

BREXIT: What now within the Aviation Finance Industry?

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Pronunciation: 'che-l&m, is Latin for airspace or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.

The decision of the United Kingdom to leave the European Union in a historic referendum last June 23, has certainly impacted the British economy and the uncertainty has extended to industry sectors so that the air transport and the aviation industry are not the exception. According to the OECD, the air cargo volumes in UK for 2030 will fall in a 20%¹. The IATA on the other hand, estimates that the number of air passengers in UK will decrease between 3 and 5 percent for 2020, due to the economy setback and the subsequent currency crash.² Meanwhile, Airbus that holds more than the 10 percent of the total jobs of the company in UK, will review its future strategy within the British Islands and urged UK to remain competitive in favor of the industrial investments into the nation, although the company could no longer consider the region as a strategic part of its plan of action in Europe, as stated by its president Tom Enders³. The UK is currently subject to a wide range of European legislation covering all areas of the aviation industry and while the two-year period established by Article 50, paragraph 3, of the European Union Treaty ("EUT")⁴ for the withdraw to enter into force, it will start the awkward process of separation and facing a multitude of complex negotiations and difficult choices over the coming years. After the results of the referendum, the stock values of both Europe and US banks with large operations in London were hit to levels unseen since the financial crisis of 2008⁵.

"The UK is currently subject to a wide range of European legislation covering all areas of the aviation industry ..."

Currently, some key considerations within the regulatory implications of Brexit could be, for example, the extent that UK is willing or able to negotiate continued access to the Single Aviation Market⁶, possibly requiring to negotiate separate bilateral agreements; and on the other hand, key considerations within the implications related to the aviation finance industry, are indeed:

- The economic consequences of the Brexit could impact a borrower's business causing defaults to any financial covenant?
- from a lender's (or bank's) standpoint, the Brexit could trigger market disruption clauses?⁷
- how to avoid risks in terms of fluctuations and/or how to secure legal certainty to the parties under an intended facility, loan or credit agreement in respect of an aircraft?
- Will the BREXIT make UK unattractive for leasing companies?

All these considerations and speculations effectively raise concerns that affect the healthy development of

1.- <http://aerolatinnews.com/2016/06/28/brexit-malas-noticias-para-la-aviacion-columna-de-rosario-aviles/>

2.- <http://www.iata.org/publications/economic-briefings/impact-of-brexit.pdf>

3.- <http://a21.com.mx/aeronautica/2016/06/27/el-brexit-es-un-perder-perder-para-la-ue-y-gran-bretana-airbus>

4.- <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html>

5.- <http://www.reuters.com/article/us-britain-eu-banks-idUSKCN0Z92G8>

6.- The Single Aviation Market is defined by bilateral agreements between European countries and/or some external countries to constitute the European Common Aviation Area (ECAA) through the accumulated legislation, legal acts, and court decisions to liberalize the air transport industry by allowing any ECAA member state to fly between any ECAA member states airports (including the possibility for a "foreign" company to provide domestic flights).

7.- Market Disruption Clauses understood as the clauses that determine the mechanism to calculate the interest rate applicable to a loan if for example, one or more of the lenders in the syndicate notify the Facility Agent that the cost of their funding in the London interbank market in respect of that loan exceeds the LIBOR/EURIBOR rate applying to that loan under the terms of the loan agreement. <http://www.jonesday.com/market-disruption-clauses-in-syndicated-loan-agreements-12-01-2008/>, consulted on July 24, 2016

any transaction and this uncertainty will undoubtedly add a layer of complexity to the industry. However, in the event that some financial activities for the European Union will try to move, it could be difficult to replace London as the financial center of Europe, and most probable, the UK will optimize its financial regulation to attract leasing companies and other financial institutions, actually the Bank of England has made clear that it will provide liquidity as necessary with some financiers anticipating the restarting of its program to increase the money supply, a tool that disappeared from the British landscape in 2012.⁸

It is important to note that, notwithstanding the decision of the UK to leave the European Union, Ireland has no such plans to withdraw. Moreover, in respect to the manufacturers, it is also unlikely that they will exclude the UK firms and the British aerospace industry from their supply chain management. In addition, bearing in mind that the asset finance, and more specifically the aviation finance is not an area which is heavily regulated by the law of the European Union, the effect of Brexit on the industry from an Irish perspective will be minimal. As of today, it is extremely difficult to say what direct legal impact legal framework surrounding the aircraft and asset financing industry in Ireland will result, if there could be any.

“After the results of the referendum, the stock values of both Europe and US banks with large operations in London were hit to levels unseen since the financial crisis of 2008”.

On the other hand, the UK and Ireland has been allied in avoiding tax harmonization, resisting a tax agreement in 2012. In that sense, there are some opinions that London will be looking for new opportunities and leasing would be an extremely attractive source of capital. It seems so that one benefit of Brexit is that London could become a more attractive location for operating leasing companies and aviation borrowers will remain in place due to the extended period of low interest rates matched by the steady flow. The theory is that without the UK's support at the European Union, Ireland will be under pressure to raise corporation tax and this will make Ireland less attractive and leasing companies will move from Ireland to the UK⁹. However, there some others that, with opposing views, opine that Ireland will be the one benefitted from the Brexit, with low corporation taxes and highly diversified portfolios and ability to remarket, based lessors and lenders will continue and the new ones will find Dublin attractive.¹⁰

There is much uncertainty in the UK on how to react to the Brexit, but It is too early to assess the aftershocks. The starting point beyond the results of the referendum will be the delivery to the European Council of the notice referred in Article 50 of the EUT (which as indicated by Theresa May, is no hurry to be triggered)¹¹ and thereafter, it has to be negotiated with the remaining 27 members and ultimately approved by them by qualified majority. These negotiations are meant to be completed within two years. The European Parliament has a veto over any new agreement formalizing the relationship between the UK and the EU. However, from a personal point of view, we could not assert that nothing will change at all as a result of Brexit, nor that it will cause severe impact, of course the challenges are many and very important, and of course involve greater caution and reflection, that is true; nevertheless, being highly experienced markets in the aviation finance field, such as Ireland and UK, there is no doubt that both, from their own circumstances, will be as flexible as the environment requires and will find all the necessary tools in terms of the legal and regulatory framework to reach the appropriate agreements to continue being competitive adapting themselves efficiently to the industry.

8.- <http://www.euromoneyseminars.com/articles/3565448/analysis-brexit-breeds-cheap-cash-and-bubble-concerns.html>

9.- <http://www.aircraftinvestor.com/articles/aircraft-leasing/why-london-is-not-calling-aircraft-leasing-companies-098/>

10.- <http://www.aircraftinvestor.com/articles/aircraft-leasing/why-london-is-not-calling-aircraft-leasing-companies-098/>

11.- <http://www.bbc.com/news/uk-politics-eu-referendum-36420148>, consulted on July 25, 2016.

ASA is prepared to mobilize passengers to domestic and international destinations.

ASA (Servicios Aéreos Auxiliares), a decentralized organization dependent from the Mexican federal government who in collaboration with the Communications Ministry regulates, verifies and supervises several airports in Mexico, has affirmed that each of the airport terminals under his charge are prepared with sufficient infrastructure and personal to supply the expected passenger flow during the holidays period from July 15th to August 15th. It has also appointed that there will be a close collaboration with the airlines representatives, service providers, migration and customs authorities, in order to guarantee an appropriate normative application. www.aristeguinoticias.com July 11, 2016.

New sensor measures aircraft velocity by bouncing lasers off air molecules.

While conventional airspeed sensors are a combination of small tubes and small holes, British defense and aerospace scientists in Chelmsford have successfully developed a laser airspeed sensor to be used in the next generation high altitude aircrafts; this will improve flight performance and fuel efficiency. This system is based on ultraviolet light emissions, invisible to human eye, which will bounce the surrounding air molecules and according to the tiny change in its color, will determine the relative airspeed in relation to the aircraft. www.baesystems.com July 12, 2016.

Whenever an airplane ticket is bought, they win... and they have already won a lot.

