THE WAY FORWARD IN LIBERALISING THE AFRICAN SKIES

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ABSTRACT

The African aviation industry has been facing a number of problems over the past decades including; poor management, government involvement, financial constraints, increased safety and security measures, new trends of opening up its skies with the creation of multilateral agreements. The aim of this paper is to show how Africa, like the rest of the aviation industry else where is moving from restrictions to opening up its skies, to increase accessibility, competition and improved air services. The paper focuses on the steps Africa has taken under the Yamoussoukro Decision, which outlines the strategy for deregulating the industry within African countries specifically outlining its strategies, progress and hindrances. The way forward gives various proposals as to how African governments and airlines can reap the benefits of opening up their skies and improve the aviation industry. The conclusion is that Africa needs to reap the benefits of the current trend in the aviation industry, which includes building up an extensive global network to realize economies of scale and density and to meet consumer demands.

1. INTRODUCTION

The African aviation industry has been facing a number of problems over the past decades including; poor management, government involvement, financial constraints, increased safety and security measures since the 9/11 attack on the US, in the ever-changing aviation industry. Oum (2001) states that air carriers need to build up an extensive global network to realize economies of scale and density and to meet consumer demands. In order for Africa to keep up with the new aviation trends, much has to be done to change the policies and regulations restricting the air transport industry, to liberalise its skies. Morrison (2004) highlighted that in 2001, despite the devastating effects 9/11 had on the rest of the world, air passenger traffic within Africa increased by 7.5% the following year even though there has been little recovery in financial terms.

The aim of this paper is to show how Africa, like the aviation industry in the rest of the world is moving from restrictions to opening up its skies, to increase accessibility, competition and improved air services. The paper focuses on the steps that have been taken under the Yamoussoukro Decision, which outlines the strategy for deregulating the industry within African countries, its strategies, progress and hindrances, giving proposals on how liberalisation can be achieved at a faster rate within the continent.

The paper first discusses the Yamoussoukro Decision, a law binding agreement set up to liberalise African skies, to catch up with the rest of the world. It outlines the strategies the Yamoussoukro Decision has in place, the progress made by the organisations responsible for implementation and monitoring. The reasons hindering the faster implementation of

Yamoussoukro and the proposals that African States can adopt so as to open up African will be given.

2. YAMOUSSOUKRO DECISION

2.1 Background

Regulation of the air industry worldwide was introduced at the Convention for the Regulation of Aerial Navigation ("Paris Convention") signed on October 13th 1919. This convention recognized that every nation has "sovereignty" over the airspace above its territory. The Paris Convention set forth the fundamental policy, which underlies all aviation negotiations.

The second major aviation conference, known as the Chicago convention was signed on 7th December 1944 by 52 states. This convention set rules that govern the aviation industry to date, through an International Civil Aviation Organisation (ICAO), which became a specialized agency of the United Nations in October 1947, formed to standardise and regulate the framework for the air transport industry worldwide. Furthermore, different types of scheduled operation called the "degrees of freedom" were defined and have since then been the basis, as to how much lee-way a country can give another in operating in their airspace.

Like the rest of the world in the 20th century, the African aviation industry was being run by governments and with that came problems of mismanagement, lack of technical skill due to political involvement, corruption leading to insufficient funds to manage national airlines, and so on. To prevent the collapse of African national airlines, the African ministers responsible for civil aviation met in Yamoussoukro, Ivory Coast in October 1988, which heralded the historic Yamoussoukro Declaration (YD) of 1988. In July 2000, different African ministers responsible for civil aviation and the Heads of State and the Government of the Organisation of African Unity (OAU), now called the African Union (AU), adopted the Yamoussoukro Declaration whose name later changed to the Yamoussoukro Decision, which made it binding in law, to be adopted by all Member states of the African Union (AU). In accordance of article 2 of the Decision, the Yamoussoukro takes precedence over all bilateral and multilateral agreements within the region, which are not in conformity with it.

