

*Full Length Research Paper*

# Legal policy and aviation industry in Nigeria: Constraints to optimal safety of air transportation

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The study examined aviation law and industry in Africa, using Nigerian experience. This became necessary in view of the recent and frequent happenings in aviation sector that involved heavy losses of lives and property in plane crashes. The study relied on both primary and secondary sources of legal materials to gather information on aviation laws and industry. The findings of the study revealed that aviation industries in Africa in general, and Nigeria in particular were grossly underfunded. This gave rise to myriad of problems like lack of cargo screening machines, inadequate security personnel and obsolete navigational facilities among others. The study further revealed that one reason for fleet depletion and eventual collapse of domestic carriers was their dependence on old airplanes, which attracted high maintenance costs. The study concluded that Governments' performance in the aviation industry was unsatisfactory. The legal policy/reform, especially Aviation Act, 2006 seems adequate enough to facilitate and guide successful operations in the aviation industry in Nigeria. However, legal policy/reform needs to be complemented with adequate funding, timely release of funds/subventions to all the agencies charged with the responsibility of air transportation and elimination of corrupt practices.

**Key words:** Aviation, legal, policy, Nigeria.

## INTRODUCTION

Air services are of great importance to the continent of Africa in general and to Nigeria in particular especially in the area of administrative and economic developments. It is also the fastest means of transportation in Nigeria. Furthermore, the growth of important administrative and mining centers has also encouraged the development of air services. The study of the airline is relevant for a number of reasons: First, aviation industry is still in the process of achieving its next phase of development and arouses interests' in ever larger circles.

This paper thus, focused on the management of aviation industry and the laws governing the operation in Nigeria although, the analysis of the national law, as a source of air law and management of aviation industry cannot be undertaken in isolation of other sources of air law. This is so because, the national laws on the management and operation of aviation industry owe much to other sources of air law. However, emphasis was placed on the analysis and effects of aviation law on the management and operations of aviation industry in Nigeria. A re-visit of such law has become necessary

because, in spite of the multi-national conventions, treaties and national enactments put in place, the air transportation in Nigeria has become a source of worry and concern of all, that is, Ministry of Aviation, the Federal Government, Airline Companies, Air Agencies and Air transportation users. In short, the frequency of the air crashes between 2003 and 2008 lends credence to the above worry and concern.

The unfortunate occurrences have raised series of questions as to the enforceability and adequacy of the air law and policies guiding the operation, management of air transportation and institutional efficiency and effectiveness of the air industry and the public institutions in charge of the air industry, National Aviation Management Agency (NAMA), International Commission for Air Navigation (ICAN), Nigerian Civil Aviation Authority (NCAA) Federal Airport Authority of Nigeria (FAAN), Airline Companies and finally the Federal Ministry of Aviation.

The effectiveness and efficiency of the aforementioned agencies within aviation industry seems to be in doubt

**Table 1.** Incidence of plane crashes in Nigeria.

<b>Date of occurrence</b>		<b>Victims</b>
October 31, 2005 (Daily Punch)	Bellview, Boeing 737	177 passengers and crew died
November 12, 2005 (Daily Punch)	Sosoliso	109 passengers and crew died
December 18, 2005 (Daily Punch)	Boeing 737	Hundreds of passengers were stranded
October 30, 2006 (Daily Punch)	Aviation Development Company (ADC)	96 Passengers and crew died.
April 21, 2007 Nigerian (Tribune)	Aircraft Carrying ballot papers for 2007 election	2 Naval officers died.
April 10, 2008 Nigerian Tribune	Aircraft carrying under 20 female -team athletes from Port Harcourt to Douala, Cameroon escaped crashes	111 passengers and crew escaped death.
May 14, 2008 Nigerian Tribune	Beechcraft 1900D	All the (3) passengers and crew died.

Sources: The Daily Punch and the Nigerian Tribune.

as within a span of forty eight months, Nigeria air Industry recorded unprecedented fatal incidence of air crashes and missing aircrafts. Table 1 shows incidence of plane crashes in Nigeria.

In view of the mentioned recent air mishaps in the aviation Industry; it is pertinent to look into operational management of aviation industry and revisit the law guiding the operation of the industry. Perhaps, there is a lacuna in law that needs to be filled or amended with a view to finding out the causes of incessant plane crashes in Nigeria and finding legal policy for forestalling future plane crashes through legal recourse.

It is therefore these shortcomings arising from inadequacy of aviation law and institutional weaknesses of the Government agencies responsible for managing aviation enterprises that constitute the concern and objectives of this paper. In short, the specific objectives of this paper are to: discuss the origin, sources and development of aviation law in Nigeria and analyze the roles and functions of institutional agencies responsible for managing Nigerian Aviation Industry; identify problems militating against efficient aviation enterprise and air space safety in Nigeria and; offer some explanations to minimize aircraft crash occurrences in the Nigerian air space.

## LITERATURE REVIEW

Internationally, the relationships among nations, Nigeria inclusive, imposes, rights and obligations for the protection of individual states, and enable air transport between, over, and into their boundaries possible. A typical example is the negotiation and agreement of traffic rights. These Air Service Agreements (ASAs) are mostly bilateral in form between two states. They may also be multinational agreement on Commercial Rights of Non-scheduled Air Services (1956), International control can also arise from multinational political groupings such

as the EEC (European Economic Community or Aviation Organization such as ICAO (International Air Transport Association) formed at government or industry level. The history or origin of aviation Industry is replete with international conventions; notable among them is the Chicago convention of 1944; which established a basic framework of regulation essential to the development of organized international aviation industry (Carole, 1992).

Basically, the aims of the convention were through cooperation to promote security and peace among nations. In particular, the representative governments met to agree on certain principles in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on a basis of equality of opportunity and operated soundly and economically. The convention was originally in force as of April 1944 and since then; over 150 nations have ratified the Chicago Convention (Deba, 2000).

Generally, the convention dealt with such important issues as the general principles of sovereignty over airspace; traffic right in respect of scheduled and non-scheduled flight; aircraft nationality and registration; crew regulation; air navigation services and airport provisions.

Ostensibly, these general principles have been fundamental to the organization of international aviation and its continued development, particularly in respect of international rights and obligations (Diederiks, 1993).

Remarkably, another vital area of regulation originating at the convention level is the Warsaw system governing the liability of commercial airlines on international flights. Over 100 nations have ratified the Warsaw Convention of 1929, the aim of which was to establish a uniform international system of legal rights and liabilities between airlines and their passengers and consignors of cargo. Unarguably, without regulation, there would be a mass of conflicting laws that are applicable to aviation industry and in many circumstances where none would be decisive. Arising from Warsaw Convention is the balance

of the rights of an airline with those of its passengers and in general terms, the carrier airline is liable for death, injury or damage occurring during the carriage by air without proof of cause or liability. There are also set monetary limits on the amount of compensation payable.

