Commission Implementing Regulation (EU) No 1264/2013 of 3 December 2013 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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(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/CE[(1)], and in particular Article 4 thereof[(2)],

Whereas:

(1) Commission Regulation (EC) No 474/2006[(3)] 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 the Community list. Relevant information was also communicated by 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 to the air carriers concerned the opportunity to consult documents provided by 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 (the 'Air Safety Committee')[(4)].

(5) The Air Safety Committee has received updates from the Commission about the on-going joint consultations, in the framework of Regulation (EC) No 2111/2005 and its implementing Regulation (EC) No 473/2006, with competent authorities and air carriers

of the states of the Republic of Guinea, Indonesia, Kazakhstan, Kyrgyzstan, Lebanon, Iran, Madagascar, the Islamic Republic of Mauritania, Mozambique, Nepal, Philippines and Zambia. The Air Safety Committee also received information from the Commission on Albania, India, Yemen and Zimbabwe. The Air Safety Committee also received from the Commission updates about technical consultations with the Russian Federation and concerning the monitoring of Libya.

(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 prioritize 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 consultations undertaken by the Commission under Regulation (EC) No 2111/2005, the prioritization 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 that 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 about the status of, and developments in the alarming system which supports the EU SAFA programme. Particular attention was drawn to statistics for alert messages for banned carriers and to possible system improvements.

European Union air carriers

(10) Following the analysis by EASA of information resulting from SAFA ramp checks 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. Romania informed that the Air Operator Certificate ('AOC') of the carrier Jetran Air

was revoked, and Spain informed that the AOC of IMD Airways had expired and is in the process of being revoked.

(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 the Republic of Guinea

(12) 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 on-going implementation of the Corrective Action Plan ('CAP'), approved by ICAO in December 2012, as well as all the activities linked to it.

(13) The latest progress report, received on 15 October 2013, details the most recent activities and developments regarding the implementation of the CAP. The translation into French of the Civil Aviation Regulations of the Republic of Guinea (originally inspired by and largely adopted from existing regulations in neighbouring English-speaking countries) was concluded at the beginning of August 2013. The transmission of the revised Civil Aviation Act to Parliament for adoption took place on 21 August 2013. The Inspectors Training System proposed by the Banjul Accord Group Aviation Safety Oversight Organisation (BAGASOO) was adopted. The designation of and notification to ICAO of Guinea's focal point for Dangerous Goods took place on 3 September 2013.

(14) DNAC submitted to ICAO on 30 August 2013 the revised and updated CAP. All the corrective actions planned for 2012 and first half of 2013 have been implemented and those planned for the 3rd and 4th quarter 2013 are on-going. Validation of these actions by ICAO is pending.

(15) All previously existing Air Operator's Certificates ('AOCs') having been suspended at the end of March 2013, full ICAO-compliant (5-phase) certification of a national air carrier (PROBIZ Guinée, operating one Beechcraft King Air 90 aircraft) with the help and support of a specific CAFAC/BAGASOO mission is on-going, with simultaneous on-the-job training of DNAC's inspectors on the whole process. PROBIZ does not operate into the Union.

(16) DNAC has requested an ICVM in order to validate the progress in the implementation of the CAP and ICAO is planning to conduct it in May 2014.

(17) 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 would be forced to take action in accordance with Regulation (EC) No 2111/2005.

Air carriers from India

(18) The Commission referred to the continued engagement with the Indian Authorities as regards oversight of its air carriers. The Commission wrote to the Directorate General for Civil Aviation ('DGCA') of India in October 2007 and in January

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1264/2013. (See end of Document for details)*

2010, with respect to certain carriers for which the DGCA has regulatory responsibility and was satisfied with the responses it received.

(19) In terms of an update on more recent events, there was an ICAO Coordinated Validation Mission ('ICVM') in December of 2012 that resulted in the issue of two significant safety concerns ('SSC') The first SSC related to the certification process for Air Operator Certificates ('AOC') and the second SSC related to the approval of aircraft modifications and repairs of foreign type-certified aircraft registered in India. The Commission wrote again to the Indian Authorities on 30 April 2013 to enquire in more detail about the SSCs, as well as to raise other issues pertaining to the routine monitoring of safety information by EASA concerning safety oversight within the Indian State. The DGCA replied on 10 May 2013 and gave details of corrective actions for the SSCs. In August 2013 a second ICAO ICVM to India was conducted in order to verify if India had successfully implemented the corrective actions which had been agreed with ICAO. Following this ICVM, ICAO removed the SSCs. The full report of the ICVM is not yet available.

(20) Of further relevance is the fact that the Federal Aviation Administration ('FAA') of the United States conducted an International Aviation Safety Assessment ('IASA') visit in August 2013. As matters stand at the moment, the Indian State has maintained its FAA Category 1 compliance status. Should there be a downgrade in this status in the future, the Commission would have to give due consideration to the commencement of formal consultations with the Indian Authorities in accordance with Article 3(2) of Regulation 473/2006.

(21) Member States will continue to verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on Indian operators pursuant to Regulation (EU) No 965/2012.

Air carriers from Indonesia

(22) Consultations with the competent authorities of Indonesia ('DGCA') continue with the aim of monitoring the progress of the DGCA in ensuring that the safety oversight of all air carriers certified in Indonesia is in compliance with international safety standards.

(23) The airline PT. Citilink Indonesia wrote to the Commission on 2 August 2013 requesting its removal from Annex A. Extensive documentation on the completion of the 5-stage certification process was enclosed with the letter.

(24) A technical meeting was held in Brussels on 5 November 2013 between Citilink Indonesia, the Commisison, EASA and Member States to review the extensive documentation provided by the airline. The DGCA was also invited to this meeting, but decided that their participation was not indispensable at this time. On the basis of that meeting the Commission will engage with the DGCA to obtain all necessary clarifications needed to decide whether and when it would be in a position to propose the lifting of restrictions on Citilink Indonesia.

(25) In their letter dated 23 October 2013 the DGCA also provided updated information regarding other air carriers under their oversight. They informed the Commission that an AOC no 121-050 was issued to PT Batik Air Indonesia on 23 April 2013. However, since the DGCA did not provide the evidence that the safety oversight of this air carrier is ensured in compliance with international safety standards, on the basis of the common criteria, it is considered that this carrier should be included in Annex A.

(26) The Commission and the Air Safety Committee continue to encourage the efforts of the DGCA towards reaching their aim of establishing an aviation system fully compliant with ICAO Standards.

Air carriers from Kazakhstan

(27) The Commission has continued active consultations with the competent authorities of Kazakhstan in order to be informed and monitor the progress of those authorities in their long-term effort to ensure that the safety oversight of all air carriers certified in Kazakhstan is in compliance with international safety standards.

(28) In particular, in a letter dated 8 August 2013, the Civil Aviation Commission ('CAC') of Kazakhstan informed about the on-going re-certification activities aimed at aligning procedures and practices for issuance and oversight of operator certificates in Kazakhstan with those of ICAO. CAC also informed that as a result of that, several air operators have had their certificates suspended or revoked.

(29) On 18 October 2013, the Commission received documents confirming on the one hand the revocation of six air operator's certificates ('AOC') belonging to 'Mega', 'Samal', 'Euro-Asia Air International', 'Asia Continental Airlines', 'Deta Air' and 'Kazair West' (which had already been recertified under aerial work, and had already been removed from Annex A[(6)]), and on the other hand the suspension until 4 August 2013 of the AOCs of 'Semeyavia' and 'Irtysh Air'. Subsequently, CAC also informed that the AOC of 'Semeyavia' had meanwhile expired and that the operator had not applied for a prolongation or a re-issuance. The AOC of 'Irtysh Air' was suspended for a further unspecified period. As the suspension of an AOC is a temporary measure which does not necessarily entail termination of air carrier flight operations, 'Irtysh Air' should remain in Annex A. Consequently, on the basis of the common criteria, it is assessed that six air operators - 'Mega', 'Samal', 'Euro-Asia Air International', 'Asia Continental Airlines', 'Deta Air' and 'Semeyavia' should be removed from Annex A.

(30) The Commission and the Air Safety Committee support the measures taken by the competent authorities of Kazakhstan on the establishment of a civil aviation oversight system which complies with international safety standards. In that respect, it invites them to accelerate and intensify efforts towards the implementation of the corrective action plan as agreed with ICAO, focusing on the immediate closure of the two significant safety concerns. The Commission also encourages active participation of Kazakhstan in the Union's TRACECA Aviation Safety project to improve knowledge and experience of CAC safety inspectors.