



# ST CLEMENTS UNIVERSITY

AIR TRANSPORT LIBERALISATION AND OPEN SKIES  
AGREEMENTS IN AFRICA- THE REGULATORY AND  
COMMERCIAL IMPLICATION FOR NIGERIA.

BY

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***MATRIC NO. 2800***

**BEING A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT  
OF THE REQUIREMENTS FOR THE AWARD OF THE DOCTOR  
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*ST CLEMENTS UNIVERSITY***

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**DECLARATION**

I, Ibrahim Dauda Idrisu do hereby declare that this work is entirely my own composition and where works of other persons have been used or referred to, such sources have been duly acknowledged.

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**APPROVAL PAGE**

This is to certify that this research project was carried out under our strict supervision and has been approved for submission to the Department in partial fulfillment of the requirements, for the award of Doctor of Philosophy of St. Clements University.

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## **DEDICATION**

I dedicate this study to my wife and angel, Amina;

The boys, Ismail, Tunde and Quadri; and my beautiful girls,

A'isha, Zainab and Mariam.

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## **A B S T R A C T**

The study is an attempt to examine the progress made in the area of air transport liberalization and “open skies” in Africa in the face of the poor economic situation and stage of development of the continent. This is more so as deregulation and liberalization in the global aviation market presupposes a level playing field that guarantees equal opportunity for all States to compete. African States and their Airlines operate in a global aviation market where uniform Standard and Recommended Practices (SARPS) apply to all participants. These uniform rules and codes of conduct are set and monitored for compliance by the International Civil Aviation Organization (ICAO). Will this global process of liberalization lead to the improvement of infrastructure, commerce and economic activities? How do States without National Carriers respond to the challenges and competition to be heralded by deregulation and liberalization? What is the level of compliance to the African model of liberalization as embedded in the Yamoussoukro Decision and are there other ways of attaining the liberalization objective of African States?

The study led to a number of conclusions: It revealed that economic situation and stage of development in the African continent does not distort a level playing field for full liberalization of air transport. The African business environment will improve if the policy of liberalization is embraced. We also learnt that air transport liberalization is anchored on Bilateral Air Services Agreement (BASA) between two states even though some multilateral air services agreement, involving a number of states, are beginning to emerge. The Yamoussoukro Decision which embodies the African model of liberalization has not achieved much because African States lack the political will to implement the provisions. Besides the study revealed that Nigeria can liberalize without necessarily implementing the provisions of the Decision. African airlines are undercapitalized and so would need to pull resources together through merger and acquisition before going into alliances to face the mega carriers of the developed countries. The study revealed that a country like Nigeria without a national carrier can only be an onlooker in the liberalized aviation market.

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## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.0. GENERAL BACKGROUND**

There is no doubt that the development of a safe, efficient and reliable air transport system is essential for overall economic development and integration of Africa. Land based infrastructure in Africa still reflects the predominantly extractive economic focus of the continent's transport links to former colonial centers. With few exceptions, rail networks in the continent were developed primarily to facilitate the extraction of raw materials. The limited road network is in a dismal state of repair and poorly developed to serve the needs of intra-African commerce or passenger travel. While aviation has the tremendous potential for liberating Africa from her constraining geographic boundaries, the infrastructure must be sufficiently available to enable air transport perform this role.

Aviation is governed by a host of national and international regulations that are both economic and non-economic in nature which place severe limitation of action on airlines. The International Civil Aviation Organization (ICAO) based in Montreal, Canada ensures that Standards and Recommended Practices (SARPs) are uniformly applied worldwide. The Airspace has no boundaries from one country to another and this meant that the sovereignty of states over the airspace above their territory has to be addressed.

Regulation of International Air Transport started with the 1944 Chicago Convention with 52 countries participating. This conference anchored the whole operation of international civil aviation regulation on formal consent of States. Regulation of economic right in international air transportation is dominated by bilateralism, which is highly restrictive

and regulated by the State. The key regulatory issues often involved in Bilateral Air Service Agreement (BASA) and inter-airline Agreements include:

- Air Carrier ownership and control
- Market Access
- Fair competition and Safeguards
- Consumer Interest
- Production distribution
- Transparency.

The drive to relax the commercial environment and regulatory regime of air transport, as a catalyst for its growth and expansion, has increasingly witnessed heightened momentum worldwide in the last decade or two. This relaxation has of course taken different forms, ranging from deregulation to liberalization. A number of developments illustrate just how rapidly this phenomenon has been progressing.

One such development, for example, is the International Air Services Transit Agreement through which over flight freedom is granted multilaterally. This agreement has been ratified by almost all the ICAO's 185 Contracting States. Also, there are now more than 70 bilateral air services agreements providing for virtually full market access, where traffic rights are unrestricted to, from and beyond the territories of the partners. Significantly, no less than half of these 'Open Skies' bilateral are between developed and developing countries, and one-third of them do not involve the United States as one of the partners. Finally, and perhaps more significantly, there are now a number of regional multilateral agreement in place or in progress, most of which provide for instant or phased-in Liberalization leading to full-market access.

Taking into account all the Open Skies bilateral and regional agreements, no less than 85 per cent of ICAO's 185 Contracting States are already involved in some form of liberalization, with over half being parties to some arrangement towards full-market access. Moreover, other arrangements now in the pipeline include, for example, an

initiative by the 16 Pacific Forum Island countries for multilateral liberalization and a proposal by the European Commission for a transatlantic common aviation area (TCAA).

The agenda for liberalization of air transport in Africa was initiated in 1988 under the Yamoussoukro Declaration. The Declaration called for the liberalization and integration of air services thus ensuring full participation of the continent in the wide process of globalization and maximizing the contribution of the sector to economic development and regional integration. This was followed by the Yamoussoukro Ministerial Decision of November 1999, which established a plan aimed at full continent-wide liberalization by the year 2002 through the removal of all restrictions on:

- Traffic rights, including 5<sup>th</sup> Freedom.
- Capacity and frequency of flight between city pairs
- Tariffs (no government regulation),
- Multiple designation and
- Full liberation of cargo/non-schedule services.

Africa States have played a significant part in the process of Liberalization of international air transport. For example, of the 53 'Open Skies' bilateral agreement signed by the United States, not less than 10 are with African countries. African countries have also signed four 'Open Skies' agreement with parties other than the United States. No less than 31 African States are involved in one or more of the sub-regional agreement of the Banjul Accord, the Central African Economic Union and the Common Market for Eastern and Southern Africa.

## **1.2 IMPORTANCE OF AIR TRANSPORT INDUSTRY TO NIGERIA**

The air transport industry has helped in transforming the Nigerian economy by facilitating trade and commerce especially in the export of agricultural product in the 50s

and 60s to the United Kingdom and the import of manufactured products from Europe and America. Also, as the air traffic grew, there came with it a boost to the Oil Sector, as all aircraft operating into Nigeria lifted aviation fuel. This trend is expected to continue.

The multinational Oil Companies have also used smaller aircraft and helicopters to move both materials and workers in their on-shore and offshore operations. The Osubi Airport in Warri, Nigeria is owned and managed by Shell Company. Liberalization will enable Nigeria benefit from the global economy and attract investors in view of the country's huge potentials in Solid Minerals, Oil, Agriculture and Tourism etc.

Air transport is an innovative, environmentally responsible industry that drives economic and social progress. It is essential for world business and tourism. Like it has done in Nigeria, aviation creates jobs and opens up new market opportunities by attracting businesses to locations in the developed and developing world. It moves product and services quickly over long distances enabling economic and social participation by outlying communities locally and internationally.

On the social angle, air transport forms a unique global transport network linking people, countries and cultures safely. It is increasingly accessible to a greater number of people who can now afford to travel by air for leisure and business purposes. To contain its environmental impact, there has been continuous improvement in fuel consumption, reducing noise and introducing new, more sustainable technologies.

The Managing Director, Civil Aviation Authority of Uganda, Akandonda (2003, ATConf/5.p.4), summarized the importance of air transport to a country as follows:

- Promoting tourism industry.
- Promoting the export of perishable product.
- Providing speedy transportation of high value commodities (imports and exports).
- Providing reliable communication links especially in States with difficult terrain.
- Providing national defense services.

- Providing services in emergencies and relief situations such as earthquakes, floods, wars etc.
- Providing an alternative gateway for the land lock States.
- Providing special community services such as spraying for agricultural and public health purposes.
- Providing mapping services.

Clearly air transport is a dependable vehicle for the economic, social and political development of a State.

### **1.3 RESEARCH PROBLEM**

The issues of security and safety in Air Transportation are not compromised. Indeed, the International Civil Aviation Organization (ICAO) in its Oversight Audit Function ensures that Standards and Recommended Practices (SARPs) are maintained worldwide. Real pain or loss are experienced by Nigerians when prominent persons in the society, loved ones and bread winners are killed in gruesome accidents while using air transportation, acclaimed the world over as the safest of all modes. There exist, both within the industry and among the lay public the general opinion that safety levels have declined in recent years. One can recall the crash of the Air Force plane that killed a generation of military officers that were on course at the Command and Staff College, Jaji in September 1993. Also in November 1996, twenty-seven years after the VC 10 crash, another aircraft approaching Lagos Murtala Muhammed International Airport crashed into the Lagoon at Ejirin, with the loss of the aircraft, a Boeing 727, operated by ADC Airline Plc with registration number 5N-BBN killing all 145 souls on Board. There was also recently the Kano air disaster that killed a number of people including a Minister of Sports and Youths Development. The event of September 11 in the United States of America is also an example of the psychological impact of catastrophic events that aviation incident and/or accident can herald. In all these, how has the Government and the Aviation

parastatals – both the regulatory and service providers contributed to the declining state of safety, security and efficiency in the aviation transport sector?

The Nigerian Airways is comatose with no aircraft on ground and even the few African countries with national carriers lack the resources especially technical and personnel capabilities to withstand fierce competition to be heralded by full liberalization or ‘Open Skies’. The poor state of aviation infrastructure in Africa is definitely a problem. Indeed, would enough time not be required by African countries to develop strategic options and action plans to improve air navigation services and airport infrastructure to make them able to meet safety standards and to respond to Liberalization?

The problem of poor funding and the inability of the African airlines to attract international fund agencies have to be addressed. Should mergers or alliances by these airlines not strengthen their ability to compete with mega carriers of the advanced countries? In Nigeria, for instance, all the domestic carriers are operating aged aircrafts, most of which are over 20 years old. These old mostly stage II aircraft cannot compete effectively in the international arena because they do not meet the low noise and emission levels in the stage III aircraft type that are allowed to operate in Europe from year 2000 or effective for international travel worldwide from year 2001 as agreed by ICAO.

Also Nigeria is yet to have an assessment by the United States Federal Airport Authority (FAA) to classify it as Category I, a pre-requisite for any Nigerian registered aircraft crew, to operate to the United States of America. The Nigerian Civil Aviation Authority (NCAA) that regulates the sector is yet to be given adequate autonomy by Government. With all these limitations, why did the Nigerian Government sign the Open Skies’ agreements with the United States?

#### **1.4 MOTIVATION OF STUDY**

The liquidation of the Nigerian Airways and the plan by Government to flout a new National Carrier: Virgin Nigeria Airways Ltd, coupled with the Federal Government's recent decision to grant multiple entry point to the European carriers operating into Nigeria is one of the motivating forces behind this research.

Without a viable national carrier and the right aircrafts, how does Nigeria respond by taking advantage of the opportunities of a liberalized market access in Europe and America? The slow implementation of the Yamoussoukro Decision by African States due largely to lack of political will is likely to retard the development of the aviation sector and consequently the liberalization process. The need to draw the attention of all stakeholders in Africa to the increasing gap between the developed and the developing countries in the aviation global village is another motivation of this study.

## **1.5 OBJECTIVE OF THE STUDY**

The objective of this study is to contribute positively to the development of a framework for the progressive liberalization of international air transport, with safeguards to ensure fair competition, safety, regularity and security of air transport and including measures, to ensure the effective and sustained participation in international air transportation by African countries with special reference to Nigeria.

In summary, the study will among other things achieve the following specific objectives:

1. Establish the level of awareness and appreciation of air transportation to the economic integration and development of Africa.
2. Bring to fore the ever increasing need to ensure the safety and security of the Nigeria Airspace and airport facilities.
3. Determine the extent to which Nigeria and other African countries can liberalize i.e. how open the market access should be granted.
4. Identify the best approach to liberalization, i.e. which avenue (national, bilateral, regional, multilateral) and how fast should liberalization be pursued.



5. Determine the major obstacle to the full implementation of the Yamoussoukro Decision.

## **1.5 SIGNIFICANCE OF THE STUDY**

The study will be of benefit to all stakeholders in the Aviation sector particularly the Airline Operators, the traveling public and the Governments of most African States.

The need to ensure adequate infrastructural development and control over air safety by following strictly the ICAO Standards and Recommended Practices will be the focus of this study. The gradual approach to liberation by African States in the form of intra and extra regional co-operation will be highlighted with a view to assisting the African States to develop the political will to implement the provisions of the Yamoussoukro decisions. Total privatization coupled with deregulation or liberalization will inevitably lead to the law of the jungle, the bankruptcy of many airlines and dislocation of transport policy, industry jobs and national economic development. The Airlines will find the study useful as they may find sense in mergers and acquisition in order to compete favourably with the big airlines in the advanced economies of the world and join the “global alliance” groupings. Also the study will help to enhance the contemporary issue of consumer protection and the need for the regulatory authorities to ensure that the ever-increasing consumer expectations are met.

## **1.6 STATEMENT OF HYPOTHESES**

In order to facilitate data collection so as to arrive at the correct conclusion, the following hypothesis will be used to guide this study:

### **Hypothesis One**

- H0: The economic situation and stage of development in the African continent does not provide a level playing field for full liberalization of air transport.
- H1: The economic situation and stage of development in the African continent has provided a level playing field for full liberalization of air transport.

### **Hypothesis Two**

- H0: The African business environment will not improve except the policy of liberalization is embraced.
- H1: The African business environment will improve even without liberalization being embraced.

### **Hypothesis Three**

- H0: There may not be any other viable model of liberalization for Nigeria, except the one as embedded in the Yamoussoukro Decision.
- H1: There may be other viable model of liberalization for Nigeria apart from the one as embedded in the Yamoussoukro Decision.

### **Hypothesis Four**

- H0: Air Transport Liberalization is not anchored on Bilateral Air Service Agreement (BASA).
- H1: Air Transport Liberalization is anchored on Bilateral Air Service Agreement (BASA).

### **Hypothesis Five**

- H0: Airlines strategic alliances do not impact on consumer protection.
- H1: Airlines strategic alliances does impact on consumer protection.

## **1.7 STUDY AREA**

The study area is the Federal Republic of Nigeria. However, the overall sub-regional, regional and continental effort will be a focus of the study. To this end the effort of West and Central Africa (WCA), the Economic Community of Western African States (ECOWAS) and the Economic and Monetary Community of Central Africa (CEMAC) to full liberalization by December 2002 will be examined in line with the Yamoussoukro Decision.

## **1.8 SCOPES AND LIMITATION OF STUDY**

The scope of this study covers the aviation Ministry, the parastatals of the Ministry and other stakeholders in the Aviation Industry like the Airline Operators, Journalists and the traveling public.

The population of the study includes senior employees of airlines, service providers, regulators, student pilots and the public. The services of colleagues and students have been engaged by the writer in the administration of the questionnaire, which is expected to last three months.

The limitation of the study is that it is focused on a sample population and is therefore confined to the responses of this sample. Also as stated above, the duration of the study is limited to a four months period only. If the duration had been extended, the study may perhaps have been able to cover a bigger sample size. There was also a limitation posed by funding as the project involved a lot of expenditure in the area of transportation, design and administration of questionnaires to the respondents.

## **1.9 DEFINITION OF TERMS**

- ACMAD** African Centre Of Metrological Application For Development.
- ACI** - Airport Council International.
- ADB** - African Development Bank.
- AFCA** - Africa Civil Aviation Commission.

**AFRAA** - African Airline Association At The Airport Level.  
**AGHA** - African Ground Handling Association.  
**AIS** - Aeronautical Information Services.  
**ATC** - Air Traffic Control.  
**ATCONF/4** - 4<sup>th</sup> Worldwide Air Transport Conference.  
**ATCONF/5** - 5<sup>th</sup> Worldwide Air Transport Conference.  
**CAD** - Civil Aviation Department.  
**CAEP** - Committee On Aviation Environmental Protection.  
**CATC** - The Commonwealth Air Transport Council.  
**CEMAC** - Central Africa Economic And Monetary Commission.  
**CNS** - Communication, Navigation And Surveillance.  
**COMESA** - Common Market For Eastern And Southern Africa.  
**DERAM** - Directorate Of Economic Regulation And Monitoring.  
**ECA** - Economic Commission For Africa.  
**ECOWAS** - Economic Community Of West African States.  
**FAAN** - Federal Airport Authority Of Nigeria.  
**FCAA** - Federa; Civil Aviation Authority.  
**IATA** – International Air Transport Association.  
**IAPA** – International Airline Passenger Association.  
**ICAO** – International Civil Aviation Organization.  
**IFALPA** – International Federation Of Airline Pilots Associations.  
**IGHC** – International Ground Handling Council.  
**ILS** – Instrument Landing System.  
**NAMA** – Nigerian Airspace Management Agency.  
**NCAA** – Nigerian Civil Aviation Authority.  
**NCAT** – Nigerian College Of Aviation Technology.  
**NIMET** – Nigerian Meteorological Agency.  
**NOTAM** – Notice To Airmen.  
**WMO** – World Meteorological Organization.  
**WTO** – World Trade Organization.

## **CHAPTER TWO**

### **2.1 INTRODUCTION**

This chapter contains a review of previous studies, reports of international conferences on Liberalization of air transport, and existing literature – books, articles, journals, magazines etc. An examination of the key regulatory issues of deregulation and liberalization as well as changes that have taken place in the past decade will be undertaken to provide the theoretical and conceptual framework for the research questions and hypotheses.

### **2.2 AIRLINE INDUSTRY IN AFRICA - AN OVERVIEW**

The airline industry in Africa is in its infancy but, according to Chibundu (1997, p.7), “it needs to mature rapidly to make its proper contribution to the economic development of the continent and its people”. There are many ways to do this, and indeed many ways have already been tried. The aviation business is a global phenomenon and, therefore, Standards and Recommended Practices (SARPs) as stipulated by the International Civil

Aviation Organization (ICAO) must be strictly adhered to. As the former Minister of Transport of South Africa, Umar (2002, P.1), puts it; “The impact of globalization has been potently evident in the arena of air transport.”

State ownership of airlines has been the common mode, but new efforts at privatization are also underway, and in combination with liberalization and regulatory changes and, as Cooke (2001, p.1), explains, “the search for the most workable organizational formats and institutional relationships may well yield results that will show the way to a more expansive future for the African air transport industry.” For, as the former U.S. Transport Secretary. Slater (1999, p.9), once said, “we are fast becoming a world without borders, and Africa must not be left out.”

As at now, the main umbrella organization in the field of Civil Aviation is the International Civil Aviation Organization (ICAO). Other aviation multilateral organizations among states include;

- (i) African Civil Aviation Commission (ACAC) in Africa;
- (ii) Latin America Civil Aviation Commission (LACAC) in Latin America;
- (iii) European Civil Aviation Conference (ECAC) in Europe, and
- (iv) Arab Civil Aviation Commission (ACAC) in the Middle East and North Africa.

The above organizations constitute regional bodies that complement the activities of ICAO in their respective regions. On the lower scale, there are other smaller organizations such as Yaounde Treaty comprising francophone states in West and Central Africa, the Banjul Accord Group for Anglophone and Lexophone countries in West Africa. Airspace Management Agencies like Asecna, for the francophone states, and Euro-control in Europe.

There are also other organizations such as International Airport Council (IAC) for airport authorities, International Air Transport Association (IATA) for airlines Association and (AFRAA) for African airlines. There are other organizations whose activities touch on aviation; these include the AU, ECA, ECOWAS, etc.

An international organization whose activities has gradually expanded from the promotion of international trade into the field of air transportation is General Agreement on Trade Services (GATS). This organization has extended its activities to cover aircraft maintenance and repairs, aircraft selling and marketing and computer reservation system.

Nigeria belongs to most of the above-mentioned organizations and has therefore been active in their activities and policy formulation. In these organizations, Nigeria endeavors to fulfill its financial obligations. The country is however, not strongly represented in the management of these organizations. Hence efforts should be made to ensure that Nigeria takes its rightful place in these organizations.

African airlines and the air transport service providers are still mostly state owned and by their structure and management face enormous pressure of global competition, the choice of alliance partners, mergers, acceding to market access through bilateral agreements and the so-called “Open Skies agreements”.

UMAR(2002, p.3), after considering the numerous problems faced by African airlines concluded that the “air transport system in Africa, in most cases, is uneconomical, operating in disjointed fashion, infrequent, unreliable, and unable to meet the challenges of the economic recovery and corresponding requirement for safe, reliable and affordable transport networks over the vast distances of continental Africa.”

