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API/PNR:
Regulatory Framework and Practical Applications

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Presentation Structure

- API/PNR Defined
- Rethinking Border Controls: Yesterday and Today
- API/PNR in some detail
- PNR: Issues and privacy concerns
- References
- Conclusions

<u>Defining API and PNR</u>

- **API** - Advance Passenger Information – generated to during the check in --flight "open" for check-in (48hrs)

- **PNR** - Passenger Name Record – generated during the booking or buying an air ticket – by Pax or agent months/weeks before flight

Defining API and PNR contd.

Similarities	Differences
•Both are in the form of electronic data, shared via secure communications •Both use UN/EDIFACT based on PAXLST format (less so PNR) •Both contain data in MRTD MRZ/VIZ •ICAO plays a major regulatory role for both •Both provide raw intel for intel-driven border controls and law enforcement •Both initiated by the US (compulsory after 9/11) •Both concluded on a (usually) bilateral agreement basis re: privacy/civil liberties safeguards	•API generated during check-in; •PNR generated when the booking/ticket purchase was made •PNR includes much more data (incl. most of API) •PNR originated as airline management tool – but extended to competent govt agencies, primarily to prevent and combat terrorism and trans-border crime; BUT ---- API – requirement imposed by govts •PNR – raises significantly more privacy/civil liberties issues •API is less intrusive, justification easier; while -- PNR used mainly for preventing and combating terrorism and serious transnational crime •API well established, PNR more limited – but both growing

Rethinking Border Controls: a Critical View

Traditional View	Today's Reality

Case Study: Erik's travel to Rio

- Brazilian Visa and US ESTA application: border control process started
- Ticket bought: PNR generated (and sent)
- Check in at Montreal airport: API generated (and sent)
- Frequent Flyer Number updated in Miami: PNR updated
- Arrival in Rio: imm and customs clearance
- Ongoing monitoring: Brazilian border control/law enforcement agencies have my address in Rio

Suggested Conclusions and Thoughts

- EXPANDED SPACE: The Border that is being controlled is not a narrow line – the "border control" covers the whole Montreal-Rio distance
- EXPANDED TIME: "Crossing the border" is no longer a short affair – it covers periods over months from first steps towards the trip to the return to Montreal
- "Etherised" or expanded borders – and their control
- Pushing borders away from the physical borders
- Pre-emptive approach
- Increasing merge of "border controls" and homeland security and law enforcement
- Physical inspection of the traveller and travel document has become only a small part of border controls
- The rest of the border control process – relies on secure electronic data (chiefly API/PNR)

<u>WHY</u> do States want the API/PNR data?

► enhance security (generally) & aviation security (in particular)

► identify POIs – in advance

► coping with the growth of air transport

► main focus on terrorism or transnational crime concerns – but not only

► risk management approach and threat assessment value from the analysis of data

► more effective allocation of border control and law enforcement resources

► taking advantage of closer inter-agency and cross-border intel sharing

Elements of API [PNR] Data

- 106 (approx.) elements of data in API & PNR combined [Nearly all API in PNR]

▶102 / 106 →PNR

▶ 38 / 106 →API

Elements of **MRTD Data** in API/PNR

10 data elements from primary MRTD (e.g. MRP):

1. SURNAME	2. GIVEN NAME(S)
3. GENDER	4. DATE OF BIRTH
5. PLACE OF BIRTH	6. NATIONALITY
7. TYPE OF TRAVEL DOCUMENT	8. TRAVEL DOCUMENT NUMBER
9. NAME OF ISSUING STATE/ORGN.	10. EXPIRATION DATE OF TD

Elements of MRTD Data

+ 3 if MRV is used

11. VISA NUMBER	12. DATE OF ISSUANCE	13. PLACE OF ISSUANCE

+ 2 if other secondary TD used

14. TYPE OF TRAVEL DOCUMENT (e.g. Canadian PRC)	15. NUMBER OF OTHER TD

[All 10-15 elements part of API]

Other PNR Data Elements

▶ Contact details (6)

▶ Pax/crew flight details (66+)

▶ Payment details (~4)

▶ Other information (~4)

▶ Data related to <u>aircraft</u> flight (9)

Elements of API [PNR] Data

- Not <u>all</u> information may be required by a State (esp. API)
- <u>Not all</u> data elements applicable to <u>all</u> passengers
- <u>PNR:</u> Not all elements with actual carrier

