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NOTE

from :	Presidency
to :	Customs Cooperation Group
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Subject :	Convention on the use of information technology for customs purposes (CIS Convention)
	- Draft rules of procedure of the Joint Supervisory Authority

Delegations will find hereafter the revised version of the draft rules of procedure of the Joint Supervisory Authority foreseen in Article 18 of the CIS Convention. This text has been prepared by the European Data Protection Commissioners.

**DRAFT RULES OF PROCEDURE
OF THE
THE JOINT SUPERVISORY AUTHORITY
OF THE CIS CONVENTION**

THE JOINT SUPERVISORY AUTHORITY

having regard to the Convention based on Article K.3 of the Treaty on European Union, on the Use of Information Technology for Customs Purposes, and in particular Article 18 thereof,

HAS ADOPTED THESE RULES OF PROCEDURE :

Article 1 – Tasks

- (1) The Joint Supervisory Authority shall, in accordance with the Convention on the Use of Information Technology for Customs Purposes and the 1981 Strasbourg Convention, taking into account Recommendation R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe, have the task of checking that the rights of the individual are not violated by the storage, processing and utilisation of the data held with respect to the Customs Information System.
- (2) For this purpose, the Joint Supervisory Authority shall have the following tasks, in particular:
 - a) to check compliance with the criteria for the inclusion and retention of personal data in the relevant categories (Article 4 of the Convention);
 - b) to check compliance with the provisions regarding the purposes for which data is to be included in the System (Article 2.2, Article 5, Article 7 of the Convention);

- c) to give opinions where Member States are required to reach unanimous agreement on whether or not to allow international or regional organisations to have access to the Customs Information System (Article 7(3) of the Convention);
 - d) to receive details of the special measures taken by a Member State to ensure the security of data transmitted or supplied in accordance with Article 8(4) of the Convention;
 - e) to supervise operation of the Customs Information System in accordance with Article 18(3) of the Convention and in particular,
 - to examine any difficulties of application or interpretation which may arise during its operation,
 - to study any problems which may arise with regard to the exercise of independent supervision by the national supervisory authorities of the Member States,
 - to study any problems which may arise in the exercise of individuals' rights of access, and
 - to draw up proposals for the purpose of finding joint solutions to these difficulties;
 - f) to draw up reports and forward them to the authorities to which the national supervisory authorities submit their reports (Article 18(5) of the Convention), to the Council and to any other bodies deemed appropriate by the Joint Supervisory Authority;
 - g) to make periodic enquiries about the implementation of recommendations made in their reports and to report further on those matters in accordance with Article 1(2)(f) of these rules.
- (3) In the exercise of its functions the Joint Supervisory Authority will co-operate, when necessary, with the National Supervisory Authorities and with the European Data Protection Commissioner.

Article 2 – Powers

- (1) The Joint Supervisory Authority, for the discharge of its tasks, shall have the powers provided for in the Convention and shall seek to implement them in accordance with the 1981 Strasbourg Convention, and Recommendation R(87) 15 of the 17 September 1987 of the Committee of Ministers of the Council of Europe.
- (2) For the purpose of fulfilling its responsibilities, the Joint Supervisory Authority shall have access to the Customs Information System (Article 18(4) of the Convention). Access shall be understood to include access to all information from the Customs Information System including access to all documents and paper files and to the data stored in the Customs Information System. This also includes information on and access to hardware and software, whenever this is necessary for the performance of the tasks of the Joint Supervisory Authority (Article 18(4) of the Convention).
- (3) The Joint Supervisory Authority shall be entitled to use the records of search checks kept by the Committee referred to in Article 16 of the Convention (Article 19(3) of the Convention) in order to check that any of the searches made were admissible and made by authorised users.
- (4) The Joint Supervisory Authority may appoint one or more members for carrying out the checks. Such members may be assisted by outside experts as deemed appropriate by the Joint Supervisory Authority.
- (5) These outside experts shall be drawn from a list of experts established by the Joint Supervisory Authority in advance. Experts on this list shall come from within national supervisory authorities and government agencies, unless such experts are not available. All experts must meet the security requirements applying under their national law.

Article 3 – Committees

The Joint Supervisory Authority may set up one or more internal committees and determine their composition, terms of reference, and procedures.

Article 4 – Membership

- (1) The Joint Supervisory Authority shall be composed of two representatives from each Member State party to the Convention and drawn from the appropriate independent National Supervisory Authorities. The two representatives shall form a delegation. Each representative may have an alternate.
- (2) The members of the Joint Supervisory Authority and their alternates shall be independent in the exercise of their duties. In particular, they must not at the same time be members of another body set up under the Convention.
- (3) A member of the Joint Supervisory Authority who is unable to attend a meeting may be represented by his alternate.
- (4) Membership of the Joint Supervisory Authority shall cease when the person concerned resigns. It shall also cease when that person ceases to be active in the National Supervisory Authority.
- (5) The Joint Supervisory Authority may, upon unanimous decision, grant observer status without the right to vote to the representatives of National Supervisory Authorities whose states have signed but not yet ratified the Convention.

Article 5 – Chair

- (1) The Joint Supervisory Authority shall elect a chairman and a deputy-chairman from among its members by a majority of two thirds of the delegations. If none of the candidates achieves the required majority in the first round of voting, a second round shall take place and be decided

by an absolute majority of the delegations. If necessary a third round shall be held between the two candidates having received the most votes in the second round and be decided by a majority of the votes cast. All votes will be cast in a secret ballot.

