

A broad harmonisation of regulations is the indispensable corollary of a sustainable liberalisation of air transport

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If we want to guarantee sustainable recovery and the development of air transport in the Western Mediterranean, the mere liberalization of traffic rights is not sufficient: to benefit all air transport stakeholders and users, the creation of a single aviation market in the Western Mediterranean must be underpinned by harmonization of the regulations applicable to air transport.

Liberalization is not an end in itself, but rather serves as a tool to support connectivity and the economy and develop closer ties between nations. The official launch of the Single African Air Transport Market (SAATM) by the African Union (AU) in January 2018 was not merely a step to revive the African air transport liberalization process initiated in 1999 with the Yamoussoukro Decision; it represented a key tool to deliver on Agenda 2063, along with the other Agenda 2063 flagship projects, especially the African Continental Free Trade Area (which was signed by 44 African countries in March 2018), the African Union Passport or the free movement of people (the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment was adopted in January 2018).

However, to ensure that the benefits of air transport liberalization are optimal and sustainable, liberalization must form part of a gradual, comprehensive approach; the opening of aviation markets between countries in the Western Mediterranean should be carried out in stages and be supported in parallel by the harmonization of the rules applicable to air transport. The latter ensures uniform travel conditions for passengers and shippers (freight transport) and guarantees high levels of aviation safety and security; moreover, it provides operators with a level playing field, in terms of competition, and cost-effective services such as those relating to air navigation.

This gradual, comprehensive approach was adopted by the European Union in the 1990s and, more recently, by the Association of Southeast Asian Nations (ASEAN), whose single aviation market made its first appearance some 15 years ago. The creation of some form of single air transport market for the Western Mediterranean could be the outcome of a similar integrative approach involving the 10 countries concerned. However, the immediate challenge is to support an air transport sector that has been devastated by the health crisis.

The Devastating Effects of the Covid-19 Pandemic on the Air Transport Sector

The air transport sector, which has undergone constant growth for years and had an untroubled outlook over the coming decades according to forecasters, is facing an unprecedented shock as a result of the

Covid-19 pandemic and is not expected to return to the 2019 level of activity until 2024 at the very earliest.

At its 76th General Meeting held on 24 November 2020, the International Air Transport Association (IATA), which represented 290 airlines, updated its forecasts regarding the impact of the crisis. The figures for 2020 are staggering: passengers numbers are down by 66% compared to 2019, airlines are estimated to generate just 328 billion US dollars, down by 60.9% compared to the previous year (838 billion), airline losses are now estimated at 118.5 billion US dollars, downgraded from June's estimate of a "mere" 84.3 billion, airline debts have increased from 430 billion US dollars in 2019 to 651 billion in 2020, and so on.

The outlook for airports is equally grim. According to the Airports Council International Europe (ACI Europe), which represents nearly 500 airports in 46 European countries, traffic on 15 November was already down by 1.5 billion passengers compared to 2019 levels. Under these conditions, ACI Europe estimates that more than 190 airports run the risk of insolvency. In terms of recovery arrangements, it is exercising extreme caution out of fear of lasting changes in travel habits.

Despite the fact that the prospect of an effective vaccine has revived airline stock prices, IATA is predicting a difficult 2021, with losses estimated at 38.7 billion US dollars. It does not expect air traffic to return to 2019 levels until 2024 and, even then, only if certain conditions are fulfilled, especially with respect to the vaccine's effectiveness.

Against this backdrop, the opening up of markets between the countries of the Western Mediterranean could represent a facilitator for relaunching air transport for passengers and goods in this region. In the longer term, the creation of a single aviation market should involve an additional dimension: regulatory convergence is the only way to guarantee the harmonious, sustainable and safe development of air transport. This requires a gradual, comprehensive approach, similar to that used to construct the single European air transport market and implement common air spaces with the neighbouring countries of the European Union created through specific European air agreements.

