

STEERING GROUP

DOCUMENTATION

**A compilation of materials related
to the Steering Group on
Representation before International
Organisations of the International
Conference of Data Protection and
Privacy Commissioners**

7 December 2011

1. *Introduction*

2. *Methodology*

3. *Results and Discussion*
The results of the study are presented in this section. The data were analyzed using statistical methods, and the findings are discussed in relation to the research objectives. The results show a significant correlation between the variables studied, and the discussion explores the implications of these findings for the field of research.

4. *Conclusion*

Steering Group documentation

Part 1: The Steering Group

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2. Governing documents
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Part 2: The International Organisations

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9. Council of Europe
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13. IGF
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15. ICANN
16. International Telecommunications Union
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Part 1: The Steering Group

The first part of the compilation includes documentation focused on the Steering Group.

1. Preface

The Steering Group was a substantial new initiative for the Conference in 2008. It was part of broader initiatives designed to put the Conference on a firmer footing as a useful forum of the world's privacy regulators.

The Steering Group was assigned important new roles to undertake ongoing data protection activity between the annual conferences. It was anticipated to be one of three permanent committees of the Conference. Unlike the Credentials Committee which had an inward looking focus, the Steering Group was established to further substantive data privacy objectives in the wider world.

Collectively, DPAs possess a wealth of privacy experience. The Conference, the principal global forum of DPAs, had met for more than three decades. It was proposed to bring the expertise, and common interests, of DPAs through the vehicle of the Conference together with the international organisations working in international information policy. This would be achieved by becoming formal observers to relevant committee meetings of international organisations. Observer status would create a dialogue between DPAs collectively and international organisations. In this way, both could be better informed and there would be new opportunities to encourage better data protection outcomes.

The Steering Group was given the task of making this a reality. The Conference, and the documentation generated by the Steering Group assembled in this compilation, explain how that was attempted.

The Steering Group continued for three complete years before its role was consolidated into the new Executive Committee in late 2011. The Steering group's first year was a busy one agreeing and documenting a series of approaches and processes to enable the work to be undertaken. The first year saw several applications for observer status started or completed. Work was also initiated on scoping out promising areas for future activity and in setting priorities. The second and third years were not as busy although the delegates appointed by the Steering Group settled into productive activity. The Steering Group found it difficult to maintain the same level of productive activity and only modest new initiatives were taken in the second and third years. The Steering Group was reluctant to undertake significant new initiatives in its final year given that an interim Executive Committee had been established with a proposal to subsume its responsibilities into the permanent Executive Committee.

At the end of its term, the position can be briefly summarised as follows:

1. The Conference has appointed a liaison officer to ISO/IEC JTC 1/SC 27/WG5 of the International Organisation for Standardisation (ISO) – the delegate is Steve Johnston from the Office of the Privacy Commissioner of Canada.
2. The Conference has obtained observer status to the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD) of the Council of Europe – the delegate is Anton Maria Battesti of the French Data Protection Authority (CNIL).
3. The Conference has obtained observer status to the Working Party on Information Security and Privacy (WPISP) of the Organisation of Economic Cooperation and Development (OECD) – the Conference delegate also is Anton Battesti.
4. Although it does not hold permanent guest status, the Conference has twice been granted guest status for particular meetings of the Data Privacy Subgroup (DPS) of the Electronic Commerce Steering Group (ECSG) of the Asia Pacific Economic Cooperation (APEC).

5. Mandates from the Conference exist for observer status to be pursued with respect to six other international organisations – the International Law Commission, Internet Governance Forum, London Action Plan, ICANN, ITU and UNESCO. The Steering Group has done some foundation work on each and developed a strategy for prioritising further initiatives with respect to observer opportunities.

The Steering Group hands on its responsibilities to the Executive Committee. The Conference now has a strong profile before three critical committees that are highly active in international data privacy work and a positive relationship with a fourth. The Executive Committee inherits two delegates, covering three committees, who are able and hard working.

The Steering Group successfully took on the challenging tasks of creating arrangements that did not previously exist for the Conference to work inter-sessionally to have influence in international policy making. Those were substantial accomplishments. It has made a reasonable start in exercising those opportunities although efforts to date have only begun to scratch the surface of what is possible. In handing on the responsibilities, I encourage the Executive Committee to continue the current level of activity, hopefully with better support arrangements, and to take the existing and new opportunities to the next level. There has never been a greater need for data protection authorities to act collaboratively and effectively in the international arena and the framework that the Executive Committee inherits provides great potential for important work.

It has been my privilege to have encouraged the Conference to take this step in the international arena. It has been positive to see the initiative grow from a simple concept, progress to fine words in a resolution but, most importantly, become a reality on the ground. However, the initiative did not fully mature with the Steering Group. I have been conscious for a while that it has being impossible to achieve anywhere near the full potential of the initiative without proper support and engagement from the wider Conference, both of which were lacking for the Steering Group but ought to be available for the Executive Committee. I have, for example, being acutely conscious of how little support I could offer to our hard working and dedicated delegates and hope that the new arrangements will do better for them.

The documentation assembled in this volume should help enable the Executive Committee to build upon what the Steering Group has already done, I remain at the disposal of the Executive Committee if it has any question about the approach taken to date.

Blair Stewart
Convenor, Steering Group (2008 – 11)

2. Governing documents

The collective will of the International Conference is formally exercised by resolution.

Accordingly, the Steering Group was established by initial resolution adopted at the 30th Conference held in Strasburg in 2008.

The mandate of the Steering Group is also established by resolution. The initial resolution provided a mandate to obtain representation before seven international organisations. This was extended by resolution of the 31st Conference to a further three international organisations.

Attached:

- 30th International Conference, Resolution concerning the Establishment of a Steering Group on Representation at meetings of International Organisations, Strasbourg, 2008;
- 31st Conference, Resolution giving directions to the Steering Group to consider seeking Observer Representation before Internet Governance Forum, London Action Plan and ICANN, Madrid, 2009.

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Resolution concerning the Establishment of a Steering Group on Representation at Meetings of International Organisations

Proposer: Privacy Commissioner, New Zealand

Co-sponsors:

Privacy Commissioner, Australia
Privacy Commissioner of Canada
Data Protection Commission, France
Data Protection Commissioner, Ireland
Data Protection Commissioner, Switzerland

Resolution

The 30th International Conference of Data Protection and Privacy Commissioners

Recalling the resolution of the 25th Conference that called upon international bodies to adopt suitable mechanisms to ensure that data protection considerations are taken into account when promulgating standards, rules or common practices that affect personal data handling within national jurisdictions¹

Also recalling the Montreux Declaration adopted at the 27th Conference which resolved to strengthen collaboration with international organisations²

Noting the 28th Conference's London Declaration which called for Data Protection Authorities to bring forward coordinated strategies to act in new and more effective ways and, in particular, to obtain better institutional recognition at the international level³

And further recalling the resolution of the 29th Conference that outlined a process to influence international data protection policy formulation by obtaining observer status at meetings of international organisations⁴

Therefore resolves:

1. To create a process to enable collective representation of Data Protection Authorities as observers at meetings of international organisations, both governmental and non-governmental, in order to better promote the basic principles of data protection and privacy at international level, and
2. To establish a Standing Committee of the Conference to be known as the Steering Group on Representation before International Organisations, to be operated in accordance with the basic arrangements set out in the annex to this resolution, and
3. To elect an inaugural Steering Group⁵, and

¹ Resolution on Data Protection and International Organisations, Sydney, 2003. The text of this and other conference resolutions available at <http://www.privacyconference2008.org>

² "The Protection of Personal Data and Privacy in a Globalised World: A Universal Right Respecting Diversities", Montreux, 2005.

³ "Communicating Data Protection and Making it More Effective", London, 2006.

⁴ Resolution of the Working Group on Conference Organisational Arrangements, Montreal, 2007.

⁵ The proposer and co-sponsors offer themselves for election to the Steering Group.

4. To direct the inaugural Steering Group to explore the usefulness of obtaining observer representation, and if appropriate to obtain such representation, at the meetings of the appropriate committees or working groups of the following international organisations:
 - a. OECD⁶
 - b. International Organisation for Standardisation⁷
 - c. Council of Europe⁸
 - d. APEC⁹
 - e. International Law Commission.¹⁰

⁶ Expected to be the OECD Working Party on Information Security and Privacy.

⁷ Expected to be ISO Working Group on Identity Management and Privacy Technologies (WG5).

⁸ Expected to be the Consultative Committee on Convention No. 108 (see Council of Europe, Convention for the Protection Of Individuals With Regard To Automatic Processing of Personal Data, Chapter V).

⁹ Expected to be the Electronic Commerce Steering Group Data Privacy Subgroup.

¹⁰ Part of the UN system.

ANNEX

Basic arrangements for the Steering Group on representation before International Organisations

1. Membership

- a. Membership of the Steering Group will be by election at the Conference or by co-option between Conferences.
- b. Any Data Protection Authority (DPA) accredited to the Conference may be elected to, or co-opted onto, the Steering Group.
- c. The Steering Group must include a minimum of 5 DPAs.
- d. There is no maximum number for members of the Steering Group.
- e. Between Conferences, the Steering Group may co-opt up to 3 further DPAs to assist with its work.
- f. The term of elected Steering Group members is 4 years. Members can resign before the end of their term and may be re-elected as often as they wish. The term of a co-opted member is until the date of the next Conference.

2. Directions concerning international organisations

- a. The resolution establishing the Steering Group directed the Steering Group to 5 international organisations as candidates for seeking observer representation.
- b. The Conference may from time to time direct the Steering Group to seek observer status from other international organisations.
- c. One of the Steering Group's functions is to identify useful opportunities for representation and to make recommendations to the Conference seeking directions to obtain representation.
- d. In cases of urgency, where significant opportunities for advancement of data protection and privacy will be lost by delay, the Steering Group may proceed to seek representation at meetings of international organisations in the absence of directions from the Conference. However, the Steering Group must obtain ratification of such action at the next Conference.

3. Working methods

- a. The Steering Group will select its own chair.
- b. The Steering Group will settle its own procedures, document them and make that documentation available for members of the Steering Group and any other interested DPAs.

4. Functions of Steering Group

- a. The Steering Group will have the functions set out in this and other clauses and any additional functions conferred by resolution of the Conference.
- b. The principal functions of the Steering Group will be to:
 - i. Research the international scene to identify opportunities for useful participation.
 - ii. Pursue applications to obtain observer status at appropriate international meetings.
 - iii. When status has been granted, to arrange for a DPA to be the Conference's delegate.
 - iv. Develop and document the approach of the Steering Group to mandating delegates.
 - v. Provide general or specific guidance to Conference delegates.
 - vi. Receive reports from delegates.
 - vii. Provide reports to the Conference.

- c. In addition to any additional reports that the Steering Group thinks useful to make, the Steering Group shall provide the following reports:
 - i. An annual written report to the Conference about the Steering Group's activities including an account of any observer representation sought or granted, delegate appointed and meetings attended.
 - ii. The first annual report should include an account of the operation of the resolution establishing the Steering Group including these basic arrangements and recommend any necessary or desirable improvement.
 - iii. Recommendations as to any additional international organisations for which a direction should be given to the Steering Group.

5. Delegates

- a. The Steering Group must establish processes for appointing delegates generally or in a specific case.
- b. The Steering Group may appoint a member of the Steering Group as a delegate or may appoint any other DPA.
- c. Appointment as a delegate may be for a specific meeting or for a specified period of time. Time-based appointments should be reviewed or renewed periodically.
- d. The Steering Group will provide general guidance for delegates.
- e. All resolutions of the Conference are to be considered a standing direction to all delegates.

6. Expenses

- a. The Conference is not liable for any expenses of the Steering Group, its members or delegates.
- b. The Steering Group is not liable for any expenses of members or delegates.

Explanatory Note

The Conference has long recognised the fundamental importance of the international dimension of data protection. There is a critical need for the basic principles of privacy and data protection to be taken into account in the development of international instruments, standards and all manner of arrangements. Data Protection Commissioners individually and collectively have a special role to play. This resolution, which builds upon a series of Conference resolutions, will provide a platform upon which the collective experience of Data Protection Authorities can be offered as a resource to international organisations as they struggle with the data protection dimensions of their work.

The resolution will establish a standing committee to be known as the Steering Group on Representation before International Organisations. The proposer and co-sponsors each offer themselves for election to the inaugural Steering Group. Other Data Protection Authorities are also welcome and encouraged to offer themselves forward for election to the Steering Group to assist with this important work.

The Steering Group would commence its work following the 30th Conference. In its first year, the principal tasks of the Steering Group will include:

- researching the international scene to identify opportunities for useful participation
- pursuing applications to obtain observer status at appropriate international meetings
- when status has been granted, arranging for a DPA to be the conference's delegate
- developing and documenting the approach of the Steering Group for mandating delegates
- providing general or specific guidance to conference delegates
- receiving reports from delegates
- reporting back to the Conference.

The resolution directs the Steering Group to consider 5 international organisations initially. There is a process for others to be considered at the direction of the Conference.

An annex to the resolution sets out the basic machinery of the Steering Group. The Steering group will supplement this by documenting its procedures.



**Resolution giving directions to the
Steering Group to consider seeking
observer representation before
Internet Governance Forum,
London Action Plan and ICANN**

Available in: English

31st International Conference of Data Protection and Privacy Commissioners

**Madrid, Spain
4 – 6 November 2009**

Resolution giving directions to the Steering Group to consider seeking observer representation before Internet Governance Forum, London Action Plan and ICANN

The Steering Group proposes the following resolution:

The 31st International Conference of Data Protection and Privacy Commissioners:

1. Notes that the Steering Group on Representation before International Organisations has, in accordance with directions given by the 30th Conference, sought or obtained observer representation before the appropriate committees or working groups of APEC, Council of Europe, ISO and OECD;
2. Further notes that while the Steering Group has not considered it appropriate to seek representation before the International Law Commission, International Telecommunications Union and UNESCO at this stage that it plans to continue to explore the usefulness of seeking representation at a future date; and
3. Now directs the Steering Group to explore the usefulness of obtaining observer representation, and if appropriate to obtain observer representation from the following:
 - a) Internet Governance Forum;
 - b) London Action Plan (on spam); and
 - c) Internet Corporation for Assigned Names and Numbers (ICANN).

Proposed by the Data Protection Authorities from: Australia, Canada, European Data Protection Supervisor, France, Germany, Hong Kong, Ireland, Italy, New Zealand, Spain

Steering Group on Representation before International Organisations

Explanatory Note

The Steering Group has reviewed the international scene and recommends that the Conference give it additional directions to seek observer status, if warranted, from three further international bodies.

The Internet Governance Forum (IGF) was established to support the United Nations Secretary-General in carrying out the mandate from the World Summit on the

Information Society (WSIS) for multi-stakeholder policy dialogue. The IGF facilitates discussion on Internet governance issues through that website, workshops and through an annual meeting (in 2009 to be held in Egypt). Being an observer to this forum would give a higher visibility to data protection issues and enhance engagement with elements interested in Internet issues.

The London Action Plan, a joint initiative of several international organisations. This is a group of enforcement authorities that aim to coordinate action in relation to spam. Several data protection authorities already participate in this forum.

ICANN describes itself as a 'not-for-profit public benefit corporation with participants from all over the world dedicated to keeping the Internet secure, stable and interoperable'. It develops policy on the Internet's unique identifiers.

These forums are less formal than traditional international governmental organisations. However, that does not mean that they are unimportant. In the challenging area of Internet regulation and enforcement, it may be that new means of innovative cooperation in standard setting and enforcement are needed.

While the Steering Group has identified these groups as of potential interest to the Conference it has not completed a detailed evaluation. The direction sought in the resolution will provide a basis for the Steering Group to take the matter further. Further examination of the bodies' work plans for 2010 and beyond will assist in determining whether engagement as an observer will offer value to all parties. The Steering Group will also examine logistical issues including whether there are DPAs available to be the Conference's delegates.

3. Background documentation

There has been longstanding informal engagement between the Conference and several international bodies, notably the OECD, European Commission and Council of Europe. As the Conference firmed up its accreditation processes, the DPAs within several international bodies were accredited (e.g. the Council of Europe Data Protection Commissioner and the EDPS). Officials from the Secretariats of the OECD and the European Commission have been frequent observers at the Conference's closed session as well as active participants in the public sessions.

The Conference became concerned to influence, and not merely observe, developments at international level that impact upon data protection. Engagement with international organisations was seen as one means to do so. The first formal manifestation was a resolution of the 25th Conference on data protection and international organisations. A theme of working with international organisations also came through the 2005 Montreux Declaration, the London Declaration and various resolutions calling for global standards such as the Madrid Resolution.

The direct origins of the Steering Group can be traced to the report of the Working Group on Conference Organisational Arrangements presented to the 29th Conference. This identified obtaining observer status at meetings of international organisations as a means of collectively influencing international data protection policy formulation. The 30th Conference established the Steering Group.

The initial Steering Group elected at the 30th Conference comprised 10 DPAs from Australia, Canada, European DPS, France, Germany, Hong Kong, Ireland, Italy, New Zealand and Spain. All were re-elected at the 32nd Conference for a further two year term. New Zealand has acted throughout as convener.

A selection of internal Steering Group update reports outline aspects of approach and progress, particularly in the busy first year.

25TH INTERNATIONAL CONFERENCE OF DATA PROTECTION &
PRIVACY COMMISSIONERS
SYDNEY, 12 SEPTEMBER 2003

Proposed Resolution on Data Protection and International Organisations

Proposer: Privacy Commissioner, New Zealand

Co-sponsors:

- Data Protection Commissioner, Ireland
- Commission Nationale de l'Informatique et des Libertés, France
- Privacy Commissioner for Personal Data, Hong Kong SAR
- Federal Data Protection Commissioner, Germany

Resolution

That the 25th International Conference of Privacy and Data Protection Commissioners resolve:

That the conference calls upon:

- (a) international and supra-national bodies to formally commit themselves to abiding by principles that are compatible with the principal international instruments dealing with data protection and privacy;
- (b) international and supra-national bodies that hold or process personal data to establish appropriate mechanisms to ensure compliance with applicable data protection principles, such as the establishment of internal but operationally independent supervisory authorities with control powers;
- (c) international and supra-national bodies that have a role in promulgating standards, rules or common practices which affect personal data handling within the jurisdictions of their constituent members to develop and adopt suitable mechanisms to ensure that data protection considerations are effectively taken into account, such as the use of privacy impact assessments and consultation with recognised data protection authorities;

and requests the host of the 25th International Conference to draw this resolution to the attention of the relevant bodies.

Explanatory note

The International Conference, now in its 25th year, primarily consists of national data protection and, in federal and devolved jurisdictions, their sub-national counterparts. Building upon preliminary work at the 21st and 22nd conferences, the 23rd conference resolved to establish a process and criteria for recognising the credentials of data protection authorities. The Paris resolution explicitly anticipated data protection authorities within international and supra-national bodies. The conference will, this year, be called upon to consider for the first time the accreditation of authorities at international and supra-national level.

There are data protection rules applying to some key institutions, arrangements and databases at the international or supra-national level but many new information sharing arrangements are being initiated through a variety of international bodies. Not all of these bodies have previously had much exposure to data protection approaches and the issues are often being considered, if at all, very late in international standard setting processes.

Many law enforcement initiatives come to mind in this context. However, also consider, for example, the following current examples of initiatives from specialist bodies having having widespread effects:

- significant initiatives to add biometrics to passports will flow from standard setting by the International Civil Aviation Organisation (see www.icao.int)
- a sports drug testing code and associated standards recently issued by the World Anti-Doping Agency, includes new obligations regarding the sharing of information about individual athletes' whereabouts (see www.wada-ama.org)
- the ENUM proposals to combine telephone numbers and email addresses arise from a working group of the Internet Engineering Task Force and International Telecommunications Union (see www.enum-forum.org).

Even international organisations which have been involved in data protection in one capacity may lose their awareness if they lack an institutional check on their practices. For example, the "privacy notice" on the United Nations website does not mention the UN's own Guidelines concerning Computerised Data Files (1990) adopted by the General Assembly.

Appropriate data protection of information held by international and supra-national organisations cannot be achieved solely by national laws and data protection commissioners. International organisations need themselves to adopt appropriate standards, policies and principles and to establish mechanisms to ensure that they are carried into effect. This resolution encourages such steps to be taken in a manner which accords with internationally recognised practice. Furthermore, international bodies are responsible for promulgating both "hard law" and, increasingly, "soft law" at international level which must then be carried forward at national level. While such international standard setting is often to be welcomed, it can cause particular difficulties at national level if the data protection dimension has not been considered within the international standard setting. By adopting this resolution, it is hoped to encourage better awareness and compliance within international institutions which may, almost as a by-product, better inform those bodies when undertaking international standard setting (including setting up effective mechanisms to consult existing data protection authorities on matters affecting their jurisdictions).

The Conference host is requested to draw the attention of relevant international bodies to the resolution. He may wish to consult with the sponsors of the resolution in relation to that task. It is anticipated that a short report on the outcome of that process would be submitted to the 26th conference.

**29th International Conference of Data Protection
and Privacy Commissioners**



***Report of the Working Group on Conference
Organisational Arrangements***

[Extract]

August 2007

Delegates to other international fora

Through its resolution on international organisations and data protection, and the Montreux declaration, the conference called upon international organisations to build data protection into their processes. Some international organisations have processes allowing relevant interests to be represented as observers. Business and civil society play an active role in international organisations through these mechanisms. The question is whether DPAs collectively should be using such opportunities to ensure that the data protection message is effectively built into international standard setting.

The working group is cautious in making proposals in this area. It was not a subject of detailed study. However, this is a matter worthy of consideration if the conference is to be a key player in international data protection into the future.

The Working Group tentatively proposes that the following might offer a model for the conference to have delegates participate as observers at appropriate international fora:

- The conference in its regular session agree on any international forum for which it wishes to obtain observer status. The 29th or 30th conference might consider, for example, the OECD, APEC and ISO.
- The conference in each case mandate a small steering group consisting of at least 3 DPAs, and no upper limit, to pursue an observer application on the conference's behalf.
- The steering group to report back to subsequent conferences in writing.
- In the event that observer status is granted, a delegate from the steering group be the conference's representative at the international forum. That delegate to work within any directions given by the conference (initially or in subsequent sessions) or the steering group. Any resolution of the conference to be taken as a standing direction for any delegate and all the steering groups.
- The delegate to keep the steering group informed and to assist the steering group in preparing its written report to the conference
- As a general matter all mandates should be reviewed on at least 5 yearly basis by the conference and more frequently by steering group, to see that the arrangements are meeting the conference's objectives
- All costs of being the conference's delegate are to be met by the delegates themselves.

Resolution of the Working Group on Conference Organisational Arrangements

Proposer: Privacy Commissioner, New Zealand

Co-sponsors:

- Privacy Commissioner, Australia
- Data Protection Commission, Belgium
- Information and Privacy Commissioner, British Columbia
- European Data Protection Supervisor, European Union
- Data Protection Commission, France
- Federal Data Protection Commissioner, Germany
- Privacy Commissioner for Personal Data, Hong Kong
- Data Protection Commissioner, Ireland
- Data Protection Commissioner, Poland

Resolution

The 29th International Conference of Data Protection and Privacy Commissioners

Noting that the conference has annually convened 29 times, most recently in Montreal, and will shortly enter the major milestone of its fourth decade

Receiving with thanks the report by the Working Group requested by the 28th Conference

Grateful for the substantial contributions by the current and all previous hosts for their efforts in arranging a continuous and successful series of international meetings

Recognising that the growth in numbers of data protection authorities has created organisational strains on the conference that need addressing

Aware that governments and business increasingly expect data protection authorities to cooperate but that, while being one of the few truly international forums in which to do so, the conference's organisational underpinnings needed enhancement to rise to such challenges

Concerned that some of the conferences existing practices left its continued viability vulnerable

Wishing to ensure that the conference remains vital and dynamic and continues to meet participant expectations as the premier global forum of data protection authorities

Therefore resolves:

Surveys

...

Observers from governmental international organisations

...

Participation of observers in the closed session

....

Language practices

....

Working Groups

...

Delegates to international fora

H. *The conference agrees* that if DPAs collectively wish to influence international data protection policy formulation by obtaining observer status at meetings of international organisations that this could be achieved through a process involving:

- (a) agreement in principle by the conference to seek observer statutes from a named international organisation, and
- (b) the establishment by the conference of a steering group consisting of several DPAs to pursue the observer application, select and guide a delegate, and report back to the conference.

Findings from the participant expectations survey

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Conference hosting practices

...

Conference Host Selection Process

...

Permanent conference website and host websites

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Memorandum

To : Steering Group Invitees
From : Blair Stewart
Date : 7 July 2008
Subject : **Steering Group on DPA Representation at International Meetings, Blair Stewart, 9 07 08**

The 29th Conference resolved that:

'Belgium and New Zealand would initiate the creation of a steering group, as per section 'H' of the resolution on Conference Organisational Arrangements; the mandate of this group would be to oversee the selection of DPA representation at international meetings.'

This note provides some initial suggestions for taking the matter forward.

Background

The Conference has for several years proclaimed the desirability of building data protection into international policy formulation and standard setting. It was agreed that DPAs collectively might influence international data protection policy formulation by obtaining observer status at meetings of selected international governmental organisations. Some preliminary work on this question was undertaken by the Working Group on Conference Organisational Arrangements. The 29th Conference asked Belgium and New Zealand to take the work further by establishing a steering group.

Extracts from the minutes of the 29th Conference and the report of the Working Group on Conference Organisational Arrangements are set out in the letter annexed to this note.

Inaugural Steering Group

It is proposed that there be a single steering group OF between 5 – 15 DPAs. A group as small as 5 would be sufficient. Anything larger than 15 may be unwieldy.

We will need to solicit some initial volunteers for the steering group. For the initial task of 'shoulder tapping' a few DPAs to form a core group, I suggest that we should consider:

- Geographical spread – it would be good to have members from Europe, North America and Asia-Pacific.
- Language – we should aim to include both English and French speakers.
- Headquarter cities – there may be advantage in having members whose jurisdiction covers the headquarter cities of likely international governmental organisations (IGOs) of interest (e.g. Paris, Geneva, Brussels, Montreal).
- Internationalist outlook – several DPAs have taken particular interest in the conference's international work such as the Montreux Declaration etc.
- National DPAs – that the initial steering group should perhaps be composed of national rather than sub-national NGOs given that IGOs tend to organise themselves on a nation-state basis.

On the basis on these ideas, I propose approaching the following to ask if they would like to participate in the initial steering group:

- New Zealand
- Belgium
- Australia
- Canada
- France
- Ireland
- Switzerland.

These are simply personal suggestions. That group will cover off many international HQ cities and ensure both English and French speakers. Of course, I welcome other suggestions. Any other DPA who would like to be involved could of course join at the 30th Conference itself.

Roles of Steering Group

The principal roles of the steering group would seem to include:

- Researching the IGO scene to identify opportunities for useful participation
- Pursuing applications to obtain observer status at appropriate IGO meetings
- When status has been granted, arranging for a DPA to be the conference's delegate
- Providing general or specific guidance to conference delegates
- Receiving reports from delegates and reporting back to the conference.

Early tasks for the steering group would include:

- Preparing a resolution for the 30th Conference establishing the steering group
- Identifying and prioritising IGOs for possible representation, establishing their requirements for observer status and pursuing the necessary applications
- Documenting the approach of the steering group and establishing general guidance for delegates.

Roles of Delegates

It is unrealistic to think that the steering group or conference will provide detailed instructions for delegates. The only practical course is to vest a considerable discretion with delegates and rely upon their good judgment. However, processes could be developed so that where feasible issues likely to arise at IGO meetings are identified in advance and the opportunity taken, if appropriate, to discuss between the delegate and the steering group the general approach that might be taken. Resolutions of the conference should be seen as 'standing instructions' that delegates should follow. The steering group will probably not wish to issue detailed instructions to delegates. However, through preparing position papers for IGO meetings and through reporting back to the conference it may be possible to start taking positions on the issues of the day if that were thought to be useful.

Given the limited number of resolutions of the International Conference, it is suggested that the common positions and working papers of the IWGDPT could also be considered as 'standing guidance' for any delegates representing the Conference.

It should, of course, be understood that Conference delegates are there to represent the collective approach of DPAs and the generally accepted international approach to data protection rather than their own national interests or approaches.

Next Steps

The interim Working Group should discuss its approach to the task and prepare a simple resolution for the 30th Conference so that the work can actively advance thereafter.

The Working Group should identify which IGOs might be worth pursuing as a priority. Tentatively, I suggest these might include:

- OECD Working Party on Information Security and Privacy
- ISO Working Group on Identity Management and Privacy Technologies (WG5).

ANNEX

23 May 2008-07-07
 M. Willem Debeuckelaere
 Président
 Commission de la protection de la vie privée
 Rue Haute, 139
 B – 1000 BRUXELLES
 BELGIUM

Dear Président Debeuckelaere

Role of Data Protection Authorities at International Meetings

You will recall that the closed session of the 29th International Conference of Data Protection and Privacy Commissioners endorsed the desirability of data protection authorities being collectively represented at meetings of international governmental organisations and, as a result, asked the New Zealand Privacy Commissioner and the Belgium Data Protection Commission to initiate work to achieve this objective.

The Privacy Commissioner of Canada recorded the matter in the minutes of the closed session of the 29th Conference as follows:

The Chair of the Conference led a discussion on how DPAs could be better represented collectively at international meetings and forums. She noted that the Conference does not yet have a structure in place whereby a representative could be delegated to such gatherings.

The Conference resolved that Belgium and New Zealand would initiate the creation of a steering group, as per Section "H" of the Resolution on Conference Organizational Arrangements; the mandate of this group would be to oversee the selection of DPA representation at international meetings. Until this steering group becomes operational, the Privacy Commissioner of Canada—as Chair of this year's Conference—would oversee the selection of DPA representation at international meetings, in consultation with other DPAs as required.

The minutes in French record the matter as follows:

La présidente de la Conférence dirige une discussion sur l'amélioration de la représentation collective des APD aux réunions et aux forums internationaux. Elle souligne que la Conférence n'a pas encore de structure établie de délégation des représentants à ce genre de réunions.

Les responsables de la Conférence votent en faveur de la création d'un groupe consultatif par la Belgique et la Nouvelle-Zélande, conformément à l'article H de la résolution sur les modalités d'organisation des conférences. Ce groupe aura pour mandat de superviser la sélection des représentants des APD aux réunions internationales. Jusqu'à ce que le groupe consultatif soit opérationnel, la commissaire à la protection de la vie privée du Canada, à titre de présidente de la

Conférence de cette année, est chargée de la sélection des représentants aux réunions internationales, en consultation avec d'autres APD au besoin.

The minutes record that the proposed steering group is as per section 'H' of the Resolution on Conference Organisational Arrangements, which provided:

Delegates to international fora

H. The conference agrees that if DPAs collectively wish to influence international data protection policy formulation by obtaining observer status at meetings of international organisations that this could be achieved through a process involving:
(a) agreement in principle by the conference to seek observer status from a named international organisation, and
(b) the establishment by the conference of a steering group consisting of several DPAs to pursue the observer application, select and guide a delegate, and report back to the conference.

Again, for convenience, section 'H' of the French translation of the resolution provided:

Délégués dans les forums internationaux

H. La conférence reconnaît que, si les APD souhaitent collectivement influencer la formulation d'une politique internationale sur le plan de la protection des données, en obtenant le statut d'observateurs au cours des réunions d'organismes internationaux, la chose pourrait se concrétiser par le biais d'un processus impliquant les éléments suivants :
a) une entente de principe en vertu de laquelle la conférence chercherait à obtenir auprès d'un organisme international désigné le statut d'observateur pour les APD;
b) la mise sur pied par la conférence d'un groupe directeur se composant de plusieurs APD pour effectuer la demande de statut d'observateur, sélectionner et orienter un délégué, et faire rapport de la situation à la conférence.

You will recall that the resolution on conference organisational arrangements was preceded by a Working Group report. I annex to this letter an extract from pages 10/11 of that report. Unfortunately, that 51 page report was too long to translate in full for the conference. However, a summary of the key points was prepared and translated. It stated:

One issue discussed is the question of whether the conference wishes to be more active in collective DPA work in the international sphere. In the event that the conference does wish to do this, the Working Group report offers some suggestions of an organisational nature. For instance, while the Working Group is not itself proposing that the conference seek observer status at meetings of relevant international organisations, it suggests a way forward if the conference thought that were to be useful. The Working Group notes that if the conference wished to seek observer status before, say, the OECD and ISO, it could mandate a small steering group of DPAs to pursue an observer application on the conference's behalf. If successful, the steering group would have an ongoing role to select and guide a delegate and to report back to the conference.

That summary was translated as follows:

L'une des questions abordées était de savoir si la conférence souhaitait être plus active dans le travail collectif des APD sur la scène internationale. Le cas échéant, le groupe de travail présente dans son rapport quelques suggestions de nature organisationnelle. À titre d'exemple, bien que le groupe de travail ne propose pas comme tel que la conférence cherche à obtenir le statut d'observateur au cours des réunions des organisations internationales pertinentes, il propose un moyen d'aller de l'avant si la conférence estime que la chose est utile. De façon plus précise, si la conférence souhaite obtenir le statut d'observateur devant, disons, l'OCDE et l'ISO, elle pourrait mandater un petit groupe directeur d'APD à poursuivre la préparation d'une demande de statut d'observateur au nom de la conférence même. Si la démarche se révèle fructueuse, le groupe directeur assumerait un rôle continu de sélection et d'orientation d'un délégué et ferait ensuite rapport de la situation à la conférence.

Accordingly, the Working Group on Conference Organisational Arrangements has already devised a simple generic approach to approaching this issue and that approach has found general favour at the 29th Conference. The task being asked of Belgium and New Zealand is to initiate the process to put that idea into practical operation following the 30th Conference.

I am confident that if we move quickly there remains sufficient time before the 30th Conference to progress this matter in a practical fashion to enable a practical plan to be reported to the 30th Conference for endorsement. To get the matter started, I would be grateful if you would nominate a contact person from your office who will liaise with me in order to complete the task assigned to our offices by the 29th Conference.

I will also provide a copy of this letter by email as that will be a more convenient means to communicate.

Yours sincerely

Blair Stewart
Assistant Privacy Commissioner, New Zealand

ANNEX

EXTRACT FROM REPORT OF THE WORKING GROUP ON CONFERENCE ORGANISATIONAL ARRANGEMENTS

Delegates to other international fora

Through its resolution on international organisations and data protection, and the Montreux declaration, the conference called upon international organisations to build data protection into their processes. Some international organisations have processes allowing relevant interests to be represented as observers. Business and civil society play an active role in international organisations through these mechanisms. The question is whether DPAs collectively should be using such opportunities to ensure that the data protection message is effectively built into international standard setting.

The working group is cautious in making proposals in this area. It was not a subject of detailed study. However, this is a matter worthy of consideration if the conference is to be a key player in international data protection into the future.

The Working Group tentatively proposes that the following might offer a model for the conference to have delegates participate as observers at appropriate international fora:

- The conference in its regular session agree on any international forum for which it wishes to obtain observer status. The 29th or 30th conference might consider, for example, the OECD, APEC and ISO.
- The conference in each case mandate a small steering group consisting of at least 3 DPAs, and no upper limit, to pursue an observer application on the conference's behalf.
- The steering group to report back to subsequent conferences in writing.
- In the event that observer status is granted, a delegate from the steering group be the conference's representative at the international forum. That delegate to work within any directions given by the conference (initially or in subsequent sessions) or the steering group. Any resolution of the conference to be taken as a standing direction for any delegate and all the steering groups.
- The delegate to keep the steering group informed and to assist the steering group in preparing its written report to the conference.
- As a general matter all mandates should be reviewed on at least a 5-yearly basis by the conference and more frequently by steering group, to see that the arrangements are meeting the conference's objectives.
- The conference does not undertake to meet, and is not liable for, any delegate's expenses in attending meetings.

Blair Stewart

From: Blair Stewart
Sent: Friday, 19 December 2008 5:02 p.m.
To: Anja-Maria Gardain; Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gweland Le Grand ; Hanspeter.Thuer@edoeb.admin.ch; Jean-Philippe.Walter@edoeb.admin.ch; jstoddart@privcom.gc.ca; Rafel Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Diarmuid Hallinan; Dr Alexander Dix ; Jose Leandro Nunez Garcia ; Linda Williams ; Marie Shroff ; Sarah Oliver ; Section VII (Germany) ; Sophie Nerbonne; Vanna Palumbo
Subject: Steering Group on Representation before International Organisations - December 2008 update
Attachments: Template - merged international organisation details#2.doc; Template - Contact List compiled#4.doc

New Zealand is pleased to provide this first message to members of the newly established Steering Group on Representation before International Organisations.

New Zealand is happy to continue as convener or chair of the Steering Group in this phase of the work unless there are any objections.

We provide a brief update on developments since the resolution to establish the Steering Group was adopted in Strasbourg in October. We also mention some of the tasks that the Steering Group needs to accomplish in the next year, suggest how we might move forward to complete those tasks and to solicit others' views.

Developments since Strasbourg

Since Strasbourg there have been three developments of note.

First, we have solicited details from each office of a principal contact point and of each authority's involvement to date with the seven international organisations (more of this below). If your office has not yet submitted your details I encourage you to do so as soon as possible.

Second, we asked several members of the Steering Group to provide information about the seven international organisations of immediate interest. Again, I say more about this below.

Finally, we tentatively explored with OECD secretariat staff the possibility of obtaining guest status before the Working Party on Information Security & Privacy (WPISP). In the normal course of events we would not have approached the OECD until the Steering Group had discussed the issue. However, an OECD observer was present in Strasbourg and approached New Zealand immediately after adoption of the resolution. He indicated that if we moved quickly the conference's case for getting guest status might be able to be discussed at the WPISP meeting on 17/18 November. We consented to this having established that colleagues from the UK and Canadian commissioners' offices would be present at the meeting and could speak in support if asked. In the event, the matter was not raised for consideration as some broader issues of the WPISP mandate needed first to be clarified by the WPISP's governing committee, the ICCP. The matter can be raised at a later WPISP meeting; the next one being scheduled for 9/10 March 2009.

Working methods

It is intended that the Steering Group conduct its work almost exclusively by email. At some stage it might be worthwhile to convene a teleconference although this may not be essential. It is not intended that any physical meetings will be held. Although a physical meeting on the fringes of the Madrid conference could be arranged, we expect that all the Steering Group's important establishment work will already be completed by that stage.

Initially, we anticipate the entire Steering Group working as one group. To keep this manageable, we will use the nominated primary contact points in each office (noted below). As the work progresses, it is possible that some issues will lend themselves to more detailed work in smaller subgroups.

From time to time it may be useful to circulate a general update report. We are maintaining a wider distribution list which includes all the secondary contacts that have been notified to this office.

(This email is addressed to the primary contacts with the secondary contacts shown in the "cc" panel.)

Principal contact points

For the information of the Steering Group the principal contact people nominated for each office are:

- | | |
|------------------|-----------------------|
| • Australia | Timothy Pilgrim |
| • Berlin | Silke Harz |
| • Canada | [Carman Baggaley] |
| • European Union | [Peter Hustinx] |
| • France | Gwendal Le Grand |
| • Germany | Anja-Maria Gardain |
| • Hong Kong | [Roderick Woo] |
| • Ireland | Gary Davis |
| • Italy | Antonio Caselli |
| • New Zealand | Blair Stewart |
| • Spain | Rafael Garcia Gozalo |
| • Switzerland | Jean-Philippe Walter. |

We look forward to confirmation of nominated contacts (primary/secondary) from Canada, EDPS and Hong Kong but will use the earlier advised contacts shown in square brackets for those offices in the meantime. If you need to change your principal contact point as the work progresses please notify Linda.Williams@privacy.org.nz.

Summary information about international organisations

With assistance from colleagues in Canada, France and Switzerland, we have collated and attach summary details concerning relevant committees at the seven international organisations mentioned in the resolution. The attachment outlines each committee's privacy mandate and plans and explains how the committees fit into the organisational structure of the international organisations. Contact details and key people are given where known. If anyone has additional information or identifies any errors, please let us know or update the relevant summaries and send them back.

We also surveyed all members of the Steering Group to find out what existing involvement

they have with the committees of the international organisations. We attach a summary of the results. The existing relationships may provide foundations that the Steering Group may wish to build upon.

We have not received all the responses to our request for these details and we know the information is thereby incomplete. If there are any existing relationships with those committees which have not yet been advised to us then please let us know.

Tasks for the Steering Group

You may recall that the explanatory note to the resolution mentioned that:

In its first year, the principal tasks of the Steering Group will include:

- *researching the international scene to identify opportunities for useful participation*
- *pursuing applications to obtain observer status at appropriate international meetings*
- *when status has been granted, arranging for one or more DPAs to be the conference's delegate*
- *developing and documenting the approach of the Steering Group for mandating delegates*
- *providing general or specific guidance to conference delegates*
- *developing processes for consulting affected DPAs as appropriate*
- *receiving reports from delegates*
- *reporting back to the Conference.*

That provides a convenient, if incomplete, list of the tasks before us. We plan to give further consideration to how best to tackle all these matters. It may be that some need to be tackled in sequence while others can be addressed concurrently. Some tasks may have a higher priority than others. Some tasks may lend themselves to initial small group work.

We plan to write to the group again early in 2009 with some precise proposals on moving ahead on these tasks. We may approach some members individually in the meantime asking if they are willing to assist on particular items e.g. by leading a small subgroup to prepare a proposal on an aspect for consideration by the Steering Group. In the meantime, I would be grateful if anyone has any thoughts on the best approach to the tasks before us to send me an email. It would be particularly helpful if such emails are received by 19 January 2009.

If any one has questions or comments on any aspects of this message or the work of the Steering Group please do not hesitate to contact me.

Blair Stewart
Assistant Privacy Commissioner
PO Box 466, Auckland 1140, New Zealand

tel +64 9 302 8654 fax +64 9 302 2305 www.privacy.org.nz

Search privacy case notes from around the world: www.worldlil.org/int/special/privacy

If you have received this transmission in error please notify me immediately by return e-mail and delete all copies

**International Conference of Privacy and Data Protection
Commissioners**

**Steering Group on
Representation at meetings of International
Organisations**

International Organisation Details

Version and acknowledgements:

This version prepared as at 19 December 2008 with input from Marie Georges, Steve Johnston, Stephanie Regnie, Blair Stewart and Jean-Philippe Walter.

Asia Pacific Economic Cooperation (APEC)

Key contact people
<p>Name: Colin Minihan Position: Chair, APEC ECSG Data Privacy Sub-group Email: colin.minihan@pmc.govt.au</p> <p>Name: Richard Bourassa Position: ECSG Chair Email: Bourassa.richard@ic.gc.ca</p>
Contact details
<p>Apec Secretariat Mr Park Ung-Suh Director (Programme) Email: pys@apcc.org</p>
Brief description of organisational structure
<p>The Electronic Commerce Steering Group (ECSG) promotes the development and use of electronic commerce by creating legal, regulatory and policy environments in the APEC region that are predictable, transparent and consistent. It provides a coordination role for APEC e-commerce activities based on principles set out in the 1998 APEC blueprint for action on electronic commerce. The ECSG was established in February 1999.</p> <p>The ECSG recognises the importance of public-private collaboration in developing an environment conducive to e-commerce and encourages the act of participation and contribution of the private sector in its meetings and activities.</p> <p>Originally established in 1999 as an APEC Senior Official's Special Task Force, ECSG was aligned to the Committee on Trade and Investment (CTI) in 2007.</p> <p>The Data Privacy Sub-group reports to the ECSG. The Data Privacy Sub-group developed the APEC Privacy Framework which aims to provide a consistent approach to information privacy protection, avoid the creation of unnecessary barriers to information flows and prevent impediments to trade across APEC member economies. The framework provides technical assistance to those APEC economies that have not addressed privacy from a regulatory or policy perspective.</p> <p>Progress of the implementation of the APEC Privacy Framework includes application of the information privacy individual action plans and the creation of a study group within the Data Privacy Sub-group to analyse and identify best practices.</p> <p>In 2007 the ECSG approved the APEC Data Privacy Pathfinder and its work plan. The Pathfinder seeks to create implementation frameworks by pursuing multiple projects that work towards achieving an over-arching set of objectives and accountable cross-border information flows, progressing the implementation of the APEC Privacy Framework. More information: www.apec.org/apec/apec_groups/committee_on_trade/electronic_commerce.html</p>
Committee details
<p>The Data Privacy Sub-group meets twice yearly at the first and third Senior Officials meetings (SOM1 and SOM3). The meetings are held before the ECSG meeting and in recent years have usually been accompanied by a Technical Assistance Seminar on relevant privacy issues. Currently the main activity being undertaken is the APEC Privacy Pathfinder, the principal focus of which is cross-border privacy rules.</p>
Additional Committees
<p>It may be worth exploring involvement with the APEC TEL Committee at some future stage.</p>
Additional Notes
<p>Australia, Canada, Hong Kong and New Zealand are members of APEC.</p>

Council of Europe (CoE)

Key contact people
<p>Name: Sophie Meudal-Leenders Position: Secretary of the TPD Email: sophie.meudal-leenders@coe.int</p> <p>Name: Frédérique Bonifaix Position: Secretariat, Data Protection Email: Frederique.bonifaix@coe.int</p>
Contact details
<p>Postal Address: Council of Europe Directorate General of Human Rights and Legal Affairs Directorate of Standard-Setting FR-67000 Strasbourg</p> <p>Tel: + 33 3 88 41 31 74 Fax: + 33 3 90 21 56 48</p>
Brief description of organisational structure
<p>Founded in 1949, the Council of Europe seeks to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals.</p> <p>The Council of Europe has a genuine pan-European dimension of 47 member countries.</p> <p>5 observer countries (the Holy See, the United States, Canada, Japan, Mexico) takes part to the work.</p> <p>The Council of Europe has the following aims:</p> <ul style="list-style-type: none"> - to protect human rights, pluralist democracy and the rule of law; - to promote awareness and encourage the development of Europe's cultural identity and diversity - to find common solutions to the challenges facing European society: such as discrimination against minorities, xenophobia, intolerance, bioethics and cloning, terrorism, trafficking in human beings, organised crime and corruption, cybercrime, violence against children; - to consolidate democratic stability in Europe by backing political, legislative and constitutional reform. <p>The main component parts of the Council of Europe are:</p> <ul style="list-style-type: none"> - the <u>Committee of Ministers</u>, the Organisation's decision-making body, composed of the 47 Foreign Ministers or their Strasbourg-based deputies (ambassadors/permanent representatives); - the <u>Parliamentary Assembly</u>, driving force for European co-operation, grouping 636 members (318 representatives and 318 substitutes) from the 47 national parliaments; - the <u>Congress of Local and Regional Authorities</u>, the voice of Europe's regions and municipalities, composed of a Chamber of Local Authorities and a Chamber of Regions; - the 1800-strong secretariat recruited from member states, headed by a <u>Secretary General</u>, elected by the Parliamentary Assembly.
Committee details
<p>In order to secure for every individual respect for rights and fundamental freedoms, and in particular the right to privacy with regard to automatic processing of personal data, the Council of Europe elaborated the "Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data" which was opened for signature in 1981. To this</p>

day, it still remains the only binding international legal instrument with a worldwide scope of application in this field, open to any country, including countries which are not members of the CoE.

The Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD) is the main instance in the Council responsible in the field of data and privacy protection with regard to processing of personal data. This committee

- may take proposals with a view to facilitating or improving the application of the convention;
- may make proposals for amendment of the convention
- shall formulate its opinion on any proposal for amendment of this convention which is referred to it
- may express an opinion on any question concerning the application of this convention

This committee is platform to monitor trends, share experiences and information, analyse the impact of technology on the respect for data and privacy protection, improve law enforcement and develop standards and rules.

The T-PD meets once a year in Strasbourg. Its bureau (7 members, but opened to others Parties and observers) meets 3-4 a year in Strasbourg.

Work on data protection and privacy in the CoE has included:

- Convention for the protection of individuals with regard to automatic processing of personal data (ETS No 108)
- Additional Protocol to the Convention ETS No 108 regarding supervisory authorities and transborder data flows (ETS No 181)
- Recommendation No.R(2002) 9 on the protection of personal data collected and processed for insurance purposes (2002)
- Recommendation No.R(99) 5 for the protection of privacy on the Internet (1999)
- Recommendation No.R(97) 18 on the protection of personal data collected and processed for statistical purposes (1997)
- Recommendation No.R(97) 5 on the protection of medical data (1997)
- Recommendation No.R(95) 4 on the protection of personal data in the area of telecommunication services, with particular reference to telephone services (1995)
- Recommendation No.R(91) 10 on the communication to third parties of personal data held by public bodies (1991)
- Recommendation No.R(90) 19 on the protection of personal data used for payment and other operations (1990)
- Recommendation No.R(89) 2 on the protection of personal data used for employment purposes (1989)
- Recommendation No.R(87) 15 regulating the use of personal data in the police sector (1987)
- Recommendation No.R(86) 1 on the protection of personal data for social security purposes (1986)
- Recommendation No.R(85) 20 on the protection of personal data used for the purposes of direct marketing (1985)
- Recommendation No.R(83) 10 on the protection of personal data used for scientific research and statistics (1983) [replaced by Recommendation No. R(97) 18 with regard to statistics]
- Recommendation No.R(81) 1 on regulations for automated medical data banks (1981) [replaced by Recommendation No. R (97) 5]
-
- The CoE and the T-PD has also adopted and published studies and guidelines, for example:

- Progress report on the application of the principles of Convention 108 to the collection and processing of biometric data (2005)
- Guiding principles for the protection of personal data with regard to smart cards (2004)
- Guiding principles for the protection of individuals with regard to the collection and processing of data by means of video surveillance (2003)
- Guide to the preparation of contractual clauses governing data protection during the transfer of personal data to third parties not bound by an adequate level of data protection (2002).

Currently the T-PD is working on profiling.

Other information: http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Data_protection/

Additional Committees

None identified at this stage

Additional notes

The Council of Europe organises also forum, sessions, seminars and conferences. The organisation is also active in all questions concerning the Information Society.

France, Germany, Ireland, Italy, Spain and Switzerland are members of the CoE. The EU has also ratified ETS No. 108.

International Law Commission

Key contact people

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Contact details

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Brief description of organisational structure

The ILC is a UN body devoted to the codification and progressive development of international law. It was established by the UN General Assembly in 1947. It is composed of 34 experts representing the world's principal legal systems, each elected for a term of five years by the UN General Assembly to serve in their personal capacity rather than as representatives of governments.

The International Law Commission holds its annual session in Geneva, Switzerland for a period of ten to 12 weeks (as approved by the General Assembly of the United Nations).

Since 1992, the selection of topics by the Commission for its future work has been carried out in accordance with the procedure under which designated members of the Commission write a short outline or explanatory summary on one of the topics included in a pre-selected list, indicating: (i) the major issues raised by the topic; (ii) any applicable treaties, general principles or relevant national legislation or judicial decisions; (iii) existing doctrine; and (iv) the advantages and disadvantages of preparing a report, a study or a draft convention, if a decision is taken to proceed with the topic.

In the selection of topics, the Commission has been guided by the following criteria: (i) the topic should reflect the needs of States in respect of the progressive development and codification of international law; (ii) the topic should be at a sufficiently advanced stage in terms of State practice to permit progressive development and codification; (iii) the topic should be concrete and feasible for progressive development and codification; and (iv) the Commission should not restrict itself to traditional topics, but should also consider those that reflect new developments in international law and pressing concerns of the international community as a whole. <http://www.un.org/law/ilc/index.htm>

Committee details

The International Law Commission decided at its 58th session to place the question of an universal Convention on data and privacy protection on its work programme, but the work on this topic had not yet started.

International Organization for Standardization (ISO)

Key contact people

Name: Kai Rannenberg
 Position: Convenor, ISO/IEC JTC1/SC 27/WG 5 (Identity Management and Privacy Technologies)
 Email: Kai.Rannenberg@m-chair.net

Contact details

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 Grafstrabe 78
 D-60054 Frankfurt am Main

Tel: +49-69-798-25301

Brief description of organisational structure

The International Organization for Standardization (ISO) is a non-governmental organization comprised of the national standards bodies of some 150-plus countries, from all regions of the world, including developed, developing and transitional economies. Each ISO member is the principal standards organization in its country. The members propose the new standards, participate in their development and provide support in collaboration with the ISO Central Secretariat for the 3000 technical groups that actually develop the standards.

Within the ISO structure, ISO Joint Technical Committee 1 (JTC1)¹ is the body responsible for the development and maintenance of standards related to information technology (IT). JTC1 currently consists of 18 sub-committees, each dealing with a particular aspect of IT. Of particular interest for the Steering Group is Sub-Committee 27 – IT Security Techniques (SC27).

The mandate of SC27 is to develop standards related to generic methods and techniques for IT security. This includes:

- a) identification of generic requirements (including requirements methodology) for IT system security services;
- b) development of security techniques and mechanisms (including registration procedures and relationships of security components);
- c) development of security guidelines (e.g., interpretative documents, risk analysis); and
- d) development of management support documentation and standards (e.g., terminology and security evaluation criteria).

SC27 consists of the following working groups:

- a) WG1 – Information Security Management Systems (e.g., ISO 17799: Information technology — Security techniques — Code of practice for information security management);

¹ JTC1 is a joint committee of both ISO and the International Electrotechnical Committee (IEC). Because information technology (IT) is so pervasive, JTC1 was created to develop what are known as "base standards" for IT, upon which other committees of both ISO and IEC could develop domain and application specific standards. The intent is to ensure that IT standards will be consistent and interoperable.

- b) WG2 – Cryptography;
- c) WG3 – Security Evaluation (e.g., Common Criteria);
- d) WG4 – Security Controls and Services (e.g., Intrusion Detection Systems); and
- e) WG5 – Identity Management and Privacy Technologies (e.g., ISO 24760 – A Framework for Identity Management).

Committee details

The scope of SC27/WG 5 covers the development and maintenance of standards and guidelines addressing security aspects of identity management, biometrics and the protection of personal data.

Current SC 27 projects include:

- Framework for Identity Management (ISO/IEC 24760)
- Biometric template protection (ISO/IEC 24745)
- Authentication context for biometrics (ISO/IEC 24761)
- Privacy Framework (ISO/IEC 29100)
- Privacy Reference Architecture (ISO/IEC 29101)

Possible fields of future work, as discussed by WG 5 and as documented in the WG 5 Roadmap, include:

a) in the area of Identity Management, topics such as:

- Provisioning
- Identifiers
- Single sign-on

b) in the area of Privacy, topics such as:

- Privacy impact assessments
- Anonymity and credentials
- Specific Privacy Enhancing Technologies (PETs)
- Privacy Capability Maturity Model

Additional Committees

Within ISO, the recently announced TMB Task Force on Privacy and ISO/IEC JTC1/ SC 37 (Biometrics) may also be relevant to the Steering Group. Other committees of potential relevance include:

- 1) ITU-T SG (Study Group) 17, working on identity management recommendations (see <http://www.itu.int/ITU-T/studygroups/com17/index.asp> for more information); and
- 2) CEN (European Committee for Standardization) Workshop on Data Protection and Privacy, working on a Common European set of voluntary Best Practices for data protection management, EU privacy audit tools and a Voluntary Technology Dialogue System (see <http://www.cen.eu/cenorm/businessdomains/businessdomains/iss/activity/wsdpp.asp> for more information).

International Telecommunications Union

Key contact people
<p>Name: Dr Hamadoun Touré Position: Secretary-General Name: Houlin Zhao Position: Deputy Secretary-General</p>
Contact details
<p>Postal Address: International Telecommunications Union Place des Nations, CH-1211 Geneva 20, Switzerland</p> <p>Tel: +41 22 730 5111 Fax: +41 22 730 64 44</p>
Brief description of organisational structure
<p>ITU is the leading United Nations agency for information and communication technologies. As the global focal point for governments and the private sector, ITU's role in helping the world communicate spans 3 core sectors: radio communication, standardization, and development. ITU also organizes Telecom events and was the lead organizing agency of the World Summit on the Information Society.</p> <p>ITU is based in Geneva, Switzerland, and its membership includes 191 Member States and more than 700 Sector Members and Associates.</p>
Committee details
<p>The <u>ITU Radio communication</u> Sector (ITU-R) plays a vital role in the global management of the radio-frequency spectrum and satellite orbits - limited natural resources which are increasingly in demand from a large and growing number of services such as fixed, mobile, broadcasting, space research, emergency telecommunications, meteorology, global positioning systems, environmental monitoring and communication services - that ensure safety of life on land, at sea and in the skies.</p> <p>In 2007, ITU's Telecommunications <u>Standardization</u> Sector produced over 160 new and revised standards (ITU-T recommendations) covering topics from core network functionality and broadband to next generation services like IPTV. This Sector is currently working on Identity management, and SMS filtering.</p> <p>The recommendations of the ITU Standardization Sector are defining elements in information and communication technology (ICT) infrastructure. Whether voice, data or video messages are exchanged, communications cannot take place without standards linking the sender and the receiver. The work of this committee extends beyond the traditional areas of telephony to encompass a far wider range of information and communications technologies. The priority work areas are ensuring the needs of developing countries are taken into account in the development of global ICTs; accessibility; adopting international standards to ensure seamless global communications and interoperability for next generation networks (NGN) ; building confidence and security in the use of ICTs; emergency communications to develop early warning systems and to provide access to communications during and after disasters and the reduction of the impact of ICTs on climate change as well as create better understanding of how ICTs can mitigate its effects.</p> <p>This committee would be interesting to be joined by the data protection community</p>

represented by the international conference.

The mission of the Telecommunication Development Sector (ITU-D) aims at achieving the Sector's objectives based on the right to communicate of all inhabitants of the planet through access to infrastructure and information and communication services.

In this regard, the mission is to:

- Assist countries in the field of information and communication technologies (ICTs), in facilitating the mobilization of technical, human and financial resources needed for their implementation, as well as in promoting access to ICTs.
- Promote the extension of the benefits of ICTs to all the world's inhabitants.
- Promote and participate in actions that contribute towards narrowing the digital divide.
- Develop and manage programmes that facilitate information flow geared to the needs of developing countries.

Organisation for Economic Cooperation and Development (OECD)

Key contact people
<p>Name: Michael Donohue Position: Administrator, Information Security, Privacy and Consumer Policy Email: Michael.donohue@oecd.org</p> <p>Name: Anne Carblanc Position: Principal Administrator Email: Anne.Carblanc@oecd.org</p>
Contact details
<p>Postal Address: 2, rue Andre-Pascal 75775 Paris Cedex 16 France</p> <p>Tel: +33 1 45 24 14 79 Fax: +33 1 44 30 62 59</p>
Brief description of organisational structure
<p>The OECD is a unique forum where the governments of 30 member countries work together with business and civil society to address the economic, social, environmental and governance challenges of the globalising world economy, as well as exploit its opportunities.</p> <p>The Working Party on Information Security and Privacy (WPISP) works under the direction of the Committee for Information, Computer and Communications Policy (ICCP) which reports to the OECD Council. It is supported by the OECD Secretariat within the Directorate for Science, Technology and Industry.</p> <p>Participants are delegates from member countries. Business, civil society, other international organisations and non-members are also sitting at the table.</p>
Committee details
<p>The OECD website (www.oecd.org) explains that the WPISP:</p> <ul style="list-style-type: none"> • Develops policy options by consensus to sustain trust in the global networked society. • Addresses information security and privacy as complementary issues at the core of digital activities. • Maintains an active network of experts from government, business and civil society. • Serves as a unique platform to: <ul style="list-style-type: none"> - monitor trends - share and test experiences - analysis the impact of technology on information security and privacy - develop policy guidance. <p>The WPISP meets twice a year in Paris and organises forum sessions and conferences, occasionally elsewhere.</p> <p>Work on privacy has included:</p> <ul style="list-style-type: none"> • OECD 'Guidelines on the Protection of Privacy and Trans-border flows of Personal Data' (1980) • 'Privacy on-line: OECD Guidance on Policy and Practice' (2002) • OECD privacy policy generator • OECD 'Recommendation on Cross-border Cooperation in the Enforcement of Laws Protecting Privacy' (2007).

Considerable other work in areas such as cryptograph policy, authentication, spam and biometrics. Ongoing work in areas such as digital identity management, malware, sensors etc.

