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## INFORMATION NOTE

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Issuing of LIMITE documents  
– Information from the General Secretariat of the Council

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## BACKGROUND

1. At the Working Party on Information (WPI) meeting held on 19 May 2016, an exchange of views was held on the handling of "LIMITE" documents and on the rules governing possible release of such documents to the public. In preparation for this exchange, the General Secretariat of the Council (GSC) circulated an information note.<sup>1</sup>
2. The note highlights that just over half of all documents added to the Council's public register each year are made public upon circulation, in full accordance with the relevant provisions of Annex II to the Council's Rules of Procedure. In addition, on average, about half of the documents issued as "LIMITE" during a given year become public by the end of that year, either after a request for access or in the course of implementation of Article 11(6) of Annex II of the Council's Rules of Procedure.

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<sup>1</sup> See doc. 8864/1/16 REV 1: Information note from the General Secretariat of the Council to the Working Party on Information on the rules governing the handling and conditions for release of LIMITE documents to the public.

3. As a follow-up to the WPI discussion on 19 May 2016 and in order to enable the Transparency and Access to documents department to gathered additional information on the reasons for issuing and subsequent release of "LIMITE" documents to the public, other GSC departments were asked to reply to a short questionnaire by mid-June 2016.

## MAIN CONCLUSIONS

4. First, it should be reminded that the publication of "LIMITE" documents is essentially driven by external demand and other factors independent of the GSC and the production of documents. Requests for access to documents is a user-centred process and it takes place irregularly, that is, if and when interested members of the public ask for access. In addition, the GSC also makes available to the public preparatory documents related to legislative acts, once the acts have been adopted. This implementation of Article 6 of Annex II of the Council rules of procedure also influences the number of "LIMITE" documents that are made public on a given year.
5. Second, it is important to highlight that the questionnaire concerned the practice of issuing "LIMITE" documents both for legislative and non-legislative files.
6. The main elements drawn-up from the replies to the questionnaire are the following:
  - a) The practice of marking documents as "LIMITE" aims to protect the efficiency of the Council's decision-making process at working party level and to protect Member States' negotiating flexibility.
  - b) Depending on the subject matter, "LIMITE" documents are also issued to protect one or more of the other interests referred to in Article 4 of Regulation 1049/2001, such as public security, defence and military matters, international relations, monetary affairs, personal data, court proceedings and legal advice.

- c) Some GSC departments could be considered, on a case by case basis, a proactive release of "LIMITE" documents on files under discussion after the document has been submitted to the relevant working party.
  - d) The Chairs of the working parties share the views of the GSC departments.
7. The GSC practice corresponds to the application of the rules governing the handling and conditions for release of LIMITE documents to the public.<sup>2</sup>
8. As part of a broader reflexion exercise on Transparency currently pursued by the General Secretariat, the GSC is examining whether and at what point in time a "LIMITE" document could be released to the public, and will draw up suggestions on the way forward.
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<sup>2</sup> See document 8864/1/16 REV 1.