



Council of the
European Union

Brussels, 12 June 2020
(OR. en)

8808/20

INF 120
API 80

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 16/c/02/20

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 16 May and registered on 18 May 2020 (Annex 1);
- reply from the General Secretariat of the Council dated 11 June 2020 (Annex 2);
- confirmatory application dated 11 June and registered on 12 June 2020 (Annex 3).

From: **DELETED**

Sent: Saturday, May 16, 2020 12:04 AM

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

Subject: Re: Ref. 20/0943-vl.jgd.rh/nb

I'm really sorry for my mistake regarding document 14844, the year is 2004 not 2014.

[...]



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, 11 June 2020

DELETED

Email: **DELETED**

Ref. 20/1032-vl/jg

Request made on: 16.05.2020

Registered on: 18.05.2020

Dear **DELETED**,

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

Please find attached a partially accessible version of document 14844/04.² However, I regret to inform you that full access cannot be given for the reasons set out below.

Document 14844/04 is a "I/A" Item note to the Permanent Representatives Committee and to the Council concerning Draft Council Negotiating Directives for Individual Framework Agreements on Partnership and Cooperation with the Kingdom of Thailand, the Republic of Indonesia, the Republic of Singapore, the Republic of The Philippines, Malaysia and Negara Brunei Darussalam.

This Note was initially bearing the classification "**RESTREINT UE/EU RESTRICTED**". This means that the unauthorised disclosure of its contents could be disadvantageous to the interests of the European Union or of one or more of its Member States.³

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

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.

It has subsequently been declassified (in January 2020 - new version is **14844/04 DCL 1**), but at this stage is still not accessible to the wide public. Having due regard to the outcome of our internal consultations with the policy directorate responsible for this file, disclosure of this information is likely to weaken the position of the European Union in the framework of talks on current and future partnership and cooperation agreements being negotiated with third countries.

Full release of the document would therefore undermine the protection of the public interest with regard to international relations. Accordingly, pursuant to Article 4(1)(a), third indent of the Regulation the General Secretariat is unable to give you full access to this document.

Nevertheless, pursuant to Article 4(6) of the Regulation, you may have access to those parts of the document which are not covered by any exception of Regulation (EC) No 1049/2001 and which are contained in document **14844/08 EXT 1**.

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.⁴

Yours sincerely,

Fernando FLORINDO

(Enclosure)

⁴ 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.

From: **DELETED**

Sent: Thursday, June 11, 2020 7:44 PM

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

Subject: Re: Ref. 20/1032-vl/jg

Thanks for the response.

I want to file a confirmatory application based on the following arguments:

1. Some of these negotiations have been concluded.
2. These agreements are the political counterparts of free trade and investment agreements that have been negotiated or are in negotiation with several of these countries.
3. The practice regarding the release of negotiating directives for important agreements has been changed by the Council and Commission in the past decade. Information that used to be considered detrimental to negotiations (including very sensitive and technical negotiations like FTAs) is now made public almost routinely, including/specially initial negotiating directives.
4. The political aspects of future relationships with these countries is an issue of overriding public interest, specially when taking into account the free trade agreement context and the geopolitical context of relationships with East Asian countries.
5. The directives have been refused almost in their entirety. It is unlikely that all aspects of the directives are likely to be detrimental to negotiations if made public. The possibility for partial release should be further explored at least.