

**ELEVENTH SYMPOSIUM AND EXHIBITION ON
MACHINE READABLE TRAVEL DOCUMENTS
ICAO TRIP: BUILDING TRUST IN TRAVEL DOCUMENT SECURITY
(ICAO Headquarters, Montréal, Canada, 14 to 16 October 2015)**

**Day 3 – Session 6 (10:45am-12:00pm)
ICAO INTEROPERABLE APPLICATIONS AND BORDER CONTROL**

*‘UN Security Council Resolution 2178 (2014) on Foreign Terrorist Fighters
and its Impact on API’*

Presenter: Nikolaus Schultz, Legal Officer, UN Counter Terrorism Committee Executive Directorate (CTED)

Good morning, it is a pleasure for me to be able to provide this presentation to you today on UN Security Council resolution 2178 (2014) and its impact on advance passenger information, or API.

My name is Nikolaus Schultz, and I am a Legal Officer with the United Nations Counter-Terrorism Committee Executive Directorate (CTED).

My presentation today will:

1. begin with an overview of resolution 2178;
2. I will then set out some specific requirements for Member States pursuant to resolution 2178; and
3. finally, I will take you through some recommendations to assist Member States in meeting the requirements of the resolution. These include:
 - a. the implementation of API systems;
 - b. CTED's ongoing role in identifying principal gaps in Member States' capacities, identifying good practices, and facilitating technical assistance to assist Member States in implementing resolution 2178, in particular API; and
 - c. technical measures to effectively control the issuance of, and reduce the fraudulent use of, identity papers and travel documents.

1. OVERVIEW OF 2178

Dear colleagues, in response to the growing concern of the terrorist threat to international peace and security, the United Nations Security Council adopted resolution 2178 (2014) on 24 September 2014. The resolution emphasises the increasing threat posed by foreign terrorist fighters, or foreign terrorist fighters, recruited by or joining the Islamic State in Iraq and the Levant (ISIL), the Al-Nusrah Front (ANF) and all groups, undertakings and entities associated with Al-Qaida. To date, we have estimates indicating that more than 25,000 individuals have travelled abroad from more than 100 Member States to join such groups.

As a general overview, the resolution requires Member States to take certain steps to address the foreign terrorist fighter threat, for example to:

- prevent suspected foreign terrorist fighters from leaving, entering into, or transiting through, their territories;
- implement legislation to prosecute foreign terrorist fighters; and
- undertake various steps to improve international cooperation in this field, such as by sharing information on criminal investigations, interdictions and prosecutions.

2. STATES' SPECIFIC REQUIREMENTS UNDER 2178

In setting out the specific requirements of Member States:

- Operative paragraph 9 of the resolution, enacted under Chapter VII of the UN Charter, calls on Member States to – and I quote – “require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from, or attempted entry into or transit through, their territories, by means of civil aircraft, of individuals designated by the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011)” concerning Al-Qaida and associated individuals and entities.
- Moreover, operative paragraph 2 of the resolution requires that Member States prevent the entry or transit of individuals believed to be traveling for terrorism-related purposes through:
 - 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

- employing evidence-based traveler risk assessments and screening procedures (including collection and analysis of travel data) for such purposes.
- Finally, operative paragraph 24 of the resolution specifically calls on CTED to identify principal gaps in Member States' capacities, identify good practices, and to facilitate technical assistance, especially in the most affected regions.

3. MEASURES IMPLEMENTED TO MEET THE REQUIREMENTS OF RESOLUTION 2178

a. Advance Passenger Information

The use of API systems, including the transmission of API data, can be an effective tool in interdicting the travel of foreign terrorist fighters, other terrorists and individuals engaged in transnational organized crime, especially when used in conjunction with databases of the International Criminal Police Organization (INTERPOL). It is for this reason that the UN Security Council, its Counter-Terrorism Committee, and us, CTED, are advocating for its use as stipulated by resolution 2178.

Two months after the adoption of resolution 2178, the Security Council issued a presidential statement on 19 November 2014 in which it, amongst other things, requested CTED to prepare an analysis of the gaps in the use of API by Member States and to make recommendations to expand its use. The report, which was prepared with input from ICAO and IATA colleagues and commonly referred to as 'the API report', was published on 26 May 2015 and I have made some copies available here in the room.

The API report revealed that only 51 Member States had API capability, despite its high potential to interdict foreign terrorist fighters and to enhance border and aviation security generally. When compared to the 78 States that have been identified by CTED as primarily affected by the foreign terrorist fighter phenomenon the numbers were even more worrying: only 22 of those countries had API capacity.

