
This backgrounder provides an overview of current rules and practices related to the Secretariat of the International Conference of Data Protection and Privacy Commissioners (ICDPPC or ‘the Conference’). It is the companion piece to the “Proposals Paper: Costing and Paying for the Secretariat of the International Conference.” That paper considers the functions that a Secretariat could provide to the Conference and presents different options on the service level, funding model and placement of the Secretariat. Examples from other privacy and regulatory networks are also provided to illustrate how Secretariats are employed and paid for by other comparable organisations.

The paper is meant to inform discussion given the interest regarding the establishment of a Permanent Secretariat for the ICDPPC. It is not, however, meant to preempt the underlying discussion on whether to change the current arrangement whereby the Chair authority provides the Secretariat.

In preparing this backgrounder, we draw from the work done by New Zealand while it was Chair and Secretariat of the ICDPPC (2015-2017), as well as from the comments and feedback of members in the course of the consultations on the Future of the Conference.ⁱ

BACKGROUND AND CONTEXT

The current ICDPPC Rules and Procedures state that “[u]ntil such time as a Permanent Secretariat is created, the Chair will provide a Secretariat function. The Secretariat function would include the management and preservation of the documents and files of the Conference.”ⁱⁱ This includes those related to applications for membership and observer status.ⁱⁱⁱ In practice, the support of the Secretariat has extended to assisting the Chair and Executive Committee (ExCo) in their functions: implementing the decisions of the Closed Session, assisting the Hosting Authority in organizing the Annual Meeting, maintaining the permanent ICDPPC website and liaising with Conference Working Groups, to name a few. Currently, the Chair must assume the cost of resourcing the Secretariat. The resources and priorities given to the Secretariat are at the discretion of the Chair, and so these may vary from year to year and from Chair to Chair.

During the consultations that have taken place since the 39th Conference, members have commented on the need to consider having a Permanent Secretariat. Some see it as a necessary first step to ensure better continuity between annual meetings and achieve the Conference’s full potential. Reasons expressed in favour of having a Permanent Secretariat include the rapid growth of the Conference (both as a matter of membership and in the complexity of organizing the annual meetings), the desire for more formality in coordinating the Conference’s work, and in the role a Permanent Secretariat can have in helping the ICDPPC meet its objectives. Members noted that a Permanent Secretariat would also potentially strengthen the ICDPPC institutionally by providing stability.

Currently, the rotating nature and term limits of the Chair and ExCo positions result in the Secretariat changing at best every four years – and in practice more frequently than that. Consequently, it can lead to loss of expertise, momentum and institutional memory. Further, the resource implications on providing

the Secretariat may dissuade younger and smaller authorities from chairing the ICDPPC. In other words, if a feasible and equitable system for structuring and funding the Secretariat were put into place, authorities who currently hesitate to take on the role of Chair because of the resource implications of providing the Secretariat may be in a position to take on such a role, leading to a wider and more diverse pool of authorities over time who lead the Conference and play a key role in setting its priorities and strategic directions.

Members have also expressed concern, particularly when it comes to the financial implications of having a Permanent Secretariat since it raises the issue of collecting funds (via fees or otherwise) and potentially poses a burden on less-resourced member authorities. Some authorities have also indicated feasibility issues on paying membership given domestic restrictions on the expenditure of public monies. There are also the practical considerations of what structure the Secretariat would take, where it would be located and whether formalizing the ICDPPC's arrangement would create unforeseen problems. Overall, members have expressed the desire for more information and options in order to have a constructive discussion.

FUNCTIONS OF THE ICDPPC SECRETARIAT

The current and potential functions of the Secretariat can be reviewed under the general categories described below. In reading these, it is important to keep in mind the underlying question of what are the Conference's objectives and priorities and the role the Secretariat can play in achieving those. Where the Conference is aspirational (e.g. promoting privacy rights, adopting resolutions and developing standards) its focus is on providing continuity and coordination amongst members and working groups. And where the Conference is about the sharing of experience (e.g. a forum for dialogue, cooperation and the exchange of information), its focus is on liaising amongst members and encouraging a more intimate knowledge of each other's work and strategies. Though not in competition, the balance between the Conference's aspirational and practical purposes is where a Secretariat's priority would be set.

