



Council of the
European Union

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Eingelangt am 22/04/24

**Brussels, 22 April 2024
(OR. en)**

9227/24

**INF 123
API 75**

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 17/c/01/24

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 26 February 2024 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 12 April 2024 (Annex 2);
- the confirmatory application dated 19 April 2024 and registered on the same day (Annex 3).

From: document-request@consilium.europa.eu <document-request@consilium.europa.eu>
Sent: Monday, February 26, 2024 11:30 AM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application.

This electronic form has been submitted in ENGLISH.

Form of address

DELETED

Family name

DELETED

First name

DELETED

E-mail

DELETED

Occupation

Academia

I submit this request on my own behalf.

Name of the organisation

Full postal address

DELETED

Telephone

DELETED

Requested document(s)

- 1) Negotiating directives for the Economic Partnership Agreement between the EU and CARIFORUM
- 2) Negotiating directives for the Association Agreement and the Deep and Comprehensive Free Trade Agreement between the EU and Ukraine
- 3) Negotiating directives for the Free Trade Agreement between the EU and Vietnam
- 4) Negotiating directives for the 2002 Association Agreement between EU and Chile

1st option

EN

2nd option

NL

This is an automatic reply from the General Secretariat of the Council of the European Union concerning your request for access to Council documents.



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, 12 April 2024

DELETED

Email: **DELETED**

Ref. 24/0682

Request made on: 26.02.2024

Deadline extension: 18.03.2024

Dear **DELETED**,

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

You have requested:

- 1) Negotiating directives for the Economic Partnership Agreement between the EU and CARIFORUM:

The Secretariat has identified documents **ST 9930/02 INIT** and **ST 9930/02 COR 1** as corresponding to your request. Documents **ST 9930/02 INIT** and **ST 9930/02 COR 1** are publicly available in the Council register.²

- 2) Negotiating directives for the Association Agreement and the Deep and Comprehensive Free Trade Agreement between the EU and Ukraine:

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).

² <https://www.consilium.europa.eu/en/documents-publications/public-register/>

The Secretariat has identified document **ST 5062/07 INIT** as corresponding to your request. Document **ST 5062/07 INIT** bears the classification marking "**EU RESTRICTED/RESTREINT UE**".

This classification is applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of its Member States.³

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

The Deep and Comprehensive Free Trade Area is an integral part of the Association Agreement between the EU and Ukraine. Even though these negotiations have been concluded, the Association Agreement did not enter into force⁴. Full release of the information contained in document **ST 5062/07 INIT** would weaken the position of the European Union in the framework of similar future negotiations and in addition, have a negative impact on the relations of the European Union with certain third countries.

Full disclosure of document **ST 5062/07 INIT** would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse full access.⁵

Document **ST 5062/07 EXT1** is a partially accessible version of document **ST 5062/07 INIT**.⁶ Document **ST 5062/07 EXT1** is publicly available in the Council register.⁷

3) Negotiating directives for the Free Trade Agreement between the EU and Vietnam:

The Secretariat has identified documents **ST 8600/07 INIT** and **ST 9803/12 INIT**. Documents **ST 8600/07 INIT** and **ST 9803/12 INIT** bear the classification marking "**EU RESTRICTED/RESTREINT UE**".

This classification is applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of its Member States.⁸

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

³ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

⁴ Additional information can be found here: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/ukraine_en

⁵ Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

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

⁷ <https://www.consilium.europa.eu/en/documents-publications/public-register/>

⁸ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

The Free Trade agreement between the European Union and the Socialist Republic of Viet Nam entered into force on 1 August 2020⁹. Even though these negotiations have been concluded, full release of the information contained in documents **ST 8600/07 INIT** and **ST 9803/12 INIT** would weaken the position of the European Union in the framework of similar future negotiations and in addition, have a negative impact on the relations of the European Union with certain third countries.

Full disclosure of documents **ST 8600/07 INIT** and **ST 9803/12 INIT** would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse full access.¹⁰

Documents **ST 8600/07 EXT1**, **ST 8600/07 EXT2**, and **ST 9803/12 EXT1** are partially accessible versions of respectively documents **ST 8600/07 INIT**, and **ST 9803/12 INIT**.¹¹ Documents **ST 8600/07 EXT1** and **ST 9803/12 EXT1** are publicly available in the Council register.¹²

Please find attached document **ST 8600/07 EXT2**.

4) Negotiating directives for the 2002 Association Agreement between EU and Chile:

The Secretariat has identified document **ST 13084/95**.

Please find attached document **ST 13084/95**.

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: 2

⁹ Additional information can be found here: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/vietnam_en

¹⁰ Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

¹¹ Article 4(6) of Regulation (EC) No 1049/2001.

¹² <https://www.consilium.europa.eu/en/documents-publications/public-register/>

From: **DELETED****Sent:** Friday, April 19, 2024 4:09 PM**To:** TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>**Subject:** Re: Ref. 24/0682

Dear Sir/Madam,

Thank you for your kind reply to my request for access to documents. I would hereby like to request the Council to review the decision pursuant to Article 7(2) of Regulation(EC) No 1049/2001.

The Council has opted to refuse access to the requested negotiating directives for the DCFTA between the EU and Ukraine as well as the negotiating directives for the FTA between EU and Vietnam. Access to these restricted documents is refused on the basis of public interests with regard to the EU's international relations. To be more specific, the EU-Ukraine DCFTA has not yet entered into force and the Council argues that full release of its negotiation directives could weaken the position of the EU in similar future negotiations and/or have a negative impact on the relations of the European Union with certain third countries. While the EU-Vietnam has already entered into force, the Council utilises similar argumentation in relation to the EU's position for future negotiations and its relations with certain third countries to refuse access.

I respectfully disagree with this argumentation as the basis for my request to review this response. That is to say, in contrast to this decision, the Council has opted to release negotiation directives for similar Free Trade Agreements by the EU in the past. The very declassification and publication of the negotiation directives for the Free Trade Agreement with Japan (15864/12), the Modernised Association Agreement with Chile (13553/17), the Free Trade Agreement with New Zealand (7661/18), the Free Trade Agreement with Australia (7663/18) shows that the release of negotiation directives for this type of agreements does not have a detrimental effect to the EU's position in international relations and trade negotiations. After all, all of these negotiation directives were released before the negotiations on these agreements were even concluded. This increased the transparency and democratic nature of EU trade relations as required by the founding values and principles embedded in the EU founding Treaties (see e.g. Artt. 10 TEU and 15 TFEU), as well as the Commission's Trade for All communication (COM(2015) 497 final) and Cecilia Malmström's 2017 request to the EU Member States in relation to the EU-Japan negotiation directives(Ref. Ares(2017)2639445). I would therefore argue that the release of negotiation directives in relation to at least the trade and sustainable development aspects of Agreements for which the negotiations have already been concluded, such as the EU-Ukraine DCFTA and the EU-Vietnam FTA, would not have a detrimental effect on the EU's international relations, in similar fashion to these already published negotiation directives. In fact, the release of such negotiation directives would strengthen the transparent and democratic nature of EU trade relations, enabling more discussion and awareness of the topic.

Finally, the Council states that the negotiation directives in relation to the EU-CARIFORUM EPA are publicly available in the documents ST 9930/02 INIT and ST 9930/02 COR 1 in the Council Register. However, only the document ST 9930/02 INIT has been made available, while its corrigendum in ST 9930/02 COR 1 remains unavailable. I would like the Council to review its decision to keep the corrigendum unavailable, as it clearly intends this negotiation directive to be available to the public in full.

Thank you for your consideration. Please let me know if you require anything further from me to initiate the official review and confirmatory application of this request in line with Regulation(EC) No 1049/2001.

Best,

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