

Anders Halvorsen

Fra: Anders Halvorsen
Sendt: Tuesday, May 19, 2015 10:52 PM
Til: 'Mac Yokozawa (m-yokozawa@i.kyoto-u.ac.jp)'; 'JISA (Junko Kawauchi)'; 'diane.mievis@digitaleurope.org'; 'thananum@gmail.com'; 'patrice.chazerand@digitaleurope.org'
Kopi: 'NASSCOM (Shivendra Singh) (shivendra@nasscom.in)'; Jim Poisant; Santiago Gutierrez; 'Tim Conway'; 'AMETIC (Jesus Martinez Ons) (jmartinez@es.ibm.com)'; 'techUK (Julian David) (Julian.David@techUK.org)'; 'Danielle Kriz (dkriz@itic.org)'; 'Nancy Volesky'; 'ITAP (General) (secretariat@itaphil.com)'; 'ITAP (Damian Mapa) (dmapa@microsoft.com)'; 'rahul.jain@dsci.in'; 'ALETI (Silvia Bidart2)'; 'AMETIC (Eduardo Sánchez) (esanchez@ametic.es)'; 'AIIA (Suzanne Roche) (s.roche@aiaa.com.au)'; 'kasitorn@nstda.or.th'; 'kasitorn.pooparadai@nectec.or.th'; 'Hossam Elgamal (hossam.el-gamal@gnsegroup.com)'; 'DIGITALEUROPE (Marion Ebel) (marion.ebel@digitaleurope.org)'; 'INFOBALT, Vilma Misiukoniene 2'; ITI (Josh S. Kallmer) (jkallmer@itic.org); ITI (Maria Medrano) (mmedrano@itic.org); 'Rahul Sharma (rahul.sharma@dsci.in)'; 'AMETIC (Antonio Cimorra) (acimorra@ametic.es)'
Emne: WITSA Working Group on Free Flow of Information: Call Summary & Next Steps
Viktighet: Høy

May 19, 2015

TO: Members of the WITSA Working Group on Restrictions of the free flow of information across nationality/regional borders
FR: Dr. Makoto Yokozawa, JISA (Japan) – Chair
RE: **WITSA Working Group on Free Flow of Information: Call Summary & Next Steps**

Dear Colleagues,

Please find below a summary of our April 21st Working Group on Internet Governance below. Thank you very much to everyone who participated and all who submitted content relevant to the group. Please see all submitted documents and other information related to this working group at: <http://witsa.org/witsa-wp-site/working-group-on-restrictions-of-the-free-flow-of-information-across-nationalityregional-borders/> (login: witsa123).

Some ideas for "possible principles" in CBDF will be distributed to you shortly for your consideration and review. These will also be discussed at the May 21st WITSA Global Policy Action Committee (GPAC) meeting in Herndon, Virginia (remote participation is enabled for anyone interested in participating (agenda posted at <http://witsa.org/herndon2015/>):

Global Policy Action Committee (10:45am-12:45pm EDT)

1. Please join the meeting at (Use your microphone and speakers (VoIP) - a headset is recommended)
<https://global.gotomeeting.com/join/408199645>

2. Or, call in using your telephone:

United States: +1 (312) 757-3119; Australia: +61 2 9091 7603; Belgium: +32 (0) 28 08 4372

Canada: +1 (647) 497-9380; Finland: +358 (0) 931 58 1773; France: +33 (0) 170 950 590

Netherlands: +31 (0) 208 080 759; New Zealand: +64 (0) 9 974 9579; Norway: +47 21 04 30 59

Spain: +34 931 76 1534; Switzerland: +41 (0) 435 0026 89; United Kingdom: +44 (0) 20 3713 5011

Access Code: 408-199-645

Another call of the Working Group will be announced after the GPAC meeting this week

Best regards,
Professor Yozozawa

WITSA Working Group on Restrictions of the free flow of information across nationality/regional borders – Tuesday, April 21, 2015

Attendees:

Dr. Makoto Yokozawa, JISA (Japan) – Chair
Ms. Ms. Junko Kawauchi, JISA (Japan)
Ms. Diane Mevis, DIGITALEUROPE (Belgium)
Mr. Patrice Chazerand, DIGITALEUROPE (Belgium)
Mr. Rahul Sharma, DSCI/NASSCOM (India)
Dr. Jim Poissant, WITSA
Mr. Anders Halvorsen, WITSA

Call Summary:

Professor Yokozawa welcomed everyone and explained the objectives of the call. He referenced the working group template which had been circulated by Anders Halvorsen, and which included a draft timeline. Once an assessment of issues and background had been made, draft principles drafted and key stakeholders identified, a paper would be drafted by the working group, which, once finalized, would be presented to the Global Policy Action Committee for review and then to the Board of Directors for approval.

In preparation for the call, Professor Mac had posted a set of key issues and references for discussion at <https://www.evernote.com/shard/s33/sh/1c9136f8-454a-4254-92cc-beefdd83bb1e/a38176823e2c0d21>.