Additional Notes

Australia, Canada, France, Germany, Ireland, Italy, New Zealand, Spain and Switzerland are OECD members

Memorandum

To : Steering Group on Representation before International Organisations
From : Blair Stewart
Date : 9 April 2009
Subject : **Update on Steering Group**

There has been a lot of Steering Group activity over the last month or so. Since some of this has involved small Working Groups, and not the entire group, I thought it timely to offer an update.

1. Steering Group membership

For the record, we have had two resignations from the Steering Group: Berlin and Switzerland.

2. ISO

There was a consensus to nominate Steve Johnston from Canada as our liaison officer to ISO. The letter of application to ISO is ready and will be dispatched today. We have a message ready to send to DPAs and are currently exploring the practicalities of doing so. A media release is also in preparation to mark this conference milestone

3. OECD

The small Working Group is exploring whether it is better to obtain 'expert' or 'observer' status before the WPISP. Staff at the OECD secretariat have recommended that we apply for observer status and so we will probably do so but are exploring the pros and cons first.

4. APEC

As APEC was a second order priority we had planned to delay looking into it until the ISO and OECD applications were completed. However, we prioritised this work because the only remaining meeting for 2009 will be in July rather than the usual September and thus we needed to move quickly. Initial discussions amongst the small Working Group have concluded that we should seek guest status before the Data Privacy Sub-group and the Electronic Commerce Steering Group to which the sub-group reports.

We would hope to move quickly on this application and bring a recommendation back to the Steering Group quite soon.

5. Other applications

In accordance with the consensus prioritisation, the next in line is probably Council of Europe to be followed by the other organisations – ITU, UNESCO and International Law Commission. Any views on the timing of initiating work in relation to those institutions are welcomed.

6. Consensus on way forward on the 7 tasks

I earlier circulated a compilation of the views expressed on the 7 key tasks. Since that compilation was circulated I have received comments from Hong Kong and Australia that broadly support the emerging consensus.

As a result of the views expressed, and the absence of any new comments, I have concluded that there is probably little point in further exploring the issues in the abstract. Instead, I think we have sufficient common understanding on the main issues to move forward to appoint observers as we are now doing with ISO, WPISP and APEC.

There was some divergence in views as to the precise role and mandate of observers. The diversity may exist in part because the role performed by an observer may depend upon the nature of the meeting and organisation. For example, the role before ISO definitely requires a technical specialist such as Steve Johnston. On the other hand a guest in the APEC processes is unlikely to actively contribute as an expert but instead be more likely to 'observe' and by reporting back provide a conduit to the International Conference.

The Steering Group needs to document its approach and procedures. This is an explicit obligation in the resolution as well as something we need to do for our own convenience and in fairness to the delegates we appoint. While some of this documentation can be prepared in the abstract, I suspect that some of it can conveniently be prepared as we go along and learn from the process of selecting and appointing delegates and having them report back from meetings. I hope to develop a general structure that is sufficiently flexible that we can simply keep adding bits to it as time goes by.

Blair Stewart

From: Blair Stewart
Sent: Friday, 5 June 2009 1:14 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Steering Group Update - moving forward on a Council of Europe application
Colleagues

We set as the Steering Group's first priorities the applications to ISO, APEC and OECD. With progress on each of those now in hand, I think it is time seriously to look at the next ranked priority, the Council of Europe Consultative Committee on Convention No 108.

Briefly on those first priority applications I can update you to say:

- ISO - complete;
- APEC - informally I understand that we will be granted guest status to the attend the Data Privacy Subgroup for 2 years, formal confirmation yet to come;
- OECD - fairly positive signals in relation to seeking observer status to WPISP, we're awaiting advice back from soundings taken at a WPISP Bureau call at the end of May before preparing and lodging an application.

The first step to pursue an application to the Council of Europe is to convene a small working group of several steering group members to identify and explore any issues in relation to seeking observer status and to draft an application for the Steering Group's approval. I would be grateful to have a few volunteers to assist with that task, 2 or 3 volunteers would be plenty and I will also join the work of that group. I would be grateful if any offers to assist with that task could be notified to my secretary Linda Williams (Linda.Williams@privacy.org.nz) in the next two weeks while I am on leave.

Regards

Blair Stewart
Assistant Privacy Commissioner
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Linda Williams

From: Blair Stewart
Sent: Thursday, 2 July 2009 11:08 a.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Update to Steering Group - OECD - APEC - update to DPAs - future directions
Importance: High
Attachments: Forthcoming meetings.doc; Message to accredited data protection authorities on behalf of the Int Conf. of Data Protection and privacy Commissioners Steering Group, July.doc

Dear Steering Group contact points

I have sent several messages on different subjects in the last couple of weeks. It seemed timely to provide a more general update as to where we are at. In this message I also ask for Steering Group approval to make our third application for observer status.

OECD WPISP

I am grateful for the assistance of the members of the small working group on the OECD application, namely Gwendal Le Grand, Silke Harz and Carman Baggaley. In particular, may I thank Gwendal for exploring the issues with the OECD Secretariat over a number of months.

You may recall from earlier updates, that one of the issues that the small working group explored was whether to seek 'observer' or 'expert' status. On balance, and with the assistance of the OECD Secretariat, we concluded that observer status was the more appropriate to apply for.

The matter has now moved to the point where the small working group proposes that we apply to the OECD for observer status. The attached draft application is still being reviewed by members of the small working group and there may be further edits to the document before the application is lodged. It has already been reviewed by OECD Secretariat staff to help ensure the path of the application is smoothed through the OECD processes. If anyone has any suggestions on the wording please feel free to let me have them. We are awaiting advice from the OECD Secretariat as to whom precisely the application should be directed to. Once we have the Steering Group approval and the correct addressee we propose to submit the application without delay.

Accordingly, I would be grateful if Steering Group members could indicate their approval for an application to be made to the OECD WPISP for observer status. ***I would be grateful for indications as soon as convenient and no later than 9 July.***

In accordance with previous practice, I prefer to receive an expression of views from all Steering Group members. However, in the absence of anyone expressing dissent, I will take positive affirmation from a majority of Steering Group members as being sufficient to move forward on the application.

The small working group will give further consideration as to whom might be suitable to perform the role of Conference delegate and alternate. We will offer the Steering Group a recommendation in due course.

APEC Data Privacy Subgroup

I am grateful to Roderick Woo, Carman Baggaley and Timothy Pilgrim who have assisted in the small working group on APEC issues.

The Conference has been granted guest status to attend the APEC Data Privacy Subgroup meeting in Singapore in July. The Steering Group recently approved the appointment of Billy Hawkes as the Conference's delegate to that meeting.

We ran into a small problem with respect to our guest status. The Electronic Commerce Steering Group recommended that guest status be granted for a period of two years. However when that decision went for ratification to the parent committee, the CTI, it was considered and approved only as a 'one off' application solely for the July meeting. At first it appeared that this was an administrative error. However, we have discovered that China objected to the Conference having the 2 year approval (as it did earlier to our application for guest status before ECSG) and thus we have guest status solely for the July DPS meeting.

Privacy International also must seek guest status on a meeting by meeting basis. By contrast ICC and GBDe have been lucky enough to obtain the 2 year approval, recently renewed. For the moment the small working group has put the selection of a regular delegate for future meetings on hold until after the July meeting when we can review the matter. The DPA Chair has said that we may have a good chance for 2 year approval if we go through the process a second time. Otherwise, we can approach the matter on a meeting by meeting basis.

In the absence of a permanent delegate, the New Zealand Privacy Commissioner's office will take on at least one role that the delegate would normally perform, that is to compile and maintain a contact list for distribution of the observer's report.

Council of Europe

With the ISO, APEC and OECD applications largely completed it had been my plan to move quickly onto the Council of Europe application. Some weeks ago I solicited volunteers to join a small working group to progress that application. Thus far, only the Hong Kong Commissioner has volunteered. Clearly, we should have at least one European member on this group, preferably with knowledge of the Council of Europe. I would be grateful if we could have a volunteer, perhaps someone that has not been active on the other small working groups yet.

Although I have little personal knowledge of the Council of Europe Consultative Committee (T-PD), I understand, from background information assembled by Jean-Philippe Walter last year and from the Council of Europe website, that the Committee meets once a year. The next meeting is scheduled for 2-4 September 2009 and so we would need to move quickly if we wish to obtain observer status in time and arrange representation. I note that the bureau to the T-PD meets 3 – 4 times a year in Strasbourg, and that observers can attend. I am unsure of whether the Conference would wish also to obtain observer status for bureau meetings. These are the kind of issues that the small working group would need to explore.

Accordingly, I would be grateful for a volunteer to join the small working group. A single volunteer would suffice to enable the work to be progressed

Schedule of meetings

For the convenience of the Steering Group members, I have put together the attached list of forthcoming meetings.

Update message to all DPAs

I attach a draft message to update all DPAs about the APEC developments and to supply them with the Steering Group's 'Expectations of Delegates' document. If anyone has any comments please let me have them, otherwise I would plan for that update to be dispatched very soon.

Annual report and resolution

The Conference is now only three months away. We are obliged to submit an annual report and may also wish to propose a resolution. We may have only another 8 weeks or so before these documents need to be submitted.

I will be in touch again in relation to the report but, in the meantime, signal one matter that might appropriately be progressed by way of resolution. This concerns the ability of the various international organisations to observe the closed session of the Conference. This might be seen as a counterpart to the Conference observing the closed meetings of relevant international organisations. It has been pointed out to me, for example, that ISO has appointed its own liaison officer to the Conference. Several international organisations, such as OECD, regularly send observers. There may be merit in encouraging APEC to send an observer to the Conference.

The current arrangement is that if an international organisation wishes to send an observer to the Conference, it approaches the host in each case and asks for permission to be admitted. It may be timely for the Conference to establish a list of 'pre-approved' international observers to facilitate attendance. This could be reviewed and confirmed periodically, say every 2 or 3 years. Having such a list might be particularly courteous to those organisations that have granted us observer status. Creating such a standing list would not preclude other international bodies from seeking observer status on an *ad hoc* basis. It would also move the decision from being a hosting question to a conference one, which is probably more appropriate. The Steering Group might have an appropriate role to handle applications for observer status.

This matter was briefly canvassed in the report of the Working Group on Conference Organisational Arrangements two years ago. That report noted that the Conference should draw up a list of approved international observers at a later date. I think it would now be timely to attend to that matter and the responsibility to raise the issue seems appropriately to lie with this Steering Group. Accordingly, I propose to prepare a more thorough proposal for the Steering Group to consider in the coming weeks. If anyone has any thoughts that they wish to share in the meantime, please do not hesitate to contact me.

Next steps and future priorities

A reminder therefore, please:

- confirm that you agreeable to the Steering Group lodging an application for observer status before the OECD WPISP;
- let me know if you wish to volunteer for the small working group to develop an application to the Council of Europe.

Finally, other than in relation to the Council of Europe, there seems to be insufficient time to initiate new work prior to the Madrid Conference. Unless anyone is of the contrary view, I would therefore suggest we leave the question of approaching the ITU, ILC and UNESCO until after the Madrid Conference. I welcome other views and any suggestions of where our future priorities on these or any additional organisations should lie.

Blair Stewart

Assistant Privacy Commissioner

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International Conference Steering Group on Representation before International Organisations

Forthcoming meetings

Date	Event	Location	Delegate & Notes
2009			
4 - 8 May	ISO/IEC JTC1/SC 27/WG 5	Beijing, China	Steve Johnston
25 July	APEC ECSG DPS	Singapore	Billy Hawkes
2 – 4 September	<i>CoE Consultative Committee of Convention No 108 (T-PD), plenary</i>	<i>Strasbourg, France</i>	
12 – 13 October	<i>OECD WPISP</i>	<i>Paris, France</i>	<i>Provisional entry: yet to seek or be granted observer status</i>
2 – 6 November	ISO/IEC JTC1/SC 27/WG 5	Redmond, Washington, USA	Steve Johnston
4 – 6 Nov 2009	31 st International Conference	Madrid, Spain	Deadline for Conference report/resolution TBC: 6 October (approx)
2010			
<i>TBC: February/ March</i>	<i>APEC ECSG DPS (SOM 1 meeting)</i>	<i>TBC Japan</i>	<i>TBC</i>
19 – 23 April	ISO/IEC JTC1/SC 27/WG 5 (WG meeting)	Melaka, Malaysia	Steve Johnston
26 – 27 April	ISO/IEC JTC1/SC 27/WG 5 (SC 27 Plenary),	Melaka, Malaysia	Steve Johnston
TBC: October/ November	ISO/IEC JTC1/SC 27/WG 5 Fall meeting	TBC	Steve Johnston

Note: the entries in italics relate to meetings for which the Conference has not yet been granted observer status.

As at 1 July 2009

[July] 2009

Message to accredited Data Protection Authorities on behalf of the International Conference of Data Protection and Privacy Commissioners Steering Group on Representation before International Organisations

Update message – APEC Data Privacy Subgroup guest status – Expectations of conference delegates document

I write further to my message of 30 April 2009 to update Data Protection Authorities on the further work of the Steering Group.

As DPAs will recall, the 30th International Conference resolved to establish a Steering Group to obtain observer status at the relevant meetings of a number of international organisations. In my earlier message I advised that the Conference had obtained liaison officer status before the International Organisation for Standardisation (ISO).

I am pleased to announce that the Conference has now been granted guest status before the APEC Data Privacy Subgroup (DPS) for its forthcoming meeting. The Steering Group has appointed Billy Hawkes, Irish Data Protection Commissioner, to be the Conference's delegate before the APEC DPS meeting in Singapore in July 2009.

The Conference Steering Group will compile a contact list of people who would like to be kept informed of the work of the APEC DPS. This list will be used to disseminate reports on the APEC work from time to time. Accordingly, if any DPA would like a staff member or commissioner to be added to the contact list please send the relevant email contact details to the New Zealand Privacy Commissioner's office at linda.williams@privacy.org.nz.

Since the last update, the Steering Group has done considerable work to settle and document its procedures. The resolution requires the Steering Group to communicate details of its procedures to DPAs and so I take the opportunity to attach a copy of the 'Expectations of Delegates' document. This sets out the Steering Group's practices for appointing and mandating delegates and outlines what is expected of those delegates.

If anybody has any questions about the Conference Steering Group's work please do not hesitate to get in touch with me or contact Blair Stewart at blair.stewart@privacy.org.nz.

Yours sincerely

Marie Shroff
New Zealand Privacy Commissioner

**Chair, Steering Group on Representation before International Organisations,
International Conference of Data Protection and Privacy Commissioners**

Blair Stewart

From: Blair Stewart
Sent: Wednesday, 15 July 2009 10:50 a.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Steering Group update - OECD application - Seeking approval to apply to Council of Europe T-PD for Observer status
Importance: High
Attachments: Letter of application to TP-D for observer status, 14 07 09.doc
 Steering Group Colleagues

A further update and a request to approve our final application before the Madrid Conference.

OECD

The application to OECD was signed out and despatched yesterday.

Council of Europe

Since our last update I am pleased to advise that Antonio Caselli has joined Roderick Woo and I to form a small Working Group to progress an application to the Council of Europe for Observer Status before their Consultative Committee on Convention 108 known (for reasons I don't yet understand) as "T-PD". T-PD meets once a year in plenary session, coming up quite soon, and several more times each year in a T-PD Bureau meeting. If we are granted observer status, which requires universal support from T-PD members and the Bureau, we can observe both the plenary and bureau meetings.

No special issues or problems in relation to an application have been identified by the small working group and informal initial contact has been made with the secretariat in relation to making an application. We understand both the bureau and the the secretariat to be quite willing to receive an application and have raised no issues.

I am keen that we make an application as soon as possible as we are running into Northern Hemisphere holiday periods which could cause problems if we miss the availability of certain key personnel. Ideally we might have the status granted in time to arrange representation at the plenary on 2-4 September, though timing is of course quite tight.

Accordingly, I attach a draft application. We may continue to revise the detail as it is still being considered by one of the working group members and I welcome other comments.

I would be grateful for Steering Group members' approval to lodge an application to seek observer status before T-PD. Responses as soon as possible would be appreciated and no later than 21 July please. In the event of out of office messages from Northern Hemisphere I may try the secondary contacts earlier advised where available. As has been the previous practice, I would prefer to hear from everyone but in the absence of any expressions of concern I will act on positive responses from a majority of the Steering Group.

The small working group has not yet had time to start thinking about possible delegates etc. but will return to this subject and come back to the Steering Group with recommendations in due course.

Regards, Blair

Blair Stewart
 Assistant Privacy Commissioner
 PO Box 466, Auckland 1140, New Zealand

Blair Stewart

From: Blair Stewart
Sent: Friday, 31 July 2009 4:33 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams; Steve Johnston (sjohnston@privcom.gc.ca); bhawkes@dataprotection.ie
Subject: Steering Group Update - Annual report - resolution(s) - future priorities
Attachments: Admitting observers from international organisations into closed session of International Conference

Dear Steering Group members

I write further to the general update of 2 July and email of 10 July.

We are now in the position of having lodged the last of the planned 4 applications, 2 of which have already been granted (ISO, APEC) with the others likely to be processed during August (OECD, CoE). Our appointed delegates have now attended meetings of 2 organisations, Steve Johnston at ISO in Beijing in May, and, Billy Hawkes earlier this week at APEC in Singapore. If things go to plan we will obtain observer status for the 2 remaining organisations, appoint 2 delegates, and be represented at meetings in Strasbourg and Paris, all before the Madrid conference. On the day of the Madrid Conference Steve Johnston will be representing us at ISO in the USA. So things are moving along at an impressive pace!

In the coming weeks the Steering Group is likely to be asked to approve the appointment of a delegate for both OECD and CoE and possibly an alternate for ISO.

Annual report and deadline

The Spanish hosts of the 31st Conference have announced their deadline for resolutions: **4 October**. To ease the burden on them for translation etc. I'd be keen to submit our report etc. somewhat earlier in mid-to-late September. We will need to complete our report before the OECD WPISP meeting although it should be possible to include a report on the T-PD Plenary.

It is my expectation that the Steering Group will submit both a report and a resolution (or possibly two resolutions). The report may run to more than 10 pages with appended meeting reports and our *Expectations of Delegates* document. Accordingly, we might usefully also do a one page summary report. While the Spanish hosts will translate resolutions it is not certain that they will translate full reports. However, they may be willing to translate a summary.

I will prepare a draft report for the consideration of the Steering Group by early September. My current plan, with the help of the appointed delegates, is to have a series of appendices relating to each of the international organisations and containing an account of the meetings covered. Presumably much of this appended material can be a simple adaptation of the reports the delegates prepare after each meeting.

The report will also need to include an account of the operation of the resolution (see below), refer to any resolutions we propose to put (see below) and desirably will recommend priorities for the following year (see below).

Review of the operation of the resolution - Necessary or desirable improvement

The resolution adopted at Strasbourg provided that:

The first annual report should include an account of the operation of the resolution establishing the Steering Group including these basic arrangements and recommend any necessary or desirable improvement.

Thus I would be grateful if members of the Steering Group could each go back and re-read the resolution, reflect on the year's work and consider whether they can offer any suggestions for improving the current arrangements. Would you please advise me of any suggestions or confirm if you think that no change is warranted. For my own part, I have not identified any aspect of the resolution and the basic arrangements that needs changing. If we do identify useful changes these would be made by way of resolution.

Resolution

I proposed in my message of 2 July that we should propose by resolution a list of international organisations that are permitted to be admitted as observers to the International Conference. A process would also be established whereby the Steering Group would renew these approvals every 3 years and handle any applications by other international organisations. I provided a draft resolution for consideration by email on 10 July (copy attached for convenience).

I have had limited feedback on that suggestion as yet and encourage members that have views to get back to me. Views expressed so far have included:

- supporting the basic proposition;
- agreeing with the initial listing of OECD and ISO;
- suggesting the addition of the Council of Europe;
- suggesting in these cases that we check with those organisations that they would like to receive observer status;
- questioning whether the European Commission should also be listed;
- agreeing that at this stage the observers be limited to international *governmental* organisations rather than NGOs.

Priorities for next year

The Steering Group has the function to "research the international scene to identify opportunities for useful participation".

It also has the responsibility to consider applications to those organisations directed by the International Conference. We have carry over directions in relation to the International Telecommunications Union, UNESCO and International Law Commission. We have done little research work into these 3 organisations yet having prioritised the other 4 organisations.

Do members consider that the 3 organisations listed - ITU, UNESCO and ILC - remain the highest or only priorities? If anyone has any additional suggestions, or can suggest priorities amongst those 3 bodies, now is the time to let us know otherwise our workplan for next year will in essence be set around those 3 organisations (along with, of course, ongoing work in relation to the 4 organisations for which status has already been sought or obtained).

I have no strong views on this question yet. However, I do offer one suggestion for consideration. Does anyone know about, or suggest we explore representation at, the **Internet Governance Forum (IGF)**, a UN spin off from the WSIS exercise?

I would be grateful to hear back from members on these various matters so that we can complete our tasks for Madrid.

Regards

Blair Stewart
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Linda Williams

From: Blair Stewart
Sent: Friday, 28 August 2009 12:46 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Steering Group Priorities for 2010
Importance: High
 Colleagues

I've now had sufficient expressions of view, and additional information, both from people within and outside the Steering Group, to be able to make some recommendations for consideration for priorities for the Steering Group's work into 2010.

In this note I summarise what I've found out and then make some suggestions.

1. Workload associated with organisations we've obtained, or expect to obtain, observer status

Thus far we have observer status for ISO and Council of Europe, expect to have observer status by early 2010 for OECD and have a reasonable expectation that we can obtain meeting-by-meeting observer status for APEC if we want it. An approximate listing of the relevant meetings into 2010 is as follows:

2009			
19-20 November	19 th CoE T-PD-BUR	Strasbourg, France	
2010			
TBC: February	APEC ECSG 21 st DPS (SOM 1 meeting)	Hiroshima, Japan	
19 – 23 April	ISO/IEC JTC1/SC 27/WG 5 (WG meeting)	Melaka, Malaysia	Steve Johnston
26 – 27 April	ISO/IEC JTC1/SC 27/WG 5 (SC 27 Plenary),	Melaka, Malaysia	Steve Johnston
TBC	OECD 28 th WPISP	TBC	
TBC	20 th CoE T-PD-BUR	Strasbourg, France	
TBC	21 st CoE T-PD-BUR	Strasbourg, France	
TBC	OECD 29 th WPISP	TBC	
TBC: October/ November	ISO/IEC JTC1/SC 27/WG 5 Fall meeting	TBC	Steve Johnston
TBC	CoE T-PD, 26 th plenary	Strasbourg, France	

Clearly one priority is ensure that we fulfil our functions with respect to the meetings we're now committed to observe, where warranted. However, the Steering Group has already done the major work in setting up basis arrangements. Forthcoming work principally falls upon delegate volunteers.

Without summarising all Steering Group tasks that might be involved for 2010 I would mention for instance:

- CoE: we have yet to settle standing delegate and alternate;
- APEC: we will need to file at least one further application and possibly one for each meeting (i.e. two); we also need to arrange a delegate for each meeting;
- ISO: we ought to appoint an alternate;
- OECD: we need to arrange a delegate and alternate (though the working group may shortly have a recommendation in that respect).

I should add that 2010 looks to have a continuing heavy workload in ISO and is likely to be an especially active year in OECD (30th anniversary of OECD Privacy Guidelines, major review, etc).

2. Organisations in original Conference resolution directing Steering Group to consider seeking Observer status

As you know the resolution directed us to 3 further organisations:

- International Telecommunications Union (ITU);
- International Law Commission (ILC);
- UNESCO.

ITU

Earlier exploration of the ITU case revealed some promising work in the standardisation area and an apparent interest from ITU to have Conference input. As far as I could ascertain the CNIL was the only DPA on the Steering Group known to have had dealings with ITU (and it was CNIL that initially identified ITU in 2008 as a possible international organisation worth engaging with). Given the CNIL link, and the standardisation and telecommunications aspects, I consulted CNIL (Florence Raynal), our ISO liaison officer (Steve Johnston) and the Chair of the IWGDPT (Alexander Dix). What I found out included:

- Florence: *"Unfortunately, we do not think that we could represent the conference at the ITU in 2010 because of limited human resources. However, with plans of hiring in 2010, we should be able hopefully to participate in 2011."*
- Steve: *"Just a quick note to mention that I am a member of the National Shadow Group (NSG) to ITU-T's Study Group 17, ITU-T's lead study group on telecommunications security and identity management. I don't attend the international meetings though."*
- Alexander: *"As far as your questions on the Steering Group are concerned, I can say little on ITU where I have only once represented the IWGDPT on a panel (at a conference in 2005). It would certainly be helpful if our French colleagues have contacts to ITU and would be willing to undertake liaison work in Geneva."*

From what I can gather further work with ITU may well be worthwhile. It is a specialised area where we may be dependent initially upon some DPAs that have chosen to become engaged on some of these technical telecommunications issues. Amongst current Steering Group members we may be particularly dependent upon CNIL in the first instance although, as my enquiry to Steve revealed, we may uncover further existing linkages to the ITU work if we enquire amongst the wider DPA community.

Accordingly, a possible way forward would be to signal to the conference that we propose to delay active work on ITU until 2011. However, we might want to do some preparatory work in the latter part of 2010, even going so far as lodging an application in the latter part of the year, given how long it can sometimes take to get through the approval processes.

It occurs to me that this is a matter upon which we may be able to forge a useful working relationship with the IWGDPT in due course. For example, the IWGDPT could in effect fill a role of sounding board and specialist adviser for the appointed delegate.

International Law Commission

Our Swiss colleagues have been my main source of information on the ILC and thus I consulted Jean Philippe Walter who advised that from his informal soundings it appeared that the ILC had not commenced upon its data privacy mandate and was unlikely to do so in 2010. I have now had confirmation of this from George Korontzis, Deputy Director in charge of the Codification Division, UN Office of Legal Affairs, who advises:

"With regard to your query about the topic on "Protection of personal data in transborder flow of information" I wish to point out the following:

The ILC has decided to include this topic in its long-term programme of work in 2006 as you correctly mention.

At this stage we are not in a position to say whether this topic will be taken in the current programme of work in 2010 or later. It will only depend on the decision of the Commission. No mention of any such possibility was made during the last session of the Commission in 2009."

Accordingly, while the ILC work will be of the highest priority when it eventuates, there seems no likelihood of this happening in 2010.

As an aside, it might be worth cultivating Mr Korontziz or other UN legal officials and perhaps encourage them to attend and observe the Madrid conference. Most lawyers don't know a lot about data protection and greater exposure of UN staff to the issues might act as an encouragement to move this up the ILC list of priorities ...

UNESCO

I haven't found out anything new on UNESCO. On my (limited) present knowledge I'm at a loss to know whether it is worthwhile to pursue and indeed which meetings we would be observing. Absent any other information or views I can't see this as a priority for 2010 but encourage others who know more than I about UNESCO's work to offer contrary views.

3. Other possible organisations

So far two further international bodies have been suggested. They are:

- Internet Governance Forum (IGF);
- London Action Plan (LAP) (on spam).

They were both my suggestions. Although I am an expert on neither, they do appear to me to have promise in terms of the kind of global initiatives with which we might want to associate the Conference or DPA community. Having an observer presence might also give DPAs a better window into those forum's work. Neither has the traditional formal International Governmental Organisation structure but it might be that these looser coalitions are actually quite influential nonetheless in certain contexts.

A few comments received thus far include:

Alexander Dix (with whom I consulted given the Internet and telecommunications angles) observed:

"The Internet Governance Forum is mainly consisting of NGOs if I am not mistaken. From what I heard about their meetings I am not exactly sure how effective a liaison between IGF and the International Conference would be. Most Commissioners would not consider themselves to be part of the NGO community. Perhaps one should wait and see a little how things develop. Maybe it would be more important to look for direct contacts to ICANN.

"As far as the London Action Plan is concerned I have some doubts whether it makes sense to get observer status there. I realize that a number of DPAs such as the CNIL and the Spanish Agency are investing a lot in the fight against SPAM. IWGDPT has also had this on their agenda repeatedly. However, it seems to me that the fight against SPAM on a legal and a technical level is only partly linked with privacy protection. Therefore the London Action Plan would be a low priority from my point of view as far as possible liaison activities are concerned."

Florence Raynal observed: *"We share your views that Unesco and Internet Governance Forum could be very interesting bodies."*

Carman Baggaley commented:

"In terms of looking forward to 2010 and seeking observer status for additional organizations, I do not know very much about the International Telecommunications Union, the International Law Commission or UNESCO, with respect to how their work relates to data protection."

"Based on my admittedly limited knowledge, I might suggest that the London Action Plan (LAP) and the Internet Governance Forum (IGF) are promising alternatives or additions. One consideration is that I note that some DPAs are members of LAP. I also noted that it appears there will be an extensive discussion of privacy and social networking issues at the upcoming IGF Meeting to be held from 15-18 November 2009 in Egypt."

"One challenge we will have as we move further afield is that we are less likely to have DPAs already attending international organizations. We have been fortunate with respect to the OECD, ISO, the Council of Europe and APEC in that some DPAs attend these meetings regularly. I do not know if this is the case for the ITU, the ILC and UNESCO. Our Office is quite active internationally, but it might be a tough sell to convince our Office to send someone to the meetings of one of these bodies. I suspect this is true of other offices as well."

Jean-Philippe Walter offered a view that the IGF would be more important to the Conference at this time than the ILC.

Gary Davis commented:

"My own view is that we have achieved or are about to achieve participation at all the priority groups or bodies and that at this point it might be better to assess the effectiveness of that participation before taking on the task of applying to any new bodies."

I hope that I haven't overlooked anyone's comments. Clearly, not everyone has yet offered feedback on the IGF or LAP suggestions. Alexander Dix's suggestion of ICANN is another possibility on which views are solicited. I also welcome new suggestions - it is not too late. Of course we may not be able to accommodate all suggestions - it is important that we prioritise what we take on - but we do want to scan the field so that we have maximum impact.

Tentative priorities

The following suggestions are merely tentative, I'd be keen to have a few more expressions of view before we settle things.

Our **first priority** should be to see through the work associated with the 4 bodies we've already sought or obtained representation before. This may limit how much new work we take on. We may want to review experience as we go on. However, having said that, I'm quite confident from our experience to date that we have capacity to make a couple more applications without becoming over extended.

Of the 3 existing mandates we have I think there is good reason not to action **ILC** until there is a realistic prospect of their data privacy work starting, which will not happen in 2010. **ITU** looks relatively promising but for resource reasons we should probably delay active work until 2011. **UNESCO** is a quandary and I'd suggest further exploratory work in 2010 is a possibility but it is not yet a priority for an application.

