



Council of the
European Union

018655/EU XXVI. GP
Eingelangt am 23/04/18

Brussels, 23 April 2018
(OR. en)

8120/18

INF 48
API 34

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 07/c/01/18

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 26 March 2018 and registered the same day ([Annex 1](#));
- reply from the General Secretariat of the Council dated 13 April 2018 ([Annex 2](#));
- confirmatory application dated 18 April 2018 and registered the same day ([Annex 3](#)).

[E-mail message sent to access@consilium.europa.eu on 26 March 2018 - 11:31 using the electronic form available in the Register application]

Title/Gender:

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of: **DELETED**

Address:

Telephone:

Mobile:

Fax:

Requested document(s): ST 7135 2018 REV 1

1st preferred linguistic version: EN - English

2nd preferred linguistic version: FR - French



Council of the European Union
General Secretariat

Directorate-General Communication and Information
Knowledge Management
Transparency
Head of Unit

Brussels, 13 April 2018

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Ref. 18/0642-mj/mf

Request made on: 26.03.2018

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.¹

I regret to inform you that access to document **7135/1/18 REV 1** cannot be given for the reasons set out below.

Document **7135/1/18 REV 1** is a Working Document of 23 March 2018 from the General Secretariat of the Council to Delegations on the 72nd session of the International Maritime Organisation (IMO) Marine Environment Protection Committee which took place in London from 9 to 13 April 2018. It contains a Non-paper from the Commission drafted to facilitate EU co-ordination.

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).

Disclosure of the information contained in the document would have a negative impact on the relations of the European Union with the IMO. Should its internal views and negotiation strategy be made public, the position of the European Union in such multilateral negotiations would be seriously weakened. Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. It would also weaken the position of the European Union in the framework of similar future negotiations.

As a consequence, the General Secretariat has to refuse access to the document.²

As the exception to the principle of transparency applies to the content of the entire document, the General Secretariat is at present unable to grant you partial access as provided for in Article 4(6) of the Regulation.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).³

Yours sincerely,

Sally BLISS

² Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

³ Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. Pursuant to 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 on 18 April 2018 - 10:44]

From: **DELETED**

Sent: Wednesday, April 18, 2018 10:44

To: SECRETARIAT DGF Access <Access@consilium.europa.eu>

Subject: Re: Ref. 18/0642-mj/mf

Sir / Madam,

I would like to make a confirmatory application further to your decision to refuse access to the document detailed below.

The EU negotiating position in IMO was coordinated prior to a meeting in London which is now over, as you yourselves point out in your letter.

How you can claim that publication of documents related to this position would have a "negative impact" on relations with the IMO is to be frank beyond belief. The EU position was widely reported in the run-up to the meeting and expressed in the meeting itself by the EU member states. The document I am asking for is therefore both historical and to a large extent already public knowledge. Refusing access is both unnecessary and counterproductive in that it gives the impression that your institution is obsessed with secrecy.

I thank you for considering this confirmatory application and look forward to a response.

Sincerely,

DELETED