



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination:	[2013] IASC 124
Renewal of:	[2009] IASC 101
The Route:	Vietnam
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/2013

The Commission makes a fresh determination in favour of Qantas allocating one dedicated cargo service per week on the Vietnam route for five years.

1 The application for renewal

1.1 On 13 January 2009, the delegate of the Commission issued Determination [2009] IASC 101 (the Determination) allocating to Qantas two dedicated cargo services per week of capacity in each direction on the Vietnam route under the Australia - Vietnam air services arrangements. The determination was for five years and, upon Qantas' request, was subsequently varied by Decision [2009] IASC 221 to reduce the capacity allocated from two to one dedicated cargo service per week. Qantas advised at the time that it was operating a once weekly freighter service to Ho Chi Minh City, but did not expect to commence a second service in the immediate future.

1.2 Under section 17 of the *International Air Services Commission Act 1992* (the Act), the Commission must start its consideration of the renewal of a determination at least 12 months before the expiry of the Determination. The Determination expires on 12 January 2014. In view of this, the Commission sent, on 27 March 2013, a letter to Qantas inviting it to apply for renewal if it wished to renew the Determination.

1.3 Qantas applied to the Commission on 15 April 2013 for a renewal of the Determination for five years from 13 January 2014. Qantas sought to renew the capacity on the basis that the capacity will be fully utilised by 31 December 2016.

1.4 As required by sections 12 and 17 of the Act, the Commission published a notice on 16 April 2013 inviting other applications for the capacity. No applications were received.

1.5 All material supplied by the applicant is available on the Commission's website (www.iasc.gov.au).

2 Commission's consideration

2.1 In considering an application for renewal of a determination under section 8 of the Act, the Commission must make the same allocation of capacity as the original determination unless the Commission is satisfied that the allocation is no longer of benefit to the public. In assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out for that purpose in the policy statement made by the Minister under section 11 of the Act.

2.2 Under paragraph 6.2 of the Minister's Policy Statement (No. 5) of 19 May 2004 (the Policy Statement), in circumstances where there is only one applicant for allocation of capacity on a route, only the criteria in paragraph 4 are applicable. Paragraph 4 provides that the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public unless such carriers are not reasonably capable of obtaining the necessary approvals to operate on the route and are not reasonably capable of implementing their applications.

2.3 The Commission notes that:

- there are no other applicants seeking capacity on the route; and
- Qantas is an established international carrier and is therefore reasonably capable of obtaining the necessary approvals to operate on the route and of implementing its application.

2.4 Under paragraph 8.1 of the Policy Statement, there is a presumption in favour of the carrier seeking the renewal.

2.5 The Commission, however, notes that Qantas is not currently utilising the allocation and in its application it has stated that it continues to monitor the market for freight services on the route and has sought renewal on the basis that the capacity will be fully utilised by 31 December 2016. Paragraph 9.1 of the Policy Statement states that for the purposes of specifying a period within which allocated capacity must be fully used, the Commission should specify as short a period as is reasonable having regard to the steps required to commence operations. Except in exceptional circumstances, the Commission should not specify a period longer than 3 years.

2.6 Qantas has sought approval to fully utilise the capacity some two years from the date of renewal of the Determination. The Commission recognises that this is a relatively small market for air freight (representing less than 1% of total air freight to and from Australia¹) and accepts that Qantas will wish to continue monitoring the route before deciding to reintroduce a dedicated cargo service. Also, the Commission notes that there are six dedicated cargo services per week available for allocation. In the circumstances, the Commission agrees to 31 December 2016 as the date by which Qantas must fully utilise the capacity. If prior to that date Qantas decides that there is not sufficient demand to sustain a dedicated cargo service, the Commission would expect Qantas to return the capacity. Additionally, the Commission may exercise its power to review the Determination under section 10 of the Act if Qantas is not able to fully utilise the capacity by 31 December 2016 or such other date approved by the Commission.

¹ Bureau of Infrastructure, Transport and Regional Economics – from airline supplied data.

2.7 Given that there are no other applicants seeking capacity on the route and that Qantas is an established international carrier reasonably capable of obtaining the necessary approvals to operate on the route and of implementing its application, there is public benefit for Qantas to continue being allocated the freight capacity on the Vietnam route.

3 Determination for renewal of Determination [2009] IASC 101 allocating capacity on the Vietnam route to Qantas ([2013] IASC 124)

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

3.2 The determination is for five years from 13 January 2014.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 31 December 2016, 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; and
- 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.

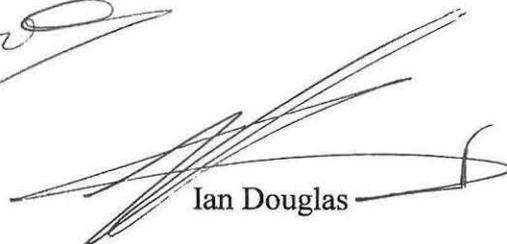
Dated: 20 May 2013



Jill Walker
Chairperson



Stephen Bartos
Member



Ian Douglas
Member

