Committee on Aviation Security– Topic 2

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ADVANCE PASSENGER INFORMATION (API), PASSENGER NAME RECORD (PNR), FROM FACILITATION TO COUNTER-TERRORISM

1. Foreword

The **International Civil Aviation Organization (ICAO)** is a UN specialized organization, established by States in 1944 to manage the administration and governance of the Convention on International Civil Aviation (Chicago Convention).

 ICAO works with the Convention's 193 Member States and industry groups to reach consensus on international civil aviation Standards in support of a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector.

ICAO also coordinates assistance and capacity building for States in support of numerous aviation development objectives; produces global plans to coordinate multilateral strategic progress for safety and air navigation; monitors and reports on numerous air transport sector performance metrics; and audits States' civil aviation oversight capabilities in the areas of safety and security.

The Standards and Recommended Practices (SARPs) on Facilitation are the outcome of Article 37 of the Convention, which provides, inter alia, that the "International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with customs and immigration procedures".

The policy with respect to the implementation by States of the Standards and Recommended Practices on Facilitation is strengthened by Article 22 of the Convention, which expresses the obligation accepted by each Contracting State "to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance", and by Article 23 of the Convention, which expresses the undertaking of each Contracting State "so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention".

2. 2. Exercise

The article attached on Traveller Identification describes the ICAO TRIP (Traveller Identification Programme) Strategy, which is a tool to help States implement Annex 9 – *Facilitation* Standards related to security.

This Strategy aims at facilitating the crossing of borders for the vast majority of travelers by providing tools (ePassports, authentication processes, interoperability..) and at the same time facilitate the operations for the border control and immigration Authorities in helping them focus on a limited number of persons of interest.

ICAO is participating in the Counter Terrorism Travel Program, managed by the UN Office of Counter Terrorism, in application of Un Security Council resolution 2396 (2017) calling all States to request PNR data, in furtherance of ICAO Standard.

Knowing that the PNR is a set of data captured by Airlines and travel agents to manage their customers profiles, so established for commercial purposes, you will have to analyze the interest and legitimacy for Authorities to request and use these data, the balance between the objectives of the fight against terrorism and transnational crime on one hand, and the privacy and individual rights on the other hand, and finally propose a strategy for ICAO to support the Counter Terrorism Travel Program within the limits of the mandate of the Chicago Convention[1].

For the simulation this topic will be considered by the Security Committee only.

Reference documentation:

- UN Security Council Resolutions 2178 (2014), 2309 (2016), 2396 (2017), 2482 (2019)
- Annex 9 – Facilitation
- https://www.un.org/cttravel/
- https://www.icao.int/Security/FAL/TRIP/Pages/Publications.aspx.

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[1] NB: Annex 9 – Facilitation Standards and Recommended Practices are considered by the Air Transport Committee (ATC), except for those SARPs that have an interest for Security, which are considered jointly with the Unlawful interference Committee (UIC).

3. Traveller identification: key component of both Travel Facilitation and Aviation security

Following the successful introduction of Machine Readable Travel Documents (MRTDs) in the eighties, which has dramatically enhanced the security features used in passports, ICAO has started implementing an ambitious initiative aimed at improving both the overall integrity of travel documents and the processes involved in their issuance as well as security at border control.

Context: The Importance of Reliable and Secure Traveller Identification

The ability of terrorists and criminals to operate with anonymity—beyond the knowledge or even suspicion on the part of relevant State and international authorities about their true identity and movements—is a powerful tool and weapon in enabling those with ill intents to further their unlawful and illegitimate activities.

Conversely, the ability of authorities to confirm the true identity and to monitor certain movements of travellers—and to do so speedily, cost-effectively, securely and responsibly—is vital for a wide range of purposes:

- • maintenance of effective national and global security
- • facilitation of personal and business travel and trade
- • determination and discharge of treaty and other obligations and rights related to the cross-border movement and admission of people
- • cost-effective deployment of security and border admission and clearance personnel and resources on a risk-management basis
- • detection and prevention of crime, including money laundering, smuggling, illegal drug trade, child abduction and human trafficking

Drivers for Enhanced Traveller Identification

The following are factors and trends that encourage and support the sharing of knowledge, insights and technologies amongst diverse States and international authorities with mandates and interests in the issuance and/or use of traveller identification.

There is strong consumer and business pressure for expedited travel, trade and tourism, and corresponding public resistance to security, border control and other processing activities that add avoidable costs, delays, and restrictions to movement. Conversely, security threats in many sectors—including, but not limited to, the aviation sector—are real, significant and continually evolving

In the meantime, innovative technologies and protocols offer new opportunities for cost-effective deployment of security resources where they are most needed, based on risk-management principles, thereby enhancing both security and facilitation objectives.

