LEGISLATIVE TRANSPARENCY - Milestone documents - Current Practice (3rd column) vs. Options (4th column)

Milestones	Documents	Current Practice[1]	Options
Receipt of proposal	Commission proposal	COM adopts its proposal and makes it public. CONS receives the proposal and publishes it as a public ST document.	Maintenance of current practice (no other options deemed feasible).
Discussion in Working Party/COREPER	Agendas	WP agendas are issued as public CM documents.	Maintenance of current practice (no other option deemed feasible).
	State of Play/Progress report	Progress Reports are generally LIMITE documents when they go to Coreper, though this is not always the case (e.g. 10519/17). Other reports submitted to the WP are generally LIMITE.	- <u>Progress Reports / State-of-Play to Coreper</u> (1) all LIMITE Therefore, it would be eventually released after adoption of the act. However, in case a report would then go to Council, it becomes public upon inscription on the Council agenda. (2) all PUBLIC Either since its creation or released after consideration by Coreper. (3) case-by-case - this is the current practice which leads to different practices and incoherence across sectors, files and working parties. NB in all options, in case of an access request, at least partial access would likely be granted.

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[1] N.b.: This table covers only documents relating to legislative files. The handling of documents relating to non-legislative files may differ.

			- Reports at the Working Party level: similar to the above.
Debate in Council	Report / Note to Council/COREPER	All documents placed on a Council agenda are public documents. Documents going to COREPER are generally LIMITE documents. They are public documents if they are destined for Coreper and Council together i.e. no changes are expected at Coreper e.g. I/A item notes.	- Council documents: full publicity [no other feasible option]. - Coreper documents then going to Council: (1) LIMITE until Coreper, public afterwards. NB in case of an access request, access would likely be granted. (2) PUBLIC documents since their creation.
	Council mandate (General approach)(basis for starting trilogues)	Generally speaking, the Council mandate can take two forms: (1) **GA**: public once placed on a Council agenda. (2) **CRP mandate**: since it is a document destined for CRP it is generally LIMITE, but there are cases in which it is already public at Coreper. Example of the latter: document 10345/18. However, there are also some cases in which it is the **WP which gives the negotiating mandate** (example: Macro-Financial Assistance to Ukraine 2018/0058 COD, see doc. 9228/18 LIMITE).	General Approach: public once placed on a Council agenda [no other feasible option]. Coreper Mandate: (1) all LIMITE Therefore, it would be eventually released after adoption of the act. NB the mandate is informally transmitted to the EP as well. In case of an access request, access would likely be granted. (2) all PUBLIC Either since its creation or released after consideration by Coreper. (3) case-by-case - this is the current practice which leads to different practices and incoherence across sectors, files and working parties. (4) no longer having recourse to Coreper-level mandates in the future.

			WP Mandate:
			(1) all LIMITE
			Therefore, it would be eventually released after adoption of the act.
			NB the mandate is informally transmitted to the EP as well. In case of an access request, access would likely be granted.
			(2) all PUBLIC
			Either since its creation or released after consideration by Coreper.
			(3) case-by-case - this leads to different practices and incoherence across sectors, files and working parties.
			(4) no longer having recourse to WP-level mandates in the future.
Trilogues	Agenda & calendar	The **agenda** is generally not considered by the Council as an official document. It is only circulated via email to participants in the trilogue meeting, but not to delegations. As regards the **calendar** and scheduling of trilogues, the forthcoming trilogue dates (next 2-3-4 trilogues) for a given file are usually pre-agreed between the Secretariats (upon confirmation of availability at the political level). There may not however be a concrete document specifying these dates, and if there is one it is not considered an official one. Within the Council, delegations are informed orally of forthcoming trilogue dates via the WP and Coreper (the CRP1 practice recently having been started in CRP2 as well). This is not formalised in any	Agenda (1) keep undisclosed i.e. keep current practice. NB not possible to control handling (formalisation/disclosure) of the agenda by EP and COM. (2) disclose - the agenda could be circulated to all delegations, either as an email or as an official document, which could be LIMITE or PUBLIC. NB possible divergence with EP and COM.

