

The impact of International Air Transport Agreements on Airline Operations in southern Africa

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Abstract

International travel and tourism depends to a large extent on air travel and transport. The reliability and dependability of carriers to perform consistently is therefore of critical importance to the travel and tourism industry. The unscheduled termination of airline services caused by problems in the internal environment and developments in the external operational environment has proven to be extremely disruptive to business travellers and holiday-makers alike. Operating airlines in southern Africa has proved to be fraught with difficulties resulting in several airlines terminating their services after short periods of operation. This article focuses on international agreements generated in the external environment and their impacts on airline operations in the region. From the study it is clear that the international agreements created opportunities for airlines to enter the southern African market, but that their ability to survive financially are seriously threatened by a multitude of managerial and operational constraints. Competition with national carriers and government's ability to manage and control the implementation process of air transport agreements' has significantly impacted airline operations and profitability.

Key words: Tourism, airline operations, international agreements

Introduction

International tourism relies to a very large extent on air travel and transport. The reliability and dependability of airline carriers to perform consistently is therefore critically important to the tourism industry. When airlines terminate their services as a result of economic or other problems, scheduled holidays and air travel arrangements are disrupted, causing a multitude of problems for travellers. Operating an airline in southern Africa has proved to be a risky business as several airlines have been forced to terminate services in the last two decades, mostly as a result of financial problems. While growing economies in southern Africa have been potentially lucrative for airlines, they have continued to struggle to establish a footprint in the region (Ensor, 2013:4). Consequently, the global financial crisis has seen plummeting profits with the industry losing US\$8 billion in 2014 alone (Pearce, 2015:5). According to Smith (2015:11), while the economy in parts of southern Africa is booming, there are serious issues when it comes to the aviation industry.

Air transport is a major component of the travel and tourism industry, and this industry contributes 10 percent to the total world gross domestic product (GDP) and about 11 percent to the total world consumption. In the last 50 years, the growth of the travel and tourism industry has exceeded the growth of world GDP, except in 1991 (IATA, 2014:11). The industry consumes almost 11% of consumer spending and employs more than 200 million people, or roughly one in every nine people in the global labour force (WTTC, 2014:4). Statistics South Africa (SSA, 2014:11) estimates that the travel and tourism industry contributed more than R74 billion to South Africa's annual gross domestic product (GDP) and sustains around 230 000 jobs within the entire value chain in the country. The industry, therefore, plays a significant role in South Africa's economy as a modern day engine of economic growth (Matshediso, 2014:6).

Despite the global increase in air travel from 2012, the performance of the southern African aviation industry is still lagging behind those of the rest of the world (Campbell, 2014:6). Industry experts such as Pearce (2015:5), Styan (2013:4) and Tyler (2015; 31) claim that about 80% of the air traffic to southern Africa is on non-southern African airlines and contributed viability and economic struggles of local airlines to the strategic failure to identify critical success factors that may help airlines devise strategies to strategically manoeuvre out of these seemingly insurmountable challenges. The success of airlines operating in southern Africa will be determined not only by how much they are able to strategically respond to these challenges posed by the external environment, but by how fast they identify the critical success factors (Kamath, & Tornquist, 2004:9). According to Kilinc, Oncu and Tasgit (2012:331) there is little doubt that international air transport agreements represent opportunities for airlines wishing to operate in the southern African region, but they also pose major challenges for example, the challenge of aggressive competitors from Europe and the Middle East who are aggressively penetrating the local market and securing larger market shares, and taking advantage of ill-prepared southern African operators. The main objective of this study, therefore, is to identify and discuss relevant international air transport agreements and to evaluate their impacts on airlines operating in southern Africa they can re-calibrate their business models and thereby improve their viability, sustainability and competitiveness.

Research methodology

The research involved an extensive literature search of the air transport agreements, their evolution, and impacts on airlines operating in South Africa, followed by several interviews with key personnel at two South African airlines, namely, Comair and South African Airways (SAA).

International agreements affecting airline operations

International air transport agreements have focused primarily on the liberalisation, deregulation, and privatisation of airlines which are discussed below. This has had a significant impact on airlines operating in the southern African region (Ndlovu, 2001:92).

