PROPOSALS PAPER: COSTING AND PAYING FOR THE SECRETARIAT OF THE INTERNATIONAL CONFERENCE

Prepared by the Office of the Privacy Commissioner of Canada

This paper is the companion piece to the paper prepared by the Office of the Privacy Commissioner of Canada titled "Backgrounder: the Secretariat of the International Conference and Options on its Level of Service, Funding and Placement" (the 'Backgrounder'). That paper provided an overview of current rules and practices related to the Secretariat of the International Conference of Data Protection and Privacy Commissioners (ICDPPC or 'the Conference'), gave options on its services, funding models and placement, and presented comparable arrangements from other international privacy and regulatory networks.

The purpose of this paper is to propose workable options for establishing and funding a Secretariat in the short term, executed in such a way to allow for further growth and development of the Conference and the Secretariat over the longer-term. These options are the result of comments from ICDPPC members received as part of the consultations on the Future of the Conference ('FOTC') and the deliberations of the Future of the Conference Working Group.

As with the Backgrounder, this paper aims to inform a decision and not pre-empt the underlying discussion on whether to change the *status quo* where the Chair provides and fully subsidizes the Secretariat. That said, the options presented below would go beyond current practice in an attempt to more closely align the services provided by the Secretariat to the expectations expressed by members during the FOTC consultations.

OVERVIEW

Throughout the consultations, members have indicated that the Conference has grown beyond an annual meeting of data protection and privacy authorities. They see in the Conference a unique opportunity for authorities from around the world to exchange information, experiences and ideas. They also see the Conference as a policy leader, a body that allows them to speak collectively on matters of importance via resolutions and declarations.

The feedback also shows that these objectives and ambitions are not always met, and members made a number of recommendations to help bridge the gap between what is expected and what is possible.

A few examples of what members have expressed they would like to see from the Conference:

- The evolution of the Conference towards a more permanent, structured organization that plays a role on the international scene;
- Providing guidance to new member authorities on data protection and privacy regulatory matters, as well as a handbook on the Conference's organization and functioning.
- Regular communications on what the Executive Committee and Conference Working Groups are working on, what resolutions are being considered and providing opportunities to take part in these common projects;
- A secured online platform where members can exchange information year-round;

- Better engagement with regional networks and with international and civil society organizations with an interest in privacy and data protection;
- Improvements to the resolution drafting process, assistance in how to better implement resolutions domestically and follow up work to review their effectiveness;
- The development of guidance documents to clarify rules, including those related to assessing the criteria for membership and observer applications;
- Ensuring diversity within Executive Committee of the Conference while also encouraging it within working groups and in the hosting of the annual meeting; and
- The ability to provide or make materials available in languages other than English.

Members also recognized that meeting the Conference's objectives and implementing the recommendations would require a high level of service and of resources beyond those that can be expected of the current structure. That is, one where the burden is taken on by a handful of volunteer authorities – and most notably the one that holds the Chair and Secretariat.

In practice, the current structure can effectively exclude smaller, less-resourced members from taking leadership roles in the Conference and detracts from equal participation amongst members. Conversely, a move towards a structure that distributes the costs of servicing the Conference will require the setting of Conference fees – itself a risk since high fees could also have an exclusionary effect.

STRUCTURE OF THE SECRETARIAT

The ideal is to strike a balance between cost and desired service level from the Secretariat, while not negatively affecting membership. Doing so requires recognizing that a fully subsidized Secretariat or one that is entirely independent of any Conference member (i.e. through the creation of a separate entity) may not be practicable at this time – though the Conference may wish to keep that as a longer-term goal.

Both proposals below (and at Table A) – a centralized and a decentralized model – result from the discussions of the FOTC Working Group which suggested having a Secretariat that is separate from the Chair's authority, partially-subsidized by membership fees and in place for renewable terms of three years or more.

A Secretariat separate from the Chair would:

- Help ensure continuity of the Secretariat functions regardless of term limits on the Chair authority;
- Allow members that may otherwise not have the staff resources to provide the Secretariat to become Chair;
- Let the Chair authority focus on strategic decisions and dedicate staff to those priorities instead of Secretariat duties; and,
- Reduce challenges in recruiting top-quality candidates since they would be part of a member authority's staff and access the benefits of being a government employee (as opposed to externally hired under the separate entity model).