- What will cause “Restrictions of free flow of information”? Forced Localization Measures; Data Protection Policies; Protection of Intellectual Properties; Harmfulness of Information (terrorism, youth, racism, gender etc.); and others?
- What are scoped? Excessive/non-harmonized security requirements by governments; Excessive requirements for assessments, accreditation and certification by governments; Excessive restriction of encryption; Source code disclosure requirements; Technology Transfer requirements; Excessive IPR restrictions; Fair Government Procurements; Restrictions on Cross border Data Processing / BPOs; Localized content requirements; Restrictions/excessive requirements for localized subsidiary establishment; China’s Great Firewall? Facebook/Twitter Restrictions or Surveillance in many economies? — shall we scope?; and others?
- Who is affected? Business; Consumers; Academia/Technical Communities; Communities/GDP; anyone else?
- Possible WITSA role? (To whom, When and How)
 - Sending messages to other stakeholders to promote importance of Free Flow of Data (on what?)
 - Showing how Free Flow of Data is important by typical business cases
 - Proposing FLM policy assessment method by both numerical analysis and reputation by mindset -> ref) [ECIPE report](#)
 - How? written statement? cyber-forum? GPATs? WCIT?
 - Anything else?

Professor Mac next invited the call participants to highlight issues that were of particular concern to them. Mr. Chazerand emphasized that data protection was a top priority in Europe. Mr. Sharma added that localization requirements were a top concern to DSCI and NASSCOM.

Ms. Kawauchi believed the most significant issue at the moment was the international trade implications of the increasingly prevalent national restrictions on cross-border data flows (CBDF). She added that it should be a top priority for all stakeholders going forward to engage in discussions on implications of such trade measures, to share information and business practices. Professor Mac mentioned that he currently chaired a working group on cross-border data flows and this issue is a top concern for him as well. Yokozawa mentioned that in October 2014, members of the Information Technology Industry Council (ITI), the Japan Electronics and Information Technology Industries Association (JEITA) and DIGITALEUROPE convened in Tokyo to discuss problematic policies in jurisdictions around the globe that mandate localization, such as required technology transfers and local sourcing (ref. above link). These organizations agreed in their “Tokyo Resolution on Combating Data Localization Requirements” that increasingly, forced localization requirements being considered with regard to data—namely, requirements that data be stored in country-is of major concern to the industry globally and nationally.

Professor Yokozawa said industry should raise awareness globally on the negative impacts of data localization requirements; develop strategies to advocate for sensible policies that do not risk fragmenting the Internet and imposing economic harm; and promote best practices within governments globally that foster a competitive market and the continued development of innovative products and services to users worldwide.

Professor Mac further recognized that CBDF might be considered in the WITSA cyber security and international trade working groups as well, and care should be taken to coordinate activities between these groups so as to avoid any overlap.

Action: It was agreed that the next step should be for the working group to draft a set of principles. Mr. Chazerand cautioned that any principles should be high level and global in nature and not target any particular countries. This was agreed by all.

The following principles established in the ITI-JEITA-DIGITALEUROPE “Tokyo Resolution” should be considered by the Working Group:

- The movement of data across borders is an imperative for today’s global economy;
- Data localization requirements disrupt the free flow of data;
- Data localization requirements are incompatible with the Internet’s distributed infrastructure that enables optimal system architecture;
- The security of data does not hinge on the national boundaries of where such data resides; and
- Data localization requirements create barriers to market access, particularly impacting small and medium sized enterprises (SMEs) which are eager to attract customers not only domestically, but also in foreign markets.
- Any exceptions to these provisions, such as to protect personal data privacy, should be limited to legitimate public policy objectives and be in full compliance with the provisions of the GATS.

Action: Professor Mac encouraged everyone to send references, links or documents to be share by the group. He aimed to present a set of draft principles at the WITSA Global Policy Action Committee meeting in Herndon, Virginia on May 21st and then a follow-up call of the Working Group after that. After the principles are finalized, the working group will determine further deliverables including a new WITSA statement.

Action: Anders to keep a repository of all data circulated

The following references and documents were discussed.

- Digital Europe/ITI/JEITA-JISA Trilateral Dialogue on Forced Localisation Measures (**EU View** and “**Tokyo Resolution**”)

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[DIGITALEUROPE, ITI, JEITA - T...](#)

[435.4 KB](#)

- National Center for APEC, Information Integrity Solutions (IIS) Cross Border Data Flows Report (**APEC View**)



[Information Integrity Solutio...](#)

[1.1 MB](#)

- US-Japan Internet Economy Dialogue 2014, **CBDF Case Studies** (American Chamber of Commerce/Japan Keidanren-Business Federation of Japan VIEW)



[CBDF case studies\(2014 US-Jap...](#)

[3.6 MB](#)

- Yokozawa 2013 CBDF, Brookings Institute LA



[CBDF and Beyond.pptx.pptx](#)

[983.7 KB](#)

