



Council of the
European Union

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NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 28/c/01/14

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 23 April 2014, registered the same day ([Annex 1](#));
- replies from the General Secretariat of the Council dated 11 June 2014 and 8 September 2014 ([Annex 2](#));
- confirmatory application dated 23 September 2014 and registered the same day ([Annex 3](#)).

[E-mail message sent on 23 April 2014 - 14:23]

From: **DELETED**

Sent: Wednesday, April 23, 2014 14:23

To: SECRETARIAT DGF Access

To: Council of the European Union General Secretariat, Directorate-General F
Communication Transparency/Access to Documents

Attn: Mr Jakob Thomsen

Dear Mr Thomsen

I refer to your letter/message of 8 April 2014 noting that you have forwarded our request for access to documents to the "Competent Service of the General Secretariat" at sanctions@consilium.europa.eu.

We have not heard from that service since your message.

Please, therefore, may we kindly request for your unit to once again take ownership of this enquiry and grant us access to the documents on which the decision to designate our client, CF Sharp & Company Pte Ltd, was based.

Best regards

DELETED



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

*Directorate-General F
Communication
Transparency*

*- Access to Documents/
Legislative transparency*

RUE DE LA LOI, 175
B – 1048 BRUSSELS
Tel: (32 2) 281 67 10
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E-MAIL:
access@consilium.europa.eu

Brussels, 8 April 2014

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e-mail:

DELETED

Ref. 14/0446-mjb/jj

Dear **DELETED**,

We refer to your letter dated 28 March 2014 in reply to our letter of 18 March 2014.

Following your indication that you are applying for a request for *privileged, individual access* that may be filed by or on behalf of a listed person or entity in relation to his/her/its designation, including in the context of court proceedings, the Access to documents service has forwarded your request to the competent service of the General Secretariat (sanctions@consilium.europa.eu).

That service will inform you of the follow-up of your message as soon as possible.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

DELETED

Mr Jakob Thomsen
The Council of the European Union
General Secretariat
Directorate-General F
Communication
Transparency - Access to Documents/
Legislative transparency
Rue de la Loi, 175
B - 1048
BRUSSELS



Email: access@consilium.europa.eu

Your Ref: Direct Line: DELETED Date: 28 March 2014
Our Ref: SPD/68743-2 Email: DELETED

Dear Mr Thomsen

Our request of 7 February 2014 for access to Council documents relating to EU's Iran Sanctions regime regarding the designation of CF Sharp & Company Private Limited pursuant to Council Implementing Regulation (EU) No. 1264/2012

We thank you for your letter of 18 March 2013, from which we note that every effort is being made to process our request as quickly as possible. Your apology for the delayed reply to our request for access to documents is accepted.

We have since discussed the matter in a telephone conversation and, as you have explained, it is, in the circumstances, more appropriate to make this application for access to documents via the procedure for privileged, individual access.

Please, therefore, take this letter as application for such privileged, individual access on behalf of our clients, namely DELETED CF Sharp & Company Private Limited.

As noted during our telephone conversation, your letter of 18 March 2013 was the first time that either we or our client has received any comment with respect to the designation of CF Sharp & Company Private Limited, our previous letters to the EU Council having merited not even an acknowledgment of their receipt.

In order that you can have the full picture, we are sending to you herewith:-

1. our letter to the EU Council General Secretariat of 25 April 2013; and
2. the documents that were included with the said letter of 25 April 2013, namely our letter to the EU Council of 14 December 2012 with accompanying documentation.


As you will note, in our letter of 25 April 2013 (to which no reply has been received), we noted the fact that the arrangements with respect to the provision by C F Sharp & Company Private Limited of crew management services in respect of vessels under the control of Irano-Hind Shipping Company was openly stated during the court proceedings with respect to the designation of CF Sharp Shipping Agencies Pte Limited (European General Court case reference T-53/12).

It is, in this context, quite strange that in its designation of CF Sharp & Company Private Limited by the said Implementing Regulation (EU) No. 1264/2012 it is alleged as a reason for the designation of that company that it has "contributed to IHSC's concealment" of its ownership of three tankers. We make this observation because (i) the legal and beneficial ownership status of the vessels concerned was (as demonstrated by the documentation sent with our letter of 25 April 2013 and re-sent herewith) clearly evident from the relevant freely accessible shipping industry information databases, and therefore in the public domain, and (ii) at the relevant time of the alleged involvement of C F Sharp & Company Private Ltd there had been (again as openly showing from the said sources) no change in the ownership of the vessels from the time of their first registration in the name of companies incorporated in and recorded in the registry of ships of a European member state (i.e Malta).