Liberalisation of the airline industry

The international air transport industry operates under a complex regulatory framework of Bilateral Air Services Agreements (BASAs) between two states to grant carriers from the other country specific air traffic freedoms (Wensveen, 2011:22). Heinz and O'Connell (2013:76) claim that an overriding motivation of the history of economic regulation of the aviation sector has been the desire to ensure the protection of national flag carriers, which explains the attitudes of many countries toward air transport liberalisation. Over the years, the BASAs, which impose certain restrictions on airline frequencies and capacities, have rendered the industry inefficient (Uzodima, 2012:33). This is because the restrictions suppress competition via route size, and designated carriers cannot operate additional services beyond those specified in BASAs (Pirie, 2006:9). The restrictive environment eventually forced the industry to adopt a more liberal approach and to move towards an "open skies" policy with fewer restrictions on airline operations.

The BASAs also require designated airlines to be substantively owned and effectively controlled by both parties (Tae Hoon, Anming & Xiaowen, 2010:29). This tends to restrict foreign firms from establishing airlines in the bilateral partner countries. However, according to Doganis (2006:53) the local ownership of airlines

has negative effects on the domestic capital market because the capital market is usually too small to provide for the development of a capital-intensive airline industry. In many developing countries, southern Africa included, the capital market is usually too small to provide sufficient equity for the development of a capital-intensive airline industry (Surovitskikh & Lubbe, 2015:162). Furthermore, foreign airlines are not allowed cabotage rights, thereby limiting competition in domestic markets to locally owned airlines (Ndlovu, 2001:92). Cabotage in aviation context refers to the right to operate air transport services within a particular territory (Wensveen, 2011:22). It also refers to the restriction of the operation of air transport services within or into a particular country to that country's own transport services.

In another vein of thought, many airlines in southern Africa were established as national flag carriers during the transition from colonialism to independence (Heinz & O'Connell, 2013:76). South African Airways (SAA) is a prime example of such a national flag carrier. As such, some of the economic development functions with which airlines in the developing world were charged included integrating national territory, promoting tourism and trade through international links, and providing high wages and high skill jobs (Pirie, 2006:9). These airlines were also integral elements in state foreign policies and defence (Orlek, 2010:14). Moreover, the private sector's singular objective of profit maximisation usually conflicted with national objectives (Fu, Oum & Zhang, 2009:26). As a result, the airline industry was highly regulated in international as well as domestic markets (Heinz & O'Connell, 2013:76), mostly at the expense of private operators because governments wanted to protect national flag carriers.

From the foregoing discussion, it is apparent that the "bilateralism" approach adopted by southern African countries has become a serious bottleneck in the overall development of the air transport network in the sub-region (Njoya, 2013:15). The development of appropriate regulatory policies for air transport in southern Africa is a key component for an efficient and competitive air transport network in the sub-region and to ensure the participation of the region in the economic globalisation (Orlek, 2010:14). In light of the shortcomings of the BASAs, there is a growing recognition by some southern African countries of the limits of the current bilateral framework and the need to launch initiatives toward genuine liberalisation of air services (Doganis, 2006:53). These initiatives are discussed as follows:

Deregulation of the Airline Industry

Deregulation is the act or process of eliminating regulations and restrictions from a given industry, or the reduction or removal of centralised power in a particular industry, usually enacted to create more competition within the industry (Wensveen, 2011:22). Pirie (2006:9) asserts that deregulation means a change in regulation away from the present system in use. Heinz and O'Connell (2013:76) claim that deregulating the transport industry implies free exit and entry for any operator, with the addition of a freedom to also set fares and select which routes they will fly. Deregulation thus creates opportunities for newcomers to enter the industry. Nonetheless, the major purpose of airline deregulation is to promote competition among airline carriers, and thereby improve quality of service to customers (Uzodima, 2012:33).