In that context, the ICAO Traveller Identification Programme (ICAO TRIP) Strategy was approved by the ICAO Council and endorsed by the 38th Session of the ICAO Assembly in 2013.

The TRIP Strategy aims to enhance the integrity of the passport-issuance process and to ensure robust identification-management processes in order to prevent exploitation by terrorists and maximize the effectiveness of border security and the benefits of enhanced facilitation of travel across borders.
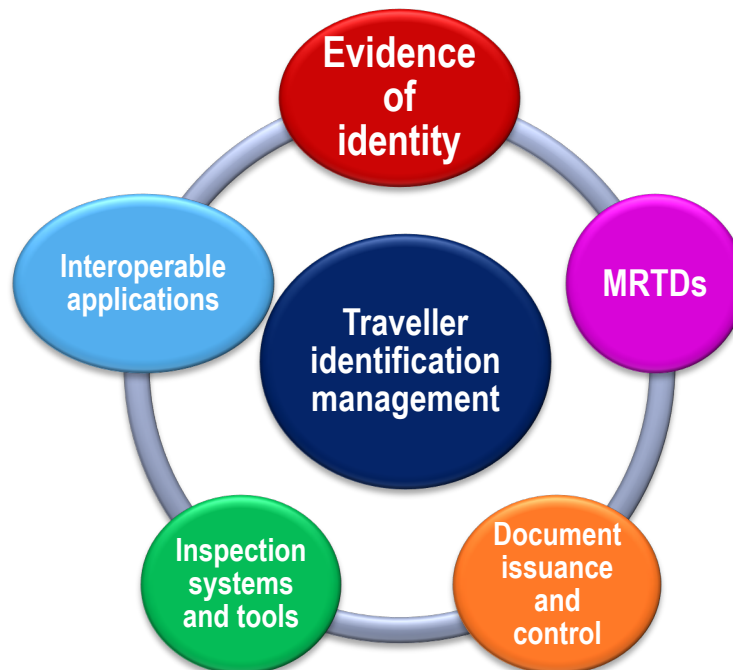
The efforts of ICAO to ensure the legitimacy of secure travel documents depends on a holistic and integrated approach to the traveller identification-management and issuance process. The integrity of travel-document issuance is severely compromised if appropriate safeguards are not incorporated into the traveller-identity management process in order to ensure confirmation of the identity of the individual to whom the passport is issued.

Nature of a robust Identification Management

For purposes of this Strategy, a comprehensive and cohesive approach to traveller identification entails five closely linked and mutually-complementary identification management activities (Graph 1).

- i) *Evidence of Identity*: ensure authenticity of the identity of an applicant seeking issuance of a travel document, confirming for that individual a unique identity linked to the applicant, the identified individual's status as still living and the applicant's status as an active user of that unique identity.
- ii) *Machine-Readable Travel Documents (MRTDs):* ensure that the design and manufacture of standardized machine-readable passports (MRPs), visas, and identification (ID) cards for travel that meet internationally-accepted standards and practices with respect to global interoperability and effective biometrics as well as high integrity against counterfeiting and forgery.

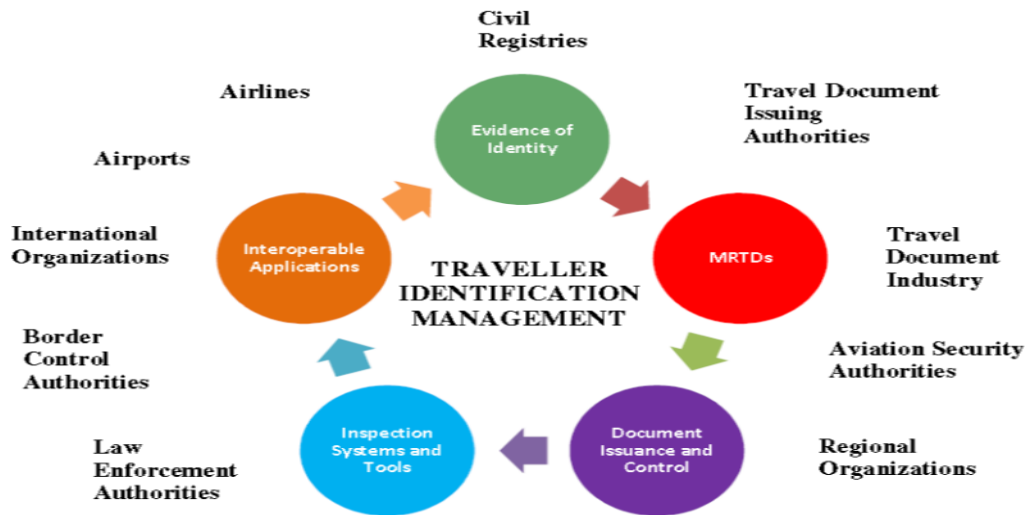Graph 1: The 5 elements of the ICAO TRIP strategy