The general aim of the Yamoussoukro Decision is to promote co-operation among African member states through their air transport policies. By deregulating the industry within Africa, competition on routes, fares and traffic will also encourage competition between airlines. Morrison (2004) adds that implementation of this decision will result in radical changes not only for airlines but national economies resulting in increased tourism and greater availability and flexibility of air services, within the continent.

2.2 Implementation Strategy

The United Nations body created with the responsibility for trade and regional integration within Africa called the Economic Commission for Africa (ECA) states that the Yamoussoukro Decision was aimed at eliminating all physical barriers relating to:

The granting of traffic rights; Particularly those falling under the fifth air liberty, enabling an airline from an African country to carry passengers between destinations in another state, which obviates the need for passengers travelling across the continent to pass in transit through points outside it;
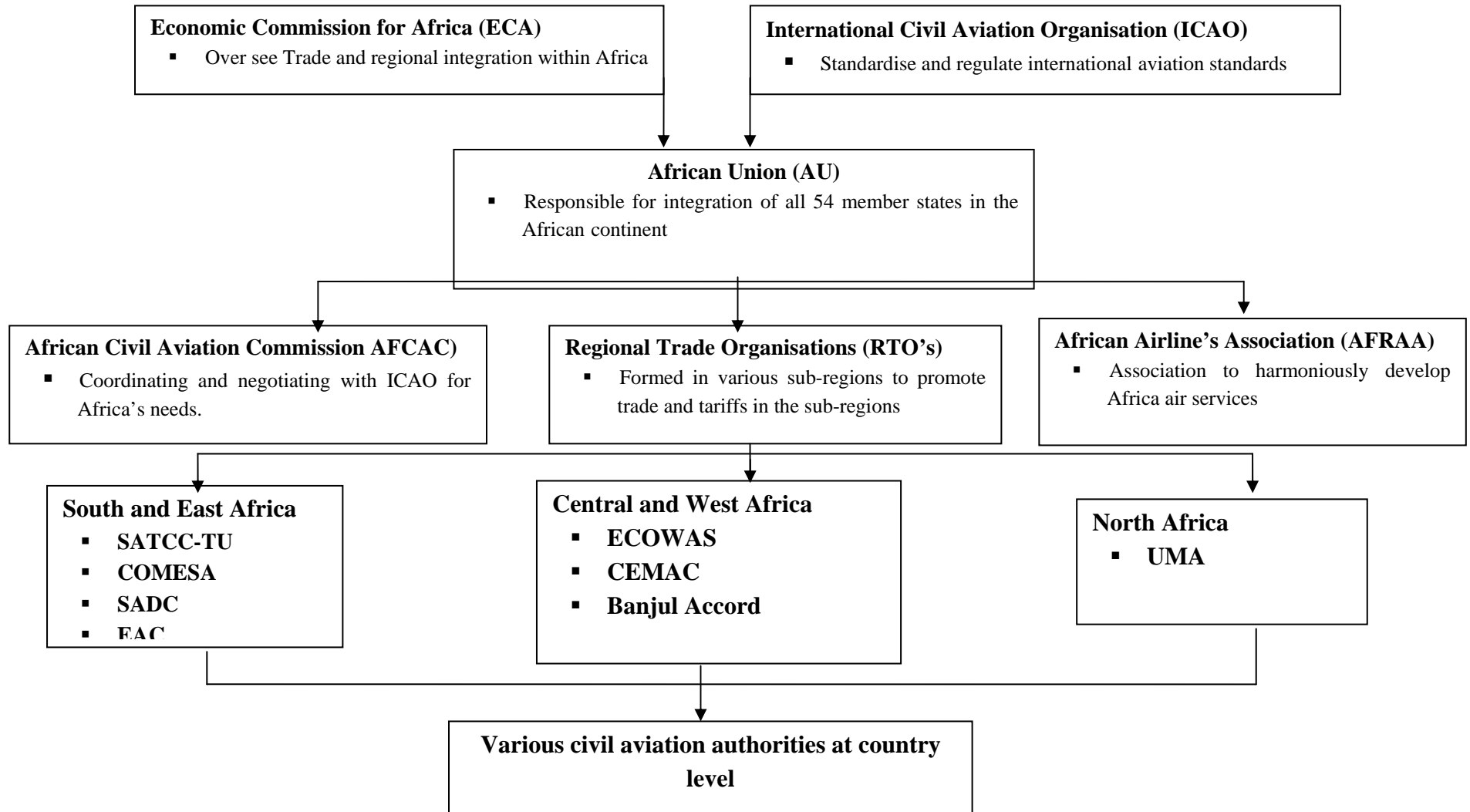
The maximum capacity of aircraft run by African airlines; To protect their airlines, States had to hitherto imposed restrictions on capacity with regard to carriers from other African countries, which was to the detriment of passengers because it made it more difficult for them to find places on the available regular flights;

