

Introduction

1. Aviation is one of the most important sectors in the EU - it is the vital infrastructure that enables the flows of people and commerce between the UK and the EU. Without this building block, any EU-UK agreement on trade, services and people would be severely hampered.
2. Following the EU referendum, there has been considerable uncertainty over the future of aviation in the UK. Negotiating a new aviation relationship between the UK and the EU will be difficult and complex. It involves much more than traffic rights and airline ownership rules; any negotiations will also impact on the UK's air links with countries and airlines outside of the EU.
3. It is critically important, therefore, for the UK Govt to act swiftly to limit the period of uncertainty and provide reassurance to the industry. Reduced consumer confidence and its potential to impact demand for travel is a concern for airports heavily reliant on leisure traffic (87% of Cardiff Airport's traffic)
4. There are several key areas for re-negotiation:
 - a. a series of EU 'liberalisation packages' have created an 'open-skies' market within which member-state airlines can fly between any 2 points within the Union with no controls on fares or capacity.
 - b. in parallel, there are more than 250 EU regulations and directives, which take effect in UK laws. Some are very aviation specific, others are more general, but have a direct impact on aviation.
 - c. the UK benefits from a series of air transport agreements signed by the EU with other countries, external to the EU, the most significant of which is the EU-US open-skies agreement. Outside the EU, the UK will no longer be party to these agreements.
 - d. the UK is directly involved in several European aviation initiatives such as the European Aviation Safety Agency (EASA) (Cardiff Airport currently operates under the terms of an EASA Aerodrome Certificate), Single European Skies (air traffic control system) and the European Investment Bank, which amongst other things, funds airport development.
 - e. Industry has been vocal in expressing the importance of the EU Single Aviation Market and the EU multilateral air services agreements to the industry, with the over-riding agreement that retaining participation in both is crucial for the sector.

The importance of aviation

5. Aviation is crucial to the UK economy: not only is it an enabler of trade, both in terms of goods (40% of exports by value travel by aviation) and services (people who provide services need ease of travel to meet clients), but also in terms of the investment and employment opportunities resulting from the infrastructure necessary to support the industry.

6. This infrastructure and employment contribution ranges from aerospace manufacturing to the services in and around airports. Taken together, the UK aviation sector is worth £52 billion in overall GDP, £8.7 billion in taxation to the Treasury and provides 960,000 jobs, according to an Oxford Economics report published in 2014. If the catalytic effects aviation brings through tourism are included, this rises to £71 billion or 4.7% of overall GDP and 1.4 million jobs (4.9% of total UK economic employment).

7. The Aerospace industry in Wales has a turnover of £5 billion, Wales is a centre of excellence for aerospace manufacturing and MRO related activities, with over 160 companies employing in excess of 23,000 people. Six of the world's top ten aerospace and defence companies operate in Wales and over 20% of the UK's MRO is carried out within 20 miles of Cardiff Airport. As examples, British Airways maintain their Boeing long haul fleet at Cardiff Airport and Airbus builds the wings for its jets in Broughton, North Wales, and exports them to factories around the world. Airbus in particular, could face growing political pressure to bring jobs back to France, Germany and Spain as a result of the decision to leave the single market.

8. Looking specifically at Cardiff Airport, the overall GVA impact to the local economy is £102 million, there are 1750 aviation related jobs at the Airport and 2600 indirect and induced jobs. One in 4 passengers using the Airport are visitors to Wales, contributing an estimated £50 million annually to the Welsh economy.

9. To get to this point, the UK's and therefore, Wales' aviation sector has benefited from being a full member of the EU's Single Aviation Market. This allows all EU airlines to operate air services on any route within the EU, including within a particular country. The UK is also part of the EU's aviation agreements with other countries, such as the EU-US Open Skies Agreement.

The challenge ahead

10. The challenge ahead is three-fold.

a. First there is an information deficit in Government, Parliament and in the public debate over the way aviation is regulated. There is little awareness that aviation is legally distinct from the Single Market and requires a separate agreement in the future.

