

**WORLDWIDE AIR TRANSPORT CONFERENCE: CHALLENGES AND  
OPPORTUNITIES OF LIBERALIZATION**

**Montreal, 24 to 29 March 2003**

**Agenda Item 2: Examination of key regulatory issues in  
liberalization**

**2.1: Air carrier ownership and control**

**LIBERALIZING AIR CARRIER OWNERSHIP AND CONTROL**

(Presented by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cap Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of 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)

**SUMMARY**

This paper examines issues and policy options in liberalizing air carrier ownership and control as presented in the ICAO Secretariat Working Paper ATConf/5-WP/7, and supports the recommendation to adopt the proposed model clause on airline designation and authorisation with the emphasis that States spell out in their State Laws and Regulations the conditions for both "evidence of principal place of business" and "evidence of effective regulatory control".

Action by the Conference is in paragraph 4.

**REFERENCES**

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<sup>1</sup> French version provided by African States.

Doc 9644 - ATConf/4 Report of the 4th Worldwide Air Transport Conference.  
ATConf/4-WP/68 - Air Carriers Ownership and Control  
ATconf/5-WP/7 - Liberalizing Air Carrier Ownership and Control  
Yamoussoukro Decision of 1999

## 1. INTRODUCTION

1.1 African States are progressively liberalizing air transportation among themselves, and with other States by reviewing their bilateral air services agreements. They are also developing ways of using multilateral agreements at regional and sub-regional levels for gradual and effective multilateral liberalization of the air transport market amongst themselves in order to promote market growth, better industrial performance and good service to customers. Such policy pronouncements as the Yamoussoukro Decision of 1999 are some of the efforts made in this regard. This policy Decision is geared towards consolidating and developing the African air transport market in a systematic way and availing the continent with sources of finance to operate in that market.

1.2 Under most of the current agreements, the airline being designated is required by the authorizing State to be substantially owned and effectively controlled by the designating State or its nationals, for it to operate services to its territory. African States had supported such operating regime for economic, national security and defence reasons. It also ensured participation in air transport provision by all States. These reasons whilst still valid they can be catered for in the context of developing the industry and availing to it the necessary capital that has been lacking. Furthermore, the African air transport industry stands to benefit from foreign capital.

1.3 With liberalization of trade, globalization and commercialization including privatization of public owned airlines into privately owned entities; the scenario is changing as foreign investors buy interest in the airlines. This development necessitated the review of the position taken by the African States during ATConf/4 of 1994.

## 2. DISCUSSION

2.1 Most African States have limited resources and are not able to establish and sustain competitive airlines from their own resources. In spite of limited resources States recognize the importance of having active air transport industry for the development of their economics particularly in trade and tourism.

2.2 African States recognize that strictness in ownership and control will not help individual States or Regional Economic Groupings to achieve the required transformation of their economies using air transportation as the vehicle to achieve their objectives.

2.3 It is important to establish a regulatory mechanism in order to ensure that the regulatory arrangement will work for the benefit of the African States, so that they can achieve their development objectives and at the same time allow the industry to grow with the continued participation of African carriers. In the proposed operating regime the foreign owned airlines must conform to a regulatory environment that ensures safety, economic performance of airlines, and economic benefit to the designating country.

### 3. CONCLUSION

3.1 In light of the argument put forward in working paper ATConf/5-WP/7 and the reasons expounded above, for mutual benefit and systematic development of the global air transport industry in its entirety, without leaving any part of the world behind, the African States support the recommendations by ICAO to adopt the model clause on airline designation and authorization appearing in paragraph 4.6 of Working Paper ATConf/5-WP/7.

### 4. ACTION BY THE CONFERENCE

4.1 The African States:

- a) recommend that on adapting the model clause all Contracting States should include in their State Laws and Regulations conditions for both "evidence of principal place of business" and "evidence of effective regulatory control" as they spelt out under Notes (i) and (ii) of working paper WP/7, to ensure sustainability of the air transport industry in the designating State and the world at large;
- b) note and recommend for adoption the conclusions appearing in paragraph 6.1 of the said working paper; and
- c) accept that the recommendation in paragraph 7 of the said working paper be adopted.

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