Accordingly, I see capacity for us to seek directions as a **second priority** to apply to be represented before 2 or more additional organisations. We should prioritise those where the organisation offers worthwhile benefits to the Conference's objectives and, from a practical perspective, where we are confident (after exploration yet to be done) that we will find a DPA willing to be the delegate to relevant meetings - this latter aspect is less certain as we move away from our 'comfort zone' of organisations we may have dealt with for years. We don't yet have a consensus as to which organisations might hold most promise although I sense that **IGF** has some support at one strategic level and **LAP** in an important area of global enforcement cooperation on a practical problem area. With further exploration other or better candidates might also be revealed. Importantly, these new ideas may be at least as promising as some of the unactioned mandates in the resolution (e.g. UNESCO).

I look forward to other views. Subject to the outcome of discussions the first draft of our annual report (on which I'm already working) will try to give the conference an indication of our priorities for 2010. If we plan to consider applying to IGF or LAP we will also draft a resolution to give us that mandate.

Regards

Blair Stewart
Assistant Privacy Commissioner
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Memorandum

To : Data Protection & Privacy Commissioners Steering Group on Representation before International Organisations.
From : Blair Stewart
Date : 18 May 2010
Subject : Coordination of Steering Group activity during 2010

Colleagues,

Other priorities have prevented me from spending much time this year on coordinating the working of the International Conference Steering Group on Representation before International Organisations.

It was a priority for me last year to get all the foundation work completed for the Steering Group and I think that was achieved quite successfully. This was a large call on my time and it was never my intention to continue at that pace indefinitely. Last year we completed the major and challenging tasks of getting consensus as to how the Conference might be represented and adopted substantial documents such as the 'Expectations of Delegates' document. We also secured representation before ISO, OECD, Council of Europe and APEC.

I have during the year try to move things along, with a minimum of work from myself, on the two key outstanding matters. These related to appointing a delegate for Council of Europe and OECD. I have emailed certain offices that indicated I thought had an interest but have been unable to get any replies. I do not have the time to devote to such tasks which I consider to be responsibility of the Steering Group as a whole or the subgroups earlier established rather than myself as coordinator.

I have alternate suggestions as to how the matter could be taken forward during the balance of 2010.

The **first option** would be for another member of the Steering Group to step forward to be the coordinator. This would be greatly appreciated and would allow progress to be made not

only on servicing the existing observer obligations but also to recommence work on the balance of the Steering Group mandate.

The **second option** is do minimal work to keep things moving in relation to the Steering Group work and revisit the matter following the Jerusalem Conference. The Steering Group may, in any case, be consolidated at that time within proposed new Executive Board arrangements. If we follow this course, I think it is important that the Steering Group fulfils its responsibilities to select and appoint delegates to both the OECD and Council of Europe since to leave the positions unfilled will damage the Conference's credibility as a global voice for data protection authorities.

I have copied this to all members of the Steering Group and invite people to respond to the whole group and not solely to me.

32nd International Conference of Data Protection and Privacy Commissioners

**Jerusalem, Israel
27-29 October, 2010**

Administrative Resolutions

I. Re-election of Group Members of Steering Group on Representation before International Organizations

Following the Report presented by Marie Shroff, NZ Privacy Commissioner the Conference re-elects the members of the Steering Group comprising of the DPAs from Australia, Canada, European DPS, France, Germany, Hong Kong, Ireland, Italy, New Zealand and Spain, for another two year term.

II. Re-election of Director of Spanish DPA to Credentials Committee

Following the Report of the Credentials Committee the Conference re-elects the Mr. Artemi Rallo Lombarte, Director of the Spanish Data Protection Agency for another one year term.

III. Host of the 33rd Conference

The Conference accepts and welcomes the proposal by Federal Institute for Access to Information and Data Protection ("Instituto Federal de Acceso a la Información y Protección de Datos"), to host the 33rd Conference in Mexico.

4. Expectations of delegates

The most substantial outcome of the Steering Group's work on developing systems was the 'Expectations of Delegates' document. This combines issues of governance and administration. It provides the delegate with a fair amount of autonomy while at the same time ensuring accountability through appointment and reporting processes and general expectations. The fairly heavy responsibilities placed with the delegate, both in respect of the substantive work and the administration, reflected the reality that neither the Steering Group nor the Conference had the resources or inclination to provide either detailed subject matter direction or administrative support.

**Steering Group on Representation before International Organisations
International Conference of Data Protection and Privacy Commissioners**

Steering Group's Expectations of Delegates

The International Conference of Data Protection and Privacy Commissioners encourages individuals within accredited data protection authorities (DPAs), both commissioners and staff, to offer themselves to be the Conference's observer to meetings of particular international organisations. Volunteering as observer (referred to in this note as 'delegate') involves devoting some time and expense to work on behalf of the Conference. The Steering Group is grateful to DPAs, and the individuals concerned, for performing such services. To assist authorities to decide whether to release staff (or commissioners) for the task, and to help the individuals concerned, this note outlines the Steering Group's broad expectations of delegates.

General expectation

The delegate will be an expert in data protection and privacy and knowledgeable in the work of both the Conference and the international organisation. The delegate will be Conference's 'eyes and ears', attending and observing the international organisation's meetings and reporting relevant information back. The delegate will be an advocate for data protection and privacy and, while taking care not to purport to speak on behalf of the Conference in the absence of an applicable resolution, will articulate data protection and privacy positions when the opportunity is given. The delegate will self-manage the relationship between the Conference and the international organisation by processing the available information, identifying the opportunities and risks and advancing the Conference's objectives.

1. Expertise

The Steering Group will presume that all nominees for a delegate role from DPAs will possess a good knowledge of data protection and privacy theory and practice.

Delegates should be familiar with the principal international instruments governing data protection and privacy regulation. The delegate's knowledge should extend beyond the guiding instruments governing the law in the delegate's own jurisdiction to include the other major instruments around the world.

Delegates are expected to be familiar with the relevant resolutions adopted by the Conference.

Delegates are expected to have a reasonable working knowledge of the relevant work of the international organisation concerned or be willing to familiarise themselves upon being appointed. Nominees for the role of delegate will be asked to complete a form for the Steering Group outlining previous experience relevant to the work of the international organisation.

Delegates will need to familiarise themselves with the relevant processes of the international organisation including any special rules applicable to observers.

2. Attendance at meetings

It is expected that prospective delegates will give the Steering Group a realistic estimate of their availability to travel to and attend the relevant meetings during the period of appointment. Ideally delegates will be likely to be able to attend all or nearly-all of the important meetings of the relevant international organisation or committee during the expected term of the appointment.

However, firm commitments to attend all or nearly-all meetings are not always realistic or even necessary. In some cases, the role of delegate may require attendance at only a selection of meetings with other meetings to be followed 'on the papers'. If an alternate is also appointed, it will be sufficient to ensure a reasonable coverage of meetings between delegate and alternate. Occasionally, an alternate delegate will be appointed simply to attend a single meeting, sometimes in cases where the principal delegate cannot attend.

Delegates are expected to assess which of the forthcoming meetings warrant attendance. Delegates should keep the Steering Group reasonably informed of their assessments and be willing to explain their views.

Where the delegate assesses that a meeting should be attended, it is expected that the delegate will:

- attend the meeting, or
- arrange for the alternate (where appointed) to attend, or
- in cases where neither the delegate nor alternate can attend, let the Steering Group know the position in plenty of time with a recommendation, if possible, of a prospective candidate for the Steering Group to appoint as a delegate to attend the particular meeting.

Where the delegate assesses that a meeting need not be attended, or where attendance is simply not able to be arranged, the delegate is expected to convey the Conference's apologies through appropriate channels.

It is accepted that some delegates will attend some meetings in the dual capacity of Conference observer and as a member of a national delegation. This may be unavoidable as cost constraints will otherwise often prevent DPAs from attending without this combination of roles. However, the Steering Group expects delegates to manage the dual role so as to reflect well on the Conference and avoid any conflicts. In particular, it is expected that delegates will:

- let the Steering Group know if they propose to attend meetings in this dual capacity;
- ensure that the appropriate officials responsible for the meetings know of their dual capacity;
- ensure that there is no confusion as to the capacity in which they are intervening during meetings;
- ensure that their reports to the Steering Group reflect a Conference, rather than national, perspective.

3. Following the international organisation's work

Delegates are expected to follow closely the relevant work of the international organisations. Delegates will need to arrange to receive and read the relevant papers.

Delegates are not expected to be an expert in every aspect of the relevant work of the international organisations. However, delegates should have a reasonable knowledge of the relevant organisation's work, be a reliable source of information for the Conference on that work and to be able to obtain further information if asked.

Delegates will also be expected to be able to assess and interpret what they know of the international organisation's work so that they may bring significant privacy and data protection issues to the attention of the Conference.

4. Keeping others informed

Delegates are expected to keep the alternate and the Steering Group informed of their activities as delegate and to keep the Steering Group, interested DPAs and the Conference informed of the work of the international organisation.

If an alternate is appointed a delegate must keep the alternate appropriately informed. Typically, this will involve ensuring that the alternate has access to the necessary papers and knows of the delegate's plans in relation to meetings. The degree to which the delegate needs to keep the alternate informed will vary and this is a matter to be worked out between the delegate and the alternate. Delegates should try to ensure that the alternate is in a reasonable position to assume the delegate's responsibilities in the event that the delegate is unable to attend a meeting.

Delegates are expected to keep the Steering Committee reasonably informed. Delegates should provide sufficient information to reassure the Steering Group that the observer arrangements are working satisfactorily or to highlight any problems arising or matters requiring guidance from the Steering Group. Delegates are expected to produce some written reports for the Steering Group, in particular, material for incorporation in the Steering Group's annual report to the Conference.

Delegates are expected to maintain networks of, and provide reports to, interested DPAs who wish to follow the work of the international organisation. The arrangements for doing this may differ between organisations and delegates. Generally speaking it may involve delegates establishing and maintaining an email contact list of staff within DPAs who have asked to be kept informed. Delegates are expected to prepare and distribute short update reports at appropriate intervals (typically preceding and/or following important meetings). Sometimes the update report may include relevant documentation from the international organisation, such as meeting minutes or resolutions, where circulation of such documentation is permitted.

Delegates are expected to hold themselves open to answer questions from any DPA and the Steering Group about the work of the international organisations.

There may be opportunities for delegates to report back on the work of the international organisations at the annual conference. Such opportunities cannot be guaranteed given the pressure on the Conference programme but where such opportunities are available, and delegates are able to attend the Conference, it is expected that delegates will be willing to provide a presentation or answer questions.

5. Representing the Conference

The delegate's role is, first and foremost, as an observer. The international organisation will have granted the Conference privileged access to attend meetings not open to the public. Delegates observe, interpret and report back to interested DPAs and the Conference.

In accordance with the particular arrangements of the international organisation, delegates may also be able to do various other things. This might vary depending upon the nature of the meeting and the rules of the particular organisation. Typically, there will be a process whereby observers may be allowed to intervene in some part of proceedings, for example, to make a statement or ask a question. Sometimes participants might ask a question of observers.

It is expected that delegates will exercise careful judgment in preparing for and participating in the meetings to ensure that the participation provides most value to all concerned. Delegates must take care to avoid expressing positions on behalf of all DPAs or the Conference unless they have a mandate to do so. Where the Conference has adopted a resolution on a particular matter, this can be represented as a clear mandate. In the absence of a Conference resolution, expressions of view may best be stated at a sufficiently high level, in keeping with well understood and agreed principles of data protection and privacy, or expressed as an expert but personal view.

On occasion, a delegate will know in advance of a meeting that an international organisation will wish to hear an expression of views. In those cases, the delegate may wish to consider preparing a brief written statement of position in advance. In the absence of a Conference resolution this should not be stated to represent the view of the Conference but with the right preparation may be characterised as a position said to be generally in keeping with the views of DPAs attending the Conference. Such a statement should be accompanied by a suitable caveat to the effect that the Conference has not taken a resolution on the point.

If proposing to prepare such a statement, it is expected that delegates will seek views from other DPAs. The alternate is the primary resource to assist in this respect. The circulation list developed to keep interested DPAs informed is the second resource. The third resource is the Steering Group itself which is available for consultation and guidance and will wish to see statements that may be proposed to be tabled. In some instances, a matter could be raised with all DPAs (and the Steering Group has a circulation list for such use). However, to ensure proper coordination the delegate should not usually canvass views of all DPAs except through the Steering Group or with the Steering Group's approval.

In some instances, delegates may identify issues on which it will be helpful for the Conference to adopt a resolution. Those issues may be fed through the Steering Group to be considered as part of a Steering Group-sponsored resolution. This does not preclude a delegate's own DPA proposing a resolution of its own initiative.

6. Identifying opportunities

Delegates are encouraged to use their initiative to further the objectives of the Conference and of privacy and data protection generally. In particular, delegates are expected to take any opportunity

offered to observers to provide an update to the international organisation on the work of the Conference.

Other opportunities may present themselves. For example, delegates may wish to encourage key people within the international organisation to attend the public sessions of the Conference. Delegates may also be a resource to Conference hosts in identifying or approaching possible speakers for Conference sessions.

7. Duration of appointment as delegate

An appropriate term of appointment will be made which may depend upon the delegate's preferences and availability and the nature of the international organisation and the particular series of meetings. In judging appropriate terms of appointment the Steering Group will try to ensure that while delegates are able to develop expertise in their role and perform effectively there remain opportunities for as many DPAs to contribute as possible.

As a general matter, delegates are expected, if possible, to make themselves initially available for a two year appointment which may be the normal duration. A renewal for up to a further two years will be contemplated but at the completion of an extended term it is expected that a delegate may step aside if there is another candidate offering themselves as delegate. The Steering Group will invite expressions of interest from the Conference at large for available positions from time to time.

It is expected that delegates will help ensure an orderly transition from one delegate to the next. The Steering Group would appreciate as much notice in advance as possible if delegates do not intent to continue in the role. Assistance in finding a successor, and briefing that person, will be appreciated.

Delegates should promptly advise the Steering Group if their employment by, or appointment to, a DPA ends. Delegates are expected to step down if asked to do so by the Steering Group.

The Steering Group may revoke an appointment if a delegate significantly fails to meet the expectations set out in this document or gives other cause for removal.

Version 1.1

Adopted by the Inaugural Steering Group comprising DPAs from Australia, Canada, France, Germany, Hong Kong, Ireland, Italy, New Zealand, Spain and the European Data Protection Supervisor
Date: 26 August 2009

INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS
STEERING GROUP ON
REPRESENTATION AT INTERNATIONAL MEETINGS

Delegate Proposal Form

Individuals from accredited data protection authorities who are willing to be a Conference delegate (or alternate delegate) to meetings of international organisations should complete this form and submit it to the Steering Group for consideration.

Please return the form to linda.williams@privacy.org.nz

Your name and contact details:

--

Name of international organisation/committee that you would like to be considered for:

--

DPA role/experience: Please list your involvement within an accredited data protection authority (Commissioners need only indicate 'Commissioner', for staff please also include brief details of your role and experience):

--

International organisation involvement: Please provide details of previous involvement (if any) with the international organisation relevant to performing the role of delegate:

--

Optional details: Feel free to add any further (brief) details of relevance:

Willingness to be Conference delegate: Completion and submission of this form indicates a willingness to serve as a Conference delegate in accordance with the *Expectations of Delegates* guidelines adopted by the Steering Group.

In cases of DPA staff, this also indicates that your employer is agreeable to your serving as a Conference delegate.

I am willing to serve as a Conference delegate in accordance with the *Expectations of Delegates* guidelines adopted by the Steering Group.

(Staff only) I have the permission of my employer to make this proposal and my employer is willing for me to serve as a Conference delegate.

Date form completed:

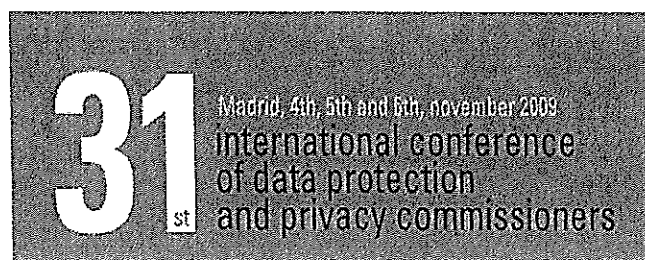
Privacy statement:

Personal information supplied will be used for selecting, evaluating and appointing Conference delegates and for ongoing purposes related to the Steering Group's work. The information will initially be held by the Office of the Privacy Commissioner, New Zealand, and be subject to the Privacy Act 1993 (NZ). The information will be shared with current members of the Steering Group and may be shared with future Steering Groups. Details taken from the form may, if the applicant is appointed, be shared with the international organisation concerned and with DPAs accredited to the International Conference. On occasion details may be made publicly available (e.g. through media releases). The individual concerned is entitled to seek access to or correction of any information held.

5. Steering Group reports

The annual reports from the Steering Group to the Conference are set out.

Journal of Management Education 35(3)



**STEERING GROUP ON
REPRESENTATION BEFORE INTERNATIONAL ORGANISATIONS**

**ANNUAL REPORT
2008/09**

First report of the Steering Group
September 2009

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Executive Summary

The 30th Conference established the Steering Group on Representation before International Organisations. The Steering Group has the task of arranging observer representation before relevant international meetings in order to influence international data protection policy formulation and to keep the Conference better informed.

A full annual report outlining the Steering Group's activities and achievements will be made available on the Conference website.

A major initial task was settling the Steering Group's processes and working arrangements. The principal achievement was the adoption of the 'Expectations of Delegates' document. This is a guide to the key aspects of representing the Conference before international organisations.

During the year the Steering Group applied for observer status before four international organisations. The Conference:

- received Liaison Officer status before **ISO** in May - the Steering Group appointed Steve Johnston from Canada to the role;
- was granted guest status to observe the July meeting of the **APEC** Data Privacy Subgroup in Singapore - Billy Hawkes from Ireland was appointed as delegate;
- was recognised as an observer to the **Council of Europe** Consultative Committee on Convention No.108 in August. Alessandra Pierucci from Italy was appointed as the Conference's delegate to the plenary session in September.

An application to be an observer before the **OECD** Working Party on Information Security and Privacy has been submitted and a decision is pending.

The Steering Group has established contact lists for DPAs that wish to receive delegates' reports. To be added to the lists, please contact the Office of the Privacy Commissioner, New Zealand.

The Steering Group has proposed two resolutions to the Conference:

- the first seeks directions to obtain observer status before the Internet Governance Forum, London Action Plan (on spam) and ICANN;
- the second proposes a process for approving international organisations to be observers to the Conference's closed session.

Introduction by Steering Group Chair

I am honoured to present the first Annual Report of the Conference's Steering Group on Representation before International Organisations.

In order to influence international data protection policy formulation the Steering Group has the task of arranging observer representation before relevant international meetings.

The Steering Group is the culmination of a series of resolutions. It represents a determination by the Conference to translate talk into action

The Steering Group's origins are found in a resolution adopted 6 years ago at the 25th Conference. That resolution noted that international bodies are responsible for promulgating both 'hard law' and, increasingly 'soft law', at international level which must then be carried forward at national level. International requirements can cause difficulties at national level if the data protection dimension has not been considered during the international standard setting process. The resolution encouraged international bodies to develop processes by which privacy considerations could be factored into their work.

Three years later the London Declaration recognised that DPAs must develop coordinated strategies so as to act in new, more effective and relevant ways and in particular, to obtain institutional recognition of their action at the international level. The Working Group on Conference Organisational Arrangements reported back the following year suggesting that the Conference seek to influence international data protection policy formulation by obtaining observer status at meetings of international organisations. After a further study, the resolution establishing the Steering Group was adopted at the 30th Conference.

Thus the Conference has recognised the essential need to work collaboratively to influence matters at global level. It has never been sufficient to try to solve data privacy issues solely at national level. We are working innovatively to develop new structures to achieve data privacy goals. Collective statements of objectives and principles are essential but are not enough. There is the need to harness the expertise possessed within our DPA community and make it available to help find solutions to the complex and far reaching challenges in our global economy. The Steering Group is a practical step in this direction.

It has been a productive year for the Steering Group. The group has settled a number of fundamental process and organisational issues. However, while much can be achieved by the structures of the Steering Group and the dedication and hard work of the delegates, we will reach a point where some of the organisational challenges identified by the London Declaration will need to be directly addressed. The mooted Conference website will be a key tool. Before long the establishment of a Conference secretariat may need to be seriously explored.

The Steering Group has achieved a considerable amount in a comparatively short space of time. As a result of achieving observer status before important international organisations, this Conference is becoming recognised as an important player at international level.

The Steering Group has carefully prioritised its work. It has also identified new opportunities for engagement at international level in some challenging areas related to internet governance and enforcement. I commend the two resolutions to all DPAs.

I take this opportunity to thank all those involved in the work during the year. I offer special thanks to those individuals who have volunteered to be Conference delegates and to their employers. The current initiative will fail unless DPAs are willing to release staff for these duties.

There is opportunity for staff within DPAs to become further involved in this international work. I encourage any office that wishes to follow the work more closely, to place themselves on the relevant email circulation lists. There is also opportunity for those with special expertise to offer themselves to be delegates or alternate delegates.

Members of the Steering Group were elected for two year terms. I have been advised that all 10 current members will continue into their second year. While 10 members is quite sufficient for our work, there is opportunity if others wish to offer themselves for election.

Marie Shroff
New Zealand Privacy Commissioner
Chair, Steering Group

Report on activities for 2008/09

Establishment of Steering Group

The inaugural Steering Group included the 12 data protection authorities that proposed and co-sponsored the resolution adopted at the 30th Conference. New Zealand was chosen to lead the Steering Group. Each participating authority nominated a contact person and the resulting contact group conducted its work through exchange of emails. On specialist issues, small working groups of 3 or 4 members developed recommendations for the full group.

Members of the Steering Group, contact group and working groups are listed at Annex A.

Steering Group's approach to tasks

The resolution establishing the Steering Group sets out basic arrangements for the Steering Group (see Annex B).

The Steering Group spent many months considering the approach it should take to the work. This involved a mixture of fundamental issues, such as the process for mandating delegates, and practical issues, including priorities for 2009.

A major priority for the Steering Group was settling its processes for arranging representation. The 'Expectations of Delegates' document, which records key approaches, was finalised in April 2009 and circulated to all DPAs in July (see Annex C).

2009 priorities

The Conference resolution directed the Steering Group to seek observer status before seven international organisations. The Steering Group gathered information about the data privacy work of the international organisations, their committee structures and key contacts and other useful information. As a result, the Steering Group decided to approach the task in the following order:

- first priority: ISO, APEC, OECD;
- second priority: Council of Europe;
- third priority: ITU, ILC and UNESCO.

ISO

ISO had earlier invited the Conference to appoint a liaison officer. Accordingly, the Steering Group moved quickly to take up this opportunity. An application was made to ISO in April 2009 and Steve Johnston, from Canada, was appointed as delegate. ISO approved the liaison officer arrangement in meetings in Beijing in May and the occasion was marked by a joint news release (see Annex D).

APEC

Having explored the issues and taken advice, the Steering Group submitted an application for guest status before both the Data Privacy Subgroup (DPS) and its parent committee, Electronic Commerce Steering Group (ECSG). The ECSG application was opposed and so we asked for the DPS application to be considered alone. We had hoped to obtain guest status for a period of two years (covering four meetings). However, only a single meeting

approval was granted. We understand this to be quite usual and have been encouraged to resubmit an application for a two year approval. Billy Hawkes, from Ireland, was appointed as delegate to the Singapore meeting in July.

Council of Europe

The Steering Group applied for observer status before the Council of Europe Consultative Committee and Bureau in July. Approval was obtained in late August just one week before the annual plenary meeting. Accordingly, interim arrangements were made to secure a delegate for that meeting. Allesandra Pierucci, from Italy, was appointed as delegate to the September meeting.

OECD

Having taken soundings from the OECD Secretariat, the Steering Group decided to seek observer status rather than the alternative 'expert' status. An application was submitted in July and is due to be considered by the OECD WPISP meeting in October, after the finalisation of this report.

ITU, ILC, UNESCO

The Steering Group has a mandate to seek representation from three further organisations - International Telecommunications Union (ITU), International Law Commission (ILC) and UNESCO.

After initial exploration of the issues, the Steering Group does not intend to seek representation before ITU, ILC or UNESCO in the short term but hopes to reconsider all three in 2011. In particular, the ILC is not expected to commence its privacy reference during 2010. It does not appear feasible to undertake ITU work before 2011. The Steering Group has not identified sufficient value to become engaged in UNESCO's work at this time.

New directions sought: IGF, LAP, ICANN

The basic arrangements direct the Steering Group to research the international scene to identify opportunities for useful participation. Three bodies have been identified for possible further engagement:

- Internet Governance Forum (IGF);
- London Action Plan (LAP) (against spam);
- Internet Corporation for Assigned Names and Numbers (ICANN).

The Steering Group recommends that the Conference direct the Steering Group to explore seeking representation before these organisations (see resolution at [Annex H:](#)). More careful exploration of the issues will need to be undertaken and it may transpire that, on closer examination, observer status is not warranted before all three. Seeking representation will also be dependent upon the Steering Group being confident that it can identify a representative from a DPA willing to be the delegate.

Resolution on international observers before closed sessions

The basic arrangements direct the Steering Group in its first annual report to recommend any necessary or desirable improvements to the basic arrangements. The Steering Group reviewed the basic arrangements and was satisfied that they did not at this stage require any

changes. However, the Steering Group does recommend the adoption of a new process for admitting observers from international organisations to the closed session of the Conference (see second resolution at Annex I:).

DPA involvement in international work

There are several opportunities for interested DPAs to become involved in the international work. The opportunities include to:

- Become a member of the Steering Group – while the Steering Group has sufficient members are present, up to 5 additional DPAs could be elected at the 31 Conference;
- Become a delegate or alternative delegate - the Steering Group is willing to consider *ad hoc* delegates for single meetings of the regional organisations (including the Council of Europe and APEC) and there are openings for alternate delegates to back up appointed delegates;
- Join the distribution lists - any DPA that wishes to follow the work of one or more of the organisations or to offer feedback to the delegates is encouraged to provide email details to be added to the appropriate lists (contact: Linda.williams@privacy.org.nz).

Observation on the year

The Steering Group is pleased with the progress during the year. Foundation work has been completed to establish the Steering Group's processes and approaches to the work. Submitting four applications for observer status has been a substantial accomplishment. The community of DPAs now has a recognised presence before several influential international organisations.

While it is too early to evaluate the effectiveness of the observer arrangements, the processes appear to be working as anticipated. A window into the work of international organisations has been provided for the Conference.

Annex A:

Steering Group

Steering Group Chair:	Marie Shroff, New Zealand
Steering Group Authorities:	Australia, Berlin (resigned March 2009), Canada, European Data Protection Supervisor, France, Germany, Hong Kong, Ireland, Italy, New Zealand, Spain, Switzerland (resigned February 2009)
Principal contacts:	Timothy Pilgrim (Australia), Carman Baggaley (Canada), Peter Hustinx (EDPS), Gwendal Le Grand (France), Silke Harz (Germany), Roderick Woo (Hong Kong), Gary Davis (Ireland), Antonio Caselli (Italy), Blair Stewart (New Zealand), Rafael Gozalo (Spain)
ISO Working Group:	Carman Baggaley, Gwendal Le Grand, Silke Harz, Blair Stewart
APEC Working Group:	Carman Baggaley, Timothy Pilgrim, Blair Stewart, Roderick Woo
OECD Working Group:	Carman Baggaley, Gwendal Le Grand, Silke Harz, Blair Stewart
Council of Europe Working Group:	Antonio Caselli, Blair Stewart, Roderick Woo

Delegates

ISO Liaison Officer:	Steve Johnston, Canada (appointed May 2009)
APEC Guest:	Billy Hawkes, Ireland (appointed for meeting of 28 July 2009)
Council of Europe Observer:	Allesandra Pierucci, Italy (appointed for meeting of 2–4 September 2009)

Annex B:

Resolution adopted at the 30th Conference Establishing the Steering Group on Representation at Meetings of International Organisations

The 30th International Conference of Data Protection and Privacy Commissioners

Recalling and noting:

- (a) the resolution of the 25th Conference that called upon international bodies to adopt suitable mechanisms to ensure that data protection considerations are taken into account when promulgating standards, rules or common practices that affect personal data handling within national jurisdictions
- (b) the Montreux Declaration adopted at the 27th Conference which resolved to strengthen collaboration with international organisations
- (c) the 28th Conference's London Declaration which called for Data Protection Authorities to bring forward coordinated strategies to act in new and more effective ways and, in particular, to obtain better institutional recognition at the international level
- (d) the resolution of the 29th Conference that outlined a process to influence international data protection policy formulation by obtaining observer status at meetings of international organisations
- (e) the resolution of the 29th Conference on Development of International Standards which encouraged the Conference to find ways to pool the collective expertise of Data Protection Authorities and to make that expertise available to ISO in the development of privacy standards

Therefore resolved:

1. To create a process to enable collective contribution to the work of international organisations and representation of Data Protection Authorities at meetings of international organisations, both governmental and non-governmental, in order to better promote the basic universal principles of data protection and privacy at international level, and
2. To establish a Standing Committee of the Conference to be known as the Steering Group on Representation before International Organisations, to be operated in accordance with the basic arrangements set out in the annex to this resolution, and
3. To elect an inaugural Steering Group, and
4. To direct the inaugural Steering Group to explore the usefulness of obtaining observer representation, and if appropriate to obtain such representation, at the meetings of the appropriate committees or working groups of the following international organisations:
 - a. OECD
 - b. International Organisation for Standardisation

- c. Council of Europe
- d. APEC
- e. International Law Commission
- f. International Telecommunications Union
- g. UNESCO.

In addition to the international organisations listed above, if the Steering Group considers appropriate and useful to do so, the Steering Group may seek and obtain representation at the meetings of the appropriate committees and working groups of other international organisations, in accordance with the process set out in clause 2d of the annex.

