Basic information

2005/0008(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier See also Directive 2004/36/EC (Art 9 repealed) 2002/0014(COD) Amended by 2015/0277(COD) **Subject** 3.20.01 Air transport and air freight 3.20.01.01 Air safety	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	DE VEYRAC Christine (PPE-DE)	15/03/2005

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2654	2005-04-21

European Commission

Commission DG	Commissioner
Energy and Transport	

Key events

Date	Event	Reference	Summary
16/02/2005	Legislative proposal published	COM(2005)0048	Summary
12/04/2005	Committee referral announced in Parliament, 1st reading		
21/04/2005	Debate in Council		Summary
11/10/2005	Vote in committee, 1st reading		Summary

19/10/2005	Committee report tabled for plenary, 1st reading	A6-0310/2005	
15/11/2005	Debate in Parliament		
16/11/2005	Decision by Parliament, 1st reading	T6-0428/2005	Summary
16/11/2005	Results of vote in Parliament		
05/12/2005	Act adopted by Council after Parliament's 1st reading		
14/12/2005	Final act signed		
14/12/2005	End of procedure in Parliament		
27/12/2005	Final act published in Official Journal		

Technical information

Procedure reference	2005/0008(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	See also Directive 2004/36/EC (Art 9 repealed) 2002/0014(COD) Amended by 2015/0277(COD)
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/26829

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE362.688	21/09/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0310/2005	19/10/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0428/2005	16/11/2005	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03660/2/2005	14/12/2005	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0048	16/02/2005	Summary
	COM(2009)0710		

Follow-up document		11/01/2010	Summary
Follow-up document	SEC(2009)1735	11/01/2010	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1060/2005 OJ C 024 31.01.2006, p. 0015-0016	28/09/2005	
EU	Implementing legislative act	32006R0473 OJ L 084 23.03.2006, p. 0008-0013	22/03/2006	Summary
EU	Implementing legislative act	32006R0474 OJ L 084 23.03.2006, p. 0014-0028	22/03/2006	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2005/2111
OJ L 344 27.12.2005, p. 0015-0022 Summary

Delegated acts

Reference	Subject
2022/2989(DEA)	Examination of delegated act
2022/2988(DEA)	Examination of delegated act

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 14/12/2005 - Final act

PURPOSE : to grant each air passenger the right to be informed of the identity of the operating carrier.

LEGISLATIVE ACT : Regulation 2111/2005/EC of the European Parliament and of the Council 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.

CONTENT : This Regulation is part of a legislative process pursuing an efficient and coherent approach to reinforcing air safety in the Community. It establishes rules:

- on the establishment and publication of a Community list, based on common criteria, of air carriers which, for safety reasons, are subject to an operating ban in the Community;

and

- on informing air passengers of the identity of the air carrier operating the flights on which they travel.

As regards the establishment of the Community List, the Regulation states that with a view to reinforcing air safety, a list of air carriers that are subject to an operating ban in the Community (hereinafter referred to as the Community list) shall be established. Each Member State shall enforce, within its territory, the operating bans included in the Community list in respect of the air carriers that are the subject of those bans.

The common criteria for imposing an operating ban on an air carrier, which shall be based on the relevant safety standards, are set out in the Annex. The Commission may modify the Annex, in particular in order to take account of scientific and technical developments.

For the purpose of establishing the Community list for the first time, each Member State shall, by 16 February 2006, communicate to the Commission the identity of the 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. The Commission shall inform the other Member States of these operating bans. Within one month of receiving the information communicated by the Member States, the Commission shall, on the basis of the common criteria, decide on the imposition of an operating ban on the air carriers concerned and shall establish the Community list of air carriers on which it has imposed an operating ban.

Furthermore, the Community list shall be updated:

- to impose an operating ban on an air carrier and include this air carrier on the Community list, on the basis of the common criteria;

- to remove an air carrier from the Community list, if the safety deficiency or deficiencies that gave rise to the inclusion of the air carrier on the Community list have been remedied and there is no other reason, on the basis of the common criteria, to maintain the air carrier on the Community list;

- to modify the conditions of an operating ban imposed on an air carrier which is included on the Community list.

