Commission Implementing Regulation (EU) 2019/618 of 15 April 2019 amending Regulation (EC) No 474/2006 as regards the list of air carriers which are banned from operating or are subject to operational restrictions within the Union (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/618

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(Text with EEA relevance)

THE EUROPEAN COMMISSION

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air passengers of the identity of the operating carrier, and repealing Article 9 of Directive 2004/36/CE[(1)], and in particular Article 4(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 474/2006[(2)] establishes the list of air carriers which are subject to an operating ban within the Union.

(2) Pursuant to Article 4(3) of Regulation (EC) No 2111/2005 certain Member States and the European Union Aviation Safety Agency ('EASA') communicated to the Commission information that is relevant for updating that list. Third countries and international organisations also provided relevant information. On the grounds of that information, the list should be updated.

(3) The Commission informed all air carriers concerned, either directly or through the authorities responsible for their regulatory oversight, about the essential facts and considerations which would form the basis of a decision to impose an operating ban on them within the Union or to modify the conditions of an operating ban imposed on an air carrier which is included in the lists in Annex A and B of Regulation (EC) No 474/2006.

(4) The Commission gave the air carriers concerned the opportunity to consult the documents provided by Member States, to submit written comments and to make an oral presentation to the Commission and to the Committee established by Regulation (EC) No 2111/2005 (the 'Air Safety Committee').

(5) The Commission has informed the Air Safety Committee about the ongoing joint consultations, within the framework of Regulation (EC) No 2111/2005 and Commission Regulation (EC) No 473/2006[(3)], with the competent authorities and air carriers of Angola, Belarus, the Dominican Republic, Gabon, Indonesia, Moldova, Nepal, Russia

and Venezuela. The Commission also informed the Air Safety Committee about the aviation safety situation in Equatorial Guinea, Iran, Kazakhstan, Libya, Thailand, Turkmenistan and Zambia.

(6) EASA also informed the Commission and the Air Safety Committee about the results of the analysis of ramp inspections carried out under the Safety Assessment of Foreign Aircraft programme ('SAFA'), in accordance with Commission Regulation (EU) No 965/2012[(4)].

(7) In addition, EASA informed the Commission and the Air Safety Committee about the technical assistance projects carried out in third countries affected by an operating ban under Regulation (EC) No 474/2006. EASA provided information on the plans and requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities in third countries with a view to helping them resolve non-compliance with applicable international civil aviation safety standards. Member States were invited to respond to such requests on a bilateral basis in coordination with the Commission and EASA. In that regard, the Commission reiterated the usefulness of providing information to the international aviation community, particularly through the International Civil Aviation Organisation's ('ICAO') Safety Collaborative Assistance Network database, on technical assistance to third countries provided by the Union and Member States to improve aviation safety around the world.

(8) Eurocontrol provided the Commission and the Air Safety Committee with an update on the alarming function status of the SAFA and third country operators ('TCO') and with current statistics for alert messages for banned air carriers.

Union air carriers

(9) Following the EASA's analysis of information resulting from ramp inspections carried out on the aircraft of Union air carriers and from standardisation inspections carried out by EASA, as well as specific inspections and audits carried out by national aviation authorities, several Member States have taken certain enforcement measures and informed the Commission and the Air Safety Committee about those measures. Bulgaria informed the Commission and the Air Safety Committee about actions it had taken with regard to the air carriers certified in Bulgaria.

(10) Member States reiterated their readiness to act as necessary in the event that the relevant safety information indicates imminent safety risks as a consequence of a lack of compliance by Union air carriers with the relevant safety standards.

Air carriers from Angola

(11) Air carriers certified in Angola, except *TAAG Angola Airlines ('TAAG')*, which is listed in Annex B to Regulation (EC) No 474/2006, as amended by Commission Regulation (EU) No 619/2009[(5)], are currently listed in Annex A to Regulation (EC) No 474/2006, as amended by Commission Regulation (EU) No 1131/2008[(6)], and are subject to a total ban.