As postulated by Lyle (2001 p.1), “a trend towards liberalization of international air transport is now well established, not only bilaterally, but increasingly through sub-regional and regional Agreement.” We shall therefore examine privatization, deregulation and liberalization as well as the open skies concepts in order to establish the best ways of bringing about this gradual trend of air transport liberalization in the African continent.

### **2.3 PRIVATISATION**

A wave of economic transformation under the banner of ‘privatization’, is sweeping through Africa, just as the Eastern Europe and Latin America felt with the transformation of the Eastern Bloc. The Nigerian Government, through the Bureau for Public Enterprises (BPE), is currently disengaging from the ownership and control of key government enterprises including the Nigeria Airways Limited and some aviation service providers. What then is privatization? In its most idealized version, Chibundu (1997,p.7), sees privatization as when “...a state divests itself completely of all interests in a commercial venture, and relegates its involvement in the affairs of that entity solely to that of an impartial regulator, leaving it to the ingenuities of profit-maximizing

entrepreneurs to create national wealth.” There is no gainsaying the fact that a privatized Nigerian Airways Limited would have done better in the years past. The Federal Airports Authority of Nigeria (FAAN) is slated for privatization in 2004 and other aviation service providers like the Nigerian Airspace Management Agency (NAMA), the Nigerian Meteorological Agency (NIMET) and the Nigerian College of Aviation, (NCAT), Zaria will soon follow.

Privatized Enterprises are likely to respond faster to the challenges to be heralded by deregulation, liberalization and Open Skies since government bureaucracy in decision making process would be minimized. Even the aviation regulators in Africa such as the Nigerian Civil Aviation Authority (NCAA) need a great deal of autonomy to perform better in their oversight functions.

To be more specific on the benefits of privatization to the African National Air Carriers and the aviation service providers, let’s look at the immediate objective of privatization as put forward by Cooke(2001,p.1), “..may be to reduce the government deficit, raise cash from the sale of state-owned enterprise, or reducing external debt, while long-term objectives may be to increase productive efficiency, to acquire new technology, and to create employment opportunities.” These diverse objectives, according to Liberman (1994, pp553-554), may be focused on three key issues:

- “Intensifying market forces and increasing productivity, efficiency, quality and service in producing goods and services by removing government from business activities to the greatest possible extent – including services and infrastructure, as well as manufacturing and associated activities.
- Generating new sources of financing and income for the privatized enterprises – especially by returning capital to countries from which it has flown.
- Reducing the government deficit and external debt.”

Nigeria needs a strong, virile and efficient national carrier around which cooperation with airlines of other countries within the African continent will revolve. It is hoped that a privatized Nigeria Airways or any Flag carrier by whatever name called, will fit into this description.

Inspite of the many advantages of privatization listed above, there are some noticeable lapses as experienced in the Nigerian contexts. The Bureau for Public Enterprises (BPE)



a body set by the government of Nigeria to carry out the privatization process through public offers has not actually lived up to the expectations of most Nigerians. The activities of this body has so far revealed that privatization, especially in developing countries could be bedeviled by the following defects.

a.) Lack of transparency in the exercises as revealed in the privatization of African Petroleum (AP) Plc, Benue Cement Company Ltd and many others. Controversy trailed the privatization of these companies.

b.) Another disadvantage of privatization is that it could lead to a major restructuring downsizing of the workforce which in return could return in labour related problems.

c.) Because of the low level of income distribution in the developing countries, a large proportion of the populace is often left in the acquisition of the privatized government companies and agencies. This could lead to concentration of wealth in only a few hands or foreigners.

d.) Privatization if poorly handled can lead to major national security threat. Hence the privatization of aviation agencies, The Nigerian Ports Authority, The Security and Minting Company etc has been met with strong criticisms.

#### **2.4 DEREGULATION AND LIBERALIZATION**

International air transportation has become very competitive and as understood from section 2.3 above aviation businesses in Africa need to be privatized for the required growth and development in the industry to take place. The trend is towards deregulation, liberalization and Open Skies system and cooperation among airlines. It has been established that for maximum effect, privatization must be accompanied by deregulation and liberalization.

As defined by Captain Dele Ore (2001,p.1), “Deregulation means a change in regulation away from the present system.” He went further to state that deregulating the transport industry “further implies free exit and free entry for any operator with the addition of freedom to also set fares and pick which routes they

will fly.” It follows from this definition that Deregulated and/or Liberalized aviation market has the same distinguished features as follows:

- Free entry into the market of new airlines;
- Free exit from the market of weak airlines;
- Low competitive airfares;
- Better and improved services;
- Likelihood of a better management team;
- airlines concentrate on routes where they have competitive advantage;
- Larger Global Carriers ply long and high density routes;
- Airlines form strategic alliances for improved performance;
- Equipment rationalization by Carriers;
- Product differentiation etc.,

Liberalization may be viewed in relation to the Aero-political environment or in relation to the infrastructural supplies and product distribution. In relation to Aero-political environment, Guedes Dias (2003,p.2), sees Liberalization as:

(a) “Freedom for airlines to:

- Provide services on desired routes on an economic and commercially viable scale;
- Access new resources and join forces with other airlines; and

(b) Freedom for passengers to choose among alternative services.”

In relation to Infrastructural Suppliers and product distribution, he sees liberalization as “Freedom for carriers to;

- Choose how and with whom best to do business; and
- Secure adequate correlation between service level and price to be paid.”

The benefits derivable from liberalization determine its relevance to an economy for, as the president of the International Civil Aviation Organization (ICAO), Kotaite (2003,p.1), puts it, “Liberalization as a process and a methodology rather than an objective, must be judged by its consequences and its benefits, and not by its theoretical underpinnings.”

Finally, Cooke Jr. (2001.p.2-3), provided the difference between deregulation and liberalization. To him, “Liberalization generally removes the operating restrictions on an industry, but it is different from deregulation, which simply changes the rules.” It is important to note also that a privatized and liberalized aviation market will still have some form of regulation because of safety requirements. “This is especially true of the transport industries where safety and security are vital issues.” Cooke, Jr. (2001, P. 2).

## **2.5 MEANING OF OPEN SKIES**

“Open Skies” Policy is a liberalized aviation whereby carriers of one region are being allowed to serve another region without restrictions as against the Bilateral Agreement that hitherto provided the bases for the exchange of commercial rights and the regulations of the exercise of those rights. Captain Dele Ore(2000,p.4) sees open skies policy “as a liberalized aviation whereby carriers of one region are being allowed to serve another region without restriction.”

To Staniland (1996,p.3), it “means that technologically qualified carriers may fly internationally between whichever cities in the country concerned they choose, at whatever frequency, with whatever capacity, and charging whatever fares they decide are commercially appropriate.”

Nigeria’s former Minister for Aviation, Kema Chikwe (2001,p.9&11) opined that, “the direct implication of Open Skies is that there are no restrictions on the frequency of flights and the traffic rights to be exercised. Also, within the Open Skies regime, airfares will be dictated purely by market forces and other commercial expediencies and will not be subject to approval by Government.” She gave the provisions of Open Skies to include:

- Free market competition
- Pricing determined by market forces
- Fair and equal opportunity to compete
- Cooperative market arrangement
- Operational 7<sup>th</sup> freedom all-cargo rights
- Liberal charter arrangement, etc.

U.S. Transport Secretary, Rudney Slater, (1999, p.1), declared that “Open Skies Agreement permit unrestricted air service by the airlines of each country to fly to, from, and beyond the others territory, eliminating restrictions on how often carriers can fly, the kind of aircraft they can use, and the prices they can charge.” Deregulation and Open Skies are vessels through which the process of gradual liberalization can be attained. Their original intentions as postulated by Captain Dele Ore (2001) are:

- Save a lot of money for members of the traveling public through cheaper flights.
- Unleash and spur competitive imagination;
- Fuel economic development and
- Expand travel options for everyone.

It will be left to this study to find out whether or not the above objectives have been achieved. Are they achievable objectives in an African setting? Has the ‘Open Skies’ policy managed to achieve any of its set aims in Nigeria?

According to Captain Dele Ore (2002, p.2) ‘This is a fallacy and also impossible because of the Bilateral Air Services Agreement (BASA) regime, which fetters the private airlines.’ For a long time, any private airline that wishes to take advantage of BASA must do so through the Nigerian Airways with the approval of the Minister of Aviation. Once approved by the Honorable Minister, the Nigerian Airways would not unduly delay or withhold granting route rights to qualified Nigerian private airlines and the big foreign airlines of the more advanced countries and Africa States with which we have BASA.

Therein lies the idea of deregulation in Nigeria as a big sham. How can you deregulate in an atmosphere of inequality? This in the views of Captain Dele Ore, “explains why the so-called deregulation cannot achieve the intended result, and consequently in Nigeria:

- (a) Air travel is getting more expensive and beyond the reach of the average person, whereas deregulation, liberalization and open skies was designed to save money on cheaper flights.
- (b) Fair competition is fettered unduly because conditions on the Air Operators License (AOL) are not followed.
- (c) The Economy is stagnated or declining whereas aviation is supposed to be the key component of the enormous travel and tourist industry which in turn should strengthen

the economy. In the words of Crandall(2000, p12), President of American Airlines, ‘Airlines aren’t tools of commerce-They are commerce’.

(d) Rather than expand travel options for everyone in Nigeria, the options have become narrower because many airlines have collapsed and the few that are still striving hard are grappling with drastic depletion of aircraft on their fleet.”

## **2.6 THE 1978 US DEREGULATION**

The most dramatic event in the history of government participation in the air transport industry in the United States was the deregulation in the administration of President Jimmy Carter in 1978.

This is unlike the African experience, where government is so great a participant in owning and managing air transport companies, but it may offer some suggestions for the issues and decisions now confronting African nations as they ponder on alternative ways to create the robust air transport industry required to accelerate economic development on the continent.

Though the U.S. air transport companies were privately-owned for a long time prior to 1978, they operated under very substantial federal control. The Federal Government had much to say about routes, fares, and many other aspects of air carrier operations. The State controls were relaxed with advent of deregulation. The changes included adjustment in route structures and market shares of the respective airlines, labour demand and others. ‘Prior to 1978, 11 airlines provided 91 percent of the commercial passenger air transportation in the United States (John W. Fisher and Richard S. Belous, 1984, p.1). So that to many observers it appeared that, like the telecommunications industry in the United States, it functioned as a highly regulated monopoly, even though there was a certain amount of competition.

Fisher and Belous (1984, p1-2), gave a number of impacts of deregulation on the US economy five years later thus:

- Competition in the industry increased, as indicated by the fact that by 1983, the market share of the 9 surviving major airlines had fallen from 91 percent to 80 percent.

- This new competition led to several devastating years, in terms of profitability, in the industry, although a period of general U.S. economic recession contributed to this. As Tokoph (2001, p.2), explained initially, deregulation did bring benefits. Cheaper fares and more consumer options appeared. This was short-lived as the industry was overly competitive.”
- Airline labour relations were also intensified in the industry, as beleaguered firms sought to lower costs in an increasingly competitive environment.

Belobaba (2003), of Concordia University and MIT described the ‘US Deregulation experience as generally positive.’ He went further to list the overall benefits thus:

- US domestic air travel more than doubled in first ten years of deregulation.
- Average real (inflation adjusted) air fares continue to decline today.
- Development of some very successful new low-fare carriers, with rapid growth in recent years (e.g., Southwest, Air Trans, and JetBlue).
- No statistical evidence of reduced airline safety.
- Cost cutting and productivity improvement.
- Economies of scales in operations to reduce unit cost.
- Price competition and revenue management to increase revenues.
- New marketing and distribution programmes.
- Increased network coverage market dominant

### **What can be learned from this Experience?**

It is difficult to compare these events with what is happening in Africa, because the air transport network was much more developed in the US at the time of the 1978 deregulation than it is in today’s Africa. But Cooke(2001, p.7), suggested several things nonetheless:

- There will be little additional competition following any African air transport privatization. While this might be detrimental to passenger service, a respectful regulatory relationship between the new private airlines and the government would help to avoid this.

- After a few years, it can be anticipated that other firms will come into the market, requiring the government to modify its regulatory stance to ensure that the resulting competition does not result in a deterioration of safety and security or in passenger services.
- New firms that purchase publicly-owned airline in Africa must work with the government to avoid any ensuring crisis in labour relations without unduly constraining the actions that must be taken to increase operating efficiency.
- It is quite likely that a hub and spoke route pattern will emerge as the result of privatization. Government must act to ensure the greatest possible access to reasonably priced air transport service to all parts of the country. This is especially important in those African countries where air transport is essential to the survival and growth of remote regions.

## **2.7 INTERNATIONAL TRAFFIC RIGHTS: The Freedoms of the Air.**

The first five “Freedoms of the air” emanate from the International Air Transport Agreement which was concluded at the Chicago Conference in 1944. According to Herbison (2002, p 18), of the center for Asia Pacific Aviation, each contracting state to following freedoms, In respect of scheduled international air services.

- 1.) The privilege to fly across it’s territory without landing.
- 2.) The privilege to land for non traffic purposes (e.g. Maintenance refueling).
- 3.) The privilege to disembark passengers, mail and cargo taken on in the territory of the state whose nationality the airline possesses.

- 4.) The privilege to take on passengers, mail and cargo destined for the territory of the state whose nationality the airline possesses.
- 5.) The privilege to take on passengers, mail and cargo destined for the territory of any other contracting state, and the privilege to disembark passengers, mail and cargo coming from any such territory.
- 6.) The so called sixth “freedom of the air” is the privilege of transporting, via the home state of the carrier, passengers, mail and cargo moving between the territories of two other states.

## **2.8. THE FIVE PRINCIPLES**

Kotaite (2000, P8), in looking at economic regulation, emphasized the five principles delineated by the International Air Transport Association (IATA) in its position paper “Wings for the Future”. In brief, the five principles are:

- i) Consistent safety and security oversight. This is endorsed by ICAO who ensured that by the end of 2001, all 185 Contracting States received at least one audit of the legislation, procedures and practices in place for personnel licensing, and the operation and airworthiness of aircraft. At the same time ICAO is preparing to expand the universal safety oversight audit programme progressively to cover aerodromes, air traffic services, aircraft accident investigation and eventually the standards in all safety-related annexes to the Chicago convention.



- ii) The second principle is the provision of adequate infrastructure in a non-discriminatory basis. Under the Chicago Convention, States remain responsible for the provision of aviation infrastructure no matter who may own or provide the service. Today, ownership of these infrastructures is being increasingly handed over to autonomous bodies or even to private sector.
- iii) The third principle, the continued availability of the multilateral interline system, is entirely consistent with the recommendation of the Worldwide Air Transport Conferences of 1994, 2000 and 2004, which recognized that while States have many differing goals and policies, they share in fundamental objective of participation in the international transport system. It is noted that the needs of developing countries for air transport are greater than other countries if they are to participate in the increasingly global economy. There are also competition concerns regarding the dominance of individual carriers or group of carriers as well as the elimination of the opportunity for small carriers and nations of low traffic volume to participate in air transport.
- iv) The principle of open access, giving all players fair and equal opportunity to participate in the sustainable growth of the global air transport system is also fully endorsed by ICAO. In short, the aviation community has a responsibility, to ensure that globalization permits fair access to the air transport system. Furthermore, it is difficult to see how a level-playing field could be created without a common global understanding, through ICAO, on environmental protection issues.
- v) The fifth principle calls for industry mechanism to improve business efficiency.

## **2.9. BILATERAL/MULTILATERAL AIR SERVICES AGREEMENT**

Bilateral Air Services Agreement is inter-governmental agreements, which create the right for the operation of scheduled air services – passenger, cargo and mail between and beyond two countries. “The whole operation of international civil aviation regulation is therefore, anchored on formal consent of States” Kema Chikwe (2001, p.3). The trend worldwide is towards liberalization, open skies system and co-operation among airlines. This development has guided the negotiation of Bilateral Air Service Agreement (BASA) and Multilateral Air Services Agreement (MASA). The agreement regulates the mode of operation frequency, aircraft type, traffic rights, routes, tariffs etc. Although BASA.s are still prevalent in many parts of the world, Multilateral Air Services Agreements (MASA) are gradually becoming the trend in international aviation. Lending support to this observation is the liberalization policy in Europe, the Yamoussoukro Declaration in Africa, the deregulation policy in USA and the current intercontinental and trans-continental co-operation among airlines.

The objective of government is to be an active participant in international air transportation and allied services. The negotiation of BASA/MASA is the responsibility of the Federal Ministry of Aviation in Nigeria. In performing this function, the composition of the Nigerian delegation include officials of the Ministry of Aviation, NCAA, Ministry of Justice, Ministry of Foreign Affairs, the designated carrier of Nigeria on the particular route concerned and airline(s) holding Air Operating Certificate (AOC) applicable to the route.

It is instructive to note that many bilateral agreements are still restrictive. These introduce impediment that among other things prevent carriers from planning their route networks purely on the basis of commercial considerations.

Although recent liberal bilateral agreement (e.g. US Open Skies agreement) have dramatically improved the situation in some markets, many important issues are still strictly controlled, e.g. ownership and control, cabotage, and the right of establishment. Thus, even the Open Skies model preserves many of the anachronisms that distinguish the international air transport sector from most other global industries. “These restrictions prevent free trade in air transport services and optimal capital movement and as a consequence push up costs of production” (ATConf/5-wp/35,p3). National differences in the way these market impediments operate also make it difficult in the current bilateral system to bring about their removal.

## **2.10. KEY REGULATORY ISSUES**

The regulatory side has been marked by considerable change in recent years. International air transport continues to be defined by its traditional approach to market access and regulation through the treaty-based system of Bilateral Air Services Agreement, though now with a substantial overlay of regional and plurilateral arrangement.

Even though there is now widespread acknowledgement of the need for regulatory change and adjustment, the adoption of a liberalized programme and liberalized measures by States to open up the sector has varied enormously.

“To some States the pace of progressive liberalization globally has been too slow and the systemic obstacles to change in air transport too entrenched. Yet many other States continue to have concerns about the consequences and benefit of a liberalization agenda, the cost of participation through a national airline and the long-term viability of that airline in a competitive, liberalized and global

environment’’. (ATConf/5.WP/4.p4). The advanced countries of the world held the view that the global progressive liberalization was too slow whilst the less developed countries to which the African States belong felt otherwise. Indeed, what can a State like Nigeria do in global progressive air transportation market without a visible National Carrier? We are about to examine further regulatory tools for the liberalization process that ensure a climate of confidence necessary for those States wanting, in principle, to liberalize but uncertain about the outcome or how to go about harnessing the opportunities. ICAO has so far organized five worldwide Air Transport Conferences with the theme ‘challenges and opportunities of Liberalization’. The objectives of the 5<sup>th</sup> Conference, held in Montreal on 24-29 March 2003, as established by Council were “to develop a framework for the progressive liberalization of international air transport, with safeguards to ensure fair competition safety and security, and including measures to ensure the effective and sustained participation of developing countries” (ATConf/S-WP/4,p.4).

### **2.10.1 AIR CARRIER OWNERSHIP AND CONTROL**

The criteria proposed is that each party to the Air Transport Agreement could expect that any airline it designates would be allowed to use the market access granted to it by a second party, and that second party would so commit itself, provided that the airline:

- (a) remains substantially owned and effectively controlled by nationals of any one or more States that are parties to an agreement or by any or more of the parties themselves or;
- (b) has its principal place of business in the territory of the designating party,

regardless of its ownership and control.

To support the above criteria are the views of Fenema (2002, p7), who referred to original ownership and Control rule as:

- “domestic aviation laws that usually require that a country’s airlines are owned and controlled by its nationals and;
- that by virtue of bilateral air transport agreements entered into by government to formalize reciprocal market access (also known as traffic rights), an airline must be able to prove at all times that it has the nationality of the country which concluded the agreement on its behalf.”

It is clear therefore that foreign market access is linked to nationality, and any doubt on the part of a foreign country about an airline’s nationality creates at least uncertainty about the continued use of the respective traffic rights.

Like the case of the Nigerian Airways Limited before its liquidation, any national carrier in deep financial trouble and seeking additional financing for its survival cannot take it for granted that its government, after many years of providing subsidies, will come forward again. If national investors have lost faith, the carrier could look at foreign investors, perhaps? It has to be realized that very few financial institutions invest in the airline industry.

Probably the only candidate for saving the airline is another, foreign airline. This is not because it is looking for a quick return on investment, but rather because it is attracted to the ailing airline’s fleet, maintenance facilities, computerized reservations system and, in particular, the domestic and international market to which it has access. With liquidation of the Nigerian Airways Limited and the formation of the Virgin Nigeria Air Limited and of course the proposed acquisition of 49% of its equity by Virgin

Airways UK, the government of Nigeria did not want to change its nationality rules because it could not be sure that an airline in foreign hands would serve the important purposes and interest normally associated with a flag carrier.

