Commission Implementing Regulation (EU) No 1318/2014 of 11 December 2014 amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community (Text with EEA relevance)

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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/CE[(1)], and in particular Article 4(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 474/2006[(2)] established the Community 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, some 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 certain third countries. On the basis of that information, the Community 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 on them an operating ban within the Union or to modify the conditions of an operating ban imposed on an air carrier which is included in the Community 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 Air Safety Committee has received updates from the Commission about the ongoing joint consultations, in the framework of Regulation (EC) No 2111/2005 and its implementing Commission Regulation (EC) No 473/2006[(4)], with competent authorities

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1318/2014. (See end of Document for details)*

and air carriers of the states of Angola, Botswana, Georgia, the Republic of Guinea, India, Indonesia, Kazakhstan, the Kyrgyz Republic, Lebanon, Libya, Madagascar, the Islamic Republic of Mauritania, Mozambique, Nepal, the Philippines, São Tomé and Príncipe, Sudan and Zambia. The Air Safety Committee also received information from the Commission on Afghanistan, Ghana, Iran and North Korea. The Air Safety Committee also received from the Commission updates about technical consultations with the Russian Federation.

(6) The Air Safety Committee has heard presentations by EASA about 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 (USOAP). 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) The Air Safety Committee has heard presentations by EASA 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[(5)].

(8) The Air Safety Committee has also heard presentations by EASA about the technical assistance projects carried out in states affected by measures or monitoring under Regulation (EC) No 2111/2005. It was informed about the plans of EASA 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 standards. Member States were also invited to respond to those 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 SCAN database, on technical assistance provided by the Union and by its Member States, to improve aviation safety around the world.

(9) The Air Safety Committee has also heard a presentation by Eurocontrol providing an update on the status of the SAFA alarming function and on the current statistics for alert messages for banned 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. Greece informed that the Hellenic CAA performed inspections on *Gain Jet*

Aviation and *Skygreece Airlines*. On the occasion of the additional inspections no major problems were identified.

(11) 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, Member States reiterated their readiness to act as necessary.

Air carriers from Angola

(12) Regulation (EC) No 474/2006, as amended by Commission Implementing Regulation (EU) No 1197/2011[6], allows *TAAG Angolan 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 two aircraft of type Boeing 777-300 with registration marks D2-TEG and D2-TEH.

(13) *TAAG Angolan Airlines* has submitted on 21 November 2014, through the competent authorities of Angola (INAVIC), a request to add a new aircraft of type Boeing 777-300 to Annex B to Regulation (EC) No 474/2006. However, there are persistent difficulties to establish and maintain regular contact with INAVIC as well as with *TAAG Angolan Airlines*. These difficulties extend also to INAVIC's contacts with ICAO, which has led in the recent past to a number of cancellations of previously scheduled ICAO audits. This indicates that there are internal communication problems within both *TAAG Angolan Airlines* and INAVIC as well as between them, which makes it difficult to adequately assess whether the granting of the request by *TAAG Angolan Airlines* would entail safety risks. Therefore, the Commission considers that the most appropriate way to proceed is to request both INAVIC as well as *TAAG Angolan Airlines* to fully engage with the Commission in the near future, with a view to thoroughly reviewing the current safety situation in all its aspects, including with regard to the addition of new aircraft to the fleet of *TAAG Angolan Airlines*.

(14) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, it is therefore assessed that there are at this stage no grounds for amending the Community list of air carriers which are subject to an operating ban within the Union by including additional aircraft operated by TAAG Angolan Airlines.

(15) Member States are to continue to verify effective compliance by *TAAG Angolan 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

(16) In April 2013, ICAO conducted an ICAO Coordinated Validation Mission (ICVM) in Botswana. The results of that ICVM were partly positive: the Effective Implementation improved. However, there was also a negative result, given that two SSCs were identified. Furthermore, since 2010, two accidents occurred with aircraft registered in Botswana.

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(17) Based on the available information, the current lack of effective implementation of ICAO Standards and Recommended Practices, the two SSCs, the two accidents and the intermittent communication between the Commission and the Civil Aviation Authority Botswana (CAAB), the Commission requested information as regards air carriers certified in Botswana in a letter of 8 July 2014 to CAAB.

