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TREATY ON AIR TRANSPORT IN AFRICA

ESTABLISHMENT OF AIR AFRIQUE (YAOUNDÉ 1961)

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FOREWORD

1. Among the aims and objectives of ICAO is to foster the planning and development of international air transport so as to meet the needs of the peoples of the world for safe, regular, efficient and economical air transport, to prevent economic waste caused by unreasonable competition, and to avoid discrimination between Contracting States. To that end the Council is authorized to conduct research into all aspects of air transport which are of international importance and to study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes. The Convention specifically authorizes Member States to participate in joint operating organizations or in pooling arrangements, and the Council is even authorized to suggest to Contracting States the formation of such organizations.
2. The introduction of a new generation of aircraft, namely, high capacity and supersonic aircraft, is going to increase the problems of competition in international air transport, particularly with regard to small airlines. Some of these airlines might wish to participate in various forms of co-operative arrangements as a means of solving their present and future competition problems. The availability of detailed and up-to-date information on the various forms of co-operation in international air transport that exist or that might be undertaken might be of assistance to States interested in forming international operating organizations or participating in other co-operative arrangements.
3. This Circular publishes the Treaty on Air Transport, Yaounde 1961, which established Air Afrique.

Note: This Circular has been translated into English and Spanish by ICAO.

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I
TREATY
ON AIR TRANSPORT
IN AFRICA

The signatory States,

Whereas the future development of civil aviation and of air transport in particular can greatly help to create and preserve friendship and understanding among the Contracting States;

Whereas the existence of an air transport organization common to their States may serve to improve international relations by enabling all the States to acquire a better understanding of one another;

Whereas Articles 77 and 79 of the Convention on International Civil Aviation signed in CHICAGO on 7 December 1944 provides for the setting up by two or more States of joint or international operating organizations and for the participation of the States in these organizations;

Have accordingly decided to conclude a Treaty and have agreed on the following provisions:

PART I

ON THE SETTING UP OF
A JOINT AIR TRANSPORT CORPORATION
(SOCIETE COMMUNE DE TRANSPORTS AERIENS)

CHAPTER I

PURPOSE OF THE CORPORATION

Article 1

With a view to exercising their rights to operate air traffic between their territories and with outside territories, the Contracting States have decided to set up an Air Transport Corporation with an appropriate legal status which shall be referred to hereinafter as "THE JOINT CORPORATION" (LA SOCIETE COMMUNE).

Article 2

The Contracting States undertake to designate the joint Corporation (Société commune) as the instrument chosen by each of them for exercising their air traffic and transport rights in respect of international services.

Article 3

Each Contracting State may entrust to the joint Corporation (Société commune) the operation of the domestic air services within its territory. The terms and conditions of this operation shall form the subject of a protocol agreement between the Contracting States and the joint Corporation (Société commune).

Each Contracting State shall nonetheless reserve the right to designate one or more undertakings to operate its domestic transport services. In this event, the State shall take whatever measures necessary to ensure that the activity of said domestic transport undertakings is co-ordinated with that of the joint Corporation (Société commune).

CHAPTER II

LEGAL STATUS OF THE CORPORATION

Article 4

The joint Corporation (Société aérienne commune) shall enjoy with the fullest legal capacity recognized by the laws of the Contracting States in the case of bodies corporate and shall be deemed to possess the nationality of each Contracting State, both in respect of said States and in respect of other States.

The joint Corporation (Société aérienne commune) shall be set up by the Contracting States incorporated as a Joint Stock Company legally constituted as an entity with a private statute under common law and as a legally constituted undertaking with a private statute under common law which could assist said Company.

Article 5

This treaty and its annexes, including the Articles of Incorporation of the joint Corporation (Société commune), shall determine the legal terms of existence and operation granted to the Corporation by the Contracting States, by departing, if need be, from the present or future provisions of their national laws.

The Articles of Incorporation of the Corporation may not be modified except by unanimous agreement of the Contracting States insofar as the following provisions are concerned:

- Purpose of the Corporation
- Rules governing the allocation of the authorised capital
- Terms of admission for new shareholders
- Majority rules
- Voting rights of shareholders and members of the board
- Rules for liquidation.

Article 6

Each of the Contracting States shall have an equal part in the Corporation's capital.

Article 7

Unless joint registration is possible, aircraft belonging to the joint Corporation (Société commune) shall be registered in one of the States.

The States shall reach agreement concerning the allocation among themselves of the registration of the aircraft belonging to the joint Corporation (Société commune), with the proviso that the aircraft may be used freely and indiscriminately to perform the Corporation's services, whatever their registration.

