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# International Legal Framework for Passenger Data

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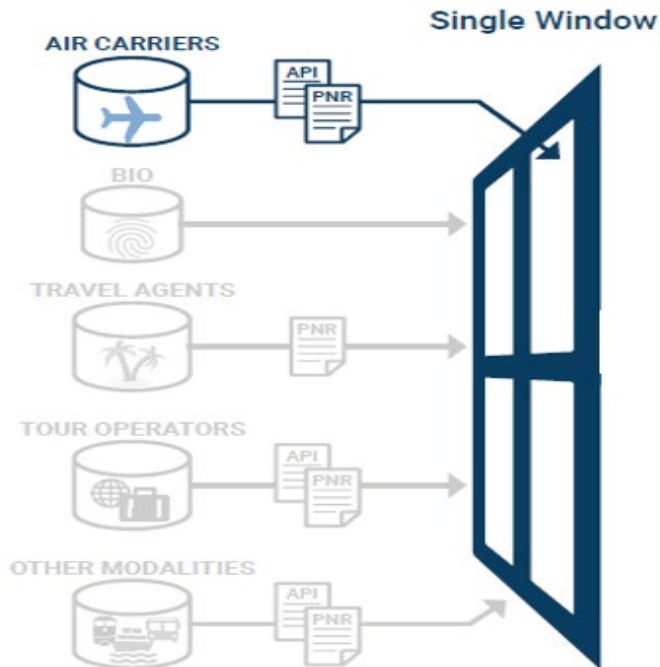
# International Legal Framework for Passenger Data?

## Overview of presentation

- Passenger Data Single Window
- Advance Passenger Information (API)
- Passenger Name Record (PNR) Data

# Single Window Options

## Annex 9 SARPs



→ Allows for separate processing of API & PNR

→ State must have established Single Window facility/facilities

→ **Standard 9.1\***

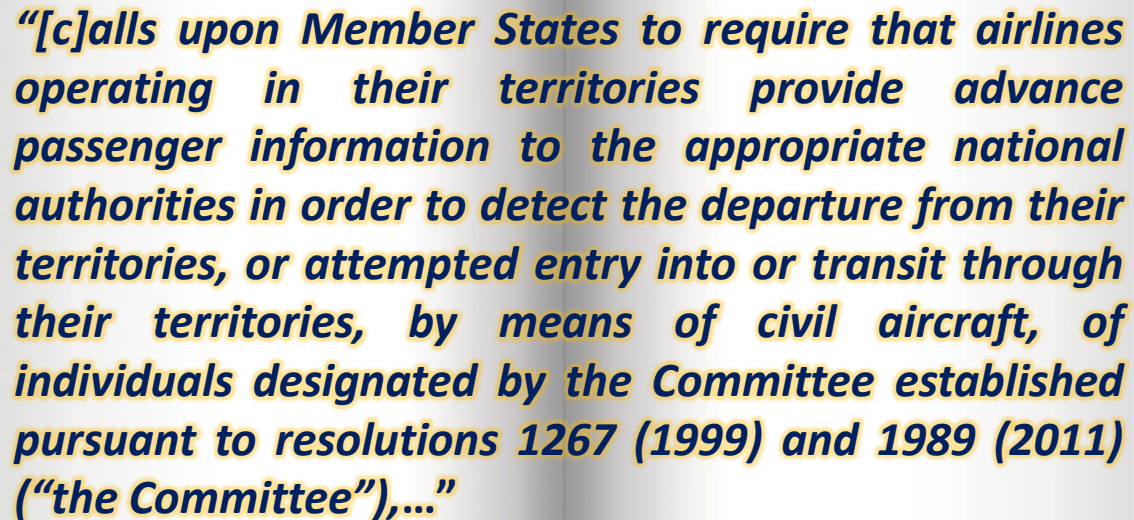
→ Joint processing of API & PNR in one Single Window facility encouraged

→ **RP 9.1**

## Advance Passenger Information is an obligation

**Standard 9.7\*** – Each Contracting State shall establish an API system

- UN Security Council Resolution 2178 (2014):



***“[c]alls upon Member 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 established pursuant to resolutions 1267 (1999) and 1989 (2011) (“the Committee”),...”***

# API Legal Basis and Standards

**Standard 9.8\*** – API must be supported by legal framework and be consistent with internationally recognized standards

- Internationally recognized standards are the “Guidelines on API” a trilateral document agreed upon by the World Customs Organization (WCO), International Air Transport Association (IATA) and ICAO.
- Joint agreement on API data set.
- PAXLST message format and content.