It has been argued that a State without a National Carrier cannot compete in a liberalized aviation market. Reasons have been cited for imposing national airline ownership and control regulations. Fenema (2002, p.8), opines, “A national carrier is important in terms of factors such as national security and defense, trade and tourism, employment, safety and the negotiation of traffic rights. Less tangible, the national airline is also a symbol of sovereignty.” He went further to expatiate on these various factors as follows:

- **National Security and Defense:** In case of a national emergency or war, the national Airline’s fleet and crew are available for urgent transportation needs.
- **Trade and Tourism:** The national airline may be an active participant in tourism promotional activities and its network may also support international trade relations.
- **Employment and the Economy:** The airline provides jobs, both directly and indirectly; some of these jobs are specialist or high technology occupations. The airline’s activities also support development of the national economy.
- **Safety:** The national civil aviation administration supervises and controls the airline’s safety standards, while there is no certainty that the new owner would abide by these standards.
- **Traffic rights and bilateral agreements:** International market access by the airline is linked to its present nationality, whereas a change in nationality would, bring uncertainty in this respect.

- **Independence:** The national carrier is considered a symbol of sovereignty and independence – a popular, strategic or national asset that should not be tampered with.

Any of these elements, combined with hesitation within the airline management or supervisory board or strengthened by public unease, may compel a government to reject the overtures of the suitor airline. Will the new Nigerian National Carrier, The Virgin Air marriage to the Virgin Airways UK work out in the face of strong protest from the Airline Operators of Nigeria (AON) and other stakeholders?

Or will a strategic alliance, though far from guaranteeing survival be the only acceptable alternative?

There have been various attempts aimed at liberalizing the traditional ownership and control rules. So many writers on regulatory issues of liberalization have suggested various measures. Strategic alliance is one such ways of solving the ownership and control problem even though the whole issue of a strategic alliance has been seen as a make shift measure. According to Fenema (2002, p.8), “The term ‘strategic alliance’ is far from scientific but in this connection it roughly means broad and far-reaching co-operation in as many fields as possible, to reap maximum benefits for two or more like-minded independent airlines of different nationality”.

The President of ICAO, Kotaite (2000, p.9), argued that the inhibitions of the traditional ownership and control rule gave birth to airline alliances and code sharing. He asserted that ownership and control rule “is a primary reason why airline alliances and code sharing arrangement exist in air transport sector while other business sectors have true multinational institutions”. Kotaite further posited, “....a global understanding of the

ownership and control rule could remove the inhibitions of developing countries for liberalizing beyond their regions.” Hence he further stated, “The evolution of ownership and control provisions on a global basis would be a key economic regulatory development towards ensuring the safe, secure and orderly growth of Civil Aviation.”

Less stringent formulas which liberalize the bilateral ownership and control criteria include the so called Asia-Pacific Economic Cooperation (APEC) clause, named after the multilateral “Open Skies” agreement concluded between the APEC members, especially Brunel, Chile, Singapore, the United States, and New Zealand in 2001(Peru and Samoa followed later). This allows for foreign ownership as long as effective control remains in national hands.

Another approach is the European Union concept of “community of interest”, effective since January 1993. Unlike the APEC clause, this allows for mergers among airlines of the 15 member States (plus Iceland, Norway and Switzerland) without adverse effect on their traffic rights within the whole area covered by the parties.

These formulas all deviate from the traditional clauses, but they also have one other thing in common, which is that they all work inwardly. This means that third parties have no obligation whatsoever to agree to the formula used and are free to reject or attach aero political, financial or other conditions to acceptance of the model. Therefore, any novel formula, any liberated ownership and control criterion, even if approved or endorsed at an international or regional level, is still not useful to airlines of different nationalities that wish to merge unless it allows for a real merger and acquisition while also guaranteeing that all countries to which the carrier flies accept the new merged entity without a challenge based on ownership and control concerns.



Many African countries have taken steps to minimize the inhibitions posed by traditional ownership and control rules.

The Government of Ghana has replaced the requirement for airlines to be “substantially owned and effectively controlled” by bilateral partner before being accepted for designation with “place of Registration and/or principal place of Business” in the designating state (Capt. Joe Boachie, (ATConf/5, 2003 p.3). The Nigerian Government has equally done same in all her BASA.

Finally, in liberalizing the traditional ownership and control rules, care must be taken to ensure that safety and security are not compromised. According to the president of ICAO, Kotaite (2000, p.12), “Broadening of Ownership and Control provisions is inevitable, but unless the aviation community is directly involved, the risks will be high. The need to keep ahead – in terms of safety and security oversight, trans-border alliances and transnational outsourcing – cannot be overemphasized.”

### **2.10.2 MARKET ACCESS**

Market access has been fundamental in aviation relations between States and to the success of air carriers in international air transport. In the liberalization process, the role and treatment of market access continues to be the most important element in air services agreements between States and pivotal to any substantial regulatory liberalization. According to Rattray (2003, p.13), “The fundamental challenge faced in the area of market access is how to reconcile the liberalization of air transport with the continued validity of the concept of sovereignty, equal opportunity, opportunity, and the need to ensure meaningful and sustained participation of any State in International air transport.”

The 1994 World Air Transport Conference considered liberalization of market access to include essential elements of full market access (unrestricted route, operational and traffic rights between parties, optional so-called Seventh Freedom and cabotage) and possible means of full or progressive introduction, together with associated safeguards and dispute resolution.

Considerable progress has been made in liberalization with respect to market access, notably at regional and sub-regional levels. This is what the African States are about doing. From January 1995 to December 2001, over 600 bilateral agreements worldwide were reportedly concluded or amended. At regional and sub-regional level, groups of states have created multilateral regulatory regimes aimed at fostering cooperation and liberalizing air transport regulation among member States.

One notable development in the liberalizing trend is the considerable increase in the number of bilateral agreements involving unrestricted market access provisions. By June 2002 some 85 "Open Skies" agreements have been concluded involving approximately 70 countries. These agreements involved not only developed countries but also an increasing number of developing countries including Nigeria. Two-thirds of them involve the United States as one of the partners, but the remainder does not. With respect to market access, these agreements generally provide for unrestricted route and operational rights, as well as Third to Fifth and Sixth Freedom rights; many also grant Seventh Freedom rights for all cargo services. Some of them allow progressive or phased introduction. However, exchange of broader or full market access rights between States, while gaining acceptability, is still country-specific.

The 2003 Worldwide Air Transport conference identified two basic issues available to States considering liberalization of market access. These are:

- (a) the extent of liberalization, i.e. how open the market access should be granted; and
- (b) the approach to liberalization, i.e. which avenue (national, bilateral, regional, multilateral) and how fast should liberalization be pursued.”

With regard to (a), “it would be up to each State to decide based on its national interest. In fact, the whole range of basic market access right, including traffic right, beyond the Third and Fourth Freedom, has been exchanged between and among States in air services arrangement. However, the extent of the market opening varies widely because of the disparities in size, location and stage of development of States as well as the competitive strength of their respective carriers,” (2003, ATConf/5-WP/8 p.3). This should clearly guide the African nations including Nigeria in their policy options aimed at liberalizing market access in line with national interests. In all these, the size of the national carrier, the size, location and stage of development of the country come into place. As ably summarized by Rettray (2003, p.13), “It is evident that unrestrained competition which disregards disparities in size, location and stage of development of States, as well as the size and competitive strength of their respective carriers, could result in the domination of the weak by the strong.”

As for (b), the experience of the last decade seems to suggest that States will utilize all the existing avenues in pursuing liberalization.

Many States have unilaterally introduced liberal air transport policies, often based on broader perspective of national interest including economic development and trade benefits.

The bilateral approach continues to be flexible and viable means which State can use to expand air service while retaining control over the pace and direction of liberalization.

But it may also be a constraint in achieving the same degree of liberalization on a wider scale because of the inherent difficulty in obtaining agreement from a large number of involved States.

Regional agreement among States with similar level of economic development seem to have proven to be easier and faster route to liberalization West and Central Africa comprising francophone States is liberalizing along the Yaounde Treaty, the Banjul Accord Group is for Anglophone and Luxophone countries in West Africa while Airspace Management Agencies like Asecna, is for the francophone while Euro-control does it for Europe.

At multilateral level, ICAO continues to provide global forum in facilitating air transport liberalization, and multilateralism in commercial right to the greatest possible extent remains an objective of the Organization.

#### **Airport Constraints on Market Access:**

Since the 4<sup>th</sup> World International Conference on Air Transport Liberalization (ATConf/4), the growth in commercial air services has continued to outstrip the available capacity at more and more airports.

Although many airports with congestion problems are located in Europe, a growing number of airports in other regions are reaching capacity limits.

Moreover, because of the interconnected operations of the international air transport system, capacity constraints at some airports impact on other airports. This is becoming an increasing challenge to the continued growth of air transport and is having an impact on further liberalization with respect to market access.

This is because, the ability of an air carrier to exercise the market access rights granted under relevant air service agreements is closely linked to the availability of slots

(designated times for an aircraft to take off or land) at those airports for which it was granted that market access. While the developed countries face the problem of congestion at their airports, the less developed countries have international airports and even local ones that are underutilized. Hence the fear of capacity dumping by the developed countries is there.

Governments, Airlines and Airports have each developed measures to overcome or ameliorate situations of insufficient airport capacity. Many States have expanded existing or built new airports, runways or terminals but increased security requirement after the event of 11 September 2001 may limit capacity enhancement in this area. It is important to note that most slot allocation disputes have been settled by the International Air Transport Association (IATA).

Among the broader issues of insufficient airport capacities are:

- (a) whether the broad grant of market access rights associated with liberal air services agreements has made the market access problem at capacity constrained airport worse, and;
- (b) how airport capacity constraint affect the liberalization process.

With respect to (a), clearly liberal air services agreement with multiple designation and no restriction on capacity have enabled increases in the number of air carriers and air services, thereby putting additional pressure on existing airport capacity. However, open country-to-country traffic rights in such agreement also permit air carriers to use less-congested airports.

The use of blocked space and code sharing may also reduce the need for air carriers to serve capacity-constrained airports.

In so far as (b) is concerned, it would appear that a State would be reluctant to conclude a liberal air service agreement if its' air carrier(s) could not expect to operate to capacity-constrained airports in the other parties. However, the fact that 27 of the 70 States, which concluded open skies agreement, have one or more slot-controlled airport seems to suggest that many States have been able to liberalize in spite of this handicap. Nevertheless, the continued long-term growth in air services and the difficulties faced by more and more airports in increasing airport capacity will continue to challenge and possibly limit the liberalization of international air services.

#### **Aircraft leasing in International Air Transport:**

The use of leased aircraft continues to play a significant role for airlines in the provision of international air services. During the last five years, the number of international scheduled airlines, which used leased aircraft, has increased by 20 per cent. In 2001, 84 per cent of the 532 international scheduled airlines in operation worldwide used leased aircraft, and over 45 per cent of all transport category aircraft in service with such airlines were leased.

Aircraft leasing is an important source for meeting capacity requirement for African Carriers. However, there are concerns particularly in respect to safety oversight. This arises as most often where the operator of the leased aircraft does not have the maintenance capacity and the state also lacks the safety oversight capability.

The other concern relates to the possible exercise of traffic rights, where the lessor is an airline, which does not have traffic rights, on the routes operated by the lessee. African countries share these concerns particularly if the lessor is a carrier outside Africa and is not covered by the provisions of the Yamoussoukro Decision.

#### **Liberalization of Air Cargo Services**

Air Cargo operations are instruments for facilitating imports/exports business in Africa as with the rest of the world. Liberalization of air cargo services would therefore provide the opportunity for African exporters to reach otherwise unreachable important overseas markets thereby generating more revenue. It is in the light of this that the Yamoussoukro Decision provided for complete liberalization of air cargo services.

Similarly, the conclusions reviewed and adopted by the 5<sup>th</sup> World Air Transport Conference are as follows:

1) air cargo, and in particular all cargo operations, should be considered for accelerated liberalizations and regulatory reform in view of its distinct features, the nature of the air cargo industry and the potential trade and economic development benefit possible from such reform.

ii) States should consider the possibility of unilateral liberalization of market for all cargo services without the requirement for bilateral reciprocity or negotiation: and

iii) Consider measures to liberalize all cargo in their existing and future air services negotiations and regulatory treatment” (ATConf/5.WP/10 P.5)

### **2.10.3. FAIR COMPETITION AND SAFEGUARDS**

Liberalization of international air transport entails a shift in regulatory approach from detailed regulation to greater reliance on market forces. While a less regulated economic environment provides more commercial freedom and flexibility for airlines, it also increases the potential for anti-competitive practices. Consequently, how to prevent and control, abuse in a liberalizing environment has been a key issue for both government regulators and the industry. The sustainability of air carriers and assurance of service has also become an issue of increasing concern, particularly for developing countries.

There is a need to address these issues in order to ensure that Liberalization in air transport result in fair competition for all participant, and that all States can participate in international air transport in an effective and sustained manner.

### Safeguards

Safeguards for liberalization include:

- i) issues related to measures against anti-competitive practices;
- ii) application of competition laws to international air transport and;
- (iii) regulatory measures dealing with aviation safety and security.

With increasing globalization and widespread adoption of market economy over the past decade, there has been a marked rise in the adoption of competition laws by States, spreading gradually from developed economies to other parts of the world. The use of competition laws to deal with air transport has occurred not only with more frequency but also has encompassed an increasing number of issues, ranging from anti trust immunity, mergers and alliances, abuse of dominant position, capacity dumping and predatory pricing, sales and marketing, to airport charges and fees, State aid and loan guarantees.

In considering how to ensure fair competition in international transport, States are faced with two basic issues: a) what constitute fair and un-fair competition; and b) what would be the appropriate means to meet their policy objectives regarding competition. A related issue is how to deal with disputes that may arise from regulatory actions on competition matters.

With regard to a), how to define and distinguish between normal and anti-competitive practices has been one of the most challenging task facing regulators.



Reliance has increasingly been placed on analyses and development of standards through a case-by-case approach.

As far as b) is concerned, it should be realized that situation varies from State to State. Therefore different States may need to use different approaches in addressing competition issues based on their own situation and specific aviation relationships with partner States.

Unfair competitive practices as listed in the ICAO Template Air Services Agreement (2003,) are shown below. The parties agree that the following airline practices may be regarded as possible unfair competitive practices, which may merit closer examination:

- (a) charging fares and rates at level which are, in the aggregate, insufficient to cover the costs of providing the services to which they relate;
- (b) the addition of excessive capacity or frequency of service;
- (c) the practices in question are sustained rather than temporary;
- (d) the practices in question have a serious negative economic effect on, or cause significant damage to, another airline;
- (e) the practices in question reflect an apparent intent or have the probable effect, of crippling, excluding or driving another airline from the market; and
- (f) behavior indicating an abuse of dominant position on the route.

### **Sustainability of Air Carriers & Assurance of Services**

This is the capability of an airline to maintain its corporate existence in the market place, and includes the effective continuation of air services to/from its home territory. It is often not only related to and influenced by market conditions such as market size, location and propensity to travel, but also by the policy of the States concerned, inter alia, on economic development, labour, tourism, social needs and national security.

Consequently, sustainability of air carriers, including assurance of services, has been one of the primary reasons many States have provided their national air carriers over the years with a wide variety of aids and subsidies.

Furthermore, such states usually consider also that a viable air transport sector brings employment opportunities, technology transfer and foreign exchange benefits. It has been recognized, however, that State assistance has the potential to affect trade in air services and distort competition, although some assistance may be justified from the social and economic standpoint.

In many States, the aviation sector has been characterized by State ownership and control of national airlines, though a trend towards partial or full privatization has been continuing since the mid- 1990s. Complete or partial State ownership has frequently involved the provision of capital, loans, or guarantees by the State or by public institutions for national airlines having financial difficulties and seeking additional resources.

In addition, many State have provided assistance to their national airlines through more indirect methods such as: preferential tax status; discount or exemptions on charges for airport services (including landing fees); discounts on the price of, or preferential arrangement for, the supply of fuel; grant of exclusive right to duty-free sales outlets or ground-handling contract at airports etc.

It is estimated that the amount of direct State aid in monetary forms peaked in the mid-1990s when several major European carriers received over \$10Billion in aid, and dropped back by 2000. However, the latter tendency has since been reversed, because a number of States have recently taken action in response to the financial difficulties of their airlines.

Rescue packages provided for a number of carriers in most regions (for example, Air Afrique, Air Jamaica, Air New Zealand, Malaysia Airlines, and Swiss air) illustrate such change in attitude toward State aid.

The situation was exacerbated by the events of September 11, 2001 in the United States. Following those events, over 60 States, foremost among them the United States, provided varying forms of emergency assistance to their airlines. While most States stepped forward to guarantee third-party war risk insurance for a limited duration, others provided a more comprehensive aid package for their airlines directly in the form of monetary disbursements to compensate for the losses incurred due to the immediate closure of airports and airspace.

A number of liberal bilateral and regional arrangements recently concluded contain provisions regarding the application of preferential and participation measures to less-competitive airlines, in order to facilitate the liberalization process and to promote a level playing field. Preferential measures are non-reciprocal regulatory arrangements which States in a regulatory relationship agree are needed by a developing country for its effective and sustained participation in international air transport.

On the other hand, participation measures, which are available to all States, are used to build confidence in progressively moving to a less restrictive regime and to ensure that the results of increasing competition, while not equal, do not become too unequal.

#### **2.10.4. CONSUMER INTERESTS**

Consumer interests cover many issues, including air “passenger rights” and the contractual relationship between air carriers and their users.

Despite the emphasis given in liberalization to opening up markets to meet user needs, the focus by airlines on cost pressures and competitive market forces has sometimes led to an adverse impact on consumer interests. Furthermore, infrastructure limitations with airspace congestion and passenger handling problems at some airports have ensured the continued public attention given in recent years to passenger rights in particular. In response to a perceived decline in customer services, a significant number of States have adopted regulatory measures that address some of the issues.

Denied boarding compensation, bans on smoking, on-time performance statistics and access for disabled passengers are a few examples of specific regulatory attention. Some government have also required airlines, inter alia, to ensure that all tariffs are made available to the public, to disclose information on cancellation policies, and to avoid misleading advertisements.

On the issue of passenger rights, quality of service offered by airlines has not always met consumers’ expectations. Growing passenger dissatisfaction with the service conduct of airlines in recent years, such as inadequate handling in case of flight delays and cancellations and insufficient information on an airline’s commercial and operational conditions, has generated political pressure on airlines to provide a more comprehensive set of rights for their customers.

In a paper presented at the 5<sup>th</sup> World Conference on liberalization in march 2003, the ICAO secretariat suggested that the improvement of service quality can be achieved by competitive response, regulatory measures and/or voluntary commitments.

**Competitive responses.** Competition in the market place can best work to meet consumers' expectation, especially in the areas relating to "value for money", such as seat configuration, in-flight services, meals and e-commerce services. On the basis of their own commercial judgment, airlines provide various combinations of service qualities with prices. Consumers benefit from the availability of differentiated product options, and can switch to competing airlines if a carrier does not meet their expectations.

**Regulatory measures.** Concerns about the limit of competitive response have induced several States to take regulatory action and to strengthen passenger rights, create contractual certainty, and make more information clearly and readily available to consumers on a wide range of subjects. These ranges from airline business practices (such as code-sharing, availability of fares and ticket refund), contracts (such as conditions of carriage denied boarding, liability provisions, misplaced baggage and special passenger needs) to operational performance disclosure (such as on-time performance and complaints). Regulations often impose additional costs on airlines, thereby affecting airlines' competitiveness, pricing and product differentiation.

**Voluntary Commitments:** In order to avoid the potential problems in the regulatory approach, States may therefore choose to rely initially on voluntary commitment by airlines (and service providers if applicable), which are regarded as complimentary to the regulatory approach.

States need to strike a balance between voluntary commitments and regulatory measures, whenever the government intervention is considered necessary to improve service quality. States should rely generally and initially on voluntary commitments undertaken by airlines (and service providers), and when voluntary commitment is not sufficient, consider regulatory measures.

#### **2.10.5. PRODUCT DISTRIBUTION**

The term product distribution refers to the sale and marketing of air transport services. With the introduction of Computer Reservation Systems (CRSs), airlines gained a new and valuable tool for their product distribution.

CRSs provide travel agents, as intermediaries in the product distribution chain, with up-to-date information not only on airlines' flight schedules, fares, and seat availability but also a range of travel and leisure services. They also facilitate the work of travel agent in making reservation and issuing tickets.

In recent years, however, airlines' heavy reliance on traditional travel agent outlets through CRSs has gradually diminished as the INTERNET has led to alternative outlet, which is more cost-effective for the carriers. In response to the newly emerged distribution channels using the Internet, CRS vendors have pursued Internet businesses aggressively, while a large number of 3<sup>rd</sup> – party service providers (neither air carriers, travel agents nor CRSs) have also been entering into the market.

There are both codes of conduct and regulations for CRS activities, including ones adopted by ICAO, the European Union (EU), the European Civil Aviation Conference (ECAC), the Arab Civil Aviation Commission (ACAC), Canada and the United States.

States should ensure the need that the internet based system provide consumers with comprehensive and non-deceptive information and airlines with a comparable opportunity to use these new systems as they have with conventional global CRSs.

Although it is not yet clear whether new regulations covering airline product distribution through the internet should be adopted, some States have been actively examining this issue under the existing CRS rules/regulation, consumer protection laws and competition laws.

#### **2.10.6 DISPUTE RESOLUTION**

Liberalization, globalization and privatization in air transport sector have brought about increased competition and new market forces that can potentially result in new and different kinds of disputes. In addition, the growing number of bilateral, especially “Open Skies” agreements as well as regional agreement have also necessitated new measures in dealing with disputes arising from such arrangements.

