

Economic Community of West African States, African Regional Bodies

## Supplementary Act A/SP.4/02/12 Relating to the Common Rules Determining Slot Allocation at Airports in ECOWAS Member States Act 2-SP4 of 2012

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Supplementary Act A/SP.4/02/12 Relating to the Common Rules Determining Slot Allocation at Airports in ECOWAS Member States

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Economic Community of West African States

**Supplementary Act A/SP.4/02/12 Relating  
to the Common Rules Determining Slot  
Allocation at Airports in ECOWAS Member States  
Act 2-SP4 of 2012**

*Published in official journal 60 on 17 February 2012*

**Commenced in full**

*[This is the version of this document at 17 February 2012.]*

**The High Contracting Parties,**

**MINDFUL** of articles 7, 8 and 9 of ECOWAS Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

**MINDFUL** of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

**MINDFUL** of the Supplementary Act A/SA 1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

**MINDFUL** of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

**RECALLING** the Convention on International Civil Aviation signed at Chicago, on the 7<sup>th</sup> December 1944 and its annexes;

**MINDFUL** of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14<sup>th</sup> of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lomé, Togo, in July 2000;

**MINDFUL also** of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

**ACKNOWLEDGING that** the reports of the 3<sup>rd</sup> 4<sup>th</sup> and 5<sup>th</sup> Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and regulations concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

**CONSIDERING that** such disparities are in conflict with the spirit and objectives of the Yamoussoukro Decision;

**DETERMINED** to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

**DESIROUS** to adopt a Common Community legal framework on Slot Allocation at Airports of ECOWAS Member States;

**ON THE PROPOSAL** of the Meeting of transport Ministers held in Yamoussoukro on the 17<sup>th</sup> of September 2011;

**HAVING** received the opinion of the ECOWAS Parliament;

**ON THE RECOMMENDATION** of the Sixty-seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011;

**HEREBY AGREE AS FOLLOWS**

**Article 1 – Definitions**

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:—

**Air Carrier:** air transport enterprise operating air traffic rights to, from and within ECOWAS member States;

**Aeronautical Authority:** any governmental authority, body, corporate or organ duly authorised to perform the functions of civil aviation;

**Community:** The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

**Coordinated Airport:** An airport where a coordinator has been designated by the Aeronautical Authorities of a Member State to facilitate the task of air carriers that operate or contemplate to operate at that airport;

**Council:** Council of Ministers as established under article 10 of ECOWAS revised Treaty

**Direct air service:** An air service provided between two ECOWAS airports, including stopovers, with the same aircraft and same flight number;

**ECOWAS Commission:** ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

**Member State:** A State party to the ECOWAS Revised Treaty;

**New entrant:** An air carrier that does not operate or has ceased to operate an air service at a coordinated airport and has requested that slot allocation(s) be granted to it at an airport for a specific day;

**Schedule planning period:** Summer or winter season as established in air carriers' schedule;

**Slot:** The estimated arrival or departure time available or allocated to an aircraft movement at a specific date at a coordinated airport as defined in this Act;

**Third Countries:** Any other State which is not party to the Yamoussoukro Decision.

**Article 2 – Scope**

This Supplementary Act shall apply to Slot Allocation at coordinated airports in ECOWAS member States.

**Article 3 – Qualifying criteria for a coordinated airport**

1. A member State shall not be obliged to designate an airport as "coordinated airport", except in application of the provisions of the present article.
2. A member State may however decide that an airport shall be designated as a coordinated airport provided that the principles of transparency, neutrality and non-discrimination are adhered to, when:
  - a) air carriers represent more than half of the movements at an airport and/or when the airport authorities consider its capacity as insufficient as compared to the movements performed at certain periods of the week or day; or
  - b) new entrants experience serious difficulties in securing slot allocations at certain periods of the week/day; or
  - c) a member State deems it appropriate.

In these circumstances it shall ensure that an in-depth study on the airport capacity be conducted soonest.

#### **Article 4 – Airport slots coordinator**

1. The Member State in charge of a coordinated airport shall, appoint an individual or legal entity from the Civil Aviation Authority experienced in coordinating the planning of the aircraft movements of air carriers and be designated as airport coordinator, after consultation or in agreement with the air carriers using regularly the airport, their representative organizations as well as the airport authorities. The same coordinator may be designated for several airports.
2. The Member State shall ensure that the coordinator discharges in an independent way the functions as provided for in the present Supplementary Act.
3. The coordinator shall act in compliance with the present Supplementary Act, in a neutral, transparent and non-discriminatory way.
4. The coordinator shall be responsible for slot allocations and the development of emergency procedures for slot allocations where necessary.
5. The coordinator shall monitor the use of slot allocations.
6. When slot allocations are granted, the coordinator shall prepare a report which shall be circulated to all concerned parties.