(12) From 10 to 14 December 2018 experts from the Commission, EASA and Member States conducted a Union on-site assessment visit in Angola at the offices of

the competent authority of Angola Instituto Nacional da Aviação Civil ('INAVIC') and at three air carriers certified in Angola, namely *TAAG, SonAir* and *Heli Malongo*.

(13) INAVIC follows an approach to aviation safety that lacks modern aviation safety management techniques. However, Angola has clearly made progress since the last Union on-site assessment visit in June 2009. Angola updated its aviation safety legislative framework and developed new technical regulations, called 'Normativas Técnicas Aeronáuticas' ('NTA'). The NTAs cover almost all ICAO annexes, except Annex 19. INAVIC is working on a further revision of the NTAs. INAVIC developed and internally approved a set of procedures to cover aviation surveillance obligations. However, there are still some shortcomings in the internal procedures, control of documents, consistent recording of files and training of the inspectors. Against those shortcomings, the current management of INAVIC clearly expressed the will to improve the capability and effectiveness of INAVIC in its day-to-day work. INAVIC should implement a quality management function.

(14) The Union on-site assessment raised 15 observations to the oversight activities of INAVIC. It also concluded that while INAVIC has developed certain capabilities to oversee the aviation activities in Angola, further improvements are indispensable in order for INAVIC to be able to address arising safety deficiencies.

(15) *TAAG* is the flag carrier of Angola. *TAAG* has a well-functioning and solid Safety Management System in place that generates useful data to the air carrier. The senior management of the company has a good understanding of those systems and uses them to identify risks and to take the appropriate measures to mitigate the highest risks to acceptable levels. The Quality Management System is robust and functional.

(16) *TAAG* has developed the required manuals, such as (but not limited to) Maintenance Control Manual, Maintenance Procedure Manual, Extended-range Twin-engine Operation Performance Standards Manual and Reduced Vertical Separation Minima Manual containing the policies and detailing the associated procedures, which are approved by INAVIC. The certifying staff is properly trained on the operated aircraft types. Overall, *TAAG* has professional crew and staff with functioning systems to manage the various operations. The management receives and acts on safety and quality information and analysis, promulgates that information and takes action through internal publications, in electronic form or otherwise. The latest published results of the IATA Operational Safety Audit (IOSA) shows a 99,3 % conformity rate.

(17) *SonAir* has an operating Safety Management System and an operating Quality Management System, but the Union's on-site assessment identified serious deficiencies which require urgent improvements. *SonAir* does not carry out all activities according to the requirements of the Safety Management Manual, safety training is not fully implemented, management of change is only superficially performed and no safety audits were carried out in the last year. With regard to the Quality Management System, the air carrier could not demonstrate that all audits of the yearly audit programme were performed. Moreover, the Union's on-site assessment concluded that the administrative system for controlling the findings had not been properly operated. In

the air operations area, *SonAir* is taking into account all requirements when developing the crew rosters. However, as there were inconsistencies in some of the sampled training records, *SonAir* should take appropriate measures to ensure that the procedures are defined and followed consistently.

(18) *Heli Malongo* operates a full IT based and integrated Compliance Monitoring System, Safety Management System and Flight Data Monitoring. The interaction between those systems is functional. The currently approved Operations Manuals reflect the performed operations and complies with the applicable regulations in Angola. *Heli Malongo* has developed and implemented a functional and robust Quality Assurance System for maintenance. The Maintenance Control Manual and the Maintenance Procedure Manual developed by *Heli Malongo* were approved by INAVIC and are based on the recommendations from the aircraft manufacturer. The facilities are adequate and well organised, with dedicated controlled areas for storage and tools, including calibrated tools. The maintenance engineers are properly trained on the operated aircraft types and have access to the required instructions for continued airworthiness.