Finally, aviation law governing aviation industry is drawn substantially from the normal sources of international law, especially through Article 38 of the Statute of International Court of Justice including: i) international conventions whether general or particular establishing rules expressly recognized by contracting states; ii) international customs as evidence of general practice accepted as law; iii) the general principles of law recognized by the civilized nations; iv) judicial decisions and teachings of the highly qualified publicists of various nations as subsidiary means for the determination of the rules of law.

At national level, individual nations legislate to give effect to the aforementioned international agreements and to control the operators of their airlines, aircraft, and airports. In most jurisdictions, airline operators must comply with three basic areas of regulation: first, they must obtain the appropriate authorizations to operate an airline; secondly, every aircraft must be airworthy and subject to regular checks and thirdly, they are subject to various economic regulations and in particular, requirement of route licenses, FRN (1999).

There are many permits, certificates, licenses and similar authorization to be obtained before air transport services can be operated and these centre on three things: the operator, his aircraft and the routes.

In the United Kingdom for instance, the Air Navigation Order 1989 provides that, an operator of United Kingdom registered aircraft must have in force an air operator's certificate. The Civil Aviation Authority grants operators' certificates, only once it is satisfied that the applicant is competent, having regard to his conduct, experience, and facilities. The Air Navigation Order also provides that no aircraft shall fly unless there is in force, a certificate of airworthiness valid under the laws of the country in which it is registered (Lord, 1964).

These regulations illustrate the provision of detailed regulation by a particular state on the general principle in the Chicago Convention. For instance, the international source lays down the principle while the national legislation provides the detailed regulations. Articles 17 and 19 of the Chicago Convention are illustrative of this principle when they provide that aircraft shall have the nationality of the State in which they are registered and that registration in a contracting State shall be made in accordance with its laws and regulations. Furthermore, Article 31 states that every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued by the State in which it is registered. The third basic area of regulation of airline operators is the route licensing. The license is a valuable asset to the commercial viability of an airline. In the United Kingdom,

application is made to the Civil Aviation Authority which has a wide discretion within certain statutory criteria to grant, vary, or revoke licenses (CAA, 2000).

The Civil Aviation Authority's stated policy is firmly committed to competition as being in the best interest of the industry and consumers alike. This enables several carriers to operate a particular route. This obviously seems to be a fundamental divergence from the one route-one airline policy being adopted by many nations. It also reflects the move away from the dominance of State-owned monopolistic airlines. We will now turn to a review of aviation law, guiding aviation industry in Nigeria.

### **Aviation law in Nigeria**

Before the introduction of federalism in Nigeria in 1954, the Governor-General legislated for the whole country (Colony of Lagos, the Southern and Northern Protectorates). Local ordinances in most cases empowered the Governor-General to make orders, rules, and regulations on the specific subject matter. The Civil Aviation Act of 1949 in England was also made applicable to Nigeria by Article 3 of the Colonial Civil Aviation Order of 1952.

In short, the Colonial Air Navigation Order 1952 empowered the Governor-General by Article 58 thereof, to make regulation for Nigeria in respect of air navigation. To this end, acting under that power, the Governor-General made the Air Navigation (Nigeria) regulation of 1954 of the United Kingdom and the Air Navigation (radio) regulations of 1954 (Peter, 1966).

In effect, the Colonial Air Navigation Order 1955 extended to Nigeria; the application of the General Regulations and the Radio Regulation of the Air Navigation Order 1954 of the United Kingdom. In the same vein, the Air Transport (Licensing) Regulations, 1958 made under Section 13 of the Civil Aviation Act 1949 and made applicable to Nigeria by Article 3 of the Colonial Civil Aviation (Application of Act) Order 1952 was made applicable to Nigeria by the Governor-General. In like manner, the Air Navigation (safety of navigation) Ordinance of 1941 was an ordinance to ensure the safety of aircraft in flight by imposing restriction upon the use and enjoyment of land and erection of buildings in the vicinity of aerodromes merely empowered the Governor-General to make declaration imposing restrictions on user of land, albeit with compensation where necessary.

Furthermore, the British Settlement Act 1887 and Foreign Jurisdiction empowered the King of England to make order in Council in 1946 in establishing the West African Air Transport Authority whose duty was to secure the development of efficient air transport services in and between the West African territories and that, such services are operated at reasonable charges. The Authority was a body corporate with perpetual succession and a common seal, capable of suing and being sued (Nigeria

Company Law and Practice, p. 20). Similarly, the Queen, acting under carriage by Air Act 1932 made the Carriage by Air (non international carriage) (Colonies Protected and Trust Territories) Order 1953. These Orders extended the application of the Warsaw Convention, (FAAN, 1996) of 1929 to Nigeria as a territory of the United Kingdom; thereby, making Nigeria a high contracting party to those conventions (Tailor, 1983).

The 1999 Constitution of the Federal Republic of Nigeria listed aviation matters in the Exclusive Legislative List, Schedule II, Part I, item 3. Thus, "aviation including airports, safety of aircraft and carriage of passengers and goods by air" meaning that the provision can exclusively be entertained by the National Assembly, Abuja.

## RESEARCH METHODOLOGY

Both primary and secondary sources of data were employed to gather information on the performance of the government institutional agencies charged with the statutory responsibility for managing aviation industry. Furthermore, this was beefed up with information and materials gathered from primary and secondary sources too. Specifically, the Directors of Federal Airport Authority of Nigeria; the Civil Aviation Authority and Nigeria Air Space Management Authority all in Ibadan airport were interviewed to elicit information on the performance of the agencies and how their performances have impacted on the aviation industry in Nigeria. Furthermore, secondary data were gathered from the statutes, aviation laws, and magazines, local and international legislations. The secondary legal materials enhanced our primary sources of data.

## INSTITUTIONAL AGENCIES INCHARGE OF AVIATION INDUSTRY IN NIGERIA

In 1996, the Federal Airports Authority of Nigeria Act was enacted, the Nigerian Civil Aviation Authority (Establishment, etc.) Act was also enacted in 1999 while Nigerian Airspace Management Agency (Establishment, etc.) Act of 1999 was also promulgated, all to regulate the Aviation Industry in Nigeria.

Nevertheless, of recent, and specifically in November 2006, a new Aviation Bill was signed by former President of Federal Republic of Nigeria – President Olusegun Obasanjo into an Act which provides for the regulation of Civil Aviation and established the Nigerian Civil Aviation Authority. Perhaps, the enactment of the law is not unconnected with the three successive scheduled airlines accidents with heavy loss of lives (young and old) and property. The thinking of the legislators is that, under the new law, the Nigerian Civil Aviation Authority would be able to properly regulate the aviation industry (Okeke, 2000).

