

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 Poisant, 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**")


 [Trilateral Dialogue JEITA-ITI...](#)
[775.7 KB](#)

 [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*



Chairs Statement FINAL VERSIO...

91.8 KB

- 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)



JISAtransboarder.pdf

24.7 KB

- WITSA Paper on Trade