Commission Regulation (EU) No 791/2010 of 6 September 2010 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)

COMMISSION REGULATION (EU) No 791/2010

of 6 September 2010

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)

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 European Union and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC[(1)], and in particular Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 474/2006[(2)] of 22 March 2006 established the Community list of air carriers which are subject to an operating ban within the European Union referred to in Chapter II of Regulation (EC) No 2111/2005[(3)].

(2) In accordance with Article 6(1) of Regulation (EC) No 2111/2005, two Member States adopted exceptional measures imposing an immediate operating ban in respect of their own territory in order to react to unforeseen safety problems.

(3) In accordance with Article 6(3) of Regulation (EC) No 2111/2005 and Article 2 of Commission Regulation (EC) No 473/2006[(4)] of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005, the two Member States requested to update the list of carriers banned from operating within the European Union.

(4) It is evident that the continued operation of these carriers is likely to constitute a serious risk to safety, and that such a risk has not been fully resolved by means of urgent measures taken by the two Member States concerned.

(5) The Commission informed the air carriers concerned indicating the essential facts and considerations which would form the basis for a decision to impose on it an operating ban within the European Union.

(6) Since urgent measures are necessary to resolve this situation, therefore, in accordance with Article 4(3) of Regulation (EC) No 473/2006, the Commission is not required

to comply with the provisions of Article 4(1) of the same Regulation. However opportunity was given by the Commission to the air carriers in question to consult the documents provided by Member States, to submit written comments and to make an oral presentation to the Commission and members of the Air Safety Committee.

(7) The competent authority with responsibility for regulatory oversight over the air carriers concerned has been consulted by the Commission as well as by some Member States.

(8) Regulation (EC) No 474/2006 should therefore be amended accordingly.

Meridian Airways

(9) There is verified evidence of serious safety deficiencies on the part of Meridian Airways certified in the Republic of Ghana. These deficiencies have been identified by Belgium, France, Germany, The Netherlands and the United Kingdom during ramp inspections performed under the SAFA programme[(5)].

(10) At a meeting with the Commission on 9 June 2010, also attended by the competent authorities of Ghana together with the competent authorities of Belgium and the United Kingdom, the air carrier submitted a Corrective Action Plan designed to address the safety deficiencies.

(11) The United Kingdom and Belgium communicated to the Commission that on 23 July 2010 and 27 July 2010 respectively they have adopted an immediate operating ban on the whole fleet of Meridian Airways taking into account the common criteria, in the framework of Article 6(1) of Regulation (EC) No 2111/2005.

(12) In addition, Belgium and the United Kingdom submitted on 29 July 2010 to the Commission a request to update the Community list in accordance with Article 4(2) of Regulation (EC) No 2111/2005, and as prescribed by Article 6 of Regulation (EC) No 473/2006, in view of imposing an operating ban to the European Union on the whole fleet of Meridian Airways.

(13) Meridian Airways demonstrated a lack of ability to address safety deficiencies in response to requests by Belgium, as shown by persistent safety deficiencies. Ramp checks in the UK in July 2010 identified multiple airworthiness issues regarding Meridian’s aircraft which also raised concerns about the control and management of flight operations safety standards at Meridian Airways. These checks reflected a similar pattern of adverse ramp checks conducted over the last year by other Member States which indicated significant systemic safety issues within the air carrier.

(14) The competent authorities of the Republic of Ghana, whilst being willing to co-operate with the Member States in dealing with identified deficiencies, did not adequately address major safety findings resulting from SAFA inspections, as demonstrated by persistent safety deficiencies. However, following notification by the Commission of their concerns regarding the safety standards of the carrier, the competent authorities of Ghana suspended the Air Operator's Certificate of Meridian Airways on 29 July 2010.

(15) Meridian Airways were heard by the services of the Commission and the competent authorities of Belgium, Germany and the United Kingdom on 12 August 2010. These consultations did not provide satisfactory solutions to address the identified safety deficiencies in the short term. The competent authorities of the Republic of Ghana declined to attend the meeting.

(16) The Commission takes note of the commitment by the carrier to continue with its corrective action plan. The progress made by the carrier with the implementation of the corrective action plan together with any other developments should be examined at the next meeting of the Air Safety Committee.

(17) On the basis of the common criteria, it is assessed that Meridian Airways does not meet the relevant safety standards. The air carrier should be subject to a ban to all its operations and should be included in Annex A.

Airlift International (GH) Ltd

(18) There is verified evidence of serious safety deficiencies on the part of Airlift International (GH) Ltd certified in the Republic of Ghana. These deficiencies have been identified by the United Kingdom during a ramp inspection performed under the SAFA programme[6].

(19) The competent authorities of the United Kingdom communicated to the Commission that it adopted on 29 July 2010 an immediate operating ban on the whole fleet of Airlift International (GH) Ltd, due to the number of serious and major findings observed during the ramp inspection as well as the crew's disregard for the applicable flight time limitations.

(20) In addition, the United Kingdom submitted on 29 July 2010 to the Commission a request to update the Community list in accordance with Article 4(2) of Regulation (EC) No 2111/2005, and as prescribed by Article 6 of Regulation (EC) No 473/2006, in view of imposing an operating ban to the European Union on the whole fleet of Airlift International (GH) Ltd.

(21) Pursuant to the request of the United Kingdom, the Commission consulted the air carrier and the competent authorities in charge of its oversight. These consultations did not provide assurance that the identified safety deficiencies had been removed and that an adequate action plan had been implemented in order to prevent their reoccurrence.

(22) Airlift International (GH) Ltd and the competent authorities of Ghana were heard by the services of the Commission and the competent authorities of Germany and the United Kingdom on 18 August 2010. The air carrier provided documents showing they were permitted to operate four aircraft of type DC8-63F (registration marks 9G-FAB, 9G-TOP, 9G-RAC, 9G-SIM) but that 9G-FAB and 9G-SIM were in storage. The air carrier explained the safety processes they have in place but were unable to provide a clear explanation of why aircraft 9G-RAC, which had been brought out of storage to operate the flight to the UK, had failed to meet international standards. The air carrier

briefed that it had recently improved its quality and safety management arrangements and was currently undergoing a review of their safety management processes.

(23) Taking into account the actions taken by the air carrier to date, and on the basis of the common criteria, it is assessed that Airlift International (GH) Ltd should be included in Annex B to allow operations exclusively with the aircraft with registration mark 9G-TOP. The Commission will review the situation at the next meeting of the Air Safety Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 474/2006 is amended as follows:

1. Annex A is replaced by the text set out in Annex A to this Regulation.

2. Annex B is replaced by the text set out in Annex B to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 September 2010.

For the Commission, On behalf of the President,

Siim KALLAS

Vice-President

ANNEX A

LIST OF AIR CARRIERS OF WHICH ALL OPERATIONS ARE SUBJECT TO A BAN WITHIN THE EU[0]

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	**Air Operator Certificate (AOC) Number or Operating Licence Number**	**ICAO airline designation number**	**State of the Operator**
ARIANA AFGHAN AIRLINES	AOC 009	AFG	Afghanistan
BLUE WING AIRLINES	SRBWA-01/2002	BWI	Suriname
MERIDIAN AIRWAYS LTD	AOC 023	MAG	Republic of Ghana
SIEM REAP AIRWAYS INTERNATIONAL	AOC/013/00	SRH	Kingdom of Cambodia
SILVERBACK CARGO FREIGHTERS	Unknown	VRB	Republic of Rwanda
All air carriers certified by the authorities with responsibility for regulatory oversight of Angola, with the exception of TAAG Angola Airlines put in Annex B, including,			**Republic of Angola**
AEROJET	015	Unknown	Republic of Angola
AIR26	004	DCD	Republic of Angola
AIR GEMINI	002	GLL	Republic of Angola
AIR GICANGO	009	Unknown	Republic of Angola
AIR JET	003	MBC	Republic of Angola
AIR NAVE	017	Unknown	Republic of Angola
ALADA	005	RAD	Republic of Angola
ANGOLA AIR SERVICES	006	Unknown	Republic of Angola

a Air carriers listed in Annex A could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.