The new 2006 Aviation Act, Section 29 subsection 1 (a), (b) and (c) empowers the Authority to regulate air navigation. It states: The Authority may, by regulation, make such provision as it is necessary or expedient; (i) For carrying out the Convention on International Civil

Aviation in this section referred to as "the Convention" concluded at Chicago on the 7th Day of December 1944, any Annex to the Convention which relates to international standards and recommended practices and is adopted in accordance with the Convention and any amendment of the Convention or of any such Annex made in accordance with the Convention.

- (ii) For carrying out any other treaty or agreement in the field of civil aviation to which Nigeria is a party, and
- (iii) Generally, for regulating air navigation.

Section 2 of the Act empowers the Authority to make regulations:

- (i) For the registration of aircraft in Nigeria.
- (ii) For the prohibition of aircraft from flying unless certificates of airworthiness issued or validated under the regulations in force with respect to them and except upon compliance with such conditions as the maintenance and repair as may be prescribed.
- (iii) For the licensing, inspection and regulation of aerodromes and places where aircraft have landed, for the inspection of aircraft factories and for prohibiting or regulating the use of aerodromes which are not licensed in pursuance to the regulations.

The Act empowers the Civil Aviation Authority to prohibit persons from engaging in, or being employed in, or in connection with, air navigation in such capacities as may be prescribed, unless they satisfy the prescribed requirements and for the licensing of persons employed at aerodromes in the inspection, testing or supervision of aircraft.

Furthermore, the Authority could make regulations as to the conditions under which and in particular, the aerodromes to or from which aircraft entering or leaving Nigeria may fly and as to the conditions under which aircraft may fly from one part of Nigeria to another.

The Authority has power under the Act to regulate the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other gainful purposes and for prohibiting the carriage by air of goods of such class or classes as may be prescribed. It can also make regulations for following:

- (i) Minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and light liable to endanger aircraft.
- (ii) Generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried in aircraft, and for preventing aircraft from endangering other persons and property.
- (iii) Requiring persons engaged in, or employed in or in connection with air navigation, to supply meteorological information for the purposes of air navigation.

(iv) Regulating the making of signals and other communications by, or to aircraft and persons carried in aircraft.

(v) Instituting and regulating the use of a civil ensign and any other ensign established by the Authority for purposes connected with air navigation.

(vi) Prohibiting aircraft from flying over such areas in Nigeria as may be prescribed;

(vii) Applying the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried in aircraft.

(vii) As to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, license or other document required by the regulations (including the examination and test to undergo) and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document.

(viii) For the registration of births and deaths occurring in aircraft and of particulars of persons missing from the aircraft.

(ix) For regulating the provision of and charges that may be made in respect of air traffic control and meteorological services and for the use of aerodromes licensed under the regulations and for services provided at such aerodromes.

(x) For specifying the fees to be paid in respect of the issue, validation, removal, extension or variation of any certificate, or other document or the undergoing of any examination or test required by virtue of the regulations and in respect of any other matter, in respect of which it appears to the authority to be expedient or, the purposes of the regulations to charge fees provided that such fee shall be such as is reasonably necessary to cover the administrative costs of the Authority incurred in the exercise of its oversight functions.

(xi) As to the conditions under which noise and vibration may be caused by aircraft on aerodromes provided that no action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome, so long as the provision of the regulation in force as respect aerodromes are complied with.

(xii) As the circumstances and condition under which it would be possible to use aircraft for aerial advertisement and for regulating advertisements by air transport, aerodrome and air traffic control service providers.

(xiii) Regarding the design, construction, and modification of aircraft and all other matters connected with the design, construction, and maintenance of aircrafts.

(xiv) Regarding security control and screening to which, passengers and baggage (whether accompanied or unaccompanied) would be subjected to before boarding or being laid on an aircraft; and, regarding the conditions and procedures for the interception of civil aircraft flying into, within or over Nigerian airspace.

Apart from the powers vested in the Authority, the Authority has statutory functions which may be exercised directly by Director-General or through the Directors in

charge of the following: airworthiness standards; air transport regulation; operation and training standards; aerodromes and airspace standards; licensing standards; aero medical standards; legal, finance and accounts; and administration and corporate affairs.

Of interest to this paper is Section 31, subsection (1) of 2006 Aviation Act which provides for licensing of air transport undertaking. It states:

No aircraft shall be used by any person in Nigeria for flying, while carrying passengers or cargo for reward, or on such journey or classes of journey (whether beginning and ending at the same time or at different points) or for such flying undertaking for the purpose of any trade or business, except under the authority of and in accordance with a license, permit or other authorization issued to him by the Authority.

However, the law exempted the military, the police the customs and immigration from the Authority's authorization and license when it states:

No aircraft shall be used by any person in Nigeria for any other purpose save for military, police, custom or immigration operations under the authority and in accordance with a license, permit or other authorization issued by the Authority.

Furthermore, Section 47 subsection 3 is of particular interest as it lays down the penalty of advance payments of at least \$30,000 US (thirty thousand United States of America dollars) for any carrier in any case of aircraft accident resulting in death or injury of passengers payable within 30 (thirty) days of such accidents to the natural person or such natural persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons.

Part XIII of the Act deals extensively on various offences relating to aviation transport especially sections 54 to 59. For instance, Section 54 says, "where an aircraft is flown in such a manner as to cause danger to any person or property in the aircraft, on land or water, the pilot or any other person in charge of the aircraft and the owner or any person having responsibility for safe navigation of the aircraft shall be liable on conviction to imprisonment for a term of not less than two years or a fine of not less than N1, 000,000.00 or both".

Regarding safety of air transportation, section 58 (i) of the Act, states that: any person who, at any aerodrome, unlawfully and intentionally uses any device, substance, or weapon to; commit an act or violence which causes or is likely to cause grievous hurt of any person, or ; destroy or seriously damage any aircraft or facility at an aerodrome or disrupt any service at the aerodrome; shall be guilty of an offence and liable on conviction to imprisonment for life and to a fine of not less than N10, 000,000.00 (ten million naira).

Interestingly, Section 58 subsection 2 says “any person who attempts to commit, or abets the commission of any offence under subsection 1 of this section shall also be deemed to have committed such offence and shall be liable to the punishment provided for such offence.

Finally, section 59 subsections 1 and 2 of the Act set down offences such as destruction of or damage to Air Navigation and other facilities. Subsection 1 states:

Any person who unlawfully and intentionally destroys or damages air navigation and meteorological facilities or interferes with their operation in such a manner as is likely to endanger the safety of aircraft in flight shall be guilty of an offence and liable on conviction to imprisonment for a term not less than (one) 1 year or to a fine of not less than N500, 000.00 (five hundred thousand naira) or both

While Section 59 subsection 2 says:

Any person who attempts to commit or abets the commission of any offence under subsection (i) of this section shall also be deemed to have committed such offence and shall be liable to the punishments provided for that offence.

