

SECTION 1 - REQUIREMENTS

1 *PRESENTATION*

1.1 Section 1 of JAR-11 is presented in two columns on loose pages being identified by the date of the Amendment number under which it is amended or reissued.

1.2 Explanatory notes not forming part of the JAR text appear in a smaller typeface. Sub-headings are in italic typeface.

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SUBPART A – GENERAL

JAR 11.005 (continued)

JAR 11.001 Applicability

(a) JAR-11 prescribes the requirements applicable to:

- (1) the retention by the Central JAA of documentation related to the development and production of JARs;
- (2) the format and structure of JARs;
- (3) the development of JARs and amendments to JARs until their publication by JAA;
- (4) the contents of exemption paragraphs in the JARs;
- (5) the Joint Implementation Procedures (reserved);
- (6) the procedure for consultation on Special Conditions; and
- (7) the development of ACJ until their publication by JAA.

(b) This JAR-11 becomes effective 01 June 2001, except for the provisions, related to Regulatory Impact Assessment, as referred to in JAR 11.065(b)(1) and JAR 11.075(b)(2), which will be effective on 1 January 2003.

JAR 11.005 Terminology

ACJ (Advisory Circular Joint): Means an accompanying text, containing explanations, interpretations or acceptable means of compliance, in order to clarify and to provide guidance for the application of requirements

Adoption: Means the act of the competent body of the JAA pursuant to the Cyprus Arrangements, by which the administrative procedure for the establishment of a JAR or an amendment to a JAR is concluded and the JAR or an amendment to a JAR becomes eligible for external publication.

A-NPA (Advance Notice of Proposed Amendment): Means a document used to seek early advice from interested parties on a possible, future NPA.

Exemption: Means a statement in writing made by a national aviation authority, in accordance with a JAR, by virtue of which a requirement to comply with a legal obligation does not apply in the circumstances and subject to any conditions specified in the exemption.

Interested Parties: Representative International Organisations whose members are subject to regulation in accordance with JARs.

JAR (Joint Aviation Requirements): Means the code containing requirements and the associated advisory circular joint (ACJ).

JIP (Joint Implementation Procedure): Working methods for national aviation authorities which, if followed, are intended to make a single compliance findings investigation acceptable to all these authorities.

NPA (Notice of Proposed Amendment): Means a document used to propose new JARs and/or amendments to existing JARs.

Working Party: Means a group of people in charge of developing JAA material according to the terms of reference defined by the body to which the working party reports.

JAR 11.010 Retention of documentation: General

In respect of the JAA regulatory and related procedures such documentation shall be maintained by the Central JAA in order to enable the JAA to show the justification for its decisions and to show that the proper procedures have been followed.

JAR 11.015 The Central JAA files

(a) A full set of all published JARs, both current and superseded, shall be retained by the Central JAA indefinitely.

(b) A file for each proposed NPA containing the following information shall be retained indefinitely by the Central JAA (see ACJ 11.015(b)):

- (1) The submission initiating the NPA;
- (2) Relevant correspondence;
- (3) The published NPA including justification; and
- (4) A Comment/Response Document, as referred to in JAR 11.070.

(c) A file for each Working Party containing the following information shall be retained by the Central JAA:

- (1) Terms of Reference of the Working Party referred to in JAR 11.060 or

JAR 11.015(c) (continued)

other authorising statement (for an indefinite period) (see ACJ 11.015(c)(1));

(2) Notes of the Working Party meetings (for an indefinite period);

(3) Documents submitted to the Working Party and discussed under specific items (for at least 10 years); and

(4) Correspondence files (for at least 10 years).

JAR 11.020 Conditions of Access to information

(a) Access to information kept under 11.015(a) and (b) must be limited by practical considerations (See ACJ 11.020(a)).

(b) Access to information kept under 11.015(c) is limited to Authorities and Interested parties (See ACJ 11.020(b)).

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SUBPART B – JOINT AVIATION REQUIREMENTS

JAR 11.025 General

This Subpart prescribes requirements for:

- (a) The Format and Structure of JARs; and
- (b) The development, adoption and publication of new JARs and amendment to a JAR by the JAA.

JAR 11.030 Structure

Each JAR must consist of:

- (a) A preamble;
- (b) A Section One containing requirements;
- (c) A Section Two containing Advisory Circular Joint, if appropriate.

