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AVIATION 179

COVER NOTE

From:	European Commission
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To:	General Secretariat of the Council
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Subject:	COMMISSION DECISION of XXX authorising France to derogate pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council from certain common aviation safety rules concerning supplemental oxygen dispensing units and outlets in an aeroplane passenger compartment

Delegations will find attached document D034385/02.

Encl.: D034385/02



Brussels, XXX
[...] (2014) XXX draft

COMMISSION DECISION

of **XXX**

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COMMISSION DECISION

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authorising France to derogate pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council from certain common aviation safety rules concerning supplemental oxygen dispensing units and outlets in an aeroplane passenger compartment

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) France notified its intention to grant an approval derogating from the common aviation safety rules implementing Regulation (EC) No 216/2008 contained in Commission Regulation (EU) No 965/2012². Pursuant to Article 14(7) of Regulation (EC) No 216/2008, the Commission services assessed the need for, and the level of safety emerging from, the proposed derogation based on a recommendation of the European Aviation Safety Agency (hereinafter the Agency).
- (2) The proposed derogation, notified by France on 11 March 2014, concerns CAT.IDE.A.235(d) set out in Annex IV to Commission Regulation (EU) 965/2012, which requires pressurised aeroplanes certified to operate above 25 000 feet to have oxygen dispensing units and outlets for at least 10% more passengers than the number of seats in the passenger compartment. This excess requirement is intended to ensure additional masks for small children who may not be assigned a seat and for cabin attendants (or passengers) who might not be in their assigned seat in the event of decompression when emergency oxygen is required.
- (3) The proposed derogation concerns commercial air transport operations with the aeroplanes Socata TBM 700 and 850 which have a maximum capacity of six occupants, including flight crew, while no cabin crew is required for their operation. Those aeroplanes, which are subject to the requirement of CAT.IDE.A.235 (d), are equipped by as many supplemental oxygen dispensing units in the cabin as passenger seats and thus they do not comply with that requirement. France explained that

¹ OJ L 79, 19.3.2008, p. 1.

² Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 5.10.2012, p. 1).

derogation from that requirement is necessary so as to ensure that those aeroplanes can continue to be operated.

- (4) In order to guarantee an equivalent level of protection, France proposes to limit the number of passengers in the operation of those aeroplanes, so that the number of passengers, including infants, does not exceed the number of oxygen dispensing units and outlets available in the cabin.
- (5) Based on the recommendation of the Agency, issued on 16 April 2014, the Commission concluded that the proposed 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 decision by the Commission that a Member State may grant a proposed derogation needs to be notified to all Member States, which would also be entitled to apply the measure in question. 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 also apply that measure when they are in the same situation, without requiring a further decision by the Commission. Member States should exchange information on the application of the measure where they apply it, in accordance with Article 15(1) of Regulation (EC) No 216/2008, as this application may have effects outside the Member States that grant the derogation.
- (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

1. France may grant approvals derogating from CAT.IDE.A.235 (d) set out in Annex IV to Regulation (EU) No 965/2012 for commercial air transport operations with the aeroplanes Socata TBM 700 and 850 having a number of oxygen dispensing units and outlets in the passenger compartment equal to the number of seats.
2. The derogations shall be subject to compliance with both of the following conditions:
 - (a) no cabin crew is required for the operations of the aeroplanes referred to in paragraph 1;
 - (b) the number of passengers, including infants, does not exceed the number of oxygen dispensing units and outlets available at each seat of those aeroplanes.

Article 2

All Member States shall be entitled to apply the measure referred to in Article 1. Member States applying this measure shall notify the Commission, the Agency and the national aviation authorities thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Siim Kallas
Vice-President