Dispute settlement mechanisms, primarily based on consultation and arbitration, already exist in air services agreements but these are not always equitable or efficient and a dispute settlement arrangement that builds confidence in a liberalized environment is essential to the acceptance and maintenance of that environment. The procedures for settling a dispute between parties to an agreement may be carried out in two stages:

- (a) Consultations or negotiations between the parties; and/or
  - (b) the dispute is submitted for a decision to an arbitration tribunal
- at the request of either party.

Decisions reached under this latter stage of the mechanism are usually binding, as under the respective clause of the bilateral agreement, both parties have the obligation to enforce the decision.

### **2.10.7 TRANSPARENCY.**

The ICAO Manual on the Regulation of International Air Transport (Doc.9626) defines transparency as “the openness of agreements and understandings reached and accessibility by non-party States and individuals with an interest in their contents”.

Transparency is a fundamental principle of the Convention on International Civil Aviation (Chicago Convention) whereby Article 83 establishes the clear and unequivocal obligation of Contracting States to register “forthwith” with the Council of ICAO any arrangement, which shall be made “public as soon as possible”.

Such arrangement would include agreements, memoranda of understanding and side notes relating to bilateral, regional and multilateral air transport agreement between States. Transparency would also include arrangements relating to exemptions and specific commitments under GATs as regards the Annex on Air Transport Services, as well as agreement for the lease, charter or interchange of aircraft or any similar arrangement under Article 83 of the Chicago Convention.

Transparency should be regarded as an objective to be pursued within the regulatory framework and as an essential element in the liberalization process. In view of the on going liberalization in international air transport and the need to enable ICAO to fulfill its primary role in developing policy guideline, a number of approaches involving States, can be used to render the regulatory regime more transparent, including the following:

- i) States should register with ICAO any unregistered air services agreement in accordance with their obligation under Article 83 of the Convention;
- (ii). States should, as a matter of priority, review their internal procedures and, pursuant to their obligations under Article 83, should develop practical means to improve their registration process.



- (iii) States should consider making better use of electronic means of disseminating information, such as government web sites for publicly available information on the status of their air transport Liberalization as well as for posting information on the text of relevant air services arrangements.

#### **2.10.8 SAFETY AND SECURITY**

It is important that when introducing liberalization, States should ensure that Safety and Security are not compromised by commercial considerations and that clear lines of responsibility and accountability for Safety and Security be established for the parties involved in any liberalized arrangement. According to Kotaite (1999, P.8), “consistent safety and security oversight is of course fully endorsed by ICAO”.

Among the trends and development in economic liberalization which have safety and security implications are:

- the gradual lifting of restrictions regarding designation of airlines and on national ownership and control provisions;
- the burgeoning of airline alliances, code-sharing and franchising;
- the outsourcing of such activities as aircraft repair and maintenance, flight operations and crew administration, and ground handling;
- the expansion of aircraft leasing; and
- the commercialization of airports and air navigation service providers.

The above developments have often led to transnational arrangements, which could make the regulatory oversight of safety and security more complex. Following are examples illustrating some of the issues.

(a) While liberalization of air carrier ownership and control may bring certain benefits, it has also raised some concerns. These concerns relate to such risks as the potential emergence of “Flags of convenience” in the absence of effective regulatory measures to prevent them, and potential deterioration of safety and security standards when there is increasing emphasis on commercial outcomes. “Therefore relaxation of national ownership provisions needs to be accompanied by appropriate measures to prevent the emergence of “flags of convenience” and to ensure that safety and security are not compromised.” (AT Cpnf.5-WP/6.p2).

(b) Code-sharing has been the most prevalent element in transnational airline alliance arrangements. It has been used by many airlines to extend their scope of market access and has proved very effective in developing synergies and increasing revenues of the airlines concerned. While code-sharing allows airline partners to offer “seamless” through carriage, as if only a single airline were being used, the practice has led to concerns of government, as to the safety standards of foreign airlines with which their National airlines have code-sharing arrangements.

Another concern relates to the security implications caused by the potential transfer of a security threat, which may exist against one airline and be spread to its partner or partners in a code-sharing arrangement, and any subsequent additional security measures imposed by the appropriate authorities, (ICAO Circular 269, implications of airline code-sharing).

‘Global alliance’ groupings have emerged and these carriers have combined

their route networks which extend to most parts of the world, and carried together over 50 per cent of the worldwide scheduled passenger traffic. Elements of alliances apart from code-sharing include cooperation in marketing, pricing, inventory control and frequent flyer programs, coordination in scheduling, sharing of offices and airport facilities, joint venture and franchising. Four existing global alliance groups as stated in the ICAO position paper (ATConf/5-WP/21,2003) are:

- 1) “Star Alliance” founded in 1997 by Air Canada, Lufthansa, SAS, Thai Airways International and United Airlines.
- 2) “One World” founded in 1998 by American Airlines, British Airways, Canadian Airways, Cathy Pacific and Qantas(currently eight members);
- 3) “Sky Team” founded in 2000 by Aero Mexico, Air France, Delta Airlines and Korean Air( currently six members);
- 4) the alliance dubbed “Wings” led by KLM and Northwest Airlines (with strong ties with Continental Airlines).

As noted by Professor Doganis (2001), “there can be little doubt that airline executives see alliances, especially when they involve code-sharing and capacity rationalization, as a way of limiting competition.”

c) The outsourcing issue may be illustrated by ground handling. Many Countries have introduced liberal ground handling provisions in their bilateral air services agreements and ground handling is now frequently outsourced to specialized companies, unlike air carriers, ground handling companies are not constrained by national ownership

restrictions and they have been undergoing a process of globalization and consolidation. This has given rise to some concern that the outsourcing of ground handling would have an adverse impact on safety, on the premise that private companies without previous experience of a safety culture are becoming involved. ICAO recently conducted a study on the safety aspect of ground handling which led to review of, and amendments to, the existing standards and recommended practices (SARPS) in Annex 6 and other guidance material.

d) With regard to the commercialization or privatization of airports and air navigation services, the main concern comes from the resulting change in ownership and control of these formerly state-owned entities, or the transfer of operations by governments to autonomous entities or to the private sector.

In response to the above concern, ICAO has developed policy guidance for use by States when considering the commercialization or privatization of airports and air navigation services providers.

ICAO has recommended that where an autonomous body or entity is established, the state should condition its approval of the new body by requiring that it observes all relevant obligations as specified in the Chicago convention and its Annexes. States should also bear in mind that irrespective of the change in ownership or management of these entities, the State is ultimately responsible for the safety, security and economic oversight of their operations (See ICAO DOC 9082, ICAO's Policies on Charges for Airports and Navigation Services).

e) For international aviation, the events of 11 September 2001 in the United States were profound in their immediate negative impact. Most notable were its effect on traffic, routes and services, employment and equipment planning, on cost and

availability of war risk insurance, and on consumer confidence, all of which also had severe knock-on consequences for associated service and equipment providers as well as dependent business, including tourism. These events have had a more pervasive and long term impact on the entire aviation industry, its structures, business practices and strategies.

According to the views expressed by ICAO secretariat in Atconf/5 – WP/6 p.4, “Of particular significance is the fact that aviation security has now taken on the highest importance with consequences for facilitation of passengers, costs of providing increased security measures and, in differing degrees around the world, public confidence”.

Although the threats of terrorism against civil aviation have greater impact than just on Liberalization, the increased security costs to counter such threats and the public’s fear of flying could have a potential negative impact on the recovery of the industry’s financial health and consumer confidence, which in turn could affect the pace of liberalization.

f) Liberalization helps create an operating environment to bring about efficient and competitive air services which could translate into more services and choices for consumers. Safety and security regulation ensures the safe and secure operation of air services, which in turn improves consumer confidence in air travel. Economic liberalization and safety and security regulation should therefore complement each other at the policy-making and regulatory implementation levels. Past experience has proved that enhanced safety regulation and oversight helps the smooth evolution of Liberalization (e.g. in the European Union).

g) Finally, the Chicago convention imposes responsibility for compliance with standards and practices related to safety and security on Contracting States. Irrespective of any change in economic regulation, safety and security must remain of paramount importance in the operation and development of air transport. Measures to ensure compliance with applicable safety and security standards and enhance regulatory oversight should form an integral part of the safeguards for liberalization.

## **2.11. EVOLUTION OF AIR TRANSPORT IN NIGERIA**

According to Ajulo (2002), a riotous situation resulting from a feud between the British colonial administration and the people of Kano City in 1925, forced a British Royal Air Force (RAF) fighter to land on a polo ground in Kano. This was the first flight in Nigeria. The mission of the crew was to carry out a surveillance of the riot, which broke out of protests by some Kano indigenes. After the maiden flight, the RAF began yearly flight to Kano and Maiduguri from the Sudan, relying solely on available intelligence reports and navigational aids on the aircraft. However, commercial aviation did not start until Imperial airlines started regular flights between UK and Nigeria in 1935.

The development of one of the infrastructure, aerodromes, was boosted with the advent of the Second World War. By 1940, all the airports planned for Nigeria had been completed.

At the end of the Second World War, the RAF returned, but with much improved equipment, and a different mandate. Using aircrafts chartered from the British Overseas Airways Corporation, they operated passenger and mail services

between Lagos, Port Harcourt, Enugu and Jos. Although of limited capacity and largely restricted to government business, the RAF services also linked Nigeria with the British West African possessions (Gold coast present day Ghana and Sierra-Leone). This can be described as the beginning of air transportation in Nigeria. (Mahouwu 1997).

With the establishment of the West African Airways Corporation (WAAC) on May 15<sup>th</sup> 1946, commercial air transport became part of the reality of West African life. At the end of the war, the British Overseas Airways Corporation (BOAC) replaced the Imperial Airlines to serve the British west African Colonies.

The West African Airways corporation broke up in 1957 when Ghana gained independence and formed its own airline. Consequently, the assets of WAAC were shared and Nigeria inherited some aircrafts and landed properties which were eventually transferred to the newly formed company, called the West African Airways Corporation (Nig.) Limited. The new company was incorporated by the Federal Government in partnership with BOAC and elder Dempster Limited on 23<sup>rd</sup> august 1958, with the Certificate of Incorporation No. 1740.

In 1961, WAAC was re-registered and renamed Nigeria airways Limited (NAL), following Nigerian government's acquisition of the combined interest of BOAC and Elder Dempster Lines. This was born out of the need to have a truly National flag carrier on attainment of independence in October 1960. Airline operations was then carried out by Nigeria Airways, which had the monopoly of operating scheduled services, and a number of private companies that later obtained licenses to operate charter services. NAL, being the National flag

carrier, operated scheduled passenger services on the domestic routes whether they were profitable or not.

Considerable efforts were made to develop aeronautical infrastructure to support viable air transport operation. Prior to 1970, Nigeria could only boast of two International airports. The Kano International airport commissioned in 1956 was the best, followed by the refurbished Lagos Airport. Ilorin Airport which was to serve as alternate to both Lagos and Kano paved the way for massive airport development which this country witnessed in the seventies. Hitherto, little better than landing trips were turned into modern aerodromes with capacity for B737 or heavier aircrafts. The days of Public Works Department (PWD) maintaining runways and other facilities were suddenly over. This gave birth to the Nigerian Airport Authority (NAA) in 1978 with 14 airports under her care.

Many of these airports have proved to be economic wastes because their establishments were based more on social-political rather than economic reasons (Uwadiae 2000). Derivable income of many of them is not enough to sustain the huge maintenance cost. Many hitherto viable airports are loosing patronage on account of the development of inter-city dual carriageways, unreliability of scheduled services, excessive delays at airports and prohibitive flying cost.

Air navigation and safety services were also upgraded in Lagos and Kano. The Kano flight Information Center was providing information as far North as Latitude 22 N where traffic was handed over to Malta, and up to 1,000 miles South of Kano. The Kano area operation covered the major routes across the Sahara desert, the equatorial rain forests and part of the South Atlantic.



### **2.11.1 AIR TRANSPORT ADMINISTRATION AND MANAGEMENT**

In the early days of aviation in Nigeria, the control and administration of civil aviation was vested in the Director of Public Works, who applied the British Air Navigation Law as the legislative instrument. Rapid growth in air transport activities in the country necessitated the establishment of Nigerian Civil Aviation Department.

The Civil Aviation Department (CAD) remained a separate entity until it was integrated into the Federal Ministry of Aviation with the statutory responsibility for regulating civil aviation practices and business by enforcing all the rules and regulations enunciated in the civil Aviation Act No. 30 of 1964. The Department was also charged with the responsibility of airport development and management and serviceability of navigational and communications aids in all airports in the country. The Ministry remained the organ of government, responsible for formulating policies, regulating the industry, providing some services including provision of aeronautical facilities, air traffic control etc. until 1990 when the Federal Airport Authority (FAAN) was created.

The creation of the Federal Civil Aviation authority (FCAA) as a Regulatory Authority, was based on the recommendation of the Air Commodore Kola Falope committee's report. The committee formulated the first National Civil Aviation Policy in 1989. The FCAA was responsible for the safety and economic regulation of the industry, as well as the provision of air traffic services, aeronautical information services, and aero-telecommunication services.

Remarkable growth in the demand of airports and air transportation services, especially after the civil war of 1966-1970, led to the creation of the Nigerian

Airports Authority (NAA) by decree, now Act, No.45 of 1945. The authority was created out of the Nigerian airport department of the Ministry and charged with full responsibility for the development and management of airports in the country. The Aviation Reform of 1995 however scrapped the Federal civil Aviation authority (FCAA) and realigned some of the functions with those of the Ministry of Aviation and former Nigeria Airport Authority (NAA). The realignment of functions led to the establishment of the Directorate of Safety Regulation and Monitoring (DSRAM) and the directorate of Economic Regulation and Monitoring (DERAM) in the Ministry and the creation of the Federal Airport Authority of Nigeria (FAAN) as an agency in the Ministry.

The 1989 Civil Aviation Policy was reviewed in 1998. the major highlights were the recommendation for the creation of the Nigeria Civil Aviation authority (NCAA) <out of DSRAM and part of DERAM in the Ministry> for the safety and economic regulation of the aviation industry and the Nigerian Airspace Management Agency (NAMA) <out of the Federal Airport Authority of Nigeria (FAAN) to provide navigational facilities, air traffic services aeronautical information services among others. FAAN is responsible for airport development and management. The Nigerian College of Aviation Technology (NCAT) provides various professional aviation training for skilled personnel required in the industry.

The 1998 reviewed policy like the 1989 policy, was expected to last 10 years. However certain developments in the industry including government privatization and liberalization policies, the unified insurance liability scheme (the 1999 Montreal convention), the Yamoussoukro Decision of 14<sup>th</sup> November, 1999,

the Banjul Accord Group Agreement to liberalize air transport in West Africa, the Open Skies Agreement Nigeria signed with United States of America and the desire of foreign carriers to operate into multiple points in Nigeria, necessitated the review of the 1998 civil aviation policy in 2001.

### **2.11.2 AIR TRANSPORT OPERATORS OF NIGERIA (AON)**

In the late eighties and early nineties, Government policy moved steadily in the direction of liberalization and limited or guided deregulation of the air transport market. The National flag flier, the Nigeria Airways, beset by administrative and financial difficulties (its fleet declined from 28 to 4 aircrafts between 1978 and 1988 and 2 in 1999, while its debt rose to nine-figure level) could not cope with the rising public demand for air transport services (Momodu, 1993). To address the situation, government allowed a number of private companies to operate air transport services. At present there are about 144 air Operating licenses subsisting in Nigeria, whose holders have the right to operate scheduled and unscheduled air transport services. Perhaps twenty-four or so of these actually exercise the privileges of their licenses.

In addition, the general aviation sector is booming with many fixed-wing aircraft and helicopters servicing the oilfields as well as an increasing number of corporate and private aircraft. The Nigerian Civil Aviation Authority regulates these domestic airlines. Below are some of the domestic airlines and charter air services in Nigeria.

<b>AIRLINE</b>	<b>SERVICE OFFERED</b>
ADC Airline	Airline
AERO Contractors	General aviation

Albarka Air Services	Airline
Associated Airline	Airline
Belview Airline	Airline
Bristle Helicopters	General aviation
Chachangi	Airline
Dana Aviation	General aviation
DAS Air Cargo	Cargo
Executive Air Services	Airline
Fassey Royal Airline	Airline
Foremost Aviation	Charter
Freedom Airline	Airline
GAS Airline	Airline
Harco Airlines	Airline
Harka Air Services	Airline
Kabo Airlines	Airline
Kolkol Airlines	Airline
Okada Airlines	Airline
Oriental Airlines	Airline
Pan African Airlines	Airline
Savanna Airlines	Airline
Skyline Airlines	Airline
Sky-power Express	Airline
Sosoliso Airlines	Airline
Triax airlines	

### **2.11.3. AIR TRANSPORT LIBERALISATION – THE NIGERIAN EXPERIENCE**

Nigeria, in her bid to revitalize her economy along contemporary opportunities has been in the forefront to liberalize ‘air’ transportation in the African continent. In a paper presented by Nigeria at the 2002 First Meeting of Directors General of Civil Aviation, the following were the “series of activities to create an enabling environment:

- (i) the institution of a New Civil Aviation Policy in line with the Liberalization trend, especially the Yamoussoukro Decision. This new policy has been formulated and is Legislative endorsement.
- (ii) commencement of the review of existing Bilateral air Services Agreements with African States, in line with the provisions of the Yamoussoukro Decision. One of such has been concluded with the Republic of Niger;
- (iii) deregulation of the local aviation market. Several private airlines have been licensed to undertake local, regional and international operations and the selection process for designation on regional and international routes is already concluded;
- (iv) implementation of a dual designation with the U.K. government;
- (v) signing of an open Skies agreement with the United States of America;  
and
- (vi) the on-going liquidation of NAL and formation of a new national carrier with South Africa Airways owning 30% equity participation.

#### **2.11.4 CONSTRAINTS TO AIR TRANSPORT LIBERALIZATION IN NIGERIA**

Despite the advancement made toward liberalization in Nigeria, the situation is still a far cry from what it ought to be. According to a paper presented by Nigeria titled: Air Transport Liberalization – Implementation of Yamoussoukro Decision, “The objective of a fully liberalized aviation environment has not been achieved as Nigeria is beset with the same problems facing most states in the West and Central African sub-region. These include:

- lack of a very strong national carrier around which, co-operation with airlines of other countries within the continent will revolve.
- operation of ageing aircraft by private airlines which cannot compete successfully with the young and modern fleet of airlines from Europe and other parts of the world;
- the slow administrative and legislative processes which has not made the full exploitation of the liberalized environment possible; and the adequate private sector investment in aviation which has led to the under capitalization of the industry. (2002, DGCA.1.WP/23 p.1-2)

#### **2.11.5 REGULATORY IMPLICATION OF OPEN SKIES IN NIGERIA.**

According to Chikwe (2001), “The liberalization and open skies process involves strict enforcement of safety regulations to ensure safety and security of operations, contrary to the impression that it will be a free for all affairs”. It follows therefore that the Nigerian Civil Aviations Authority (NCAA) must

wake up to its oversight functions as a regulatory body. The ICAO Standards and Recommended Practices (SARPS) must be strictly adhered to.

The Nigerian Civil Aviation Policy has been reviewed to take care of the anticipated Regulatory challenges of the open skies. The Economic regulatory functions of NCAA by way of issuance of Air Operating License to new entrants into the market issuance of certificate of airworthiness to aircraft, personnel licensing and training, the certification of pilots, controllers and engineers etc must be done with professionalism and a great degree of autonomy from the government. NCAA must oversee the service providers like AON, NAMA, FAAN, NIMET, and NCAT to ensure proper calibration of facilities and protect the interest of the consumers adequately.

The development of new satellite technology system, communication, navigation and Surveillance /Air Traffic Management (CNS/ATM) aimed at enhancing existing air navigation system by giving exact location of an aircraft in space, especially over vast oceans, and land areas have been accepted by Civil Aviation Authorities globally. The implication of this global acceptance demands the state's regulatory authorities to ensure the implementation of the system vis-à-vis its installation by airlines in their aircraft. The implementation of this system will pose a great threat to the operation of airlines in Nigeria and Africa if regulatory authorities are to ensure compliance.

The regulatory challenges therefore are a response to the hurdles that must be overcome by all operators – (Nigerians and Foreigners) to be able to exploit the abundant opportunities in the Nigerian air transport business. Competition laws rather than regulations will guide the commercial operations in the open sky

system. The future calls for increased enforcement of safety and security regulation by increased enforcement of safety and security regulation by regulatory agencies via increased use of modern technology.

As put forward by Nigerian's former Minister of Aviation , Kema Chikwe (2001), "Each 'Open Skies' Agreement can increase traffic between the two signature nations by as much as six folds". She listed the early challenges Nigeria will go through at the home front thus:

- a) Creating capacities on the international market.
- b) Increasing frequencies on all international routes.
- c) Acquiring modern equipment for all international routes.
- d) Creating passenger friendly gateways i.e. international airports
- e) Creating a very efficient handling and secured environment.

