Commission Implementing Regulation (EU) 2016/963 of 16 June 2016 amending Regulation (EC) No 474/2006 as regards the list of air carriers which are subject to an operating ban within the Union (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/963

of 16 June 2016

amending Regulation (EC) No 474/2006 as regards the list of air carriers which are subject to an operating ban 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 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 3922/1991[(3)] ('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 Angola, Botswana, Georgia, the Republic of Guinea, India, Indonesia, Iran,

Kazakhstan, Madagascar, Mozambique, Sudan, Taiwan, Thailand and Zambia. The Commission also provided information to the Air Safety Committee on the aviation safety situation in Afghanistan, Iraq, Kyrgyz Republic, Lebanon, Nepal, Pakistan, Ukraine and Zimbabwe and on the technical consultations with the Russian Federation.

(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 licensed by states in respect of which Significant Safety Concerns ('SSC') 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 under Regulation (EC) No 2111/2005, the prioritisation of ramp inspections will allow the acquisition of further information regarding the safety performance of the air carriers licensed in those states.

(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 states affected by measures or monitoring under 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 underlined 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 on the 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 aircraft of Union air carriers or 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. Norway informed the Commission and the Air Safety Committee about actions it had taken with regard to the air carrier *Airwing A/S*.

(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 Angola

(12) Regulation (EC) No 474/2006 allows air carrier *TAAG Angola Airlines*, certified in Angola, to operate into the Union four aircraft of type Boeing 737-700 with registration marks D2-TBF, D2-TBG, D2-TBH and D2-TBJ, three aircraft of type Boeing 777-200 with registration marks D2-TED, D2-TEE and D2-TEF, and three aircraft of type Boeing 777-300 with registration marks D2-TEG, D2-TEH and D2-TEI.

(13) *TAAG Angola Airlines* has submitted on 25 April 2016, through the competent authorities of Angola, the *Instituto Nacional da Aviação Civil* ('INAVIC'), a request to add a new aircraft of type Boeing 777-300, with registration mark D2-TEJ, and a new aircraft of type Boeing 737-700, with registration mark D2-TBK, to Annex B to Regulation (EC) No 474/2006.

(14) In the context of its third country operator authorisation under Commission Regulation (EU) No 452/2014[6], *TAAG Angola Airlines* has been engaged in a continuous dialogue with EASA since November 2014 and has been supplying factual and detailed data on their fleet of aircraft and operations. This process culminated in a TCO on-site audit which took place from 1 to 3 February 2016. The audit team raised a limited number of level-2 findings and one observation pursuant to Part-TCO. *TAAG Angola Airlines* has submitted a corrective action plan to EASA, which was accepted, and the findings are being resolved.

(15) The continuous dialogue that has been established with *TAAG Angola Airlines*, the detailed and accurate data that *TAAG Angola Airlines* provided on its fleet and its operations, as well as the positive outcome of the TCO on-site audit, all indicate that TAAG Angola Airlines is capable of operating its Boeing 737-700, Boeing 777-200 and 777-300 aircraft in accordance with international safety standards. Therefore, the Commission considers it appropriate, in addition to granting the request from TAAG Angola Airlines, to partially alleviate the current ban, by allowing TAAG Angola Airlines to operate into the Union with any aircraft of the types Boeing 737-700, Boeing 777-200 and Boeing 777-300 in its fleet.

(16) 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 include all aircraft of type Boeing 737-700 as well as all aircraft of type Boeing 777-200 and 777-300 of *TAAG Angola Airlines* in Annex B to Regulation (EC) No 474/2006 as aircraft which are allowed to operate into the Union.

(17) Member States are to continue to verify effective compliance by *TAAG Angola Airlines* with the relevant safety standards, through the prioritisation of ramp

inspections to be carried out on aircraft of this air carrier, pursuant to Regulation (EU) No 965/2012.

Air carriers from Botswana

(18) The Civil Aviation Authority of Botswana ('CAAB') provided information on the progress of the resolution of the SSCs and other ICAO findings in a letter of 23 December 2015 to the Commission. The results of the ICAO Coordinated Validation Mission are an improvement of the effective implementation of international safety standards up to 71 %. Based on this result, ICAO confirmed on 31 December 2015 that both SSCs have been resolved. The CAAB has provided additional information on the safety oversight on air carriers certified in Botswana.

(19) The improved implementation of international safety standards and the available safety information show a strong development of the CAAB and do not indicate that there are remaining negative trends relating to the safety of air carriers certified in Botswana which would form a reason for concern from an aviation safety perspective.

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

Air carriers from Georgia

(21) ICAO reviewed in April 2016 the corrective actions taken by the Civil Aviation Authority of Georgia ('GCAA') to address the SSC regarding the certification process for the issuance of air operator certificates. That SSC was identified during the ICAO Coordinated Validation Mission of October 2013. On the basis of that review, ICAO determined that the corrective actions taken by the GCAA had successfully resolved the SSC.

(22) The improved implementation of international safety standards and the available safety information show a strong commitment of the GCAA towards resolving safety deficiencies and do not indicate that there are remaining negative trends relating to the safety of air carriers certified in Georgia which would form a reason for concern from an aviation safety perspective.

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

Air carriers from the Republic of Guinea

(24) As agreed in the technical meeting with the Commission, held in Brussels in January 2013, the competent authorities of the Republic of Guinea, the *Direction nationale de l'aviation civile* ('DNAC'), have regularly provided the Commission with

information on the on-going implementation of the corrective action plan, which was approved by ICAO in December 2012, as well as on all the activities linked to it.

(25) The latest progress report submitted by DNAC, received by the Commission on 3 May 2016, describes the most recent activities and developments regarding the implementation of the corrective action plan, which currently focusses on inspector training in the areas of operations, airworthiness, personnel licensing and aerodromes, the continuation of the certification process of the air carriers and the surveillance programme. The full ICAO-compliant (5-phase) certification of the air carrier *Konair Guinée* has been concluded and that air carrier obtained its Air Operator Certificate ('AOC') on 17 September 2015 (AOC no. 03/DNAC/2015). Three other air carriers, namely *Sahel Aviation Service Guinée*, *Fly Nimba Airlines* and *Ijet Aviation*, continue their certification process. According to DNAC, a surveillance programme has been prepared and implemented.

(26) An ICAO Coordinated Validation Mission is planned to take place from 23 to 29 November 2016.

(27) The gradual implementation of the corrective action plan, in accordance with what was approved by ICAO in December 2012, and the available safety information do not justify, at present, a decision to impose a ban or operational restrictions on air carriers certified in the Republic of Guinea. However, the Commission intends to continue to closely monitor the situation, taking account of the results of the ICAO coordinated validation mission of November 2016.

(28) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, it is therefore considered that there are at this stage no grounds for amending the list of air carriers which are subject to an operating ban within the Union by including air carriers from the Republic of Guinea.

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

Air carriers from India

(30) On 3 May 2016, technical consultations were held between the Commission, EASA, a Member State and representatives from the Directorate-General of Civil Aviation of India ('Indian DGCA') and the air carrier *Air India*, certified in India. Those consultations were held within the context of the earlier agreement of the Indian DGCA to hold technical consultations with the Commission, in order to discuss the Indian DGCA's certification and surveillance obligations, with respect to air carriers from India that it has certified.

(31) During those consultations, the Indian DGCA provided its analysis of the performance of Indian air carriers, including *Air India*, under the SAFA programme. The Indian DGCA reported that it has developed a dedicated ramp inspection unit, in order to assist it with SAFA management measures. The Indian DGCA also