1. File Management and Preservation (Mandatory responsibility of the Secretariat)

This is the mandated role of the Secretariat under the current rules. In practice, it includes the uploading of documents onto the icdppc.org website, such as documents related to ExCo meetings and public documents emanating from the annual meeting such as reports, resolutions and declarations. It also includes the maintenance of forms related to applications to become a member or observer to the Conference, to host the annual meetings and to join the International Enforcement Cooperation Arrangement.

This function can also include the preservation of non-public files related to the annual meetings, such as attendance figures, fees, costs and expenditures, as well as other documents of importance to the institutional memory of the ICDPPC.

2. Support and Liaison Work (Discretionary responsibility of the Secretariat)

It is the Executive Committee that is mandated under the current Rules to conduct support and liaison work between the Conference and its members. In practice, many of these responsibilities are left to the discretion of the Secretariat at the Chair and or Executive Committee's direction.

a. To the Chair and Executive Committee

The Secretariat currently serves as the main conduit of communications between ExCo members and helps the Committee fulfill its duties under section 3.2 of the ICDPPC Rules. In addition, under the instruction of the Chair, the Secretariat prepares the agenda, documentation and logistical details of each Committee meeting and of any follow-up item. The Secretariat receives the applications and manages the assessment process for those wishing to host the Conference or to join as members or observers. It conducts surveys or consultations of members on behalf of the ExCo, such as to determine the in-depth discussion topic of the closed session.

b. To the Hosting Authority

The Secretariat supports the Hosting Authority in the organization of the Annual Meeting, including in the communications with speakers and special guests to the closed session. It may be called upon to assist with questions on past preferences or decisions of the Conference – institutional information that, at present, is not always readily available given the rotating nature of the Host, the Chair and the Secretariat.

c. To Working Groups

Per the rules, Working Groups report to the Conference but are to keep the Executive Committee informed of their progress.^{iv} In practice, this is done via the Secretariat, which can also serve as intermediary when Working Groups wish to communicate with all Conference members (e.g. calls for volunteers or surveys). This liaison work could include further coordination on long-term plans, such as how to better integrate Working Group research and projects into the planning of the annual meetings.

d. To Members

Though not an explicit function of the Secretariat under the current Rules, the Secretariat acts as the primary point of contact between members and the Conference. In this capacity, it helps put members in communication with each other, distributes materials from individual members to the full Conference and generally answer questions members may have about the ICDPPC and its work. The Global Privacy Awards initiative is a recent example of the Secretariat's support and outreach efforts to members, for the purposes of promoting and highlighting the actions and initiatives of ICDPPC members.

A stronger institutional presence by the Secretariat could facilitate the opening of communication channels between members that may be undertaking similar projects or confronting similar questions. The Secretariat can play a key role in any project to centralize and make available member-generated resources (e.g. research papers, guidance work, operational reports).

e. To Other Organizations

The Secretariat acts as point of contact between the Conference and regional, linguistic or cultural networks, such as APPA, the AFAPDP and the Common Thread Network. It also liaises between the Conference and specialized networks, including GPEN and the APEC Cross-Border Privacy Enforcement Arrangement. To the extent that the Conference can connect and support the efforts of these regional and international forums, the Secretariat could play a coordination and continuity role so that work and initiatives of other networks receive more publicity and support from ICDPPC members. As some members have noted during the consultations, there is untapped potential in how the Conference and regional, linguistic, cultural and specialized networks cooperate.

Similarly, the Secretariat can help with further cooperation and information exchanges with other actors in the privacy and regulatory fields, such as the IAPP and the World Information Institute's International Privacy Law Library.

3. Communication and Promotion (Discretionary responsibility of the Secretariat)

The Conference mandates the Executive Committee to maintain communications with its members and the public. Currently there are three main avenues of communication: the Conference website, a Twitter account and the newsletter. The ICDPPC Secretariat also has a YouTube channel, though its use has been infrequent. The Secretariat is largely responsible for the use of these tools and their frequency. The Secretariat also issues news releases on behalf of the Chair. All communications are done only in English.

a. ICDPPC.org Website

The ICDPPC website is the main repository for ICDPPC documents and files. The Secretariat regularly updates the site with new documents and information on ICDPPC activities (e.g. updates from working groups and ExCo meeting minutes and materials). At present, the icdppc.org website is entirely public facing; that is, there is no "members only" or "log in" component to the site. As such, any non-public documents that may have institutional value to the ICDPPC are not accessible to members and need to be passed on from Chair to Chair (and, by extension, from Secretariat to Secretariat). There is a risk of loss of institutional memory.