- ▪ iii) Document Issuance and Control: implement effective processes and protocols for the issuance of MRTDs to authorized holders only, including emergency issuance where warranted while ensuring the security against theft, tampering and loss.
- ▪ iv) Inspection Systems and Tools: Implement technologies, supporting infrastructure, information-sharing and related protocols and procedures to support timely, efficient, secure and reliable reading of MRTDs at borders and verification of the validity of the MRTD for the holder, including by the use of the ICAO Public Key Directory (PKD) to confirm that e-passports presented to authorities remain legitimately-issued and active (i.e., not lost, stolen, compromised or revoked)
- ▪ v) Interoperable Applications: Implement systems, technologies and protocols that provide for the ready, secure and reliable linkage of MRTDs and their legitimate holders to relevant intelligence and information about the holder and/or his/her background, movements and actions of interest, in support of security and travel facilitation. Interoperable applications include such functions and linkages Passenger Name Record data (PNR), Advance Passenger Information (API), State-managed security "watch lists" and State-recognized "known," "trusted" and/or "expedited" travellers and shippers (or equivalent).

Main challenge: Involvement of different stakeholders

As shown in Graph 2 wide array of Contracting State authorities/ministries and other entities have mandates and interests in traveller identification. These include State-level agencies, regional and international organizations concerned with these issues and services such as civil registries, passport issuance, visa issuance, security, trade and tourism, immigration/migration, border

controls, law enforcement, treaties—human rights, refugees, stateless persons, special events (Olympics, international meetings e.g., G7/G20) and emergencies (identification of victims and survivors).

Graph 2: Different stakeholders involved in the ICAO TRIP strategy

All Member States have mandates for, and interests in, the efficient and effective operation of their immigration/migration, trade and travel (including tourism) and border control functions, all of which have requirements for secure, reliable and efficient traveller identification.

In addition to the organizations concerned with the above issues and applications, there are the individual travel document applicants and holders who use formal travel documents (most notably passports) for a wide range of purposes well beyond border crossing and international travel. These include a wide range of routine transactions where credible sources of identification are either required or expeditious, such as banking, currency exchange, vehicle and equipment rental, domestic travel, and application processes for access to civil programs, services and benefits.

As noted above, the interests in, and needs for, secure travel documents and related technologies, tools and processes, extend well beyond the world of international civil aviation. A diverse array of travel document issuers and users require and/or can benefit from the leadership, engagement, support and/or collaboration and cooperation of ICAO.

Notably, travel documents and related technologies and processes that meet the needs and standards of international civil aviation security and facilitation will typically also readily meet diverse other identification needs and standards. In other cases, ICAO's knowledge, technologies, insights and experiences in the production, management and use of secure identification documents, tools and processes can be shared and efficiently adapted and applied to the needs of other travel document issuers and users.
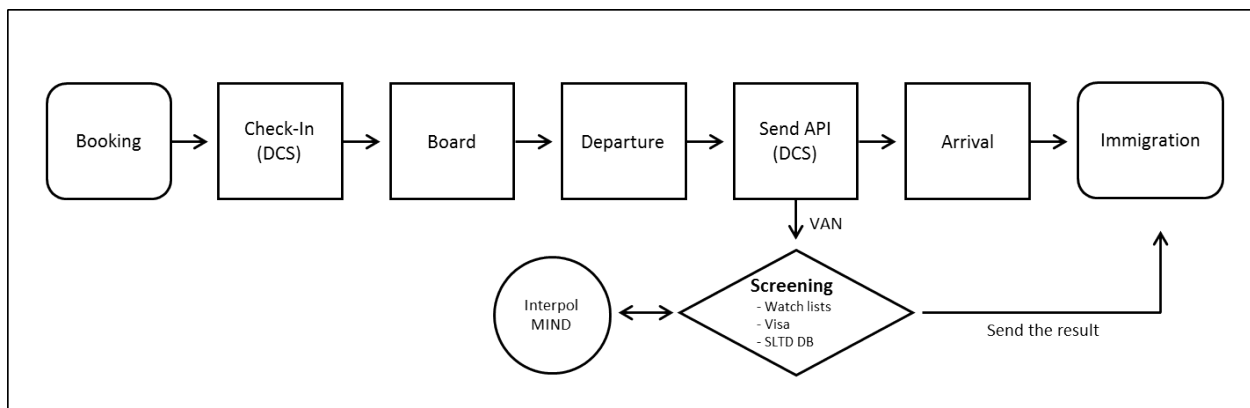
The need for a TRIP roadmap to assist States in their implementation efforts

The 39th Session of the Assembly endorsed the priorities for the ICAO TRIP Strategy and expected outcomes for the 2017-2019 triennium. Assembly Resolution A39-20, *Consolidated statement of continuing ICAO policies related to facilitation*, identified national and international action in ensuring the security and integrity of traveller identification and border controls. Specifically, the Assembly urged Member States, through their travel document and border control programmes, to uniquely identify individuals to maximize security and facilitation benefits, including preventing acts of unlawful interference and other threats to civil aviation. Furthermore, the Assembly endorsed the development of a roadmap for the implementation of the ICAO TRIP Strategy.

The ICAO TRIP roadmap has been developed in the context of the *No Country Left Behind* initiative but also in light of the two UN Security Council Resolutions 2178 and 2309 that were approved in 2014 and 2016 respectively. The two resolutions address notably the acute and growing threat posed by foreign terrorist fighters (FTF). The relevant parts of the resolution are: "Reaffirms that all States shall prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents…'' and "..calls upon all States to require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from their territories, or attempted entry into or transit through their territories, by means of civil aircraft, of individuals designated by the Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015);''

The UN Security Council has thus mandated States to request, in fact "require" as the resolution states, API from airlines (Graph 3) in order to match passenger data against the UN Security Council's travel ban lists for terrorists.

Graph 3: The API flow-process

Following the resolution 2178, the UN counter-terrorism bodies also included a non-binding recommendation on the use PNR, namely encouraging airlines to provide, where requested, to the appropriate national authorities. Since most FTFs use legitimate travel documents, the use of PNR

could allow States to better understand travel patterns of terrorist fighters, and to share practices in evidence-based traveller risk assessment and border screening. Then the United Nations Security Council adopted Resolution 2396 in 2017, by which States are now called to request the transmission and use of PNR data in furtherance of ICAO Standards.

Clearly United Nations Security Council resolutions 2178 (2014), 2309 (2016) and 2396 (2017) have increased the political and legal impetus for States and airlines to implement passenger data exchange programs, while it is noteworthy that under Annex9 – *Facilitation*, API/PNR aim to provide target milestones for the implementation by States of the ICAO TRIP Strategy.

The ICAO TRIP roadmap is primarily based on the global analysis of the Universal Security Audit Programme Continuous Monitoring Approach (USAP-CMA) results for Annex 9 security-related Standards. In implementing the TRIP roadmap, Member States will first need to continue focussing on implementing the TRIP-related Standards in Annex 9 and the associated technical specifications for machine-readable travel documents contained in Doc 9303. The Secretariat has identified 48 SARPs in the fourteenth edition of Annex 9 that relate to the elements of the TRIP Strategy. These are listed in the ICAO TRIP roadmap which can be found at: https://www.icao.int/Security/FAL/TRIP/Pages/Publications.aspx.

At the national level, implementation of the roadmap will require coordinated action between many government and industry entities, such as passport issuing offices, aviation security authorities, civil registries, border control and law enforcement agencies, airlines, airport authorities, the travel document industry, immigration authorities and other interested parties. The mechanism and requirement for such coordination on matters relating to facilitation already exist in Annex 9 through notably national air transport facilitation programmes and their related committees .

4. Bibliography

Information générale (en anglais) sur la Facilitation (https://www.icao.int/Security/FAL/Pages/default.aspx)API (https://www.icao.int/Security/FAL/TRIP/Documents/ICAO%20API%20Brochure_2018_web.pdf)

PNR (https://www.icao.int/Security/FAL/TRIP/Documents/Publication%202.pdf)

UN Security Council Resolution 2178 (2014) (http://unscr.com/en/resolutions/doc/2178)

UN Security Council Resolution 2396 (2017) (http://unscr.com/en/resolutions/doc/2396)

UN Security Council Resolution 2482 (2019) (http://unscr.com/en/resolutions/doc/2482)

Website of the Office of Counter Terrorism (OCT) Countering terrorist Travel Programme (https://www.un.org/cttravel/)