N° 8366[3]

CHAMBRE DES DEPUTES

PROJET DE LOI

portant approbation de l'« Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Indonesia on air services », fait à Jakarta, le 25 mai 2023

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RAPPORT DE LA COMMISSION DE LA MOBILITE ET DES TRAVAUX PUBLICS

(6.2.2025)

La Commission se compose de : Mme Corinne CAHEN, Présidente ; M. Gusty GRAAS, Rapporteur ; Mme Francine CLOSENER, M. Yves CRUCHTEN, Mme Claire DELCOURT, M. Emile EICHER, M. Félix EISCHEN, M. Jeff ENGELEN, M. Fernand ETGEN, M. Paul GALLES, M. Marc GOERGEN, Mme Mandy MINELLA, M. Jean-Paul SCHAAF, M. Meris SEHOVIC, M. Charles WEILER, Membres.

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I. ANTECEDENTS

Le projet de loi sous rubrique a été déposé à la Chambre des Députés le 28 mars 2024 par le Ministre des Affaires étrangères et du Commerce extérieur.

Le texte du projet de loi était accompagné d'un exposé des motifs, d'une fiche d'évaluation d'impact, d'une fiche financière, du texte de l'Accord ainsi que d'une fiche « check de durabilité ».

Le projet de loi a été avisé par le Conseil d'État en date du 11 juin 2024.

La Chambre de Commerce a rendu un avis en date du 1er juillet 2024.

Lors de sa réunion du 30 janvier 2025, la Commission de la Mobilité et des Travaux publics (ci-après « la commission parlementaire ») a examiné le projet de loi ainsi que les avis précités. Au cours de la même réunion, M. Gusty Graas a été désigné comme Rapporteur.

La commission parlementaire a adopté le présent rapport au cours de sa réunion du 6 février 2025.

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II. OBJET

Le projet de loi n° 8366 vise à approuver l'accord bilatéral entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République d'Indonésie signé le 25 mai 2023 à Jakarta. Cet accord est la confirmation de la politique poursuivie par le Gouvernement en matière de transports aériens ayant pour objectif d'assurer les perspectives d'avenir tant des compagnies aériennes nationales en leur procurant un maximum de droits de trafic, que de l'aéroport de Luxembourg comme plateforme internationale pour le trafic de passagers et de fret.

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III. CONSIDERATIONS GENERALES

L'existence d'accords aériens bilatéraux constitue, aujourd'hui comme par le passé, un élément essentiel pour l'ouverture de liaisons aériennes régulières. Ces accords permettent à des transporteurs aériens, luxembourgeois ou d'autres parties contractantes, de proposer des services réguliers dans un cadre juridique solide. Ils offrent également aux autorités aéronautiques des outils pour réagir efficacement aux demandes d'exploitation de nouveaux services aériens. Ces dispositions assurent ainsi une coopération fluide et un développement harmonieux des relations aériennes entre les États signataires.

Dans le cadre de la libéralisation européenne du transport aérien, l'Union européenne, en tant que marché aérien unique, joue un rôle croissant. L'accord concerné par ce projet de loi intègre des clauses conformes au droit communautaire, notamment celles relatives à la désignation, à la révocation et au contrôle des transporteurs, conformément au Règlement (CE) 847/2004 du Parlement et du Conseil du 29 avril 2004.

Cet accord s'inspire du modèle proposé par l'Organisation de l'Aviation Civile Internationale (OACI) tout en intégrant des adaptations spécifiques aux exigences de l'Union européenne. Une fois ratifié, il sera enregistré auprès de l'OACI, renforçant ainsi son caractère officiel et international. L'État contractant, en l'occurrence l'Indonésie, est également membre de cette organisation.

En termes de contenu, cet accord est similaire à d'autres accords aériens bilatéraux conclus précédemment par le Grand-Duché de Luxembourg. Il contient des dispositions essentielles telles que celles concernant les tarifs, les activités commerciales et la sécurité de l'aviation. Ces dispositions sont largement reconnues et acceptées par la communauté internationale. Cependant, des articles supplémentaires, adaptés aux besoins spécifiques exprimés par les parties contractantes, garantissent une prise en compte des particularités nationales.

L'accord intègre des éléments fondamentaux qui assurent une exploitation aérienne fluide et équitable entre les parties, notamment :

- les définitions terminologiques arrêtées par la Convention de Chicago, signée à Chicago le 7 décembre 1944 ;
- l'indication des droits octroyés pour l'exploitation des services, c'est-à-dire, le survol, l'escale technique, l'escale commerciale et les libertés de l'air ;
- l'inclusion de la clause dite de désignation européenne garantissant le principe selon lequel un transporteur aérien de l'Union européenne (ci-après « UE ») établi dans un État membre de l'UE a droit à un accès non discriminatoire au marché créé par les accords relatifs aux services aériens conclus entre un État membre autre que celui de son établissement principal et les pays tiers. Ainsi, ce principe issu des arrêts dits « Ciel ouvert » rendus par la Cour de Justice de l'Union européenne, permet à un transporteur aérien d'être désigné par un État membre alors même que cet État membre n'est pas celui qui octroie sa licence d'exploitation ;
- la stipulation permettant la limitation voire le retrait d'une autorisation dans le cas où le transporteur ne se conforme pas aux termes de l'accord, ni aux lois et règlements de la partie contractante ayant délivré l'autorisation ;
- l'exonération, sous certaines conditions, de tous droits de douane, frais d'inspection et autres droits et taxes similaires des avions utilisés, y compris les équipements normaux, le carburant, les pièces de rechange, les provisions de bord etc. ;
- les principes déterminant la capacité mise en œuvre (donc la charge payante disponible) et son adaptation à la demande de trafic ;
- la procédure d'établissement des tarifs ;
- l'application des lois et règlements internes ;
- l'engagement des parties contractantes de faire respecter les Conventions internationales existantes en matière de sûreté de l'aviation civile ;
- le transfert des excédents de recettes réalisés sur le territoire de l'autre partie contractante;
- le principe de la consultation périodique entre les autorités aéronautiques ;
- la procédure de règlement des différends ;

- l'engagement d'adapter l'accord à toute convention multilatérale ultérieure, liant les parties en matière aéronautique ;
- l'égalité des chances des opérateurs aériens désignés ainsi que la sauvegarde de leurs intérêts mutuels.

En outre, l'accord prévoit la possibilité d'amendements ou de dénonciations à la demande d'une des parties contractantes. La production de statistiques sur le trafic aérien, la non-discrimination dans l'application des taxes aéroportuaires et une procédure claire pour l'entrée en vigueur sont également incluses dans le texte.

Enfin, une annexe à l'accord définit le tableau des routes aériennes reliant le Luxembourg à des destinations situées en Indonésie, avec possibilité d'escales intermédiaires ou au-delà dans des pays tiers. Les points d'escale spécifiques seront fixés ultérieurement, en fonction des besoins exprimés par les compagnies aériennes, et décidés d'un commun accord par les autorités aéronautiques compétentes.

L'accord a été soumis à la Commission européenne, conformément aux procédures de notification en vigueur. Les notifications d'ouverture des négociations (« *Notification of the opening of negotiations* ») et de clôture/résultat des négociations (« *Notification of the outcome of negotiations* ») ont été réalisées via la plateforme sécurisée CIRCABC. Ces étapes, entièrement digitalisées, garantissent une conformité totale avec les règles communautaires.

Cet accord de transport aérien entre le Luxembourg et l'Indonésie constitue une avancée importante pour renforcer les relations bilatérales. Il permettra d'assurer un cadre favorable aux échanges commerciaux et à la mobilité, tout en consolidant la position du Luxembourg comme acteur clé du transport aérien international. Ce projet de loi témoigne ainsi de l'engagement du Grand-Duché à développer des partenariats stratégiques pour répondre aux enjeux économiques et logistiques contemporains.

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IV. AVIS

Avis du Conseil d'Etat

Dans son avis du 11 juin 2024, le Conseil d'État précise que le texte du projet de loi n'appelle pas d'observation quant au fond, mais attire l'attention sur certaines dispositions particulières de l'accord. Il souligne que l'article 19, paragraphe 1er, de l'accord prévoit que toute modification de l'accord principal devra être approuvée par une loi, conformément à l'article 46 de la Constitution. Cependant, l'article 19, paragraphe 2, établit une procédure distincte pour modifier l'annexe 1, qui concerne uniquement les tableaux des routes exploitées par les compagnies aériennes. Ces modifications, effectuées directement entre les autorités aéronautiques des parties, ne nécessitent pas l'approbation parlementaire, car leur portée est jugée suffisamment limitée.

Le Conseil d'État examine également l'article 20 (« *Multilateral convention* »), qui prévoit l'adaptation automatique de l'accord et de ses annexes aux conventions multilatérales contraignantes. Ces adaptations doivent se limiter à une stricte mise en conformité. Toutefois, si ces amendements sont adoptés avant que le Luxembourg ne soit juridiquement lié par la convention multilatérale, ils devront être soumis à l'approbation parlementaire.

Enfin, le Conseil d'État rappelle que tous les amendements doivent être publiés dans le Journal officiel du Grand-Duché de Luxembourg.

Avis de la Chambre de Commerce

Dans son avis du 1er juillet 2024, la Chambre de Commerce soutient pleinement l'accord offrant un cadre propice au développement des échanges commerciaux avec l'Indonésie. La Chambre de Commerce salue également les démarches engagées par le Gouvernement pour conclure un maximum d'accords aériens bilatéraux. Cela renforce incontestablement la position du Luxembourg comme hub aérien, autant pour les passagers que pour le fret. Ainsi, la Chambre est en mesure d'approuver le projet lui soumis pour avis.

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V. COMMENTAIRE DE L'ARTICLE UNIQUE

Cet article a pour but d'approuver l'accord bilatéral entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République d'Indonésie signé le 25 mai 2023 à Jakarta.

Cet accord est la confirmation de la politique poursuivie par le Gouvernement en matière de transports aériens ayant pour objectif d'assurer les perspectives d'avenir tant des compagnies aériennes nationales en leur procurant un maximum de droits de trafic, que de l'aéroport de Luxembourg comme plate-forme internationale pour le trafic de passagers et de fret.

Cet article n'appelle pas d'observation du Conseil d'État quant au fond.

Quant à la forme, la Haute Corporation note que l'intitulé n'est pas à faire suivre d'un point final, étant donné que les intitulés ne forment pas de phrase.

La commission parlementaire décide d'en faire droit.

Le texte de l'accord relatif aux services aériens à approuver doit suivre le dispositif proprement dit et porter l'intitulé « ANNEXE ».

La commission parlementaire décide de suivre la Conseil d'État.

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Sous le bénéfice des observations qui précèdent, la Commission de la Mobilité et des Travaux publics recommande à l'unanimité à la Chambre des Députés d'adopter le projet de loi n° 8366 dans la teneur qui suit :

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VI. TEXTE PROPOSE PAR LA COMMISSION

PROJET DE LOI

portant approbation de l'« Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Indonesia on air services », fait à Jakarta, le 25 mai 2023

Article unique. Est approuvé l'« Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Indonesia on air services », fait à Jakarta, le 25 mai 2023.

