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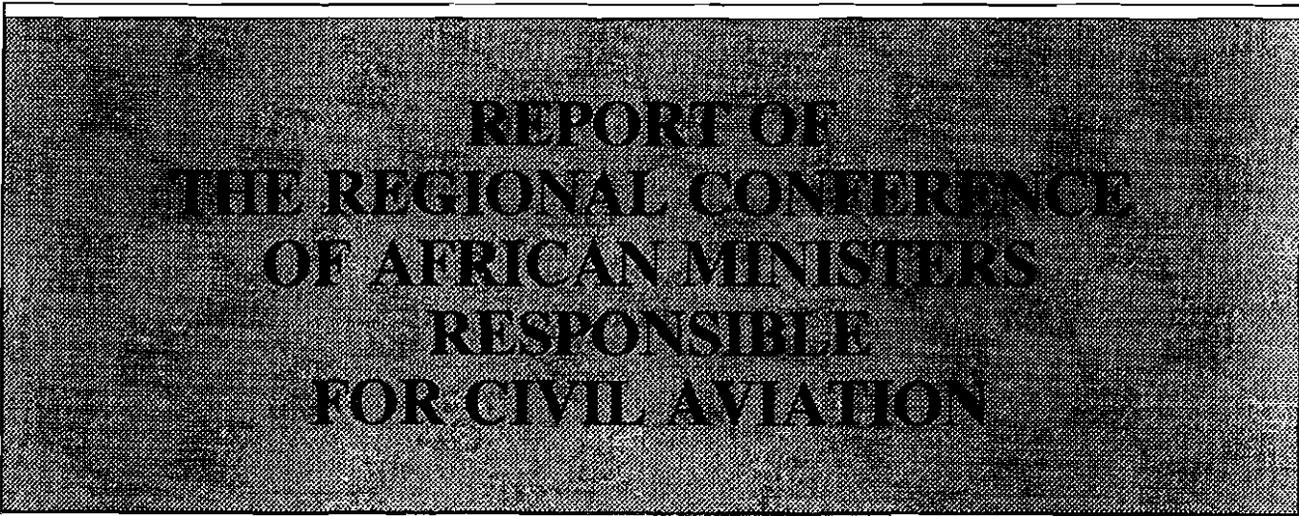
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**UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL**

ECONOMIC COMMISSION FOR AFRICA

**Regional Conference of African Ministers
Responsible for Civil Aviation**

**13-14 November 1999
Yamoussoukro, Côte d'Ivoire**

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**REPORT OF
THE REGIONAL CONFERENCE
OF AFRICAN MINISTERS
RESPONSIBLE
FOR CIVIL AVIATION**

A. ORGANIZATION OF WORK

1. The Regional Conference of African Ministers Responsible for Civil Aviation was held in Yamoussoukro, Côte d'Ivoire on 13 and 14 November 1999. The purpose of the conference was to examine the civil aviation industry in Africa within the overall context of globalisation and "internationalisation" of services and to take appropriate measures in the form of a decision for the progressive liberalization of access to air transport markets among African airlines.

B. ATTENDANCE

2. Present at the meeting were representatives of the following member States of the United Nations Economic Commission for Africa (ECA); Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of Congo, Egypt, Ethiopia, Eritrea, Gabon, the Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Morocco, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Uganda, United Republic of Tanzania, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, the Sudan, Swaziland, Togo, Tunisia, Zambia and Zimbabwe.

3. The following airlines were also represented: Aéro Consult International, AFFRETAIR, Air Afrique, Air Algerie, All Aeronautic Consultants, Air Burkina, Air Gabon, Air Guinea, Air Horizon Africa, Air Mauritius, Air Niger, Air Sao Tomé, Air Tanzania Corporation, Air Zimbabwe, Cabo Verde Airlines, Cameroon Airlines, Century Airlines, CORSAIR, Egypt Air, Ethiopian Airlines, Gambia International Airlines, Ghana Airways, Libyan Airlines, Lignes aériennes congolaises, Lina Congo, Mauritius Airlines, Nigeria Airways, SA Alliance Air, South African Airways, Sierra National Airlines, Sudan Airways, TAAG Angola Airlines, Tunisair and UTA.

4. The following United Nations specialized agencies and African inter-governmental organizations were also in attendance: African Development Bank (ADB), African Airlines Association (AFRAA), Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA), African Civil Aviation Commission (AFCAC), the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), the International Civil Aviation Organization (ICAO), International Air Transport Association (IATA), the Organization of African Unity (OAU), the Southern African Transport and Communications Commission (SATCC), the West African Economic and Monetary Union (UEMOA), and the World Bank.

5. The Arab Civil Aviation Commission (ACAC), the Aviation, Space and Telecommunication (AST) Legal Consultancy, British Airways, France and the VERITAS Bureau also attended as observers

C. OPENING OF THE MEETING (agenda item 2)

6. After welcoming participants, His Excellency Mr. Jean Konan Banny, Resident Minister for the Autonomous district of Yamoussoukro recalled that the Yamoussoukro Declaration adopted in 1988 had laid the ground work for air transport activities in the whole of Africa.

7. He hailed the presence of Mr. A. Bradley Mims, Acting Assistant Secretary of Transportation of the Department of Transportation of the United States as indicative of America's preparedness to establish sustained co-operation with African countries. He was singularly pleased and honoured to be hosting the Conference of African Ministers responsible for Civil Aviation in the native village of the Founder of the Ivorian Nation. After stressing the importance of the contribution made by international development institutions, he commended the quality of documents prepared for the Conference.

8. To address the challenge of developing safe, efficient and affordable air services harmoniously in Africa, the best approach would be to build extensive networks sustained through sound and mutually beneficial co-operation. His hope was that beyond the co-operation and integration that the airlines needed to institute, ways would be found to speed up the development of the air transport industry in Africa and adapt it to the needs of a changing world.

9. In conclusion, he hoped that the wisdom of the sages of Africa would inspire the work of the Conference and the review of the air transport regulatory framework would make it possible to address all the challenges facing the air transport industry on the eve of the third millennium.

10. Dr. Khairy El Husainy, Head of the Egyptian delegation, speaking on behalf of the Minister of Transport, Chairman of the 11th Conference of African Ministers of Transport and Communications praised the efforts of Côte d'Ivoire in the development of an efficient air transport sector to meet the challenges facing the African civil aviation industry at the dawn of the third millennium.

11. He also stated that, within the framework of the globalisation and the liberalisation of air services, his country had requested the holding of this present meeting during the Conference held in Cairo in November 1997 for a review of the status of the implementation of the Yamoussoukro Declaration aimed at establishing an enabling environment for

cooperation among African airlines in order to liberalise access to air transport markets in Africa. He went on to state that Egypt, both as a member of COMESA and the Arab Group, had undertaken to participate in the implementation of market access of air services adopted by the two groups. That programme was in conformity with the spirit and objectives of the Yamoussoukro Declaration and aimed at strengthening cooperation among African States and between Arab and African States.

12. In conclusion, he expressed his gratitude to the Government of Cote d'Ivoire for having organised the Conference and to ECA for the preparatory work of the Conference.

13. In his statement, Mr. K.Y. Amoako, Executive Secretary of ECA remarked that the current meeting demonstrated the importance that Côte d'Ivoire attached to African integration in general and to air transport in particular. On behalf of all participants, he expressed his appreciation to His Excellency Henri Konan Bédié, President of the Republic, the Government and People of Côte d'Ivoire for their support and commitment to the socio-economic integration of Africa. His appreciation also went to the Minister of Transport, His Excellency, Mr. Adama Coulibaly for his personal commitment and all he had done to make the current meeting possible.

14. Air transport was one of the modes that could enable Africa to participate significantly in globalization and market liberalization. It served as a driving force for the economic and physical integration of Africa and opened up its land-locked and island countries. In spite of some shortcomings, some African countries and especially sub-regional organizations such as the Arab Civil Aviation Commission, CEMAC, COMESA and ECOWAS had taken measures to liberalize the industry and set up a single air space.

15. Since 1988, the fortunes of civil aviation had improved tremendously. Africa's air transport industry had had to contend with increased volume and more stringent safety standards and regulations due to the upsurge in world trade.

16. In his view, for civil aviation to play its role in Africa, new approaches should be developed to regulate air transport and provide quality service that matched international competition. Africa's negotiating capacity should also be improved for the purpose of concluding alliance, code sharing, capacity and reservation arrangements. It was up to African Ministers to create the conditions for active private sector participation and to adopt the right policies for regulating competition.

17. Turning to the Draft Decision on Liberalization of Access to Air Transport Markets, he recognized the need to limit its scope to air transport markets in Africa and urged member

States to focus their efforts on creating conditions that encouraged active private sector participation. The Draft presented the option of gradual liberalization with a view to creating, by 2002, a single African air space. That reflected Africa's integration goal set forth in the Abuja Treaty and the treaties establishing the subregional economic communities.

18. To achieve total liberalization of market access by 2002, the Draft had proposed a two-track approach. Member States which were ready to liberalize their markets immediately could do so while the others had two years to achieve the same goal.

19. Approval of the Draft would have a significant impact on the African air transport industry, resulting in the establishment of a reliable and efficient network that met user needs, improved service quality through competition and made several service and tariff range options available. Built into the proposal was a pragmatic and simple solution to which Ministers could do justice by signing the text to confirm their commitment to its implementation. Once that had been done, the Draft Decision would be submitted to the policy organs of the subregional economic communities and the Authority of Heads of State and Government at the subsequent OAU Summit for endorsement. From then on the Decision would be legally binding on signatories. He assured participants that ECA would spare no effort to accomplish its task in the implementation of the Decision.

20. In conclusion, he expressed the view that the adoption of the Decision would usher Africa into the next millennium for better participation in the global economy.

21. In his statement, Mr. Renato Claudio Costa Pereira, Secretary-General of the International Civil Aviation Organization (ICAO) first thanked the organizers of the meeting for inviting his organization to participate in the Conference of African Ministers responsible for Civil Aviation. He informed the meeting that the air transport environment had become more than conducive to business opportunities in many sectors of the economy, a trend which augured well for the growth and prosperity of the transport industry in the 21st century. He noted that the meeting offered an opportunity to discuss the issues of the General Agreement on Trade in Services and air transport. He stressed that liberalization of air services must be carried out in a gradual manner to give the aviation industry time to adapt to this unique characteristic and requirement. He reminded those who attended the Seventh African Indian Ocean Regional Air Navigation meeting (AFI/7), held in Abuja in October 1997, of the recommendations calling for States to create autonomous civil aviation authorities. That innovative initiative continued to be soundly encouraged by ICAO as a viable option where it coincided with the best interest of providers and users, but basically required cooperation

among States and subregions. COMESA's decision on the joint implementation of CNS/ATM services in the upper airspace was a typical example of a step forward in an open skies cooperation policy for the 22 states in the subregion. That COMESA proposal would be even more successful if non-COMESA State were to participate. Elsewhere, significant strides had been made at the Air Navigation meeting of the Caribbean and South American Region with a breakthrough in the creation of a Global Air Navigation Plan.

