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Delegations will find attached document D029684/02.

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Brussels, **XXX**
[...](2013) **XXX** draft

COMMISSION DECISION

of **XXX**

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(Text with EEA relevance)

COMMISSION DECISION

of **XXX**

authorising the Slovak Republic and the United Kingdom to derogate from certain common aviation safety rules pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹, and in particular Article 14(7) thereof,

Whereas:

- (1) The Slovak Republic and the United Kingdom requested to apply certain derogations to the common aviation safety rules contained in Commission Regulation (EU) No 1178/2011². Pursuant to Article 14(7) of Regulation (EC) No 216/2008, the Commission assessed the need for, and the level of protection emerging from, the derogations requested based on recommendations from the European Aviation Safety Agency ("the Agency").
- (2) The first derogation, requested by the Slovak Republic on 29 April 2013, concerned the requirements of the renewal of instrument rating ("IR") privileges and of passing again the IR theoretical knowledge examination and skill test, set out in points (c) and (d) of FCL.625 of Annex I (Part-FCL) to Regulation (EU) No 1178/2011. The Slovak Republic argued that those requirements were not appropriate where a pilot holds an equivalent IR on a third country licence which is compliant with Annex 1 to the Convention on International Civil Aviation signed in Chicago on 7 December 1944 ("ICAO Annex 1"). The Slovak Republic also gave reasons demonstrating that an equivalent level of protection would be achieved should the proposed derogation be granted. Based on the recommendation from the Agency, issued on 4 June 2013, the Commission concluded that the derogation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met.

¹ OJ L 79, 19.3.2008, p. 1.

² Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

- (3) The second derogation, requested by the Slovak Republic on 29 April 2013, concerned the requirement of the renewal of class or type ratings, set out in point (b) of FCL.740 of Annex I (Part-FCL) to Regulation (EU) No 1178/2011. The Slovak Republic argued that the requirement was not appropriate where a pilot holds an equivalent class or type rating on a third country licence which was compliant with ICAO Annex 1. The Slovak Republic also gave reasons demonstrating that an equivalent level of protection would be achieved should the proposed derogation be granted. Based on the recommendation from the Agency, issued on 4 June 2013, the Commission concluded that the derogation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met.
- (4) The third derogation, requested by the United Kingdom on 21 June 2013 and amended on 4 July, concerned the conditions of the revalidation of single-engine piston aeroplane class rating and touring motor glider class rating, set out in point (b)(1)(ii) of FCL.740.A of Annex I (Part-FCL) to Regulation (EU) No 1178/2011. The United Kingdom argued that the requirement was not appropriate for pilots who maintained instrument ratings and/or instructor ratings but did not hold other class or type ratings. The United Kingdom also gave reasons demonstrating that an equivalent level of protection would be achieved should the proposed derogation be granted. Based on the recommendation from the Agency, issued on 27 August 2013, the Commission concluded that the derogation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met.
- (5) The fourth derogation, requested by the United Kingdom on 10 July 2013, concerned the prerequisites to be complied with by applicants for an SFE certificate for aeroplanes, set out in point (a) of FCL.1010.SFE of Annex I (Part-FCL) to Regulation (EU) No 1178/2011. The United Kingdom argued that those prerequisites were incomplete, as they covered multi-pilot aeroplanes only, and not single-pilot high performance complex aeroplanes. The United Kingdom also gave reasons demonstrating that an equivalent level of protection would be achieved should the proposed derogation be granted. Based on the recommendation from the Agency, issued on 27 August 2013, the Commission concluded that the derogation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met.
- (6) In accordance with Article 14(7) of Regulation (EC) No 216/2008, a derogation granted to one Member State needs to be notified to all Member States, which would also be entitled to apply that measure. This Decision should therefore be addressed to all Member States. The description of the derogation, as well as the conditions attached to it, should be such as to enable other Member States to apply that measure when they are in the same situation, without requiring a further approval from the Commission. Nevertheless, Member States should exchange information on the application of the derogations in accordance with Article 15(1) of Regulation (EC) No 216/2008, as they may have effects outside the Member States to which derogations are granted.
- (7) The measures provided for in this Decision are in accordance with the opinion of the European Aviation Safety Agency Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Slovak Republic may grant approvals derogating from the following implementing rules provided for in Annex I (Part-FCL) to Regulation (EU) No 1178/2011:

(1) points (c) and (d) of FCL.625 'IR – Validity, revalidation and renewal' of that Annex, in favour of the rules laid down in section 1 of Annex I to this Decision, provided that conditions specified in section 2 of Annex I to this Decision are complied with;

(2) point (b) of FCL.740 'Validity and renewal of class and type ratings' of that Annex, in favour of the rules laid down in section 1 of Annex II to this Decision, provided that conditions specified in section 2 of Annex II to this Decision are complied with;

Article 2

The United Kingdom may grant approvals derogating from the following implementing rules provided for in Annex I (Part-FCL) to Regulation (EU) No 1178/2011:

(1) point (ii) of point FCL.740A(b)(1) 'Revalidation of class and type ratings — aeroplanes' of that Annex, in favour of the rules laid down in section 1 of Annex III to this Decision, provided that conditions specified in section 2 of Annex III to this Decision are complied with;

(2) point (a) of FCL.1010.SFE 'SFE — Prerequisites' of that Annex, in favour of the rules laid down in section 1 of Annex IV to this Decision, provided that conditions specified in section 2 of Annex IV to this Decision are complied with.

Article 3

All Member States shall be entitled to apply the measures referred to in Articles 1 and 2, as specified in the Annexes to this Decision. Member States shall notify the Commission, the Agency and the national aviation authorities thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Sim Kallas
Vice-President