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Foreign Affairs Minister, Spain

### 13. TRANSPARENCY OF THE COUNCIL WORK

- The Council has passed a code of conduct concerning public access to protocols and protocol statements from the Council in its role as legislator

This code of conduct concerns all topics of the Council protocols which refer to the final adoption of legislative legal instruments by the Council as defined in the appendix of the Council's rules of procedure and in statements concerning this.

#### A. Statements

1. The Council agrees to use protocol statements in moderation. However, this instrument shall continue to contribute to the efficiency of the decision making process.
2. For this purpose, the Council bodies have to make an effort to include the content of statements, if this is meaningful, into the legal instrument itself or in the case of joint positions as defined in Article 189 b and 189 c of the EC-Treaty into the explanation.

Certain statements by Council members can take the form of statements on voting as defined in Article 5, para 1, subpara 2 of the Council's rules of procedure.

3. If the Council, Commission and/or Council members consider it meaningful to make statements, they need to be consistent with the legal instrument.
4. The Council affirms (positively) that statements which are included into the protocols of legislative legal instruments when these are adopted, should generally be open to the public. In principle, adopting such legal instruments, the Council decides that these statements do not fall under the official secret. This does not apply to

cases where the Council states on the application of one of its members that the simple majority as defined in Article 5, para 1 of its rule of procedures does not exist.

If one or several members of the Council make a statement, the Council will obtain its/their approval before a decision about publication is made.

If a Council member applies that one of its statements is made open to the public by the Council, the Council will try to comply with the request. Each Council member can also publish its own statements on its own responsibility.

## B. Protocols

1. When adopting its conference protocols, the Council examines systematically the question if the documents submitted to the Council<sup>1</sup>, the agreed decisions or the Council conclusions which are contained in the protocols on the final adoption of its legislative legal instruments, are made open to the public. Regarding the protocol statements, it can be decided on the basis of the decision made by the Council when adopting the legislative legal instrument if they can be made open to the public, irrespective of the application of the Council decision of 20 December 1993 on public access to Council documents.
2. Regarding the above mentioned examination, the Council makes it its objective to come to decisions which ensure a as large as possible public access to its protocols. Exceptions are special cases where an obstacle as defined in Article 4, para 1 of the Council decision of 20 December 1993 exists.
3. If the protocol contains statements by one or several members of the Council, the Council will obtain its/their approval before a decision about publication is made.
4. The Council will make decisions on the publication of its protocols on the basis of the suggestions of COREPER on the reports of the "Antici" or "Mertens"-group respectively.
5. This code of conduct does not apply to protocols of Council meetings before the time of its adoption.

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<sup>1</sup> The decision to make the protocols open to the public does not imply that the documents referred to in the protocols will be made open to the public.