We trust, therefore, that you will understand the basis for our and our client's concern to have access to the documents upon which this reasoning was based.

We look forward to hearing from you.

Yours sincerely



DELETED



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*Directorate-General F
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Brussels, 18 March 2014

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Ref. 13/2024-6.3-mjb/ns

Dear **DELETED**,

Your request of 7 February 2014 for access to Council documents relating to EU's Iran sanctions regime regarding the designation of CF Sharp and Company Private Limited pursuant to Council Implementing Regulation (EU) No 1264/2012 was registered on 11 March 2014 by Access to Documents service. Thank you for your interest.

Your request will be examined by the General Secretariat on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents¹ (hereafter the "Regulation") and specific provisions of the Council's Rules of Procedure².

We apologise for only replying to your request for access to documents today which is due to the need to contact different relevant departments of the General Secretariat of the Council.

The General Secretariat will make every effort to process your request as quickly as possible. We wish, however, to draw your attention to Article 6(3) of the above Regulation, which provides that "In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution."

At this stage, the General Secretariat is working on the identification of the requested documents and it was not yet possible to determine the number of documents related to your request. Also, in view of the need to consult the originators of the documents to be identified on their possible release, the General Secretariat is unable to process your request within the time-limit laid down in Article 7(1) and (3) of the Regulation. Under these circumstances, we hope that you will be able to accept that your request will be processed as quickly as possible.

¹ Official Journal L 145, 31.5.2001, p. 43.

² Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

In addition, given that you introduced your request on behalf of an entity listed on the restrictive measures lists against Iran, the General Secretariat would like to draw your attention to the fact that there are two separate, distinct procedures in place under which access to documents can be requested: (1) a procedure for public access based on Regulation No 1049/2001 resulting in a decision on whether or not a document can be made available to the general public and (2) another procedure for *privileged, individual access* that may be filed by or on behalf of a listed person or entity in relation to his/her/its designation, including in the context of court proceedings.

You are kindly requested to indicate whether in these conditions you wish to pursue your request for public access to the said documents under Regulation 1049/2001.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

[E-mail message sent on 7 February 2014 - 16:16]

From: **DELETED**

Sent: Friday, February 7, 2014 16:16

To: SECRETARIAT DGF Access

Dear Madam or Sir,

I am writing to you with the following request for access to non-public Council documents within the legal framework of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents, and the specific provisions regarding public access to Council documents set out in Annex II to the Council's Rules of Procedure - Council Decision 2009/937/EU.

I am the legal representative of CF Sharp Shipping Agencies Pte Ltd, of Singapore ("CFSSA"), and **DELETED** CFSSA and also formerly **DELETED** CF Sharp and Company Private Limited. This document request concerns the EU's Iran sanctions regime.

On 26 October 2012, in Case T-53/12 CF Sharp Shipping Agencies v. Council, the General Court annulled the listing of CFSSA, noting, inter alia, that "the Council did not state its reasons for the contested measures to the requisite legal standard."

Following this decision by the General Court, on 22 December 2012, CFSSA was, by means of Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran, de-listed from Annex IX of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010.

However, CF Sharp and Company Private Limited, a corporate entity different from CFSSA, was listed on 22 December 2012 pursuant to Council Implementing Regulation (EU) No 1264/2012.

CF Sharp and Company Private Limited was listed by the Council in error. Indeed, at the time of its listing on 22 December 2012, CF Sharp and Company Private Limited was not in fact in legal existence: it was struck off the Singapore Registry of Companies on 6 December 2012.

My most recent letter to the Council, dated 25 April 2013, explained this error and requested formal confirmation that the designation of CF Sharp and Company Private Limited be reconsidered and removed. Most notably, this continuing designation is having negative repercussions on the business of CFSSA, preventing the latter from opening/re-opening bank accounts.

I note with regret that I have not received even the courtesy of an acknowledgement of my letter by the Council.

