

**30th International Conference of Data Protection and Privacy Commissioners
Strasbourg, 17 October 2008**

Draft 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
Information and Data Protection Commissioner, Berlin
Privacy Commissioner of Canada
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 Commission, Italy
Data Protection Commissioner, Spain
Data Protection Commissioner, Switzerland

Resolution

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 jurisdictions¹
- (b) the Montreux Declaration adopted at the 27th Conference which resolved to strengthen collaboration with international organisations²
- (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 level³
- (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 organisations⁴
- (e) the resolution of the 29th Conference on Development of International Standards which encouraged the Conference to find ways to pool the

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.

collective expertise of Data Protection Authorities and to make that expertise available to ISO in the development of privacy standards⁵

Therefore resolves:

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,⁶ 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. OECD⁷
 - b. International Organisation for Standardisation⁸
 - c. Council of Europe⁹
 - d. APEC¹⁰
 - e. International Law Commission¹¹
 - f. International Telecommunications Union.¹²

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

⁵ Resolution on Development of International Standards, Montreal, 2007.

⁶ The proposer and co-sponsors offer themselves for election to the Steering Group.

⁷ Expected to be the OECD Working Party on Information Security and Privacy.

⁸ Expected to be, in particular, the ISO Working Group on Identity Management and Privacy Technologies (WG5).

⁹ 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).

¹⁰ Expected to be the Electronic Commerce Steering Group Data Privacy Subgroup.

¹¹ Part of the UN system.

¹² Expected to be within the Standardisation Group.

- 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 status¹³) 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:

¹³ Within some international organisations observers are sometimes known by other names such as accredited "guests" or "liaison officers".

- 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.

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 universal principles of privacy and data protection to be taken into account in the development of international instruments, standards and all manner of international arrangements. Data Protection Commissioners individually¹⁴ 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.

¹⁴ It may be acknowledged that some DPAs have already played a part in the meetings of international organisations as specialist advisers or as part of national delegations. This important work will of course continue but in some cases it may be possible for individual DPAs to continue to contribute in such meetings armed with the additional status of being the Conference's delegate.

The resolution will establish a standing committee to be known as the Steering Group on Representation before International Organisations. An annex to the resolution sets out the basic machinery of the Steering Group. The Steering Group will supplement this by documenting its procedures.

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 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.

The resolution directs the Steering Group to seek representation before an initial six international organisations. Additional international organisations can be considered at the direction of the Conference or, following a special process, between conferences.

Election of Inaugural Steering Group

The 30th Conference will elect the inaugural Steering Group for an initial two year term.

The proposer and co-sponsors (12 DPAs) each offer themselves for election to the Steering Group. Other Data Protection Authorities are also welcome to offer themselves for election. The resolution provides that the Steering Group may include a maximum of 15 DPAs.

The 29th Conference resolved that New Zealand and Belgium should initiate the creation of the Steering Group. Preparatory to submitting this resolution New Zealand approached those authorities shown as co-sponsors to offer themselves to serve on the Steering Group and has been encouraged by the willingness to contribute to the work. New Zealand has sought to achieve a broad cross section of DPAs representing the diversity of the conference and the various international dimensions of data protection. In particular the 12 DPAs offering themselves for election collectively have the following characteristics:

- speakers of four of the United Nations' six official languages (English, French, Spanish and Chinese)
- experience with both the common law and civil law systems
- geographical coverage of the major regions for which there are conference members (Europe, Americas, Asia-Pacific)
- includes national, sub-national and supra-national DPAs
- knowledge of, and active involvement with, many key international organisations.