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ANNEXE

TEXTE DE L'ACCORD

AGREEMENT
between The Government of the Grand Duchy of Luxembourg and The Government of the Republic of Indonesia on Air Services

The Government of the Grand Duchy of Luxembourg

and

The Government of the Republic of Indonesia

Being parties to the Convention on International Civil Aviation opened for signature at Chicago, on the 7th day of December, 1944;

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

HAVE AGREED as follows:

Article 1

Definitions

For the purpose of this Agreement, unless the context otherwise requires:

(a) the term « aeronautical authorities » means in the case of the Grand Duchy of Luxembourg, the Minister responsible for the subject of Civil Aviation and, in the case the Republic of Indonesia, the Minister for Transportation or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;

(b) the term « agreed services » means scheduled air services on the routes specified in Annex I to this Agreement for the transport of passengers, cargo and mail, separately or in combination;

(c) the term « Agreement » means this Agreement, its Annexes, and any amendments thereto;

(d) the term « Convention » means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;

(e) the term « designated airline » means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;

(f) the term « tariffs » means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;

(g) the term « air services », « international air service », « airline » and « stop for non-traffic purposes » have the meaning respectively assigned to them in Article 96 of the Convention;

(h) the term « territory » in the case of the Grand Duchy of Luxembourg has the meaning assigned to it in article 2 of the Chicago Convention and in the case of the Republic Indonesia means as defined in its laws, the land, internal waters, archipelagic waters, territorial seas and the airspace under its sovereignty and the contiguous zones, exclusive economic zones and continental shelves as well as the airspace above them over which the Republic of Indonesia has control, sovereign rights or jurisdiction in accordance with international law, including United Nations Convention on the Law of the Sea done at Montego Bay at 10 December 1982.

Article 2

Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

(a) to fly without landing across the territory of the other Contracting Party;

(b) to make stops in the said territory for non-traffic purposes;

(c) to make stops in the said territory for the purpose of taking up an discharging, while operating the routes specified in Annex I, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this article shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

Designation and Authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified routes and to withdraw or alter

such designations. Such designations shall be made in writing and shall be transmitted to the other Contracting Party through diplomatic channels.

2. On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorisations and permissions, the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided:

(a) in the case of the Grand Duchy of Luxembourg:

(i) it is established in the territory of the Grand Duchy of Luxembourg under the EU Treaties and has a valid operating licence in accordance with the law of the European Union; and

(ii) effective regulatory control of the airline is exercised and maintained by the EU 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 it is effectively controlled by EU Member States and/or nationals of EU Member States, and/or by other states listed in Annex II and/or nationals of such other states; and

(b) in the case of an airline designated by the Republic of Indonesia:

(i) it is established in the territory of the Republic of Indonesia and is licensed in accordance with the applicable law of Indonesia; and

(ii) the Indonesian aeronautical authority has and maintains effective regulatory control of the airline; and

(iii) the airline is owned, directly or through majority ownership, and is effectively controlled by nationals of the Republic of Indonesia; and

(c) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Contracting Party considering the application or applications.

3. Upon receipt of such authorizations, the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 10 of this Agreement.

4. In exercising its right under this Article, Indonesia shall not discriminate between EU airlines on the grounds of nationality.

Article 4

Revocation or Suspension of Operating Authorisations

1. Either Contracting Party may revoke, suspend or limit the operating authorisation or permissions of an airline designated by the other Contracting Party:

(a) where, in the case of an airline designated by the Grand Duchy of Luxembourg:

(i) it is not established in the territory of the Grand Duchy of Luxembourg under the EU Treaties or does not have a valid operating licence in accordance with the law of the European Union; or

(ii) effective regulatory control of the airline is not exercised or not maintained by the EU 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, or is not effectively controlled by EU Member States and/or nationals of EU Member States, and/or by other states listed in Annex II and/or nationals of such other states; or

(iv) the airline is already authorised to operate under a bilateral agreement between Indonesia and another EU Member State and Indonesia can demonstrate that, by exercising traffic rights under this Agreement on a route that includes a point in that other EU Member