22. Regarding privatisation, he stressed the tremendous opportunities it brings to collaboration between the public and private sectors in the management of civil aviation infrastructure, and outlined what it meant for governments and investors. He informed the meeting that ICAO was neither in support for, nor against privatisation as the issue was one of sovereignty, and contracting States were best placed to determine what was best for their citizens. Since passenger confidence was critical to the growth of the air industry, it would be important to maintain and improve on the extraordinary safety record that civil aviation had achieved over the past half century. In that regard, ICAO's option was for the newly-implemented Universal Safety Oversight Audit Programme under which ICAO was providing countries, through its Technical Cooperation Programme, with the necessary information for obtaining funding from donor organizations and financial institutions.

23. He concluded his remarks by reiterating that aviation around the world had entered an era of liberalization and globalisation and encouraged all contracting States to seize the immense opportunity created by the new policy and economic environment. In doing so, African countries would be addressing the two-fold challenge of ensuring the safety and integrity of their civil aviation infrastructure and achieving commercial viability and competitiveness through cooperation, political will and progressive economic policies.

24. His Excellency Mr. Adama Niby Zana Coulibaly, Minister of Transport of Côte d'Ivoire welcomed participants and noted that 40 delegations out of 49 were led by Ministers. He recalled that in the Yamoussoukro Declaration adopted in 1988 the Ministers had undertaken to promote the establishment of an enabling environment for the development of air transport through integration and cooperation among airlines.

25. Air transport was the driving force for the socio-economic development of States. He outlined in particular the modest position of Africa in the civil aviation industry, the lack of intra-African links, the paucity of airport facilities, the inadequacy of resources to develop civil aviation standards, the fact that tariff costs were high in Africa due to high operating costs and the lack of civil aviation personnel.

26. In order to face the challenges of globalisation and liberalisation of services, African countries should form large and integrated geographic groupings constituting viable markets for the development of air services. In that respect, it would be vital to review the approach adopted in the Yamoussoukro Declaration and to adapt the air transport system in Africa to the needs of a changing world and reform the air transport sector in Africa.

27. The Minister of Transport expressed the wish that the consideration of reforms initiated by some countries be pursued during the regional consultations scheduled to take place alongside the conference. In conclusion, he urged the conference to assess the progress achieved in the Yamoussoukro Declaration objectively, drawing lessons from the experiences of other regions for the establishment of an appropriate regulatory framework for the development of African airlines as well as the development of air transport service operators in Africa.

28. On behalf of the President of the Republic of Côte d'Ivoire, His Excellency Mr. Daniel Kablan Duncan, the Prime Minister welcomed all participants to Ivorian soil. He recalled that the Yamoussoukro Declaration adopted in 1988 which advocated cooperation among airlines had preceded the current wave of alliances between European, American and Asian airlines. These alliances were aimed at facing the challenges of liberalization of the air transport industry. However, African had not taken advantage of that wave of horizontal integration.

29. He hinted that the meeting's theme: "Adapting Air Transport in Africa to the Needs of a Changing World" was crucial because it would enable the air transport industry in Africa better prepare its entry into the 21st century by addressing the challenges of high costs, scarcity of flights linking east-west bound destinations, security problems in airports and flights from States of the continent. The exceptional attendance witnessed in Yamoussoukro as well as the efficient and quality participation in previous meetings were promising indicators about the future of air transport on the continent.

30. The Prime Minister underscored the need to strengthen cooperation between States for the implementation of regional projects, especially in the civil aviation industry. Countries should individually take efficient action to improve better cooperation at the regional level by taking advantage of synergies between national, regional and even international airlines. In his own country, the goals were to correct the failure in transport logistic chains and, in particular, to improve significantly the quality of services rendered, reduce air transport costs and make Abidjan, the economic capital, one of the "hubs" of airline connection region-wide through extensive rehabilitation and modernization.

31. He remarked that Africa could not isolate itself from the current wave of globalisation and should open its skies while carefully avoiding inordinate and savage liberalization.

32. In conclusion, the Prime Minister advocated for the establishment of a dynamic and high-performance air transport industry, which would act as a catalyst for the development of other economic activities and improve the living conditions of African people. He then declared the Conference open.

D. ACCOUNT OF PROCEEDINGS

Election of the Bureau (agenda item 3)

33. The bureau was constituted as follows:

Chairman:	Côte d'Ivoire
First Vice-Chairman:	Ethiopia
Second Vice-Chairman:	Chad
First Rapporteur:	South Africa
Second Rapporteur:	Egypt
Third Rapporteur:	Tunisia

Adoption of the Agenda and Programme of Work (agenda item 4)

34. The following agenda was adopted:

1. Meeting of Heads of Delegation.
2. Opening of the meeting.
3. Election of the Bureau.
4. Adoption of agenda and work programme.
5. Consideration of the report of the meeting of Experts and adoption of the Decision on liberalization of access to air transport markets in Africa.
6. Sub-regional consultations on liberalization of air transport and plenary discussions on specific themes.
7. Any other business.
8. Adoption of report and signing of the Decision.
9. Closing of the meeting.

Consideration of the Report of the Experts' Meeting and Adoption of the Decision on the Liberalization of Access to the Air Transport Markets in Africa (agenda item 5)

35. Mr. Kouassi Abonouan, Director of Civil Aviation of Côte d'Ivoire and Chairman of the meeting of experts presented document ECA/RCID/EXP/CIVAV/99/RPT which generally described the salient features of the draft Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of access to air transport markets in Africa.

36. The discussion of the draft Decision had focused on substantive issues on which no consensus had emerged at the expert meeting. They had to do with the scope of the Decision, the procedure for its adoption and the time frame for implementation.

37. Regarding the scope of the Decision, some participants expressed concern about the incompatibilities which could arise from the fact that Article 2 had been intended to supersede the provisions of any international air service agreements previously concluded among State parties. With a view to achieving coherence and reaffirming their determination to move forward with the liberalization of air transport in Africa, participants agreed to maintain articles 2 and 3 as worded in the Decision in consonance with the provisions of article 93 of the Abuja Treaty inviting State Parties to take the necessary measures to remove any incompatibilities that may arise in the implementation of the Decision.

38. With regard to the procedures for adopting the Decision, it was agreed, in light of the clarifications given by the representative of OAU (regarding the mechanism for adopting protocols annexed to the Abuja Treaty) that since the Decision would become an integral part of the Treaty, it would be submitted by the secretariat of ECA to the OAU with a view to its subsequent adoption by relevant bodies including the Authority of Heads of State and Government. In line with the provisions of Article 10 of the Abuja Treaty, the proposed Decision would have the force of law 30 days following the date of signature by the Chairman of the Summit of Heads of State and Government during which the Decision is adopted.

39. Regarding the duration of the transitional period for those States that did not wish to be immediately bound by articles 3 and 4 of the Decision, the Conference, motivated by the concern to make good the time over which the African civil aviation industry had lagged behind, opted for a period not exceeding two years, as compared with the five-year transitional period that some delegations would have preferred. The adopted text of the

Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of access to air transport markets in Africa is attached to this report as Annexe I.

40. In addition, a plenary discussion was organized on cooperation between Africa and other regions of the world and on the General Agreement on Trade in Services as well as the possibility for financing air transport activities (including CNS/ATM) in Africa.

41. The lead presentations provided clarification on the growth of air transport in the developed world and provided inputs which would help participants to adopt the proposed Decision, bearing in mind the exigencies and opportunities of globalisation and the liberalisation of air transport in particular.

42. In this regard, Mr. A. Bradley Mims, representing the Department of Transportation of the United States of America informed the Conference of the Clinton administration's preparedness to assist the air transport industry in Africa to develop under the open skies and safe skies initiatives. These policies, personally promoted by President Clinton during his tour of Africa in March 1998, had been endorsed by a good number of African countries at the two regional meetings of African Ministers of Transport convened respectively in Harare, Zimbabwe and in Dakar, Senegal by His Excellency Mr. Rodney Slater, Secretary of Transportation of the United States of America.

43. Since the Africa - United States Ministerial Meeting held in Atlanta, the United States Department of Transportation had conducted a series of bilateral consultations with several African countries. In that regard, he welcomed Tanzania's recent accession to the Open Skies Agreement, bringing to 38 the number of agreements concluded by the United States on that issue and spanning the final major continents. He concluded by reassuring participants of the efforts being made by Secretary Slater to mobilise resources for the implementation by participating countries of the Open Skies initiative and inviting other African countries to join the group of pilot countries.

44. Mr. Frederik Sorensen, Head of Air Transport Policy Department of the European Union highlighted the process of air transport liberalization in Europe where his organization was pursuing an approach which emphasized safety and the mechanisms used. He outlined the role of GATS in relation to airport services, air freight and the rules of competition. In conclusion, he underscored the lessons which African countries could learn from the European experience in air transport cooperation.

45. In his statement, Mr. Koki Nagata, Deputy Director General of IATA commended

the quality of documents submitted to the Conference. He informed the participants of the views expressed by the 260 member airlines of IATA on the General Agreement on Trade in Services (GATS) and the comparative merits of various approaches to the liberalisation of the air transport sector, including those of bilateral arrangements, Open Skies policies and GATS provisions relating to air services. In spite of the marked preference of some States for the GATS system, that approach was still fairly inaccurate and particularly difficult to pin down given the variety of categorisations it established for air services.

46. Over the past five years, Governments and airlines had established, through IATA a highly efficient and user-friendly global air transport system for doing business. That system evolving from cooperation among airlines with a view to establishing user protection standards and procedures enabled passengers to travel along fairly complicated routes on several carriers in a single transaction using the same currency. He ended by inviting the meeting to maintain the system through ICAO while avoiding unfair competition. IATA was closely monitoring the economic regulation of air transport with a view to reporting thereon to its next General Assembly which would be held in Sidney, Australia in June 2000 and hoped that the issue of how business was transacted would be on the agenda of the Fall 2001 General Assembly of ICAO.

47. Expressing ICAO's views on the GATS protocol relating to air services, Mr. M.E.B.Zarroug, Senior Air Transport Economist of ICAO stressed the important role that GATS would play in air transport regulation where Governments, the air transport industry, service providers and users were concerned. In that regard, ICAO's intensified advisory, supervisory and regulatory role over the preceding five years made it more than a mere technical agency. The recent changes in the air transport landscape had also fed into ICAO's regulatory considerations new concerns hitherto deemed economic.

48. After considering Article XIX paragraph 5 of the GATS protocol relating to the renegotiations of specific commitments in successive rounds and five-year periodic reviews and weighing the various options that the African Group might use during the November - December 1999 WTO negotiations in Seattle, he concluded by inviting African countries to take active part in that round, given what was at stake for them in those consultations.

49. During the discussion following the various presentations, the major concern expressed by the Conference was on the capacity of African airlines to capture markets in developed countries. Reacting to this concern, the Conference was strongly advised to foster the establishment of regional entities through partnership agreements or alliances. To this

end, the Conference was informed about the encouraging results of some African airlines which had concluded North-South partnership agreements.

Subregional Consultations on the Liberalisation of Air Transport (agenda item 6)

50. Together with the plenary discussion on specific themes, which took place in the morning of Sunday 14 November 1999, these consultations enabled various countries to consider ways of achieving policy convergence on the proposed Decision, which reflected the overarching objectives of all subregional initiatives.