At least every three months, the Commission shall verify whether it is appropriate to update the Community list. Each Member State and the European Aviation Safety Agency shall communicate to the Commission all information that may be relevant in the context of updating the Community list. The Commission shall forward all relevant information to the other Member States.

As regards the publication of the list, the Community list and any modification thereto shall be published immediately in the Official Journal of the European Union. The Commission and the Member States shall take the measures necessary to facilitate public access to the Community list, as most recently updated, in particular through the use of the Internet. Air carriage contractors, national civil aviation authorities, the European Aviation Safety Agency and airports in the territory of the Member States shall bring the Community list to the attention of passengers, both via their websites and, where relevant, in their premises.

On information to passengers, upon reservation, the air carriage contractor shall inform the passenger of the identity of the operating air carrier or carriers, whatever the means used to make the reservation. Where the identity of the operating air carrier or carriers is not yet known at the time of reservation, the air carriage contractor shall ensure that the passenger is informed of the name or names of the air carrier or carriers that is or are likely to act as operating air carrier or carriers on the flight or flights concerned. In such case, the air carriage contractor shall ensure that the passenger is informed of the identity of the operating air carrier or carriers as soon as such identity is established. Wherever the operating air carrier or carriers is or are changed after reservation, the air carriage contractor shall, irrespective of the reason for the change, take immediately all appropriate steps to ensure that the passenger is informed of the change as soon as possible. In all cases, passengers shall be informed at check-in, or on boarding where no check-in is required for a connecting flight. The air carrier or the tour operator, as the case may be, shall ensure that the relevant air carriage contractor is informed of the identity of the operating air carrier or carriers as soon as this is known, in particular in the event of a change of such identity. If a ticket seller has not been informed of the identity of the operating air carrier, it shall not be responsible for not complying with the obligations provided for in this Article.

The obligation of the air carriage contractor to inform passengers of the identity of the operating air carrier or carriers shall be specified in the general terms of sale applicable to the contract of carriage.

The Regulation lays down provisions concerning the right to reimbursement or re-routing.

It should also be noted that by 16 January 2009, the Commission shall report to the European Parliament and to the Council on the application of this Regulation. The report shall be accompanied, where necessary, by proposals for the amendment of this Regulation.

Lastly, the application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

ENTRY INTO FORCE : 16/01/2006. Articles relating to the scope of information to passengers, information on the identity of the operating air carrier and the right to reimbursement or re-routing shall apply from 16 July 2006. The Article concerning penalties shall apply from 16 January 2007.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 16/02/2005 - Legislative proposal

PURPOSE: to grant each air passenger the right to be informed of the identity of the operating carrier.

LEGISLATIVE ACT: Regulation of the European Parliament and of the Council.

CONTENT: This proposed Regulation establishes rules to ensure that air passengers are informed about the identity of the air carrier operating the flights on which they travel and establishes an obligation of exchange of safety information between Member States.

It would apply to the provision of air transport services when the departure of the flight is from an airport in the territory of a Member State to which the Treaty applies or from an airport located in a third country, if the flight is part of a journey which started in the Community, provided the contracting carrier has an establishment in the Community.

It would apply regardless of whether the flight is scheduled or nonscheduled, and regardless of whether the flight is part of a package or not. It shall not affect the rights of passengers under Directive 90/314/EEC and Regulation 2299/89/EEC on a code of conduct for computer reservation systems. Member States shall publish a list of all air carriers which are banned from its airspace or which are subjected to traffic rights restrictions for safety reasons. This list shall be made available to all the Member States and to the Commission. The Commission shall publish a consolidated list of these air carriers and take the appropriate measures to facilitate this exchange of information.

The contracting carrier shall inform the passenger of the identity of the operating air carrier or carriers upon reservation and immediately notify the passenger if the operating carrier or carriers is changed after reservation irrespective of the reason of the change.

In due course, the Commission intends to make proposals to reinforce the current system of the safety inspections based on the Safety Assessment of Foreign Aircraft (SAFA) Directive 2004/36/EC. The Commission is currently examining how best to introduce changes in the most efficient way by making use of the possibilities offered by implementing measures affecting the content of the procedures annexed to the “SAFA” Directive.

