# Commission Implementing Regulation (EU) 2018/871 of 14 June 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) 2018/871

## of 14 June 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)] established the list of air carriers which are subject to an operating ban within the Union, referred to in Chapter II of Regulation (EC) No 2111/2005.

(2) In accordance with Article 4(3) of Regulation (EC) No 2111/2005, certain Member States and the European Aviation Safety Agency ('EASA') communicated to the Commission information that is relevant in the context of updating that list. Relevant information was also communicated by third countries and international organisations. On the basis 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 for 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 list.

(4) The Commission gave the air carriers concerned the opportunity to consult the documents provided by the Member States, to submit written comments and to make an oral presentation to the Commission and to the Committee established by Council Regulation (EEC) No 3922/1991[(3)] (the 'Air Safety Committee').

(5) The Commission has updated the Air Safety Committee on the on-going joint consultations, in the framework of Regulation (EC) No 2111/2005 and Commission Regulation (EC) No 473/2006[(4)], with the competent authorities and air carriers of

Afghanistan, Angola, Bolivia, Gambia, Indonesia, Libya, Nepal, Russia and Venezuela. The Commission also provided information to the Air Safety Committee on the aviation safety situation in Equatorial Guinea, Kazakhstan, India, Mauritania, Mozambique, Philippines, Thailand, Ukraine and Zambia.

(6) EASA presented to the Commission and the Air Safety Committee the results of the analysis of audit reports carried out by the International Civil Aviation Organisation ('ICAO') in the framework of ICAO's Universal Safety Oversight Audit Programme. In that context, Member States were invited to prioritise ramp inspections on air carriers certified by third countries in respect of which Significant Safety Concerns have been identified by ICAO or in respect of which EASA concluded that there are significant deficiencies in the safety oversight system. In addition to the consultations undertaken by the Commission pursuant to Regulation (EC) No 2111/2005, the prioritisation of ramp inspections will allow for the acquisition of further information regarding the safety performance of the air carriers certified in those third countries.

(7) EASA also informed the Commission and the Air Safety Committee of 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[(5)].

(8) In addition, EASA informed the Commission and the Air Safety Committee about the technical assistance projects carried out in third countries affected by measures or monitoring pursuant to Regulation (EC) No 2111/2005. It provided information on the plans and requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities, with a view to helping resolve any non-compliance with applicable international civil aviation 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 ICAO's Safety Collaborative Assistance Network ('SCAN') database, on technical assistance provided by the Union and its Member States to improve aviation safety around the world.

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

**Union air carriers**

(10) 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 informed the Commission and the Air Safety Committee about actions it had taken with regard to the air carrier *Bulgaria Air*.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/871. (See end of Document for details)*

(11) Member States reiterated their readiness to act as necessary should any relevant safety information indicate that there are imminent safety risks as a consequence of a lack of compliance by Union air carriers with the appropriate international safety standards.

**Air carriers from Afghanistan**

(12) On 13 February 2018, technical consultations were held between representatives of the Commission, EASA and the Civil Aviation Authority of the Islamic Republic of Afghanistan ('ACAA') and the air carrier *Kam Air*, concerning, in particular, the current operating ban imposed on all air carriers from Afghanistan pursuant to Regulation (EC) No 2111/2005.

(13) During that meeting, the ACAA provided information on progress made in the implementation of an enhanced safety oversight. In the previous years ACAA has revoked or suspended more Air Operator Certificates ('AOC'), several aircraft have been grounded, due to their non – airworthy condition and strict actions have been taken against flight crew which were not complying with international safety standards. Furthermore, ACAA informed that all airlines which were registered in Afghanistan were subject to a recertification process in accordance with international standards. For the time being only two airlines hold a valid AOC, *Kam Air* and *Ariana Afghan Airlines*. *Kam Air* was fully recertified in accordance with the new Afghan aviation legislative framework and *Ariana Afghan Airlines* is in process of recertification. The ACAA reiterated that, within the restraints of a challenging operational environment, it is committed to carrying out its international obligations in relation to aviation safety.

(14) ACAA has started to complete the online questionnaires for the ICAO Universal Safety Oversight Audit Programme – Continuous Monitoring Approach (USOAP – CMA), but no evidence of this was provided. The Permanent Representative of Afghanistan to ICAO is negotiating with ICAO to have ICAO perform a USOAP audit as soon as possible.

(15) The air carrier *Kam Air* provided a presentation on the development of the company and management of safety within the company. In September 2014 the Executive Board of *Kam Air* decided to reconsider its strategy plans and tactical procedures on its operations, in order to be fully compliant with the new ACAA Regulations and with International Standards and Recommended Practices. A flight data monitoring program was implemented and the company is aware of operational hazards. The safety and quality management systems are in process of implementation.