Throughout the recent consultations, several members have spoken of the potential of the website as a central repository for information, documents and resources from members. Last year's census, for example, yielded information on members' annual reports, constitutional references and funding. Further dedication would be needed to expand the website to include guidance, research and position papers issued by members.

In a similar vein, members also suggested updating the Conference's website to include a private space on the website to facilitate the exchange of ideas, queries, information and non-public documents amongst members. It would likely fall on the Secretariat to manage and maintain such added features.

Members have also suggested having more of the ICDPPC materials available in other languages (the suggestion has been for French and possibly Spanish). Recent practice has been for all resolutions and some working group papers to be translated at least into French and Spanish – and although the Secretariat helps organize the logistics the translation and related costs are born by individual member authorities or linguistic networks (e.g. AFAPDP or the Ibero-American Network). Such translations are done in the lead-up to the Annual Meeting and are afterwards available on the ICDPPC website, but otherwise the contents of the website are solely in English.

b. @ICDPPCsec Twitter account

Maintained by the Secretariat, the ICDPPC twitter account has 1,871 followers and represents one way for the Conference to share its own initiatives and those of its members with a wider audience. Used to its full potential, it can serve the purposes of the Conference by promoting international personal data protection and privacy rights.

c. ICDPPC Newsletter

Published by the Secretariat on behalf of the ExCo, the Newsletter helps fulfill the ExCo's duty to keep members informed of its work. The Newsletter can be a way to highlight the work of Conference members and broadcast information about the Annual Meeting and other happenings. The publication of the Newsletter is not, however, mandated and its frequency and transmission is at the discretion, initiative and resourcing of the Secretariat.

OPTIONS FOR DISCUSSION

With the above information on hand, we have prepared proposals related to the creation of a Secretariat whose level of service would exceed current activities and meet members' stated expectations. These options take into consideration the themes that have framed the Future of the Conference consultations; that is, the Conference's role in shaping international data protection and privacy policy, and its function in connecting privacy authorities and facilitating cooperation and interactions. The relative importance and ambition given to these objectives influence how active a role the Secretariat takes and, consequently, its functions and size.

Table 1 provides two levels of service options, both of which exceed the current level of service and attempt to capture members' feedback during the FOTC consultations. The 'Adequate' option is based on a Secretariat that plays an active liaison and support function for the Executive Committee, for the Working Groups and for members and maintains a regular flow of communication via a newsletter and on social media (e.g. active use of the ICDPPC Twitter account).

The Secretariat would create and maintain a secure members-only platform and do some translation work, but these would be at a less ambitious level than under the 'Adequate Plus' option – where the secure platform is foreseen to have more functionality – and thus be more resource-intensive in its setup and maintenance. Similarly, the 'Adequate Plus' option would dedicate more resources to the translation of ICDPPC communications and materials into at least one more language, if not two (e.g. French and Spanish). As the name implies, the 'Adequate Plus' option would carry out the liaison and support functions as the 'Adequate' option, just at a higher level of commitment and initiative.

Options for discussion have also been prepared for two downstream issues related to the creation of a Permanent Secretariat. Table 2 presents funding models; whether paying for the Secretariat comes from setting aside a portion of Conference attendance fees to cover Secretariat costs, or from the setting of a membership fee. On the latter, membership fees can be set as a fixed amount that all members paid or as a variable amount set according to members' circumstances (including, for example, the authority's size and the wealth of its home economy). Where membership fees are considered, it is assumed that they would be mandatory since it fits with the fairness principle present throughout the Permanent Secretariat discussion.

Table 3 looks at the level of subsidy the Secretariat would receive and where it would be placed. Two of the options presented have the Secretariat staff coming from a (non-Chair) member authority, either partially or fully subsidized by the Conference. A third option would be for the Conference to set up a separate corporate entity that would employ the Secretariat and be fully subsidized.