#### **2.11.6 COMMERCIAL/ECONOMIC IMPLICATIONS OF OPEN SKIES IN NIGERIA**

Part of the economic challenges which will face the Nigerian commercial airlines is the need to apply the protocols and conventions adopted multilaterally especially at the ICAO. One of such agreement is the Montreal convention on the limits of liabilities of airlines in case of accidents involving loss of passengers. At the ICAO level, agreement has been reached on the minimum limit of liability for airlines whenever these incidents occur. For example, the next of kin of a passenger that dies in crash as a result of negligence of an airline will be entitled to a minimum compensation of about 100,000 SDR (Special Drawing Rights - \$1.4).



The victim or his or her relations in the event of death may sue for higher claims depending on the level of the country of the nationality of the passenger. Nigerian commercial airlines participating in open skies and carrying foreigners are therefore exposed to this international protocol, which must be applied as soon as it comes into effect globally.

It is pertinent to note that, most of our airlines are characterized by low capitalization, high indebtedness to creditors, low capacity utilization, wet and dry leasing of aircraft, unstable manpower retention (high technical staff attrition rate) which are symptoms of an economically weak airline industry.

**AGEING AIRCRAFT** As a result of the aforementioned deficiencies, all the domestic carriers in Nigeria are operating aged aircraft, most of which are over 20 years old. These aging aircrafts need considerable amount of funds to keep them airworthy, as compliance must be demonstrated in line with the manufacturers ageing aircraft maintenance program. Chikwe (2001) described these aircrafts as ‘Old Mostly Stage II aircrafts that cannot compete effectively in the international arena because they do not meet the low noise and emission levels of stage III aircraft type that are allowed to operate in Europe from Year 2000, or effective for international travel worldwide from year 2000 as agreed by ICAO.’ In Nigeria, the regulatory authority has issued a ban on the use of aircrafts above 22 years of age in an effort to gradually move towards the attainment of international standards.

The commercial implications of liberalization, by way of benefits, to Nigeria can be summarized as follows:

- a. It will attract more carriers and guarantee the survival of the autonomous Civil Aviation and Airport Authorities in Africa. Increases in tariff will bring about revenue increase.
- b) Increased employment opportunities.
- c) Tourism industry will be encouraged as foreign capital inflow is enhanced.
- d) Full air Cargo liberalization will enhance export of goods and services from Nigeria while at the same easing the movement of imported goods into the country.
- e) Liberalization and open sky policy will facilitate competition and make the government desire for making Lagos as regional hub a reality.

## **2.12 THE YAMOSSOUKRO DECLARATION, YD**

Recognizing the relevance of the objective of the Yamoussoukro declaration on a new African Civil Aviation Policy adopted on 7<sup>th</sup> October 1988 whose primary purpose was to create a conducive environment for the development of intra-African Ministers meeting in Yamoussoukro, Cote d'Ivoire on 13 and 14 November, 1999 adopted the Yamoussoukro Decision.

The principal aim of this decision was to accelerate the implementation of the Yamoussoukro declaration especially those relating to the granting of traffic rights, regional cooperation in air transport and the role of the governments.

In lie with ICAO's guiding principles, the decision was to pursue the development of safe regular and orderly air transport services on the basis of equality.

It was also to create 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 service, in Africa.

The Decision recognized the necessity to adopt measures with the aim of progressively establishing a liberalized intra-African aviation market concerning among other things, traffic rights, capacity, frequency and pricing. It came into force thirty (30) days after the date of its signature by the Chairman of the Assembly of Heads of State and Government at which this Decision was adopted.

Some of the Provisions of this Decision are as follows:

- a) State parties grant to each other the free exercise of the rights of the first, second, third, fourth and fifth freedoms of the air on scheduled and non-scheduled passenger cargo and/or mail flights performed by an Eligible airline to/from their respective territories (Article 2, S.31).
- b) there shall be no limit on the number of frequencies and capacity offered on air services linking any city pair combination between state parties concerned. Consistent with this right, no state party shall unilaterally limit the volume of traffic, the type of aircraft to be operated or the number of flights per week, except for environmental, safety, technical or other special consideration. (Article 5.S.5.1.)
- c) Article 5.2 went further to say: “Without prejudice to the provisions of paragraph 5.1. above, a State Party concerned may refuse to authorize an increase in capacity if such additional capacity is not in compliance with the provisions of article 7 relating to the rule of fair competition”.

Competition rules are more easily defined by identifying “Unfair competitive behavior” discussed earlier in this chapter. Article 7.1 – provides for fair and equal opportunity for designated airlines. Article 7.2 of the Y/D provide as follows:

“For the purposes of this decision, State parties agree that the following constitute unfair competitive behaviour.

- i) Charging fares and rates at level, which are, in aggregate, insufficient to cover the costs of providing the services to which they relate.
- ii) The addition of excessive capacity or frequency of services on a given sector, when the behavior referred to in paragraphs (a) and (b) above is:
  - Sustained rather than temporary; or
  - Have a serious economic effect on, or cause significant economic damage to another carrier; or
  - Reflect an apparent intent or have the probable effect, of crippling, excluding or driving another airline out of the market.

So, Yamoussoukro is very clear after all but only by proper interpretations. Governments do retain control. All will have the “fair and equal opportunity to participate”. This is the real understanding of “Level Playing Field”. To summarize this, Tokoph (2001, p.9), stated that “An unbridled, unfair and unregulated airline industry can not exist on the same playing field as competition rules. They are like oil and water and they do not mix”.

#### **2.12.1 Other Aspects Of The Yamoussoukro Declaration Are:**

- i) The agreement by African States to adopt a common position on the application of measures concerning aircraft noise restrictions;
- ii) The resolution to jointly prevent the introduction into their countries of aircrafts that are no longer in use elsewhere because of noise restrictions;

- iii) To improve the financial situation, management, adequate training and retention of competent staff among African airlines and encourage their mergers, acquisition and consideration.
- iv) Within the framework of their integration seek to purchase equipment jointly in order to acquire modern aircraft;
- v) The agreement that African States would combat the invasion of their national markets by non-African product distribution systems. Seek to protect African market by requiring travel agents to use Computer Reservation System (CRS) being used by the Nation carriers. Pending the establishment of joint CRS, African airlines would cooperate in selecting a system offering the best terms and conditions and shall negotiate collectively for its use; and
- vi) The agreement by African States to support the current efforts of ICAO at adopting a code of conduct for unbiased use of the CRS taking into consideration the specific interest of African airlines.

### **2.12.2 Where Is the Political Will?**

Fifteen years after the Yamoussoukro Declaration and five years after the Yamoussoukro Decision, the issues of alliance, mergers and acquisition among African airlines have remained mere slogans echoed only within the intellectual discourse. The result of this delay is the continued decay of African aviation, while its European and American counterparts are moving in jet speed in terms of cooperation, code sharing and alliances.

Meanwhile, analysis have strongly canvassed that the question of implementing the Y/D is better harnessed now than before in view of the growing wave of alliances and globalization among mega-carriers of Europe, America and Asia.

Efforts by African Airlines Association (AFRAA), the umbrella body of the carriers in the continent to foster unity among their members for positive relationship have yielded no dividends as nation states have continued to show lack of political will to implement their several policy initiatives. The target date of year 2002 set for unrestricted market access for National carriers of African States could not be realized.

Most of the African States, including Nigeria, appeared not prepared to relax some of the legislations that stand in the way of the realization of the desired strong aviation industry in the continent that can match the threats of globalization. There is no gainsaying that African airlines lack the ingredients to match the competitive edge of their European and American counterparts individually in the face of the high rate of fleet depletion while their aforementioned colleagues are taking deliveries of modern and sophisticated jet every now and then in replacement of old stocks.

The reason for the inability of most African carriers to acquire modern machines is obvious. The operating economic environment makes accessibility to the capital required for such a venture near impossibility. Hence pooling of resources among airlines, a major process of realizing the policy, was the worst casualty of the entire process as no state or airline wanted to dare such.

Observers have, however, contended that the implementation of the Yamoussoukro accord remains the only way to save the continent and its carriers from the threat of total extinction in the emerging trend of globalizations.

Questions have often been asked at several aviation fora as to what has been responsible for the non implementation of these fine air transport policy despite yawning desires expressed by governments and carriers in the continent?

Some school of thoughts have proffered ownership structure of the continental carriers as largely responsible while others blame it squarely on the lack of political will and poor coordination both at the national and sub-regional level. There is also the belief that the financial institutions within the continents especially the African Development Bank (ADB) have performed below expectation in terms of mobilization and education. Nigeria's former Minister of Aviation, Kema Chikwe (2002, p4) described the funding situation as follows:

“The Aviation Industry in Africa is grossly under-capitalized. Much capital is needed to enforce standards in the various areas of the industry. Lack of Capital is responsible for the inadequate navigational aides, obsolete ground handling equipment, the use of aged aircraft and poor facilities at the airports”.

She went further to say: “African airlines do not have the necessary financial muscle for the sustenance of their portfolio. They need to forge alliance or co-operation with one another”.

### **2.13. THE BANJUL ACCORD**

The Banjul accord for an Accelerated Implementation of the Yamoussoukro Declaration was established in April 1977 by seven group of States comprising Cape Verde, Ghana, Guinea Bissau, Sierra Leone, Nigeria and the Gambia. The purpose was to foster cooperation in the areas of provision and management of air traffic services; establishment and exercise of Safety Oversight Procedures; establishment of a coordinated multilateral approach to the negotiation of agreements with respect to the granting of Traffic rights, among others. According to the Chairman, Jallow (2001, p.9) “In addition to seeking to simplify the exchange of traffic rights, and market access, the

Banjul Accord is encouraging airlines of member states to enter into commercial arrangements for increased efficiency and cost effectiveness; harmonization of air transport regulations and air services agreements; joint capacity building and pooling of expert skills and services, particularly for effective exercise of safety oversight’.

The data shown below shows that not much has been achieved by the Banjul Accord Group in terms of aircraft number and inspectors.

Country	No. of Aircraft On Register	No. of Persons Licensed	No. of Inspectors	No. of A/C Per Inspector	No. of Licensed person/Inspector
Cape Verde	9	109	3	3	16
Gambia	12	19	7	(1.7)	(2.7)
Ghana	43	293	17	(2.5)	(1.72)
Nigeria	407	4,996	42	(9.3)	(118.9)
Liberia	-	-	-	-	-
Guinea	17	59	6	(2.8)	(90.83)
Sierra Leone	7	-	4	(1.8)	-
Total	495	5,376	79	(6.2)	(68)

**SOURCE: AVIATION & ALLIED BUSINESS JOURNAL**

#### **2.14. THE YAOUNDE TREATY**

The Yaounde Treaty was signed in 1961 by Francophone States in West and Central Africa (WCA). The Treaty created cabotage zone among the francophone



States in the sub-region, which regarded their territories as one economic zone into which other states in West Africa were not freely admitted.

As the World Bank report on Western and Central Africa (WCA) puts it “..... The Treaty has isolated the region from external pressure and competition (giving a monopoly to Air Afrique), it has been the main obstacle to efficient and profitable air transport services within the region”. (World Bank report, African Aviation April 1999. P.28). .

Under the umbrella of the Yaounde Treaty, air transport services in the Western and Central Africa have continued to decline and are characterized by unreliability, inconvenient schedules for both the business traveler and the tourist market, and extremely high prices. Furthermore, the Government-owned carriers of the WCA Region are on the verge of bankruptcy. Indeed, air Afrique the official carrier for the Francophone countries in the region is already bankrupt. The World Bank Report on passenger air travel trend in the WCA countries gave several factors for the poor performance of African airlines in the region. These are:

- i) A rapid regulatory framework hindering competition.
- ii) Government ownership favoring political interference.
- iii) Economic and Marketing barriers.

Options under consideration: The World Bank Group identified three scenarios in order to encourage rapid liberation in WCA region, for consideration:

- a) The status quo scenario: the Yaounde Treaty stays in place Air Afrique operating both long-haul and regional routes, while the local carriers

continue to operate the domestic routes and the trans border service under Air Afrique tolerance.

- b) The piecemeal approach: marginal revisions would be made to the Yaounde Treaty.
- c) The Fundamental Change Scenario: “Open Skies” would be adopted. Air Afrique exclusivity on the regional routes would be removed immediately within the region. Exclusivity on long-haul would be removed after a transition period of three years.

Under this scenario, local carriers with the freedom to fly without restriction within the region could be privatized successfully and operate more efficiently in a bigger market while others would be liquidated within a competitive environment.

The World Bank Group’s core task team therefore recommended the adoption of “Open Skies” fundamental reform option.

## **SYNOPSIS**

The above can be summarized as follows:

- a) Liberalization thrives in an international level playing field, freed from national discrimination and based on sound principles of reciprocity, equal treatment and fair opportunities.
- b) African States prefer a plan of action that sought to encourage regional integration as a means of shaping their airlines for the global competition to be heralded by liberalization and open skies.

- c) Without National Carriers, African States including Nigeria can only be on-lookers and not effective participants in the global competitive aviation market. The Technical Committee on National Civil Aviation Policy Review 2001 stated the need for a National Carrier thus: “Nigeria need a strong, virile and efficient carrier around which co-operation with airlines of other countries within the continent will revolve” (ATM/SC-WP5.2001.P2).
- d) Because African airlines are grossly under capitalized, there is the need for them to forge alliance or co-operation with one another. Government must take a critical look at our air transportation and it`s critical role in our national economy in order to accord the right funding to the sector. The attention of the international funding agencies should be drawn to this reality.
- e) Market access should be open, provided the capacity offered by each State airline is matched by market potential or size to avoid capacity dumping or predation.
- f) The chapter also suggests the need to have an acceptable code of conduct to provide a common understanding of what is acceptable and what is not. This will help minimize disputes.
- g) Because of increased emphasis on commercial outcomes by airlines, Safety and Security standards must be maintained globally.
- h) Liberalization or open skies must be accompanied by regulation and re-regulation of the new challenges such as anti-competitive activities, terrorism, SARS etc.

- i) The Yamoussoukro Decision is a fine document but African States have not shown enough political will towards its implementation.

## **CHAPTER THREE**

### **3.0 RESEACH METHODOLOGY**

#### **3.1 INTR0DUCTION**

In this chapter, the methodology adopted in the study will be discussed. It includes the identification of the study population, sample size, sampling procedures, justification for sample selection, questionnaire design and administration, instruments used, data analyses techniques and presentation.

#### **3.2 METHODS OF DATA COLLECTION**

Three methods of data collection were adopted in this study. These are:

- a) Structured self-administered Questionnaire
- b) Desk Research and
- c) Oral interview.

A well-structured questionnaire was drawn and delivered to the respondents through the airports. Being a self-administered questionnaire, the respondents were expected to complete and return the questionnaire through the office of the Airspace Managers at the airports. This made the collection of completed questionnaire easy.

The questionnaire was designed to elicit information from senior executives of the aviation industry and other stakeholders, particularly the journalists, the traveling public, pilots, Air Traffic Controllers, Maintenance Engineers, Cabin Crews, etc.

The Desk Research includes the collection of data by reviewing scholarly and other professional works of Air Transport privatization, deregulation, liberalization and open sky skies including research reports, journals and other published works.

These have been duly acknowledged and listed in the bibliography. To achieve the set objectives, the International Civil Aviation Organization (ICAO) web site was effectively used to retrieve all Journals, releases and reports relevant to the field of study. Also the library of the Nigerian Civil Aviation Authority (NCAA) and that of the Aviation College, Zaria, Kaduna State were extensively used.

Oral interview of some selected retired and serving officers of the air transport Industry was done on a very low scale. Also some members of the traveling public were interviewed.

## **3.2 POPULATION**

The population in a study is the group of people or object, the researcher is studying. In this study, the population are stakeholders in the aviation industry and comprised the Federal Ministry of Aviation, the regulatory body, the service providers, journalists, Airline Operators of Nigeria (AON), the foreign airlines, travel agencies, etc. The population under study is fairly large and could be estimated to be in thousands.

## **3.4 SAMPLES SIZE**

Samples are subgroups drawn from the population since it is difficult to study an entire large population. This study therefore is based on a sample size of 135 management personnel of the aviation industry and other stakeholders. Owing to

the technical nature of the sector and the sensitivity of the topic under investigation. The choice of sample was subjected to vigorous scrutiny in order to establish a reasonable degree of reliability on the outcome of the investigation.

### **3.3 JUSTIFICATION FOR SAMPLE SELECTION**

Senior executives of the Aviation industry and other stakeholders like pilots, cabin crews, air traffic controllers, aeronautical engineers, aviation journalists, the traveling public etc; were used in this study because being professionals and experts in the Aviation industry, they are in a better position to express views and possibly offer solutions to the perceived problems in the industry especially as it borders on privatization and liberalization.

The population under study is fairly large and could be estimated to be in thousands. It is therefore not possible to sample every body in the industry or from the consuming public. It is in light of this that the study made use of a sample size of 135 participants from some selected states of the federation.

This sample is representative enough for the population, considering the size and the different agencies and departments in the aviation industry that took part in the study.

### **3.6. SAMPLING PROCEDURE**

The questionnaires were administered to target audience by allowing the respondents to fill out the questionnaire accordingly. A total of 200 questionnaires were distributed randomly to the selected targets in Lagos, Port-Harcourt, Abuja, Kano and Kaduna through the Airspace Managers. However, only 135 questionnaires representing 67.5% of respondents out of a total 200 questionnaires sent out were returned. Participants were told to ask questions if they do not understand or encounter any problems with any item on the questionnaire.

### **3.7 QUESTIONNAIRE DESIGN AND ADMINISTRATION**

The approach used involves the designing and administration of structured questions to respondents. Each person was asked to respond to the same set of questions aimed at seeking opinion on various areas of the subject of study. Most of the questions are structured with options for choices of ratings to ease responses, collation and analysis.

The questionnaires were self-administered but distribution was supervised by Airspace Managers at the airports while the services of unemployed graduates were used to serve respondents outside the airports, especially aviation journalists and the traveling public.

### **3.8 SOURCES OF DATA (INSTRUMENTS USED)**

The data used in this work are mainly primary for according to Ezekiel Oyemomi (2003), primary data are those data obtained for the solution of the specific problem at hand. This source of data is very useful because the data arising there from are usually target-tailored. The primary source data, therefore, was a field survey using questionnaires administered on stakeholders in the aviation industry and the users of the services provided by airlines.

In a book titled *Research Methods for Business Students*, authored by Saunders et al (1977, p.159), it was stated that “Most research questions are answered using some combination of secondary and primary data”.

Secondary data are essentially the survey of existing documents, organization/set up, Operational Information, Aeronautical Information Services, Regional cooperation and Bilateral Air Services Agreements (BASA) etc. Sources include ICAO publications and journals, conferences and seminars, Aviation bulletins, textbooks, newspapers, reports, published and unpublished reports of research projects, etc.

Apart from the questionnaire method adopted in this study, some of the findings were also gathered through oral interviews with some management staff (both retired and serving), randomly selected from the Ministry of Aviation and its Agencies – including the liquidated Nigeria Airways Limited.



### 3.9 DATA ANALYSIS TECHNIQUE

One purpose of statistical analysis as stated by Dickinson (1977), is to reduce a mass of data into a more compact form that shows general trends and relationships between variables. He maintained that the objective of statistical analysis is to provide a quantitative way of distilling the essential features. The following technique was used in analysis the data:

#### **The Chi-Square ( $X^2$ )**

Chi-Square, as a method for testing hypotheses, measures the reliability and significance of data to see whether deviations of the actual observations (observed frequency) from the expected is significant so that it may lead to the acceptance or rejection of the null hypothesis. Chi-square may be defined as the sum of the ratio of difference between observed and expected values (Hoel, 1974). Its use involves the determination of the observed (actual) and the expected frequencies, the deviation squared, and the summations of the deviations squared divided by the summations of the deviations squared divided by the summations of the expected frequencies thus:

$$\text{Chi-Square } (X^2) = \sum \frac{(O-E)^2}{E}$$

Where O = Observed value (frequency); and

E = Expected (value frequency)

Therefore Chi-Square test was used to evaluate whether or not the values that have been empirically obtained differ significantly from those, which would be expected under a certain set of theoretical assumptions

### **3.10 PRESENTATION OF DATA**

The data collected and collated in the course of the study especially those in form of responses from questionnaires, were presented in Tables, using absolute figures and the comparative percentages capable of self-explanation and further analyses. The tables were structured in line with the particular item(s) or group of items relevant to the issue being tested or highlighted toward proving or disproving of the hypotheses. Issues to further confirm findings, reinforce conclusions and assist in the recommendations were also tabulated from the questionnaires responded to accordingly.

## CHAPTER FOUR

### 4.0 PRESENTATION AND ANALYSIS OF THE RESULTS

#### 4.1 TABLE

##### **Gender Distribution of Respondents**

<b>Gender</b>	<b>Number</b>	<b>Percentages</b>
1 Male	95	70.37%
1 Female	40	29.63%
<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research July 2004

Table 4.1 shows the gender distribution of respondents. 135 participants took part in this study and out of this, 95 participants representing 70.37% were male participants. 40 participants representing 29.63% were females. It shows that the gender representation was fairly adequate considering that majority of stakeholders in the aviation industry are males. The significance of this in terms of gender distribution from the study can be seen also in the ratio of 70: 30, in favour of male participants in the industry.