(18) CAAB replied on 3 October 2014, providing the requested information with a view to showing the State's effective implementation of ICAO Standards and Recommended Practices and resolving the two SSCs.

(19) On the basis of that information, it appears that CAAB would like ICAO to conduct another ICVM before the end of this year, in order to verify that the corrective actions that were taken are sufficient to resolve the two SSCs.

(20) The assessment of the information provided further indicates that all air carriers were recertified and had been provided with new Air Operator Certificates (AOCs) on the same date. This will lead to a peak in workload for CAAB every time these AOCs need to be renewed. The CAAB has developed a surveillance program for the safety oversight of the air carriers, but the implementation of this program is behind schedule. Finally, during the oversight activities only a limited number of findings is recorded and as a consequence, it is difficult to determine the capacity of the CAAB to resolve emerging safety issues. In order to clarify these issues, additional information will be requested by the Commission and the CAAB will be invited by the Commission to a technical meeting to discuss any further details with respect to the safety oversight situation in Botswana.

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

Air carriers from Georgia

(22) Consultations with the competent authorities of Georgia (GCAA) continue with the aim of monitoring the implementation by GCAA of the corrective action plan developed in response to the SSC identified during the ICAO Comprehensive System Audit (CSA) of Georgia in October 2013.

(23) On the basis of the information provided by GCAA relating to the actions being taken by GCAA to have the SSC lifted, the Commission did not deem it necessary to ask the GCAA to appear before the Air Safety Committee. The Commission reported to the Air Safety Committee about the implementation of the Corrective Action Plan developed by GCAA.

(24) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, it is therefore assessed that there are at this stage no grounds for amending the Community 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

(25) As agreed in the meeting held in Brussels in January 2013, the competent authorities of the Republic of Guinea (DNAC) have regularly provided information on the ongoing implementation of the Corrective Action Plan, which was approved by ICAO in December 2012, as well as all the activities linked to it.

(26) The latest progress report, received on 21 October 2014, details the most recent activities and developments regarding the implementation of the Corrective Action Plan. The training of staff continues in order to further reinforce the oversight capacity, mainly in the areas of airworthiness and operations. DNAC has continued to address the remaining USOAP findings in terms of the associated protocol questions, through the use of ICAO's Continuous Monitoring Approach (CMA) online tool. Between the beginning of August and the end of September 2014 ICAO has conducted an off-site validation of the protocol questions amenable to remote verification. As a result, the overall effective implementation of the eight critical elements showed a slight improvement.

(27) A legislative initiative to transform DNAC in an independent, financially and operationally autonomous civil aviation authority, with its own management structure, is in preparation. The Civil Aviation Authority of Guinea (AGAC), fully in line with ICAO requirements, is expected to be enacted by January 2015.

(28) All previously existing AOCs were suspended at the end of March 2013. The full ICAO-compliant (5-phase) certification of the national air carrier *PROBIZ Guinée*, with one aircraft of type BE90, is still ongoing, with the help and support of a specific mission of the African Civil Aviation Conference/Banjul Accord Group Aviation Safety Oversight Organisation, including simultaneous on-the-job training of DNAC's inspectors on the whole process. Two other air carriers — *Eagle Air Guinée* and *Sahel Aviation Service Guinée* — have also initiated the certification process. DNAC, with the support of the regional ICAO Dakar office, expects to conclude the certification process for all three air carriers by the end of 2014.

(29) DNAC requested an ICVM in order to validate the progress in the implementation of the Corrective Action Plan. ICAO had initially planned to conduct the ICVM in May 2014. Senior management changes at the Ministry of Transport caused a delay and the ICVM was tentatively planned for the second half of September 2014. The ongoing Ebola outbreak has now put the ICVM, as well as an ICAO assistance mission initially planned for July 2014, on indefinite hold.

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

(31) Should any relevant safety information indicate that there are imminent safety risks as a consequence of lack of compliance with international safety standards, the