Any Other Business (agenda item 7)

51. No issue was raised under this agenda item.

Adoption of the Report and Signing of the Decision (agenda item 8)

52. The Conference adopted its report as amended. A signing ceremony followed the adoption of the report. Thirty-four countries appended their signatures to the Decision during the ceremony. For those countries not able to do so for various reasons, it was agreed that their respective embassies in Addis Ababa, Ethiopia would be authorised to sign the Decision for onward transmission to ECA.

Closing of the Meeting (agenda item 9)

53. During the closing ceremony, a vote of thanks (Annex II) addressed to the host Government was read out by His Excellency Mr. Abdullah Omar, Minister of Transport of the Republic of South Africa. A final communiqué (Annex III) summarising the outcome of the Conference was also read out by His Excellency Mr. Ibrahima Siby, Minister of Transport and Works of the Republic of Mali.

54. The Executive Secretary of ECA thanked the Government of Côte d'Ivoire for its hospitality and expressed his appreciation to all participants for having responded to ECA's invitation and contributed to the success of the Conference.

55. Mr. Adama Coulibaly, Minister of Transport of Côte d'Ivoire indicated that his country had been most happy to host the Conference. His appreciation went to all participants, to the Executive Secretary of ECA and to all his colleagues for their contribution to the success of the Conference. He then declared the Conference closed.

ANNEXES



Distr.: LIMITED

ECA/RCID/CM.CIVAC/99/RPT
Annex I

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

Original: English/French

ECONOMIC COMMISSION FOR AFRICA

DECISION RELATING TO THE IMPLEMENTATION
OF THE YAMOUSSOUKRO DECLARATION
CONCERNING THE LIBERALISATION OF ACCESS
TO AIR TRANSPORT MARKETS IN AFRICA

We, African Ministers in charge of civil aviation meeting in Yamoussoukro, Côte d'Ivoire on 13 and 14 November 1999

Considering the Treaty Establishing the African Economic Community, (hereinafter referred to as the Abuja Treaty), in particular Article 61 relating to the integration of air transport and Article 10 relating to the authority of the Assembly of Heads of State and Government to adopt decisions;

Considering also the general policy statement on civil aviation made by the Conference of Heads of State and Government of the Organization of African Unity under Resolution CM/Res.804 (XXXV) of June 1980;

Recognizing the relevance of the objective of the Yamoussoukro Declaration on a new African civil aviation policy adopted on 7 October 1988 whose primary purpose was to create a conducive environment for the development of intra- African and international air services;

Recalling the decisions of African Ministers Responsible for Civil Aviation adopted in Mauritius in September 1994 with a view to accelerating the implementation of the Yamoussoukro Declaration, especially those relating to the granting of traffic rights, regional cooperation in air transport and the role of Governments;

Considering the need to harmonize air transport policies in order to eliminate non-physical barriers that hamper the sustainable development of air transport services in Africa;

Having regard to the recommendation of the 11th Conference of African Ministers responsible for Transport and Communications held in Cairo from 25 to 27 November 1997 calling for the organization of a regional meeting of African Ministers Responsible for Civil Aviation to review and find ways and means of implementing the Yamoussoukro Declaration;

Mindful of the guiding principles set by the International Civil Aviation Organization (ICAO) for the development of safe, regular and orderly air transport services on the basis of equality;

Further mindful of the globalization of the world economy and the need to create a conducive environment for the development and provision of safe, reliable and affordable air transport services necessary for the free movement of persons, goods and services in Africa;

Recognizing the necessity to adopt measures with the aim of progressively establishing a liberalized intra-African aviation market concerning, among other things, traffic rights, capacity, frequency and pricing;

Considering the importance of enhancing cooperation among African airlines in order to stimulate the development of inter-African air transport and the need to improve the quality of service to the consumers; and

Convinced that, given the different levels of air transport development in Africa it is necessary to adopt for special and transitional provisions in order to achieve full liberalization of air transport in Africa; and

Recognizing the efforts undertaken in the various sub-regions to merge, privatize and liberalize air transport services;

HEREBY ADOPT THIS DECISION:

Article 1
Definitions

For the purposes of this Decision, the following expressions shall mean:

“Abuja Treaty” the Treaty Establishing the African Economic Community adopted at Abuja, Nigeria on the 3rd day of June, 1991 and which entered into force on 12 May 1994.

“Aeronautical Authority” any governmental authority, body corporate or organ duly authorised to perform any function to which this Decision relates.

“Air Services” and “Airlines” have the meaning respectively assigned to them in Article 96 of the Chicago Convention on International Civil Aviation dated 7th December 1944.

“Eligible Airline” any African air transport company fulfilling the requirements set forth in Article 6, subparagraph 6.9 below.

Jointly-owned and jointly operated airline: any airline created by virtue of Article 77 of the Chicago Convention on International Civil Aviation;

Effective control: a relationship constituted by rights, contracts or any other means which, either separately or jointly confer the possibility of a State Party or Group of State Parties or their nationals to directly or indirectly exercise a decisive influence on

the running of the business of the airline or the right to use all or a substantive part of the assets of the air carriers.

Designated airline: Eligible Airline designated by a State Party to exercise its traffic rights under this Decision.

“Capacity”: as defined by ICAO

“Capacity share” the share of an Eligible Airline of a State Party expressed as a percentage of the total capacity in a bilateral relationship with another State Party.

“Country of Origin” the territory of a State Party where air transport starts.

“Decision” text of this Decision including the Appendices and amendments.

“Depository”: the Organization of African Unity.

“State Party” each African State signatory to the Abuja Treaty and such other African country which, though not a party to the said Treaty, has declared in writing its intention to be bound by this Decision.

“Tariffs” the prices to be paid for the carriage of passengers, baggage or cargo (excluding mail) on scheduled air services and the conditions, under which these prices apply, including remuneration and conditions offered to travel agencies and other auxiliary services.

“Third freedom traffic right” the right of an Eligible Airline of one State Party to put down, in the territory of another State Party, passengers, freight and mail taken up in the State Party in which it is licensed.

“Fourth freedom traffic right”: the right of an Eligible Airline of one State Party to take on, in the territory of another State Party, passengers, freight and mail for off-loading in the State Party in which it is licensed.

“Fifth freedom traffic right”: the right of an Eligible Airline of one State Party to carry passengers, freight and mail between two State Parties other than the State Party in which it is licensed.

Scheduled and Unscheduled air services: as defined in Chicago Convention and ICAO Council resolutions.

Article 2
Scope of Application

This Decision establishes the arrangement among State Parties for the gradual liberalization of scheduled and non-scheduled **intra-Africa** air transport services. This Decision has precedence over any multilateral or bilateral agreements on air services between State Parties which are incompatible with this Decision. The provisions which are included in these agreements and which are not incompatible with this Decision remain valid and are supplementary to the Decision.

Article 3
Granting of Rights

3.1 State Parties grant to each other the free exercise of the rights of the first, second, third, fourth and fifth freedoms of the air on scheduled and non-scheduled passenger, cargo and/or mail flights performed by an Eligible Airline to/from their respective territories.

3.2 Notwithstanding the provisions of paragraph 3.1 of this Article, a State Party may in accordance with the provision of paragraph 10.1 of Article 10 below, limit its commitment in respect to fifth freedom rights for a period no longer than two (2) years to the following:

(a) grant and receive unrestricted fifth freedom on sectors where, for economic reasons, there are no third and fourth freedom operators; and

(b) grant and receive a minimum of 20 percent of the capacity offered on the route concerned during any given period of time in respect to any sector where third and fourth freedom operators exist.

Article 4
Tariffs

4.1 In case of tariff increase, there shall be no approval required by the aeronautical authorities of State Parties concerned for tariff to be charged by the designated airlines of State Parties for the carriage of passenger, cargo and mail. The airlines shall in this case file such tariffs before competent authorities 30 working days before they enter into effect.

4.2 This provision is not applicable in the case of lowering tariff which takes immediate effect according to the will of the airline.

Article 5 **Capacity and Frequency**

5.1 Subject to the provisions of Article 3, there shall be no limit on the number of frequencies and capacity offered on air services linking any city pair combination between State Parties concerned. Each Designated Airline will be allowed to mount and operate such capacity and frequency as such airline deems appropriate. Consistent with this right, no State Party shall unilaterally limit the volume of traffic, the type of aircraft to be operated or the number of flights per week, except for environmental, safety, technical or other special consideration.

5.2 Without prejudice to the provisions of paragraph 5.1 above, a State Party concerned may refuse to authorise an increase in capacity if such additional capacity is not in compliance with the provisions of Article 7 relating to the rules of fair competition.

Article 6 **Designation and Authorization**

6.1 Each State Party shall have the right to designate in writing at least one airline to operate the intra-Africa air transport services in accordance with this Decision. Such designation shall be notified to the other State Party in writing through diplomatic channels.

6.2 A State Party may also designate an Eligible Airline from another State Party to operate air services on its behalf.

6.3 A State Party shall have the right to designate an eligible African multinational airline in which it is a stakeholder and this airline shall be accepted by the other State Parties.

6.4 On receipt of the notification of such designation, the other State Party shall, in accordance with its national laws, speed up the process of authorization and licensing of the airline designated by the other State Party to operate the services. While such authorization should be granted within 30 days, the proposed schedule of flights should be submitted to the appropriate authorities for approval.

6.5 Should a State Party be convinced that a designated airline does not meet the criteria in subparagraph 6.9 below, it may refuse the authorization. The State that has designated the airline may request consultations in accordance with Article 11 paragraph 4 of this Decision relating to Miscellaneous Provisions.

6.6 Each State Party has the right to withdraw the designation of an Eligible Airline and to designate another eligible airline or airlines in writing through diplomatic channels within 30 days except when prevented from doing so for security reasons.

6.7 Authorizations for the performance of non-scheduled air transport services by Eligible Airlines of the State Parties shall be granted by the respective competent authorities, provided that an application has been submitted for approval to the appropriate authority, accompanied by the operating certificates of the airline's country of nationality and the corresponding insurance policies.

6.8 In order to ensure continued scheduled air services on a particular route sector where scheduled airlines have an obligation to operate during low and high traffic seasons, the scheduled airlines will be given preference over the non-scheduled airlines on the same sector.

6.9 Eligibility criteria

To be eligible, an airline should:

- (a) be legally established in accordance with the regulations applicable in a State Party to this Decision;
- (b) have its headquarters, central administration and principal place of business physically located in the State concerned;
- (c) be duly licensed by a State Party as defined in Annex 6 of the Chicago Convention;
- (d) fully own or have a long-term lease exceeding six months on an aircraft and have its technical supervision;
- (e) be adequately insured with regard to passengers, cargo, mail, baggage and third parties in an amount at least equal to the provisions of the International Conventions in force;

- (f) be capable of demonstrating its ability to maintain standards at least equal to those set by ICAO and to respond to any query from any State to which it provides air services;
- (g) be effectively controlled by a State Party.

6.10 Revocation of authorization

A State Party may revoke, suspend or limit the operating authorization of a designated airline of the other State Party when the airline fails to meet the criteria of eligibility.

In case of revocation the State Party shall inform the airline at least thirty (30) days before the measure enters into force.

6.11 Documents

Each State Party shall recognize as valid the Air Operating Certificate, Certificate of Airworthiness, Certificate of Competency and the licenses issued or validated by the other State Party and still in force provided that the requirements for such certificate of license are at least equal to the minimum standards set by ICAO.

6.12 Safety and security

- (a) The State Parties re-affirm their obligations to each other to protect the security of civil aviation against acts of unlawful interference. The State Parties will conform to the provisions of the various conventions on air safety in accordance with ICAO provisions and especially with Annex 17 of the Chicago Convention on International Civil Aviation.
- (b) Each State Party shall give consideration to any request from the other State Party for special security measures to meet a particular threat.
- (c) The State Parties reaffirm their obligation to comply with the civil aviation safety standards and practices recommended by ICAO.

Article 7 **Competition Rules**

7.1 State Parties shall ensure fair opportunity on non-discriminatory basis for the designated African airline, to effectively compete in providing air transport services within their respective territory.

Article 8
Settlement of Disputes

8.1 If any dispute arises between States Parties relating to the interpretation or application of this Decision, the States Parties concerned shall in the first place endeavor to settle the dispute by negotiation.

8.2 If the State Parties concerned fail to reach a settlement of the dispute by negotiation within 21 days, either party may submit the dispute for arbitration in accordance with the arbitration procedures set forth in Appendix 2 hereof.

Article 9
Monitoring Body

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 is hereby established which shall be responsible, *inter alia*, for the overall supervision, follow-up and implementation of this Decision.

9.2 A Monitoring Body composed of representatives of the ECA, OAU, AFCAC and AFRAA which shall be assisted, as the case may be, by representatives of sub-regional organizations, is hereby established 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

9.3 The duties and responsibilities of the Monitoring Body are set forth in Annex 3 hereof. Secretariat services required by the Monitoring Body shall be provided by the ECA.

9.4 To ensure successful implementation of the Decision, an African Air Transport Executing Agency will be established as soon as possible. The principal responsibility will include *inter alia* the supervision and management of Africa's liberalized air transport industry.

9.5 The Executing Agency shall have sufficient powers to formulate and enforce appropriate rules and regulations that give fair and equal opportunities to all players and promote healthy competition.

9.6 The Executing Agency will also ensure that consumer rights are protected.

Article 10
Transitional measures

10.1 By a formal declaration made in writing to the Depository or the secretariat of the Monitoring Body, as the case may be, through diplomatic channel at the time of adoption of the Decision by the Assembly of Heads of State and Government or any time thereafter, a State Party shall have the option not to grant and receive the rights and obligations provided for in Articles 3 and 4 for a transitional period not exceeding two (2) years.

10.2 Each State Party may, on six (6) months prior notice given to the Depository or the Secretariat of the Decision Monitoring Body, assume or resume such rights and obligations.

10.3 The exemption of a State Party from the application of this Decision terminates on the date provided for in the Declaration made under paragraph 10.1 above. During the transitional period, no State Party shall be obliged to grant any rights hereunder to any State Party not bound thereby to the same extent.

10.4 With regard to any measures covered by the Decision, the State Parties shall not discriminate between designated airlines of State Parties that have assumed similar commitments.

10.5 State Parties undertake not to enter into any obligations that would be more restrictive than this Decision. However, State Parties shall not be precluded from maintaining or developing on a bilateral basis or amongst themselves, arrangements more flexible than those contained herein.

10.6 This Decision shall not be deemed to impose obligations on a State Party to grant cabotage privileges.

Article 11
Miscellaneous Provisions

11.1 Commercial Opportunities

11.1.1 The designated airline of each State Party shall have the right to establish offices in the territory of the other State Party for the promotion and sale of air transport services.

11.1.2 Upon request and in accordance with applicable foreign exchange regulations, each designated airline will be granted the right to convert and remit to the country of its choice, all local revenues from the sale of air transport services and associated activities¹ directly linked to air transport in excess of sums locally disbursed, with conversion and remittance permitted promptly without restriction, discrimination taxation¹ in respect thereof in accordance with the applicable foreign exchange regulations.

11.1.3 The designated airline may be permitted to pay for its local expenses such as handling and purchases of fuel in local currency, as provided for in the exchange control regulations.

11.1.4 The designated airline of each State Party shall be entitled, in accordance with the laws and regulations of the other State Party relating to entry, residence and employment, to bring into the territories employees who perform managerial, commercial, technical, operational and other specialist duties which are required for the provision of air transport services.

11.1.5 The aforementioned measures are designed to facilitate the establishment and operation of airlines and the transfer of their excess earnings shall be taken by State Parties on the basis of reciprocity.

11.2 Operational Flexibility

In operating scheduled and unscheduled services, each designated airline may, on any or all flights and at its option:

- (a) operate flights in either or both directions;
- (b) be permitted by the State Parties concerned to combine air services and use the same flight number.
- (c) serve intermediate, and beyond points and points in the territories of the State Parties in Africa on the routes in any combination and in any order, and

¹ The term "without taxation" refers to taxation on the conversion and remittance, not to national income tax which is better dealt with on the basis of a double taxation treaty, or some other arrangement in which the income from the sale of air transportation by foreign airlines is exempted from national income tax on a reciprocal basis. However, the absence of a double taxation treaty or other arrangement. States could use this clause to exempt reciprocally air carriers from foreign income taxes, but should make their intention clear in this regard.

- (d) omit stops at any point or points, provided that the service commences at a point in the territory of the State Party designating the airline.

11.3 Cooperative Arrangements

In operating the authorized services on the agreed routes, a designated airline of one State Party may enter into cooperative marketing arrangements such as blocked-space, code sharing, franchising or leasing arrangement, with an airline or airlines of the other State Party.

11.4 Consultation

A State Party may, at any time, request consultation with other State Party (ies) in respect to the interpretation or application of this Decision. Such consultation shall begin at the earliest possible date but not later than 30 days from the date the other Party receives the request.

11.5 Review

The Air Transport Sub-committee shall review this Decision every two years or earlier if requested by two-thirds of the State Parties. In such reviews, the Monitoring Body shall propose measures to eliminate existing restrictions gradually.

11.6 Registration

This Decision shall be registered by the Depository and/or Monitoring Body with the International Civil Aviation Organization (ICAO).

Article 12 **Final Provisions**

12.1 Entry into Force

12.1.1 In accordance with Article 10 of the Abuja Treaty, this Decision shall automatically enter into force thirty (30) days after the date of its signature by the Chairman of the Assembly of Heads of State and Government at which this Decision was adopted.

12.1.2 In respect of African States that are not parties to the Abuja Treaty, this Decision shall enter into force 30 days after the date on which such State has

communicated its declaration of intention to be bound by this Decision in the form of Appendix 1(a), 1(b) and 1(c) to the Monitoring Body which shall in turn transmit the declaration to the Depository.

12.1.3 The Depository shall inform all State Parties of:

- (a) each Declaration made in accordance with the Decision;
- (b) date of the deposit and the date of effectiveness of this Decision in respect to that State;
- (c) the withdrawal of any Declaration;
- (d) the withdrawal from this Decision and the date on which it takes effect, and
- (e) the accession by and admission of new States.

12.2 Role of subregional and regional organizations

Subregional and regional organizations are encouraged to pursue and to intensify their efforts in the implementation of this Decision.

12.3 Withdrawal

12.3.1 A State Party may withdraw from this Decision by a formal notification in writing addressed to the Depository of its intention to do so or in the circumstances contemplated under Article 104 of the Abuja Treaty. The Depository shall within 30 days of receipt of the notification of withdrawal notify the other State Parties.

12.3.2 Notwithstanding the notice of withdrawal, this Decision shall apply to the State concerned for one year after the date of receipt of the notification by the Depository.

12.4 Annexes

Relevant annexes adopted by the competent organs of the African Economic Community shall form an integral part of this Decision.

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Done in Yamoussoukro this 14th day of November 1999
.....

VOTE OF THANKS

Mr. Chairman,
Honourable Ministers,
Your Excellencies the Ambassadors and Heads of Mission
Distinguished Representatives of International Organizations
Invited Guests and Distinguished Delegates.

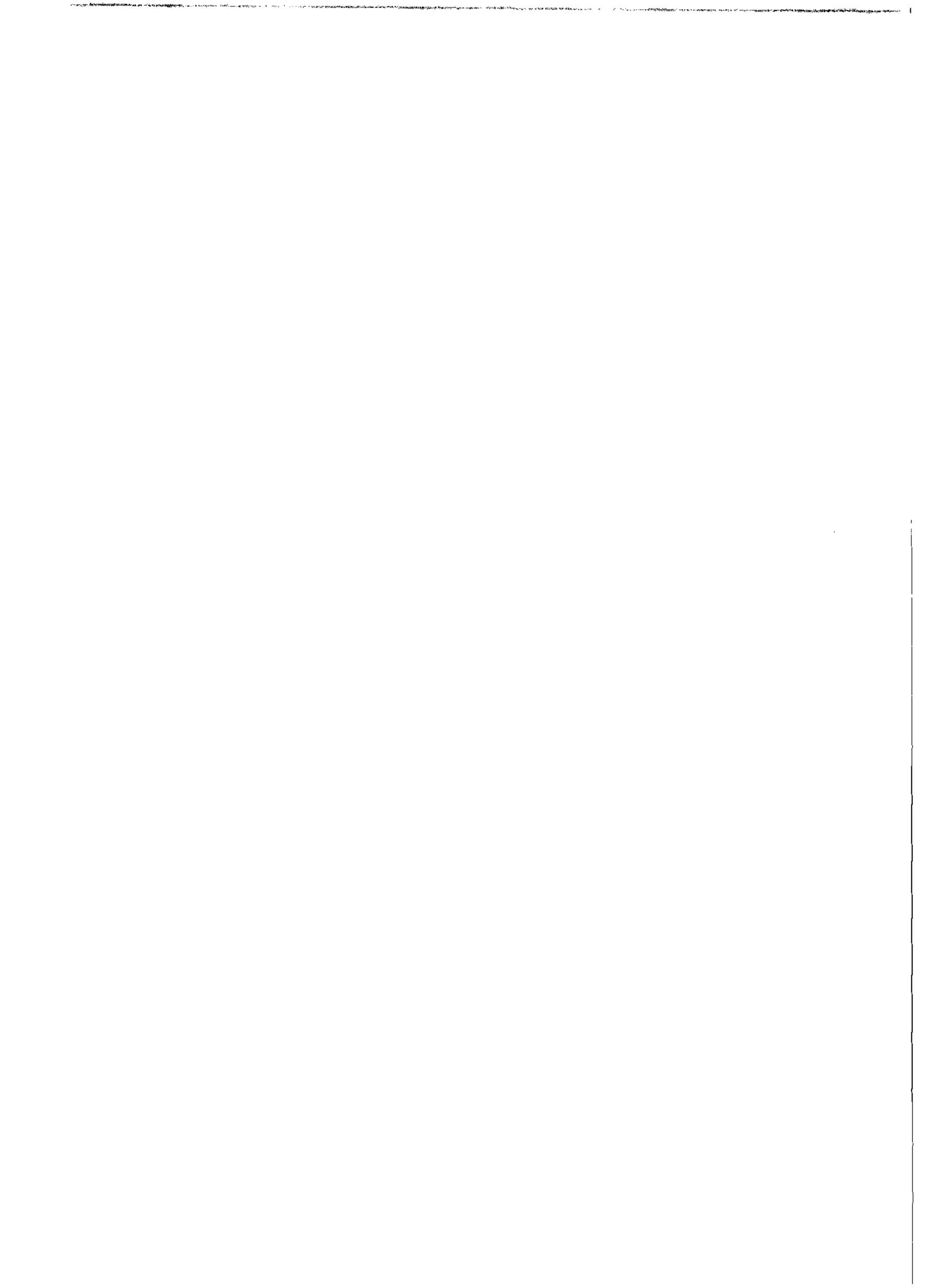
At the closing of our Conference, I would like to express on your behalf, our profound appreciation to His Excellency Mr. Henri Konan Bédié, President of the Republic of Côte d'Ivoire, the People and Government of this country for the singular hospitality we have enjoyed throughout our stay in Yamoussoukro. We have been especially moved by the distinctly African and Ivorian nature of that hospitality.