State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or

(v) the airline designated holds an Air Operator's Certificate issued by an EU Member State and there is no bilateral air service agreement between Indonesia and that EU Member State, and that EU Member State has denied traffic rights to an airline designated by Indonesia;

(b) where, in the case of an airline designated by the Republic of Indonesia:

(i) it is not established in the territory of the Republic of Indonesia or is not licensed in accordance with the applicable law of the Republic of Indonesia; or

(ii) the Indonesian aeronautical authority does not have or maintain effective regulatory control of the airline; or

(iii) the airline is not owned, directly or through majority ownership, or is not effectively controlled by nationals of the Republic of Indonesia; or

(c) in the case of failure by that airline to comply with the laws or regulations normally and reasonably applied by the Contracting Party granting those rights; or

(d) if the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or

(e) in the case of failure by the other Contracting Party to take appropriate action to improve safety in accordance with paragraph (2) of Article 7 (Safety) of this Agreement; or

(f) in accordance with paragraph (6) of Article 7 (Safety) of this Agreement.

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

(3) Either Contracting Party that exercises the rights under paragraph (1) of this Article shall notify in writing the other Contracting Party as soon as possible of the reasons for the refusal, suspension or limitation of the operating authorisation or technical permission of an airline designated by it.

(4) In exercising their rights under paragraph (1) of this Article, the Contracting Parties shall not discriminate between airlines on the grounds of nationality.

(5) This Article does not limit the rights of either Contracting Party to revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party in accordance with the provisions of Article 8 (Security) of this Agreement.

Article 5

Application of Laws and Regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall be subject to no more than a

simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article 6

Recognition of Certificates and Licences

Certificates of airworthiness, certificates of competency and licences, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in Annex I provided that such certificates or licences were issued or validated pursuant to, and in conformity with, the standards established under the Chicago Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

Article 7

Safety

1. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to the aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. Such consultations shall take place within 30 days of that request.

2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Chicago Convention, the other Contracting Party shall be notified of such findings and the necessity to conform with these minimum standards, and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 4(1) (Revocation or Suspension of Operating Authorisations) of this Agreement.

3. Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.

4. If any such ramp inspection or series of ramp inspections gives rise to:
   (a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Chicago Convention; or
   (b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Chicago Convention;

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Chicago Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid or that the requirements under which that aircraft is operated are not equal to or above the minimum standards established pursuant to the Chicago Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph (3) of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer

that serious concerns of the type referred to in paragraph (4) of this Article arise and draw the conclusions referred in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

7. Any action by one Contracting Party in accordance with paragraphs (2) or (6) of this Article shall be discontinued once the basis for the taking of that action ceases to exist.

Article 8

Aviation Security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Montreal Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 and any aviation security agreement that becomes binding on both Contracting Parties.

2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to security of civil aviation.

3. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Chicago Convention to the extent that such security provisions are applicable to the Contracting Parties. Each Contracting Party shall require that its airlines and the operators of airports in its territory act in conformity with such aviation security provisions.

5. Each Contracting Party agrees that its airlines shall be required to observe the aviation security provisions referred to in paragraph (4) of this article required by the other Contracting Party for entry into the territory of that other Contracting Party. For departure from, or while within, the territory of the Grand Duchy of Luxembourg, airlines shall be required to observe aviation security provisions in conformity with European Union law. For departure from, or while within, the territory of Indonesia, airlines shall be required to observe aviation security provisions in conformity with the law in force in that country. Each Contracting Party shall ensure that adequate security measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading; and that those measures are adjusted to meet any increased threat to the security of civil aviation. Each Contracting Party agrees that security provisions required by the other Contracting Party for departure from and while within the territory of

that other Contracting Party must be observed. Each Contracting Party shall also act favourably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

6. With full regard and mutual respect for each other's sovereignty, a Contracting Party may adopt security measures for entry into its territory. Where possible, that Contracting Party shall take into account the security measures already applied by the other Contracting Party and any views that the other Contracting Party may offer. Each Party recognises, however, that nothing in this Article limits the right of a Contracting Party to refuse entry into its territory of any flight or flights that it deems to present a threat to its security.

