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LIMITE

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Security Committee
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Subject:	Comments from the French delegation on the governance structure and non-classified information concerning the proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union.

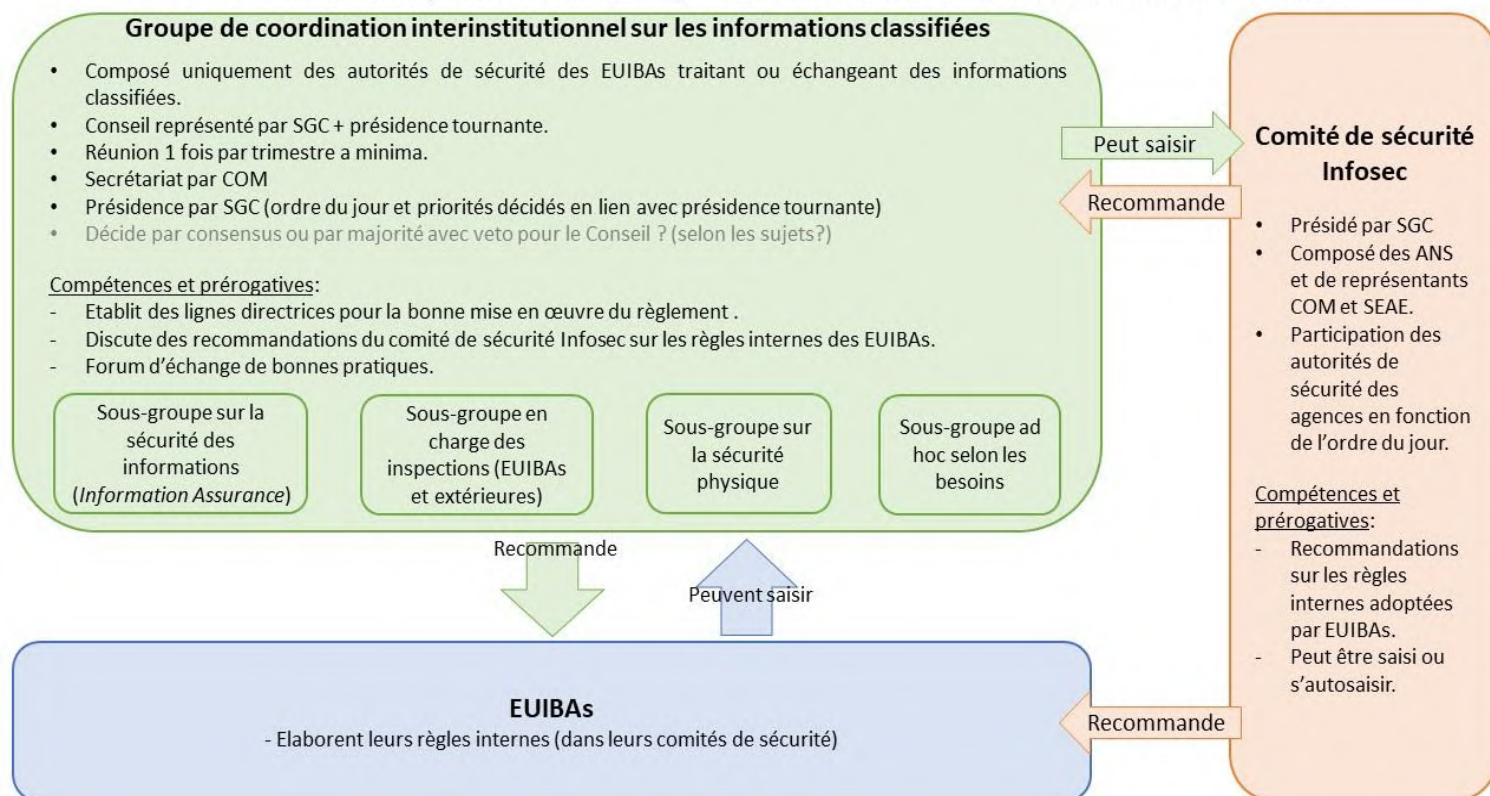
Delegations can find in the Annex comments from the French delegation on the governance structure and non-classified information concerning the proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union.

