Commission Regulation (EC) No 910/2006 of 20 June 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 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 910/2006

of 20 June 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

(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)] (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) 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[(3)], some Member States communicated to the Commission the identity of additional air carriers that are subject to an operating ban in its territory, together with the reasons which led to the adoption of such bans and any other relevant information.

(3) 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.

(4) 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.

(5) 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 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[4].

(6) 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.

Buraq Air

(7) Buraq Air provided evidence that the cargo operations which led to its inclusion in Annex B to Regulation (EC) No 474/2006 have been terminated.

(8) The authorities of Libya with responsibility for regulatory oversight of Buraq Air, gave assurance of compliance with the relevant safety standards by Buraq Air for its operations.

(9) Therefore, on the basis of the common criteria, and without prejudice to verification of effective compliance through adequate ramp inspections, it is assessed that Buraq Air should be allowed to operate within the Community and consequently removed from Annex B.

Air carriers from the Democratic Republic of Congo, Equatorial Guinea, Liberia, Sierra Leone and Swaziland

(10) The latest version of ICAO's code registry refers to air carriers certified by the authorities of the Democratic Republic of Congo, Equatorial Guinea, Liberia, Sierra Leone and Swaziland with responsibility for regulatory oversight which do not appear individually on the Community list.

(11) The authorities of the Democratic Republic of Congo, Liberia, Sierra Leone and Swaziland, with responsibility for regulatory oversight of these carriers, did not submit evidence showing that the latter have ceased their activities, when requested by the Commission.

(12) The authorities of Equatorial Guinea have informed the Commission on rapid progress in the withdrawal of the Air Operator's Certificates of air carriers, which do not meet the relevant safety standards. However, the provision of additional technical material by the authorities of Equatorial Guinea will be needed in order to allow the Commission to withdraw these air carriers from Annex A.

(13) The authorities of Equatorial Guinea have also informed the Commission that a corrective action plan has been established in order to implement and enforce the relevant safety standards in accordance with their obligations under the Chicago

Convention and carry out adequate safety oversight on the carriers certified in Equatorial Guinea. However the authorities of Equatorial Guinea indicated that the full implementation of this corrective action plan will require additional time.

(14) Therefore, in order to improve transparency and consistency, all the carriers certified in the Democratic Republic of Congo, Equatorial Guinea, Liberia, Sierra Leone and Swaziland whose existence is recorded in the latest version of ICAO's code registry should be included in Annex A.

Air West Co. Ltd

(15) There is verified evidence of serious safety deficiencies on the part of Air West Co. Ltd certified in Sudan concerning specific operations. These deficiencies have been identified by Germany, during ramp inspections performed under the SAFA programme[(5)].

(16) In reply to an enquiry by the civil aviation authority of Germany, Air West Co. Ltd 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 the specific operations for which safety deficiencies have been identified.

(17) The authorities of Sudan with responsibility for regulatory oversight of Air West Co. Ltd have not provided sufficient information about the safety of these specific operations by Air West Co, when concerns were raised by Germany and the Commission.

(18) A recent inspection conducted by Germany with respect to aircraft IL-76, registration mark ST-EWX yielded no serious finding[(6)].

(19) Therefore, on the basis of the common criteria, it is assessed that Air West Co. Ltd does not meet the relevant safety standards, except for flights operated with the aircraft IL-76, registration number ST-EWX and should, therefore, be included in Annex B with respect to any other operations.

Blue Wing Airlines

(20) There is verified evidence of non-compliance with specific safety standards established by the Chicago Convention. These deficiencies were identified by France, during a ramp inspection performed under the SAFA programme[(7)].

(21) Blue Wing Airlines did not respond adequately to an enquiry by the civil aviation authority of France and the Commission regarding the safety aspect of its operation.

(22) Therefore, on the basis of the common criteria, it is assessed that Blue Wing Airlines does not meet the relevant safety standards.

Sky Gate International Aviation

(23) While Sky Gate International Aviation's Air Operator's Certificate was issued by the Kyrgyz Republic, there is evidence showing that the airline does not have its principal place of business in Kyrgyzstan as indicated by the Kyrgyz civil aviation authority, contrary to the requirements of Annex 6 to the Chicago Convention.

(24) Sky Gate International Aviation did not respond adequately to enquiries by the civil aviation authority of United Kingdom and by the Commission regarding its principal place of business.

(25) The authorities of the Kyrgyz Republic with responsibility for regulatory oversight of Sky Gate International Aviation have not provided evidence of their ability to conduct the safety oversight operations of this carrier.

(26) Therefore, on the basis of the common criteria, it is assessed that Sky Gate International Aviation does not meet the relevant safety standards.

Star Jet

(27) While Star Jet's Air Operator's Certificate was issued by the Kyrgyz Republic, there is evidence showing that the airline does not have its principal place of business in Kyrgyzstan, contrary to the requirements of Annex 6 to the Chicago Convention.

(28) Star-Jet operates three Lockheed L-1011 Tristar aircraft whose serial numbers match the serial numbers for the three aircraft operated by Star Air certified by the authorities of Sierra Leone with responsibility for regulatory oversight and subject to an operating ban within the Community.

(29) Star Jet did not respond adequately to enquiries by the civil aviation authority of the United Kingdom and to the Commission regarding its principal place of business.

(30) The authorities of the Kyrgyz Republic with responsibility for regulatory oversight of Star Jet have not provided evidence of their ability to conduct the safety oversight operations of this carrier.

(31) Therefore, on the basis of the common criteria, it is assessed that Star Jet does not meet the relevant safety standards.

GST Aero Air Company

(32) The authorities of Kazakhstan with responsibility for regulatory oversight of GST Aero Air Company have provided Italy with a list of three aircraft with valid certificates of airworthiness and equipped with the necessary safety equipment. In addition they have informed Italy that a corrective action plan has been established in order to correct the safety deficiencies identified during ramp inspections performed by Italy on GST Aero Company[8].

(33) However there is still no evidence of the implementation of an appropriate action plan for the deficiencies which have been identified in the operational procedures of GST Aero Air Company.

(34) Therefore, on the basis of the common criteria, it is assessed that GST Aero Air Company does not meet the relevant safety standards and it should consequently remain included in Annex A.

Air carriers from Mauritania

(35) As envisaged in recital 99 of Regulation (EC) No 474/2006, an evaluation of the authorities of Mauritania with responsibility for regulatory oversight of Air Mauritanie and the undertakings under its responsibility should have been conducted before 23 May 2006. A team of European experts flew to Mauritania on 22 May 2006 for an evaluation visit. Its report shows that the common criteria for consideration of an operating ban of the Annex to the basic Regulation are not met. As a consequence, Air Mauritanie should not be put on the list of air carriers subject to an operating ban within the Community.

(36) The civil aviation sector in Mauritania has been going through a considerable change, in particular with the adoption of a full set of new civil aviation legislation. A further assessment of the progress in the implementation of the new legislation, requirements and procedures should be carried out in the first half of 2007.

General considerations concerning the other carriers included in the list

(37) No evidence of the full implementation of appropriate remedial actions by the other carriers included in the list established on 24 March 2006 and by the authorities with responsibility for regulatory oversight of these air carriers has been communicated to the Commission so far in spite of specific requests submitted by the latter. Therefore, on the basis of the common criteria, it is assessed that these air carriers should continue to be subject to an operating ban.

(38) The measures provided for in this Regulation are in accordance with the opinion of the Air Safety Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

2. Annex B is replaced by the 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.