



## Australian Government

### International Air Services Commission

#### DETERMINATION

<b>Determination:</b>	<b>[2010] IASC 103</b>
<b>The Route:</b>	<b>Korea</b>
<b>The Applicant:</b>	<b>Qantas Airways Limited (Qantas) (ACN 009 661 901)</b>
<b>Public Register:</b>	<b>IASC/APP/201005</b>

#### 1 The application

1.1 On 7 May 2010, Qantas applied for an allocation of unlimited capacity and frequency for all-cargo services on the Korea route. Qantas plans to introduce a weekly freighter service between Australia – Seoul (Incheon) – Anchorage – Chicago using B747-400F freighter aircraft wet leased from Atlas Air. Qantas asked that the determination be made for a period of ten years.

1.2 The Commission published a notice on 10 May 2010, inviting other applications for capacity. No applications were received. All material supplied by the applicant is filed on the Register of Public Documents.

#### 2 Provisions of relevant air services arrangements

2.1 The proposed services by Qantas are consistent with the air services arrangements between Australia and the Korea. According to the Register of Available Capacity, designated Australian carriers can operate all-cargo services without limitation on the capacity/frequency or type of aircraft on their specified route schedule between Australia and Korea.

#### 3 Delegate's consideration

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Amendment Regulations 2003 (No. 1)*, the delegate of the Commission considers the Qantas application.

3.2 Qantas is the only applicant for capacity. 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. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public.

3.3 Qantas is an established 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. Accordingly, the delegate will

allocate the capacity sought to Qantas.

3.4 Qantas has sought capacity on the basis that it may be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas. The Commission has previously allocated capacity to Qantas to be used by Jetstar, a wholly-owned subsidiary of Qantas, on a number of routes. While Qantas has not indicated any plans for this capacity to be utilised by Jetstar, consistent with these previous Commission decisions the delegate will allocate capacity to Qantas on this basis.

3.5 Under paragraph 11.1(b) of the Minister's policy statement, where capacity and routes are unrestricted, Commission determinations are to be for a period of ten years.

#### **4 Determination allocating capacity on the Korea route to Qantas ([2010] IASC 103)**

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating unlimited capacity for all-cargo services on the Korea route in accordance with the terms of the Australia – Korea air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Qantas must utilise the capacity by no later than 30 June 2010;
- the capacity may be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas;
- 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 – Korea 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 – Korea air services arrangements.

Dated: 18 May 2010

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners