



**A FRAMEWORK FOR THE
OPERATIONALISATION OF THE
COMESA-EAC-SADC JOINT
COMPETITION AUTHORITY (JCA)**

**DRAFT FINAL REPORT – PART 7
STRATEGIC PLAN**

**CONTRACTING AUTHORITIES
COMESA**

**BENEFICIARY
COMESA, EAC, SADC**

Service Agreement Number TMSA-SC-12-31



**Prepared by
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**Project: COMESA A Framework for the Operationalisation of the
EAC-SADC Joint Competition Authority (JCA)**

Service Agreement No: TMSA-SC-12-31

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LIST OF ABBREVIATIONS

Acronyms	Definition
AA	Aeronautical Authorities
AFCAC	African Civil Aviation Commission
AFCAP	African Civil Aviation Policy
AFRAA	African Airline Association
ASA	Air Service Agreement
ATC	Air Traffic Control
ATM	Air Traffic Management
AU	African Union
AUC	African Union Commission
BASA	Bilateral Air Service Agreement
CAA	Civil Aviation Authority
CAC	Civil Aviation Committee (of SADC)
DCA	Directors of Civil Aviation
Doc.	Document
EA	Executing Agency
EASA	European Aviation Safety Agency
EAYD	Executing Agency of the Yamoussoukro Decision
e-bulletin	Electronic news letter
ECA or UNECA	United National Economic Commission for Africa
EU	European Union
FAA	Federal Aviation Administration
FE	Financial Expert
GHC	Ground Handling Company
H/Q	Headquarters

Acronyms	Definition
HR	Human Resources Expert
IATA	International Air Transporters Association
ICAO	International Civil Aviation Association
IT	Information T echnology
JCA	J oint C ompetition A uthority
MASA	M ultilateral A ir S ervice A greement
MIDT	M arketing I nformation D ata T ransfer
OAG	O fficial A irline G uide
OAU	O rganisation of A frican U nity
PM	P roject M anager
POL	P olicy A nalyst
RECs	R egional E conomic C ommunities
SADC	S outhern A frican D evelopment C ommunity
SC	S teering C ommittee
SG	S ecretary G eneral
TE	T ransport E conomist
TL	T eam L eaders
TOR	T erms o f R eference
WASA	W orld A ir S ervice A greements
YD	Y amoussoukro D ecision

1 EXECUTIVE SUMMARY

This is a complementary document submitted by the consultants though presented as part of the study on developing a framework for operationalizing the JCA in accordance with the Competition Regulations of 2004 and to enable the JCA meet its mandate as provided for in Article 9 the Competition Regulations.

It complements results from other aspects of the full study covering the draft charter of the JCA, human resources and business plans.

The report is presented as a discussion paper on elaboration of the JCA strategic plan with the aim to enable the key Stakeholders reflect on its contents and reach consensus on the various concept necessary for the definition of the strategic plan. The paper addresses the key result areas of the JCA, what it aims to achieve within the next five years, strategies on how results will be achieved, the resource needs, and prioritisation of resources and how success will be measured.

The rationale for the strategic plan is to define the future direction of the JCA, in terms of its mission, vision, values and strategic goals within the next five years.

It is recommended that this report be used as a working tool for a workshop organized in order to finalise the strategic plan based on the steps outlined in 8.1.

The strategic plan document if deployed, will enable the JCA to plan, prioritize, resource, implement and report strategically on its mandate of fully implementing the YD and the competition regulations within the territory of the Tripartite Member States.

2 Introduction

2.1 General Background

2.1.1 The COMESA-EAC-SADC Tripartite and the JCA

In 2008, in Kampala, Uganda, the First Summit of the COMESA, EAC and SADC Heads of State and Government (the COMESA-EAC-SADC TRIPARTITE) among others mandated the establishment of the Tripartite Free Trade Area and processes to formalise a legal and institutional framework and mechanism through an Memorandum of Understanding on Inter-regional Cooperation amongst the three RECs. The MOU which was signed by the Chairpersons of the Summits of the three RECs in 2011 serves as a legal framework for enhancing cooperation and integration among the three regional economic communities, including in the area of trade and investment, infrastructural development, facilitation of movement of persons and cooperation in other policy areas for their mutual benefit and the benefit of their Member States.

Article 1 (3) C of the MOU identified infrastructure as one of the major areas of integration being pursued by the Tripartite. Indeed the First Tripartite Summit of 2008 in Kampala took note of progress made by the three Secretariats in joint planning, implementation harmonisation and funding. Specifically, the Summit launched the Joint Competition Authority (JCA) on Air Transport liberalisation which will oversee¹ the full implementation of the Yamoussoukro Decision on Air Transport in the three RECs, commencing January 2009. The JCA comprises seven members, two members from each EAC, COMESA, and SADC plus a chairperson on a rotation basis. The member states of the Tripartite are : Angola, Burundi, Eritrea, Comoros, Djibouti, Botswana, Ethiopia, DR Congo, Egypt, Lesotho, Libya, Madagascar, Malawi, Kenya, Mauritius, Mozambique, Namibia, Rwanda, South Africa, Sudan, Seychelles, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe, 19 member states of COMESA, 5 member states of EAC and 15 member states of SADC.

2.2 Rationale and Justification for the Plan

2.2.1 Rationale

A strategic plan defines the direction in which an organisation wants to be in the future and how it is going to get there, taking cognizance of its external and internal challenges. It is therefore a living document which needs to be constantly reviewed to ensure its relevance to the organisation and should reflect the collective decision of the management of the agency. The process of developing the strategic plan is the strategic planning process. The planning process involves the following steps:

¹ Oxford Dictionary definition of and synonyms to the verb **oversee**: supervise, run, control, manage, direct, handle, conduct, look after, be responsible for, administer, inspect, preside over, keep an eye on, be on duty at, superintend, have or be in charge of

- a) Taking a wide look at what is going on outside the organization and how it might affect the organization (an environmental scan), and identifying opportunities and threats;
- b) Taking an in-depth look at what is going on inside the organization, including its strengths and weaknesses;
- c) Doing a SWOT analysis based on (a) and (b);
- d) Establishing statements of mission, vision and values;
- e) Establishing goals to accomplish over the planning horizon (5 years) based on the internal and external factors; and
- f) Identifying how those goals will be achieved (strategies, objectives, responsibilities and timelines).

2.2.2 Justification for the Plan

Whether it is a business that wants to earn the most profit that it can and be best in its class; an association serving and representing its members' interests; or, a non-profit group that intends to deliver highest quality community and social services to its clients, every organization has to plan effectively in order to succeed.

A solid Strategic Plan defines and shapes the organization. It defines the **vision** i.e. 'future state' for the organization; what it will look like and what it will be doing in the future. It provides the framework for and informs every decision and stake holders. The Strategic Plan makes certain that precious human, financial and technical resources are targeted on that 'future state'. It helps ensure that the organization consistently delivers greatest value for its clients and customers, taking into consideration the specificities of the organisation.

The plan is also an important communication tool. It drives communications strategies, defines the messaging, identifies the media that will yield the greatest return on investment, and, in a commercial setting, frames the business development strategy.

2.3 Methodology to finalise Strategic Plan

Elaborating a strategic plan involves several steps and techniques. The study on the operationalisation of the JCA actually forms part of the strategic planning process. The study addresses the charter of the JCA, human resource plan, sources of funding, budget and a MASA, the missing component to effective air transport integration. The methodology suggested in order to finalise this plan is indicated below.

- Desk-Top Research

Undertake an over-view of the business environment; review of the proposed charter, the YD, MASA and competition regulations.

- Steering Committee Review and Validation Workshops

Organise two validation workshops. The first workshop would be to validate the operationalisation study as specified in the terms of reference and a review of the strategic plan outline as discussed in this paper. The Consultants to revise the strategic plan working paper based on comments to the operationalisation workshop.

Organise a second workshop specifically for the definition of the strategic plan. The second Stake holder's workshop is a critical step for the drafting of the strategic plan by the JCA. The role of the Consultant in this workshop is one of facilitation. It is vitally important to get the stakeholders involvement in defining the Vision, mission and values of the JCA. The workshop would ideally bring together all the relevant stakeholders of the industry within the tripartite area. It would be more appropriate to have the second workshop when the senior managers of the JCA Secretariat are nominated or recruited.

- Finalise the Strategic Plan:

Write up the final strategic plan based the outcome of the stake holder's workshop 2.

2.4 Purpose of the Plan

The Strategic plan is one of the key documents for the operationalisation of the JCA. The specific objectives linked to Goals, provide the bases for developing annual action plan (tactical and operational plans). The plan permits the identification and allocation of resources, allocation of responsibilities and the measurement of performance.



3 Business Environment Assessment

3.1 Aviation Industry overview

The tripartite grouping of overlapping regional economic communities (RECs), COMESA-EAC-SADC², consist of 27 countries with an estimated population of over 500 million inhabitants. The region has the busiest level of aviation activities in Africa with some of the busiest airports, world class African airlines, and busiest African air traffic routes and a vast area for air navigational services provisions. JCA air transport industry cover roughly 68% of the traffic in Africa. The tripartite competition regulation covers the aviation industry for international traffic within its Member States whilst the draft MASA/YD is concerned with intra-Africa air transport industry and international intra-Africa traffic. Therefore the JCA would have to deal with both international intra-JCA traffic as well as services between the tripartite JCA states and the other African countries, in order to meet its mandate of the full implementation of the YD in its region.

3.1.1 Airports and airport Hubs: The region has over 70 airports available for international traffic. The Table below indicate the top 20 airports in Africa, with airports within the JCA region accounting for 68% of the traffic of the first 20 airports.

² COMESA- Common Market for Eastern and Southern Africa, EAC- East African Community and SADC- Southern Africa Development Community.

Top Twenty Africa Airports in 2011				
	Country	Airport		Passengers
1	SA	OR Tambo		17,444,503
2	Egypt	Cairo		14,382,042
3	Egypt	Sharm el		7,430,940
4	SA	Cape Town		7,723,975
5	Egypt	Hurghada		6,730,087
6	Morocco	Casablanca		6,392,789
7	Nigeria	Lagos		5,654,122
8	Kenya	Nairobi		5,077,968
9	Algeria	Algiers		4,474,970
10	SA	Durban		4,304,729
11	Tunisia	Tunis		4,257,455
12	Nigeria	Abuja		3,196,438
13	Ethiopia	Addis Ababa		3,497,847
14	Morocco	Marrakech		2,982,151
15	Tunisia	Monastir		3,831,924
16	Tunisia	Djerba		2,457,069
17	Angola	Luanda		2,430,794
18	Mauritius	Mauritius		2,381,810
19	Sudan	Khartoum		2,178,097
20	Egypt	Luxor		1,872,070

Table 1; Top Twenty African Airports 2011

Sources: Consultants.

