Commission Regulation (EC) No 1543/2006 of 12 October 2006 amending Regulation (EC) No 474/2006 establishing 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 of the European Parliament and of the Council and as amended by Regulation (EC) No 910/2006 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1543/2006

of 12 October 2006

amending Regulation (EC) No 474/2006 establishing 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 of the European Parliament and of the Council and as amended by Regulation (EC) No 910/2006

(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)] (hereinafter referred to as 'the basic Regulation'), and in particular Article 4 thereof,

Whereas:

(1) The Commission adopted Regulation (EC) No 474/2006 of 22 March 2006 establishing 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 of the European Parliament and of the Council[(2)].

(2) The Commission adopted Regulation (EC) No 910/2006 of 20 June 2006 amending Regulation (EC) No 474/2006 of 22 March 2006 establishing 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 of the European Parliament and of the Council[(3)].

(3) In accordance with Article 4(2) of the basic Regulation 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 of the European Parliament and of the Council[(4)], a Member State requested to update the Community list.

(4) In accordance with Article 4(3) of the basic Regulation, Member States communicated to the Commission information that is relevant in the context of updating the

Community list. On this basis, the Commission should decide to update the Community list on its own initiative or at the request of Member States.

(5) In accordance with Article 7 of the basic Regulation and Article 4 of Regulation (EC) No 473/2006, 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.

(6) In accordance with Article 7 of the basic Regulation and Article 4 of Regulation (EC) No 473/2006, 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[(5)].

(7) In accordance with Article 3 of Regulation (EC) No 473/2006, 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.

Dairo Air Services and DAS Air Cargo

(8) There is evidence that the operator DAS Air Cargo (DAZ) certified in Kenya is a subsidiary of Dairo Air Services (DSR) certified in Uganda. The two carriers operate the same aircraft. Therefore, any measure decided with regard to DSR should equally be applicable to DAZ.

(9) There is verified evidence of serious safety deficiencies on the part of Dairo Air Services. These deficiencies have been identified by the Netherlands, the United Kingdom, Belgium, France, Germany and Spain, during ramp inspections performed under the SAFA programme[(6)]; the repetition of these inspection findings indicates systemic safety deficiencies. Despite cooperation with Member States and individual remedial actions taken by the Ugandan authorities and by Dairo Air Services, the repetition of these findings indicates systemic safety deficiencies.

(10) The UK Civil Aviation Authority performed an inspection on Dairo Air Services and Das Air Cargo, which revealed that between 21 April and 25 July 2006 aircraft operated by the two air carriers were being maintained by a maintenance organisation without a proper approval, thus constituting a serious safety deficiency.

(11) DSR demonstrated a lack of transparency and adequate and timely communication in response to an enquiry by the civil aviation authority of the Netherlands regarding the safety aspect of its operation, as demonstrated by the absence of an adequate and timely reply to the correspondence sent by this Member State.

(12) On the basis of the common criteria, it is assessed that Dairo Air Services and DAS Air Cargo do not fully meet the relevant safety standards, and therefore should be included in Annex A.

Air carriers from the Kyrgyz Republic

(13) Following the invitation of the Kyrgyz Republic civil aviation authority, a team of European experts conducted a fact-finding mission to the Kyrgyz Republic from 10 to 15 September 2006. Its report shows that the Kyrgyz civil aviation authority has revealed an insufficient ability to implement and enforce the relevant safety standards in accordance with their obligations under the Chicago convention.

(14) In addition, a majority of carriers visited by the European experts although holders of an Air Operators Certificate (AOC) issued by Kyrgyz Republic, did not have their principle place of business in Kyrgyz Republic, contrary to the requirements of Annex 6 to the Chicago Convention.

(15) On the basis of the common criteria, it is assessed that all air carriers certified in Kyrgyz Republic do not meet the relevant safety standards and therefore they should be subject to an operating ban and included in Annex A.

(16) The authorities of Kyrgyz Republic have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following two air carriers: Phoenix Aviation and Star Jet. Since these two carriers certified in Kyrgyz Republic have consequently ceased their activities, they should not be included in Annex A.

Air carriers from the Democratic Republic of Congo

(17) The authorities of the Democratic Republic of Congo have provided the Commission with information indicating that they released an AOC to the following air carriers: Air Beni, Air Infini, Bel Glob Airlines, Bravo Air Congo, Gomair, Katanga Airways, Sun Air Services, Zaabu International. Since these new air carriers are certified by the authorities of the Democratic Republic of Congo which have shown a lack of ability to carry out adequate safety oversight, they should be included in Annex A.

(18) 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: African Business and Transportations, Air Charter Services, Air Plan International, Air Transport Service, ATO – Air Transport Office, Congo Air, Dahla Airlines, DAS Airlines, Espace Aviation Services, Funtshi Aviation Service, GR Aviation, JETAIR – Jet Aero Services, Kinshasa Airways, Okapi Airways, Scibe Airlift, Shabair, Trans Service Airlift, Waltair Aviation, Zaire Aero Service (ZAS). Since these carriers certified in the Democratic Republic of Congo have consequently ceased their activities, they should be withdrawn from Annex A.

