

Brussels, 1 April 2026
(OR. en)

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API 67
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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application N° 17/c/01/26
- Information to delegations

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 5 February 2025 and registered on 6 February 2026 (Annex 1);
- the reply from the General Secretariat of the Council dated 20 March 2026 (Annex 2);
- the confirmatory application dated 27 March 2026 and registered on 30 March 2026 (Annex 3).

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Thursday, February 5, 2026 7:25 PM
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.

Title

DELETED

First name

DELETED

Family name

DELETED

E-mail

DELETED

Occupation

Media

I submit this request as a representative of an organisation.

Name of the organisation

Euractiv

Full postal address

DELETED

Telephone

DELETED

Requested document(s)

WK 13481 2025 REV 2 - WORKING DOCUMENT

06/11/2025

Presidency compromise proposal concerning draft Council Decisions on the signing and the conclusion of the EU – Mercosur iTA

Interinstitutional file: 2025/0183(NLE), 2025/0184(NLE)

Subject matters: POLCOM, COLAC

WK 13481 2025 REV 1 - WORKING DOCUMENT

03/11/2025

Presidency compromise proposal concerning draft Council Decisions on the signing and the conclusion of the EU – Mercosur iTA

Interinstitutional file: 2025/0183(NLE), 2025/0184(NLE)

Subject matters: POLCOM, COLAC

Date of meeting 06/11/2025

WK 13481 2025 INIT - WORKING DOCUMENT

13/10/2025

Presidency compromise proposal concerning draft Council Decisions on the signing and the conclusion of the EU – Mercosur iTA

Subject matters: POLCOM, COLAC

Date of meeting 16/10/2025

WK 16646 2025 INIT - WORKING DOCUMENT

02/12/2025

Presidency compromise proposal concerning the latest version of Council Decisions on the signing and the conclusion of the EU – Mercosur iTA

Subject matters: POLCOM, COLAC

Date of meeting 04/12/2025

1st option

EN

2nd option

FR



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, 20 March 2026

DELETED

Email: **DELETED**

Ref. 26/0500

Request made on: 05.02.2026

Registered on: 06.02.2026

Deadline extension: 27.02.2026

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 documents **WK 13481/2025 INIT+REV1+REV2**, as well as **WK 16646/2025 INIT** cannot be given for the reasons set out below.

WK 13481/2025 INIT, dated 13 October 2025, is a Presidency compromise proposal concerning draft Council Decisions on the signing and the conclusion of the EU – Mercosur iTA

WK 13481/2025 REV 1, dated 3 November 2025, and **WK 13481/2025 REV 2**, dated 6 November, are subsequent versions of the above-mentioned document.

WK 16646/2025 INIT, dated 2 December 2025, is a working document from the Presidency to Trade Policy Committee (Deputies), containing a Presidency compromise proposal concerning the latest version of Council Decisions on the signing and the conclusion of the EU – Mercosur iTA.

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).

For the Council to reach an agreement on the adoption of the Council Decisions on the signing and the conclusion of the EU – Mercosur iTA, its Member States held initial consultations and exploratory talks. The documents contain opinions that were put forward for internal use only. Release of this information would harm future decision-making on this and similar issues.

As there are substantial changes between these versions and the final document, which is public, releasing intermediary versions could lead to misinterpretation.

Disclosure of documents WK 13481/2025 INIT and the subsequent REV1+REV 2, as well as WK 16646/2025 INIT, would therefore seriously undermine the decision-making process of the Council, even after the specific decision has been adopted.

Having examined the context in which the documents were drafted, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its disclosure.

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

Furthermore, release of the information contained in the above-mentioned documents would prejudice relations between the European Union and Mercosur. If the EU's internal views were made public at this moment, the Union's position would be significantly weakened.

Disclosure of the documents would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to the documents, also for this reason.³

We have also looked into the possibility of releasing parts of the documents.⁴ However, as the information contained in the documents forms an inseparable whole, the General Secretariat is unable to give partial access at this stage.