ANNEX

Basic arrangements for the Steering Group on representation before International Organisations

1. Membership

- a. Membership of the Steering Group will be by:
 - election by accredited Data Protection Authorities (DPAs) at the closed session of the Conference, or
 - co-option by the Steering Group between Conferences (in the limited circumstances set out in clause 1d).
- b. Any DPA accredited to the Conference may be elected to, or co-opted onto, the Steering Group.
- c. The Steering Group must include between 5 and 15 DPAs.
- d. The Steering Group should, if possible, include members from the various regions of the world. Between Conferences the Steering Group may co-opt up to 2 DPAs to ensure continued broad coverage.
- e. The term of elected Steering Group members is 2 years. Members can resign before the end of their term and may be re-elected as often as they wish. The term of a co-opted member is until the date of the next Conference.

2. Directions concerning international organisations

- a. The resolution establishing the Steering Group directed the Steering Group to seek observer representation (or similar status) from an initial six international organisations.
- b. The Conference may from time to time direct the Steering Group to seek representation before other international organisations.
- c. One of the Steering Group's functions is to identify useful opportunities for representation and to make recommendations to the Conference seeking directions to obtain representation.
- d. The Steering Group may proceed to seek representation before other international organisations in the absence of directions from the Conference. However, the Steering Group must first obtain indications of support for such action from at least half of the DPAs accredited to the Conference.

3. Working methods

- a. The Steering Group will elect its own chair.
- b. The Steering Group will settle its own procedures, document them and communicate them to members of the Steering Group and other DPAs.

4. Functions of Steering Group

- a. The Steering Group will have the functions set out in this and other clauses and any additional functions conferred by resolution of the Conference.
- b. The principal functions of the Steering Group will be to:
 - i. Research the international scene to identify opportunities for useful participation.
 - ii. Pursue applications to obtain observer status at appropriate international meetings.
 - iii. When status has been granted, to arrange for one or more DPAs to be the Conference's delegate.
 - iv. Develop and document the approach of the Steering Group to mandating delegates.
 - v. Provide general or specific guidance to Conference delegates.
 - vi. Receive reports from delegates.
 - vii. Provide reports to the Conference.
- c. In addition to any additional reports that the Steering Group thinks useful to make, the Steering Group shall provide the following reports:
 - i. An annual written report to the Conference about the Steering Group's activities including an account of any observer representation sought or granted, delegate appointed and meetings attended.
 - ii. The first annual report should include an account of the operation of the resolution establishing the Steering Group including these basic arrangements and recommend any necessary or desirable improvement.
 - iii. Recommendations as to any additional international organisations for which a direction should be given to the Steering Group.

5. Delegates

- a. The Steering Group must establish processes for appointing delegates generally or in a specific case.
- b. The Steering Group may appoint any DPA as a delegate whether or not that DPA is a member of the Steering Group.
- c. Appointment as a delegate may be for a specific meeting or for a specified period of time. Time-based appointments should be reviewed or renewed periodically.
- d. The Steering Group will provide general guidance for delegates.
- e. All resolutions of the Conference are to be considered a standing direction to all delegates.
- f. As part of its practices of providing general or specific guidance to delegates, the Steering Group must develop processes for soliciting views from affected DPAs in appropriate cases. "Affected DPAs" may include:
 - DPAs from countries or economies that are members of the international organisation in question;
 - all DPAs in some cases.

6. Expenses

- a. The Conference is not liable for any expenses of the Steering Group, its members or delegates.
- b. The Steering Group is not liable for any expenses of members or delegates.

Annex C:

Expectations of Delegates

The International Conference of Data Protection and Privacy Commissioners encourages individuals within accredited data protection authorities (DPAs), both commissioners and staff, to offer themselves to be the Conference's observer to meetings of particular international organisations. Volunteering as observer (referred to in this note as 'delegate') involves devoting some time and expense to work on behalf of the Conference. The Steering Group is grateful to DPAs, and the individuals concerned, for performing such services. To assist authorities to decide whether to release staff (or commissioners) for the task, and to help the individuals concerned, this note outlines the Steering Group's broad expectations of delegates.

General expectation

The delegate will be an expert in data protection and privacy and knowledgeable in the work of both the Conference and the international organisation. The delegate will be Conference's 'eyes and ears', attending and observing the international organisation's meetings and reporting relevant information back. The delegate will be an advocate for data protection and privacy and, while taking care not to purport to speak on behalf of the Conference in the absence of an applicable resolution, will articulate data protection and privacy positions when the opportunity is given. The delegate will self-manage the relationship between the Conference and the international organisation by processing the available information, identifying the opportunities and risks and advancing the Conference's objectives.

1. Expertise

The Steering Group will presume that all nominees for a delegate role from DPAs will possess a good knowledge of data protection and privacy theory and practice.

Delegates should be familiar with the principal international instruments governing data protection and privacy regulation. The delegate's knowledge should extend beyond the guiding instruments governing the law in the delegate's own jurisdiction to include the other major instruments around the world.

Delegates are expected to be familiar with the relevant resolutions adopted by the Conference.

Delegates are expected to have a reasonable working knowledge of the relevant work of the international organisation concerned or be willing to familiarise themselves upon being appointed. Nominees for the role of delegate will be asked to complete a form for the Steering Group outlining previous experience relevant to the work of the international organisation.

Delegates will need to familiarise themselves with the relevant processes of the international organisation including any special rules applicable to observers.

2. Attendance at meetings

It is expected that prospective delegates will give the Steering Group a realistic estimate of their availability to travel to and attend the relevant meetings during the period of appointment. Ideally delegates will be likely to be able to attend all or nearly-all of the important meetings of the relevant international organisation or committee during the expected term of the appointment.

However, firm commitments to attend all or nearly-all meetings are not always realistic or even necessary. In some cases, the role of delegate may require attendance at only a selection of meetings with other meetings to be followed 'on the papers'. If an alternate is also appointed, it will be sufficient to ensure a reasonable coverage of meetings between delegate and alternate. Occasionally, an alternate delegate will be appointed simply to attend a single meeting, sometimes in cases where the principal delegate cannot attend.

Delegates are expected to assess which of the forthcoming meetings warrant attendance. Delegates should keep the Steering Group reasonably informed of their assessments and be willing to explain their views.

Where the delegate assesses that a meeting should be attended, it is expected that the delegate will:

- attend the meeting, or
- arrange for the alternate (where appointed) to attend, or
- in cases where neither the delegate nor alternate can attend, let the Steering Group know the position in plenty of time with a recommendation, if possible, of a prospective candidate for the Steering Group to appoint as a delegate to attend the particular meeting.

Where the delegate assesses that a meeting need not be attended, or where attendance is simply not able to be arranged, the delegate is expected to convey the Conference's apologies through appropriate channels.

It is accepted that some delegates will attend some meetings in the dual capacity of Conference observer and as a member of a national delegation. This may be unavoidable as cost constraints will otherwise often prevent DPAs from attending without this combination of roles. However, the Steering Group expects delegates to manage the dual role so as to reflect well on the Conference and avoid any conflicts. In particular, it is expected that delegates will:

- let the Steering Group know if they propose to attend meetings in this dual capacity;
- ensure that the appropriate officials responsible for the meetings know of their dual capacity;
- ensure that there is no confusion as to the capacity in which they are intervening during meetings;
- ensure that their reports to the Steering Group reflect a Conference, rather than national, perspective.

3. Following the international organisation's work

Delegates are expected to follow closely the relevant work of the international organisations. Delegates will need to arrange to receive and read the relevant papers.

Delegates are not expected to be an expert in every aspect of the relevant work of the international organisations. However, delegates should have a reasonable knowledge of the relevant organisation's work, be a reliable source of information for the Conference on that work and to be able to obtain further information if asked.

Delegates will also be expected to be able to assess and interpret what they know of the international organisation's work so that they may bring significant privacy and data protection issues to the attention of the Conference.

4. Keeping others informed

Delegates are expected to keep the alternate and the Steering Group informed of their activities as delegate and to keep the Steering Group, interested DPAs and the Conference informed of the work of the international organisation.

If an alternate is appointed a delegate must keep the alternate appropriately informed. Typically, this will involve ensuring that the alternate has access to the necessary papers and knows of the delegate's plans in relation to meetings. The degree to which the delegate needs to keep the alternate informed will vary and this is a matter to be worked out between the delegate and the alternate. Delegates should try to ensure that the alternate is in a reasonable position to assume the delegate's responsibilities in the event that the delegate is unable to attend a meeting.

Delegates are expected to keep the Steering Committee reasonably informed. Delegates should provide sufficient information to reassure the Steering Group that the observer arrangements are working satisfactorily or to highlight any problems arising or matters requiring guidance from the Steering Group. Delegates are expected to produce some written reports for the Steering Group, in particular, material for incorporation in the Steering Group's annual report to the Conference.

Delegates are expected to maintain networks of, and provide reports to, interested DPAs who wish to follow the work of the international organisation. The arrangements for doing this may differ between organisations and delegates. Generally speaking it may involve delegates establishing and maintaining an email contact list of staff within DPAs who have asked to be kept informed. Delegates are expected to prepare and distribute short update reports at appropriate intervals (typically preceding and/or following important meetings). Sometimes the update report may include relevant documentation from the international organisation, such as meeting minutes or resolutions, where circulation of such documentation is permitted.

Delegates are expected to hold themselves open to answer questions from any DPA and the Steering Group about the work of the international organisations.

There may be opportunities for delegates to report back on the work of the international organisations at the annual conference. Such opportunities cannot be guaranteed given the pressure on the Conference programme but where such opportunities are available, and delegates are able to attend the Conference, it is expected that delegates will be willing to provide a presentation or answer questions.

5. Representing the Conference

The delegate's role is, first and foremost, as an observer. The international organisation will have granted the Conference privileged access to attend meetings not open to the public. Delegates observe, interpret and report back to interested DPAs and the Conference.

In accordance with the particular arrangements of the international organisation, delegates may also be able to do various other things. This might vary depending upon the nature of the meeting and the rules of the particular organisation. Typically, there will be a process whereby observers may be allowed to intervene in some part of proceedings, for example, to make a statement or ask a question. Sometimes participants might ask a question of observers.

It is expected that delegates will exercise careful judgment in preparing for and participating in the meetings to ensure that the participation provides most value to all concerned. Delegates must take care to avoid expressing positions on behalf of all DPAs or the Conference unless they have a mandate to do so. Where the Conference has adopted a resolution on a particular matter, this can be represented as a clear mandate. In the absence of a Conference resolution, expressions of view may best be stated at a sufficiently high level, in keeping with well understood and agreed principles of data protection and privacy, or expressed as an expert but personal view.

On occasion, a delegate will know in advance of a meeting that an international organisation will wish to hear an expression of views. In those cases, the delegate may wish to consider preparing a brief written statement of position in advance. In the absence of a Conference resolution this should not be stated to represent the view of the Conference but with the right preparation may be characterised as a position said to be generally in keeping with the views of DPAs attending the Conference. Such a statement should be accompanied by a suitable caveat to the effect that the Conference has not taken a resolution on the point.

If proposing to prepare such a statement, it is expected that delegates will seek views from other DPAs. The alternate is the primary resource to assist in this respect. The circulation list developed to keep interested DPAs informed is the second resource. The third resource is the Steering Group itself which is available for consultation and guidance and will wish to see statements that may be proposed to be tabled. In some instances, a matter could be raised with all DPAs (and the Steering Group has a circulation list for such use). However, to ensure proper coordination the delegate should not usually canvass views of all DPAs except through the Steering Group or with the Steering Group's approval.

In some instances, delegates may identify issues on which it will be helpful for the Conference to adopt a resolution. Those issues may be fed through the Steering Group to be considered as part of a Steering Group-sponsored resolution. This does not preclude a delegate's own DPA proposing a resolution of its own initiative.

6. Identifying opportunities

Delegates are encouraged to use their initiative to further the objectives of the Conference and of privacy and data protection generally. In particular, delegates are expected to take any opportunity offered to observers to provide an update to the international organisation on the work of the Conference.

Other opportunities may present themselves. For example, delegates may wish to encourage key people within the international organisation to attend the public sessions of

the Conference. Delegates may also be a resource to Conference hosts in identifying or approaching possible speakers for Conference sessions.

7. Duration of appointment as delegate

An appropriate term of appointment will be made which may depend upon the delegate's preferences and availability and the nature of the international organisation and the particular series of meetings. In judging appropriate terms of appointment the Steering Group will try to ensure that while delegates are able to develop expertise in their role and perform effectively there remain opportunities for as many DPAs to contribute as possible.

As a general matter, delegates are expected, if possible, to make themselves initially available for a two year appointment which may be the normal duration. A renewal for up to a further two years will be contemplated but at the completion of an extended term it is expected that a delegate may step aside if there is another candidate offering themselves as delegate. The Steering Group will invite expressions of interest from the Conference at large for available positions from time to time.

It is expected that delegates will help ensure an orderly transition from one delegate to the next. The Steering Group would appreciate as much notice in advance as possible if delegates do not intend to continue in the role. Assistance in finding a successor, and briefing that person, will be appreciated.

Delegates should promptly advise the Steering Group if their employment by, or appointment to, a DPA ends. Delegates are expected to step down if asked to do so by the Steering Group.

The Steering Group may revoke an appointment if a delegate significantly fails to meet the expectations set out in this document or gives other cause for removal.

Version 1.1

Adopted by the Inaugural Steering Group comprising DPAs from Australia, Canada, France, Germany, Hong Kong, Ireland, Italy, New Zealand, Spain and the European Data Protection Supervisor

Date: 26 August 2009

Annex D:

Joint ISO/Steering Group news release: May 2009

International Conference of Data Protection and Privacy Commissioners cooperates with ISO in developing International privacy standards

IS THERE A SOLUTION ON THE HORIZON TO COMBAT THE THREAT TO OUR DATA PROTECTION AND PRIVACY?

13 May 2009: The threat to the protection and privacy of our data has been a challenge faced by citizens, regulators and organisations around the world for many years. The threat is growing at an alarming rate and will continue to do so unless some international solutions are found to combat this problem.

A significant step towards achieving an international solution took place today with a joint announcement by Marie Shroff, the New Zealand Privacy Commissioner and Walter Fumy, the Chairman of ISO/IEC JTC 1/SC 27, the leading international standards committee on information security.

Commissioner Shroff announced that the International Conference of Data Protection and Privacy Commissioners had appointed Steven Johnston, Senior Security and Technology Advisor to the Office of the Privacy Commissioner of Canada, as liaison officer SC 27's WG 5 on identity management and privacy technologies.

The New Zealand Commissioner chairs the International Conference's Steering Group on Representation before International Organisations, which was established at the 30th Conference in Strasbourg late last year.

Commissioner Shroff said:

"The establishment of the Steering Group was a major step forward for the Conference by creating a mechanism by which the collective privacy and data protection expertise of commissioners could be better linked into international policy formulation. This appointment is a practical manifestation of that initiative.

There are now many players in the international scene working to develop solutions to the privacy challenges facing the world. The Conference's initiative is one small step to link together some of the stakeholders to share knowledge and experience. Steven Johnston has a depth of experience in relation to security, technology and the standards process that will serve the Conference and WG 5 well."

Dr Walter Fumy said:

"I warmly welcome this collaborative development with the International Conference of Data Protection and Privacy Commissioners. It represents an important turning point in advancing data privacy and protecting personal information through the publication of international privacy standards in the area of technology in the near future."

Professor Kai Rannenberg, Convener of WG 5, said:

"I am very pleased to see this liaison become a reality as it is important for SC 27 to bridge the gap between Privacy Requirements and Privacy Technology. The threat to privacy affects everybody whether in healthcare, mobile communications or social networks. The nomination of Steven Johnston nicely complements the earlier appointment of Stefan Weiss as Liaison Officer from WG 5 to the Conference".

Edward Humphreys, Press Officer, SC 27
Blair Stewart, Assistant Privacy Commissioner, New Zealand

All enquiries about this press release may be directed to edwardj7@msn.com for ISO/IEC JTC 1/SC 27 or to enquiries@privacy.org.nz.

For more details of this joint cooperation go to the ISO/IEC JTC 1/SC 27 web site <http://www.jtc1sc27.din.de/en>. Also contained on this web site is a full list of ISO/IEC JTC 1/SC 27 projects.

For further information about the International Conference of Data Protection and Privacy Commissioners, go to resolutions on [global standards](#) and [appointing liaison officer](#) or to this year's [conference web site](#).

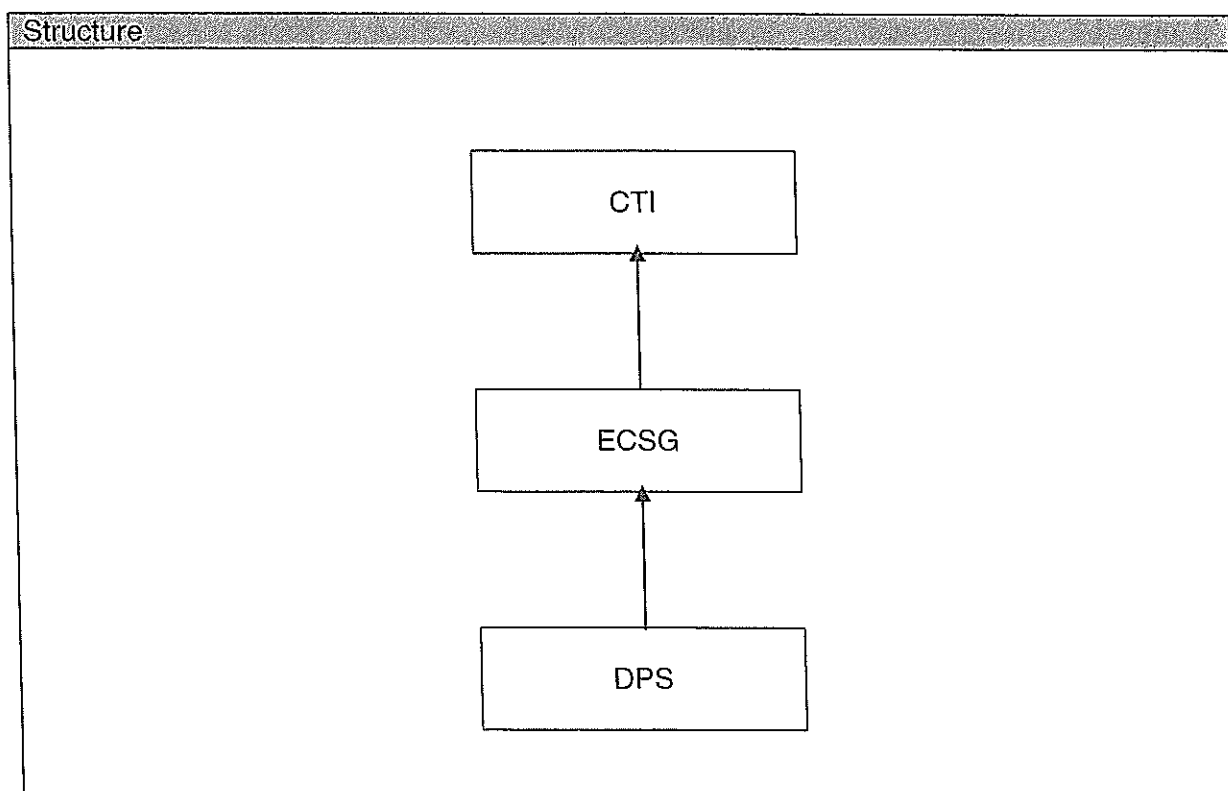
Annex E:

Delegate report: Asia Pacific Economic Cooperation (APEC)

Electronic Commerce Steering Group (ECSF) Data Privacy Subgroup (DPS)

Organisational Information

Mandate of committee:
<p>The ECSG was established in 1999 to promote the development and use of electronic commerce by creating legal, regulatory and policy environments in the APEC region that are predictable, transparent and consistent.</p> <p>The Data Privacy Sub-group was established by the ECSG in 2003 initially to develop the APEC Privacy Framework which aims to provide a consistent approach to information privacy protection, avoid the creation of unnecessary barriers to information flows and prevent impediments to trade across APEC member economies. Following adoption of the Framework in 2005, the DPS has continued to coordinate work on data privacy including by providing technical assistance to APEC economies. The current major DPS focus is a Pathfinder on cross-border privacy rules.</p>



Abbreviations:

APEC – Asia Pacific Economic Cooperation
 CBPR – Cross-border Privacy Rules
 CTI – Committee on Trade & Investment
 DPS – Data Privacy Subgroup
 ECSG – Electronic Commerce Steering Group

Conference representation**Observer status granted**

July 2009 (for meeting of 28 July)

Observer

Billy Hawkes, Data Protection Commissioner, Ireland (for meeting of 28 July)

Meetings attended

Singapore, 28 July 2009

Delegate report**Background**

The Sub-Group operates under the aegis of the APEC¹ Electronic Commerce Steering Group. Its main task is to facilitate and encourage implementation of the APEC Privacy Framework², which was approved by APEC Ministers in 2004. The Framework is designed to promote *a flexible approach to information privacy protection across APEC member economies, while avoiding the creation of unnecessary barriers to information flows*. The Framework is based on 9 APEC Information Privacy Principles³. The Framework includes guidance on how to give effect to the Principles, both domestically and internationally. 14 of the 21 Member Economies have published Data Privacy Individual Action Plans⁴ which describe the state of implementation of the Framework.

In 2007, APEC Ministers approved a Data Privacy Pathfinder⁵ with the aim of developing a *framework for accountable flows of personal data across the region, focussing on the use of cross-border privacy rules by business*. 9 Pathfinder Projects⁶ have been designed. These

¹ APEC is a grouping of 21 "Member Economies" in the Asia-Pacific Region: Australia, Brunei Darussalam, Canada, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, United States, China Hong Kong, China, Chinese Taipei, Mexico, Papua New Guinea, Chile, Peru, Russia, Viet Nam.

² Available at: www.apec.org

³ Preventing harm; Integrity of Personal Information; Notice; Security Safeguards; Collection Limitations; Access and Correction; Uses of Personal Information; Accountability; Choice

⁴ Available at: http://www.apec.org/apec/apec_groups/committee_on_trade/data_privacy_iaps.html

⁵ Available at: http://aimp.apec.org/Documents/2007/SOM/CSOM/07_csom_019.doc

⁶ The 9 Pathfinder Projects are: self-assessment guidelines for organisations; private and public sector accountability agent recognition criteria; compliance review process of CBPRs (Cross Border Privacy Rules); directories of compliant organisations and contact information of organisations and accountability agents for use by consumers; contact directories for data protection authorities and privacy contact officers within economies, as well as with accountability agents; templates for enforcement cooperation arrangements; templates for cross-border complaint handling forms; scope and governance of the CBPR system, and a pilot program to test and implement the results of the projects leading to the testing of a complete system.

involve developing and testing the practical tools required to give effect to a Cross-Border Privacy Rules (CBPR) system. The 4 elements of the system are:

- Self-assessment – an organisation develops rules and procedures consistent with the APEC Privacy Principles
- Compliance Review – the organisation's rules are checked by an accountability agent for compliance with the APEC Privacy Principles
- Recognition/Acceptance – compliant organisations are placed on a list of participating organisations and will be recognised as such in the APEC region
- Dispute Resolution and Enforcement – domestic and cross-border procedures for resolving complaints, including by appropriate regulators

Implementation of Data Privacy Pathfinder Projects

This was the main item on the Subgroup's agenda. Significant progress was reported on all of the Projects. Of particular interest was a report on the testing of the CPBR model, using volunteer companies and private-sector accountability agents. Feedback from the testing phase may lead to a rethink of some details of the questionnaires used in the test.

There was a large degree of agreement on the practical and governance arrangements for making the CPBR system work. These arrangements include agreed criteria for mutual recognition of accountability agents, cooperation between Privacy Enforcement Authorities and designation of an Administrator of the system.

Capacity Building Activities

The Chair gave an oral report on a data privacy seminar which had taken place the previous day. The seminar involved presentations and discussion on a variety of data privacy topics, including developments in other regions and the meaning of "accountability". The Vietnamese delegation reported on a workshop which had taken place the previous week in his country, with the involvement of the US Federal Trade Commission and the US Centre for Information Policy Leadership. Further such workshops are planned, supported by the Subgroup.

Domestic Implementation of the APEC Privacy Framework

Malaysia, Mexico, Indonesia, Peru, Philippines, Chinese Taipei, Thailand and Vietnam reported that draft privacy legislation was at various stages of development. Russia expects to appoint a data protection authority under its existing legislation this year. Australia, New Zealand, Hong Kong China and Canada are reviewing their existing privacy legislation. In all cases, the legislation is expected to be consistent with the APEC Privacy Framework.

2010 Work Plan

Completion of the work on the CPBR system and further capacity-building activities, including in relation to domestic implementation of the APEC Privacy Framework.

Information Sharing on Cross-Border Privacy Issues

Reports were provided on developments in various regional and international bodies of relevance to cross-border privacy issues. The Subgroup wishes to develop a more active dialogue with such bodies. It was noted that a session involving APEC is planned for the Madrid Conference in November.

Annex F:

Delegate report: Council of Europe (T-PD)

Consultative Committee of the Convention for the Protection of Individual with regard to Automatic Processing of Personal Data (T-PD) and the T-PD Bureau (T-PD-BUR)

Organisational Information

1. Name of Organisation
Council of Europe
2. Name of Committee
Consultative Committee of the Convention for the Protection of Individual with regard to Automatic Processing of Personal Data (T-PD)
3. Mandate of committee:
<p>The Committee is a forum for policy making and standard setting under Convention 108 (Article 18) and to monitor trends, share experiences and information, analyse the impact of privacy protection. In particular, the Committee, under Article 19 of the Convention:</p> <ul style="list-style-type: none"> • may make proposals to facilitate or improve the application of the Convention No. 108; • may make proposals to amend the Convention; • must formulate an opinion on any proposal for amendment of the Convention which is referred to it; and • may express an opinion on any question concerning the application of the Convention.
4. Composition:
Each Party of the Convention appoints a representative to the Committee and a deputy representative. Any Member State of the CoE which is not a Party of the Convention has the right to be represented o the Committee by an observer (Article 19 of the Convention). The Committee is composed by representatives of DPA or other institutions.
5. Structure (diagram)
<pre> graph BT TPD[T-PD] TPD_BUR[T-PD-BUR] TPD_BUR --> TPD style TPD fill:none,stroke:none style TPD_BUR fill:none,stroke:none </pre> <p>* See the Rules of procedure of the Consultative Committee.</p>

**** In accordance with art. 10 bis of its Rules of procedure, the Committee has established the T-PD BUR to prepare the meetings of the T-PD and in particular to prepare preliminary draft legal instruments, drafting opinions and reports, preparing the programme of activities and carrying out activities conferred on it by the T-PD.**

Abbreviations:

T-PD: Consultative Committee

T-PD-BUR: Bureau of the committee

Conference representation

Observer status granted

August 2009

Observer

Alessandra Pierucci, Data Protection Authority, Italy (for meeting of 2 – 4 September)

Meetings attended

Strasbourg, 2–4 September 2009

Delegate report:

General information

The meeting started with the usual information given by the Secretariat (Directorate General of Human rights and Legal affairs) of the Council of Europe. J. Polakiewicz welcomed the International Conference as an observer and updated delegates on the ratifications of Convention 108 and its Additional Protocol, recalling the main forthcoming events of interest for the participants - in particular the 31st International Conference of Data Protection and Privacy (Madrid 4-6 November 2009).

T-PD Work Programme

The plenary discussed and approved the T-PD Work programme for 2009 and beyond. Apart from the issue of “profiling” which will be referred later, the T-PD agreed to work on the following priorities: a) analysis of the Recommendation R(87)15 regulating the use of personal data in the police sector, in particular to determine the principles to be developed in order to cover adequately the emerging issues of data protection in the field of prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal penalties; b) updating of Recommendation (89)2 on the protection of personal data used for employment purposes, in light of technological developments as well as of other texts of the CoE containing provisions on the processing of data in the employment field. The T-PD, according to the approved Work programme, will also deal with the following issues: c) status and powers of data protection authorities in view of the drafting of an explanatory document setting out a “model” of the supervisory authority as foreseen by the Additional Protocol; d) carrying out a study in order to assess the need and added value of a fundamental right to data protection as distinct from Article 8 of the ECHR; e) carrying out an evaluation of social networking in view of possible initiatives; f) constant follow-up of

developments in data protection within and outside the CoE; g) preparation of the celebration of the 30th anniversary of signature of the Convention 108.

Data Protection Day

The T-PD agreed that the date of the Data Protection Day should remain as 28 January. It being understood that activities could be organised in the week around this date therefore preserving a certain amount of flexibility. This will not prevent States from organising data protection aware-raising activities during other dates.

Presentations and requests of observer status

The T-PD took note of the presentation and the request by the European Privacy Association for observer status within the T-PD. It took note of the presentation of the Ad hoc Committee for the World Anti-doping Agency (CAHAMA) and entrusted the Spanish representative J.L. Nuñez García with the task of representing the T-PD during the forthcoming meeting of the abovementioned Committee in Madrid on the 14th of September 2009. It also took note of the presentation of the "Group of specialists on predictivity, genetic testing and insurance" of the Steering Committee on Bioethics of the CoE and instructed the Secretariat of the T-PD to open a call in order to identify a possible T-PD member to join the Group.

Participants exchanged information on recent national developments in the field of data protection.

T-PD Statement on International Standards on the protection of privacy

The T-PD, as the forum for policy making and standard setting under Convention 108, examined the Joint Proposal for a Draft of International Standards on the protection of privacy" ("hereafter International standards") in view of the forthcoming Madrid International Conference. The T-PD adopted a Statement welcoming the International standards as a valuable action for the effective protection of privacy in an increasingly globalised world. The Statement recalls the importance of the standards contained in Convention 108 and its Additional Protocol (taken as one of the sources of the International standards) emphasising their legally binding nature, technological neutrality and applicability to privacy intrusions by public and private authorities. It recalls the CoE's Committee of Ministers' decision adopted on 2 July 2008 encouraging the accession of non Member States with the required data protection legislation and highlights that the T-PD counts on continued support of the International Conference in this kind of endeavour and on its active involvement in the T-PD activities as an observer. The Statement also points out that the International standards may help to interpret Convention 108 in the light of technological developments and even develop new legal instruments.

The Statement concludes that the International standards could lead to a new impetus to the strengthening of data protection and contribute to the worldwide promotion of Convention 108 and its Additional Protocol, therefore promoting harmonisation and reinforcement of the right to privacy in a global perspective.

Draft Recommendation on profiling

The second and third days of the meeting have been mostly dedicated to the analysis of the Draft Recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling.