TABLE 1: LEVEL OF SERVICE

ADEQUATE

Liaison and Support

- Supporting Chair/ ExCo in their functions.
- Supporting Hosting Authority in preparation of annual Conference (open and closed session coordination, securing speakers, logistics).
- Support WGs in their mandates and facilitate their communication with ExCo and membership.
- Promote information-sharing between WGs, members and other privacy orgs + forums.
- Promote ICDPPC to and liaise with other networks and int'l organisations.

Communications

- Create and maintain members-only online platform (i.e. members' bulletin board).
- Oversee translation of select Conference documents related to decision-making into English, French and Spanish.
- Publish a regular Newsletter, maintain social media presence.

ADEQUATE PLUS

Liaison and Support

- In addition to support work, conduct analytical studies (e.g. of effectiveness of Conference resolutions and initiatives).
- Assist WGs and coordinate their efforts with broader Conference objectives.
- Support members by linking those working on similar projects (requires knowledge of their operations).
- Engage other networks and int'l orgs in search for projects of common interest.
- Promote privacy and data protection in places where laws/DPA under development

Communications

- Create and maintain a members-only website with more functionality (e.g. for information exchange, document repository of non-public documents, searchable database of contacts).
- Oversee translation of all ICDPPC materials into English, French, Spanish.
- In addition to the Newsletter, publish promotional materials (pamphlets, education packages)

TABLE 2: FUNDING MODELS

Portion of Conference Attendance Fees	Flat Membership Fee	Variable Membership Fee
<p>A fixed portion of members' Conference attendance fee is set aside to subsidize the Secretariat.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • No need for separate legal entity to collect or disburse money as it would done by Hosting Authority which is already collecting registration fees. <p><u>Negatives</u></p> <ul style="list-style-type: none"> • Not all members attend the annual Conference, creating distinction between paying and non-paying members. • Unsteady attendance results in uneven income, making budgeting uncertain. 	<p>All members pay an equal fee to be part of the ICDPPC.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • Fair in principle. • Easy to convey. • Easy to administer. • Membership fee increases buy-in or desire to extract value from Conference. • Approaches certainty for budgeting purposes. <p><u>Negatives</u></p> <ul style="list-style-type: none"> • Not all members have equal resources or interest in ICDPPC. • Collection of fees raises question of penalties for non-payment. • May require creation of legal entity to collect and disburse moneys. 	<p>All members pay a fee set according to their size and budget.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • Fair in practice. • Membership fee increases buy-in or desire to extract value from Conference. • Approaches certainty for budgeting purposes. <p><u>Negatives</u></p> <ul style="list-style-type: none"> • More difficult to administer. • Would need to devise (and communicate) formula that approximates fairness. • Multiple factors to consider including size and wealth of the authority and wealth of the home economy. • May require creation of legal entity to collect and disburse moneys.

TABLE 3: LEVEL OF SUBSIDY / PLACEMENT

Partly Subsidized Secretariat Staff Provided by Member(s)	Fully Subsidized Secretariat, Staff Provided by Member(s)	Separate Entity
<p>Fees collected would be transferred to one or more members providing the Secretariat services.</p> <p>The amounts would cover some but not all Secretariat costs.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • Collected fees can be kept to a low amount. • Decreases economic burden on DPA providing the Secretariat. <p><u>Negatives</u></p> <ul style="list-style-type: none"> • Secretariat staff not fully independent from their authority. • Potential for conflicts in accountability, reporting structure. 	<p>Fees collected would be transferred to one or more members providing the Secretariat services.</p> <p>The amount would cover all the Secretariat costs.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • Minimal economic burden on DPA providing the Secretariat. • Minimizes disincentive for less resourced authorities to provide Secretariat. <p><u>Negatives</u></p> <ul style="list-style-type: none"> • Would require high fees. • Can create public perception problems. 	<p>Corporate entity established for the purposes of collecting fees and employing the Secretariat.</p> <p>The entity would operate separate to any particular DPA and report to the Chair and ExCo.</p> <p><u>Positives</u></p> <ul style="list-style-type: none"> • Independence of the Secretariat • Medium and long-term stability • Promotes institutionality of the ICDPPC <p><u>Negatives</u></p> <ul style="list-style-type: none"> • High initial set-up costs • Complex decisions to be made in advance (incl. where to register) • Would require high fees. • Possible difficulty in recruiting top-quality candidates.

