



MEMORANDUM OF UNDERSTANDING (MoU)

BETWEEN

THE AFRICAN CIVIL AVIATION COMMISSION

AND

THE EAST AFRICAN COMMUNITY COMPETITION AUTHORITY

**REGARDING COOPERATION, COLLABORATION AND COORDINATION IN
COMPETITION AND CONSUMER PROTECTION MATTERS IN THE FIELD OF
AVIATION**

JULY 2024

MEMORANDUM OF UNDERSTANDING BETWEEN THE AFRICAN CIVIL AVIATION COMMISSION AND THE EAST AFRICAN COMMUNITY COMPETITION AUTHORITY REGARDING COOPERATION, COLLABORATION AND COORDINATION IN COMPETITION AND CONSUMER PROTECTION MATTERS IN THE FIELD OF AVIATION

- I. **The African Civil Aviation Commission**, the Executing Agency of the Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalization of Access to Air Transport Market in Africa ("Yamoussoukro Decision") and the Single African Air Transport Market ("SAATM") established under Article 9 of Yamoussoukro Decision and whose address of service for purposes of this MoU is Route de l'Aéroport Militaire Leopold Sedar Senghor, BP: 8898 Dakar, Senegal, on one hand (hereinafter referred to as "AFCAC"), represented by the Secretary General, Ms. Adefunke ADEYEMI;

AND

- II. **The East African Community Competition Authority**, an institution of the East African Community established by the Treaty for the Establishment of the East African Community (Treaty) and EAC Competition Act of 2006 in furtherance of the commitment of the Partner States, to cooperate in trade liberalization and development including matters of competition, under Article 75 (1) (i) of the Treaty, and whose address of service is care of EAC Close, Afrika Mashariki Road, P.O. Box 1096 Arusha, Tanzania, on the other hand; (hereinafter referred to as "the EACCA"), represented by the Registrar.

The AFCAC and EACCA, hereinafter collectively referred to as "the Parties".

CONSIDERING the provisions of Article 3 (I) of the Constitutive Act of the African Union adopted in Durban, South Africa on 10 July 2002, on coordinating and harmonizing the policies between the Regional Economic Communities ("RECs") for the gradual attainment of the overall objectives of the Union;

CONSIDERING the objectives of the Treaty Establishing the African Economic Community adopted in Abuja, Nigeria on 3 June 1991 and entered into force on 12 May 1994 ("Abuja Treaty"), to coordinate and harmonize policies among existing and future economic communities in order to foster gradual establishment of the Community and integration of African economies; and with the aim of inter alia deriving mutual benefit, coordination and integration of policies for the social and economic development of Africa more particularly in civil aviation;

CONSIDERING the Treaty establishing the East African Community, (the Treaty) signed on the 30 November 1999, in Arusha, Tanzania by the Heads of State of the Republic of Kenya, the United Republic of Tanzania and the Republic of Uganda and later acceded to by the Government of the Democratic Republic of the Congo, Federal Republic of Somalia, Republic of Burundi, Republic of Rwanda and Republic of South Sudan;

CONSIDERING section 37 of the East African Community Competition Act, 2006 (the Act) which established the East African Community Competition Authority mandated to promote and protect fair competition in the Community and to provide for consumer welfare and other related matters, that came into force on 1st December 2014;

RECOGNIZING the East African Community Competition Regulations adopted in 2010 by the EAC which apply to all economic activities and sectors having cross border effect.

RECALLING the Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalization of Access to Air Transport Markets in Africa signed in Yamoussoukro on 14 November 1999 ("Yamoussoukro Decision") and its Annexes, which Decision vests AFCAC with the responsibility of supervising and managing Africa's liberalized air transport industry; formulating and enforcing appropriate rules and regulations that give fair and equal opportunities to all players, promoting healthy competition; and ensuring that consumer rights are protected;

RECALLING Decision EX.CI/Dec.369 (XI) of the Assembly Heads of State and Government of the African Union establishing the Executing Agency of the Yamoussoukro Decision and vesting AFCAC with the responsibility of implementing Annex 5 of the Yamoussoukro Decision ("Regulations on Competition in Air Transport Services within Africa") and Annex 6 of the Yamoussoukro Decision ("African Union Regulations on the Protection of Consumers of Air Transport Services");

RECALLING the recommendations of the Meeting of the Ministerial Working Group on the Implementation of the Yamoussoukro Decision and Establishment of a Single Air Transport Market in Africa held in Addis Ababa, Ethiopia on 7 April, 2015;

