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THE SINGLE AFRICAN AIR TRANSPORT MARKET: A LEGAL MIRAGE?

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Abstract
This paper examined the illusory nature of the Single African Air Transport Market, a flagship project of AU's Agenda 2063. Africa is home to over 1.4 billion people with a massive yet enclosed geographical spread, and prides itself as the world's second largest and second most-populous continent, inhabiting approximately 16.72% of the world's population. Owing to the absence of a valid intra-network substitute of road, rail, or water, aviation stands tall as the only means of transportation across the continent. The paper employed the doctrinal research methodology in examining the bottlenecks to open skies for Africa. Consequently, an analysis was made on the history, relevance, and legal framework for liberalisation of Africa's air market. Regrettably, Africa lacks a well-organised connectivity in air service operations causing higher rate of air tickets, longer flight routes, and scanty airline cooperation. The paper found that the sterling provisions of the Yamoussoukro Decision 1999 for open skies and the several incidental Regulations may appear idealistic due to a lack of political will by State Parties towards implementation, alongside the disjointed aircraft safety apparatuses of Member States, with poor enforcement at the domestic level. The Article recommended the continuous sensitisation through communication and advocacy by the African Civil Aviation Commission together with codification of SAATM Handbook in print and periodic distribution to all stakeholders. Furthermore, a harmonisation of regulatory framework for the certification of eligible African airlines should be created within the SAATM, and be made enforceable, in keeping with ICAO Safety and Security SARPs.

Keywords: Aviation, State Party, Integration, Tariffs, Third Freedom Traffic Right, Fourth Freedom Traffic Right, Fifth Freedom Traffic Right, Scheduled and Unscheduled Air Services, Air Transport Service Provider, Aeronautical Authority, Policy, Decision, Institution.

Introduction
Africa is home to over 1.4 billion people with a massive yet enclosed geographical spread.[1] It prides as the world's second largest and second most-populous continent, inhabiting approximately 16.72% of the world's population.[2] Owing to the absence of a valid intra-network substitute of road, rail, or water, aviation stands tall as the only means of transportation across the continent. Regrettably, Africa lacks a well-organised connectivity in air service operations causing higher rate of air tickets, longer flight routes, and scanty airline cooperation Moreover, Africa's share of global passenger traffic has revolved around 2-4%.[3] This below par situation is due largely to African States' strategy of protectionism, wherein the extant and prospective market share of their domestic airlines are jealously guarded, with a boomeranging effect of slow economic growth within the African continent.

The Single African Air Transport Market (SAATM) as a flagship project of Agenda 2063 of the African Union (AUC) poised at unifying and liberalising the market for air transportation in Africa. SAATM was created to expedite the Yamoussoukro Decision 1999 (YD 1999),[4] as

[1] Worldometer, 'Africa Population (Live)' Population of Africa (2023) - Worldometer (worldometers.info) accessed 16 August 2023.
[2] IATA, 'Benefits of Yamoussoukro Decision' https://www.iata.org/contentassets/70e363e7f97b4bbfb5daff1c27ff0e29/single-african-air-transport-market.pdf accessed 16 August 2023.
[3] *Ibid*.
[4] (YD 1999) 1999 YD Decision Text - AFCAC.pdf (icao.int); AU, 'Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalisation of Access to Air Transport Markets in African and Annexes' au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 16 August 2023.

an impetus to the AU's economic integration agenda. The AU is mandated to deliver on this project, amongst others, for the benefit of Africans. SAATM came on board for the enhancement of air connectivity across the continent, thus massively reducing journey and delays by more than 20%, encourage competition of air services with ticket price moderation, thus assuring growth and job creation.

