Commission Regulation (EC) No 787/2007 of 4 July 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 787/2007

of 4 July 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/EC[(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 Community 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) In accordance with Article 4(2) 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)], a Member State requested to update the Community list.

(4) 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.

(5) 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

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on the harmonization of technical requirements and administrative procedures in the field of civil aviation[4].

(6) 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.

Pakistan International Airlines

(7) On 14 May 2007 Pakistan International Airlines submitted a recovery action plan to the Commission, followed by evidence confirming the implementation of a number of corrective actions. The Commission takes note that significant progress has been made by the carrier following its inclusion in the Community list, and that the carrier, supported by its oversight authorities, confirmed that it has rectified safety deficiencies on part of its fleet. The competent authorities of Pakistan have endorsed these measures.

(8) As a consequence, on the basis of the common criteria, it is assessed that Pakistan International Airlines should be allowed to operate to the Community also with the following eleven aircraft: three Boeing 747-300s with registration marks AP-BFU, AP-BGG and AP-BFX; two Boeing 747-200s with registration marks AP-BAK and AP-BAT; six Airbus A-310s with registration marks AP-BEU, AP-BGP, AP-BGR, AP-BGN, AP-BEC and AP-BEG. The mentioned aircraft should consequently be removed from Annex B.

(9) The competent authorities of the Islamic Republic of Pakistan have agreed that, before the resumption of operations of each individual aircraft concerned, 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 before the aircraft is due to operate. On receipt of the report, the relevant Member State may, if necessary, ban the aircraft 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 submitted without delay to the Commission which will forward it to the other Member States. Member States intend to ensure further verification of effective compliance with relevant safety standards through systematic ramp inspections on this carrier.

(10) The remaining aircraft in this carrier's fleet still do not meet fully the relevant safety standards and should therefore be retained in Annex B pending rectification of outstanding deficiencies. An on-site follow-up visit should be organised before further reviews of the operational restrictions imposed on the carrier, in order to verify the full implementation of the recovery action plan and its progress. Both the carrier and its competent authorities have confirmed acceptance of this visit.

TAAG — Angola Airlines

(11) There is verified evidence of serious safety deficiencies on the part of TAAG Angola Airlines certified in Angola. These deficiencies have been identified by France

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during ramp inspections performed under the SAFA programme. The repetition of these inspection findings shows systemic safety deficiencies[(5)].

(12) TAAG Angola Airlines demonstrated a lack of ability to address safety deficiencies in response to requests by France, in spite of guarantees given by the carrier and its competent authorities as demonstrated by persistent safety deficiencies. Also, there is insufficient ability of the competent authorities of Angola to enforce the relevant safety standards, despite the guarantees given by these authorities.

(13) The competent authorities of Angola demonstrated a lack of ability to implement and enforce the relevant safety standards, when concerns about the safety of the operation of TAAG certified in that State were raised.

(14) Whilst acknowledging the effort made by the carrier towards the identification of the actions necessary to redress its safety situation, as well as the disposition towards cooperation shown by both the carrier and the competent authorities of civil aviation of Angola, the Commission considers that the satisfactory implementation of an adequate corrective action plan by the carrier is not completed.

(15) Therefore, on the basis of the common criteria, it is assessed that TAAG Angola 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.

Volare Aviation

(16) The Netherlands has submitted to the Commission a request to update the Community list in accordance with Article 4(2) of Regulation (EC) No 2111/2005 in view of imposing an operating ban on the whole fleet of Volare Aviation.

(17) There is verified evidence of serious safety deficiencies on the part of Volare Aviation certified in Ukraine. These deficiencies have been identified by the Netherlands during ramp inspections performed under the SAFA programme, and confirmed by ramp inspections performed in other Member States. The repetition of these inspection findings shows systemic safety deficiencies[(6)].

(18) Volare Aviation demonstrated a lack of ability to address safety deficiencies at systemic level in response to requests by the Netherlands, as demonstrated by the insufficient corrective action plan presented in response to identified safety deficiencies.

(19) The competent authorities of Ukraine demonstrated a lack of ability to implement and enforce the relevant safety standards, when concerns about the safety of the operation of Volare Aviation certified in that state were raised.

(20) Therefore, on the basis of the common criteria, it is assessed that Volare Aviation does not meet the relevant safety standards. This carrier should therefore be subject to a ban to all its operations and should be included in Annex A.

Air carriers from Indonesia

(21) There is verified evidence of serious safety deficiencies on the part of all air carriers certified in Indonesia. These deficiencies have been identified by a safety

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audit report carried out by Indonesia's civil aviation authority following a succession of accidents, which revealed that none of the country's air carriers meet relevant safety standards.

