Council of the
European Union

**Brussels, 27 January 2023
(OR. en)**

5719/23

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 03/c/01/23

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 16 August 2022 and registered on the same day (Annex 1)
- a letter from the General Secretariat of the Council dated 29 August 2022 (Annex 2)
- first reply from the General Secretariat of the Council dated 6 October 2022 (Annex 3)
- second reply from the General Secretariat of the Council dated 9 November 2022 (Annex 4)
- the third reply from the General Secretariat of the Council dated 9 January 2023 (Annex 5)
- the confirmatory application dated 24 January 2023 and registered on the same day (Annex 6).

[E-mail message sent to access@consilium.europa.eu on Tuesday 16 October, 2022 14:52]

From: **DELETED**

Sent: mardi 16 août 2022 14:52

To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

Subject: Access to documents request - list of documents

Dear representative of the General Secretariat of the Council of the EU,

I am a PhD student at **DELETED** conducting research into harmonization of corporate taxation in the EU.

For that purpose, I kindly request access – on the basis of Regulation 1049/2001 – to the following documents, please find the list attached.

Yours faithfully,

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Attached list:

Nr.	Reference nr.	Creation Date	Subject
1	WK 111 2019 INIT	07/01/2019	Priorities of the Romanian Presidency - Presentation
2	WK 1093 2019 INIT	24/01/2019	Digital Advertising Tax Directive - State of play and way forward
3	WK 1401 2019 INIT	30/01/2019	EU tax policy: Roadmap to transition towards QMV under OLP - Commission Communication to the European Council, the Council and the European Parliament of 15 January 2019 (COM(2019) 8 final)
4	WK 1365 2019 INIT	30/01/2019	OECD/G20 BEPS Project - "Addressing the Tax Challenges of the Digitalisation of the Economy" - Policy Note
5	WK 1487 2019 INIT	31/01/2019	Tax and Digitalization - OECD update - Presentation by the OECD
6	WK 1484 2019 INIT	31/01/2019	Priorities of the Romanian Presidency in the field of taxation - Powerpoint presentation
7	WK 2630 2019 INIT	22/02/2019	Digital Taxation - Discussion in preparation of the policy debate at ECOFIN
8	WK 5545 2019 INIT	30/04/2019	Tax provisions in non-tax dossiers: overview
9	WK 5704 2019 INIT	06/05/2019	Digital taxation in the international context - Letter by Commissioner Moscovici - Issues Paper on the reform of international corporate taxation: "Business taxation 21"
10	WK 7156 2019 INIT	11/06/2019	International tax reform: way forward for the EU
11	WK 7977 2019 INIT	01/07/2019	Priorities and work programme of the Finnish Presidency - Presentation
12	WK 8110 2019 INIT	03/07/2019	Proposal for a Common Corporate Tax Base (CCTB) - State of play and way forward - Exchange of views
13	WK 8140 2019 INIT	04/07/2019	G20 - Joint letter on the main outcomes of the G20 meetings, 8-9 June 2019 in Fukuoka
14	WK 8212 2019 INIT	05/07/2019	Tax challenges arising from the digitalisation of the economy
15	WK 8453 2019 INIT	11/07/2019	Priorities of the Finnish Presidency - Powerpoint presentation
16	WK 8515 2019 INIT	12/07/2019	Methodology for the economic analysis of the proposals on international corporate tax reform
17	WK 8553 2019 INIT	15/07/2019	Example based impact of the pillar 1 proposals
18	WK 8545 2019 INIT	15/07/2019	Exploring the possible ways forward on the issue of pillar 2 and its compatibility with EU law
19	WK 8649 2019 INIT	17/07/2019	Example based impact of the pillar 1 proposals - Presentation
20	WK 8652 2019 INIT	17/07/2019	Tax challenges arising from digitalisation - Presentation
21	WK 8650 2019 INIT	17/07/2019	Economic Analysis of Corporate Tax Reform Options (for the EU) - Presentation
22	WK 10437 2019 INIT	25/09/2019	OECD presentation
23	WK 10921 2019 INIT	07/10/2019	Tax challenges arising from digitalisation
24	WK 10988 2019 INIT	08/10/2019	Tax challenges arising from digitalisation
25	WK 10973 2019 INIT	08/10/2019	OECD presentation
26	WK 11070 2019 INIT	09/10/2019	Presentation by the Presidency
27	WK 11055 2019 INIT	09/10/2019	Presentation by the Commission
28	WK 11162 2019 INIT	10/10/2019	Presentation by Presidency
29	WK 11161 2019 INIT	10/10/2019	Presentation by the Hungarian delegation
30	WK 11345 2019 INIT	16/10/2019	CCTB - Presentation on links to digital taxation discussions
31	WK 11448 2019 INIT	18/10/2019	Tax challenges arising from the digitalisation of the economy
32	WK 11769 2019 INIT	24/10/2019	Preliminary results - pillar 2 - Presentation by the Commission
33	WK 11873 2019 INIT	25/10/2019	OECD Presentation
34	WK 12764 2019 INIT	12/11/2019	Draft ECOFIN report to the European Council on tax issues
35	WK 13086 2019 INIT	18/11/2019	Tax provisions in non-tax dossiers: overview
36	WK 12764 2019 REV 1	19/11/2019	Draft ECOFIN report to the European Council on tax issues
37	WK 13133 2019 INIT	19/11/2019	Data protection rules and taxation - Automatic exchange of information and Risks of data breaches
38	WK 13201 2019 INIT	19/11/2019	Initial discussion on EU law compatibility of pillar 2
39	WK 13225 2019 INIT	20/11/2019	Hungary´s position paper on the compatibility of the pillar 2 proposals with EU law
40	WK 12764 2019 REV 2	22/11/2019	Draft ECOFIN report to the European Council on tax issues
41	WK 13306 2019 INIT	21/11/2019	Draft Council report to European Council on tax issues / Further co-ordination of defensive measures in the tax area
42	WK 380 2020 INIT	15/01/2020	Evaluation of Council Directive 2011/16/EU on administrative cooperation in the field of taxation
43	WK 379 2020 INIT	15/01/2020	Priorities and work programme of the Croatian Presidency - Presentation
44	WK 540 2020 INIT	17/01/2020	Tax challenges arising from digitalisation - Presidency discussion paper
45	WK 724 2020 INIT	22/01/2020	Presentation for the WPTQ- digital taxation
46	WK 1619 2020 INIT	10/02/2020	Presidency steering note
47	WK 1733 2020 INIT	12/02/2020	Update on the OECD Project "Tax Challenges Arising from the Digitalisation of the Economy"
48	WK 2026 2020 INIT	19/02/2020	Steering note - Common Corporate Tax Base (CCTB) - State of play and Way forward
49	WK 2032 2020 INIT	20/02/2020	Tax in non-tax files - State of play on the tax good governance clause in agreements with third countries

50	WK 2260 2020 INIT	26/02/2020	Digital taxation: economic impact analysis - Letter from OECD
51	WK 2307 2020 INIT	27/02/2020	Presidency steering note - Future of the Council Directive 2011/16/EU on administrative cooperation in the field of taxation
52	WK 2662 2020 INIT	06/03/2020	Follow-up to the HLWP meeting of 3 March 2020
53	WK 2738 2020 INIT	09/03/2020	Presidency room document on Principal Tax Authorities
54	WK 2736 2020 INIT	09/03/2020	Presidency steering note on Financial Accounting
55	WK 3874 2020 INIT	16/04/2020	Draft Council conclusions on future evolution of administrative co-operation in the field of taxation in the EU
56	WK 4479 2020 INIT	30/04/2020	Informal videoconference of the members of the High Level Working Party (Taxation) on 11 May 2020
57	WK 5233 2020 INIT	19/05/2020	Informal videoconference of the members of the High Level Working Party (Taxation) on 4 June 2020
58	WK 5457 2020 INIT	26/05/2020	Revised version of the draft ECOFIN report to the European Council on tax issues - document with track changes
59	WK 5456 2020 INIT	26/05/2020	Draft ECOFIN report to the European Council on tax issues
60	WK 5524 2020 INIT	28/05/2020	Tax provisions in non-tax dossiers: overview
61	WK 6241 2020 INIT	12/06/2020	Informal videoconference of the members of the High Level Working Party (Taxation) on 6 July 2020
62	WK 7138 2020 INIT	01/07/2020	German Presidency - Presentation
63	WK 7902 2020 INIT	16/07/2020	Letter to OECD - digital taxation
64	WK 8494 2020 INIT	18/08/2020	Informal videoconference of the Members of the High Level Working Party (Taxation) on 4 September 2020 (morning only)
65	WK 8583 2020 INIT	25/08/2020	Presidency steering note: Package for fair and simple taxation - Tax policy discussion
66	WK 1733 2020 REV 1	06/10/2020	Update on the OECD Project "Tax Challenges Arising from the Digitalisation of the Economy"
67	WK 11216 2020 INIT	16/10/2020	Tax provisions in non-tax dossiers: overview
68	WK 11352 2020 INIT	19/10/2020	Informal videoconference of the Members of the High Level Working Party (Taxation) on 22 October 2020
69	WK 11646 2020 INIT	22/10/2020	COUNCIL CONCLUSIONS on fair and effective taxation in times of recovery, on tax challenges linked to digitalisation and on tax good governance in the EU and beyond - First Presidency draft
70	WK 12169 2020 INIT	03/11/2020	Presidency steering note in view of the informal videoconference of the members of the Working Party on Tax Questions (Indirect Taxation / VAT) on 11 November 2020
71	WK 12352 2020 INIT	05/11/2020	Draft ECOFIN report to the European Council on tax issues
72	WK 11873 2019 REV 1	11/11/2020	OECD Presentation
73	WK 12876 2020 INIT	13/11/2020	Informal videoconference of the Members of the High Level Working Party (Taxation) on 20 November 2020
74	WK 10973 2019 REV 1	17/11/2020	OECD presentation
75	WK 14032 2020 INIT	02/12/2020	Proposal for a Council Directive on a Common Corporate Tax Base (CCTB) - Presidency steering note
76	WK 21 2021 INIT	04/01/2021	Tax provisions in non-tax dossiers: overview
77	WK 199 2021 INIT	07/01/2021	Informal videoconference of the Members of the High Level Working Party (Taxation) on 13 January 2021
78	WK 501 2021 INIT	14/01/2021	Portuguese Presidency - Presentation
79	WK 1141 2021 INIT	26/01/2021	Presidency steering note for the informal videoconference of the members of the High Level Working Party on taxation on 2 February 2021
80	WK 2517 2021 INIT	22/02/2021	Tax challenges arising from the digitalisation of the economy - state of play
81	WK 2594 2021 INIT	23/02/2021	Presidency steering note for the informal videoconference of the members of the High Level Working Party on taxation on 2 March 2021
82	WK 5637 2021 INIT	27/04/2021	Presidency steering note for the informal videoconference of the members High Level Working Party on taxation on 5 May 2021
83	WK 5731 2021 INIT	28/04/2021	Note from the Presidency on the state of play in the negotiations in the OECD BEPS Inclusive Framework
84	WK 6470 2021 INIT	17/05/2021	Note on the state of play in the negotiations in the OECD BEPS Inclusive Framework
85	WK 6508 2021 INIT	17/05/2021	Draft ECOFIN report to the European Council on tax issues
86	WK 6836 2021 INIT	21/05/2021	Tax provisions in non-tax dossiers: overview of the ongoing and recently closed dossiers
87	WK 6838 2021 INIT	21/05/2021	Presidency steering note for the informal videoconference of the members of the High Level Working Party on taxation on 1 June 2021
88	WK 7010 2021 INIT	27/05/2021	Draft ECOFIN report to the European Council on tax issues
89	WK 6836 2021 REV 1	28/05/2021	Tax provisions in non-tax dossiers: overview of the ongoing and recently closed dossiers
90	WK 8422 2021 INIT	23/06/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 2 July 2021
91	WK 8926 2021 INIT	02/07/2021	Slovenian Presidency - Presentation
92	WK 10797 2021 INIT	15/09/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 23 September 2021

93	WK 10998 2021 INIT	20/09/2021	Commission document on the tax-related investments and reforms in Recovery and Resilience Plans
94	WK 12464 2021 INIT	19/10/2021	Administrative cooperation in the area of taxation Presidency steering note
95	WK 12475 2021 INIT	19/10/2021	Tax provisions in non-tax dossiers: overview of the ongoing and recently closed dossiers
96	WK 12515 2021 INIT	20/10/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 28 October 2021
97	WK 12515 2021 REV 1	22/10/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 28 October 2021
98	WK 12515 2021 REV 2	25/10/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 28 October 2021
99	WK 14184 2021 INIT	22/11/2021	Draft Ecofin report to the European Council on tax issues
100	WK 14251 2021 INIT	23/11/2021	Presidency steering note for the informal videoconference of the members of the Working Party on Tax Questions (High Level) on 25 November 2021
101	WK 14318 2021 INIT	24/11/2021	Presidency note to the HLWP on VAT rates
102	WK 14363 2021 INIT	24/11/2021	Draft Ecofin report to the European Council on tax issues
103	WK 15543 2021 INIT	16/12/2021	Note d'orientation de la présidence à l'intention de la vidéoconférence informelle des membres du groupe "Questions fiscales" (haut niveau) du 6 janvier 2022
104	WK 15620 2021 INIT	20/12/2021	Note de discussion à propos de la directive sur le niveau mínimum global d'imposition pour les groupes multinationaux dans l'UE.
105	WK 15788 2021 INIT	22/12/2021	Proposal for the 'Pillar Two' Directive and the OECD GloBE Model Rules – highlighted differences
106	WK 15787 2021 INIT	22/12/2021	Proposal for the 'Pillar Two' Directive and the OECD GloBE Model Rules – 'correlation' table
107	WK 15786 2021 INIT	22/12/2021	Directive sur le niveau mínimum global d'imposition pour les groupes multinationaux dans l'UE Note de la Présidence: organisation des travaux au niveau du groupe des questions fiscales

Council of the European Union
General Secretariat
Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 29 August 2022

DELETED
Email: **DELETED**

Ref. 22/1718-mw/ns

Request made on: 16.08.2022

Dear **DELETED**,

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

The General Secretariat is examining your request on the basis of the applicable rules.[1] 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 regarding documents in the area of taxation covers more than one hundred of documents.

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[1] 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).

The examination of your request will consequently require a considerable amount of time.

In view of the above, the General Secretariat is unable to process your request within the required 15 working days deadline.[2] Under these circumstances, we hope that you will be able to accept that your request will be gradually processed. We will send you the reply in parts as the examination of the documents is concluded.

Yours sincerely,

Fernando FLORINDO

2 Article 6(3) of Regulation (EC) No 1049/2001.

Council of the European Union
General Secretariat
Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 6 October 2022

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Email: **DELETED**

Ref. 22/1718- ADD1-mw/ns

Request made on: 16.08.2022

Dear **DELETED**,

Following our letter of 29 August 2022 (ref. 22/1718-mw/ns-6.3), please find attached the documents listed below:

WK 1484/2019	WK 8453/2019
WK 11162/2019	WK 8926/2021
WK 13306 2019	WK 12352/2020
WK 6508/2021	WK 7010/2021
WK 14363/2021	WK 5456/2020

Please note that the necessary consultations are still ongoing concerning the remaining documents.

Yours sincerely,

Fernando FLORINDO

Enclosures

Council of the European Union
General Secretariat
Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 9 November 2022

DELETED
Email: **DELETED**

Ref. 22/1718-mw/nb-ADD2

Request made on: 16.08.2022

Dear **DELETED**,

Following our letters of 29 August and 6 October 2022, please find attached the documents listed below:

WK 5545/2019	WK 13086/2019	WK 5524/2020
WK 11216/2020	WK 21/2021	WK 6836/2021
WK 6836/2021 REV1	WK 12475/2021	WK 4479/2020
WK 5533/2020	WK 6241/2020	WK 8494/2020
WK 11352/2020	WK 12876/2020	WK 199/2021
WK 1141/2021	WK 2594/2021	WK 5637/2021
WK 6838/2021	WK 12515/2021	WK 12515/2021 REV1
WK 12515/2021 REV2	14251/2021	

Please find attached partially accessible versions of documents WK 8422/2021 and WK 10797/2021.[3] However, I regret to inform you that full access cannot be given for the reasons set out below.

[3] Article 4(6) of Regulation (EC) No 1049/2001.

The redacted part of these documents concerns delicate issue touching on relations with third country, and release of the information contained in it would both severely affect the EU's position on the international level and considerably undermine internal discussions, putting in jeopardy a successful outcome.

As a consequence, the General Secretariat has to refuse full access to these documents.[4] However, you may have access to the largest part of these documents.

I regret to inform you that access to document WK 15543/2021 cannot be given for the reasons set out below.

This document refers to difficult ongoing discussions regarding the field of taxation. Release of this information would trigger undesirable behaviour by economic operators in order to avoid taxation and thus 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.
As a consequence, the General Secretariat has to refuse access to this document.[5]

Please note that the necessary consultations are still ongoing concerning the remaining documents.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.

Yours sincerely,

Fernando FLORINDO

Enclosures: 25

[4] Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.
[5] Article 4(1)(a), fourth indent, and article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

Council of the European Union
General Secretariat

Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 9 January 2023

DELETED
Email: **DELETED**

Ref. 22/1718-mw/nb-ADD3

Request made on: 16.08.2022

Dear **DELETED**,

Following our letters of 29 August, 6 October 2022 and 9 November 2022, please find attached the documents listed below:

WK 1093/2019, *WK 1365/2019*,*WK 1401/2019*, *WK 1487/2019*, *WK 2630/2019*, *WK 5545/2019*, *WK 5704/2019*, *WK 8140/2019*, *WK 8649/2019*, *WK 10437/2019 REV1*, *WK 10973/2019 REV1*, *WK 11070/2019*, *WK 12764/2019*, *WK 12764/2019 REV1*, *WK 12764/2019 REV2*, *WK 13086/2019*, *WK 13133/2019*, *WK 380/2020*, *WK 1733/2020 REV1*, *WK 2307/2020*, *WK 3874/2020*, *WK 5457/2020*, *WK 5524/2020*, *WK 8583/2020*, *WK 11216/2020*, *WK 11646/2020*, *WK 12169/2020*, *WK 21/2021*, *WK 6836/2021*, *WK 6836/2021 REV1*, *WK 10998/2021*, *WK 12475/2021*, *WK 14184/2021*, *WK 14318/2021*, *WK 15620/2021*, *WK 15788/2021*, *WK 15787/2021*, *WK 15786/2021.*

You will find attached a partially accessible[6] version of documents *WK 111/2019*, *WK 7977/2019*, *WK 11161/2019*, *WK 11873/2019 REV1*, *WK 379/2020*, *WK 724/2020*, *WK 2260/2020*, *WK 7138/2020*, *WK 7902/2020*, *WK 501/2021* in which personal data has been redacted in accordance with Regulation (EU) 2018/1725.[7]

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

[7] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L, 295, 21.11.2018, p. 39–98).

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

WK 7156/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: International tax reform: way forward for the EU;
WK 8212/2019: meeting document from the Presidency to the High Level Working Party on: Tax challenges arising from the digitalisation of the economy;
WK 8515/2019: document from the Commission services to the Working Party on Tax Questions (Digital Taxation) on: Methodology for the economic analysis of the proposals on international corporate tax reform;
WK 8545/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Exploring the possible ways forward on the issue of Pillar 2 and its compatibility with EU law;
WK 8553/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Example based impact of the Pillar 1 proposals;
WK 8650/2019: note from the Commission services to the Working Party on Tax Questions (Digital Taxation) on: Economic Analysis of Corporate Tax Reform Options (for the EU) - Presentation;
WK 8652/2019: note from the Italian delegation to the Working Party on Tax Questions (Digital Taxation) on: Tax challenges arising from digitalisation- Presentation;
WK 10921/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Tax challenges arising from digitalisation;
WK 10988/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Tax challenges arising from digitalisation;
WK 11055/2019: note from the Commission services to the Working Party on Tax Questions (Digital Taxation) on: Presentation by the Commission;
WK 11448/2019: note from the Presidency to the High Level Working Party on: Tax challenges arising from the digitalisation of the economy;
WK 11769/2019: note from the Commission services to the Working Party on Tax Questions (Digital Taxation) on: Preliminary results pillar 2 - Presentation by the Commission;
WK 13201/2019: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Initial discussion on EU law compatibility of Pillar 2;
WK 13225/2019: note from the Hungarian delegation to the Working Party on Tax Questions (Digital Taxation) on: Hungary´s Position Paper on the compatibility of the Pillar 2 Proposals with EU law;
WK 540/2020: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Tax challenges arising from digitalisation - Presidency discussion paper;
WK 1619/2020: note from the Presidency to the Working Party on Tax Questions (Digital Taxation) on: Presidency steering note;

WK 2517/2021: note from the Presidency to delegations on: Tax challenges arising from the digitalisation of the economy - state of play;

WK 5731/2021: note from the Presidency to the High Level Working Party on: State of play in the negotiations in the OECD BEPS Inclusive Framework;
WK 6470/2021: note from the Presidency to delegations on: State of play in the negotiations in the OECD BEPS Inclusive Framework.

