Commission Implementing Regulation (EU) 2018/1866 of 28 November 2018 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) 2018/1866

of 28 November 2018

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)

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[(3)] certain Member States and the European Union Aviation Safety Agency ('EASA') communicated to the Commission information that is relevant for updating that list. Relevant information was also provided by third countries and international organisations. 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[(4)], with the competent authorities and air carriers of Angola, Belarus, Benin, Gambia, Indonesia, Mauritania, Mexico, Moldova, Nepal,

Russia, Thailand, Venezuela and Zambia. The Commission also informed the Air Safety Committee about the aviation safety situation in Afghanistan, Gabon, Kazakhstan, Libya and Mozambique.

(6) EASA also informed the Commission and the Air Safety Committee about the results of the analysis of ramp inspections carried out in accordance with Commission Regulation (EU) No 965/2012[5] under the Safety Assessment of Foreign Aircraft programme ('SAFA').

(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 Commission 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 to 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 this 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 status of the SAFA and Third Country Operators ('TCO') alarming function and also with current statistics for alert messages for banned air carriers.

Union air carriers

(9) Following the analysis by EASA 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 and Malta informed the Commission and the Air Safety Committee about actions it had taken with regard to the air carriers certified in Bulgaria and Malta respectively.

(10) Member States reiterated their readiness to act as necessary in the event that any relevant safety information indicates that there would be 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) By letter of 30 April 2018, the Commission requested from the competent authority of Angola *Instituto Nacional da Aviação Civil* ('INAVIC') a list of documents and of actions to be completed.

(12) INAVIC provided all the requested documentation in due time. EASA analysed the documentation provided by INAVIC and concluded that it was clearly presented and well structured. Furthermore, the copies of Air Operator Certificates ('AOC') and Operational Specifications provided by INAVIC were in conformity with the ICAO format. INAVIC provided a good overview of the follow-up actions to the findings raised during the safety oversight of Angolan air carriers in the flight operations ('OPS') and airworthiness ('AIR') areas.

(13) INAVIC's procedures and regulations have been updated since 2015, mainly in the AIR, OPS and Aeromedical areas. Furthermore, in accordance with the relevant international safety standards, INAVIC has been actively providing ICAO with updates to its Corrective Action Plan ('CAP').

(14) For a more detailed and evidence-based understanding of the oversight activities in Angola the Commission requested INAVIC to provide the reports of AOC revalidation inspections or audits, including detailed description of the findings and the applied follow-up actions for the air carriers *Sonair*, *Air Jet* and *Heli-Malongo*.

(15) Those reports were sent to EASA which concluded that the data included in them were relevant and of a good substantial quality. Those reports also demonstrated that appropriate corrective actions had been implemented by the air carriers concerned, based on INAVIC findings.

(16) INAVIC informed the Commission that it had certified two new air carriers, namely *Bestflya Aircraft Management* and *SJL*. INAVIC also informed the Commission that seven carriers, namely *Air Nave*, *Air26*, *Angola Air Services*, *Diexim*, *Fly540*, *Gira Globo* and *Mavewa* no longer held a valid AOC.

(17) On the basis of information available at present, the Commission concludes that INAVIC has made progress with respect to the implementation of international safety standards. However, before any decision with respect to the lifting of the ban on air carriers from Angola can be taken, that progress must be verified during a Union on-site assessment visit to INAVIC and to selected Angolan air carriers.

(18) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage the list of air carriers which are subject to an operating ban within the Union should be amended and should include the new air carriers *Bestflya Aircraft Management* and *SJL*. The carriers *Air Nave*, *Air26*, *Angola Air Services*, *Diexim*, *Fly540*, *Gira Globo* and *Mavewa* should be removed from Annex A to Regulation (EC) No 474/2006, as they do not hold any longer a valid AOC.

Air carriers from Belarus

(19) 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.

