Book Review IV: The Air Transport Industry in Africa: A Legal Analysis of the Single African Air Transport Market (Routledge, 2025) — Variable Geometry as a Pathway to Realizing the Single African Air Transport Market (SAATM) under the African Union's Age

By:

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May 28, 2026

William Kiema's 'The Air Transport Industry in Africa: A Legal Analysis of the Single African Air Transport Market' is a core contribution to academia and legal thought from a historically underexplored area of legal practice. Kiema effectively and convincingly makes among the first efforts to light up the intra-

African skies by positing that air transport on the continent is underdeveloped for reasons including persistent regulatory fragmentation, uneven political commitment, and significant economic disparities across member states. The author acknowledges that the complexity of bilateral air service agreements (BASAs) and divergent national priorities has hindered liberalisation efforts, while operational challenges such as inadequate safety oversight, limited access to financing, and insufficient infrastructure further constrain progress effectively identifies the core challenges that have impeded progress in liberalisation.

Air transport in Africa has traditionally been subject to a multiplicity of BASAs, restrictive market access regimes and uneven implementation of regional integration commitments. In 1988, African Ministers responsible for civil aviation adopted the Yamoussoukro Declaration (YD) on a new civil aviation policy. The YD is the first continental commitment toward a liberalised African air transport market. The programme was further crystallised in 1999 with the adoption of the Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalisation of Access to Air Transport Markets in Africa (the Yamoussoukro Decision). This Decision aims to remove barriers to the free exercise of air traffic rights and liberalise intra-African air services. The significance of the Decision has grown over time and became the legal basis of the Single African Air Transport Market (SAATM), itself a flagship project within the African Union's Agenda 2063 framework, which envisions a prosperous, integrated and connected continent by 2063.

The Yamoussoukro Decision establishes a multilateral regime for air transport liberalisation, superseding incompatible bilateral arrangements among state parties. Article 3 of the Decision grants eligible airlines the free exercise of first, second, third, fourth and fifth freedom traffic rights on scheduled and non-scheduled services among member states, and seeks to eliminate capacity, frequency, and tariff restrictions that have historically fragmented African skies.

The decision's normative justification is that a fully liberalised intra-African aviation market that is no longer constrained by historical bilateral limitations, is necessary for improved connectivity, greater competition and economic integration. Yet, despite the legal clarity of the Decision and the continuing

African Union endorsement of SAATM, implementation has been uneven across states due to differences in regulatory capacity, political will, and national economic priorities.

SAATM itself, established formally by the Declaration on the Establishment of a Single African Air Transport Market adopted at the African Union's 24th Ordinary Session in January 2015 and launched on 28 January 2018, operationalises the full liberalisation envisioned in the YD across participating states. Under SAATM, signatory states adopt a solemn commitment to eliminate restrictive bilateral air service practices among themselves and to embrace multilateral frameworks for traffic rights, frequency, capacity and other commercial terms of air transport services.

Agenda 2063 calls for a 'continental market with free movement of persons, capital, goods, and services' as essential for economic integration and transformation. African leaders recognised that intra-continental air connectivity is catalytic for trade, tourism, investment flows and socio-economic integration, and this prompted the designation of SAATM as one of the AU's flagship projects.

However, the actualisation of SAATM relies on nuance in regionalism and approach to law and policy that accommodates the uneven starting positions of states. Within this context, 'The Air Transport Industry in Africa' presents variable geometry as an arrangement in which participating states can make differentiated commitments within a broader integration framework. It allows 'early movers' or states with stronger regulatory and operational capacities to liberalise more rapidly, while other converge at a pace aligned with their domestic capacities and strategic interests. Variable geometry in continental aviation can be interpreted as a practical juridical and regulatory mechanism to realise the liberating ambitions of SAATM while respecting states' differentiated capacities.

The Yamoussoukro Decision contains aspects of differentiated commitment. Article 10, for instance, anticipates that a state party may, under specified conditions, limit its commitments in relation to liberalisation provision. The Article effectively acknowledges that uniform, instantaneous integration may not be practicable for all states at once and shows an initial albeit primitive

form of differentiated integration within the text of the decision.

Operationalising variable geometry under SAATM would recognise that states which have relatively advanced civil aviation oversight, robust airline operation and higher compliance with International Civil Aviation Organisation (ICAO) Standards and Recommendation Practices (SARPS), might liberalise more extensively and quickly that states where regulatory bodies are still developing oversight capacity. ICAO SARPS provide a benchmark for safety, security, efficiency, and environmental performance, and are elaborated through the Annexes to the Convention on International Civil Aviation (the Chicago Convention), which are the primary texts on international civil aviation governance.

