



Council of the
European Union

Brussels, 8 May 2024
(OR. en)

8524/24
ADD 1

LIMITE

INF 97
API 67

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	8522/24; 8523/24
Subject:	Public access to documents - Confirmatory application No 15/c/01/24 = Statement

Statement by Spain

With regard to the proposed reply to Confirmatory application No 15/c/01/24, Spain does not agree with the proposal of full disclosure of document 5591/21. In the absence of further reasons to justify disclosure in the Confirmatory application, the justification provided by the GSC in its reply dated 13 March 2024 (8522/24) remain valid and applicable. Disclosure of this document, in view of its subject matter, would undermine the protection of the public interest as regards international relations under Article 4(1)(a)(third indent) of Regulation (EC) N° 1049/2001, as well as the protection of legal advice under Article 4(2), second indent, of Regulation (EC) N° 1049/2001.

Spain would like to underline particularly the sensitivity of the document in question with regard to public interest as regards international relations, with regard to third countries in general, in view of the broad nature of the questions discussed and also as regards the relations with the UK, which the

requested opinion directly pertains to. It should be noted that the Opinion of the Legal Service analyses the distribution of competences between the EU and its Member States with a view to the conclusion of the EU–UK Trade and Cooperation Agreement, and concludes that the agreement lies in an area of facultative mixity, so that the Council could adopt a political decision as to whether the agreement should be concluded as a mixed agreement or as an EU-only agreement. It also analyses when and under which conditions Member States can conclude bilateral agreements with the UK.

Revealing this political choice could have an impact on international relations, including with regard to ongoing negotiations of the EU and/or the Member States with third countries, in particular with the UK itself.

Finally, no overriding public interest in disclosure can justify that the exception of protection of international relations is disregarded. Concerning the exception of protection of legal advice, as the GSC originally justified, no overriding public interest can prevail, considering in particular that the legal advice in question does not pertain to legislative matters.