JAR 11.035 (Reserved)**JAR 11.040 Preamble**

(a) The purpose of the Preamble is to present, following the initial adoption of a JAR, a summary of the contents of the amendments made to the JAR (see ACJ 11.040(a)).

- (b) The Preamble has no regulatory status.

JAR 11.045 Section One

(See ACJ 11.045)

(a) The Section One of a JAR will only contain requirements. When appendices to requirements are used they also have the same status as the requirement with which they are associated.

(b) Section One must include the scope of applicability and dates of effectivity of the JAR and allow for a transition period (See ACJ 11.045(b)).

(c) If it is to be permitted that an exemption may be granted from any provision of a JAR, the Section One of that JAR must include a provision which conforms with Appendix 1 to Subpart B (See ACJ 11.045(c)).

JAR 11.050 Section Two

(See ACJ 11.050)

(a) Section Two of a JAR contains material that is not requirements such as acceptable

JAR 11.050(a) (continued)

means of compliance and interpretative and explanatory material.

(b) Status and development of Section Two material are defined in Subpart E.

(c) ACJ material which applies to more than one JAR may be placed in a specific JAA document. Such material will be developed in the same way and have the same status as material appearing in Section 2 of a JAR.

JAR 11.055 Initiation of a new JAR or amendments to a JAR

(a) Any person or organisation may propose the development of a new JAR or an amendment to a JAR.

(b) Any proposal must be sent to the Central JAA and the Central JAA must acknowledge each proposal.

(c) Any proposal must include a justification (see ACJ 11.055(c)).

(d) *Initiation*

(1) *For a new JAR:* The decision to initiate the development of a new JAR will be made by the JAAB based on a co-ordinated advice from Central JAA and the relevant JAA bodies. Before taking its decision the JAAB shall consult Interested Parties.

(2) *For amendment to a JAR:* The decision to initiate the development of an amendment to JAR will be made by the Central JAA in co-ordination with the relevant Sectorial Team.

(e) *Rationale*

(1) *For a new JAR:* The decision of the JAA body referred to in paragraph (d)(1) and its rationale must be published (See ACJ 11.055(e)):

(i) If the JAAB agrees to the proposal, this takes the form of Terms of Reference for the Working Party (See ACJ 11.055(e)). The Terms of Reference shall include Tasks, Composition, Working Methods, Timescales to complete the tasks and Reporting.

(ii) If the JAAB body rejects the proposal, this takes the form of a response to the author of the proposal

JAR 11.055(e) (continued)

with copies to representatives of Interested Parties.

(2) *For amendments to a JAR:* Decisions will be published together with the rationale - this will take the form of Terms of Reference. If the proposal is rejected, this decision will take the form of a response to the author of the proposal with copies to representatives of Interested Parties.

(f) *Set-up of a Working Party*

(1) *For a new JAR:* Where necessary the Central JAA will organise the set up of the Working Party (See ACJ 11.055(f)(1)).

(2) *For amendments to a JAR:* The Central JAA will organise appropriate action (See ACJ 11.055(f)(2)).

(3) The Working Party must be open to all JAA National Authorities, a representative of the Central JAA, representatives of Interested Parties, representatives of the European Commission and other organisations (including non JAA Authorities) whose participation can contribute to the work of the Working Party.

JAR 11.060 Drafting of a new JAR or amendments to a JAR

(a) A new JAR or amendments to a JAR must be drafted by the Working Party in accordance with the terms of reference required by JAR 11.055(e). The Working Party may propose changes to the terms of reference to the Central JAA as justified by the progress of their work. The Central JAA will inform the JAAB on the decision it has taken with regard to the proposed amendment of the terms of reference.

(b) A Working Party must work in accordance with generic working procedures addressing at the least the following issues:

- (1) Chair/Secretary elections;
- (2) Obtaining of consensus and resolution of conflicts; and
- (3) Preparation of minutes.

Each Working Party must define its own detailed working methods (See ACJ 11.060(b)).

(c) In case a Working Party has determined the timeframe will be exceeded, it will seek further guidelines from the Central JAA.

(d) Drafting must comply with the accepted JAR-format and rules of construction as defined by JAR 11.030 to JAR 11.050.