**Table 4.2      Age Distribution of Respondents**

<b>S/No.</b>	<b>Age</b>	<b>Number</b>	<b>Percentage</b>
1	21-30 Years	5	3.70%
2	31-40 Years	6	4.44%
3	41-50 Years	40	29.63%
4	50-60 Years	55	40.74%
5	61 & above	29	21.48%
	<b>Total</b>	<b>135</b>	<b>100.00%</b>

**Source:** Field research, July 2004.

Table 4.2 shows the age distribution of respondents. The age range was 21 – 61 years and above. However the majority of respondents' age bracket falls between 41 to 50 years of age. Meaning respondents apart from their academic background are also matured and enlightened about the subject matter under study.

**Table 4.3: Educational distribution of respondents**

<b>S/No.</b>	<b>Education</b>	<b>Number</b>	<b>Percentage</b>
1	Primary	---	---
2	Post Primary	20	14.82%
3	Polytechnic & College of Education	50	37.03%
4	University	55	40.74%
5	Other Professionals	10	7.41%
	<b>Total</b>	<b>135</b>	<b>100.00%</b>

**Source:** Field research – July 2004

Table 4.3 shows the educational distribution of participants. Participants were made up of post-primary, polytechnic, college of education, university and other professionals. 20 participants (14.82%) hold the post-primary education. 50 participants (37.03%) hold the polytechnic/college of education qualification. 55 participants (40.74%) were university graduates, while 10 participants (7.41%) were professionals from other fields of

endeavours. Majority of participants were therefore highly educated, enlightened and understood the complex nature of the subject matter under study.

**Table 4.4: Duration/Experience in the Aviation Industry**

<b>S/No.</b>	<b>Duration</b>	<b>Number</b>	<b>Percentage</b>
1	0 – 5 Years	25	18.52%
2	6 – 10 Years	35	25.93%
3	11 – 15 Years	50	37.04%
4	15 Yrs. & above	25	18.52%
	<b>Total</b>	135	100%

**Source:** Field Research, July 2004.

Table 4.4 shows the duration of service in the Aviation industry of respondents.

25 respondents representing 18.52% have served for about 5 years in the Aviation industry. 35 respondents, representing 25.93% have served between 6 – 15 years in the industry. 50 respondents, representing 37.04% served between 11 – 15 years in the industry. 25 respondents also representing 18.52% have served 15 years and above in the Aviation industry.

Majority of those interviewed therefore were people who have the knowledge and the needed experience in the Aviation industry and whose views could be taken as authoritative and reliable.

**Table 4.5: Questionnaire Statement: Do you have overseas experience?**

<b>S/No.</b>	<b>Options</b>	<b>Number</b>	<b>Percentages</b>
1.	Yes	119	88.15%
2.	No	16	11.85%
	<b>Total</b>	<b>135</b>	<b>100%</b>

Source: Field research July 2004.

Table 4.5 shows 119 respondents representing 88.15% who said they have had overseas experience while 16 participants representing 11.85% said they have not had overseas experience. Majority of the respondents therefore have had overseas experience.

**Table 4.6: Questionnaire Statement; State your familiar aspect of aviation.**

<b>S/No.</b>	<b>Organization</b>	<b>No.</b>	<b>Percentage</b>
1.	FAAN	10	7.41%
2.	NCAA	12	8.89%
3.	AON	14	10.37%
4.	NAHCO	18	13.33%
5.	NCAT	19	14.07%
6.	NIMET	15	11.11%
7.	NAMA	16	11.85%
8.	FMA	17	12.59%
9.	OTHERS	14	10.37%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research July 2004.

Table 4.6 shows the occupational/departmental affiliations of respondents in the Aviation industry. 10 participants from the Federal Airport Authority of Nigeria



(FAAN) representing 7.41% took part in the study. 12 participants (8.89%) from the Nigeria Civil Aviation Authority also took part in the study. 14 participants (10.37%) represent the traveling public and aviation journalists. Other members or respondents from other agencies as could be seen from the table above also took part in the study.

**Table 4.7 Questionnaire Statement:** Describe your knowledge of the air transport industry.

S/No.	Options	Number	Percentages
1.	Very good	30	22.22%
2.	Good	45	33.33%
3.	Average	20	14.81%
4.	Below Average	40	29.63%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field Research, July, 2004

Table 4.7 shows the degree of awareness of respondents about the air transport industry. 30 participants (22.22%) claim their knowledge about the industry is very good. 45 participants (33.33%) said they have a good knowledge of the industry. 20 participants (14.81%) said their knowledge about the air transport industry is average. 40 respondents representing 29.63% said their knowledge about the industry is below average.

**Table 4.8 Questionnaire Statement:** Are you aware of air transport liberalization efforts worldwide?

<b>S/No.</b>	<b>Options</b>	<b>Number</b>	<b>Percentages</b>
1.	Yes	115	85.2%
2.	No	20	14.8%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research, July, 2004

Table 4.8 shows 115 respondents, representing 85.2%, said they were aware of air transport liberalization efforts worldwide. According to respondents, air transport liberalization is a system whereby air carriers are given equal opportunity to compete without being given a specific route in air transportation.

20 respondents representing 14.8% however, said they were not aware of the liberalization of the industry worldwide. This shows that majority of those interviewed, were aware of air transport liberalization efforts worldwide.

**Table 4.9: Questionnaire Statement:** The International Civil Aviation Organization (ICAO) should put in place a mechanism for a harmonized rules that allow air carriers to compete on an equal basis.

S/No.	Options	Number	Percentages
1.	Yes	106	78.52%
2.	No	29	21.48%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research July, 2004

Table 4.9 shows 106 respondents (78.52%) who agreed that the International Civil Aviation Authority (ICAO) should put in place a mechanism for a harmonized rule that allow air carriers to compete on an equal basis. 29 respondents (21.48%) were however of a contrary view saying that, developing countries are not yet ripe for a policy like this, due to a number of factors some of which include underdeveloped infrastructural facilities. This conforms with one of the main functions of ICAO which has to do with oversight audit of facilities and

programs of member states with a view to ensuring that Standard and Recommended Practices are complied with.

Majority of respondents therefore were of the view as the questionnaire stated.

**Table 4.10: Questionnaire Statement:** Each state must decide on the extent to which and how it wishes to participate in the gradual process of liberalization.

S/No.	Options	Number	Percentages
1.	Yes	115	85.2%
2.	No	20	14.8%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.10 shows 115 respondents, representing 85.2% who agreed that, each must decide on the extent to which and how it wishes to participate in the gradual process of liberalization. 20 respondents (14.8%) however were of different and contrary view. This finding is in line with our literature review, which revealed why Developing Countries (including African States) argue for a case-by-case approach to liberalization. Even the developed countries in the European Union, not wanting to adopt the American open skies policy, introduced terms like the ‘community of interest’ to their liberalization agenda.

**Table 4.11: Questionnaire Statement:** The time is not yet ripe for developing countries like Nigeria to embrace full-blown liberalization of the air transport sector.

S/No.	Options	Number	Percentages
1.	Yes	95	70.4%
2.	No	40	29.6%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.11 shows 95 respondents (70.4%) who said they agree that the time is not yet ripe for developing countries like Nigeria to embrace full blown liberalization of the air transport sub-sector. This according to them is due to the under developed infrastructural facilities and the general poor business environment among other factors. 40 respondents, representing 29.5% however said, the time is indeed proper for developing countries especially Nigeria, to embrace full-blown liberalization of the air transport sub-sector.

Majority of the respondents therefore did not support the idea of a full-blown liberalization by developing countries especially Nigeria. This again is in line with what is on the ground in most of Nigerian airports and navigational routes.

New Instrument Landing Systems (ILS) and other navigational facilities, like the Tatl Radar coverage of the airspace, are just being installed. The new Communication, Navigation and Surveillance/ Air Traffic Management (CNS/ATM) that is based on satellite technology is just being embraced in Nigeria. Talk of a National Carrier; Nigeria has none since the demise of The Nigeria Airways Limited.

**Table 4.12: General Questionnaire Statements:** Smaller airlines can survive liberalization without joining alliances

S/No.	Options	Number	Percentages
1.	Yes	43	31.85%
2.	No	92	68.15%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.12 shows 43 respondents (31.85%) who said they agree that smaller airlines can survive liberalization without joining alliances. Therefore to survive liberalization, smaller airlines must join alliances. This also conforms with views expressed by most authors as seen in our literature review. Because of low capitalization of most African airlines, they are faced with the urgent need to embrace alliances among themselves or undergo mergers and acquisition so as to enhance their capital base for competition in the liberalized market.

**Table 4.13: Questionnaire Statement:** Air services consumers in Nigeria should be given adequate protection within the air transport liberalization efforts.

S/No.	Options	Number	Percentages
1.	Yes	135	100%
2.	No	00	0%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July 2004

Table 4.13 shows that all respondents that is 135(100%) said that they agree that air services consumers in Nigeria should be given adequate protection within the air transport liberalization efforts. Consumer protection is one of the new areas that the Nigerian Civil Aviation Authority (NCAA) has done well by enlightening the consumers of air transport services of their basic rights.

**Table 4.14: Questionnaire Statement:** Can we say that the Nigerian domestic air transportation is fully liberalized?

S/No.	Options	Number	Percentages
1.	Yes	54	62.2%
2.	No	51	37.8%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July 2004.

Table 4.14 shows 51 respondents (62.2%) who said they agreed that the Nigerian domestic air transport is fully liberalized. 84 respondents (37.8%) however said they are not in support of this view.

**Table 4.15: Questionnaire Statement:** Do you agree that unrestricted market access will lead to capacity dumping at our international airport?

S/No.	Options	Number	Percentages
1.	Yes	55	40.74%
2.	No	80	59.26%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.15 shows 55 respondents (40.74%), who said they agree with the view that unrestricted market access will lead to capacity dumping at our international airport. 80 respondents (59.26%), however said they did not agree with the view.

**Table 4.16: Questionnaire Statement:** Are you comfortable with the state of air navigational facilities in the country.

S/No.	Options	Number	Percentages
1.	Yes	22	16.30%
2.	No	113	83.70%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.16 shows 22 respondents (16.30%) who said they are comfortable with the state of air navigational facilities in the country. 113 respondents representing (83.70%), however said they disagree, and so are not comfortable with state of air navigational facilities in the country. Our comments on 4.11 explains why result came out this way.



**Table 4.17 Questionnaire Statement:** How do you rate the usefulness to Nigeria of the open skies bilateral with the United States?

<b>S/No.</b>	<b>Options</b>	<b>Number</b>	<b>Percentages</b>
1.	Very Useful	30	22.22%
2.	Useful	45	33.33%
3.	Marginal Useful	40	26.3%
4.	Not Useful	20	14.82%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field Research, July, 2004

Table 4.17 shows 30 respondents (22.22%) who said their rating of the usefulness to Nigeria of the open skies bilateral with the United States is very useful. 45

respondents (33.33%) said the policy is useful. While 40 respondents (29.63%) said the open skies bilateral with the United States is marginally useful. 20 respondents (14.82%) said their rating of the bilateral agreement on open skies is not useful.

**Table 4.18: Questionnaire Statements:** Liberalization of air transport will bring about efficiency and quality service delivery.

<b>S/No.</b>	<b>Options</b>	<b>Number</b>	<b>Percentages</b>
1.	Strongly Disagree	42	31.1%
2.	Strongly Agree	93	68.9%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.18 shows 42 respondents (31.1%) who said they strongly disagree with the view that liberalization will bring about efficiency and quality service in the Aviation industry. 93 respondents representing 68.9% said they strongly agree that the policy will lead to efficiency and quality of service delivery.

**Table 4.19 Questionnaire Statements:** Liberalization of the industry will ensure fair competition and safer air travels.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	25	18.52%
2.	Strongly Agree	110	81.48%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.19 shows 25 respondents (18.52%) who said they strongly disagree that liberalization will ensure fair competition and safer air travels. 110 respondents representing 81.48% said they strongly agree that the policy will bring about efficiency and quality services.

**Table 4.20: Questionnaire Statements:** Airport constraints on market access in the advanced countries inhibit African carriers ability to take advantage of slots.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	15	11.11%
2.	Strongly Agree	120	88.89%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.20 show 15 respondents (11.11%) who said they strongly disagree that airport constraints on market access in the advanced countries inhibit African carriers ability to take advantage of slots. 120 respondents (88.89%) however, said they strongly agree with the view. This explains the reason why a few African airlines that fly to capacity constrained airports like Heathrow, New York

etc; cannot utilize their slots fully while their counterparts like The British Airways and Virgin Atlantic Airlines fully utilize their slots since most African international airports are under utilized

**Table 4.21: Questionnaire Statements:** The sustainability of carriers in the face of unfair competition is an issue of concern for developing countries.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	22	16.3%
2.	Strongly Agree	113	83.7%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.21 shows 22 respondents (16.4%) who said, they strongly disagree with the view that, the sustenance of air carriers in the face of unfair competition is an issue of concern for developing countries. 113 respondents (83.7%), however, said they strongly agree with the view. What this result portrays is that African States should continue to give financial support in form of aids and grants to their

National Carriers even when they are fully privatized. This will ensure the sustainability of African Carriers and assurance of their services.

**Table 4.22: Questionnaire Statement:** There is no correlation between safe skies and open skies in the Aviation industry.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	46	34.1%
2.	Strongly Agree	89	65.9%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.22 shows 46 respondents (34.1%) who said, they strongly disagree that there is no correlation between safe skies and open skies in the Aviation industry. 89 respondents, representing 65.9% however said, they strongly agree with the view. The regulatory bodies are challenged by Safety and Security issues in a liberalized global aviation market.

**Table 4.23: Questionnaire Statement:** Most African countries have not exerted the political will to overcome the obstacles to implement the Yamoussoukro decision in the industry.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	46	34.1%
2.	Strongly Agree	89	65.9%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.23 shows 46 respondents (34.07%) who said they strongly disagree with the view that most African countries have not exerted the political will, to overcome the obstacles to implement the Yamoussoukro decision. 89 respondents (65.93%) however said, they strongly agree with the view.

Majority of those interviewed therefore agree that most African countries have not exerted the political will to overcome the obstacles to implement the Yamoussoukro decisions

**Table 4.24: Questionnaire Statement:** The total implementation of the decision tends to gradually eliminate all non-physical barriers and restrictions to air transportation.

<b>S/No.</b>	<b>Options</b>	<b>Number</b>	<b>Percentages</b>
1.	Strongly Disagree	57	42.2%
2.	Strongly Agree	78	57.8
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July 2004

Table 4.24 shows 57 respondents (42.2%) who said, they strongly disagree with the view that, the total implementation of the decision tends to gradually eliminate all non-physical barriers and restrictions to air

transport. 78 respondents (57.8%), said they strongly agree with the view. That is, the total implementation of the Yamoussoukro decision tends to gradually eliminate all non-physical barriers and restrictions to our transportation.

**Table 4.25: Questionnaire Statement:** The liberalization of bilateral ownership and control would be a major step towards creating a global aviation industry.

S/No.	Options	Number	Percentages
1.	Strongly Disagree	47	34.8%
2.	Strongly Agree	88	65.2%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July 2004

Table 4.25 shows 47 respondents (34.8%), who said they strongly disagree with the view that the liberalization of bilateral ownership and control would be a major step towards creating a global aviation industry. 88 respondents (65.2%) however said they strongly agree with the view. Therefore, majority of respondents have agreed with the questionnaire statement.

**Table 4.26: Questionnaire Statement:** The harmonization of intra-regional Air Transportation policy in Africa is a priority.

S/No.	Options	Number	Percentages
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1.	Strongly Disagree	50	37.07%
2.	Strongly Agree	85	62.96%
	<b>Total</b>	<b>135</b>	<b>100%</b>

**Source:** Field research – July, 2004

Table 4.26 shows 50 respondents (37.04%) who said they strongly disagree with the view that, the harmonization of intra-regional air transportation policy in Africa is a priority. 85 respondents (62.96%) however said, they strongly agree with this view, that is the harmonization of intra-regional air transportation policy in Africa is a priority.

## **CHAPTER FIVE**

### **5.0 DISCUSSION OF THE RESULTS AND FURTHER ANALYSIS**

Having tabulated the responses done in the preceding chapter, this chapter carried out a discussion of the results as presented and further analysis. In an attempt to do so, we shall handle each question based on the research hypothesis, as well as on the following basis:

1. Are our findings consistent with existing knowledge and views ? Are they different and in what ways.
2. Any new findings in the course of investigation?
3. Proof of hypotheses based on collected data.



## 5.1 The Chi-Square Statistical Technique

As stated in chapter three of this research , the Chi-Square statistics is being used to further test the calculated percentages. The chi-square according to Osuala (1993), denoted by the Greek letter  $X^2$ . It is frequently used in testing hypotheses concerning the difference between a set of observed frequencies of the sample and a corresponding set of expected frequencies. A Chi-Square is a sample statistics and it is computed as follows:

$$X^2 = \sum \frac{(O-E)^2}{E}$$

Where: O = observed frequency

E = expected frequency

In the course of testing hypothesis or set of hypothesis via – the Chi-Square method, some degrees of freedom (df) are determined.

The Chi-Square test can be used to determine whether a set of theoretical or expected frequencies, such as frequencies obtained from normal or bi-normal distribution, or from other rational, uniform or ideal methods, fits a corresponding set of observed frequencies of a sample. The number of degrees of freedom for this type of test can be obtained as follows:-

$$df = g - m$$

Where df = degree of freedom

g = The number of groups, classes or components of the observed or expected frequencies in a sample.

m = the number of known constant values which are used as constraints

for finding the expected frequencies of the sample.

## 5.2 Proof of Hypothesis

### 5.2.1. Hypothesis One (1) states thus:-

**Ho:** The economic situation and stage of development in the African continent does not provide a level playing field for full liberalization of air transport.

**Hi:** The economic situation and stage of development in the African continent has provided a level playing field for full liberalization of air transport.

To test this hypothesis, we shall construct a contingency table based on questions 5 and 7 from the questionnaire as well as the data from table 4.9 and table 4.11.

S/No.	Options	QUEST- 5	IONs 7	Total
1.	Yes	106 (1)	95 (3)	201
2	No	29 (2)	40 (4)	69
	<b>Total</b>	<b>135</b>	<b>135</b>	<b>270</b>

To calculate the expected frequency for each cell, we will multiply the row total by the column total for the cell and divide the product by the grand total.

Thus for Cell 1:  $\frac{201 \times 135}{270} = 100.5$

Cell 2:  $\frac{69 \times 135}{270} = 34.5$

Cell 3:  $\frac{201 \times 135}{270} = 100.5$

Cell 4:  $\frac{69 \times 135}{270} = 34.5$

To calculate  $X^2 = \sum \frac{(O-E)^2}{E}$

$$\begin{aligned}
 X^2 &= \frac{(106 - 100.5)^2}{100.5} + \frac{(95 - 100.5)^2}{100.5} + \frac{(29 - 34.5)^2}{34.5} + \frac{(40 - 34.5)^2}{34.5} \\
 &= \frac{30.25}{100.5} + \frac{30.25}{100.5} + \frac{30.25}{34.5} + \frac{30.25}{34.5} \\
 &= 0.3 + 0.3 + 0.9 + 0.9 \\
 X^2 &= \underline{\underline{2.4}}
 \end{aligned}$$

$$Df = (C - 1) (r - 1)$$

There are two columns and two rows in our contingency table. To determine our degree of freedom (df), the following is computed:-

$$df = (2 - 1) (2 - 1)$$

$$df = 1 \times 1 = 1$$

This test is carried out under the 0.05 (5%) level of significance. Checking  $df = 1$  under 0.05 level of significance, it will give you 3.841

$$\therefore 2.4 < 3.841$$

We therefore, reject the null hypothesis that says, the economic situation in the African continent does not provide a level playing field for full liberalization of air transport, and accept the alternate hypothesis which says, the economic situation in the African continent has indeed provided a level playing field for full liberalization of air transport. What is needed is the political will and prudent management of resources and sound financial and fiscal discipline.

In Chi-Square statistics, if the calculated value is less than the critical value, you will then reject the null hypothesis and accept, if it is greater than the table (critical) value.

The differences in economic situation would have been taken care of during negotiations leading to Bilateral Air Service Agreements (BASA) which currently remains the most viable way of adopting the liberalization agenda between two contracting States. Even the multilateral agreements do equally take care of whatever differences that exist. Besides, ICAO is there to give the rules as well as the Standards and Recommended Practices (SARPS) to ensure that a level playing field exists.

As stated above, African countries lack the political will to provide adequate budgetary allocation to the aviation sector; the political will to implement regional

and continental agreements and decisions affecting the progressive liberalization of air transportation; and also the political will to carry out the World Bank economic reforms aimed at eradicating corruption, poverty and disease in the continent. In the area of mismanagement of resources and corruption, most African countries have been found wanting. A case in point is that of the Nigerian Airways Limited that in 1980 had over 30 aircrafts but by 2004 when it was liquidated had none. This cannot be tied to the economic situation in Nigeria but to gross mismanagement of resources. Because most of the African National Carriers are yet to embrace privatization, they face undue government interference especially in the choice of their Chief Executive and key management staff. Such management appointments are, more often than not, based on political consideration rather than technical competence.

