

CHAPTER 1

Introduction

In Africa, where poor road, port, and railway infrastructure often constrain the rapid and efficient transportation of both goods earmarked for export and passengers, air transport offers potential for growth and for economic development by fostering trade and foreign investment. However, Africa's air transport industry has always been a relatively small player compared with the global industry. In terms of revenue passenger-kilometers flown (1 revenue passenger-kilometer is defined as 1 fair-paying passenger transported 1 kilometer [km]), the intra-African market represents less than 1 percent of the global market and total African revenue passenger-kilometers (intra African and intercontinental traffic) account for only 4.12 percent of global revenue passenger-kilometers (Boeing Company 2006, p. 37). Given a potential market of more than 12 percent of the world's population, African air traffic is expected to grow at 5.7 percent, per year, which is considerably faster than the world average of 4.9 percent (Boeing Company 2006, p. 35). However, despite strong expected growth, intra-African markets in particular are still thin and most regions lack a true competitive environment.

Prior to gaining independence, most African countries had air services that were primarily based on European relationships and agreements. Only in the early 1960s, when many colonies became independent countries, did

African states begin to negotiate and conclude their own air services agreements. During that time, most of the newly independent African states also created their own, mostly government-owned, national air carriers, many of which failed (Guttery 1998).¹ Most of these African national carriers pursued a business model that consisted of using profitable international routes to and from the territories of their former colonial masters to cross-subsidize their costly, yet extensive, domestic route networks (Guttery 1998, p. 1). This often resulted in the maintenance of strict bilateral relationships for intercontinental routes, where capacity was limited and controlled to maximize profitability. Governments tended to view the development of regional air services as secondary, especially when they had to maintain a costly domestic network.

Nevertheless, following the international example pertaining at the time, intra-African air transport services also became regulated by the traditional framework of bilateral air service agreements (bilaterals). The typical bilaterals of the 1960s were based on the traditional predetermination model, under which market access and capacity were predetermined (Doganis 2001, p. 19).² This model controlled the market by effectively restricting competition. However, whereas liberalization of air services has been actively pursued in the United States since the late 1970s (see the details of the 1978 U.S. Airline Deregulation Act in Dempsey and Gesell 2004, p. 192) and in Europe since the late 1980s, African air services have remained generally restrictive, costly, and inefficient.³

In the early days of independence, air transportation came to be recognized as “both far-reaching and essential for the development of Inter-African trade and for the improvement of the economic, social and cultural conditions of the African peoples” (OAU 1973, p. 39). The main reason was that countries’ road and highway networks, which existed prior to their independence, tended to serve only their own territories and were not interconnected. The road network was mainly designed to move raw materials from the interior to seaports rather than to link countries. At the same time, African politicians considered African air transport to be threatened by dominating carriers from Europe and especially the United States (OAU 1973, p. 39). This was because the main focus of African carriers in international air transport remained on intercontinental traffic, while the intra-African network remained far less developed. (As late as 1990, 249 bilaterals were still in place between Sub-Saharan African and other countries for intercontinental traffic versus only 57 bilaterals among African states for intra-Africa traffic [Institute of Air Transport 1990, p. 8].) In 1979, the threat

of liberalization was seen as being driven by the “United States, which wished to export its deregulation throughout the world” (Institute of Air Transport 1990, p. 5) when it organized a conference on air transport in Nairobi. However, African states themselves also began to realize that “Europe itself, the buffer zone which could have protected Africa from the new policy’s direct effects, has now joined the liberalization bandwagon, and Africa can no longer afford to be the odd man out” (Institute of Air Transport 1990, p. 5).

The Economic Commission for Africa of the United Nations Economic and Social Council (UNECA) had also recognized early on that a new policy was needed to support the development of Africa’s air transport sector (UNECA 2004, p. 31).⁴ UNECA’s inspiration came from several declarations and resolutions that eventually resulted in the Lagos Plan of Action, all of which addressed the declining economic environment and the role of the air transport sector in Africa (UNECA 1988, Preamble). The Lagos Plan of Action aimed at promoting the integration of transport and communication infrastructure to increase intra-African trade and open up landlocked countries and isolated regions (OAU 1980, p. 58). It was the outcome of many discussions and consultations among African states that focused primarily on how to eliminate the physical and nonphysical barriers that hindered the development of intra-African air services (UNECA 2004, p. 31). The initiative, which was led by UNECA, considered intercontinental air service to be the prime instrument for Africa’s integration and development. Consequently, intercontinental air service was only discussed in relation to its competitive aspects as posed by overseas operators. It was understood that African carriers first had to grow (and merge) before they could successfully enter the markets between Africa and Europe and the United States.