(22) The US Department of Transportation's Federal Aviation Administration (FAA) lowered Indonesia's safety rating in its IASA programme, for the reason that Indonesia fails to comply with international safety standards set by the International Civil Aviation Organization (ICAO). Such a measure amounts effectively to an operating ban on all carriers certified by Indonesia. As a consequence, Indonesian carriers will not be permitted to commence service to the United States.

(23) The last ICAO Universal Safety Oversight Audit Programme (USOAP) report, as well as its follow-up report, has indicated serious shortcomings with regard to the capability of the civil aviation authorities of Indonesia to perform their air safety oversight responsibilities.

(24) The competent authorities of Indonesia demonstrated an insufficient ability to implement and enforce the relevant safety standard. Furthermore, these authorities did not reply adequately and in a timely manner when concerns about the safety of the operation of carriers licensed in Indonesia were raised by the Commission.

(25) Therefore, on the basis of the common criteria, it is assessed that all air carriers certified in Indonesia should be subject to an operating ban and included in Annex A.

Air carriers from the Kyrgyz Republic

(26) The authorities of the Kyrgyz Republic have provided the Commission with information indicating that they granted an Air Operator's Certificate to the following air carriers: Eastok Avia, Kyrgyz Trans Avia, and S Group Aviation. Since these new air carriers are certified by the authorities of the Kyrgyz Republic which have shown a lack of ability to carry out adequate safety oversight, they should be included in Annex A.

(27) The authorities of the Kyrgyz Republic have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following air carriers: British Gulf International Airlines FEZ and Kyrgyz General Aviation. Since these carriers certified in the Kyrgyz Republic have consequently ceased their activities, they should be withdrawn from Annex A.

Air carriers from Albania

(28) The last ICAO Universal Safety Oversight Audit Programme (USOAP) report, the results of the recent assessment mission conducted in Albania in the framework of the European Common Aviation Area (ECAA) and information provided by Italy, have indicated serious shortcomings with regard to the capability of the civil aviation authorities of Albania to perform their air safety oversight responsibilities.

(29) Following the invitation of the Albanian civil aviation authority, a team of European experts conducted a fact-finding mission to the Albania from 4 to 8 June 2007. Its report shows that despite many efforts, the civil aviation authorities of Albania still

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lack the resources, legal framework and expertise which are necessary to allow them to perform their air safety oversight responsibilities in a satisfactory manner.

(30) With regard to two carriers certified in Albania — Albanian Airlines and Belle Air — the above mentioned report shows that both carriers are operating in accordance with the relevant safety standards and indeed taking additional measures to ensure their own safety oversight given the recognised deficiencies of the national civil aviation authorities.

(31) No serious safety deficiencies were detected during several SAFA ramp inspections conducted on aircraft operated by both carriers to European airports.

(32) The civil aviation authorities of Albania have agreed to submit a comprehensive corrective action plan aimed at addressing all safety oversight deficiencies identified in the various reports cited above, particularly the report of the fact-finding mission conducted in Albania by a team of European experts from 4 to 8 June 2007.

(33) The Government of Albania has reiterated its full political commitment towards a sound restructuring programme for its civil aviation authority and that it will not issue any further Air Operator Certificates until the said programme has been satisfactorily implemented.

(34) On the basis of the common criteria, it is assessed that being in compliance with the relevant safety standards, Albanian Airlines and Belle Air should not be included in the Community list. The competent authorities of Albania should provide the Commission, within a period not exceeding three months, with all the necessary information regarding the formulation and progress in implementation of a corrective action plan. In addition, Member States intend to ensure further verification of effective compliance with relevant safety standards through systematic ramp inspections on these carriers.

Air carriers from Bulgaria

(35) As envisaged in recital 35 of Commission Regulation (EC) No 235/2007, the situation of five Bulgarian carriers — Air Sofia, Bright Aviation Services, Heli Air Services, Scorpion Air and Vega Airlines — should be closely monitored. Accordingly, the civil aviation authority of Bulgaria conducted, with the assistance of experts from the Commission, EASA and Member States, verification visits of these carriers in order to determine the appropriate measures as regards the operational restrictions imposed on them since 21 February 2007.

(36) In the light of the results of the visit carried out from 27 May to 2 June, it is assessed that there is verified evidence of serious safety deficiencies on the part of Air Sofia, Bright Aviation Services, Scorpion Air and Vega Airlines. The persistence of these inspection findings shows systemic safety deficiencies.

(37) Furthermore, the visit has revealed evidence that the carrier Air Scorpio is from a corporate point of view, administratively, financially and technically managed