These documents contain analysis, notes and presentations from the Presidency and Delegations relating to negotiations and discussions regarding digital taxation, and in particular the draft Digital Services Tax Directive and Digital Advertising Tax Directive.

They relate to digital taxation in the international context and are interlinked with discussions and issues relating to national digital taxes and ongoing third parties trade investigations.
These negotiations are still ongoing and require unanimity within the Council. The release of the requested documents to the public would affect the negotiating process since delegations may come under additional pressure from stakeholders.
It would therefore diminish the chances of reaching an agreement within the Council. Disclosure of the requested documents would therefore seriously undermine the decision making-process of the Council.

In addition, the release to the public of the information contained in the documents could create expectations or unnecessary warning and thus could have a negative impact on the EU's financial system and undermine the protection of the public interest as regards the financial, monetary or economic policy of the EU.

Disclosure of the information contained in the documents would also have a negative impact on the relations of the European Union with its counterparts in the OECD and G20. Disclosure of the documents would therefore undermine the protection of the public interest as regards international relations, since the documents contain information on negotiations which are still under discussion within the Council on the approaches to be taken in international fora.

As a consequence, the General Secretariat has to refuse access to these documents.[8]

We have also looked into the possibility of releasing parts of the documents.[9]
You may have access to the parts of the following documents that are not covered by the abovementioned exceptions:
WK 7156/2019, WK 8212/2019, WK 8545/2019, WK 8553/2019, WK 8652/2019, WK 10921/2019, WK 11448/2019, WK 13201/2019, WK 540/2020, WK 1619/2020.

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[8] Article 4(1)(a), third and fourth indents and - in absence of an overriding public interest in their disclosure – Article 4(3), first subparagraph of Regulation (EC) No 1049/2001.

[9] Article 4(6) of Regulation (EC) No 1049/2001.

I regret to inform you that access to the following documents cannot be given for the reasons set out below.
- *WK 2032/2020*: note from the Commission services to the High Level Working Party on: Tax in non-tax files - State of play on the tax good governance clause in agreements with third countries.

This document contains sensitive information, as it presents interim outcomes and internal negotiation positions of third countries and the EU, respectively, which have been expressed under the presumption of confidentiality. Some of these negotiations are still ongoing. Some others have been closed or provisionally closed recently, but the considerations expressed in the document are relevant for future negotiations with other third countries.

The General Secretariat considers, after having consulted the Commission, that disclosure of the document would undermine the international relations between the EU and concerned third countries.

As a consequence, the General Secretariat has to refuse access to this document.[10]

We have also looked into the possibility of releasing parts of the document.[11] However, as the exception to the right of access apply to its entire content, the General Secretariat is unable to give partial access.

- *WK 12464/2021*: note from the Presidency to the Working Party on Tax Questions (High Level) on: Administrative cooperation in the area of taxation-Presidency steering note.

This document refers to difficult ongoing discussions regarding the field of taxation. Release of this document would trigger undesirable behaviour by economic operators in order to avoid taxation and thus 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.

Moreover, this document is a preparatory working document outlining certain issues to be considered in the political discussion in the group.
The political workability of that delicate mechanism would be jeopardised if Member States or the EU Institutions had to take into account the possibility that preparatory documents forming the basis for the discussions may be made public, all the more so when the decision-making process has not yet come to an end.
Release of the information included in this document would affect the negotiating process and diminish the chances of the Council reaching an agreement. Disclosure of this document would thus seriously undermine the decision making-process concerned.

As a consequence, the General Secretariat has to refuse access to this document[12].

10 Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.
11 Article 4(6) of Regulation (EC) No 1049/2001.
12 Article 4(1)(a), third and fourth indent, and - in absence of an overriding public interest in its disclosure – article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

Here again, we have looked into the possibility of releasing parts of the document.[13] However, as the exceptions to the right of access apply to its entire content, the General Secretariat is unable to give partial access.

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

WK 8110/2019: note from the Presidency to the High Level Working Party on: Tax Questions (High Level) on: State of play and way forward - Exchange of views;
WK 11345/2019: Presidency presentation to the Working Party on Tax Questions on: Links to digital taxation discussions;
WK 2026/2020: steering note from the Presidency to the High Level Working Party on: State of play and Way forward;
WK 2662/2020: note from the Presidency to the Working Party on Tax Questions on: Follow-up to the HLWP meeting of 3 March 2020;
WK 2736/2020: Presidency steering note to the Working Party on Tax Questions on: Financial Accounting;
WK 2738/2020: Presidency room document to the Working Party on Tax Questions on: Principal Tax Authorities;
WK 14032/2020: note from the Presidency to Delegations on: Presidency steering note.

These documents contain informally voiced internal opinions and assessments related to a protracted legislative procedure that is still going on. The Common Corporate Tax Base (CCTB) proposal is expected to be replaced by a proposal for a “BEFIT” Directive that might include some similar provisions.
Disclose of previous compromise texts on discussions that have not yet been concluded might prejudge the contents of future discussions and compromise texts.

The content of some of these documents is also linked to the ongoing negotiations on the reform of the framework of international corporate taxation, and these negotiations are not yet completed. Disclosure of the documents would seriously undermine the possibility to have an open exchange within the Council and thus the Council's decision-making process.

The Presidency's task is all the more arduous as on the one hand unanimity is required for the adoption of the proposed legal act and on the other hand the CCTB by its very nature has an important impact on corporate taxation and thus on an extremely large number of economic operators. Disclosure of the documents would undermine the need to protect the public interest as regards the financial, monetary or economic policy of the Union or its Member States.

As a consequence, the General Secretariat has to refuse access to these documents.[14]

[13] Article 4(6) of Regulation (EC) No 1049/2001.
[14] Article 4(1)(a), fourth indent, and – in the absence of any indication of an overriding public interest in release – Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of the documents.[15] However, as the exceptions to the right of access apply to their entire content, the General Secretariat is unable to give partial access, with the exception of the main parts of document *WK 2026/2020* that are not covered by these exceptions.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.[16]

Yours sincerely,

Fernando FLORINDO

Enclosures: 59 – WeTransfer link to download the documents: https://we.tl/t-Cscw1Xyi5K

[15] Article 4(6) of Regulation (EC) No 1049/2001.

[16] Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

ANNEX 6

[E-mail message sent to access@consilium.europa.eu on Tuesday, 24 January, 2022 16:27]

From: DELETED

Sent: mardi 24 janvier 2023 16:27

To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

Subject: Re: Ref. 22/1718-mw/nb-ADD3

Dear mr. Fernando Florindo,

Thank you kindly for the enclosed letters that I previously received from the General Secretariat of the Council. I would like to thank you kindly personally for your work on this request for access to documents. If I understand correctly, I cannot access a large number of documents for the following reason:

"These documents contain analysis, notes and presentations from the Presidency and Delegations relating to negotiations and discussions regarding digital taxation, and in particular the draft Digital Services Tax Directive and Digital Advertising Tax Directive. […] These negotiations are still ongoing and require unanimity within the Council. The release of the requested documents to the public would affect the negotiating process since delegations may come under additional pressure from stakeholders."

I welcome the publication of the EU-directive ensuring a minimum level of taxation in the Official Journal of the European Union and the entry into force of this directive.

Request to review

In pursuant to Article 7(2) of Regulation (EC) No 1049/2001, I request the Council to review the decision in its entirety with consideration that my request for access to the documents will be limited to content in this request for access to documents regarding the Council Directive (EU) 2022/2523 of December 14, 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union. I would also like to follow-up with a new request for access to documents, which I will submit in the next week to the General Secretariat for a different time period.

For my doctoral research, it is essential to analyse the content of the documents in my request with Ref. 22/1718-mw/nb-ADD3. Partial access would be sufficient, as I am not focussing on the content of the documents that are refused for the reason stated above. With the publication of the Council Directive (EU) 2022/2523 I hope that most documents will be fully accessible.

Finally, I would also like to suggest, if to the extent the review does not lead to a different assessment in some of the documents where relevant content on Council Directive (EU) 2022/2523 is included, and it is in line with Regulation (EC) No 1049/2001, to organise a confidential reading of the documents in Brussels as an alternative opportunity to have (partially and limited) access to the documents.

Thank you for the consideration.

Best regards,

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