(2) The Competent Authority shall, if any discrepancy is found in the API, immediately correct the data and update the information in APIS.

6. Vessel or aircraft arriving

(1) Nothing in section 3 applies to an aircraft or vessel which makes a technical stop or lands, berths, anchors, or otherwise arrives or stops at any port for non-traffic purposes if the arrival is –

   (a)   required by any statutory or other requirement relating to navigation;

   (b)   compelled by any emergency, accident, unfavourable weather conditions, or other necessity; or

   (c)   authorised by the Competent Authority.

(2) Where an aircraft or vessel arrives or stops for any of the reasons outlined in subsection (1) the captain or master shall –

   (a)   forthwith report to the Competent Authority;

   (b)   with the consent of the Competent Authority, permit any of the crew members or passengers to disembark from the aircraft or vessel; and

   (c)   comply with any directions given by the Competent Authority in respect of any crew, or passenger carried on the aircraft or vessel.

(3) Subject to any authorisation granted by the Competent Authority, no member of crew and no passenger on the aircraft or vessel, shall without the consent of that authority disembark from the aircraft or vessel, and all such persons shall comply with any directions given by the Competent Authority.

(4) A captain or master who fails to comply with or acts in contravention of this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.

(5) Notwithstanding subsection (4), the disembarkation of any member of crew or passenger from the aircraft or vessel shall not constitute an offence, if the disembarkation is necessary for reasons of health, safety or the preservation of life.

7. Powers and duties of the Competent Authority

(1) The Competent Authority shall –

   (a)   co-ordinate with IMPACS on all matters relating to the APIS;

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No. 3 of 2016

*[Published in the Official Gazette Vol. XXXVI No.36
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notwithstanding any other provision of this enactment, the captain or master may not be charged for the offence.

(5) In addition to any information provided pursuant to subsection (2) the Competent Authority may –

> *(a)*   question any captain or master, member of crew or passenger in relation to the aircraft or vessel, any member of crew or passenger, the voyage or flight; or

> *(b)*   request any person within the category of persons mentioned in paragraph *(a)* to forthwith produce any document within that person's possession or control in relation to the questions put to him.

(6) Any captain or master, member of crew or passenger who –

> *(a)*   refuses to answer or knowingly gives a false answer to any question put to him by the Competent Authority; or

> *(b)*   fails to comply with any requests under subsection 5*(b)*

commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for six months or to both such fine and imprisonment.

(7) The Minister may, in consultation with the Minister of National Security, waive the requirements of subsection (2) in such circumstances and subject to such conditions as the Minister may prescribe where the aircraft or vessel is –

> *(a)*   a military or law enforcement aircraft or vessel; or

> *(b)*   on official state business.

4. Timeframe

API data shall be submitted to the Competent Authority in accordance with the timelines set out in schedule II.

5. Powers of the Competent Authority to verify

(1) The API provided under section 3 (2) shall be verified by the Competent Authority during physical processing of any passenger or member of crew at any port of entry or exit by comparing the API information to the information contained in the travel document presented by the passenger or member of crew.

"private aircraft" means any aircraft which is not a commercial or state owned or leased aircraft.

"Stop for non-traffic purposes" shall carry the same meaning as "technical stop".

"technical stop" refers to the landing by an aircraft or vessel at any designated port in Antigua and Barbuda for the purpose of refuelling, conducting repairs, or for any emergency or similar purpose not including the taking on or discharging of passengers, baggage, cargo or mail;

"vessel" means any ship, boat, yacht, air cushion or other floating or submersible transportation, including amphibious vehicles, hydrofoil craft and hovercraft, by means of which persons and goods can travel across international borders;

"Watch List" means a list that is used to watch or track the activities or movements of criminals and persons who have been found guilty of any offence involving stolen and lost travel documents (SLTD), criminal deportees, suspected terrorists and other persons of interest to the intelligence community.

3. Duty to provide Advanced Passenger Information

(1) This section applies to an aircraft or vessel which –

    (a)   is expected to arrive in Antigua and Barbuda, or

    (b)   is expected to depart Antigua and Barbuda.

(2) The captain or master of every aircraft or vessel shall provide to the competent authority and IMPACS, the relevant API and data relating to the flight or voyage as set out in Schedule 1.

(3) A captain or master who –

    (a)   fails to provide the relevant API;

    (b)   intentionally or recklessly provides an erroneous, faulty, misleading, incomplete or false API; or

    (c)   transmits the API in an incorrect format commits

an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(4) Where the API provided is inaccurate and the captain or master of the aircraft or vessel satisfies the Competent Authority that the error was not made knowingly or recklessly, then

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ARRANGEMENT OF CLAUSES

CLAUSES

[L.S.]

I Assent,

Rodney Williams,
Governor-General.

