

Brexit



ACES – ATHENS

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Western Challenges and Eastern Promises for Airports & Destinations

BREXIT Risks – Chinese Opportunities

Panel I: The Brexit mapping: what are the wider repercussions for aviation & tourism

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Implications of Brexit for aviation

Overview

- I. Mixed signals
- II. A deal for aviation is necessary
- III. Access to the internal EU market
- IV. Possible solutions

I. Mixed signals

- ‘Theresa May is right on Brexit: no deal is better than a bad deal – for the EU’ (says the Guardian) - *Wrong* – for aviation
- We – the UK – need a new Open Skies agreement with the US – says Mr Willie Walsh, CEO BA/IAG, as aviation is a global market (*true*)
- Easyjet hopeful of Brexit airspace deal – because Easyjet “could still relocate some of its functions to the EU if the aviation industry does not receive suitable terms in Brexit negotiations” – NB: easyjet operates under a UK and Swiss AOC – and has meanwhile established a daughter company in Vienna from which it will service 100 aircraft
- Ryanair to expand flights from London Stansted in 2017 and beyond but will replace growth from the UK to EU airports, and add Glasgow as a new hub – because Brexit is not yet a matter of fact...
- And TUI, a UK-German group



II. A deal for aviation is necessary

II. Why we need a 'deal' for aviation?

- Aviation is outside the WTO/GATS – exceptionally as one of the very few services
- But inside Art. 6 of the Chicago Convention: No scheduled international air service can be operated unless and until there is an agreement *between States*
- Thus, if an airline after 'Brexit' wants to fly between London and Madrid, the UK and Spain must have made an agreement thereto
- If a UK airline wants to fly between Athens and Rome, the UK, Greece and Italy must have an agreement allowing this service
- If no agreements are in place, the UK and the EU may wish to temporarily continue the international market regulations, in one form or the other, that is, through the EEA, EFTA, or other arrangements –
- which must also be regarded as “*an agreement between States*”

III. The Internal air transport market (1)

II. The internal air transport market/I

- UK licensed carriers are no longer ‘Community air carriers’ – under Regulation 1008/2008
- Hence, all freedoms pertaining to market access, including but not limited to route rights, capacity, pricing and code sharing will not be available to UK licensed carriers
- Hence, *either* a new EU-UK agreement – like EU-US, or even better, EU-Canada agreement must be reached, or services between the UK and airports in the EU must be operated under bilateral agreements, whether revived – as they are *suspended* rather than *cancelled* – or new agreements –
- Allegedly, Spain terminated all its air service agreements with other EU States – which is, if that is correct, not a wise thing to do

III. The Internal air transport market (1)

Alternatives:

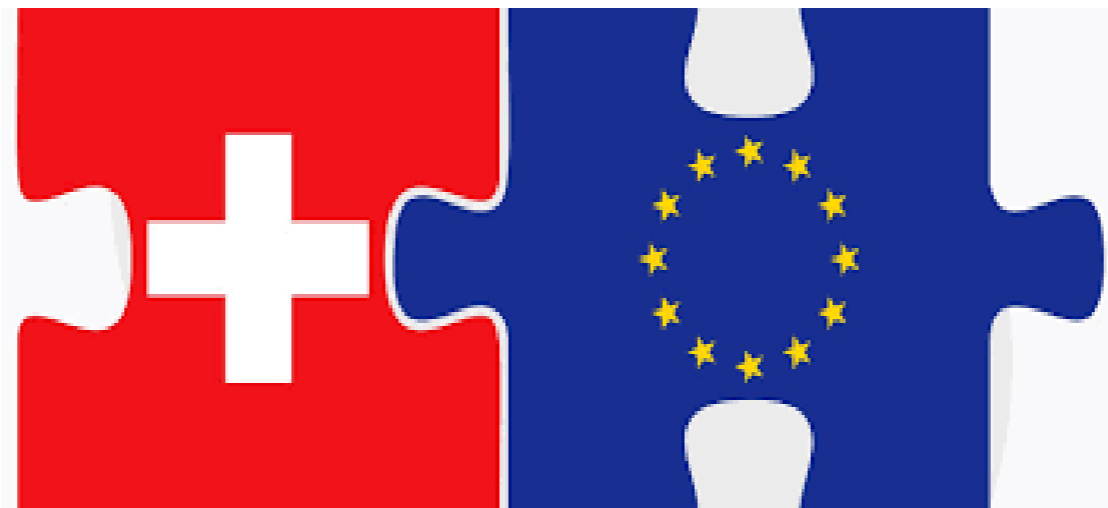
- UK air carriers relocate principal place of business to an EU State – which is subject to application of the Freedom of establishment, to be negotiated, or to be used before Brexit, implying also:
- Majority ownership and effective control in the hands of EU nationals, that is, under the current regulation (1008/2008) – which may be relaxed in the future
- See again position EasyJet Switzerland SA (CH license and AOC)
- Again, see also, EU-UK agreement on air transport – to be negotiated



IV. Possible solutions (1)

Time is of essence: airlines and travel agents arrange flights and other services 18 months in advance – hence, now, as we speak

- See, CH-EU agreement on air transport, including:
 - Including Freedoms 1st-7th, so easyjet UK could fly Madrid-Athens v.v., but no domestic services inside an EU State (e.g., Hamburg-Munich v.v.)
 - UK would have no control over EU Regulations but more control over future regulations
 - No submission to CJEU Judgements
- Freedom of movement has to be maintained.



IV. Possible solutions (2)

- If not: reliance on 'suspended' ASAs or 'ad hoc' permits
- Certain carriers, especially easyjet and perhaps Ryanair may decide to relocate establishment and activities but this is probably not an option for BA and Virgin, because of the 'external' dimension' of their operations
- As the UK is not happy with the powers of certain EU institutions, especially the CJEU, and 'ECAA' or 'EAA' status does not seem likely
- An agreement on air transport like EU-CH may be a more realistic option but not identical because of the involvement of EU institutions –
- Joining EFTA – the European Free Trade Agreement between Norway, Iceland, Lichtenstein and Switzerland in which aviation is not – yet – included?
- NB: ratification by 38 Parliaments (e.g., 4 in Belgium)

