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2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF AVIATION SECURITY AND MARITIME SECURITY

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 agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

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

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, EU airport operators, operators providing services at EU airports and entities providing goods and/or services to or through EU airports (aviation security), as well as operators of maritime transport services (maritime security) are reminded of legal repercussions, which need to be considered 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 security and maritime security no longer apply to the United Kingdom. This has in particular the following consequences:⁴

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ Stakeholders are reminded that Commission services have published notices on other aspects related to the withdrawal of the United Kingdom and the consequences for air transport and maritime transport, including transport safety, access, and passenger rights. All notices are available here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

1. AVIATION SECURITY

Regulation (EC) No 300/2008⁵ lays down common rules and basic standards on aviation security and procedures to monitor the implementation of the common rules and standards.

Commission Implementing Regulation (EU) No 2015/1998⁶ lays down detailed measures for the implementation of the common basic security standards as set out in Article 4 and the Annex to Regulation (EU) No 300/2008.

As of the withdrawal date, the EU aviation security rules and standards with regard to passengers, baggage, and freight arriving from a third country, particularly on transfer onto a connecting flight, will apply to passengers, baggage and freight arriving from the United Kingdom. This implies in particular the following as of the withdrawal date:

- Aircraft search: In accordance with Chapter 3.1.1.3 of the Annex to Commission Implementing Regulation (EU) 2015/1998, an aircraft arriving into a critical part from the United Kingdom will be subjected to an aircraft security search any time after passenger disembarkation from the area to be searched and/or the unloading of the hold.

This would no longer apply should the United Kingdom at one point be listed in attachment 3-B of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Hold baggage: In accordance with Chapter 5 of the Annex to Commission Implementing Regulation (EU) 2015/1998, hold baggage of an inbound flight from the United Kingdom will be subject to security screening procedure when transferring onto a connecting flight. This means that before the hold baggage is loaded into an aircraft for the next flight, it has to undergo rescreening to the EU standard.

This would no longer apply should the United Kingdom at one point be listed in attachment 5-A of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Passengers and their cabin baggage: In accordance with Chapter 4 of the Annex to Commission Implementing Regulation (EU) 2015/1998, passengers of a flight originating from the United Kingdom will have to undergo another set of security screening procedure when transferring onto a connecting flight.

This would no longer apply should the United Kingdom at one point be listed in attachment 4-B of the Annex to Commission Implementing Regulation (EU) 2015/1998.

⁵ Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security, OJ L 97 9.4.2008, p. 72.

⁶ Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security, OJ L 299, 14.11.2015, p. 1.

- Cargo and mail – Approval of Regulated Agents and Known Consignors in the EU: In accordance with Chapters 6.3 and 6.4 of the Annex to Commission Implementing Regulation (EU) No 2015/1998, EU-based entities approved as Regulated Agents or Known Consignors by an EU Member State shall be recognised in all EU Member States.

The recognition in all Member States of approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. Regulated Agents and Known Consignors approved by the appropriate authority of the United Kingdom will no longer be part of the EU secure supply chain.

- Cargo and mail and airport and in-flight supplies – EU Aviation Security Validators' approvals: In accordance with Chapter 11.6 of the Annex to Commission Implementing Regulation (EU) No 2015/1998 (point 11.6.4.2), natural and legal persons approved as EU aviation security validators by an EU Member State shall be recognised in all EU Member States.

The recognition in all Member States of EU aviation security validators approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. Holders of such approvals will no longer be empowered to carry out EU aviation security validations in accordance with Regulation (EU) No 2015/1998.

- Cargo and mail - Designation of air carriers: In accordance with Chapter 6.8.1 of the Annex to Commission Implementing Regulation (EU) 2015/1998, air carriers - no matter if established in the EU, in the United Kingdom, or in another third country - that transport air cargo and mail from an airport located in the United Kingdom into the EU will have to be designated by the appropriate authority of an EU-27 Member State as "Air Cargo or Mail Carrier operating into the European Union from a Third Country Airport" (ACC3) and ensure implementation of certain security measures. The ACC3 designation is based on a process called EU aviation security validation, consisting of an assessment of the operator's security programme and an on-site verification of the security operations at the location (departure airport or warehouse).

