

N°8334
PROJET DE LOI

portant approbation de l'Accord sous forme d'échange de lettres des 4 et 10 mars 2021 entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la région administrative spéciale de Hong Kong de la République populaire de Chine amendement l'Accord relatif aux services aériens, signé à Hong Kong, le 3 juin 1998

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Article unique. Est approuvé l'Accord sous forme d'échange de lettres des 4 et 10 mars 2021 entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la région administrative spéciale de Hong Kong de la République populaire de Chine amendement l'Accord relatif aux services aériens, signé à Hong Kong, le 3 juin 1998.

ANNEXE

EXCHANGE OF LETTERS

between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Grand Duchy of Luxembourg amending the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Grand Duchy of Luxembourg Concerning Air Services done at Hong Kong on 3 June 1998

No.1

Secretary for Transport and Housing of the Government of the Hong Kong Special Administrative Region of the People's Republic of China to the Minister for Mobility and Public Works of the Grand Duchy of Luxembourg

Transport and Housing Bureau
The Hong Kong Special Administrative Region
of the People's Republic of China
4 March 2021

Dear Minister,

I have the honour to refer to the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Grand Duchy of Luxembourg Concerning Air Services done at Hong Kong on 3 June 1998 („the Agreement“), and to propose, on behalf of the Government of the Hong Kong Special Administrative Region of the People's Republic of China that the following Articles shall replace Articles 4 and 5 of the Agreement:

„Article 4

Designation and Operating Authorisation

- (1) The international air services on the routes specified in accordance with Article 3 of this Agreement may be started at any time, provided that:
 - (a) the Contracting Party to whom the rights specified in Article 3 of this Agreement are granted has designated one or several airlines in writing; and
 - (b) the Contracting Party granting these rights has authorised the designated airline or airlines to initiate the air services.
- (2) On receipt of such a designation the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:
 - (a) in the case of an airline designated by the Government of the Grand Duchy of Luxembourg:
 - (i) the airline is established in the territory of the Grand Duchy of Luxembourg under the Treaty on European Union and the Treaty on the Functioning of the European Union and has a valid Operating Licence in accordance with European Union law; and
 - (ii) effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and

- (iii) the airline is owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States;
 - (b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:
 - (i) the airline is incorporated in and has its principal place of business in the area of the Hong Kong Special Administrative Region and has a valid Air Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; and
 - (ii) the Hong Kong Special Administrative Region has and maintains effective regulatory control of the airline;
- and
- (c) the designated airline proves upon request of the other Contracting Party that it is qualified to meet the requirements to be fulfilled for the operation of international air transport under the laws and regulations applicable in the area of that Contracting Party.
- (3) Either Contracting Party shall have the right to replace, subject to the provisions of paragraphs (1) and (2) of this Article, an airline it has designated by another airline. The newly designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

Article 5

Refusal, Revocation, Suspension or Limitation of the Operating Authorisation

- (1) Either Contracting Party may refuse, revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party where:
- (a) in the case of an airline designated by the Government of the Grand Duchy of Luxembourg:
 - (i) the airline is not established in the territory of the Grand Duchy of Luxembourg under the Treaty on European Union and the Treaty on the Functioning of the European Union or does not have a valid Operating Licence in accordance with European Union law; or
 - (ii) effective regulatory control of the airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
 - (iii) the airline is not owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States; or
 - (iv) the airline, by exercising traffic rights under this Agreement for the operation of services that include a point in another European Union Member State, including the operation of services which are marketed as or otherwise constitute through services, the airline would in effect circumvent any restriction on the traffic rights imposed by an agreement between the Hong Kong Special Administrative Region and that other European Union Member State; or
 - (v) the airline holds an Air Operator's Certificate issued by another European Union Member State and no bilateral air services agreement is in force between the Hong Kong Special Administrative Region and that other European Union Member State, and that European Union Member State has denied traffic rights to the airline(s) designated by the Hong Kong Special Administrative Region;
 - (b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:
 - (i) the airline is not incorporated in or does not have its principal place of business in the area of the Hong Kong Special Administrative Region or does not have a valid Air

Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; or

- (ii) the Hong Kong Special Administrative Region does not have or is not maintaining effective regulatory control of the airline;

or

- (c) the designated airline does not comply with the laws and regulations of the Contracting Party granting those rights; or
- (d) if that airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

(2) Such refusal, revocation, suspension or limitation of the authorisation shall be preceded by consultations as provided for in Article 14 of this Agreement, unless an immediate suspension of operations or immediate limitations are necessary to avoid further infringements of laws or regulations."

