# Commission Regulation (EC) No 235/2007 of 5 March 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 235/2007

## of 5 March 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(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.

(3) 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.

(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

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 235/2007. (See end of Document for details)*

on the harmonisation 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.

Air West

(7) There is verified evidence of serious safety deficiencies on the aircraft IL-76, registration marks ST-EWX, which is the only aircraft of Air West authorised to operate to the Community. These deficiencies have been identified by Germany, during a ramp inspection performed under the SAFA programme[5].

(8) Germany has communicated to the Commission that it has adopted an immediate operating ban on the whole fleet of Air West taking into account the common criteria, in the framework of Article 6(1) of Regulation (EC) No 2111/2005.

(9) In addition, Germany has submitted 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 extending the operating ban to the European Community for the whole fleet of Air West.

(10) Therefore, on the basis of the common criteria, it is assessed that Air West Co. Ltd does not meet the relevant safety standards for its whole fleet. The air carrier should be subject to a ban to all its operations and should be moved from Annex B to Annex A.

BGB Air

(11) The authorities of Kazakhstan have provided the Commission with evidence of the withdrawal of the Air Operator's Certificate of the air carrier BGB Air. Since this carrier certified in Kazakhstan has consequently ceased its activities, it should be withdrawn from Annex A.

Dairo Air Services/DAS Air Cargo

(12) Any measure decided with regard to Dairo Air Services from Uganda should equally be applicable to DAS Air Cargo (DAZ).

(13) Dairo Air Services/DAS Air Cargo has submitted to the Commission a comprehensive corrective action plan intended to address the carrier's systemic safety deficiencies, which is already being implemented. Furthermore, the competent authorities of Uganda have endorsed the carrier's action plan, and have established a detailed annual oversight plan of surveillance activities on the carrier for the year 2007.

(14) The Commission contacted the competent authorities of Kenya to obtain confirmation that the Air Operator's Certificate issued by Kenya to DAS Air Cargo has been withdrawn. The Commission should seek further clarification on this matter.

(15) On the basis of the common criteria, it is assessed that Dairo Air Services/ DAS Air Cargo should be allowed to operate within the Community and consequently

removed from Annex A. Member States intend to ensure further verification of effective compliance with relevant safety standards through systematic ramp inspections on this carrier.

(16) The competent authorities of Uganda have confirmed that the principal place of business of the carrier is in Entebbe. The Commission will reassess the situation of the carrier with regard to the ability of the competent authorities of Uganda to perform their oversight activities. Both the carrier and the competent authorities of Uganda have accepted to be subject to an audit, if necessary.

GST Aero

(17) The authorities of Kazakhstan have provided the Commission with evidence of the withdrawal of the Air Operator's Certificate of the air carrier GST Aero. Since this carrier certified in Kazakhstan has consequently ceased its activities, it should be withdrawn from Annex A.

Pakistan International Airlines

(18) Pakistan International Airlines has submitted to the Commission a corrective action plan intended to address the systemic safety deficiencies which have been identified by various Member States through ramp inspections performed under the SAFA programme. Furthermore, the competent authorities of Pakistan have endorsed the carrier's action plan, and have established an annual oversight plan of surveillance activities of the carrier.

(19) A team of European experts conducted a fact-finding mission to Pakistan from 12 to 16 February 2007 to evaluate the implementation of the submitted action plan. Its report shows that some of the actions needed to redress the situation of the company in relation to compliance with relevant safety standards still have to be completed, particularly for its aircraft of type Boeing B-747 and Airbus A-310. The situation is at present satisfactory with regards to the B-777s fleet which is not affected by the systemic deficiencies referred to under recital 18 above, as well as the fact of continued airworthiness being ensured through adequate arrangements.

(20) Consequently, on the basis of the common criteria, it is assessed that Pakistan International Airlines does not meet the relevant safety standards, except for flights operated with the Boeing B-777s fleet, and should be included in Annex B with respect to any other operations[(6)]. In addition, Member States intend to ensure further verification of effective compliance with relevant safety standards through systematic ramp inspections on this carrier.

