BUSINESS TAXATION WITH REGARD TO MEASURE ML 12 (SPECIAL GRANTED TAX EXEMPTION) HELD ON 26 SEPTEMBE 2003
MD 151/03 REV1	MT - DOCUMENT SUBMITTED IN RELATION TO THE CLARIFICATION REQUESTED DURING THE MEETING ON THE CODE OF CONDUCT GROUP FOR BUSINESS TAXATION WITH REGARD TO MEASURE ML 12 (SPECIAL GRANTED TAX EXEMPTION) HELD ON 26 SEPTEMBE 2003
MD 152/03	MT - STATEMENT SUBMITTED IN RELATION TO MALTA'S POSITION ON ML4 AND ML5 DURING THE ENLARGEMENT GROUP MEETING ON 3 OCTOBER 2003

MD 126/03	PL - POLAND'S EXPLANATIONS TO OBJECTION ON EXEMPTION IN THE FIELD OF SEZS
MD 134/03	SI - ADDITIONNAL CLARIFICATION OF THE MEASURE SL1 - SPECIAL ECONOMIC ZONES AND MEASURE SL3 - NEWLY ESTABLISHED COMPANIES IN RELATION TO THE COMMISSION'S REPORT TO THE COUNCIL ENLARGEMENT GROUP
MD 120/03	CHAIR - NOTE IN VIEW OF THE MEETING ON 12 SEPTEMBER 2003
MD 141/03	CHAIR - NOTE IN VIEW OF THE MEETING ON 19 SEPTEMBER 2003
MD 146/03	CHAIR - DRAFT REPORT TO COREPER
MD 146/03 REV1	CHAIR - DRAFT REPORT TO COREPER
MD 110/03	PRESIDENCY - NON-PAPER ON THE CODE OF CONDUCT FOR BUSINESS TAXATION AND ACCEDING COUNTRIES
MD 82/03	COMMISSION - REPORT TO COUNCIL ENLARGEMENT GROUP CONCERNING THE CODE OF CONDUCT FOR BUSINESS TAXATION (HARMFUL TAX COMPETITION)
MD 129/03	COMMISSION - NOTE CONCERNING MALTA
MD 130/03	COMMISSION - NOTE TO THE ENLARGEMENT GROUP CONCERNING CRITERIA 1B AND 2B
MD 135/03	COMMISSION - NOTE TO THE ENLARGEMENT GROUP CONCERNING HUNGARY - MEASURE HU4 HOLDING COMPANIES
MD 137/03	COMMISSION - NOTE CONCERNING MEASURE MALTA 11 - NON-RESIDENT COMPANIES

MEETING OF 12.09.2003	COMMISSION - ANSWERS OF THE COMMISSION TO THE QUESTIONS RAISED BY THE FRENCH DELEGATION
REPORT 06.10.2006	COMMISSION - REPORT OF THE MEETING OF 3 OCTOBER 2003 OF THE ENLARGEMENT GROUP
MD 74/06	COMMISSION - REPORT TO COUNCIL ENLARGEMENT GROUP CONCERNING THE CODE OF CONDUCT FOR BUSINESS TAXATION (HARMFUL TAX COMPETITION)

You may have access to the following documents:
MD 133/03
MD 121/03
MD 122/03
MD 127/03
MD 136/03
MD 148/03
MD 125/03
MD 138/03
MD 142/03
MD 143/03
MD 131/03
MD 123/03
MD 124/03
MD 139/03
MD 144/03
MD 145/03
MD 151/03
MD 151/03 REV1
MD 126/03
MD 134/03
MD 120/03
MD 141/03

MD 110/03
MD 82/03
MD 129/03
MD 130/03
MD 135/03
MD 137/03
MEETING OF 12.09.2003
REPORT 06.10.2006
MD 74/06

Only partial access can be given to the following document, for the reasons set out below:
MD 118/03

I regret to inform you that access to the following documents cannot be given for the reasons set out below.
MD 152/03
MD 146/03
MD 146/03 REV1

These documents concern accession negotiations and in particular specific regimes existing in the acceding countries. The negotiations are related to difficult tax issues, which are still relevant and the subject of ongoing discussions. The documents contain informally voiced internal opinions and assessments related to tax measures.

The General Secretariat considers that release of this information would trigger reactions by businesses which would interfere with the economic and fiscal policy of the European Union and of the Member States. It would therefore undermine the protection of the public interest as regards the financial, monetary or economic policy of the EU and of the Member States.

Release of these documents would also affect the negotiating process and diminish the chances of the Council reaching an agreement. Disclosure of the documents would thus seriously undermine the decision-making processes concerned.

As regards protection of the decision-making process and having examined the contexts in which the documents were drafted and the current state of play on these matters, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in their disclosure.

As a consequence, the General Secretariat has to refuse access to these documents both to protect the public interest as regards financial, monetary of economic policy and the decision-making process[6].

We have also looked into the possibility of releasing parts of each of these documents.[7] As mentioned above, partial access is indeed possible for some documents. However, as the exceptions to the right of access apply to the entire content of the remaining documents, the General Secretariat is unable to give partial access to them.

You can ask the Council to review this decision within 15 working days of receiving this reply.[8]

Yours sincerely,

Jakob THOMSEN

Enclosures

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6 Article 4(1)(a), fourth indent, and Article 4(3), second subparagraph, of Regulation (EC) No 1049/2001, respectively.

7 Article 4(6) of Regulation (EC) No 1049/2001.

8 Article 7(2) of Regulation (EC) No 1049/2001.
Council documents on confirmatory applications are made available to the public. Pursuant data protection rules at EU level (Regulation (EC) No 45/2001), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

<u>ANNEX 5</u>

[E-mail message sent to access@consilium.europa.eu **on 30 March 2016 - 11:23]**

From: DELETED
Sent: Wednesday, March 30, 2016 3:45 PM
To: THOMSEN Jakob; SECRETARIAT DGF Access
Subject: Confirmatory application (15/1896 and 15/2110) and response to your letter of 22 March 2016
Importance: High

Dear Mr Thomsen,

Thank you very much for your letter of 22 March 2016.

I fail to understand how your letters of 7 March 2016 (ref. 15/1896 and 15/2110) constitute a full reply to my initial applications and am still unable to agree with your view on the matter.

To safeguard my rights, I therefore submit a confirmatory application. The basis for my application is that nowhere near all the documents falling within the scope of my applications have been identified, let alone supplied. In addition, I refer to the objections that I raised in my confirmatory application of 15 February 2016 and my subsequent correspondence (emails of 9 March 2016 and 14 March 2016), which I once again request that you take into consideration.

I repeat that it is my wish to reach a workable solution for both parties and therefore repeat my offer of coming to Brussels to assist in identifying the documents concerned (see my email of 14 March 2016).

I would kindly ask you to send me a confirmation of receipt.

(Complimentary close).

DELETED