A Gradual, Comprehensive Approach: The Example of the Construction of the Single European Air Transport Market

The internal market of the European Union, which comprises the 27 member states and also fully extends to Iceland, Liechtenstein and Norway through the Agreement on the Economic European Area (EEA), allows airlines with an air carrier licence issued by one of these 30 states to freely operate services between all the airports in this region, including in cabotage, without any restrictions in terms of routes, frequency and capacity, and with complete freedom to set fares.

The construction of this single aviation market, which concluded in 1997 with respect to liberalization when cabotage was included, has been accompanied by full harmonization of the rules applicable to air transport in terms of safety, security, air traffic management, slot allocation, insurance, competition, the

environment, consumer protection, flight crew working hours, etc. All stakeholders in the air transport chain must therefore apply the same rules; this benefits not only passengers and shippers, who are guaranteed high-quality air transport through some of the strictest standards around, but also airlines and airports, which are able to operate in an environment where the competition is fair, the rules are the same for everyone, and the services are ever more efficient.

The liberalization of air transport within the European Union has resulted in increased connectivity, diversification of supply, lower fares and, therefore, increased traffic. There are now four times more routes (or pairs of cities served) than in 1992, when the liberalization process began, and eight times more routes on which at least three carriers compete, all for the benefit of air transport users (source: European Commission).

The European Union's single aviation market has been extended to the six countries of the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro and Serbia) through an agreement to create a European Common Aviation Area (ECAA) that was signed in 2006. As well as the 27 EU member states and the six Western Balkan states, this area also encompasses Iceland and Norway. These 35 states will eventually share the same air transport rules in a space where airlines holding a carrier licence issued by one of the states can operate freely. However, integration of the Western Balkans into the single airspace is a gradual and conditional process; the agreement provides for two meetings to transpose its provisions into national law and ensure that the countries of the Balkans implement a predefined list of European standards, as set out in the agreement. At each stage, new rights are granted to air carriers. The number of routes between the European Union and the countries of the Western Balkans trebled between 2006 and 2018 (source: European Commission).

However, regulatory harmonization between the European and Maghreb countries of the Western Mediterranean need not go this far, since the ECAA agreement forms part of the process to gradually integrate the countries of the Western Balkans into the European Union and reflects their commitment to fully embrace the European acquis.

Drawing on this Gradual, Comprehensive Approach to Build the “Single Aviation Market for the Western Mediterranean”

The creation of a single aviation market for the Western Mediterranean should be based on these same principles: a gradual opening up of markets linked to a certain degree of harmonization of the rules applicable to air transport. This construction could be considered a gradual process, the first step of which would involve the execution of Euro-Mediterranean-style agreements relating to air services between each of the Maghreb countries and the European Union; at the same time, the Maghreb countries could work together to open up their markets in the spirit of the Yamoussoukro Decision (1999) and within the more general framework of the creation of the Single African Air Transport Market.

With respect to north-south relations

The European Union has already embarked on the journey to open up its aviation market to some Maghreb countries as part of its external air transport policy dedicated to neighbouring countries. This policy concerns Algeria, Libya, Morocco and Tunisia.

Thus, the 2006 “Euro-Mediterranean aviation agreement between the European Community and its Member States, of the one part and the Kingdom of Morocco, of the other part” sets out the conditions for the operation of commercial air services between the Kingdom of Morocco and the 27 countries of the European Union. Air services are already largely open, and Moroccan and European air carriers are permitted to operate unlimited services between any airport in the Kingdom and any airport in the European Union. This opening up of markets is accompanied by a process of regulatory harmonization in several areas of air transport, albeit not to the extent provided for by the ECAA agreement. Ultimately, when the joint committee, the body responsible for managing the agreement, confirms Morocco’s implementation of all air transport regulations provided for by the treaty, air carriers will benefit from additional opportunities (i.e. certain fifth-freedom rights, especially within the European Union for Moroccan carriers).