►►►(Potentially) Leads to non-uniformity

Regulatory Framework:API

- 1990: USA 1st to implement API
- Concern: Lack of international uniformity
- WCO+IATA: API "best practice" Guidelines (1993)
- 2003, 2010: ICAO endorsement
- Paxlst Message: Std. e-message for pax manifest transmissions

Regulatory Framework: API

- WCO, IATA, ICAO Guidelines 2010: Max set of API data in PaxIst (Not all required!)
- PaxIst→UN/EDIFACT
- PaxIst→Annex 9

API Reg. Framework: Annex 9

► **Std 3.47**: States shall adhere to int'l standards for transmission of API

► **Stds 3.47.1 + 3.47.2**: States shall: a) require only **MRTD** data elements; b) conform to Paxlst; c) ensure compliance with Paxlst or follow WCO's DMR process

► **Std 3.47.5**: States shall – to the greatest extent possible – to limit admin and operational burdens on aircraft operators

► **Std 3.47.7**: API-receiving States shall not require a passenger manifest in paper form

► **RPs 3.47.3, 3.47.4, 3.47.6**

Reg. Fr/work: 37th Assembly

- A37-20, App. D, Sec. III

  ►Pax data requirements conform with int'l UN stds

- A37-17, App. C

  ►Use of API to reduce risk to pax . . . protection of privacy

- A37: Declaration on AVSEC

  ►Use of API & PNR as an aid to security

Regulatory Framework: PNR

- 2004: 12th FAL Division
- Concern: Unilateral PNR data requirements
- Annex 9: RP 3.48: conforming PNR data and handling to ICAO Guidelines
- PNR Guidelines: Circ 309 (2006); Doc 9944 (2010)

Trends & the Future

- API, in force: approx 50 States
  - ▶ [Anticipated: 27 States]

- PNR, in force: 6 States
  - ▶ [Anticipated: 29 States]

Practical issues

- Security vs. privacy/civil liberties dilemma
- No problem on the high level
- BUT –
- Many issues – and a politicised debate - on the practical implementation issues
- Lets have a look at some PNR issues

