

AGREEMENT**between the European Union and the Government of the Socialist Republic of Vietnam on certain aspects of air services**

THE EUROPEAN UNION,

of the one part, and

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM,

of the other part,

(hereinafter referred to as 'the Parties'),

NOTING that bilateral air service agreements have been concluded between seventeen Member States of the European Union and the Government of the Socialist Republic of Vietnam containing provisions contrary to the law of the European Union;

NOTING that the European Union has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Union and third countries;

NOTING that under the law of the European Union, European Union air carriers established in a Member State have the right to non-discriminatory access to air routes between the Member States of the European Union and third countries;

HAVING REGARD to the agreements between the European Union and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership in air carriers licensed in accordance with the law of the European Union;

RECOGNISING that certain provisions of the bilateral air service agreements between Member States of the European Union and the Government of the Socialist Republic of Vietnam, which are contrary to the law of the European Union, must be brought into conformity with it in order to establish a sound legal basis for air services between the European Union and the Socialist Republic of Vietnam and to preserve the continuity of such air services;

NOTING that under the law of the European Union, air carriers may not, in principle, conclude agreements which may affect trade between Member States of the European Union and which have as their object or effect the prevention, restriction or distortion of competition;

RECOGNISING that provisions in bilateral air service agreements concluded between Member States of the European Union and the Government of the Socialist Republic of Vietnam which (i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air carriers on the relevant routes, may render ineffective the competition rules applicable to undertakings;

NOTING that it is not a purpose of the European Union, as part of these negotiations, to increase the total volume of air traffic between the European Union and the Socialist Republic of Vietnam, to affect the balance between European Union air carriers and air carriers of the Socialist Republic of Vietnam, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,

HAVE AGREED AS FOLLOWS:

*Article 1***General provisions**

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Union and 'EU Treaties' shall mean the Treaty on European Union and the Treaty on the Functioning of the European Union.
2. References in each of the Agreements listed in Annex 1 to nationals of the Member State that is a party to that Agreement shall be understood as referring to nationals of the Member States of the European Union.
3. References in each of the Agreements listed in Annex 1 to air carriers or airlines of the Member State that is a party to that Agreement shall be understood as referring to air carriers or airlines designated by that Member State.

*Article 2***Designation by a Member State**

1. The provisions in paragraphs 2 and 3 of this Article shall supersede the corresponding provisions in the articles listed in Annex 2(a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by the Government of the Socialist Republic of Vietnam, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.
2. On receipt of a designation by a Member State, the Government of the Socialist Republic of Vietnam shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

- (i) the air carrier is established in the territory of the designating Member State 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 air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant aeronautical authority is clearly identified in the designation; and
- (iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states.

3. The Government of the Socialist Republic of Vietnam may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

- (i) the air carrier is not established in the territory of the designating Member State 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 air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operators Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
- (iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states.

In exercising its right under this paragraph, the Government of the Socialist Republic of Vietnam shall not discriminate between European Union air carriers on the grounds of nationality.

Article 3

Safety

1. The provisions in paragraph 2 of this Article shall complement the articles listed in Annex 2(c).
2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Socialist Republic of Vietnam under the safety provisions of the agreement between the Member State that has designated the air carrier and the

Government of the Socialist Republic of Vietnam shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

Article 4

Compatibility with competition rules

1. Bilateral air service agreements concluded between Member States and the Government of the Socialist Republic of Vietnam shall be without prejudice to the competition rules of the Parties.
2. The provisions listed in Annex 2(d) shall cease to have effect.

Article 5

Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

Article 6

Revision or amendment

The Parties may, at any time, revise or amend this Agreement by mutual consent.

Article 7

Entry into force and provisional application

1. This Agreement shall enter in force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.
2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.
3. Agreements and other arrangements between Member States and the Government of the Socialist Republic of Vietnam which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex 1(b). This Agreement shall apply to all such agreements and arrangements upon their entry into force or provisional application.

Article 8

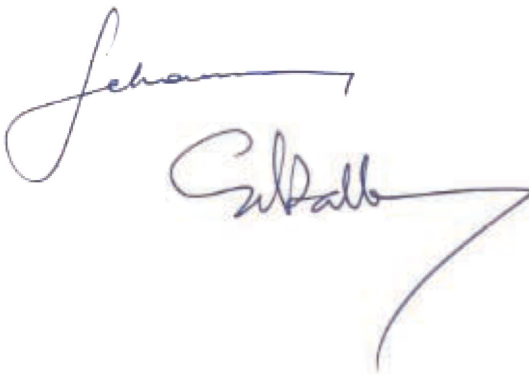
Termination

1. In the event that an agreement listed in Annex 1 is terminated, all provisions of this Agreement that relate to the agreement listed in Annex 1 concerned shall terminate at the same time.
2. In the event that all agreements listed in Annex 1 are terminated, this Agreement shall terminate at the same time.

In witness whereof, the undersigned, being duly authorised, have signed this Agreement.

Done at Brussels in duplicate, on the fourth day of October in the year two thousand and ten in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Vietnamese languages.

Za Европейския съюз
 Por la Unión Europea
 Za Evropskou unii
 For Den Europæiske Union
 Für die Europäische Union
 Euroopa Liidu nimel
 Για την Ευρωπαϊκή Ένωση
 For the European Union
 Pour l'Union européenne
 Per l'Unione europea
 Eiropas Savienības vārdā –
 Europos Sąjungos vardu
 Az Európai Unió részéről
 Għall-Unjoni Ewropea
 Voor de Europese Unie
 W imieniu Unii Europejskiej
 Pela União Europeia
 Pentru Uniunea Europeană
 Za Európsku úniu
 Za Evropsko unijo
 Euroopan unionin puolesta
 För Europeiska unionen
 Thay mặt Liên minh Châu Âu



Za правителството на Социалистическа република Виетнам
 Por el Gobierno de la República Socialista de Vietnam
 Za vládu Vietnamské socialistické republiky
 For regeringen for Den Socialistiske Republik Vietnam
 Für die Regierung der Sozialistischen Republik Vietnam
 Vietnamai Sotsialistliku Vabariigi valitsuse nimel
 Για την κυβέρνηση της Σοσιαλιστικής Δημοκρατίας του Βιετνάμ
 For the Government of the Socialist Republic of Vietnam
 Pour le gouvernement de la République socialiste du Viêt Nam
 Per il governo della Repubblica socialista del Vietnam
 Vjetnamas Sociālistiskās Republikas valdības vārdā –
 Vietnamo Socialistinės Respublikos Vyriausybės vardu
 A Vietnami Szocialista Köztársaság kormánya részéről
 Għall-Gvern tar-Repubblika Soċjalista tal-Vjetnam
 Voor de Regering van de Socialistische Republiek Vietnam
 W imieniu Rządu Socjalistycznej Republiki Wietnamu
 Pelo Governo da República Socialista do Vietnam
 Pentru Guvernul Republicii Socialiste Vietnam
 Za vládu Vietnamskej socialistickej republiky
 Za vladu Socialistične republike Vietnam
 Vietnamin sosialistisen tasavallan hallituksen puolesta
 För Socialistiska republiken Vietnams regering
 Thay mặt Chính phủ Nước Cộng hòa Xã hội Chủ nghĩa Việt nam



