



AFRICAN CIVIL AVIATION COMMISSION

SECOND MEETING OF AVIATION INDUSTRY STAKEHOLDERS ON IMPLEMENTATION OF THE PRIORITISED ACTION PLAN FOR OPERATIONALISATION OF THE THE SINGLE AFRICAN AIR TRANSPORT MARKET (SAATM) 2018 – 2019 (DAKAR, SENEGAL, 28 – 29 JANUARY 2019)

Topic: Demarcation of Roles and Institutional Relationships

(Presented by AFCAC)

EXECUTIVE SUMMARY

This working paper presents;

- a) Highlights Institutions created under the Yamoussoukro Decision and subsequent developments since its adoptions.
- b) Challenges observed by the AFCAC as the Executing Agency of YD and establishment of SAATM.
- c) Observations made on monitoring of the Joint Action Plan.
- d) Specific recommendations to remedy the challenges by proposing common platform for partners' and stakeholders' interventions

Action: The meeting is invited to:

- Note the contents and the recommendations of this paper.
- Resolve to adopt the recommendations.

1. INTRODUCTION/BACKGROUND

Institutional Arrangements for Implementation of Yamoussoukro Decision.

1.1 The Single African Air Transport Market (SAATM) will be realised through the full implementation of the Yamoussoukro Decision. The Solemn commitment being made by States reaffirms the unconditional implementation of all provisions of the YD. The Single African Air Transport Market (SAATM), a flagship project of the African Union Agenda 2063, is an impetus to the Continent's economic integration agenda.

1.2 Article 9 of the YD establishes the institutions concerned with implementation of the Yamoussoukro decision. In article 9.1, Pursuant to paragraph 4 of Article 25 of the Abuja

Treaty, a Sub-Committee on Air Transport of the Committee on Transport, Communications and Tourism was established with responsibility for the overall supervision, follow-up and implementation of this Decision. The Sub-Committee on Air Transport (**CMAT**) is currently a sub-committee of the Sectoral Technical Committee for Transport, Intercontinental and Interregional Infrastructure, Energy and Tourism (**STC TIIIET**).

1.3 Article 9.2 of the Decision establishes the Monitoring Body of the YD to assist the Sub-Committee on Air Transport composed of African Ministers Responsible for Civil Aviation in the follow-up of the implementation of this decision. It is composed of representatives of the **AU**, **UNECA**, **AFCAC**¹ and **AFRAA** and can be assisted by representatives of sub-regional organizations, as the case may be. Article 9.3 defines the duties and responsibilities of the Monitoring Body as set out in Annex 2 of the Decision with secretariat services required by the Body to be provided by the ECA. The Monitoring Body among others is required to assist the Ministers Responsible for air Transport ensure the full implementation of the Yamoussoukro Decision and realisation of the Single African Air Transport Market in Africa. In this capacity, the Monitoring Body shall have oversight and advisory responsibilities over the functioning of the SAATM and the role of facilitating the smooth operation of the market at a strategic level, in support of the Executing Agency.

1.4 An African Air Transport Executing Agency (AATET) was established in article 9.4, with responsibilities to supervise and manage the African liberalised air transport industry. This entity, also known as the **Executing Agency (EA)** of YD, was finally established in 2007 during the 3rd AU Conference of Ministers responsible for Air Transport, held in Addis Ababa, Ethiopia, in May 2007. The CMAT decided to entrust the functions of the **Executing Agency (EA)** to the **African Civil Aviation Commission (AFCAC)** in conformity with Article 9.3 of the YD which provides for the establishment of the EA (Doc. EX.CL/350 (XI)). The AU Summit of July 2007 endorsed the resolution on entrusting the functions of the Executing Agency of the 1999 Yamoussoukro Decision to the African Civil Aviation Commission – AFCAC (EX.CL/Dec 359 (XI)).

1.5 Article 9.5 further indicates that the Executing Agency shall have sufficient powers to formulate and enforce appropriate rules and regulations that give fair and equal opportunities to all players, promote healthy competition, and shall ensure that consumer rights are protected. To enable the operationalisation of the Executing Agency, the African Ministers of Transport and later the Heads of State and Government of the African Union, on the 27th of January 2018 adopted the Regulatory text of the YD.

The regulatory texts being the competition rules, consumer protection regulations, a dispute settlement mechanism (the text of the Dispute Settlement is under further elaboration) and the Powers and Functions of the EA. The text on the Powers and

¹ AFCAC – The African Civil Aviation Commission has two major functions – it is the specialised agency of the African Union on matters of Aviation in particular covering matters related to aviation safety, security and environmental protection. However AFCAC is since 2007, the Executing Agency of the Yamoussoukro Decision. Therefore, its role in the monitoring body is related to AFCAC as the specialised agency of the AU.

Functions of the Executing Agency are pertinent in defining the Duties and Responsibilities of the Monitoring Body as defined in Annex 2 of the YD.

1.6 Other developments subsequent to the adoption of the YD

- a) The revision of the AFCAC constitution to cater for AFCAC's new role as the Executing Agency of YD
- b) The establishment of an African Civil Aviation Policy(AFCAP)
- c) The elaboration of the African Union agenda 2063 with specific flagship project on the establishment of the Single African Air Transport Market by June 2017 (Assembly /AUC/Commitment/XXIV).
- d) Establishment of the Ministerial Working Group, the appointment of the Champion State of SAATM following the launch in 2018.

