INTERNATIONAL CIVIL AVIATION ORGANIZATION

SECOND AFRICA-INDIAN OCEAN (AFI) AVIATION SECURITY AND FACILITATION SYMPOSIUM

(Wednesday, 24 May 2017, Gaborone, Botswana)

Session 3: Implementation of API: UN Security Council Resolution 2178 and 2309

(Presented by AFI SECFAL Plan Secretariat)

EXECUTIVE SUMMARY
This paper presents for information, the key observations made during the United Nations Centre for Counter-Terrorism Regional Workshop on Raising Awareness and Building Capacity on Advance Passenger Information held 31 January-2 February 2017 in Nairobi, Kenya.

KEY OBSERVATIONS

1.   Security Council resolutions 2178 (2014) and 2309 (2016) call upon all Member States to require that airlines transmit advance passenger information (API) to appropriate national authorities. In anticipation of API becoming a binding international standard of the International Civil Aviation Organisation (ICAO), Member States are strongly encouraged to comply with the requirements of the resolution and to begin implementing API without delay, especially in view of the lead time required and the related financial and human resources implications.

2.   Member States are encouraged to review their legal frameworks in order to establish a sound legal basis for the introduction of API that draws the attention of all Government agencies involved in passenger processing to the ISIL/Al-Qaida travel ban and to the requirement, set forth in paragraphs 8 and 9 of resolution 2178 (2014), to receive and process API electronically (or in any manner specified by the Member State). In the absence of a sound legal basis, airlines cannot release sensitive passenger data.

3.   A major benefit of API is its ability to "reduce the size of the haystack in order to more easily find the needle" while also facilitating passenger processing. However, data transmitted through API is only one component of an effective evidence-based traveller risk-assessment and screening system. If API data is not systematically checked against national and international watch lists, UN sanctions lists, and relevant INTERPOL databases, its usefulness as a tool for identifying terrorists and foreign terrorist fighters (FTFs) is severely compromised.

4.   The WCO/IATA/ICAO API Guidelines encourage the use of API data in screening against Security Council sanctions lists and travel bans, and note that carriers can use API to comply with the relevant legislation of the States to which they fly. Member States developing API systems should bear in mind that there are currently 13 Security Council sanctions lists and that, if they intend to use API to implement the travel bans and other related measures, it would be cost effective to include this requirement in their API plan from the outset.

5.   As required by paragraph 9 of resolution 2178 (2014) Member States should systematically report (attempted) FTF travel to the ISIL (Da'esh) and Al-Qaida Sanctions Committee, share the information with the individual's State of residence or nationality, and consider sharing the same information with the Counter-Terrorism Committee, through its Executive Directorate, and with INTERPOL, where appropriate, in order to generate a global empirical data set. Member States should also increase their use of INTERPOL nominal databases in order to reduce gaps between the estimated number of known FTFs and the around 9,000 recorded by INTERPOL.

6.   It is essential that Member States ensure interoperability between their national API systems and INTERPOL systems.

7.   When implementing a national API system, Governments should collaborate closely with all concerned stakeholders, including the airline industry, airports, and INTERPOL National Central Bureaus (NCBs).

8.   Member States are encouraged to establish a "single window" to receive API from airlines in the form of a single data set. This would ensure that information is not transmitted to different agencies within a Member State in different formats, and thereby reduce the risk of miscommunication, the cost of compliance, and the impact on the airline industry. It would also facilitate the screening process in Member States experiencing challenges in ensuring remote access to API data by different agencies.

9.   Member States are encouraged, wherever feasible, to introduce iAPI systems, which enable Member States to identify suspected FTFs before they board a flight and thus prevent them from travelling across borders in accordance with resolution 2178 (2014) and also enhance aviation security as per resolution 2309 (2016).

10.   The legal requirements for developing and implementing a national API system (as set forth in Annex 9 to the Chicago Convention (standards 3.48 to 3.48.11)), which emphasise the need to adhere to internationally recognised standards for the transmission of API, require only data elements that are available in machine-readable travel documents. The transmission requirements should conform to the PAXLST message structure and ensure that

only data elements found in the PAXLST message are included in national API programme requirements, unless deviations are formally requested. Those requirements ensure global consistency in the transmission of API and minimise the impact on the airline industry.

11.   It is important to put in place clear Standard Operating Procedures that define roles and responsibilities, best practices for data searches and API analysis, and administrative and operational steps to be taken where a positive hit occurs. This will ensure the most effective and efficient use of API.

12.   API support centres play an important role in facilitating the use of API to identify potential FTFs. Member States should consider establishing a support centre that allows airlines and agencies to assist with API queries and issues by bringing together experts who can make decisions based on access to all information within the support centre.

13.   The collection, transmission and receiving of API data for its primary purpose does not give rise to significant right-to-privacy and data-protection concerns, since the data includes the information found in the machine-readable zone of the passport of the airline passenger, as well as basic flight details. However, Member States should take data-protection considerations into account when, for example, using and/or retaining passenger data for purposes other than border control and when sharing data with other States.

14.   Member States should address potential conflicts of law that may arise if the flight's State of destination requires API but the State of origin's laws on right to privacy and data protection restrict the collection and transmission of API.

15.   Member States should also provide safeguards and mechanisms for airline passenger redress, in particular in the event of a "false positive" match, when assessing and screening airline passengers against UN, regional and national sanctions and watch lists, and INTERPOL databases. Member States should also make sure that they operate powerful name matching software.

16.   In order to effectively use API, bilateral, regional and international border cooperation and information-sharing is paramount.

17.   Member States require a minimum standard of technical equipment before an API system can be implemented. As such, Member States may require funding and/or technical assistance in implementing a national API system. The delivery of technical assistance and fund raising could be facilitated by the API project partners, upon request.

18.   API is one effective tool that can be used as part of a more comprehensive border management strategy. As such, Member States will benefit from a holistic approach to border security and management (BSM), and further assistance to Member States in the region could be considered under, inter alia, the Counter-Terrorism Implementation Task Force's BSM project.