

African Union, African Regional Bodies

Decision relating to the implementation of the Yamoussoukro declaration concerning the liberalisation of access to air transport markets in Africa

Annex 4 to the Yamoussoukro Decision: Regulations on the Powers, Functions and Operations of the Executing Agency of the Yamoussoukro Decision

Legislation as at 17 March 2017

FRBR URI: /akn/aa-au/act/reg/2017/powers-functions-and-operations-of-executing-agency/eng@2017-03-17

There may have been updates since this file was created.

PDF created on 7 November 2023 at 22:53.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Annex 4 to the Yamoussoukro Decision: Regulations on the Powers, Functions and Operations of the Executing Agency of the Yamoussoukro Decision
 Contents

- Article 1 – Definitions 2
- Article 2 – Scope of application 3
 - Paragraph 1. 3
 - Paragraph 2. 3
- Article 3 – Object and basic principles 3
 - Paragraph 1. 3
 - Paragraph 2. 3
 - Subparagraph a. 3
 - Subparagraph b. 3
 - Subparagraph c. 3
 - Subparagraph d. 3
 - Subparagraph e. 3
 - Subparagraph f. 3
- Article 4 – Criteria for eligibility 3
- Chapter 1 – Powers and functions 3
 - Article 5 – Functions of the Executing Agency 3
 - Paragraph 1. 3
 - Paragraph 2. 3
 - Subparagraph a. 3
 - Subparagraph b. 4
 - Subparagraph c. 4
 - Subparagraph d. 4
 - Subparagraph e. 4
 - Subparagraph f. 4
- Article 6 – Powers of the Agency 4
 - Paragraph 1. 4
 - Subparagraph a. 4
 - Subparagraph b. 4
 - Subparagraph c. 4
 - Subparagraph d. 4
 - Subparagraph e. 4
 - Subparagraph f. 4
 - Subparagraph g. 4

Subparagraph h.	4
Subparagraph i.	4
Subparagraph j.	4
Subparagraph k.	4
Subparagraph l.	4
Subparagraph m.	4
Subparagraph n.	4
Paragraph 2.	4
Article 7 – Acts of the Agency	5
Paragraph a.	5
Paragraph b.	5
Paragraph c.	5
Paragraph d.	5
Chapter 2 – Operations of the Agency	5
Article 8 – Implementing measures at national and regional levels	5
Article 9 – Training of senior management	5
Paragraph 1.	5
Paragraph 2.	5
Paragraph 3.	5
Article 10 – Monitoring, evaluation and reporting	5
Paragraph 1.	5
Paragraph 2.	5
Paragraph 3.	5
Subparagraph a.	5
Subparagraph b.	5
Subparagraph c.	5
Paragraph 4.	5
Paragraph 5.	6
Subparagraph a.	6
Subparagraph b.	6
Subparagraph c.	6
Subparagraph d.	6
Subparagraph e.	6
Subparagraph f.	6
Article 11 – Research and development	6

Paragraph 1.	6
Paragraph 2.	6
Paragraph 3.	6
Paragraph 4.	6
Subparagraph a.	6
Subparagraph b.	6
Article 12 – Annual planning	6
Paragraph 1.	6
Paragraph 2.	6
Paragraph 3.	6
Article 13 – Database, website, privacy and publication	6
Paragraph 1.	6
Subparagraph a.	7
Subparagraph b.	7
Subparagraph c.	7
Subparagraph d.	7
Paragraph 2.	7
Paragraph 3.	7
Paragraph 4.	7
Subparagraph a.	7
Subparagraph b.	7
Paragraph 5.	7
Paragraph 6.	7
Article 14 – Investigation	7
Paragraph 1.	7
Paragraph 2.	7
Subparagraph a.	7
Subparagraph b.	7
Subparagraph c.	7
Paragraph 3.	7
Subparagraph a.	7
Subparagraph b.	7
Subparagraph c.	8
Subparagraph d.	8
Paragraph 4.	8

Paragraph 5.	8
Paragraph 6.	8
Article 15 – Inspections of service providers	8
Paragraph 1.	8
Subparagraph a.	8
Subparagraph b.	8
Subparagraph c.	8
Subparagraph d.	8
Paragraph 2.	8
Paragraph 3.	8
Article 16 – Imposition of sanctions	8
Paragraph 1.	8
Paragraph 2.	8
Paragraph 3.	8
Subparagraph a.	8
Subparagraph b.	8
Subparagraph c.	8
Subparagraph d.	8
Subparagraph e.	8
Subparagraph f.	8
Subparagraph g.	9
Subparagraph h.	9
Article 17 – Procedures for development of opinions, procedures, plans, specifications	9
Paragraph 1.	9
Paragraph 2.	9
Paragraph 3.	9
Paragraph 4.	9
Paragraph 5.	9
Subparagraph a.	9
Subparagraph b.	9
Subparagraph c.	9
Article 18 – Procedures for taking enforcement decisions	9
Paragraph 1.	9
Paragraph 2.	9
Subparagraph a.	9

Subparagraph b.	9
Subparagraph c.	9
Subparagraph d.	9
Subparagraph e.	9
Chapter 3 – Institutional arrangements	10
Article 19 – Management of the Executing Agency	10
Paragraph 1.	10
Subparagraph a.	10
Subparagraph b.	10
Subparagraph c.	10
Subparagraph d.	10
Subparagraph e.	10
Subparagraph f.	10
Subparagraph g.	10
Subparagraph h.	10
Paragraph 2.	10
Paragraph 3.	10
Article 20 – The Secretary General	10
Paragraph 1.	10
Paragraph 2.	10
Article 21 – Functions and powers of the Secretary General	10
Paragraph 1.	10
Subparagraph a.	10
Subparagraph b.	10
Subparagraph c.	10
Subparagraph d.	10
Subparagraph e.	11
Subparagraph f.	11
Subparagraph g.	11
Subparagraph h.	11
Chapter 4 – Financial arrangements	11
Article 22 – Budget	11
Paragraph 1.	11
Subparagraph a.	11
Subparagraph b.	11

Subparagraph c.	11
Paragraph 2.	11
Paragraph 3.	11
Paragraph 4.	11
Article 23 – Implementation and control of the budget	11
Paragraph 1.	11
Paragraph 2.	11
Paragraph 3.	11
Paragraph 4.	11
Article 24 – Fees	11
Paragraph 1.	11
Paragraph 2.	11
Final provisions	12
Article 25 – Entry into force	12

African Union

Decision relating to the implementation of the Yamoussoukro declaration concerning the liberalisation of access to air transport markets in Africa

Annex 4 to the Yamoussoukro Decision: Regulations on the Powers, Functions and Operations of the Executing Agency of the Yamoussoukro Decision

Published

Commenced on 17 March 2017

[This is the version of this document at 17 March 2017.]

Executing Agency

WE, the Ministers responsible for Transport, Infrastructure, Energy and Tourism meeting at the First Ordinary Session of the African Union Specialized Technical Committee on Transport, Transcontinental and Interregional Infrastructure, Energy and Tourism in Lome, Togo, 17th March 2017 have adopted these Regulations developed by the Bureau of the Conference of African Ministers of Transport, meeting in Malabo, Republic of Equatorial Guinea, on 18th and 19th December 2014, on the occasion of the Fourth Meeting of the Bureau of the Conference of African Ministers of Transport dedicated mainly to implement the Executive Council Decisions EX. CL/Dec. 826(XXV) endorsing the report of the Third Session of the Conference of African Ministers of Transport (CAMT);

CONSIDERING the Constitutive Act of the African Union adopted in Lome on 11th July 2000, namely its Article 3, 5, 6, 9, 13, 14, 15, 16 and 20;

CONSIDERING the Treaty establishing the African Economic Community signed in Abuja on 3rd June 1991, namely its articles 8, 10, 11, 13, 25 to 27;

CONSIDERING the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of air transport markets access in Africa of 14th November 1999, , hereinafter called the Yamoussoukro Decision;

CONSIDERING the African Union Commission's Statutes adopted by the Assembly of the African Union in Durban(South Africa) on 10th July 2002;

CONSIDERING EX. CL/Dec. 359 (XI) wherein the Executive Council took note of the Resolution of the 3rd Session of the Conference of African Ministers of Transport (CAMT) in Malabo, Equatorial Guinea in 2014 entrusting the functions of the Executing Agency of the Yamoussoukro Decision of 1999 to the African Civil Aviation Commission (AFCAC), hereinafter called the Executing Agency;

CONSIDERING the Resolution on the follow-up of the implementation of the Yamoussoukro Decision of 1999 adopted by the First African Union Conference of Ministers responsible for Air Transport in Sun City(South Africa) in May 2005;

CONSIDERING the Resolution on air transport safety in Africa adopted by the Second Conference of African Union Ministers responsible for air transport in Libreville (Gabon) in May 2006;

CONSIDERING the need to speed-up the full implementation of the Yamoussoukro Decision with a view to giving a boost to the operations of African airlines and other air transport service providers and effectively meeting the challenges of globalisation of international air transport;

RECOGNISING the need for an effective institutional structure to manage liberalization of the air transport sector on the continent and direct safety, security, dispute resolution, consumer protection among others;

NOTING the importance of the harmonization of legislation and policies in air transport necessary to achieve the objectives of the Yamoussoukro Decision;

MINDFUL of the interests of the African consumer and the need to protect such interests through active continental, regional and national policies that enhance their sense of safety and eases their burden on travelling in the continent;

CONSIDERING the important role that airlines and other air transport service providers play in the process of liberalization and the integration of African economies and the need to support their efforts.

HEREBY MAKE THE FOLLOWING REGULATIONS:

Article 1 – Definitions

For the purposes of this Decision, the following expressions shall mean:

In these Regulations, unless the context otherwise requires:

"**Abuja Treaty**": the Treaty Establishing the African Economic Community adopted at Abuja, Nigeria on the 3rd day of June, 1991 and which entered into force on 12 May 1994.

"**Aeronautical Authority**": any Governmental authority, body corporate or organ duly authorised to perform any function to which these Regulations relate.

"**Executing Agency**": the Executing Agency provided for in Article 9 (4) of the Yamoussoukro Decision.

"**Airline**": an air transport enterprise holding a valid Air Operators Certificate and operating air transport services.

"**Air Transport Services**" mean any scheduled or unscheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

"**Air Transport Service Providers**" shall include airports, air navigation service providers, airport ground passenger and cargo handling companies, travel agents, suppliers of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports.

"**African Aviation Tribunal**" means the arbitral tribunal established by the Regulations on Dispute Settlement Mechanisms Relating to the Implementation of the Yamoussoukro Decision.

"**Board of Appeal**" means the Board of Appeal established by the Regulations on Dispute Settlement Mechanisms Relating to the Implementation of the Yamoussoukro Decision Yamoussoukro Decision.

"**Organ of the African Union**" shall refer to Organs of the African Union as provided for in the Constitutive Act of the African Union.

"**Organ of the Decision**" means the bodies in the Yamoussoukro Decision tasked with the supervision and follow up of its implementation and includes include the Executing Agency, the Monitoring Body, the Sub-Committee on Air Transport of the Committee on Transport, the Conference of African Ministers of Transport or any such body or bodies as are appointed to replace them by them.

"**Regional Yamoussoukro Decision Authority**" means the authority or agency established or constituted by a regional economic community recognized by the African Union under the Abuja Treaty and invested with powers to supervise and manage the implementation of the Yamoussoukro Decision within the region.

"**State Party**" means a Member State that has ratified and acceded to the Abuja Treaty and such other African country which, though not a party to the said Treaty, has declared in writing its intention to be bound under the Yamoussoukro Decision

Article 2 – Scope of application

1. This Regulation shall apply to the implementation of the Yamoussoukro Decision and the liberalisation of air transport throughout the territories of State Parties.
2. It prescribes rights and obligations, and shall be binding on relevant organs of the African Union, regional economic communities, State Parties to the Decision, organs of the Decision and airlines.

Article 3 – Object and basic principles

1. The key objective of this Regulation is to empower AFCAC as the Executing Agency (Hereinafter Executing Agency or Agency) and enable it to supervise and manage the liberalisation of air transport in Africa and the effective implementation of the Decision and its implementing rules and regulations.
2. To achieve this objective the Executing Agency, the State Parties, Organs of the African Union and of the Decision, the regional economic communities and airlines shall be guided by the following basic principles:
 - a. All air transport activities undertaken on the African continent shall aim at achieving smooth, safe, comfortable and efficient intra-African travel.
 - b. All air transport activities shall be conducted in the interest of the consumer and whose interests shall be considered as protected by all stakeholders.
 - c. Airlines shall be encouraged to operate profitably with least operating cost, preferably utilising all logical fifth freedom routes and assisted to identify potentially attractive routes based on long term focused economic activities in different localities of Africa.
 - d. Maximum utilisation of airport slots and airports infrastructure and services during the day and thereby encourage economic activities at and around all African airports.
 - e. Active cooperation between eligible airlines and multiple establishment in different regional economic communities.
 - f. The consideration of liberalised routes as a public good held for the use of and interest of the African continent.

Article 4 – Criteria for eligibility

Subject to Article 6.9 of the Yamoussoukro Decision, the Agency may develop rules and regulations regarding the eligibility of airlines for consideration and approval of organs of the African Union.

Chapter 1 Powers and functions

Article 5 – Functions of the Executing Agency

1. For the purpose of implementing the Yamoussoukro Decision and in particular paragraph 4 of Article 9 thereof, the African Civil Aviation Commission is entrusted with the responsibility of the Executing Agency and charged to supervise and manage and enforce the liberalization of African air transportation.
2. The Executing Agency shall specifically undertake the following functions:
 - a. Outline, stipulate and enforce conditions under which a state may limit its commitment under Article 3.2 of the Yamoussoukro Decision;

- b. Continuously review, recommend and, where applicable, enforce modern and effective measures of tariff notification under Article 4, frequency and capacity notification under Article 5.1, designation and authorization of eligible airlines under Article 6.1, 6.2 and 6.3 of the Yamoussoukro Decision;
- c. Develop and enforce the criteria for eligibility under Article 6.9 of the Yamoussoukro Decision and safety of airline operations;
- d. Conduct studies, monitor and enforce competition and consumer protection rules;
- e. Ensure ICAO safety and security standards;
- f. On its own initiative, or at the request of the Monitoring Body any Organ of the African Union, undertake action aimed at assisting and advising the Monitoring Body in relation to its function provided for under sections a, b, d, g, h, i, j, k of Annex A to the Yamoussoukro Decision.

Article 6 – Powers of the Agency

1. The Agency shall have the power to:
 - a. Ensure that the Decision is applied consistently throughout the African continent;
 - b. Enforce relevant decisions, resolutions, regulations and directives of the Organs of the African Union and the Monitoring Body.
 - c. Formulate opinions, make decisions, guidelines and guidance materials including clarifications of provisions of the Decision and acceptable means of compliance.
 - d. Ensure that senior management of civil aviation authorities or any such senior personnel in State Parties who are directly involved in the implementation of the Decision are reasonably trained in the understanding of their global responsibilities in relation to the Decision.
 - e. Request specific action of State Parties and other stakeholders, including but not limited to, data and reports.
 - f. Make determinations on the state of compliance of the Decision and any relevant implementing rules and regulations and recommend or take appropriate remedial action.
 - g. Make recommendations to the Monitoring Body or organs of the African Union on imposition of sanctions on State Parties, where appropriate.
 - h. Impose sanctions on airlines including fines, penalty payments.
 - i. Require that a breach or infringement be brought to an end.
 - j. Order interim measures.
 - k. Accept commitments of compliance from State Parties and eligible airlines.
 - l. Report annually or as often as is determined from time to time on the status of implementation of the Decision.
 - m. Conduct investigations in the territories of the State Parties and undertake all necessary measures within the powers conferred on it by this Regulation or other legislation.
 - n. Exercise such other powers and perform such other functions as are vested in or conferred on it by the Executive Council, or any other organ of the African Union or the Yamoussoukro Decision.
2. In exercising the above functions the Executing Agency shall have full regard of the sovereign rights of State Parties and the commercial interests of eligible airlines, save that no civil aviation authority shall of its own have the power to dictate the terms and conditions of operations of the Agency.

Article 7 – Acts of the Agency

Subject to the provisions of Articles 13, 15, 17, 18, 20, and 21 of the Constitutive Act of the African Union and paragraphs 1 and 3 of Article 9 of the Decision, the Agency shall, where appropriate:

- a. make **recommendations** for the consideration of the relevant organs of the African Union and the Decision.
- b. issue **opinions** either on its own initiative or upon request of the Monitoring Body, relevant organs of the African Union.
- c. take appropriate **decisions** for the application of Article 5 of this Regulation.
- d. issue **guidelines and recommendations** to State Parties, airlines and other service providers.

Chapter 2 Operations of the Agency

Article 8 – Implementing measures at national and regional levels

The Agency shall recommend the establishment by regional economic communities and states parties of regional and national monitoring groups for the implementation of the Decision.

Article 9 – Training of senior management

1. Having regard to its function under paragraph e of Article 6 of this Regulation, the Agency shall encourage, conduct or facilitate training of senior management personnel directly involved in national authorities' implementation of the Decision and are likely to be involved in any investigations and inspections to be conducted under Articles 12 and 13 of this Regulation.
2. The training may be conducted at the regional level or continental levels and, in the case of regional training, shall be conducted or facilitated by the regional economic communities.
3. The Agency shall adopt rules on training and sponsorship of senior personnel.

Article 10 – Monitoring, evaluation and reporting

1. Having regard to the object of this Regulation, the Agency shall, in close cooperation with the regional economic communities, monitor the application of the Decision by civil aviation authorities, airlines and other service providers.
2. The Agency shall submit annual reports to the Monitoring Body and the Conference of African Ministers of Transport (Hereafter CAMT) or any other organ of the African Union as appropriate.
3. The Agency shall, in fulfillment of its reporting function outlined in this Article, shall:
 - a. conduct regular investigations,
 - b. carry out evaluations,
 - c. request for and review national aviation regulations including but not limited to economic regulations, air services agreements, and operational statistics of air transport falling within its field of competence.
4. The Agency shall publish a **state report** on each State Party every 5 years on the level and effectiveness of application of the Decision and any relevant implementing rules and regulations.

5. The Agency shall submit the following additional annual reports to the relevant organs of the African Union:
 - a. report of its activities including a summary of activities of each regional economic community and in particular the state of implementation by eligible airlines of regional routes.
 - b. report on implementation of competition regulations,
 - c. report on implementation consumer protection regulations,
 - d. reports on sanctions imposed or recommended,
 - e. report on complaints and dispute resolution and,
 - f. Request reports from regional economic communities, State Parties, airlines and other service providers.

Article 11 – Research and development

1. The Agency shall encourage research in areas of its competence.
2. It shall encourage African universities, other educational institutions and research institutes to conduct such research as will enhance understanding and further promote air transport liberalisation in Africa
3. The Agency shall maintain a publicly available database of research undertaken by itself, State Parties, regional economic communities, organs of the African Union and other regional organisations, academic and research institutions.
4. The Agency may develop, finance and undertake financed research in so far as it relates to the improvement of activities in its field of competence and particularly under the following conditions:
 - a. It shall coordinate its research activities with those of the African Union, the regional economic communities and State Parties so as to ensure that policies and actions are mutually consistent and to prevent duplication of efforts.
 - b. Results of research funded, facilitated, coordinated by or in any way owned by the Agency that are not classified as confidential shall be published in the manner the Agency deems it. Where published as a commercial publication, at least the executive summary of such reports shall be made available on the Agency's website and shall be made freely available to interested parties.

Article 12 – Annual planning

1. The Agency shall, within 6 months of the entry into force of this Regulation, submit an annual work plan to the relevant organs of the African Union for approval.
2. The Agency shall, within 6 months of entry into force of this Regulation, submit an annual list of proposed regulatory activities to be undertaken in pursuance of Article 16 of this Regulation to the relevant organs of the African Union for approval.
3. The annual work plan and the list of proposed regulatory activities shall be submitted on the anniversary of the date of submission in accordance with paragraphs 1 and 2 above.

Article 13 – Database, website, privacy and publication

1. The Agency, civil aviation authorities, regional economic groupings, airlines, and the African Union Commission and the Monitoring Body, shall be encouraged to exchange information among themselves

- using the most secure, expeditious, efficient and cost effective means of communication. In this regard, the Agency shall:
- a. encourage the use of modern means of information technology to transact its business.
 - b. ensure that national authorities and members of the regional implementation groups have direct access to its information network and database and are able to communicate seamlessly and securely using such information technology.
 - c. facilitate the use by airlines and other service providers to utilise the website of the Agency to communicate with the Agency, State Parties, regional economic communities and other institutions.
 - d. The Agency shall create an internet platform and establish conditions for consumer and hazard reporting.
2. The Agency shall compile a central database of air transport on all aspects of its competence.
 3. In giving effect to this Regulation the Agency shall be guided by openness, transparency and a willingness to publish relevant documentation to all interested parties, including the general public.
 4. Without prejudice to paragraph 3 of this Article, measures for the dissemination to interested parties of information shall be based on the need:
 - a. to provide persons and organisations with the information they need to enable them undertake their obligations under the Yamoussoukro Decision;
 - b. to limit the dissemination of information to what is strictly required for the purpose of its users, in order to ensure appropriate confidentiality of that information.
 5. Civil aviation authorities and regional economic communities, organs of the Union and airlines shall take necessary measures to ensure appropriate confidentiality of the information received by them in application of this Regulation.
 6. The Agency shall have an official publication.

Article 14 – Investigation

1. In supervising and managing the liberalisation of air transport in Africa, the Agency shall, working closely with the regional economic communities, monitor the application of this regulation and its implementing rules by conducting investigations of civil aviation authorities of State Parties. Investigations shall be carried out in compliance with the legal provisions of State Parties in which they are undertaken.
2. The Agency shall only be entitled to conduct investigations in a State Party after exhausting the following:
 - a. Making a determination of non-compliance or persistent breaches of provisions of the Decision and submitting the same to the Monitoring Body.
 - b. Offering the State Party the opportunity to comply within a specified time period.
 - c. Taking a decision of non-compliance of its determination made under sub-paragraph a and reporting the same to the Monitoring Body.
3. Officials of the Agency, regional economic communities, or of State Parties shall be authorised to undertake such tasks for and on behalf of the Agency and are thus empowered in compliance with the legal provisions of the State Parties concerned to:
 - a. examine statutes, rules, policies, statements, guidelines, relevant records, data, procedures and any other material relevant to the achievement of the objectives of the Decision in accordance with this Regulation and implementing rules and regulations;
 - b. take copies of or extracts from such records statutes, rules, policies, statements, guidelines, relevant records, data, procedures and other material relevant;

- c. request for oral interviews and explanation;
 - d. enter any relevant premises.
4. The officials of the Agency, regional economic communities and State Parties authorised for the purpose of these investigations shall exercise their powers upon the production of an authorisation in writing specifying the subject matter, the purpose of the investigation and the date on which it is to begin. In good time before the inspection, the Agency shall inform the State Party concerned of the investigation of the identity of the authorised officials.
5. The State Party concerned shall assist the agency in conducting its investigations.
6. Reports drawn up in application of this Article shall be made available in the official language of the State Party concerned.

Article 15 – Inspections of service providers

1. The Agency may itself conduct or allocate to the regional economic community, civil aviation authorities, or qualified entities all necessary investigation of eligible airlines and other service providers. Inspections shall be carried out in compliance with the legal provisions of State Parties in which they are undertaken. To that end the persons authorised under this Regulation are empowered:
 - a. To examine the relevant records, data, procedures and any other relevant material;
 - b. Take copies of or extracts from such records, data, procedures and other material;
 - c. Request for oral interviews and explanation;
 - d. To enter any relevant premises.
2. The persons authorised for the purpose of these investigations shall exercise their powers upon production of an authorisation in writing specifying the subject matter and the purpose of the investigation.
3. In good time before the investigation, the Agency shall inform the State Party concerned in whose territory the investigation is to be made, of the investigation and of the identity of the authorised persons. Officials of the State Parties shall, at the request of the Agency or the regional economic community, assist the authorised persons in carrying out their duties.

Article 16 – Imposition of sanctions

1. The Agency may determine the appropriate sanctions to be imposed for breaches of the Yamoussoukro Decision and its implementing rules and regulations.
2. The Agency shall submit a Regulation on sanctions to be imposed under the Yamoussoukro Decision and its Implementing Regulations to the relevant organs of the African Union.
3. The regulation shall clearly stipulate:
 - a. detailed conditions under which the sanctions regulation will be implemented;
 - b. modality for the enforcement of imposed sanctions;
 - c. conditions for prior notification of intended sanction;
 - d. confidentiality in the period before the imposition of any intended sanction;
 - e. publication of any sanction imposed;
 - f. the right of subjects of any intended sanction to be permitted to rectify the cause of the intended sanction;

- g. right of appeal against the sanction; and
- h. liability of the Executing Agency for wrongful imposition of a sanction.

Article 17 – Procedures for development of opinions, procedures, plans, specifications

1. When the Agency develops opinions, procedures, plans, specifications of eligible airlines, and guidance material to be applied by State Parties, it shall establish a procedure for consulting the State Parties, the regional economic communities, eligible airlines, service providers and all interested parties.
2. The Agency shall adopt rules through the procedure of Notification of Proposed Rulemaking on the Yamoussoukro Decision (Hereinafter, YDNPR).
3. The Agency shall, within 6 months of entry into force of this Regulation, adopt detailed procedures for issuing opinions, taking decisions and making recommendations, guidelines and guidance material.
4. The Agency shall submit the procedures to the Chairperson of the African Union for approval.
5. Those procedures shall:
 - a. Draw on expertise available in standing and ad-hoc AFCAC Committees, civil aviation authorities and the regional economic communities and airlines;
 - b. Involve appropriate experts from relevant interested parties, including but not limited to African Universities and Research institutions;
 - c. Ensure that the Agency publishes documents widely with interested parties according to a timetable and a procedure which includes an obligation on the Agency to submit written responses to the consultation process.

Article 18 – Procedures for taking enforcement decisions

1. The Agency shall establish transparent procedures for taking decisions affecting State Parties, eligible airlines and other service providers.
2. Those procedures shall:
 - a. If they are intended to affect State Parties, ensure that State Parties have been given ample time to remedy the cause of the eventual decision and that such an enforcement decision is based on an Executive Council Directive;
 - b. If they are intended to affect eligible airlines or service providers, ensure a hearing of the airlines to be addressed in the decision and of any other party with a direct and individual interest;
 - c. Provide for notification of a decision to an airline or service provider and its publication;
 - d. Provide for information to the eligible airline or service provider to whom a decision is addressed, and any other parties to proceedings, of the legal remedies available to that airline or service provider under this Regulation;
 - e. Ensure that the decision contains adequate reasons

Chapter 3 Institutional arrangements

Article 19 – Management of the Executing Agency

1. In accordance with Section II of the AFCAC Constitution, the Plenary of AFCAC, acting as the supreme organ of the Executing Agency shall:
 - a. adopt the reports of the Agency in accordance with Article 8 and cause further action to be taken;
 - b. adopt the Agency's annual programme in accordance with Article 10
 - c. establish procedures for making decisions by the Secretary General;
 - d. carry out its functions relating to the Agency's budget pursuant to Chapter 4 of this Regulation;
 - e. recommend a list of the members of the African Aviation Tribunal, the Board of Appeal and Mediators pursuant to Appendix 2 to the Decision for approval by the Chairperson of the African Union;
 - f. make recommendations for the imposition of sanctions against a State Party
 - g. approve sanctions imposed by the Secretary General on eligible airlines and service providers;
 - h. approve the Notification of Proposed Rulemaking on the Yamoussoukro Decision pursuant to Article 17.
2. The Plenary may advise the Secretary General on any matter strictly related to strategic development of air transport liberalisation, including research as defined in Article 10.
3. The Plenary shall, in coordination with regional economic communities, encourage the establishment of the national YD Implementation groups.

Article 20 – The Secretary General

1. The Agency shall be managed by the Secretary General of AFCAC, who shall be completely independent in the performance of his/her duties. Without prejudice to the respective competencies of the Plenary, the Secretary General shall neither seek nor take instructions from any government or from any other body.
2. Relevant organs of the African Union may invite the Secretary General of the Agency to report on the carrying out of his/her tasks.

Article 21 – Functions and powers of the Secretary General

1. In addition to the function and powers provided for in Article 11 of the AFCAC Constitution, the Secretary General shall have the following functions and powers to:
 - a. approve the measures of the Agency as defined in Article 5 of this Regulation, its implementing rules and any applicable law;
 - b. liaise with the regional economic communities and other organs of the African Union to ensure the implementation of harmonised rules necessary to ensure the liberalisation of air transport
 - c. decide on investigations and inspections as provided for in Articles 14 and 15;
 - d. allocate tasks to the Regional YD Authority (RYA);

- e. take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;
- f. prepare each year a general report and all other reports stipulated in Article 9 and submit it to the Plenary and relevant organs of the African Union;
- g. prepare a provisional budget for Agency pursuant to Article 22, and implement the budget pursuant to Article 23;
- h. delegate his/her powers to other members of the Agency's staff.

Chapter 4 Financial arrangements

Article 22 – Budget

1. The revenues of the Agency shall consist of:
 - a. contributions the African Union and any State Party,
 - b. grants from stakeholders and development partners.
 - c. Donations, penalties, charges for publications, training, and any other services provided by the Agency as may be approved from time to time.
2. The expenditure of the Agency shall include the staff, administrative, infrastructure and operational expenses.
3. The Agency shall, within 6 months of this Regulation, at the latest, adopt the estimates, including the approved or preliminary work plan, and forward the same to the Chairperson of the African Union Commission.
4. Any modification to the budget shall follow the procedure referred to in paragraphs 3 of this Article.

Article 23 – Implementation and control of the budget

1. The Secretary General shall implement the budget of the Agency.
2. Control of commitment and payment of all expenditure and control of the existence and recovery of all revenue of the Agency shall be carried out by the Financial Controller of the African Union Commission.
3. By 31st December each year at the latest, the Secretary General shall submit to the AU Commission, Plenary and the AU Auditors the detailed accounts of all revenue and expenditure from the previous financial year.
4. The relevant organ of the Union shall give a discharge to the Secretary General of the Agency in respect of the implementation of the budget.

Article 24 – Fees

1. The Agency shall within 90 days of the entry of this Regulation submit a regulation on fees and charges for approval by the relevant organs of the African Union and in consideration of ICAO policies.
2. The fees and charges regulation shall determine in particular the matters for which fees and charges are due, the amount of the fees and charges and the way in which they are to be paid. All fees and charges shall be expressed, and payable, in US Dollars.

Final provisions

Article 25 – Entry into force

This Regulation shall enter into force following its endorsement by the Assembly of Heads of State and Government.