Since this agreement with Morocco was implemented in late 2006, the number of city pairs served has doubled (there were 198 different connections between Morocco and the European Union in 2018), the average fare has fallen by more than 60% and the number of passengers has doubled (15 million in 2018) (source: European Commission).

A similar agreement between Tunisia and the European Union, the text of which was initialled in November 2017, should finally be implemented in 2021 after a delay caused by legal problems within the European Union. The philosophy of this agreement is in keeping with that of the agreement with Morocco, namely an opening up of markets based on a certain degree of harmonization of the rules applicable to air transport. Arrangements have been made to ensure a smooth transition between the current situation and the full opening up of the market between Tunisia and the European Union with a view to supporting the efforts of Tunisian air carriers to adapt to this new situation.

Since 2008, the European Commission has also had a negotiation mandate for Algeria; in other words, an authorization issued by the Council of the European Union and EU member states to open negotiations with Algeria on a European air transport agreement. It is therefore possible that negotiations between Algeria and the European Union will be launched on the basis of an agreement that sets forth the same principles as the two preceding agreements once the two parties are ready to do so.

With respect to the other two Maghreb countries, i.e. Libya, which has observer status within the Union for the Mediterranean and is involved in the European Union’s neighbourhood policy, and Mauritania, which is not included in this policy, relations with the European Union in the field of air transport remain

to be defined, especially since the intensity of traffic between these two states and EU member states remains marginal.

The figures below provide more insight into the priorities and effects of the European Union's aviation policy towards its neighbours in the Eastern Mediterranean (sources: Eurostat):

	2014	2015	2016	2017	2018	2019
Algeria	4,767,772	5,036,314	5,337,257	5,538,734	5,394,335	5,213,326
Morocco	7,902,589	7,800,398	7,864,422	8,825,896	9,779,788	11,048,632
Tunisia	3,652,440	2,938,734	2,907,029	3,341,045	3,827,976	4,152,709

The economies of Morocco and Tunisia are highly dependent on tourism, and the rise in passenger numbers between the former and the five European countries within the Western Mediterranean is being fuelled by the benefits of the European agreement, which allows all Moroccan and European carriers, especially low-cost airlines, to operate all possible routes between the airports of Morocco and those of the European Union. It is important to note the repercussions of the events of 2015 on tourist traffic in the two countries. With regard to Tunisia more specifically, the flow of passengers is rising less drastically than for Morocco, given that existing bilateral agreements generally do not allow European low-cost carriers to operate from a member state other than the one that issued them with a carrier licence. The forthcoming signing of the air agreement between Tunisia and the European Union will make it possible to observe the effects of liberalization on passenger flows. Finally, in the case of Algeria, certain bilateral agreements retain limitations and restrictive conditions on the level of access to the market, which is likely playing a role in the stagnation of traffic and the maintenance of fares deemed excessively high.

Passengers 2019	Algeria	Libya	Mauritania	Morocco	Tunisia
Spain	693,796	:	1,242	2,355,411	119,807
France	4,352,669	:	38,883	6,706,645	3,444,762
Italy	149,009	:	:	1,412,533	504,398
Malta	:	4,180	:	18,788	36,322
Portugal	17,852	:	61	555,255	47,420
Total:	5,213,326	4,180	40,186	11,048,632	4,152,709

Given current air traffic levels between Libya and Mauritania and the European Union, the relationship between them in the field of air transport has yet to be defined.

With respect to relations between the Maghreb countries

The Yamoussoukro Decision of November 1999 begins with these words:

“We, African Ministers in charge of civil aviation meeting in Yamoussoukro, Côte d’Ivoire on 13 and 14 November 1999, (...) hereby adopt this decision (...):

This Decision establishes the arrangement among State Parties for the gradual liberalization of scheduled and non-scheduled intra-Africa air transport services. This Decision has precedence over any multilateral or bilateral agreements on air services between State Parties which are incompatible with this Decision.”

Besides the gradual liberalization of services (the first five freedoms of the air), without limitation in terms of capacity or frequency, the key features of a single market, the Decision also includes a notable addition, i.e. the possibility of states to designate an airline from another state party to the Yamoussoukro Decision.

