



# INTERNATIONAL AIR SERVICES COMMISSION

## RENEWAL DETERMINATION

**DETERMINATION NO:** [2001] IASC 115  
**RENEWAL OF:** DETERMINATION IASC/DET/9619  
**THE ROUTE:** NETHERLANDS  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(QANTAS) (ACN 009 661 901)  
**PUBLIC REGISTER FILE:** IASC/APP/200023

### 1 The application for renewal

1.1 The Commission is required by the *International Air Services Commission Act 1992*, to commence consideration of renewals at least 12 months prior to the expiry of the determination. On 30 October 1996, the Commission issued Determination IASC/DET/9619 (the determination) allocating one cargo frequency per week in each direction between Australia and the Netherlands.

1.2 Qantas has applied to the Commission for a renewal of the determination. The Commission published a notice on 16 November 2000 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

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

### 2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 3), of 23 April 1997, as amended on 9 March 1999, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission also notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 In these circumstances, the Commission concludes that the renewal of Determination IASC/DET/9619 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice and current air services arrangements. Under the *International Air Services Commission Act 1992*, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

### **3 Determination for renewal of Determination IASC/DET/9619 allocating cargo capacity on the Netherlands route to Qantas ([2001] IASC 115)**

3.1 The Commission makes a fresh Determination in favour of Qantas, allocating one all cargo service per week in each direction between Australia and the Netherlands.

3.2 The determination is for 5 years from 30 October 2001.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide freight services jointly with Martinair in accordance with:
  - the Codeshare Agreement dated 18 October 1996; or
  - any subsequent code share agreement between Qantas and Martinair for operations on the Australia - Netherlands route with the prior approval of the Commission;

subject to the following conditions:

- Qantas must price and sell its services on the route independently; and
- Qantas must not share or pool revenues under any such agreement;
- 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 - Netherlands 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 – Netherlands air services arrangements.

Dated: 28 August 2001

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member