Comments from the French delegation on the governance structure and non-classified information

Papier FR de propositions : Principes

- L'idée serait d'avoir un système incitatif, tout en préservant le principe d'autonomie institutionnelle.
- La protection des informations classifiées et non classifiées doit faire l'objet d'un traitement distinct, y compris dans les modalités de gouvernance.
- La protection des informations classifiées de l'UE visant à préserver les intérêts de l'Union et de l'un ou plusieurs de ses États-membres et compte tenu des effets indirects que le règlement Infosec aura sur ces derniers, leur rôle au sein de la gouvernance doit être renforcé. Cela pourrait notamment passer par une représentation du Conseil par le SGC et la présidence tournante et par des modalités de vote permettant au Conseil un veto sur certains sujets.
- Pour rendre la gouvernance efficace, les réunions devraient avoir lieu de manière suffisamment régulière (1 fois par trimestre).
- Pour que le système soit lisible, les appellations des différentes structures et groupes doivent refléter leurs prérogatives et il faut éviter au maximum la création de trop nombreux sous-groupes qui fragmenteraient le travail.

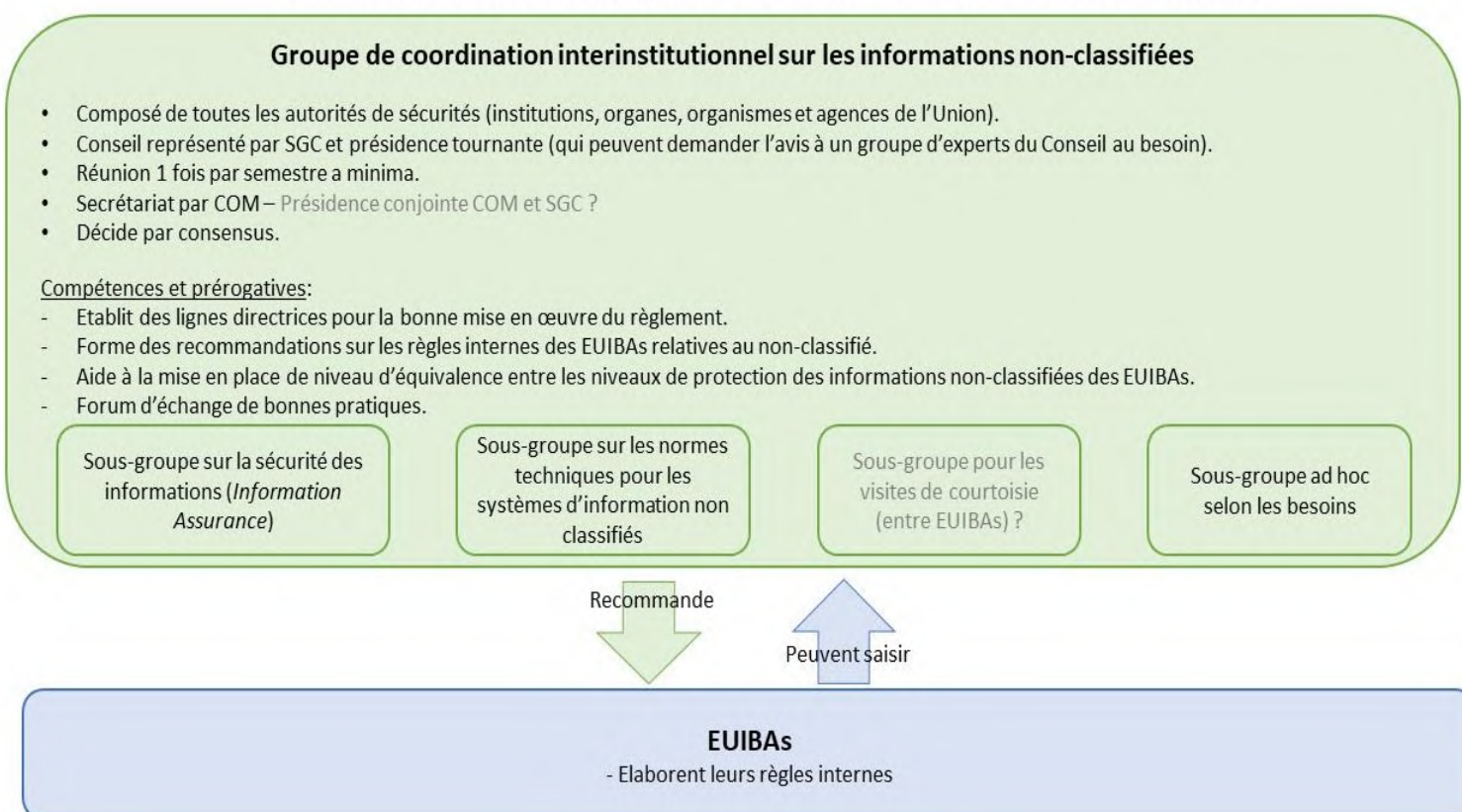
Schéma 1: Proposition de schéma de gouvernance – Infosec – Partie sur les informations classifiées