EXAMPLES FROM OTHER NETWORKS

In considering the options for a Permanent Secretariat, it is useful to compare with models currently in place in other similar organizations.

1. Regional, Linguistic and Cultural Privacy Networks

The Asia Pacific Privacy Authorities (APPA) network has one of its members assume the Secretariat functions on a rotating basis for at least three years. The Secretariat serves a continuity function in helping organize the two annual forums, convening the Governance committee and ensuring action items are followed up on. The Secretariat also maintains the APPA website and acts as point of contact between APPA and the public. Notably, the APPA has an annual membership fee, which the Secretariat collects, holds and disburses.^v The fee is currently set at C\$2000 or C\$1000 (approx. €1,300 and €656, respectively) for smaller authorities or those from the UN list of least developed countries. Four sixths of the funds paid to the authority providing the Secretariat to help offset its costs, and one sixth to the host of each of the two APPA meetings that year.

The *Association francophone des autorités de protection des données personnelles* (AFAPDP), for its part, has a Permanent Secretariat which it employs; that is, it is not provided by any of its members. The AFAPDP is its own legal entity, seeded in Paris and its statutes define the role of the Secretariat to include administrative and representational responsibilities, the management of records and archives, and the preparation of annual financial and activity reports. The Secretariat reports to the President and Board of the association. Funding of the Secretariat is achieved through membership fees set at 0.1% of the members' annual operational budget (the fees in 2018 ranged from €500 to €6000). The AFAPDP also receives a subsidy from the *Organisation internationale de la Francophonie*.

The Ibero-American Network has a Permanent Secretariat which its statutes indicate is to be provided by the Spanish Data Protection Agency.^{vi} The Secretariat is charged with coordination of the Network's activities and initiatives, its communications and outreach efforts. The Ibero-American Network does not collect fees.

The Common Thread Network elects a Secretariat from amongst its members and for a period of three years.^{vii} The United Kingdom ICO currently provides the Secretariat, which is broadly tasked with acting as a contact point for the Network, assisting and advising the Chair and managing the Network's activities and communications. The Common Thread Network does not collect fees.

2. Regulatory Networks

International Organization of Securities Commissions

The International Organization of Securities Commissions (IOSCO) is the international body that brings together the world's securities regulators and is recognized as the global standard setter for the securities sector.^{viii} IOSCO develops, implements and promotes adherence to internationally recognized standards for securities regulation. It was established in 1983 with 11 founding members, and now has 128 regular members, 27 associate members and 63 affiliate members. IOSCO was incorporated as a non-profit under a private act in Canada, sanctioned by the Quebec National Assembly and recognized by the Spanish Government.

IOSCO has a complex structure including a Presidents Committee (all presidents/chairs of ordinary and associate members), and Board (34 members elected for two-year terms), eight policy committees, and a series of other committees including regional committees and a Growth and Emerging Markets committee. IOSCO is supported by a Secretariat, which is the point of contact for all IOSCO members, committees and task forces, and is responsible for the day-to-day functioning of IOSCO. IOSCO holds an annual public conference at which a members meeting takes place.

IOSCO's agreed to form its Secretariat in 1986 and it is located in Madrid, Spain. The Secretariat currently has 28 staff, many of whom are international, and six of whom are on secondment from various national securities regulators. In 2016 (the most recent public data), annual membership fees were €241,525; there appears to be a reduced rate of €139,910 under a capacity-building program. The annual revenues of the organization are almost exclusively membership fees, €5 million in 2016. Major expenses are salaries, travel and rent. There is Spanish legislation that exempts the organization from income tax. There is also an agreement to subsidize the organization's rent.

