# Commission Implementing Regulation (EU) 2017/2215 of 30 November 2017 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) 2017/2215

of 30 November 2017

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/EC[(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 3922/91[(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

Equatorial Guinea, Nepal, Nigeria, Saint Vincent and the Grenadines, Thailand,Ukraine and Venezuela. The Commission also provided information to the Air Safety Committee on the aviation safety situation in Afghanistan, Bolivia, India, Indonesia, Iraq, Kazakhstan, Libya, Moldova, Mozambique and Zambia, and on technical consultations with Russia.

(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 this 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.

(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 safety standards.

**Air carriers from Equatorial Guinea**

(12) On 7 June 2017, representatives of the Commission and EASA met with representatives of the Autoridad Aeronautica de Guinea Ecuatorial ('AAGE'). The purpose of that meeting was to continue with the consultations since the latest meeting in 2013. The AAGE informed the Commission and EASA about actions taken to improve compliance with the ICAO requirements for a safety oversight system and also highlighted political efforts to implement reforms.

(13) During the meeting of 7 June 2017, the AAGE recognised that air carriers from Equatorial Guinea had not been certified in accordance with ICAO requirements in the past. For that reason, the AAGE revoked the certificates of several air carriers certified in the country and proceeded with the new five phase certification process for the remaining air carriers. The AAGE also provided information on its staff planning and recruitment, aircraft registry, re-certification programme of air carriers and safety oversight programme.

(14) As observed in the context of the ICAO audit of February 2017, the AAGE achieved a rate of effective implementation of international aviation safety standards of 62,5 %, up from around 10 % in the past.

(15) From 16 to 20 October 2017, a Union on-site assessment visit was conducted in Equatorial Guinea. Experts from the Commission, EASA and Member States participated in that visit. During that visit, the work of the AAGE was assessed, which was verified through visits to the two active air carriers certified in Equatorial Guinea. It was found that the organisational structure of AAGE, which is a recently established independent and autonomous civil aviation authority which started its safety oversight activities in 2012, is appropriate for the level of aviation activities in Equatorial Guinea. It was also found that all areas of civil aviation are covered by the AAGE and that it has its own budget and resources. However, it was observed that the AAGE needs appropriately qualified inspectors, especially in the flight operations area and including with regard to commercial air transport, in order to perform proper and effective safety oversight of the air carriers certified in Equatorial Guinea.

(16) The visit showed that a comprehensive regulatory system has been established in Equatorial Guinea. The AAGE is working on updates of regulations to remain in accordance with the latest developments in international aviation safety standards. However, the AAGE relies to a large extent on the certificates, licenses and authorisations that other authorities and organisations have issued, without verification by the AAGE itself, whereas such own verification is an essential part of the safety oversight tasks of the AAGE. Accordingly, this verification process should be included in the procedures of the AAGE and should be properly implemented.

(17) The AAGE showed during the visit that there are currently only two air carriers certified in Equatorial Guinea, namely *CEIBA Intercontinental* and *Cronos Airlines*. The air operator certificates for the air carriers *Punto Azul* and *Tango Airways* have been revoked.

(18) During the visit to *CEIBA Intercontinental*, as part of the Union on-site assessment visit, it was observed that it is still operating under an old air operator certificate and has only progressed to phase two of the contemporary five phase air operator certification procedure. *CEIBA Intercontinental* is currently undergoing many changes, leading to a lack of updates and approvals of essential flight operation and maintenance manuals and other documentation. Furthermore, those manuals and documentation are not yet customised to the operations and the aircraft of the air carrier. Its safety management system is under development and the air carrier still has to incorporate a meaningful risk analysis. Its safety policies are drafted and established, but not clearly and widely communicated within its organisation. Its quality system also needs further development.