A partially-subsidized Chair means that the authority or authorities providing the Secretariat would provide the staff and resources necessary to fulfill the functions assigned to the Secretariat, but would receive a subsidy from Conference members via fees to help offset – but not fully cover – those costs. This is similar to the model currently employed by the Asia Pacific Privacy Authorities (APPA) network.

The renewable mandate of three years or more would allow for continuity from the Secretariat beyond that of the term limits no Executive Committee members (including the Chair) currently set at two two-year terms. The time frame of three years or more permits a certain level of expertise and institutionality to set in.

The proposals seeks to give the Conference an opportunity to test whether setting up a Permanent Secretariat is a workable solution to the expectations and problems expressed by members throughout the FOTC consultations. If it is, then the Conference can tweak, revisit and build from the experience. If it is not, the experiment is reversible and the Conference can return to its current *status quo* or attempt another solution.

It is useful to keep in mind how this proposal can lead to the more ambitious option of building a fully independent, much larger Permanent Secretariat over the longer term: Having a bigger staff, drawn from around the globe; providing training/secondment opportunities to employees of member DPAs; providing high quality, comprehensive administrative, research, and communications support to members, the Executive Committee and all working groups; and maintaining a network of international partners not only with those working directly in privacy, but also with those working in human rights, national security, counterterrorism et cetera. These are some of things the ICDPPC could look at down the road, once other intermediary steps are taken first.

1. Centralized Secretariat (provided by a single member)

A centralized Secretariat would be provided by a single member authority and would encompass all Secretariat functions – including, notably, maintaining the Conference website and, should the Conference so decide, creating a secure, members-only online platform. The Secretariat would also oversee the collection of membership fees, should that be approved (more on that below).

The upside of a centralized Secretariat is that it provides unity of services; that is, having all Secretariat functions under one roof should help in terms of the efficiency and organization of the Secretariat – particularly as it would take some adjustment to not having it be provided by the Chair's authority. The downside, however, is that it would place important resource demands on the member that offers the Secretariat. That, in itself, may be a disincentive from offering to be Secretariat.
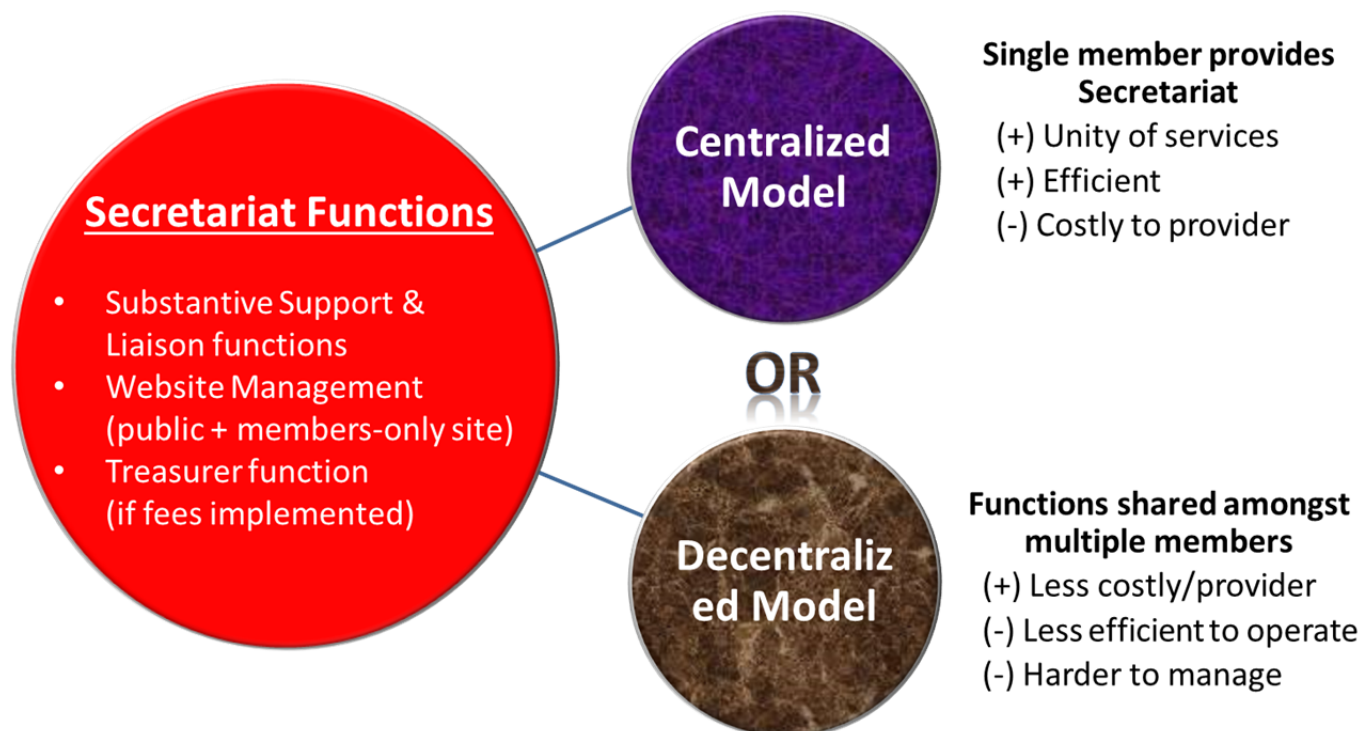
2. Decentralized Secretariat (provided by more than one member)

A decentralized Secretariat would be one where functions are shared amongst several member authorities that, collectively, provide all the functions of the Secretariat.

Under such a model, for example, functions related to support, liaison and promotion would be entrusted to one member, while another would oversee the website and possibly a third would be treasurer (if membership fees are agreed to).

The benefits of this model include that it would allow a larger number of members to become more intimately involved in the running of the ICDPPC, facilitating a wider sharing of the responsibilities and not over-relying on a single authority. The relative disadvantage of this model is that it would require further coordination between those involved, creating a not-inconsiderable risk of delays, miscommunication and loss of efficiency. Further, should a subsidy model be adopted, the level of subsidy received by each authority is reduced.

TABLE A: STRUCTURE

Secretariat Functions

- Substantive Support & Liaison functions
- Website Management (public + members-only site)
- Treasurer function (if fees implemented)

Centralized Model

Single member provides Secretariat
(+) Unity of services
(+) Efficient
(-) Costly to provider

OR

Decentralized Model

Functions shared amongst multiple members
(+) Less costly/provider
(-) Less efficient to operate
(-) Harder to manage

With these proposals in mind, what follows is a costing analysis of what human and economic resources a Secretariat that meets the stated desires of members would need and what fees would need to be levied in order to subsidize – either in whole or in part – such a Secretariat.

COSTING ANALYSIS

There are two important variables and one key assumption to consider. The first variable is the level of service required from the Secretariat – this helps gauge the number of full time equivalents (FTEs) required of the authority providing the Secretariat. The second variable is the level of subsidy provided by the Conference to the authority providing the Secretariat. This would be determined by the membership fees and the willingness of members to honour the payment of the fee. The key assumption relates to setting the median staff salary in order to calculate the level of subsidy to be received; a gross figure of €70.000 (base salary plus benefits) is used as a point of reference.

1. Level of Service / Cost (Table B)

As discussed in the Backgrounder, the Secretariat's functions include file management and preservation (the only mandatory function under the current Rules); support and liaison work; and communication and promotion work. Where ambitious objectives are set by the Conference, the Chair or the ExCo, it follows that the Secretariat's workload in these different areas will increase.

By way of benchmark, a May 2017 analysis by then-Secretariat New Zealand calculated their staff costs as at least 1.24 FTEs and over NZ$100.000 (approximately €58.333).[1] New Zealand staffed the Secretariat with one Manager, one policy adviser and an executive assistant, all of whom dedicated a portion of their time to the ICDPPC, and the balance to the Office of the Privacy Commissioner of NZ.

As noted above, throughout the FOTC consultations members have indicated certain functions they would like to see from the ICDPPC and, implicitly, the Secretariat that would help both meet the potential of the Conference and members' expectations of it. These projects and functions would have an important effect on the costs of the Secretariat – meaning that they cannot reasonably be expected of the Chair authority that volunteers the Secretariat or, if they are, come at the sacrifice of other functions.