This would no longer apply should the United Kingdom at one point be listed in attachments 6-Fi or 6-Fii of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Cargo and mail - Designation of the entities and operators part of the supply chain of the ACC3 air carrier: In accordance with Chapters 6.8.4 and 6.8.5 of the Annex to Commission Implementing Regulation (EU) 2015/1998, entities and operators part of the supply chain of the ACC3 air carrier mentioned above will have to be designated as "Third Country Known Consignors" (KC3) or "Third Country Regulated Agent" (RA3) by the appropriate authority of an EU-27 Member State. The RA3/KC3 designations are based on a process called EU aviation security validation, consisting of an assessment of the operator's security programme and an on-site verification of the security operations at the location (departure airport or warehouse).

This would no longer apply should the United Kingdom at one point be listed in attachment 6-Fi or 6-Fii of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Cargo and mail - Recognition of ACC3/KC3/RA3 designations: According to Chapters 6.3.1.6, 6.4.1.6, 6.8.1.5, and 6.8.4.7 of the Annex to Commission Implementing Regulation (EU) 2015/1998, ACC3/KC3/RA3 designations by the appropriate authority of an EU Member State shall be recognised in all EU Member States.

The recognition in all Member States of designations by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. As a result, all carriers and cargo operators in third countries that have been designated by the authority of the United Kingdom will be required to hold, as of the withdrawal date, the ACC3/KC3/RA3 status accorded by the appropriate authority of an EU-27 Member State.

- Regulated suppliers: In accordance with Chapter 8.1.3 of the Annex to Commission Implementing Regulation (EU) 2015/1998, regulated suppliers (some airport suppliers as well as in-flight suppliers) have to be approved by the appropriate authority. According to Chapter 8.1.3.5 of Commission Implementing Regulation (EU) 2015/1998, the approval of a regulated supplier by an EU Member State shall be recognised in all EU Member States.

The recognition in all Member States of approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. As a result, regulated suppliers approved by the appropriate authority of the United Kingdom will be required to hold, as of the withdrawal date, the approval of an appropriate authority of an EU-27 Member State.

2. MARITIME SECURITY

Regulation (EC) No 725/2004 on enhancing ship and port facility security⁷ and Directive 2005/65/EC on enhancing port security⁸ set out the EU rules on maritime security.

- Article 6 of Regulation (EC) No 725/2004 requires the competent authority for maritime security of the Member State to request ships announcing their intention to enter a port to provide certain security information. According to Article 7(1),(2) of Regulation (EC) No 725/2004, Member States can request each other, for international scheduled services operated between them, to exempt these services from providing this mandatory security information. As of the withdrawal date, this possibility, as provided by Regulation (EC) No 725/2004, no longer exists for the United Kingdom. This means that, as of the withdrawal date, all scheduled services falling within the scope of Article 6 of

⁷ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, OJ L 129, 29.4.2004, p. 6.

⁸ Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security, OJ L 310, 25.11.2005, p. 28.

Regulation (EC) No 725/2004, such as ferry links between the United Kingdom and EU Member States, will be subjected to the mandatory provision of security information set out therein.

- According to Article 16(2) of Directive 2005/65/EC, the personnel carrying out security inspections or handling confidential information (including the personnel of recognised security organisations, see Article 11 of Directive 2005/65/EC) requires a security vetting of the Member State of which the person concerned is a national. This means that United Kingdom personnel (thus holding a security clearance from the United Kingdom) can no longer carry out the security inspections referred to in this Directive. The same applies for inspections under Regulation (EC) No 725/2004 (for International Ship and Port Facility Security (ISPS) compliance), pursuant to Article 12 thereof.

The websites of the Commission on aviation security (https://ec.europa.eu/transport/modes/air/security_en), and maritime security (https://ec.europa.eu/transport/modes/maritime/security_en) provide for general information concerning the rules for transport security in the Union. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport