



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2009] IASC 101
The Route:	Vietnam
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/200832

1 The application

1.1 On 17 December 2008, Qantas applied for an allocation of two frequencies per week of dedicated freight capacity on the Vietnam route. Qantas intends to operate a twice weekly freighter service on a routing of Sydney - Saigon - Shanghai – points in the USA, returning to Sydney via Auckland or Sharjah, Frankfurt and Bangkok, depending on the day of the week. The points in the USA that may be served are Anchorage, Chicago, Honolulu, Los Angeles and Toledo. Qantas will operate the services using Boeing 747-400F freighter aircraft wet-leased from Atlas Air. Qantas plans to start its services from February 2009.

1.2 The Commission published a notice on 22 December 2008 inviting other applications for capacity. No applications were received.

1.3 All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Vietnam air services arrangements, the designated airlines of Australia may operate dedicated cargo services with any type of aircraft between points in Australia to points in Vietnam and the beyond points proposed in this application.

2.2 The Register of Available Capacity shows that there are three dedicated cargo services per week with any aircraft type of capacity available for allocation.

2.3 Qantas already holds allocations of capacity on the other routes involved, consistent with the operation of the services on the Vietnam route.

3 Delegate's consideration

3.1 In accordance with section 27AB of the Act and regulation 3A of the *International Air Services Commission Regulations 1992*, the delegate of the Commission considers Qantas' application.

3.2 Under paragraph 6.2 of the Minister's policy statement (No. 5), of 19 May 2004,

the Commission is required only to apply the criteria in paragraph 4 of the policy statement in this case. Under paragraph 4, the use of Australian entitlements by a carrier that is reasonably capable of obtaining the necessary approvals (4(b)(i)) and of implementing its proposals (4(b)(ii)) is of benefit to the public. Qantas is an established international carrier which is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements. The delegate, on behalf of the Commission, will allocate to Qantas the capacity it has sought.

3.3 The delegate notes that Qantas already holds allocations of capacity on the China, USA, New Zealand, United Arab Emirates, Germany and Thailand routes necessary to facilitate the proposed services.

4 Determination allocating capacity on the Vietnam route to Qantas ([2009] IASC 101)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating two dedicated cargo services per week of capacity in each direction on the Vietnam route under the Australia - Vietnam air services arrangements.

4.2 The determination is for five years from the date of the determination.

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 28 February 2009, or from such other date approved by the Commission;
- only Qantas or another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity;
- Qantas is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Vietnam air services arrangements being withdrawn; or
 - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Qantas or be in a position to exercise effective control of Qantas, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of Qantas are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia – Vietnam air services arrangements.

Dated: 13 January 2009

Michael Bird
Executive Director
Delegate of the IASC Commissioners