In the Backgrounder we presented a table with two levels of service options, both of which go beyond the current *status quo* and attempt to more closely meet the expectations and suggestions expressed by members: the first, labelled 'Adequate', roughly captures what members currently expect as a baseline from the Secretariat and another, labelled 'Adequate Plus', that fulfills an even more ambitious level of service. That table is reproduced below for ease of reference:

LEVEL OF SERVICE (FROM BACKGROUNDER)

ADEQUATE	ADEQUATE PLUS
Liaison and Support • Supporting Chair/ ExCo in their functions. • Supporting Hosting Authority in preparation of annual Conference (open and closed session coordination, securing speakers, logistics). • Support WGs in their mandates and facilitate their communication with ExCo and membership. • Promote information-sharing between WGs, members and other privacy orgs + forums. • Promote ICDPPC to and liaise with other networks and int'l organisations. **Communications** • Create and maintain members-only online platform (i.e. members' bulletin board). • Oversee translation of select Conference documents related to decision-making into English, French and Spanish. • Publish a regular Newsletter, maintain social media presence.	**Liaison and Support** • In addition to support work, conduct analytical studies (e.g. of effectiveness of Conference resolutions and initiatives). • Assist WGs and coordinate their efforts with broader Conference objectives. • Support members by linking those working on similar projects (requires knowledge of their operations). • Engage other networks and int'l orgs in search for projects of common interest. • Promote privacy and data protection in places where laws/DPA under development **Communications** • Create and maintain a members-only website with more functionality (e.g. for information exchange, document repository of non-public documents, searchable database of contacts). • Oversee translation of all ICDPPC materials into English, French, Spanish. • In addition to the Newsletter, publish promotional materials (pamphlets, education packages)

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[1]   "Quantifying the ICDPPC Secretariat resource requirements": https://icdppc.org/wp-content/uploads/2015/02/Compilation-of-meeting-papers-June-Redacted.pdf (pp 15-17)

Taking those same two options – Adequate and Adequate Plus – Table B seeks to link level of service with cost implications. The 'Adequate' column details the substantive recommendations that have been made throughout the FOTC consultations and have been validated by the FOTC Working Group. Where these recommendations are more aspirational, longer-term or present a higher resource implication on the Secretariat, these are listed under 'Adequate Plus.'

TABLE B: LEVEL OF SERVICE / COST

ADEQUATE	ADEQUATE PLUS
Coordination work • Prepare Welcome Kit for new authorities joining ICDPPC • Facilitate improvements to the resolution drafting and implementation process • Regular communications with members of what ExCo, Working Groups are working on, upcoming resolutions and other ICDPPC projects **Engagement with other networks** • Communicate with other international and civil society organizations on privacy-related matters • Engage with privacy networks to find common projects and opportunities **Maintain members-only website** • Create and maintain secure platform for member interactions (e.g. member's bulletin board) • Maintain document repository for materials related to ICDPPC decision-making **Translation of ICDPPC materials** • Select materials available in English, French and Spanish • Where possible, secure translation into other languages **ESTIMATED RESOURCE ALLOCATION** • No less than 2.0 FTEs: 0.5 manager, 1.25 analysts, 0.25 support • Travel to conference, in-person ExCo • Modest translation costs **MINIMUM TOTAL COST OF €160.000**	**Coordination work (more analytical)** • Analysis/support of Working Groups and policy strategy • Analysis/support for resolutions: measure effectiveness, assist in interpretation and implementation of recommendations • Develop guidance documents on rules and procedures (incl. on accreditation), promotion of ICDPPC's diversity initiatives • Summarize privacy developments that may be of importance to members' work as national DPAs and internationally **Engagement with other networks (more proactive)** • Reinforce ICDPPC presence and participation at multilateral orgs • Develop closer, coordinated collaboration between ICDPPC and other privacy networks (regional, linguistic, etc) **Maintain members-only website (more resources)** • On-going population of site with papers of interest from members and other stakeholders • Ensure site facilitates information exchanges, promote • Searchable document repository **Translation of ICDPPC materials (more docs, languages)** • All materials available in English, French and Spanish • Where possible, secure translation into other languages **ESTIMATED RESOURCE ALLOCATION** • No less than 4.0 FTEs: 1.0 manager, 2.0 analysts, 1.0 support • Travel to conference, in-person ExCo, important meetings • Higher translation costs **MINIMUM TOTAL COST OF €320.000**

The difference is largely one of higher expected output in the Adequate Plus option – where there is more resources dedicated to analytical and proactive work, with a higher emphasis on ensuring ICDPPC activities and those of its members are more accessible, widely shared and strategically coordinated where possible.

Given the current expectations of members, including the desire to create a secure online platform for ICDPPC members, we calculate no less than 2.0 FTE would be needed under the 'Adequate' option and no less than 4.0 FTEs under the 'Adequate Plus' option.

Salary costs would be the largest portion of any estimate that quantifies funding a Permanent Secretariat. Salaries are subject to variance according to seniority and experience – which should be determined in light of the functions assigned to the Secretariat – and location – which is independent of level of service considerations. Benefits and pension contributions also contribute to the variance.

