



Council of the  
European Union

Brussels, 25 May 2020  
(OR. en)

7525/20

LIMITE

INF 88  
API 63

**NOTE**

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	7524/20
Subject:	Public access to documents - Confirmatory application No 14/c/01/20

Delegations will find attached a draft reply to confirmatory application No 14/c/01/20  
(see 7524/20).

**DRAFT**  
**REPLY ADOPTED BY THE COUNCIL ON ...**  
**TO CONFIRMATORY APPLICATION 14/c/01/20,**  
**made by email on 23 April 2020,**  
**pursuant to Article 7(2) of Regulation (EC) No 1049/2001,**  
**for public access to document 7124/05**

The Council has considered the confirmatory application under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, OJ L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. On 29 March 2020, the applicant requested access to document 7124/05 which contains a contribution of the Council Legal Service related to the presentation of the Community's positions in the International Maritime Organisation (IMO).
2. On 22 April 2020, the General Secretariat of the Council replied to the applicant and granted access to points 1 and 2 of the requested document. Access to the rest of the document was refused pursuant to Article 4(2), second indent (protection of court proceedings and legal advice) of Regulation (EC) No 1049/2001.
3. On 23 April 2020, the applicant submitted a confirmatory application asking the Council to reconsider the GSC's position.

4. While partial access was already granted to paragraphs 1 and 2 of the requested document, the Council has carefully considered the confirmatory application for document 7124/05 for as regards the remaining parts of the opinion. It has re-assessed, in full consideration of the principle of transparency underlying Regulation (EC) No 1049/2001 whether public access can be provided to the requested document. In doing so, the Council has carefully scrutinized the content of the requested document as well as the submissions in Case C-161/20, Commission v. Council, which had only been received at the state of the initial application. In light of these considerations, disclosure of the document does not appear anymore to undermine the protection of legal advice.
5. The Council notes that the positive decision regarding document 7124/05 is based on an individual analysis of its content and the specific circumstances of the present case. It does under no circumstances constitute a precedent for the future, since each application shall be assessed and judged on its own merit, pursuant to the established practice of the Council.

---