**5.2.2. Hypothesis Two**

Ho: The African business environment will not improve except the policy of liberalization is embraced.

Hi: The African business environment will improve even without liberalization being embraced.

To test this hypothesis, we shall construct a contingency table based on questions 14 and 15 from the questionnaire as well as data from table 4.18 and 4.19 .

S/No.	Options	QUES	T ION	Total
		14	15	
1	Yes	42	25	67
		(1)	(3)	

2	No	93	110	203
		(2)	(4)	
	<b>Total</b>	<b>135</b>	<b>135</b>	<b>270</b>

To calculate the expected frequency for each cell, we will multiply the row total by the column total for the cell and divide the product by the grand total.

Thus for Cell 1:  $\frac{67 \times 135}{270} = 33.5$

Cell 2:  $\frac{203 \times 135}{270} = 101.5$

Cell 3:  $\frac{67 \times 135}{270} = 33.5$

Cell 4:  $\frac{203 \times 135}{270} = 101.5$

$$X^2 = \sum \frac{(O-E)^2}{E}$$

$$X^2 = \frac{(42 - 33.5)^2}{33.5} + \frac{(25 - 101.5)^2}{101.5} + \frac{(25 - 33.5)^2}{33.5} + \frac{(110 - 101.5)^2}{101.5}$$

$$= \frac{72.25}{33.5} + \frac{72.25}{33.5} + \frac{72.25}{101.5} + \frac{72.25}{101.5}$$

$$= 2.2 + 2.2 + 0.7 + 0.7$$

$$\underline{\mathbf{X^2 = 5.8}}$$

∴ 5.8 > 3.841, with a df = 1 @ 0.05 level of significance.

We therefore, accept the null hypothesis that says the African business environment will not improve except liberalization is embraced and reject the alternate hypothesis which says, the African business environment will improve even without liberalization. This is because the calculated Chi-Square value is greater than the table (critical) value.

Most African countries are landlocked and the cost of connecting them by other modes of transportation such as rail and road network is prohibitive. It is a known fact that not much progress has been made in harnessing the needs of intra-African commerce and passenger travel through the development of roads and rail network.

Even in terms of speed, safety and security to the traveling public, air transportation remains the best as shown by this study. Liberalization of air transportation in the continent will remove all restrictions to market access and bring economic development to the people. Air Cargo liberalization has reached an advanced stage worldwide and Tourism will be enhanced by the extension of this to passenger travels. Unemployment will be reduced and foreign capital for sustainable development will gradually move into the continent.

### **5.2.3. Hypothesis Three**

**Ho:** There may not be any other viable model of liberalization for Nigeria, except the one as embedded in the Yamoussoukro decision.

**Hi:** There may be other viable model of liberalization for Nigeria apart from the one as embedded in the Yamoussoukro decision .

**To test this hypothesis, we shall construct a contingency table based on questions 29 and 32 from the questionnaire and table 4.23 and table 4.24.**

S/No.	Options	QUES	T ION	Total
		29	32	
1	Strongly	46	57	103
	Disagree	(1)	(3)	
2	Strongly	89	78	167
	Agree	(2)	(4)	
	<b>Total</b>	<b>135</b>	<b>135</b>	<b>270</b>

To calculate the expected frequency for each cell, we will multiply the row total by the column total for the cell and divide the product by the grand total.

Thus Cell 1:  $\frac{103 \times 135}{270} = 51.5$

270

Cell 2:  $\frac{167 \times 135}{270} = 83.5$

270

Cell 3:  $\frac{103 \times 135}{270} = 51.5$

270

Cell 4:  $\frac{167 \times 135}{270} = 83.5$

270



$$X^2 = \frac{E(O - E)^2}{E}$$

E

$$X^2 = \frac{(46 - 51.5)^2}{51.5} + \frac{(57 - 51.5)^2}{51.5} + \frac{(89 - 83.5)^2}{83.5} + \frac{(79 - 83.5)^2}{83.5}$$

$$= \frac{30.25}{51.5} + \frac{30.25}{51.5} + \frac{30.25}{83.5} + \frac{30.25}{83.5}$$

$$= 0.59 + 0.59 + 0.36 + 0.36$$

$$\mathbf{X^2 = 1.9}$$

=====

∴ 1.9 < 3.841, with a df of 1 at 0.05 level of significance.

We therefore, reject the null hypothesis which states that, there may not be any other viable model of liberalization for Nigeria, except the one as embedded in the Yamoussoukro decision., The alternate hypothesis is instead accepted.

African States can embrace liberalization through other means aside from the Yamoussoukro Decision of November 1999 as our above finding reveals. The Decision established plan aimed at full continent-wide liberalization by the year 2002 through the removal of all restrictions on traffic rights, including 5<sup>th</sup> freedom. Capacity and frequency of flight between city pairs were also not to be restricted. As at now, the target date of 2002 was not only unrealistic, there is also nothing significantly on ground to show the seriousness of most African Heads of government towards the attainment of the noble objectives. Our study show that African States lack the political will to implement the Decision.

It follows therefore that Nigeria can liberalize her air transportation by making enough budgetary provision to the aviation sector for infrastructural development; by engaging in intra-regional integration of air transport legislations in ECOWAS, East and Central African Region and the Banjul Accord; by putting in place a strong National Carrier to enable her respond adequately to the challenges of the open skies agreement with the United States; by encouraging the local airlines to go into mergers and acquisition to bring them up to a level where they can compete with the foreign mega carriers etc.

#### 5.2.4. Hypothesis Four

**Ho:** Air transport liberalization is not necessarily anchored on Bilateral Air Services Agreement.

**Hi:** Air transport liberalization is anchored on Bilateral Air Services Agreement.

To test this hypothesis, we shall construct a contingency table based on questions 22 and 33 from the questionnaire as well as the data from table 4.25 and 4.26.

S/No.	Options	QUES	T ION	Total
		22	33	
1	Strongly	47	50	97
	Disagree	(1)	(3)	

2	Strongly Agree	88 (2)	85 (4)	173
	<b>Total</b>	<b>135</b>	<b>135</b>	<b>270</b>

To calculate the expected frequency for each cell, we will multiply the row total by the column total for the cell and divide the product by the grand total.

Thus for **Cell 1:**  $\frac{97 \times 135}{270} = 48.5$

**Cell 2:**  $\frac{173 \times 135}{270} = 86.5$

**Cell 3:**  $\frac{97 \times 135}{270} = 48.5$

**Cell 4:**  $\frac{(173 \times 135)}{270} = 86.5$

$$X^2 = \sum \frac{(O - E)^2}{E}$$

$$X^2 = \frac{(47 - 48.5)^2}{48.5} + \frac{(50 - 48.5)^2}{48.5} + \frac{(88 - 86.5)^2}{86.5} + \frac{(85 - 86.5)^2}{86.5}$$

$$= \frac{2.25}{48.5} + \frac{2.25}{48.5} + \frac{2.25}{86.5} + \frac{2.25}{86.5}$$

$$\mathbf{X^2 = 0.141}$$

=====

Calculated X2 value = 0.141

X2 table value (critical) value = 3.841

∴ 0.141 < 3.841

We therefore, reject the null hypothesis that says Air Transport liberalization is not necessarily anchored on Bilateral Air Services Agreement(BASA), and instead accept the alternate hypothesis that says, Air Transport liberalization is anchored on Bilateral Air Services Agreement. This is because the calculated X2 value is less than the critical table value.

The result of this finding is in line with the general practice since the Chicago Convention of 1944 which anchored the whole operations of international civil aviation on formal consent of States. Individual State in the exercise of their sovereign authority over their territorial airspace can go into BASA or Open Skies Bilateral with any other State of their choice in accordance with their economic

and foreign policies. BASA, therefore, is inter-governmental agreements in furtherance of the process of liberalization. The agreement regulates the mode of operation, frequency of operation, aircraft type to be designated, issues relating aircraft ownership and control, traffic rights, routes and tariffs etc. It is therefore right to conclude, as in our finding, that air transport liberalization is anchored on BASA.

#### **5.2.5. Hypothesis Five**

**Ho:** Airlines strategic alliances do not impact on consumer protection.

**Hi:** Airlines strategic alliances do impact on consumer protection.

To test this hypothesis, we shall construct a contingency table based on questions 8 and 9 from the questionnaire and data from tables 4.12 and 4.13.

S/No.	Options	QUES	T ION	Total
		8	9	
1	Yes	43 (1)	135 (3)	178
2	No	92 (2)	0 (4)	92
	<b>Total</b>	<b>135</b>	<b>135</b>	<b>270</b>

To calculate the expected frequency for each cell, we will multiply the row total by the column total for the cell and divide the product by the grand total.

Thus for **Cell 1:**  $\frac{178 \times 135}{270} = 89$

**Cell 2:**  $\frac{92 \times 135}{270} = 46$

**Cell 3:**  $\frac{178 \times 135}{270} = 89$

**Cell 4:**  $\frac{92 \times 135}{270} = 46$

$$X^2 = \sum \frac{(O-E)^2}{E}$$

E

$$\begin{aligned} X^2 &= \frac{(43 - 89)^2}{89} + \frac{(135 - 89)^2}{89} + \frac{(92 - 46)^2}{46} + \frac{(0 - 46)^2}{46} \\ &= \frac{2116}{89} + \frac{2116}{89} + \frac{2116}{46} + \frac{2116}{46} \\ &= 23.78 + 23.78 + 46 + 46 \\ \mathbf{X^2} &= \mathbf{139.56} \\ &===== \end{aligned}$$

We therefore accept the null hypothesis that Airlines Strategic Alliances do not impact on consumer protection and reject the alternate hypothesis. This is because, the calculated X2 value is greater than the table value.

This finding is in agreement with the views expressed by ICAO secretariat as reflected in our literature review. Voluntary commitments to consumer, rights which may come from strategic alliances, are only complimentary to the regulatory approach. States take regulatory measures to preserve and strengthen passenger rights, create contractual certainty, and make information clearly and readily available to consumers on a wide range of subjects. Paul Demsay (2003) observed that “Critics argue that baggage transfers have always been handled adequately under interline agreements” without engaging in strategic alliances. He went further to say “that code-sharing deceives consumers into believing they are purchasing one airline product when they are actually purchasing another.”

In Nigeria for instance, the Nigerian Civil Aviation Authority(NCAA) has taken regulatory actions to enlighten the consumers of air transport services on their rights as well as making new laws to strengthen these rights in line with ICAO

standards. Issues such as ticket refund, condition of carriage, denied boarding, liability provisions, misplaced baggage, and special passenger needs are taken to such a level as to ensure improved service delivery to the consumer. Therefore, strategic alliance alone may not make any impact on consumer protection as our study has shown.

### 5.3. OTHER FINDINGS

#### 5.3.1 AIRLINE OWNERSHIP AND CONTROL

Reasons Cited for Imposing National Airline Ownership and Control Regulations; Level of importance expressed as points.

Elements	Points
1. National Development/ Economic Interest	245
2. Conformity with International Agreements	169
3. National Security	167
4. Trade and Tourism	150
5. Aviation Safety	142
6. Security and Preservation	129

SOURCE: Field research, July 2004.

Respondents were asked to rank the reasons for natural ownership and control regulations.

The top three ranking { i.e. 1<sup>st</sup>-3<sup>rd</sup>} were rated very important with 3 points while the 4<sup>th</sup> & 5<sup>th</sup> were rated important with 2 points. The points as recorded for the elements that guide contracting states in their BASA, are as stated above.

The primary reasons in the perception of the respondents, why nations impose National Airline Ownership and Control Rules are in the following order:

- National Development/ Economic Interest
- Conformity with International Agreements
- National Security
- Trade and Tourism

This is why a government may not like to change its nationality rules because it could not be sure that an airline in foreign hands would serve the important purposes and interest normally associated with a flag carrier as listed above.

Appendix 1 shows the result of a similar survey carried out by ICAO for 52 member countries. The results as can be seen are similar to the ones obtained by this study.

### **5.3.2. NIGERIAN CIVIL AVIATION AUTHORITY.**

In giving an assessment to the performance of the aviation regulatory authorities in Africa, respondents were asked to rank the following problems facing the Nigerian Civil Aviation Authority (NCAA) in its oversight audit functions.

- Capital
- Shortage of qualified technical personnel
- Lack of full autonomy
- Corruption
- Poor management

The following scores were obtained

- |  |            |
|--|------------|
| 1. Lack of full autonomy                     | 226 points |
| 2. Shortage of qualified technical personnel | 172 points |



- 3. Capital 168 points
- 4. Poor management 160 points
- 5. Corruption 147 points

SOURCE: Field Research, July 2004

The frequent interference of the Federal Ministry of Aviation in the affairs of NCAA, apart from the frequent changes of management team, robs the Authority from the much desired autonomy. This was further tested by the following statements given to the respondents, to state whether they agree or disagree

- A) The safety oversight capability of NCAA will improve with full autonomy

<b>Options</b>	<b>Numbers</b>	<b>Percentages</b>
Strongly Agree	111	82.22%
Agree	11	08.15%
Strongly Disagree	13	09.63%
Total	135	100%

- B) The NCAA is not well positioned to provide regulatory measures to deal with Aviation safety and security in a liberated air transport environment.

<b>Options</b>	<b>Numbers</b>	<b>Percentages</b>
Strongly Agree	74	54.81%

Agree	11	08.15%
Strongly Disagree	50	37.04%
Total	135	100%

Apart from increase in autonomy for NCAA, the views of the respondents on shortage of qualified technical personnel agree with the opinions of most experts on aviation matters who daily call for more qualified inspectors and calibration experts. The authority also need huge amount of capital for the acquisition of the calibration aircrafts; for research, training and manpower development; for the payment of adequate salaries/wages to retain the right grade of staff et.c.

Because of the capital intensive nature of modern aircrafts, less developed countries are often unable to do outright purchase. Hence most aircrafts in Africa are leased. But the traditional ownership and control rule presupposes that both ownership and control must reside in the contracting states engaged in BASA. In analyzing the statement:

‘The ICAO should liberalize the criteria for carrier designation by developing countries’, the following result was obtained:

<b>Options</b>	<b>Numbers</b>	<b>Percentages</b>
Strongly Agree	90	66.67%
Agree	27	20.00%
Strongly Disagree	18	13.33%
Total	135	100%

Consequently, states in Africa ensure that the restrictions of the ownership and control are watered down in their BASA by introducing ‘Principal Place of Business’ in place of ownership and control as in case of Ghana.

### 5.3.3. IMPORTANCE OF A NATIONAL AIRLINE

The ability of a state to compete in a liberalized air transport market is measured by a state of health of It's national carrier as the study shows from the responses to a statement posed to the respondents thus:

A state cannot compete in a liberalized aviation market without a National Carrier.

<b>Options</b>	<b>Numbers</b>	<b>Percentages</b>
Strongly Agree	83	61.48%
Agree	12	8.89%
Strongly Disagree	40	29.63%
Total	135	100%

The study shows that 83 respondents (61.48%) strongly agree while a further 12 respondents (8.89%) Agreed that any nation without a national carrier will merely be an on-looker in the global trend of air transport liberalization and open skies.

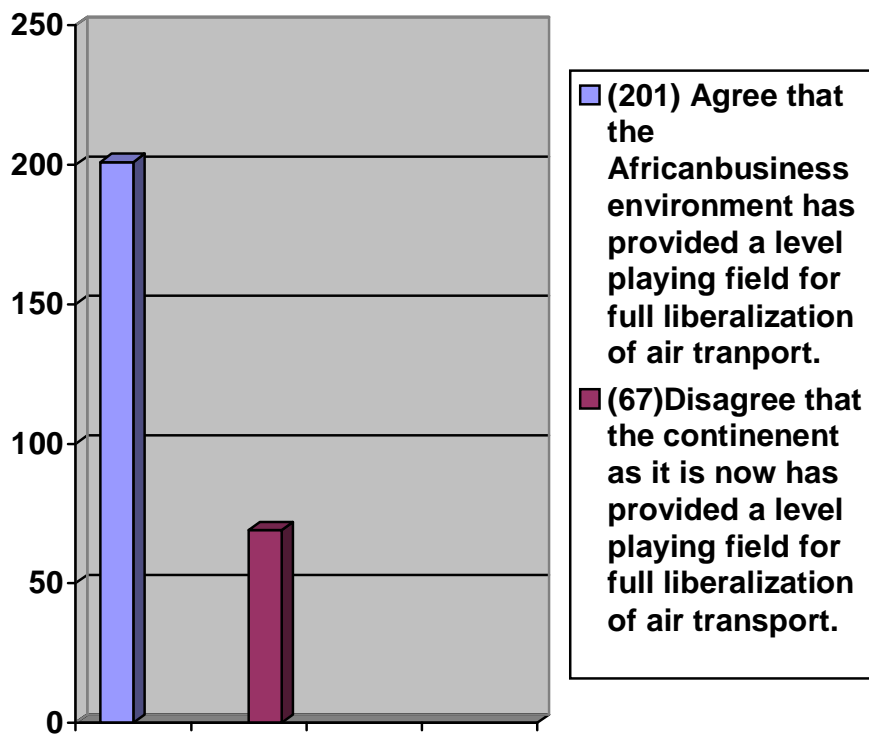
Another test carried out by this study was the view of the respondents on the safety level of civil aviation as a transport mode as compared to road, rail and waterways or marine transport.

The result of the study conforms with the general opinion that civil aviation remains the safest mode of transport in the world. 121 respondents or 89.62% Strongly Agreed while

a further 6 respondents or 4.44% agreed. Only 8 respondents or 5.94% strongly disagreed that air transportation is the safest mode of transport.

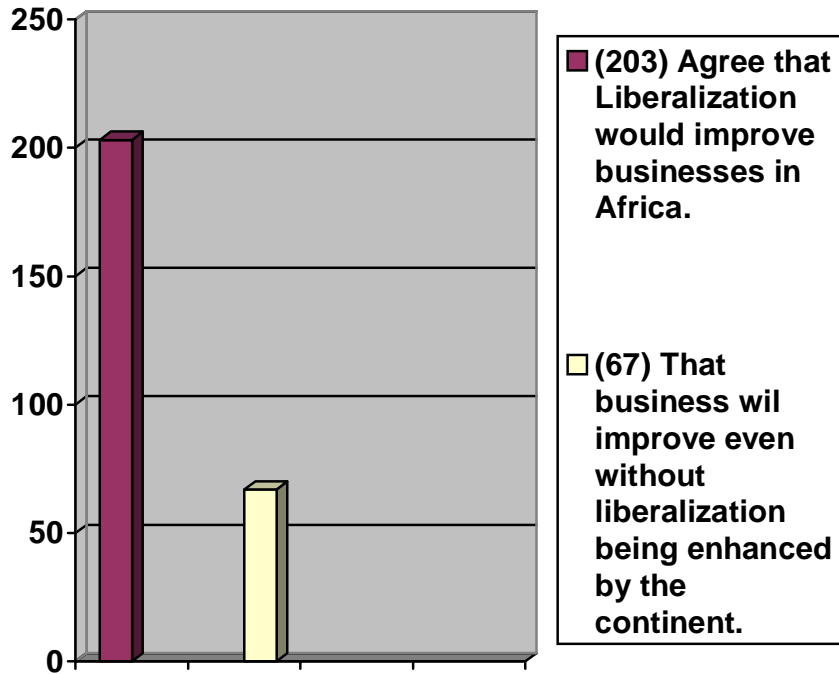
#### 5.4. BAR CHART PRESENTATION OF THE RESULTS.

The results of our hypothesis will be further explained with bar charts as follows:



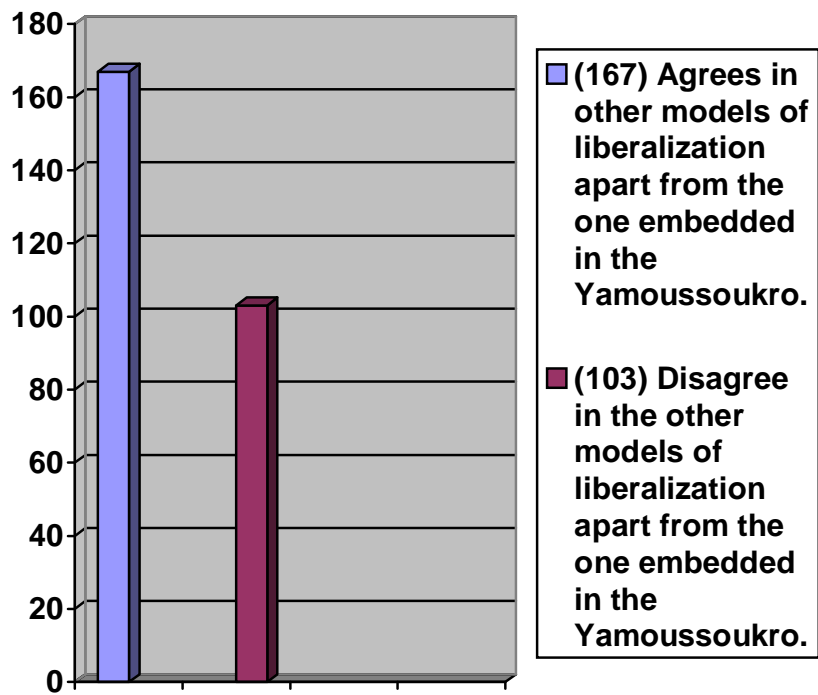
#### RESPONSES

A Bar chart showing the responses on whether or not the African business environment is conducive for liberalization of the air transport industry.



