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|  | Brussels, 14 April 2021 |
| Ms Vicky CannEmail: ask+request-9217-a893bf24@asktheeu.org |
| Ref. 21/0704-mw/nsRequest made on: 19.03.2021 |
| Dear Ms Cann, |

Thank you for your request for access to documents of the Council of the European Union.[[1]](#footnote-1)

Please find attached a partially accessible version of document ST 5737/21.[[2]](#footnote-2) However, I regret to inform you that full access cannot be given for the reasons set out below.

Document ST 5737/21 is a presidency paper to delegations on the introduction of an EU-wide financial transaction tax (FTT). The document examines the state of play of FTT negotiations, the French and Italian models of FTT and different aspects of an European FTT.

In view of its subject-matter, disclosure of the issues with which it deals would undermine the protection of the financial, monetary and economic policy of the Union and of Member States, since the discussions deal with the possibility of introducing a tax for transactions of financial and economic importance, with a direct impact on the financial position of both participating and non-participating Member States in the enhanced cooperation.[[3]](#footnote-3)

At present, still no agreement has been reached among the Member States participating in the enhanced co-operation, that also respects the competences, rights and obligations of the Member States not participating in the enhanced co-operation on FTT. The requested document puts forward elements intended to overcome the stalemate in the negotiations.

Disclosure of the document would adversely affect the negotiations by impeding internal discussions of the Council on the proposal and would hence risk compromising the capacity of the institution to reach an agreement on this difficult file and thus seriously undermine the decision-making process of the Council.[[4]](#footnote-4)

As regards the existence of an overriding public interest in disclosure in relation to the protection of the institution's decision-making process under the Regulation, the General Secretariat considers that, on balance, the principle of transparency which underlies the Regulation would not, in the present case, prevail over the above indicated interest so as to justify disclosure of the document.

In the light of the foregoing, the General Secretariat of the Council is unable to grant you full access to this document. However, in accordance with Article 4(6) of the Regulation, you may have access to paragraphs 1-11.

We regret to inform you that the General Secretariat of the Council does not hold any document containing "notes and summaries of the discussion held at the meeting of the Working Party on Tax Questions on 24 February 2021; copies of all member state questionnaires on the topic of the Financial transactions tax which were used to prepare the meeting".

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.[[5]](#footnote-5)

Yours sincerely,

Fernando FLORINDO

Enclosure

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). [↑](#footnote-ref-1)
2. Article 4(6) of Regulation (EC) No 1049/2001. [↑](#footnote-ref-2)
3. Article 4(1)(a), fourth indent, of Regulation (EC) No 1049/2001. [↑](#footnote-ref-3)
4. Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001. [↑](#footnote-ref-4)
5. Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent. [↑](#footnote-ref-5)