(20) On 8 November 2018, the Commission, EASA and representatives of AD-BLR held a technical meeting. During that meeting, the Commission stressed the importance of being correctly and regularly informed about its safety oversight activities. AD-BLR outlined the corrective measures undertaken to address the safety deficiencies identified by EASA in the framework of the TCO authorisation process and monitoring activities. Although that information was requested already at the time of the opening of the consultations, AD-BLR did not provide sufficient information about the planning and the results of the oversight activities. Considering difficulties encountered by certain applicants certified in Belarus in passing the TCO authorisation process, mostly due to safety deficiencies, the Commission reiterated the importance of compliance by AD-BLR with the relevant international safety standards while discharging safety responsibilities.

(21) In view of the existing safety deficiencies, the Commission invited AD-BLR for a hearing in accordance with Article 7 of Regulation (EC) No 2111/2005 which took place on 13 November 2018. During that hearing AD-BLR provided the Commission and the Air Safety Committee with general information about the aviation sector in Belarus, the staff available for the oversight activities and the way Belarus conducts accident investigations. AD-BLR informed also about the status of the safety oversight in Belarus by making reference to the relevant ICAO critical elements. AD-BLR reiterated the call for a close cooperation with the EU and informed about the start of implementation of some EU Regulations, in particular those related to the field of airworthiness and operations. Confident that its activities are carried out in full compliance with the international safety standards, AD-BLR invited the EU to make an assessment visit in order to get a better insight into the safety oversight system of Belarus.

(22) The Commission considers that the lack of documented information and the difficult exchange of information since the opening of the official consultations make it difficult to assess how AD-BLR discharges its obligations. The Commission considers therefore that it is necessary to conduct a Union on-site assessment visit before the next meeting of the Air Safety Committee.

(23) Furthermore, the Commission considers that the results of SAFA ramp inspections of *BELAVIA*, the only scheduled passenger operator certified in Belarus, do not raise specific safety concerns at this stage with this air carrier. With respect to the air carriers conducting cargo operations, enforcement measures have been already taken by EASA against *JSC Aircompany Grodno* and *Transaviaexport Airlines*.

(24) Even though it is clear that the various deficiencies identified will need rectification, they are not of a nature yet that would warrant the inclusion of air carriers from Belarus in Annex A to Regulation (EC) No 474/2006.

(25) Based on information currently available, in accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage with respect to air carriers from Belarus there are

no grounds for amending the list of air carriers which are subject to an operating ban within the Union.

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

(27) 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 Benin

(28) In May 2017 the Commission removed all air carriers under the authority of Benin from Annex A to Regulation (EC) No 474/2006[6].

(29) By letter of 14 September 2018, the Commission requested from the *Agence Nationale de l'Aviation Civile du Bénin* (‘ANAC Bénin’) a list of documents concerning the authority's structure, its oversight system and its activities, including the list of AOC holders and registered aircraft, and of enforcement measures taken.

(30) On 15 October 2018 ANAC Bénin provided the requested information, including details regarding ANAC Bénin's internal organisation, staff qualifications, training policy, oversight process, occurrence reporting system and the process for the issuance and validation of licenses.

(31) The documents submitted also reported that there were two air carriers certified by ANAC Bénin, namely *Air Taxi Bénin* and *ASAB*.

(32) The Commission encourages ANAC Bénin to report regularly on the continuous improvements in the implementation of the international safety standards, and on any new related information, in particular about certification of new air carriers.

(33) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage with respect to air carriers from Benin there are no grounds for amending the list of air carriers which are subject to an operating ban within the Union.

Air carriers from Gambia

(34) Gambian air carriers have never been included in Annex A to Regulation (EC) No 474/2006. By letter of 24 August 2018 the Commission requested the Civil Aviation Authority of Gambia (‘CAAG’) to provide documentation pertaining to the authority's structure, its oversight system and oversight activities, including the list of AOC holders and of registered aircraft, and enforcement actions taken. CAAG provided the requested information on 28 September 2018.