In order to introduce competition to the airline market, the United States of America (USA) began airline deregulation in 1978 (Heinz & O'Connell, 2013:76). It was, and still is, a part of a sweeping experiment to monopolize markets and significantly decrease ticket prices and eliminate entry control for new airline hopefuls (Doganis, 2006:53). That singular action ushered in a new dawn in the industry and a new business climate emerged in which many new airlines entered the industry and competition increased thereof. The business model

thrived and spread to other industries in the USA and was later replicated in Europe and the rest of the world (Tae Hoon *et al.*, 2010:29). This had a profound effect on the USA air transport market, as it allowed for more competition, the entry of new airlines, and the creation of a new hub-and-spoke-system of air routes. Today, US airlines are free to compete and determine routes, fares, and schedules on the basis of their own market and profit projections (Doganis, 2006:53).

Wensveen (2011:22) described the US deregulation experience as generally positive and gave a number of impacts of deregulation on the US economy. He argued that the US domestic air travel more than doubled in the first ten years of deregulation, and average real (inflation adjusted) air fares continue to decline, even today. Wensveen (2011:22) also claimed that there was a development of some very successful new low-fare carriers, with rapid growth for airlines such as Southwest, Air Trans and Jet-Blue. He also noted cost cutting and productivity improvement; economies of scales in operations to reduce unit cost; price competition and revenue management to increase revenues; new marketing and distribution programmes, and increased network coverage market dominant.

Doganis (2006:53) asserts that the deregulation process spread to Europe, belatedly a decade later. In Africa, a large number of airlines were taking deliveries of expensive new aircraft, thereby dramatically increasing their foreign debts, depleting their foreign exchange earnings, and requesting subsidies from their governments. Due to the crippling debt problem of most of the African airlines which was caused primarily by mismanagement and other aspects, it was not possible for governments to continue subsidising unprofitable airlines (Dean, 2001:42), and consequently deregulation only later spread to southern Africa (Ndlovu, 2001:92). Belobaba, Amedeo Odoni and Barnhart (2009:5) claim that deregulation of the air transport market in any country tends to have far-reaching impacts on the structure of the market, the traffic flows, passenger numbers, market entries (and exits), the level of competition, and fares. Consequently, airline deregulation has resulted in a highly competitive market with a range of service offerings and choice of airlines (Belobaba *et al.*, 2009:5). Unfortunately, the demise of several airlines can, at least, partly be attributed to the impacts of these developments. The demise of others can be attributed to mismanagement and other aspects.

Heinz and O'Connell (2013:76) re-affirm that the airline industry in southern African has undergone a major change since deregulation of the domestic airline industry in the early 90's. For instance, Ndlovu (2001:91) claims that SAA had more than 95% of the domestic airline market before deregulation. However, after deregulation SAA has lost market share to airlines such as Comair (which in 1990 had only 1 or 2% of the market) and other newcomers, and is now estimated to have between 50% and 55% of the domestic airline market (Orlek, 2010:14). Deregulation also opened the way for several competitors to enter the market, but few of them survived for any notable period. Table 1 reflects the history of airlines operating in South Africa, and only two airlines, namely SAA and Comair, have been operating for a lengthy period of time (82 years and 70 years, respectively) while the majority had very short life-spans, some of them survived for only a matter of months (See table 1 below). This is indicative of a difficult operational environment specifically for newcomers.

Table 1: The history of airlines in the South African domestic market on a timeline

	AIRLINE	OPERATIONAL	
		FROM	UNTIL
1	Union Airways Ltd	August 1929	February 1934
2	SAA	February 1934	Still operating
3	Comair	February 1946	Still operating
4	Link Airways	April 1978	May 1992
5	Bop Air	July 1979	September 1992
6	SA Airlink	March 1992	Still operating
7	Flitestar	October 1991	April 1994
8	SA Express (SAX)	April 1994	Still operating
9	Sun Air	November 1994	August 1999
10	Phoenix Airways	December 1994	August 1995
11	Atlantic Airways	August 1995	October 1995
12	Nationwide Airways	December 1995	April 2008
13	Kulula.com	August 2001	Still operating
14	1Time	February 2004	November 2012
15	CemAir	March 2006	Still operating
16	Mango	October 2006	Still operating
17	Velvet Sky	March 2011	February 2012
18	Fly Go Air	February 2012	Still operating
19	FlySaFair	October 2014	Still operating
20	Skywise	March 2015	December 2015
21	Fly Blue Crane	September 2015	Still operating