JAR 11.060 (continued)

(e) Drafting must take into account the following principles:

(1) Systematic consideration of ICAO Standards and Recommended Practices;

(2) Harmonisation with other Authorities and International Organisations in compliance with JAA policies;

(3) Systematic consideration of an implementation programme defining a transition period and taking into account translation delays;

(4) Resolution of any interface issues with existing JARs;

(5) Member States' legal systems and European Union legal system; and

(6) Consistency with the JAA regulatory system (See ACJ 11.060(e)(6)).

JAR 11.065 Consultation for new JARs or amendments to a JAR

(a) Consultation in order to elicit comments must be made through the Notice of Proposed Amendment (NPA) process.

(b) The Notice of Proposed Amendment must be sent by the Working Party Chair to the relevant Sectorial Director and must contain the following elements (see ACJ 11.065(b)):

(1) Explanatory note describing the development process, significant or contentious or interface issues, the situation with respect to ICAO Standards and Recommended Practices and relative to harmonisation with other Authorities or International Organisations, [] and a Regulatory Impact Assessment.

(2) Proposed Section One or amendments to Section One, and if appropriate, Section Two or amendments to Section Two.

(c) *Consultation*

(1) The decision that the NPA is mature for consultation will be taken by the Central JAA in co-ordination with the relevant Sectorial Teams. (See ACJ 11.065(c)(1)).

(2) The decision referred to in subparagraph (c)(1) shall be taken without unnecessary delay and in accordance with the time schedules included in the defined Terms of Reference mentioned in JAR 11.055(e)(1),

JAR 11.065(c) (continued)

and the need to fit in with the meeting schedules of the JAA Committee.

(3) If the decision referred to in subparagraph (c)(1) indicates that the NPA is not mature for consultation, the Central JAA shall refer the NPA back to the relevant Sectorial Team.

(d) The Notice of Proposed Amendment (NPA) will be circulated by the JAA Regulation Division to the National Authorities, the organisations represented in the Interested Parties Advisory Panel, selected Foreign Organisations and Authorities, the European Commission and to those persons that are subscribers to the NPA process.

(e) Duration of the Consultation is 3 months but may be extended if deemed necessary by the bodies referred to in paragraph (c)(1). The Regulation Division may also agree to extend the duration of consultation defined above upon receipt of justified request (see ACJ 11.065(e)).

(f) Comments must be sent to the JAA Regulation Division and must contain the following elements (See ACJ 11.065(f)):

- (1) NPA Number;
- (2) Position of the commentor, relative to the proposal;
- (3) Proposed text/comment (if any) with reasons for proposed text/comment; and
- (4) Identification of the commentor.

[Amdt. 1, 01.11.04]

JAR 11.066 Advance Notice of Proposed Amendment (A-NPA)

(a) Prior to the consultation as provided for in JAR11.065 the Regulation Director may decide to initiate a consultation process through the Advance Notice of Proposed Amendment (A-NPA) process.

(b) The decision will have arisen from a need to broadly discuss new concepts or the needs for further information or data to assist in the drafting of a formal NPA.

(c) An A-NPA proposal will contain: an explanatory note (including a justification for using the A-NPA process), a preliminary of the new JAR or amendment of a JAR, a preliminary proposal for an ACJ.

(d) An A-NPA proposal will be circulated for comments according to JAR 11.065. The

JAR 11.066(d) (continued)

duration of consultation will be determined by the Regulation Director and will be at least one month. The Regulation Director may extend the duration of consultation.

(e) The Regulation Director may adapt the number of parties to be consulted, according to the scope of the NPA.

(f) The status of an A-NPA is regarded to be of pre-legislative or pre-regulatory act. The initiation of an A-NPA procedure does not affect any obligation or privilege provided for under JAR 11.065. The paragraphs (a) and (b) of JAR 11.070 are accordingly applied.

JAR 11.070 Review of Comments for new JARs or amendments to a JAR

(a) Comments received must be sent by the Regulation Division to the Working Party.

(b) The Working Party shall determine the time frame needed for the review of comments and inform the Central JAA. If in the course of the review process it appears that time frame may not be sufficient the Working Party shall inform the Central JAA and seek further guidance. (See ACJ 11.070(c))

(c) The Working Party must review the comments and document the responses thereby establishing a Comment/Response Document. (See ACJ 11.070(b)).

(d) The Comment/Response Document will be made available to all commentors who participated in the consultation process in accordance with JAR 11.065 to inform them of the results of their comments.

(e) If the result of the review of comments is that the final text is significantly different from that circulated in accordance with JAR 11.065, the Working Party must consider another consultation in accordance with JAR 11.065. (See ACJ 11.070(e)).

JAR 11.075 Adoption of a JAR or amendments to a JAR

(a) The decision to adopt a JAR or amendments to a JAR must be taken by the JAAC in accordance with the applicable rules of procedures based on a proposal from the Central JAA in co-ordination with the relevant Sectorial Teams. The JAAC may decide to adopt the JAR or any amendment to the JAR or to task the

JAR 11.075(a) (continued)

Working Party with further work or to decide to consult again in accordance with JAR 11.065.

(b) The JAAC must be provided with the following through the Central JAA at least 2 months before the decision to adopt a JAR or amendments to a JAR is planned to be taken:

(1) The final Draft of the JAR or amendments to the JAR;

(2) A presentation note describing major changes compared to the corresponding NPA, remaining contentious or interface issues, situation relative to ICAO Standards And Recommended Practices, situation relative to Harmonisation, Regulatory Impact Assessment addressing major differences compared to the corresponding NPA and a future work programme, co-ordination with European Commission relative to dates of effectivity and transition period (See ACJ 11.075(b)(2)); and

(3) The Comment/Response Document as required by JAR 11.070 (See ACJ 11.075(b)(3) and (c)).

(c) The JAR when adopted will be signed on behalf of the JAAC by its Chair (See ACJ 11.075(b)(3) and (c)).

JAR 11.080 Publication of new JARs and amendments to a JAR

(a) The Central JAA will organise the publication of new JARs and the amendments to a JAR.

(b) The Comment/Response Document required by JAR 11.070 will be published with the first issue of the JAR or an amendment thereto.

(c) Publication shall take place within 3 months after adoption.

JAR 11.085 Declaration of National Variants in new JARs or amendments to a JAR

(a) National Variant is a national requirement or regulation imposed by a country in addition to or instead of a JAR.

(b) The formal declaration by the National Authority must be made when the JAAC is adopting the JAR or the amendment to a JAR. The declaration must be recorded in the minutes of the meeting of the said JAA body, together with supporting rationale.

JAR 11.080 (continued)

(c) The actual text of the National Variant must be provided to the Central JAA not later than one month after the meeting referred to in subparagraph (b), together with supporting rationale.

(d) The text of the National Variant shall be issued with the relevant JAR.

(e) The National Authority must propose to the JAA within one year from declaration a solution to resolve the National Variant.

(f) The solution achieved on the proposals by the National Authority shall be published within two months of the date applicable under (e).

(g) When in the course of the implementation of a JAR, a National Variant is required, the National Authority shall declare this National Variant at the earliest possible meeting of the JAAC. The paragraphs (b) to (f) included are accordingly applicable.

(h) The JAA shall annually publish a report listing all National Variants and proposed solutions and progress towards their elimination.

(i) National authorities and interested parties shall be notified as soon as possible, and within two months, of the actual text required by (c) above.

Appendix 1 to JAR-11 Subpart B (continued)

Appendix 1 to JAR-11 Subpart B**1. Insert in JAR***(a) Power to grant and the effect of Exemptions*

(1) Provided it is satisfied that an acceptable level of safety will be maintained the Authority may in exceptional circumstances grant an exemption from any requirement contained in this JAR [other than -- Working Group drafting JAR to decide].

(2) An exemption shall have effect for the period stated therein.

(b) Application and Justification

(1) Any person may apply for an exemption, according to the national application procedure.

(2) The applicant must set out the requirement from which the exemption is sought, explain the interests of the applicant in the action requested including the nature and extent of the relief sought and any information or arguments available to the applicant to support the action. This information or arguments must describe any action to be taken by the applicant to mitigate any effect on safety or provide compensation for any such effect.

(c) Grant of Exemption

(1) An exemption must be in writing and must be signed by the Authority. It may be granted subject to such conditions as the Authority thinks fit.