- b. The second element of the challenge is that the UK's intended position is unclear. The UK may seek to negotiate a completely new type of arrangement with the EU on aviation or it could adopt one of the existing models already used by non-EU countries.
- c. Thirdly and lastly, most of the options for a future UK-EU aviation agreement would involve the UK accepting EU regulations and directives, but having no say over their creation, unless a new consultative model could be achieved.
11. On the first challenge, the EU-US Open Skies Agreement exists without there being a trade deal between the two parties to the Agreement, suggesting that continued access to EU airports (distinct from Single Aviation Market participation) could be achieved.
12. On the second challenge, full participation in the Single Aviation Market (including cabotage rights) has to date only ever been achieved in the context of an acceptance of the Single Market principles of the free movement of labour, goods, capital and services, whether through European Economic Area membership or a separate trade agreement. Even then, those non-EU countries in the Single Aviation Market have not always gained access to the EU's multilateral air services agreements. It is also unclear what would happen in the event that the EU and the UK were unable to reach agreement.
13. A third and simpler option would be for the UK to apply to join the European Common Aviation Area, as several non-EU and even non-European countries have done. Countries such as Serbia, Morocco and Jordan have progressively gained more access and rights to EU markets, as they have accepted and enforced more of the EU's aviation regulation. But, by going down this route, the UK, having previously been a very powerful player, would have no say in future regulations and would have little influence in future European aviation policies.

The view from the other side

14. The remaining EU countries (EU27) have a say in any new aviation agreement between the UK and the EU. Despite some knee-jerk reactions on the EU side, the UK's continued participation in European aviation has enormous mutual benefits, too great for other EU countries to forego. The UK aviation market is crucial for the commercial viability of many EU27 airports and there will be a desire on their part to maintain this.

Key messages

15. Based on the above, the key messages are as follows:
16. Aviation should be prioritised as part of the Article 50 negotiations or, if that is not possible, to agree a deal outside of those negotiations ("sooner or separate"). The justification for this is as follows:

- a. Aviation is a crucial sector for the UK economy in its own right, accounting for close to 3.5% of UK GDP and employment
- b. Aviation is vital as an enabler of economic growth, both in terms of transporting UK exports as well as bringing in tourism and facilitating business dialogue between the UK and other countries
- c. The UK was one of the drivers of deregulation in the aviation sector and the resulting Single Aviation Market and the EU's multilateral air services agreements have allowed UK aviation to flourish, including through the rise of low-cost carriers.

Policy Asks

17. Policy asks:

- a. there should be a seamless transition between the current EU-led institutional structures regulating aviation and any new post-BREXIT alternatives that are put in place. This is likely to involve transitional arrangements whilst negotiations progress.
- b. continued participation for UK aviation in the single aviation market, current EU multi-lateral aviation agreements and potentially future EU multi-lateral air service agreements.
- c. continued participation in common safety and security regulations, in such a way that enables the UK to continue to exercise voting rights within EASA
- d. the UK should continue to work at a national and EU-level to streamline regulation in order to reduce the burden on business as far as possible. This is particularly relevant to Cardiff Airport and the other smaller regional airports that operate with less than 3million pax/year
- e. the UK Govt should clarify as soon as possible its position regarding non-UK EEA nationals currently living and working in the UK
- f. the UK Govt should keep the current UK/EEA/Swiss passport channel at UK airports, as well as maintaining current regulations on what people can carry when travelling from and to the EU (goods, cash etc)
- g. the Govt should review APO, particularly its position regarding the devolution of the tax to Wales
- h. the Govt should allow for the return of duty-free for travellers to EU27 nations following the formal exit of the UK from the EU.
- i. The Govt should consider what more it can do to support regional connectivity after the UK leaves the EU

18. Potential Opportunities following the UK leaving the EU - "BREXIT-boosters":

a. Added impetus for the devolution of APO to Wales

i. Abolishment of the long-haul element of APO would have a significant economic impact for Wales - encouraging exports and stimulating trade with wider markets outside of the EU

ii. Abolishment of the short-haul element of the tax would serve as a major attraction for airlines and would significantly boost passenger numbers.

iii. Or, there could be an opportunity to revisit the levying of APO on both domestic outbound and return flights, enabling a return to only levying APO on one leg.

19. If the UK is no longer subject to EU state aid rules, there would be scope for additional support for regional connectivity from Cardiff Airport and ability to invest in the future development of the national airport for Wales.

20. It could enable the return of duty free shopping for travellers to EU27 destinations, if the UK leaves the Customs Union.

Annex to evidence from Cardiff Airport

BREXIT AND THE FREEDOMS OF THE AIR

BACKGROUND

The proposed Negotiating Directives (NDs) adopted by the European Commission (EC) on 3rd May 2017, detailed the way in which the European Council (EU Member States) will formally authorize the EC to open Brexit negotiations. The ND is fully consistent with the Negotiating Guidelines (NGs) approved by the European Council on 29 April 2017. Taken together, the NGs and NDs frame the objectives and the remits of the EC in conducting these negotiations. The NDs were formally adopted by the European Council on 22 May 2017 - allowing negotiations to start.