Conceptual Overview

Aviation involves the human activity carried out by aircrafts. Culled from the Latin *avis* meaning 'bird,' it affords an appropriate translation that aviation deals with travel by air, specifically in a plane.[5] The Aviation Sector includes airports, airlines, general aviation, air navigation service providers add those activities directly serving passengers or providing airfreight services.[6] In section 117 of the Civil Aviation Act 2022 (CAA 2022), Aircraft is defined as 'any machine that can derive support in the atmosphere from reactions of the air other than reactions of the air against the earth's surface.' Examples of such aircraft include airplanes, helicopters, airships (including), gliders, paramotors and hot air balloons.[7]

State Party refers to each African State signatory to the Abuja Treaty and such other African country, which, though not a party to the said Treat, has declared in writing its intention to be bound by this Yamoussoukro Decision.[8]

Integration is an act or instance of combining into an integral whole, an act or instance of integrating a racial, religious, or ethnic group, an organisation, place of business, school, etc.[9] According to Collins,[10] integration is the act of combining or adding parts to make a unified whole, the act of amalgamating an ethnic or religious group with an existing community, the combination of previously racially segregated social facilities into a nonsegregated system.

Tariffs are the prices to be paid for the carriage of passengers, baggage, or cargo (excluding mail) on scheduled air services and conditions, under which these prices apply. It includes remuneration and conditions offered to travel agencies and other ancillary services.[11]

Third Freedom Traffic Right is 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.[12]

Fourth Freedom Traffic Right refers to 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 offloading in the State Party in which it is licensed.[13]

Fifth Freedom Traffic Right is the right of an eligible airline of one State Party to take carry passengers, freight, and mail between two State Parties other than the State Party in which it is licensed.[14]

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[5] Vocabulary, 'Aviation' https://www.vocabulary.com/dictionary/aviation accessed 16 August 2023.
[6] ATAG, 'Aviation Benefits Beyond Borders' https://aviationbenefits.org/media/26786/ATAG_AviationBenefits2014_FULL_LowRes.pdf accessed 16 August 2023.
[7] Kingsley E Izimah, 'When an Airline's Liability to its Passengers or Customers Will Arise in Aircraft Accident or Loss of Baggage and the Laws Regulating Same' https://www.tekedia.com/airlines-liability-to-its-passengers/ accessed 16 August 2023.
[8] (CAA 2022).
[9] Dictionary.com, 'Integration' https://www.dictionary.com/browse/integration accessed 16 August 2023.
[10] Collins, 'Integration' https://www.collinsdictionary.com/dictionary/english/integration accessed 16 August 2023.
[11] (n 8).
[12] (n 8).
[13] *Ibid*.
[14] *Ibid*.

Scheduled and Unscheduled Air Services are international air services operated into the territory of a contracting State to the Convention on International Civil Aviation,[15] (also called the Chicago Convention), except with special permission or other authorisation of that State, and in accordance with the terms of such permission or authorisation.[16]

Air Transport Service Providers include airports, air navigation service providers, airport ground passenger and cargo handling companies, travel agents, suppliers of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports.[17]

Aeronautical Authority refers to any Governmental authority, body corporate, or organ duly authorised to perform any function to which these Regulations relate.[18]

Policy is a set of ideologies or a plan of what to do in specific situations that has been agreed to officially by a group of people, a business organisation, a government, or a political party.[19] It involves prudence or wisdom in the management of affairs. Policy is management or procedure based primarily on material interest, a definite course or method of action selected from among alternatives and considering given conditions to guide and determine present and future decisions. It is a high-level plan embracing the general goals and acceptable procedures especially of a governmental body.[20]

Decision is the act or process of deciding; determination, as of a question or doubt, by making a judgement; something that is decided; resolution.[21] It is a conclusion or resolution reached after consideration.[22]

Institution is an established organisation, especially one of a public character.[23] It is an organisation, establishment, foundation, society, or the like, devoted to the promotion of a particular cause or program, especially one of a public, educational, or charitable character.[24]