Other, more far reaching measures, possibly through a modification of the Directive, could be to introduce and alert system ensuring that important safety issues are drawn to the attention of all the Member States inspectors and to issue a set of detailed procedures to be followed. Such a move would help improving the quality and standardisation of the data, enable a better analysis of the available information and allow an easier detection of problem areas. Also, modification proposals would take into account of international initiatives such as the IATA Operational Safety Audit (IOSA), which consists in providing a standardised audit programme based on internationally recognised standards and a structured system for the sharing of audit related information.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 22/03/2006 - Implementing legislative act

ACT : Commission Regulation 474/2006/EC establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation 2111/2005/EC of the European Parliament and of the Council.

CONTENT : the European Commission has today adopted the first EU list of airlines which are banned in the European Union. The black list has been compiled on the basis of national contributions and after an in-depth analysis with Member State experts. The list consists of 92 companies which face a complete ban and 3 companies which face operational restrictions.

Member States have informed the Commission since then of any flight bans or operating restrictions in their territory and of the reasons for such bans. The Commission invited all the airlines concerned to express their points of view and contacted the civil aviation authorities responsible for their regulatory oversight. Some airlines submitted their comments in writing, while others presented them orally to the Commission and to the Aviation Safety Committee.

Bans and operational restrictions are only imposed based on evidence of violation of objective and transparent criteria which are published in the above mentioned regulation. These criteria focus on the results of checks carried out in European airports; the use of poorly maintained, antiquated or obsolete aircraft; the inability of the airlines to rectify shortcomings identified during inspections; and the inability of the authority responsible for overseeing an airline to perform its task properly.

Member States reported that five countries have an inadequate system for regulatory oversight. One important consequence of the black list will be to root out the practice of flags of convenience whereby some countries issue Air Operation Certificates to dubious airline companies.

The list will be updated as often as is necessary and at least every three months.

ENTRY INTO FORCE : 24/03/2006.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 22/03/2006 - Implementing legislative act

ACT : Commission Regulation 473/2006/EC 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 2111/2005/EC of the European Parliament and of the Council.

CONTENT : Chapter II of the basic Regulation lays down procedures for updating the Community list of air carriers which are subject to an operating ban within the Community as well as procedures allowing the Member States, in certain circumstances, to adopt exceptional measures imposing operating bans within their territory.

This Regulation lays down detailed rules in respect of the procedures referred to in Chapter II of the basic Regulation. In particular, it specifies the information to be provided by the Member States when they request the Commission to adopt a decision under Article 4(2) of the basic Regulation to update the Community list by imposing a new operating ban, lifting an existing ban or modifying the attached conditions. It lays down conditions for the exercise of the rights of defence of the carriers subject to the decisions adopted by the Commission in order to update the Community list.

With regard to requests by Member States to update the Community list, the Regulation provides that the Member State concerned must provide to the Commission the information indicated in Annex A to the Regulation. The Commission will then inform the other Member States through their representatives in the Air Safety Committee in accordance with the procedures provided in the Committee's internal rules, as well as the European Aviation Safety Agency.

The Regulation also makes provision for joint consultation with the authorities with responsibility for regulatory oversight of the air carrier concerned.

On the question of air carriers' rights of defence, the Regulation provides that when the Commission is considering whether to adopt a decision under Article 4(2) or Article 5 of the basic Regulation, it shall disclose to the air carrier concerned the essential facts and considerations which form the basis for such decision. The air carrier concerned is given an opportunity to submit written comments to the Commission within 10 working days from the date of disclosure. If it so requests, the air carrier is permitted to present its position orally before a decision is reached.

Finally, the Regulation makes provision for exceptional measures adopted by a Member State . When a Member State has subjected an air carrier to an immediate operating ban in its territory as permitted by Article 6(1) of the basic Regulation, it must inform the Commission of the fact and communicate the information mentioned in Annex B. When a Member State has maintained or imposed an operating ban on an air carrier in its territory as permitted by Article 6(2) of the basic Regulation it must inform the Commission and communicate the information specified in Annex C.

ENTRY INTO FORCE : 24/03/2006.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 16/11/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Christine **DE VEYRAC** (EPP-ED, FR) and made several amendments to the proposal. The report was adopted with 577 votes in favour 16 against with 31 abstentions. Parliament backed its committee (please see the summary of 11/10/2005) and was in favour of the introduction of an EU-wide blacklist of airlines that do not meet safety requirements. Airlines that fail to comply will be subject to an operating ban throughout the EU. Also, passenger rights are to be strengthened by informing them of the identity of the operating carrier. Passengers will also have a right to compensation should the carrier be included on the blacklist after the reservation has been made. The Council agreed Parliaments amendments.