3.1.1 Airlines

3.1.1.1 Operations and fifth freedom operations

Among the top 20 airlines in Africa in 2012, 12 airlines established within the JCA area are prominent namely South African airways, Kenya Airways, Ethiopian Airways, Comair, EgyptAir, South African Express, Mango, Precisionair, Taag Angola Airlines, South Africa Airlink, Air Madagascar and Air Mauritius. Four of these airlines have now become the dominant force in the intra-African international market in the JCA area: Egyptair (MS), South African Airways (SA), Kenya Airways (KQ) and Ethiopian Airways (ET). A common trend amongst these carriers is their dominance at the home hub base: ET hub at Addis Ababa (ADD), KQ at Nairobi (NBO); and SAA at Johannesburg (JNB). Such hub, particularly in feeding regional traffic to/from more lucrative intercontinental routes at attractive through fares, may be viewed as effectively sixth freedom traffic. It has been credited, for instance, with the historical loss of intercontinental traffic to and from Namibia and Mozambique due to leakage on connections to and from SAA's extensive Johannesburg-based intercontinental network.

In terms of capacity offering in 2012, SAA is the number one African carrier offering 14% of the intra-African capacity. It is the national carrier of South Africa. SA is the member of the

Star Alliance since 2006 and it owns Mango, a low cost domestic airline and has established links with Airlinks, and South African Express. South African Airways reported revenues of \$2,719.5 million in 2011, up 2% compared with 2010 (AFRAA report).

Kenya Airways is considered as one of the leading African operators, becoming a full member of the skyTeam Alliance in June 2010. The carrier reported revenues of \$988 million in 2011, up 2% to compare with 2010. Kenya Airways has also been building up its hub operations by tending to operate on routes where it is the only carrier, but more recently emphasising multi-sector routes with fifth freedom operations. In 2003 KQ were scheduling only nine two-sector African routes out of Nairobi NBO), 18 sectors, with 5th freedom rights on only four of them³. Today, however, (October 2012) KQ flies 24 two-sector routes from NBO with fifth freedom rights on 14 of them.

KQ has significantly expanded its presence in Africa through operating fifth freedom routes. KQ was (until 30 October 2012)⁴ selling fifth freedom seats between Lusaka and Lilongwe, and has fifth freedom between competing hub Addis Ababa and Djibouti, which ET also serves. However, the majority of routes where it does exercise most fifth freedom rights are on West African routes. The later also applies to ET. SAA has not historically sought to build multi-sector routes seeking fifth freedom rights on the Ethiopian model, and its associates SA Express or SA Airlink operate thinner routes with generally smaller aircraft. There are only five three-sector routes by SAA departing from JNB but three of those include a fifth freedom sector, as does the one four-sector route flown by Johannesburg-based competitor Inter Air. One of the most important routes in this category is the Washington (IAD) trans-Atlantic route, via Dakar⁵. SA has traffic rights on all sectors including intercontinental fifth freedom between Dakar and Washington.

³ OAG, op cit

⁴ According to the Post Newspaper, Zambia, 30 October 2012, the Malawi CAA stopped KQ from selling seats on the sector because the airline had, in 2009, cancelled a 2008 agreement with Air Malawi to fly the route but had continued to do so.

⁵ The New York service is nonstop, with SA hosting a United Airlines codeshare

OPERATOR	CODE	2002	2005	2008	2011	2012
South African airways	SA	27%	28%	23%	16%	14%
Comair	MN	13%	9%	7%	12%	13%
Kenya Airways	KQ	7%	7%	9%	8%	8%
Egyptair	MS	13%	11%	12%	11%	8%
Ethiopian Airlines	ET	6%	7%	8%	7%	8%
Royal Air Maroc	AT	7%	8%	9%	7%	7%
Air Algerie	AH	10%	10%	7%	5%	6%
South African Express	XZ	0%	0%	1%	5%	5%
Aerocontractors	NIG	0%	0%	0%	5%	5%
Air Nigeria	VK	0%	0%	4%	3%	4%
Mango	JE	0%	0%	2%	4%	4%
Precisionair	PW	1%	2%	3%	2%	3%
Taag Angola Airlines	DT	1%	1%	1%	3%	3%
South African Airlink	4Z	4%	4%	4%	3%	3%
LAM-Linhas Aereas Moca De	TM	2%	2%	2%	2%	2%
Air Austral	UU	2%	3%	2%	2%	2%
Air Madagascar	MD	4%	4%	3%	2%	2%
Air Mauritius	MK	2%	2%	2%	2%	2%
Dana Airlines	9J	0%	0%	0%	1%	1%
Tunis Air	TU	1%	2%	1%	1%	1%

Table 2: Top 20 carriers by scheduled capacity 2012 within Africa

Sources: AFRAA Research, 2012.

3.1.1.2 Code sharing

The practice of code sharing is extremely prevalent. A flight carries the flight number of the operator, but can also carry the flight number of other airlines who sell seats on that flight. This gives the impression of a larger network or higher frequencies on the part of the “guest” carrier, but the passenger who buys a ticket on airline A can find himself/herself on an aircraft operated by airline B. It is often a reciprocal arrangement. For instance⁶, an EgyptAir (MS) aircraft shares the early morning (MS852) Addis Ababa to Cairo flight with Ethiopian (ET1450); while an Ethiopian (ET) aircraft shares the late evening service (ET714) with EgyptAir (MS9463) - and with their Star Alliance partner SAS Scandinavian Airlines (SK8951) as well. The flight continues to Stockholm as an ET/SK codeshare. Analysis of all flights scheduled outbound from Addis Ababa in the month of October 2012 shows⁷: that ET “hosted” code-shares for other airlines on a total of 50 frequencies per week to 11 destinations in Africa, plus 56 intercontinental frequencies per week to 8 destinations overseas; and ET was the “guest” code-sharer on other airlines on 7 frequencies per week to one destination in Africa (the Cairo example above) and 13 frequencies per week to two destinations overseas.

⁶ OAG flight guide worldwide, October 2012

⁷ Analysis extracted from the market assessment report.

That is over 6,000 flights per year, from Addis Ababa alone. Clearly the liberalisation of traffic rights within Africa has to take account of this practice - the YD is about African States exchanging traffic rights for their designated airlines, but many of the flights they operate are not simply in their own name. The practise of code sharing is typical of but not necessarily restricted to alliance partners.

3.1.1.3 Ownership and Control

The ownership of airlines by states is a major challenge to the JCA, as the common tendency is for the state to protect its national carrier through direct and indirect state aids and effecting restrictions in the liberalisation process. The major intra-Africa airlines are in 100% State ownership and most of these airlines are influential in determining State policies on the ownership clause and the full implementation of YD. Amongst the first ten African airlines operating African skies, EgyptAir, South African Airways, Royal Air Maroc, Air Algérie, Ethiopian Airlines and Tunis Air are 100% State owned carriers.

Among the first five, Kenya Airways is the only African Carrier with majority private sector ownership with the following share structures: the airline is owned by individual Kenyan shareholders (30.94%), KLM (now Air France-KLM) (26%), Kenyan government (23%), Kenyan institutional investors (14.2%), foreign institutional investors (4.47%) and individual foreign investors (1.39%). However ownership is still in the hands of nationals of Kenya. A number of cross-border airline investments have been recorded, in particular the creation of Asky Airlines, a West African regional airline based in Lome, Togo, with 49% Ethiopian Airlines equity holding, together with other African private investors. Kenya Airways also has 41.23% equity holding in a Tanzanian private airline – Precision Air. The Aga Khan Fund for Economic Development has supported the establishment of new airlines across Africa: Air Uganda, Air Mali, and Air Burkina, through the provision of equity. The Aga Khan group (AKFED) also has a 15% stack in the new start-up airline – Air Cote D'Ivoire, with the Air France-KLM Group holding 20%⁸. The JCA will need to deal with the above challenges on ownership whilst applying the YD definition on eligibility based on principal place of business and effective control.

In terms of strategic cooperation and partnership, among the five major African airlines, South Africa Airways, Egypt Air and Ethiopian Airlines are members of the Star Alliance whilst Kenya Airways is a member of the Sky Team. The AKFED set of aviation companies are also operated under the Group **Celestair** Alliance. This provides for sharing of resources and expertise across the various airlines, in particular in the renewal of aircraft fleet. Several African airlines also have code-share agreements; South Africa has code share with **Airlink**, Air India, **Air Mauritius**, Emirates, **Jetblue Airways**, **Lam Mozambique Airlines**, **Mango** (its subsidiary), Qantas (One World) and Virgin Atlantic Airways.

⁸ AFCAC Paper on ownership and control for the ICAO ATConf/6 – March 2013.

3.1.2 Air navigational services provides market

Air traffic control (ATC) is a service provided by ground-based controllers who direct aircraft on the ground. The primary purpose of ATC systems worldwide is to *separate* aircraft to prevent collisions, to organize and expedite the flow of traffic, and to provide information and other support for pilots when able. Within the Tripartite area, air navigation services are provided by the state monopoly entities via national civil aviation authority. However, some member states have autonomous privatised ANS providers as in South Africa (ATNC) and Egypt (NANSC). ASECNA manages air traffic in a number of French speaking states.

Air Traffic Services (ATS) in JCA member countries are still dependent on ground-based communication and surveillance systems such as very high frequency 2 omni-directional radio (VOR), instrument landing systems (ILS), non-directional beacons, and surveillance radars.

The future challenge is the transition from the existing ground-based navigation system to effective satellite-based air navigation technology known as Communication Navigation Surveillance/Air Traffic Management (CNS/ATM). The transition to CNS/ATM is a global initiative mandated and coordinated by the International Civil Aviation Organization (ICAO). The tripartite has ongoing projects for the common management of the upper and lower airspace control centres. Within SADC, there is collaboration on the operation of V-sat system.

The current challenge to the JCA is the management of ANS services provided by monopolies in the various member states whereas in the future, the challenge would be oversight over ANS from a single source if the entire area is under one centre using CNS/ATM.

The JCA would need to collaborate with the civil aviation navigation organisation (CANSO), which has a number tripartite member states as its members.

3.1.3 Traffic (Passengers and Cargo)

3.1.3.1 Passenger Traffic

The total passenger market in the JCA area is estimated at 63.8 million in 2011 airline passengers (96.9 million airport passenger movements) of which 30.7 million intercontinental airline passengers (30.7 million airport passenger movements in the JCA area), with JCA generally involved only when multiple African points are served. 12.2 million African international airline passengers (24.4 million airport passenger movements in the JCA area), with 7.9 million fly within the one or other of the three RECs; 3.1 million fly between the three RECs. 1.2 million are the JCA area “share” of 2.4 million passengers between the JCA area and “other Africa”; and 20.9 million domestic airline passengers (41.8 million passenger movements at airports in the JCA area). These markets are expected to continue to grow in the long term by between 4.8% and 6.9% per annum, including 6.2% for traffic within Africa.