The Origin of The Single African Air Transport Market

SAATM is traceable to Agenda 2063, a brainchild of the African Union Commission (AUC), Agenda 2063 was birthed during the 24th Ordinary Summit of the AU Assembly of Heads of State and Government, in Addis Ababa, Ethiopia, in the AUC's bid to actualise the Pan African Vision of an all-inclusive, peaceful, and prosperous Africa.[25] Agenda 2063 is a long-term strategic framework of socio-economic and integrative transformation of Africa.[26] In furtherance to actualising those goals, the AUC on 29 January 2018 launched a SAATM - one of the 12 flagship projects of AU Agenda 2063 - which promises to bring swift progress in transforming the African continent.[27] SAATM was created to expedite the YD and is an impetus to the AU's economic integration agenda. Remarkably, Nigeria is one of the 11 AU Member

[15] 1994 (CICA 1944) Convention on International Civil Aviation. Ninth Edition - 2006 (icao.int) accessed 16 August 2023.
[16] ICAO, 'Convention on International Civil Aviation – Doc 7300' https://www.icao.int/publications/Pages/doc7300.aspx accessed 16 August 2023.
[17] Article 1 of the Regulations on Competition in Air Transport Services within Africa [Annex 5 to the YD] au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 16 August 2023.
[18] *Ibid*.
[19] Cambridge Dictionary, 'Policy' https://dictionary.cambridge.org/dictionary/english/policy accessed 16 August 2023.
[20] Merriam-Webster, 'Policy' https://www.meriam-webster.com/dictionary/policy accessed 16 August 2023.
[21] Dictionary.com 'Decision' https://www.dictionary.com/browse/decision accessed 16 August 2023.
[22] Oxford Languages, 'Decision' https://languages.oup.com/google-dictionary-en accessed 16 August 2023.
[23] Bryan A Garner (ed), *Black's Law Dictionary* (8th edn, West Group 1999) 813.
[24] Dictionary, 'Institution' https://www.dictionary.com/browse/institution accessed 29 May 2023.
[25] AU, 'African Union: Who We Are' https://au.int/en/overview accessed 16 August 2023.
[26] *Ibid*.
[27] IATA, 'The SAATM Handbook' saatm-handbook.pdf (iata.org) accessed 16 August 2023.

States' who championed the cause as signatories to the Solemn Commitment for the implementation of the SAATM,[28] and 35 countries are currently subscribed to the SAATM allegiance.[29]

The Relevance of Single African Air Transport Market

Owing to the absence of a valid intra-network substitute of road, rail, or water, aviation stands tall as the only means of transportation across African continent. Regrettably, Africa lacks a well-organised connectivity in air service operations causing higher rate of air tickets, longer flight routes, and scanty airline cooperation. Comparably, the aviation market in Africa has a huge potential for growth due to its fledgling nature and service to a large, rapidly developing population.[30] Moreover, aviation assures improved economic and social benefits across Africa, as it supports over 6.8 million jobs and $72.5 billion of GDP.[31]

Consequently, SAATM seeks to ensure intra-regional connectivity between the capital cities of Africa's 54 countries, creating a single unified air transport market to enhance economic integration and development.[32] It intends to establish full liberalisation of intra-Africa air transport services in such areas as market access, traffic rights for scheduled and freight air services with improved connectivity and efficiencies by air carriers. SAATM also seeks to erase individual States ownership restrictions by providing total relaxation of capacity, frequencies, and tariffs. It ensures eligibility criteria for African community carriers, mechanisms for fair competition, safety and security standards, consumer protection, and dispute settlement.

The Legal Framework For Implementation of The Single African Air Transport Market

Pursuant to Article 9.5 of the YD 1999, the Regulations which act as bulwarks to the achievement of sufficient compliance to it, and by extension, SAATM in Africa, includes Revised Duties and Responsibilities of the Monitoring Body (MB), Regulations on the Powers, Functions and Operations of the Executing Agency RPFOEA), Regulations on Competition in Air Transport Services within Africa 2017 (RCATSWA 2017), and AU Regulations on the Protection of Consumers of Air Transport Services (AURPCATS).