The common blacklist will be drawn up as follows:

-Each Member State should, within one month after the entry into force of the Regulation, communicate to the Commission the identity of the air carriers that are subject to an operating ban in its territory. The Commission informs the other Member States on these operating bans.

-Within one month after having received the information the Commission should, on the basis of common criteria, establish the blacklist. Air carriers concerned should be given the opportunity of being heard, if necessary using an urgency procedure.

-Air carriers are included on the blacklist if there is verified evidence of serious safety deficiencies, if there is a lack of ability and/or willingness to address safety deficiencies or if there is a lack of ability and/or willingness of the authorities responsible for the oversight of an air carrier to address safety deficiencies, to enforce the relevant safety standards or to oversee the aircraft.

-An air carrier which is subject to an operating ban could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.

-At least every three months, the Commission should verify whether it is appropriate to update the Community list, either to include a new carrier or to remove air carrier if the safety deficiency has been remedied. In order to efficiently update the list, the Member States and the European Aviation Safety Agency should communicate to the Commission all relevant information.

-The list will be published on the Internet and in the Official Journal. Also, air carriage contractors, national civil aviation authorities, the European Aviation Safety Agency and airports should bring the list to the attention of passengers, both via their websites and, where relevant, in their premises.

-The common blacklist does not preclude a Member State from reacting to an unforeseen safety problem by introducing an immediate operating ban in respect of its own territory. Member States may also impose an operating ban on an air carrier, not included on the list, "in view of a safety problem specifically affecting that Member State".

Parliament also strengthened information rights of passengers:

-The air carriage contractor selling the ticket has to inform the passenger of the identity of the operating air carrier or carriers, whatever the means used to make the reservation.

-Where the identity of the operating air carrier is not yet known at the time of reservation, the air carriage contractor should ensure that the passenger is informed as soon as such identity is established. --Wherever the operating air carrier is changed after reservation, passengers must be informed at check-in, or at the time of boarding at the latest.

-The air carrier or the tour operator, as the case may be, shall ensure that the relevant air carriage contractor is informed of the identity of the operating air carrier or carriers as soon as this is known, in particular in case of a change of such identity. If a ticket seller has not been informed of the identity of the operating air carrier, it shall not be responsible for not having complied with its obligations under the legislation.

-Parliament decided that passengers shall have the right to reimbursement or re-routing if the air carrier is included on the blacklist after the reservation has been made and the flight has therefore been cancelled.

Parliament, Council and Commission agreed on a compromise beforehand, so that the Council will accept Parliament's first reading without amending it. The regulation will enter into force 20 days after publication in the Official Journal, probably beginning of 2006.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 21/04/2005

Pending the first reading in the European Parliament, the Council unanimously adopted a partial general approach on the proposal for a Regulation on the information of air transport passengers on the identity of the operating carrier and on communication of safety information by Member States.

In the aftermath of the tragic air crash at Sharm-el-Sheikh on 3 January 2004, the Commission presented this proposal for a Regulation on 16 February 2005. The proposal aims at providing better information to air passengers on air carriers which for safety reasons have been refused permission to operate in one or more Member States, as well as on the identity of the air carriers operating the flights on which these passengers travel.

On the basis of the text of the Regulation as amended by the Council, passengers would be better informed than at present, in particular owing to:

• the publication by the Commission of a "black list" of all air carriers in respect of which Member States have, for safety reasons, refused permission to operate passenger services to their airports or to fly in their airspace. This list will reproduce, verbatim, the various national lists, mentioning the Member States in which the respective bans are in force.