Non-salary costs include travel to the annual meeting and others meetings of import. The cost of special projects or services, such as translation, web programming, graphic design and legal counsel, are also considered under non-salary costs.

Assuming the median salary of €70.000 per FTE and adding estimated non-salary costs:

- **The minimum cost of the Secretariat under the 'Adequate' option would be approximately €160.000** [(€70.000 x 2.0 FTE) + €20.000 non-salary costs].

- **The minimum cost of the Secretariat under the 'Adequate Plus' option would be approximately €320.000** [(€70.000 x 4.0 FTE) + €40.000 non-salary costs]

It bears repeating that these are estimates and more precise figures would only be possible once more variables are determined and more experience under the models proposed is gained. Also, the high initial costs for translation and for the members-only website would trail off in subsequent years – allowing for the prospect of lower costs or reassigning the resources to other projects of importance.

2. Level of Subsidy / Fees (Table C)

As of the 39th Conference (2017) there are 119 members from 78 countries/economies.[2] Of these, 87 members from 62 countries/economies completed the 2017 Census, which was used as part of this analysis.[3] The census data highlights the differences in size and budget of member authorities; there was a wide spread of staff numbers ranging from 1144 FTE to 0.45 FTE, and of annual budgets from €265.6 million to €14,000.[4] (Note: there are some authorities with a wide regulatory mandate that provided staffing and budget figures for the body as a whole.)

Taking these differences into account, we would recommend setting a variable membership fees according to members' size and budget. In an effort to simplify the administration of the fees, we would recommend not creating more than three fee categories. Lastly, in the interest of inclusion, we would also recommend that those authorities with less than 7 FTEs or an annual budget under €100,000 be exempted from paying membership fees. Using the census data, that excludes 16 authorities – but it may be more since not all authorities completed the census. For the sake of this exercise we will exclude 19-20 authorities, leaving 99-100 current members to be eligible for the payment of fees.

Note that membership fees would be above any cost related to attendance at the annual meeting and would be payable regardless of attendance since they are meant to subsidize the work carried out throughout the year on behalf of the ICDPPC and not just for the annual meeting.

We have identified two general approaches to setting fee categories. One, setting categories based on a set number of authorities per category; and the other, setting fee categories based on annual budget cut-offs. The main advantage of the former approach is that it creates more budgetary certainty for the Secretariat if, for example, 50 authorities will be paying a set "high" fee, and 50 will be paying a set "low"

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2 List of Accredited Members: https://icdppc.org/participation-in-the-conference/list-of-accredited-members/.
3 ICDPPC Census: https://icdppc.org/the-conference-and-executive-committee/icdppc-census/. Raw census data obtained from the Secretariat in 2017.
4 Budget figures were given in local currencies. The conversion to Euro was done at the 28 June 2018 rate for the purposes of this paper.

fee. The disadvantage is that there may be increased uncertainty for individual DPAs as their contribution determination depends not only on their annual budget, but on their annual budget *in relation to* other DPA's annual budgets. It may also create inequities for DPAs with similar annual budgets that happen to fall on different sides of a divide.

The latter option (fees based on annual budget cut-offs) might lead to less budgetary certainty for the Secretariat. However, it would likely be simpler for DPAs to be able to determine their contributions based simply on their annual budget. For example, if a highest contribution is required from DPAs with an annual budget over €8M; a mid-contribution is required for DPAs with an annual budget between €2M and €8M, and a low-contribution is required from DPAs with an annual budget between €300,000 and €2M.

For the purpose of this exercise, and given the number of unknowns at this time, we have used the former approach (equal sized numbers in the various fee categories) to provide some examples of funding categories. Table C provides several options for two or three groups with fees ranging from a high of €4.000 to a low of €350 per member per year. We have chosen round numbers in an effort to facilitate the calculation, but these figures can of course be adjusted. The exercise is meant to provide an idea of the level of subsidy, not of fixed amounts.

