



WORKING PAPER

ASSEMBLY — 37TH SESSION

ECONOMIC COMMISSION

Agenda Item 49: Liberalization of international air transport services

**LIBERALIZATION OF INTERNATIONAL AIR TRANSPORT SERVICES —
THE AFRICAN POSITION**

(Presented by 53 Contracting States¹, Members of the African Civil Aviation Commission)

EXECUTIVE SUMMARY

This paper presents the efforts and achievements being made by African States on Liberalization of Air transport Services in Africa and the African Position on Liberalization World Wide.

Action: The Assembly is invited to:

- a) note the information contained in this working paper, including the progress made by African States in their efforts at liberalisation and Integration;
- b) support ICAO's efforts and recognize ICAO as the only Final determinant on liberalization of International Air Transport Services;
- c) direct the Council to assist African States in the implementation of Yamoussoukro Decision, as appropriate; and
- d) direct the Council to develop guidelines and framework on Liberalisation for worldwide uniformity and applicability.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective D — Efficiency — Enhance the efficiency of aviation operations.
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<i>Financial implications:</i>	Resources would be needed to undertake this task.
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¹ Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cap Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

1. INTRODUCTION

1.1 The issue of sustainable air transport safety, security, globalization, environment and liberalization has engaged the attention of ICAO right from its inception. African States fully support ICAO's leadership role on globalization and liberalization of international air transport within and between States and regions.

1.2 African States in their efforts to be key players in the global Aviation Community adopted a new Air Transport Policy in 1988, the Yamoussoukro Declaration.

1.3 In order to accelerate the liberalisation of Air Transport in Africa, African States further signed the Decision relating to the implementation of the Yamoussoukro Declaration concerning Liberalization of Access to air transport markets in Africa on the 14th November 1999 which entered into force on 12th August 2000. This Decision is executory and obligatory for all African States.

1.4 The Yamoussoukro Decision removes some of the restrictions contained in traditional Bilateral Air Service Agreements thereby allowing African carriers to have unrestricted access to air transport markets within Africa. The air transport liberalization effort of the continent is closely linked and is considered a key factor to the success of economic and political integration agenda at the continental and regional level.

2. IMPLEMENTATION OF THE LIBERALISATION POLICY

2.1 In order to promote the liberalisation efforts, the African Civil Aviation Commission (AFCAC) was entrusted with the responsibility of being the Executing Agency for the implementation of the Yamoussoukro Decision in 2007 by the African Ministers responsible for Civil Aviation.

2.2 Significantly, a new AFCAC Constitution entered into force on 11/5/10 which replaced the 1969 Constitution. This Constitution codified all the responsibilities of AFCAC. AFCAC will therefore amongst others, supervise and manage Africa's liberalised air transport industry and ensure consumer rights are protected.

2.3 At the Regional Economic Community (RECs) levels, institutional and legal frameworks are being put in place covering areas such as dispute settlement mechanism, competition rules and consumer protection.

2.4 Most of these achievements have been under the framework and leadership of the African Union (AU). Worthy of note is the support and assistance received from the International Civil Aviation Organisation (ICAO) and other development partners such as the European Union (EU) and African Development Bank (ADB).

3. DISCUSSIONS

3.1 African States Position on Liberalisation

3.1.1 It is trite that all States are guaranteed continued participation and benefits from air transport within the ICAO system.

3.1.2 In this regard, African States support in principle, liberalisation of air transport world wide. However African States reaffirm that the basic principles of Sovereignty, fair and equal opportunity, non discrimination, interdependence, harmonisation, and cooperation as, set out in the Chicago convention which have served international air transport well should continue to provide the basis for further development of international civil aviation.

3.1.3 Furthermore African States reiterate the conclusions and recommendations of the ICAO 5th worldwide air transport conference which established or developed a frame work for the progressive liberalisation of international air transport, with safeguards to ensure fair competition, safety, and security, and including measures to ensure the effective and sustained participation of developing countries.

3.2 Technical Barriers

3.2.1 While the aviation industry may be considered as a mature industry globally it should be recognized that there still exists great disparity in the development of air transport where some regions still lags behind. Despite such disparity in development, some States and regional blocks are taking unilateral measures and putting in place regulations which negatively affect international air transport in total disregard to the uneven levels of regional development and to the basic principles of the Chicago Convention.

3.2.2 African States note that these unilateral measures have the effect of creating barriers to market entry and/or to the continued participation of carriers of developing countries in international air transport. Some of these technical barriers that create uneven playing ground and unduly disadvantaging developing countries include:

- a) unilateral decisions and legislations by some States and regions such as Ban on foreign airlines to operate on the air space of another state or group of States, ETS, Slot allocation, night curfew; and
- b) uneven terms and conditions on aircraft acquisition, financing and Insurance as insurability is the bedrock of Modern Civil Aviation.

4. CONCLUSIONS/RECOMMENDATIONS

4.1 African States hereby urge that:

- a) States and regional blocs should refrain from taking unilateral measures and legislations that negatively affects international air transport;

- b) Additionally, States should take into consideration the disparity in development and put in place appropriate safe guards and mechanism under the guidance of ICAO before adopting such measures and legislations;
- c) ICAO should continue to remain the only final determinant for all issues of air transport including liberalisation;
- d) ICAO should provide support and assistance to RECs and regional blocs on their liberalisation initiatives and programmes and step up its leadership role in ensuring equity and fairness in the liberalisation of international air transport; and
- e) ICAO should develop guidelines on dispute settlement mechanisms relating to international air transport.

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