7th June, 2016.

ANTIGUA AND BARBUDA

ADVANCED PASSENGER INFORMATION ACT, 2016

No. 3 of 2016

AN ACT to facilitate the provision of Advanced Passenger Information relating to passengers and members of crew of an aircraft or vessel and to share the information with other States with a view to identifying persons who may pose risks to security; and for matters connected therewith.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short title and Commencement

(1) This Act may be cited as The Advanced Passenger Information Act, 2016.

(2) This Act shall come into effect on a date appointed by the Minister by Notice published in the *Gazette*.

2. Interpretation

In this Act—

   "advanced passenger information (API)" means the information or data concerning a crew member, passenger or any other person travelling in an aircraft or vessel as set out in Schedule 1;

"Advanced Passenger Information System (APIS)" means the automated electronic data interchange of API; and the screening of API by the competent authority, IMPACS and JRCC against a Watch List for any API hit;

"aircraft" includes an aeroplane or a helicopter or other means of airborne navigation by means of which persons, goods or both can travel across international borders;

"API hit" means a name present on the Watch List;

"captain" means the pilot of an aircraft designated by the operator, or in the case of general aviation, the owner or pilot designated by the owner, as being in command and charged with the safe conduct of the flight;

"commercial aircraft" means an aircraft which engages in transporting passengers or goods for monetary gain;

"competent authority" means the Chief Immigration Officer or someone appointed by him;

"CONSLE" means the Council for Security and Law Enforcement in CARICOM

"crew" means –

   (i)   in relation to an aircraft, a licensed individual charged with performing duties essential to the operation of an aircraft during flight;

   (ii)   in relation to a vessel, any individual charged with performing duties essential to the operation of a vessel and the safety and well-being of its passengers.

"IMPACS" means the Implementing Agency for Crime and Security established under the 2006 Agreement establishing the CARICOM Implementing Agency for Crime and Security;

"INTERPOL" means the International Criminal Police Organisation

"JRCC" means the Joint Regional Communication Centre which is a sub-agency of IMPACS;

"Master" includes every person having command or charge of a vessel other than a pilot;

"Minister" means the Minister responsible for Immigration.

"**passenger**" means any person not being a bona fide member of the crew, travelling or seeking to travel on an aircraft or vessel;

SCHEDULE II

Section 4

Timeframe

1. In case of commercial aircraft, no later than 40 minutes prior to departure from the last port of call;

2. In the case of a private aircraft, no later than 40 minutes prior to departure from the last port of call;

3. In case of a vessel arriving from a destination outside of the regional space, no later than 24 hours prior to the arrival;

4. In case of a vessel arriving from a destination within the regional space, no later than 1 hour prior to the arrival of the vessel from the last port of call.

5. In the event of any changes to the aircraft or vessel header data or data relating to an individual on board, an updated API file is required prior to departure of the aircraft or vessel.

Passed the House of Representatives on the 30th March, 2016.

Passed the Senate on the 6th April, 2016.

Gerald Watt, Q.C.,
Speaker.

Alincia Williams-Grant,
President.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.

(b) if requested, allow the crew or passenger from an aircraft or vessel access to his personal identifiable information maintained in the APIS to ensure its correctness; but no member of crew or passenger shall have access to any information provided by IMPACS or JRCC through the screening of API by IMPACS and JRCC against a Watch List for any API hit;

(c) determine, after consultation with IMPACS, the admissibility or otherwise of any passenger or member of crew into Antigua and Barbuda;

(d) withhold clearance for the departure of an aircraft or vessel whose captain or master has not provided the API required pursuant to section 3; and

(e) assess the sufficiency of API information provided for each journey and review API transmissions to assess error rates.

(2) Notwithstanding sections 7*(a)* and 7*(c)*, any decision with respect to the admissibility or inadmissibility into Antigua and Barbuda of passengers or members of crew from an aircraft or vessel shall be made solely by the Competent Authority.

8. Use and sharing of API with regional and international security agencies

(1) IMPACS shall use the APIS to conduct screening against Watch Lists of members of crew and passengers on aircraft and vessels that enter into, depart from and travel within the regional space in order to provide information to assist participating countries.

(2) IMPACS may share the information contained within APIS with INTERPOL and any other national, regional or international intelligence, law enforcement or security agencies or centres approved by CONSLE in order to further national, regional or international security.

(3) API shall only be used for the purposes mentioned in this Act.

9. Retention of API

(1) The API collected under this Act for entry screening purposes shall be retained for a period not exceeding three years from the date of travel of the crew or the passenger.

(2) Nothing contained in subsection (1) shall apply to the data copied from the APIS into any other security database system to which a different data retention schedule applies.

10. Regulations

(1) The Minister may make regulations to give effect to the principles and provisions of this Act.

