



Council of the  
European Union

Brussels, 21 March 2016  
(OR. en)

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**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 02/c/01/16

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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 ([Annex 1](#));
- replies from the General Secretariat of the Council dated 24 July and 18 December 2015 ([Annex 2](#));
- confirmatory application dated 5 January 2016 and registered on 6 January 2016 ([Annex 3](#))

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

**DELETED**

Council of the European Union

**DELETED**

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 your 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

**Information Request: Documents Code of Conduct for Business Taxation Group**

Request submitted by:

**DELETED**

**Within the scope of this information request: 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.**

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

**2015**

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 2011/116/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/NAVARRRE - 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/NAVARRRE - 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 OF INFORMATION 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

## **2004**

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)

## **2003**

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 (Schachtelbegünstigung-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.

**Information Request: Documents High Level Working Party**

**Within the scope of this information request: 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.**

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

**2011**

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

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**Council of the European Union**  
General Secretariat

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

Brussels, 24 July 2015

**DELETED**

Email: **DELETED**

Ref. 15/1896-ws/jt/mi

Dear Mr **DELETED**,

Thank you for your request for public access to documents of the Council of the European Union, sent on 22 July 2015.

The General Secretariat will examine your request on the basis of the applicable rules<sup>1</sup>. We wish, however, to draw your attention to Article 6(3) of Regulation (EC) No 1049/2001 on access to documents, 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."

Your request concerns a very large number of documents covering a time period of 18 years, from 1998 until 2015. Furthermore, not all requested documents are clearly defined.

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<sup>1</sup> 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).

In view of the above, the particular complexity of the examination incumbent upon the institution due to the nature of the documents, as well as the summer recess during which consultations concerning the requested documents will take longer than usually, the General Secretariat is unable to process your request within the required 15 working days deadline.<sup>3</sup> Under these circumstances, we hope that you will be able to accept that your request will be gradually processed.

We would therefore kindly ask you to let us know, for example by year or by document type, which are your priorities in relation to your on-going dissertation work. On the basis of your reply, we would then prepare a calendar for the gradual processing of your request.

However, while the General Secretariat will carry out a thorough examination of the documents concerned by your request, your attention is brought to the fact that the success of the work of the Code of Conduct Group depends on complex negotiations in the Council, covering sensitive information shared by Member States, before unanimous agreement can be reached. Against this background, the access that can currently be granted to the said documents will in all likelihood be limited.

Yours sincerely,

Jakob THOMSEN





**Council of the European Union**

General Secretariat

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

Brussels, 18 December 2015

**DELETED**

Email: **DELETED**

Ref. 15/1896/mw

Request made on: 23.07.2015

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.<sup>2</sup>

You have requested access to room documents, non-papers, aide memoires, and similar documents emanating from the Code of Conduct Group meetings and its Subgroups from its creation in 1998 to 2015.

The General Secretariat informed you on 24 July 2015 that in view of the very large number of documents covered by your application and the particular complexity of the examination incumbent upon the institution, your request will be gradually processed.

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<sup>2</sup> 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).

During our meeting of 22.10.2015 we agreed to focus on the documents relating to the period 1998-2008 and to leave out of the scope of your request documents related to the period 2009-2015.

In a first phase, we have identified "ST documents" and "room documents" containing descriptions and/or evaluations of tax measures assessed by the Code Group during the period 2004-2008.

Please note that we haven't found, until now, any informal meeting notes of Council officials attending meetings of the Code of Conduct Group for that period.

We have identified the following documents covered by your request:

**ST documents (Standard Council's documents) (2004-2008)**

2004

7092/04, 7094/04, 7534/04, 9805/04, 11339/04, 13121/04, 13143/04, 13143/04 COR1, 14097/04, 14097/1/04 REV1, 15317/04, 15336/04, 15336/1/04 REV1

2005

6647/05, 7910/05, 9427/05, 9428/05, 13244/05, 15260/05, 15434/05

2006

9655/06, 9867/06, 10879/06, 15472/06, 15473/06

2007

9047/07, 9910/07, 13139/07, 13653/07, 15545/07, 15545/07 REV1, 15721/07, 15721/07 REV1, 15721/07 REV2, 16449/07

2008

9633/08, 9652/08, 9976/08, 15924/08, 16083/08, 16083/1/08 REV1, 16084/08, 16084/1/08 REV1, 16410/08

Most of these documents of the Code of Conduct Group (Business Taxation) and (Subgroup) are public and available for downloading in the public register of Council documents.

You can consult the register at: <http://register.consilium.europa.eu/>.

If you find a specific item of interest which is not public, we may then introduce a request for access by using the available electronic form.

## **2. Room Documents of the Code of Conduct group (2004-2008)**

You will find the list of identified room documents in attachment.

Please find also attached the following room documents:

<b>MEETINGS</b>	<b>DOCUMENTS</b>	<b>CONTENT</b>
11.10.2004	Room document #1 Origin: Greece	Greek Tax incentives-Law 3220/2004
08.11.2004	Room document #3 Origin: Czech Republic	Lack of transparency – rollback measure in the Czech Republic
	Room document #6 Origin: Spain	Proposed Draft, p. 14
24.02.2005	Room document #1 Origin: Czech republic	Lack of transparency – rollback measure in the Czech Republic
	Room document #9 Origin: United Kingdom	State Aid: Commission welcomes phasing out of tax benefits for Offshore Exempt Companies in Gibraltar  (press release)
	Room document #10 Origin: United Kingdom	State Aid: Commission welcomes phasing out of tax benefits for Offshore Exempt Companies in Gibraltar  (press release)
15.09.2005	Room document #2 Origin: Hungary	Royalty income
	Room document #3 Origin: United Kingdom	British Virgin Islands International Business Companies (F056)
18.10.2005	Room document #6 Origin: Hungary	Increase of the tax base compared to the total interest paid Hungarian-owned companies and Foreign-owned companies
	Room document #7 Origin: France	Régime français des redevances et régime hongrois des intérêts.
08.11.2006	Room document #7 Origin: Cyprus	Maltese rollback proposal for ML5 - Comments from Cyprus