In November 1984, UNECA organized a conference in Mbabane, Swaziland, to discuss why African carriers faced difficulties in obtaining traffic rights in other African states. The conference ended with the Declaration of Mbabane, which called for the creation of a technical committee that would develop “a common African approach for the exchange of third and fourth freedom rights” and “encourage the exchange of fifth freedom rights” (UNECA 1988, p. 1) (box 1.1). It further proposed an additional set of measures that focused primarily on closer cooperation between African carriers. These measures, which later became the core of the Yamoussoukro Declaration, included a joint financing mechanism, a means of coordination for scheduling air services, a centralized databank and research program, and the promotion of the creation of subregional

Box 1.1

Freedoms of the Air

The freedoms of the air are defined as follows:

- *First freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state or states to fly across its territory without landing (also known as a first freedom right).
- *Second freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state or states to land in its territory for nontraffic purposes (also known as a second freedom right).
- *Third freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state to put down, in the territory of the first state, traffic coming from the home state of the carrier (also known as a third freedom right).
- *Fourth freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state to take on, in the territory of the first state, traffic destined for the home state of the carrier (also known as a fourth freedom right).
- *Fifth freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state to put down and to take on, in the territory of the first state, traffic coming from or destined to a third state (also known as a fifth freedom right).
- *Sixth freedom of the air.* The right or privilege, with respect to scheduled international air services, of transporting, via the home state of the carrier, traffic moving between two other states (also known as a sixth freedom right). The so-called sixth freedom of the air, unlike the first five freedoms, is not incorporated as such into any widely recognized air service agreements such as the Five Freedoms Agreement.
- *Seventh freedom of the air.* The right or privilege, with respect to scheduled international air services, granted by one state to another state, of transporting traffic between the territory of the granting state and any third state with no requirement to include on such operation any point in the territory of the recipient state, that is, the service need not connect to or be an extension of any service to and/or from the home state of the carrier.
- *Eighth freedom of the air.* The right or privilege, with respect to scheduled international air services, of transporting cabotage [trade] traffic between two points

(continued)

Box 1.1 (*continued*)

in the territory of the granting state on a service that originates or terminates in the home country of the foreign carrier or (in connection with the so-called seventh freedom of the air) outside the territory of the granting state (also known as an eighth freedom right or consecutive cabotage).

- *Ninth freedom of the air.* The right or privilege of transporting cabotage traffic of the granting state on a service performed entirely within the territory of the granting state (also known as a ninth freedom right or stand alone cabotage).

Source: ICAO 2004b, part 4, p. 793.

Note: The International Civil Aviation Organization characterizes all freedoms beyond the fifth as so-called, because only the first five freedoms have been officially recognized as such by international treaty.

carriers. However, the focus on liberalization quickly degraded, and in the Yamoussoukro Declaration it was only envisaged in the form of gradual elimination of traffic rights (UNECA 1988, Preamble). It was only a decade later, when the Yamoussoukro Decision was reached, that the policy focus shifted primarily to liberalizing access to intra-African air service markets.

In addition, the airlines themselves wanted to liberalize access to develop new markets. Represented by the African Airlines Association (AFRAA), the African airline industry proposed a set of rules and conditions to liberalize the granting of first to fifth freedom rights. In 1984, AFRAA proposed that all African carriers receive unrestricted first and second freedom rights, third and fourth freedom rights (limited to three a week) on certain defined corridors, and fifth freedom rights on multiple leg flights that had to be negotiated and agreed upon. Fifth freedom rights were to be given to carriers with multiple destinations in the hope of building a network, and sixth freedom rights were to be given to all North African carriers with Sub-Saharan destinations (UNECA 2004, pp. 33, 35).

Until 1991, nearly all African carriers were state owned. These carriers were mostly run as government entities and lacked the necessary economic and commercial focus to ensure market-based profitability. Their main means of operating with some profitability was to control income effectively, using restrictions provided by the framework of bilaterals. This allowed them to control the market and restrict the entrance of

new carriers. In some cases, certain states even refused to grant traffic rights to foreign carriers even though their own carriers lacked the technical, human, and/or financial means to develop a proposed new route. Sometimes, however, they obtained fifth freedom rights by paying “royalties” or commissions (UNECA 2004, p. 33). As a result, intra-African air traffic remained costly and inefficient, especially in those cases where the bilaterals protected a state-owned carrier.

