



**RADA
EVROPSKÉ UNIE**

**Brusel 16. září 2011 (20.09)
(OR. en)**

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POZNÁMKA K BODU „I/A“

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| Odesílatel: | Pracovní skupina pro informace |
| Příjemce: | Coreper (část II) / Rada |
| Č. předchozího dokumentu: | 13781/11 |
| Předmět: | Přístup veřejnosti k dokumentům - potvrzující žádost č. 23/c/01/11 |

Delegace naleznou v příloze návrh odpovědi Rady na potvrzující žádost č. 23/c/01/11 ve znění po posouzení v Pracovní skupině pro informace na zasedání konaném dne 16. září 2011.

Výbor stálých zástupců se tudíž vyzývá, aby Radě navrhl, aby na příštím zasedání vyjádřila v rámci bodů „A“ souhlas s návrhem odpovědi uvedeným v příloze tohoto dokumentu.

Příloha je k dispozici pouze v anglickém znění.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON
TO CONFIRMATORY APPLICATION No 23/c/01/11,
made by e-mail on 24 August 2011,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to documents

The Council has considered this 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 of 31.5.2001, p. 43) (hereafter "Regulation No 1049/2001") and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. The applicant refers to the following documents:
 - a) Minutes of the first Human Rights dialogue meeting between the European Union and Mexico, held in May 2010, within the framework of the Strategic Partnership, as well as any other documents presented at that meeting;
 - b) Minutes of the second Human Rights dialogue meeting between the European Union and Mexico, held in March 2011, within the framework of the Strategic Partnership, as well as any other documents presented at that meeting; and
 - c) Minutes of the European Union-Mexico Joint Council meetings held from 2001 to 2010, within the framework of the Economic, Political Coordination and Cooperation Agreement, any other documents presented at those meeting.
2. In its reply dated 1 August 2011, the General Secretariat refused public access to the requested documents pursuant to Article 4(1)(a), third indent, of Regulation No 1049/2001 (protection of the public interest with regard to international relations).

3. In the confirmatory request made on 24 August 2011, the applicant indicates that a number of European civil-society organisations have recently publicly asked Baroness Ashton and the European Commission delegation in Mexico for full or partial access to those documents.
4. The Council has examined the above-mentioned documents and has come to the following conclusions:
5. In the mid 1990s, the European Union negotiated an Economic Partnership, Political Coordination and Cooperation Agreement with Mexico which was signed in 1997 and entered into force in 2000. This agreement –the "Global Agreement" – provided a suitable framework for both deepening and strengthening EU-Mexico political relations. The Agreement had three main pillars: political dialogue, trade and cooperation. An EU-Mexico Joint Council was set up to implement the Agreement. The EU-Mexico Joint Council has met six times since 2001. The date of the seventh meeting has not yet been agreed by the two parties.

As from late 2004, and building on the basis of growing EU-Mexico economic links, the EU and Mexico decided to pool their efforts in order to intensify high-level contacts. Since the entry into force of the Global Agreement, the EU and Mexico had developed an active and frank political dialogue on issues of mutual interest. The progressive strengthening of EU-Mexico bilateral relations ultimately led the EU and Mexico to establish closer bilateral political links and, in particular, to establish a "Strategic Partnership".

The establishment of a Strategic Partnership between Mexico and the EU reflects the readiness of both players to strengthen coordination on matters of global importance and further intensify their political, economic and cooperation links. The guiding objectives of the Strategic Partnership between Mexico and the EU are the consolidation of democracy and the rule of law, the protection of human rights, sustainable economic development, equal opportunities and a mutual commitment to fighting poverty and social exclusion. In May 2010, both parties subscribed to a Joint Executive Plan with the aim of implementing the priority projects referred to in the Strategic Partnership. As regards human rights, the parties

agreed to step up their dialogue on human rights and, for this purpose, to have an annual meeting to discuss issues related to the human rights situation in Mexico and within the EU. Such annual human rights dialogue meetings have so far taken place twice, in May 2010 and in March 2011.

Minutes of the first and second Human Rights dialogue meeting between the European Union and Mexico, held in May 2010 and March 2011, within the framework of the Strategic Partnership, as well as any other documents presented at those meetings

6. The first Human Rights dialogue meeting between the European Union and Mexico within the framework of the Strategic Partnership was held on 12 May 2010 in Mexico City. As the initial reply of the General Secretariat indicated, there are no minutes as such for human rights dialogue meetings. A report of this meeting is contained in document CFSP/PRES/MAD/0433/10 (RESTREINT UE).
7. The second Human Rights dialogue meeting between the European Union and Mexico within the framework of the Strategic Partnership was held on 2 March 2011 in Brussels. A report of this meeting is contained in document CFSP/EAS/0559/11 (RESTREINT UE).
8. The above-mentioned documents set out details of the discussions held between the EU and Mexico during the two Human Rights Dialogue meetings on a variety of human rights issues like, among others, freedom of expression, human rights defenders and freedom of expression.

The Council considers that, given the sensitive content of the documents, their full release would hinder the EU's diplomatic efforts in order to maintain a constructive dialogue with Mexico on the respect of human rights and to find constructive solutions in problematic situations related to human rights. If disclosed, the information contained in the documents would therefore also be detrimental to the good functioning of the relations between the EU and Mexico. Therefore, the exception on the protection of international relations under Article 4(1)(a), third indent, of Regulation No 1049/2001 applies.

In accordance with Article 4(4) of Regulation No 1049/2001, the European External Action Service (EEAS) has been consulted on document CFSP/EAS/0559/11. It came to the same conclusion, asking for access to be refused accordingly.