#### **Article 5 – Airport Slots Coordination Committee**

1. Member States shall ensure that, at any coordinated airport, an Airport Slots Coordination Committee, chaired by the Civil Aviation Authority or administration is established for the purpose of assisting, in an advisory capacity, the coordinator referred to in Article 4 above.
2. The participation in such a Committee shall remain open, at least to air carriers and/or representative organizations and other airport users that regularly operate in the airport, concerned airport authorities and air traffic control's representatives.
3. The duties of the Airport Slots Coordination Committee shall, *inter alia*, be to advise on the:
  - a) possibilities to increase the determined capacity in compliance with the provisions of Article 6 below;
  - b) ways and means to enhance the traffic conditions at the airport concerned;
  - c) examination of claims with respect to slot allocations in compliance with paragraph 4 of Article 8 below;
  - d) development of monitoring methods regarding the effective use of slot allocations.
  - e) impacting orientations regarding slot allocations bearing in mind local conditions;
  - f) analysis of the problems encountered by new entrants.

#### **Article 6 – Operational capacity of an airport**

In an airport where slot allocation takes place, the relevant authorities shall determine based on generally accepted methods the available capacity for slot allocation purposes in cooperation with the representatives of air traffic control, the airport authorities, customs, immigration authorities, air carriers who operate and/or their representative organizations as well as the airport slots coordinator twice a year.

## Article 7 – Information for the airport slots coordinator

The air carriers that operate or contemplate to operate air traffic rights to and from a coordinated airport shall supply the coordinator with relevant information, as requested by the coordinator.

## Article 8 – Procedures for airport slot allocation

1.
  - a) An air carrier applying for a slot allocation shall send the request to the Coordinator
  - b) An air carrier that has operated a slot as cleared by the coordinator may claim the same slot as a priority in the next equivalent scheduling period.
  - c) When all the slot requests cannot be satisfied, preference should be given to commercial air services and in particular to scheduled services and programmed non-scheduled services.
  - d) When a new entrant presents its first request for slots at a coordinated airport this demand shall be treated as a request for new slots. The Coordinator shall examine it taking into consideration the total requests already presented and shall ensure that this new request be satisfied at least in part in order to permit this new entrant to offer its services in addition to the existing ones.
2. If a requested slot cannot be satisfied, the coordinator shall inform the requesting air carrier of the reasons thereof and shall indicate the nearest alternative slot.
3. Slots may be freely exchanged between air carriers or transferred by an air carrier from one route, or type of service, to another, by mutual agreement or as a result of a total or partial takeover, or unilaterally. Any such exchanges or transfers shall be transparent in accordance with article 3(2) above, and subject to prior approval by the coordinator confirming that the transaction is feasible and that it will not prejudice the airport operations.
4. Where there are complaints about the allocation of slots, the coordination committee shall consider the matter and may make proposals to the coordinator in an attempt to resolve the problems.
5. If the problems cannot be resolved after consideration by the coordination committee, the Member State concerned shall decide on the matter in a fair manner taking into consideration the different restrictions.
6. An air carrier that has not used a slot as allocated to it for at least fifty percent (50%) over a period of six (6) months loses the priority of allocation for the next equivalent scheduling period.

## Article 9 – Reciprocity

1. Whenever it appears that a third country, with respect to the allocation of slots at airports:
  - a) does not grant ECOWAS air carriers treatment comparable to that granted by member States to air carriers from that country; or,
  - b) does not grant ECOWAS air carriers *de facto* national treatment; or
  - c) grants air carriers from other third countries more favourable treatment than ECOWAS air carriers. Appropriate action could be initiated aimed at correcting the situation with respect to airport(s) concerned, namely through a full or partial suspension of obligations under this Supplementary Act with regard to an air carrier of that third country in compliance with applicable law.
2. Member States shall inform the ECOWAS Commission of any difficulties experienced *de jure* or *de facto*, in the slot allocation exercise at third countries.



### **Article 10 – Report and cooperation**

1. Member States and the Commission shall cooperate in the enforcement of these Supplementary Acts. Information obtained through the enforcement of this Supplementary Act shall be treated as confidential.
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

### **Article 11 – Implementation of the Supplementary Act**

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

### **Article 12 – Amendments**

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.
2. Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

### **Article 13 – Entry into force and publication**

1. This Supplementary Act shall enter into force from the date of its signature by the Chairman of the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Chairman of the Authority of the Heads of State and Government of ECOWAS.

### **Article 14 – Depositary authority**

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

IN FAITH OF WHEREOF, WE, the Heads of State and Government of the Economic Community of West African States (ECOWAS) have signed this Supplementary Act

Done in Abuja, this 17<sup>th</sup> day of February 2012

In single original, in the English, French and Portuguese languages, all three texts being equally authentic