To address these shortcomings, on 14 November 1999, African ministers responsible for civil aviation adopted the Yamoussoukro Decision on the liberalization of access to air transport markets in Africa (UNECA 1999). In essence, the Yamoussoukro Decision is a multilateral agreement among most of the 54 African states.⁵ It allows the multilateral exchange of up to fifth freedom air traffic rights between any African Yamoussoukro Decision party state using a simple notification procedure.⁶ The Yamoussoukro Decision became fully binding on 12 August 2002, following its endorsement by heads of states and governments of the Organisation of African Unity (OAU) in July 2000. However, 20 years after the initial Yamoussoukro Declaration of 1988 and more than 5 years after the Yamoussoukro Decision became fully binding, only a few cases of the exercise of new air traffic rights granted by applying the principles and mechanism of the Yamoussoukro Decision have been observed. The reasons for not applying the Yamoussoukro Decision range from non-implementation of certain elements of the decision, for example, establishing competition rules, a dispute settlement mechanism, and an operational monitoring body, to simply ignoring it by continuing to agree to traditional restrictive bilaterals (see the example of Zambia discussed later).

For the purposes of this book, “open skies” refers to a bilateral or multilateral air service agreement that liberalizes the rules for international aviation markets and minimizes government intervention. It can apply to passenger or cargo services or both, for both scheduled and charter air services. This book evaluates Africa’s progress toward liberalizing air services. It specifically examines what the term implementation means in the context of applying the principles of one of the major pan-African multilateral agreements, the Yamoussoukro Decision. It also highlights the shortcomings of the 20-year-old effort toward liberalizing air services in Africa by analyzing pending or completed implementation steps both on a pan-Africa level and within various regions. The book focuses on the challenges posed by the poor aviation safety and security standards in most African countries. Finally,

the sector work measures the impact of certain policy steps of the decision and evaluates the economic significance of air transportation and its full liberalization in Africa. It concludes with policy recommendations that aim at completing implementation to fully liberalize Africa's air services.

Notes

1. Examples include Botswana National Airlines (1966–69); Air Burkina (1984); Royal Air Burundi (1960–63); Air Tchad (1966); Air Congo–Brazzaville (1961–65); Air Congo, later Air Zaire (1961–95); Air Djibouti (1963–70); Líneas Aéreas de Guinea Ecuatorial (1969); Gambia Airways (1964); Ghana Airways (1958); Air Guinée (1960); Air Bissau (1960); Lesotho Airways (1967–70); Libyan Arab Airlines (1964); Air Malawi (1964); Air Mali (1960); Air Mauritanie (1962); Air Mauritius (1967); Royal Air Maroc (1957); Air Namibia (1991); Air Niger (1966–93); Nigeria Airways (1958–2003); Air Rwanda (1975–96); Air Senegal (1962); Sierra Leone Airways (1958–87); Somali Airlines (1964); Royal Swazi National Airways (1978); Tunis Air (1948); Uganda Airlines (1976–2001); Zambia Airways (1963–94); and Air Zimbabwe (1980).
2. Doganis refers to the preliberalization types of bilateral air service agreements, which emerged in the aftermath of World War II with the prime purpose of controlling market access (points served and traffic rights), market entry (designation of airlines), capacity, and frequencies. This was the outcome after a failed attempt, spearheaded by the United States, to create a competitive regime for international air transport with minimal regulation at an intergovernmental conference held in Chicago in 1944.
3. A World Bank study (1998, p. 30) states that reasons for this are high operating and capital costs, which include 40 percent higher airline insurance premiums, 50 percent higher fuel costs, 15 to 30 percent higher lease rates for equipment, and 100 percent higher air navigation fees (compared with South America); high handling and maintenance costs; and difficulties in obtaining necessary working capital.
4. UNECA recognized air transportation as one of the most important modes of transportation for the physical integration of Africa. To examine and discuss its development, in 1964 UNECA organized the first conference on African continental air transportation in cooperation with the Organization for African Unity and the International Civil Aviation Organization.
5. Africa has 53 internationally recognized states; however, the African Union has granted membership to the Saharawi Arab Democratic Republic (better known as the Western Sahara), the territory of the former Spanish Sahara,

which proclaimed itself a country despite territorial claims by Morocco. This study will therefore assume a total of 54 states in Africa.

6. The five freedoms derive from negotiations during the International Civil Aviation Conference in Chicago in November 1944 (United Nations Information Organization 1944, pp. 1, 4, 31).