



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2004] IASC 111
The Route:	Netherlands
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/200413

1 The application

1.1 On 8 June 2004, Qantas applied for an allocation of one all-cargo service per week on the Netherlands route. Under determination [2001] IASC 115, Qantas already has an allocation of one all cargo service per week on the route. Qantas proposes to operate two services per week between Sydney and Amsterdam via Shanghai using an aircraft wet leased from Atlas Air.

1.2 On 11 June 2004, the Commission published a notice inviting applications from interested parties for some or all of the capacity available on the route. No applications were received. All material supplied by the applicant is filed on the Commission's Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Operation of the capacity involved in the application is consistent with the provisions of the Australia - Netherlands air services arrangements. According to the Register of Available Capacity there is one all cargo service per week available for allocation on the Netherlands route.

2.2 Qantas already holds an allocation of unlimited cargo capacity on the China route and designated Australian carriers under the Australia – China air services arrangements have the necessary traffic rights to operate on the route proposed by Qantas.

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 Commission Amendment Regulations 2003 (No.1), the delegate of the Commission considers the 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. 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. For an established international carrier such as Qantas, this means that there is public benefit arising from the use of the entitlements.

3.3 The delegate concludes that an allocation to Qantas of one all cargo service per week in each direction on the Netherlands route would be of benefit to the public.

4 Determination allocating capacity on the Netherlands route to Qantas ([2004] IASC 111)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating one all cargo services per week in each direction on the Netherlands route.

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

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 30 September 2004, or from such other date approved by the Commission;
- only 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 - 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: 24 June 2004

Michael Bird
Executive Director
Delegate of the IASC Commissioners