

## **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 2.3: Fair competition and safeguards**

#### **INSTITUTING MECHANISMS FOR FAIR COMPETITION**

(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 emphasizes the importance of air transport in the economic development of Africa. In that regard it highlights fair competition mechanisms being instituted in Africa to enable the continent participate fully in air transportation. It also spells out the African stand with respect to the action to be taken at global level.

Action by the conference is in paragraph 4.1.

#### **REFERENCES**

The Yamoussoukro Decision of 1999  
ATConf/5-WP/11, Safeguards to Ensure Fair Competition  
Doc 9644, *Report on the World-wide Air Transport Conference on International Air Transport Regulation: Present and Future*

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

## 1. INTRODUCTION

1.1 Air transport plays a key role in the socio-economic development of African States. African based air carriers are the only instruments that could ensure African participation (which is marginal) in international air transportation, within the context of a single global market, characterized by cut-throat competition.

1.2 Consequently African States and their regional institutions such as African Civil Aviation Commission (AFCAC) have always supported ICAO's efforts aimed at developing an international regulation framework on competition for the purpose of preventing or alleviating any forms of unfair competition.

## 2. DISCUSSION

2.1 The World-wide Air Transport Conference on International Air Transport Regulation: Present and Future (ATConf/4) report specifies that in a less regulated economic environment, it is necessary to provide for efficient measures aimed at guaranteeing fair competition to all. When deciding to liberalize the intra-African air transport through the adoption of the Decision Relating to the Implementation of the Yamoussoukro Declaration on the Liberalization of the Air Transport Market Access in Africa, known as Yamoussoukro Decision of 1999, African States took into account the need to have mechanisms to guarantee fair competition.

2.2 Given that the implementation of the Yamoussoukro Decision is made through regional economic groupings such as the Maghreb Arab Union, Economic Community of West African States (ECOWAS), Central African Economic and Monetary Community (CEMAC), Southern African Development Community (SADC) and Common Market for Eastern and Southern Africa (COMESA), the applicable rules to air transport sector are drawn from the current general competition rules enforced within those States.

2.3 Together with Competition Regulations, there have been developed procedures for dispute resolution providing for negotiations and arbitration mechanisms.

## 3. CONCLUSIONS

3.1 Liberalization is an established fact and a necessary catalyst for developing the African air transport market. This entails competition which could be so fierce that unfair practice could crop in to distort the market and result in the demise of some carriers. While strong competition should be welcome, steps must be taken to ensure that there is fairness.

3.2 African States which need an efficient, secure and durable air transport system do approve the conclusions in working paper ATConf/5-WP/11. These conclusions are in line with the provisions on competition rules applicable in African Regional Economic Groupings. They aim at:

- a) accompanying liberalization with appropriate safeguards;
- b) avoiding unilateral measures;
- c) harmonizing various competition mechanisms;

- d) providing for immunity and appropriate exemptions for the extraterritorial application of national laws on competition.

4. **ACTION BY THE CONFERENCE**

4.1 The Conference is invited to:

- a) take note of the content of this working paper; and
- b) examine and adopt the draft Model Safeguards Clause against anti competition practices included in the working paper ATConf/5-WP/11 - Safeguards to Ensure Fair Competition.

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