



General Aviation
Manufacturers Association



Michel Barnier
European Chief Negotiator for Brexit
European Commission

07 June 2018

Dear Mr Barnier,

UK and EU27 need to allow technical planning conversations between EASA and the CAA

ADS Group is the UK trade association representing more than 1,000 businesses in the Aerospace, Defence, Security and Space sectors. With a combined turnover of around £74bn (€85bn), ADS member companies work in global sectors with operations, customers and suppliers across Europe and the wider world.

The General Aviation Manufacturers Association (GAMA) is an international trade association representing the majority of the world's leading manufacturers of general aviation aeroplanes and rotorcraft (including business aviation), engines, avionics, and related equipment. GAMA's members also manage fleets of aircraft, airport fixed-based operations, pilot training, and maintenance facilities worldwide.

These are truly international sectors where collaboration between companies in countries across Europe and elsewhere has helped to develop the modern products that are designed and manufactured today in facilities in the UK and the EU27. From complex parts and components moving efficiently throughout the continent, to the continued sharing of expertise and technology, Europe's aerospace, defence, security and space sectors are thriving, with close relationships between businesses across borders. These four sectors in Europe together generate over £193bn (€222bn) for the EU economy, invest £18bn (€20bn) in research and development every year, and offer high-skilled, high-quality jobs to more than 850,000 people.

As we are now less than one year from the UK's exit from the EU, the concerns of our sectors are growing more pressing. The ongoing uncertainty on aviation safety arrangements means companies face being forced to make investment decisions in the coming weeks and months based on the worst case scenario. This does not benefit the UK or the EU27, and the impact as these irreversible decisions are taken will be felt in supply chains and operations across the whole of Europe and beyond.

As you said in your speech of 13 March to the European Parliament: "time is running out... for the work that will need to be done in each of our countries and together, with our stakeholders, to prepare for the inevitable consequences."

The European aviation industry as a whole cannot afford any unintended consequences that arise from legal uncertainties. Any ambiguity in the legal status of UK certified designs and parts could result in aircraft being unable to fly anywhere. Similarly, uncertainty about the status of aircraft maintenance approvals, pilot and maintenance training approvals as well as pilot and technician licences threaten the continued operation of aircraft across Europe. The transfer of responsibilities to EASA from national authorities in 2003 was not a smooth process: some scenarios had not been entirely thought through,



and aircraft were grounded as a result as companies and regulators struggled to catch-up with new arrangements.

In order to avoid a similar scenario unfolding in March 2019, our risk analysis concludes that the European Aviation Safety Agency (EASA) and the UK's Civil Aviation Authority (CAA) need to urgently begin technical and contingency planning discussions by the June European Council, and separate to the political negotiations.

These discussions would provide the European aviation industry with much needed clarity on the status of the relationship between the UK and the EU under the two most likely scenarios:

- **The Withdrawal Agreement (WA) is not ratified before the EU exit date.** As set out in the European Commission Notice to Stakeholders on the Withdrawal of the UK and European Aviation Safety Rules, the EU civil aviation rules will no longer apply to the UK if there is no transition period agreed as part of a potential Withdrawal Agreement.

This scenario would have significant consequences for European aerospace supply chains and the ability for aircraft (with parts made or maintained in the UK) to keep flying in the EU, or in countries which accept EU airworthiness approvals. If EASA approvals no longer apply to the UK then any aircraft containing engines, parts and spares manufactured in the UK will not be able to fly under EASA's jurisdiction, nor will any aircraft possessing a Type Certificate (TC) associated with a UK Design Organisation Approval (DOA). Holders of EASA TCs in the UK would not be able to deliver products such as engines and propellers to EU manufacturers, thereby stopping aircraft production in the EU.

- **The WA is ratified before midnight, 29 March 2019.** This would mean the negotiated transitional period would come into force until 31 December 2020. As the draft of the Withdrawal Agreement makes clear, EU law and references to Member States, including the EASA Basic Regulation, would continue to include the UK. The draft text also indicated that the EU would notify third countries of this status.

Under this scenario there will be time during a transition to finalise the details of a UK/EU aviation deal, but it would need to be established whether third countries would accept the terms of agreement between the UK and EU. If even a minority would not, this could prevent aircraft with UK-based approvals operating effectively in those countries, as this raises the risk that parts and spares would be stopped at third country borders, to the detriment of the European aviation sector as a whole.

In both scenarios, our analysis has identified a range of actions that both EASA and the UK's CAA will need to take, with dates by which action should be completed, to give the aviation industry across Europe and in third countries the greatest possible regulatory continuity regardless of the outcome.

Ideally these points would be addressed in a separate aviation deal agreed prior to March 2019, covering aviation access, security and safety agreements, which would provide the necessary certainty for businesses.



1. **Formalising the EU-UK future aviation relationship:** A Withdrawal Agreement would put the future relationship on a legal footing, but a no deal scenario would require that alternative arrangements are in place to ensure legal certainty from the moment of UK exit on 29 March 2019.
 - ***If the WA is not ratified:*** A formal bilateral agreement will be necessary in order for EASA to legally recognise UK design, production, maintenance and training (DOA, POA, MOA and ATO) approvals, as well as pilot and aircraft maintenance licences, which would in this case be issued by the CAA. This would be the 'bare-bones EU-UK agreement' referred to in the January 2018 Task Force 50 slides on aviation, necessary to maintain a basic level of continuity. Discussions should commence on this as soon as possible, as it would be necessary for a drafted bilateral to be known in a final form from 01 October 2018 to provide the required certainty for European industry.