In adopting variable geometry, Kiema persuades the reader that they could articulate a tiered compliance and implementation approach where states have achieved certain benchmarks in ICAO's universal safety oversight audits or aviation safety programmes can avail themselves of more extensive market access commitments. Conversely, states still strengthening their primary regulatory functions might proceed along a structured path with conditional milestones. This approach preserves the normative aspect of liberalisation over time while managing political economy constraints.

The approach also reflects lessons from other open skies regimes and regional markets such as those from the European Union and the Association of South East Asian States (ASEAN) typically involve unrestricted traffic rights, especially for the third, fourth and fifth freedoms, multiple airline designation and free determination of capacity, but are structured in ways that allow flexible market entry and procedural safeguards. ICAO's analyses of open skies frameworks emphasise that such arrangements must be underpinned by sufficient safety and economic oversight to protect consumer interests and fair competition.

Within SAATM, a variable geometry approach resonates with existing institutional texts of the Yamoussoukro Decision, which envisage an Executing Agency, the African Civil Aviation Commission (AFCAC), as responsible for supervising liberalisation, reviewing conditions of designation and authorisation of eligible airlines, and enforcing competition and consumer protection regulations. AFCAC's role as the SAATM Executing Agency provides an

institutional basis for variable geometry arrangements. The book clarifies that the importance of anchoring variable geometry in institutional governance cannot be overstated. Without institutional mechanisms to manage differentiated commitments, integration regimes risk fragmentation or reignition of bilateral practices that SAATM seeks to eliminate.

The author also argues that variable geometry under SAATM would also need to incorporate consumer protection and competition safeguards. SAATM's regulatory text on competition and consumer protection annexes to the YD envisage rules to address anti-competitive behaviour and protect consumer rights in the liberalised space. A framework that allows differentiated timing of market access commitments must nevertheless enforce consistent competition policies to prevent market distortion and discriminatory practices across jurisdictions.

A practical example of how variable geometry could function is where intra-African routes connect secondary cities with relatively low passenger volumes. A state with a smaller domestic market may, at present, lack the regulatory or airline capacity to immediately liberalise all traffic rights. Under variable geometry, that state could commit first to liberalise third and fourth freedoms, while conditions for full fifth freedom rights could be phased in after meeting ICAO safety oversight benchmarks or after a prescribed timeline linked to aviation infrastructure improvements. This allows progressive participation without undermining the overarching goal of full liberalisation.

This phased approach mitigates political resistance rooted in national airline protectionism or regulatory capacity gaps, and at the same time ensures that the pace of integration is managed in a way that steadily accrues benefits for stakeholders. Critically, variable geometry does not undermine the normative objective of a fully liberalised intra-African aviation market. Instead, it provides a realist mechanism within the broader SAATM framework that recognises divergent institutional capacities and political economies across Africa's 55 states. In doing so, it accelerates the implementation of SAATM by removing bottlenecks that have slowed progress under the traditional approach. The Yamoussoukro Decision already provide for differentiated commitments, giving SAATM policymakers appropriate avenue on which to build a deliberate, phased implementation.

In sum, the author justifies variable geometry as an appropriate normative and regulatory approach to SAATM's ambitious objective of creating a single liberalised air transport market on the continent and centres it in the Yamoussoukro Decision and contextualises it within the AU's Agenda 2063 integration agenda. Operationalising this objective requires an adaptive regime that acknowledges the realities of differential state capacities. Variable geometry is a feasible path that harmonises political economy constraints with the normative imperative of full liberalisation. Leveraging differentiated commitments allows states to progressively align with SAATM and contributes to aviation integration approach that supports safety, competition, consumer protection and economic integration.

Benchmarks from the EU and ASEAN further highlights the value of harmonised frameworks and stakeholder engagement in overcoming similar barriers and leads to the thesis that Africa's diverse regulatory environments require strategic alignment to deliver the promise of Agenda 2063. The proposal for variable geometry model, allows states to pursue differentiated commitments and implementation trajectories, thereby accommodating varying capacities and readiness levels. Effective realisation of the SAATM under Agenda 2063 will depend on flexible legal and policy mechanisms and supporting measures for safety, security, competition, financing, and environmental sustainability. Sustained engagement with governments, airlines, regulators, and regional bodies is essential to foster a cohesive, integrated aviation market that advances connectivity, economic growth, and continental integration.

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