Source: Compiled by the authors

The trend towards deregulation, liberalisation and cooperation among airlines has had a major impact on privately owned carriers operating in South Africa. It has encouraged several newcomers to enter the market, and to the forming of alliances with other airlines, as is evident from the agreement between Comair and British Airways. However, few of the newcomers survived, mainly as a result of deficient management (Campbell, 2014:11), route restrictions, landing slot allocations, and competition with Government-owned airlines, such as SAA and SA Express. SAA for example, enjoys government protection, received bailouts, and keeps on bullying newcomers (Bennett, 2005:417). With governments controlling the process of deregulation, the scales are weighted against private operators. Privatisation of the industry can only be successful if accompanied by appropriate deregulation reforms and a more liberalised approach to create enabling environments (Surovitskikh & Lubbe, 2015:162). Partial and selective deregulation designed to maintain the protection of national carriers represent a considerable and ongoing threat to private operators.

Many African airlines such as for example, Kenya Airways and Air Namibia are still plagued in 2015 by a various factors inter alia a lack of capital, limited flight-frequencies and networks (point-to-point operations), low application of IT, inadequate operating capital, lack of commercial agreements/partners, and management instability. There are also a number of external challenges that compound the difficulties of the southern African operator (Heinz & O'Connell, 2013:78), where the airline environment is faced by the challenge of aggressive competitors from Europe and the Middle East, which are aggressively penetrating the regional market and securing larger market shares, taking advantage of the ill-prepared South African operators (Kilinc, Oncu & Tasgit, 2012:331). The uneven playing field is putting much strain on southern African airlines in their own markets, and threatening their survival (Indetie, 2015:3). Therefore, the increasing number of commercial airlines in southern Africa has put more pressure on their management to continually increase revenues, maximise profits and reduce costs and (Safrudin, Mathiesen & Lescarcelle-Evin, 2013:1).

Pöyhönen (2014:9) avers that most southern African airlines struggle due to low aircraft utilisation rates, where high aircraft utilisation rates can increase sales quantity by reducing repair time and increasing number of flights (Smith, 2015:19). Government involvement in the management of the carriers is often cited as the other major challenge hindering success in most airlines in southern Africa (Akyuwen, 2010:125). Hence, airline managers are not able to implement strategies and structures that would make the airlines more competitive and cost efficient (McCabe, 2012:4). Such airlines tend to be plagued by bankruptcies and financial distress (Carney & Dostaler, 2006:63). National carriers, such as Zambia Airways and Air Zimbabwe, have collapsed due to government interference (Rupp, 2015:9), while SAA has accumulated huge debts due to inefficient management and had to be bailed out repeatedly by the Government during the last few years.

Movement towards “Open Skies” – from 1992 onwards

By the early 1990s it was clear that international liberalisation, and the open market bilaterals that characterised it, had not gone far enough (Doganis, 2006:46). Tim (2011:132) avers that the need for further liberalisation became increasingly apparent as a result of several developments. First, there was a growing body of expert opinion that the airline industry should be normalised: it should be allowed to operate like any other major international industry. The second but much stronger argument against bilateralism was that the system, though worldwide, was restrictive (Shaw, 2011:37). The third factor motivating further liberalisation was that the airline industry had matured during the previous decade (Wensveen, 2011:22). It had undergone structural changes which made it progressively more difficult for airlines to operate within the confines of the bilateral system. Structural changes had been brought about by the growing concentration within the US airline industry, and importantly, the loosening of government ties with and support for national airlines as a result of partial or full privatisation (Doganis, 2006:39), the United Kingdom (UK) Government had set the trend with the successful privatisation of British Airways in 1978.