- (2) The chairman and his deputy shall be elected for a term of office of two years. Election for a second term of one year shall be possible. The deputy-chairman shall not be a member of the chairman's delegation.
- (3) The chairman shall represent the Joint Supervisory Authority and chair its meetings. He shall monitor the smooth functioning of its work. He shall convene the meetings of the Joint Supervisory Authority and determine the venue, date and time of such meetings. He shall open and close the meetings and prepare the provisional agenda.
- (4) The deputy-chairman shall act for the chairman if he is unable to attend. In the absence of the deputy-chairman the member oldest in years shall act as chairman. The first meeting of the Joint Supervisory Authority shall be convened and chaired by the member oldest in years until the election of the chairman.
- (5) In order to prepare the work of the Joint Supervisory Authority with regard to a particular issue, it may appoint from among its members, on the proposal of the chairman, one or more rapporteurs. If the matter is urgent, such an appointment may be made by the chairman by virtue of his office. In this case he shall inform the members of the Joint Supervisory Authority without delay.
- (6) The chairman or a majority of the delegations may invite national experts, observers or other persons to attend a particular meeting.

Article 6 – Working Method

- (1) The Joint Supervisory Authority shall meet as necessary but at least once a year. Furthermore, it shall meet at the initiative of the chairman and whenever at least three delegations submit a written proposal stating reasons, or present an oral proposal in a previous meeting.

- (2) With the exception of cases which the chairman deems to be urgent, the convocation shall be transmitted in time to arrive at least two weeks before the meeting. The convocation shall include the provisional agenda and the documents needed for the meeting, unless the nature of these documents does not allow so. The final agenda shall be adopted at the beginning of each meeting.
- (3) The presence of at least two-thirds of the member delegations to the Joint Supervisory Authority shall constitute a quorum. Decisions shall be taken by a simple majority of the delegations attending except where otherwise provided. Each member delegation shall be entitled to one vote. In case of a tied vote, the chairman shall have a casting vote.
- (4) The meetings of the Joint Supervisory Authority shall not be public. Its documents shall be confidential, unless the Joint Supervisory Authority decides otherwise.
- (5) The Joint Supervisory Authority shall meet on the basis of documents and draft papers drawn up in all official languages of the institutions of the European Communities. Exceptions from this rule shall be admissible in case of urgency only; however, each member delegation shall have the right to require a translation in its own language.
- (6) Decisions of the Joint Supervisory Authority may be taken by written procedure insofar as all delegations have approved this procedure in a meeting. In urgent cases the chairman shall be entitled to initiate the written procedure. In both cases the chairman shall transmit a draft decision to the members of the Joint Supervisory Authority. If the delegations do not object to the draft decision, translated into the respective official languages, within a period, specified by the chairman, of at least 14 days after receipt, the proposal shall be deemed to be adopted. If a delegation, within five working days after receipt of the draft decision, requests that it be discussed orally by the Joint Supervisory Authority, the written procedure shall be discontinued.

Article 7 – Minutes

Minutes shall be made of all meetings of the Joint Supervisory Authority. The draft minutes shall be prepared by the secretariat under the direction of the chairman. The draft minutes shall be submitted to the next meeting of the Joint Supervisory Authority for adoption. Each member shall have the right to have the draft minutes amended to reflect comments made by that member at the meeting.

Article 8 - Budget

The Joint Supervisory Authority shall submit its budget proposals to the appropriate bodies under the Convention. The Joint Supervisory Authority shall decide on the disbursement of the budget allocated to it which shall be administered by the Secretariat.

Article 9 - Secretariat

- (1) The Joint Supervisory Authority shall be assisted by a secretariat in the performance of its tasks. Staff members of the secretariat shall not be members of the competent customs administrations.
- (2) The secretariat shall prepare the work of the Joint Supervisory Authority in liaison with the chairman, or in his absence, the deputy-chairman.
- (3) The secretariat shall keep a record of all documents relating to the Joint Supervisory Authority.
- (4) The members of the secretariat shall be recruited only on the basis of competence. Recruitment or secondment shall take place on a proposal from the Joint Supervisory Authority. Staff members of the secretariat shall not undertake other work without the permission of the chairman of the Joint Supervisory Authority.

Article 10 - Confidentiality

- (1) Members of the Joint Supervisory Authority, alternates, observers, experts, the staff of the secretariat as well as any other person attending the meeting shall be obliged to treat confidentially the circumstances which come to their knowledge in the context of their activity, unless the proper discharge of their task requires otherwise. This obligation shall continue to apply also when they cease to be active in that capacity.
- (2) Upon appointment, members of the Joint Supervisory Authority, alternates, observers, experts, the staff of the secretariat as well as any other person attending the meeting shall declare their acceptance of these obligations.

Article 11 - Amendments to the Rules of Procedure

Amendments to these rules of procedure shall be adopted unanimously.

Article 12 - Evaluation

These rules of procedures shall be evaluated by the Joint Supervisory Authority three years after their entry into force.

Article 13 – Entry into force of the Rules of Procedure

These Rules of Procedure as well as any amendments shall enter into force on the day after their adoption.