

# Chambers

GLOBAL PRACTICE GUIDE

---

Definitive global law guides offering  
comparative analysis from top-ranked lawyers

# Aviation Finance & Leasing

Macau

Hugo Maia Bandeira and Daniel Melo

Manuela António – Lawyers and Notaries

[chambers.com](https://www.chambers.com)

# 2020

## Trends and Developments

*Contributed by:*

*Hugo Maia Bandeira and Daniel Melo*

*Manuela António – Lawyers and Notaries see p.5*



### **Macau Aviation Market Opening Postponed – What Next?**

Putting an end to the much-anticipated opening up of the local aviation market on 20 May 2020, the Macau Civil Aviation Authority, the entity responsible for controlling and regulating the air traffic and airspace of the Macau Special Administrative Region of the People’s Republic of China (“Macau SAR” or “Macau”), announced that the Macau SAR government had decided to extend the concession contract of Air Macau for a period of three years. This concession had initially been granted for a 25-year period, expiring in 2020. The announcement came amidst the significant impact of the COVID-19 pandemic which practically brought aviation in Macau to a halt.

As a consequence of the decision to extend the exclusive concession to Air Macau for another three years, the opening of the aviation market of Macau, announced in January 2019, is now basically postponed, as it seems unlikely that any player will seek to obtain a subconcession from Air Macau for such a short period (until 2023).

In our view, this is the most significant recent “development” in the aviation market in Macau, one which is directly tied to the COVID-19 pandemic and its global impact in the aviation sector.

Nevertheless, and as better explained below, despite the current setback imposed by COVID-19, the prospects for the aviation sector in Macau still seem good and there are ongoing developments that have the potential to lay the foundations for solid progress in the sector for years to come.

### *Background and growth of the aviation market in Macau*

Going back a little in history, and in order to have a better understanding of the aviation market of Macau, it is important to bear in mind the seismic changes that the liberalisation of the gaming market in 2002 brought to Macau.

The liberalisation brought in foreign casino operators and the exponential growth of tourists visiting the SAR. The arrival of new and international players to the gaming industry sped up the pace of development of Macau into an international tourist destination.

Despite its heavy reliance on gaming, the fact is that Macau is slowly attracting a wider range of visitors, and its capacity to attract large numbers of tourists has been significantly boosted by the development of casino-integrated resorts over the last 15 years which, besides gamblers, target their offering to family-oriented tourists and to the meetings, incentives, conferences and exhibitions (MICE) sector.

For a better understanding of the market, it is worth noting that Macau is a small territory, with an area of approximately 30 square kilometres and a population of nearly 650,000.

However, despite Macau’s small size, the number of tourists visiting the territory has grown steadily every year, reaching a figure of almost 40 million visitors in 2019 (an increase of around 10% on the number in 2018).

Of these 40 million, the number of passengers flying to Macau International Airport hit a record 9.6 million in 2019. This was an annual growth of 18% in comparison to 2018.

Despite these impressive figures, the fact is that Macau International Airport, the only airport in operation in Macau, was inaugurated in November 1995 and was not conceived to cater to such a large numbers of passengers.

Besides Air Macau, the local carrier incorporated in 1994, there are more than 30 airlines operating at Macau International Airport, connecting the Macau SAR to more than 50 destinations in China, Taiwan and several other places in South-East and North-East Asia.

In light of the recent numbers, and despite the setback brought by COVID-19 (expected to be temporary), it is evident that an increase in capacity is needed, which brings us to one of the most anticipated developments to the market, the expansion of the airport.

### *Expansion of the airport*

As mentioned, taking into consideration the steady and considerable growth of visitors to Macau during the last decades, as well as the growth of passengers using Macau International

# MACAU TRENDS AND DEVELOPMENTS

*Contributed by: Hugo Maia Bandeira and Daniel Melo, Manuela António – Lawyers and Notaries*

Airport, the expansion of the airport is both a challenge and a vital development for the SAR.

In order to address the need to expand Macau International Airport, the latest version of the expansion project was published by the Aviation Authority back in March 2019.

The project envisages the expansion of Macau International Airport in two phases (for two different periods of time):

- the first phase for a target capacity of 11 million passengers – in line with the volume of traffic expected in 2025; and
- the second phase for a target capacity of 15 million – in line with the volume of traffic expected for the period between 2031 and 2037.

More specifically, in April 2020 the government of the Macau SAR unveiled plans to utilise part of the existing (and unused) infrastructure of the Taipa Ferry Terminal (next to the airport) and convert the same into a second terminal for the airport with the capacity to handle around 1.4 million passengers per year.

Besides the growth of the tourism sector in Macau, it is expected that the airport will benefit from the economic growth of the Guangdong-Hong Kong-Macau Greater Bay Area and notably by the increase in usage of the Hong Kong-Zhuhai-Macau Bridge.

In summary, it is expected that Macau International Airport will continue to take advantage of the growth of Macau's economy in particular, and that it will benefit from the increase in the number of new routes to China and the Asia-Pacific region, and from the eventual launch of medium and long-range flights following the airport's expansion.

Furthermore, and in the context of the Greater Bay Area, it is believed that closer co-operation between all the regions involved (the total population of which is over 71 million, approximately the population of Thailand) will significantly increase the mobility of its residents as well as of cargo, which will ultimately be reflected in a higher demand for air transportation through Macau International Airport.

## *Liberalisation of the market*

While the expansion of the airport promises exciting prospects, 2019 also brought the announcement of the much-anticipated liberalisation of the aviation market in Macau.

Despite a failed experience in 2005, where a subconcession was granted to a local airline (Viva Macau) which eventually went bankrupt in 2010, the expectation was that this time the market

would attract investors with significant expertise, which would help to push the aviation market to a higher standard.

In fact, Air Asia was quite vocal in its interest in obtaining a concession in Macau and in using the Macau SAR as a platform to China.

Naturally, the liberalisation of the market would create not only an enormous window of opportunity for lessors and financiers, but also for the local community.

The liberalisation of the market obviously entails the possibility of more jobs in the sector, cheaper airfares, improved service and diversification of the destinations served by the local airport, as well as the tourists that visit the city.

Going back a little in time, it now seems clear that when the market was in its early stages and operations at Macau International Airport had recently commenced, the option chosen by the Macau government to grant a monopoly to Air Macau for the public service of air transport of passengers, baggage, cargo, etc, to and from Macau, was the right choice. Most notably, it was an approach that fostered the steady development of the sector in Macau.

Needless to say, the astonishing pace of development of Macau over the past two decades means that the Macau's current aviation market requires more competition and the opening up of the market to new players, with new expertise.

This will certainly help the market to grow further and raise its standards, as happened in the gaming industry back in 2002.

However, the local authorities stress that the aviation market has been particularly affected by the COVID-19 pandemic (a worldwide trend) and it was therefore decided that in order to maintain the stability of the sector in Macau, 2020 was not the best year to open up the market.

The government of the Macau SAR nevertheless maintains that it will continue working towards amending the relevant legislation to open up the air transport market in the region and further developments are expected in the next couple of years.

At this stage, it is still unclear whether, during the three-year extension of the concession, Air Macau will retain its exclusivity in the market.

However, and as mentioned previously, unless any changes to the current legal framework are made, it is not expected that any player will seek to obtain a subconcession from Air Macau for such a short period (until 2023).

## *Renegotiation of leases*

Another expected trend in the Macau aviation market during 2020 is the renegotiation of existing leases.

In fact, taking into account, firstly, the impact of the COVID-19 pandemic, as well as, secondly, the extension of the exclusive concession granted to Air Macau, it is expected that a certain number of aircraft leases will be renegotiated to extend their term and/or to grant deferred rent payments.

Although air traffic to and from Macau has been very limited during the first half of 2020, given Air Macau's solid fundamentals and its reputation as a reliable lessee, for now, the market is not expecting it to default on its obligations.