If the foregoing proposal is acceptable to the Government of the Grand Duchy of Luxembourg, I have the honour to propose that the present letter and your reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of the latter of the notifications by the Contracting Parties confirming that their respective necessary procedures have been completed.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

Yours sincerely,

(CHAN Fan, Frank)

Secretary for Transport and Housing

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EXCHANGE OF LETTERS

between the Government of the Grand Duchy of Luxembourg and the Government of the Hong Kong Special Administrative Region of the People's Republic of China amending the Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Hong Kong Special Administrative Region of the People's Republic of China Concerning Air Services done at Hong Kong on 3 June 1998

No. 2

The Minister for Mobility and Public Works of the Government of the Grand Duchy of Luxembourg to the Secretary for Transport and Housing of the Government of the Hong Kong Special Administrative Region of the People's Republic of China

Ministry of Mobility and Public Works
of the Grand Duchy of Luxembourg
10 March 2021

Dear Secretary,

I have the honour to acknowledge receipt of your letter dated 4 March 2021 which reads as follows:
„Dear Minister,

I have the honour to refer to the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Grand Duchy of Luxembourg Concerning Air Services done at Hong Kong on 3 June 1998 („the Agreement“), and to

propose, on behalf of the Government of the Hong Kong Special Administrative Region of the People's Republic of China that the following Articles shall replace Articles 4 and 5 of the Agreement:

„Article 4

Designation and Operating Authorisation

- (1) The international air services on the routes specified in accordance with Article 3 of this Agreement may be started at any time, provided that:
 - (a) the Contracting Party to whom the rights specified in Article 3 of this Agreement are granted has designated one or several airlines in writing; and
 - (b) the Contracting Party granting these rights has authorised the designated airline or airlines to initiate the air services.
- (2) On receipt of such a designation the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:
 - (a) in the case of an airline designated by the Government of the Grand Duchy of Luxembourg:
 - (i) the airline is established in the territory of the Grand Duchy of Luxembourg under the Treaty on European Union and the Treaty on the Functioning of the European Union and has a valid Operating Licence in accordance with European Union law; and
 - (ii) effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
 - (iii) the airline is owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States;
 - (b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:
 - (i) the airline is incorporated in and has its principal place of business in the area of the Hong Kong Special Administrative Region and has a valid Air Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; and
 - (ii) the Hong Kong Special Administrative Region has and maintains effective regulatory control of the airline;and
 - (c) the designated airline proves upon request of the other Contracting Party that it is qualified to meet the requirements to be fulfilled for the operation of international air transport under the laws and regulations applicable in the area of that Contracting Party.
- (3) Either Contracting Party shall have the right to replace, subject to the provisions of paragraphs (1) and (2) of this Article, an airline it has designated by another airline. The newly designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

Article 5

***Refusal, Revocation, Suspension or Limitation
of the Operating Authorisation***

- (1) Either Contracting Party may refuse, revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party where:
 - (a) in the case of an airline designated by the Government of the Grand Duchy of Luxembourg:
 - (i) the airline is not established in the territory of the Grand Duchy of Luxembourg under the Treaty on European Union and the Treaty on the Functioning of the

European Union or does not have a valid Operating Licence in accordance with European Union law; or

- (ii) effective regulatory control of the airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
 - (iii) the airline is not owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States; or
 - (iv) the airline, by exercising traffic rights under this Agreement for the operation of services that include a point in another European Union Member State, including the operation of services which are marketed as or otherwise constitute through services, the airline would in effect circumvent any restriction on the traffic rights imposed by an agreement between the Hong Kong Special Administrative Region and that other European Union Member State; or
 - (v) the airline holds an Air Operator's Certificate issued by another European Union Member State and no bilateral air services agreement is in force between the Hong Kong Special Administrative Region and that other European Union Member State, and that European Union Member State has denied traffic rights to the airline(s) designated by the Hong Kong Special Administrative Region;
- (b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:
- (i) the airline is not incorporated in or does not have its principal place of business in the area of the Hong Kong Special Administrative Region or does not have a valid Air Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; or
 - (ii) the Hong Kong Special Administrative Region does not have or is not maintaining effective regulatory control of the airline;

or

- (c) the designated airline does not comply with the laws and regulations of the Contracting Party granting those rights; or
- (d) if that airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

(2) Such refusal, revocation, suspension or limitation of the authorisation shall be preceded by consultations as provided for in Article 14 of this Agreement, unless an immediate suspension of operations or immediate limitations are necessary to avoid further infringements of laws or regulations.

If the foregoing proposal is acceptable to the Government of the Grand Duchy of Luxembourg, I have the honour to propose that the present letter and your reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of the latter of the notifications by the Contracting Parties confirming that their respective necessary procedures have been completed.”

I have the honour to inform you that the above proposal is acceptable to the Government of the Grand Duchy of Luxembourg, and that your letter together with this reply shall constitute an agreement between our two Governments which shall enter into force on the date of the latter of the notifications by the Contracting Parties confirming that their respective necessary procedures have been completed.

I avail myself of this opportunity to renew to you the assurance of my highest consideration. Yours sincerely,

François BAUSCH

**Minister for Mobility and
Public Works**

Projet de loi adopté par la Chambre des Députés
en sa séance publique du 11 février 2025

Le Secrétaire général,

Le Président,

s. Laurent Scheeck

s. Claude Wiseler