



First Meeting of Directors General of civil aviation

(Abuja, 19-21 March 2002)

Agenda Item 6 : Legal Matters

Ratification of International Air Law Instruments by African States

(Presented by the Secretariat)

Summary

This working paper informs the DGCAs Meeting about the actions so far carried out by ICAO and AFCAC in order to encourage African States concerned to ratify international air law instruments.

1 Introduction

1.1 In his State Letter LE 3/36-99/9 dated 29 January 1999, the Secretary General of ICAO upon the directive of the ICAO Council drew particular attention of Governments of Contracting States by requesting them to implement as necessary the Assembly Resolutions A31-15, A24-3, A28-2, A31-29 and A32-3, in which Contracting States have been urged to ratify as soon as possible, inter alia, the amendments to the Convention on International Civil Aviation not yet in force and other international air law instruments.

1.2 With regard to the African region, a significant number of African States have not ratified various international air law instruments. Particular concern is focused on the low level of ratification of the Protocol amending Article 50(a) of the Convention on International Civil Aviation on the composition and election of Council signed at Montreal on 26 October 1990 and the Protocol amending Article 56 of the Convention on International Civil Aviation on nomination and appointment of Air Navigation Commission members signed at Montreal on 6 October 1989 given that these amendments were initiated by African States during the twenty-seventh session of the ICAO Assembly.

2 Action taken

2.1 Ratification packages prepared by ICAO to assist States in ratifying international air law instruments were forwarded to all AFCAC Member States by the AFCAC Secretariat under the covering letter EC 12/3.39-395 dated 18 December 1997 and were made up of:

- A status list regarding ratification of international air law instruments
- Copies of the Conventions and Protocols which have not yet been ratified by the State

- Administrative packages for ratification; and
- Sample instruments of ratification.

2.2 Beforehand, the AFCAC Secretariat sent a letter LE 3/5-339 dated 22 October 1997 to Ministers responsible for Civil Aviation in which it was mentioned that some of the instruments were of paramount importance to the development of the African Civil Aviation and by ratifying them, African States would enhance safety, security and regularity of the air transport and achieve integration of the continent.

2.3 By letters LE 3/5-52 and EC 12/3.32-255 dated respectively 11 March 1997 and 25 July 2000, the AFCAC Secretariat urged its member States concerned to ratify the Protocols amending Articles 50 a) and 56 of the Convention on International Civil Aviation. Furthermore, by letter EC 12/3.39-246 dated 12 July 2000, the AFCAC Secretariat reminded these States of its letter EC 12/3.32-193 dated 11 August 1999 by which it urged them to ratify the Convention for Unification of Certain Rules for International Carriage by Air done at Montreal on 28 May 1999.

2.4 Finally, given that the ratification of the air law instruments was overdue and in view of the 33rd ICAO Assembly, the AFCAC Bureau thought it relevant for the AFCAC Secretariat to collaborate with ICAO in order to provide States once again with necessary tools which would enable them to take concrete measures and accelerate the ratification of international air law instruments considered of high priority before the convening of the aforementioned ICAO Assembly. In this regard, certain international air law instruments of utmost importance were selected and sent by AFCAC Letter EC 12/3.39-351 dated 23 October 2000 to all AFCAC member States concerned for ratification before the convening of the 33rd ICAO Assembly. These selected instruments were as follows:

- Protocol relating to an amendment to the Convention on International Civil Aviation [Article 56], signed at Montreal on 6 October 1989-Doc 9544
- Protocol relating to an Amendment to the Convention on International Civil Aviation [Article 50 (a)], signed at Montreal on 26 October 1990-Doc 9561
- Protocol relating to an amendment to the Convention on International Civil Aviation [Article 83 bis], signed at Montreal on 6 October 1980-Doc 9318
- Protocol relating to an amendment to the Convention on International Civil Aviation [Article 3 bis], signed at Montreal on 10 May 1984-Doc 9436
- Convention for Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999-Doc 9740

3. New International Convention

3.1 An International Treaty on financing and leasing of aircraft was adopted on 16 November 2001 at the conclusion of a Diplomatic Conference held under the auspices of the International Civil Aviation Organization and the International Institute for the Unification of Private Law (Unidroit). The new legal instrument sets rules to facilitate asset-based financing. Given that this legal instrument offers important advantages to governments, airlines and the other parties involved in aircraft financing and leasing, ICAO believes that it came at the nick of time when airlines are struggling to reduce costs and are increasingly being privatized, thereby becoming more dependent on the availability and level of external financing for their development and growth. In this connexion, African States are urged to ratify this legal

instrument as early as possible to enable them to take full advantage given that most of them are experiencing difficulties to secure external financing for their development.

4. Suggested action

4.1 In this regard, it is observed that more involvement of national experts is needed in order to sensitize their respective authorities concerned. Therefore, it is suggested that these experts take specific action in explaining to their authorities the value and benefits of ratification of International Law Instruments with a view to ensuring their early ratification. The status of ratification of international air law instruments by Western and Central African States is attached to this working paper as Attachment A.

4.2 In addition, African States which are not yet Member of AFCAC are invited to expedite action aimed at signing the Revised AFCAC Constitution taking due consideration that AFCAC is the only African Agency entrusted by OAU to defend at International fora African interests in the field of Civil Aviation.

5. Action by the Meeting

The Meeting is invited to:

- a) Note the information provided in paragraphs 1, 2 and 3 above;
- b) Discuss and conclude on action suggested in the paragraph 4.