The NDs confirm that the UK will not be able to cherry pick some parts of the Single Market: "preserving the integrity of the Single Market excludes participation based on a sector-by-sector approach". This excludes a separate deal for aviation.

On this basis, it is reasonable to expect that the UK could be granted market access to the EU aviation market under terms similar to the ones granted to other "third countries" (ie. US, Canada, Brazil, Morocco, etc). This means that 3rd & 4th freedom should be fully liberalized, that restrictions could be applied to 5th

freedoms - but that other freedoms (7th , 8th & 9th) would probably not be granted as these are akin to Single Market participation.

"Nothing will be agreed until everything is agreed'. With the clock ticking to 29 March 2019, this means that the EU will hold the cards until the very end. It also means that businesses will continue to face uncertainty for some time.

The UK's White Paper, which sets out the 12 principles of BREXIT negotiation, does little to clarify the mechanism by which existing airline market access can be maintained. It says,

"As we exit the EU, there will be a clear interest for all sides to seek arrangements that continue to support affordable and accessible air transport for all European citizens, as well as maintaining and developing connectivity".

This does not rule out - or rule in - any option, but it certainly does not map out a clear path to UK membership of the European Common Aviation Area (ECAA). It seems more likely that future traffic rights between the UK and Europe will be governed by a bilateral agreement between the two sides.

Typically, free trade agreements do not cover aviation. Instead, air services tend to operate under rights agreed through bilateral air services agreements between nations. The EU's internal aviation market supersedes the old bilateral air services agreements between member states and allows any EU airline to operate freely within the bloc. In the case of aviation, the bloc includes nine non-EU countries that are part of the ECAA and Switzerland, which effectively has access to the single aviation market through a bilateral agreement.

The UK government's White Paper did not mention the ECAA, continued membership of which would be the simplest way for UK airlines to preserve their current access to the single aviation market. However, its broader approach, involving leaving the cross sectoral EU Single Market, suggests that it will favour a fresh start.

A UK-EU bilateral that gives liberal rights to airlines of both sides to operate on any route between the UK and the EU (mirroring the US-EU bilateral) should be straightforward to achieve. However, it will be more challenging to reach an agreement that reproduces UK airlines' existing rights to operate within the ECAA, and EU airlines' existing rights to operate in the UK domestic market.

FREEDOMS OF THE AIR

Freedom	Description	Example
1st	The right to fly over a foreign country without landing. ^[4]	A flight from Canada to Cuba, flown by a Canadian airline, flying over the United States.
2nd	The right to refuel or carry out maintenance in a foreign country without embarking or disembarking passengers or cargo. ^[4]	A flight from the United Kingdom to Australia, flown by a British airline, with a fuel stop in Singapore.
3rd	The right to fly from one's own country to another. ^[4]	A flight from the United States to Mexico, flown by a US airline.
4th	The right to fly from another country to one's own. ^[4]	A flight from Mexico to the United States, flown by a US airline.
5th	The right to fly between two foreign countries on a flight originating or ending in one's own country. ^[4]	A flight from the United States to Hong Kong, flown by a Hong Kong airline, with a full stop in Vancouver. Passengers and cargo may board or disembark the flight in Vancouver, with no intention to continue the flight to Hong Kong.
6th	The right to fly from a foreign country to another while stopping in one's own country for non-technical reasons. ^[4]	A flight flown from Germany to Mumbai, flown by an airline based in Dubai, with a full stop in Dubai.
7th	The right to fly between two foreign countries while not offering flights to one's own country. ^[4]	A flight flown between Japan and Taiwan, flown by an Australian airline.
8th	The right to fly inside a foreign country, continuing to one's own country. ^[4]	A flight flown between Fukuoka, Japan, and San Francisco, USA, with a full stop in Tokyo, Japan. Passengers and cargo may board or disembark the flight in Tokyo, with no intention to continue the flight to San Francisco.
9th	The right to fly inside a foreign country without continuing to one's own country. ^[4]	A flight flown between Moscow, Russia, and St. Petersburg, Russia, flown by a German airline.

Diagram of the nine freedoms, with blue circles indicating the operating airline's domestic market and red or yellow circles indicating foreign markets