3.1.3.2 Cargo Traffic

Air cargo is certainly important to the airlines and economies of Africa, for instance in overcoming the continent's long distances and sometimes less than ideal surface transport infrastructure. Cargo identified in published statistics⁹ as handled at its airports in 2009, the latest year for which consistent figures were located, totalled: (a) COMESA Member States 695,000 tonnes; (b) EAC Member States 370,000 tonnes and (c) SADC Member States 435,000 tonnes.

The cargo market is dominated by the intercontinental traffic with the main markets based on 2009 statistics at: Egypt (300,000 tonnes), Kenya (281,000 tonnes), South Africa at JNB only (228,000 tonnes), and Swaziland (137,000 tonnes).

The estimated total tonnage within the JCA area, without duplication due to overlapping states or membership or RECs was estimated at one million tonnes (2009).

3.1.4 Network Connectivity

A common trend within the JCA area is the polarisation of hub locations, due to the dominance of the major airlines, SAA, ET, MS and KQ as discussed above. The development of hubs has enabled KQ, SAA and ET to provide a highly connected network via their hubs.



Figure 1: NBO Connectivity

⁹ COMESA website 4.2 Air transport : Commercial air freight traffic; EAC Statistics portal : table 2.8c, Access to air transport; and FlightGlobal airport statistics for the main airports in SADC.

The figure above shows Nairobi's network connectivity within and outside the JCA area. When we analysed the number of links per economic capital, we find that Nairobi has the highest number of network links with other African States (64.91% connectivity), followed by Addis-Ababa (52.88%), Johannesburg (50.88%). A measure of connectivity is necessary for the JCA to have as a performance indicator, to measure the extent of the full implementation of the YD.

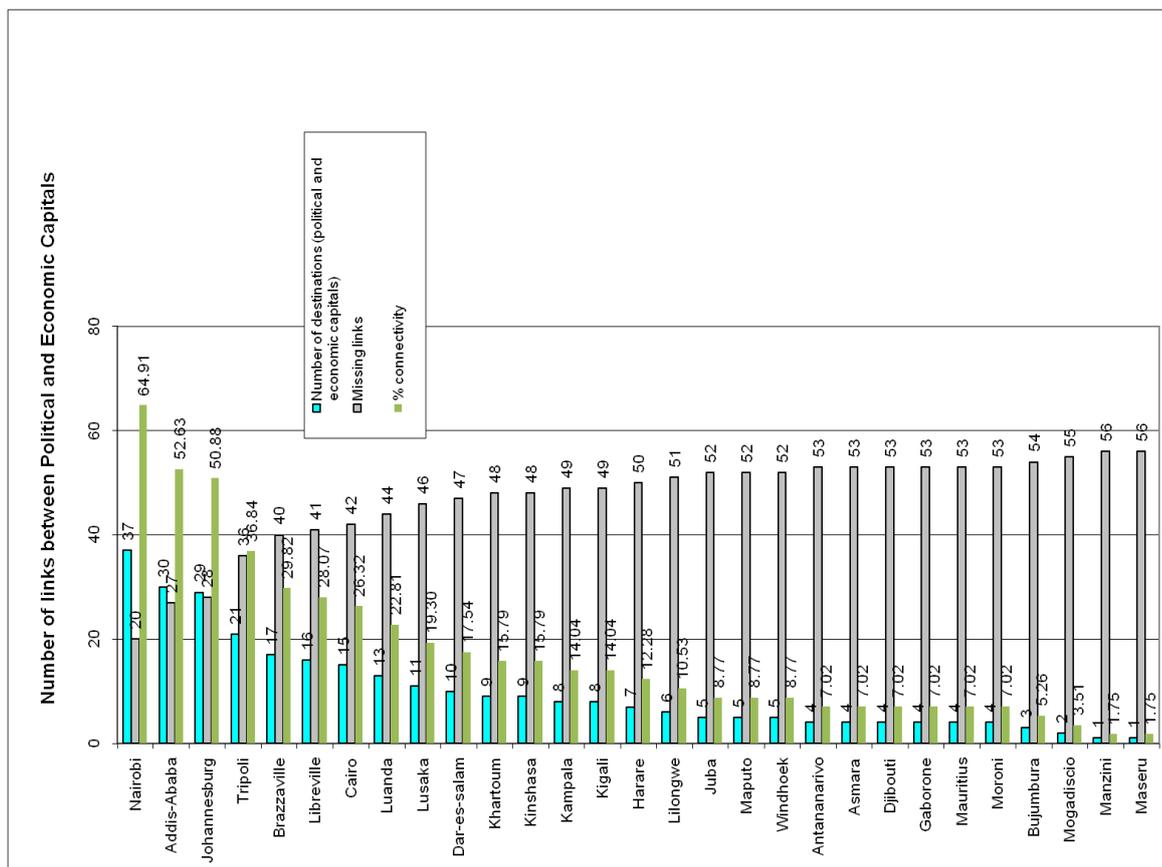


Table 3: Hub Connectivity



Figure 2: African Connectivity

Source: UBM Aviation market research – November 2012

3.1.6 Global Agenda/Trends

The theme of ATConf/6 will be “Sustainability of Air Transport”, to be held in Montréal, from the 18-22 March 2013. The objectives of the conference are to develop guidelines and an action plan for a global regulatory framework. The conference will develop guidelines covering the following area: (i) market access, (ii) air carrier ownership and control, (iii) consumer protection, (iv) fair competition, (v) safeguards – ensuring effective participation of all states in air transport, (vi) taxation of and other levies on international air transport, (vii) economics of airports and air navigation services and (viii) implementation of ICAO policies and guidance.

The JCA will need to take into consideration the guidance material provided by the conference in the course of implementing its mandate, as the supervisory agency of air transport within the tripartite member states, particularly guidance material directly related to market access, consumer protection and fair competition.

3.2 Status of the implementation of YD in the region

No comprehensive study has been done on the implementation of YD covering the Tripartite Member States. Two studies were carried out separately in 2009, the first on the implementation of Legal Notice 2 within COMESA¹⁰ and the second on the implementation of YD with SADC¹¹ Member States. Given the overlap of Member States within these RECs, the Member States of the Eastern African Community are covered in both studies. The core domain with respect to liberalisation and market access is covered in Articles 3, 4 and 5 of the YD.

Within COMESA, the study noted that Legal Notice No. 2 had not been explicitly transposed into each state's national air transport regulations (i.e. domestication). It is considered as a policy document rather than a mandatory applicable instrument. The same view as identified in the SADC study, the lack of "domestication" of YD within member state legislation. It implies the JCA has to ensure that the two instruments defining its mandate are harmonised into the legislation of each Tripartite Member State.

3.2.1 Access to the market (Article 3)

The reviewed studies observe that article 3¹² provides a satisfactory definition of the liberalised domain as concerns traffic rights, setting out the principle of complete liberalisation of the rights of the 2nd, 3rd, 4th and 5th freedoms for all intra-African international flights operated by eligible airlines.

3.2.2.1 Granting of 3rd and 4th freedom rights

The studies established that most of the states freely grant 3rd and 4th freedom rights. In some ASA, city pair routes are specified in the annex, which implies non-compliance with YD. South Africa however has a model ASA that imposes no restrictions on 3rd and 4th freedom rights. Granting of similar rights with the rest of Africa is based on reciprocity, a state of non-compliance with YD.

3.2.1.1 3.2.2.2 Granting of 5th freedom rights

The studies established that the granting of 5th freedom rights within the RECs and outside the RECs within Africa is quite problematic. Very few 5th freedom rights were granted at the time of the study. In a recent study¹³, the consultants analysed the degree of 5th freedom granted in Africa. The table below indicates by region the countries that have granted 5th freedom rights based on 2012 summer airline schedules. It is significant to note that few

¹⁰ Rexter R. Ndhlovu et al. (2009) – Study on the Evaluation of Legal Notice No. 2 of 1999 on the COMESA Regulations for the Implementation of the Liberalised Air Transport Industry

¹¹ Hydroplan (2009) – Evaluation SADC Member States' compliance in implementing the Yamoussoukro Decision

¹² The two year time restrictions in this article has already elapsed and thus irrelevant.

¹³ Operationalisation study of the executive agency of the YD, 2012

countries within Southern Africa granted 5th freedom rights. The COMESA study also observed that the states can be divided into two groups: those with weak airlines that do not wish to grant the 5th freedom rights, and those with strong airlines which support granting these rights. Within SADC, it is a case of domain national airlines preventing the granting of 5th freedom rights.

No. of Countries that have granted 5th Freedom rights Africa

West Africa		East Africa		Central Africa		Southern Africa		North Africa	
1	Benin	1	Burundi	1	Angola	1	Botswana	1	Libya
2	Burkina Faso	2	Comoros	2	Cameroon	2	Zimbabwe	2	Morocco
3	Cape Verde	3	Djibouti	3	Central African Republic			3	Tunisia
4	Gambia	4	Ethiopia	4	Chad			4	Egypt
5	Ghana	5	Kenya	5	Congo				
6	Guinea	6	Madagascar	6	DRC				
7	Guinea Bissau	7	Malawi	7	Equatorial Guinea				
8	Ivory Coast	8	Mauritius	8	Gabon				
9	Liberia	9	Mayotte	9	Zambia				
10	Mali	10	Reunion						
11	Mauritania	11	Rwanda						
12	Niger	12	Tanzania						
13	Nigeria	13	Uganda						
14	Sao Tome and Principe								
15	Senegal								
16	Sierra Leone								
17	Togo								