Without such an agreement, the European aerospace industry could find that aerospace parts manufactured in the UK and issued with a CAA approval would not be legally approved for use in the EU. Clearly an inability to approve UK-parts for use would be very damaging for the entire European industry, as this would both halt aerospace production lines and ground airlines and operators across Europe due to the integrated nature of the European aviation sector.

- **Type certification:** For those aircraft, engines and propellers manufactured in the UK, the CAA would become the issuer of Type Certificates (TCs) instead of EASA, and a working arrangement will be necessary both for EASA to recognise a CAA TC and the UK to recognise EASA TCs. Such recognition is based on the development of mutual confidence through technical exchanges over time; this cannot be achieved in a short period before 29 March 2019 but must be built up over a period of months beforehand. As such, it cannot commence later than 01 October 2018. This would be crucial, as a UK departure from EASA on 29 March 2019 could leave entire aircraft types flown across Europe without legally valid certification and so unable to fly. Clearly this is a deeply undesirable outcome for the entire European and global aviation industry.

Action will be required on a number of issues due to UK departure from the EU both with and without a Withdrawal Agreement. As such, EASA and the CAA should urgently begin discussions to address the following issues:

2. **Planning notifications regarding Working Arrangements with third countries:** EASA has working arrangements with over thirty third countries which govern the relationship between them and the EU aviation sector.
 - ***If the WA is ratified:*** A continued relationship which maintains the UK as a third-country member of EASA, covered by its approvals and safety regime, would apply these Working Arrangements to the UK. This will need to be officially conveyed by EASA and the CAA to third countries, which may have practical concerns over the technical relationship between the UK and EU after Brexit. In order to ensure continuation of these working arrangements is accepted internationally, and to ensure flights can continue unhindered, communicating these notifications should begin no later than the time of the European Council on 18 October 2018. Our preparatory work suggests this is the minimum time necessary for notifications to be accomplished.



- **If the WA is not ratified:** In anticipation of this outcome, the UK is preparing to bring the EU aviation acquis into UK law, and will establish regulatory processes independent of the EASA system. Effective preparation for this requires a handover of contacts and information from EASA to the CAA, which would then be responsible for the UK's external aviation relations. In order to ensure the continuity of aviation services across Europe if the Withdrawal Agreement is not ratified, our analysis suggests that the handover should begin no later than 01 January 2019.

In either scenario the, CAA and EASA need to begin planning notifications regarding Working Arrangements with third countries no later than 18 October 2018.

3. Ensuring legal certainty on bilateral aviation safety agreements (BASAs): The EU has BASAs agreed with Brazil, Canada and the US, as well as a Chinese bilateral negotiated but not yet signed, and a Japanese bilateral beginning negotiations.

- **If the WA is ratified:** The EU and UK have agreed that the UK will continue to be covered by these agreements during the transition period, but work needs to be undertaken to understand whether such an agreement will be accepted as sufficient legal standing for continued UK aircraft operations. This will require third country confidence in the agreement between EASA and the CAA. Establishing this should start by 01 October 2018, with conversations involving both the CAA and EASA, following political agreement of the Withdrawal Agreement.
- In the case of the Chinese BASA, depending on the date it is effective, discussions will need to take place whether the UK-China relationship will proceed from the basis of the current EASA working arrangements, or the BASA.
- **If the WA is not ratified:** We understand the UK is preparing to swiftly conclude its own bilateral agreements to mirror the existing EU ones. A transition from EASA responsibilities to the CAA will need to take place as result, depending on the nature of the UK agreements concluded. This should commence by no later than 01 January 2019.

4. Providing notice of regulatory continuity or change to industry stakeholders: It will be necessary for EASA and the CAA to make a communication to all industry stakeholders, European and worldwide.

- **If the WA is ratified:** Communication will have to commence by no later than the beginning of the ratification period once a Withdrawal Agreement has been negotiated and is required in order that implementation measures can be put in place by 29 March 2019. Such a communication will be necessary to spell out the implementation environment for industry in the UK, EU27 and internationally.

The longer European industry faces uncertainty, the more likely commercial decisions will be made which would lead to significant costs and disruption for businesses. Even notifying that nothing will change in practice with the EU-UK aviation governance regime will not be a straightforward exercise, and it will also involve technical exchanges between the CAA as the new responsible regulator and EASA.

- **If the WA is not ratified:** It is crucial for the European aviation industry to have prior understanding of the new system, as companies are already enacting contingency plans



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for the possibility of no Withdrawal Agreement being agreed Our analysis demonstrates that discussions should begin immediately, but that a plan to inform industry worldwide should be in place by 01 September 2018, following technical work undertaken between now and then, in order to provide sufficient time for industry to adjust before 29 March 2019.

On all of these areas the impact is not isolated to UK companies, it falls on the European aerospace industry as a whole. Without an agreed solution and continued connectivity both for airlines/operators and aerospace parts, then supply chain disruption across Europe will occur, parts will be unable to be delivered, pilots and maintenance technicians will be unable to work, aerospace companies in the UK will lose foreign validations for their business, and aircraft will be grounded globally.

The Europe's aerospace and aviation industries look forward to significant progress on key issues at the June European Council meeting, including agreement that EASA and the CAA can begin technical and contingency planning discussions this summer. We are communicating a similar message to your counterparts in the UK.

Our industries stand ready to work with the UK Government and the EU to make sure that the solutions agreed in negotiations are pragmatic, comprehensive, and minimise any damaging impacts on the UK or EU economies.

Paul Everitt
Chief Executive, ADS Group

Peter J. Bunce
President & CEO, GAMA

Yours Sincerely,

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Violeta Bulc, European Commissioner for Transport

Patrick Ky, Executive Director EASA

Pascal Leardini, Director Secretariat-General, Acting Head of the Brexit Preparedness Group