A thorough discussion followed regarding the field of scope of the Recommendation, in particular whether the text should be either limited to the sole private sector or extended to the public sector, namely the fields of defense, national security and/or police and justice. The plenary decided to limit the scope to the private sector, however providing for the possibility for each Member state to extend such principles also to the public sector.

The plenary did not succeed in the adoption of the text also in consideration of the number of amendments that were brought as a result of the discussion. Therefore the redrafted text will be submitted to a final vote at the 2010 plenary.

The plenary did not object to the request of the European Commission to circulate the text to the members of the Article 29 Group.

Annex G:

Delegate report: International Organisation for Standardisation (ISO) SC27/WG5

Organisational Information

Mandate of committee

The scope of SC27/WG 5 covers the development and maintenance of standards and guidelines addressing security aspects of identity management, biometrics and the protection of personal data.

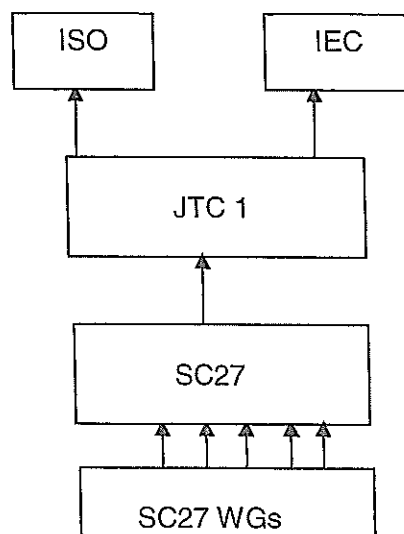
Current SC 27 projects include:

- Framework for Identity Management (ISO/IEC 24760)
- Biometric template protection (ISO/IEC 24745)
- Authentication context for biometrics (ISO/IEC 24761)
- Privacy Framework (ISO/IEC 29100)
- Privacy Reference Architecture (ISO/IEC 29101)

Possible fields of future work documented in the WG 5 Roadmap, include:

- in the area of Identity Management, topics such as:
 - Provisioning
 - Identifiers
 - Single sign-on
- in the area of Privacy, topics such as:
 - Privacy impact assessments
 - Anonymity and credentials
 - Specific Privacy Enhancing Technologies (PETs)
 - Privacy Capability Maturity Model

Structure



Abbreviations:

CD – Committee Draft
 IEC – International Electrotechnical Commission
 ISO – International Organization for Standardization
 ITU-T – International Telecommunications Union – Telecommunications Sector
 JTC – Joint Technical Committee
 NB – National Body
 SC – Sub-Committee
 WD – Working Draft

Conference representation**Observer status granted**

May 2009

Observer

Steve Johnston, Office of the Privacy Commissioner of Canada

Meetings attended

4 – 8 May 2009

Beijing, China

Delegate report:**General Comments**

The most recent meeting of ISO/IEC JTC1/SC 27/WG 5 was held 4 – 8 May 2009 in Beijing, China.

As with past meetings, progress on current projects was mixed although, overall, more progress was made during this meeting than previously.

Projects

WG 5 is currently working on 9 numbered projects and 2 Standing Documents (SDs). A brief description of the project, as well as a summary of the editing meeting discussions (where attended) for each project, follows:

- 1) **ISO 24760 – A Framework for Identity Management.** This standard defines and establishes a framework for Identity Management (defined as an integrated concept of processes, policies and technologies that enable organizations and individual entities to facilitate and control the use of identity information in their respective relations). The Framework standard is intended to help designers, architects, evaluators, and users of IT systems building solutions related to identity controls, and to improve adherence to compliance regulations, internal security and privacy policies.

Progress on this standard has been quite slow. It has been under development for three years and there are still several areas of contention. The vast majority of the comments made on successive drafts of this standard have focused on the following areas:

a) **Terminology.** It has been a major challenge to achieve consensus on the terms and definitions used in this standard, particularly such basic terms as identity, partial identity, identifier and so on. An ad hoc terminology group was created during the Spring 2009 meeting. Using the existing terms and definitions as a starting point, and taking into account comments received from National Bodies (NBs) on the latest version, the group proposed revisions that seem to resolve the terminology issue. There is, however, still the outstanding issue of harmonizing the terms and definitions used in this document with those used by the International Telecommunications – Telecommunications (ITU-T), who are also developing identity management related standards;

b) **Lifecycle.** There is still some debate as to what an identity lifecycle, which is distinct from an identity management lifecycle, should look like. Several different lifecycle models, some based on state transition and others based on process flows, have been incorporated in the standard at one point or another. These models have been merged, separated and modified to the point where none of them are particularly easy to understand. The editors have been tasked with trying to rectify all of the inconsistencies for the next draft;

c) **Structure.** There was still some discussion about the basic structure of the document during the Spring 2009 meeting. A number of changes were made which will be subject to review and comment when the next draft is released.

It was agreed during the Spring 2009 meeting that the document will be informative (should) as opposed to normative (shall) – this was seen to be more appropriate language for a framework, or good practice, standard.

The next version of the document, 1st Committee Draft (CD), is due to be published mid July 2009.

- 2) **ISO 24761 – Authentication Context for Biometrics.** This standard defines the structure and the data elements of Authentication Context for Biometrics (ACBio), which is used for checking the validity of the result of a biometric verification process executed at a remote site. The specification of ACBio is applicable not only to single modal biometric verification (e.g., fingerprints OR iris scans) but also to multimodal fusion (i.e., combinations of biometrics (e.g., fingerprints AND iris scans)). This standard was published on 15 May 2009.
- 3) **ISO 24745 – Biometric Template Protection.** This standard is focused on the essential security mechanisms required for the protection of biometric templates.

This document did not progress beyond 2nd Working Draft (WD) for some time. Significant contributions were received, however, during the October 2008 meeting which allowed this document to move forward. Two major issues were resolved during the October meeting:

- a) This document will focus on the requirements a biometric template protection solution must/should meet, rather than trying to describe or define specific solutions; and
- b) Agreement was reached on what those requirements should be. In that respect, Norway proposed that solutions support renewability and revocability of the biometric templates (possible solutions in this space include cancellable biometrics and biometric encryption). These were seen as desirable properties, not only from a security perspective but also from a privacy perspective.

The inclusion of renewability and revocability generated some debate during the editing session as to whether these should be considered requirements or were actually safeguards or countermeasures. It was eventually agreed that the use of the terms in the text was unclear and inconsistent, so the editor has been tasked to correct this. It was also suggested that the editor consult with SC 37 – Biometrics to see if they have definitions and explanations for these terms that WG 5 should use.

There was some discussion about the potential overlap between this project and ISO 19792 – Security Evaluation of Biometrics. The editor was of the opinion, as were several National Bodies (NBs), that there really wasn't much overlap. The editor agreed, however, to review the document to confirm this.

As with ISO 24760, it was agreed to proceed to the CD stage in hopes that additional NBs will comment. The next version of the document, 1st CD, is due to be published end June 2009.

- 4) **ISO 29100 – A Privacy Framework.** This standard provides a framework for defining privacy safeguarding requirements as they relate to personally identifiable information (PII) processed by any information and communication system in any jurisdiction. The framework is applicable on an international scale and sets a common privacy terminology, defines privacy principles when processing PII, categorizes privacy features and relates all described privacy aspects to existing security guidelines.

The framework is intended to serve as a basis for additional privacy standardization initiatives, including a technical reference architecture, the use of specific privacy technologies, assurance of privacy compliance for outsourced data processes, privacy impact assessments and engineering specifications. In order to become widely accepted and to effectively form the basis for additional work, the framework needs to be closely linked to existing security standards that have been widely implemented.

Progress on this standard has, for the most part, been relatively straightforward. However, the US has expressed concern that this standard was unintentionally setting public policy, which the US considers inappropriate for an ISO standard. This concern is based on the fact that the privacy principles upon which this document is based have not been agreed on a global basis. This issue will be addressed in part by changes made to the language of the document (from "shall" to "should").

In addition, the following should be noted:

- a) It is still not entirely clear where the most appropriate place in the standard is to discuss risk management, particularly risks of re-identification (even with supposedly anonymous data), although it was agreed that there should be such a discussion. NBs were asked to carefully consider this issue for the next draft;
- b) A clearer distinction is required between a description of a principle (Clause 6) and how to implement it (Clause 7). There also needs to be more clarity with respect to the implementation guidance (e.g., the distinction between having to describe what information will be disclosed, to whom, etc. prior to collection and providing individuals access to a history of disclosures of their personal information (when they exercise their right of individual access) is not entirely clear); and

- c) The use of the terms “shall” and “should” within the document was inconsistent. As with the Framework for Identity Management standard, it was agreed that this document would use the term “should”, while supporting standards could use the term “shall”, if appropriate.

The next version of this document, 2nd CD, is due to be published end June 2009.

- 5) **ISO 29101 – A Privacy Reference Architecture.** This standard is intended to provide a privacy reference architecture model that will describe best practices for a consistent, technical implementation of privacy requirements as they relate to the processing of personally identifiable information (PII) in information and communication systems. It will cover the various stages in data life cycle management and the required privacy functionalities for PII in each stage, as well as describing the roles and responsibilities of all involved parties.

The privacy reference architecture will present a target architecture and will provide guidance for planning and building system architectures that facilitate the proper handling of PII across system platforms. It will set out the necessary prerequisites to allow the categorization of data and control over specific sets of data within the data lifecycle.

There was some discussion about including guidance on information classification in the standard. After some discussion, it was agreed that some guidance should be provided for the next draft, and NBs were requested to provide some material from which to work – the US and Korea have already provided some possible material.

Although the standard is now at 3rd WD, meaning it has been under development for at least 18 months, there are a number of placeholders in the document for which there is still no text due to lack of contributions (e.g., privacy design principles and privacy services).

The next draft of the document, due to be published in mid July 2009, will be accompanied by a Call for Contributions specifically targeting the architecture components of the standard. If further contributions are not received, it may be necessary to delete certain parts of the document, or perhaps cancel the document outright – neither of these options would be desirable.

- 6) **ISO 29115 – Entity Authentication Assurance.** This standard is being developed as a common text standard in conjunction with ITU-T Study Group (SG) 17. This standard, currently at 4th WD, provides objective and vendor neutral guidelines for identity assurance. It also describes the guidelines or principles that must be considered in identity assurance and the rationale for why they are important to an authentication decision. The standard provides a framework for assessing “how close” an identity (individual) is to the correct one and provides guidelines for how the strength of the authentication can be measured. It also provides the basis for a set of identity assurance measures that are general and applicable to a wide range of authentication mechanisms.

The scope of this document has been the subject of considerable debate. Some NBs wanted to restrict the scope so that the document only dealt authentication assurance as it relates to persons, while others wanted it to cover assurance for all types of entities (e.g., persons, devices, applications and so on). It was eventually agreed that the document should be applicable to all types of entities.

There has also been discussion on the relationship between this document and ISO 24760 – there was even a proposal that the two documents be merged. While that proposal was eventually rejected, the links between the two documents will need to be clearly articulated and the respective editors will need to ensure that the two documents are synchronized. There is also a need to clearly determine which part of the identity management framework this document will cover. NBs were asked for contributions in this regard during the next comment period.

The next version of this standard, 5th WD, is due to be published mid July 2009.

- 7) **ISO 29146 – Framework for Access Management.** This standard is intended to provide a framework for the definition of Access Management and the secure management of the process to access information. This framework would be applicable to any kind of user, individuals as well as organizations of all types and sizes, and should be useful to organizations at any location and regardless of the nature of the activities they are involved in.

This document is very closely linked to ISO 24760 (Framework for Identity Management) – in many cases, the rationale for performing identity management is to enable access management. For that reason, the editors of ISO 24760 are also the editors of this document. A clear distinction must be made between identity management (who you are, what credentials you hold) and access management (what you are allowed to do).

Discussions on the 1st WD focused on the scope of the document. It was agreed that this standard should explain the relationship between access management and privacy and security, but not necessarily deal with any associated detail. This standard will not cover specific access control approaches or methodologies (e.g., role-based access control) in any detail, but will provide the framework into which these solutions could fit.

The next version of this document, 2nd WD, is due to be published mid July 2009.

- 8) **ISO 29190 - Privacy Capability Maturity Models.** This standard describes a privacy capability maturity model and provides guidance to organizations for assessing how mature they are with respect to their processes for collecting, using, disclosing, retaining and disposing of personal information.

The study period for this project concluded in October 2008, at which time it was agreed that a New Work Item proposal should be sent to NBs for letter ballot. Having received sufficient support, this item was added to the WG 5 Work Plan.

One possible outline structure for the document, based on a contribution from the US NB, was presented during the Spring 2009 meeting, along with an explanation of the type of information that should appear in each of the major clauses. This generated some discussion about basic structure, sequencing of the clauses, possible content and so on. The recommendations from the WG included:

- a) Ensure that links to other WG 5 projects are clearly shown, as well as showing how this document might be used (e.g., insert an “applicability” or “application” clause);
- b) The structure of this document should be compared to those of other capability maturity models in order to ensure that no important elements have been missed. A number of possible source documents were mentioned;

c) It was suggested that the title of the document be changed to something like "Privacy Maturity Framework" as the phrase "Capability Maturity Model" has been copyrighted;

d) Consideration should be given to incorporating privacy best practices into the document (e.g., drawing upon the AICPA/CICA Generally Accepted Privacy Principles);

e) Consideration should be given to including an example of an implementation of a maturity model, possibly as Clause 6 or as an informative annex; and

f) Consideration should be given to defining a threshold above which an organization could be deemed to be compliant with relevant privacy and data protection law.

The draft structure of the document will be revised in accordance with the recommendations made during the editing session, including sample text in each of the clauses. This document will then be circulated as part of a Call for Contributions to the text. Contributions are due early August 2009, with a preliminary working draft due by mid September 2009. At the same time, SC 27 will circulate a Call for Editors for this project.

- 9) **ISO 29191 – Requirements on Relative Anonymity with Identity Escrow – Model for Authentication and Authorization Using Group Signatures.** This standard defines requirements on relative anonymity with identity escrow based on the model of authentication and authorization using group signature techniques. These techniques allow any member of a group to digitally sign a document in a manner such that a verifier can confirm that it came from the group, but cannot determine which individual in the group signed the document. There is usually a group authority of some form that holds the user's identity in escrow and can reveal that identity under appropriate circumstances. In this way, users can be anonymous to everyone but the group authority.

Development of this standard was proposed by the Japanese NB during the October 2008 meeting. Having received sufficient support, this item was added to the WG 5 Work Plan.

There was only limited discussion of this standard during the Spring 2009 meeting as it is still only a preliminary draft. It was noted that the title of the document will need to be changed to avoid possible confusion with similar projects that are underway in SC 27/WG 2 – Cryptography. A new title – Requirements for Relatively Anonymous Authentication – was proposed. This will need to be approved by NBs as part of the next comment period on this document.

The next version of this document, 1st WD, is due to be published mid July 2009.

- 10) **SD 1 – WG 5 Roadmap.** The Roadmap provides a visual representation of the possible standards projects that might be undertaken by WG 5, as well as providing some limited sense of the dependencies between the potential projects. The tree structure suggests a hierarchical relationship of the items, when in fact there is a matrix interdependency in many cases (an attempt has been made to show some of these interdependencies via the cross connections in the diagram).

Future versions of the roadmap will look at other options for displaying the information in the diagram, including structuring the activities into a three tier model, dividing them into "strategic", "tactical", and "operational" items, or possibly a two tier model using the categories of "What to do" (a management view) and "How to do" (an engineering view).

The Roadmap is updated at every international meeting – the latest version was published immediately following the Spring 2009 meeting.

- 11) **SD 2 – Official Privacy Documents List.** This document is intended to act as a single reference point for privacy and data protection legislation, regulation, implementation guidelines, codes of conduct and best practice. It is not intended to provide any guidance as to what would be required to achieve and/or demonstrate compliance with any of those laws, etc. – this is to avoid any possible suggestion that this document constituted legal advice.

While it is relatively straightforward to compile this kind of a reference document, keeping it current in the face of legislative changes, issuance of new guidance material and so on may prove to be a challenge. It was agreed that each NB would be responsible for ensuring that their section of the document was current and accurate. The document is to be reviewed at each international meeting.

The next version of this document is due to be published mid July 2009.

Next Meetings

The next WG 5 meetings are scheduled as follows:

- 2 – 6 November 2009, to be held at the Microsoft facilities in Redmond, Washington, USA; and
- 19 – 23 April 2010, to be held in Melaka, Malaysia in conjunction with the SC 27 Plenary (26 – 27 April 2009).

Other Projects of Interest

During the SC 27 Plenary meeting held 11 – 12 May (also in Beijing), several projects were mentioned that might be of interest, including:

- a) **ISO 27007 – Guidance for Information Security Management System (ISMS) Auditing.** This International Standard provides guidance on the management of audit programmes, the conduct of internal or external audits of ISMSs, as well as on the competence and evaluation of auditors. It is intended to apply to a broad range of potential users, including auditors, organizations implementing ISMSs, organizations needing to conduct audits of ISMSs, and organizations involved in auditor certification or training, in certification/registration of management systems, in accreditation or in standardization in the area of conformity assessment.
- b) **ISO 27008 – Auditing of Information Security Controls** (more technical in nature than ISO 27007). This Technical Report provides guidance for assessing the implementation of ISMS controls selected through a risk-based approach (e.g., as presented in a statement of applicability) for information security management. It supports the information security risk management process and assessment of ISMS controls by explaining the relationship between the ISMS and its supporting controls. It provides guidance on how to verify the extent to which required ISMS controls are implemented. Furthermore, it supports any organization using an ISMS to satisfy assurance requirements, and as a strategic platform for Information Security Governance. This technical report is applicable to all organizations,

including public and private companies, government entities, and not-for-profit organizations. This document is applicable to organizations of all sizes regardless of the extent of their reliance on information.

c) **ISO 27036 – Guidelines for the Security of Outsourcing.** This International Standard will define guidance to organizations on the evaluation of security risks involved in the procurement and use of outsourced services. This standard will support the implementation of ISO/IEC 27001/27002 controls for outsourcing and should include the following areas:

- 1) Strategic goals, objectives and business needs;
- 2) Risks and mitigation techniques; and
- 3) Assurance provision.

Note: It is the intent of this standard that outsourcing is not limited to ICT outsourcing, but could include other forms of outsourcing (e.g. human resources, facilities management) that have information security implications.

The 1st WD of this standard is to be published by end June 2009.

d) **ISO 27037 – Guidelines for the Identification, Collection and/or Acquisition and Preservation of Digital Evidence.** This International Standard will provide guidance concerning identification, collection and/or acquisition, marking, storage, transport, and preservation of digital evidence. This standard will cover acquisition of digital evidence from various types of sources including, but not limited to:

- 1) static data sources;
- 2) data in transit (e.g. over networks); and
- 3) volatile data sources (e.g. mobile phones).

The scope uses the term “digital evidence” to mean information that meets the requirements of the relevant jurisdiction for use in legal proceedings. As the standard is developed, care will be taken to use terminology that is not limited to a particular jurisdiction or purpose. The scope does not include matters pertaining to analysis of digital evidence, or admissibility, weight, relevance, and other judicially-controlled limitations on the use of digital evidence in courts of law. The proposed international standard will not mandate the use of particular tools or methods.

The 1st WD of this standard is due to be published by end June 2009.

e) **JTC 1 Study Period on Digital Content Management and Protection.** There is very little information available about this study period at the moment, but based on the title, this may have something to do with technical protective measures (for the protection and enforcement of copyright). The initial meeting of the Study Group is scheduled for 15 – 17 July 2009 in Beijing, China;

f) **WG 4 Study Period on Redaction.** A new project proposal was submitted by the UK on the topic of redaction, which is the procedure for removing sensitive or classified information from documents (electronic or otherwise) to be released publicly. SC 27/WG 4 agreed to

initiate a Call for Contribution for a rapporteur and contents for a new study period on this topic. The Call for Contribution is to be issued by 30 June 2009; and

g) **SC 27 Vocabulary Harmonization.** There was also a proposal from Canada to create an ad hoc study group on the harmonization of terminology within SC 27. While there was general agreement in principle for such an activity, several NBs expressed reservations over the creation of yet another group that would consume scarce resources. An ad hoc group was established to develop a proposal for a process for terminology harmonization. The group is comprised of representatives from Poland, New Zealand, Germany, Canada and the UK – Canada is to provide the Rapporteur for the group.

ISO TMB Task Force on Privacy

In June 2008, ISO's Technical Management Board (TMB), the most senior management body within ISO, established a Privacy Task Force (TF) to "explore and advise the TMB on ISO technical standards that can support the implementation of public policy initiatives on Privacy, with specific focus on protection of personally identifiable information (PII) and fair information handling." In chartering the TF, the TMB directed that the TF identify the variety of public policy on this topic and make an inventory of existing standards from ISO, IEC and other sources noting how they currently support such public policy. The TMB noted that the TF shall not recommend ISO standards whose content can be perceived to assume the roles of public policy making parties or that seek to drive public policy agendas.

The membership of the TF was based on one nomination from each TMB member⁷. The TF met once, in December 2008 in Berlin, at which time it agreed to undertake a survey of various ISO and other Technical Committees (TCs) that deal with some aspect of privacy in their work programmes. The TF invited input on current and future work programs, the need for assistance or guidance from the TMB, and suggestions for further ISO standards activities.

The TF has now completed its deliberations and has submitted its final report for consideration at the upcoming TMB meeting, to be held 14 September 2009. The TF made a number of key recommendations, including:

- 1) ISO should consider leading an effort to engage the broader standards community now working on privacy to intensify their interaction. Although various groups consulted appear to be delivering what is needed to their immediate constituencies; however much work still needs to be done to share relevant information and to better coordinate the work being done by the various stakeholders working on standardization in the area of privacy. An important first step could be the holding of a conference between all involved committees. The aim of such a conference would be to prepare a global inventory of privacy-related standards work and develop some form of overarching roadmap which defines a strategic vision for the standards development work in this area;
- 2) There is strong desire to establish a common terminology document in the area of privacy and privacy principles. Individual committees have developed similar parallel solutions to address the situations peculiar to their topic. There has been a notable degree of collaboration leading to much common use of standards materials, however,

⁷ The TMB is composed of one representative from each of the 12 elected member bodies of Brazil, Canada, China, France, Germany, Japan, Netherlands, Norway, Spain, South Africa, the UK and the US. Michel Bourassa (Director, Standards, SCC) is both Canada's representative to TMB and the Convenor for the new TF.

there are still differences in how various terms are used and understood. These differences could be reduced or eliminated through the establishment of a horizontal common terminology document. ISO is to consider ways in which to establish such a document; and

3) It is recommended that ISO establish a “live” inventory (i.e., document and/or dedicated webpage) for its TCs that would encourage sharing of information for ongoing privacy related work;

4) To ensure continued relevance of ISO's standardization work related to privacy, it is essential to engage with public policy organizations and to initiate dialogue on commonality. ISO may want to focus on collaboration with key stakeholders at the policy and technical level such as the International Conference of Data Protection and Privacy Commissioners, OECD, CEN and member countries' Data Protection Authorities (DPAs) to examine the level of commonality on accepted privacy principles. It may also wish to investigate the development of a mechanism to provide guidance on developing privacy standards to complement regulation;

5) ISO should continue in its efforts to identify and work with key stakeholders, analyzing work streams and standards work that could support the development of an international privacy standard and continue to identify, map and coordinate the various (ISO) privacy work streams to help deliver consistency in language, objectives etc, and to ensure that standards can be adopted, deployed and measured by organizations in a systematic and effective manner.

TMB will render a decision on the draft TF report through the adoption of a resolution. An advance copy of the proposed resolution, which may or may not be adopted as drafted, states that TMB:

a) Decides that a Privacy Steering Committee shall be **created reporting to the TMB** with a view to: 1) implementing the three (3) Task Force recommendations and 2) assessing the feasibility of implementing the three (3) additional recommendations;

b) Assigns the secretariat of the Privacy Steering Committee to JTC 1/SC 27;

c) Requests the Central Secretariat to issue to TMB members a call for the nomination of experts and the secretariat of the Privacy Steering Committee to invite other committees and working groups within ISO that have worked on privacy-related standards to join the Privacy Steering Committee; and

d) Further requests the Privacy Steering Committee to provide the following to the TMB for approval at its June 2010 meeting: 1) an outline of its proposed workplan and related timeframes, and 2) a list of the members of the Privacy Steering Committee, including the ISO committees and the experts nominated by TMB.

Annex H:

Steering Group resolution

The Steering Group proposes the following resolution:

Directions to Steering Group to consider seeking observer representation before Internet Governance Forum, London Action Plan and ICANN

The 31st International Conference of Data Protection and Privacy Commissioners:

1. **Notes** that the Steering Group on Representation before International Organisations has, in accordance with directions given by the 30th Conference, sought or obtained observer representation before the appropriate committees or working groups of APEC, Council of Europe, ISO and OECD;
2. **Further notes** that while the Steering Group has not considered it appropriate to seek representation before the International Law Commission, International Telecommunications Union and UNESCO at this stage that it plans to continue to explore the usefulness of seeking representation at a future date; and
3. **Now directs** the Steering Group to explore the usefulness of obtaining observer representation, and if appropriate to obtain observer representation from the following:
 - (a) Internet Governance Forum;
 - (b) London Action Plan (on spam); and
 - (c) Internet Corporation for Assigned Names and Numbers (ICANN).

Explanatory note

The Steering Group has reviewed the international scene and recommends that the Conference give it additional directions to seek observer status, if warranted, from three further international bodies.

The Internet Governance Forum (IGF) was established to support the United Nations Secretary-General in carrying out the mandate from the World Summit on the Information Society (WSIS) for multi-stakeholder policy dialogue. The IGF facilitates discussion on Internet governance issues through that website, workshops and through an annual meeting (in 2009 to be held in Egypt). Being an observer to this forum would give a higher visibility to data protection issues and enhance engagement with elements interested in Internet issues.

The London Action Plan, a joint initiative of several international organisations. This is a group of enforcement authorities that aim to coordinate action in relation to spam. Several data protection authorities already participate in this forum.

ICANN describes itself as a 'not-for-profit public benefit corporation with participants from all over the world dedicated to keeping the Internet secure, stable and interoperable'. It develops policy on the Internet's unique identifiers.

These forums are less formal than traditional international governmental organisations. However, that does not mean that they are unimportant. In the challenging area of Internet regulation and enforcement, it may be that new means of innovative cooperation in standard setting and enforcement are needed.

While the Steering Group has identified these groups as of potential interest to the Conference it has not completed a detailed evaluation. The direction sought in the resolution will provide a basis for the Steering Group to take the matter further. Further examination of the bodies' work plans for 2010 and beyond will assist in determining whether engagement as an observer will offer value to all parties. The Steering Group will also examine logistical issues including whether there are DPAs available to be the Conference's delegates.

Annex I:

Second Steering Group Resolution: Admitting International Observers to the Conference

The Steering Group proposes the following resolution:

Admitting Observers from International Governmental Organisations to the Closed Session of the Conference

That the 31st International Conference of Data Protection and Privacy Commissioners adopts the following policy for admitting observers from international governmental organisations to the closed session of the Conference:

1. The Conference approves the international governmental organisations listed in the schedule as initial observers for a period of three years. The listed organisations may apply for a continuation of their observer status in accordance with the process established by this resolution.
2. Any international governmental organisation may apply to the Steering Group on Representation before International Organisations to be admitted as an observer. The Steering Group may grant observer status either for a particular Conference or for any period not exceeding three years.
3. International governmental organisations should apply in writing at least two months before the Conference. Approved observers will be admitted to the closed session by the host of the Conference. Late applications may be accepted in the discretion of the Steering Group. However, in the case of approvals granted on late applications, hosts may refuse entry to the closed session if there is insufficient space available.
4. Admission of approved observers to the closed session is subject to the observer having:
 - (a) registered for the Conference;
 - (b) met any administrative requirements imposed by the host (such as completing a form or paying applicable fees).

Annex of initial observers

Organisation for Economic Cooperation and Development (OECD)
Council of Europe

Explanatory Note

The Conference has for many years admitted observers from selected international organisations in the closed session. The 29th Conference resolved that it would revisit the issue of admitting observers from international governmental organisations in due course with a view to adopting a standard list of approved observers for the convenience of hosts and governmental international organisations.⁸ This resolution establishes a new more transparent process that will provide greater certainty to international organisations that wish to observe the proceedings of the Conference.

⁸ Resolution on Conference Organisational Arrangements, clause C, Montreal, 2007.

This resolution approves an initial group of international governmental organisations as observers to the Conference. The resolution also establishes a process for other international governmental organisations to obtain observer status and for the listed organisations to continue their observer status after of the initial three years. The role of granting observer status for international governmental organisations transfers under this resolution from the Conference host to the Steering Group on Representation before International Organisations.

32ND INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY
COMMISSIONERS

**STEERING GROUP ON
REPRESENTATION BEFORE INTERNATIONAL ORGANISATIONS**

ANNUAL REPORT
2009/10

Second report of the Steering Group
October 2010

The 30th Conference established the **Steering Group on Representation before International Organisations**. The Steering Group has the task of arranging observer representation before relevant international meetings in order to influence data protection policy formulation and to keep the Conference better informed.

The Steering Group's first report fully outlined the establishment and operation of the Steering Group. It set out key resources such as the 'expectations of delegates' document approved by the Steering Group. As little has changed, the Steering Group has asked the host of the 32nd Conference to make last year's annual report available to members of the Conference as a resource to accompany this short report.

The year began with the 31st Conference's adoption of a resolution expanding the Steering Group's mandate to include the possibility of seeking observer representation before the Internet Governance Forum, London Action Plan and ICANN. This new mandate joined the Steering Group's existing mandate to consider the possibility of seeking representation before the International Law Commission, International Telecommunications Union and UNESCO. The Steering Group did not lodge any new applications for observer status this year.

The Steering Group was notified of the grant of observer status to the OECD Working Party on Information Security and Privacy (WPISP) in March 2010. The Steering Group appointed Olivier Matter, a legal adviser at the CNIL, as the Conference's delegate in August 2010.

As advised in last year's annual report, the Steering Group was notified of the grant of observer status to the T-PD Committee of the Council of Europe in August 2009. At short notice it was possible to arrange *ad hoc* representation for that year's plenary meeting but until recently the Steering Group had not been able to secure a permanent delegate. However, the Steering Group appointed Olivier Matter of the CNIL as the Conference's delegate in October 2010. We are grateful to both Olivier and the CNIL for taking on this

second responsibility. The meetings of the T-PD, and most of the WPISP meetings, are held in France in Strasbourg and Paris respectively.

