

Closed Session Overview
29th International Data Protection and Privacy Commissioners Conference
Montreal, Canada • Friday, September 28, 2007 (Second Closed Session)

A. Opening of Session

Ms. Jennifer Stoddart, Privacy Commissioner of Canada and Chair of the Conference, welcomed the assembled data protection authorities (DPAs) to the second closed session.

The Chair tabled, for information, the *Declaration of Civil Society Organizations on the Role of Data Protection and Privacy Commissioners*, adopted in Montreal on September 25, 2007, at the Civil Society Pre-Conference Workshop.

B. Country Reports

The Chair reported that 24 country reports had been received by the Conference this year. The Chair suggested that in future years, the Conference may wish to consider making all of these reports publicly available on the Conference web site, as this would serve a useful educational purpose. A subset of all of the reports presented this year was made available to the public on the Conference web site, further to the approval of the DPAs concerned.

C. Montreux Declaration

Mr. Jean-Philippe Walter, Deputy Data Protection Commissioner of Switzerland, provided an overview of his study on implementation initiatives related to the "Montreux Declaration," which deals with the protection of personal data and privacy in a globalized world. Some 45 DPAs were surveyed in the course of this study.

Mr. Walter indicated that the Declaration had not fallen on deaf ears, although achievement of its objectives would require time, patience and perseverance. The Declaration has had a positive impact, and it has been the driving force behind many initiatives. Nevertheless, its implementation has been slow, as other initiatives have emerged across the globe (e.g. US-EU dialogue and APEC initiatives). Mr. Walter suggested that it will be necessary to coordinate these initiatives so that they complement each other and are consistent with the objectives of the Declaration.

The report was unanimously adopted by DPAs. Mr. Walter accepted to provide a new update on the implementation of the Declaration at the next Conference.

D. London Initiative

Mr. Peter Hustinx, European Data Protection Supervisor, provided an overview of activities flowing from the "London Initiative," which deals with how DPAs can be more effective in coordinating their activities worldwide.

He indicated that a workshop on coordination of enforcement activities was held in Brussels. A meeting was also held in Paris on public awareness and communications issues, where a decision was made to create a network of communications officials who could work together at coordinating their activities.

Some DPAs raised the issue of the challenges faced by non-European countries to participate in the London Initiative. The members of the Asia Pacific Privacy Authorities group (APPA) have indicated that they will try to implement some of the outcomes of the London Initiative at their next meeting in New Zealand, November 30 and December 1, 2007.

Mr. Hustinx noted that DPAs need to strengthen their work on strategic initiatives related to the London Initiative. The Office of the Privacy Commissioner of Canada has offered to host a two day workshop on this issue in the spring of 2008. The workshop will also examine how international DPAs collectively can better intervene in international forums.

E. Presentation of OECD Website

Two officials from the Organization for Economic Cooperation and Development (OECD)—Ms. Ann Carblanc, Principal Administrator, and Mr. Michael Donohue, Policy Analyst—made a presentation on the Organization's web site, with a view to offering it as a platform for the International DPA's web site. Mr. Donohue suggested that the DPA's site should have the following features:

- It should have both an unrestricted area for access by the general public, and restricted area for DPAs only;
- It should be secure;
- Its administration should be decentralized;
- It should be collaborative in that individual DPAs should be able to add, remove, or edit content.

F. Conference Organizational Arrangements

Ms. Marie Schroff, Privacy Commissioner of New Zealand and Chair of the Conference Organizational Arrangements Working Group, tabled the Group's Report and proposed Resolution on Conference Organizational Arrangements. Ms. Schroff introduced the four DPAs who chaired the activities of the Subgroups, namely:

- Mr. Roderick Woo, Privacy Commissioner of Hong Kong, Host Selection Subgroup;
- Mr. Artemi Rallo, Privacy Commissioner of Spain, Hosting Subgroup;
- Mr. David Loukidelis, Information and Privacy Commissioner of British Columbia (Canada), Website Subgroup;
- Mr. Billy Hawkes, Data Protection Commissioner of Ireland, Participant Expectations Subgroup.

