

**26TH INTERNATIONAL CONFERENCE OF DATA PROTECTION AND
PRIVACY COMMISSIONERS
WROCLAW, POLAND, 14 SEPTEMBER 2004**

**DATA PROTECTION AND INTERNATIONAL ORGANISATIONS: REPORT BACK ON
RESOLUTION ADOPTED AT 25TH CONFERENCE**

The 25th Conference in Sydney adopted a resolution on the subject of data protection and organisations (Annex A).

The resolution anticipated active steps to draw the matter to the attention of the relevant bodies. The sponsors and co-sponsors of the resolution therefore formed a working group to prepare the necessary letter and circulation list. The Working Group included representatives from New Zealand, France, Germany, Hong Kong and Ireland, in liaison with Australia.

The Working Group decided not to write to a large number of organisations initially since the level of response and resulting work could not then be gauged. Instead it was decided to write to a few key organisations. It was intended that a second wave of letters might follow once initial responses had been received.

Letters were dispatched in mid-April to:

- United Nations
- World Trade Organisation
- World Customs Organisation
- APEC
- ASEAN
- OECD.

Annex B sets out the text of one of the letters.

In mid-May replies were received from ASEAN and the OECD (Annex C). No other replies have been received.

The Working Group believes that the objectives of the resolution remain of significant importance. However, simply writing to organisations is an ineffective strategy. The Group believes that more effective ways forward include:

- having individual commissioners personally draw the resolution to the attention of any international organisations headquartered in their country, and
- convening a workshop with international bodies to share existing experience about effective institutional means for handling data protection issues and to provide guidance for international bodies to take appropriate action.

This Conference should agree as to who will be responsible for organising the workshop which should be held by February 2005, if possible, but otherwise no later than the time of the 27th Conference.

On behalf of The Working Group

(New Zealand, Germany, France, Ireland, Hong Kong SAR)

ANNEX A

THE RESOLUTION

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.

ANNEX B

SPECIMEN LETTER (UN)

Kofi A. Annan
 Secretary-General
 United Nations Headquarters
 New York NY 10017
 UNITED STATES OF AMERICA

Dear Mr Annan

DATA PROTECTION AND INTERNATIONAL BODIES

The sharing of personal information across borders is one of the most difficult issues bearing upon protection of privacy, business efficiency and national security. The global fight against terrorism has brought the challenge of ensuring we live in a safe and open society into even greater relief. Moreover, one of the consequences of globalisation and the development of new information and communication technologies has been the increasing transfer of personal information across international borders and its collection, use and disclosure by international and supra-national bodies.

These issues have engaged many national governments and regional trading blocs. They were given particular focus when privacy and data protection commissioners during their most recent annual conference. The international conference, now in its 25th year, primarily consists of national data protection commissioners and, in federal jurisdictions, their sub-national counterparts.

A number of data protection authorities within international and supra-national bodies also participate. The conference recently accredited the Council of Europe Data Protection Commissioner, joint supervisory authorities covering three European Union institutions (EUROPOL, Schengen Information System SIS, Customs Information System CIS) and a data protection authority within Interpol.

In view of these developments, the conference has reached the view that more attention needs to be paid to data protection issues in relation to international and supra-national organisations. There are data protection rules applying to some key institutions, arrangements and databases at that level but many new information sharing arrangements are being initiated through a variety of international bodies. To secure the trust and confidence of constituents or individuals whose interests are safeguarded by the international bodies and to ensure that we live in a safe and open society, data protection issues are best identified and

considered early on as they are more difficult to address if left very late in international standard setting processes.

Accordingly, the international conference adopted the following resolution:

That the conference calls upon:

- (d) 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;*
- (e) 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;*
- (f) 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.

Indeed, the UN General Assembly Guidelines for the Regulation of Computerised Personal Data files (14 December 1990) expressly recommended that data protection principles should apply to government international organisations and that each such organisation should designate the authority statutorily competent to supervise compliance. These are important measures for protecting the right of privacy enshrined in the Universal Declaration of Human Rights.

The Conference would be interested to know of any existing or planned processes and institutional arrangements designed to protect personal data handled by UN institutions and build privacy and data protection considerations into the rule making and standard setting initiated by the United Nations. Should you be interested in working with data protection commissioners on such matters, an informal committee of commissioners has been assembled in association with the conference resolution and may be able to offer initial advice or assistance if that is desired or to suggest other sources of expertise.

