



## Australian Government

### International Air Services Commission

#### DETERMINATION

<b>Determination:</b>	<b>[2010] IASC 111</b>
<b>The Route:</b>	<b>Thailand</b>
<b>The Applicant:</b>	<b>Strategic Airlines Pty Ltd (Strategic Airlines) (ACN 131 128 571)</b>
<b>Public Register:</b>	<b>IASC/APP/201017</b>

#### 1 The application

1.1 On 21 September 2010, Strategic Airlines applied for an allocation of capacity being the equivalent of 4.2 B747 weekly services each week on the Thailand route. Strategic Airlines advised that it plans to use the capacity to operate six frequencies per week with a two-class, 274 seat A330 aircraft. The services are planned to be operated from February 2011, with the capacity fully utilised by 31 December 2011. Strategic Airlines sought a five-year determination.

1.2 The Commission published a notice on 28 September 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 Under the Australia – Thailand air services arrangements, the designated airlines of Australia may operate services with any type of aircraft between points in Australia via intermediate points to points in Thailand. The Register of Available Capacity shows that there are the equivalent of 22.95 B747 weekly services available for allocation. Under the aircraft substitution formula in the air services arrangements, an A330 aircraft is equivalent to 0.7 B747 aircraft.

#### 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 Regulations 1992*, the delegate of the Commission considered Strategic Airlines' application.

3.2 Strategic Airlines 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 (4(b)(i)) and of implementing its proposals (4(b)(ii)) is of benefit to the public.

3.3 Strategic Airlines is now an established international carrier which has demonstrated its ability to obtain the necessary approvals and to implement its proposals, the Commission having previously allocated capacity to Strategic Airlines on the Indonesia route. The delegate is satisfied that Strategic Airlines meets the paragraph 4 criteria. This means that there is public benefit arising from the use of the entitlements.

3.4 Under the aircraft substitution arrangements, Strategic Airlines will require 4.2 B747 equivalent weekly services of capacity in order to operate the planned six frequencies per week with a two-class 274 seat A330. The delegate, on behalf of the Commission, will allocate the capacity sought to Strategic Airlines.

#### **4 Determination allocating capacity on the Thailand route to Strategic Airlines ([2010] IASC 111)**

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Strategic Airlines, allocating 4.2 B747 equivalent services of capacity per week in each direction on the Thailand route under the Australia – Thailand 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:

- Strategic Airlines is required to fully utilise the capacity from no later than 31 December 2011, or from such other date approved by the Commission;
- only Strategic Airlines is permitted to utilise the capacity;
- Strategic Airlines 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 Strategic Airlines are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – Thailand 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 Strategic Airlines or be in a position to exercise effective control of Strategic Airlines, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of Strategic Airlines 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 – Thailand air services arrangements.

Dated: 13 October 2010

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners