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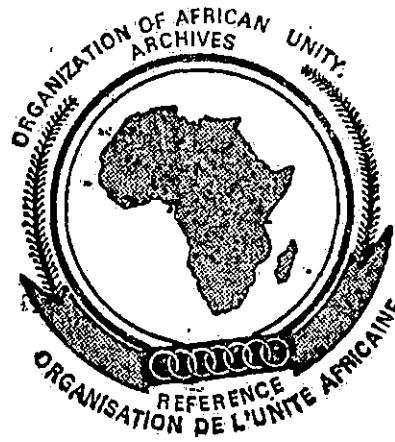
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CM/664 (XXV)

Council of Ministers
Twenty-Fifth Ordinary Session
Kampala, July 1975

REPORT OF THE ADMINISTRATIVE SECRETARY
GENERAL ON THE AFRICAN CIVIL AVIATION COMMISSION

IMPLEMENTATION OF RESOLUTION CM/Res.357 (XXIII)



CM/664

18 p MICROFICHE

I INTRODUCTION

1. The African Civil Aviation Commission is a major Specialized African body in whose establishment, the Organization of African Unity played a significant role. The Economic Commission for Africa (ECA) and the International Civil Aviation Organization (ICAO) were collaborators with the OAU in the preparation leading up to the establishment of the African Civil Aviation Commission in January 1969 during a meeting held in Addis Ababa and attended by thirty-two member States of the OAU.

2. Today thirty-six member States of the OAU have ratified the Constitution and are members of AFCAC. They are Algeria, Burundi, Cameroon, Central African Republic, Congo, Dahomey, Egypt, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Malawi, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Tchad, Togo, Tunisia, Uganda, Upper Volta, Zaire and Zambia. The General Secretariat of OAU is the depository of instruments of ratification by member States.

3. The Supreme Organs of AFCAC are the Plenary and the Bureau. The Plenary meets once every two years and the Bureau meets twice a year with provisions for extra-ordinary sessions in both cases.

4. The African Civil Aviation Commission has its headquarters in Dakar, Senegal and its Secretariat is currently headed by a Secretary. The Secretariat staff are provided by ICAO.

5. The objectives are:

- a. To provide civil aviation authorities in the member States with a framework within which to discuss and plan all the required measures of coordination and cooperation for all their civil aviation activities.
- b. To promote coordinations, better utilization and orderly development of African air transport systems.

6. Its functions inter alia include, in particular:
- a. Formulating plans at the regional and sub-regional levels for the operation of air services within and outside Africa
 - b. Carrying out studies for the feasibility of standardization of flying equipment and ground units servicing aircraft
 - c. Carrying out studies of possibility of integration of the policies of governments regarding commercial aspects of air transport
 - d. Carrying out studies of intra-African fares and rates with a view to adopting a structure conducive to the rapid growth of traffic in Africa
 - e. Fostering and coordinating programmes for the development of existing and future training facilities to cope with the present and future regional and sub-regional requirements for personnel in all fields of civil aviation
 - f. Studying the need for collective arrangements for technical assistance in Africa with a view to obtaining the best possible use of all available resources, particularly provided within the framework of the United Nations Development Programme.

II IMPLEMENTATION OF CM/Res.357(XXIII)

7. Although the objectives and function of AFCAC conform to OAU aims and principles and despite the role OAU played in the establishments of the Commission, certain institutional elements persisted in AFCAC which implanted a drawback on the active of cooperation that could have evolved throughout the past years. It was the view of the OAU that an African Organization whose minutes, correspondence etc. are handled by a non-African organization and whose Secretariat is provided by a non-African organization to carry out studies, organize meetings and undertake related activities lacks a complete African identity. The OAU thus took it upon itself to ensure the independence of AFCAC from exploitation by international organizations, to assert its true African identity and hence institutionally link it with the foremost African machinery of cooperation viz the OAU.

8. This was, therefore, the rationale behind the adoption of resolution CM/Res.357(XXIII) (Annex I) in Mogadiscio by the political organs of the OAU. This resolution among other things decided that AFCAC should become an organ or a commission of the OAU and that it should become independent of ICAO.

9. The General Secretariat took steps to make this resolution known to the Bureau of AFCAC. Subsequently the matter constituted an item of the agenda of the Third Plenary Session of AFCAC which took place in Kampala from 15 - 26 April 1975. The Plenary after careful consideration adopted Recommendation S3-18 whereby it welcomed the OAU resolution and requested the Administrative Secretary-General for a clarification on the institutional relationship to be established. The Recommendation is attached to this report as Annex II.

10. Accordingly the Administrative Secretary-General invited the Bureau of the African Civil Aviation for a consultative meeting in Addis Ababa. The Bureau of AFCAC is composed of Ghana (President), Mali (Vice-President for Western Sub-region), Kenya (Vice-President for Eastern Sub-region), Zaire (Vice-President for Central Sub-region) and Tunisia (Vice-President for Northern Sub-region).

11. The Consultative meeting took place in Addis Ababa from 26 - 28 May 1975 at the Headquarters of the OAU. The agenda and the Working Paper are attached to this report as annexes III and IV.

12. The Working Paper analysed the various institutional possibilities that would satisfy both the spirit and letter of the decision of the Council of Ministers of the OAU that AFCAC should be an organ or a Commission of the OAU. In particular the Administrative Secretary-General highlighted the Specialized Commission, the sub-regional office and the Specialized Agency types of status linking AFCAC to OAU. Without deviating from the spirit of resolution CM/Res.357(XXIII) the Administrative Secretary-General was prompted to recognize the need to afford AFCAC certain operational autonomy considering that the objectives, functions and work programme of AFCAC conform to the broad policies and objectives of OAU.

13. In an objective manner the Administrative Secretary-General, the Assistant Secretary-General and senior staff of OAU concerned with the question and the Bureau exchanged views on the institutional, administrative, operational and financial questions pertaining to AFCAC and its Secretariat as well as its relations with international organizations. At the conclusion of the meeting the meeting drew up its report which is attached here as annex V.

14. The conclusion of the report stated that the Specialized Agency type relationship would offer the best arrangement to satisfy the spirit and letter of CM/Res.357(XXIII) and at the same time ensure operational efficacy of the African Civil Aviation Commission. This relationship is to be institutionalized by an Agreement to be signed and the meeting stressed certain major points that would among other things, be clearly included in the Agreement. These points are to be found in paragraph 12 of the report of the meeting as found in annex V.

15. The Administrative Secretary-General now presents the report of the meeting for the Council's consideration and further directives to fully implement resolution CM/Res.357(XXIII) on the African Civil Aviation Commission

RESOLUTION ON THE AFRICAN CIVIL AVIATION
COMMISSION (CM/586)

The Council of Ministers of the Organization of African Unity, meeting in its Twenty-Third Ordinary Session, in Mogadiscio, Somalia, from 6 - 11 June 1974,

Taking Note of the progress report of the Administrative Secretary-General on the activities of the AFCAC,

Aware that the programmes and activities of the OAU and AFCAC are complementary,

Noting that the majority of the resolution of AFCAC's plenary sessions earnestly call for co-operation between OAU and AFCAC,

Desirous of ensuring that AFCAC is independent in its work,

1. DECIDES that the African Civil Aviation Commission be an organ of the Commission of the OAU and responsible to it;
 2. WHILE CONTINUING to use the services of the ICAO the AFCAC should immediately be independent of ICAO;
 3. REQUESTS the OAU Advisory Committee on Budgetary and Financial Matters to provide ways and means to the Secretariat to enable it to implement this resolution in spite of the fact that no appropriations for this task had been foreseen in the 1974/75 OAU financial Year;
 4. REQUESTS the OAU Secretary-General to ensure the implementation of this resolution forthwith and to report on its progress to the 25th Session of the OAU Council of Ministers.
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Recommendation S3-18 Relationship between AFCAC and OAU

THE COMMISSION

HAVING CONSIDERED the Resolution concerning AFCAC, CM/Res.357(XXIII) of the Council of Ministers of the Organization of African Unity, endorsed by the OAU Assembly of Heads of State and Government;

RECOGNIZING that this Resolution must be implemented;

RECOGNIZING that there are practical questions concerning implementation of the Resolution which must be accorded careful consideration;

CONFIDENT that it will benefit from its relationship with OAU; and

DESIRING that OAU give it enough freedom to effectively pursue its course with the aims and objectives necessary in the area of international civil aviation;

WELCOMES the OAU Resolution CM/Res.357(XXIII);

INSTRUCTS THE BUREAU

- 1) to undertake discussion with the Administrative Secretary-General of the Organization of African Unity to resolve the following questions:
 - the status which AFCAC would have vis-a-vis the OAU, its Administrative Secretary-General and the General Secretariat and the OAU Economic, Social, Transport and Communication Commission;
 - the status of the AFCAC Secretariat vis-a-vis the OAU;
 - the status of the Constitution of AFCAC;
 - the legal, financial, administrative and technical aspects which had to be taken into consideration;
 - any other related questions which might emerge during the course of these discussions.
- 2) to report to it on the result of these discussions at the planned Extraordinary Session.

