Commission Regulation (EC) No 1043/2007 of 11 September 2007 amending Commission 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 1043/2007

of 11 September 2007

amending Commission 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/CE[(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 6(1) of Regulation (EC) No 2111/2005, three 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 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[(3)], two Member States requested to update the Community list.

(4) It is evident that the continued operation of these two 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 three 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 them an operating ban within the Community.

(6) Since urgent measures are necessary to resolve this situation, therefore, in accordance with Article 4(3) of Regulation 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 within 10 working days.

(7) The authorities with responsibility for regulatory oversight over these air carriers have been consulted by the Commission as well as by some Member States.

Mahan Air

(8) There is verified evidence of serious safety deficiencies on the part of Mahan Air certified in the Islamic Republic of Iran. These deficiencies have been identified by Germany and the United Kingdom during ramp inspections performed under the SAFA programme[(4)]. The repetition of these inspection findings shows systemic safety deficiencies.

(9) The United Kingdom has communicated to the Commission that on 20 July 2007 it adopted an immediate operating ban on the whole fleet of Mahan Air taking into account the common criteria, in the framework of Article 6(1) of Regulation (EC) No 2111/2005.

(10) Mahan Air operates two aircraft of type Airbus A-310 with registration marks F-OJHH and F-OJHI which are not equipped with EGPWS, as required by paragraph 6.15.3 of Annex 6 part 1 to the Chicago Convention. Aircraft which do no meet ICAO Annex 6 cannot fly to a foreign country unless they get a specific approval from this country. Member States have taken the decision not to give authorisation for operations with aircraft not equipped with EGPWS since 1 January 2007. For these reasons, the above-mentioned aircraft should not operate to the Community.

(11) There is serious incident-related information indicating that the carrier is unable to ensure the safety of its operations, as reported by the United Kingdom.

(12) Mahan Air demonstrated a lack of ability to address the safety deficiencies in response to requests by the United Kingdom, as demonstrated by persistent safety deficiencies.

(13) The competent authorities of the Islamic Republic of Iran have demonstrated a lack of cooperation with the civil aviation authority of the United Kingdom, when concerns about the safety of the operations of Mahan Air were raised.

(14) Mahan Air was given the opportunity to be heard by the services of the Commission, the competent authorities of France Germany and the United Kingdom on 9 August. On 13 August the carrier submitted to the Commission a corrective actions plan which was considered insufficient to redress the systematic recurrence of safety deficiencies.

(15) The competent authorities of the Islamic Republic of Iran and for a second time Mahan Air were heard by the services of the Commission and the competent authorities of France Germany and the United Kingdom on 23 August. These consultations have not allowed the provision of satisfactory solutions to redress the

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1043/2007. (See end of Document for details)*

identified safety deficiencies in the short term. The Commission takes note of the commitment of the carrier to submit a modified corrective action plan. The level of implementation of this plan along with any developments within this carrier should be examined at the next meeting of the Air Safety Committee.

(16) On the basis of the common criteria, it is assessed that Mahan Air 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.

Ukrainian Mediterranean Airlines

(17) There is verified evidence of serious safety deficiencies on the part of Ukrainian Mediterranean Airlines certified in Ukraine. These deficiencies have been identified by France, Germany, Italy, Romania, Spain, and Turkey during ramp inspections performed under the SAFA programme[(5)]. The repetition of these inspection findings shows systemic safety deficiencies.

(18) Germany and Italy have communicated to the Commission that they have adopted an immediate operating ban on 23 and 13 July respectively on the whole fleet of Ukrainian Mediterranean Airlines taking into account the common criteria, in the framework of Article 6(1) of Regulation (EC) No 2111/2005.

(19) In addition, Germany and Italy have submitted on 26 July 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 Community on the whole fleet of Ukrainian Mediterranean Airlines.

(20) Ukrainian Mediterranean Airlines demonstrated a lack of ability to address safety deficiencies in response to requests by Germany, Italy, and the competent authorities of Ukraine as demonstrated by persistent safety deficiencies. The carrier submitted an initial corrective action plan on 6 August and a revised one on 22 August but no evidence has been provided regarding the effective implementation of this plan. In addition the competent authorities of Ukraine stated that this plan does not take into account major safety related deficiencies discovered during a national inspection in July, 2007.

(21) The competent authorities of Ukraine after comprehensive in-dept assessment of the air carrier, stated that they had found it unsafe and not compliant with national flight safety standards (technical and operational), and communicated to the Commission their intention to suspend the AOC of this carrier. However, such measure has not been effectively implemented.

(22) On the basis of the common criteria, it is assessed that Ukrainian Mediterranean Airlines 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. The Commission takes note of the corrective actions proposed by Ukrainian Mediterranean Airlines. The level of implementation of this plan along with any developments within this carrier should be examined at the next meeting of the Air Safety Committee,

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HAS ADOPTED THIS REGULATION:

Article 1

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

1. Annex A is replaced by Annex A to this Regulation.

2. Annex B is replaced by Annex B to this Regulation.

Article 2

This Regulation shall enter into force on the day following 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, 11 September 2007.

For the Commission

Jacques BARROT

Vice-President

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1043/2007. (See end of Document for details)*

ANNEX A

LIST OF AIR CARRIERS OF WHICH ALL OPERATIONS ARE SUBJECT TO A BAN WITHIN THE COMMUNITY[(6)]

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**
AIR KORYO	unknown	KOR	Democratic People Republic of Korea (DPRK)
AIR WEST CO., LTD	004/A	AWZ	Sudan
ARIANA AFGHAN AIRLINES	009	AFG	Afghanistan
BLUE WING AIRLINES	SRSH-01/2002	BWI	Surinam
MAHAN AIR	FS 105	IRM	Islamic Republic of Iran
SILVERBACK CARGO FREIGHTERS	unknown	VRB	Rwanda
TAAG ANGOLA AIRLINES	001	DTA	Angola
UKRAINIAN MEDITERRANEAN AIRLINES	164	UKM	Ukraine
VOLARE AVIATION ENTREPRISE	143	VRE	Ukraine
All air carriers certified by the authorities with responsibility for regulatory oversight of Democratic Republic of Congo (RDC), with the exception of Hewa Bora Airways[a], including		—	Democratic Republic of Congo (RDC)

a Hewa Bora Airways is allowed to use the specific aircraft mentioned in Annex B for its current operations within the European Community.