PNR: practical considerations

- Purpose: combating terrorism, serious transnational crime – or other reasons?
- Non-sensitive vs. sensitive (medical, religious, political views etc.) data. Automated profiling.
- Intel Applications: 'real time' and 'pro active'
- Modalities of transmission: 'push' vs. 'pull'
- Data protection: sharing with other agencies and friendly States (raw and final intel)?
- Data protection: how long? Retention 5-15 yrs. After that - depersonalisation: ID elements 'masked out'
- Oversight and accountability – what redress, rectification and erasure remedies exist?
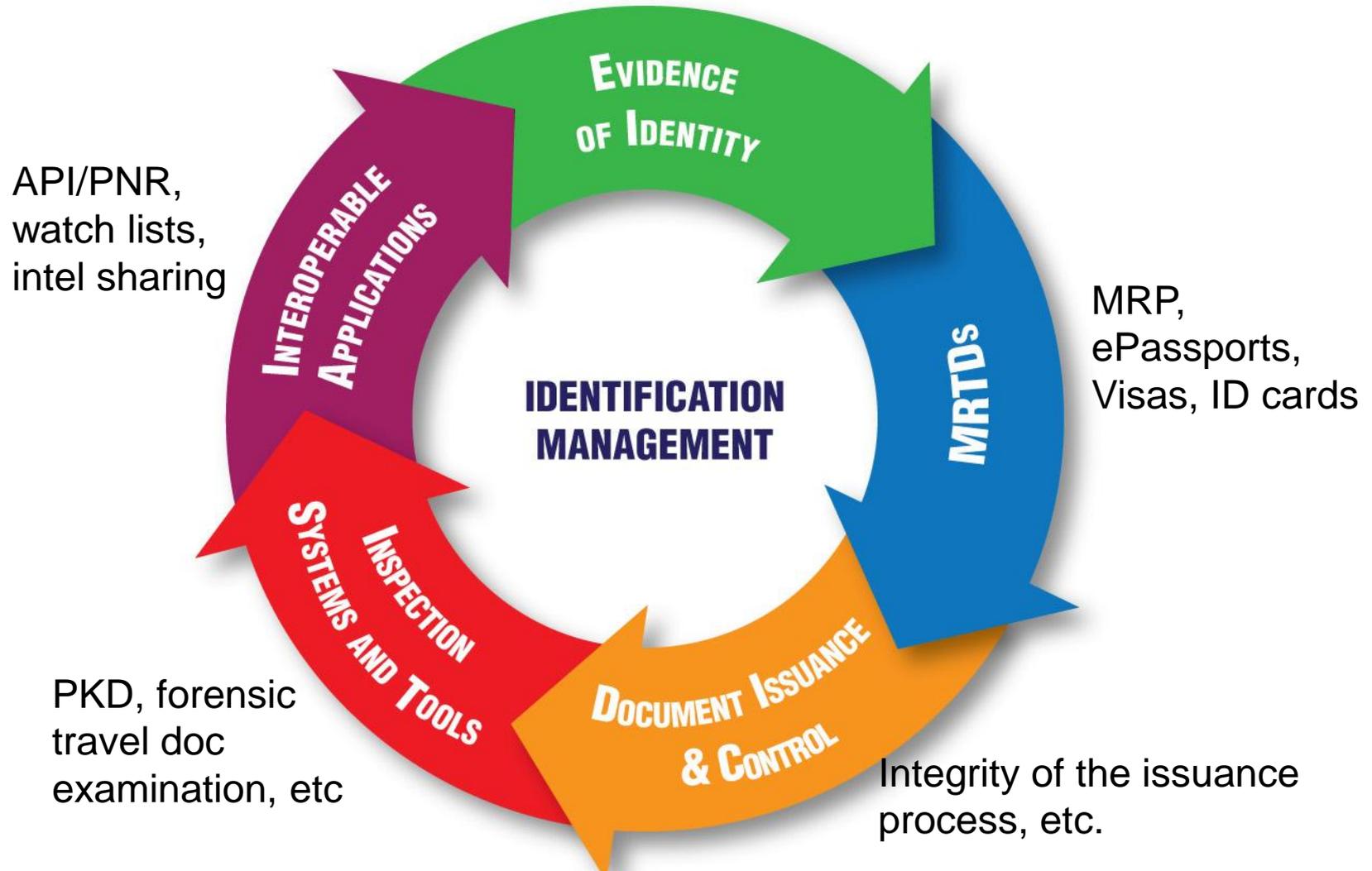
Sources of Reference

- Annex 9 — Facilitation (Annex 9 to the Chicago Convention)
- Doc 9957 — Facilitation Manual
- [WCO/IATA/ICAO Guidelines on Advance Passenger Information (API) 2010](http://www.icao.int/Security/FAL/Documents/2010%20API%20Guidelines%20Final%20Version.ICAO.2011%20full%20x2.pdf) (incl. PAXLST Guidelines) at http://www.icao.int/Security/FAL/Documents/2010%20API%20Guidelines%20Final%20Version.ICAO.2011%20full%20x2.pdf
- Doc 9944 — Guidelines on Passenger Name Record (PNR) Data
- ICAO 37th Assembly Resolutions
- Independent think-tank studies and reports on API/PNR (chiefly the privacy/civil liberties angle)

Conclusions

- Changing nature of border controls
- Drivers: globalisation, ease and affordability of travel, improving technology for secure cross-border data exchange, terrorism and crime concerns, scarce resources, etc
- Increasing merge of border control and homeland security agendas
- API/PNR – a powerful tool empowering intelligence-driven border controls
- Both security and facilitation benefits
- Closely integrated with ICAO MRTDs
- Privacy and civil liberty considerations
- Need for a more comprehensive approach globally – ICAO MRTD 2.0/Traveller Identification Programme?
- The bottom line – the needs and expectations of ICAO Member States

Meeting the Challenge: the TIP Vision

Breeder docs, civil registries, integrity of the issuance process, etc.

API/PNR, watch lists, intel sharing

MRP, ePassports, Visas, ID cards

PKD, forensic travel doc examination, etc

Integrity of the issuance process, etc.

EVIDENCE OF IDENTITY

INTEROPERABLE APPLICATIONS

MRTDs

IDENTIFICATION MANAGEMENT

INSPECTION SYSTEMS AND TOOLS

DOCUMENT ISSUANCE & CONTROL

COMMENTS? QUESTIONS? CRITIQUE?

THANK YOU!

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