PART II

ON THE COMMITTEE OF MINISTERS OF TRANSPORT

(Civil and Commercial Aviation)

Article 8

A Committee of Ministers of Transport (Civil and Commercial Aviation) shall be set up, composed of the Ministers responsible for civil and commercial aviation in each of the Contracting States or their representatives, within which Committee they shall discuss their common policy, prospects for the development of air transport and programmes and, in a general manner, all questions relating to civil and commercial aviation.

The joint Corporation (Société commune) may be represented in an advisory capacity at Committee meetings.

Article 9

The Committee of Ministers shall meet at least once a year either on its own initiative or at the request of one-third of the Contracting States.

The Committee shall be presided over by representative of the Government of the Contracting State in which it meets and said State shall provide the Secretariat, for the Committee.

Article 10

The Contracting States undertake to adopt a common policy with that of the other Contracting States, for the purpose of negotiating air traffic rights within the framework of inter-governmental agreements, due account being taken of the operation and interests of the joint Corporation (Société commune).

Accordingly the Contracting States undertake to submit draft agreements on air traffic to be concluded by said State to the Committee of Ministers of Transport for its opinion.

Each State shall endeavour to take the Committee's opinion into account as far as possible so as to avoid concluding inter-governmental agreements which may be prejudicial to the interest of the joint Corporation (Société commune).

Article 11

The Contracting States shall standardize their laws and regulations in matters of civil and commercial aviation particularly in respect of the following items:

- Rights in aircraft
- Registration and airworthiness of aircraft
- Air navigation
- Measures to facilitate carriage by air
- Contract of carriage by air
- Technical operation of air transport aircraft
- Status of professional flight personnel.

The drafts of acts, rules and regulations shall be the subject of recommendations on the part of the Committee of Ministers of Transport.

The Contracting States shall standardize their positions in respect to international conventions on civil aviation; proposals shall be submitted for consideration to the Committee of Ministers of Transport which can submit appropriate recommendations.

MISCELLANEOUS AND FINAL PROVISIONS

Article 12

The Contracting States shall take the necessary steps in the legal, financial, fiscal and customs fields to ensure that the Corporation can carry out its activities normally, due account being taken of its special status and of its position as the organization chosen by each of them for operating their international services.

Article 13

The treaty shall be open to accession by all interested States. The admission of a new State to the provisions of this treaty shall, however, be subject to unanimous agreement on the part of the Contracting States. The instrument of adherence shall be deposited with the Government of the Republic of Cameroun which shall notify the Governments of the other signatory and adhering States.

Article 14

This treaty shall be ratified in accordance with the procedures laid down in the Constitution of each State.

The instruments of ratification shall be deposited with the Government of the Republic of Cameroun.

The treaty shall come into force on the first day of the month following the deposit of ratification by the last State to sign.

The Government of the Republic of Cameroun shall notify the other signatory States of each deposit of the instrument of ratification and of the date on which the treaty comes into force.

Article 15

Notwithstanding the provisions of the foregoing Article, the signatory States shall agree to put this treaty into effect provisionally on the expiry of a period of three months as from the date of its signature, provided it has been ratified by at least one State and that the full amount of the authorised capital of the joint Corporation (Société commune) has been subscribed.

Article 16

Any State may give notice of its withdrawal from this Treaty subject to six months' notification being given to the depository State. The depository State shall notify the other States.

On the expiry of this notice the State effecting the denunciation shall cease to be part of the joint Corporation (Société commune) and the shares belonging to said State shall be equally distributed among the other shareholder States. The liquidation of its rights and obligations within the Company shall be effected by mutual agreement between the withdrawing State and the other States or, failing this, by means of expert evaluation.

The withdrawing State shall accord the joint Corporation (Société commune) the necessary authorization and facilities for the export, transfer or sale of property and assets possessed or held by said Company in its territory.

Article 17

Any dispute between the Contracting States concerning the interpretation or application of this treaty which cannot be settled by consultation shall be submitted to arbitration in accordance with the established rules of international law.

Article 18

In accordance with Article 83 of the Convention on International Civil Aviation signed at Chicago on 7 December 1944, this treaty and its annexes shall be registered with the Council of the International Civil Aviation Organization by the Government of the Republic of Cameroun.

Done at Yaounde on the twenty-eighth day of March 1961 in one single copy which shall remain deposited in the archives of the Government of the Republic of Cameroun which shall send duly certified copies thereof to all signatory States.