Tariff regulation; Traditionally, tariffs were subject to lengthy approval procedures at the country level: moreover, the tariffs were very high and the passenger did not have much choice with regard to tariffs;

The designation by States of operational arrangements; despite the increase in passenger traffic, the noticeable development of Africa's air transport industry, and the sophistication achieved over the years, extremely protective policies persisted at the country level, and these were in favour of the national carriers: it could go as far as imposing restrictions against other airlines with regard to certain routes, even where there was no alternative air link; this situation led to daunting problems relating to the smooth flow of traffic within the continent.

Airfreight operations; there were situations whereby, due to restrictions on airfreight, agricultural commodities were spoilt through bio degradation, when no alternative means of transportation was available, or the costs became too high.

There are many institutions within the African continent that are concerned with trying to liberalize the African skies and their role in its implementation will be described and shown in Figure 1. Some of these institutions are at present being used as an instrument to implement Yamoussoukro Decision. Others are regional trade organisations like the South African Customs Union (SACU), Community of West African States (COMESA), East African Community (EAC), Central African Economic and Monetary Community (CEMAC), Arab Maghreb Union (UMA) etc, which already have multilateral or bilateral air agreements with member states. Then finally, there are bodies that have been set in place both regionally and internationally, that have to regulate and standardize the aviation industry as Yamoussoukro is being implemented like: International Civil Aviation Commission (ICAO), African Airline Association (AFRAA), and African Civil Aviation Commission (AFCAC).

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│ Economic Commission for Africa (ECA)     │   │ International Civil Aviation Organisation (ICAO) │
│   ▪ Over see Trade and regional          │   │   ▪ Standardise and regulate international       │
│     integration within Africa            │   │     aviation standards                           │
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African Union (AU)
- Responsible for integration of all 54 member states in the African continent

African Civil Aviation Commission AFCAC)
- Coordinating and negotiating with ICAO for Africa's needs.

Regional Trade Organisations (RTO's)
- Formed in various sub-regions to promote trade and tariffs in the sub-regions

African Airline's Association (AFRAA)
- Association to harmoniously develop Africa air services

South and East Africa
- **SATCC-TU**
- **COMESA**
- **SADC**
- **EAC**

Central and West Africa
- **ECOWAS**
- **CEMAC**
- **Banjul Accord**

North Africa
- **UMA**

Various civil aviation authorities at country level

Figure 1: Breakdown of Yamoussoukro implementation organs

2.3 Progress of implementation

The Economic Commission for Africa (ECA) is a specialised agency of the United Nations that is concerned with programmes in Africa like the fostering development and encouraging sustainable trade policies through regional integration. ECA carries out policy analyses and programmes in areas that will be instrumental in binding the continent. For example, in aviation it deals with the progress of implementing the Yamoussoukro Decision within Africa. The ECA uses the consultants it recruited to conduct studies on:

The legal framework for integrating the Yamoussoukro Decision in national policies;

Air transport policy and the progress of integration in Africa through the implementation of the Decision and;

The model agreement between two or more countries for the establishment of a multinational airline

ECA also fielded sensitisation missions to impress upon certain countries the importance of the Decision's objectives.

