

TRANSPARENCY - IMPLEMENTATION OF THE BIRMINGHAM DECLARATION

- Acces to the work of the Council
- Information on the role of the Council and its decisions
- Simplification of and easier access to Community legislation

ACCESS TO THE WORK OF THE COUNCIL

The process of opening up the work of the Council will start in the following areas:

a) Open Debates on Work Programme and on Major Initiatives of Community Interest

- i) Open orientation debates on relevant Presidency or Commission work programmes, in both the General Affairs Council and the ECOFIN Council. The timing will be for decision by the Presidency.
- ii) There should be regular open debates on major issues of Community interest. It will be for the Presidency, any Member State or the Commission to propose issues for open debate. The decision will be taken by the Council on a case by case basis.

b) Legislation

Major new legislative proposals will, whenever appropriate, be the subject of a preliminary open debate, in the relevant Council, on the basis of the Commission's legislative proposal. It will be for the Presidency, any Member State or the Commission to propose specific subjects for a debate. The decision will be taken by the Council on a case by case basis. Negotiations on legislation in the framework of the Council shall remain confidential.

c) Publication of Voting Records

When a formal vote is taken in Council, the record of the vote (including explanations of vote where delegations request these) shall be published.

- d) The decision on holding an open debate on a specific item under point a ii) and b) shall be taken by unanimity.
- e) "Public access" will be achieved by televising the debate for viewing in the press area of the Council building.

INFORMATION ON THE ROLE OF THE COUNCIL

A. Transparency on the Council's decisions

- Extension to all Council formations of the practice, established over the years in most Councils, of publishing a full description in the Press release of the conclusions reached by the Council (exceptions being made for cases where such information would damage the interests of the Member States, the Council, or the Community - e.g. negotiating mandates). More systematic emphasis on publication of explanatory summaries concerning important "A" points adopted at the Council. Greater efforts to be made when drafting conclusions to make them understandable to the public.
- Better background information on Council decisions (e.g. objective, history, link to other subjects) to be made available, if possible for distribution at pre-Council press briefings, in the form of background notes prepared by the Secretariat in user-friendly terms. This initiative could be extended in the future to cover matters relating to Common Foreign and Security policy and Internal and Justice Affairs, taking into account the specific need for confidentiality in some areas.
- Systematic background pre-Council press briefings by Presidency, assisted by Council Secretariat (today not all Presidencies hold such briefings and often they are limited to the national Press corps).
- Publication of the common positions established by the Council under the procedures of articles 189 b and 189 c and the explanatory memorandum accompanying them.
- It is important to make all information material available rapidly in all Community languages.

B. Increase in general information on the role and the activities of the Council

The annual report, which is currently published after long delays, to be published from now on early in the new year on the responsibility of the Secretary General. ~~Aim to make it~~ more interesting and more understandable to the public - and complementary to, rather than duplicating, the Commission's annual report. There should also be a short summary aimed at broad circulation.

Increase in the Council's information activities in general including a reinforcement of the Press Service. Stepping up of the already quite intensive information activity (group visits) performed by the services of the Secretariat. Establishing a programme for visits of journalists - particularly EC news editors - not based in Brussels (in co-operation with the Commission).

C. Cooperation and more Rapid Transmission of Material

- Activating the existing information group of the Council and extending it to the other Institutions with a view to developing coordinated information strategies;
- Cooperation between Member States and Community Institutions in the information field.
- Use of new communication technologies: data bases, electronic-mail for making information available outside Council meeting places (Brussels/Luxembourg).

SIMPLIFICATION OF AND EASIER ACCESS TO COMMUNITY LEGISLATION

I Making new Community legislation clearer and simpler

While the technical nature of most texts and the need to compromise among the various national positions often complicate the drafting process, practical steps should nevertheless be taken to improve the quality of Community legislation, such as the following:

- a) guidelines for the drafting of Community legislation should be agreed upon, containing criteria against which the quality of drafting of legislation would have to be checked;
- b) delegations of Member States should endeavour, at all levels of the Council proceedings, to check more thoroughly the quality of legislation;
- c) the Council Legal service should be requested to review draft legislative acts on a regular basis before they are adopted by the Council and make suggestions where necessary for appropriate redrafting in order to make such acts as simple and clear as possible;
- d) the jurist-linguist group, which does the final legal editing of all legislation before it is adopted by the Council (with the participation of national legal experts), should give suggestions for simplifying and clarifying the language of the texts without changing their substance.

II Making existing Community legislation more accessible

Community legislation can be made more readily accessible in a concise and intelligible form through a speedier and more organised use of consolidation or codification; an improvement of the CELEX-database system should also be considered.

1) Improving and organising consolidation or codification of Community legislation

The two possible approaches - unofficial consolidation and official codification " - must be pursued in parallel.

- a) The Office for Official Publications of the European Communities has an important role to play in respect of unofficial consolidation. Planning of this began some time ago and a new system will be operated as from 1993 on, whereby the consolidated version of all Community legislation undergoing amendments can be made automatically available following any such amendment; two years later, the system should be able to cover the whole of Community legislation (including past legislation) provided that there is adequate funding. Consolidated legislation should be immediately published (in the C-series of the Official Journal), possibly after adding the "considérants", and/or made available through CELEX.

1) A clear distinction must be made between

- unofficial consolidation which consists in editorial assembling, outside any legislative procedure, of the scattered parts of legislation on a specific issue, which has no legal effect and which leaves all such parts in force (see for instance the consolidated text of the Financial Regulation, OJ C 80 of 25.03.1991, p. 1);
- official codification which is achieved through the adoption of a formal legislative Community act through the relevant procedures, while repealing all pre-existing texts (see, for instance, the Council Regulation on the common organisation on the market in fishery products, OJ L 354 of 23.12.1991 p. 1).

- b) Official codification is important because it provides legal security as to the law which is applicable at a certain moment concerning a specific issue.

Since official codification can only be done through the relevant legislative procedures, priorities need to be established and an accelerated working method agreed upon between the three institutions which have legislative powers.

- i) Official codification should take place on the basis of agreed priorities. The Commission will propose such priorities in its work programme after appropriate consultation;
- ii) A jointly acceptable accelerated working method should be sought allowing codified Community law, (replacing existing legislation without changing its substance) to be adopted in a speedy and efficient way; a consultative group composed of the legal services of the Commission, the Council and the Parliament would help to carry out the necessary ground work to permit the adoption of codified Community legislation as rapidly as possible under the Community's normal decision-making procedure.

2) Strengthening the CELEX data system¹⁾

CELEX should be improved with a view to

- a) catching up with the delay as to
 - = existing legislation,
 - = feeding the database in the Greek, Spanish and Portuguese languages;
- b) making the system a more user friendly and accessible to the public.

The necessary financial means should be made available.

1) The Celex system (automated documentation on Community law) was set up in 1970 as an interinstitutional computerized documentation system and was made available to the public in 1981; it contains the entire body of EC law.

On 13 November 1991, the Council adopted a resolution on the re-organisation of the operating structures of CELEX with a view to enhancing its effectiveness (OJ C 308 of 28.11.91 p.2).