Steering Group members were elected for two year terms which are completed at the 32nd Conference. I have been advised that all 10 current members are willing to be elected for a further term. While 10 members are sufficient for the work, there is opportunity if others wish to offer themselves for election.

The Steering Group wishes publicly to acknowledge the service of the new delegate to the OECD, **Olivier Matter**, and the Conference's existing delegate to ISO, **Steve Johnston**. Members of the Conference that wish to be on the email circulation list for updates from either delegate should send their details to:

- ISO circulation list – Steven.Johnston@priv.gc.ca
- OECD WPISP circulation list – omatter@cnil.fr
- Council of Europe T-PD list - omatter@cnil.fr

A brief update on the year in ISO has been provided by the Conference's delegate and is appended below.

Marie Shroff
New Zealand Privacy Commissioner
Chair, Steering Group

The Steering Group comprises the DPAs from Australia, Canada, European DPS, France, Germany, Hong Kong, Ireland, Italy, New Zealand and Spain.

APPENDIX

Report from Conference Liaison Officer to ISO

1) ISO/IEC JTC 1/SC 27/WG 5

Since the last report, WG 5 has met three times: November 2009 (Redmond), coinciding with the 31st Conference, April 2010 (Melaka) and October 2010 (Berlin).

The WG projects continue to progress, albeit at different rates. ISO 29100 (Privacy Framework) is currently at 4th Committee Draft and is expected to progress to Draft International Standard following the Berlin meeting. If so, then the document should be published as a formal ISO standard some time during the second half of 2011. ISO 24760 (Identity Management Framework) is still not progressing as hoped – even though it is currently at 3rd Committee Draft, the WG is still struggling with basic terminology and concepts. Unless these are resolved, the project could be at risk of cancellation. The acting editor for ISO 29100 (Privacy Capability Assessment Model) had to step down due to other commitments. The document is now without an editor and unless one can be found, the project may be cancelled.

2) ISO Technical Management Board Privacy Steering Committee

In June 2008, ISO's TMB, the most senior management body within ISO, established a Privacy Task Force (TF) to *"explore and advise the TMB on ISO technical standards that can support the implementation of public policy initiatives on Privacy, with specific focus on protection of personally identifiable information (PII) and fair information handling."* The TF has completed its deliberations and submitted its final report for consideration at the TMB meeting held 14 September 2009.

At that meeting, the TMB resolved to create a Privacy Steering Committee (PSC) reporting to the TMB. The PSC, like the Task Force, consists of members nominated by TMB member countries, as well as other selected individuals (such as Kai Rannenberg, International Convenor of ISO/IEC JTC 1/SC 27/WG 5 (Identity Management and Privacy Technology)). The PSC was tasked to:

- a) Organize an international privacy standards conference: the conference is scheduled to take place 8 – 9 October 2010 in Berlin. Participation in the event has been limited to those organizations involved in privacy-related standards development (e.g., ISO committees and working groups, OECD, APEC, data protection and privacy authorities and so on);
- b) Develop a common terminology document in the area of privacy and privacy principles: this "document" will be based on terms and definitions appearing in WG 5 project documents and will be incorporated into the Termium ® product operated and maintained by Canada's Translation Bureau. This product was chosen because a number of ISO terminology-related documents are already incorporated into Termium ®; and
- c) Develop a "live" inventory (web page) of current work underway in ISO and other standards development organizations (e.g. ITU-T): as with the terminology repository, it was agreed that an existing product or service would be preferable to creating something new. In this case, the PSC Secretariat has contacted ITU-T about possible sharing of their Standards Roadmap website. Discussions between ISO and ITU-T are continuing.

33rd International Conference of Data Protection and Privacy Commissioners

Steering Group on Representation before International Organisations

Annual report

2010/11

Third report of the Steering Group

October 2011

The 30th Conference established the **Steering Group on Representation before International Organisations**. The Steering Group has the task of arranging observer representation before relevant international meetings in order to influence data protection policy formulation and to keep the Conference better informed.

The Steering group's first report outlined in detail the establishment and operation of the Steering Group. It set out key processes and resources such as the 'expectations of delegates' document approved by the Steering Group.

During the year, the Steering Group continued to maintain its focus upon four principal international organisations;

- **APEC** – guest status was obtained during the year for a meeting of the Electronic Commerce Steering Group Data Privacy Subgroup (ECSG DPS);
- **Council of Europe** – we have observer status before the Consultative Committee on Convention No.108 (T-PD);
- **International Organisation for Standardisation** – there has been an exchange of liaison officers between ISO and the Conference;
- **Organisation for Economic Cooperation and Development** – we have observer status before the Working Group on Information Security and Privacy (WPISP).

The Steering Group has not pursued any new opportunities for observer representation although it holds an existing mandate from the Conference to seek observer representation, if appropriate, before the IGF, London Action Plan, International Law Commission, ICANN, ITU and UNESCO. The main difficulty in pursuing further applications for observer status is our limited capacity to routinely send delegates to the relevant meetings. Existing obligations already stretch the capacities of the members of the Steering Group.

For the time being, the Steering Group does not propose to seek further observer status unless a suitable person, from amongst the staff of member authorities, has first been identified as available to perform the duties of a delegate. If any DPA has an interest in providing a delegate to any of the international bodies mentioned, they ought to contact a member of the Steering Group know and the processes for seeking observer status can be initiated.

The Steering Group acknowledges the hard work of the existing Conference delegates. During the year, valuable and diligent work was undertaken by Steve Johnston, ISO Liaison Officer, and Olivier Matter, delegate to T-PD and WPISP. Olivier retired from the role at the end of the year. The Steering Group also acknowledges with gratitude the employers of the delegates, the Privacy Commissioner of Canada and the CNIL, for making those staff available for the delegate role.

In addition, the Steering Group was, at reasonably short notice, able to arrange guest status for a conference delegate before a meeting of the APEC ECSG DPS. Florence Raynal, from the CNIL, represented the Conference at the meeting in San Francisco in September and her contribution is also acknowledged.

The 32nd Conference re-elected the DPAs from Australia, Canada, European DPS, France, Germany, Hong Kong, Ireland, Italy, New Zealand and Spain to the Steering Group for a further two year term. No members have expressed a wish to retire from the Steering Group

Marie Shroff
New Zealand Privacy Commissioner

On behalf of Steering Group on Representation before International Organisations

6. International Observer Resolution (not adopted)

The Steering Group examined the issue of permitting international organisations to observe the closed session of the International Conference. This was the natural corollary of the International Conference observing closed meetings of international organisations. There was an obvious point about reciprocity.

Having examined the issue, the Steering Group put a proposal to the 31st Conference as a resolution but not adopted.

The second part of the paper discusses the research design and the data collection process. The third part presents the results of the study, and the fourth part discusses the implications of the findings for practice and research.

The paper is organized as follows. Section 2 discusses the research design and the data collection process. Section 3 presents the results of the study, and Section 4 discusses the implications of the findings for practice and research.

Linda Williams

From: Blair Stewart
Sent: Friday, 10 July 2009 2:00 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Admitting observers from international organisations into closed session of International Conference
Attachments: DPA Steering Group Resolution, Admitting Observers.doc
 Steering Group colleagues

In the recent update, I suggested that the Steering Group take the initiative to propose by resolution that the Conference establish a set of arrangements for admitting international organisations as observers to the closed session of the Conference. I promised to set out a proposal in more detail and now do so.

The Resolution Conference Organisational Arrangements adopted at the 29th Conference provided at paragraphs B and C as follows:

Observers from governmental international organisations

B. *The conference agrees* that its existing practice includes admitting to the closed session observers from governmental international organisations that have an active interest in data protection and that the decision on admitting such observers is a discretion vested in the host.

C. *The conference agrees* to leave the current practice in place for the time being but may revisit this as a non-urgent issue in due course with a view to:

- (a) developing a set of criteria for admitting observers from governmental international organisations, and
- (b) adopting a standard list of approved observers for the convenience of hosts and governmental international organisations.

In outline the proposal is that:

- the 31st Conference adopt a short list of approved observers;
- that list to continue for three years;
- the organisations listed could apply to the Steering Group for continuation of that status for another three years at a time;
- any other international organisations could apply to the Steering Group to be admitted as an observe under a new process;
- a deadline would be set for applying so that there is time for the Conference host to be notified of any additional places that need to be made available for observers.

The role neatly dovetails with the Steering group's existing responsibilities and should not be especially onerous or time consuming. Organisations that have allowed the Conference to observe proceedings of their closed meetings will also have a more secure process to observe the Conference if they wish.

A few issues that occur to me on which I would appreciate receiving views from other Steering Group members.

1. Initial list

I suggest that the initial list primarily be those organisations that have a track record of

attending the conference as observers. Thus, the initial list will be uncontroversial.

I know that the OECD has such a track record. Does anyone else know what other usual observers attend? The minutes of the 29th Conference (the only record I've seen listing observers) show only the OECD and the UN (Office of Legal Affairs). I don't think that the UN usually attends – does anyone know otherwise? What of the EC or Council of Europe? There are of course already accredited DPAs from the EU and CoE, does this obviate the need for observers?

In addition to listing some of the past attendees, I would suggest we also include ISO. IDO does not (as far as I am aware) have a track record of attending as an observer, but they have granted us liaison status, and they have appointed their own liaison office ready to attend, so listing seems appropriate.

There is an issue as to whether APEC should be in the initial list. APEC have granted us observer status only on a meeting my meeting basis. It may be better to leave them off the initial list so that we have some modest leverage to encourage them to grant us two year guest status next year.

There is also the issue of whether important international organisations having little or no track record of engagement with the Conference, such as the United Nations, should be given an observer's seat at the Conference to encourage them to attend. However, to grant observer status without an organisation asking for it might turn out to be a meaningless gesture or potentially cause difficulties for hosts in trying to estimate how many places would be needed at the closed session venue.

2. Criteria

I initially thought that a simple set of criteria would be required such as an ongoing involvement with privacy and data protection issues. However, on reflection I don't think any criteria need be stated and we can just let us consider the matter on a case by case basis.

A more challenging issue, is whether to limit the observers to international *governmental* organizations or to anticipate the admission of international NGOs as observers. APEC, OECD and CoE admit international organisations of business interests as observers to their meetings. There has been some moves to admit international civil society organisations in OECD especially and also APEC. Should the conference follow suit?

3. Periods of approvals

This seems to be the universal practice of other bodies granting observer status to impose a time limit and allow the matter to be periodically reviewed. As we only meet once a year, I propose three years rather than the two years that other organisations with more frequent meetings use. Does anyone prefer a maximum of 2 years instead?

I also anticipate that the Steering Group should have the ability to grant observer status simply for a particular conference. This would be useful in some controversial cases and also where an international organisation has an important but limited term engagement in the subject but no long term interest. A single Conference approval would also be useful where the Conference itself is in the process of seeking, but has not yet obtained, observer status from the international organization in question.

4. Timing and administrative requirements

Applications for observer status should be received by a certain date. I suggest that we align the deadline with accreditation applications but with flexibility to accept late applications.

It would be made clear that the organisation would also need to register for the Conference and meet any administrative requirements of the host, which might include a fee. Are there other matters that should be dealt with in the resolution?

5. Draft resolution

I welcome views on any of these questions and any other issues that people think of. Subject to any views expressed in response to this note. To assist with discussion I attach a first draft of a resolution for the Steering Group's further consideration.

This first draft makes a few assumptions – but these are only starting points for discussion and should not inhibit anyone from suggesting something else. The assumptions I have made are:

- OECD and ISO are the only bodies initially to be listed;
- No detailed criteria are needed;
- Only international *governmental* organisations may apply.

I look forward to others' thoughts.

Blair Stewart
Assistant Privacy Commissioner
PO Box 466, Auckland 1140, New Zealand

tel +64 9 302 8654 fax +64 9 302 2305 www.privacy.org.nz

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[Draft] Resolution of the Steering Group

The Steering Group on Representation before International Organisations proposes the following resolution:

Admitting Observers from International Governmental Organisations to the Closed Session

That the 31st International Conference of Data Protection and Privacy Commissioners adopts the following policy for admitting observers from international governmental organisations to the closed session of the Conference:

1. The Conference approves the international governmental organisations listed in the schedule as initial observers for a period of three years. The listed organisations may apply for a continuation of their observer status in accordance with the process established by this resolution.
2. Any international governmental organisation may apply to the Steering Group on Representation before International Organisations to be admitted as an observer. The Steering Group may grant observer status either for a particular Conference or for any period not exceeding three years.
3. International governmental organisations may apply by writing to the Chair of the Steering Group (directly or through the host of the next Conference) at least two months before the Conference. Approved observers will be admitted to the closed session by the host of the Conference. Late applications, received up to two weeks before the Conference, may be accepted in the discretion of the Steering Group. However, in the case of approvals granted on late applications, the host may refuse entry to the closed session if there is insufficient space.
4. Admission of approved observers to the closed session is subject to the observer having:
 - (a) registered for the Conference;
 - (b) met any administrative requirements imposed by the host (such as completing a form or paying applicable fees).

Annex of initial observers

Organisation for Economic Cooperation and Development (OECD)

International Organisation for Standardisation (ISO)

Explanatory Note

The Conference has for several years admitted observers from selected international organisations into the closed session. The 29th Conference resolved that it would revisit the issue of admitting observers from international governmental organisations in due course with a view to adopting a standard list of approved observers for the convenience of hosts and governmental international organisations.¹ This resolution establishes a new more transparent process that will provide greater certainty to international organisations that wish to observe the proceedings of the Conference.

The Conference established the Steering Group on Representation before International Organisations at the 30th Conference.² In the course of its work to obtain observer status before international organisations, the Steering Group concluded that the Conference ought to enhance its own processes for admitting observers. This resolution approves an initial group of international governmental organisations as observers to the Conference. The resolution also establishes a process for other international governmental organisations to obtain observer status and for the listed organisations to continue their observer status after of the initial three years. The role of granting observer status for international governmental organisations transfers under this resolution from the Conference host to the Steering Group.

¹ Resolution on Conference Organisational Arrangements, clause C, Montreal, 2007.

² Resolution concerning the establishment of a Steering Group on Representation at Meetings of International Organisations, Strasbourg, 2008.

Blair Stewart

From: Roderick B WOO [roderickbwoo@pcpd.org.hk]
Sent: Tuesday, 29 September 2009 12:38 p.m.
To: Timothy Pilgrim
Cc: Blair Stewart; Antonio Caselli; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; Linda Williams; Priya Malik
Subject: Re: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference [SEC=UNCLASSIFIED]

Dear Blair and all,

I support the resolution as it now stands.

I agree with you and Timothy that some clear guideline will assist in the consideration of applications in the future. As Timothy says, it is an issue that can be raised at the closed session in Madrid.

With kind regards,
Roderick

Roderick B. WOO, JP
Privacy Commissioner for Personal Data

Office of the Privacy Commissioner for Personal Data, Hong Kong
12/F, 248 Queen's Road East, Wanchai, Hong Kong

Tel. : (852) 2877 7168
Fax. : (852) 2877 7026
Email : roderickbwoo@pcpd.org.hk
Website: <http://www.pcpd.org.hk>

Timothy Pilgrim wrote:

Hello Blair

We are happy to support the resolution on that basis.

Timothy

From: Blair Stewart [<mailto:Blair.Stewart@privacy.org.nz>]
Sent: Thursday, 24 September 2009 8:51 AM
To: Timothy Pilgrim; Antonio Caselli; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz
Cc: Linda Williams
Subject: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference

Colleagues

I'm looking to finalise the second resolution.

06/12/2011

The resolution is essentially the same as the proposal described to the group in principle on 3 July building upon a suggestion from Canada. This was followed up by a detailed draft circulated to the group on 10 July. The one change to that draft is that the Council of Europe has been added to the Schedule of organisations approved for an initial 3 years. From my records I see that there was general comfort with the proposal and the draft with several positive expressions of support.

The suggestion has been made that we develop some criteria to accompany the new process. Given the time available I suggest we adopt Australia's second suggestion that this be a matter we look at more carefully after adoption of the resolution i.e. as a further small piece of work for the Steering Group in 2010. We can add something into the explanatory note about the Steering Group looking to develop a guide for applicants next year. The guide can, of course, signal the kind of considerations (criteria) the Steering Group may be interested in.

Subject to other comments I'd propose to leave the resolution as it is but with the small marked up addition to the explanatory note shown in the attachment.

Blair

Blair Stewart Assistant Commissioner (Auckland) | Office of
the Privacy Commissioner
PO Box 466 Auckland 1140 New Zealand | ☎ +64-9-302 8654 |
✉ +64-9-302 2305

From: Timothy Pilgrim [<mailto:timothy.pilgrim@privacy.gov.au>]
Sent: Monday, 21 September 2009 4:10 p.m.
To: Blair Stewart; Antonio Caselli; cbaggaley@privcom.qc.ca; Gary_Davis@dataprotection.ie;
Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz
Cc: Linda Williams
Subject: RE: Proposed Steering Group resolutions (and first draft of report on activities)
[SEC=UNCLASSIFIED]

Hello Blair

...

I also agree to the second resolution, but as you may be aware, I do think we need to establish some sort of criteria about how and to whom we give observer status. If criteria can't be established then we should have some kind of application guidelines and approve applications on a case-by-case basis. Having said that, this may be something that can be developed following on from endorsement of the resolution. I believe it may well be an issue raised at the closed session of the conference.

Timothy

From: Blair Stewart [<mailto:Blair.Stewart@privacy.org.nz>]
Sent: Tuesday, 15 September 2009 3:50 PM
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.qc.ca; Gary_Davis@dataprotection.ie;

06/12/2011

Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz;
Timothy Pilgrim
Cc: Linda Williams
Subject: Proposed Steering Group resolutions (and first draft of report on activities)
Importance: High

Dear Steering Group

We need to finalise our annual report and Steering Group resolutions fairly soon.

...
Accordingly, please find attached two resolutions:

- ...;
- the second, proposing a process to entitle International Organisations to send observers to the closed session of the Conference.

...

Note further that I have listed ISO, Council of Europe and OECD as initial observers all others will need to apply. ISO was listed as they've already appointed a liaison officer for the purpose, so have the will, and also they've granted us similar rights. CoE has granted us observer status although I'm not sure if they typically send an observer to the Conference. Although OECD has not yet granted us observer status I expect they will and also they have a long tradition of sending an observer. Since APEC has only granted us meeting by meeting guest status I'm not personally minded to suggest granting them standing status to observe but would expect them to apply meeting by meeting unless the position changes.

I would be grateful to receive everyone's positive affirmation of the proposed resolutions by 21 September. Obviously, if anyone has any suggestions for change these will be discussed and a revised version may be circulated. If I have no expressions of dissent during that period I'll work on the usual basis of ensuring we have positive acceptances from a plurality and will take silence from anyone else as affirmation. However, as always, I do prefer to hear from everyone if possible.

...
Regards

Blair Stewart
Assistant Privacy Commissioner
PO Box 466, Auckland 1140, New Zealand

tel +64 9 302 8654 fax +64 9 302 2305 www.privacy.org.nz

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Blair Stewart

From: Silke Harz [silke.harz@bfdi.bund.de]
Sent: Tuesday, 29 September 2009 3:29 a.m.
To: Blair Stewart
Subject: AW: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference

Blair,

thank you very much for all the work on this and apologies for the delay in responding to you. We support both resolutions as they now stand.

Kind regards
Silke

The Federal Commissioner for Data Protection and Freedom of Information

Section VII

European and International Affairs, Criminal Law, Clearing Up of Stasi Files, Notification Matters, General Interior Administration

Husarenstraße 30
D - 53117 Bonn

Phone: +49-(0)228-81995-712

Fax: +49-(0)228 81995-550

Mail: silke.harz@bfdi.bund.de or
ref7@bfdi.bund.de

www.bfdi.bund.de

Von: Blair Stewart [mailto:Blair.Stewart@privacy.org.nz]

Gesendet: Donnerstag, 24. September 2009 00:51

An: Timothy Pilgrim; Antonio Caselli; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz

Cc: Linda Williams

Betreff: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference

Colleagues

I'm looking to finalise the second resolution.

The resolution is essentially the same as the proposal described to the group in principle on 3 July building upon a suggestion from Canada. This was followed up by a detailed draft circulated to the group on 10 July. The one change to that draft is that the Council of Europe has been added to the Schedule of organisations approved for an initial 3 years. From my records I see that there was general comfort with the proposal and the draft with several positive expressions of support.

The suggestion has been made that we develop some criteria to accompany the new process. Given the time available I suggest we adopt Australia's second suggestion that this be a matter we look at more carefully after adoption of the resolution i.e. as a further small piece of work for the Steering Group in 2010. We can add something into the explanatory note about the Steering Group looking to develop a guide for applicants next year. The guide can, of course, signal the kind of considerations (criteria) the

06/12/2011

Blair Stewart

From: Gary T. Davis [GTDavis@dataprotection.ie]
Sent: Monday, 28 September 2009 8:52 p.m.
To: Blair Stewart; Timothy Pilgrim; Antonio Caselli; cbaggaley; Gary_Davis; Gwendal Le Grand; phustinx; Rafael García Gozalo; Roderick Woo; Silke Harz
Cc: Linda Williams
Subject: Re: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference

Blair,

Apologies for the delay in reverting. We support the second resolution as enclosed.

Kind regards

Gary

From: "Blair Stewart" [Blair.Stewart@privacy.org.nz]
Sent: 24/09/2009 10:50 ZE12
To: "Timothy Pilgrim" <timothy.pilgrim@privacy.gov.au>; "Antonio Caselli" <a.caselli@garanteprivacy.it>; <cbaggaley@privcom.gc.ca>; <Gary_Davis@dataprotection.ie>; "Gwendal Le Grand" <glegrand@cnil.fr>; <phustinx@edps.eu.int>; "Rafael Garcia Gozalo" <rgarciag@agpd.es>; "Roderick Woo" <roderickbwoo@pco.org.hk>; "Silke Harz" <silke.harz@bfdi.bund.de>
Cc: "Linda Williams" <Linda.Williams@privacy.org.nz>
Subject: Steering Group second resolution - Process for international organisations to be admitted to closed session of conference

Colleagues

I'm looking to finalise the second resolution.

The resolution is essentially the same as the proposal described to the group in principle on 3 July building upon a suggestion from Canada. This was followed up by a detailed draft circulated to the group on 10 July. The one change to that draft is that the Council of Europe has been added to the Schedule of organisations approved for an initial 3 years. From my records I see that there was general comfort with the proposal and the draft with several positive expressions of support.

The suggestion has been made that we develop some criteria to accompany the new process. Given the time available I suggest we adopt Australia's second suggestion that this be a matter we look at more carefully after adoption of the resolution i.e. as a further small piece of work for the Steering Group in 2010. We can add something into the explanatory note about the Steering Group looking to develop a guide for applicants next year. The guide can, of course, signal the kind of considerations (criteria) the Steering Group may be interested in.

Subject to other comments I'd propose to leave the resolution as it is but with the small marked up addition to the explanatory note shown in the attachment.

Blair

Blair Stewart Assistant Commissioner (Auckland) | Office of the Privacy Commissioner

06/12/2011

**31st INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY
COMMISSIONERS**

MADRID, 5 NOVEMBER 2009

**STEERING GROUP RESOLUTION: ADMITTING OBSERVERS FROM INTERNATIONAL
GOVERNMENTAL ORGANISATIONS TO THE CLOSED SESSION OF THE
CONFERENCE**

The Steering Group proposes that the 31st International Conference of Data Protection and Privacy Commissioners adopts the following policy for admitting observers from international governmental organisations to the closed session of the Conference:

1. The Conference approves the international governmental organisations listed in the schedule as initial observers for a period of three years. The listed organisations may apply for a continuation of their observer status in accordance with the process established by this resolution.
2. Any international governmental organisation may apply to the Steering Group on Representation before International Organisations to be admitted as an observer. The Steering Group may grant observer status either for a particular Conference or for any period not exceeding three years.
3. International governmental organisations should apply in writing at least two months before the Conference. Approved observers will be admitted to the closed session by the host of the Conference. Late applications may be accepted in the discretion of the Steering Group. However, in the case of approvals granted on late applications, hosts may refuse entry to the closed session if there is insufficient space available.
4. Admission of approved observers to the closed session is subject to the observer having:
 - (a) registered for the Conference;
 - (b) met any administrative requirements imposed by the host (such as completing a form or paying applicable fees).

Annex of initial observers

Organisation for Economic Cooperation and Development (OECD)
Council of Europe

Proposed by the Data Protection Authorities from: Australia, Canada, European Data Protection Supervisor, France, Germany, Hong Kong, Ireland, Italy, New Zealand, Spain

Steering Group on Representation before International Organisations

Explanatory Note

The Conference has for many years admitted observers from selected international organisations in the closed session. The 29th Conference resolved that it would revisit the issue of admitting observers from international governmental organisations in due course with a view to adopting a standard list of approved observers for the convenience of hosts

and governmental international organisations.¹ This resolution establishes a new more transparent process that will provide greater certainty to international organisations that wish to observe the proceedings of the Conference.

This resolution approves an initial group of international governmental organisations as observers to the Conference. The resolution also establishes a process for other international governmental organisations to obtain observer status and for the listed organisations to continue their observer status after of the initial three years. The role of granting observer status for international governmental organisations transfers under this resolution from the Conference host to the Steering Group on Representation before International Organisations. The Steering Group anticipates developing a simple guide to assist international organisations to apply to be observers.

¹ Resolution on Conference Organisational Arrangements, clause C, Montreal, 2007.

7. Miscellaneous Steering Group documentation

This material also includes in date order a small selection of other memoranda and exchanges amongst the Steering Group which may provide an insight into the Steering Group's thinking.

The state is a central actor in the international system. It is the primary source of law and order, and it is responsible for the protection of its citizens. The state is also the primary actor in the domestic system, and it is responsible for the provision of public goods and services.

Linda Williams

From: Blair Stewart
Sent: Tuesday, 5 May 2009 4:27 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Adoption of Steering Group 'Expectation of Delegates' document
Attachments: Expectations of delegates.doc
Colleagues

Thank you for the feedback on the expectations of delegates document, our most substantial completed documentation to date on the key issues for the process of appointing and mandating observers to international organisations.

The last set of changes made were those recording that if a delegate ceases to be employed by a DPA, the delegate must advise the Steering Group and is expected to step down if asked. Having heard nothing further from the group for several days now I think that it is reasonable to presume that everyone is comfortable with the document.

Accordingly, I shall now treat this document as having been adopted by the Steering Group. This enables me to ask the Chair of the Group formally to write to our first appointed delegate, Steve Johnston, confirming his appointment, thanking him for his willingness to serve and advising him of the Steering Group's expectations.

The document is likely to continue to evolve. This is version 1.0 and any suggestions for change from today onwards will go towards the next revised and adopted version.

This version is likely to be the one circulated to all DPAs (unless we agree any further changes, given that we have a very simply and informal process for updating). I would not propose to send a message to DPAs until we have something further to report. In all likelihood the next news will be in relation to APEC (unless we make further progress on OECD) and we could include the expectations document in an update about that.

Regards, Blair

Blair Stewart
Assistant Privacy Commissioner
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Linda Williams

From: Blair Stewart
Sent: Monday, 10 August 2009 4:13 p.m.
To: Blair Stewart; 'Antonio Caselli'; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; 'Gwendal Le Grand'; phustinx@edps.eu.int; 'Rafael Garcia Gozalo'; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: RE: Steering Group - priorities for 2010 (2 new documents)
Attachments: template London Action Plan for spam.doc; Template Internet Governance Forum.doc; Template - merged international organisation details.doc

Colleagues

In due course I welcome views in response to the issues I raised in the update of 31 July (review of the operation of the resolution, the draft resolution and priorities for 2010) but in the meantime wish to circulate two new documents to assist with just that last issue, priorities for 2010:

In addition to considering the case for moving ahead on, or delaying, seeking observer status for the 3 organisations identified in the 2008 resolution (ITU, ILC and UNESCO) or prioritising any of those I have also asked if there are any additional international bodies that we should be considering.

I kicked things off by raising the possibility of the IGF. I now offer another possibility, the "London Action Plan" (on spam). My knowledge of either organisation - forum might be a better characterisation in each case - is reasonably limited but I have obtained sufficient information from their respective websites to compile the attached summary templates. I trust that may help in your examination and I would encourage people to have a look at the websites which provide more information.

Similar templates on the ITU, ILC and UNESCO were circulated earlier this year but for convenience I recirculate the compilation of those earlier summaries.

If people have suggestions as to additional organisations worth considering please let me know since this is the opportunity to ensure that the mandate we receive from the Conference, and the work we plan to undertake next year, is targeted to best advantage.

In addition to soliciting views of steering group contact points I have made some enquiries of others who might have informed views including Alexander Dix on the telecommunications-related organisations, Steve Johnston on the standards aspects of ITU's work and Jean-Philippe Walter, and the relevant contact people at the UN, in relation to the likely timing of the International Law Commission data protection reference.

Regards

Blair Stewart Assistant Commissioner (Auckland) | Office of the Privacy Commissioner
 PO Box 466 Auckland 1140 New Zealand | ☎ +64-9-302 8654 | 📠 +64-9-302 2305

From: Blair Stewart
Sent: Friday, 31 July 2009 4:33 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams; Steve Johnston (sjohnston@privcom.gc.ca); bhawkes@dataprotection.ie
Subject: Steering Group Update - Annual report - resolution(s) - future priorities

17/11/2011

Dear Steering Group members

I write further to the general update of 2 July and email of 10 July.

...

Priorities for next year

The Steering Group has the function to "research the international scene to identify opportunities for useful participation".

It also has the responsibility to consider applications to those organisations directed by the International Conference. We have carry over directions in relation to the International Telecommunications Union, UNESCO and International Law Commission. We have done little research work into these 3 organisations yet having prioritised the other 4 organisations.

Do members consider that the 3 organisations listed - ITU, UNESCO and ILC - remain the highest or only priorities? If anyone has any additional suggestions, or can suggest priorities amongst those 3 bodies, now is the time to let us know otherwise our workplan for next year will in essence be set around those 3 organisations (along with, of course, ongoing work in relation to the 4 organisations for which status has already been sought or obtained).