All these trends created a critical need for successful airlines, whether private or state owned, to be able to operate more easily outside the narrow confines of their own national markets while being freed from the remaining constraints imposed by bilateralism (Doganis, 2006:39). The outcomes from 1992 were a series of bilateral “open skies” agreements between the European Union (EU) states and the USA. In September 1992 the Netherlands and United States governments signed what was effectively the first “open skies” agreement and inaugurated a new phase of international deregulation (Dean, 2001:42). In brief, the key elements of this bilateral were: Open route access – airlines from either country could fly to any point in the other country with full traffic rights; unlimited fifth freedom rights; open access for charters; no limit on the number of airlines that could be designated by each country; no frequency or capacity control; break of gauge permitted; no tariff controls (unless tariffs were too high or too low); and airlines were free to code-share or to make other commercial agreements (Doganis, 2006:40).

Schlumberger (2010:19) asserts that the “open skies” agreements opened route-access to any point in either country, whereas the earlier bilateral had tended to limit the number of points that could be served by foreign carriers in the United States. Also, mutual fifth freedom rights were granted without restraint compared to the more limited fifth freedom in earlier bilateral agreements (Tim, 2011:132). With regards to tariffs, double disapproval or the country-of-origin rules were replaced by a clear decision that governments should not meddle in tariffs except to prevent discriminatory practices in order to protect consumers from unreasonably high or restrictive prices, or to protect airlines from artificially low fares due to government subsidies or poor support (Doganis, 2006:46).

A further innovation was the inclusion of inter-airline commercial agreements such as code-sharing (Tim, 2011:132). This final innovation was the inclusion in the bilateral of an annex laying down principles regarding the adoption of non-discrimination on the databases and visual displays of the global computer reservations systems, and ensuring open access and free competition among Central Reservation System (CRS) providers in each country (Doganis, 2006:44-45).

- **Paris Convention**

The Convention for the Regulation of Aerial Navigation ("Paris Convention") signed on 13 October 1919 provided the foundation for regulation of the international airline industry, is the pre-eminent multilateral agreement for the international aviation regime, evolving from the Paris Peace Conference of 1919 (Goldstein, 2001:240). This Convention recognised the need for every nation to exercise "sovereignty" over airspace above its territory, setting forth the fundamental policy which underlines all aviation negotiations today (Ssamula, 2008:9).

- **Convention on International Civil Aviation (Chicago Convention)**

The modern structure of international air transportation controls can be traced back to the failure in 1944 of the Allied powers at the Chicago Convention to reach an agreement on how the post-Second World War air transportation system should operate (Fu, Oum & Zhang, 2010:31). While representatives from 52 governments managed to agree on the legal and technical framework for the operation of international air services, their inability to reach a consensus on economic regulation meant that it fell to pairs of governments to negotiate the precise terms of air services provision between their countries (Doganis, 2006:27). The hope was that those signing would grant freedom of access, to airports and to airspace above their territory, to all other signatories (Gavin, 2013:9).

Some of the main outcomes of the Chicago Convention involved standardising different types of scheduled operations, categorised according to the various "freedoms of the skies" to be described below. The result was a myriad of BASAs between countries that, in general, stipulated which airlines could fly between them, the capacity of each airline, the fares to be charged and, often, how the revenues generated were to be shared between the carriers (Tim, 2011:132).

The concept of "freedoms of the skies" or "the degrees of freedom" was initiated at the Chicago Convention and essentially denotes air traffic rights, in other words a set of commercial aviation rights granting a country's airline(s) the privilege to enter and land in another country's airspace (Parets, 2007:31). The degrees of freedom have since been the basis of the degree of freedom a country enjoys in operating over another country's airspace, encompassing nine different freedoms which may be negotiated (Donzelli, 2010:123).

- First Freedom of the Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State or States to fly across its territory without landing (Parets, 2007:31).
- Second Freedom of the Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State or States to land in its territory for non-traffic purposes (Parets, 2007:31).
- Third Freedom of the Air - the right or privilege, in respect of 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 (Parets, 2007:31).

- Fourth Freedom of the Air - the right or privilege, in respect of 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 (Parets, 2007:31).
- Fifth Freedom of the Air - the right or privilege, in respect of 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 (Parets,2007:31).