TABLE C: LEVEL OF SUBSIDY / FEES

TWO FEE GROUPS

- **Approximately 50 authorities per group**
- **Easier to Administer**
- **Higher Yield**
- **Higher strain on mid- to small-authorities**

THREE FEE GROUPS

- **Approximately 33 authorities per group**
- **Better reflects size diversity of membership**
- **More difficult to administer**
- **Lower yield**

High
- Top 50: €4.000 annual fee
- Bottom 50: €2.000 annual fee
- **Approximate subsidy of €300.000.**

High
- Top 33: €4.000 annual fee
- Middle 33: €2.000 annual fee
- Bottom 33: €1.000 annual fee
- **Approximate subsidy of €231.000.**

Medium
- Top 50: €3.000 annual fee
- Bottom 50: €1.500 annual fee
- **Approximate subsidy of €225.000.**

Medium
- Top 33: €3.000 annual fee
- Middle 33: €1.500 annual fee
- Bottom 33: €750 annual fee
- **Approximate subsidy of €173.250.**

Low
- Top 50: €1.500 annual fee
- Bottom 50: €750 annual fee
- **Approximate subsidy of €112.500.**

Low
- Top 33: €1.500 annual fee
- Middle 33: €750 annual fee
- Bottom 33: €350 annual fee
- **Approximate subsidy of €85.800.**

<u>Two Fee Groups (50 authorities per group)</u>

- **High**: annual fees of €4.000 and €2.000 respectively for 50 largest and 50 smallest authorities would result in an approximate annual **subsidy of €300.000** for the Secretariat.
  [(50 x €3.000) + (50 x €1.500) = €300.000]

- **Medium**: annual fees of €3.000 and €1.500 respectively would result in an approximate annual **subsidy of €225.000** for the Secretariat. [(50 x €3.000) + (50 x €1.500) = €225.000]

- **Low**: annual fees of €1.500 and €750 respectively would result in an approximate annual **subsidy of €112.500** for the Secretariat. [(50 x €1.500) + (50 x €750) = €112.500]

- The model with two fee groups would be easier to manage and has a higher yield than the three fee group model. But it may pose a higher strain on medium-sized members.

<u>Three Fee Groups (33 authorities per fee group)</u>

- **High**: annual fees of €4.000 for the largest 33 authorities, €2.000 for the middle 33 and €1.000 for the smallest 33, would result in an approximate **subsidy of €231.000** for the Secretariat. [(33 x €4.000) + (33 x €2.000) + (33 x €1.000) = €231.000]

- **Medium**: annual fees of €3.000, €1.500 and €750 respectively would result in an approximate **subsidy of €173.250** for the Secretariat. [(33 x €3.000) + (33 x €1.500) + (33 x €750) = €173.250]

- **Low**: annual fees of €1.500, €750 and €350 respectively would result in an approximate **subsidy of €85.800** for the Secretariat. [(33 x €1.500) + (33 x €750) + (33 x €350) = €85.800]

- The model with three fee groups may better reflect the size and resource disparity among Conference members, but it may be more difficult to administer for less received monies.

3. **Additional Considerations**

- Individual members could still opt to pay more than their allocated amount, and should continue to be encouraged to share their expertise for Conference purposes (e.g. for the translation of documents).

- The calculations were made according to the number of members in the Conference, as opposed to countries/economies, since this would allow for wider distribution of the costs and lower fees.

- Consideration should be given on the implications for Conference observers. Currently, there are 20 observers: 12 that are public entities other than international organisations, seven international organisations and one through reciprocal recognition.[5] If observers are given wider participation in Conference matters (e.g. via participation in working groups), as has been suggested through the FOTC consultations, should they be charged an observer fee beyond that for attending the annual meeting?

- The modalities for the collection and allocation of fees will need to be further explored (as initially stated in the Backgrounder).

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[5] List of Observers: https://icdppc.org/participation-in-the-conference/list-of-observers/.

NEXT STEPS

Should members agree on the establishment of a Secretariat that is partially subsidized through the levy of membership fees, a resolution should be passed at the 40th Conference in October, mandating the Working Group on the Future of the Conference to prepare, in close cooperation with and by regularly reporting to the Executive Committee, a proposal, for adoption at the 41st Conference which:

- Proposes the necessary changes to the Rules, including formalizing the role and structure of the Secretariat, whether it is provided by one or more authorities and the establishment of membership fees.

- Establishes a Scope of Work for the Secretariat;

- Consults members on a final fee structure;

- Collects the necessary information from members to determine which fee group they are in; and

- Recruits an authority (or authorities) willing to host the Secretariat;

- Together with the authority providing the Secretariat, determines the most practical way to collect membership fees.

On the basis of the proposal prepared by the Working Group on the Future of the Conference, the Executive Committee to would then present for adoption at the 41st Conference in 2019, the necessary changes to the Rules and other processes necessary to establish the Secretariat and collect membership fees.