The ECA is directly involved in implementing the Yamoussoukro Decision at regional and sub-regional level and has the duty of ensuring that the all-regional organisations involved in implementation are following the same procedures. It also serves the purpose of funding the workshops and seminars and technical assistance to clarify the articles of the Decision. It has also established a website http://www.uneca.org/itca/yammoussoukro which has details and updates and reports on the implementation of the Decision.

Even though the Decision has not been fully implemented throughout Africa, the countries that have made progress towards achieving open skies have faced significant changes in the aviation industry as elaborated below:

A number of states have taken urgent measures towards implementation of the Decision, applying the agreements on the traffic rights on a bilateral basis. An example of this is the agreement between Ethiopia and several countries within Africa. Ethiopian airlines flies to most of the major destination airports within Africa based on the bilateral agreements, which have been formed under the Decision.

ECA report (2003) shows that under the auspices of AFRAA, technical cooperation has made much headway particularly with regard to plant pooling, joint fuel purchasing, retreading and purchasing of aircraft tyres;

ECA review report (2003), states that African positions relative to air transport regulations have been properly coordinated and defined at international forums, because they are becoming increasingly aware of the stakes and implications of new air transport policies;

The ECA review report (1994) stated that governments have scaled down their involvement in the management of airlines and airport authorities. Indeed, several initiatives have been taken to promote private sector participation in air transport activities.

The ECA review report (1994) shows that the measures adopted in Mauritius, with specific reference to the granting of the fifth freedom rights have been implemented by many African countries, which has led to an increase in traffic and the frequency of flights on some routes;

New routes are being flown through the flexibility that has been introduced in the granting of traffic rights (especially those of the fifth freedom) as agreed in Mauritius. Consequently, the intra-African network has improved somewhat, for example the link between West Africa and the southern Africa, when South African Airways introduced a direct flight from Johannesburg to Dakar in 2002.

Airlines that have not been able to adapt to the liberalized environment are restructuring their services because of the competition. And thus a noted improvement in the quality of air transport services;

Alliances and co-operation arrangements have been established among African airlines in certain sub regions for example: Air Mauritius, Air Madagascar and Air Seychelles, and SAA and Air Tanzania.

Tariff regulation for routes worldwide was now being controlled by IATA (International Air Transport Association) not member states, which stipulated the maximum fee that could be charged on a route, to avoid exploitation of consumers by airlines with route monopoly.

The ECA review report (2003), states that development partners have lent support to the process of liberalization of air transport in Africa. The World Bank and the European Union are assisting the sub regional economic communities to manage liberalization and strengthen institutional capacities.

2.4 Hindrances to implementation

Fifteen years after this famous Decision, which culminated in a new African air transport policy, the major objectives are still far from being realized. The implementation of the decision is moving at a slow pace over most African countries which issue has been attributed to:

Lack of cooperation among some of the airlines and inconsistency of the National Policy framework, which negates the spirit of the Yamoussoukro Decision, thus causing delays in trying to incorporate the Yamoussoukro Decision into national air transport policies at national and sub-regional levels.

The ECA review report (1994) identifies that there exists a lack of effective coordination at national and sub-regional levels, poor participation from the private sector, misinterpretation of the Yamoussoukro Decision and the Mauritius Decision on 5th Freedom rights

Morrison (2004) suggests that the implementation of the Yamoussoukro Decision has become more about politics than about aviation and it will require political intervention and leadership to be implemented. He also pointed out that the countries that have implemented the Yamoussoukro with other like-minded states, have done so on a bilateral basis, as opposed to the Open skies policy embedded in the Yamoussoukro Decision.

Since the early 1990s, African States have been experiencing political, economic and social turmoil. Their governments have not had the time they need to concentrate on developing the air transport sector, more specifically, airline cooperation and integration.

The ECA review report (2003) states that airline directors are still distrustful of each other and hesitate to commit themselves to cooperation and integration arrangements. Furthermore, African airlines continue to operate their air services individually to Europe and Asia while this remains one area of great potential for cooperation and integration that

has yet to be exploited in the creation of airport hubs within Africa. Such hubs will make it possible to operate daily flights to Europe and Asia and also provide better air services to African capitals. What is more, the airlines fear that the implementation of the Decision might place them at a disadvantage in commercial terms.