(16) The Commission acknowledges the efforts being made by the ACAA and the fact that the ACAA is committed to cooperating with the Commission in order to provide updates on the status of its surveillance obligations.

(17) However, the Commission takes note of the continuing challenging operational environment in Afghanistan and the negative consequences for the ACAA as regards its ability to discharge its safety oversight obligations. The Commission will

monitor closely the results of the planned USOAP audit by ICAO. The Commission therefore considers that, on the basis of all available information, the list of air carriers with regard to Afghanistan which are subject to an operating ban within the Union should not be amended, with the exception of the Afghan carriers *Afghan Jet International Airlines, East Horizon Airlines and Safi Airways*, which have had their AOC revoked and therefore no longer need to be included on the list.

(18) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, it is therefore assessed that the Community list of air carriers which are subject to an operating ban within the Union should be amended to remove the air carriers *Afghan Jet International Airlines, East Horizon Airlines and Safi Airways* from Annex A to Regulation (EC) No 474/2006.

**Air carriers from Angola**

(19) In November 2008[6], all air carriers certified in Angola, except one, were subjected to a full operating ban, mainly due to the inability of the competent authorities responsible for the safety oversight of air carriers certified in Angola (INAVIC) to implement and enforce applicable international safety standards. A partial exception was made for the air carrier *TAAG Angola Airlines*. *TAAG Angola Airlines* was included in Annex B to Regulation (EC) No 474/2006[7] and was allowed to operate into the Union with part of its fleet.

(20) ICAO performed an ICAO Coordinated Validation Mission (ICVM) in Angola in March 2017. Based on the results of this mission, ICAO announced that the significant safety concern in the area of operations was resolved by the competent authorities of Angola.

(21) By letter of 2 April 2018, the competent authorities of Angola informed the Commission about the progress in the implementation of the international safety standards and the results of the ICVM.

(22) The Commission welcomes the efforts being made by INAVIC and the fact that INAVIC is committed to engage in consultations with the Commission in order to provide more detailed information with respect to the progress made in the safety oversight of the carriers under its responsibility.

(23) 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 there are no grounds for amending the list of air carriers which are subject to an operating ban within the Union with respect to air carriers from Angola.

**Air carriers from Bolivia**

(24) On 30 January 2018 a technical consultation meeting was held between representatives of the Commission, EASA and a Member State and senior representatives from the Directorate General of Civil Aviation of Bolivia (‘DGAC’).

(25) The Commission had requested the DGAC to provide a list of documents and of actions to be completed. The DGAC provided all the required documentation in due

time and EASA provided an analysis of this documentation. The preliminary conclusion was that the procedures are well documented, but that it was not possible to assess their actual correct implementation. The DGAC appears to be well staffed in terms of number of inspectors; however, more information was needed to verify that the right expertise is available for specialised tasks.

(26) In order to obtain more insight in the oversight of air operations, the Commission requested DGAC of Bolivia to provide a detailed planning of the audits and inspections planned in 2018 and an overview of the audits and inspections performed in 2016 as well as in 2017 on five airlines operating transport of passengers on a regular and non-regular basis.

(27) This additional documentation was sent to and received by EASA. The conclusion is that a significant increase of the completion rate of inspections between 2016 and 2017 has taken place. For the air carrier *Boliviana de Aviacion*, the only Bolivian air carrier operating in Europe, 88 % of the planned activities have been completed. The DGAC of Bolivia informed that for the present year (2018) a Risk Based Oversight concept was introduced. It has been noted that for the other air operators, although a risk analysis has been performed, further enhancement will be required.

(28) The Commission takes note of the information provided by the DGAC of Bolivia. The Commission considers that, on the basis of all information currently available, including the information provided by the DGAC of Bolivia at the technical consultation meeting of 30 January 2018, at this time, there are no grounds for imposing an operating ban or operational restrictions on air carriers certified in Bolivia.

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

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

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

**Air carriers from Gambia**

(32) In 2014 and 2015 the SAFA inspections performed with regard to the operators *Aeolus Air Ltd.* and *SIPJ (G) Ltd*. both holding an AOC issued by the Civil Aviation Authority of Gambia (CAAG), showed serious safety deficiencies.

(33) On 24 July 2015 EASA sent a letter to the CAAG presenting the results of a ramp inspection conducted on *SIPJ (G) Ltd*. In addition, in that letter EASA informed the CAAG that, whereas flight plans were filed under the category of general aviation