As such, it is also expected that lessors will enter into the required contractual arrangements to allow Air Macau to fulfil its commitments.

## *Turning Macau into a leasing hub*

Finally, the government of the Macau SAR has expressed its intention to attract players in the aviation leasing business to Macau.

In this context, leasing legislation was revised in 2019, to streamline the regulatory requirements for this type of activity, as well as to provide a more favourable taxation regime.

While some aircraft portfolios have been relocated to Macau, it faces fierce regional competition, more specifically from Hong Kong and Singapore which, besides being active in the aviation sector, have a strong tradition and reputation in the financial and business sector in general.

This said, only time will tell whether Macau can match its competitors and affirm itself as a regional player in this line of business. In this regard, the Greater Bay Area project may play a fundamental role in helping to develop Macau as a regional leasing hub, provided that Macau is able to attract regional investment, both in its legal and regulatory segments.

All factors considered, and discounting unforeseeable events such as those currently shaking up the world economy and the aviation market in particular, the prospects for the market in Macau remain cautiously optimistic.

Given the significant room to improve the competition environment as well as the destinations served by Macau International Airport, there are reasons to believe that the trend should continue to be one of expansion and opening up of the aviation market in the Macau SAR in the coming years, once air traffic is back on track.

# MACAU TRENDS AND DEVELOPMENTS

---

*Contributed by: Hugo Maia Bandeira and Daniel Melo, Manuela António – Lawyers and Notaries*

**Manuela António – Lawyers and Notaries** is traditionally strong in a wide range of sectors, with aviation being one of its specialities. The firm's main workforce is located in Macau and it has four lawyers dedicated to the aviation sector. Their experience covers all matters relating to the regulation of the aviation industry in Macau, including aircraft finance, aircraft acquisition and leasing, charter operations, acting for lessors and lessees, regulatory compliance, as well as dealing with reg-

ulatory agencies. This past year, the firm has been engaged in various cases of aviation leasing and renegotiation of existing leases, and has assisted in the transfer of property/beneficial interest of aircraft, together with the associated financing and security packages, as well as the cancellation of liens on aircraft and the deregistration of aircraft. The team recently advised a leading worldwide business aviation service provider and an aviation investment platform.

## Authors



**Hugo Maia Bandeira** joined Manuela António – Lawyers and Notaries in 2010 as a trainee and is now a partner of the firm. Hugo handles matters in various areas and has collaborated in several aircraft transactions, aviation being one of his areas of expertise. He is registered with the

Macau Lawyers' Association and is a member of the Macau Corporate Governance Institute. Hugo was showcased in a cover story on Orient Aviation's website and he assisted Holman Fenwick Willan with the creation of their interactive Asia Map – [www.hfw.com/aviation-asia](http://www.hfw.com/aviation-asia). Hugo also contributed to Pillsbury Winthrop Shaw Pittman LLP's World Aircraft Repossession Index.



**Daniel Melo** is one of the leading lawyers in aviation at Manuela António. He joined the firm in 2015 and was recently promoted to senior associate. Daniel has advised various clients in the aviation sector, among others, and has assisted different companies with transactions

pertaining to aircraft leasing, as well as cancellation of liens on aircraft and the deregistration of aircraft. He is registered with the Macau Lawyers' Association. Daniel also assisted Holman Fenwick Willan with the creation of their interactive Asia Map ([www.hfw.com/aviation-asia](http://www.hfw.com/aviation-asia)) and contributed to Pillsbury Winthrop Shaw Pittman LLP's World Aircraft Repossession Index.

---

## Manuela António – Lawyers and Notaries

Alameda Dr. Carlos  
D'Assumpção, nos. 411-417  
Dynasty Plaza  
15th floor D-H  
Macau

Tel: +853 28 591 592  
Fax: +853 28 345 678  
Email: [info@mantonio.net](mailto:info@mantonio.net)  
Web: [www.mantonio.net](http://www.mantonio.net)