Some countries and airlines continue to misinterpret the Decision or to interpret it to their advantage. Indeed, for some of them, the objective of the Decision is to create regional groupings while for others, the idea is more to create an enabling environment through wider liberalization.

2.5 Monitoring activities

With the slow progress of the implementation of the Decision, the African Union (AU) and The New Partnership for African Development (NEPAD) have integrated a regional follow-up organ, set up specifically to monitor the Yamoussoukro Decision's implementation. The regional follow-up organ for implementation of the Decision, was established in accordance with its Article 9 and consists of the OAU/AU (President), ECA (Secretariat), AFCAC (Rapporteur), AFRAA, and sub regional organisations, which meet often to consider the questions raised by the various stakeholders, and furnish the necessary solutions and clarifications toward facilitating the implementation of the Decision. The African Union and NEPAD has also embarked on efforts to create awareness among member states on the implementation of the Decision by transmitting to States, under the signature of the Interim President, the documents on competition in air transport prepared by COMESA, SADC and the EAC. The AU participated in the drafting of the Memorandum of Clarification on the Articles of the Yamoussoukro Decision.

The continental follow-up organ has adopted programmes and plans to support the implementation of the Decision. These programmes and plans cover, inter-alia:

Capacity building; (sensitisation on the objectives and implications of the Decision);

Legal instruments and institutional dimensions; and

Technical assistance to be provided to partners at their request.

At the request of the follow-up organ and some of the regional economic communities, ECA has, in collaboration with the regional follow-up organ, prepared a document on the legal clarification of questions raised at meetings organized to create awareness and broaden the reach of the Decision among countries. A Memorandum of Clarification prepared by the members of the regional follow-up organ on the basis of the document of clarification was sent to States under the signature of the Interim President of the African Union.

3. WAY FORWARD

The Yamoussoukro Decision is among the formative instruments designed to streamline the development of Africa's airline sector. Its main objective concerns air transport cooperation, regional integration and progress towards attaining the objectives of the African Union. Every effort should therefore be made toward its full implementation. The proposals given below are different measures that can be adapted in different countries in Africa to allow for Yamoussoukro or the benefits of liberalisation to happen at a faster pace.

3.1 Competition rules

It appears that fair play is not always observed, particularly with regard to operational approaches, whereby some airlines have tended to unfairly eliminate other airlines in order to monopolize the market. Sub-regional organisations have therefore been requested to formulate competition rules establishing competition rules in a liberalized environment. COMESA, SADC and EAC have fulfilled that objective, which may serve as a beacon for other sub-regional organisations.

Given that the necessary steps are being taken at the sub-regional level to formulate competition rules—which may result in sub-regional blocs—the follow-up committee is urged to formulate a harmonized set of rules governing competition at the regional level. States should use ICAO instruments and the relevant provisions of the multilateral agreement on air transport adopted by Asian States, as far as competition rules go.

3.2 Alliances

Balfour (2004) points out that the model of an alliance, that was very successful between North West airlines in North America and KLM in Europe, can adopted. The Netherlands and the US signed an open-skies agreement in September 1992, characterised by the following conditions:

Each air carrier's management remains separate due to national ownership restrictions by each government, but coordinates closely.

High level of integration can be done without the fear of legal challenges from competitors.

Marketing strategies like pricing and setting fares in different seasons, and advertising are discussed unanimously agreed upon.

This was carried out in Africa when the national airline Kenya Airways formed an alliance with the Royal Dutch airlines (KLM). The Kenyan government, still with majority stake in Kenya Airways, benefited from the capital injected by the alliance, and was even able to expand its route network. This measure has also been taken by smaller national airlines forging an alliance with larger African national airlines like the alliance between Air Tanzania and South Africa Airways (SAA), which has not been extremely successful despite its potential.

3.3 Business regulations

The ECA report (2003), noted that most of the operators are not acquainted with the procedure to follow with regard to operational licences where air transport services have been liberalized. Some have proceeded to apply the provisions of the Yamoussoukro Decision on agreements negotiated bilaterally. Such actions have spawned confusion and operational difficulties for some air transport services. To address this situation, it should be recommended that sub-regional organisations and the follow-up committee prepare a manual on the regulation of licensing procedures for air transport operations in Africa.

3.4 Unilateral liberalisation

In case where countries with smaller national airlines are scared of being swallowed up by the competition on routes governed by the Yamoussoukro Decision, they can open up their skies cautiously in a system of unilateral liberalisation.

Wolf (2001) proposed unilateral liberalization, which would involve a single country opening its own markets without demanding anything in exchange. What the country would have to be careful about is route monopoly of a larger airline dominating all the major routes. This implies that instead of waiting for Yamoussoukro to be implemented regionally, steps towards opening country's individual skies would be a stepping stone for other countries to follow suit. The logic would be, to encourage healthy competition in international markets, which would be beneficial for the national economy.

3.5 Low cost airlines strategy

The aviation industry has seen the growth of numerous low cost airlines, which are performing extremely well in terms of profitability, despite original reservations. Morrison (2004) writes that African airlines have been depending on their governments for subsidies for many years, because of the highly capital intensive and low profit margin characteristics of the air transport service industry. One of the ways of lowering running costs is adapting the low cost airline operating strategies which include: reducing ticketing, cutting down the frills of the service, flying smaller cheaper aircraft, etc. These low cost airlines would specialize mainly on the short-haul market, with flight durations typically between 1-2 hours.

3.6 Government Involvement

Morrison (2004) suggested that one of the drawbacks of the Yamoussoukro decision is the fact that its implementation regionally has now become a political decision, because the airline industries ownership within Africa were historically state-owned. He then goes on to suggest that the regulator of the industry needs to be better defined and should be completely impartial to making politically influenced decisions. The regulator should operate within a predefined policy framework preferably in line with the Decision, thus the policy maker and regulator are separate identities. Some countries in Africa have gone further and privatized their airlines completely while some have remained majority shareholders and commercialized their state-owned airlines, which is a step in the right direction to reduce government involvement.

3.7 Unification of airlines

Even though it has become a common practice for every country to have its own national airline or flag carrier, the idea of having 60 flag carrier airlines all with fifth freedom rights, will create chaos for route planners and regulators. Besides this, it should be remembered that the passenger demand in Africa is not that high to allow for such competition and still keep all those airlines operating profitably. Morrison (2004) suggests that Africa reduce aviation fragmentation and aim to have only four or five strong regional airlines, which would enjoy the economies of scale and mass and would survive the competition.

These sub-regional airlines would be chosen based on the sub-regional trade organisations in Africa in implementing the open skies. This would allow for the creation of hubs within these geographical regions, which would mean that a hub network could work within the African continent, and the smaller airlines feed passengers from the nodes into these hubs. This would be the best solution as the regional trade organisations have been the most instrumental in trying to implement the Yamoussoukro Decision, which would liberalize Africa's skies.

4. CONCLUSION

The aim of this paper is to show how Africa, like the aviation industry worldwide, is moving from restrictions to opening up its skies to increase accessibility, competition and improved air services. The Yamoussoukro Decision is a step taken by African countries to introduce liberalisation, and it was outlined and the bodies responsible for the implementation and monitoring presented. The hindrance to the implementation of this Decision, which started off 15 years ago, have been highlighted. The proposals as to how Yamoussoukro can be implemented faster for different stakeholders is summarised as follows:

Government agencies: These need to fast pace unilateral liberalisation, set up independent regulatory bodies to reduce government involvement and protect the interest of their state's airlines against competition.

Airlines: To forge Alliances with stronger airlines, adopt low cost airline strategies to cut down operating costs and run more profitably.

Regional organisations: To specify competition rules for airlines so that smaller countries can become more comfortable with liberalisation, outline business regulations to be used under liberalisation, promote unification of airlines at sub-regional level.

These proposals will move Africa forward in as far as reaping the benefits of the current trend in the aviation industry, which include building up an extensive global network to realize economies of scale and density and to meet consumer demands.

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