Table 4: Airline City Pair routes with 5th Freedom rights - summer schedule 2012

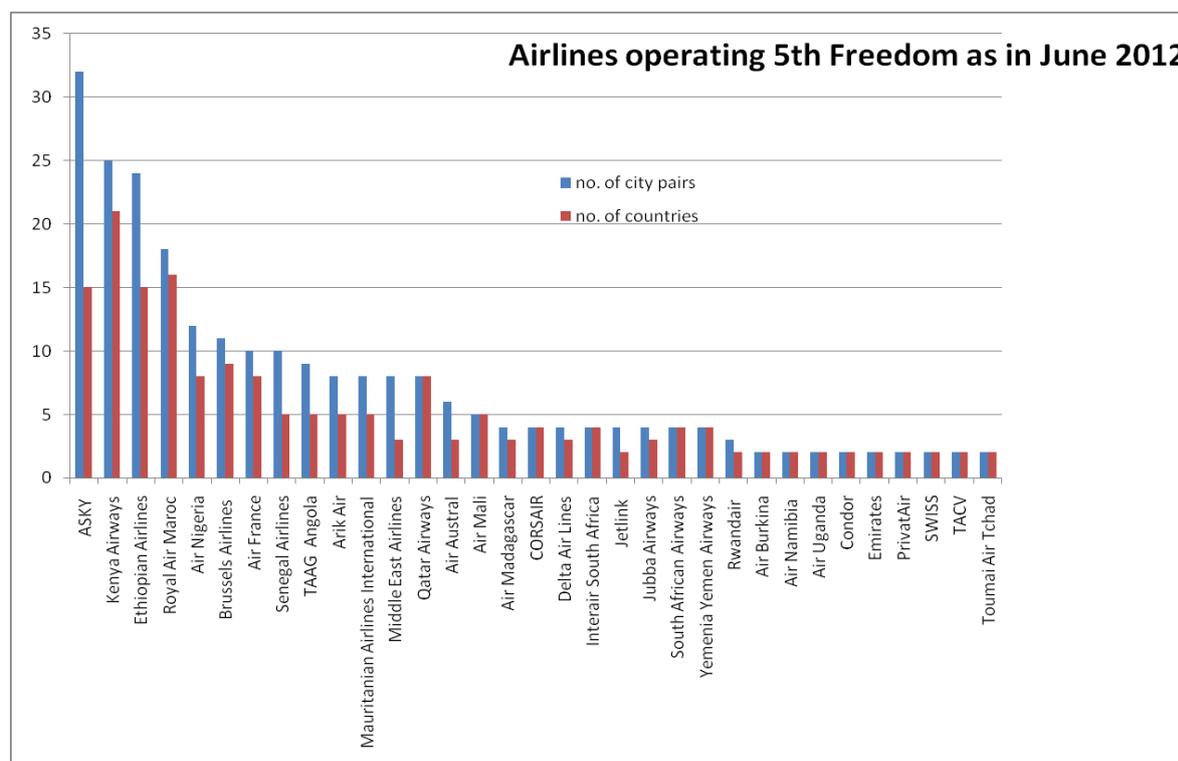


Table 5: Airline operating 5th Freedom - June 2012

3.2.2 Tariffs (Article 4)

Article 4 sets out the principle for the liberalisation of tariffs, which do not require approval but which does state an obligation to file tariffs, which is only natural, given that tariffs should logically be considered publicly verifiable information. Article 4 is therefore adequate for the purpose of continuing the liberalisation process. Within COMESA, tariffs have been liberalised whilst in SADC, numerous intra-SADC BASA still contain tariff clauses based on the traditional Bermuda model. In practise, the airlines are quite free to set their tariffs. The Consultants found no evidence to indicate that consumers are benefiting lower fares due to the partial application of YD as regards article 4.

3.2.3 Capacity and frequency (Article 5)

Capacities are liberalised in principle, but a State can decide to impose a refusal according to Article 7 on competition rules, the later needing some form of guidance on its application. Article 5 is sufficient for continuing the liberalisation process, on condition that competition rules do not introduce a distorted conception of unfair competition in which a strong market position is confused with an unfair advantage. The studies indicate some progress within COMESA, with all capacity and frequency restrictions eliminated. Within SADC, however the state of affairs is characterised by the coexistence of a set of older Bermuda type bilateral agreements in which capacity and frequency are pre-determined and more modern agreements which give airlines more freedom. Even in recent revisions, through the exchange of Memorandums of Understanding, capacity and frequency clauses have been kept. It can therefore be concluded that most of the BASAs in the region are not compliant with YD article 5.

3.2.4 Authorisation, eligibility and designation (Article 6)

Article 6 is the most important in practical terms, because (a) it links the concepts of designation, authorisation and eligibility, on which the actual award of traffic rights is ultimately dependent and (b) it safeguards against approval of airlines that do not meet ICAO safety minimum standards. The process of approving an eligible airline needs further guidance material from the JCA, as the provision in article 6 can be used abusively to restrict market access.

3.2.5.1 Designation: The 2009 studies indicate that all COMESA states practise multi-designation whilst within SADC, the study found the coexistence of a set of older Bermuda type BASA in which capacity and frequency are pre-determined as well as more modern agreements. The authors conclude that the application of YD has made little progress as regards the application of article 6.

3.2.5.2 Eligibility: COMESA's eligibility criterion regarding the nationality of shareholders having a majority control of the airline is more restrictive than that of the Yamoussoukro Decision whilst the SADC study indicates that conformity with the eligibility criteria should be a prerequisite for genuine liberalisation. It is also an area with little progress as far as YD compliance to article 6 is concerned. Given the link between the eligibility criteria and the need to meet minimum ICAO safety and security standards, the JCA needs to liaise with the

regional safety oversight organisation and CAAs, to ensure that the same standards are applied in the licensing of airlines and their operations, based on harmonised regulations.

3.2.5 Competition Regulations: Article 7

Article 7 of the YD indicates that competition rules are necessary and it is incumbent on the JCA to ensure the elaboration and application of competition rules. The RECs of the Tripartite region had closed this gap by approving a set of competition rules. However its application now depends on the operationalisation of the JCA.

3.2.6 Protection of consumer rights

YD recognises the need for consumer protection and the Executing Agency is entrusted with this task (article 9.6). Similarly the Competition regulation recognises the need to safeguard the interest of the consumer. It is therefore logical that the JCA would need to perform this function in order to achieve the full implementation of YD. The competition regulation provides for the protection of the consumer in cases of abuse of dominant position which is prejudicial to the consumer or anticompetitive behaviour that have a detrimental effect on consumers. Consumers need to be defined in the broader sense as anyone who users or purchase services and goods provided by an air transport services provider.

3.2.7 Cooperative Arrangements and alliance

The 2009 study observes that COMESA airlines have few cooperative arrangements among themselves or with external airlines. In particular, there is little cooperation between strong airlines and weak airlines. Only a handful of airlines have code-sharing agreements. No specific observations of cooperative arrangement were noted in the SADC region.

3.2.8 Recommendations from both studies

The COMESA report recommends replacing the bilateral agreements between Member States by a multilateral agreement between them. A draft multilateral agreement was proposed to this effect. The report also indicates that the liberalisation process will require the strengthening of safety supervision competences to deal with the traffic increase. It calls for the highest priority to be given to the regional implementation of the ICAO's COSCAP programme. In the SADC study, the final recommendations focus on the liberalisation of the 5th freedom rights, of capacity, and frequency; on the establishment of the Joint Competition Authority; and on the capacity building of national civil aviation authorities.

3.3 Key Stakeholders and their Expectations

In assessing the strategic direction of the Agency, it is important to identify the various parties that can have an impact on the mission of the JCA, those who can benefit from its services and those who can bring resources to enable the JCA function more effectively. The following key stakeholders have a direct interest in the functioning of the JCA.

3.3.1 Passengers/Consumers

Passengers are the most important stakeholders of the industry since supply without demand would mean a non viable industry. Protection of the Consumers is therefore an important function of the JCA. Passengers expect affordable, comfortable, secure and safe air transport services with a descent quality of services. The JCA would therefore need to listen to the voice of the consumers.

3.3.2 Airline Operators

The airlines are directly responsible for providing supply in the industry and require from the JCA the implementation of YD and the creation of a level playing field through the institution of fair competitions. The implementation of the YD and competition rules is expected to enable a conducive civil aviation environment for the airline business to grow, through increased market access and fair competition.

3.3.3 Airport Operators (including auxillary services providers)

The airport operators are responsible for managing a critical infrastructure, necessary for the growth of the industry. Insufficient airport infrastructure is one of the major challengers to civil aviation in Africa. The competition regulation requires the JCA to also apply the same rules to airports and ANSP. Lack of capacity at airports, creates slot problems particularly at hubs airports, whereby a dominant airline at the hub may donate the allocated slots. Also in most airports, the supply of auxiliary services such as ground handling is provided by a state monopoly, the airport or a private monopoly. The JCA has an interest in supervising these activities as far as competition rules are concerned.

3.3.4 ANSP

The Air Navigation services providers manage the flow of traffic into and out of airports and enroute. They therefore manage an essential infrastructure vital for the operation of air transport. Within the region, ATC services is generally provided by a state monopoly company, operated by CAAs, who are also regulators, services by multi-national monopolies and by private organisations. The JCA will need to apply the same rules of competition to this entities to ensure that the rights of those using these services is not abused. Therefore ANSP have a direct interest in the rulings of the JCA.

3.3.5 Other Stake Holders

The under listed entities also have specific interest in the functions of the JCA:

- Regional Competition Authorities, DCAAA/HCAAA,
- Technical Economic Advisory Body
- Courts of Justice and Tribunals
- Tripartite Member States and their Governments
- Regulatory Bodies (State CAAs and Safety oversight agencies-RSOOA,):
- AFCAC/Executing Agency, Monitoring Body, the AU and ICAO
- Other African Economic Oversight Agencies with similar objectives (e.g. ECOWAS)

- AFRAA/IATA/ACI
- Funding Agencies (AfBD, World Bank, UK DfID, etc) ICAO:
- Third Countries

3.4 External Factors

External factors analysis is important for determining current and future threats and opportunities that the JCA may confront. External factors can be analysed under: (a) Political, (b) Legislative, (c) demographics, (d) economics, (e) safety and security, (f) global trends/global competition, (g) Infrastructure Investment, (h) ICT and (i) the environment.

3.5 Internal Factors

The internal factors look at the resources of the organisation and how adequate the resources are for the various tasks before the Agency. Internal factors analysis is important for determining current and future strength and weaknesses of the JCA as an organisation. Its resources can be analysed under the following categories: (a) Tangible assets, (b) intangible assets, (c) Capabilities and Human Resources. Due to current start-up phase of the JCA, it does lack several assets required for operationalisation.

In terms of assets, the JCA needs appropriate premises, office equipment, means of transportation, financial asset (cash, securities), ICT/MI systems and application and time. Intangible assets include: valuable relationships within the industry (suppliers, airlines, airports, RECs, Member States, CAAs, AFCAC/EA, AFRAA, and other key stake holders); intellectual capital and copyrights; Human capital; Technical know-how (inventions/trademarks); Brand name.

The success of the agency will be driven by capabilities of its staff and available human resources: management skills/know-how, Quality management, Communication/Collaboration, Organisational core competences and Organisational culture (motivation, values, altitudes and social culture, dealing with a multi-cultural environment), and dealing with environmental issues.

3.6 SWOT Analysis

In undertaking this study, the Consultants also completed a SWOT analysis of the JCA in line with the current situation in the COMESA-SADC-EAC Air Transport and competition arrangement. The summary of the SWOT analysis is shown below.