		document.	<u>Calendar</u> (1) keep restricted access i.e. current practice. (2) disclose - trilogue dates could be circulated to all delegations, either as an email or as an official document, which could be LIMITE or PUBLIC. NB trilogue dates often have last-minute changes. NB2 possible divergence with EP and COM.
	List of participants (name of Ministers & Perm Reps)	The **list of participants** of a trilogue is not considered a document by the Council. It is not made public. It is circulated to participants via email, but not to delegations. There is no rule as to whether such a list of participants has to exist. The Secretariat of the hosting institution (EP or GSC) may or may not elaborate such a list. Some EP committees do not systematically send lists of participants. Furthermore, the actual participants may yet vary slightly from those listed. So they are not always made, they don't necessarily reflect the attendance, they are not circulated and they are not formalised in any document.	<u>List of Participants</u> (1) keep undisclosed i.e. - current practice. (2) disclose - wherever they exist (which the Council cannot control), lists of participants could be circulated to all delegations, either as email or as an official document, which could be LIMITE or PUBLIC. NB the actual participants in a trilogue may not be those on the list. NB2 in case of an access request, possible divergence with EP and COM. NB3 disclosing the list of participants would also have data protection considerations that would need to be taken into account - see in particular Article 9 of the proposal repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC on the Protection of individuals with regard to the processing of personal data by the Union institutions (first reading adopted by the European Parliament on 13 September).

	4 Column-Table or basis for trilogue	See also below 'outcome of trilogues'. The **practice here is extremely varied**, depending on the file and policy field (as well as the negotiating strategy). The 4 Column-Table can be distributed to delegations as an ST LIMITE document (e.g. ST 8143/18), a WK document (e.g. WK 13846/17) or via email (simple Word document). The document distributed may contain the full 4 Column-Table or only the relevant parts. It should be noted that within the EP, the (latest) 4-column table is not made generally available to all MEPs.	(1) leave things as they are i.e. different practices across files/policies (2) decide on applying a systematic practice Such systematic practice would require deciding: (a) distribution as ST or WK (b) distribution in full or in part or case-by-case (c) distribution as LIMITE or as PUBLIC, and if LIMITE, then the moment from which it would become public. NB if marking as LIMITE, in case of an access request, possible divergence with EP and COM (c.f. De Capitani).
	4 Column-Table or (partial) outcome of trilogue	The **practice here is extremely varied**, depending on the file and policy field (as well as the negotiating strategy). The 4 Column-Table can be distributed to delegations as an ST LIMITE document (e.g. ST 8143/18), a WK document (e.g. WK 13846/17) or via email (simple Word document). The document distributed may contain the full 4 Column-Table or only the relevant parts It should be noted that within the EP, the (latest) 4-column table is not made generally available to all MEPs.	Similar to the above.
Final trilogue	Consolidated text (4th	The 'analysis/confirmation of the final compromise	(1) all LIMITE

	column)	text' is generally an ST LIMITE document sent to Coreper. But there are also examples of it being public (14846/17, 15849/17, 9296/18). It should be however noted that once it comes on the agenda of a meeting of the responsible EP committee for a vote, it becomes public.	Therefore, it would be eventually released after adoption of the act. (2) all PUBLIC Either since its creation or released after consideration by Coreper. NB: the fact that the EP committee makes it public shortly afterwards means that the LIMITE marking will only restrict the document for some days/weeks.
	Offer letter to EP	The Offer Letter is not an ST document, it is a PCY letter following endorsement by Coreper of the provisional agreement.	(1) maintain current practice (2) turn it into an ST document, in which case need to determine whether to make it LIMITE or PUBLIC NOTE: The Offer Letter is a relatively standard document, publicity would have few practical effects, what really matters is the consolidated text.
Adoption	PE-CONS document	The PE-CONS document is a public document.	Maintenance of current practice [no other feasible option].
	Approval or non-approval of EP position at 1st reading	The text adopted by the EP is public. The corresponding Council document taking up that text for transmission to the Council for adoption is public.	Maintenance of current practice [no other feasible option].
	Council position at first reading	This document is public.	Maintenance of current practice [no other feasible option].
	Statement of reasons	This is a public document.	Maintenance of current practice [no other feasible option].
	Approval or non-approval of EP amendments at	This is a public document.	Maintenance of current practice [no other

	second reading		feasible option].