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Technical Notice – No Deal Brexit – Aviation

In November 2018, the European Union (the “EU”) and the United Kingdom (the “UK”) concluded the terms of a Withdrawal Agreement providing for the UK’s orderly departure from the EU. Gibraltar forms part of these arrangements. The Agreement includes a transition period until the end of 2020. The transition period would also apply to Gibraltar. The Agreement has been debated and voted upon at length but is still subject to ratification by the UK Parliament and the European Parliament. In the meantime, HM Government of Gibraltar (“HMGoG”) continues to plan for the eventuality that the UK and Gibraltar leave the EU without this Agreement.

Purpose

The purpose of this Notice is to inform air passengers and the public of actions HMGoG is taking in the event that the UK and Gibraltar leave the EU without a deal on 29 March 2019.

Existing Position

Gibraltar Airport serves flights between Gibraltar and the UK and flights between Gibraltar and Morocco.

Air services between Gibraltar and the UK are considered domestic flights on the basis that the UK signed the Convention on International Civil Aviation (the “Chicago Convention”) on behalf of itself, the Crown Dependencies and the Overseas Territories, including Gibraltar. As an EU Member State, the UK is part of the internal market for air services. As such, flights between the UK and Gibraltar operate on the basis of EU legislation allowing for the free circulation of flights within EU airspace without the need for advance permission from individual national authorities.

Air services between Gibraltar and Morocco function on the basis of an Air Services Agreement agreed between the EU and Morocco. Gibraltar forms part of this Agreement.

In case of a Withdrawal Agreement

If the Withdrawal Agreement is approved and enters into effect, the status quo would remain up to the end of the transition period – that being 31 December 2020.

If there is no Withdrawal Agreement – a No-Deal Brexit

Flights between the United Kingdom and Gibraltar



To minimise disruption to air traffic that would be caused by a No-Deal Brexit, the EU is in the process of adopting a measure which would allow air carriers from the UK to fly across EU territory without landing and to make stops in the EU for traffic and non-traffic purposes.

As such, for the period provided for in the proposed legislation, UK air carriers will be able to fly across the territory of the EU to Gibraltar as normal in the same way as they would be able to fly across the territory of the EU to any other third country. Similarly, UK aircraft needing to divert to Malaga Airport, because they are unable to land at Gibraltar Airport, will continue to be able to do so.

The principle of the right to overfly and the right to divert are further enshrined in the International Air Services Transit Agreement (IATA).

Flights between Gibraltar and Morocco

In preparation for the UK and Gibraltar leaving the EU, the UK has negotiated an Air Service Agreement with Morocco. The Agreement, which will come into effect on 29 March 2019 in the event of a No-Deal Brexit, has been extended to include flights to and from Gibraltar Airport. Flights operated between Gibraltar and Morocco would therefore be able to continue as normal even in the event of a No-Deal Brexit.

Security

As part of the preparations for a No-Deal Brexit, HMGoG has ensured that EU Security Regulations will be retained in Gibraltar law. Therefore, passengers using Gibraltar Airport will not note any change to existing security arrangements.

The current security arrangements would continue to apply to mail, cargo/freight, live animals or courier mail carried in the hold of an aircraft.

Passenger rights

For air passengers on flights between the UK and Gibraltar, the same passenger rights as apply today would continue to apply after 29 March 2019 given that EU passenger rights legislation will be retained in UK law for passengers travelling on UK Airlines.