Strengths	Weaknesses
Political will of member states	New regulatory organisation

<p>High traffic zone in Africa</p> <p>Environment with highly knowledgeable experts in aviation</p> <p>Existence of pro-YD airlines in region (KQ, ET, Egypt Air, SA, etc)</p> <p>JCA already existing since 2009</p> <p>Competition rules already adopted by member states</p> <p>Available office infrastructure at start-up</p> <p>Single competition authority across 3 economic regions</p> <p>Representing 48% of African States in by size</p> <p>Process engineering can learn from current best practise.</p>	<p>The JCA needs to be made operational</p> <p>Has no legalised source of funding</p> <p>SADC office transport connectivity to the capitals of 27 member states</p> <p>Under developed Inter-relation to other organisations such as AFCAC, AFRAA</p> <p>Challenge to its powers from some airlines, service providers or CAAs</p> <p>Complex scope and responsibilities with little experience of similar task</p> <p>Several functional challenges including poor reporting of aviation data in the region</p> <p>Potential challenges with enforcement powers</p>
<p>Opportunities</p>	<p>Threats</p>
<p>Would be the largest economic regulatory Agency after AFCAC;</p> <p>Positive results will enhance the image of the JCA and give it an important role in African aviation;</p> <p>Able to influence the evolution of air transport liberation in the zone into an open skies area.</p> <p>Approval of free movement of business person as part of the integration effort</p> <p>COMESA vast experience on integration matters</p> <p>Mainstreaming competitiveness & good practice</p> <p>Income generation from service provision & projects</p> <p>International collaborations and joint</p>	<p>Likely Political instability in some of the member states</p> <p>Lack of sustainable core funding</p> <p>Change in political agendas of member states</p> <p>Co-location office could hinder development & independence</p> <p>The impact of non-tripartite airlines and non African airlines</p> <p>Legal challenges to its decisions</p> <p>Lack of improvement of safety and security of the aviation industry in the region</p> <p>Sustainable financial support for the org</p> <p>Organisational capacity to manage growth in activities</p>

ventures Pioneer innovative ideas in African air travel competition regulation	Complexity of competition negotiations & conflict resolutions
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Table 6: SWOT Analysis

Key strengths include political support by member states, environment with highly skilled aviation experts and competition rules already adopted by member states, a major Opportunity is the potential ability to influence the evolution of air transport liberation in the regions into an open skies area, despite the slight weakness of being a new regulatory organisation within the regions, and it has a clear mandate and political support. However, the JCA faces some slight threats from other civil aviation and regulatory organisation established across the same regions for core funding and contributions from member states, challenges from Government policy on state aid to weak airlines, non removal of physical barriers for the free movement of persons and goods.

3.7 Conclusions and recommendations

The critical assessment and understanding of the business environment is essential in the development of the strategic plan. The above assessment is based on desk-top research. It needs to be completed by the Consultant via discussion with the various stakeholders during the stakeholders workshop with the aim of synthesing the critical issues that may present a threat or opportunities to the operationalisation of the JCA.

4 Defining the JCA Purpose, Vision, Mission and Core Values

4.1 Introduction

The establishment of the JCA is provided in Article 9 of the Competition regulations with the role (Article 9(3) to monitor the implementation of the Yamoussoukro Decision and the Competition Regulations. This role is subsumed within a greater vision of the Tripartite Member States and the African Union, the integration of the economies of Africa, enabling the free movement of persons and goods. As indicated in the preamble of the YD, the role of the JCA within the Tripartite region would be to ensure the existence of a conducive environment for the development and provision of safe, reliable and affordable air transport services necessary for the free movement of persons, goods and services within the region and Africa at large.

The Competition regulation also has as object: “ *to promote and guarantee free and fair competition in air transport services within the COMESA, EAC and SADC region in order to develop the industry and contribute to the welfare of the citizens of Member States*”, Article 3(1). Its role directly complements the role of regional safety and security oversight agencies but with a focus on economic oversight of civil aviation in the region. What is the vision of the JCA?

4.2 Vision

The vision statement attempts to capture what the “**future state**” of the agency will look like by the end of a planning period, 5-10years. The JCA has a bridging role of capturing the vision and aspirations of its member states with those of other agencies such as AFCA and ICAO. Considering the objects found in the YD and the Competition Regulations as summarised above and the need for vertical integration of visions, four Vision options are proposed and open for discussion:

Option A: “To be a model Civil Aviation Economic Oversight Agency in Africa”;

Option B: “Enabling fair competition, a liberalised and sustainable aviation industry within the Common territory of the Tripartite RECs”;

Option C: “**To foster a safe, secure, efficient, cost effective and sustainable civil aviation industry in the tripartite region** through the application of best practices in civil aviation economic oversight”.

Option D: “To be recognised by all our stakeholders as a relevant, efficient and effective civil aviation economic oversight Agency in Africa”.

4.3 Mission

The mission statement attempts to capture what the Agency will focus on doing within the planning horizon. Basically the JCA has as focus the implementation of the Competition regulations and ensuring the full implementation of the YD. Further assessment of the provisions of the two regulatory instruments highlight other aspects of the Agency's mission. The Consultants in looking at the role of the States in civil aviation regulation vis-à-vis the role of the JCA conclude that States have the primary regulatory responsibility under the Yamoussoukro Decision and that remains unchanged. In recognition of the primary role of the states, the JCA's role is to guide, administer, manage and supervise economic regulatory activities of the states into one homogeneous whole with the objective of regional integration.

In this light two mission statements are therefore formulated for discussion:

Option A: Promoting fair competition, protection of consumers, the supervision and monitoring of a liberalised civil aviation industry in the tripartite region in order to develop the intra-African air transport industry and contribute to the welfare of the citizens of Member States.

Option B: Maintaining a liberalised and sustainable civil aviation market in the tripartite region by promoting fair competition, consumer protection; fostering the development of intra-African air transport and network connectivity, thus contributing to regional integration and ensuring the existence of a conducive environment for the development and provision of safe, reliable and affordable air transport services necessary for the free movement of persons, goods and services within the tripartite region and Africa at large.

4.4 Core Values, Principles and Aspirations

4.4.1 Core Values

The JCA, as an agency serving a large area and diverse number of Member States and peoples, required values that would render its decisions or rule making unquestionable. The key four values for the JCA are: (1) to value and safeguard its independence, (2) be committed to being accountable to its key stakeholders, (3) to be committed to transparency, and (4) it should value and safeguard its integrity. The suggested core values of the JCA could therefore embrace a combination of the following values:

- its independence
- its integrity, honesty
- Respect, courtesy
- Commitment to its **mission, professionalism**

- Commitment to **accountability**
- Commitment to **transparency**
- Commitment to **responsibility**
- Efficiency
- Quality
- Confidentially
- Loyalty
- Fair and equal treatment
- Respect for diversity
- Commitment to team work and collaboration
- Focused on the people of the region, People interest first, People centeredness,
- Protection of the environment

4.4.2 Guiding principles

The draft Charter defines the principles of the JCA in the process of execution its function. These principles are based on commitment of the JCA to its mandate with a regional focus, responsibility, integrity, collaboration, accountability, professionalism, transparency, commitment to its staff and overall being a performing organisation.

4.5 Mandate

The functions of the JCA are similar to the functions assigned to both the Monitoring Body and Executive Agency within Article 9 of the YD. However the JCA operates within the RECs, at the implementation level. The Competition regulation defines the function of the JCA : to monitor the implementation of the Yamoussoukro Decision and the Competition regulations of 2004. In this capacity, the JCA functions as the overall manager, supervisor and administrator of the implementation of the YD within the territories of the Tripartite States.

4.6 Strategic Goals

We can envisage 4 main goals based on the draft Charter and mandate of the JCA. Goals generally do not vary significantly with time and should remain relevant in the medium-long term (5-10 years).

Goal 1: Maintain a liberalised aviation industry within the region based on the implementation of YD and regionally approved MASA.

Goal 2: Maintain fair competition within the aviation industry in the region

Goal 3: Protect aviation consumers and

Goal 4: Meet our mandate through the efficient and effective management of the Agency and its resources based on best practices.

5 Specific Objectives, Strategies and Means

5.1 Expected Results and Strategies

Section 4.6 defines the expected Goal of the JCA. For each goal, specific achievable results are defined (or specific objectives) as indicated in the tables below. For instance for Goal 1, the defined specific objectives are:

Goal 1: *Maintain a liberalised civil aviation industry* within the region based on the implementation of YD and regionally approved MASA.

Specific objectives:

1.1 Member States have or are applying YD compliant ASA

1.2 Operated services in the region are YD compliant and conform to the negotiated MASA and any other instruments approved by the Council of Ministers

1.3 Manage the dispute resolution mechanism

Goal 1: <i>Maintain a liberalised civil aviation industry within the region based on the implementation of YD and regionally approved MASA.</i>	
Expected Results	Strategies/how
1.1 Member States have or are applying YD compliant ASA	<ul style="list-style-type: none"> - domestication of MASA - harmonisation of regulations and policies - Raise key stakeholders awareness of benefits of MASA and full YDI - support Member states in the application of the MASA and other economic oversight regulatory functions (advocacy) - Liaise with RSOO on ICAO safety and security standard applications - provide guidance material and clear procedure on the application of the MASA - provide guidelines and policies related to third countries
1.2 Operated services in the region are YD compliant and confirm to the negotiated MASA and any other instruments approved by the Council of Ministers	<ul style="list-style-type: none"> - Define, set and monitor measurement criteria for full YD implements - Verification of designated airlines meet the eligibility (inspections where necessary) - provide guidance material on classification of eligible airlines and authentication procedure - verification of approved designation - Verification of compliance with the various articles in particular art. 4, 5 and 6.9 - Rule making: Outline, stipulate and enforce conditions under which a state may limit its commitment under Article 3.2 of the Yamoussoukro Decision -economic and performance evaluations to determine the net impact of liberalisation on consumers - implement and manage a database to order to assess the implementation of YD - - Submit annual reports (tri-annual reports on each state)
1.3 Relationship with non tripartite states as a consequences of YD implement is managed (third countries include non tripartite African states and non African states)	<ul style="list-style-type: none"> - develop policy and guidelines of MASA negotiation with third countries - assist in negotiation or advocacy when Member States deal with non Tripartite states
1.3 Manage the dispute resolution mechanism	<ul style="list-style-type: none"> - capacity building on the functioning of the dispute resolution system - management of disputes