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

² Article 4(3), second subparagraph, of Regulation (EC) No 1049/2001.

³ Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

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

From: **DELETED**

Sent: Friday, March 27, 2026 5:25 PM

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

Subject: Re: Ref. 26/0500

Dear Sir or Madam,

I write in response to your decision of 20 March 2026 refusing access to documents WK 13481/2025 INIT + REV1 + REV2 and WK 16646/2025 INIT.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, **I hereby submit a confirmatory application requesting a review of that decision.**

The General Secretariat relies on Article 4(3), second subparagraph, to argue that disclosure would seriously undermine the Council's decision-making process. However, this reasoning cannot be sustained in the present case.

The requested documents form part of a **legislative procedure** concerning the adoption of Council Decisions on the signing and conclusion of the EU–Mercosur agreement. As such, they fall within a domain where transparency is subject to **particularly stringent requirements** under Article 15(2) TFEU and Article 10(3) TEU.

The Court of Justice has consistently held that openness is of particular importance where institutions act in their legislative capacity (**Joined Cases C-39/05 P and C-52/05 P, *Turco*; Case C-280/11 P, *Access Info Europe***). This includes preparatory documents reflecting Member States' positions and compromise proposals. Disclosure of such documents enables citizens to understand how legislative decisions are shaped and to hold decision-makers accountable.

In addition, the Council has already adopted its position on the underlying file. In such circumstances, the risk that disclosure would “seriously undermine” the decision-making process must be demonstrated concretely and specifically. General assertions that release could lead to misinterpretation or affect future deliberations do not meet the high threshold required by the Court.

The reasoning provided in the refusal remains abstract and hypothetical, and does not establish a reasonably foreseeable risk of serious harm. Accordingly, Article 4(3) has been applied in an overly broad manner.

Even if the exception under Article 4(3) were considered applicable, disclosure is justified by an overriding public interest.

The EU–Mercosur agreement is a matter of **considerable political, economic, environmental and societal significance**. It has been the subject of sustained public debate across the Union, including concerns relating to sustainability, agriculture and climate policy. In such a context, there is a **specific and heightened public interest** in enabling citizens to understand how Member States contributed to shaping the Union’s final position.

Moreover, once a legislative decision has been adopted, the interest in protecting internal deliberations diminishes significantly, while the interest in ensuring ex post democratic accountability becomes paramount. Transparency in this phase is essential to allow meaningful public scrutiny of the legislative process.

In line with the Court’s case law, this concrete and specific public interest outweighs any hypothetical risk to the decision-making process.

The refusal further invokes Article 4(1)(a), third indent, on the ground that disclosure would undermine the protection of the public interest as regards international relations.

While the protection of international relations is a legitimate objective, the institution must demonstrate in a concrete and specific manner how disclosure would actually and foreseeably undermine that interest.

In the present case, the reasoning provided is general and unsubstantiated. It does not explain how disclosure of internal preparatory documents — reflecting deliberations among Member States and produced prior to the adoption of the final decision — would weaken the Union’s position vis-à-vis Mercosur at this stage.

The sensitivity of negotiating positions necessarily diminishes once the Union has defined and, where relevant, expressed its final position. Furthermore, the documents at issue **concern internal exchanges rather than the Union’s external negotiating strategy as such**. Their disclosure cannot automatically be equated with a weakening of the Union’s external position.

A general assertion that transparency would prejudice relations with a third party does not satisfy the requirement of an individual, document-specific assessment. **The application of Article 4(1)(a) in this case therefore appears excessively broad.**

In any event, in a context of significant public debate on a major international agreement, transparency contributes to the legitimacy and credibility of the Union's external action, rather than undermining it.

The General Secretariat also refused partial access under Article 4(6), stating that the documents constitute an inseparable whole.

This conclusion is not sufficiently substantiated. The institution is required to carry out a concrete assessment of whether non-sensitive parts of the documents can be disclosed. A blanket refusal does not meet this obligation.

For the reasons set out above, I respectfully request that the Council reconsider its position and grant access to the requested documents.

Thank you

Best,

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