



FACILITATION (FAL) DIVISION — TWELFTH SESSION

Cairo, Egypt, 22 March to 2 April 2004

**DRAFT REPORT OF COMMITTEE 2
ON AGENDA ITEM 2.4**

The attached draft report on Agenda Item 2.4 is presented for approval by Committee 2 for submission to the Plenary.

Agenda Item 2: Facilitation and security of travel documents and border control formalities**2.4: Advance passenger information (API)**

2.4.1 In WP/15 the Secretariat noted that API systems, in the several States where they have been introduced, have been quite successful both as a measure to facilitate clearance of passengers and as a tool for enhancing the effectiveness of border inspection systems. The paper examined the related facilitation issues and sought to encourage Contracting States to review and update ICAO policy and doctrine. An Amendment to the current Recommended Practice 3.34 was proposed.

2.4.2 The Division considered the content of WP/16 where the Secretariat noted that profiling for risk assessment purposes was an issue related to minority rights and must not be ignored. The paper also examined the need to establish a diligent and energetic State instrumentality for the purpose of monitoring and ensuring that airport profiling does not discriminate and that a balanced system of compliance examination is in place.

2.4.3 In WP/38 Canada described Canada's experience in implementing its API program with the objective to identify high-risk travellers before they arrive at the border. The Division noted the information on Canada's API program and recommended to include it in ICAO guidance material as appropriate.

2.4.4 In WP/53 Saudi Arabia noted that security and operational advantages can be achieved by maintaining an API system to be implemented by both operators and airport government authorities. The paper suggested that ICAO develop guidelines to States on important controls and steps for maintaining an API system which the Division covered in its discussions under WP/15. With respect to including a reference to API system in bilateral air services agreements, the Division felt that it was up to the individual States to negotiate this matter bilaterally.

2.4.5 In WP/78 India outlined the developments in the evolution of the concept of API systems and explored the possibility to treat it as a replacement for the Passenger Manifest. A new Standard was proposed to replace Standard 2.12.

Recommendation A/XX —

Contracting States shall not request access to Passenger Name Records (PNR) to supplement data received in API systems until after guidelines have been developed by ICAO. Contracting States requiring PNR access shall conform their data requirements and their handling of such data to ICAO guidelines.

2.4.6 In WP/60 IATA presented additional information concerning developments in API systems and provided a statement of principles developed by the IATA/Control Authorities Working Group. A B-type recommendation was proposed to recommend further work by ICAO in collaboration with the WCO and IATA on API program standards and recommended practices. This recommendation was similar to that proposed in the Secretariat paper (WP/15). The Division agreed to include as appropriate, the Appendix to WP/60 on the IATA/CAWG statement of principles for API systems as guidance material.

2.4.7 In its deliberations the Division considered that the requirements of several States, for passenger identification details to be supplied by the operators, usually exceeded the data elements represented in the machine readable zone of the passport. However, the consensus was that States requiring additional data should seek ways to obtain these from official sources such as visa data bases. In the end the Division adopted the Secretariat's proposed text, as presented below.

Recommendation A/XX —

Amend the Recommended Practice 3.34 and **insert** a new Standard to read as follows:

3.34 Recommended Practice.— *Where appropriate, Contracting States should introduce a system of advance passenger information which involves the capture of certain passport or visa details prior to departure, the transmission of the details by electronic means to their public authorities, and the analysis of such data for risk management purposes prior to arrival in order to expedite clearance. To minimize handling time during check-in, document reading devices should be used to capture the information in machine readable travel documents. ~~When specifying the identifying information on passengers to be transmitted, Contracting States should only require information that is found in the machine readable zones of passports and visas that comply with the specifications contained in Doc 9303 (series), Machine Readable Travel Documents. All information required should conform to specifications for UN/EDIFACT PAXLST message formats.~~*

3.34.1 When specifying the identifying information on passengers to be transmitted, Contracting States shall require only data elements that are available in machine readable form in travel documents conforming to the specifications contained in Doc 9303 (series), *Machine Readable Travel Documents*. All information required shall conform to specifications for UN/EDIFACT PAXLST messages.

2.4.8 The Division also considered and agreed generally with a proposal that operators not be subjected to penalties in connection with their API transmissions. It was further agreed that States adopting API systems should no longer require the passenger manifest in paper form, and the spirit of the proposal by India was adopted in the form of a new Standard that could appropriately be included in Chapter 3.

Recommendation A/XX

Adopt the following new Recommended Practice and Standard.

3.34.2 Recommended Practice. — *Contracting States should refrain from imposing fines and penalties on operators for any errors which may have been made in the transmission of data to the public authorities in accordance with API systems.*

3.34.3 Contracting States requiring that passenger data be transmitted electronically through an Advance Passenger Information system shall not also require a passenger manifest in paper form.

2.4.9 Finally, the Division urged ICAO to develop guidance material for API systems and agreed to adopt the following B-type recommendation.

[text of B-type recommendation in WP/15, modified by the words “and procedures” after “data requirements”]

Recommendation B/XX —

It is recommended that.

Contracting States planning new or enhanced API systems are urged to harmonize their data requirements **and procedures** within the framework of standard data sets established jointly by ICAO, WCO and IATA, in the interests of global interoperability.

2.4.10 The issue of Passenger Name Record (PNR) access by States, as a means of obtaining information to supplement that received through an API system, was considered by the Division separately from Advance Passenger Information. In this regard, WP/22 presented by Switzerland, WP/74 presented by IATA, and WP/75 presented by the European Union, expressed concerns about the unilateral approaches of the several States now requiring PNR access and urged that a harmonized set of principles and procedures be developed under the auspices of ICAO.

2.4.11 Concerns were expressed by several delegations that PNR access by States might not be an appropriate matter for ICAO to address, in view of the privacy issues inherent in such a procedure and in the handling of the data obtained thereby. They wished it to be made clear, that most countries do not request PNR access now and do not intend to head in that direction. However, since most States and their operators are actually confronted with the requirement, a pragmatic approach would be to place the process into an internationally agreed framework and to have ICAO take charge of it. Such a framework should include requirements that each State have an industry-government consultative process, that there be a procedure for notifying ICAO when a State institutes a PNR access requirement, and that costs to the industry be taken into account.

2.4.12 Accordingly, the Division adopted the recommendation of Switzerland, modified by a suggestion by Nigeria, to adopt a new Standard, as follows.

Recommendation A/XX —

Adopt the following new Standard in Chapter 3.

3.--.-- Contracting States shall not request access to Passenger Name Records (PNR) to supplement data received through API systems, until after guidelines have been developed by ICAO. Contracting States requesting PNR access shall conform their data requirements and their handling of such data to ICAO guidelines.

2.4.13 In addition the following B-type recommendation was adopted.

[See para 4.1 of WP/22. Amend last line to read “...transferred **between** from the operator **and** to the receiving State.”]

Recommendation B/ —

It is recommended that ICAO develop guidance material for those States that may require access to Passenger Name Record (PNR) data

to supplement identification data received through an API system, including guidelines for distribution, use and storage of data and a composite list of data elements which may be transferred from between the operator to and the receiving State.

2.4.14 The Division felt that more work was required on PNR data transfers and suggested that ICAO should consider referring these matters to a study group who would report to the FAL Panel and the Council on its findings and recommendations.

2.4.15 The Division noted IP/32 submitted by the United States on its API system.

— END —