Commissioners look forward to your views on the issues I have raised in this letter. The convenor of the 26th annual conference is Dr. Ewa Kulesza, Inspector General for the Protection of Personal Data in Poland, to be held there in September 2004. Could I therefore suggest that you address any further correspondence to her, including the name of a suitable contact officer if you consider that appropriate. This arrangement will assist the circulation of any correspondence to Commissioners in a timely and efficient way.

Dr. Kulesza's contact details are as follows:

Dr. Ewa Kulesza
Inspector General for the Protection of Personal Data
ul. Stawki 2;
00-193 Warszawa
Poland

Yours sincerely

Malcolm Crompton
Federal Privacy Commissioner, Australia

14 April 2004

ANNEX C
REPLY (ASEAN)

18 May 2004

Mr Malcolm Crompton
Federal Privacy Commissioner
Privacy 2003 Conference Managers
GPO Box 5218
Sydney NSW 2001
Australia
Fax: (61-2) 9248 0894

Dear Mr Crompton,

Thank you for your letter of 14 April 2004 informing the ASEAN Secretariat of data protection and international bodies.

At present, the matter of data protection in the international bodies is within the purview of individual ASEAN Member Countries. Although the ASEAN Secretariat coordinates and facilitates cooperation with international organizations, it does not deal with data protection and privacy matters. Therefore, I regret to inform you that the ASEAN Secretariat is unable to provide you the information you would like to have. It is best that you write directly to the ASEAN Member Countries.

With best wishes

Sincerely,

ONG KENG YONG

REPLY (OECD)

11 May 2004

Dr. Ewa Kulesza
Inspector General for the Protection of
Personal Data
ul. Stawki 2
00-192 Warsaw
Pologne

Dear Dr. Kulesza,

Following up on the letter of 14 April received from Malcolm Crompton, Federal Privacy Commissioner for Australia, the Secretary-General has asked me to respond on his behalf. Mr. Johnston has asked me to convey his interest in the OECD working more closely with the International Data Protection Commissioners Conference.

The OECD welcomes the Resolution on Data Protection and International Bodies adopted by the Sydney International Data Protection Commissioners Conference, and encourages this effort to ensure the implementation of privacy protection in line with international consensus.

As you know, the Organisation for Economic Co-operation and Development (OECD) has a long history and expertise in the area of data protection. It was the first intergovernmental organisation to issue, in 1980, guidelines on international policy for the protection of privacy in computerised data processing, and to adopt, in 2000, policy and practical guidance for governments, business and individual users to implement privacy protection online. As an example, to help public and private organisations respect

privacy protection, the OECD has built an educational internet-based tool. The Privacy Policy Statement Generator provides guidance on conducting internal reviews of existing personal data practices and on developing a privacy policy statement. It gives links to governmental agencies, non-governmental organisations and private bodies that give information on applicable regulations and provide advice.

Beyond recommending to its member countries and the private sector that they develop and adopt suitable mechanisms to ensure that data protection considerations are effectively taken into account, the OECD has committed itself to abiding by privacy principles that are compatible with its guidelines and guidance.

As regards the protection of the OECD staff members' personal data, the Secretary-General adopted in 1992 Principles governing computerised personal data processings held by the Organisation. He also created an independent internal body, the Commission for Computerised Information and Privacy, to monitor compliance with the Principles, verify the processing operations authorised, give opinions on all questions concerning implementation of the Principles, and submit any proposal for improving the system of protecting computerised personal data processing.

As regards the protection of OECD bookshop customers and web site visitors' privacy, the Organisation carried out in 1999 an internal review of its personal data practices, developed a privacy policy, making use of the OECD privacy Generator, and posted its policy on its web site. Compliance with the OECD privacy policy is currently monitored by a privacy officer, but it is being considered to transfer this role to the Commission for Computerised Information and Privacy.

In view of the offer that the OECD work with the International Data Protection Commissioners Conference on the issues raised in Mr. Crompton's letter, we would like to assure you that the Organisation will be represented by a senior official and suggest that any further correspondence be addressed to Anne Carblanc in this Directorate, who has been responsible for OECD policy issues related to information security and privacy since 1997, and who chairs the internal Commission for Computerised Information and Privacy.

Finally, the Secretary-General has asked me to convey his best wishes for a successful conference in Poland next September and looks forward to our future co-operation as we strive towards our common goals.

John Dryden
Deputy Director
Science and Technology Policy Branch

cc:

Secretary General's Private Office

Mr Malcolm Crompton

Anne Carblanc