MEETING OF THE ADMINISTRATIVE SECRETARY-
GENERAL OF THE OAU WITH THE BUREAU
OF AFCAC REGARDING RELATIONS BETWEEN
OAU AND AFCAC
ADDIS ABABA, 26 - 28 MAY 1975

AGENDA

1. Opening of Meeting (3.30 p.m.)
2. Welcome by H.E. Mr. William Eteki Mboumoua, Administrative Secretary-General and introduction of members of the Secretariat to the Bureau
3. Reply by Mr. E.R.K. Dwemoh, President of the Bureau, and introduction of members of the Bureau to the Administrative Secretary-General and his colleagues
4. Consideration of OAU and AFCAC Relationship
REF: OAU Resolution CM/357(XXIII)
AFCAC Recommendation S3-11
5. Any other business

OAU AND AFCAC RELATIONSHIP
IMPLEMENTATION OF CM/Res.357(XXIII)

1. In considering CM/Res.357(XXIII) the Administrative Secretary-General is concerned about the appropriate interpretation of operative paragraph (1) of the resolution which says

"Decides that the African Civil Aviation Commission be an organ of the Commission of the OAU and responsible to it"

and it is particularly essential to examine the definition of the term "organ" in the above context. It is to be noted that it is conceivable to deduce various types of relationships from the provision that the AFCAC becomes an "organ" of the OAU. As an academic exercise it is possible to envisage the AFCAC as:

- a. Another Commission of the OAU
- b. Specialized agency of the OAU
- c. An organ institutionally answerable to the OAU and hence a sub-regional office of the OAU

2. In examining these possibilities in depth, however, it is important to be aware of the spirit wherein this resolution was adopted. There is to be sure an expression of intent that the AFCAC should be a completely independent African institution free from international exploitation. It must, therefore, come under the control or the umbrella of the OAU. In practical terms, however, whatever institutional relationship is established it is to be understood that substantial operational autonomy is both desirable and essential for the AFCAC to achieve its objectives which conform to the objectives and principles of the OAU.

3. In looking at the various possibilities now it is to be stated that there exists the Economic, Social, Transport and Communications Commission of the OAU which by the decision of the Assembly of Heads of State and Government is responsible for all undertakings inter alia in transport and communications fields. Hence the AFCAC can theoretically be considered as subsidiary body of that Commission but the AFCAC cannot be asserted as a Commission of the OAU.

4. From the legal point of view and in order to achieve the provisions and intentions of CM/Res.357(XXIII) and in particular

"Decides that the African Civil Aviation Commission be an organ of the Commission of the OAU and responsible to it"

The AFCAC should be an organ or institution of the OAU, answerable to it:

- a. by primarily being responsible to the Administrative Secretary-General through the Assistant Secretary-General in charge of ECOSOC. Its main activities and programmes of work must be approved by the Administrative Secretary-General.
- b. through the regular budget of the OAU. The Council of Ministers and the Assembly of Heads of State and Government will have the opportunity to scrutinize its activities and ultimately controlling and considering its budget.

5. If this arrangement is adopted, then, the questions raised by AFCAC Recommendation S3-11 can be summarily clarified by the following provisions:

- A. The AFCAC shall become a sub-regional office of the OAU and it will operate under the policy guidelines of the OAU.
- B. Due to its specialized character, the AFCAC will be accorded operational autonomy. It will nevertheless prepare periodic reports on its activities which will be submitted to the political bodies and the relevant Commission of the OAU through the Administrative Secretary-General.
- C. The Secretariat of the AFCAC will be headed by a Director and all the rules and regulations of the OAU shall be applied in the functioning of the Secretariat and the personnel.
- D. The Director of the AFCAC Secretariat is answerable to the Secretary-General of the OAU through the Assistant Secretary-General in Charge of Economic and Social Affairs Department.

- E. Until such time as all the required personnel are recruited the Administrative Secretary-General shall agree on an interim arrangement with the Bureau.
- F. The Budget of the AFCAC will be assessed along with the OAU regular budget with due consideration to the obligation that the members of AFCAC have already undertaken with regard to their budgetary requirements.
- G. The Constitution and Rules of Procedures of the AFCAC will be amended in accordance with its new status.
- H. The Plenary and the Bureau of AFCAC will continue to function in accordance with the revised Constitution of the AFCAC.
- I. The OAU shall undertake consultations with ICAO in order to conclude cooperation and agreement to ensure that the ICAO would extend its assistance to the AFCAC whenever requested.