CONSIDERING the Decision of the African Ministers in 2007 entrusting AFCAC with the responsibility of being the Executing Agency for the implementation of the Yamoussoukro Decision and the endorsement of the Assembly of Heads of State in Accra, Ghana on 29 June 2007;

CONVINCED of the importance of the Common Civil Aviation Policy ("AFCAP, 2011") for promoting the development of African Aviation and enhancing African participation in international air transport;

CONSCIOUS OF Article 2 of the Yamoussoukro Decision which provides that; the purpose of the Regulations is to promote and guarantee free and fair competition in air transport services within Africa in order to develop the air transport industry; and Act of the East African Community to promote and protect fair competition in the Community, to provide for consumer welfare, to establish the East African Community Competition Authority and for related matters.

RECOGNIZING the Memorandum of Cooperation, signed on 29 January 2018, between AFCAC and Regional Economic Communities (RECs) on providing a framework for enhanced cooperation, collaboration, and coordination for the implementation of the Yamoussoukro Decision, 1999 and the operationalization of the Single African Air Transport Market (SAATM),

EXPRESSING the intention to promote cooperation in the field of competition and consumer protection and assisting State Parties to ensure fair opportunity on a non-discriminatory basis for the designated African airlines to effectively compete in providing air transport services within their respective territories.

HIGHLIGHTING the role of competition and consumer protection in promoting effective development of the economy,

AIMING at the creation of favorable conditions for the development of the relationship between the Parties,

RELYING on the principles of equality and mutually beneficial cooperation of the Parties,

THE PARTIES HAVE REACHED THE FOLLOWING UNDERSTANDING:

ARTICLE 1
OBJECTIVE

1. The objective of this Memorandum of Understanding (MoU) is to promote cooperation, collaboration, and coordination between the Parties in the areas of competition and consumer protection regulations in the field of civil aviation including intra-African trade expansion, air transport liberalization and protection of the consumer.
2. To cooperate, collaborate and coordinate in furtherance of:
 - a) Article 14 of Yamoussoukro Decision which vests AFCAC with the power to execute its powers and procedures in collaboration with the RECs and competent authorities of the Member States.

- b) Article 15 of Annex 5 of the Yamoussoukro Decision that determines that AFCAC should cooperate and exchange information with Regional Competition Authorities and competent authorities of State Parties in relation to the application of the Decision.
- c) Section 42 (2) (k) of the East African Community Competition Act, 2006 which mandates the EACCA to cooperate with regional and international organizations and with foreign competition authorities.

ARTICLE 2

SCOPE OF COOPERATION

1. The Parties agree to strengthen their relationship and establish closer cooperation, within their respective mandate, including but not limited to the above-mentioned areas by means of:
 - a) Reviewing, developing, harmonizing, strengthening and/or reforming of the EACCA regional competition and consumer protection law and applicable rules and procedures of AFCAC;
 - b) Exchanging information on laws, regulations, rules, and other documents in the field of competition and consumer protection regulation, which do not contain confidential information;
 - c) Creation of awareness on competition and consumer protection law in the field of civil aviation including sharing of specialized trainings, whenever possible;
 - d) Participation by a Party's representatives in events devoted to competition and consumer protection regulation issues held by the other Party;
 - e) Holding joint regional and national meetings, consultations, workshops and conferences on issues of mutual interest in competition and consumer protection regulation;
 - f) Conduct joint investigations subject to the provisions of the relevant laws.
 - g) Coordinate programme planning with regard to regional events, exchange of statistical information and ensure cooperation in achieving the objectives, purpose and goals of the MoU;
 - h) Undertake joint market studies, investigations and market inquiries, where necessary.
 - i) Any other areas believed and agreed to be relevant by the Parties.

Article 3
IMPLEMENTATION

1. The Parties shall identify and agree from time to time on work programs and projects that they shall jointly undertake.
2. Specific cooperation in areas mentioned in Article 2 shall be delineated in Annexes or Appendices to this MoU, in support to this MoU, and when signed by both Parties, such Annexes or Appendices will become part of this MoU.

Article 4
EXCHANGE OF INFORMATION

1. The Parties will engage in regular dialogue and exchange of information and best practices in the areas of competition and consumer protection.
2. The Parties agree to ensure the confidentiality and safeguarding of information exchanged under the provisions of the relevant laws on confidentiality of information shared.
3. Information received by the Parties within the framework of this MoU, may be transferred to third persons only upon written consent of the providing Party.