• the obligation imposed on the contracting air carrier to ensure that the passenger is informed of the identity of the operating air carrier(s) when making a reservation. If the identity is not known at the time of reservation, the contracting air carrier must inform passengers of the air carriers which will probably operate the flight(s) concerned under its authority. In the latter case, the contracting air carrier must also inform passengers of the identity of the operating air carrier(s) as soon as such identity is established. The contracting air carrier must also ensure that the passenger is informed of any change in the operating air carrier and in any case the passenger must be informed, at the latest, at check-in. These rules will apply when:

(a) the departure of the flight is from an airport in the territory of a Member State to which the Treaty applies, or

(b) the departure of the flight is from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, if the contracting air carrier of the flight is a Community carrier; or

(c) the departure of the flight is from an airport located in a third country, if the flight is part of a contract of carriage that has been concluded in the Community and the carriage started in the Community.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 11/01/2010 - Follow-up document

The Commission presents its report on the application of Regulation (EC) N° 2111/2005 regarding the establishment of a Community list of air carriers subject to an operating ban within the Community ('EC list') as required under that Regulation. To date, the application of the Regulation has led to 12 updates of the EC list. Since the establishment of the first list in March 2006, the Commission has investigated more than 400 air carriers from more than 30 countries. At the time of its twelfth update (November 2009) the EC list comprised 5 individual carriers, as well as all carriers (at least 228) certified in 15 non - EU countries in Annex A and 8 air carriers in Annex B. The Commission notes that, with unfailing cooperation from the European Parliament and National Aviation Authorities of Member States, it has always adopted the agreed draft list within the shortest time possible, aware of the direct importance of these measures on aviation safety and on EU citizens travelling around the world.

An assessment of the functioning of the Regulation: the evolution of the EC list can be described as a success story from every angle. It is now regarded internationally as an effective tool in ensuring a high level of safety to the benefit of the travelling public by the enforcement of the relevant air safety standards. There have been a number of cases where air carriers subject to a ban have acknowledged that their safety performance fell below the internationally accepted standards and embarked upon remedial actions. As a result these air carriers have been removed from the list. This shows that the ban is a temporary and proportionate measure. In a number of instances States have acted proactively by either suspending the Air Operator's Certificates of the relevant air carriers or imposing strict restrictions on their operation into the airspace of Member States. Subsequently these States initiated comprehensive remedial actions whereby the suspension has been lifted. This process, whereby cases are solved through a cooperative exchange between the Commission and the parties concerned without the need to resort to a ban as a punitive measure of last resort, have been an increasing trend.

A clear indication of the relevance ascribed to the EC list beyond Europe, is the decision by a number of non-European States voluntarily to follow the list. Through regular exchange of safety information with ICAO the Commission has been able to refine its understanding of the safety situation in various regions in the world and been able to adapt its technical assistance projects.

The EC list has fostered a closer cooperation between the Community and non-EU countries as well as international organisations. Since 2005 the Commission has been financially contributing in various projects led by ICAO that are mainly intended to improve air safety, provide training to civil aviation administration personnel and further assistance regarding operations, aerodromes, ATM, environment.

Lessons for the future: the application of the EC list has demonstrated, on the one hand, that it is a successful tool for ensuring a high level of safety in the Community. On the other hand this tool cannot be seen as a blanket cover for the safety performance of airlines. It has twofold limitations: 1) inclusion on the EC list depends on available and verifiable information; 2) inclusion on the EC list constitutes an operating ban only to Europe, while banned airlines continue to fly to other regions of the world. Therefore, exchange of verifiable and reliable information needs to be promoted at the international level. The objective of establishing and maintaining a high level of safety world-wide can only be reached if ICAO safety standards are actually complied with. Therefore appropriate actions need to be taken to ensure that these standards are effectively respected both at the level of the State and by individual air carriers.

There are a number of areas where the Commission intends to further develop its policy both in terms of internal and external measures.

Internal measures: these include the following:

- ***refining the regulatory framework for imposing/removing operating bans***: the Commission will propose measures to clarify: actions to be taken by Member States affected by an attempted breach of the EC ban (including overflight); definitions of flights that are not affected by an operating ban (e.g. ferry flights, inspection flights, private flights, state flight, technical flights etc.); and a way to record the decision taken by countries around the world to limit the air operator certificates of their air carriers concerning flights into the EU;
- ***strengthening the EC SAFA Programme***: the Commission is looking to further refine the existing legal instruments by introducing minimum number of inspections by Member States to strengthen the reliability of the results of such inspections;
- ***modernising the EC system for accident investigation***: the Commission adopted proposals (COM(2009)0611) to modernise the existing legal framework on accident investigation and strengthen the EU's investigating capacity;
- ***increasing technical assistance projects and activities***: the Commission remains committed to various technical assistance projects to help civil aviation authorities to overcome their problems in the most effective way, notably in the African continent with the support of EASA.