I hereby respectfully request access to the following Council documents:

1. The documentation on which the Council relied in order to designate restrictive sanctions to an entity, CF Sharp and Company Private Limited, that did not exist at its time of designation;
2. The documents by which the Council was led to its conclusion that Irano-Hind Shipping Company "tried to conceal its ownership of three tankers", given that the three tankers concerned were never at the relevant time in the ownership of Irano-Hind Shipping Company but in the ownership of three separate special purpose companies incorporated in an EU Member State (i.e. Malta) and also registered in the Registry of Ships maintained by an EU member state (i.e. Malta);
3. The documents on which the Council relied which led it to believe that the placing of vessels under a management contract was part of a deliberate design to conceal ownership of the vessels concerned; and
4. Any other documents which are directly or indirectly related to the following reasons for the listing of CF Sharp and Company Private Limited originally stated by the Council in Council Implementing Regulation (EU) No 1264/2012:

"This entity has been assisting the Irano-Hind Shipping Company (IHSC) (designated by the United Nations on 9 June 2010) in circumventing the sanctions adopted against it. Following its designation, IHSC has tried to conceal its ownership of three tankers, by placing them under the management of Noah Ship Management and then Marian Ship Management. CF Sharp and Co. has contributed to this arrangement by concluding a personnel management contract with IHSC covering the crew of those three tankers. That contract was performed by Noah Ship Management and Marian Ship Management."

Please do not hesitate to contact me if you require more detailed information or further clarifications regarding this request.

Yours faithfully,

DELETED



ANNEX 2

COUNCIL OF THE EUROPEAN UNION

GENERAL SECRETARIAT

Directorate-General F
Communication
Transparency

- Access to Documents/
Legislative transparency

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access@consilium.europa.eu

Brussels, 11 June 2014

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e-mail:

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Ref. 14/0736-mjb/mf

Dear **DELETED**,

Your request for access to documents dated 7 February 2014 relating to the designation of CF Sharp and Company Private Limited on 22 December 2012 pursuant to Council Implementing Regulation (EU) No 1264/2012 was registered on 11 March 2014 by Access to Documents service with the reference 14/0446. Your request was submitted on the basis of Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents³ (hereafter Regulation 1049/2001) and specific provisions of the Council's Rules of Procedure⁴.

In our letter dated 18 March 2014, we drew your attention to the fact that there are two separate, distinct procedures in place under which access to documents can be requested : (1) a procedure for public access based on Regulation No 1049/2001 resulting in a decision on whether or not a document can be made available to the general public and (2) another procedure for *privileged, individual access* that may be filed by or on behalf of a listed person or entity in relation to his/her/its designation, including in the context of court proceedings.

By letter dated 28 March 2014, you replaced your request for public access by a request for *privileged, individual access*.

By email dated 23 April 2014, you asked the Access to documents service to "*take once again ownership*" of your request. Our service registered it on the same day as a new request for public access.

³ Official Journal L 145, 31.5.2001, p. 43.

⁴ Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

The General Secretariat of the Council has examined your request on the basis of Regulation 1049/2001 and specific provisions of the Council's Rules of Procedure. On 16 May 2014, the time-limit for replying to your application was extended by 15 working days. Having examined your request, the General Secretariat has come to the following conclusion:

The following documents were identified as corresponding to your request: **15755/12, 15755/1/12 REV 1, 16624/12, 16626/12, 17795/12, CM 5902/12, CM 5902/12 COR 1 and CM 5939/12**. You may have access to these documents. The documents are attached to this letter.

The General Secretariat has identified one additional document originating from a Member State. The necessary consultations concerning its possible disclosure are still in progress.

You will be notified of the decision on whether or not this document can be made available.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosures



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Brussels, 8 September 2014

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Ref. 14/0736-ADD-mjb/mi/jj

Dear **DELETED**,

Further to your request dated 23 April 2014 relating to the designation of CF Sharp and Company Private Limited on 22 December 2012 pursuant to Council Implementing Regulation (EU) No 1264/2012 and to our letter of 11 June 2014, the General Secretariat of the Council would like to indicate as follows:

The General Secretariat has now finalised the examination of your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents⁵ and specific provisions of the Council's Rules of Procedure⁶ and has come to the following conclusion:

The document identified as being covered by your request and originating from a Member State is set out in a Coreu message **CFSP/0274/12**. This Coreu message is classified RESTREINT UE/EU RESTRICTED, meaning that its disclosure could be disadvantageous to the interests of the European Union or of one or more of the Member States⁷.