(19) On 3 April 2019, the Commission and the Air Safety Committee heard INAVIC and the air carriers *TAAG* and *Heli Malongo*. INAVIC presented the actions taken following the Union's on-site assessment visit, including the changes made in the Angolan legislative framework. In March 2019, the new Civil Aviation Law was approved and, according to this law, INAVIC will be recognised as an entity administratively and financially autonomous. INAVIC informed the Commission and the Air Safety Committee about its commitment to improve its Effective Implementation of international safety standards to a level above 60 per cent and, for this purpose, INAVIC will receive external technical assistance. In addition, by the end of 2019, INAVIC intends to develop and implement a quality assurance function and an integrated methodology to allow uniformity and common electronic access to all its technical documentation.

(20) INAVIC has made progress with respect to the implementation of international safety standards. The Commission welcomes the efforts made and encourages the Angolan authorities and INAVIC to continue those efforts. However, the currently available evidence, notably from the Union's on-site assessment visit, does not allow to conclude that the progress made is sufficiently strong to remove all the air carriers registered in Angola and overseen by INAVIC from Annex A to Regulation (EC) No 474/2006. Indeed, INAVIC should make further improvements to its safety oversight system as well as to the training and the standardisation of the working methods of its inspectors.

(21) During the hearing, *TAAG* and *Heli Malongo* presented their corrective action plans addressing the observations and recommendations of the Union's on-site assessment visit. A part of the actions described in the corrective action plans has already been implemented. During the hearing, both air carriers claimed that they had robust and functional systems in place to manage various operations.

(22) The Commission concludes that *TAAG* and *Heli Malongo* are both capable of ensuring the safe conduct of their respective operations. The Commission considers that there is sufficient evidence that both carriers comply with applicable Angolan regulations and international safety standards. With regard to *TAAG*, EASA confirmed that with regard to TCO and SAFA this air carrier at present does not give rise to specific safety concerns.

(23) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission concludes that *Heli Malongo* should be removed from Annex A to Regulation (EC) No 474/2006, and that *TAAG* should be removed from Annex B to Regulation (EC) No 474/2006. Therefore, the list of air carriers subject to an operating ban within the Union established in Annex A and Annex B to Regulation (EC) No 474/2006 should be amended.

(24) Member States should continue verifying the effective compliance of Angola with the relevant international safety standards through prioritisation of ramp inspections to be carried out on air carriers certified in Angola, pursuant to Regulation (EU) No 965/2012.

(25) If any relevant safety information indicates that there are imminent safety risks as a consequence of a lack of compliance with international safety standards, the Commission might be obliged to take further action, in accordance with Regulation (EC) No 2111/2005.

Air carriers from Belarus

(26) On 17 September 2018, further to safety deficiencies identified by EASA in the framework of the TCO authorisation process, the Commission opened consultations with the Aviation Department of Belarus (‘AD-BLR’) pursuant to Article 3(2) of Regulation (EC) No 473/2006.

(27) From 11 to 15 March 2019 experts from the Commission, EASA and Member States conducted a Union's on-site assessment visit in Belarus at the offices of AD-BLR and at the offices of a number of air carriers certified in Belarus, namely *Belavia Belarusian Airlines* (‘*Belavia*’), *Rubystar Airways* and *Transaviaexport Airlines*.

(28) During the Union's on-site assessment visit, AD-BLR provided evidence on significant changes in its functioning, including the adoption of new orders, new internal manuals and check-lists, the set up of a dedicated inspectorate within the Ministry of Transport responsible for the aviation sector and for the recruitment of new inspectors. Those actions started in June 2018 with an amendment of the Air Code, and those efforts intensified following the launch of consultations between the Commission and AD-BLR on 17 September 2018. In 2018, AD-BLR also started the recertification of all air carriers certified in Belarus. At the time of the Union's on-site assessment visit, AD-BLR had already completed the recertification of two air carriers. These were important efforts to improve compliance with international safety requirements.