Autres prérogatives sur la protection des informations classifiées:

- Produits cryptographiques: Maintien du système d'évaluation par une seconde partie réalisée par une autorité dûment qualifiée (AQUA) : reprise des dispositions du CSR dans le règlement Infosec.
- Echange d'informations classifiées avec les États tiers et organisations internationales : maintien de la compétence du Conseil (conformément à l'article 218 du TFUE)

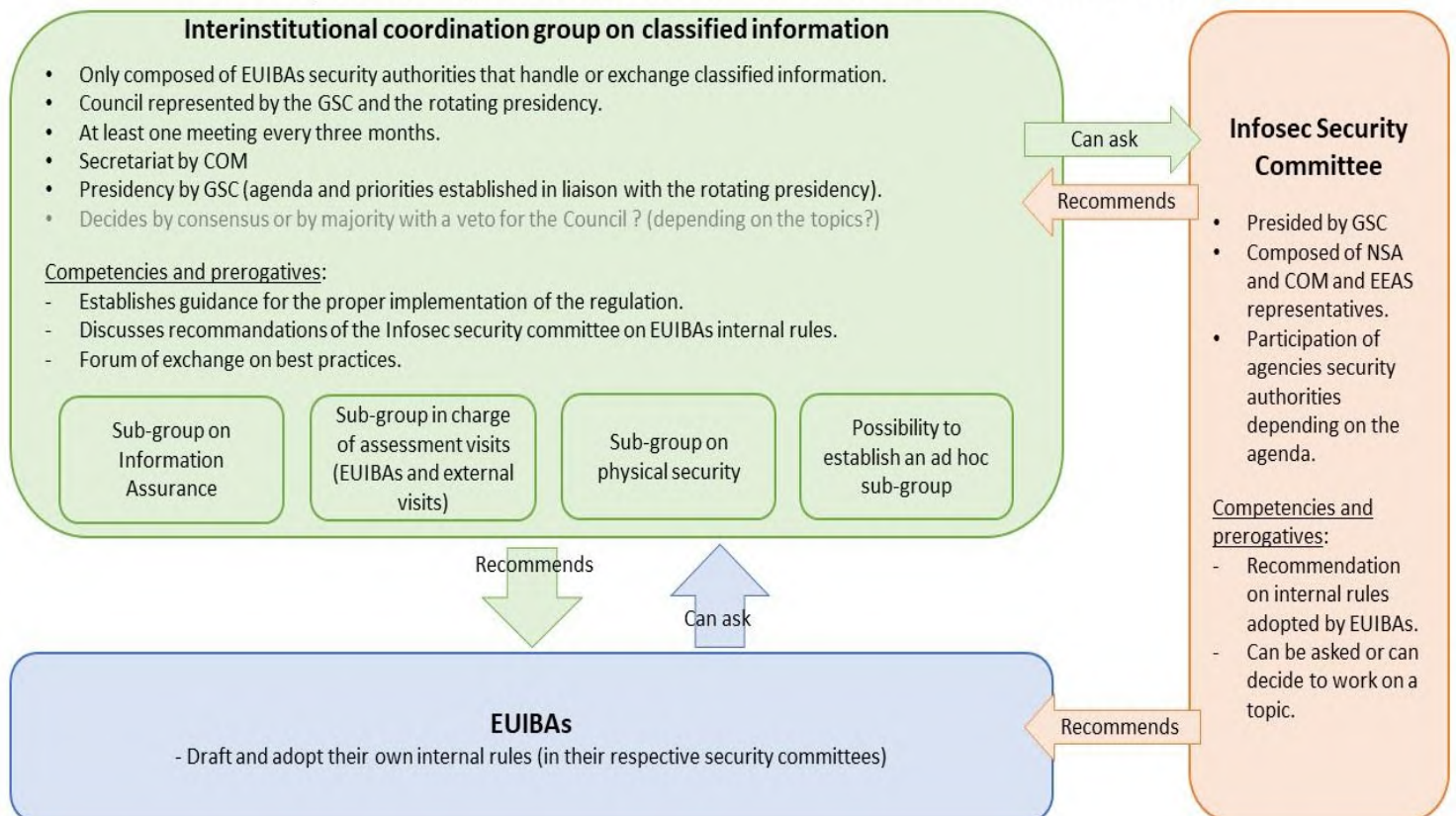
Shéma 2: Proposition de schéma de gouvernance – Infosec – Partie sur les informations non-classifiées



• **FR food for thought: principles**

- The idea would be to have an incitative system while preserving the principle of institutional autonomy.
- The protection of classified and non-classified information shall be differentiated, included concerning the governance.
- The aim of the protection of EUCI is to protect the interests of the Union and/or of the Member States. Taking into account the indirect effect the Infosec regulation will have, Member States' role in the governance should be reinforced. For example, the Council could be represented by both the GSC and the rotating presidency, and the vote could be organized as to allow for the Council to have a veto on certain topics.
- For the governance to be efficient, meetings should happen on a regular basis (Once every 3 months).
- For the governance system to be clear, the names of the different structures and groups shall reflect their prerogatives. The creation of too many sub-groups, that would fragment the work, shall be avoided.

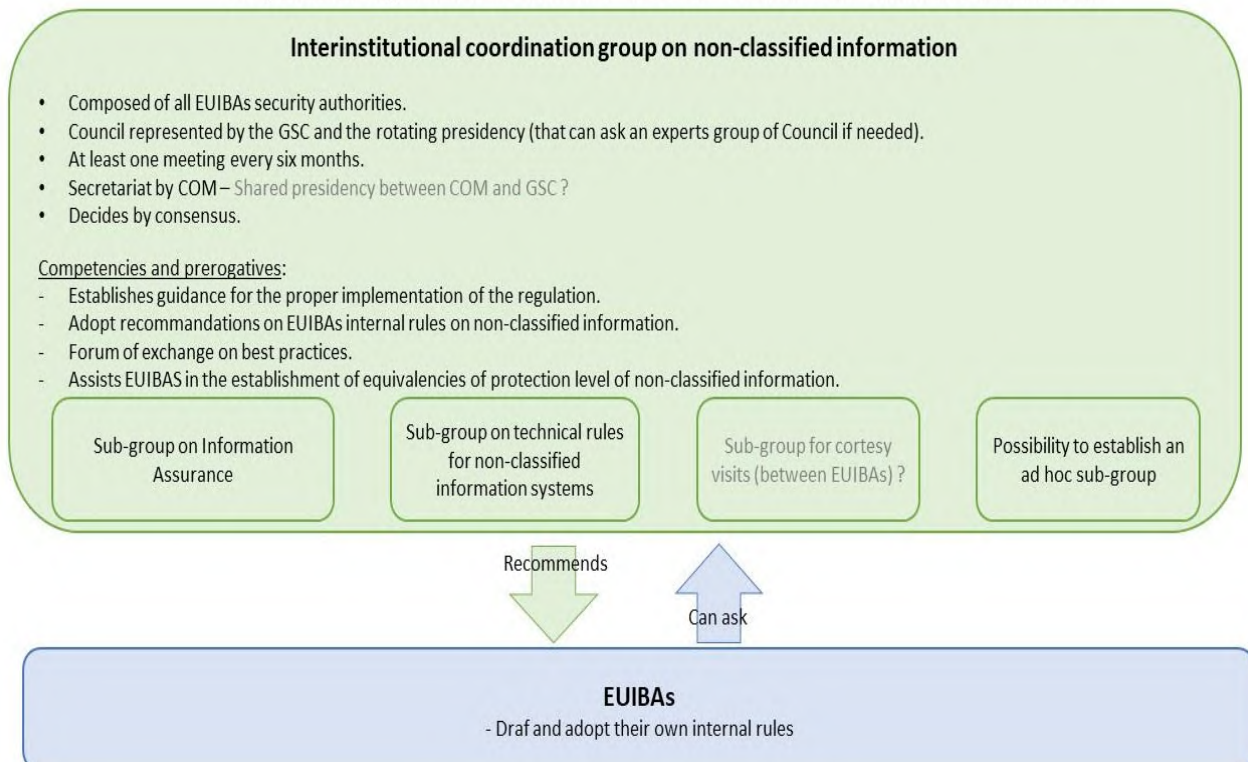
Proposal for a governance scheme – Infosec – Part on classified information



Other prerogatives for the protection of classified information:

- Cryptographic products: keep the second party evaluation by an Appropriately Qualified Authority (AQUA) procedure: copy/paste the CSR provisions into the Infosec regulation.
- Exchange of classified information with third States and international organisations: in accordance with article 218 of the TFUE, keep the competence of the Council.

