Commission Regulation (EC) No 1400/2007 of 28 November 2007 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 (EC) No 1400/2007

of 28 November 2007

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 COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 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)] established 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.

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

Blue Wing Airlines

(7) Following the analysis of documentation submitted by Blue Wing Airlines in relation to progress made in the implementation of its corrective action plan, and following the endorsement and positive assessment of this documentation by the competent authorities of Suriname, there is sufficient evidence to demonstrate that this carrier has completed successfully the corrective actions that are necessary to eliminate the deficiencies which led to its inclusion in the Community list.

(8) On the basis of the common criteria, it is assessed that Blue Wing Airlines has taken all the required measures to conform to relevant safety standards and therefore may be withdrawn from Annex A.

Pakistan International Airlines

(9) Pakistan International Airlines submitted to the Commission documentation which confirms the corrective actions taken to rectify the safety deficiencies on the remaining aircraft of its fleet of type Airbus A-310 (registration marks: AP-BDZ, AP-BEB, AP-BGO, AP-BEQ, AP-BGS and AP-BGQ) and Boeing B-747-300 (registration marks: AP-BFW, AP-BFV, AP-BFY) which are still subject to operational restrictions. The competent authorities of Pakistan have endorsed those measures.

(10) As a consequence, on the basis of the common criteria, it is assessed that the current regime of operational restrictions imposed on Pakistan International Airlines should end, and the carrier should be removed from Annex B.

(11) The competent authorities of Pakistan have agreed that, before the resumption of operations to the Community of each individual aircraft concerned, and including the aircraft referred to in recital 8 of Commission Regulation (EC) No 787/2007[4], they shall provide the authorities of the Member State of the airport of destination, as well as the Commission, with a safety inspection report of the aircraft which they have conducted no more than 72 hours before the aircraft is due to operate. On receipt of the report, the relevant Member State may, if necessary, take appropriate measures in accordance with Article 6 of Regulation (EC) No 2111/2005. On arrival, a complete SAFA ramp inspection of the aircraft should be carried out, and its report should be transmitted without delay to the Commission, which will forward it to the other Member States. Member States intend to verify systematically the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier.

Mahan Air

(12) Following the submission of a revised plan of corrective actions and supporting documentation by Mahan Air in relation to the implementation of this plan, and following the endorsement and positive assessment of those by the competent authorities of the Islamic Republic of Iran, there is sufficient evidence to demonstrate

that the carrier is in the process of implementing corrective actions to eliminate the deficiencies which led to its inclusion in the Community list.

(13) However, despite the implementation of corrective actions in the area of maintenance and engineering, there are verified major deficiencies regarding the continued airworthiness of certain aircraft operated into the Community which have led to the launch of a suspension procedure of the certificate of airworthiness of these aircraft, as well as verified evidence with regard to major deficiencies on requirements of maintenance. Furthermore, further adjustments to the corrective action plan in the area of operations have been considered necessary and requested accordingly[(5)].

(14) On the basis of the common criteria, it is assessed that, at this stage, Mahan Air has not shown the ability to take all the required measures to conform to relevant safety standards and should therefore be retained in Annex A. The Commission takes note of the willingness of the competent authorities of the Islamic Republic of Iran to enhance the exercise of their oversight responsibilities with a view to improving safety and cooperate closely to that end with the Commission.

Ukrainian Mediterranean Airlines

(15) Following the submission of a revised plan of corrective actions and supporting documentation by Ukrainian Mediterranean Airlines in relation to the implementation of this plan, and following the endorsement and assessment of those by the competent authorities of the Ukraine, there is evidence to demonstrate that the carrier is in the process of implementing corrective actions to eliminate the deficiencies which led to its inclusion in the Community list. The competent authorities of the Ukraine have inspected the carrier and have issued a new Air Operator's Certificate with a 12 month validity period until 15 October 2008. Nevertheless, according to submissions of the competent authorities of the Ukraine dated 13 November 2007, the authorities remain concerned about an insufficient control by the air carrier's management over repeated deficiencies and the quality of flight preparation records. Furthermore, according to the competent authorities of the Ukraine, the frequency of such findings does not allow them to conclude on the solidity and sustainability of the improvements in the carrier despite the positive changes. Finally, the competent authorities of the Ukraine affirm that the carrier ‘needs a lot of resources and much time for compliance with the appropriate standards’.

(16) On the basis of the common criteria, it is assessed that Ukrainian Mediterranean Airlines has not shown the ability to take all the required measures to conform to relevant safety standards and should therefore be retained in Annex A.

(17) The Commission takes note of the commitment of the competent authorities of the Ukraine to enhance surveillance of this carrier with a view to accelerating the appropriate implementation of the corrective action plan.

Hewa Bora Airways

(18) Hewa Bora Airways has ceased operations into the Community for the last four months with the aircraft of type Boeing B767-266ER, cons. No 23 178, and with

registration mark 9Q-CJD, with which it has been authorised to operate as provided for in Regulation (EC) No 235/2007. Instead, it has been operating into the Community under a wet lease agreement (ACMI) with a Belgian air carrier.