➤ Host Selection Subgroup

The Subgroup's mandate was to identify the strength and weaknesses of the process for selecting Conference hosts, and recommend improvements. The Subgroup concluded that in general, the current process is acceptable in that it is simple and flexible. However, in instances where more than one potential host presents itself, the Subgroup recommends that the most recent Conference host be charged with creating an ad-hoc

selection committee, mandated to review applications and prepare a recommendation. The committee's membership should comprise 3 to 5 DPAs.

➤ *Hosting Subgroup*

The Subgroup's mandate was to survey the organizational arrangements that have been adopted by the Conference, and put forward options for enhancing them. The Subgroup found that existing arrangements for closed sessions and the flexibility given to hosts for the organization of Conferences are working well. Weaknesses in the current system include the absence of a central resting place for Conference resolutions; the handover of Conference organization from one host to the next; the inconsistent approach to managing the production of country reports; and the absence of an official, consolidated list of accredited DPAs. The Subgroup's report makes a series of recommendations addressing these weaknesses.

➤ *Website Subgroup*

The Subgroup's report addresses two separate aspects of the Conference's presence on the web. First, the report looks at options for creating a permanent international DPAs' website, what the website might contain, and how it should be managed on an ongoing basis. Second, the report looks at the issue of individual Conference host websites. The Subgroup recommends that the permanent website not replace Conference host websites. The Subgroup further recommends that DPAs continue discussions with the OECD on the issue of a permanent website. Regarding the Conference host websites, the Subgroup suggests that hosts adhere to uniform guidelines to ensure a common "look and feel" from one Conference to the next.

➤ *Participant Expectations Subgroup*

The mandate of the Subgroup was to survey DPAs and selected non-DPAs on their expectations vis-à-vis the Conference. The survey results are meant as an overview of the views of individual Commissioners and their staff, not a statement of the official position of each office. Non-DPA organizations consulted include privacy NGOs, academics active in the field, specialist groups, private sector companies and media. As the findings of the survey are extensive, readers are encouraged to consult the Subgroup's report for further details.

➤ *Resolution of the Working Group on Conference Organizational Arrangements*

Following presentation of the Subgroups' reports, a discussion ensued on the adoption of the *Resolution of the Working Group on Conference Organizational Arrangements*. Of note:

- The national authorities of France and Germany expressed uneasiness with the proposal that the OECD host on its website the permanent Conference website, and asked that the matter be further studied before a final decision was made on this matter.
- Various national authorities expressed concern that the Conference had become so large that smaller authorities would have difficulty organizing the annual gatherings of DPAs. Potential solutions were discussed, notably the possibility of having Conferences jointly hosted by two or more authorities, as well as

alternating every second year between a larger Conference and a smaller one, the latter being easier to organize for authorities with limited resources.

The Resolution was unanimously adopted by DPAs, with the caveat that the French and German national DPAs join the Website Subgroup. Ms. Schroff accepted to continue to Chair the Working Group on Conference Organizational Arrangements for an additional year, until the next international DPAs' Conference in Strasbourg.

G. Berlin Working Group

Dr. Alexander Dix, Berlin Commissioner for Data Protection & Freedom of Information and Chairman of the International Working Group on Data Protection in Telecommunications ("Berlin Working Group"), reported on the past two meetings of the Group—in Guernsey (April 2007) and Berlin (September 2007). The Berlin meeting in particular was attended by 59 members representing 31 countries and 4 organizations.

A paper on cross-border telemarketing has been adopted by the Group, and two more papers are being finalized—one on e-ticketing in public transport and the other on privacy in the distribution of digital media content and digital television.

Dr. Dix also reported that his Office had published a document containing all of the Resolutions adopted by the International Conference concerning telecommunications and the media, as well as all common positions, memoranda and working papers adopted by the Berlin Working Group between 1983 and 2006.

The next meeting of the Working Group is in Rome in March 2008.

H. Role of Data Protection Authorities at International Meetings

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.

I. Selection of 2009 Conference Host

Ms. Stoddart noted that the Conference was still accepting applications to host the 2009 Conference.

J. Close of Session

The Chair thanked the assembled DPAs and closed the session.