9. Moreover, document CFSP/EAS/0559/11 contains personal data on the participants of the meeting in question. The Council did not obtain the explicit consent of all the persons concerned to the disclosure of their personal data, pursuant to Article 5, point d) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.
10. Full access to the documents under scrutiny must therefore be refused pursuant to Article 4(1)(a), third indent, of Regulation No 1049/2001 (protection of public interest with regard to international relations). Furthermore, in accordance with the provisions of Article 4(1)(b) of the said Regulation (protection of the privacy and the integrity of the individual), the Council is unable to grant access to those parts of document CFSP/EAS/0559/11 which contain data relating to persons whose consent it has not obtained or whose consent it has not been possible to obtain within the time-limit.
11. The Council has examined, pursuant to Article 4(6) of the Regulation, the possibility of granting partial access to documents CFSP/PRES/MAD/0433/10 and CFSP/EAS/0559/11. It has come to the conclusion that there was no room to grant partial access, since the exception on the protection of international relations under Article 4(1)(a), third indent, of Regulation No 1049/2001, applies to the documents concerned in their entirety.
12. Regarding the applicant's request for access to documents presented at the first and second Human Rights dialogue meetings held in May 2010 and March 2011, the Council has not been able to identify any documents presented at these meetings. The discussions of the dialogues were held following the jointly approved agenda items and both parties reverted to their own briefings. There was no distribution of documents during the Dialogues.

Minutes of the European Union-Mexico Joint Council meetings held from 2001 to 2010, within the framework of the Economic, Political Coordination and Cooperation Agreement, any other documents presented at those meeting

13. The first EU-Mexico Joint Council meeting was held on 27 January 2001 in Brussels. The minutes of the meeting are contained in document UE-MX 3857/2/01 REV 2. Three documents were presented at the meeting: UE-MX 3852/01 (Decision No 2/2001 of the EU-Mexico Joint Council implementing Articles 6, 9, 12 (2) (b) and 50 of the Economic Partnership, Political Coordination and Cooperation Agreement ¹), UE-MX 3853/01 (Decision establishing the rules of procedure of the EU Joint Council ²) and UE-MX 3854/01 (Recommendation No. 1/2000 of the Special Committee on Government Procurement established under Article 32 of Decision No. 2/2000 ³).
14. The second EU-Mexico Joint Council meeting was held on 13 May 2002 in Brussels. The minutes of the meeting are contained in document UE-MX 3851/03. Three documents were presented at the meeting: UE-MX 3851/02 (Decision No 1/2002 of the EU-Mexico Joint Council adopting, pursuant to Article 17(3) of Decision no 2/2000, an Annex to the said Decision on mutual administrative assistance in customs matters ⁴), UE-MX 3853/02 (Decision N° 2/2002 of the EC-Mexico Joint Council of relating to the accelerated elimination of customs duties of certain products listed in Annexes I and II of Decision No 2/2000 of the EC-Mexico Joint Council ⁵) and UE-MX 3854/02 (Decision n° 3/2002 of the EC-Mexico Joint Council relating to the tariff treatment of certain products listed in Annexes I and II of Decision no 2/2000 of the EC-Mexico Joint Council ⁶).

¹ Published in JO L 70, 12.03.2001, p.7.

² Published in JO L 70, 12.03.2001, p. 1.

³ Published in JO L 58, 28.02.2001, p. 23.

⁴ Published in JO L 44, 18.02.2003, P. 97.

⁵ Published in JO L 133, 18.05.2002, p. 23.

⁶ Published in JO L 133, 18.05.2002, p. 28.

15. The third EU-Mexico Joint Council meeting was held on 27 March 2003 in Athens. The minutes of the meeting are contained in document UE-MX 3854/03. Apart from the minutes of the second meeting of the EU-Mexico Joint Council, the Council has not been able to identify any documents presented at the third EU-Mexico Joint Council meeting.
16. The fourth EU-Mexico Joint Council meeting was held on 26 May 2005 in Luxemburg. The minutes of the meeting are contained in document UE-MX 4451/07. A "Country Concept Note" in Spanish was presented at the meeting.
17. The fifth EU-Mexico Joint Council meeting was held on 19 April 2007 in Santo Domingo. The minutes of the meeting are contained in document UE-MX 2051/09. A "Country Strategy Paper 2007-2013 for Mexico" was presented at the meeting.
18. The Council has concluded that the exceptions in Article 4 of Regulation 1049/2001 do not apply to the documents mentioned in points 12-16 and that the applicant may therefore have full public access to them.
19. The sixth EU-Mexico Joint Council meeting was held on 14 May 2009 in Prague. The draft minutes of the meeting are contained in meeting document 38/11. These draft minutes have not yet been approved by the two parties. The Council considers that there is a real risk that unilateral public release by the EU of a draft document containing details on the discussions between EU and Mexico on highly sensitive issues in a meeting not open to the public would make it more difficult to address controversial issues between the two parties in this format in the future. Full disclosure of the document would thus jeopardise the good functioning of the EU-Mexico cooperation. The Council must therefore refuse full access to meeting document 38/11 pursuant to Article 4(1)(a), third indent, of Regulation No 1049/2001 (protection of the public interest with regard to international relations).

20. The Council has examined, pursuant to Article 4(6) of the Regulation, the possibility of granting partial access to the meeting document 38/11. It has come to the conclusion that there was no room to grant partial access, since the exception referred to in paragraph 18 of this reply applies to the document in its entirety.
21. However, the applicant may have full public access to document 8436/09, a joint communiqué issued following the above-mentioned sixth EU-Mexico Joint Council meeting.
22. Apart from the minutes of the fifth meeting of the EU-Mexico Joint Council, the Council has not been able to identify any documents presented at the sixth EU-Mexico Joint Council meeting.
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