Weasua Airlines/Air carriers from Liberia

(21) The authorities of Liberia have provided the Commission with evidence that the Air Operator's Certificate of the only air carrier which is at present still certified in Liberia — Weasua Airlines — has expired on 31 December 2006 and that the said authorities have refused to grant its renewal. Therefore, having ceased its activities, Weasua Airlines should be withdrawn from Annex A.

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(22) As regards the corrective action plan undertaken by Liberia to align its air safety oversight capability with relevant safety standards, the documentation submitted to the Commission indicates that further progress still remains to be made regarding its full implementation. This implies that should any carrier be granted an Air Operator's Certificate by the Civil Aviation Authority of Liberia, it would fall within Annex A.

Air carriers from the Democratic Republic of Congo

(23) The authorities of the Democratic Republic of Congo have provided the Commission with information indicating that they granted an Air Operator's Certificate to the following air carriers: African Air Services Commuter SPRL, El Sam Airlift, Espace Aviation Services, Piva Airlines, Safe Air Company. These air carriers should be mentioned expressly in Annex A.

(24) The authorities of the Democratic Republic of Congo have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following air carriers: Entreprise World Airways (E.W.A.), Uhuru Airlines, Central Air Express, Global Airways, African Company Airlines, CO-ZA Airways. Since these carriers certified in the Democratic Republic of Congo have consequently ceased their activities, they should be withdrawn from Annex A.

(25) Hewa Bora Airways acquired a new aircraft to replace the one mentioned previously in Annex B. Belgium has informed the Commission that it intends to continue to apply the same provisional regime of ramp inspections and surveillance of this new aircraft as applied to the previous one. As a consequence, the aircraft type Lockheed L-1011, cons. N$^{o}$ 193H-1206, registration mark 9Q-CHC, is replaced in Annex B by the aircraft Boeing B767-266 ER cons. N$^{o}$ 23 178, registration mark 9Q-CJD.

Air carriers from Equatorial Guinea

(26) The authorities of Equatorial Guinea have provided the Commission with an updated list of air carriers holding an Air Operator's Certificate. At present, the only air carriers certified in Equatorial Guinea are the following: Euroguineana de Aviacion y Transportes, General Work Aviacion, Guinea Airways, Guinea Equatorial de Transportes Aereos, Union de Transportes Aereos (UTAGE). Consequently, the Community list should be updated accordingly and these carriers should be included in Annex A.

Air carriers from the Kyrgyz Republic

(27) 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: Air Central Asia, Esen Air, Air Manas, World Wing 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.

(28) 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: Anikai Air, Country International Airlines, FAB Air, Kyrgyz Airways, Kyrgyz Trans Avia, Reem Air, Sun Light. Since these carriers certified in the Kyrgyz Republic have consequently ceased their activities, they should be withdrawn from Annex A.

Phuket Air

(29) Following the analysis by the Commission and Member States of documentation submitted by Phuket Air 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 the Kingdom of Thailand, there is sufficient evidence to demonstrate that the carrier has completed successfully most tasks of the comprehensive corrective action plan which was drawn up following its inclusion in the first Community list published in March 2006.

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

(31) Phuket Air has stated that it currently has no plans to operate to Europe in the foreseeable future; should the carrier consider a resumption of operations to the territory of the Community in whatever form, it shall *a priori* inform the Commission who shall reserve the right to conduct any necessary verifications to ascertain its continued adherence to the relevant safety standards. During the meeting of the Air Safety Committee on 21st of February, both the carrier and the competent authorities of the Kingdom of Thailand have expressed their favourable disposition to accept these conditions, including the possibility of an on-site inspection if so requested by the Commission.

A Jet Aviation/ex Helios Airways

(32) The Commission has taken note of information presented by EASA and the competent authorities of Cyprus regarding the suspension of the Air Operator's Certificate of the carrier A Jet Aviation and its subsequent withdrawal. With regard to the exercise of oversight by the competent authority of Cyprus, in view of the results of the joint last visit carried out by EASA and the JAA in January 2007 on matters of airworthiness, maintenance, operational requirements and flight crew licensing, the Commission has taken note of significant progress being made; however, efforts have to be continued and the Commission should monitor any further developments in this respect.

Johnsons Air

(33) The Commission has reviewed the situation of Johnsons Air on the basis of the documentation submitted by the civil aviation authorities of Ghana including the oversight programme of this carrier and is satisfied that it complies with relevant safety