ICAO characterises all “freedoms” beyond the Fifth as “so-called” because only the first five “freedoms” have been officially recognised as such by international treaty (Parets, 2007:31).

- Sixth Freedom of the Air - the right or privilege, in respect of scheduled international air services, of transporting, via the home State of the carrier, traffic moving between two other States (Parets, 2007:31).
- Seventh Freedom of the Air - the right or privilege, in respect of 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/from the home State of the carrier (Parets, 2007:31).
- Eighth Freedom of the Air - the right or privilege, in respect of scheduled international air services, of transporting cabotage traffic between two points in the territory of the granting State on a service which 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 (Parets, 2007:31).
- 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 “stand alone” cabotage) (Parets, 2007:31).

Since the Chicago Convention (in 1944) only managed to have member states agree on the first two air traffic freedoms, the exchange of other freedoms became a bilateral agreement issue among countries (Gavin, 2013:9). These are agreements that one state could have with another for granting carriers from the other country specific air traffic freedoms (Doganis, 2001:16). The purpose of such agreements is to control market access.

Liberalization in southern Africa

The Yamoussoukro Decision (YD) adopted in October 1988, remains the single most important air transport reform policy initiative undertaken by African governments to date. It was adopted out of recognition that the restrictive and protectionist intra-African regulatory regime, based primarily on BASAs, hampered the expansion and improvement of air transport on the Continent (Meshela, 2006:1). The BASAs enabled the stakeholders to limit capacity, therefore driving up prices, maximising profits, and creating an expensive air sector. As a result, intra-African air traffic remained costly and inefficient, especially in those cases where the bilateral air services agreements protected a state-owned carrier (Schlumberger, 2010:6).

One of the vital parts of the Decision was intra-African liberalisation, the objective of which was to develop air services in southern Africa and to stimulate the flow of private capital in the industry (Meshela, 2006:1). As of 2015, the governments of southern Africa have not yet fully implemented the YD, although, on a small scale, some like-minded countries apply the principles of the Yamoussoukro; but not, however, on a continental-wide basis. The reasons for not applying the YD 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 implement the traditional restrictive bilateral (Schlumberger, 2010:6). Implementation of the YD would have been the biggest single development in southern African aviation history. Apart from the benefits to the airlines and passengers, it would have made a significant contribution to the national economies of southern Africa (Morrison, 2007:7).

- **Yamoussoukro Declaration**

Prior to gaining independence, most southern African countries had air services that were primarily based on the European relationships and agreements. Only in the 1990s, when many colonies became independent countries, did southern African states start negotiating and concluding their own air services agreements. During this time, the majority of the newly independent southern African states created their own, mostly government-owned, national air carriers, many of which failed. Most southern African national air carriers pursued a business model that consisted of using profitable international routes to and from the territories of their former colonial masters to cross-subsidise their costly, yet extensive domestic route networks. This often resulted in the maintenance of strict bilateral relationships for intercontinental routes, where capacity was limited and controlled to maximise profitability. Governments tended to view the development of regional air services as secondary, especially when they were obliged to maintain a costly domestic network (Schlumberger, 2010:2).

Following the international example at that time (mid 1960s to 1970s), intra-African air transport services became regulated by the traditional framework of bilateral air services agreements. The typical BASAs of 1960s were based on the traditional predetermination model by which market access and capacity were predetermined. This model controlled the market through effectively restricting competition (Doganis, 2001:16). Whereas liberalisation had been actively pursued in the United States since the late 1970s and in Europe since the late 1980s, southern African air services remained generally restrictive, costly and inefficient (Schlumberger, 2010:2).

In November 1984, the Economic Commission for Africa of the United Nations Economic and Social Council (ECA) organised a conference in Mbabane, Swaziland to discuss the reasons 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”. 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 centralised databank and research programme as well as the promotion and creation of sub-regional carriers (ECA, 1988:1).

