1. Approves the Council draft, subject to Parliament's amendments;

2. Calls on the Council and the Commission to notify Parliament of their intentions regarding the text approved by Parliament;

3. Instructs its President to forward this opinion to the Council and Commission.

A4-0060/97

Resolution on I. the Council Act of 26 July 1995 drawing up the Convention on the use of information technology for customs purposes, the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes and the Agreement on provisional application between certain Member States of the European Union of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes (C4-0248/95 and C4-0520/95) and II. the Council Act of 29 November 1996 drawing up, on the basis of Article K.3 of the Treaty on European Union, the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of Information Technology for customs purposes, and the Declarations attached to that Protocol

The European Parliament.

-- having regard to the Council Act agreed by the Council of 26 July 1995 drawing up the Convention on the use of information technology for customs purposes (*), the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes (**) and the Agreement on provisional application between certain Member States of the European Union of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes (***) (C4-0248/95 and C4-0520/95),

-- having regard to the Council Act of 29 November 1996 drawing up, on the basis of Article K.3 of the Treaty on European Union, the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of Information Technology for customs purposes, and the Declarations attached to that Protocol (****),

-- having regard to Articles K.1, K.3 and K.6 of the Treaty on European Union.

-- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Legal Affairs and Citizens' Rights, the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Budgetary Control (A4-0060/97),

A. whereas in addition to the Customs Information System (hereinafter referred to as the CIS) the following computerized systems are in existence, are being developed or have been proposed in the area of activity referred to in Title VI of the EU Treaty:

- the Schengen Information System
- Europol
- Eurodac

and whereas under the first pillar the REITOX System is already in place in respect of drugs.

B. whereas it is not desirable for CIREA and CIRIFI to be expanded into computerized systems because this would increase the risk of duplication.

C. whereas there is a great need for computerized systems which make it possible for officials who have the task of overseeing the movement of goods, persons, services and capital across the internal and external frontiers to obtain a better picture within their powers and responsibilities. of such movements,

(*) OJ C 316, 27.11.1995, p. 33
(**) OJ C 316, 27.11.1995, p. 34
(***) OJ C 316, 27.11.1995, p. 58
D. whereas there is a great need for computerized systems which facilitate the exchange of relevant data and enable officials responsible for preventing and investigating serious infringements and offences or fighting crime in general to do their job more effectively within the limits of their powers and responsibilities,

E. whereas computerized systems should generally fulfil the following requirements:
   - protection against unauthorized access,
   - protection of the privacy of individuals,
   - rapidity,
   - unless otherwise provided, the most restricted possible access to the systems and arrangements for monitoring them,
   - effectiveness,

F. whereas the Council 'agreed to prepare a specific information note for Parliament... outlining the main aspects, and that it would hold a discussion on them' (1), and this was not done;

G. whereas, pursuant to Article K.6, second paragraph, of the EU Treaty, the Presidency should have consulted the European Parliament on the Convention referred to above, and whereas it did not wait for Parliament's opinion since the Convention was signed already on 26 July 1995 although it was not forwarded to the European Parliament, and in only one official language of the Union, until 14 June 1995, and the abovementioned act and Agreement were not received either before the signing.

Procedure

1. Notes that the Presidency failed to consult the European Parliament on the Convention in accordance with Article K.6, second paragraph, of the EU Treaty and that Parliament's views have not been duly taken into consideration;

2. Notes that the Council Presidency, by failing to carry out the consultation provided for by Article K.6, second paragraph, of the EU Treaty, has infringed that provision;

3. Notes that the Convention has thus not been established in accordance with the Treaty;

4. Takes the view that, in addition to the Presidency and the Commission, the Member States, before taking a decision on conventions which come under 'principal aspects of activities' within the meaning of Article K.6, second paragraph, of the EU Treaty, should make arrangements for the views of the European Parliament to be taken into consideration;

Legal protection

5. Points out that the central database of the CIS contains data not only about goods, means of transport, businesses, fraud trends and the availability of expert knowledge, but also data of a personal nature; feels, therefore, that any person should be able to bring an action or a complaint before the national courts concerning personal data relating to himself in the CIS;

6. Demands that those concerned by personal data stored in the CIS must enjoy, in particular, a right to information and moreover, without prejudice to national data protection rights, the rights laid down in Recommendation R(87)15 of the Committee of Ministers of the Council of Europe of 17 September 1987;

7. Believes, moreover, that it must be possible to refer disputes which have a bearing on the rules and the multilateral nature of the Convention to the Court of First Instance or the Court of Justice of the European Communities; notes that Parliament was not consulted either on the Council Act of 29 November 1990 drawing up, on the basis of Article K.3 of the Treaty on European Union, the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes;

8. Considers the protocol drawn up on the basis of Article K.3 of the Treaty on European Union regarding the preliminary interpretation by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes, like the Europol protocol, to be inadequate since it still refers to the possibility of optional full or limited accession to the protocol, and it is therefore probable that one or more Member States will not join and that others will avail themselves of provisos;

9. Draws attention to the legal protection for Member States and takes the view that the lack of legal protection for the non-specified institutions of the Union, in particular the European Parliament, must be made good;

Other matters

10. Emphasizes that data processing systems geared to different objectives in customs, police and general administration are preferable to a uniform European data processing system having regard to the specificity rule under data protection law and in the interests of the effectiveness of area-specific data protection Regulations;

11. Takes the view that there is overlapping between the systems, particularly between Europol and the EIS;

12. Calls on the Council to issue, in the interests of clarity, a statement to specify what is meant by the use of data 'for other purposes' (Article 8(1) of the Convention);

13. Calls on the European Union to guarantee as soon as possible a right to self-determination regarding personal data in order to protect individuals and the private sphere in the field of justice and home affairs;

14. Takes the view that the Commission should go beyond technical management of the CIS and play a greater role in the implementation and coordination of all the systems;

15. Calls on the Commission to investigate whether the system could be regulated under the EC Treaty by means of a Directive or a Regulation;

16. Calls on the Commission, should the abovementioned investigation prove positive, to consider drawing up a proposal on the basis of the provisions of the EC Treaty with a view to replacing the relevant part of the Convention by a Regulation or a Directive;

17. Urges that, where necessary, the national parliaments should ensure, upon ratification, that measures are taken with a view to bringing about a very high level of data protection (preventing unauthorized access to the systems, registration of input and registration of consultation, restricting the number of users), that the guarantees in respect of the protection of individuals and their privacy are set at a very high level and that the data protection measures envisaged in the Convention itself are fully complied with;

18. Calls for the annual report of the Committee referred to in Article 16 of the Convention on the use of information technology for customs purposes to be transmitted also to the European Parliament and national parliaments;

19. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States and the applicant countries.