



Council of the
European Union

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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	7296/20; 7297/20; 7298/20
Subject:	Public access to documents - Confirmatory application No 12/c/01/20

Delegations will find in Annex the Council's draft reply on the above-mentioned confirmatory application, as agreed by the Working Party on Information, following the written consultation launched on 11 May 2020 which ended on 15 May 2020.

DRAFT REPLY ADOPTED BY THE COUNCIL ON xxxx
TO CONFIRMATORY APPLICATION 12/c/01/20,
made by email on 6 April 2020 and registered on 7 April 2020
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to documents related to "trilogues
on the proposal for a Single-Use Plastic Directive".

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 20 February 2020, the applicant requested access to *"All documents - including but not limited to emails, papers, non-papers, minutes, reports and 4-column tables - related to all the trilogue meetings between the Parliament and the Council on the proposal for a Single-Use Plastic Directive"*.

2. On 31 March 2020, the General Secretariat of the Council replied to the applicant. It identified 24 documents¹ related to the trilogues on the *Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment* and sent them to the applicant. It has to be noted that the reply did not contain any refusal of access.
3. Nevertheless, the applicant submitted a confirmatory application asking the Council to reconsider the GSC's position on 6 April 2020. This confirmatory application was registered on 7 April 2020.
4. In his confirmatory application, the applicant first asked whether any notes and/or minutes were produced during the trilogue meetings and if they were, he argued that these should be provided as part of the response.
5. Secondly, the applicant indicated that the papers sent as part of the response mention a series of political and technical meetings (including COREPER and tripartite meetings) which were held to debate Member States views and prepare discussions at trilogue meetings. He is of the opinion that any documents/minutes/papers originating during/before/after these meetings should fall within the scope of his request and be disclosed.
6. Thirdly, the applicant asked whether any email correspondence was exchanged in preparation or as a result of the trilogue meeting and if it was the case, he considered that this should also be provided as part of the response.

¹ i.e. ST 13495/18, WK 13273/2018, ST 13773/18, a draft agenda for the 1st trilogue of 6 November 2018, a revised draft agenda for the 1st trilogue of 6 November 2018, a 4-column table for the 1st trilogue of 6 November 2018, WK 13710/2018, ST 13995/18, WK 14274/2018, ST 14555/18, a draft agenda for the second trilogue of 28 November 2018, a 4-column table for the second trilogue of 28 November 2018, WK 14922/2018, ST 15173/18, ST 15211/18, WK 15571/2018, WK 15571/2018 ADD 1, WK 15571/2018 ADD 2, WK 15571/2018 ADD 3, ST 15606/18, a draft agenda for the third trilogue of 18 December 2018, a revised draft agenda for the third trilogue of 18 December 2018, a 4-column table for the third trilogue of 18 December 2018 and ST 5133/19.

7. The Council has carefully considered the confirmatory application in the light of the applicant's arguments. Having carried out new internal consultations with the relevant department of its General Secretariat, it has re-assessed the request for access in full consideration of the principles underlying Regulation (EC) No 1049/2001 and has come to the conclusion set out below.
8. Regarding the first point mentioned in the confirmatory application, i.e. the possible existence of notes or minutes produced during the trilogue meetings, after having re-consulted the responsible unit within the GSC, the Council can confirm that there are no such notes or minutes.
9. Concerning the second point raised by the applicant, the Council is of the opinion that with the new formulation used and notably the specific reference to COREPER meetings, the summary records of the COREPER meetings during which the documents related to the trilogues concerning the legislative procedure at stake were discussed, should also be considered.

Consequently, the applicant's attention is drawn to the following documents:

- **14186/18** : Summary Record of the Permanent Representatives Committee of 31 October 2018 (see item 38);
- **15406/18** : Summary Record of the Permanent Representatives Committee of 21 and 23 November 2018 (see item 2);
- **15778/18** : Summary Record of the Permanent Representatives Committee of 12 and 14 December 2018 (see item 19);
- **5955/19** : Summary Record of the Permanent Representatives Committee of 16 and 18 January 2019 (see item 12).

These documents are public and directly downloadable in the public register of Council documents accessible via the following link : <http://register.consilium.europa.eu>

10. What concerns the third point raised by the applicant, the Council confirms after reassessing that it does not hold any documents in this regard.

11. The Council considered that the letter of 18 January 2019 sent by the Chairman of the Permanent Representatives Committee to the Chairperson of the Environment Committee of the European Parliament with the agreed text between the two institutions could be covered by the request. Access to this letter and its annex is given and they are enclosed with this reply.

Conclusion

12. In the light of the above, the Council came to the conclusion that no other additional documents except the ones mentioned in points 9 and 11 above are covered by the request.
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