



WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

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Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.1 : Market access

AFRICA'S STRATEGY FOR MARKET ACCESS AND CATALYST FOR AIR TRANSPORT GROWTH

(Presented by 54 Member States¹, Members of the African Civil Aviation
Commission (AFCAC))

1. INTRODUCTION

1.1 This paper informs of Africa's strategy for the sustainability of air transport, through the harmonization of the market access regulatory framework based on the provisions of the Yamoussoukro Decision, taking into cognizance a global framework that should be developed by ICAO.

1.2 As envisaged in the Abuja Treaty, regional integration as a strategy for achieving sustainable economic growth remains the way forward in achieving an African Economic Community.

1.3 Within this strategy, air transport market access has a significant catalytic role as an engine for Inter and Intra regional integration through enabling increased accessibility between economic hubs, reduction of travel time and cost and providing connectivity amongst several city pairs and countries.

1.4 According to the 2008 study done by the African Airlines Association (AFRAA), air transport creates about 470,000 jobs across various sectors and generates revenue of about USD 1.7 billion in Africa. African's share of the global aviation market stands at about 5% but the African aviation industry during the recent period of world economic crisis, enjoyed a significant growth rate (5%-7%) compared to other regions of the world. Most significant is the volume of intra-African traffic which stood at roughly 30% of the total African air transport traffic.

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, Southern Sudan, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe

1.5 Whilst recognising the basic principle of complete and exclusive sovereignty of every State over the airspace above its territory, as reconfirmed in the Chicago Convention (Article 6), the need to benefit from the catalytic impact of air transport in Africa calls for a common aviation air space as envisaged in the provisions of the YD regarding market access.

2. YD – FRAMEWORK FOR MARKET ACCEES

2.1 The Yamoussoukro Decision (YD) deals with liberalization of air transport market access in Africa. Its main objectives are to facilitate inter-African connectivity and to develop an inter-African network. Its provisions includes removal of obstacles, such as restrictions on traffic rights including 5th freedom traffic rights and limitations on capacity and frequency between city pairs, as well as designation of competent airlines. Compared to the standard bilateral ASA, the YD gives eligible airlines of all African States an aviation space, fair and equal opportunities to compete based on a common set of harmonized rules and eligibility criteria.

2.2 Africa's air transport market access strategic framework hinges on the Yamoussoukro Decision, creating a liberalized intra-African aviation air space. The main thrust of the Decision is to gradually liberalize intra African air transport services in order to facilitate access to air transport markets in Africa. This decision entered into force on 12 August 2000.

2.3 The Yamoussoukro Decision is an instrument done under the authority of the Abuja Treaty and is a legally binding instrument, which creates rights whilst imposing certain obligations on member States. These obligations override provisions of national rules including pre-existing agreements which are incompatible with the provisions of YD.

2.4 Article 6 of the Decision authorize States to designate at least one airline to operate the intra-African air transport services, the right to designate an Eligible Airline from another State party to operate air services on its behalf and thirdly the right to designate an Eligible African multinational airline in which it is a stakeholder.

2.5 States retain their sovereign rights on the granting of rights, in accordance with international treaties, including the International Air Transport Agreement whilst being required to apply the provisions of the YD for intra-African market ASA. It is also required of States to ensure that designated carriers meet the eligibility criteria and maintain responsibility for safety and security oversight over their designated airlines.

3. MAIN CHALLENGES TO OPERATIONALISATION OF YD

3.1 A safe, secure and efficient aviation industry is vital for ensuring a sustainable aviation industry in Africa. Therefore, safety and security concerns in Africa cannot be overridden by the desire to have enhanced market access as provided for in the YD. The challenge here is in maintaining adequate safety and security oversight.

3.2 Most bilateral air services negotiations are still conducted in the mind set of the cold war diplomacy. Despite the collective will to liberalize market access in Africa as reflected in the spirit of various alliances and Code Sharing, in practice, the granting of rights is still crafted around out-dated policies based on the old Bermuda type agreement with emphasis on bilateralism, reciprocity and protectionism.

3.3 To grant authorization in practice based on provisions for bilateral exchange among African States as an example would require 1431 ASAs to be signed between 54 states and 2862 authorisations to be approved assuming each State designates one airline only. Whilst most States do apply YD, rights are granted on selective bases, influenced by the need for reciprocity and in some cases the request for royalties to be paid. Some airlines use 6th freedom operations, in order to overcome 5th freedom market access restrictions as well as the traffic development of their base hub location. However, 6th freedom traffic operations are a major competitive challenge for African carriers vis-à-vis non-African carriers for intercontinental and long haul traffic. (*Inter-Continental capacity to/from Africa, offered by African Carriers stands at 36.4% compared to 63.6% seat capacity offered by non- African Carriers*).

3.4 Other challenges are related to indirect barriers to market access like visa requirements, custom restrictions, constraints to ground handling, slot allocation, etc. The degrees of market access desired without the elimination of such barriers remains a hindrance to the sustainable development of air transport services in Africa and the world at large.

4. CONCLUSIONS

4.1 Despite the above challenges, where Air Transport liberalization has been applied, whether in full or partially, we have seen significant benefits, including intra-African city pairing, improved connectivity and growth in passenger traffic. Some African carriers have expanded their networks significantly around their hubs (in particular hubs in Johannesburg, Nairobi, Casablanca, Cairo and Addis Ababa), providing for greater connectivity of the continent.

4.2 There is also strong evidence that 5th freedom rights, where granted, increased consumer choice of flight options but had limited impact on high fares and high airline operating cost experienced in Africa.

4.3 There is a need to move from the current status quo of partial liberalization, dominated by bilateralism towards multilateralism which is hinged on the common interest and the interest of the consumers. It would require harmonization of fragmented regulations guided by a detailed ICAO guidance material. Any future guidance material by ICAO should take into consideration regional liberalized ASA models or as in the case of Africa, models developed based on the YD.

4.4 The eligibility criteria is an important link to ensuring that designated carriers on designated routes meet the minimum standards in safety and security as well as economic fitness requirements. Guidance material on determining eligibility is necessary, expanding on the criteria already specified in materials on Safety, Security and Fair Competition.

4.5 States would need assistance with the revision of existing ASA and conclusion of future ASA, in an expedient manner, in order to comply with the provisions of YD. Given a common template, a specific ICAO Air Service Negotiation Conference (ICAN) for Africa may be required to enable African States to re-align their existing bilateral ASA with the provisions of YD. The more YD compliant ASA establish, the greater the level of market access afforded in Africa.