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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.7.2008
COM(2008) 493 final

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

**pursuant to Article 37 of the Act of Accession of Bulgaria to the European Union
regarding a draft Regulation repealing Regulation (EC) No 1962/2006**

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By Regulation (EC) No 1962/2006¹, the Commission imposed safeguard measures in respect to Bulgaria in the area of civil aviation pursuant to Article 37 of the Act of Accession of Bulgaria resulting from a failure to implement commitments undertaken by Bulgaria in the context of accession negotiations with regard to Community policy in the area of aviation safety concerning economic activities with cross border effects. Following the imposition of the safeguard measures, the competent authority for civil aviation of Bulgaria proposed to and agreed with the European Aviation Safety Agency (EASA) a plan of corrective measures designed to remedy the safety shortcomings.

EASA was requested by the Commission to verify regulatory compliance of the Bulgarian Aviation Authorities in all aspects of safety affected by the safeguard measures imposed by Regulation (EC) No 1962/2006.

The Bulgarian civil aviation authority reacted promptly and submitted corrective actions to EASA which were implemented with the agreement of the Agency. In order to verify the effectiveness of implementation of these actions, EASA carried out a follow-up visit on 8 and 9 April 2008 and issued a statement of closure of findings on 24 April 2008.

Pursuant to Article 37 of the Act of Accession of Bulgaria to the European Union, the safeguard measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted when the relevant commitment is implemented. Bulgaria's successful implementation of the agreed corrective actions is considered sufficient to guarantee the capacity of the Bulgarian Civil Aviation Authority to ensure compliance with the common rules on safety, and therefore, pursuant to Article 37 of the Act of Accession of Bulgaria to the European Union, the Commission considers that the commitment of Bulgaria to fully apply the Community rules in the area of air transport is fulfilled and that the safeguard measures imposed by virtue of Regulation (EC) No 1962/2006 should be lifted.

Pursuant to the abovementioned Article 37, the Commission has the obligation to inform the Council in good time before revoking the European regulations and decisions establishing the safeguard measures, and to take duly into account any observations of the Council in this respect. Accordingly, by the present Communication the Commission formally informs the Council of its intention to adopt the measures presented in the Annex hereto.

The Commission shall adopt these measures taking due account of the observations of the Council on the subject matter.

¹ OJ L 408, 30.12.2006, p.8. Corrected version published in OJ L 47, 16.2.2007, p. 8.

ANNEXE

Draft

COMMISSION REGULATION (EC) No .../..

of

repealing Regulation (EC) No 1962/2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania to the European Union, and in particular Article 4(3) thereof,

Having regard to the Act of Accession of Bulgaria and Romania to the European Union, and in particular Article 37 thereof,

Whereas:

- (1) By Regulation (EC) No 1962/2006², the Commission imposed safeguard measures in respect to Bulgaria in the area of civil aviation pursuant to Article 37 of the Act of Accession of Bulgaria in order to address a serious breach of the functioning of the internal market for air transport, resulting from a failure to implement commitments undertaken by Bulgaria in the context of accession negotiations with regard to Community policy in the area of aviation safety concerning economic activities with cross border effects.
- (2) Following the imposition of the safeguard measures provided by Regulation (EC) No 1962/2006, the competent authority for civil aviation of Bulgaria (hereinafter referred to as "the Bulgarian CAA") proposed to and agreed with the European Aviation Safety Agency (EASA) a plan of corrective measures designed to remedy the safety shortcomings identified during previous visits by EASA and the Joint Aviation Authorities (JAA).
- (3) The Commission requested on 6 September 2007 EASA to verify regulatory compliance of the Bulgarian Aviation Authorities in all aspects of safety affected by the safeguard measures imposed by Regulation (EC) No 1962/2006, i.e. to verify the implementation of the agreed corrective action plan and the capacity of the Bulgarian CAA to implement the rules and ensure that they are properly respected as part of its oversight obligations.
- (4) This inspection visit was carried out by EASA from 26 to 30 November 2007 in application of Articles 24(1) and (5) and 54 of Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and

² OJ L 408, 30.12.2006, p.8. Corrected version published in OJ L 47, 16.2.2007, p. 8.

repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/26/EC³ and in accordance with the provisions of Commission Regulation (EC) No 736/2006 of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections⁴. Following this visit, EASA issued its report on 15 February 2008⁵.