The need for a regional consensus on how air transport should be used as an important instrument for social and economic development in southern Africa, as well as on how to speed up liberalisation of African air services, was discussed at length under the auspices of the ECA by the Ministers in charge of Civil Aviation of 40 African states in Yamoussoukro,

Cote d'Ivoire. This led to the adoption of the Yamoussoukro Declaration in October 1988. The Declaration, on a new African civil aviation policy, included comprehensive proposals for a general framework of air transport reform in Africa, the unification of the fragmented air transport market and commitment from the governments represented to make all necessary efforts to integrate their airlines within eight years (ECA, 2001:2).

The Yamoussoukro Declaration also foresaw the gradual elimination of traffic restrictions, specifically the granting of fifth freedom rights to African airlines during the implementation period (Fatokun, 2005:27). Despite its too ambitious objectives and the weak likelihood of its implementation, the Declaration stimulated further initiatives aimed at liberalising the African air transport market (Schlumberger, 2010:10). In 1994, having evaluated the steps required to implement the Yamoussoukro Declaration, the African Ministers in charge of Civil Aviation met in Mauritius and agreed on a set of measures to facilitate the granting of third, fourth and fifth freedom rights to African carriers (Schlumberger, 2010:10). Of significance was the fact that the Yamoussoukro Declaration enforced the notion that the air transport sector in Africa needed to be liberalised (Chingosho, 2005:11). This led the ECA to include the liberalisation of air services in its work programme.

In line with the above efforts, a further important step forward towards intra-African air transport liberalisation was taken in November 1999 by the African Ministers in charge of Civil Aviation. The conference was held in Yamoussoukro, Cote d'Ivoire, under the auspices of the United Nations Economic Commission for Africa. After intensive discussions, the Ministers adopted a "Decision Relating to the Implementation of the Yamoussoukro Declaration concerning the Liberalisation of Access to Air Transport Markets in Africa". The Decision, called the Yamoussoukro Decision (YD) came into force on 12 August 2000 and was ratified by 44 African countries, and became fully binding on 12 August 2002 (ECA, 2001:2). In accordance with Article 2, the YD takes precedence over all bilateral and multilateral agreements within the regions which are not in conformity with it (ECA, 1988:1).

In essence, the main aim of the YD is to provide a continent-wide aviation agreements to liberalise African air transport markets and eventually create an "open skies" environment in Africa. The agreement inter alia provides for the settlement of disputes through negotiations (as defined in accordance with Article 8 of the YD), and the establishment of a monitoring body to oversee the implementation process (in accordance with Article 9 of the YD).

- **The Abuja Treaty (1994) as the legal basis of the YD**

It must be noted that the YD has its legal basis in the Abuja Treaty, which came into force on 12 May 1994. The Treaty was the culmination of more than 30 years of initiatives all aimed at achieving greater economic, social and cultural integration among African countries. Under the Yamoussoukro Decision(YD), signatory member states of the Abuja Treaty are required to liberalise air transport almost immediately to allow African carriers unrestricted access to air transport markets within Africa, thereby enhancing connectivity to promote intra-African trade and tourism opportunities (ICAO, 2010:2). Of the 54 African states, 44 signed and formally ratified the Abuja Treaty and became parties to the YD (Schlumberger, 2010:24).

South Africa's position on the implementation of the YD

In July 2006, South Africa adopted a five-year Airlift Strategy which set out to enhance the air transport sector's contribution to sustainable growth and development. The implementation of the Airlift Strategy supports the government's aim to increase the volume of international air traffic capacity to and from South Africa, as well as the creation of capacity ahead of demand (ECA, 2003:7). In the context of the Decision the Strategy

recognises the adoption and implementation of the key principles of the YD continentally, as well as the regulation of international markets through BASAs with managed liberalisation. In 2010, at the 37th Assembly of the Economic Commission, South Africa reconfirmed its full support of the common position on the African liberalisation and the principles of an open market in the African region for African operators. South Africa urged African states to strengthen the Regional Economic Communities in the drive to implement the YD (ICAO, 2010:4). As a result new routes have come into use and frequencies have been enhanced between southern African countries, thus streamlining the movement of passengers and goods. Examples include a bilateral agreement between South Africa and Botswana which virtually created an “open skies” market, including multiple designations, multiple entry points and unrestricted capacity and frequency (Ndhlovu & Ricover, 2009:23).

