



Brussels, 24 March 2025
(OR. en)

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 05/c/01/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 13 February 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 5 March 2025 (Annex 2);
- the confirmatory application dated 21 March 2025 and registered on the same day (Annex 3).

From: DELETED

Sent: jeudi 13 février 2025 13:44

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

Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

Form of address

DELETED

Family name

DELETED

First name

DELETED

E-mail

DELETED

Occupation

DELETED

Name of the organisation

DELETED

Full postal address

DELETED

Telephone

DELETED

Requested document(s)

1. WK 15260 2024 INIT, titled "ISA and deep sea mining" with the document date 02/12/2024 that can be accessed here: <http://webportal.consilium.eu.int/econsilium/documents/WK%2015260%202024%20INIT>

2. WK 9507 2024 INIT, titled "COMAR - ISA - letter on EU contribution to the Administrative Budget" with the document date 02/07/2024 that can be accessed here:
<http://webportal.consilium.eu.int/econsilium/documents/WK%209507%202024%20INIT>

3. WK 9460 2024 INIT, titled "ISA proxy voting - suggested template note verbale" with the document date 02/07/2024 that can be accessed here:
<http://webportal.consilium.eu.int/econsilium/documents/WK%209460%202024%20INIT>

1st option

EN

2nd option

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

This notification was sent from an unattended mailbox. Please do not reply.



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, 5 March 2025

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Email: **DELETED**

Ref. 25/0449

Request made on: 13.02.2025

Dear **DELETED**,

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

Document **WK 9460/2024 INIT** (dated 2 July 2024) contains information from the Presidency to the delegates of the Member States regarding proxy voting in the International Seabed Authority Assembly, as well as a template note verbale for proxy voting. After conducting a careful assessment of this document, the General Secretariat of the Council considers that public access can be granted to this document.

Document **WK 9507/2024 INIT** (dated 2 July 2024) contains a letter from the European Commission to the International Seabed Authority regarding the EU's contribution to the administrative budget of the International Seabed Authority. After conducting a careful assessment of this document, the General Secretariat of the Council considers that public access can be granted to this document, with the exception of personal data.

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).

Disclosing this personal data would undermine the protection of privacy and the integrity of the individual, and therefore access must be refused to those parts of the document in line with Article 4(1)(b) of Regulation (EC) No 1049/2001.

Document **WK 15260/2024 INIT** (dated 2 December 2024) contains a statement of a Member State regarding the International Seabed Authority and the issue of deep-sea mining. After conducting a careful assessment of this document, the General Secretariat of the Council considers that access to this document must be refused pursuant to Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001 (the protection of international relations). The document relates to ongoing international negotiations within the International Seabed Authority, of which both the EU and all of its Member States are members. Disclosing the position of a Member State at this stage poses a risk of exposing details that could negatively impact those negotiations and hence the EU's international relations. As the entire document is covered by the exception invoked above, it is not possible to grant partial access under Article 4(6) of Regulation (EC) No 1049/2001.

In the view of the foregoing, the General Secretariat of the Council considers, first, that full access to document **WK 9460/2024 INIT** should be granted. Second, full access should be granted to document **WK 9507/2024 INIT**, with the exception of personal data. Lastly, access must be refused to document **WK 15260/2024 INIT** on the basis of Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

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

Yours sincerely,

Fernando FLORINDO

Enclosures: 2

From: **DELETED****Sent:** vendredi 21 mars 2025 14:10**To:** TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>**Subject:** RE: Ref. 25/0449

Dear Sir/Madam,

In conformity with Article 7(2) of Regulation (EC) No 1049/2001, I am writing to formally request the decision Ref. 25/0449 made 5.3.2025 to refuse access to Document WK 15260/2024 INIT (dated 02/12/2024) be changed. The document contains a statement by a Member State regarding the International Seabed Authority (ISA) and the issue of deep-sea mining. The justification provided for the refusal of the entire document is based on Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001, citing the protection of international relations.

It is our view that the refusal relies on a broad application of the international relations exception without providing a concrete explanation of how disclosure would specifically and actually undermine international relations. The Council has not demonstrated that the risks are reasonably foreseeable and not merely hypothetical. It does not offer any explanation even as much as giving details as to whether the opinion contains negotiating strategy, strategic objectives, tactics or anything else that would fit the exclusion criterion.

The Aarhus Regulation (Regulation 1367/2006) establishes that when a document relates to emissions into the environment, the public interest served by disclosure should be taken into account. More specifically, the second sentence of Article 6 of the Aarhus Regulation provides that **all grounds for refusal** in Article 4 shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment. Several court rulings have demonstrated that the margin of refusal in these cases is limited (See for instance

<https://curia.europa.eu/juris/document/document.jsf?jsessionid=8CD4E0EF242ABEB22D909737A9C16AFC?text=&docid=283785&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=7219426>).

The negotiations within the ISA are inherently environmental in nature. There is wide recognition that deep-sea mining poses significant risks to marine ecosystems, including biodiversity loss, habitat destruction, and disruption of carbon sequestration processes (see for instance <https://easac.eu/publications/details/deep-sea-mining-assessing-evidence-on-future-needs-and-environmental-impacts>). Despite this, the ISA is working with the view on developing Rules, Regulations and Procedures (RRPs) on exploitation by July 2025, which would effectively greenlight the destructive activity to start. Moreover, an impending application of plan of work for exploitation in absence of such RRP's have triggered discussions on institutional readiness to combat aggressive industry tactics. Given the irreversible and far-reaching environmental consequences of deep-sea mining, transparency in decision-making is of paramount importance.

Any discussions within the ISA, whether it be on the negotiations of the RRP, which would greenlight deep-sea mining, or institutional matters that relate to the procedures of the negotiations, the review of environmental safeguards or secretariat functions, all contribute to risk factors with possible impacts on the marine environment.

The EU and its Member States have consistently called for greater transparency within the ISA. They are also known to exercise transparency and openness in expressing their own views on the work and functioning of the ISA. It is therefore not clear how releasing documents on these topics would weaken any negotiating position as the EU and its Member States. It shall also be reminded that the EU as a member of the ISA does not have the negotiating power on behalf of the Member States, as is the case in most other international fora. We therefore believe it is natural and not controversial that the EU and its Member States would uphold the same standards of openness, transparency and accountability that they advocate for internationally. Refusing access to this document rather risks undermining the EU's credibility on these fields.

In light of these considerations, we respectfully request a reassessment of the refusal to disclose Document WK 15260/2024 INIT.

We appreciate your attention to this matter and look forward to your response.

Yours sincerely,

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