7. A Contracting Party may take emergency measures to meet a specific security threat. Such measures shall be notified immediately to the other Contracting Party.

8. Without prejudice to the need to take immediate action in order to protect transport security, the Contracting Parties affirm that when considering security measures, a Contracting Party shall evaluate possible adverse effects on international air transport and, unless constrained by law, shall take such factors into account when it determines what measures are necessary and appropriate to address those security concerns.

9. Each Contracting Party may request consultations at any time concerning security standards adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from provisions of this Article, that Contracting Party may request immediate consultations with the other Contracting Party. Failure to reach a satisfactory resolution within 15 days from the date of such request, shall constitute grounds to revoke, suspend or limit the operating authorisation and technical permissions of an airline or airlines of the other Contracting Party. When required by an emergency, a Contracting Party may take interim action prior to the expiry of 15 days.

Article 9

Customs Duties and Other Charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions, customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article;

(a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;

(b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;

(c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines of either Contracting Party may be unloaded in the

territory of the other Contracting Party only with the approval of the Customs authorities of that territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 10

Capacity Provisions

1. The capacity to be operated shall be agreed upon between the aeronautical authorities of both Parties before the services are inaugurated and reviewed when necessary based on traffic requirements and load factor on the specified routes.

2. There shall be fair and equal opportunity for the designated airline(s)s of both Parties to operate the agreed services on the specified routes between their respective territories.

3. In operating the agreed services, the designated airlines of each Party shall take into account the interests of the designated airlines of the other Party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

4. The agreed services provided by the designated airlines of the Parties shall bear reasonable relationship to the requirement of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from the territory of either Party and destined for the territory of the other Party.

5. Any increase in the capacity to be provided and the frequency of services to be operated by the designated airline(s) of each Party shall be subject to agreement between both parties. Pending such an agreement of settlement, the capacity and frequency entitlements already in force shall prevail.

Article 11

Tariffs

1. The tariffs in respect of the agreed services operated by the designated airline of each Party shall be established by each designated airline based upon its commercial considerations in the market place at reasonable levels, due regard being paid to all relevant factors, including the cost of operation and reasonable profit.

2. Each Contracting Party may require notification or filing of any price to be charged by its own designated airline or airlines. Neither Contracting Party shall require notification or filing of any price to be charged by the designated airline or airlines of the other Contracting Party. Prices may remain in effect unless subsequently disapproved under paragraph (5) or (6) of this Article.

3. Notwithstanding the foregoing, each Party shall have the right to intervene so as to:
   (a) prevent tariffs whose application constitutes anti-competitive behaviour which has or is likely to or intended to have the effect of crippling a competitor or excluding a competitor from a route;
   (b) protect consumers from tariffs that are excessive or restrictive due to abuse of a dominant position; and
   (c) protect airlines from tariffs that are predatory or artificially low.

4. For the purposes set out in paragraph (3) of this Article, the aeronautical authorities of one Party may require the designated airline of the other Party to provide information relating to the establishment of the tariffs.

5. If one Party believes that the tariff charged by the designated airline of the other Party is inconsistent with the considerations set forth in paragraph (3) of this Article, it shall notify the other Party of

the reasons for its dissatisfaction as soon as possible and request consultations which shall be held not later than thirty (30) days after receipt of the request. If the Parties reach an agreement with respect to the tariff for which a notice of dissatisfaction has been given, each Party shall use its best efforts to put that agreement into effect. In the absence of such an agreement, the previously existing tariff shall continue to be in effect.

Article 12

Airline Representatives

1. The designated airline or airlines of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, be satisfied by its own personnel or by using the services of any other organization, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 13

Commercial Opportunities and Transfer of Funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to be extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 14

Fair Competition

1. Each Party shall allow a fair and equal opportunity to the designated airline(s) of both Parties to compete in providing the international air transportation governed by this Agreement.