Goal 2: Maintain fair competition within the civil aviation industry in the region	
Expected Results	Strategies/how
2.1 Member States have national regulations and policies that are harmonised to the competition rules	<ul style="list-style-type: none"> - domestication of competition rules - harmonisation of regulations and policies - support Member states in the harmonisation of national regulations - provide guidance material and clear procedure on the application of the competition rules
2.2 Competition Advocacy	<ul style="list-style-type: none"> - carry out activities that promote competition through non-enforcement mechanisms - develop an appropriate communication plan - conduct and/or sponsor studies and research on the subject of competition
2.3 Enforcement of competition rules to stamp out anti-competitive behaviour in accordance with the procedure and guidelines	<ul style="list-style-type: none"> - provide further guidance material on application of competition rules and enforcement mechanism. - capacity development in anti-competitive behaviour investigations - implement and manage measures to bring to an end any infringements of competition rules and/or interim measures - implement and manage a sanction system including fines and penalty payments - Submit annual reports (tri-annual reports on each state)
2.4 Monitoring and Investigations of alleged cases	<ul style="list-style-type: none"> -prioritise, investigate and evaluate alleged arts of anti-competitive practices and complaints as in article 4 --prioritise, investigate and evaluate any alleged abuse of dominant position (article 5) --prioritise, investigate and evaluate alleged arts of anti-discriminatory practices investigating and evaluating alleged violations of anti-competitive acts, abuse of dominant positions, anti-discriminatory practices and grants of subsidies; prioritise, investigate and evaluate alleged cases of subsidies and likely impact on fair competition; - development of economic analysis skills for investigations - implement and manage a database of cases for e-learning - implement and manage an efficient documentation system for cases - ensure availability of competent staff to carried out investigation - sign MOU with Member States to support with investigations within their respective territories - publish reports on investigations and any matters relating to the application of the regulations
2.5 Manage merges and acquisition	<ul style="list-style-type: none"> - assess all proposed mergers and acquisition
2.6 Manage cases of exemptions	<ul style="list-style-type: none"> - study exemption cases and provide ruling/decision - provide guidelines on safeguarding competition - provide opinion on the granting, refusing or revoking exemptions in terms of the grant of subsidy;

Goal 2: Maintain fair competition within the civil aviation industry in the region	
Expected Results	Strategies/how
2.7 Judicial Review and management of the enforcement process	<ul style="list-style-type: none"> - establish MOU with the courts and tribunals - Apply to the Tribunal and/or Court of Justice of the regional economic communities for Advisory Opinions - establish MOU with the Regional Competition authorities - maintain a database of cases and judgements - implement and manage measures to bring to an end any infringements of competition rules and/or interim measures - implement and manage a sanction system including fines and penalty payments - implement and manage a sanction review system including any fines imposed by the RCAs.

Goal 3: Protect the rights of civil aviation consumers in the region (Passengers, airlines, airports, ANSP, freight forward, auxiliary services supplies)	
Expected Results	Strategies/how
3.1 The JCA has an approved set of Consumer Protection regulations	<ul style="list-style-type: none"> - drafting of appropriate rules on consumer protection - harmonisation of regulations and policies on consumer protection with AFCAC, AFRAA, and other stakeholders - support Consumer protection advocacy groups within the region. - provide guidance material and clear procedure on the application of the consumer protection regulations - Raise awareness among key stakeholders on consumer protection regulations and complaint system
3.2 Enforcement of Consumer Protection rules and investigations	<ul style="list-style-type: none"> - manage consumer complaints; - investigate consumer complaints based on priorities criteria; - maintain a database of consumer complaints and manage the system for receiving complaints. - capacity development on investigating the abuse of consumer rights - conduct relevant studies and/or sponsor research on protection of consumers - studies to include an assessment of the net impacts of Y on consumer and producers

Goal 4: Meeting our mandate through being an efficient and effective organisation (efficient management of the JCA's resources- human, financial, capital investments, time)	
Expected Results	Strategies/how
4.1 Ensure the charter and all legal instrument empowering the JCA remains relevant relative to the aviation trend in the region	<ul style="list-style-type: none"> - Approval and periodic Review of the charter including the attributed powers of the JCA. - Monitor the application of this charter - ensure a functional organisation of the Agency - Manage any special ad hoc committees related to the charter
4.2 The Operationalisation of the JCA is completed	<ul style="list-style-type: none"> - start-up initiatives (approval of charter, recruitment of key staff and acquisition of critical start-up equipment, creation of a database for result monitoring).
4.2 To have a motivated, high performing and diverse workforce	<p>Ensure an Organisation structure that is relevant to its mandate and mission</p> <p>Recruitment and selection of competent staff based defined selection criteria to ensure attraction and retention of skilled and motivated staff.</p> <p>Capacity enhancement of its staff through training and OJT</p> <p>Develop and maintain a human resource development plan covering : selection process, career and succession plan, performance management, Position profiles and comprehensive compensation plan)</p> <p>Creation of Conducive work environment including an appropriate work culture.</p>
4.3 Retain JCA human capacity	<ul style="list-style-type: none"> - Develop and maintain a HR system to ensure staff retention
4.3 The JCA funding sustainability	<ul style="list-style-type: none"> - annually define the budget and plan of action for approval by the Council - develop and implement a funding financial plan - Generate revenue as provided for in its charter - assess significant RISKS to the sustainable funding of the JCA and implement a mitigation plan
4.5 Adequate capital Investment and maintenance	<ul style="list-style-type: none"> - development and manage an ITC plan - Build and maintain a data bank on the airline industry (capacity, traffic, tariffs, financial performance and productivity, route structure, airports, and employment) - Design and facilitate the deployment of a database - e-business investments including systems for e-filing of data and information from industry

Goal 4: Meeting our mandate through being an efficient and effective organisation (efficient management of the JCA's resources- human, financial, capital investments, time)	
Expected Results	Strategies/how
	<ul style="list-style-type: none"> partners - Plan for own premises, associated infrastructure and logistics
4.4 – Ensure effective external collaboration, internal and External Communication (or strengthen external corporation and collaboration)	<ul style="list-style-type: none"> - carry out communication events (participation in external meetings, conferences, etc) - negotiate relevant MOU and/or agreements - Manage special ad hoc committees - Timely Reporting -visibility strategy linked to competition advocacy activities - implementing measures to develop public awareness of the provisions of these Regulations -management of Cross cutting policy and functional issues related to civil aviation (need for vertical and horizontal harmonisation of policies and strategies) - implement the use of modern communication means (database, website, publications, e-filing, etc).
4.5 A performing organisation, effectively and efficiently resource managed	<ul style="list-style-type: none"> - define annual activity plans with performance indicators to be approved by the Council - audit and produce audited reports on the financial management of the JCA (bi-annual) - perform time budget and productivity analysis of key staff - develop and implement security and business continuity plan
4.6 Quality of Services: Performing to best practise in the industry.	<ul style="list-style-type: none"> - benchmark to industry best practise; - IOS 9002 quality certification - implement quality management system - implement and manage an efficient documentation management system - implement an effective internal audit system
4.7 Environmental Awareness	<ul style="list-style-type: none"> -contribute to reducing the negative impact of civil aviation on the environment. - development and implement an environmental awareness plan
4.8 Achieve any other results as required by the JCA	<ul style="list-style-type: none"> - management of scholarship awards - maintain a database of training facilities and courses within and outside the tripartite region as well as a database on African research - Encourage the establishment of institutions of advance studies and research

5.2 Suggested Means

Several means can be applied in order to realise the above specific objectives namely:

- ✓ Audits, inspections, monitoring and evaluations, quality control, day-to-day management, supervision
- ✓ Authentication Certification and licensing
- ✓ Reports, production of timely reports, publications, website / information sharing
- ✓ Operation and maintenance of a database
- ✓ Evaluation studies, research, economic analysis, Review of secondary data (e.g. ICAO audits reports)
- ✓ Negotiations, legal actions, direct consultations
- ✓ Collection of complaints, feedbacks, surveys, collection of data, Creation and use of a database
- ✓ Communication events (conferences, internal and external meetings, seminars/workshops, advocacy, timely replies to queries)
- ✓ Human capability building including OJT, training, awareness courses, advocacy
- ✓ use of technical assistance, consultants, procurement, outsourcing
- ✓ Funding/financing

6 Implementation Plan

6.1 Organisation and Human Resource Plan

6.1.1 Organisation:

The first step in implementing the strategic plan is ensuring the existence of an appropriate organisation. The Consultants in this Study have proposed an internal organisation structure for the JCA secretariat and a human resource plan. The human resource plan is covered in the HR deliverables of this study. It is assumed that the HR plan will be adopted as part of the strategic plan. The identified specific objectives in section 5 need to be assigned to each of the services, in order to establish the basis for each service unit and individual staff accountability for specific results and performance evaluation. The proposed structure has the following units/services:

- (a) The **Executive Director** and the **Office of the Executive Director** responsible and accountable for the achievement of all the goals set for the JCA.
- (b) A **Regulatory service and Enforcement** unit charged with implement of the JCA's strategies on competition and YD regulations;
- (c) An **Economy analysis unit** charged with all economic studies, research, and performance evaluation of YD and production of related reports;
- (c) **Corporate services** – provides supports services and is in charge of general administration, finance, procurement, human resource management and training;
- (d) **Legal Unit** and consumer protection;
- (e) **Quality control and inspections**
- (f) **Communication**: organising communication events, liaison between the JCA and the various external organisation and
- (g) An **IT / Data management Unit**

6.2 Communication Plan

Reporting is a very important aspect of the JCA's functions and therefore communication of results, findings and decision with the public is very important. The JCA therefore requires a Communication strategy and plan.

6.3 Work Plan and capacity assessment

(Indicated table below TBC after the workshop based on the specific objectives and initiatives)

Oversight Domain	Event	Statement of Work	Outputs	Outcome	Target Date of completion
Legal framework	Harmonisation of regulations, Rules & Procedures based on YD and competition regulations	Coordination with RECs and Member States to achieve harmonised regulations on the licensing of eligible airlines	Regulatory convergence Model directives to be issued by Member states to give effect to the implementation of Harmonised JCA regulations	Harmonised regulations across member states Improved bases for monitoring and evaluation	2015

6.4 Critical Success Factors

Critical success factors are defined as the handful of key areas where an organization must perform well on a consistent basis to achieve its mission through the assessment of the key goals and specific objects. Conversely, those factors define failure of the organisation. Considering the mandate and proposed goals of the JCA, the following success factors are proposed:

- ✓ Ability for the JCA to produce timely and accurate reports, including technical reports.
- ✓ Independence, accountability, Integrity and transparency in its enforcement of the competition rules and full implementation of YD
- ✓ Strong leadership in management of a multi-cultural and international agency
- ✓ The JCA must be adequately funded with sustainable funding in the future
- ✓ Must have a team of high knowledgeable and competent staff and have the means to retain such staff
- ✓ Maintaining an efficient and reliable data collection method and database
- ✓ Prompt response to inquiries from the key stake holders and maintain relevance to the key stakeholders

7 Measuring Success – Monitoring and Evaluation Plan

7.1 Performance Indicators

Several levels of indicators can be defined,

- (a) results based indicators related to the key results areas or goals of the JCA
- (b) Output indicators – relate to the services provided by the JCA and relate to a measure of the specific objectives
- (c) Input indicators – measure of resources used including Staff time and allocated budget.