1.7 It should be recalled that UNECA played an active and major role in the inception period of YD including carrying out specific studies and providing clarifications on the implementation of the Yamoussoukro Decision. However, UNECA's precise role as secretariat of the Monitoring Body was never defined. Hence in due cause, UNECA has not put in the same effort in contributing in the formulation of aviation policy in the continent as in the 90s. As the 'Think Tank' organisation of the African Union, it is important to specify and strengthen the role of the UNECA as secretariat of the Monitoring Body of YD.

The terms of reference for the Monitoring Body of YD as specified in article 9, was revised taking into consideration the policy changes that have taken place in the sub-sector since the Decision was adopted in 1999. During the Second Meeting of the Ministerial Working Group for the establishment of the SAATM, the Monitoring Body met to review the activity plan of the Executing Agency, taking into consideration its powers and functions as defined in the YD regulatory text. It was established that the defined functions of the EA have overlaps with existing functions of the Monitoring as defined in Annex 2 of the YD. In this regard, the duties and functions of the Monitoring Body of the YD were clearly defined and adopted by the First STC on TTIET, held in Lomé March 2017.

1.8 Institutional Relationships

Currently the AUC has memorandum of co-operation arrangements with partners such as the ICAO, European Commission (EC), IATA among others to facilitate the development and promotion of air transport on the continent. Similar institutional arrangements exist between AFCAC, specialized agency of the AU in all matters of civil aviation, and these partners for similar objectives.

The implementation of the SAATM cannot be achieved without the cooperation between AFCAC as Executing Agency and the RECs being the building blocks of integration. As indicated above the Regional Organisations can participate in the deliberations of the Monitoring Body, but to be effective there is a compelling need to have a signed Memorandum of Cooperation with the RECs with AFCAC. In this regard, a MoC has been

agreed between AFCAC and the RECs and it is open for signature. We need to adopt a work plan to enable the implementation of the AFCAC-RECs MoC.

The role of both AFRAA and IATA cannot be underestimated in their advocacy role they play to create awareness and to encourage more states to join the market.

2. CHALLENGES OBSERVED BY THE EXECUTING AGENCY (EA) IN THE IMPLEMENTATION OF THE YD AND THE SAATM.

2.1 Duplication of Efforts and Conflicting Roles

Despite the clear mandate of AFCAC as contained in its constitution, it is being observed that there are overlaps and duplication of efforts by institutions and certain Agencies on the implementation of the SAATM, the YD and matters of civil aviation on the continent. The matrix attached indicate areas where AFCAC has a lead role but with overlaps from other entities.

This has resulted in poor coordination and application of resources and accountability issues, in addition AFCAC member states are being faced with interventions that either dilute or work to the disadvantage of AFCAC as the AU Specialized Agency for Civil Aviation.

In this regards, AFCAC member states have not derived the full benefits of AFCAC's coordination and leadership role as the Executing Agency of the YD.

AFCAC member States and partners continue to stress the need for improvement on coordination of interventions to better serve their civil aviation needs.

The 30th Extraordinary Plenary of AFCAC held on 4-5 December 2018 recognized that, there are compelling needs to harmonize the numerous initiatives and Plans of Actions spearheaded by the various Stakeholders and Partners in Africa.

3. CONCLUSION

There is empirical evidence of the benefits of liberalization of Air Transport to the travelling public, air carriers, airports and other allied service providers, the economy of member States and the continent as a whole.

The Decision made by the 30th AU Summit held on the 28-29 January 2018 on the launching of the SAATM within the framework of Agenda 2063 and the adoption of the Institutional and Regulatory Instruments will significantly contribute to the realisation of full implementation of the YD in the Continent.

The African Civil Aviation Commission is committed to operationalise the Executing Agency and ensure the appropriate oversight of the SAATM. This will be achieved through

effective collaboration and engagement with partners and stakeholders under the leadership of AFCAC.

Care must be taken, in view of the existing institutional arrangements to avoid scenarios of competition for funds and resources for the same objectives of implementing the SAATM, operationalisation of the Executing Agency of the YD and initiatives related to technical assistance aimed at enhancing effective implementation of SARPs by member States as a requirement to sustain air transport in the Continent.

The AUC initiative and continental political leadership approach to harmonise the Joint Action Plan and its the associated monitoring mechanisms will contribute to bringing all Partners to have a harmonized Joint Action Plan. This will clearly assign activities among lead and partner institutions, define the monitoring mechanisms and lead to the realisation of the benefits envisaged from a liberalised air transport market and its sustainable development.

4. RECOMMENDATIONS/ACTION REQUIRED

- a) Adoption of a well-defined and harmonised institutional framework under the leadership of AFCAC specifying each partner/stakeholders' area of intervention in the implementation of SAATM.
- b) Development of a coordinated continental funding plan for the operationalisation of the Executing Agency of the YD including the sustainability of air transport in general and the SAATM.
- c) Establishment of a common platform for the interventions of partners and stakeholders to enhance efficiency, transparency and a robust monitoring, evaluation and reporting mechanism for SAATM.