2. Each Party shall adopt all the appropriate measures within its jurisdiction to eliminate all form of discrimination or unfair competition practices with an adverse effect on the competitive position of the designated airline(s) of the other Party.

3. Neither Contracting Party shall allow its designated airline(s), neither in conjunction with any other airline(s) or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.

Article 15

User Charges

1. Fees and other charges for the use of each airport including its installations, technical and other facilities and services as well as any charges for the use of air navigation facilities, communication

facilities and services shall be made in accordance with the rates and tariffs established by each Contracting Party.

2 The designated airline or airlines of one Contracting Party shall not pay higher fees than those imposed on the designated airline or airlines of the other Contracting Party and/or on any other foreign airlines operating similar international services, for the use of installations and services of the other Contracting Party.

Article 16

Statistics

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request, such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services.

Article 17

Consultation

1. In a spirit of close co-operation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement and of its Annexes, and shall also consult when necessary to provide for modification thereof.

2. Either Contracting Party may request consultations, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

Article 18

Settlement of Disputes

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or either Contracting Party may submit the dispute for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two arbitrators. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty (60) days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires.

In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

3. The Contracting Parties shall comply with any decision given under paragraph 2. of this Article.

Article 19

Modification of Agreement

1. If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days from the date of the request unless both Contracting Parties

agree to an extension of this period. Any modifications so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

2. Modifications of Annex I shall be made by direct agreement between the aeronautical authorities of the Contracting Parties. Such modification would be effective from the date of the approval of the aeronautical authorities.

Article 20

Multilateral Convention

This Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 21

Termination

Either Contracting Party may at any time give notice in writing through diplomatic channels to the other Contracting Party of its decision to terminate this Agreement; such notice shall be communicated simultaneously to the International Civil Aviation Organization. The Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party the notice shall be deemed to have been received fourteen (14) days after receipt of the notice by the International Civil Aviation Organization.

Article 22

Registration

This Agreement and any amendment thereto shall be registered with the International Civil Aviation Organization.

Article 23

Entry into Force

This Agreement shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this Agreement by each Contracting Party have been completed.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate in Jakarta on this 25th day of May 2023. In the English and Indonesian languages, both texts being equally authentic. In the case of a divergence of interpretation, the English shall prevail.

For the Government of the
Grand Duchy of Luxembourg

Jean ASSELBORN

Minister of Foreign and
European Affairs

For the Government of the
Republic of Indonesia

Budi Karya SUMADI

Minister of Transportation

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ANNEX I

Routes

Routes to be operated by the designated airline or airlines of Luxembourg: Luxembourg – Intermediate points – Points in Indonesia – Points beyond Routes to be operated by the designated airline or airlines of Indonesia Points in Indonesia – Intermediate points – Luxembourg – Points beyond

1. Any intermediate and/or beyond points may be served by the designated airline or airlines from both Contracting Parties.
2. The designated airline or airlines of each Contracting Party may on any or all flights omit calling at any of the points on the routes specified above, and may serve them in any order, provided that the agreed services on these routes begin in the Contracting Party designating the airline or airlines.

*

ANNEX II

Other states

List of other states referred to in Article 3 and Article 4 of this Agreement:

(a) The Republic of Iceland (under the Agreement on the European Economic Area, signed at Porto on 2 May 1992);

(b) The Principality of Liechtenstein (under the Agreement on the European Economic Area, signed at Porto on 2 May 1992);

(c) The Kingdom of Norway (under the Agreement on the European Economic Area, signed at Porto on 2 May 1992);

(d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport, signed at Luxembourg on 21 June 1999).

Luxembourg, le 6 février 2025

La Présidente,
Corinne CAHEN

Le Rapporteur,
Gusty GRAAS

Impression: CTIE – Division Imprimés et Fournitures de bureau