ANNEX 1

List of agreements referred to in Article 1 of this Agreement

- (a) Air service agreements between the Government of the Socialist Republic of Vietnam and Member States of the European Union which, at the date of signature of this Agreement, have been concluded, signed and/or are being applied provisionally.
- Air Services Agreement between the Austrian Federal Government and the Government of the Socialist Republic of Vietnam, done at Hanoi on 27 March 1995, hereinafter referred to as the 'Vietnam – Austria Agreement' in Annex 2:
 - last modified by Minutes of Understanding, done at Hanoi on 5 April 2006.
 - Agreement between the Government of the Kingdom of Belgium and the Government of the Socialist Republic of Vietnam on Air Transport, done at Brussels on 21 October 1992, hereinafter referred to as the 'Vietnam – Belgium Agreement' in Annex 2.
 - Agreement between the Government of the People's Republic of Bulgaria and the Government of the Socialist Republic of Vietnam on air services between and beyond their respective territories, done at Sofia on 1 October 1979, hereinafter referred to as the 'Vietnam – Bulgaria Agreement' in Annex 2.
 - Agreement between the Government of the Czech Republic and the Government of the Socialist Republic of Vietnam concerning Air Services, done at Prague on 23 May 1997, hereinafter referred to as the 'Vietnam – Czech Republic Agreement' in Annex 2.
 - Air Services Agreement between the Government of the Kingdom of Denmark and the Government of the Socialist Republic of Vietnam, done at Hanoi on 25 September 1997, hereinafter referred to as the 'Vietnam – Denmark Agreement' in Annex 2:
 - to be read together with Memorandum of Understanding between the Kingdoms of Denmark, Norway and Sweden and the Socialist Republic of Vietnam, done at Hanoi on 25 September 1997.
 - Air Services Agreement between the Government of the Republic of Finland and the Government of the Socialist Republic of Vietnam, signed at Hanoi on 26 October 2000, hereinafter referred to as the 'Vietnam – Finland Agreement' in Annex 2.
 - Air Services Agreement between the Government of the Republic of France and the Government of the Socialist Republic of Vietnam, done at Paris on 14 April 1977, hereinafter referred to as the 'Vietnam – France Agreement' in Annex 2.
 - Air Transport Agreement between the Government of the Federal Republic of Germany and the Government of the Socialist Republic of Vietnam, done at Bonn on 26 August 1994, hereinafter referred to as the 'Vietnam – Germany Agreement' in Annex 2.
 - Agreement between the Government of the Republic of Hungary and the Government of the Socialist Republic of Vietnam on Air Services, done at Hanoi on 4 February 1998, hereinafter referred to as the 'Vietnam – Hungary Agreement' in Annex 2.
 - Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Socialist Republic of Vietnam on Air Services, done at Luxembourg on 26 October 1994, hereinafter referred to as the 'Vietnam – Luxembourg Agreement' in Annex 2.
 - Agreement between the Kingdom of the Netherlands and the Socialist Republic of Vietnam for Air Services between and beyond their respective territories, done at Hanoi on 1 October 1993, hereinafter referred to as the 'Vietnam – Netherlands Agreement' in Annex 2.
 - Agreement between the Government of the People's Republic of Poland and the Government of the Socialist Republic of Vietnam on Air Services, done at Warsaw on 11 September 1976, hereinafter referred to as the 'Vietnam – Poland Agreement' in Annex 2.
 - Air Transport Agreement between the Government of the Portuguese Republic and the Government of the Socialist Republic of Vietnam, done at Lisbon on 3 February 1998, hereinafter referred to as the 'Vietnam – Portugal Agreement' in Annex 2.
 - Agreement between the Government of the Socialist Republic of Romania and the Government of the Socialist Republic of Vietnam relating to civil air transport, done at Hanoi on 26 June 1979, hereinafter referred to as the 'Vietnam – Romania Agreement' in Annex 2.

- Air Services Agreement between the Government of the Kingdom of Sweden and the Government of the Socialist Republic of Vietnam, done at Hanoi on 25 September 1997, hereinafter referred to as the 'Vietnam – Sweden Agreement' in Annex 2:
 - to be read together with Memorandum of Understanding between the Kingdoms of Denmark, Norway and Sweden and the Socialist Republic of Vietnam, done at Hanoi on 25 September 1997.
 - Air Transport Agreement between the Government of the Slovak Republic and the Government of the Socialist Republic of Vietnam, done at Hanoi on 6 November 1997, hereinafter referred to as the 'Vietnam – Slovak Republic Agreement' in Annex 2.
 - Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Socialist Republic of Vietnam concerning Air Services, done at London on 19 August 1994, hereinafter referred to as the 'Vietnam – United Kingdom Agreement' in Annex 2:
 - last amended by Exchange of Notes, done at Hanoi on 8 and 26 September 2000.
- (b) Air service agreements and other arrangements initialled or signed between the Government of the Socialist Republic of Vietnam and Member States of the European Union which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally.
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ANNEX 2

List of articles in the agreements listed in Annex 1 and referred to in Articles 2 to 4 of this Agreement

(a) Designation by a Member State:

- Article 3, paragraph 5 of the Vietnam – Austria Agreement,
- Article 3, paragraph 4 of the Vietnam – Bulgaria Agreement,
- Article 3, paragraph 4 of the Vietnam – Denmark Agreement,
- Article 4, paragraph 4 of the Vietnam – Czech Republic Agreement,
- Article 4, paragraph 5 of the Vietnam – Finland Agreement,
- Article 7, paragraph 4 of the Vietnam – France Agreement,
- Article 3, paragraph 4 of the Vietnam – Germany Agreement,
- Article 3, paragraph 4 of the Vietnam – Hungary Agreement,
- Article 3, paragraph 4 of the Vietnam – Luxembourg Agreement,
- Article 4, paragraph 4 of the Vietnam – Netherlands Agreement,
- Article 3, paragraph 2 of the Vietnam – Poland Agreement,
- Article 3, paragraph 4 of the Vietnam – Portugal Agreement,
- Article 3 of the Vietnam – Romania Agreement,
- Article 3, paragraph 4 of the Vietnam – Sweden Agreement,
- Article 3, paragraph 4 of the Vietnam – Slovak Republic Agreement,
- Article 4, paragraph 4 of the Vietnam – United Kingdom Agreement.

