



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 February 2001

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"I/A" ITEM NOTE

from :	Working party on Information
to :	Coreper (2nd part) / Council
No. prev. doc.:	5666/1/01 REV 1, 5666/1/01 REV 1 COR 1 (en), 6258/01
Subject :	Draft Council Decision on making certain categories of Council documents available to the public

Delegations will find attached a draft Council Decision on making certain categories of Council documents available to the public as agreed by the Information Working Party¹.

Coreper is asked to suggest that the Council, at its next meeting, adopts the Council Decision as an "A" item, provided that the United Kingdom delegation has withdrawn its parliamentary scrutiny reservation.

¹ The United Kingdom delegation entered a parliamentary scrutiny reservation.

Draft

**Council Decision on making certain categories of Council documents
available to the public**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 207(3) thereof,

Having regard to its Rules of Procedure, and in particular Article 10 thereof,

Whereas:

- (1) Transparency is an essential principle for the functioning of the institutions of the Community. Public access to documents is one of the instruments to apply this principle.
- (2) In accordance with Article 207(3) of the Treaty establishing the European Community, greater public access to documents relating to the Council's legislative activities should be allowed.
- (3) The third report by the Secretary-General of the Council on the implementation of Council Decision 93/731/EC on public access to Council documents¹ shows a substantial increase of the number of requests for access to documents. The report also demonstrates that the public register of Council documents available via the Internet is a valuable tool with a view to identifying and facilitating access to Council documents.
- (4) In order to further increase transparency of the Council's activities, as many Council documents as possible should be made available to the public via the Internet. As requested by the Council, the above-mentioned report by the Secretary-General of the Council contains suggestions to that effect.
- (5) This decision does neither prejudice the application of Council Decision 93/731/EC on public access to Council documents nor the content of the act concerning the general principles and limits governing the right of access to documents which has to be adopted pursuant to Article 255(2) of the Treaty establishing the European Community.

DECIDES:

¹ OJ L 340 of 31.12.1993, p. 43, as amended by Decision 96/705/EC (OJ L 325 of 14.12.1996, p. 19) and Decision 2000/527/EC (OJ L 212 of 23.8.2000, p. 9).

Article 1
Scope and general provisions

1. This Decision shall apply to all Council documents, provided that they are not classified.
2. A Member State may request the General Secretariat not to make available to the public under this Decision a document originating from that State without its prior agreement.

Article 2
Definitions

For the purpose of this Decision:

- "legislative document" shall mean any document concerning the examination and adoption of a legislative act within the meaning of Article 7 of the Council's Rules of Procedure;
- "circulation" shall mean distribution of the final version of a document to the members of the Council, their representatives or delegates.

Article 3
General rules

1. The General Secretariat shall make the following documents available to the public as soon as they have been circulated :
 - a) documents not authored by the Council or a Member State, which have been made public by their author or with his agreement;
 - b) provisional agendas of meetings of the various formations of the Council;
 - c) any text adopted by the Council and intended to be published in the Official Journal;
2. Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Council Decision 93/731/EC on public access to Council documents, the General Secretariat may also make the following documents available to the public as soon as they have been circulated :
 - a) provisional agendas of committees and working parties,
 - b) information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions.

Article 4
Specific rules for legislative documents

1. In addition to the documents mentioned in Article 3, the following legislative documents shall be made available to the public by the General Secretariat as soon as they have been circulated:
 - a) cover notes and copies of letters concerning legislative acts addressed to the Council by other institutions or bodies of the European Union or, subject to Article 1 paragraph 2, by a Member State;
 - b) notes submitted to Coreper and/or to the Council for approval ("I/A" and "A" Item Notes), as well as the draft legislative acts to which they refer;
 - c) decisions adopted by the Council during the procedure referred to in Article 251 of the Treaty establishing the European Community and joint texts approved by the Conciliation Committee;
2. After adoption of one of the decisions referred to in paragraph 1 c) or final adoption of the act concerned the General Secretariat shall make available to the public any legislative documents relating to this act which were drawn up before this decision and which are not covered by any of the exceptions laid down in Article 4, paragraph 1 of Decision 93/731/EC on public access to Council documents, such as information notes, reports, progress reports and reports on the state of discussions in the Council or in one of its preparatory bodies ("outcomes of proceedings"), excluding Legal Service opinions and contributions.

At the request of a Member State, documents which are covered by the preceding subparagraph and reflecting the individual position of that Member State in the Council, shall not be made available to the public under this Decision.

Article 5
Final provisions

This Decision shall be published in the Official Journal.

It shall take effect on 1st May 2001.

Done at Brussels...

For the Council
The President