With each sold airplane ticket, TUA is included. TUA is the unique airport rate; which, in the Mexican case, goes directly to the arks of one of the major airport operators in Mexico: OMA, GAP or Asur. During 2015 74.8 million passengers is the highest level ever been achieved, and it is expected that 2016 will be a better year. Some of the factors that made it possible are the fall in the value of the Mexican peso in respect to foreign exchange and the collapse in the petroleum prices. The first reason makes it cheaper for the foreign tourism travelling to Mexico and the second implies a cheaper fuel for the airlines, whom consider increasing their investment in new fleet. www.elfinanciero.com.mx July 14, 2016.

Newcomers from China, Russia want a piece of aviation market.

China and Russia are making their presence felt in the multibillion-dollar aviation market. New challengers in Russia and China want a piece of the market, which both Airbus and Boeing say will be worth more than \$5 trillion over the next 20 years. The newcomers have something previous competitors just didn't have access to — the deep pockets of governments seeking economic and political influence. China will undoubtedly be a big player. The ballooning middle class in the country, now the world's second-largest economy, mean passenger journeys are expected to double over the next 20 years. Airbus estimates the same sort of increase for Russia. www.washingtonpost.com July 15, 2016.

A probe to Jupiter has arrived successfully.

In the early hours of July 5th morning, a small space-going robot called Juno reached the solar system's biggest planet: Jupiter. At a distance of around 868 million kilometers from earth, and travelling at a cruise speed of around 250,000 km/hr this device incorporated to Jupiter's orbit without any human help. Juno will be orbiting this gas giant for the next couple of years and it will be exposed to its characteristic magnetic fields and fierce radiation. Jupiter's study plans to understand planetary systems revolving stars other than the sun, specially other gas giants elsewhere in the galaxy. www.nytimes.com July 15, 2016.

Jet Lagged Explained. Study reveals effects.

Jet lag considered as the worst part of travelling. Having an unclear reason, it may hit harder people travelling east than west. This effect has been attributed to the interior clock ticking inside the region called hypothalamus; containing special pacemaker cells sending signals to the whole body depending if it's night or day, depending on the input they've received from our environment. When travelling across multiple time zones, these cells get confused because they were already used to certain routine and the effect is that the whole feels groogy. The body's natural slightly period is longer than 24 hours; this implies that it is harder for the body shortening the day, than lengthening it. One way to avoid Jet lag is matching, as soon as possible, one's own internal clock to the destination's clock; although this may sometimes imply succumbing to early nights. www.nytimes.com July 15, 2016.

How the new FAA aviation law will affect your travel.

The purpose of the short-term aviation extension — which Congress passed in late July — is to reauthorize FAA programs through September 2017. Air carriers will now be required to refund baggage fees when items are lost or unreasonably delayed, something that was not previously required by law. Customers will get refunded when bags are delivered more than 12 to 18 hours after the scheduled arrival of a domestic flight and 15 to 30 hours after the scheduled arrival of an international flight. Airlines now have to ensure that children 13 years old or younger are seated adjacent to an adult or older child traveling with them, at no additional cost. Travelers could start seeing more bomb-sniffing dogs around some of the nation's busiest airports. The FAA bill increased the presence of highly visible security personnel around airport perimeters, including TSA's special canine units. www.thehill.com July 16, 2016.

Hybrid-Electric Power Key to Flying Whales' Airship.

French startup Flying Whales believes it has found the right technologies to thrive in large cargo airships and has conducted a convincing market assessment. Support from the French government and China's Avic is reinforcing the company's confidence. The electric motors and ultracapacitors will be part of a serial hybrid propulsion system. Still to be decided is whether the generator will use a piston engine or a turbine. The first flight of the LA60T is planned for 2019, with Flying Whales receiving financial support from the French government. www.aviationweek.com July 19, 2016.

U.S., Mexico air transport accord enters in force, seen boosting travel.

The United States and Mexico agreed to put into force a new air transportation agreement that is expected to boost travel and clear the way for any city to have direct airline service to the neighboring nation, the U.S. Transportation Department said on Monday. www.flip.it July 25, 2016.

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