We came to Côte d'Ivoire to consider the situation of Africa's civil aviation industry within the general context of globalization and to take appropriate action in the form of a Decision for the Gradual Liberalization of Access to the Air Transport Market for African Airlines. The excellent arrangements made for our Conference have enabled us to fruitfully share views that culminated in a Decision whose implementation will enable our civil aviation industry to meet the challenges of the coming millennium.

We have felt at home in this beautiful city of Yamoussoukro, which we are leaving charged with dynamism and enthusiasm to accomplish the tasks that await us.

Mr. Chairman and Dear Colleague

Please be so kind as to convey to His Excellency Mr. Henri Konan Bedie, President of the Republic of Côte d'Ivoire, our heartfelt gratitude and our renewed commitment to the strengthening of regional integration in general and intra-African cooperation in particular for the development of the civil aviation sector in Africa.



FINAL COMMUNIQUE

We, the African Ministers responsible for Civil Aviation, met in Yamoussoukro, Côte d'Ivoire, on 13 and 14 November 1999 to examine the challenges facing the African Air Transport industry on the eve of the new millenium. In the spirit of the 1988 Yamoussoukro Declaration, the main goal of our meeting was to adopt a regional policy framework for a gradual liberalisation of the African Air Transport industry with a view to promoting and providing safe, efficient, reliable, and affordable air services to consumers.

We have discussed and exchanged views and have also drawn useful lessons in interacting with distinguished panelists.

After careful and thoughtful deliberations on the challenges and constraints facing the African Air Transport industry, we have adopted a Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalization of Access to Air Transport Markets in Africa.

The Decision lays down the foundation for gradual liberalization within the African region of: traffic rights, and capacity control and fixation of tariffs. The full liberalization of the market access will be achieved by the year 2002, in order to create a single aviation market for the continent. We noted that some of our countries have already committed themselves to full liberalization, while some others have expressed the need to proceed gradually to achieve in two years this goal. In order to ensure the implementation of the Decision within the timeframe, we agreed to submit this Decision to the next meeting of the Assembly of the Heads of State and Government of the Organization of African Unity (OAU).

The meeting convened by the Economic commission for Africa (ECA) was attended by Forty-nine (49) countries. The meeting was also attended by the OAU and the African Development Bank (ADB) regional, subregional organizations, airport authorities, Airlines, service providers and consumers have also attended. The meeting was also attended by the Secretary General of ICAO, the Assistant Secretary for Aviation and International Affairs, Office of the Secretary of Transportation of the United States, the Senior Director of IATA for international relations and the Chief of Air Transport Policy of the European Union.

Three consultative meetings were held at the subregional level for West and Central Africa; Eastern and Southern Africa; and North Africa to discuss the harmonization of various policies in the subregions and prepare action plans to facilitate the implementation of the Decision.

We greatly appreciate the support and facilities provided to us by the Government of Côte d'Ivoire and the hospitality extended to all of us. We have therefore and in recognition of the commitment to the cause of promoting the African Civil Aviation Industry moved a Vote of Thanks to His Excellency Henri Konan, Bedié, President of the Republic, and to the Government and People of Côte d'Ivoire.

Done in Yamoussoukro, 14 November 1999



**Address by A. Bradley Mims
Acting Assistant Secretary of Transportation
Yamoussoukro, Cote d'Ivoire
November 13-14, 1999**

Good [afternoon]. It's a pleasure for me to be back in Africa, and to have an opportunity to participate in this important meeting on the future of aviation in Africa. I am happy to see many of you again after our conference with Secretary Slater in Atlanta. That was a very significant event and we were pleased that so many countries were able to send representatives. The Ministerial provided an unprecedented opportunity for exchanging ideas and information, and we at the Department learned a great deal not only from the formal sessions, but also from our bilateral and informal talks with you.

Times are certainly changing with respect to air transport in Africa, and at this meeting the decisions you are making will have a profound affect on Africa's aviation future. It's been just over a year since Secretary Rodney Slater led the first Cabinet-level mission to Africa following President Clinton's historic visit in March and April 1998. Secretary Slater convened two regional meetings of African Ministers of Transport in Harare and Dakar in July 1998. The focus of these meetings was to begin the implementation of the President's Safe Skies for Africa Initiative to improve aviation safety and airport security in Africa and to foster the growth of aviation services between Africa and the United States.

Last month, the Secretary hosted the first U.S.-Africa Transport Ministerial in Atlanta where we talked about building partnerships to open doors of opportunity -- to improve the quality of life among the people of Africa. Today, I would like to look at what has been happening to build our aviation relationships, and what needs to happen to ensure Africa's full participation in the world's air transportation system and the global economy. You told us at the Ministerial that we must work to bring about a win/win situation for both the United States and the nations of Africa, and that is what we want to do.

On the regulatory front, the U.S. has been holding bilateral discussions with several African partners who agree that our civil aviation relationship needs to be overhauled. Just over a week ago, the United States entered into its first open-skies agreement with an African state -- the United Republic of Tanzania became the join with us to liberalize the air transport relations between our two countries. That is indeed a win/win situation. Although the formal processes for signing and entry into force are to be completed, Tanzania and the United States are allowing the agreement to be provisionally effective immediately. We anticipate that this agreement will facilitate new services to Tanzania -- services that will benefit the national economy of Tanzania and add to the economic development that is underway there.

There is no longer any debate about the need for liberalization. Two years ago, we sent a U.S. delegation to meet with your representatives in regional meetings in Harare, Addis Ababa, and Abidjan. We came to tell our story of the benefits of liberalization, not just for the aviation industry, but also for the national economy as a whole. Many of you have been telling the same story among yourselves. I intend to give a short update for the benefit of the Ministers.

In our aviation panel in Atlanta, speakers representing government and industry from Africa and the United States talked about the need for liberalization and the removal of artificial, externally imposed market constraints, noting that these changes are essential for the future of African aviation. Last month, experts at the Libreville conference on aviation in west and central Africa reached similar conclusions. Your own representatives have recognized that Africa cannot afford to adopt a defensive posture, hoping only to weather the market forces that are sweeping the rest of the world.

Where does Africa stand now? At a crossroads. The decisions made in the immediate future will determine who are the regional leaders. Development in Africa is on the move. While Africa lagged behind the rest of the world in 1996—accounting for less than 3% of the world's passenger air traffic – we are beginning to see real changes. We have seen African carriers expand and offer new services on intercontinental routes, both on their own and in cooperation with other airlines.

- Ethiopian has begun service to Washington and more recently to Newark in the United States.
- Air Mauritius has proven that size and remoteness of homeland are no obstacle to success—it offers nonstop service to four continents over stage lengths of transpacific proportions.
- In every part of Africa, cooperative arrangements are being undertaken by carriers of countries as diverse as Angola, Ghana, Kenya, Madagascar, Mauritius, Namibia, Nigeria, Seychelles, Tanzania, Zimbabwe, and the Yaoundé group—among others.
- In francophone West Africa, we note the emergence of national carriers to provide service options within their homelands and the region, often at competitive prices.
- New approaches to regional cooperation have found expression in cooperation among national carriers, such as the recent COMESA regulations.

This conference represents new ways to offer regional solutions a chance to work. On the continental scale, the countries represented here have a great opportunity to create a multilateral framework for civil aviation that will work, and that will work to Africa's advantage. In the subregional area, the draft decision prepared by UNECA would offer airlines new flexibilities in consolidating their efforts and achieving economies of scale best suited to their consumers' needs as well as their own. The 1988 conference resulted in a unique initial step towards reaching a common goal. Now, gathered here in the same city, you have the means and, I hope, the commitment to take a much bolder step.

Certain truths have become plainer than ever in the eleven years since the Yamoussoukro Declaration; if that was a cautious step then, a great one must be taken now to let Africa catch up to other regions of the world in air transport.

Trade and tourism are more crucial than ever to economic health. The forecast for tourism growth in Africa is excellent. Growth in travel and tourism should continue, with real growth forecast at between 40 and 60 percent for the decade 1997-2007. With respect to trade, you've heard Secretary Slater say many times, and in many public meetings, "You can't trade if you can't get there." This is particularly applicable to intercontinental markets where air transportation is the only rapid means to travel between places.

Shippers — importers, exporters, producers, and retailers — also need good air transportation. In Libreville, a representative of produce exporters spoke eloquently to this need for reliable air transport at reasonable prices. For cargo carriers to meet these needs, they in turn must have a liberal environment permitting them the operational flexibility to provide efficient service to a variety of customers.

Airlines are responding to these increased demands with greater efficiency. Individual airlines are re-configuring routes to take the best advantage of economies of scale and of a new generation of efficient aircraft. Airlines together are exploring new ways to cooperate, through relationships as complex as comprehensive alliances or as simple as harmonized frequent-flyer plans and traditional interline arrangements. Many African airlines are now engaged in code sharing and other cooperative activities, both with one another and with other airlines.

Government restrictions hinder economic growth and the removal of restrictions prompts growth. Our desire is to lift the barriers, to find common ground that will allow our carriers and yours to develop the great potential of African markets.

The world's regulatory frameworks are gradually catching up with airline's new commercial arrangements. Internal liberalization in the United States, the European Union, and elsewhere has now been complemented by the spread of open, market-driven bilateral relationships. These are hardly the exclusive domain of the developed world — the United States alone has 38 Open Skies agreements. With the addition of Tanzania, these now include countries on five continents. These partners include the large and the small, the rich and the poor; the one common thread has been the desire to enhance transportation opportunities by loosening the chains of regulation.

We hope and believe that other African states will follow Tanzania's lead. The United States has aviation agreements with less than one-third of Africa's nations. Most of these agreements were negotiated more than 20 years ago, and are limited in terms of route rights, pricing, and other essential features.

We are eager to correct this situation. We have already talked with several countries, including Senegal, Ghana, Kenya, and Burkina Faso, and we would welcome the opportunity to consult with others.

We appreciate that Open Skies can represent a big step for countries accustomed to closed markets. In some cases, our bilateral partners have needed a transitional period to allow adjustments to a fully liberalized environment; we have concluded such arrangements in our Open Skies agreements with countries like Romania and the Czech Republic, in Eastern Europe,

and Peru in South America. Tanzania accepted all elements of our open-skies model, asking transitional arrangements only for passenger charters and ground handling, and we were happy to work with them to phase in these elements. We stand ready to work with our other African aviation partners to develop transitions they find necessary.