6. In order to ensure the greatest possible autonomy for AFCAC's operations a third possibility can be considered for OAU and AFCAC relationship. This possibility is for the AFCAC to become a Specialised Agency of the OAU. In this regard the AFCAC will continue as an African inter-governmental organization linked to the OAU by a special agreement. In the UN the Specialized Agencies have their own organization, membership and rules and each Specialized Agency has signed an agreement with the UN. The Agency agrees to consider recommendations made by the UN and to report back on steps it takes to carry them out. The Economic and Social Council has the responsibility of helping the UN and the Specialized Agencies to work together effectively.

7. If the AFCAC has to become a Specialized Agency of the OAU the Agreement to be signed has to take into account the provisions of CM/357(XXIII). Thus unlike the UN Specialized Agencies the AFCAC will operate under the overall policy guidelines of the OAU. In other words the autonomy of the AFCAC will be restricted by virtue of the OAU resolution.

8. If this arrangement is adopted the following action and provision will be considered:

- a. The relationship shall be specified on terms to be determined by an agreement
- b. The OAU shall undertake to draft the Agreement
- c. The AFCAC shall retain authority essential for the discharge of its responsibilities under its constitution with unreserved regard to the OAU objectives
- d. The representative of the Administrative Secretary-General of the OAU shall become a voting member of the Bureau of AFCAC
- e. The AFCAC would be entitled to request subvention from the OAU
- f. The OAU shall consider to second a staff members to a senior post in the AFCAC Secretariat
- g. The AFCAC Constitution shall be amended in accordance with the provisions of the Agreement.

9. In the view of the Administrative Secretary-General these are the possibilities within which discussion may be undertaken. The Administrative Secretary-General is, however, prepared to hear the views of the Bureau in the spirit of mutual confidence and goodwill.

REPORT OF THE MEETING OF THE ADMINISTRATIVE
SECRETARY-GENERAL OF THE OAU WITH THE
BUREAU OF THE AFRICAN CIVIL AVIATION COMMISSION
ON RELATIONS BETWEEN OAU AND AFCAC
ADDIS ABABA, 26 - 28 MAY 1975.

1. The Meeting of the Administrative Secretary-General of the OAU with the Bureau of the AFCAC took place at the Headquarters of the OAU from 26 to 28 May 1975.
2. The OAU was represented by:
 - H.E. Mr. William Eteki Mboumoua, Administrative Secretary-General
 - Mr. Osanya-Nyenneque, Assistant Secretary-General, ECOSOC
 - Dr. A. Ghaffar, Director, ECOSOC
 - Mr. Paul Aryee, Head of Administration
 - Mr. Hizekiel Isaac, Chief of Transport and Communications
 - Mr. Buzingo Libère, Transport Economist
3. The AFCAC was represented by the Bureau and the Secretary:
 - Mr. E.R.K. Dwemoh, President
 - Mr. M. Maiga, Vice-President (Western Sub-Region)
 - Mr. J.N. Kahuki, Vice-President (Eastern Sub-Region)
 - Mr. M. H. Merchaoui, Vice-President (Northern Sub-Region)
 - Mr. T. Kapepula, Vice-President (Central Sub-Region)
 - Mr. E. Lombolou, Secretary
4. The Meeting which was chaired by the Administrative Secretary-General proceeded in accordance with the Agenda and working paper presented by OAU.
5. In his welcoming remarks H.E. Mr. William Eteki Mboumoua, Administrative Secretary-General, expressed his appreciation for the response to his invitation for the Bureau to come to Addis Ababa for consultations on the application of OAU resolution CM/Res.357 (XXIII) the principle of which was favourably accepted by the African Civil Aviation Commission. He stated that the resolution was based upon the basic principles which

Africa has set for herself toward economic and social development and integration of which transport constituted an essential factor. This was clearly stated in the African Declaration on Cooperation, Development and Economic Independence, otherwise known as the Economic Charter, adopted by the Heads of State and Government in May 1973 in Addis Ababa,

6. The Administrative Secretary-General then stated that OAU's decision to make AFCAC an organ or a commission of the OAU was intended to establish a meaningful relationship and an effective collaboration between the two organizations. He emphasised that because of its very nature the OAU is the most appropriate framework for coordination and intra-African Cooperation and consequently even the organization which existed prior to its establishment should now conform to the OAU philosophy and objectives regarding the development strategy of Africa. The African Civil Aviation Commission as an African organization serving Africans is now being afforded a place in the privileged framework of the OAU for the initiative orientation, coordination and execution of its objectives. He then indicated the various possibilities of institutional relationship that could be established in accordance with OAU resolution CM/357(XXIII) in response to AFCAC Recommendation S3-11/1- (S-18 of the Final Report).

