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Bilag	Sag/ID Nr.	Enhed	Dato
	2021-34886/1542585	Koncernjura, Offentlig ret og Arkiv (JTK)	13. January 2022

## Request for access to documents

By e-mail of 11 October 2021, you have requested the Ministry of Foreign Affairs of Denmark for access to documents as follows:

*"Dear Permanent Representation of Denmark to the EU,*

*Under Denmark's Public Administration Act (Lov om offentlighed i forvaltningen nr 606 af 12/06/2013), I kindly request access to any document in your possession on the position of the Danish government on the amendments proposed by the European Parliament on 10 March 2021 on the EU fisheries control Regulation.*

*I am specifically interested in the amendments to articles 93 and 113 to of Regulation (EC) No 1224/2009 - the EU Fisheries Control Regulation, which are currently being discussed in trilogue negotiations between the European Parliament, Council and Commission.*

*I am requesting documents, including emails and meeting minutes, that include information on the position of the Danish government on the above.*

*Given that the trilogue discussions are ongoing, I would appreciate a speedy response to my request. I remain at your disposal should you need further information.*

*Yours faithfully,  
Martina Tombini  
AccessInfoEurope*

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*This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the AsktheEU.org website. Please kindly use this email address for all replies to this request: [ask+request-10051-942e19b8@asktheeu.org](mailto:ask+request-10051-942e19b8@asktheeu.org)."*

The Ministry of Foreign Affairs has processed your request in accordance with the rules on the right to access to documents under The Danish

Access to Public Administration Files Act (Offentlighedsloven) nr 606 af 12/06/2013.

The Ministry of Foreign Affairs has conducted a search in the Ministry's records etc. for documents relevant to your request. The Ministry of Foreign Affairs has identified documents, deemed to fall within the scope of your request. The list of case documents is attached to this decision. The information you have been granted access to is also enclosed.

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The Ministry of Foreign Affairs has exempted several documents as well as information in accordance with the Access to Public Administration Files Act. The exemptions are listed in the documents incl. explanatory notes with reference to the relevant sections in the Access to Public Administration Files Act.

According to section 23 (1), no. 1 of the Access to Public Administration Files Act, the right of access does not cover internal documents. The Danish Ministry of Foreign Affairs and its diplomatic missions are one integrated representation and one single authority, cf. section 2 in The Law of Foreign Service (lov nr. 150 af 13. april 1983 as changed by law nr. 331 af 14. maj 1997). In accordance with section 23 (1) no. 1, documents are internal, when they have not been distributed outside of the Ministry.

The Ministry of Foreign Affairs has exempted certain internal documents and information. This pertains to, for example e-mail instructions to Coreper I.

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According to section 23 (1) no. 2 and section 24 (1) no. 2 of the Access to Public Administrations Files Act, the right of access does not include access to internal documents or information circulated between ministries, inasmuch as there is a specific reason to assume that a minister had or would need the aid and advice of the civil services.

The Ministry of Foreign Affairs has exempted certain documents in accordance with this provision. The documents are internal, and have been exchanged with the Ministry of Food Agriculture and Fisheries of Denmark at a time when there was a specific reason to assume that a the minister had or would need the aid and advice of the civil service.

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The Ministry of Foreign Affairs has assessed that the exempted documents contain certain factual information concerning the case, which may be extracted, in accordance with section 28 of the Access to Public Administration Files Act and must be assessed with reference to sections 30-33 of the said Act. This factual information, is however exempted in accordance with the rules on the right of access to documents, as explained below.

Furthermore the ministry has identified a number of documents and information that are not relevant for your request for access to information and therefore do not appear in this decision.

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In accordance with section 32 (1) of the Access to Public Administrations Files Act, the right of access to information may be subject to limitation in order to ensure essential protection of Danish foreign policy interests etc., including relations with foreign powers or international organizations to the extent that confidentiality follows from obligations under EU law or other international law or similar hereto.

In accordance with this provision, the Ministry of Foreign Affairs has exempted information regarding contact information on employees from other States and EU institutions. Also information on Danish negotiating positions provided for the ongoing negotiations on EU Fisheries Control Regulation has been exempted. Danish positions and comments have been shared with other EU-member states and EU institutions as part of diplomatic cooperation with the expectation of discretion, in accordance with EU legal obligations as well as mutually recognized and observed custom.

The Danish Ministry of Foreign Affairs has assessed that the information should be exempted to ensure protection of Danish foreign policy interests, as the information in question was exchanged under expectations of confidentiality. Thus, the Ministry has exempted this information from the right of access.

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The Ministry of Foreign Affairs has considered whether access to the exempted information should be granted in accordance with the

principle of additional access to information as governed by section 14 (1) of the Access to Public Administration Files Act. The Ministry has balanced the considerations and principles governed by section 32 (1) of the Access to Public Administration Files Act against the legitimate interest you have in having your request for access to information accommodated. Based on this assessment, the Ministry of Foreign Affairs did not find grounds to grant additional access to the concerned documents.

However, you will be able to find a note to the Danish Parliament “samlenotat” in the European Committee of the Danish Parliament (Europa Udvalget), concerning the Danish position with regard to the EU Fisheries Control Regulation prior to the AGRIFISH Council meeting on 28-29 June on the web-site of the Danish Parliament “Folketinget”: See link:

[Rådsmøde nr. 3806 \(landbrug og fiskeri\) den 28.-29. juni 2021 - Bilag 1: Samlenotat vedr. rådsmøde landbrug og fiskeri 28-29/6-21 / Folketingets EU-Oplysning.](#)

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This decision cannot be appealed to a higher administrative authority.

If you have any questions, please do not hesitate to contact me by phone +45 3392 0177, or by e-mail at [carrub@um.dk](mailto:carrub@um.dk)

Sincerely,

Caroline Rubow  
(Head of Section)