I have no strong views on this question yet. However, I do offer one suggestion for consideration. Does anyone know about, or suggest we explore representation at, the **Internet Governance Forum (IGF)**, a UN spin off from the WSIS exercise?

...

Blair Stewart

Assistant Privacy Commissioner

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Memorandum

To : Accredited data protection authorities
From : Blair Stewart
Date : 31 August 2008
Subject : Message to accredited data protection authorities on behalf of International Conference Steering Group on representation before international organisations - a grant of observer status before Council of Europe T-PD

I am pleased to announce that the International Conference of Data Protection & Privacy Commissioners has been granted observer status before the Consultative Committee (T-PD) of the Council of Europe's Convention No.08.

As we received notification of the grant of observer status only a week before the T-PD annual plenary, we have made interim arrangements for representation at that meeting. I am pleased to advise that Alessandra Pierucci, from the Italian Garante per la Protezione Dei Dati Personali, has agreed at short notice to be the Conference's observer this week in Strasbourg. The Steering Group will continue to explore permanent arrangements for a delegate and alternate for the T-PD meetings.

The Conference Steering Group will compile a contact list of staff or commissioners within those DPAs that wish to be kept informed of the T-PD activity. This list will be used to circulate Alessandra Pierucci's report and reports of subsequent meetings. If you would like to be added to that list please send the email contact details to Linda.williams@privacy.org.nz.

May I take this opportunity to remind DPAs that the Steering Group is also maintaining contact lists for DPAs that wish to follow the work of ISO and APEC. If you are not already on those contact lists, and wish to be added, please send details to;

- ISO - sjohnston@privcom.gc.ca.
- APEC - Linda.williams@privacy.org.nz

Blair Stewart
Assistant Privacy Commissioner
New Zealand

Sent on behalf of Steering Group on representation before International Organisations,
International Conference of Data Protection and Privacy Commissioners

[July] 2009

Message to accredited Data Protection Authorities on behalf of the International Conference of Data Protection and Privacy Commissioners Steering Group on Representation before International Organisations

Update message – APEC Data Privacy Subgroup guest status – Expectations of Delegates document

I write further to my message of 30 April 2009 to update Data Protection Authorities on the further work of the Steering Group.

As DPAs will recall, the 30th International Conference resolved to establish a Steering Group to obtain observer status at the relevant meetings of a number of international organisations.

I am pleased to announce that the Conference has now been granted guest status before the APEC Data Privacy Subgroup (DPS) for its forthcoming meeting. The Steering Group has appointed Billy Hawkes, Irish Data Protection Commissioner, to be the Conference's delegate before the APEC DPS meeting in Singapore in July 2009.

The Conference Steering Group will compile a contact list of people who would like to be kept informed of the work of the APEC DPS. This list will be used to disseminate reports on the APEC work from time to time. Accordingly, if any DPA would like a staff member or commissioner to be added to the contact list please send the relevant email contact details to the New Zealand Privacy Commissioner's office at linda.williams@privacy.org.nz.

Since the last update, the Steering Group has done considerable work to settle and document its procedures. The resolution requires the Steering Group to communicate details of its procedures to DPAs and so I take the opportunity to attach a copy of the *Expectations of Delegates* document. This sets out the Steering Group's practices for appointing and mandating delegates and outlines what is expected of those delegates.

If anybody has any questions about the Conference Steering Group's work please do not hesitate to get in touch with me or contact Blair Stewart at blair.stewart@privacy.org.nz.

Yours sincerely

Marie Shroff
New Zealand Privacy Commissioner

**Chair, Steering Group on Representation before International Organisations,
International Conference of Data Protection and Privacy Commissioners**

Blair Stewart

From: Blair Stewart
Sent: Wednesday, 23 September 2009 6:34 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael García Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams; Blair Stewart
Subject: Steering Group Resolution - New directions regarding IGF LAP and ICANN
Importance: High
Attachments: Steering Group Resolution _ Directions to seek observer representation before IGF LAP
 ICANN - version 15 09 09.doc

Steering Group colleagues

I am grateful for the comments received from Australia, Canada and France on the resolutions and annual report.

All three comments supported the resolution proposing a new mandate to explore observer status before IGF, LAP and ICANN but made observations on the matter or the drafting of the resolution. I have made some drafting changes to the resolution that I think should satisfy all views expressed.

In the attached revised resolution you will see some marked up changes that:

- insert a first note recording the organisations identified in last year's resolution that the Steering Group has applied to - a suggestion from France;
- inserted a second note recording the organisations identified in last year's resolution that the Steering Group has not yet applied to - a suggestion from France;
- made clearer that the direction is to "explore" and "if appropriate" seek observer representation - this addresses the suggestion from Canada for which I have used the language of last year's resolution, the change also goes to the issue that Australia emphasised about needing to thoroughly satisfy ourselves about the value of organisations we become involved with given the resource commitment.

France made a further point (endorsed by Canada) about highlighting the cases where we have not yet secured a 'permanent' delegate. This is an important ongoing issue but I have not put this in the redraft as I think it fits better in the annual report (where we could offer more prominence to the issue or further explanation). I expect that the Chair will get a slot to give a short oral report back in Madrid and the issue of soliciting DPA involvement as delegates would, I expect, be a useful point of emphasis.

Unless any further comments are forthcoming, or anyone has any comments on the proposed changes (which I expect to be uncontroversial) or my observation on the permanent delegate issue, I would propose to tidy this resolution up (and make corresponding edits to the version of the resolution in the annual report) and submit it to the Spanish Conference hosts.

I note that France signalled that it is not quite ready to comment on the other resolution while Australia, though supportive, made a comment about possibly specifying criteria. Canada supported the resolution. I'll revert to the group on this one tomorrow in case France's (or anyone else's) comments become available during that period.

Regards

Blair Stewart
 Assistant Privacy Commissioner
 PO Box 466, Auckland 1140, New Zealand

06/12/2011

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Blair Stewart

From: Carman Baggaley [CBAGGALE@privcom.gc.ca]
Sent: Wednesday, 23 September 2009 9:28 a.m.
To: Blair Stewart; Antonio Caselli; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: RE: Proposed Steering Group resolutions (and first draft of report on activities)

Blair:

My apologies - we missed your deadline. We have already expressed Canada's support for the resolution proposing a process to allow International Organizations to send observers to the Conference.

We also support the first resolution but we have a comment. The title "Resolution: Directions to Steering Group to consider seeking observer representation before Internet Governance Forum, London Action Plan and ICANN" makes it clear the Steering Group will only **consider** seeking observer status with the three organizations.

However, the resolution "directs" the Steering Group to seek observer status before the three bodies. It's perhaps a small point but I would prefer language in the resolution that gives us more latitude. "Directs" suggests that we are being told to seek observer status whereas I think we want permission. Even substituting "authorizes" or "authorises" might be preferable.

More generally and this relates more to the report and it supports Gwendal's suggestion, readers not as involved in the process might miss the distinction that Steve Johnston has been appointed as a "permanent" observer while Billy Hawkes and Allesandra Pierucci were only appointed for a single meetings. As Gwendal suggests, pointing out that we need to appoint permanent delegates before these organizations would be useful.

Your near-final draft report is very good. There seems to be a word missing in this sentence on page 7. "After initial exploration of the issues, the Steering Group does not intend to seek representation before ITU, ILC or UNESCO in the short term [but?] hopes to reconsider all three in 2011."

Regards

Carman Baggaley

From: Blair Stewart [mailto:Blair.Stewart@privacy.org.nz]
Sent: Tuesday, September 15, 2009 1:50 AM
To: Antonio Caselli; Blair Stewart; Carman Baggaley; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: Proposed Steering Group resolutions (and first draft of report on activities)
Importance: High

Dear Steering Group

We need to finalise our annual report and Steering Group resolutions fairly soon.

I have shared an outline of the annual report and the proposed resolutions earlier. I now need to move to formal endorsement of the resolutions so that they can be submitted to the Conference hosts by the deadline.

Accordingly, please find attached two resolutions:

- the first, seeking directions enabling the Steering Group to apply for observer representation before IGF, London Action Plan and ICANN;

06/12/2011

- the second, proposing a process to entitle International Organisations to send observers to the closed session of the Conference.

Note that the first resolution does not oblige us to seek observer status before any or all of the 3 organisations. It empowers us so that we can do so if that seems appropriate and manageable.

Note further that I have listed ISO, Council of Europe and OECD as initial observers all others will need to apply. ISO was listed as they've already appointed a liaison officer for the purpose, so have the will, and also they've granted us similar rights. CoE has granted us observer status although I'm not sure if they typically send an observer to the Conference. Although OECD has not yet granted us observer status I expect they will and also they have a long tradition of sending an observer. Since APEC has only granted us meeting by meeting guest status I'm not personally minded to suggest granting them standing status to observe but would expect them to apply meeting by meeting unless the position changes.

I would be grateful to receive everyone's positive affirmation of the proposed resolutions by 21 September. Obviously, if anyone has any suggestions for change these will be discussed and a revised version may be circulated. If I have no expressions of dissent during that period I'll work on the usual basis of ensuring we have positive acceptances from a plurality and will take silence from anyone else as affirmation. However, as always, I do prefer to hear from everyone if possible.

For information I also attach a first complete draft of the report on activities for inclusion in the annual report. If anyone has any comments please send them through as well. However, I will provide a further opportunity to consider this document a little later in the month when I circulate the entire annual report, including the annexes referred to in this document, in a complete document. I thought that you would find it easier to work with this shorter extract in the first instance. Bear in mind that I will need to finalise everything before the end of September and thus if you wish to propose any changes will appreciate receiving those quite promptly.

Regards

Blair Stewart
Assistant Privacy Commissioner
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Blair Stewart

From: LE GRAND Gwendal [glegrand@cnil.fr]
Sent: Tuesday, 22 September 2009 12:24 a.m.
To: Blair Stewart; Antonio Caselli; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: RE: Proposed Steering Group resolutions (and first draft of report on activities)

Dear Blair,

Thank you very much for putting together these proposals.

We would like to make a few suggestions concerning the resolutions :

- Concerning the first resolution, we support application for observer status before IGD, LAP and ICANN. However, we would like to propose to add a couple of issues to this resolution. We think the resolution should refer to ongoing work by recalling the names of the organizations for which permanent delegates have already been appointed. It should also be mentioned that the conference appointed delegates for specific meetings of the CoE and APEC BUT that the conference still needs to appoint permanent delegates before these organizations ... so some action is still required.
- Concerning the second resolution, I still need a few days before I can tell you if we support it. In particular, concerning ISO, I just want to inform you that the plenary meeting of ISO will coincide with the conference of the data commissioners in Nov 2009 (so it is quite unlikely that we would have an ISO representative). In addition, ISO would have to select its delegate carefully because they are developing many standards, in many sub committees, that relate to privacy issues or topics (ISO 29100, which is in JTC1/SC27/WG5 is not the only one – see videosurveillance, biometrics, RFID, archiving ...). I will come back to you asap to tell you if we support the 2nd resolution.

Best regards

Gwendal

De : Blair Stewart [mailto:Blair.Stewart@privacy.org.nz]

Envoyé : mardi 15 septembre 2009 07:50

À : Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; LE GRAND Gwendal; phustinx@edps.eu.int; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au

Cc : Linda Williams

Objet : Proposed Steering Group resolutions (and first draft of report on activities)

Importance : Haute

Dear Steering Group

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06/12/2011

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I would be grateful to receive everyone's positive affirmation of the proposed resolutions by 21 September. Obviously, if anyone has any suggestions for change these will be discussed and a revised version may be circulated. If I have no expressions of dissent during that period I'll work on the usual basis of ensuring we have positive acceptances from a plurality and will take silence from anyone else as affirmation. However, as always, I do prefer to hear from everyone if possible.

For information I also attach a first complete draft of the report on activities for inclusion in the annual report. If anyone has any comments please send them through as well. However, I will provide a further opportunity to consider this document a little later in the month when I circulate the entire annual report, including the annexes referred to in this document, in a complete document. I thought that you would find it easier to work with this shorter extract in the first instance. Bear in mind that I will need to finalise everything before the end of September and thus if you wish to propose any changes will appreciate receiving those quite promptly.

Regards

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Blair Stewart

From: Timothy Pilgrim [timothy.pilgrim@privacy.gov.au]
Sent: Monday, 21 September 2009 4:15 p.m.
To: Gary T. Davis; Blair Stewart; Antonio Caselli; cbaggaley; Gary_Davis; Gwendal Le Grand; phustinx; Rafael Garcia Gozalo; Roderick Woo; Silke Harz
Cc: sjohnston; Linda Williams; Billy F. Hawkes; Priya Malik
Subject: RE: ISO request for a conference liaison statement [SEC=UNCLASSIFIED]

Hello all

I would also like to thank Steve for all of his efforts. He raises a number of important issues in relation to approving liaison statements. I believe the complex nature of the issues would be difficult to discuss and resolve over email, so perhaps a teleconference at a later stage could be worthwhile.

Having said that I also support the observations/comments made by Garry below.

Timothy

From: Gary T. Davis [mailto:GTDavis@dataprotection.ie]
Sent: Monday, 21 September 2009 8:10 AM
To: Blair Stewart; Antonio Caselli; cbaggaley; Gary_Davis; Gwendal Le Grand; phustinx; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; Timothy Pilgrim
Cc: sjohnston; Linda Williams; Billy F. Hawkes
Subject: Re: ISO request for a conference liaison statement

Blair,

Thanks to you and Steve for putting these issues before us. The issues which Steve highlights in terms of representatives of the Annual Conference making contributions at the fora to which they are acting on behalf of the Conference are issues which I think you have highlighted previously as a real practical issue.

It is of course even more complex in relation to ISO given the necessity to submit comments to it well in advance of each meeting.

My own personal view is that if the liaison role is to be worthwhile it must be possible for the representative to be in a position to submit comments at least notionally on behalf of the Conference. It is not practical to actively seek the views of all DPAs and it would seem to me that provided the steering group is deemed to be sufficiently representative of the Conference that it should be in a position to approve on a delegated basis any views to be submitted. Any DPA who was not a member of the Steering Group could of course still input into the process if it so wished.

Of course this would appear to be a very good example of where a conference website with a closed section would serve a useful purpose as such comments could be worked up in full view of all DPAs.

Hope this is of some assistance.

Kind regards

Gary

From: "Blair Stewart" [Blair.Stewart@privacy.org.nz]
Sent: 17/09/2009 14:18 ZE12
To: "Antonio Caselli" <a.caselli@garanteprivacy.it>; "Blair Stewart" <Blair.Stewart@privacy.org.nz>; <cbaggaley@privcom.gc.ca>; <Gary_Davis@dataprotection.ie>; "Gwendal Le Grand" <glegrand@cnil.fr>; <phustinx@edps.eu.int>; "Rafael Garcia Gozalo" <rgarciag@agpd.es>; "Roderick Woo"

06/12/2011

<roderickbwoo@pco.org.hk>; "Silke Harz" <silke.harz@bfdi.bund.de>; <TimothyPilgrim@privacy.gov.au>
Cc: <sjohnston@privcom.gc.ca>; "Linda Williams" <Linda.Williams@privacy.org.nz>
Subject: ISO request for a conference liaison statement

Steering Group Colleagues

You will recall that I advised two weeks ago that Steve Johnston, our delegate to ISO, is seeking the Steering Group's guidance on an important matter relating to the process for offering input into the ISO.

Steve has helpfully put together the following notes for review/consideration by the Steering Group concerning submission of liaison statements to ISO. The first part provides some background on how contributions can be made - the second raises some of the important issues concerning the practicalities of submissions from the Conference.

"Mechanisms for input to ISO

"There are generally two ways in which to provide input to ISO (e.g., comments on a current project). The first is through the respective National Body. I assume that most countries operate a series of shadow or mirror committees for each ISO sub-committee or working group that they participate in at the international level. By joining the appropriate shadow group, individuals/organizations (including DPAs) can submit comments on current ISO projects (I know several countries are now doing this - the UK, France, Germany, NZ, Canada). Assuming that these comments are not rejected at the shadow group level, they become part of the national contribution to the project.

"The other way to provide input is through the establishment of a liaison with the relevant sub-committee or working group, as the International Conference has done with ISO/IEC JTC 1/SC27/WG 5. Comments can be provided by any member of the liaison organization (in this case, the International Conference), which are typically consolidated (in the appropriate format) and submitted by the liaison officer. The comments are sent to ISO in the form of a liaison statement. An example statement is attached for information.

"Regardless of how the comments are prepared and submitted, they generally reflect the official position (of either the national body or the liaison organization). As such, they must be approved (in some fashion) prior to being submitted.

"ISO procedures call for comments to be submitted approximately one month prior to an international meeting. This gives the editor time to prepare a Summary of Contributions (a consolidation of all comments received) and a Proposed Disposition of Comments (a proposal as to how the editor plans to address the various comments). These documents are then distributed to National Bodies for review prior to the international meeting. While it is possible to submit comments after the deadlines, the practice is discouraged.

"Approving liaison statements

"In the case of the International Conference, "approving" a liaison statement prior to its submission to ISO is going to present some challenges, the solutions to which are not clear:

"1) Approving a liaison statement requires knowledge and understanding of the contents of the statement. In this case, it would require that members of the Conference have actually studied the relevant ISO standard in order to understand the context and implications of the comments being made. The ability to do this will probably be limited to a handful of DPAs who have the requisite expertise to do so.

"2) How would the liaison statement be approved - by resolution? Would the resolution have to be approved by the larger membership of the Conference, or could it be approved by the Steering Group? Note that approval would have to be done twice a year (prior to each international ISO meeting, typically held April/May and October/November). Given that the Conference only meets once a year, timing is an issue in the absence of some alternative approval mechanism.

"3) In the event that the Conference as a whole needs to approve of any statement to ISO, what

percentage of the membership of the Conference would have to approve the resolution in order for it to "pass"? What happens if the resolution "fails"?

"4) As a follow-on to the previous items, what is the role of the Contact Group in this respect? So far, the Contact Group has representatives from about a dozen countries - hardly enough to be representative of the Conference as a whole. However, these countries are the ones that have indicated a particular interest in the ISO work (some of them are shadowing their respective national standards bodies (e.g., UK, Germany, France, NZ)) and who are most likely to comment on draft ISO standards. Does a mechanism exist to delegate responsibility/authority to the Contact Group in this matter?"

Steve concludes his observations as follows:

"Given the time constraints, I don't think a resolution out of Madrid is much of an option. It would appear that an 'expert contribution' will be the way to go (this time at least). Having said that, I have not received any feedback from the members of the Contact group (not even an indication that they are interested in commenting) but I know that the Article 29 WP will be submitting comments on ISO 29100 (Privacy Framework). There will at least be some contribution to the WG 5 projects from the larger DPA community. Maybe we will have better luck next time - hopefully we will have a bit more lead time.

"It is unfortunate that the conference (event) and the ISO international meeting overlap. This is a subject that takes some "getting used to" and some thinking out loud. It would be useful at some point to be able to sit down with members of the Steering Group as a start and walk them through some of these issues (a conference call perhaps?)."

I would be grateful for comments on the issues raised by Steve *as soon as possible*. As you can see he is working within tight deadlines as, coincidentally, the ISO meeting is on the same days as the Madrid Conference.

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From: Blair Stewart

Sent: Friday, 4 September 2009 4:26 p.m.

To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au

Cc: Linda Williams

Subject: Two ISO updates from Conference's ISO Liaison officer

Importance: Low

Steering Group colleagues

Please find attached copies of two recent updates about the ISO work sent by Steve Johnston to the ISO contact list.

A reminder that if you want someone in your office to receive ISO updates directly, their email contact should be provided directly to Steve. (Similarly for updates on APEC or Council of Europe, pending appointment of standing delegates, please send details to Linda Williams at the NZ office.)

06/12/2011

A heads up to say that I expect Steve Johnston to raise a question for the Steering Group's advice in the next week or so on his return from Berlin. It concerns the matter of responding to ISO's request for a Conference "liaison statement", the first time that the Steering Group will have been asked formally for a statement of views. I don't need anyone to express any views on process or substance yet but if anyone was interested in getting their head around the issues you can read the update of 28 August.

Blair

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Más rud é go measann tú gur ábhar colúil atá san ábhar atá sa teachtaireacht seo is ceart duit dul i dteagmháil leis an seoltóir láithreach agus le [mailminder\[at\]justice.ie](mailto:mailminder[at]justice.ie) chomh maith.

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Blair Stewart

From: Carman Baggaley [CBAGGALE@privcom.gc.ca]
Sent: Friday, 14 August 2009 9:17 a.m.
To: Blair Stewart; Antonio Caselli; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: RE: Steering Group - priorities for 2010 (2 new documents)

Blair/Colleagues:

I have gone back and looked at the Conference Resolution. On the whole, we have made great progress, thanks largely to Blair's leadership and efforts. After rereading the Resolution I don't see any obvious changes we might want to propose.

In terms of looking forward to 2010 and seeking observer status for additional organizations, I do not know very much about the International Telecommunications Union, the International Law Commission or UNESCO, with respect to how their work relates to data protection.

Based on my admittedly limited knowledge, I might suggest that the London Action Plan (LAP) and the Internet Governance Forum (IGF) are promising alternatives or additions. One consideration is that I note that some DPAs are members of LAP. I also noted that it appears there will be an extensive discussion of privacy and social networking issues at the upcoming IGF Meeting to be held from 15-18 November 2009 in Egypt.

One challenge we will have as we move further afield is that we are less likely to have DPAs already attending international organizations. We have been fortunate with respect to the OECD, ISO, the Council of Europe and APEC in that some DPAs attend these meetings regularly. I do not know if this is the case for the ITU, the ILC and UNESCO. Our Office is quite active internationally, but it might be a tough sell to convince our Office to send someone to the meetings of one of these bodies. I suspect this is true of other offices as well.

I agree with you approach about seeking the views of people like Alexander Dix who may know more about the ITU etc.

Regards

Carman Baggaley

From: Blair Stewart [mailto:Blair.Stewart@privacy.org.nz]
Sent: Monday, August 10, 2009 12:13 AM
To: Blair Stewart; Antonio Caselli; Carman Baggaley; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Linda Williams
Subject: RE: Steering Group - priorities for 2010 (2 new documents)

Colleagues

In due course I welcome views in response to the issues I raised in the update of 31 July (review of the operation of the resolution, the draft resolution and priorities for 2010) but in the meantime wish to circulate two new documents to assist with just that last issue, priorities for 2010.

06/12/2011

In addition to considering the case for moving ahead on, or delaying, seeking observer status for the 3 organisations identified in the 2008 resolution (ITU, ILC and UNESCO) or prioritising any of those I have also asked if there are any additional international bodies that we should be considering.

I kicked things off by raising the possibility of the IGF. I now offer another possibility, the "London Action Plan" (on spam). My knowledge of either organisation - forum might be a better characterisation in each case - is reasonably limited but I have obtained sufficient information from their respective websites to compile the attached summary templates. I trust that may help in your examination and I would encourage people to have a look at the websites which provide more information.

Similar templates on the ITU, ILC and UNESCO were circulated earlier this year but for convenience I recirculate the compilation of those earlier summaries.

If people have suggestions as to additional organisations worth considering please let me know since this is the opportunity to ensure that the mandate we receive from the Conference, and the work we plan to undertake next year, is targeted to best advantage.

In addition to soliciting views of steering group contact points I have made some enquiries of others who might have informed views including Alexander Dix on the telecommunications-related organisations, Steve Johnston on the standards aspects of ITU's work and Jean-Philippe Walter, and the relevant contact people at the UN, in relation to the likely timing of the International Law Commission data protection reference.

Regards

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From: Blair Stewart

Sent: Friday, 31 July 2009 4:33 p.m.

To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au

Cc: Linda Williams; Steve Johnston (sjohnston@privcom.gc.ca); bhawkes@dataprotection.ie

Subject: Steering Group Update - Annual report - resolution(s) - future priorities

Dear Steering Group members

I write further to the general update of 2 July and email of 10 July.

...

Priorities for next year

The Steering Group has the function to "research the international scene to identify opportunities for useful participation".

It also has the responsibility to consider applications to those organisations directed by the International Conference. We have carry over directions in relation to the International Telecommunications Union, UNESCO and International Law Commission. We have done little research work into these 3 organisations yet having prioritised the other 4 organisations.

06/12/2011

Do members consider that the 3 organisations listed - ITU, UNESCO and ILC - remain the highest or only priorities? If anyone has any additional suggestions, or can suggest priorities amongst those 3 bodies, now is the time to let us know otherwise our workplan for next year will in essence be set around those 3 organisations (along with, of course, ongoing work in relation to the 4 organisations for which status has already been sought or obtained).

I have no strong views on this question yet. However, I do offer one suggestion for consideration. Does anyone know about, or suggest we explore representation at, the **Internet Governance Forum (IGF)**, a UN spin off from the WSIS exercise?

...

Blair Stewart

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Blair Stewart

From: Blair Stewart
Sent: Wednesday, 19 August 2009 4:06 p.m.
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; phustinx@edps.eu.int; Rafael Garcia Gozalo; roderickbwoo@pco.org.hk; Silke Harz; TimothyPilgrim@privacy.gov.au
Subject: Steering Group - planning for 2010 - Continuing/retiring members - whether new members should be solicited

Colleagues

As you know, I am assembling some information to assist the Steering Group to develop its plans for 2010. A note about its priorities will be included in the annual report to be prepared and, if those plans involve seeking observer status before an international organisation not previously identified, will be incorporated in a resolution to give the Steering Group a new mandate.

Thus far I have had expression of views from Canada about suggested priorities. I also know that France is looking carefully at the ITU and UNESCO issues before getting back to me. I've also had some indications from a couple of other sources about the International Law Commission's work plan, for instance. If anyone else has any suggestions on the existing mandate (ITU, UNESCO and ILC) or on the new organisations raised for consideration (IGF, London Action Plan) please let me know. Further suggestions are also, of course, welcomed.

I would also be grateful to hear if any members are contemplating retiring from the Steering Group at the Madrid Conference. We've all been elected for a 2 year term and so unless I hear to the contrary I will assume everyone will be carrying on into 2010. If anyone does intend to retire from the Committee it will help me to know in plenty of time in case we wish to explore bringing new members on board to keep up the geographical spread etc.

If anyone has any views about bringing additional members onto the Steering Group please share these as well. We currently have 10 DPAs represented on the Steering Group (after the resignations of Berlin and Switzerland) and the resolution allows for as many as 15 so we can, even without retirements, contemplate seeking some extra members if we think that will be useful. I have no strong views on the matter but thought that the following might be useful considerations:

- planning for future continuity on the Steering Group may favour bringing some new members on this year as the entire Steering Group's term otherwise ends on the same date in 2011 (albeit that members can be re-elected as often as they wish);
- a committee as large as 15 might be a little unwieldy, although adding a couple of new members to take the number to 12 would not seem to be a problem;
- with some of the major establishment tasks having been completed, the workload might be lighter in the future than it was this year;
- we should strive to maintain coverage of the diversities represented in the Conference e.g. of region, language and of national/sub-national and supra-national DPAs - we seem to have reasonable coverage at present but would need to keep this under review if we had any retirements. (However, I note in passing that we don't have anyone from Scandinavia or Eastern Europe).

Subject to any other views, or retirements of existing members, I hadn't planned to actively solicit any new members at this time. Instead I propose to include in the annual report an invitation to other DPAs to identify themselves if they'd like to volunteer to fill the spare slots on the Steering Group.

Regards

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06/12/2011

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Blair Stewart

From: HUSTINX Peter [peter.hustinx@edps.europa.eu]
Sent: Thursday, 1 October 2009 7:53 p.m.
To: Blair Stewart
Cc: Marie Shroff
Subject: RE: Steering Group Resolutions and Annual Report

Dear Blair,

Thanks and well done. I have been following the Steering Group's work from a distance in recent months, due to a multitude of other more pressing urgencies, but feel confident about co-sponsoring the resolutions.

More in general, I am really impressed by the quality and the amount of work you have put in this area. I am quite sure we would not have come this far, without your unwavering commitment to these tasks.

Once more, my sincere appreciation and gratitude!

Best regards,

Peter Hustinx

European Data Protection Supervisor (EDPS)
Contrôle européen de la Protection des Données (CEPD)
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B-1047 Brussels

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From: Blair Stewart [mailto:Blair.Stewart@privacy.org.nz]
Sent: 01 October 2009 01:17
To: Antonio Caselli; Blair Stewart; cbaggaley@privcom.gc.ca; Gary_Davis@dataprotection.ie; Gwendal Le Grand ; HUSTINX Peter; Rafael Garcia Gozalo; Roderick Woo; Silke Harz; TimothyPilgrim@privacy.gov.au
Cc: Diarmuid Hallinan; Jose Leandro Nunez Garcia ; jstoddart@privcom.gc.ca; Linda Williams ; Marie Shroff ; Sarah Oliver ; Section VII (Germany) ; Sophie Nerbonne; Vanna Palumbo
Subject: Steering Group Resolutions and Annual Report

Dear Steering Group

I can confirm that the Steering group's two resolutions, annual report and summary have been supplied to the hosts of the 31st International Conference. Copies of all documents are attached for your information.

Regards

Blair Stewart Assistant Commissioner (Auckland) | Office of
the Privacy Commissioner
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From: Linda Williams
Sent: Tuesday, 29 September 2009 12:04 p.m.
To: 'privacyconference2009@agpd.es'
Cc: Blair Stewart
Subject: Steering Group Resolutions and Annual Report
Importance: High

Dear Spanish Data Protection Agency

On behalf of the Steering Group on Representation before International Organisations, I am pleased to submit the following 2 resolutions for the International Conference:

1. Steering Group Resolution: Directions to Steering Group to consider seeking observer representation before Internet Governance Forum, London Action Plan and ICANN.
2. Steering Group Resolution: Admitting observers from international governmental organisations to the closed session of the Conference.

Please also find attached the annual report for the Steering Group. This document is available only in English and is too long to translate. Accordingly, we attach a one page summary of the report as a separate document and hope that it might be possible for you to provide a translation.

I would be grateful if you would acknowledge receipt of these documents.

Sent on behalf of:

Blair Stewart
Assistant Commissioner

LINDA WILLIAMS | Executive Secretary | Office of the Privacy Commissioner | | DDI: (09) 302-8658 | Email: linda.williams@privacy.org.nz | Fax: (09) 302 2305 | Mail: PO Box 466 Shortland Street Auckland 1140 | Web www.privacy.org.nz



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