(2) The Minister may make regulations in regard to procedures for the gathering of information and for the collaboration and sharing of information with the agencies mentioned in this Act.

11. Amendment of the Schedules

(1) The Minister may by Order published in the *Gazette* amend Schedule I or II in consultation with CONSLE with respect to API.

(2) Any Order made under subsection (1) shall be subject to Affirmative Resolution of the House.

- City
- State/Province/County

- Postal Code

(d) **Date relating to the Reporting Party**

- Reporting Party Name

- Reporting Party Telephone Number

- Reporting Party Facsimile Number

- Reporting Party Electronic Mail Address

(15) Code share information

(16) All baggage information

(17) Number and other names of travellers on PNR

(18) Any Advance Passenger Information (API) data collected

(19) All historical changes to the PNR listed in numbers 1 to 18

(c) **Additional Data Elements**

- **Visa Number** (if applicable)

- **Issue Date of Visa**
  (Place where Visa issued)

- **Place of Issuance of the Visa**
  (Place where Visa was issued)

- **Other Document Number used for Travel** (if applicable)
  (The other document number used for travel when the official travel document is not required)

- **Type of Other Document used for Travel**
  (Indicator to identify type of other document used for travel)

- **Primary Residence**
  - Country of Primary Residence
    (Country where Passenger resides most of the year)

  - Address
    (location identification such as: street name and number)

  - City

  - State/Province/County

  - Postal Code

- **Destination Address**

  - Address where Passenger will be staying in territory of Disembarkation

SCHEDULE 1

Section 3(2)

ADVANCED PASSENGER INFORMATION

(a) **Data relating to the flight or voyage (Header Data):**

- **Flight Identification**
  (IATA Airline code and flight number)

- **Vessel Identification**
  (Vessel name and voyage number)

- **Country of Registration**
  (Country where vessel is registered)

- **Agent/Owner** *(where applicable)*
  (Name of Agent for the vessel or where no Agent, Name of Owner)

- **Call Sign (If applicable**)

- **Schedule Departure Date**
  (Date of Scheduled departure of vessel based on local time of departure location)

- **Scheduled Departure Time**
  (Time of scheduled departure of vessel based on local time of arrival location)

- **Scheduled Arrival Date**
  (Date of scheduled arrival of vessel based on local time of arrival location

- **Scheduled Arrival Time**
  (Time of scheduled arrival of vessel based on local time of arrival location

- **Last Place/Port of Call of Vessel or Aircraft**
  (Vessel departed from this last foreign place/port of call to go to "place/port of vessel initial arrival")

- **Place/Port of Vessel or Aircraft Initial Arrival**
  (Place or Port in the country of destination where the vessel arrives from the "last place or Port of call of vessel or aircraft)

- **Subsequent Place/Port of Call within the country/regional space**

- **Number of Passengers on board**
(total number of Passengers on Board)

- **Number of crew on board**

(b) <u>Data relating to each individual on board:</u>

- **Official Travel Document Number**
(Passport or other Government approved travel document)

- **Issuing State or Organization of the Official Travel Document**
(Name State or Organization responsible for the issuance of the official document)

- **Official Travel Document Type**
(Indicator to identify type of official travel document)

- **Expiration Date of Official Travel Document**
(Expiration date of the official travel document)

- **Surname/Given Name(s)**
(Family name and given name(s) of the holder as it appears on the travel document)

- **Nationality**
(Nationality of the holder of the travel document)

- **Date of Birth**
(Date of birth of the holder)

- **Gender**
(Gender of the holder)

- **Place of Birth**
(Please give City and Country of birth)

- **Traveller's Status**
(Passenger, crew, in-transit)

- **Place/Port of Original Embarkation**
(Place/Port on that journey where traveller first boarded for foreign travel)

- **Port/Place of Clearance**

(Place/Port where the traveller is cleared by the border control agencies)

- **Place/Port of Onward Foreign Destination**
(Foreign place/port where the traveller is transiting)

- **Passenger Name Record (PNR) Data**

(As available in the traveller's Passenger Name Record in the carrier's Reservation System including all historical changes to the PNR listed) Must include:

(1) PNR record locator

(2) Date of reservation/issue of ticket

(3) Date(s) of intended travel

(4) Name(s)

(5) Address and contact information (telephone number, e-mail address)

(6) All forms of payment information, including billing address

(7) Complete travel itinerary for specific PNR

(8) Frequent flyer information

(9) Travel agency/Travel agent

(10) Travel status of passenger, including confirmations, check-in status, no show or go show information

(11) Split/divided PNR information

(12) General remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent)

(13) Ticketing field information, including ticket number, date of ticket issuance and one way tickets, Automated Ticket Fare Quote fields

(14) Seat number and other seat information