In 2018, two essential annexes were added: Annex 5 on Regulations on Competition in Air Transport Services within Africa and Annex 6 on Regulations on the Protection of Consumers of Air Transport Services. This is surely proof that a single market cannot be viewed from a liberalization viewpoint alone, and that the convergence or, better still, harmonization, of certain rules is essential to guarantee that it functions properly.

The official launch of the Single African Air Transport Market in January 2018 placed the Yamoussoukro Decision in the context of Agenda 2063 and revived a liberalization process that was initiated 20 years earlier. Thirty-four African states, including Morocco, have already made “solemn commitments” to the SAATM, and 18 states have already signed the Implementation Protocol aimed at ensuring coherence between the Yamoussoukro Decision and their bilateral air service agreements (source: website of the African Civil Aviation Commission).

In the foreword to the 2018 edition of the Yamoussoukro Decision (Single African Air Transport Market - Towards a Single African Sky), Moussa Faki Mahamat, Chairperson of the African Union Commission, said that air transport liberalization in Africa would lead to greater connectivity, a “massive reduction in air ticket prices” and growth in intra-African traffic in terms of passengers and freight, which would improve the profitability of African airlines. These remarks are supported in particular by a study by InterVista titled “Transforming Intra-African Air Connectivity: The Economic Benefits of Implementing the Yamoussoukro Decision”.

The effective implementation of liberalization is likely to reveal a broader need for regulatory harmonization. This need should quickly become evident in the field of aviation safety and security, especially when states avail themselves of the option to designate air carriers whose regulatory oversight in these fields is guaranteed by another state.

In addition, the increased flow involves the risk of saturating the airspace and air traffic control bodies. The search for greater efficiency in this area, especially in terms of the economy and environment (e.g. reduction of greenhouse gas emissions), should result in ever stronger cooperation, one of the advanced

stages of which could be the establishment of so-called functional airspace blocks (FABs), based on the European Union's model. These functional airspace blocks are designed to address the fragmentation of airspace and organize airspace according to flows rather than national borders. Such cooperation levels between countries, or between air traffic control services, can be conceived only on the basis of highly or even fully harmonized regulations.

It should be noted that cooperation in the field of air navigation already extends across the Mediterranean, as reflected in the partnerships established between the BLUE MED FAB (the Mediterranean functional airspace block that links Cyprus, Greece, Italy and Malta) and the air navigation service providers of Egypt and Tunisia, which participate as "associated partners", as well as the Hashemite Kingdom of Jordan, which enjoys observer status.

The first building blocks of air transport liberalization between the countries of the Western Mediterranean have been laid; the next steps should take shape as the SAATM progresses.

All of these building blocks (European agreements with certain Maghreb countries, North-South cooperation, the gradual implementation of the Single African Air Transport Market) are paving the way for the orderly opening of the air transport market between the countries of the Western Mediterranean. The next steps could potentially relate to new agreements between the European Union and the Maghreb countries but, more importantly, real progress in the implementation of the SAATM would mark a decisive turning point in the process to liberalize air transport services.

A symbolic step was taken on 13 November, when the Assembly of Heads of State and Government of the African Union designated 14 November as the anniversary of the Yamoussoukro Decision and named it Yamoussoukro Decision Day. Beyond its symbolic significance, this move also underlined the commitment of African states to forge ahead with the initiative.

Moreover, the health crisis has reinforced this need to open up the African market, as stressed at the Assembly by Ali Tounsi, the Secretary General of Airports Council International Africa. He made a passionate plea in favour of the Single African Air Transport Market, the African Continental Free Trade Area and the Free Movement of Persons Protocol (FMPP), elements he considers essential to ensure the recovery of the air transport industry in the post-Covid era but, even more importantly, for the future of the African continent (*Institutional Message delivered by the Secretary General of ACI Africa on the occasion of Yamoussoukro Decision Day 2020*).