The impact of liberalisation is particularly evident on the Nairobi-Johannesburg routes, which increased frequencies from four (4) in 2 000 to an unlimited number in 2003, while research by Myburgh, Sheik, Fiandero and Hodge (2006:7) indicates that the passenger volumes have increased by 69% over the pre-liberalisation period. An element of competitiveness has been introduced, bringing about an improvement in services and the emergence of a broader range of tariffs. The results of the study by Myburgh, Sheik, Fiandero & Hodge (2006:9), which analysed the impact of air fares on 56 routes in the SADC, indicated that air fares are 18% lower on liberalised routes, and that this reduction in air fares is expected to increase passenger volumes by 14% to 32%. Alliances and cooperation arrangements, such as the one between SAA and Air Tanzania, have been established among southern African airlines in certain sub-regions, such as the EAC and SADC (O'Connor, 2003:86).

Concluding remarks

It has been more than 20 years since the inception of the Yamoussoukro Declaration and almost ten years since the adoption of the YD. Nevertheless, the main objectives are still far (in 2015) from being realised as their implementation is moving at a slow pace in most southern African countries. Some of the reasons for the slow pace of progress include:

- Lack of political commitment and unification: firm political commitment and actions are necessary to unify the liberalisation process at the national level, as well as to make it less heterogeneous in various sub-regions. The vast majority of southern African countries do not regulate competition or have institutions that specialise in competition matters. Currently many civil aviation and airport authorities do not have the appropriately skilled manpower due to lack of financial resources. Although African aviation is not new to the loss of skilled manpower, there has been a significant upward increase in the loss of professional and skilled manpower in the last five to six years, inter alia, pilots, safety inspectors, engineers and aircraft technicians. This is particularly true for SAA which as a result of Affirmative Action policies the criteria for appointing pilots became very stringent for whites, and less so for other racial groups (Henama, 2015:19). Consequently, SAA was stripped of many of its experienced repair and service personnel overnight, which resulted in recruiting and (re)training of new staff at increased costs, and salaries (Henama, 2015:19).
- Infrastructure, aircraft safety and security are still major concerns hindering the growth of inter Africa air traffic. The analysis by Schlumberger (2010:50) on the quality and progress of safety oversight in Africa revealed that the majority of regional economic communities had taken only minor steps in this regard and that most regions of Sub-Saharan Africa are rated as poor in relation to safety.
- Excessive protection of national carriers acts as a deterrent to newcomers (Schlumberger, 2010:38), and results in much higher costs to travellers in cases

where national carriers operate (Myburgh *et al.*, 2006:8), and represents one of the main reasons why newcomers struggle to compete effectively.

- Lack of an effective enforcement mechanism: although there is a Monitoring Body, as stipulated under Articles 9.1 to 9.3 of the YD that assesses and oversees the implementation of the Yamoussoukro Decision, its role in enforcing the Decision is considered ineffectual (Schlumberger, 2010:35). Governments basically regard the implementation of the agreements as a discretionary matter.

To summarise, the YD is a relatively ambitious framework that aims at opening up air services between African states, thus creating “open skies” in Africa; however, most of the states have not yet implemented the YD, two decades after its adoption. The implementation has been hampered by numerous obstacles ranging from the excessive protection of national carriers to a lack of competition rules; nonetheless, on a small scale, progress has been made by those like-minded states that have applied the principles of the YD (O’Connor, 2003:86). It is clear that southern African countries have not fully liberalised their markets hence national flag carriers tend to have an unfair advantage over other private airlines. It is apparent that the “bilateralism” approach adopted by southern African countries has become a serious challenge in the overall development of the air transport network in the region. To help airlines overcome challenges in this industry, appropriate reforms are required to create enabling environments. However, the governments of southern Africa have not yet fully implemented the YD which has in turn affected the success of most airlines in southern Africa. As long as governments control the implementation process of the international agreements and continue to protect and support national airlines, privately operated carriers will have an uphill battle for survival.

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