7. Mr. E.R.K. Dwemoh, President of the AFCAC, thanked the Secretary-General for the invitation and expressed his appreciation that OAU and AFCAC were for the first time meeting with the Administrative Secretary-General and that this was a sign of fruitful cooperation between the two organizations.

8. The President continued by giving the historical background of the AFCAC since 1964 by mentioning the efforts made by OAU, ECA and ICAO to make possible the establishment of AFCAC in 1969. He said that the Commission since its inception had made use to the service of the International Civil Aviation Organisation (ICAO) in providing staff to carry out studies, organise meetings and undertake other related matters as spelt out under Article 12 of the Constitution. He added that other regional civil aviation bodies such as the European Civil Aviation Conference (ECAC) formed in 1954 and the recently created Latin American Civil Aviation Council also made use of the service of ICAO as prescribed in the Chicago Convention. He then gave some of the highlights of the accomplishments of the AFCAC in the service of Africa since its establishment. He

stated that important studies were being undertaken in certain fields such as in the area of bilateral air transport agreements and on the contribution of civil aviation to the economy of African states. He said further that the AFCAC made a break-through in pushing a decision in the ICAO as regards sickle cell anaemia which hitherto affected adversely the licensing of African pilots in the belief that pilots with sickle cell trait should not operate aircraft. It is now decided that pilots with sickle cell trait can operate aircraft and that only persons with the disease could not do so.

9. The Meeting considered the various institutional possibilities regarding OAU and AFCAC relationship. In this respect AFCAC could be:

- a. a Commission of the OAU
- b. Specialised agency of the OAU
- c. an integral organ of OAU

10. After considering these possibilities in detail the Meeting generally agreed that Specialized Agency formula would offer the most practical institutional framework for OAU and AFCAC in the spirit of OAU resolution CM/Res.357(XXIII).

11. The Meeting agreed that the way to make effective the status of the AFCAC as a Specialized Agency of the OAU, is to conclude an agreement somewhat similar to those existing between the UN and its Specialized Agencies. This agreement while enabling the OAU to have the maximum participation in the activities of the AFCAC should at the same time grant the AFCAC sufficient autonomy to accomplish its work programme to achieve its objectives with due regard to the principles and objectives of the OAU.

12. To this end the Meeting agreed that the following main principles should constitute the framework of the proposed agreement.

- A. Active participation of OAU in all the activities of AFCAC including the meetings of the Bureau and the Plenary Session of the Commission.
- B. Possibility for OAU to receive and comment on the draft provisional agenda of the Plenary Session.

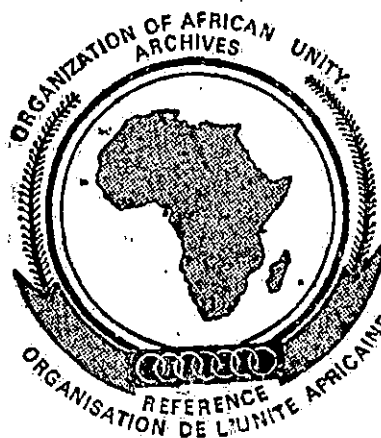
- C. Presentation of annual reports by AFCAC to OAU policy making bodies.
- D. Attendance of AFCAC at the regular sessions of OAU and active participation in matters of interest to AFCAC.
- E. Need for AFCAC to establish its own Secretariat which would be financed by AFCAC's regular budget and if need be contributed to by OAU.
- F. Establishment of OAU/AFCAC Coordinating Committee which would hold regular meetings at which other African organizations such as ECA, ADB etc. may be invited.
- G. Need for the OAU and ICAO to conclude a cooperative agreement whose provisions would determine the relationship between AFCAC and ICAO.

13. The Meeting agreed that the drafting of the agreement would be jointly undertaken by OAU and AFCAC on the basis of the principles set forth in paragraph 12 above.

14. The Meeting agreed further that the present Constitution of AFCAC shall be amended taking into account the provisions of the agreement to be concluded.

15. With regard to the establishment of an autonomous secretariat of AFCAC a detailed study of the financial implications would be prepared to be submitted to and considered by AFCAC plenary session and to the OAU policy making bodies who will decide on the practical measures to be taken.

16. The Meeting noted that the above provisions will be presented by the Administrative Secretary-General to the policy making bodies of the OAU.



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