Restrictive measures are used as an important instrument in order to attain the Common Foreign and Security Policy (CFSP) objectives set out in Articles 21 and 23 of the Treaty on European Union. The procedure for the listing and de-listing of persons and entities included on restrictive measures lists is based on proposals submitted by Member States or the High Representative (assisted by the European External Action Service). It is important that in the context of the difficult situation in Iran involving political

⁵ Official Journal L 145, 31.5.2001, p. 43.

⁶ Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

⁷ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), Official Journal L 274, 15.10.2013, p. 1.

sensitivities, these proposals can be made without revealing the identity of the proposing Member State(s). Disclosure of the identity of a Member State would harm the relations which its representative(s) has/have in Iran and, as consequence, also have an impact on the international position not only of that Member State but also of the European Union as a whole.

Coreu **CFSP/0274/12** is a document originating from a Member State providing its position in relation to restrictive measures against Iran. Public disclosure of this information containing internal assessments and opinions would reveal elements related to restrictive measures against Iran. Its release would therefore affect the EU's relations with countries in the region and would involve a concrete risk of undermining the decision-making process at EU level.

Accordingly, pursuant to the third indent of Article 4(1)(a) of the Regulation (protection of the public interest with regard to international relations), and in the absence of any evidence of an overriding public interest in release also pursuant to the first subparagraph of Article 4(3) of the Regulation (protection of the decision-making process of the Council), the General Secretariat is unable to accede to your request.

Nevertheless, you may have access to those parts of the Coreu message which are not covered by the above-mentioned exceptions to the principle of transparency. These parts are set out in Coreu **CFSP/0117/14**.

Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply⁸.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosure

⁸ Confirmatory applications are published in the Council's Register of documents. If you introduce a confirmatory application, your personal data will be published in the documents related to your confirmatory application only if you have given your explicit consent for this. Your reply relating to the publication of your personal data will in no way prejudice your rights under Regulation (EC) No 1049/2001.

Jakob Thomsen
The Council of the European Union
General Secretariat
Directorate-General F
Communication Transparency - Access to Documents/Legislative Transparency
Rue de la Loi 175
B-1048 Brussels
Belgium

By Email: access@consilium.europa.eu

DELETED

Your Ref: 14/0736 ADD mjb/mi/jj

DELETED

Date: 23 September 2014

Our Ref:

Email:

DELETED

Dear Mr Thomsen

Re: C.F. Sharp and Company Private Limited, designation on 22 December 2012 pursuant to Council implementing Regulation (EU) No. 1264/2012

Thank you for your letter of 8 September 2014, from which we note that the General Secretariat has now finalised its examination of our request for public access to documents pursuant to Regulation (EC) No. 1049/2001 of the European Parliament and of the Council.

We note that the document identified as being covered by our request and originating from a Member State and as set out in a Coreu message CFSP/0274/12 has been classified as "RESTREINT UE/EU RESTRICTED" on the basis that its disclosure could be "disadvantageous to the interests of the European Union or one or more of the Member States".

Whilst we appreciate that the de-classification of the particular message could lead to the revealing of the identity of the proposing Member State, we do not see how such disclosure could in any way be harmful to the relations of that Member State/its representatives in Iran. As you know, our clients in this matter are **DELETED** C.F. Sharp and Company Private Limited, which is a Singapore company which was placed into liquidation on 6 December 2012, i.e. some two weeks before the designation of C.F. Sharp and Company Private Limited was made.

The **DELETED** of C.F. Sharp and Company Private Limited, our clients, comprise a **DELETED** citizen and a **DELETED** citizen: it is therefore untenable to suggest, therefore, that the revelation of the documentation concerned would affect the position of the Member State concerned/the EU in any way.

As we have stated before, the engagement of C.F. Sharp and Company Private Limited to provide crew management services to the managers of the ships concerned was part of the normal process of outsourcing of the technical and operational management of vessels that occurs every day in the shipping industry.

The purpose of the application under the Access to Documents Directive was to establish on what documentary basis it could have been concluded that by the provision of its services C.F. Sharp and Company had assisted Irano-Hind Shipping Company to "disguise its ownership" of the three ships concerned. As we have previously observed, the ownership of the ships concerned never changed and was recorded at all material times in the Register of Ships of Malta, an EU Member State.

In the above circumstances, we see no reason why the principles of transparency should not apply in this matter.

We request, therefore, for the Council to reconsider the position that it has taken in this matter.

Yours sincerely

DELETED
