AIRPORTS COUNCIL INTERNATIONAL

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Director General

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Rt Hon Chris Grayling MP
Secretary of State for Transport
Department for Transport
Great Minster House
33 Horseferry Road
London, SW1P 4DR
UNITED KINGDOM

CC: Sub-Committee EU Exit and Trade (Negotiations)
Ms Karen Dee, CEO, Airport Operators Association (AOA)

Dear Secretary of State,

Airports Council International Europe (ACI EUROPE) is the voice of Europe's airports, representing over 500 airports in 45 European countries – including all EU Member States. Our members handle 95% of commercial air traffic in Europe, welcoming over 2 billion passengers each year and contributing €675 billion (4.1%) to GDP in Europe.

Over the past 15 months, ACI EUROPE has closely followed developments regarding Brexit, with a focus on its impact on the functioning of the EU Single Aviation Market[1]. We have thus met on several occasions with the Task force 50 of the European Commission as well as with the Council.

We welcome the recognition, in the UK Prime Minister's recent speech in Florence, of the need to secure agreement on an interim transition period early in the next phase of negotiations. As airports, our fate is intrinsically linked to the EU Single Aviation Market. Continuing to operate within that framework while future arrangements are negotiated is an important step towards a long term agreement between the UK and the EU27.

The free market access regime and the common rules enshrined in the EU Single Aviation Market are the very basis of our ability to develop air connectivity and to grow passenger/freight traffic. This primarily applies to intra-European connectivity (including with Norway, Switzerland and Iceland) but also to connectivity to major trading partners beyond Europe (including the US & Canada) - given the external dimension of the EU Single Aviation Market.

Based on current negotiating positions - in particular the intention of the UK to exit the Single European Market (which was again confirmed by the UK Prime Minister in Florence) and the impossibility to negotiate a separate & specific aviation regime, it is obvious that Brexit will have a significant impact on aviation across Europe. Indeed, when the UK will leave the EU in March 2019 to become a 'third country', it will no longer be part of the Single European Aviation Market and the wider European Aviation Common Area.

As a result, it is of the utmost importance that the new framework that will come to govern the economic relationship between the UK as a third country and the EU27 features an aviation regime that is as liberal as possible – under those conditions deemed necessary by the EU to safeguard the integrity of its Single Aviation Market. A liberal regime is indeed crucial avoid discontinuity in terms of air connectivity and to mitigate business risk for airports.

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[1] https://www.aci-europe.org/component/downloads/downloads/4696.html
https://www.aci-europe.org/component/downloads/downloads/4919.html
https://www.aci-europe.org/component/downloads/downloads/5131.html

On this basis, it is our view that the best solution would be to replicate the existing arrangements under the EEA agreement *vis-à-vis* Norway and Iceland. This would guarantee optimum outcomes in terms of reciprocal market access and continued regulatory convergence. We therefore respectfully urge the UK Government to consider this option, since it would be the very best for air connectivity – and the interests of citizens and businesses relying upon it.

Regardless of the kind of arrangements ultimately agreed between the UK and the EU27:

- Europe's airports fully support the principle of a transitional phase allowing for status quo as regards the participation of the UK to the EU Single Market, in line with EU law. Given the sequencing of the Brexit negotiations and the limited time available until 29 March 2019, such a transition appears to be indispensable to provide legal certainty, avoid economic disruptions and ensure the best possible outcome for both the UK and the EU27.

- Europe's airports call for the future UK-EU27 aviation regime to include, as a minimum:

i) Unrestricted 3rd and 4th freedom rights for passenger and freight traffic, as well as 7th freedom rights for freight traffic between the UK and the EU27, for all UK and EU27 airlines. This would allow both UK and EU27 airports to preserve and further develop their current connectivity on UK-EU27 air routes. We note that such rights have formed the basis of aviation agreements concluded by the EU with other non-EU countries.

ii) To provide for effective mechanisms that would ensure continued regulatory convergence in the key areas of safety, security and competition – including economic regulation. Given that the UK and the EU27 will be starting their new relationship from a situation of perfect regulatory alignment, we believe such mechanisms should allow to pre-emptively avoid regulatory deviations that could result in distortions of competition between economic operators - especially as regards regulatory compliance costs and market development opportunities within the wider European market.

We are well aware that discussions on the future framework of the UK-EU27 relationship will only start once sufficient progress is achieved on current negotiation over the UK's exit terms from the EU. However, we would like to stress the need for aviation issues to be addressed as a priority when the time will come to discuss this future relationship.

Indeed, as airlines plan their network of air services 12 to 18 months ahead based on 6 months' scheduling periods (the so-called Summer aeronautical seasons from March to October and Winter aeronautical seasons from October to March), legal certainty for both airlines and airports as to the possibility to keep operating existing routes and expand further (in terms of destinations and frequencies and/or seat capacity) would need to be provided well in advance of the new aviation regime entering into force. Failure to do so would inevitably constrain airline network planning with negative repercussions on air connectivity and consumers – and the wider economy.

Addressing aviation as a priority (ie. right at the beginning) in the process of wider negotiations on the future UK-EU27 relationship (for which "*nothing will be agreed until everything is agreed*") would allow Europe's airports and airlines to get some visibility as to what the new aviation regime might entail. In this regard, the tailor-made approach to transparency adopted by the EU27 side in Brexit negotiations is extremely valuable.

Finally, I would like to express our on-going concerns in relation to the risk of no agreement on the UK's exit terms from the EU. This situation would see the UK exiting the EU without a transitional arrangement being agreed, nor a framework governing its future relationship with the EU27. For now, Europe's airports cannot exclude the risk of a so-called "cliff-edged scenario" – with such risk being part of their risk management & business continuity plan.

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Aviation is in a very specific situation when it comes to the impact of a cliff-edged scenario. Indeed, unlike most other economic sectors, air transport services are not included in the scope of the WTO rules. This means that should the UK exit the EU without any agreement in place, air transport would not have any alternative legal framework upon which to fall back to regulate market access between the UK and each of the individual EU27 States. This legal vacuum puts the air connectivity between the UK and the EU27 at risk. It therefore needs to be addressed by the UK and EU27 States as part of their own contingency planning.

In this regard, I would be grateful if you could clarify the legal framework that would come to apply and the mechanisms available to secure continued access beyond 29 March 2019 in such an extreme situation. There is currently much debate as to whether the bilateral air services agreements between the UK and each of the EU27 States that were in force prior to the establishment of the EU Single Aviation Market could be re-enacted and upgraded to reflect current air services. This is an issue for which we would welcome your views – as well as any other information regarding how your Government intends to deal with this legal vacuum and ensure the continuity of air services.

I thank you for your attention on these crucial issues for Europe's airports and the communities they serve.

Yours sincerely,