But, having said that, we need to step back now and look at an essential element for any successful economic development — and that is investment in infrastructure. We are seeing progress in the crucial areas of safety and security. As you know, our Safe Skies for Africa Initiative is an integral part of our partnership with your countries. Since the President began the Safe Skies for Africa Initiative, teams of experts have been on the ground in three of the eight countries initially invited to join in this effort. We look forward to working with the remaining five, and with other interested African nations, to ensure that civil aviation in Africa is safe and secure from the Cape to Cairo.

We at the Department of Transportation have taken steps to form partnerships with our sister agencies in the United States to assist you in funding infrastructure projects. We brought to Atlanta representatives of the U.S. Export/Import Bank, the World Bank, OPIC and the U.S. Trade Representative to explain their programs, and to give you the opportunity to talk with them about your needs.

In Atlanta, Secretary Slater announced arrangements with the Export-Import Bank that will support the Safe Skies Initiative. The Secretary and Export-Import Bank Chairman James Harmon signed a Memorandum of Cooperation to encourage countries participating in the "Safe Skies for Africa Initiative" to implement the initiative's goals of making sustainable improvements in aviation safety, airport security and air navigation across the continent.

Secretary Slater and Mr. Harmon also signed a Memorandum of Cooperation along with representatives of 14 SADC countries, under which the countries undertook to cooperate to improve transportation infrastructure, expand commercial trade relations and promote tourism with the United States. The signatory countries are Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

We see the beginnings of progress in both technical and economic spheres. However, the full promise of African aviation requires that a crucial step be taken — the step from words to action, from commitment to fulfillment.

In 1988, African nations agreed on the Yamoussoukro Declaration — a first step toward liberalization. In 1994 in Montreal, African nations again committed themselves to reform. The Economic Commission for Africa was asked to oversee the implementation of Yamoussoukro and found that "the results still fall below the ambitions of the objectives . . . traveling within Africa is winding and expensive." In fact, as one commenter noted in his remarks in Atlanta, travelers still often find it easier to fly up to Europe and back down to Africa, than to find transportation directly from one African point to another. This conference offers the leaders of African air transportation policy the opportunity to set the various Africa regimes on the path toward rationalized air services.

With regard to relations with the United States, we welcome movement forward, whether on a regional basis, on a bilateral basis, or both; but movement is essential. It is time to translate worthy ideals and goals into practice. If African countries seek a regional solution to African air transport problems, the United States is ready to work with them. If progress is better achieved bilaterally, we are ready there, too.

Under Secretary Slater's leadership as part of the President's Initiative, the U.S. Department of Transportation has been devoting the attention to Africa that it merits. We must work with diligence in the next year to lock in the gains that we have made to facilitate the development of air services to and within Africa.

The efforts you are making here today and in your national governments and regional organizations to modernize and liberalize your civil aviation regimes represent a great opportunity for Africa and for ties between Africa and America. Let's take full advantage of that opportunity. Thank you.

THE FUTURE OF THE INTERNATIONAL AIRLINE INDUSTRY

An IATA Perspective

*Koki Nagata, Senior Director, External Relations, International Air Transport Association,
Economic Commission for Africa, Conference of Ministers, Yamoussoukro, Côte d'Ivoire,
13-14 November 1999*

Introduction

- Thank you for this opportunity to speak to you, today. I want to briefly review the developments in economic regulation of international air transport and conclude with my views on how to preserve the global system.
- The current regulatory system for international air transport has its origins in the Chicago Convention, signed in December 1944 and leading to the establishment of the International Civil Aviation Organization (ICAO), as well as the creation of the International Air Transport Association in April 1945.
- These developments in 1944/45 and the Bermuda bilateral air service agreement of 1946 laid the foundations for the economic practices of international scheduled air transport. The development since then has been tremendous. In 1945, the 60 IATA Members had 500 aircraft and the total number of passengers carried world wide was 9 million. Today, IATA's 260 Members have over 11,000 aircraft and ICAO estimates that 1.46 billion passenger journeys were made in 1998.
- Over the years, air travel has become more and more affordable to more and more customers. Perhaps the only negative element in this development has been the industry's erratic profitability record and its low margins even in good years.

Liberalization

- In addition, the international air transport sector has become more liberal over time, although not as much as some States would like and too liberal for others. This was made very clear at the Fourth ICAO Air Transport Conference at the end of 1994, when both the Europeans and the Americans expressed disappointment that there had not been a general consensus about moving forward in the economic regulation field.
- The fact that no progress was made was not a complete surprise. We should not forget that fifty-seven nations could not agree in 1944. Getting three times that number of States to agree on such a complex issue as the economic liberalisation of air transport is a much more difficult proposition.
- Even before ATC/4 some States were starting to consider other avenues to explore the possibilities for liberalisation besides ICAO. The most high profile approach was through

the General Agreement on Trade in Services (GATS), which did attempt to incorporate some aspects of international civil aviation.

- Formally, the GATS only includes three areas relating to air transport, in a special Annex on Air Transport Services. These are overhaul and maintenance, sale and marketing of air transport and the operation of computer reservations systems. As a matter of fact, these three services were already being practised multilaterally in a “free trade” way long before the GATS came into force at the beginning of 1995.

The Bilateral System and “Open Skies”

- The limited involvement of air transport in the original GATS agreement was largely because some powerful players were not ready to shift to a multilateral system. These States believed that the bilateral system had still got considerable flexibility left in it and could be used as an economic weapon in their national interest more effectively than a multilateral agreement, such as the GATS.
- The USA and some other like-minded nations, such as New Zealand and the United Arab Emirates – to name but two – are now enthusiastic practitioners of the “open skies” bilateral agreement concept, which is close to a “free trade” environment and has certain advantages for States compared to the GATS. Most importantly, bilateral agreements are flexible and can be renegotiated. This remains an important consideration for many countries.
- However, we should not forget that, even in such a widely established practice as the bilateral system, States can have some mighty disagreements. We have seen the recent conflict between the Philippines, which is trying to protect its flag carrier, and some of its aviation partners. That has actually resulted in termination of air service between the Philippines and Taiwan. The Philippines also stopped the United Arab Emirates flying in but this dispute has since been resolved by a commercial agreement between Emirates and Philippine Airlines.
- Some states see the bilateral system as being restrictive because of the widespread application of the requirement that majority ownership and substantial control of an airline should be held by interests of a particular country. Ownership and control raise a number of issues that are extremely sensitive in most nations, particularly military and security considerations, essential service requirements and employment questions.

The GATS Process

- For this reason, some States are looking for other roads to liberalisation, the most favoured way being through the GATS, the General Agreement on Trade in Services.
- However, the GATS system is quite complex, mainly because it has deliberately been made rather imprecise. Many people in the air transport industry do not understand it. In addition, many free trade boosters do not understand the air transport business.
- The most important point is that GATS is about categories of service, not service providers. With the exception of the items covered in the Annex on Air Transport Services, the agreement is multi-sectoral. It is worth noting here, for example, categories such as storage and warehousing which are “services auxiliary to all forms of transport” are already included in GATS, however application in the aviation is not clear.

- When the GATS was concluded, it was specifically agreed that the Air Transport Services Annex would be revisited when the GATS was reviewed, to see whether other elements could be included or that items in the Annex could be moved to the General Agreement. The review starts with a ceremonial meeting starting in Seattle on November 30 this year and will be followed by two or three years of detailed negotiation.
- In this context, it should be noted that the Organisation for Economic Co-operation and Development (OECD) has also been giving considerable attention to air transport in recent years. The Organisation produced a wide-ranging study of the industry in 1997, which set out proposed "policy recommendations to help decision-makers shape the regulatory framework of the future." In fact, its proposals were quite restrained, highlighting the difficulty of getting consensus on such a sensitive issue even among like-minded nations.
- However, the OECD does see the GATS review as a possibility to broaden its application to air transport. It has produced a major study on the liberalisation of cargo services. The European Union has also devoted attention to the review, and specifically in relation to air transport, while the Australian Government, when presenting its new civil aviation policy, said that it would propose liberalising civil aviation on a multilateral basis.
- ICAO and many IATA member airlines agree that, for activities covered by bilateral air transport agreements, the GATS/WTO framework, as currently constructed, cannot offer equivalent benefits and safeguards. However, it might be possible to bring into the GATS some other services that are not covered in bilaterals, in addition to the three mentioned earlier.
- One could summarise the situation by saying that the GATS at the moment is too big a jacket for air transport services. However, the bilateral system and the GATS already co-exist and will continue to do so in the future, since I am sure more ancillary services will be included in the General Agreement. A full scale merger is many years away.

Conclusion

- Against that background, I want to come to the main point of my presentation today. That is that, whatever direction air transport liberalisation takes, we must protect the consumer benefits that have been created by the air transport industry.
- Over the past five decades, governments and the airlines through IATA have built up a world-wide air transport network that is extremely efficient and user-friendly. I call it the "Global Business System". It is so efficient and user-friendly that a traveller can buy complicated flight itineraries, using any number of airlines, and pay for his transportation in one single transaction, in one single currency.
- This system was built up through co-operation between airlines, working together to produce the standards and procedures – the interline fares and rates, ticketing, baggage handling, operations and so on – that applied without discrimination throughout the world benefit the consumer. We ask governments, including those you here are representing to consider seriously taking up with ICAO the matter of preserving these Global Business Standards.
- And this brings me to the paradox that regulators have to face. The more liberal and competitive the market is, the more carefully competition rules should be applied. There is the view that competition and co-operation are two distinct and contradictory concepts but

we believe that they can co-exist – and must if governments and consumers want to preserve the world-wide air transport system.

- Of course, given the current trend towards broader liberalisation, through GATS or some other mechanism, governments have every right and even an obligation to ensure that the co-operative Global Business System, is not anti-competitive. However, we in IATA are concerned that some of the competition authorities, in their mission to foster competition, might tell us that some of our co-operative activities are no longer permitted and this could kill off the Global Business System – and with it interlining.
 - It is illogical for competition authorities to allow airlines in alliances to discuss all kinds of commercial matters with immunity and, at the same time, to ban co-operative activity by the airline industry as a whole. After all, co-operation within an alliance makes use of the standards that have been developed by the industry. An alliance is simply more narrowly focussed and exclusive than the world-wide multilateral interline mechanism.
 - We would like governments to work with us through ICAO to ensure that the standards and procedures that make the Global Business System work are maintained. The focus of our activities are the airlines' customers. These can be summarised in five principles:
 - Consistent safety and security oversight – as in the US “Safe Skies for Africa” and IATA’s own initiatives
 - Non-discriminatory access to adequate infrastructure
 - Ensuring the continued availability of the multilateral interline system
 - Industry mechanisms to improve business efficiency
 - Fair and equal opportunity to participate in the growth of the global air transport system.
 - IATA has been monitoring the evolution of the economic regulation of air transport over the years and we started our work on the GATS 2000 review a couple of years ago. This is now part of IATA’s work programme and we plan to report our conclusions to the Association’s next Annual General Meeting in Sydney in June 2000.
 - These conclusions will certainly call for governments to work with us to preserve the fundamental “doing business” issues. Personally, I would like to see the issue on the Agenda for the next ICAO Assembly in the autumn of 2001. I would like respectfully to ask delegates from the African countries here at this meeting for their support in meeting the challenges the air transport industry is now facing. Thank you.
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**Address by the Secretary General of the
International Civil Aviation Organization (ICAO)**

Mr. Renato Cláudio Costa Pereira

**to the
Economic Commission for Africa (ECA)
Regional Meeting of African Ministers Responsible for Civil Aviation**

(Yamoussoukro, 13-14 November 1999)

Thank you Mr. Chairman and good morning ladies and gentlemen. It is truly an honour for me to be here with you. I look forward to taking part in these high level discussions on the development of civil aviation on the African continent.