International measures: these include the following:

- ***stronger ties with non-EU countries***: the Commission intends to strengthen its cooperation with strategic partners in order to facilitate the exchange of safety data and establish a network of trusted interlocutors for evaluating not only the safety aspects of various organisations in manufacture, operation, maintenance and training, but also the application of safety programmes at State level;
- ***broadening the exchange of safety data***: the results of the EC SAFA Programme as used in the application of Regulation 2111/2005 show that the Community is well equipped to cooperate with non-EU States by proposing to develop, at international level, a programme for ramp inspections of aircraft following procedures which are very familiar to the Community;

- ***world-wide banning of unsafe air carriers***: the application of Regulation (EC) 2111/2005 has demonstrated that the international community should consistently follow ICAO Standards and Recommended Practices (SARPS).To encourage respect for these standards, the Commission intends to propose that the Council of ICAO proceeds to a series of actions recommended in this report, including the open publication of significant safety concerns raised after USOAP audits for the information of the public at large.

Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 11/01/2010 - Follow-up document

The Commission presents a staff working document on the report regarding the application of Regulation (EC) N° 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community. It recalls that the need to adopt rules on this resulted from weaknesses in the enforcement of the internationally agreed safety standards – those of the 1944 Chicago Convention (creating ICAO - the International Civil Aviation Organisation) and its annexes. For this reason, the Regulation provided for the imposition of a total or a partial ban where substantiated evidence from objective, transparent and quantifiable criteria showed that ICAO safety standards were not being followed by air carriers.

Over the three years since it came into existence, its application has served as a clear demonstration of the value-added by the Community system in the field of air safety. Rather than being employed as a punitive instrument, the EC list has proved to be an **efficient dissuasive measure**, which, above all, seeks to identify ex ante, serious air safety deficiencies with potentially disastrous repercussions. It has also functioned as a strong incentive to air carriers and civil aviation authorities to continuously improve safety. Where a ban was agreed it was always a temporary measure which would last only until the air carriers and where appropriate, their regulatory authorities could prove that they had addressed the identified shortcomings and were meeting the relevant safety standards.

The report carries out an analysis of the common criteria for deciding the imposition of an operating ban. These common criteria are grouped in three areas: a) objective evidence showing deficiencies on the part of the air carrier; b) lack of ability or willingness by an air carrier to address safety deficiencies and c) lack of ability or willingness of the civil aviation authority with responsibility of oversight of the air carrier(s) in question to address safety deficiencies. It also looks at cooperation with third countries in the framework of Regulation (EC) No 2111/2005 and notes that the EC list has fostered a closer cooperation between the Community and non-EU countries as well as international organisations, in order to verify compliance by air carriers with the relevant safety standards and therefore improve international air safety oversight in general. In this context, besides its ever growing ties with ICAO Secretariat, the Commission has established several lines of communication with a number of States and organisations (e.g. Australia, Brazil, Canada, Iran, Japan, Morocco, Tunisia, the Russian Federation, Saudi Arabia, and the United States of America) for the exchange of safety-related information.

Close liaisons are also maintained with the International Air Transport Association (IATA) in order to ensure a better mutual understanding regarding the EC list.

The report gives details of the various ICAO led projects to which the Commission has been contributing. The application of the EC list has demonstrated, on the one hand, that it is a successful tool to contribute to ensuring a high level of safety in the Community. On the other hand this tool cannot be see as a blanket cover for the safety performance of airlines. It has twofold limitations: 1) inclusion on the EC list depends on available and verifiable information; 2) inclusion on the EC list constitutes an operating ban only to Europe, while banned airlines continue to fly to other regions of the world. Therefore, exchange of verifiable and reliable information needs to be further strengthened at the international level. Indeed the application of the EC list over the last three years has shown that the objective of establishing and maintaining a high level of safety world-wide can only be reached if ICAO safety standards are actually complied with. Therefore appropriate actions need to be taken to ensure that these standards are effectively respected both at the level of the State and by individual air carriers. The various areas where the Commission intends to further develop its policy both in terms of internal and external measures are presented in the Commission's report on the application of Regulation (EC) No 2111/2005.