Other Networks

The International Consumer Protection and Enforcement Network (ICPEN)^{ix} is an organization composed of consumer protection authorities from over 60 countries, and of which the Competition Bureau of Canada has been a member since 1992. Its Secretariat rotates approximately every three years, and is geographically separate from the Presidency, which rotates annually. There are no membership fees; the country who takes on the Secretariat function assumes the cost of the Secretariat (currently Belgium). Notably, about two years ago, ICPEN undertook a major (and very costly) website revamp to both their outward-facing and internal site. Australia, which acts as website host and administrator received voluntary contributions to the project from members. Many did, in amounts that varied greatly.^x

The International Conference of Information Commissioners (ICIC) is currently examining the possibility of creating a permanent Secretariat. During the 2017 Conference closed session it was agreed that the UK ICO would chair a working group on this issue.^{xi} Suzanne Legault has been engaged to conduct preliminary research about possibilities and considerations for creating, structuring and managing a secretariat.^{xii} Though going through a similar investigation as the ICDPPC, ICIC seems to be less developed as an organization, for example, it doesn't have a permanent website; each conference host sets up its own site. It appears the only public place to access ICIC's resolutions and declarations is on an individual member's site.^{xiii} At each conference, the host for the next conference (which takes place every two years) is determined. There is no Chair or Executive Committee. It appears ICIC has no terms of reference or other more formalized structure.

The International Competition Network^{xiv} is led by a Steering group, composed of member agencies, and includes 15 members elected for a two-year renewable term, and three ex-officio members who are the hosts of the annual conference and who are members for three years (year before their conference, year of and year after). The Steering Group is headed by an elected chair. Steering Group membership necessitates a "significant resource commitment to the ICN, mindful of the relative size of the member agency" as well as "consistent and effective ICN participation."^{xv} The annual Conference is co-chaired by the Host and the Steering Group Chair. It appears that the conference host assumes the cost of the conference.^{xvi}

ENDNOTES

- i “Quantifying the ICDPPC Secretariat resource requirements”: <https://icdppc.org/wp-content/uploads/2015/02/Compilation-of-meeting-papers-June-Redacted.pdf> (pp 15-17);
“Elements of a workable plan to fund the Secretariat and associated expenses”: <https://icdppc.org/wp-content/uploads/2015/02/Working-paper-Elements-of-a-workable-plan-to-fund-the-Secretariat-and-associated-core-Conference-expenses-MayJune-20151.pdf>;
“A workable plan to fund the Secretariat”: <https://icdppc.org/wp-content/uploads/2015/02/Proposal-Proposed-workable-Plan-to-Fund-the-Conference-Secretariat-August-2015.pdf>.
ICDPPC Project Page on the Future of the Conference: <https://icdppc.org/participation-in-the-conference/project-page-future-size-and-membership-of-conference/>
- ii ICDPPC Rules and Procedures, s. 3.1. Available at <https://icdppc.org/wp-content/uploads/2015/02/Rules-and-Procedures-including-new-amendment-adopted-at-38-Conference.pdf>
- iii ICDPPC Rules and Procedures, ss. 5.2 and 5.4.
- iv ICDPPC Rules and Procedures, s. 3.3.
- v APPA Funding Arrangement: <http://www.appaforum.org/resources/#funding>
- vi Organización de la Red: http://www.redipd.es/la_red/Organos/index-ides-idphp.php
- vii Common Thread Network Terms of Reference: <https://commonthreadnetwork.org/home/about-the-network/terms-of-reference/>
- viii <https://www.iosco.org>
- ix International Consumer Protection and Enforcement Network (ICPEN): <https://www.icpen.org/>
- x Phone call with Elisabeth Lang and Jean-Pierre Bornais of the Competition Bureau regarding ICPEN.
- xi International Conference of Information Commissioners, 2017 closed session summary, <https://icic2017open.files.wordpress.com/2017/09/icic-2017-closed-session-summary.pdf>.
- xii Meeting with Jacqueline Strandberg, Office of the Information Commissioner of Canada.
- xiii Swiss Federal Data Protection and Information Commissioner, <https://www.edoeb.admin.ch/edoeb/en/home/the-fdpic/international-cooperation/international-conference-of-information-commissioners.html>.
- xiv <http://www.internationalcompetitionnetwork.org/>.
- xv ICN Operational Framework, <http://www.internationalcompetitionnetwork.org/about/operational-framework.aspx>
- xvi Annex: ICN Events Host Criteria and Selection Process
<http://www.internationalcompetitionnetwork.org/about/operational-framework.aspx>.