11.10.2006	Room document #3 11 October 2006 Origin: UK delegation	UK 2006 Rollback notification: supplementary information Progress of rollback in the Isle of Man, Jersey and Guernsey.
06.02.2008	Room document #2 Origin: Italy + Spain	Disadvantages and problems raised by the proposed introduction of the "Size of countries or market" and "Openness of the economy" criteria
22.04.2008	Room document #4 Origin: Italy	Evaluation
07.05.2008	Room document #7 Origin: United Kingdom	Guernsey: Rollback of harmful measures New Corporate Taxation regime (Standstill) Consequential measures
09.09.2008	Room document # 8 Origin: United Kingdom	Response of the UK to request for information on Jersey, Guernsey and Isle of Man
18.11.2008	Room document # 4 Origin: UK Delegation	Response of the UK to Room Document #1 from Belgium and note from Spain
	Room document #5 Origin: Spain	New Guernsey, Jersey and Isle of Man corporate taxation regime

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

MEETINGS	DOCUMENTS	CONTENT
08.11.2004	Room document #2  Origin: Malta	Letter  Proposal for Rollback of Measures ML4 (International Trading Companies) and ML5 (dividends from (other) Maltese companies with foreign income) and the Rollback of ML7 (Investment Services Company)
	Room document #5  Origin: Malta and Slovakia	Requests for extension of benefits
18.10.2005	Room document #5 Origin: Malta and Slovakia	Requests for extension of benefits
27.04.2006	Room document #6 Origin: Malta	Malta's Preliminary Comment to the Commission's note concerning the MT rollback proposal for ML4 and ML5

08.11.2006	Room document #4 Origin: Malta	Malta's reply to questions and points of clarification from Members of the Group (of Room Doc. #3)
	Room document #6 Origin: Malta	Malta's response to note from the Commission (of Room Doc. #5)
	Room document #8 REV1 Origin: Malta	Amendments proposed by Malta to address concerns expressed by Member States
07.05.2008	Room document #2 Origin: Portugal	Letter concerning the measure of the State tax aid regime for regional development purposes
09.09.2008	Room document #2 Origin: Portugal	Letter concerning the measure of the State tax aid regime for regional development purposes
	Room document #6 Origin: Belgium	Letter concerning the report to ECOFIN Council
	Room document #9 Origin: Belgium	The Belgian tax ruling of 5 June 2007 on a hybrid PPL
18.11.2008	Room document #1 Origin: Belgium	Questions New Guernsey, Jersey and Isle of Man Corporate Taxation Regime

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.

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.

We have also looked into the possibility of releasing parts of each of these documents.<sup>3</sup>

However, as the exceptions to the right of access apply to their entire content, the General Secretariat is unable to give partial access.

As a consequence, the General Secretariat has to refuse access to these documents<sup>4</sup>.

Finally, please note that the necessary consultations of the remaining room documents are still ongoing. You will be informed on the results in due time.

You can ask the Council to review this decision within 15 working days of receiving this reply.<sup>5</sup>

Yours sincerely,

Jakob THOMSEN

Enclosures

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<sup>3</sup> Article 4(6) of Regulation (EC) No 1049/2001.

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

<sup>5</sup> 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.

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 5 January 2016 - 20:40 ]

**From:** DELETED

**Sent:** Tuesday, 5 January 2016 - 20:40

**To:** SECRETARIAT DGF Access

**Subject:** RE: Ref. 15/1896-mw - confirmatory application

Dear mr. Thomsen,

I would like to thank you for your letter dated 18 December 2015.

I very much appreciate the efforts of you and your colleagues in processing my information request.

You have provided access to several room documents, particularly those originating from Greece, the Czech Republic, the United Kingdom, Hungary, France, Cyprus, Italy, and Spain. Thank you very much for that.

Access has been denied, however, to the room documents originating from Malta, Slovakia, Portugal, and Belgium, because (i) these documents concern difficult tax issues, which are currently still under discussion, and (ii) contain informally voiced internal opinions and assessments as regards tax measures. Release of these documents would undermine the protection of the public interest as regards the financial, monetary or economic policy of the EU and of the Member States. It would also seriously undermine the decision making-processes concerned.

I have difficulty categorizing these denial grounds under the permitted and restrictively interpreted limitation grounds mentioned in the Public Access Regulation. Exceptions only apply to specific parts of documents on topics that are (still) under discussion. Documents on measures regarding discussions that have been closed, should in principle be fully accessible. The documents to which access has been provided, as well as the documents to which access has not been provided, concern issues and measures on which the discussion was closed (many) years ago. The assessment of whether an issue is still 'open' should be made in a restrictive way. As the discussions have been closed, there is no risk - contrary to what your letter suggests - that releasing the documents would trigger any reactions by businesses. As discussions on these measures have been closed many years ago, it is also difficult to see how the protection of the public interest as regards financial, monetary, or economic policy of the EU and of the Member States would be undermined. As discussions have been closed long ago, there is no risk that any negotiation process would be affected, nor that the odds of the Council reaching an agreement could in any way be affected.

Considering the above, I would kindly ask you to reconsider the decision as regards the documents to which access has been denied.

Please consider this email as my confirmatory application.

Kind regards,

**DELETED**

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