Proposal for a governance scheme – Infosec – Part on non- classified information



Food for thought regarding non-classified information in the Infosec regulation

Understanding that the protection of the security of information in the institutions, bodies and agencies of the EU (EUIBAS) may require rules on the protection of unclassified information, we would like to propose the following way forward for discussion:

- The provisions on classified information and unclassified information shall be totally separated in order to facilitate the readability of the regulation and to avoid mixing rules on classified and non-classified information;
- The provisions on unclassified information should be limited to a minimum of common rules since this kind of information is already protected by professional secrecy;
- The provisions on unclassified information should not provide for anything more stringent than the rules on classified information.

Having these lines in mind, we would like to suggest the following amendments:

New recital:

(x) Due to its predominance in the work of the institutions, bodies and agencies of the Union, there should be an interinstitutional policy on management of non-classified information in order to align practices. Furthermore, a large number of information security incidents is related to non-classified information, which is more easily targetable.

(xx) The policy on non-classified information shall be in line with the general principles on the management of non-classified information set out in this Regulation and in accordance with articles 17 and 19 of Regulation n°31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community and with professional secrecy.

Article 2 (Scope):

1. This Regulation shall apply to **all classified and non-classified** information handled and stored by the Union institutions and bodies, including information related to activities of the European Atomic Energy Community, other than Euratom Classified Information.

~~2. It shall apply to the following confidentiality levels of information:~~

~~(a) three levels of non-classified information: public use, normal and sensitive non-classified;~~

~~(b) four levels of EU classified information: RESTREINT UE/EU RESTRICTED, CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET, TRES SECRET UE/EU TOP SECRET.~~

~~3. These levels are based on the damage that unauthorised disclosure may cause to the legitimate private and public interests, including those of the Union, Union institutions and bodies and Member States or other stakeholders, so that the appropriate protective measures can be applied.~~

Article 3 (Definitions):

(xx) "European Union sensitive non-classified information" or "SNC-UE/EU-SNC" means any information or material that, while not being classified, is not open to the public".

Chapter X

MANAGEMENT OF NON-CLASSIFIED INFORMATION

Article x

This chapter lays down the basic principles and minimum standards to be applied for the protection and handling of non-classified EU information. .

Article x

1. EU information which is not classified and not open to the public is known as sensitive non-classified EU information. This information shall be marked: SENSIBLE NON-CLASSIFIE UE/EU SENSITIVE NON-CLASSIFIED (SNC-UE/EU-SNC).

2. Such information may carry an administrative or dissemination limitation marking/stamp¹.

3. SENSIBLE NON CLASSIFIE UE/EU SENSITIVE NON-CLASSIFIED shall only be used for official purposes. Only individuals, institutions, bodies or agencies that require it for their assigned tasks may have access to it.

Article x

The policy on management² of SENSIBLE NON-CLASSIFIE UE/EU SENSITIVE NON-CLASSIFIED shall not be equal to or stricter than the rules for protection of EUCI (R-UE/EU-R).

Article x

1. Administrative stamps may only be applied to information in accordance with the internal rules set by the originator, where appropriate, to identify the type of information contained therein and to indicate the need for limited access.

2. The following markings/administrative stamps may be used concerning SENSIBLE NON-CLASSIFIE UE/EU NON-CLASSIFIED INFORMATION:

[to be decided]

3. No other markings shall be introduced without the approval of xx.

4. Dissemination limitation stamps, which restrict release to a named group, may also be applied in accordance with the internal rules set by the originator to SENSIBLE NON-CLASSIFIE UE/EU NON-CLASSIFIED INFORMATION. This information shall be stamped with: [NAMED GROUP] ONLY in addition to their marking.

¹ Proposal in order not to use the same terminology, but marking can also be used.

² Wording to be thought of.

Article x on basic rules for sharing non-classified information to a third party or public disclosure?

Article x

The security measures for all communication and information systems handling SENSIBLE NON-CLASSIFIED/UE/EU SENSITIVE NON-CLASSIFIED information shall include the following:

- a) **A means to reliably identify and authenticate persons with authorised access to EU non-classified information and**
- b) **A means to control authorised access to only those persons whose assigned tasks require it.**