The table below indicate proposed indicators for the key results area.

7.1.1 Keys Results Area and Proposed Indicators

Key Result Area	Indicators	Target				
		2014	2015	2016	2017	2018
Overall achievement of JCA mission and Tripartite expectations	Contribution to Tripartite GDP					
	Contribution to consumer welfare					
	Stake Holders Perception of the JCA					
Goal 1: Maintain a liberalised aviation industry (YD application)	Number of Member States applying MASA					
	Number of complaints on non application of YD provisions					
	Supply measures including change in network connectivity					
Goal 2: Maintain fair competition within civil aviation in the region	Airline and other stakeholders perception index of competition in the industry					
	Prioritised complaints/cases successfully resolved					
	JCA staff time budget on anti-competition complaints investigations					
Goal 3: Protection of civil aviation consumers	Consumer perceptions of the JCA					
	Number of complaints received and cases addressed					
Goal 4: Effective and efficient management of resources	Budget utilisation based auditors report					
	Tripartite Members RECs/Member State evaluation JCA management					

7.2 Evaluation Criteria

No./Evaluation Criteria	Indicators/mean of verification
(1) The JCA shall prepare and distribute to States Parties guidelines on the criteria for	Existence of guideline at State level; States have the ability to apply guideline

No./Evaluation Criteria	Indicators/mean of verification
evaluating compliance with the YD.	- guideline addresses issues listed in (i)-(x)
(2) Compliant ASA model between Party states – application of MASA	- number of ASA non comparable with model
(3) Domestication of competition rules and JCA mandate;	- Existence in State laws, provisions indicating adherence to YD.
(4) The completion of national and regional institutional mechanisms to support IYD.	- full operationalisation of JCA and supporting organs
(5) the multiple designation of airlines between all Tripartite Member States city pairs	- city pair connectivity measure
(6) compliance with International Civil Aviation Organisation Standards and Recommended Practices – Article 6.12	- number of Member States with Serious Safety Concerns
(7) conformity with the eligibility criteria in the YD	- number of JCA Member State eligible airlines based on the YD criteria and endorsed by the JCA - number of airlines refused access based on YD eligibility criteria - JCA eligibility endorsement criteria and conformity list
(8) Frequencies between any two States Parties	- quantify the no. of flights on each sector between Party States , a/c type and seats, the fare on each sector per week - viability of sector frequencies vis-à-vis load factor - JCA evaluation benchmark for comparison.
(9) Exchange of fifth freedom traffic rights (FTR) – Article 3	- no of city pairs on which FTR are granted and the actual number of routes operated as FTR by eligible airlines
(10) non-approval of tariffs by governments, taking into consideration applicable competition rules – article 4	- number of ASA compliant with fares provisions - airline complaints on non approval of fare - number of competing airlines - evaluation benchmark of fares per km - airline compliances on lowering of fares (article 4.2)
(11) Cooperation among airlines to facilitate code sharing and interlining Agreements – article 11	- number of code share flights between eligible airlines - number of interline arrangement between airlines
(12) Compliance of airlines with existing norms against anti-competitive practices	- number of anti-competitive behaviours complaints and - number of cases successfully resolved based on CR
(13) Impact of Liberalization in terms of traffic volume, flight connectivity, fares/rates, reliability of services and licensing of new carriers Air Traffic Performance Indicators: Aircraft movement – arrivals and departures Passenger and cargo traffic International market share Average load factor for the AU air carriers African city pairs	Trend and causality analysis of - traffic volume changes - flight connectivity (number of direct flights/delays) - fare levels benchmarked across all routes - delays /weekly frequencies for reliability of services - number of new start-up airlines
(14) Dispute resolution mechanism	- number of cases resolved based on procedure
(15) JCA Effectiveness	- contribution to consumer welfare

8 Conclusions and Recommendations

8.1 Strategic Planning Process

A strategic plan is the outcome of a structured process – the strategic planning process. The Consultant’s role in this process is to facilitate the process of strategic planning. A good plan requires direct input and involvement of the JCA leadership and key stakeholders in both its development and approval. The planning process addresses the following questions: (a) What is the current situation of the JCA; (b) What ‘future’ state is desired; and (c) How can the desired future state be achieved and the identification of the means required. The following steps are therefore recommended in completing the planning process:

- ✓ *Initial research and synthesis of the business environment including an understanding of the mandate of the JCA (an environmental scan report);*
- ✓ *Then working with Leadership and stakeholders*
- ✓ *Review the environmental scan and carry out a SWOT analysis;*
- ✓ *Develop and select key Goals or strategic options and the critical success factors;*
- ✓ *In case there is no vision statement, define a mission statement, vision and value statements which is coherent with the goals options retained in 3;*
- ✓ *Establish specific objectives and the necessary initiatives (means) of achieving the specific objectives;*
- ✓ *Establish a strategy execution plan;*
- ✓ *Identify the capacity required to execute the plan (people, their skills, internal systems) and organizational (structures and responsibilities) ;*
- ✓ *Establish the method of goals measurement (SMART objectives, indicators, and targets/benchmarks)*
- ✓ *Elaboration of the plan.*
- ✓ *Review of the draft plan by a restrained group for approval*
- ✓ *Plan an update to the plan.*

This report is a working paper that provides material for discussion during the work shop, as a starting point for each of the steps above. The main aim of the workshop is for the JCA and stakeholders to appropriate the final version of the strategic plan.

8.2 Strategic Plan

8.2.1 Indicative structure of the Strategic plan

The strategic plan process provides the required information to write up the strategic plan. On completion of the strategic planning process, the consultants will be able to finalise the strategic plan document. The core content of the plan is indicated below:

1. **Mandate** (specifying the Mission, vision, values, principles)

2. Business environment Analysis

- Analysis of internal environment - Summary of the capacity assessment results and main indicators highlighting the strength and weakness of the JCA. The analysis will involve the institutional capacity of the JCA, taking into account and stressing any current problems: (a) management and human resources; (b) decision making process and communication and (c) financial planning.
- Analysis of the external environment and its impact in order to determine the opportunities and threats and at the same time analyzes the institutions and parties which can influence the functioning of the JCA, stakeholder matrix analysis.
- SWOT analysis Other assessment method could be applied such as PESTLE analysis

3. Strategic Goals, short, medium, long term priorities and priority measures.

4. Strategic objectives and Activity Plan (in terms of concrete projects and initiatives).

Overview of past initiatives

Overall and Specific Objectives (or planned results). In order to permit monitoring and evaluations, the defined specific objectives need to be SMART¹⁴.

Planned Activities and associated Budgeting per specific objectives (estimate of the resources needed to implement the plan projects and an indication of expected outputs.)

Implementation plan (define role of each unit of the JCA and accountability for results and achievement of outputs

Expected Results and Performance Indicators. Expected results include goods and services delivered (outputs) as well as the impact of implemented actions (outcomes or impacts).

5. Monitoring and Evaluation

- *Performance Indicators, base case and target values, Outputs and outcomes to be defined a priori.*
- *A description of the procedures of monitoring, evaluation and reporting of the results with a clear link with the planned initiatives, the unit responsible for results delivery, the unit responsible for the monitoring of the implementation,*

¹⁴Specific objections should be formulated according to the SMART method (specific, measurable, achievable, realistic and timely). This permits for further monitoring and assessment.

- *Progress assessment and reporting of the achievements and failures to enable lesson learning and definition of corrective measures.*

8.3 Recommendations

The rationale for the strategic plan is to define the future direction of the JCA, in terms of its mission, vision, values and strategic goals within the next five years. This paper discusses the various elements necessary for the drafting of a strategic plan. It is recommended to be used as a working tool for a workshop; organized in order to draft the strategic plan, based on the steps outlined in 8.1.

The strategic plan document if deployed, will enable the JCA to plan, prioritize, resource, implement and report strategically on its mandate of fully implementing the YD and the competition regulations within the territory of the Tripartite Member States.

Annex A: Assessment of YD Implementation -2009

YD Implementation	COMESA - 2009	SADC- 2009
Presentation of the study		
Number of states concerned	20	15
List of states concerned	Angola ¹⁵ , Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe	Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.
Number of states that are also members of other RECs or Groups of States	6	8
List of states that are also members of other RECs or Groups of States	Angola (ECCAS), Democratic Republic of the Congo (SADC and ECCAS), Burundi (ECCAS and EAC), Egypt (North Africa), Kenya (EAC), Libya (North Africa)	Angola (ECCAS), Democratic Republic of the Congo (ECCAS and COMESA), Madagascar (COMESA), Malawi (COMESA), Mauritius (COMESA), Swaziland (COMESA), Zambia (COMESA), Zimbabwe (COMESA)
Author of the study	Rexter R. Ndhlovu, 2009	Hydroplan, 2009

¹⁵ Angola is no longer a Member State of COMESA since 2007.

YD Implementation	COMESA - 2009	SADC- 2009
Title and content of the study	The study does not directly focus on the Yamoussoukro Decision's implementation strictly speaking, but on the implementation of the regional regulation entitled "Legal notice no. 2" on air transport liberalisation within the COMESA. The COMESA considered that this regulation's implementation could be amalgamated with the regional application of the Yamoussoukro Decision.	Evaluation SADC Member States' compliance in implementing the Yamoussoukro Decision
Methodology	The study was based on assignments carried out between February and March 2008 on a sample considered to be representative of eight states, and interactive exchanges with the AU, the ECA, the AFRAA, the EAC and the SADC. It included a validation workshop.	Most of the analysis work was carried out at SADC headquarters. Exchanges took place with the civil aviation authorities and airlines of Botswana and Zambia, as well as with the COMESA, the SADC, and air authorities and airlines of South Africa. The study included a validation workshop.
Political and legal status of the Yamoussoukro Decision within the REC considered		
Authority in charge of the regional steering of the Yamoussoukro Decision's implementation	COMESA Secretariat	Regional Competition Authority (RCA) and SADC Yamoussoukro Decision Implementation Steering Committee

YD Implementation	COMESA - 2009	SADC- 2009
<p>State of affairs in the Member States</p>	<p>The study notes that although the “legal notice no. 2” was decided by the Council of Ministers and thus mandatorily applicable by virtue of COMESA’s founding treaty, it is still not considered to be truly enforceable as it has not been explicitly transposed into each state’s legislation. It is considered as a policy document rather than mandatorily applicable legislation.</p> <p>As a result, each state tends to apply its provisions when it is in its interests to do so, but to ignore them otherwise. On the whole, the Yamoussoukro Decision’s effective application depends on each government’s vision and willingness.</p> <p>Based on this observation, the study insists on the need for each Member State to “domesticate” the “legal notice no. 2”.</p>	<p>The report asks if the SADC Member States are in practice constitutionally bound by the Yamoussoukro Decision, through legally binding mechanisms in each state’s legislation (this corresponds to the “domestication” issue also raised by the COMESA report). The study concludes that the SADC Secretariat must ask each Minister of Transport if s/he considers the Yamoussoukro Decision to be legally binding, and if not, why.</p> <p>In practice, the Yamoussoukro Decision’s application is far from being complete, as demonstrated by the analysis of the situation article by article.</p>
<p>Application of article 3</p>		

YD Implementation	COMESA - 2009	SADC- 2009
Granting of the rights of the 3 rd and 4 th freedoms of the air within the REC	Most of the states freely grant the 3 rd and 4 th freedom rights to other COMESA states, but two exceptions have been noted (Angola and DRC).	The bilateral agreements between SADC states are structured in such a way that they provide for the 3 rd and 4 th freedoms to be granted between the parties. However, on the whole the routes (city to city) are specified in the bilateral agreements, which means that the rights are not fully liberalised. Nevertheless, the standard agreement established by South Africa leaves the choice of embarkment and disembarkment airports open (granting the 3 rd and 4 th freedom without restriction).
Granting of the rights of the 3 rd and 4 th freedoms of the air between the REC and the rest of Africa	This issue is not specifically addressed in the report.	Generally speaking, 3 rd and 4 th freedom rights between the SADC and the rest of Africa are exchanged based on reciprocity and are not liberalised. The report simply indicates that a move towards more multilateralism is expected, as well as a gradual trend towards a single market concept.
Granting of the rights of the 5 th freedom of the air within the REC	The granting of 5 th freedom rights is far from being implemented. At the time of the study only three intra-COMESA routes benefited from 5 th freedom rights (Addis-Ababa-Djibouti, Bujumbura-Kigali, Khartoum-Cairo).	The report observes that 5 th freedom rights are rarely exchanged within the SADC. There has been little progress in the Yamoussoukro Decision's implementation in this area.

YD Implementation	COMESA - 2009	SADC- 2009
Granting of the rights of the 5 th freedom of the air between the REC and the rest of Africa	<p>At the time of the study six COMESA states had granted 5th freedom rights (including the three intra-COMESA routes).</p> <p>Overall, according to the study, the states can be divided into two groups: those with weak airlines that do not wish to grant the 5th freedom rights, and those with strong airlines which support granting these rights.</p>	<p>The observations are the same as for the 3rd and 4th freedoms. There has been little progress in the Yamoussoukro Decision's implementation in this area, but future developments should move in this direction.</p>
Application of article 4		
Tariffs	<p>According to the study, tariffs have been liberalised within the COMESA.</p>	<p>On the whole, tariff liberalisation has progressed although numerous intra-SADC bilateral agreements still contain tariff clauses based on the traditional Bermuda model.</p> <p>In actual fact however, the airlines are quite free to set their tariffs.</p>
Application of article 5		

YD Implementation	COMESA - 2009	SADC- 2009
Capacity and frequency	According to the study, at the time of its submission all capacity and frequency restrictions had been or were being eliminated within the COMESA, through a revision of the corresponding bilateral agreements.	The state of affairs is characterised by the coexistence of a set of older Bermuda type bilateral agreements in which capacity and frequency are pre-determined, and more modern agreements which give airlines more freedom. Even in recent revisions, through the exchange of Memorandums of Understanding, capacity and frequency clauses have been kept. The Yamoussoukro Decision's application has therefore made little progress in this area.
Application of article 6		
Designation of airlines	All COMESA states practice multi-designation within the framework of their bilateral air agreements.	Just as for tariffs, capacity, and frequency, the situation is mixed: while a set of older agreements are still based on the principle of mono-designation (one carrier per state), there are also more modern agreements that provide for multiple designation.
Application of eligibility criteria	COMESA's eligibility criterion regarding the nationality of shareholders having a majority control of the airline is more restrictive than that of the Yamoussoukro Decision.	The report indicates that conformity with the Yamoussoukro Decision's criteria should be a prerequisite for genuine liberalisation.

YD Implementation	COMESA - 2009	SADC- 2009
Safety and security	<p>The study points to the fact that the increase in air traffic and in competition can create safety issues, hence the high importance of closely monitoring safety.</p> <p>In particular, the study highly recommends giving an important priority to the ICAO's COSCAP program.</p>	<p>The consideration of safety within the eligibility criteria is part of the above mentioned prerequisites.</p>
Application of article 7		
Development and control of competition rules	<p>According to our understanding of the COMESA and SADC evaluation reports, competition rules applicable to air services within the COMESA, the EAC and the SADC have existed since 2004. The implementation of these rules currently lies within the purview of the ATRB (Air Transport Regulatory Board) in the COMESA, and is planned to fall to the JCA (Joint Competition Authority, created by grouping together with the competent organisations of the other two regions) as soon as this new authority becomes operational.</p>	<p>In our understanding of the COMESA and SADC evaluation reports, competition rules applicable to air services within the COMESA, the EAC and the SADC have existed since 2004. The implementation of these rules within the COMESA is the responsibility of the ATRB, and should fall to the JCA as soon as this new organisation becomes operational (see "Overall considerations: harmonisation and control of air transport regulations" hereunder).</p>
Application of article 8		

YD Implementation	COMESA - 2009	SADC- 2009
Settlement of disputes within the REC	This issue is not addressed; thus it seems that there are no disputes among COMESA States regarding the implementation of the “legal notice no. 2”.	The report simply mentions the existence of the Yamoussoukro Decision’s Article 8, with no further comment.
Settlement of disputes with other African states	This issue is not addressed.	The report simply mentions the existence of the Yamoussoukro Decision’s Article 8, with no further comment.
Application of article 9		
Expectations with regard to the Executing Agency (AFCAC)	The report does not address the issues of the continental Executing Agency’s role, or of the expectations with regard to this Agency.	The report does not address the issues of the continental Executing Agency’s role, or of the expectations with regard to this Agency.
Protection of consumer rights	Consumer rights regulations are not explicitly addressed in the report.	The issue of regulations on passengers’ rights (which is not explicitly mentioned in the Yamoussoukro Decision), is not addressed in this report.
Application of article 11		

YD Implementation	COMESA - 2009	SADC- 2009
Cooperative arrangements and alliances	The study observes that COMESA airlines have few cooperative arrangements among themselves or with external airlines. In particular, there is little cooperation between strong airlines and weak airlines. Only a handful of airlines have code-sharing agreements.	The interest of cooperation and alliance agreements is mentioned in general terms but no observations specific to the region are made.
Overall considerations		
Overall impact of the liberalisation process	The number of city pairs has increased overall. The study notes that the figure increased from 342 in 2001 to 553 in 2008.	The report focuses above all on the application of the Yamoussoukro Decision's mechanisms, and does not seek to give a comprehensive review in terms of economic impact.

YD Implementation	COMESA - 2009	SADC- 2009
<p>Substantive comments on the Yamoussoukro Decision and the liberalisation process</p>	<p>The report observes that progress has been made through the regional air transport liberalisation programme but that obstacles remain in various areas.</p> <p>In particular, the report indicates that the bilateral agreements between states for granting 3rd, 4th and 5th freedom rights seriously impede the full implementation of the “Legal notice no. 2”, which is in essence a multilateral agreement based on common interests.</p> <p>According to the reporter, the bilateral agreements are therefore an obstacle rather than a catalyst in the liberalisation process.</p>	<p>On the whole, the report differentiates between the Yamoussoukro Decision’s mechanisms and the possible establishment of a regional internal market based on a multilateral agreement; the theoretical advantages of such a multilateral agreement are recognised.</p> <p>It is noted, however, that the validation workshop considered that the application of this idea would be premature.</p> <p>According to the report, such a development should be led in parallel with the creation of the SADC common market planned for 2015, and that of the Monetary Union planned for 2018.</p>
<p>Regional harmonisation and control of the application of air transport regulations</p>	<p>The study observes that the liberalisation process set out under the “legal notice no. 2” required the harmonisation of national regulations. The ATRB (Air Transport Regulatory Board) was created to this end within the COMESA, and tasked with supervising the liberalisation process. It was then decided to merge the ATRB together with the SADC and EAC competition authorities by the Councils of Ministers of the three organisations, to form the Joint Competition Authority (JCA).</p>	<p>The report focuses on the advantages of close cooperation between the COMESA, the SADC and the EAC, and on the role of the new Joint Competition Authority within this framework.</p>

YD Implementation	COMESA - 2009	SADC- 2009
Overall recommendations	<p>1. The report recommends replacing the bilateral agreements between Member States by a multilateral agreement between them.</p> <p>A draft multilateral agreement was proposed to this effect.</p> <p>2. The report also indicates that the liberalisation process will require the strengthening of safety supervision competences to deal with the traffic increase. It calls for the highest priority to be given to the regional implementation of the ICAO's COSCAP programme.</p>	<p>The final recommendations focus on the liberalisation of the 5th freedom rights, of capacity, and frequency; on the establishment of the Joint Competition Authority; and on the capacity building of national civil aviation authorities.</p>
Consultant Analysis	<p>Source: AU sponsored Continental Evaluation Study. Unpublished Report – 2011.</p>	

Figure 3: COMESA-EAC-SADC Network Connectivity chart - 2011

Dashboard of Tripartite States Network Connectivity - 2011																													
Member States	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27		
name	Kenya	Ethiopia	South Africa	Libya	Egypt	DR Congo	Angola	Tanzania	Zambia	Zimbabwe	Rwanda	Sudan	Burundi	Uganda	Malawi	Mozambique	Eritrea	Namibia	Southern Sudan	Botswana	Comoros	Djibouti	Madagascar	Mauritius	Seychelles	Lesotho	Swaziland		
	HK	HA	FA	HL	HE	FC	FN	HT	FL	FV	HR	HS	HB	HU	FW	FQ	HH	FY	SS	FB	CS	HD	MG	FI	FS	FX	FD		
1 Kenya	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	22	81
2 Ethiopia	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	16	59
3 South Africa	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	20	74
4 Libya	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
5 Egypt	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	10	37
6 DR Congo	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	8	30
7 Angola	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	7	26
8 Tanzania	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	11	41
9 Zambia	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	10	37
10 Zimbabwe	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	10	37
11 Rwanda	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	22
12 Sudan	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	22
13 Burundi	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	22
14 Uganda	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	7	26
15 Malawi	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	22
16 Mozambique	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	22
17 Eritrea	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	3	11
18 Namibia	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
19 Southern Sudan	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	5	19
20 Botswana	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
21 Comoros	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
22 Djibouti	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	3	11
23 Madagascar	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
24 Mauritius	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	4	15
25 Seychelles	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	7.4
26 Lesotho	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	3.7
27 Swaziland	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	3.7
Sources: N. Ndoh/ Aviation Cons																													