

Initial guidance on the draft EU-UK Trade and Cooperation Agreement

Operational considerations

From 1 Jan. 2021:

- Can you fly to and from the UK? **Yes, according to the agreement.**
- Can you perform 5th freedom / cabotage passenger flights? **No, according to the agreement.**
- As a general principle, operators who took the necessary steps to be able to operate to and from the UK in case of no-deal should be able to perform their flights as of 1 Jan. 2020 in the context of an agreement.
- In the coming days, national authorities will review the full text of the agreement that was published on Sat. 26 Dec and provide more information on how it will be implemented (The aim of the transition period was to give enough time to national authorities and governments to define how the agreement would be implemented, not to negotiate until the last minute).
- If you have some doubts about your ability to perform a flight, please get in touch with your NAA and/or the UK CAA.

Overview

On Saturday 26 December 2020, the European Commission published the [Draft EU-UK Trade and Cooperation Agreement](#). The draft agreement foresees cooperation between the EU and UK and contains dedicated titles on transport and aviation which require appropriate level playing field guarantees.

On 24 December 2020, an agreement in principle was reached at negotiators' level. With the draft agreement in place, the United Kingdom will leave the EU Single Market and Customs Union, and all EU policies on January 2021 whilst attempting to limit the disruption insofar as possible. Both parties will now advance with the signature and ratification of the draft agreement, in line with their respective rules and procedures, with a view to its provisional application from 1 January 2021.

Air transport is an essential driver of economic benefits in EU-UK relations. The EU-UK Agreement sets out to ensure continued air connectivity, including provisions to ensure that competition between EU and UK operators takes place on a level playing field, ensuring high levels of transport safety, workers' and passenger rights, and environmental protection.

In short, with specific respect to aviation; UK operators will no longer be considered as EU carriers and will lose existing traffic rights in the EU. EU and UK carriers will be able to perform unlimited carriage of passengers and cargo between points in the EU and points in the UK ('3rd & 4th freedoms'). Onward carriage ('5th freedom') will be possible for the carriage of cargo to/from a third country (e.g. Paris-London-New York), if Member States agree this bilaterally and reciprocally with the UK. The draft agreement also ensures cooperation on safety, security and air traffic management.

Fulfilling conditions to benefit

UK air carriers wishing to fly under the draft agreement will have to comply with certain conditions, such as holding a valid licence from the UK's competent authorities, having their principal place of business in the UK and being majority UK-owned and controlled. UK carriers that are majority UK-

/EEA- and/or Swiss-owned and controlled at the end of the transition period may also continue to operate.

EU carriers will have to respect similar conditions on licences and principal place of business and continue to comply with EU requirements on EU/EEA/Switzerland majority ownership and control.

EASA, safety certificates & validity

As of 1 January 2021, the UK will no longer apply the EU's regulatory framework for aviation safety, and no longer participate in the European Union Aviation Safety Agency (EASA). The draft agreement defines new arrangements for the recognition of future design and environmental certificates, as well as for production organisation oversight, to ease the use of parts produced in the other's territory. While this does not remove duplications and additional administrative burdens, it will facilitate the trade in aeronautical products.

The draft agreement also ensures that existing design certificates issued under EU rules before 1 January 2021 remain valid, so that products and designs covered by them can continue to be used.

Fair competition

The draft agreement guarantees that operators on both sides compete on an equal footing. Not only will the agreement's horizontal level playing field provisions, including those on social and environmental issues, apply to aviation, it also includes specific provisions on business issues such as ground handling and slots (non-discrimination and effective access), alongside provisions for the protection of passenger rights.

Furthermore, the draft agreement ensures that neither the UK or an EU MS can prohibit the taxation of fuel supplied to aircraft on a discriminatory basis, as this would go counter to ensuring a level playing field and meeting climate-neutrality targets.

Going forward

EBAA is constantly monitoring Brexit developments and is in touch with the respective national and EU authorities. Members who have questions can get in contact with our [EU Affairs department](#) or can contact their national authority directly. EBAA will continue to provide updates as appropriate and provide further analysis on the draft agreement to better understand the implications of the new relationship between the EU and the UK.