# Setting the API legal basis – developing the Passenger Data Single Window

## Recommended Practice 9.9

*Each Contracting State developing legislation for the purpose of implementing an API system should consider developing aligned regulations that meet the needs of all involved agencies, define a common set of API data elements required for that jurisdiction in accordance with message construction standards and appoint one government agency to receive API data on behalf of all other agencies.*

# API as a reliable source of biographic data

**Standard 9.10\*** – 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.
- all information required shall conform to specifications for UN/EDIFACT PAXLST messages found in the WCO/IATA/ICAO API Guidelines.



## Summary of other API SARPs

- Not penalise airlines for inconsistencies in regard to a second travel document, e.g. Dual nationals or Laissez-passer – **Std. 9.11**
- Should minimize number of times API data is transmitted for a flight – **RP 9.12**
- Shall limit the operational & administrative burdens – **Std. 9.13**
- should refrain from imposing fines and penalties on operators for errors caused by a systems failure – **RP. 9.14**
- not require a passenger manifest in paper form, if already requiring electronic transmission through an APIS – **Std. 9.15**
- Should consider introducing interactive API – **RP 9.16**

# What is Passenger Name Record (PNR) data?

```
*: * ELECTRONIC TICKET *** '  
F 1.1TEST/HEXAMRS '  
WW6ACWW 25JUL KBR4Z5 '  
1 AC 870 M TU 10SEP YULCDO  
FONE- '  
1.WW6-T HEXA '  
2.WW6-C 1 111 1231231/PAX '  
3.WW6-A TEST TRAVEL AGENCY AC  
N3 CA '  
4.WW6-E SHAILESHD//HEXAWARE.C  
TKT- '  
1.1 K25JULWW6WW 0142123729112  
AP FAX- '  
1.1 SSRDOCSYYHK1 //11MAR84
```

## PNR data – baseline obligation – **Standard 9.24\***

- States shall develop a capability to collect, use, process and protect PNR data.
- PNR programmes need to be:
  - supported by an appropriate legal and administrative framework, which shall be consistent with all ICAO Annex 9 standards for PNR
  - aligned with ICAO Doc 9944, PNR Guidelines and PNRGOV message implementation guidance materials
  - deploying PNRGOV message format

## PNR data – purpose limitation – **Standard 9.25\***

- Proper use of PNR data has long been a key point of discussion in aligning legal requirements regarding PNR data processing.
- Standard 9.25 is designed to limit the scope of PNR data use, needs to focus on border security purposes to fight terrorism and serious crime.
- This Standard emphasizes that processing and use of PNR data be done with full respect for human rights and fundamental freedoms.

## PNR data – purpose limitation – **Standard 9.25\***

- Clearly identify in their legal and administrative framework the PNR data to be included in their PNR processing.
- Does not mean that States are able to mandate the collection of certain PNR data elements by aircraft operators.
- Places a restriction on domestic and international data sharing and limits the disclosure to other entities, based on the criteria of comparable purpose and data protection.
- Receiving entity must use the data for similar purposes, as well as employ similar data protection measures as the disclosing authority.

## PNR data SARP – other important concepts

- Safeguards/redress mechanisms in place – **Standard 9.26\***
- Automated processing and criteria – **Standard 9.28\***
- Independent oversight – **Standard 9.29\***
- Data content, non-filtering and sensitive data – **Standard 9.30**
- Data retention set by national law – **Standard 9.31\***
- Recommended to retain data for 5 years – **RP 9.32**
- Depersonalize after periods set by national law – **Standard 9.31\***
- Recommended to depersonalize within 6 months and no later than 2 years after receipt – **RP 9.33**

## PNR data – operational considerations – **Standard 9.34**

- Data acquisition – as a rule using the “push” method, with PNRGOV message format for airline-to-government PNR data transferal. Push method protects personal data contained in operators' systems.
- Limit operational and administrative burdens on aircraft operators.
- Not impose fines/penalties for unavoidable errors caused by an outage.
- Minimize number of times same PNR data is sent for a specific flight.

## PNR data – Annex 9 as global framework – SARPs 9.35 – 9.39

- Ideally, Annex 9 is the mechanism through which States recognize each other's PNR programmes – or more specifically – recognize each other's PNR data protection measures.
- States shall comply with requests from other States about their level of compliance with ICAO PNR standards. (Standard 9.36)
- States shall not prevent PNR data transfer to a State, which has implemented ICAO PNR standards in Annex 9. (Standard 9.35)
- States retain the ability to introduce or maintain higher levels of PNR data protection than outlined by Annex 9 and sign additional arrangements that go beyond ICAO PNR standards. (Standard 9.35)





Thank You