



Brussels, 11 December 2017

## NOTICE TO OPERATORS SUBJECT TO UNION LEGISLATION IN THE FIELD OF AIR TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement<sup>1</sup> establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.<sup>2</sup>

The aviation sector is highly integrated and harmonised at Union level. The current market access and freedoms enjoyed by aviation stakeholders have been granted under Union law, including notably free and unlimited access to intra-EU air traffic.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all operators are reminded of certain legal repercussions stemming from currently applicable rules of Union law in the field of air transport when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of aviation no longer apply to the United Kingdom. This has in particular the following consequences in the different areas of Union law in the field of air transport:

### 1. OPERATING LICENCES

#### **Air carriers holding EU operating licences:**

In order to obtain and keep an EU operating licence and benefit from the intra-EU air traffic rights, air carriers must comply at all times with the conditions under Article 4 of Regulation (EC) No 1008/2008 on air services<sup>3</sup>. The conditions include, among others, the need to have one's principal place of business<sup>4</sup> within an EU Member State, and to be

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<sup>1</sup> Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

<sup>2</sup> A third country is a country not member of the EU.

<sup>3</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

<sup>4</sup> 'Principal place of business' means the head office or registered office of a Community air carrier in the EU Member State within which the principal financial functions and operational control, including

majority owned and effectively controlled by EU Member States and/or nationals of EU Member States. If the conditions are no longer fulfilled as a consequence of the United Kingdom becoming a third country, the operating licence at issue will no longer be valid.

**Air carriers holding an operating licence delivered by the UK authorities:**

As of the withdrawal date, the operating licences granted to airlines by the United Kingdom Civil Aviation Authority will no longer be valid EU operating licences.

In order to continue benefitting from the freedoms of establishment and to provide air services within the EU internal market as of the withdrawal date, air carriers are advised to consider any measure required to ensure that the conditions for holding an EU operating licence are complied with in all circumstances.

**2. INTERNATIONAL ASPECTS**

As of the withdrawal date, the United Kingdom will automatically cease to be covered by air transport agreements of the Union, whether these have been entered into by the Union alone (e.g. the Air Transport Agreement with Switzerland<sup>5</sup>) or by the Union and its Member States acting jointly (e.g. the Air Transport Agreement with the USA<sup>6</sup>). This has in particular consequences as regards access to designation/traffic rights and other areas covered by the said agreements.

**Air carriers of the United Kingdom:**

Air carriers of the United Kingdom will no longer enjoy traffic rights under any air transport agreement to which the Union is a party, be it to or from the territory of the United Kingdom, be it to or from the territory of any of the EU Member States.

Air carriers of the United Kingdom will no longer have access to designation/traffic rights so far available under the bilateral air transport agreements between EU Member States and a third country on account of the principle of EU designation accepted by the third country concerned.

**Air carriers of any of the EU Member States:**

Air carriers of the EU Member States will no longer enjoy traffic rights to or from the territory of the United Kingdom granted to Union carriers by a third country under any air transport agreement to which the Union is a party.

Rights under the said agreements as regards, inter alia, cooperative market arrangements including leasing, intermodal service or operational flexibility may be affected if, and to the extent to which, they are exercised in the territory of the United Kingdom or in connection with carriers of the United Kingdom.

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continued airworthiness management, of the Community air carrier are exercised (Article 2(26) of Regulation (EC) No 1008/2008).

<sup>5</sup> Agreement between the European Community and the Swiss Confederation on Air Transport, OJ L 114, 30.4.2002, p. 73.

<sup>6</sup> Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand, OJ L 134, 25.5.2007, p. 4.

Air carriers of the EU Member States may no longer have access to designation/traffic rights so far available under the bilateral air transport agreements between the United Kingdom and a third country on account of the principle of EU designation accepted by the third country concerned.

**Air carriers of countries which are not Member States of the EU:**

Air carriers of countries which are not Member States of the EU will no longer benefit from access to traffic rights to or from the territory of the United Kingdom, or any other rights where these have been granted to their country under any air transport agreement to which the Union is a party.

**3. AVIATION CERTIFICATES AND LICENCES**

Further information on aviation certificates and licences, as well as other aviation safety related questions, including aviation safety agreements, will be made available on EASA's website at the following link: <https://www.easa.europa.eu/>.

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The Commission services stand ready to provide further clarifications to interested stakeholders. The website of the Commission on air transport ([https://ec.europa.eu/transport/modes/air\\_en](https://ec.europa.eu/transport/modes/air_en)) provide for general information. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General for Mobility and Transport