Article 5
ADDRESSES OF THE PARTIES

1. The designated points of contact between AFCAC and EACCA (hereinafter referred to as Secretariats) for the coordination and management of this MoU are as follows:

a) For African Civil Aviation Commission
Leopold Sedar Senghor Military Airport Road B.P: 8898 Dakar, Senegal
Tel: (221)33-839-93-73,
E-mail: secretariat@afcac.org

b) For East African Community Competition Authority
EAC Close, Afrika Mashariki Road,
P.O. Box 1096
Arusha, Tanzania
Tel: +255 27 2162100,
E-mail: info@eacompetition.org

2. The Secretariats shall establish and maintain consultations through:

- a) Exchange of letters and documents;
- b) Mutual visits;
- c) Invitations to attend meetings; and
- d) Consultations and co-ordination, when necessary.

Article 6

FINANCIAL PROVISIONS

1. Each Party shall bear its own costs incurred when implementing the provisions of the present MoU unless otherwise jointly decided.
2. For certain activities, Parties may jointly contribute resources to the cooperation, collaboration and coordination efforts and may also agree to share resources.
3. Should a transfer of funds become necessary, as mutually agreed by the Parties, the Parties shall specify in writing the manner in which the activity shall be funded, the total cost ceiling of the activity, any applicable cost sharing arrangements, currency arrangements and the estimated value of any kind of non-financial contributions to the activity.
4. All the activities under this MoU, are subject to the availability of appropriate funds, necessary resources and personnel of each Party.

Article 7

COMMUNICATION

Communications between AFCAC and EACCA for all matters relating to this MoU shall be in writing channeled through their respective Secretariats.

Article 8

MONITORING AND EVALUATION

Each Party agrees to monitor and evaluate the implementation of this MoU, its Annexes and Appendices, and to provide a progress status report in December of each year. To this end, AFCAC and EACCA should develop an evaluation program and disseminate relevant information on the execution of the Program.

Article 9

PRIVILEGES AND IMMUNITIES

Nothing in or relating to this MoU or in its Annexes or Appendices, shall be deemed a waiver, express or implied, of any of the privileges and immunities which the Parties

shall enjoy by virtue of the International Agreement/Convention and Laws applicable to the respective Parties.

Article 10
NON-BINDING NATURE

1. This MoU is not legally binding on the Parties to this MoU.
2. For the avoidance of doubt, nothing in this MoU shall be interpreted in a manner inconsistent with the existing laws, or as requiring any change in the laws of the Parties.

Article 11
AMENDMENTS

1. This MoU may be amended or modified, as the case may be, by mutual consent of both Parties hereto. Each Party shall give full and sympathetic consideration to any proposal put forward by the other Party under this paragraph.
2. Any such amendment or modification shall be made and notified in writing and duly signed by both Parties, and the instruments expressing these amendments shall be appended to and shall become an integral part of this MoU.
3. AFCAC and EACCA shall meet every three (3) years to review the progress of activities jointly implemented. Such meetings shall be held at the Party's headquarters on a rotation basis or in another jointly decided location.

Article 12
DISPUTE RESOLUTION

1. Any dispute regarding the interpretation or application of this MoU or its Annexes or Appendices shall be resolved by consultations between the two Parties and shall not be referred to a third Party or tribunal for settlement.
2. This document is not a legal instrument, does not create rights and obligations regulated by international law and does not impose any financial and legal obligations on the Parties.

Article 13
TERMINATION

1. This MoU has been concluded for an indefinite period. Each Party shall, however, have the right to terminate it by giving three (3) months advance written notice to the other Party.

2. In the event of termination by one of the Parties, necessary steps shall be taken by both Parties to ensure that such termination is not detrimental to on-going projects implemented within the framework of this MoU.

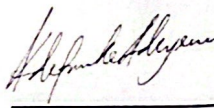
Article 14
ENTRY INTO FORCE

This MoU shall enter into force on the date of the last signature and immediately become enforceable between the Parties.

IN WITNESS WHEREOF, the Secretary General of AFCAC and the Registrar of EACCA have duly signed this MoU drawn up in two (2) original copies in English and French both of which are equally authentic.

Done in Dakar, Senegal this Wednesday on 24 July 2024.

For AFCAC




Adefunke ADEYEMI

African Civil Aviation Commission

For EACCA



Lillian K. MUKORONIA

East African Community Competition Authority