- ECIPE, "**The Cost of Data Localisation**"
<http://www.ecipe.org/blog/the-costs-of-data-localization/>
http://www.ecipe.org/app/uploads/2014/12/OCC32014_1.pdf
- "**Free, Open and Secure Internet**", Chairman's Statement, GCCS 2015, Global Conference on Cyber Space 2015, April 16-17, The Hague, Netherland -> *next Mexico GCCS in 2017*

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- APEC "Services Trade Access Requirements"(STAR) Database
<http://www.servicetradeforum.org/>
<http://www.apec.org.au/docs//star%20database%20pres/star-database-presentation.pdf>
- JISA position paper 2013 (shared in Trade WG)



[JISAtansboarder.pdf](#)

[24.7 KB](#)

- WITSA Paper on Trade

Fra: Mac Yokozawa(Kyoto Univ.) [<mailto:m-yokozawa@i.kyoto-u.ac.jp>]
Sendt: Thursday, May 14, 2015 11:06 AM
Til: Anders Halvorsen
Emne: Re: CBDF WG call summary for review

Dear Anders,

Thank you for your effort. It seems to me that your summary is pretty good and ready for distribution.

What I am thinking of is to distribute some ideas for "possible principles" in CBDF.

It will look like the other party's principles, but reflects specific issues in this group including FLM.

That document will be circulated hopefully before the Washington Meeting.

Regarding the way of sharing documents and ideas, yes my evernote link was just an trial and if you could set up a similar portal web site like other groups, that would be so nice to maintain a common procedure of sharing information among GPAC members.

Thank you, and see you soon in Washington DC.

BR
--MY

Dr. Mac Yokozawa m-yokozawa@i.kyoto-u.ac.jp <http://yokozawa.mois.asia/>
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IP Phone 050-3692-5214(Japan) Kyoto Univ. +81-75-753-3139
Voicemail and Fax +1-650-653-2501 03-4496-6014(Japan)

On Thu, May 14, 2015 at 12:16 PM, Anders Halvorsen <ahalvorsen@witsa.org> wrote:

Dear Professor Mac.,

Thank you very much for your participation and input on the International Trade Working Group today. I wanted to follow up with you regarding the CBDF WG next steps as well. Unfortunately, I have not yet circulated the summary I sent you previously (re-attached) - apologies. I will do so and Cc all the other WGs tomorrow (Thursday) as soon as I receive your confirmation/input on the following: The CBDF WG will convene via conference call some time (TBC) after the GPAC meeting next week (May 21st). At the GPAC, you will present an update on the WGs work to date including a presentation of draft/potential policy principles? I believe this is what was discussed and agreed on the April 21st call (below) – I just wanted to confirm as I need to report to Shivendra as he prepares for the GPAC meeting.

As you may have seen, I have posted the various working group documents and research on our web site (using password protected links). Since you have already setup a web page at <https://www.evernote.com/shard/s33/sh/1c9136f8-454a-4254-92cc-beefdd83bb1e/a38176823e2c0d21>, should we continue to use it, or do you prefer that I create a page similar to what I have done for the other working groups?

- GPAC Working Group on [International Trade](#)
- GPAC Working Group on [Internet Governance](#)
- GPAC Working Group: [Restrictions of the Free Flow of Information Across Nationality/Regional Borders](#)
- GPAC Working Group on [Security, Privacy and Data Protection](#)
- GPAC Working Group on Women in IT

Looking forward to seeing you and Junko next week.

Thanks again and kind regards.

Anders

Fra: Mac Yokozawa(Kyoto Univ.) [mailto:m-yokozawa@i.kyoto-u.ac.jp]

Sendt: Wednesday, April 29, 2015 1:48 AM

Til: Anders Halvorsen

Kopi: JISA (Junko Kawauchi) (kawauchijunko@gmail.com); Jim Poisant; tim.conway@c-metrics.com

Emne: Re: CBDF WG call summary for review

Thank you, Anders.

I am interested in discussions in other groups as well.

Are we going to coordinate and share among all of those groups?

CBDF group will be happy to share this summary to all of WITSA members.

--MY

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Voicemail and Fax [+1-650-653-2501](tel:+1-650-653-2501) 03-4496-6014(Japan)

On Wed, Apr 29, 2015 at 7:30 AM, Anders Halvorsen <ahalvorsen@witsa.org> wrote:

Dear Professor Yokozawa,

Thank you very much for chairing the Working Group on Restrictions of the free flow of information across nationality/regional borders last week. As discussed, please find below a draft call summary below. Kindly let me know if you have any edits before I circulate to the group. By way of transparency, I am also planning on Cc'ing the other working group members.

Thanks and regards,

Anders

WITSA Working Group on Restrictions of the free flow of information across nationality/regional borders – Tuesday, April 21, 2015

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http://www.ecipe.org/app/uploads/2014/12/OCC32014_1.pdf

- "Free, Open and Secure Internet", Chairman's Statement, GCCS 2015, Global Conference on Cyber Space 2015, April 16-17, The Hague, Netherland -> *next Mexico GCCS in 2017*



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