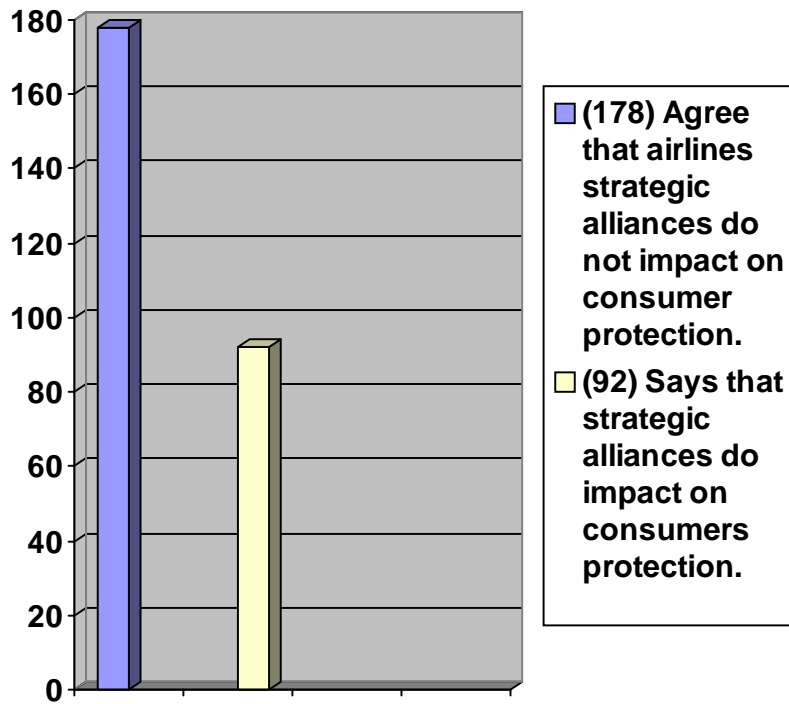
**RESPONSES**

A Bar chart showing responses on whether African business will improve or not with the policy of liberalization.



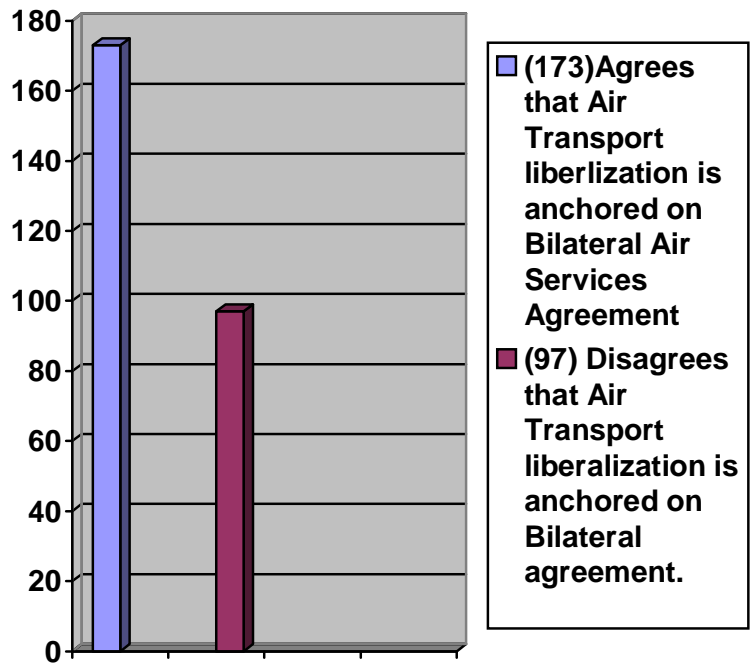
### RESPONSES

A bar chart showing responses on whether or not there are other viable models of liberalization for Nigeria, apart from the one embedded in the Yamoussoukro declaration.



### RESPONSES

A bar chart showing responses on whether airlines strategic alliances do impact on consumers or not.



**RESPONSES**

A bar chart showing responses on whether Air Transport liberalization is anchored on Bi-lateral Air Services Agreement (BASA) or not.



## CHAPTER SIX

### SUMMARY, CONCLUSION AND RECOMMENDATION

#### 6.1 INTRODUCTION

The basic aim of this study was to investigate Air Transport liberalization and Open Sky policy in Africa - the regulatory and commercial implication for Nigeria.

The study covered thirteen of the twenty airports in Nigeria. All the four international airports – Lagos, Abuja, Kano and Port Harcourt, were among the thirteen. Also, the head offices of the Federal Airport Authority, Nigerian Civil Aviation Authority, the Nigerian Airspace Management Agency and the Aviation College, Zaria were all covered. The Federal Ministry of Aviation, aviation journalists and the traveling public were not left out. The total population was subjected to a random sampling of 200. However, only 135 were retained which formed the sample size of this research. 200 questionnaires were originally sent out for administration.

A total of thirty-five research questions were used for the study while a total of two hundred questionnaires were administered. Of this number, one hundred and thirty-five or 67.5 percent were retrieved.

Data derived from this exercise were also analyzed, based on frequency distribution of respondents' opinion. This is shown in contingency tables and ranked in percentage in chapter four of this study.

A further analysis using Chi-squared technique was used to evaluate whether or not the frequencies that have been empirically obtained differ significantly from those which would be expected under certain set of theoretical assumptions. This widely accepted technique was used to test the hypothesis contained in the study in chapter five.

Personal interview was also used to elicit some additional information not covered in the questionnaires.

Extensive review of related literature was carried out. This covered the areas of privatization, deregulation, liberalization and open sky policy. It also covered the major regulatory issues of liberalization and open skies especially the peculiar aspect of air mode of transport, i.e. safety and security. The liberalization program in Africa as embedded in the Y/D was reviewed as well as the evolution and development of air transportation in Nigeria.

This chapter therefore, gives a summary of the study based on the data collected and the analysis made.

## **6.2 SUMMARY**

The objective of the study was to examine the level of response by African countries to the global phenomenon of air transport liberalization in view of the primacy of safety and security in any relevant economic regulation or liberalization consideration. We found out from the study that, for developing countries in particular, air transport is fundamental to social welfare and economic progress. Freeing up market access could catalyse progress but developing countries may need to be conditioned not only on fair competition but also on safeguards for the sustainability of their national carriers and the assurance of services, along with preferential measures to ensure effective participation of the countries in international air transport.

The poor financial standing of African carriers made it cumbersome and almost impossible for them to acquire aircrafts with modern technology to meet competition. They therefore operate aged aircrafts with unacceptable noise level especially on international routes. These aircrafts are mostly leased. We found out too that the ownership and effective control rule which states that aircrafts designated by States on their BASA must be owned and controlled by them, is being liberalized in Africa as in other parts of the world.

Most African states now apply the clause ‘principal place of business’ or ‘effective regulatory control’ as an alternative to national ownership and control for air carrier designation. Ranking the reasons cited for imposing national airline ownership and control regulations, the following came out tops.

- ❖ National Development and Economic Interests
- ❖ Conformity with International Agreement
- ❖ Economic interest of National Airlines
- ❖ National Security and
- ❖ Trade and Tourism.

Also revealed by the study is the poor state of infrastructure at the airports and air routes in Africa. Lack of aerodrome fencing and/of perimeter roads for patrol, activities of touts, lack of adequate navigational facilities and services are some of the deficiencies of the aviation industry in Africa.

There was also the general opinion by respondents that the Nigerian Civil Aviation Authority (NCAA) and indeed all CAAs in Africa need to free themselves from government bureaucracy and interference in order to discharge properly their regulatory and oversight audit functions.

While the study recognized the need for States to have National Carriers for effective participation in the liberalized aviation market, it found out that without their cooperation with one another and/or going into alliances, the African carriers cannot compete with foreign mega carriers of Europe and America. The local airlines will also have to adopt mergers and acquisition to improve their capital base in readiness for liberalization and open skies regime.

### **6.3 CONCLUSIONS**

In conclusion, liberalization of international air transport as a process has gained recognition the world over. The regulation of international air transport has been unique over the past five decades for its almost universal expectation of participation by national carriers, its regulatory mind-set of reciprocity at the bilateral level, and its customization and control of market access through the bilateral regime.

The Yamoussoukro Decision which was intended to be the veritable channel through which African States can liberalize, by removing frequencies and capacity limitations, has not been a success due to lack of the political will to implement its objectives. There is therefore a shift to regional integration by states as a means of shaping their airlines for the global competition to be heralded by liberalization.

African States have weak national carriers that do not have the necessary funds and appropriate manpower for the sustenance of their portfolio. They need to forge strategic alliances or cooperation with one another to survive. Lack of capital, coupled with inadequate budgetary provision by governments, is responsible for the inadequate navigational aids, obsolete ground handling equipments, the use of aged aircrafts and the poor facilities at the airports. Finally, the industry's worldwide trend is towards the formation of alliances groups whereby the mega carriers of the world, are still pooling together their operations despite their big size, in order to enlarge ever more, their network and economy of scale. Africa has to go along the same line.

### **6.4 RECOMMENDATIONS**

Based on the major findings of this research work, the following suggestions and recommendations are made in order to elicit progress in the phased liberalization approach adopted by African States in the Yamoussoukro Decision. The recommendations will also make for maximum headway and encourage as many

partners (regions or countries) to come on-board the liberalization process as possible.

1. African countries should develop master plans for the development of civil aviation in co-ordination with other government departments, in particular those in charge of other modes of transports, town planning and land register services in order to provide the business sector involved in the development of the aviation sector with an appropriate framework.
2. African Airlines must give priority to the consolidation and control of their home markets at national and regional level, by engaging in African Alliance, even if ultimately, it proves necessary to join a worldwide Alliance group.
3. There should be an elaborate policy on market access, fair competition and safeguard, both at the intra-regional and at the extra-regional levels. Consideration should be given to liberalization of provisions regarding air carrier ownership, control and designation.
4. States should continue to pursue liberalization using existing bilateral, regional and multilateral regulatory regimes according to their specific needs, objectives and circumstances. Additionally, states should continue their liberalization agenda as their own choice, own place, using bilateral, regional and/or multilateral avenues as appropriate.
5. African States should not support liberalization of market access on global basis that would include unrestricted granting of beyond third or fourth freedom traffic rights. This should continue to be based on bilateral air service agreements (BASA) and other multilateral agreements to which individual African States may be party to.
6. In liberalizing market access, due consideration should be given to airport capacity constraints and the long term infrastructure needs of states. Problems involving air carriers which are unable to exercise their entitled traffic rights at a capacity-constrained airport, may, if necessary, be addressed in the context of discussions on the relevant air service agreements (BASA).

7. Transparency should be regarded as an objective to be pursued within the regulatory framework and as an essential element in the liberalization process. States should register with ICAO any unregistered air services agreement (BASA) in accordance with their obligation under Article 83 of the Convention.
8. States must resolve disputes, arising from increased competition, in a more efficient and expeditious manner. States and the air transport industry will therefore need a dispute mechanism that;
  - a) instills trust and is supportive of safeguarded liberalization and participation by developing states;
  - b) customized to the particular circumstances of international air transport operations and competitive activity;
  - c) ensure that the interests of third parties directly affected by the dispute can be taken into account and
  - d) as regards interested parties directly affected by the dispute, is transparent and provide access to relevant information in a timely and efficient manner help minimize disputes.
9. An acceptable code of conduct should be developed to provide common understanding of what is acceptable and what is not acceptable. Such a code of conduct that is understood by all concerned will help minimize disputes.
10. Safeguards of airlines must rationally and realistically address disparities relating to level of development, size and location of States including their carriers to guarantee sustainability. Without tailored safeguards, developing countries national carriers simply cannot survive in a liberalized environment.
11. There should be regulatory measures designed to create a healthy and fair competition in which the strong and less strong carriers can co-exist on sustainable basis.

12. Pricing mechanism should be flexible so that airlines are free to vary their prices within authorized margins. Price changes outside these margins should be approved by contracting states or airlines before they are introduced in the market. This mechanism helps to prevent price dumping or predation and is also useful in markets where competition is non-existent or not yet developed as in the case of Nigeria.
13. African states must be encouraged to provide grants and aids to their National carriers and also make adequate budgetary provision to the aviation sector.
14. The presence of National airline means continued state participation in international air transport. Sustained participation of states will guarantee availability of services that are in the national interest. The Nigerian government must therefore do everything possible to come up with a viable National carrier.
15. Governments should provide funds to the relevant authorities to give a face-lift to the existing infrastructural facilities at the airports and air routes. Airlines operators should also have access to capital to acquire modern aircrafts.
16. The present individualist approach to airline business by the Airline Operators of Nigeria (AON) will not position them for the future competition arising from the open skies policy and so they will be encouraged to pool their resources together by going into mergers and acquisitions.
17. Civil Aviation Authorities should be given full autonomy by government and should ensure the harmonization and integration of intra-regional agreements that include safety and security regulation elements in Africa.
18. There is need to convene, at an early date, a high (minister or DGCA) level meeting for African States to focus on identifying infrastructural needs and

regional co-ordination and integration of safety, security and economic regulation.

19. African States should review the timetable for the implementation of the Yamoussoukro Decision and ensure that strict implementation is done.
20. ICAO should continue to monitor closely regulatory and industry developments, develop an inventory of states' practical experience with liberalization and disseminate relevant information to Contracting States.



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## APPENDIX 1

### ST CLEMENTS UNIVERSITY TURKS AND CAICOS ISLAND, BRITISH WEST INDIES.

April 2, 2004

Dear Respondents,

#### A LETTER OF INTRODUCTION

I am a post graduate student of Management of St. Clement University, Turks and Caicos Island, British West Indies. I am conducting a research on **“Air Transport Liberalization and Open Skies Agreements in Africa – The Regulatory and Commercial Implications for Nigeria”**. This questionnaire is designed in order to elicit vital information for the study. The research is in partial fulfillment of the award of Doctor of Philosophy (Ph.D) and any information given in this regard will be treated with strict confidence.

I thank you for your cooperation and valuable contribution towards the success of this research work.

Yours faithfully,

**Alhaji Ibrahim D. Idrisu**

**A. Point of interview/Location:**

**B. DEMOGRAPHIC/PERSONAL INFORMATION OF RESPONDENTS**

1. Gender: Male  Female

2. Age: 21 – 30 years   
31 – 40 years   
41 – 50 years   
51 – 60 years   
61 – and above

3. Level of Education

Primary Leaving Certificate   
Post Primary Leaving Certificate   
Polytechnic/College of Education   
University   
Professional etc   
Please tick highest level of Education

4. Academic Qualification

School Certificate   
OND/NCE   
HND/BSc   
Professional

5. Nationality

Nigerian   
Foreigner  Please state.

6. Duration/Experience in the Aviation Industry

0 – 5 years

- 6 – 10 years
- 11-15 years
- 15 years and above

7. Do you have overseas experience

- Yes                       No

8. If yes: Where and When

---

9. State your familiar aspect(s) of Aviation

- |                               |                                |                                 |
|-------------------------------|--------------------------------|---------------------------------|
| FAAN <input type="checkbox"/> | NAHCO <input type="checkbox"/> | NAMA <input type="checkbox"/>   |
| NCAA <input type="checkbox"/> | NCAT <input type="checkbox"/>  | FMA <input type="checkbox"/>    |
| AON <input type="checkbox"/>  | NIMET <input type="checkbox"/> | OTHERS <input type="checkbox"/> |
- Tick as many as possible

10. Job Position/Title:.....

### SECTION C: AIR TRANSPORT LIBERALIZATION

(1) Describe your knowledge of the Air Transport Industry.

- Very Good
- Good
- Average
- Below Average

(2) Are you aware of Air Transport Liberalization efforts worldwide?

- Yes                       No

(3) If yes, can you provide adequate response to Air Transport Liberalization issues?

- Yes                       No

(4). Please explain what you understand as Air Transport Liberalization.

-----  
 -----  
 -----



This section describes an opinion that you probably hold concerning the aviation industry. Please tick YES or NO in the given box for the following questions.

- (5) The International Civil Aviation Organization (ICAO) should put in place, a Mechanism for harmonized rules that allow air carriers to compete on an equal basis.

YES  NO

- (6) Each state must decide on the extent to which and how it wishes to participate in the gradual process of liberalization.

YES  NO

- (7) The time is not yet ripe for developing countries like Nigeria to embrace full blown liberalization of the Air Transport Sector.

YES  NO

- (8) Smaller airlines can survive liberalization without joining alliances

YES  NO

- (9) Airline services consumers in Nigeria should be given adequate protection within the Air Transport Liberalization efforts.

YES  NO

- (10) Can we say that Nigerian domestic air transportation is fully liberalized?

YES  NO

- (11) Do you agree that unrestricted market access will lead to capacity dumping at our International Airports?

YES  NO

- (12) Are you comfortable with the state of air navigational facilities in the country?

YES  NO

- (13) How do you rate the usefulness to Nigeria of the 'Open Skies' bilateral with the United States?

Very useful  Useful  Marginally useful

- Not useful
- (14) Liberalization of air transport  
Will bring about efficiency  
and quality service delivery. Strongly Disagree 1 - 2 - 3 - 4 - 5 Strongly Agree
- (15) Liberalization of the Industry will  
ensure fair competition and  
safer air travels 1 - 2 - 3 - 4 - 5
- (16) The International Civil Aviation  
Organization (ICAO) should  
liberalize the criteria for carrier  
designation by developing countries. 1 - 2 - 3 - 4 - 5
- (17) Airport constraint on market access in  
the advanced countries inhibit African  
carriers ability to take advantage  
of slots. 1 - 2 - 3 - 4 - 5
- (18) Civil Aviation is the safest  
mode of transport in the  
world. 1 - 2 - 3 - 4 - 5
- (19) A state cannot compete in  
a liberalized Aviation Market  
without a National Carrier. 1 - 2 - 3 - 4 - 5
- (20) Rank your country's interest for imposing national airline  
ownership and control regulations:
- (a) National development/Economic interest
  - (b) Safe guarding Nation security.
  - (c) Conformity with International Agreements.
  - (d) Trade and Tourism needs.
  - (e) Aviation safety
  - (f) Job creation and preservation
- (21) Full Liberalization of Air cargo will  
facilitate imports/Exports  
for African countries. Strongly Disagree 1 - 2 - 3 - 4 - 5 Strongly Agree
- (22) The Liberalization of bilateral  
ownership and control would  
be a major step towards creating 1 - 2 - 3 - 4 - 5

a global aviation industry.

- (23) The sustainability of air carriers in face of unfair competition is an issue of concern for developing countries. 1 - 2 - 3 - 4 - 5
- (24) There must be regulatory means to deal with aviation safety and security in a liberalized air transport environment. 1 - 2 - 3 - 4 - 5
- (25) The NCAA is not well positioned to provide the regulatory measures to deal with aviation safety and security in a liberalized air transport environment. 1 - 2 - 3 - 4 - 5
- (26) Rank the following constraints facing the aviation regulatory bodies in Africa.
- (a) Capital
  - (b) Shortage of qualified technical personnel
  - (c) Lack of full autonomy
  - (d) Corruption
  - (e) Poor management
- (27) The safety oversight capability of NCAA will improve with full autonomy. Strongly Disagree 1 - 2 - 3 - 4 - 5 Strongly Agree
- (28) There is no correlations between 'Safe Skies' and 'Open Skies' in the aviation industry. 1 - 2 - 3 - 4 - 5

### **SECTION C: YAMOUSSOUKRO DECISION**

(29a) Are you aware of Yamoussoukro Decision

Yes  No

(29b) If Yes, Narrate what it implies.

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(29c) The total implementation of the Decision tends to gradually eliminate all non-physical barriers and restriction to air transportation. Strongly Disagree 1 - 2 - 3 - 4 - 5 Strongly Agree

(30) Airlines in Africa are not pooling

- |      |   |                   |
|------|---|-------------------|
|      | resources together by mergers or at least forming their own alliances to be able to adapt to the liberalized global environment.                          | 1 - 2 - 3 - 4 - 5 |
| (31) | Africa is often cited for its poor record in terms of aviation safety in international safety fora.   | 1 - 2 - 3 - 4 - 5 |
| (32) | Most African countries have not exerted the political will to overcome the obstacles to implementation of the Decision.                                   | 1 - 2 - 3 - 4 - 5 |
| (33) | The harmonization of intra-regional Air transportation Policy in Africa is a priority.  | 1 - 2 - 3 - 4 - 5 |
| (34) | Increase in air passengers and freight linkage across Africa sub-regions is a priority of the New Partnership for Africa's Development (NEPAD) programme. | 1 - 2 - 3 - 4 - 5 |
| (35) | Suggest how further the Air Transport Liberalization efforts could be pursued.  |                   |

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Thank you for your attention.