Commission Regulation (EU) No 590/2010 of 5 July 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 590/2010

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

Whereas:

(1) Commission Regulation (EC) No 474/2006 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[(2)].

(2) In accordance with Article 4(3) of Regulation (EC) No 2111/2005, some Member States 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 this basis, the Community list should be updated.

(3) The Commission informed all air carriers concerned either directly or, when this was not practicable, through the authorities responsible for their regulatory oversight, indicating the essential facts and considerations which would form the basis for a decision to impose on them an operating ban within the European Union or to modify the conditions of an operating ban imposed on an air carrier which is included in the Community list.

(4) Opportunity was given by the Commission to the air carriers concerned to consult the documents provided by Member States, to submit written comments and to make an oral presentation to the Commission within 10 working days and to the Air Safety Committee established by Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation[(3)].

(5) The authorities with responsibility for regulatory oversight over the air carriers concerned have been consulted by the Commission as well as, in specific cases, by some Member States.

(6) The Air Safety Committee has heard presentations by the European Aviation Safety Agency (EASA) and the Commission about the technical assistance projects carried out in countries affected by Regulation (EC) No 2111/2005. It has been informed about the requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities with a view to resolving any non compliance with applicable international standards.

(7) The Air Safety Committee has also been informed about enforcement actions taken by EASA and Member States to ensure the continuing airworthiness and maintenance of aircraft registered in the European Union and operated by air carriers certified by civil aviation authorities of third countries.

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

European Union carriers

(9) Following information resulting from SAFA ramp checks carried out on aircraft of certain European Union air carriers, as well as area specific inspections and audits carried out by their national aviation authorities, some Member States have taken certain enforcement measures. They informed the Commission and the Air Safety Committee about these measures: the competent authorities of the UK revoked the Air Operator Certificate (AOC) of the air carrier Trans Euro Air Limited on 6 April 2010 and suspended the AOC of MK Airlines on 12 April 2010; the competent authorities of Spain suspended the AOC and the operating licence of the air carrier Baleares Link Express on 9 June 2010; the competent authorities of Slovakia revoked the operating licence of the air carrier Seagle Air on 11 December 2009 and that of Air Slovakia on 3 May 2010.

Air Algérie

(10) On the basis of an analysis of the results of SAFA inspections carried out on aircraft operated by Air Algérie into the EU since January 2009, the Commission entered into consultations with the competent authorities of Algeria on 7 December 2009 and 5 February 2010 in order to resolve the findings in the areas of safety of cargo on board, airworthiness and operations of the aircraft and flight crew licences.

(11) In their reply of 15 March 2010, the competent authorities of Algeria provided information concerning actions taken following ramp inspections in order to address the detected non-compliances.

(12) The Commission sent further requests for information on 6 May 2010. The competent authorities submitted additional information on 27 May 2010. Following a meeting with the competent authorities of Algeria, the air carrier as well as the competent authorities of France and EASA on 9 June 2010, the competent authorities of Algeria committed themselves to provide complementary information before the meeting of the Air Safety Committee, including a list of surveillance activities carried out by this authority on Air Algérie. Information was sent on 18 June 2010. Also, these authorities undertook to submit shortly a detailed corrective action plan including a time-table for its verification and completion. In parallel, upon request of the air carrier,

the competent authorities of France have developed an initiative to raise awareness and provide training in the framework of the EU SAFA programme.

(13) In order to develop a continuous monitoring of the safety performance of the air carrier, the Commission requested the competent authorities of Algeria to also send monthly reports on their surveillance activities in the areas of continuing airworthiness, maintenance and operations on Air Algérie including on the verification of implementation of the corrective action plan which has to be submitted. The Commission encourages the competent authorities of Algeria to pursue their efforts to enhance compliance with the applicable safety standards.

(14) In the meantime, Member States shall verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier pursuant to Regulation (EC) No 351/2008 to ensure that the number of inspections of Air Algérie will be intensified in order to provide the basis for reassessment of this case during the next Air Safety Committee meeting which is to take place in November 2010.

Air Bangladesh

(15) The Commission informed the Air Safety Committee on the results of a technical assistance mission carried out by the European Aviation Safety Agency to the People's Republic of Bangladesh following the ICAO USOAP Audit, conducted in May 2009. The ICAO USOAP Audit resulted in a Significant Safety Concern regarding aircraft operations, certification, and supervision exercised by the Civil Aviation Authority of Bangladesh (CAAB). It was noted during the mission that the CAAB had made clear efforts at every level to implement a corrective action plan and had demonstrated a strong commitment to overcome the safety issues highlighted by the ICAO audit. Whilst the Commission welcomes these encouraging moves it will continue to closely monitor the progress the CAAB make with the implementation of their corrective action plan to ensure the current safety deficiencies are addressed without undue delay.

(16) During the mission the CAAB informed that team that a B747-269B, with registration S2-ADT, had been removed from the Bangladeshi Register, and that the operator Air Bangladesh no longer existed. The CAAB officially communicated this fact to the Commission on 16 May 2010.

(17) In view of the above, on the basis of the common criteria, it is assessed that the aforementioned air carrier should be removed from Annex B.