YD defined its objective as the gradual liberalisation of scheduled and non-scheduled intra-African air transport services.[33] The essential features of such liberation include the granting to all State Parties to the YD the free exercise of first through fifth freedom rights on both scheduled and non-scheduled passenger and freight air services as carried out by eligible airlines.[34] Thus, the full liberalisation of air transport in Africa and the relaxation of non-physical barriers to the movement of persons, good, and services, will assure socio-economic benefits to the continent. The liberalisation objective of the YD was specifically applied to international air services and the tariff liberalisation regime is applicable to international air traffic. However, the capacity and frequency of air services offered are not covered by the

[28] AU, 'The Single African Air Transport Market: An Agenda 2063 Flagship Project' 33100-wd-6a-brochure_on_single_african_air_transport_market_english.pdf (au.int); ECA, 'The Single African Air Transport Market is Launched' The Single African Air Transport Market is launched | United Nations Economic Commission for Africa (uneca.org) accessed 16 August 2023.

[29] AU, 'SAATM States' https://www.saatmbenefits.org/about/saatm-states/ accessed 16 August 2023.

[30] (n 28).

[31] *Ibid*.

[32] *Ibid*.

[33] (n 4) art 2.

[34] *Ibid*, art 3.1; Economic Commission for Africa, 'Report on the Implementation of the Yamoussoukro Declaration on a New African Air Transport Policy' Bib-25648.pdf (uneca.org) accessed 16 August 2023; Charles E Schlumberger, *Open Skies for Africa: Implementing the Yamoussoukro Decision* (The International Bank for Reconstruction and Development/The World Bank 2010) 9-12; World Bank, 'Open Skies for Africa: Implementing the Yamoussoukro Decision' https://openknowledge.worldbank.org/server/api/core/bitstreams/d88095a8-71de-593a-9cac-e9808b7cfc01/content accessed 16 August 2023.

liberalisation. Therefore, no State Party can unilaterally limit the volume of traffic, the type of aircraft to be operated, or the number of weekly flights.[35] The only exceptional circumstance where State Parties may limit air traffic is for environmental, safety, or technical reasons.[36]
Furthermore, Article 9 of the YD establishes a Sub-Committee on Air Transport of the Committee of Transport, Communications and Tourism (S-CAP), composed of African Ministers Responsible for Civil Aviation, with the responsibility, *inter alia*, of overall supervision, follow-up, and implementation of the YD. To assist this S-CAP, a MB,[37] was established. The composition of the MB includes representatives of the Economic Commission for Africa (ECA), Organisation for African Union, now African Union (AU), African Civil Aviation Commission (AfCAC), and African Airlines Associations (AFRAA). The Revised Duties and Responsibilities of the MB are as contained in Annex 2 of the YD 1999.[38] The revised duties include rendering assistance to the AU in organising the meeting of the S-CAP, alerting the Ministers Responsible for Air Transport in Africa of any provisions of the YD 1999 that may militate against the development of air transport in Africa, and recommend likely mitigations.
To achieve a successful implementation of the YD 1999, an Air Transport Executing Agency (ATEA) was created with the mandate of supervision and management of Africa's liberalised air transport industry.[39] The ATEA is empowered to formulate and enforce appropriate rules and regulations aimed at giving fair and equal opportunities to all players and encourage healthy competition,[40] and in so doing, the ATEA is charged to secure the protection of consumer rights of air passengers.[41] In the circumstance, RPFOEA,[42] was made by the Minsters responsible for Transport, Infrastructure, Energy and Tourism and subsequently adopted by the 30th Ordinary Session of the Assembly of Heads of State and Government of the AU.[43] The scope of the RPFOEA is the provision of detailed rules for AFCAC, being the Executing Agency, to supervise, manage, formulate, and enforce measures for the smooth enforcement of the YD.[44] The essence of the Regulation is for the ATEA/AFCAC to enable the effective operation, supervision, and management of liberalisation of air transport in Africa.[45] In achieving that set objective, the State Parties, Organs of the AU, regional economic communities, airlines, and other air transport service providers are urged to be guided by the principles outlined hereunder:[46]

a) All air transport activities undertaken on the African continent aims at achieving smooth, safe, comfortable, and efficient intra-African travel.
b) All air transport activities are to be carried out in the interest of the consumer, whose interests should be paramount and protected by all stakeholders.
c) Airlines are advised to operate profitably with minimal operating cost, preferably utilising all logical fifth freedom routes and assisted to identify potentially attractive routes based on long term focused economic activities in different localities of Africa.

[35] (n 4) art 5.
[36] *Ibid*.
[37] (Annex 2 to the YD) au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 17 August 2023..
[38] (n 4) art 9.3.
[39] (n 4) art 9.4.
[40] *Ibid*, art 9.5.
[41] *Ibid*, art 9.6.
[42] (RPFOEA) [Annex 4 to the YD] au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 17 August 2023.
[43] *Ibid*, art 25. The Adoption of the Regulation took place in Addis Ababa, Ethiopia, on 28-29 January 2018.
[44] *Ibid*, art 2.
[45] *Ibid*, art 3(1).
[46] *Ibid*, art 3(2) (a-f).

d) Air transport activities shall be aimed at maximum utilisation of airport slots and airports infrastructure and services, thereby encouraging economic activities at and around African airports.
e) Continental and regional institutions and State Parties are mandated to encourage active cooperation between eligible airlines and work towards multiple establishments of airlines and other air transport service providers in different regional economic communities.

By the same token, the need to speed-up full implementation of the YD with the goal of boosting the operations of African airlines and other air transport service providers and efficiently tackle the challenges akin to globalisation of international air transport. Further, the need to ensure fair opportunity on a non-discriminatory basis for designated eligible African airlines to favourably compete in providing air transport services within Africa, necessitated the Minsters responsible for Transport, Infrastructure, Energy and Tourism to adopt RCATSWA 2017.[47] The set objectives of the RCATSWA 2017 is the promotion and guaranteeing of free and fair competition in Intra-African air transport services in order to develop the air transport industry and a contribution to the welfare of the citizens of the State Parties.[48] The scope of the RCATSWA 2017 is applicable to scheduled and non-scheduled intra-Africa air transport services, and any practice, agreement or conduct with anti-competitive effect within the separate and joint territories of the regional economic communities and within the entire African continent.[49]

Remarkably, the RCATSWA 2017 prohibits any practice, agreement or decision which negates the object of free and fair competition in air transport services. Consequently, State Parties are mandated to ensure that any agreement between airlines, any decision taken by an association of airlines, and any concerted practice which negatively affects this said objective and intends to prevent, restrict, or distort competition, be prohibited.[50] In addition, subsidies granted to airlines by any State Party or Regional Economic Community are required to be implemented in a manner that will not distort or threaten competition.[51] Accordingly, by the Guidelines of the ATEA/AFCAC made pursuant to Article 7(2) of the RCATSWA 2017, State Parties shall not discriminate between publicly-owned, state-owned, and privately-owned airlines, subsidies granted to an airline should be for restructuring purposes, or in extraordinary circumstances beyond the control of the airline, including acts of war (pandemic inclusive, such COVID-19).[52] Any contrary grant or intending-grant of subsidies are deemed illegal. It is incumbent on the ATEA to issue a cease-and-desist Order against the State Party in question or in the case where the illegal subsidy has been paid, an Order would lie that the monies given as illegal subsidy be paid back to the State Party, in whole or in part.[53]On another limb is the AURPCATS,[54] developed by the Bureau of the Conference of African Ministers of Transport