Still on legal framework of air safety transportation, the law provides in section 73 of the Act that:

1. any carrier operating air transport services to, from or within Nigeria or aerodrome operator, aviation fuel supplier or any provider of ground handling services, meteorological services, air traffic control services, aircraft maintenance services or provider of such other class of allied services as the Authority may from time to time determine in writing, shall maintain adequate insurance covering its liability under this Act, and also its liability towards compensation for damages that may be sustained by third parties for an amount to be specified in regulations made by the Authority.

Furthermore Section 73 states that:

Absence of such (2) insurance shall be sufficient reason for refusal, suspension or revocation of the permission to operate the air transport services in question.

While Section 73 enjoins any person having a duty to maintain, adequate insurance to make quarterly returns to the Authority evidencing that such adequate insurance is maintained and that all conditions necessary to create an obligation on the insurer to provide indemnity in the event of a loss have, for the time, been fulfilled. We will further address another important government agency that has responsibility to undertake in aviation industry in

Nigeria.

### **The Nigerian airspace management agency (NAMA)**

The Nigerian airspace management agency (NAMA) was established by section 1 of the Nigerian Airspace Management Agency (Establishment, etc.) Act Cap. 90 for the purpose of providing air transport service in Nigeria. It was established as a corporate body known as “The Agency”. Section 11 of the Act established it as a corporate body with perpetual succession and a common seal; may sue or be sued in its corporate name, and own, hold or dispose of property (whether movable or immovable) (Companies and Allied Matters Act Cap 20, 2004).

The Act established for the Agency a Governing board referred to as the Board. The Board is empowered to:

- (a) Provide the general policies and guidelines relating to major expansion programme of the Agency.
- (b) Manage and superintend the affairs of the Agency.
- (c) Subject to the provision of this Act, that is, (Cap 90) make, alter and revoke rules and regulations for carrying on the functions of the Agency.
- (d) fix terms and condition of service including remuneration of the employees of the Agency; and
- (e) Do such other things which in the opinion of the Board are necessary to ensure the efficient performance of the functions of the Agency.

The functions of the Agency are highlighted in Section 7 of the Act. Thus, the Agency shall:

- (a) Provide air traffic control visual and non-visual aids, aeronautical telecommunications services and electricity supplies relating thereof, to enable public transport, private business and military aircraft fly as far as practicable and as safely as possible.
- (b) Provide aerodromes at all the major Nigerian airports, the navigation services necessary for the operation of aircraft taking off and landing and integrate them into the overall flow of air traffic within the Nigerian airspace.
- (c) Minimize or prevent interference with the use or effectiveness of all apparatus used in connection with air navigation and for prohibiting or regulating the use of all such apparatus and display of signs and lights liable to endanger aircraft and endanger the use of the Nigerian airspace.
- (d) Generally secure the safety, efficiency and regularity of air navigation.
- (e) Require persons engaged in or employed in or in connection with air navigation, to supply meteorological information for the purpose of air navigation as may be deemed appropriate from time to time.
- (f) Provide adequate facility and personnel for effective security of navigational aids outside the airport perimeters.

- (g) Create conditions for development, in the most efficient and economic manner of air transport services;
- (h) Procure, install, and maintain adequate communication, navigation and surveillance and air traffic management facilities at all airports in Nigeria.
- (i) Ensure an effective co-ordination in the use of the Nigerian airspace in line with established standards and procedures.
- (j) Ensures the co-ordination at all levels of decisions relating to airspace management and air traffic control in Nigeria.
- (k) Take necessary steps to prevent as far as possible, penetration of controlled airspace by any aircraft, civil or military, without coordination with the air traffic control unit concerned.
- (l) encourage research and development relating to all aspects of the Nigerian airspace designed to improve air safety.
- (m) Undertake systems engineering development and implementation for communications, navigation and surveillance and air traffic management.
- (n) Coordinate the implementation of search and rescue services.
- (o) Discharge the operational, technical, and financial air traffic services commitments arising from Nigeria's membership of international organization and other air navigation agencies, NAMA (2001).

### **The federal airport authority**

The Federal Airport Authority was established by CAP F 5 No. 9 1996, referred to as "the Authority". The Authority is a corporate body with perpetual succession and common seal and may sue and be sued in its corporate name and own, hold or dispose of property "whether movable or immovable".

The federal airport authority (amendment) Act charged the organization with the following statutory responsibilities. They are:

- (a) To develop, provide and maintain all airports within the Nigerian airspace, all necessary services and facilities for the safe and orderly air navigation.
- (b) To provide adequate conditions under which passengers and goods may be carried by air and under which aircraft may be used for other gainful purposes and for prohibiting the carriage by air of goods such classes as may be prescribed.
- (c) To prohibit the installation of any structure which by virtue of its high position is considered to endanger the safety of air navigations.
- (d) To charge for services provided by the Authority at airports.
- (e) To develop accommodation and other facilities for the effective handling of passengers and freight.
- (f) To develop and provide facilities for surface transport within airports.

- (g) To provide adequate facilities and personnel for effective security at all airports.
- (h) Generally, to create conditions for the development in the most economic and efficient manner of air transport and the services connected with it.

### **The Nigerian civil aviation authority**

Like other Aviation Agencies earlier discussed, the Nigerian civil aviation authority is also a corporate body with perpetual succession and a common seal. It may sue or be sued in its corporate name; and may acquire, hold or dispose of property whether movable or immovable. Section 3 of Aviation Act 2006 discussed its Governing Board which consists of highly skilled professional experts in the following fields: Aeronautical engineering; aviation law; air transport management; aerodrome/-aircraft maintenance engineering; and air craft piloting.

### **Authority's power to regulate civil aviation**

The Authority is armed with extensive regulatory power to administer civil aviation industry. Specifically, Section 29 empowers the Authority to make some regulation as is necessary and expedient for:

- (a) Carrying out the convention on International Civil Aviation (referred to as "the convention") concluded at Chicago on the 7th Day of December, 1944.
- (b) Carrying out any other treaty or agreement in the field of Aviation to which Nigeria is a party, and generally for regulating air navigation.

The Authority is also empowered to make regulations:

- (a) For the registration of aircraft in Nigeria.
- (b) For the prohibition of aircraft from flying unless certificates of airworthiness is issued or validated under the regulations in force with respect to them and except upon compliance with such conditions as to maintenance and repair as may be prescribed.
- (c) For licensing, inspection and regulation of aerodromes and places where aircraft have landed; for the inspection of aircraft factories and for prohibiting or regulating the use of aerodrome which are not licensed in pursuance of the regulations.
- (d) For prohibiting persons from engaging in or being employed in or in connection with air navigation in such capacities as may be prescribed unless they satisfy the prescribed requirements and for licensing of persons employed at aerodromes in the inspection, testing, or supervision of aircraft.
- (e) As to the conditions under which, and in particular, the aerodrome, from which aircraft entering or leaving Nigeria may fly and as to the conditions under which aircraft may fly from one part of Nigeria to another.
- (f) For minimizing or preventing interference with the

use of or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus and display of signs and lights liable to endanger aircraft.