- (5) In its report of the standardisation visit EASA noted a definitive improvement: all required Part M, Part 145, Part 147 approvals and all Part 66 licences have been issued. Also the Air Operator Certificates except for one have been issued according to European requirements. Hence, EASA was able to close 44 out of 45 findings in the area of airworthiness while it raised 12 new findings concerning processes of continuous oversight.
- (6) In its report, EASA also stated that since the previous inspection visit in November 2006, the Bulgarian CAA had taken drastic measures with regard to the airworthiness of all aircraft registered in Bulgaria.
- (7) Thus, the number of aircraft on the Bulgarian register had been reduced by nearly half due to the removal from the register of aircraft of former Soviet design falling under Annex II of Regulation (EC) No 216/2008. Also, the Bulgarian CAA has taken actions to limit or revoke non-complying approvals and certificates. The number of inspectors for continued airworthiness has increased from 8 to 12 (with, in addition, 3 new support staff). Furthermore, there has been a significant improvement in record keeping by the Bulgarian CAA over the last year, making the demonstration of the level of oversight clear to the inspectors of EASA. It was also noted that the Bulgarian CAA has put much effort into developing an Inspectors' Handbook covering the relevant requirements with associated check lists to be used by applicants for initial approvals or variation to existing approvals. Lastly, it was documented that comprehensive training has been carried out for both existing and new CAA staff, although certain areas such as approval of maintenance and reliability programmes, Reduced Visibility RVSM programmes were not particularly addressed.
- (8) At the same time, EASA concluded that further enhancements mainly in the area of airworthiness certification and continuous oversight were however still required to resolve the lack of assessment by the Bulgarian CAA of the effectiveness of the quality system common to operations, maintenance and flight crew licensing. In particular in this area, EASA raised one finding of non compliance pursuant to Article 13(d) of Regulation (EC) No 736/2006 evidencing significant standardisation concerns of non compliance in the area concerned and raising safety concerns if not promptly corrected. In parallel certain non compliances observed in the undertakings visited during this visit to verify the effectiveness of the oversight exercised by the Bulgarian CAA, confirmed the necessity for these authorities to propose corrective actions for another 10 findings pursuant to Article 13(c) to resolve these matters within 14 days.
- (9) The Bulgarian CAA reacted timely and submitted corrective actions to EASA which were implemented with the agreement of EASA. In order to verify the effectiveness of implementation of these actions, EASA carried out a follow-up visit on 8 and 9 April

³ OJ L 79, 19.3.2008, p. 1.

⁴ OJ L 129, 17.5.2008, p.10.

⁵ Final Report on the EASA Standardisation Inspection of the Republic of Bulgaria, Bulgarian Civil Aviation Administration, in the filed of European aviation safety regulation applicable in the area of continuing airworthiness, CAW.BG.11.2007 issued on 15 February 2008

2008 and issued a statement of closure of findings pursuant to Article 12(b) of Regulation (EC) No 736/2006 on 24 April 2008. The statements presented therein were further amended in a final version drawn up by EASA on 21 May, which was transmitted to the Commission on 26 May 2008.

- (10) On 15 May 2008, Bulgaria formally requested the Commission to review and remove the safeguard measures pursuant to Article 3 of Regulation (EC) No 1962/2006 motivating its request by referring to the statement of closure of findings issued earlier by EASA.
- (11) Pursuant to Article 37 of the Act of Accession of Bulgaria to the European Union, the safeguard measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted when the relevant commitment is implemented. Bulgaria's successful implementation of the agreed corrective actions is considered sufficient to guarantee the capacity of the Bulgarian CAA to ensure compliance with Regulation (EC) No 216/2008 and its implementing regulations.
- (12) The Commission considers therefore, that the commitment of Bulgaria to fully apply the Community rules in the area of air transport is fulfilled and that the safeguard measures imposed by virtue of Regulation (EC) No 1962/2006 should be lifted.
- (13) Pursuant to Article 37 of the Act of Accession of Bulgaria to the European Union, the Commission shall inform the Council in good time before revoking the European regulations and decisions establishing the safeguard measures, and it shall take duly into account any observations of the Council in this respect. Accordingly, the Commission informed the Council on [...].
- (14) The Council submitted its observations to the Commission on [...]. This Regulation takes due account of these observations,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1962/2006 is repealed.

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,

For the Commission

Member of the Commission