[47] (RCATSWA 2017) [Annex 5 to the YD] Preamble au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 17 August 2023; The initial adoption was during the First Ordinary Session of the AU Specialised Technical Committee on Transport, Transcontinental and Interregional Infrastructure, Energy and Tourism held in Lomé, Togo, on 17th March 2017. However, it entered into force upon actual adoption by the 30th Ordinary Session of the Assembly of Heads of State and Government of the AU on 28-29 January 2018, at Addis Ababa, Ethiopia, art 23.
[48] *Ibid*, art 2.
[49] *Ibid*, art 3.
[50] *Ibid*, art 4(1).
[51] (n 47) art 7(1)
[52] (Guidelines and Procedures for the Implementation of the RCATSWA) [Appendix 1 of Annex 5 to the YD (n 58)] art 2(a-b).
[53] *Ibid*, art 2 (d-e).
[54] (AURPCATS) [Annex 6 to the YD] au-decision-relating-to-the-implementation-of-yd-concerning-liberalisation-of-air-transport-markets.pdf (ncaa.gov.ng) accessed 17 August 2023; The AURPCATS entered

in Malabo, Equatorial Guinea, on 18 and 19 December 2014. The AURPCATS seeks to strike a balance between the right of airlines to operate efficiently in a liberalised and increasingly competitive market and the right of the consumer to be assured of sufficient protection and information of his rights. It also recognises the need to assist the travelling public through time saved by the legitimate (non-targeted) passenger while undergoing normal arrival formalities and thus enhance quality of air travel, noting that passengers suffer considerable delays, overbookings, flight cancellations, and often live in uncertainties. Therefore, the increasingly liberalised environment calls out a concern to protect consumers on the African continent.[55] Consequently, the AURPCATS application stems from the implementation of Article 9.6 of the YD 1999,[56] and prescribes rights of consumers of air transport services within Africa as well as an outline of responsibilities of air transport undertakings.[57] The objective of the AURPCATS is to protect the consumer of air transport services against unfair treatment in the provision of services and provides a basis for compensation by air transport services providers for the breach of consumer rights and highlight a mechanism for seeking redress.[58]

The Challenges and Prospects

Flowing from the robust provisions of the YD 1999 and its accompanying Regulations for open skies, the SAATM should be anything but a mirage. However, the persistent utilisation of multiple restrictive Bilateral Air Service Agreements (BASAs), the non-functional YD institutions, lack of cooperation by eligible African airlines, visa requirements within African sub-regions,[59] are valid threats which makes the AU Agenda 2063 flagship project appear illusory.

Likewise, lack of political will within Member States to committedly give effect to the provisions of the YD for open skies amounts to a huge impediment to Building the Africa we Want – the integrated, prosperous, and peaceful Africa. Some African leaders misconstrue the great move as an attempt by bigger sister countries to overrun their aviation sector. Hence the open frustrations of airlines from other Member States to traverse the continent through air connection.[60] All the same, it does appear that Nigeria is a pioneer in embracing the SAATM project with its liberal treatments of foreign airlines doing business within her aerial enclave. Regardless, there has been an outcry for balance.

The President of Aviation Roundtable and Safety Initiative, Gabriel Olowo, stated that there is a daily ongoing threat on Nigerian aviation market by the supposed SAATM or open skies for Africa.[61] He opined that member countries are not honest in implementing SAATM, and a situation where some African airlines fly to multiple Nigerian airports, without Nigerian airline having a corresponding courtesy overseas is 'a negative balance of trade… the essence of regulation is not only about safety. We have failed with economic regulations. This is a major weakness.' Also, there is a growing competition from other international African carriers, international foreign airlines, and the present economic downturn. The multiple entry points

into force upon adoption by the 30th Ordinary Session of the Assembly of Heads of State and Government on 28-29 January 2018, in Addis Ababa, Ethiopia, art 25.

[55] *Ibid*, preamble.

[56] (n 41).