From an ICAO perspective, there is every reason to be optimistic about the future of civil aviation in Africa. The political and economic environment in Africa is more than ever conducive to business opportunities in many sectors of the economy. Accordingly, our medium-term forecast to the year 2001 shows passenger traffic growing close to the anticipated world growth rates. This trend augurs well for the growth and prosperity of the air transport industry in the 21st century.

There are, of course, tremendous challenges on the road to prosperity. These are well known to this distinguished audience and to ICAO. I can assure you that ICAO is dedicated to working with all Contracting States of the African Region to find the most cost-effective and timely solutions to meeting these challenges successfully.

In some cases, this means facilitating access to financial and human resources. In others, it means providing guidance in formulating policy and decision-making. Whatever the approach, we are at the service of States in fulfilling their responsibilities for the safe and orderly growth of their civil aviation.

In my presentation this morning and during the course of the Conference, we will share views primarily on financial and administrative issues. I am pleased to be joined in this exercise by two distinguished colleagues from our regional offices. Mr. Lot Mollel, our acting Regional Director, Eastern and Southern African Office, will review the financing of civil aviation activities in Africa; and Mr. Mohammed Zaroug, Regional Officer, for Air Transport matters of our Middle East Office, will discuss the GATS, the General Agreement on Trade in Services.

It is actually quite timely that we speak of the General Agreement on Trade in Services. One reason is that the GATS will be the focal point of the ministerial meeting of the World Trade Organization scheduled in Seattle within the next few weeks.

As most of you know, the international aviation community is generally of the opinion that air services must be excluded from the GATS. The belief is that the inclusion of air services in the GATS could have serious and long-term implications for the future of the air transport industry at the national, regional and international levels.

This view is consistent with ICAO's position. Liberalization of air services must be done in a gradual manner. It must be given time to adapt to the unique characteristics and requirements of aviation. Proper safeguards must be in place to protect the health and integrity of what constitutes the cornerstone of economic activity for many of the States represented in this room.

It is a positive sign that the aviation community has reached a strong consensus on the GATS. However, I do have one concern. I fear that this position will not be clearly represented at the WTO meeting in Seattle. This is why it is very important that transport authorities of Contracting States take an active role in formulating the negotiating position of their governments. I urge all of you to address this concern at your earliest convenience. There must be no doubt as to the position of the aviation sector on the GATS at the WTO meeting.

Another reason why it is timely to speak of the GATS is that it reflects quite vividly the kind of issues we will be facing in the future. The century we are entering will be in so many respects vastly different from the one we are leaving. This may be more the case in Africa, where technological advancements and a new world economic order will place even more pressure to innovate, to disregard solutions that may have worked in the past, but that may not be adapted to the future.

One such area is the installation and maintenance of air navigation systems, particularly in areas where shortcomings and deficiencies exist. At issue here are questions of infrastructure and financing.

Those of you who attended the Seventh Africa Indian Ocean Regional Air Navigation Meeting (AFI/7) held in Abuja, in 1997, will remember that one of the recommendations called for States to create autonomous civil aviation authorities. They would operate airports and air navigation services under commercial principles, where viable, based on factors such as traffic density. This innovative initiative was, and still is, soundly encouraged by ICAO as a viable option where it is in the best interest of providers and users.

Innovation also underlies other recommendations of AFI/7 that ICAO continues to follow-up, such as possibilities for a cooperative approach in the Region to the implementation, provision and financing of air navigation facilities and services.

I have no doubt that these recommendations can work. For that, one basic ingredient is absolutely necessary: Cooperation. Cooperation among States and cooperation among sub-regions. Fortunately, States of the African Region have demonstrated time and time again their willingness to advance decisively along the path of cooperation.

One example that comes immediately to mind is the recent decision taken by the 22 States of COMESA on a joint implementation of CNS/ATM services in the upper airspace. This project is a tremendous step forward in an open skies policy for the sub-region. It is line with the spirit of the Rio de Janeiro Conference of 1998 on worldwide implementation of CNS/ATM systems and reflects the ICAO policy of evolutionary implementation of the systems.

The COMESA proposal would be even more successful if non-COMESA States were to participate. This would facilitate a common understanding and resolution of related issues, whether technical, financial, regulatory or political. It would also avoid the development of areas that might hinder or even negate the creation of a seamless airspace in the provision of ATM services.

Of course, benefits flowing from the COMESA decision are medium and long term in nature. For users to benefit in the short term, more timely arrangements must be made. States must cooperate in the provision of improved and more efficient facilities and services to support air operations in the lower airspace.

This could be done with a few modest steps that could be considered in the implementation of CNS/ATM. For example:

- in communications, the use of VSAT or similar technologies to remedy deficiencies in the fixed and mobile service;
- in navigation, the development and implementation of GNSS-based non-precision approaches procedures; and
- in surveillance, the sharing of radar data information and/or implementation of ADS over remote or sparsely populated areas.

While on the subject of CNS/ATM systems, I would like to bring to your attention significant highlights of the Air Navigation Meeting of the Caribbean and South American Regions held in Buenos Aires a few weeks ago.

As you know, the objective of regional air navigation meetings is to plan for the implementation of the facilities and services required to support international civil aviation well into the next century.

At the CAR/SAM meeting, a milestone was reached. For the first time, a regional air navigation plan will incorporate the essential elements of the Global Air Navigation Plan for CNS/ATM systems. This can be truly considered as a breakthrough on the way to the creation of a Global Air Navigation Plan.

There were a few more important points to come out of the CAR/SAM and that you might want to consider at this conference. Among them, on the ATM side, was the identification of several air traffic management improvements to enhance the use of airspace through a streamlined air route structure, including air navigation routes. This is expected to

result in more efficient and economic air services. Airspace capacity will be increased by using current technology to reduce separation between aircraft, without compromising safety.

The meeting also reaffirmed the general strategy of transition from conventional ground-based navigation systems to the global navigation satellite system (GNSS) in an incremental and evolutionary manner.

There are many other recommendations from the CAR/SAM meeting that could prove immensely beneficial to African aviation. I invite all of you to review the progress made at Buenos Aires. As you do so, you may discover that privatization was also an issue of utmost importance for many participants, as it is I am sure for many of you here today.

Privatization brings tremendous opportunities, not only for raising capital and funding, but for a collaborative effort between the public and private sectors in the management of the civil aviation infrastructure. For governments, it means divesting themselves of certain facilities and services in order to redirect money into more pressing portfolios. For investors, it means entering into a financial venture with the intent of turning a profit.

ICAO is neither in favour of nor against privatization. Privatization is a sovereignty issue. Contracting States are in the best position to determine what is best for their citizens. What is crucial to ICAO is that, in turning over the operating responsibility to the private sector, States must retain and exercise their regulatory responsibility, primarily in safety. Whether an airport or air navigation services are privatized, safety remains at all times the responsibility of the States, as prescribed by the Chicago Convention.

This mention of privatization brings me to the final point of my presentation, and that is safety. Safety is the *raison d'être* of ICAO and a preoccupation for all of us I am sure. Passenger confidence is critical to the growth of the air transport industry. Safety is the foundation for that confidence. Without confidence on the part of the travelling public, we might not even be here today to plan for future growth and prosperity.

We must strive to maintain and improve on the extraordinary safety record that aviation has achieved over the past half century. One of the best options we have for this is ICAO's newly-implemented Universal Safety Oversight Audit Programme.

For the benefit of those who may not be totally familiar with this groundbreaking programme, let me provide a brief outline. As its name implies, the programme consists of safety oversight audits, carried out by ICAO. The purpose is to evaluate the adherence to safety-related standards and other elements of the civil aviation infrastructure of Contracting States as they pertain to safety.

It is also to enhance the implementation of the provisions of Annex 6 for safety oversight. In this respect, the commitment on the part of all States to carry out the recommendations of the programme is absolutely critical to the success of the programme.

A major feature of the programme is that it is mandatory and regular. At the moment, audits cover personnel licensing, aircraft operations and airworthiness of aircraft. These are probably the most sensitive safety concerns. At the appropriate time, the audits will be expanded to all areas that deal with the movement of aircraft.

Although the Programme only got underway in January of this year, significant progress has been made. To date, ten African States have been audited and the rest will be evaluated within the current three-year cycle.

One aspect of the programme that I find particularly productive in improving safety levels is the pre-audit process. In many cases, safety-related problems are identified and resolved before the audit even begins. This speeds up the auditing process and contributes immediately to improving safety. It can also reduce the duration and cost of the audit process. The money saved can be applied to other safety initiatives.

For those States that require assistance in fulfilling the requirements of the programme, ICAO can provide assistance through its Technical Co-operation Programme. This is valid for various parts of the programme, including pre-audits, the development of an action plan and the implementation of corrective measures. The Organization can also assist by providing the necessary information to obtain funding from donor organizations or financial institutions.

Ladies and gentlemen, I would like to conclude my remarks by reiterating that aviation around the world has entered into an era of liberalization and globalization. ICAO encourages all Contracting States to seize the immense opportunities created by this new political and economic environment.

In so doing, they face the two-fold challenge of ensuring the safety and integrity of their civil aviation infrastructure, and the commercial viability and competitiveness of their airline sector. These can best be addressed through cooperation, political will and progressive economic policies.

I wish you all a very productive conference.

WTO and air transport

Structure and Principles

- WTO, founded 1995
- Successor of GATT (1947)
- Successfully liberalized and expanded trade in goods by applying:
 - * Most favoured nation principle
 - * National treatment principle
 - * Tariff bindings
 - * Dispute settlement mechanism

WTO and air transport

Structure and Principles

WTO coverage: goods, services, intellectual property, with integrated dispute settlement

The **General Agreement on Trade in Services** lowers barriers to trade through:

- * MFN
- * Market access/national treatment bindings
- * Transparency, rules on domestic regulation
- * Dispute settlement

WTO and air transport

GATS principles applying across the board

(i.e regardless of the presence or absence of commitments)

- ✓ Most Favoured Nation Treatment (no discrimination among Members or preferences to non Members)
- ✓ Transparency (publication of measures)
- ✓ Domestic Regulation (mechanisms for appeal of administrative decisions)
- ✓ Recognition (of licenses and certifications and licensing and qualification criteria)
- ✓ Monopolies & exclusive providers (prevent actions affecting MFN obligation)
- ✓ Business Practices (consultations on anti-competitive practices of companies)

WTO and air transport

GATS Principles applying to committed services

- +Transparency** (notification of new or revised measures to WTO)
- +Domestic Regulation** (requirements, criteria & standards to be objective, publicly known and not unnecessarily onerous, procedures not restrictive, implement measures impartially, promptly inform applicants for licenses or other authorizations)
- +Monopolies & exclusive providers** (prevent actions adversely affecting commitments)
- +Payments & Transfers** (no restrictions affecting commitments)

WTO and air transport

GATS exceptions

- ✘ Nondisclosure of confidential information
- ✘ Economic Integration (for e.g. free-trade agreements)
- ✘ Labour Market Integration
- ✘ Balance of Payments Restrictions (in cases of serious difficulties)
- ✘ General Exceptions (for public morals, public order, health and safety, to enforce otherwise consistent laws and regulations)
- ✘ National Security Exceptions

WTO and air transport areas for future negotiations

- ➔ Emergency Safeguard Measures
- ➔ Government Procurement
- ➔ Subsidies
- ➔ Domestic Regulation: A work program to elaborate more specific disciplines.