(19) On the basis of this information, the Commission considers that there is no change in the status of the carrier and that the aircraft of type Boeing B767-266ER, cons. No 23 178 should remain included in Annex B.

Air carriers from Equatorial Guinea

(20) The undertaking Cronos Airlines has informed the Commission that it has been granted an Air Operator's Certificate by the authorities of Equatorial Guinea. Since this new air carrier has been certified by the authorities of Equatorial Guinea which have shown a lack of ability to carry out adequate safety oversight, it should be included in Annex A.

(21) The authorities of Equatorial Guinea have provided the Commission with updated information regarding the operations of the carriers certified by these authorities. In particular, these authorities have stated that Guinea Airways has ceased its operations. However, there is no evidence of withdrawal of the Air Operator's Certificate of that air carrier. Therefore, without such information, this carrier cannot be, at this stage, withdrawn from Annex A.

Air carriers from the Kyrgyz Republic

(22) The authorities of the Kyrgyz Republic have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of World Wing Aviation on grounds of safety. Since this carrier certified in the Kyrgyz Republic has consequently ceased its activities, it should be withdrawn from Annex A.

Air carriers from the Republic of Indonesia

(23) Following the invitation of the Indonesian Directorate General for Civil Aviation (DGCA), a team of European experts conducted a fact-finding mission to Indonesia from 5 to 9 November 2007. Its report shows that already in 2007 the DGCA has started putting in place corrective actions meant to improve its ability to implement and enforce the relevant safety standards. The DGCA has informed that during 2007 it has begun with the restructuring of the DGCA and has granted increased powers to its inspectors. However, it also shows that the safety oversight functions on the carriers certified could not be fully executed during the first 10 months of 2007. As of beginning 2008, the DGCA intends to obtain additional human and financial resources in order to fulfil its obligations under the Chicago Convention. The Commission takes note of this progress, and strongly encourages the DGCA to implement all the corrective actions presented to the Commission. The Commission considers, however, that the current status of implementation of corrective actions by the DGCA of Indonesia does not allow, at this stage, the removal of the operating ban imposed on all carriers certified by this authority.

(24) The authorities of Indonesia have provided the Commission with an updated list of air carriers holding an Air Operator's Certificate. At present, the air carriers certified in Indonesia are the following: Garuda Indonesia, Merpati Nusantara, Kartika Airlines, Mandala Airlines, Trigana Air Service (AOCs 121-006 and 135-005), Metro Batavia, Pelita Air Service (AOCs 121-008 and 135-001), Indonesia Air Asia, Lion Mentari Airlines, Wing Adabi Nusantara, Cardig Air, Riau Airlines, Trans Wisata Prima Aviation, Tri MG Intra Airlines (AOCs 121-018 and 135-037), Ekspres Transportasi Antar Benua (AOCs 121-019 and 135-032), Manunggal Air Service, Megantara Airlines, Sriwijaya Air, Adam Skyconnection Airlines, Travel Expres Airlines, Republic Expres Airlines, Airfast Indonesia, Travira Utama, Derazona Air Service, National Utility Helicopter, Deraya Air Taxi, Dirgantara Air Service, SMAC, Kura-Kura Aviation, Indonesia Air Transport, Gatari Air Service, Intan Angkasa Air Service, Air Pacific Utama, Transwisata Prima Aviation, Asco Nusa Air Transport, Pura Wisata Baruna, Panarbangan Angkasa Semesta, Asi Pujiastuti, Aviastar Mandiri, Dabi Air Nusantara, Balai Kalibrasi Fasilitas Penerbangan, Sampurna Air Nusantara, and Eastindo. The Community list should be updated accordingly and these carriers should be included in Annex A.

TAAG Angola Airlines

(25) The competent authorities of Angola submitted to the Commission a new corrective action plan aimed at enhancing their capability to implement and enforce the relevant safety standards with respect to the carrier TAAG Angola Airlines, as well as addressing the safety concerns raised by ICAO during the 2004 ICAO USOAP audit.

(26) The carrier TAAG Angola Airlines submitted to the Commission information on the corrective actions being implemented so as to address the root causes of the safety deficiencies identified during ramp inspections performed under the SAFA programme, and indicating the systemic nature of the said deficiencies.

(27) The Commission acknowledges the effort made by the carrier towards achieving all the required measures to conform to relevant safety standards, as well as the strong disposition towards collaboration shown by both the carrier and the competent authorities of Angola. However, the Commission considers that a decision to withdraw TAAG Angola Airlines from the Community list is, at this stage, premature because there are still significant safety deficiencies which have to be addressed, as well as the recertification process of the carrier by the competent authorities. The Commission will undertake an on-site visit so as to verify the full implementation of the corrective actions which the carrier is still in the process of completing.

Air carriers from Albania

(28) On 29 August 2007 the Albanian Civil Aviation Authority submitted a comprehensive recovery action plan to the Commission, committing itself to providing the Commission with regular update reports on the progress achieved in the implementation of the said plan.