[57] (n 54) art 2(1)(2).

[58] (n 54) art 3.

[59] ICAO, 'The Single African Air Transport Market and the Free Movement of People in Africa' AU Paper on SAATM and free movement of Persons Malabo 06062016 - FINAL (icao.int) accessed 17 August 2023.

[60] Our Reporter, 'Yamoussoukro Decision: Why Nigeria Must Tread Softly' *Nigerian Tribune* (Ibadan 7 December 2017)Yamoussoukro decision: Why Nigeria must tread softly - Tribune Online (tribuneonlineng.com) accessed 17 August 2023.

[61] Aviation Media, 'Airline Operators Call on FG to Review BASA' Airline Operators Call on FG to Review BASA - Aviation Media Africa | Online Magazine for Aviation ::: Travel ::: Tourism accessed 17 August 2023.

for foreign airlines are 'disastrous and deliberate annihilation of domestic market', Olowo decries.[62]

Furthermore, the President of AFRAA, Nick Fadugba, added voice to the above observation when he stated that a situation where 90% of Nigerian market is controlled by non-Nigerian airline 'is damaging to the economy.' Consequently, he advised thus 'Nigeria needs to urgently review its BASA policy. An air route is like an oil bloc. You don't just give it out without something in return.'[63] In addition, Nigeria is counselled not to allow itself to be used as the 'guinea pig' by restraining itself from opening all air access while other African countries choose to protect their own, as that would amount to being deceived as the 'big brother.'[64] Certainly, to prevent some Member States' from profiting unduly at the expense of actual compliance to SAATM by a few other State Parties', the clarion call for a single multilateral agreement - applicable and enforceable on all African States - cannot be better sounded.

Admittedly, a legal trust rests on AFCAC to act as Executing Agency of the YD, and by extension - the SAATM. Nonetheless, by a broad reading of the provisions of YD,[65] the pillars for integration of Africa rest largely on the Regional Economic Communities (RECs). There are currently eight RECs having AU's recognition, they include Arab Maghreb Union (AMU),[66] Common Markets for East and Southern Africa (CMESA),[67] Community of Sahel-Saharan States (SEN-SAD),[68] East African Community (EAC),[69] Economic Community for Central Africa (ECCAS),[70] Economic Community for West African States (ECOWAS),[71] Intergovernmental Authority on Development (IGAD),[72] Southern Africa Development Community (SADC).[73] These RECs are the building blocks for any progress as they have a regional role in the implementation of YD. While several RECs have made remarkable progress in implementing YD with policies on free movement on goods, persons, and services, much remains to be done with full implementation.[74]

The aircraft accidents recorded in Africa is frightening, yet avoidable.[75] It is a fact that AFCAC is acting in collaboration with ICAO to ensure the latter's 'No Country is left Behind' Initiative improves safety and security in Africa aviation through the Africa-Indian Ocean (AFI) Comprehensive Implementation Plan for Aviation Safety in Africa (SAFPLAN), and the AFI Comprehensive Regional Implementation Plan for Aviation Safety and Facilitation in Africa (AFI SECFAL). Again, African Ministers responsible for air transport have instituted two safety measures to assure Member States comply with the minimum International Civil Aviation Organisation Safety and Security Standards and Recommended Practices,[76] across the Continent, *to wit*, Abuja Safety Targets and Windhoek Security and Facilitation Targets.[77]

