

# BRITAIN MUST LEAD THE FIGHT FOR A GLOBAL 'OPEN SKIES' SYSTEM

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BREXIT OFFERS A CHANCE TO RETHINK RULES  
CODIFIED IN THE ERA OF PROPELLER TECHNOLOGY

*by Philipp Goedeking*

The UK is under pressure to forge bilateral air-traffic flying agreements before it leaves the EU. As airlines have to publish their post-Brexit flight schedules and apply for airport slots months in advance, the make-or-break month is October 2018, rather than March 2019 when Britain is set formally to quit the bloc. Sadly, the rush to strike deals is worsening the problems of global aviation, and the new agreements will drive a complex and rigid system closer to its breaking point.

British airlines can currently fly freely on any route within the EU, and between the UK and the US thanks to two multilateral "open skies" agreements covering these regions. Neither agreement will apply to UK airlines after Brexit, forcing the government to renegotiate these two important regulatory frameworks. Since the UK is asking to leave these existing agreements, it finds itself in the weaker position. Every day not spent negotiating brings the UK one day closer to losing its race against the clock.

The signs are that talks with the US are fairly advanced, but still have to resolve some sticky legal points, probably not to the advantage of the UK.

One of the most controversial questions is whether British Airways, Virgin Atlantic and Norwegian UK have sufficiently British ownership structures to qualify for a bilateral US-UK agreement that — under the antiquated laws of global aviation — can only apply to strictly British-owned airlines. The dilemma for UK airlines is that the more they declare themselves "British" in talks with the US, the less they will be able to claim being "European" in talks with the EU.

British carriers face an impossible choice between an agreement with the US at the expense of an agreement with the EU, or the other way around. Talks with the US and the EU are complex and risky, and UK negotiators have few bargaining chips. It is quite possible that UK airlines' access to both regions will not be as broad or as frequent as under the existing deals Britain must lead the fight for a global 'open skies' system.

Even if the UK and EU were to agree to some kind of transition agreement to give negotiators breathing space, say until late 2020, it will still be a challenge for the UK to deal with all affected air traffic deals. The complexity of global aviation and time pressures suggests follow-on agreements will be rushed and deficient. It is time for the industry to embrace this problem and push for root-and-branch change.

The industry should use Brexit as the occasion to ask why international air traffic is still based on thousands of bilateral inter-governmental agreements. Airlines still operate under rules codified in the Chicago Convention in 1944, the era of propeller technology and then-nascent national flag carriers. Instead of being free to choose which routes to fly, airlines from one country can serve only those international routes that their government has agreed with others.

Brexit should force governments and airlines to acknowledge the near-unmanageable complexity of these bilateral deals. It is time to ask why the airline industry remains the only sector exempt from the World Trade Organization and the General Agreement on Trade in Services (GATS), and their clear and universal rules regarding free and fair competition.

Governments and airlines should use Brexit as an opportunity to start replacing an antiquated system with the WTO/GATS framework, or something close to it. The universally applicable rules of a "global open sky" would replace thousands of diverse deals.

In the short term, the UK will have to go for old-style transition solutions. But beyond that, the government, UK airlines and their shareholders should push for fundamental change. If the UK can brave Brexit, it is surely brave enough to ground the Chicago Convention for good.