(19) The visit to air carrier *Cronos Airlines* showed that it is aware of the applicable regulations in Equatorial Guinea and it is making efforts to implement those aviation standards. It has successfully passed the contemporary five phase air operator certification procedure. Its air operator certificate was renewed in January 2017. However, it was observed that several manuals had not been customised to its actual operations and that its quality system is not fully developed. Furthermore, it was found that the safety management system of *Cronos Airlines* is still under development and is currently in phase two of the four phases of the implementation of a safety management system. Safety policies have been drafted and established and are also clearly and widely communicated within the organisation. It has voluntarily entered into a flight data monitoring programme for its aircraft.

(20) The AAGE, *CEIBA Intercontinental* and *Cronos Airlines* were heard on 14 November 2017 by the Commission and the Air Safety Committee in accordance with Article 7 of Regulation (EC) No 2111/2005. During that hearing, the representative of the government of Equatorial Guinea expressed the strong commitment by the government to further improve the safety of air transport in Equatorial Guinea in order to provide for good domestic and regional connectivity. During the hearing, the AAGE provided information on the corrective actions that are put in place in order to resolve the observations that were raised during the Union on-site assessment visit. The time frame to implement those corrective actions is estimated by the AAGE at one year.

(21) The information provided by *CEIBA Intercontinental* during the hearing on the corrective action plan for the resolution of the observations that were raised during the Union on-site assessment visit did not show that the air carrier had performed a root-cause analysis and indicated that only immediate corrective actions were put in place, without long term preventive measures.

(22) As regards *Cronos Airlines*, during the hearing it provided information on the corrective actions in order to address the observations that were raised during the

Union on-site assessment visit, indicating that it had carried out a root cause analysis, immediate corrective actions as well as actions to prevent reoccurrence of the issues identified.

(23) On the basis of all available information, including the results of the Union on-site assessment visit and the information provided during the hearing on 14 November 2017, it is considered that, while the AAGE has made considerable improvements to the aviation safety oversight system of Equatorial Guinea, important deficiencies in the safety oversight system in Equatorial Guinea remain. It is assessed that the AAGE does not yet have the ability to fully discharge its responsibilities with respect to the oversight of air carriers certified in Equatorial Guinea. This is demonstrated by the fact that air carriers are certified and safety oversight is performed without the required appropriately qualified inspectors and by the fact that a number of the observations that were raised during the Union on-site assessment visit had not been identified by the AAGE itself during its certification and oversight activities. Therefore, there is at present insufficient evidence to support a decision to annul or amend the operating ban of all the air carriers certified in Equatorial Guinea. However, given that their air operator certificates have been revoked, *Punto Azul* and *Tango Airways* should be removed from the list of air carriers which are subject to an operating ban.

(24) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, it is therefore considered that the list of air carriers which are subject to an operating ban within the Union should be amended to remove the air carriers *Punto Azul* and *Tango Airways* from Annex A to Regulation (EC) No 474/2006.

**Air carriers from Nepal**

(25) On 5 March 2017, the Civil Aviation Authority of Nepal ('CAAN') wrote a letter to the Commission, which included information on the current status of the safety oversight system in Nepal. Following the recertification in 2015 of all air carriers in Nepal, the CAAN repeated this exercise in 2016 with the assistance of ICAO, in order to revalidate the air operator certificates once more.

(26) On 13 March 2017, the Ministry of Foreign Affairs of Nepal submitted to the Union Delegation in Kathmandu, Nepal, additional documentation which outlined the progress and included an extract of the report of the ICAO Combined Action Team mission report to Nepal. In the operations and airworthiness domains, the ICAO Combined Action Team made a number of observations. Those observations repeated observations that were made during earlier visits, including the Union on-site assessment visit of February 2014 and a Union technical assistance mission of October 2015. In light of that information, the Commission requested on 4 July 2017 additional information from the CAAN.

(27) ICAO performed an ICAO Coordinated Validation Mission in Nepal from 4 to 11 July 2017. Based on the results of this mission, ICAO announced on 27 July 2017 that the Significant Safety Concern on the certification of air carriers was resolved by the competent authorities of Nepal.