Air carriers from Liberia

(19) The authorities of Liberia have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following air carriers: Air Cargo Plus, Air Cess (Liberia), Air Liberia, Atlantic Aviation Services, Bridge Airlines, Excel Air Services, International Air Services, Jet Cargo-Liberia, Liberia Airways,

Liberian World Airlines, Lonestar Airways, Midair Limited, Occidental Airlines, Occidental Airlines (Liberia), Santa Cruise Imperial Airlines, Satgur Air Transport, Simon Air, Sosoliso Airlines, Trans-African Airways, Transway Air Services, United Africa Airlines (Liberia). Since these carriers certified in Liberia have consequently ceased their activities, they should be withdrawn from Annex A.

Air carriers from Sierra Leone

(20) The authorities of Sierra Leone have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following air carriers: Aerolift, Afrik Air Links, Air Leone, Air Salone, Air Sultan Limited, Air Universal, Central Airways Limited, First Line Air, Inter Tropic Airlines, Mountain Air Company, Orange Air Services, Pan African Air Services, Sierra National Airlines, Sky Aviation, Star Air, Transport Africa, Trans Atlantic Airlines, West Coast Airways. Since these carriers certified in Sierra Leone have consequently ceased their activities, they should be withdrawn from Annex A.

Air carriers from Swaziland

(21) The authorities of Swaziland have provided the Commission with evidence of the withdrawal of the Air Operator's Certificates of the following air carriers: African International Airways, Air Swazi Cargo, East Western Airways, Galaxy Avion, Interflight, Northeast Airlines, Ocean Air, Skygate International, Swazi Air Charter, Volga Atlantic Airlines. Since these carriers certified in Swaziland have consequently ceased their activities, they should be withdrawn from Annex A.

(22) The authorities of Swaziland and South Africa have provided sufficient evidence that the Air Operator's Certificate issued to African International Airway’s under the aegis of the CAA of Swaziland has been withdrawn, and that the air carrier is now operating under a new Air Operator's Certificate issued by the CAA of South Africa which therefore has the responsibility for its safety oversight. Therefore, on the basis of the common criteria, and without prejudice to verification of effective compliance with the relevant safety standards through adequate ramp inspections, it is assessed that African International Airways should be withdrawn from Annex A.

Air Service Comores

(23) In reply to an inquiry by the civil aviation authority of France, Air Service Comores indicated that an action plan had been established in order to correct the safety deficiencies identified during ramp inspections. However, there is still no evidence of the implementation of an appropriate action plan for all operations of Air Service Comores.

(24) The authorities of Comoros with responsibility for regulatory oversight of Air Service Comores have provided the Civil Aviation Authorities of France with sufficient information about the safety of operations with respect to the specific aircraft LET 410 UVP with registration mark D6-CAM.

(25) Therefore, on the basis of the common criteria, it is assessed that Air Service Comores meets the relevant safety standards only for flights operated with the aircraft LET 410 UVP with registration mark D6-CAM. Consequently Air Service Comores should be subject to operational restrictions and should be moved from Annex A to Annex B.

Ariana Afghan Airlines

(26) Ariana Afghan Airlines submitted a request to be withdrawn from the Community list, provided some documentation in support of this request and showed strong disposition towards cooperation with the Commission and Member States. However, since the full implementation of an adequate corrective action plan by the carrier is not completed, the Commission considers that Ariana Afghan Airlines should be retained in the Community list.

(27) Ariana Afghan Airlines provided information indicating that it has ceased operations with the aircraft Airbus A-310 registered in France with marks F-GYYY, which has been sold.

(28) Therefore, the specific conditions applicable to the Community ban to Ariana Afghan Airlines have changed. The air carrier should be subject to a ban to all its operations and therefore remain included in Annex A.

Air Koryo

(29) Documentation submitted by Air Koryo and the Civil Aviation Authorities of the Democratic People's Republic of Korea (DPRK) indicates that the carrier has embarked upon a corrective action plan with the intention of aligning itself fully with the relevant safety standards in due time.

(30) Furthermore, the Civil Aviation Authorities of the Democratic People's Republic of Korea (DPRK) has stated that at present, Air Koryo is not permitted to operate any flights to European destinations unless the carrier equips itself with new aircraft which meet the relevant international safety standards.

(31) On the basis of the common criteria, it is assessed that Air Koryo still does not meet fully the relevant safety standards and therefore should be retained within Annex A.

Phuket Air

(32) Following the invitation of the air carrier, a team of European experts conducted a fact-finding mission to Phuket Air in Bangkok, Thailand between 11 to 15 September 2006. The report from this mission shows that while significant progress has been made by the carrier following its inclusion in the Community list, substantial safety deficiencies still remain to be rectified.

(33) Whilst acknowledging the effort made by the carrier towards achieving the level of progress noted in the report, as well as the strong disposition towards cooperation shown both by the carrier and the Thai Department of Civil Aviation,