(2) A summary of any exemption which is granted shall be made available by the Authority to every interested person, industry or organisation who or which asks for it.

2. Insert in ACJ for the JAR

(a) For the purpose of this JAR, a short term exemption is one granted for six months or less and a long term exemption is one granted for more than six months.

(b) A long term exemption should be applied for on a standardised JAA prescribed form to assist with data management. Short term exemptions should normally also be applied for on such form but in the event of urgent action where that is not practicable the form can be dispensed with; with the agreement of the Authority.

(c) Typically, there may be a set of circumstances which were unanticipated at the time the requirement was drawn up or circumstances such that imposition of the requirement would result in restrictions unnecessary for the purpose of ensuring an acceptable level of safety for the particular operation. Exemptions should not be used simply to reduce the burden or cost of compliance where there are no such exceptional circumstances.

(d) The Authority should consider imposing substitute conditions or if not possible consider imposing mitigating or otherwise compensating the exempted condition, e.g. by providing that no passengers should be carried or that the flight should not take place over a congested area.

(e) Sufficient details of the exemption should be made available so that the rationale is understandable and in particular so that any interested party would appreciate the type of circumstances in which an exemption may be granted. However, care should be taken not to disclose personal or sensitive details concerning the applicant for the exemption including in particular, the name and address of the applicant and medically or commercially confidential information. The purpose is to ensure that no-one is unfairly disadvantaged because they were unaware that an Authority would be prepared to grant an exemption in particular circumstances and had granted such an exemption to a competitor.

3. Insert in JIP for the JAR*(a) Control Mechanism*

(1) A copy of every exemption granted should be submitted to the Central JAA within 14 days.

(2) The Central JAA should publish three times a year all long term exemptions of which it has been notified

(3) The JAA should retain copies of all short term exemptions with which it has been copied for a period of two years and make copies available for inspection on request to any person.

(4) In determining the period for which an exemption is granted, there should be included the period of any prior similar exemption granted in respect of the same person/organisation/aircraft in force during the previous 12 months or longer depending on maximum period adopted.

Appendix 1 to JAR-11 Subpart B (continued)

(5) The Central JAA should arrange for a review of all long term exemptions. It will analyse them and make recommendations. It will establish a standardisation review team for this purpose which will also audit short term exemptions granted by Authorities.

(6) The role of the Regulation Director and the Regulation Sectorial Team should be described.

(7) After receipt, the Central JAA should when appropriate refer exemptions to the relevant Working Group.

(8) The result of the review should indicate if an NPA should be initiated.

(9) The need for some mechanism for requesting the National Authority to withdraw the exemption should be considered.

(10) Special procedures for "joint exemption" where subject matter has been certificated jointly, e.g. type certification under JAR-21, should be considered.

(11) Each Exemption should specify its maximum duration. The specialist review team may make recommendations to the Central JAA in co-ordination with the relevant Sectorial Team to initiate NPA action, to withdraw the exemption, to advise that the exemption may remain but similar exemptions should not be granted in future; or that the exemption may remain in force and similar exemptions will be acceptable in future.

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(b) Every Member Authority of JAA shall continue to accord mutual recognition notwithstanding the granting of an exemption by any full Member of JAA.

SUBPART C – JOINT IMPLEMENTATION PROCEDURES

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SUBPART D – PROCEDURES FOR CONSULTATION FOR SPECIAL CONDITIONS

JAR 11.150 (continued)

JAR 11.140 Special Condition

Requirements relative to Special Conditions are contained into JAR-21.

JAR 11.145 Criteria for consultation

(See ACJ 11.145).

(a) Important Special Conditions must be submitted to interested parties for comment before adoption.

(b) Irrespective of the criteria given in paragraph (a) of this Article, the applicant may request that the Special Condition be submitted for consultation prior to the adoption provided a justification for the action is submitted to the Authority. The Authority will decide if the request is to be agreed or not.

(c) When a Special Condition has been agreed, the same special condition for another project should not be submitted to comments unless requested.

(d) If a consultation as reflected in paragraph (b) of this Article is requested, the applicant shall ensure that the Special Condition or the document describing that Special Condition does not contain any proprietary information or data.