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

- Article 4, paragraph 1(a) of the Vietnam – Austria Agreement,
- Article 5, paragraph 1(d) of the Vietnam – Belgium Agreement,
- Article 4(a) of the Vietnam – Bulgaria Agreement,
- Article 5, paragraph 1(a) of the Vietnam – Czech Republic Agreement,
- Article 4, paragraph 1(a) of the Vietnam – Denmark Agreement,
- Article 5, paragraph 1(a) of the Vietnam – Finland Agreement,
- Article 9, paragraph 1(a) of the Vietnam – France Agreement,
- Article 4, paragraph 1 of the Vietnam – Germany Agreement,
- Article 4, paragraph 1(a) of the Vietnam – Hungary Agreement,
- Article 4, paragraph 1(c) of the Vietnam – Luxembourg Agreement,
- Article 5, paragraph 1(c) of the Vietnam – Netherlands Agreement,
- Article 4, paragraph 1 of the Vietnam – Poland Agreement,
- Article 4, paragraph 1(a) of the Vietnam – Portugal Agreement,
- Article 4 of the Vietnam – Romania Agreement,
- Article 4, paragraph 1(a) of the Vietnam – Sweden Agreement,
- Article 4, paragraph 1(a) of the Vietnam – Slovak Republic Agreement,
- Article 5, paragraph 1(a) of the Vietnam – United Kingdom Agreement.

(c) Safety:

- Article 6 *bis* of the Vietnam – Austria Agreement,
- Article 7 of the Vietnam – Belgium Agreement,
- Article 11 of the Vietnam – Czech Republic Agreement,
- Article 18 of the Vietnam – Finland Agreement,
- Article 4 of the Vietnam – France Agreement,
- Article 9 of the Vietnam – Hungary Agreement,
- Article 6 of the Vietnam – Luxembourg Agreement,
- Article 14 of the Vietnam – Netherlands Agreement,
- Article 9 of the Vietnam – Romania Agreement,
- Article 7 of the Vietnam – Slovak Republic Agreement,
- Article 9a of the Vietnam – United Kingdom Agreement.

(d) Compatibility with competition rules:

- Article 13, paragraphs 1 and 7 of the Vietnam – Belgium Agreement,
 - Article 9, paragraphs 3 to 8 of the Vietnam – Bulgaria Agreement,
 - Article 7, paragraph 2 of the Vietnam – Czech Republic Agreement,
 - Article 11, paragraph 2 of the Vietnam – Denmark Agreement,
 - Article 12, paragraphs 2 to 7 of the Vietnam – France Agreement,
 - Article 6, paragraphs 1 and 4 to 6 of the Vietnam – Hungary Agreement,
 - Article 11, paragraphs 2 to 4 of the Vietnam – Luxembourg Agreement,
 - Article 6, paragraphs 2 to 6 of the Vietnam – The Netherlands Agreement,
 - Article 20, paragraphs 2 and 4 of the Vietnam – Poland Agreement,
 - Article 16, paragraphs 2 to 6 of the Vietnam – Portugal Agreement,
 - Article 14, paragraphs 1 to 6 of the Vietnam – Romania Agreement,
 - Article 12, paragraphs 3, 5 and 6 of the Vietnam – Slovak Republic Agreement,
 - Article 11, paragraph 2 of the Vietnam – Sweden Agreement,
 - Article 7, paragraphs 3 and 4 of the Vietnam – United Kingdom Agreement.
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ANNEX 3

List of other States referred to in Article 2 of this Agreement

- (a) the Republic of Iceland (under the Agreement on the European Economic Area);
 - (b) the Principality of Liechtenstein (under the Agreement on the European Economic Area);
 - (c) the Kingdom of Norway (under the Agreement on the European Economic Area);
 - (d) the Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).
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