Blue Wing Airlines

(18) There is verified evidence of serious deficiencies involving the air carrier Blue Wing Airlines certified in Suriname, as demonstrated by a series of recent accidents and deficiencies reported in ramp inspections carried out by Member States.

(19) Blue Wing Airlines was involved in an accident on 3 April 2008 with 19 fatalities, another accident on 15 October 2009 which lead to injuries, and a last accident

on 15 May 2010 with 8 fatalities. The overall number of accidents experienced by this air carrier in the last two years raises serious safety concerns whilst it has been impossible to learn the lessons of the previous accidents in the absence of any official accident investigation report.

(20) In addition, there is verified evidence of serious non-compliances with the specific safety standards established by the Chicago Convention, as revealed by the deficiencies observed by the competent authorities of France in a recent ramp inspection[4] carried out in the framework of the SAFA programme.

(21) The competent authorities of France (DGAC) invited the competent authorities of Suriname and Blue Wing Airlines to provide the necessary guarantees on the safety of the operations of this carrier. Since neither the response of the competent authorities of Suriname nor of Blue Wing Airlines permitted to identify the root cause of the accidents and the safety deficiencies observed in ramp inspections and to prevent their reoccurrence, the DGAC decided to impose exceptional measures banning all activities of Blue Wing Airlines over the French territory as from 1 June 2010 and undertook to inform immediately the Commission pursuant to Article 6 of Regulation (EC) No 473/2006.

(22) The Commission initiated immediately the consultations with the competent authorities of Suriname and Blue Wing Airlines with the view to decide urgently on the extension of the measures taken by France to the European Union at the meeting of the Air Safety Committee. The Commission and Member States heard Blue Wing Airlines assisted by its competent authority on 25 June 2010. Neither the responses of the competent authorities of Suriname nor that of Blue Wing Airlines enabled the identification of the root causes of the accidents, nor of the safety deficiencies observed in ramp inspections, nor the prevention of their reoccurrence.

(23) Given the prior performance of the air carrier, which had already been previously subject to a operating ban within the EU[5],[6], the number and gravity of accidents suffered by this air carrier, the safety deficiencies detected and their repetitiveness, on the basis of the common criteria, it is assessed that the continuation of operations of this air carrier into the EU would constitute a serious risk to safety which cannot be satisfactorily resolved by the measures taken by a Member State pursuant to Article 6 of Regulation (EC) No 2111/2005 and that therefore the air carrier Blue Wing Airlines should be added to Annex A.

Air carriers from Albania

(24) Further to the presentations made by the competent authorities of Albania at the meeting of the Air Safety Committee in March 2010 and pursuant to the provisions of Regulation No 273/2010[7], the Commission, assisted by the European Aviation Safety Agency (EASA), continued actively the consultations with the competent authorities of Albania to follow-up the results of the comprehensive standardisation inspection of Albania made in January 2010. The final report of this inspection, issued on 7 March 2010, revealed significant deficiencies in all areas audited that needed to be immediately remedied.

(25) EASA informed that the DGCA had presented a comprehensive action plan that was found acceptable and agreed on 29 April 2010. This plan foresees a series of remedial actions to be implemented progressively until the end of 2011, with immediate actions to address the safety deficiencies.

(26) Moreover, the competent authorities of Italy have embarked on a comprehensive twinning project with the competent authorities of Albania which should start in September 2010 to assist these authorities to build its technical and administrative capacity.

(27) The consultations which were held on 28 May 2010 with the competent authorities of Albania and EASA with the participation of the competent authorities of Italy confirmed that the implementation of this action plan is in progress and in line with its schedule. A first series of actions was completed representing a major change to the previous system: an independent Albanian Civil Aviation Authority (ACAA) was established and is operational since May 2010; the newly established ACAA revoked all previous derogations granted to the industry and ascertained to the undertakings that failure to comply with the applicable legislation by 1 June 2010 would expose them to enforcement actions such as suspension, limitation or revocation of the approvals they held. The ACAA was invited to the Air Safety Committee to report on the recertification of air carriers.

(28) The ACAA was heard by the Air Safety Committee on 21 June 2010 and confirmed that Belle Air and Albanian Airlines were duly recertified in June 2010 in compliance with the applicable safety rules. They also informed that the AOC of Star Airways was suspended. Furthermore, ACAA committed to refrain from issuing further AOCs until further notice.

(29) ACAA is urged to take the necessary actions to continue to implement effectively and timely the action plan agreed with EASA, with priority to the resolution of the deficiencies identified that raise safety concerns if not promptly corrected. The ACAA is invited in particular to speed up its capacity building and to ensure the safety oversight of all air carriers certified in Albania in accordance with the applicable safety regulations and to take enforcement measures as necessary.

(30) ACAA committed to report periodically on the progress made in the implementation of its corrective action plan. The Commission, assisted by EASA, and with the support of Member States, will continue to monitor the effectiveness of the actions undertaken by ACAA and the safety performance of air carriers licensed in Albania.

Air carriers from the Kingdom of Cambodia

(31) The competent authorities of Cambodia (SSCA) informed of further progress in the implementation of their corrective action plan established to remedy the deficiencies identified by ICAO during the audit carried out in 2007 in the framework of its Universal Safety Oversight Audit Programme.