WTO and air transport

GATS commitments:

- Guarantee the conditions of operation of foreign services suppliers at a certain negotiated level of market access and national treatment
- Ensure that this level cannot be deteriorated
- Make this level available as a minimum to all WTO Members
- Are subject to periodic negotiations with a view to improve them

WTO and air transport

Policy choices for the transport sector

The advantages of GATS liberalization

(i.e. opening the sector to foreigners)

for the “offering” country:

- More investment (secured through guaranteed conditions of access for investors)
- State of the art technologies and management
- More competition
- Hence better services
- Lower prices for the consumer

WTO and air transport

Policy choices for the transport sector

The “dangers” for the offering country:

- Competition for its “national champions”
- Disruption of the bilateral framework
- Risk of skimming off the traffic
- Public service considerations : network, level of service, prices
- Environmental considerations

WTO and air transport

Policy choices for the transport sector

These “dangers” as real as they may be, should not be overrated in the final choices:

- Win-win dynamic (more business, investment and job opportunities in the other WTO members offering the sector)
- Flexibility of the commitments
- Progressive liberalization principle
- MFN exemptions for preferential situations

WTO and air transport

GATS technique

“Scheduling” principles:

- Positive listing of sectors
- Negative listing of restrictions
- M.A:* discriminatory and non discriminatory measures
 - * 6 exhaustive categories: number of suppliers, value of transactions/assets, number of operations, number of persons, legal form, foreign capital

WTO and air transport

GATS technique

Scheduling principles: (continued)

- NT: any discriminatory measure *de facto* or *de jure*
- The modes of delivery: cross-border, consumption abroad, commercial presence, temporary movement of natural persons
- The additional commitments
- The freedom to modulate
- The minimum MFN standard effect

WTO and air transport

GATS technique

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>11. TRANSPORT SERVICES</p> <p>C. <u>Air Transport Services</u></p> <p>d. maintenance and repair</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) Maximum foreign participation: 40%</p> <p>(4) Unbound</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound</p>	

WTO and air transport

air transport specificities

- The annex on air transport excludes from the scope of the GATS :
 - - traffic rights, however granted or
 - - services related to the exercise of traffic rights except
 - - aircraft repair and maintenance services
 - - selling and marketing of air transport services
 - - computer reservation system services

WTO and air transport

air transport specificities

- traffic rights are defined in a wide manner:
- “the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Member, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.”

WTO and air transport

air transport specificities

- -the”services directly related to traffic rights” are not defined except for the three of them explicitly included in the scope of the GATS:
- "Aircraft repair and maintenance services" mean such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance.

WTO and air transport

air transport specificities

- "Selling and marketing of air transport services" mean opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions.
- "Computer reservation system (CRS) services" mean services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued

WTO and air transport

air transport specificities

- Results of the negotiations (1990-1993):
 - - maintenance : 34 commitments
 - 2 MFN exemptions
 - - marketing : 23 commitments
 - 17 MFN exemptions
 - -CRS: 28 commitments
 - 16 MFN exemptions

Analysis of Commitments Made by Members on Maintenance Services (Number of Full, Partial and Non-Mode of Supply)

Maintenance	Mode 1			Mode 2			Mode 3			Mode 4		
	f	p	n	f	p	n	f	p	n	F	p	n
Australia			x*	x			x				x	
Austria	x			x			x				x	
Bulgaria			x*	x			x				x	
Canada	x					x		x			x	
Chile			x			x	x				x	
Cuba	x			x			x				x	
Czech Rep.			x*	x				x			x	
Ecuador			x	x			x				x	
El Salvador	x			x				x			x	
EC			x*	x			x				x	
Finland			x*	x			x				x	
Gambia	x			x			x				x	
Guatemala	x			x			x					x
Guyana	x			x					x		x	
Honduras			x*	x			x				x	
Hungary	x			x			x				x	
Iceland			x*	x			x				x	
Japan			x*	x				x			x	
Kenya			x*	x					x		x	
Korea												
Morocco	x			x			x		x		x	
Nicaragua	x			x			x				x	
Norway			x*	x			x				x	
Panama	x			x			x				x	
Philippines			x*	x				x			x	
Poland	x			x			x				x	
Romania			x*	x				x			x	
Slovak Rep.			x*	x				x			x	
Slovenia			x*	x			x				x	
Suriname	x			x			x				x	
Sweden			x*	x			x				x	
Switzerland			x*			x	x				x	
Thailand	x			x					x		x	
Turkey	x			x				x		x		
USA			x*	x			x				x	
TOTAL	15	0	17*	31	0	3	23	8	4	1	32	1

Analysis of Commitments Made by Members on Selling and Marketing Services (Number of Full, Partial and Non-Commitments by Mode of Supply)

	Mode 1			Mode 2			Mode 3			Mode 4		
	f	p	n	f	P	n	f	p	n	f	P	n
Selling and Marketing												
Austria	x			x			x				X	
Bulgaria	x			x			x				X	
Chile			x*			x	x				X	
Cuba	x			x			x				X	
Czech Rep.			x	x					x		X	
EC	x			x			x				X	
Finland	x			x			x				X	
Guatemala			x	x					x			x
Honduras			x	x					x			x
Iceland	x			x			x				X	
Japan	x			x			x				X	
Kenya	x			x			x		x		X	
Korea			x*	x			x				X	
Morocco	x			x			x				X	
New Zealand	x		x	x		x	x		x		X	
Norway	x			x			x				X	
Romania	x			x					x		X	
Slovak Rep.			x	x					x		X	
Slovenia	x			x			x				X	
Suriname	x			x			x				X	
Sweden	x			x			x				X	
Thailand			x			x		x			X	
Turkey		x		x			x			x		
TOTAL	15	1	8	21	0	3	17	1	7	1	20	2

Analysis of Commitments Made by Members on Computer Reservation Services (Number of Full, Partial and Non-Commitments by Mode of Supply)

	Mode 1			Mode 2			Mode 3			Mode 4		
	f	p	n	f	P	n	f	p	n	F	p	n
CRS												
Australia	x			x			x				x	
Austria	x			x			x				x	
Bulgaria	x			x			x				x	
Canada	x			x				x			x	
Chile	x					x	x				x	
Costa Rica			x	x					x		x	
Cuba	x			x			x				x	
Czech Rep.			x	x					x		x	
Ecuador	x			x			x				x	
EC	x			x			x				x	
Finland	x			x			x				x	
Guatemala	x			x			x				x	
Guyana	x			x			x				x	
Honduras	x			x					x			x
Hungary	x			x			x				x	
Iceland	x			x			x				x	
Japan	x			x			x				x	
Kenya	x			x					x		x	
Korea		x		x			x				x	
Morocco	x			x			x				x	
New Zealand	x			x			x				x	
Norway	x			x			x				x	
Romania	x			x			x				x	
Slovak Rep.			x	x					x		x	
Slovenia	x			x			x				x	
Suriname	x			x			x				x	
Sweden	x			x			x				x	
Turkey	x			x			x			x		
TOTAL	24	1	3	27	0	1	22	1	5	1	26	1

Other Commitments taken in Air Transport Services (Number of Full, Partial and Non-Commitments by Mode of Supply)

	Mode 1			Mode 2			Mode 3			Mode 4		
	f	p	n	f	p	n	f	p	n	F	p	n
CPC 731 passenger transportation by air	Sierra L Gambia			Sierra L Gambia			Sierra L Gambia					Sierra L Gambia
CPC 732 freight transportation by air												
CPC 734 rental services of aircraft with operator	Nic. Gambia Poland	Brunei		Nic. Gambia Brunei Poland			Nic. Gambia Poland	Brunei				Nic. Gambia Brunei Poland
CPC 746 supporting services for air transport	Sierra L Mex. Gambia Cuba Nic.		Mex.	Sierra L Mex. Gambia Cuba Nic.			Sierra L Gambia Cuba Nic.	Mex.				Sierra L Mex. Gambia Cuba Nic.
Ground operation of support equipment			Chile*			Chile	Chile					Chile

MFN Exemptions in Air Transport Services

Members	Maintenance	Selling/ Marketing	CRS	Others
Austria		X	X	
Bulgaria		X	X	
Canada	X	X		X
European Community		X	X	
Finland		X	X	
Iceland		X	X	
Korea			X	
Kuwait	X	X	X	
Liechtenstein		X	X	
Norway		X	X	
Poland		X	X	X
Romania		X		
Singapore			X	
Slovenia		X	X	
Sweden		X	X	
Switzerland		X	X	
Thailand		X	X	X
Turkey				X
USA		X	X	X
TOTAL	2	17	16	7

WTO and air transport

what next ?

- 1° “millenium round” negotiation:
- like all other services, the three explicitly covered services will be the subject of new negotiations as of November 1999 in order to :
 - - add or improve commitments
 - -reduce or suppress MFN exemptions

WTO and air transport

what next ?

- 2° “review”:
- the annex stipulates that:” The Council for Trade in Services shall review periodically, and at least every five years, developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector.”

ANNEX ON AIR TRANSPORT SERVICES

1. This Annex applies to measures affecting trade in air transport services, whether scheduled or non-scheduled, and ancillary services. It is confirmed that any specific commitment or obligation assumed under this Agreement shall not reduce or affect a Member's obligations under bilateral or multilateral agreements that are in effect on the date of entry into force of the WTO Agreement.

2. The Agreement, including its dispute settlement procedures, shall not apply to measures affecting:

- (a) traffic rights, however granted; or
- (b) services directly related to the exercise of traffic rights,

except as provided in paragraph 3 of this Annex.

3. The Agreement shall apply to measures affecting:

- (a) aircraft repair and maintenance services;
- (b) the selling and marketing of air transport services;
- (c) computer reservation system (CRS) services.

4. The dispute settlement procedures of the Agreement may be invoked only where obligations or specific commitments have been assumed by the concerned Members and where dispute settlement procedures in bilateral and other multilateral agreements or arrangements have been exhausted.

5. The Council for Trade in Services shall review periodically, and at least every five years, developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector.

6. Definitions:

(a) "Aircraft repair and maintenance services" mean such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance.

(b) "Selling and marketing of air transport services" mean opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions.

(c) "Computer reservation system (CRS) services" mean services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued.

(d) "Traffic rights" mean the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Member, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

LIST OF PARTICIPANTS

LISTE DES PARTICIPANTS

**REGIONAL CONFERENCE OF AFRICAN MINISTERS RESPONSIBLE
FOR CIVIL AVIATION
CONFERENCE REGIONALE DES MINISTRES AFRICAINS CHARGES
DE L'AVIATION CIVILE**

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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