According to our research, key reasons for the low incidence of API use include:

- i) that API use only became a requirement with the adoption of resolution 2178 (2014);
- ii) that API systems are complex and therefore require a high degree of technical capacity and skill;
- iii) the systems are expensive to purchase, maintain, and operate; and

- iv) the collection and use of API may raise privacy and data-protection-related concerns by some.

It must be noted, however, that the information transmitted through API systems is essentially the information contained in the machine-readable zone of a passenger's passport, and primarily consists of a passenger's name and date of birth. Accordingly, the transmission of this information through API systems merely gives border-control agencies earlier access to passenger data that would otherwise be presented by the passenger to immigration for inspection at the time of passenger arrival.

Resolution 2178 has certainly created fresh momentum in addressing these challenges: We set out a list of recommendations in our API report, which were discussed and further developed at a special meeting convened by the CTC and CTED in Madrid at the end of July with over 400 participants from all over the world. Our outcomes from discussions with relevant participants at the Madrid meeting as well as the API report included the following recommendations:

1. That Member States:
 - which have not done so already, introduce adequate legal mechanisms, including legislative measures to ensure compliance by airline operators with international standards for API transmission;
 - consider implementing interactive API to vet and respond to passenger data in real time and prior to passengers having access to aircraft or secure airport areas;
 - consider implementing PNR to complement API in conducting risk assessments; and
 - consider providing funding and technical support to assist States seeking to implement an API programme.
2. That ICAO, IATA and WCO, in cooperation with CTED:
 - actively encourage Member States seeking to implement an API programme to comply with existing agreed standards and best practices;
 - develop a plan to review and modernise existing standards and processes that will enhance API programme efficiency and effectiveness;

Since publically releasing the API report, a few more Member States have implemented their API systems pursuant to efforts to promote API and its benefits, including one of them following a country visit by CTED in May of this year.

The requirement to implement API systems aligns with the holistic approach to identification management under ICAO's Traveller Identification Programme, or TRIP Strategy. Specifically, it falls under the TRIP Strategy's 'interoperable applications' element. In order to ensure greater implementation of API, as well as increase the effectiveness of data obtained from the use of API, CTED is currently working with Member States, and our partners, including the International Civil Aviation Organization (ICAO), the International Air Transport Association (IATA), the World Customs Organization (WCO) and the International Organization for Migration (IOM) to ensure a holistic approach to identification management and a coordinated effort to enhancing border security.

b. CTED's role in identifying principal gaps in Member States' capacities, identify good practices, and to facilitating technical assistance

One way of accomplishing this goal of expanding the use of API by Member States is CTED's mandate – under operative paragraph 24 of resolution 2178 –to identify principle gaps in Member States' capacities, identify good practices, and facilitate technical assistance. The Counter-Terrorism Committee adopted CTED's recommendation in the API report that the Committee should request CTED to facilitate the development of plans and projects aimed at assisting with the implementation of API systems in non-API countries that are foreign terrorist fighter priority countries. In developing these plans and projects, CTED is liaising with the Counter-Terrorism Implementation Task Force Office (CTITF), ICAO as well as with IATA, the WCO and IOM.

In taking steps to fulfil this goal, a series of five workshops globally are being planned for 2016/2017. The workshops are intended to:

- (i) increase awareness raising amongst Member States of API requirements and benefits;
- (ii) identify the specific needs of Member States in implementing API; and
- (iii) starting with in-depth assessments carried out for foreign terrorist fighters priority countries help facilitate technical assistance to Member States to role out API systems in cooperation with our partners within and outside of the UN and key donors.

c. Effectively controlling the issuance of, and reducing the fraudulent use of, identity papers and travel documents

In closing, I would like to note that, as you're well aware, API is only one element of a more comprehensive border management strategy. API alone cannot prevent the travel of foreign terrorist fighters, however, it is one of the most effective and easy to implement border security tools to make it more difficult for foreign terrorist fighters to travel freely across borders.

From a comprehensive perspective, the resolution also interacts nicely with elements of ICAO's TRIP Strategy. In terms of resolution 2178's requirement under operative paragraph 2 for Member States to ensure effective border controls and controls on the issuance of identity papers and travel documents, ICAO's initiatives under the TRIP's 'inspection systems and tools' element as well as the 'MRTD' element provide effective ways to enhance security in the areas of preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

Being able to provide appropriate authorities worldwide with the relevant tools to confirm the identity of travellers would assist Member States to not only facilitate the clearance of persons across international borders, but to also prevent the movement of persons such as terrorists, including foreign terrorist fighters, across borders, and enhance aviation security. In order for this to be successful, we need to work closer together and strengthen international partnerships through, amongst other things, actively implementing internationally accepted standards and practices.

Thank you for your attention, and I look forward to addressing any questions/comments you may have.