(g) Generally, for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried in aircraft, and for preventing aircraft from endangering other persons and property.

(h) For requiring persons engaged in, or employed in or in connection with air navigation to supply meteorological information for the purposes of air navigation.

(i) For instituting and regulating the use of a civil air ensign and any other ensign established by the Authority for purposes connected with air navigation.

(j) For prohibiting aircraft from flying over such areas in Nigeria as may be prescribed.

(k) As to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, license or other document required by the regulation (including the examinations and tests to be undergone) and as to form, custody, production, cancellation, suspension, endorsement and surrender of any such document.

(l) For the registration of births and deaths occurring in aircraft and of particulars of persons missing from the aircraft.

(m) Regarding the design, construction, and modification of aircraft and all other matters connected with the design, construction and maintenance of aircraft.

(n) Regarding security, control and screening to which passengers and baggage (whether accompanied or unaccompanied) would be subjected to before boarding or being laid on an aircraft.

(o) Regarding the conditions and procedures for the interception of civil aircraft flying into, within or over Nigerian airspace.

### **The Nigerian college of aviation technology (NCAT)**

This is the Civil Aviation Training Institution that trains pilots and engineers that serve the Aviation Industry. The College (NCAT) was established in 1964 by the Federal Government of Nigeria and the International Civil Aviation Organization (ICAO) under United Nations Development Programme (UNDP). NCAT was established primarily to service the aviation industry as its nuclei of training.

### **The Federal ministry of aviation**

The Ministry of aviation like any other Ministry is responsible for aviation policy formulation/initiation, policy implementation and perhaps policy evaluation. The Ministry is headed by a political functionary called “the

Minister” who is being charged with the responsibility for matters relating to Civil Aviation. The Minister wields enormous powers over the parastatals/institutions under his Ministry. He delegated authority to the agencies. For instance, any bye-laws must be ratified by the Minister otherwise such laws are null. The Minister who was appointed by the President of the Republic of Nigeria can also be removed by the President. In essence, the Minister is responsible and accountable to Mr. President for day to day administration of Aviation Ministry and the Agencies/institutions appended to the Ministry (FMA, 2001).

### **Summary of the review**

In a resumé, Aviation Industry in Nigeria is serviced by five Agencies and institutions. They are:

1. The Federal Ministry of Aviation.
2. The Nigerian Airspace Management Authority.
3. The Nigerian Civil Aviation Authority.
4. The Federal Airports Authority of Nigeria.
5. Nigeria College of Aviation Technology.

The Ministry is saddled with the responsibility of formulation of Aviation policy while Nigerian Airspace Management Authority (NAMA), addresses the provision and safe guarding of air navigation in Nigeria. The Federal Airports Authority of Nigeria (FAAN) is responsible for developing and maintaining airports and other facilities within the Nigerian airspace.

The Civil Aviation Authority of Nigeria (NCAA) on the other hand, is in charge of licensing, restoring and regulating aircraft, as well as accident control. Finally, the Nigeria College of Aviation Technology was established for the training of the pilots for the Aviation Industry.

Although NAMA, NCAA and FAAN have different functions, they complement one another. It is however, not clear which of the agencies has power over the others, or where and how such power lies. It also appears as if their functions overlapped or muddled or rather, duplicated. However, one important fact that merits mention is that the three agencies are appended to the Ministry of Aviation and make them susceptible to the whims and caprices of the Minister and worse still, they are subjected to bureaucratic procedure, corruption and ineptitude which seem to characterize the main stream of the Civil Service. Perhaps, these short comings are not unconnected with the incidence of about 19 air crashes between 1969 and 2005, and between 2005 and 2008, their attendants and monumental loss of human lives and properties in Nigeria.

### **Performances of the aviation industry**

Like other public enterprises, it is established and funded

by the Federal Government of Nigeria and managed with a view to rendering social services with minimal profit. Aviation Industry falls within this category of public enterprises in the early 60s and late 80s before some of them were slated for privatization. Their being slated for privatization is not unconnected with poor performances of the set objectives for the enterprises. A case in point to illustrate poor performance with Aviation Industry is not far fetched and that is the Nigeria Airways which became moribund and eventually sold out. Perhaps, we can rate the industry fairly well in terms of performances in the early 60s and 80s before they suffered a set back in their performances and the poor performance resulted in air crashes experienced in Nigeria (Table 1). The same social virus that attacked the Nigeria Airways is also penetrating gradually the Nigeria Railways Corporation (NRC) which has become moribund. The Nigeria Tribune of 22 August, 2008 reported that \$8.3 billion was said to have been expended on Nigeria Railways Corporation and yet nothing positive has been realized. We can now grope for some factors that may explain the poor performance of the Industry.

### **Problems of aviation industry in Nigeria**

Although the Industry performed fairly well in the early 70s and 80s, its performance became questionable as from early 90s to date. Perhaps the following factors may account for the declining performance.

The bottom line of the problems facing Aviation Industry in Africa in general and Nigeria in particular lies in the variance between policy formulation and the government's political will to implement such policy. It would appear from the stated legal policy analysis that the policy to facilitate safe air services is adequate and obtuse, but the government's political will to implement the policy seems inadequate or is absent. Perhaps, this among other factors, partly explains the frequent mishaps experienced in Nigeria's Aviation Industry in this decade.

Another factor that merits examination is the rigid control of the supervising Ministry. Nigeria Aviation Management Agency (NAMA) for instance, is under the supervision of Ministry of Aviation as far as its functions and responsibilities are concerned, even though by law, it is a corporate body which can sue and be sued on its corporate name. Again, this is one of the problems generally militating against efficient delivery of social services by the State-owned enterprises. This also explains why some of them collapsed. This assertion lends credence to Omoleke (2008) when he remarked that the Agencies, Commissions, Corporations and other parastatals are not given free hand to operate their organizations, instead, they are tied to the whims and caprices of the supervising Ministries. He added that such government policy tends to frustrate and kill the managerial initiatives of the Chief Executives of such Enterprises.

We therefore want to submit that an Agency or institution charged with such statutory and strategic functions, ordinarily, ought not to be subjected rigidly to the whims, dictates and caprices of any Minister; rather, such Agency must be fully autonomous if policy and decisions are to be taken timeously when such needs arise. Furthermore, the Agency should have air of independence and immunity from ministerial rigmarole and redtapism, which are inimical to taking quick decisions.

Perhaps, the precedent of National Agency for Drug Administration and Control (NAFDAC), where the Director-General has enormous independence to take initiatives would have been preferred to be extended to other Aviation Agencies. Section 32 of Aviation Act 2006, for instance gave the Minister leeway to direct the Agency (NAMA) when it states:

The Minister may give the Agency directives of a general character with regard to the performance or exercise of its functions or powers, as the case may be, and it shall be the duty of the Agency to comply with the directives (NAMA, 2001).

In a similar vein, sections 4 and 5 of the Act empowers the Federal Airport Authority of Nigeria (FAAN) to do anything which, in its opinion, is calculated to facilitate the performance of its duties and to discontinue the use of any airports under its authority. Obviously, these powers are adequate and comprehensive but the powers are merely cosmetic as action under section 5 of the Act can-not be taken without the express consent of the Minister. Assuming there is an emergency and the Minister is not available, what then happens? A dilemma arises! Furthermore, section 8 of the Act allows the Minister to wield extensive powers when it states:

Notwithstanding any other provision of this Act, the Minister may give to the Authority directions to do a particular thing which it has power to do or refrain from doing a particular thing if the Minister considers it appropriate to give such directions.

- a. In the interest of national security, or
- b. In any matter appearing to the Minister to affect the relations of Nigeria with a country or territory outside Nigeria, or
- c. In order to discharge or facilitate the discharge of an obligation binding on Nigeria by virtue of its being a member of an international organization, or
- d. In order to attain or facilitate the attainment of any other object, the attainment of which is in the opinion of the Minister, appropriate in view of the fact that Nigeria is a member of International organization, or a party to an international agreement;
- e. In order to enable Nigeria become a member of an international organization or a party to an international agreement.

f. In order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of Civil Aviation and in so far as any direction given in pursuance of this paragraph conflict with the requirement or instrument relating to the authority, except in time of war, whether actual or imminent or of great national emergency, those requirements shall be disregarded.

Another bane confronting Aviation Industry in Nigeria is bureaucratic and political corruption. This syndrome retards development in the Industry. This was demonstrated in the missing plane saga. The disappearance of the Beechcraft 1900D aircraft, belonging to Wings Aviation from Nigeria's airspace for several days, exposed the rot in the industry. Furthermore, the inability of the various aviation agencies to trace the aircraft eleven days (11) after it was officially declared missing is a national opprobrium and a demonstration of poor performance of the industry. The aircraft was said to have taken off from Lagos at Obudu at 7.35 am on Saturday March 15, 2008 and that was the end of it. Obviously, the revelations coming out of the missing plane saga have exposed a weak and ineffective aviation industry in Nigeria.

Furthermore, after 2005/2006 embarrassing orgy of crashes, the Federal Government directed the aviation authorities to put some measures to strengthen the industry. These measures included:

- (i) Installation of radars in all the airports in the country.
- (ii) Provision of emergency locator transmitters (EMT) for aircraft for the location of missing aircraft and survivors.
- (iii) Eradication of illegal airstrips and heliports through the listing of all airstrips and heliports in the Nigerian Airspace Management Agency's Air Traffic Control Chart.
- (iv) Affixing Enhanced Proximity Warning System to alert pilots of impending obstruction.
- (v) Construction of perimeter fences in all the airports across the country.

Disappointedly, there are reports that there is nothing to show for the N19.5 billion rehabilitation efforts. Essential navigational aid and other facilities are still absent. It would appear therefore that, the missing Wings Aviation Aircraft has no Emergency Location Transmitters. Perhaps, this explains why it could not be located eleven days after take-off. This is very sad and unfortunate, after 50 years of Independence! Where the N19.5 billion is, is therefore a mystery.

Furthermore, the Nigerian Aviation Industry still battles with poor technology and obsolete equipment. Perhaps, we can still illustrate this poor technology with the missing aircraft. The aircraft could not be located by any modern technological machine, rather, the National Emergency Management Agency (NEMA) had to recourse to the use of hunters, fishermen, herdsman and villagers in the search for the missing plane and crew in an age where Emergency Locator Transmitters are cheap and

ubiquitous. No radar is available in the whole of the nation's airspace. This is embarrassing. There is a need for Total Radar Coverage for Nigeria (TRACON).

Finally, the funding of the aviation industry is poor and perhaps, that accounts for the poor facilities and sub-standard runways in our airport, obsolete signs and ensigns, absence of radars, etc. My interactions with the Directors of Civil Aviation Authority of Nigeria, the Federal Airports Authority of Nigeria and Nigerian Airspace Management Agency at Ibadan Airport confirmed the under-funding of the Agencies which affects their performances.

### **Institutional reforms**

On the other side of the coin, few major reforms have been made in the major airports in Nigeria. At the Lagos airports, facilities at both the domestic and the international terminals have been upgraded to meet safety audit. The management has also acquired state of the art security equipment to facilitate screening of passengers, luggage and cargo. The Murtala Muhammed Airport has just completed a multi-million naira improvement programme which seems to be the most expensive since it was established in 1979. New conveyor belts installed, lifts, travelators and escalators repaired, improved illumination in the terminal building and its surrounding, etc.

In Mallam Aminu Kano International Airport, Kano, the rehabilitation of the Airports runway 06/24/ was completed on schedule for the 2002 Hajj operations. The project is presumed to effectively extend the lifespan of the runway by another 20 years. The project involved the preparation of runway surface to receive the overlay, that is, removal of rubber deposits and removal of pavement marking paint. The newly resurfaced runway which is 3.3 km long and 60 m wide is comparable to any other in the world.

Nnamdi Azikiwe International Airport, Abuja, has also joined the league of Nigeria's fast growing airports. Facilities at the airports have also been upgraded to a high level of safety, security and passenger friendliness. New screening machines (for passenger and cargo) were recently installed which have also improved security at the airport.

The Yola Airport was commissioned in the early eighties with the run way, taxi way and apron designed to handle domestic flight operations using B 737 type aircraft. However, wears and tears had taken their toll, manifesting in cracks and depression of runway and other essential facilities. It is rather unfortunate that the few rehabilitation measures carried out were only temporary.

Another far reaching and drastic reform in the Nigerian Aviation Industry that affect operation of airlines is the recertification of 13 airlines to fly the nation's airspace in a recapitalization exercise that began a couple of months ago. It was noted that out of 20 airlines operating in the

country as at the time of recapitalization; 13 were able to meet the recapitalization requirement set while; the remaining seven (7) were blacklisted and banned from operating in the Nigerian airspace. Later, government recertified additional 7 airlines thus bringing the number of airlines to operate to 20.

It would be recalled that hitherto, the nation's airspace has become highly unsafe, as a result of frequent tragic air mishaps adjudged to be the worst in the nation's aviation history.

It is in the light of the preceding discussion, and in a bid to make the nation's sky once again safe that the Federal Government, on January 17, 2007 reviewed and shored-up the capital base of all domestic airlines operating in Nigeria. Perhaps, the vision of the Federal Government is hinged on the philosophy that, a bigger, better and stronger airlines in "the country would invariably ensure efficient services and higher safety standards. The capitalization exercise or the policy recommended N500 million for domestic operation, N1 billion for regional airline routes and N2 billion for Intercontinental and International routes among other safety conditions and requirements (Field survey, 2007).

My field work also revealed that, NAMA has acquired a motorised Air Traffic Control Tower, (otherwise known as Mobile Tower) for air traffic management under emergency situations. According to the director (NAMA), it is the first of its kind in the country's history of air traffic management. My interaction with the Director further revealed that the technical configuration of the tower which cost ninety million naira (N90,000,000) include among other things, four (4) aeronautical Radio Frequencies comprising two (2) Very High Frequency Radio (VHF), and One (1) High Frequency Radio (HF). According to the Director, Very High Director Finder (VDF) used for indicating the bearing of an aircraft was also configured.

Considering the fact that the aviation world is itching towards the Global Positioning System (GPS) for air navigation, NAMA has decided to configure the mobile tower with the state of the air Global Positioning System (GPS) receivers in order to keep the system current, should Nigeria decide to adopt the GPS mode for air navigation. In summary, NAMA and other Agencies (FAAN and NCAA) have slightly improved their facilities with the hope that they will be adequately funded to sustain them.

## **SUGGESTIONS**

Prior to the return of democracy in Nigeria in 1999, there was almost a complete collapse of the country's surveillance system with its entire six, Terminal Area Radar System, grounded. It was observed that navigations and landing facilities had dilapidated and sunk beyond tolerable limit. To this end, dark spots pervaded the nation's aeronautical communication system. The pace of

processing aeronautical information and delivery of it was indeed critically low. The nation's search and rescue machinery suffered a serious set-back.

To compound the country's aviation problems, both United States of America and Britain severed air links with Nigeria. The International Federation of Airlines Pilots Association branded the Nigerian airspace as "critically deficient". The International Air Transport Association then warned Airlines flying into Nigeria to do so at their own risks.

Nevertheless, the coming into existence of NAMA in January 2000, with a clear mission to provide a safe, efficient and economic air navigation system witnessed the rapid and dramatic transformation of a hitherto (critically deficient) airspace. It turned into a new and dynamic airspace architecture that will be able, not only to meet international standards, but also, will effectively accommodate the ever increasing air traffic volume over the years. The question is will NAMA and other Agencies be able to cope and sustain this effort? We will now address some useful suggestions to guarantee safety of the Nigeria airspace in particular and African Airspace in general.

1. The Aviation Industry should develop and implement a quality assurance programme and safety management system for the Agencies.
2. Develop a template for compilation, assessment of all landed and abandoned assets of the Agencies with a view to deploying them to useful revenue purposes.
3. Institute Key Performance Indicators (KPIs) and review mechanisms for major activities of each directorate.
4. Develop and implement a prudent and effective financial management system with embedded control management system.
5. Implement an electronic reporting system with spread sheets and charts that describes and projects all expenditures and revenue on a monthly basis.
6. Re-organize functional groups to be more representative of agency(ies) core business and fit proper support requirements.
7. Develop and implement e-pay-slip and e-accounting system that links all stations.
8. Embark on a massive rehabilitation of agencies' facilities and infrastructure.
9. Complete the total radar coverage of the Nigeria's airspace.

## **Summary**

What has been addressed in this empirical study is the legal and social examination of aviation industry in Nigeria with emphasis on the legal reform and institutional restructuring in the sector. Following the three scheduled service airlines accidents and the previous air crashes with a heavy loss of lives and property in Nigeria,

it has become necessary to re-examine the laws guiding the aviation industry with a view to identifying some legal weaknesses and lacuna (if any) that perhaps, could explain the frequent air disasters and missing aircraft in Nigeria. The paper also looked into the various laws governing the establishment of such agencies like Federal Airports Authority of Nigeria, the Nigerian Airspace Management Agency, and the Nigerian Civil Aviation Agency which play a key role in the Aviation Industry.

Furthermore, the study assessed the performance of aviation industry in Nigeria with its attendant problems of human and material resources, institutional weaknesses, structural deficiencies and underfunding of the agencies. The study finally examined positive institutional reforms undertaken by the Agencies especially, NAMA initiatives, which can repose confidence and, raise hope, of safe and secured air navigation in the Nigerian airspace. The study offered some few useful recommendations.

## RECOMMENDATIONS

Obviously, aviation industry in Nigeria is faced with organizational problems (internal and external) ranging from institutional and structural deficiency to underfunding of the sector. Structurally, the airports runways are replete with portholes while other navigational facilities are either obsolete or are substandard for international requirement. Some airlines face high operating cost due to high inflation and consequently, declining fortunes call for the use of mechanical parts which are overdue for replacement. Some carriers do flout safety rules by using, for example, tread-bare tyres on their airplanes or operation of a single airplane. Furthermore, the airports security seems loose and this gives room for terrorism which allows easy passage or smuggling of explosives on board. The overriding bane of the industry is finance which affects the airlines, the Ministry of Aviation, the Nigerian Civil Aviation Agency, the Federal Airports Authority of Nigeria and the Nigeria Airspace Management Agency.

In view of these, plethora of problems facing aviation sector, this study recommends the following to revamp the moribund aviation sector.

The Federal Government of Nigeria in particular and African Governments must adequately fund the Agencies or Parastatals saddled with responsibilities of maintaining aviation industry. For instance, the Federal Airports Authority of Nigeria (FAAN), if well funded and monitored, should be able to provide standard runways that can meet International Civil Aviation Organization (ICAO) standard requirements. FAAN should also ensure that perimeter fencing is put in place in all the twenty (20) airports under its administration. The Agency must also ensure that the safety and security of passengers and aircraft at all Nigerian airports are in line with ICAO

standards. The facilities at the airports should be upgraded to world-class standard in order to enhance operational efficiency.

With a remarkable 34% rise in revenue generation of FAAN, the Federal Government of Nigeria should be able to fund adequately, the Authority, and this is hereby recommended. It is on record that FAAN generated N3.7 billion in the months of August to November 2003 as compared to N2.7 billion earned during the same period in 2002 (Source: Federal Airport Authority of Nigeria - Vision pp. 6 and 7).

To this end, timely allocation and release of fund is strictly recommended for preventive maintenance of airports facilities and infrastructural development. This will enable FAAN to contribute more meaningfully to the gross domestic product (GDP) and general socio-economic development of Nigeria.

In addition, Nigerian airports, in 2002 handled 6.3 million passengers and 141, 634 aircraft while in 2003, over 7.2 million passengers had passed through the airports. In view of this heavy traffic, it is recommended that the airports facilities should be properly maintained and expanded when necessary.

The Nigerian Civil Aviation Agency must be thorough by examining any aircraft within and into Nigeria and certify them accordingly. Both the FAAN and NCAA should, on no ground, compromise standard of safety. It is also recommended that training and retraining of personnel of FAAN and NCAA must be a priority and that is where the Nigeria College of Aviation Technology (NACT) is very relevant and it must be properly funded.

In order to build a strong, viable and reliably indigenous aviation industry, the Ministry of Aviation should; i) ensure consistency in formulation, implementation, monitoring and evaluating policies and regulations; ii) ensure adequate capitalization and a review of entry requirements for the airline business; iii) ensure strict enforcement of Air Operators Certificate (AOCs) requirements; vi) im-prove coordination among the Ministry of Finance, Nigerian National Petroleum Corporation, and other relevant and cognate agencies to facilitate smooth operation in the industry; v) positively encourage indigenous airlines to participate in international air routes on a fair and competitive basis; and vi) intra-Agencies conflict among FAAN, NCAA and NAMA, should be managed fairly. For instance, NCAA has not only the regulatory power on safety; it also has economic regulatory power. Agencies like the Nigeria Airspace Management Agency (NAMA) and the Federal Airports Authority of Nigeria (FAAN) cannot introduce new charges without seeking the approval of NCAA. This appears to be a potential area of conflict.

The NAMA which was created vide Act No. 48 of 1999 of the Federal Republic of Nigeria is saddled with the provision of air navigation services, and ensures safe, efficient, expeditious and economic flight operations.

Unfortunately, the Agency's facilities in the Tower

Houses are still obsolete. My interaction with NAMA officials at Ibadan Airport revealed that the facilities still being used in the 21st century belong to 19th century. I also gathered in my interview that the Agency is grossly underfunded and this is reflected in its limited capacity to purchase relevant and modern facilities to replace old ones. The underfunding also restricts the Agency to train and retrain relevant human resources. Worse still, the Agency is being excessively controlled by the Federal Government as the appointment into the parastatal is heavily politicized.

In view of these, this study recommends that the Agency be given autonomy to generate fund and given leeway to rationally spend the fund for maintaining and sustaining the Agency. Furthermore, the appointment into the Agency should be depoliticized by allowing meritocracy to prevail on mediocrity and bureaucracy in the name of politics and federal character syndrome. It is also recommended that the Agency should be given freedom to select or recruit, train and retrain its staff. Unnecessary overstaffing of the agency due to politicization should stop. In order to make the Agency more efficient, training of air controller should be emphasized. The Federal Government should desist from unnecessary down-sizing of staff and arbitrary sacking of the Agency's staff, otherwise, the Agency will lose highly skilled and technical staff as it has sometime ago.

This scholar recommends further that there is need for recapitalization periodically in the aviation industry especially among the carriers. Perhaps, one of the reasons for fleet depletion and eventual collapse of domestic carriers (Nigeria Airways) is their dependence on old airplanes which attract high maintenance cost. Fortunately and interestingly enough, the Minister of Aviation has plans to assist the airlines to enable them obtain funds and acquire new aircraft and allocation of some lucrative routes that have been unfairly taken over by foreign airlines in order to encourage domestic airlines to grow.

Capital needs labour and labour needs capital. The officials and workers of FAAN, and NAMA should be motivated like their counterparts in the Nigerian Civil Aviation Agency since the trio (FAAN, NAMA and NCAA) are charged with the responsibilities of air transportation in Nigeria.

We want to finally recommend that the Ministry of Aviation should formulate a policy that will enable the Federal Government, just provide the enabling environment for the private sector to go ahead and establish adequate facilities. If this is allowed, it will encourage the rapid growth and overhauling of the industry. This is unlike the prevailing situation where parastatals are managing the industry with poor funding which has recently rendered NAMA and FAAN insolvent.

On a final note, the issue of security at the airports must be addressed seriously. The Beechcraft 1900D owned by Wings Aviation which disappeared on March 15, 2008 and is yet to be found has brought to the fore

the question of having the whole of the nation's airspace covered by Radar and this is thereby recommended.

## CONCLUDING REMARK

The legal framework within which the aviation industry operate is ostensibly governed by International Conventions, especially Chicago Convention of 1944, bilateral treaties and local enactment especially Aviation Act 2006. All the laws were put in place to guide the Aviation Industry. Obviously, the laws are sufficient enough to guarantee efficient aviation industry in Nigeria or anywhere in Africa. Alas! The implementation of the legal policy constitutes a problem to air transportation due to absence of Government political Will to back up the policy.

To strictly enforce international conventions, bilateral treaties and agreements is always a legal issue unless the country is a signatory to the conventions or agreement. Most of these Conventions and agreements need to be revisited as most of them were signed more than a century ago. They need to be reviewed in line with the 21st Century development.

It is being touted that under the new law (Aviation Act 2006), the Agencies (NAMA, NCAA, and FAAN) would be able to regulate and manage the industry if they are properly funded and autonomous.

The study concluded that, in spite of the existence of a legal framework both at International level and locally, the air industry in Nigeria does not score a pass mark. This is evident as the runways are bad, the navigational facilities are obsolete and above all, the agencies managing the industry are grossly underfunded, heavily politicized and bureaucratic, which do not enhance operational efficiency.

Furthermore, the capitalization in the industry is low while the Government Agencies in charge of air sector are rigidly controlled by supervising Ministry. Thus, this situation can frustrate managers and kill their initiatives.

All the aforementioned constellation of shortcomings in the management of Aviation Industry in Nigeria shows that Government performance in the sector has been unsatisfactory. Government Agencies need not neglect their responsibilities simply to prepare ground for privatization of the national carrier and major airports. The legal reforms may not be far reaching in enhancing operational efficiency of the air industry where the Government is negligent in its social and financial responsibilities to its established parastatals in charge of aviation industry.

Employing village hunters with their dogs and fishermen to search for a missing plane is embarrassing to Nigeria as a nation. It is symptomatic of technological bankruptcy. This must stop. However, the most serious problem is that of corruption, as N19.5 billion Aviation Intervention fund is still being probed by the Senate

Committee. Two former Ministers of Aviation were arrested by Economic and Financial Crime Commission on the same issue of N19.5 billion Aviation Fund.

Furthermore, almost two and half years after the Federal Government of Nigeria awarded the N6.5 billion contract for the renovation of the four international airports, Aminu Kano International Airport still lacks a safe tower. Perhaps, that is why the Austrian firm blamed the causes of Belview, Sosoliso and ADC plane crashes on windshear, which could have been avoided if the current equipment were in place. Windshear is a change in wind speed or direction within a short distance which causes shearing or tearing effects. This situation causes great concern for pilots. Meanwhile, trial in the allegations of fraud against the former Aviation Minister, Nigerian Airspace Management Agency's (NAMA) Managing Director and the Austrian Eder Company (11 count-charge of criminal conspiracy with intent to defraud, forgery and gratification, etc.) had commenced (The Nation, Monday November 10, 2008: 11).

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