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[62] (n 61).
[63] *Ibid*.
[64] *Ibid*.
[65] (n 4).
[66] (AMU) The Arab Maghreb Union (imf.org) accessed 18 August 2023.
[67] (COMESA) What is COMESA – Common Market for Eastern and Southern Africa (COMESA) accessed 18 August 2023.
[68] (SEN-SAD) CEN SAD | African Union (au.int) accessed 18 August 2023.
[69] (EAC) Overview of EAC accessed 18 August 2023.
[70] (ECCAS) ECCAS - Africa Regional Integration Index (integrate-africa.org) accessed 18 August 2023.
[71] (ECOWAS) About ECOWAS | Economic Community of West African States (ECOWAS) accessed 18 August 2023.
[72] (IGAD) About IGAD | IGAD Structure | IGAD Regional Strategy accessed 18 August 2023.
[73] (SADC) History and Treaty | SADC accessed 18 August 2023.
[74] (n 61); Charles E Schlumberger (n 34) 61-112.
[75] Charles E Schlumberger (n 34) 42-48.
[76] ICAO Safety and Security SARPS.
[77] AU (n 28).

Furthermore, given the fact that ICAO is assisting Member States in establishing Regional Safety and Continuing Airworthiness Programmes (COSCAPs), and Regional Safety and Security Oversight Organisations (CASSOAS), to resolve regional safety oversight issues and harmonise regulations to ascertain uniformity of certificated airlines in Africa, those lofty efforts are only as practical as individual State Parties consolidate the standards thereof into their domestic regulations to assume the force of law. The domestication of these safety guidelines and standards by all Member States is yet to be realised.

Despite the bottlenecks on liberalising African air market, there appears to be a glimmer of hope. The AU Commissioner, Dr Amani Abou-Zeid, in a recent roundtable session on Sustainable Development of Air Transport in Africa, held on 19 February 2023, in Addis Ababa, Ethiopia, while highlighting the growth of the air transport sector as a realisation of the aspirations of the AU Agenda 2063, stated thus:

> The contribution of sustainable air transport to the attainment of integrated, peaceful, and prosperous Africa cannot be overstated. It facilitates the free movement of people, goods, and services while hastening AfCFTA[78] and creating decent jobs… A digitalised, sustainable, agile, and resilient aviation industry is a driving force for Africa's socio-economic development. We need to rethink the way we do aviation in Africa.[79]

Conclusion and Recommendations

The AUC has the mandate to come forth with a single African sky architectural plan, to take effect by 2023.[80] The progress rating when the AUC, RECs, and the newly constituted Regional Champions of the SAATM attempt to engage other Member States to ratify and implement the initiative remains to be seen. This is owing to the persistent utilisation of multiple restrictive Bilateral Air Service Agreements (BASAs), the non-functional YD institutions, lack of cooperation by eligible African airlines, visa requirements within African sub-regions. The consequences pose serious a challenge which makes the AU Agenda 2063 flagship project unrealisable. In the same vein, lack of political will within Member States to give effect to the provisions of the YD for open skies amounts to a huge impediment to building the Africa We Want – the integrated, prosperous, and peaceful Africa. Although Nigeria is a pioneer in embracing the SAATM project with its liberal treatments of foreign airlines doing business within her aerial enclave, regardless, there has been an outcry for balance.

In the circumstance, these recommendations are hereunder suggested:

1. The AFCAC should actively engage in a continuous sensitisation of State Parties through communication and advocacy on the importance of embracing a holistic implementation of SAATM.
2. The AFCAC should ensure to codify the SAATM Handbook in print and distribute same periodically to all Member States.
3. The AFCAC should create within the SAATM a harmonised and an enforceable regulatory framework for the certification of eligible airlines. This will enable Africa rise above avoidable aircraft accidents, in keeping with ICAO Safety and Security SARPs.

[78] African Continental Free Trade Area (AfCFTA).

[79] AU, 'Towards a Sustainable Air Transport Development in Africa' https://au.int/en/pressreleases/20230222/towards-sustainable-air-transport-development-africa#~:text=The%20Single%%20African%20Air%20Transport%20market%20(SAATM)%20is%20a%20flagship,the%20Continent%27s%20economic%20integration%20agenda accessed 18 August 2023.

[80] ECA, 'The Single African Air Transport Market is Launched' The Single African Air Transport Market is launched | United Nations Economic Commission for Africa (uneca.org) accessed 18 August 2023.