JAR 11.150 Consultation

(See ACJ JAR 11.150)

(a) The decision to consult is made by the Certification Division and the Certification Sectorial Team following a proposal by the Certification Team.

(b) The interested parties to be consulted are those included in a generic list agreed by the JAAC (See ACJ 11.150(b)).

(c) The documentation sent out for consultation must include the text of the Special Condition and a justification for the Special Condition.

(d) Duration of consultation is 3 months but may be extended or reduced by the Certification Division in co-ordination with the Certification Sectorial Team. The Certification Division may also agree to extend the duration of consultation defined above upon justified request (see ACJ 11.065(e)).

(e) Comments received will be reviewed and will be implemented in accordance with the Joint Certification/Validation procedures.

(f) Adoption of the Special Condition will be done in accordance with the Joint Certification/Validation procedures.

JAR 11.155 Publication

(See ACJ JAR 11.155)

All Special Conditions must be published within 6 months after the Type Certificate has been issued.

JAR 11.160 Review Process

(See ACJ 11.160)

Published Special Conditions must be reviewed regularly by the Certification Division in co-ordination with the Certification Sectorial Team to decide on the necessity to initiate developing amendments to JAR.

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SUBPART E – ADVISORY CIRCULARS JOINT

JAR 11.175(b) (continued)

JAR 11.165 General

(a) This sub-part defines procedures for development, adoption, publication and amendments to ACJs.

(b) ACJs may be developed:

(1) either in association with the corresponding requirements under sub-part B; or

(2) under this sub-part E.

JAR 11.170 Status

An applicant showing compliance with requirements in accordance with published ACJ material is assured of the Authority acceptance of such method.

JAR 11.175 Development of ACJs
(See ACJ 11.175)

(a) Any person or organisation may propose ACJ.

(b) *Material developed by JAA:*

(1) The Central JAA in co-ordination with the relevant Sectorial Team, with the advice of appropriate Working Party, will agree to develop ACJs when there is an identified need.

(2) A draft will be prepared by a Working Party as directed by the Central JAA. Unless quoting from section 1 of the JAR, use of mandatory clauses such as “shall” or “must” is prohibited in ACJ material. The Working Party will include Interested Parties Representatives.

(3) The decision that the ACJ is mature for consultation will be made by the Central JAA in co-ordination with the relevant Sectorial Teams and consultation must be made as follows:

(i) Circulation of the draft material to the NAA’s and Organisations represented in the Interested Parties Advisory Panel and announcement of availability of draft material to all JAA subscribers;

(ii) Duration of consultation limited to 2 months, with possible extension if deemed necessary by the Central JAA in co-ordination with the

relevant Sectorial Team (see ACJ 11.065(e));

(iii) Comments to be sent to a contact person of the Working Party, identified in the draft material.

(4) The Working Party must review the comments, and propose the resulting material with documented responses to comments to the Central JAA in co-ordination with the relevant Sectorial team for adoption by the JAA Committee.

(5) The Certification Review Item (CRI procedure) may also be used to develop alternative explanations, interpretations or means of compliance in accordance with the Joint Certification/Validation procedures. Such alternatives should be reviewed on a regular basis to decide on the opportunity to develop ACJs in accordance to subparagraphs (b)(1) to (b)(4).

(c) *Material agreed by an individual National Authority:* (see ACJ 11.175(c))

(1) ACJs accepted directly by NAA must be put to the Central JAA and the relevant Sectorial Team for control and publication within two months of acceptance.

(2) The Central JAA in co-ordination with the relevant Sectorial Team will organise a consultation as prescribed in para (b)(3) above.

(3) If, after consultation, the ACJ accepted by the National Authority is found by the Central JAA in co-ordination with relevant Sectorial Team to be consistent with the associated requirement, the Central JAA will publish the new ACJ in Section 2 of the JAR after JAA Committee approval.

(4) If, after consultation, the ACJ accepted by the National Authority is found by the Central JAA in co-ordination with the relevant Sectorial Team to be not consistent with the associated requirement, the Central JAA will inform the National Authority of this finding and will request the National Authority to notify its intention within 2 months.

(5) Following receipt of the National Authority intentions, the Central JAA in co-ordination with the relevant Sectorial Team will report to the JAAC, which will decide upon appropriate actions in accordance with the Arrangements.

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