



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2003] IASC 121  
**The Route:** United States  
**The Applicant:** Qantas Airways Limited (Qantas) (ACN 009 661 901)  
**Public Register File:** IASC/APP/200325

#### 1 The application

1.1 On 17 October 2003, Qantas applied for an allocation of unlimited all-cargo capacity and frequency for operation on the Australian all-cargo route under the Australia – United States air services arrangements. Qantas plans to introduce a twice weekly B747-400F freighter service between Australia and the United States via Singapore and Shanghai. In its application, Qantas indicated that it intends to commence services in December 2003.

1.2 The Commission published a notice on 23 October 2003 inviting applications for capacity on the route or submissions about the Qantas application. No applications or submissions 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 – the United States air services arrangements governing all-cargo services there is unlimited capacity available, as the designated airlines of Australia may determine the frequency, capacity and aircraft type to be operated on the all-cargo route under the arrangements and may exercise traffic rights on the route. The air services arrangements between Australia and Singapore and between Australia and China also grant Australian carriers traffic rights for the services proposed by Qantas. Qantas holds determinations from the Commission on the Singapore ([2002] IASC 118) and China ([2003] IASC 117) routes appropriate to the operation of the proposed services.

#### 3 Commission's assessment

3.1 Under paragraph 6.2 of the Minister's policy statement, in the absence of submissions about or opposing an application, the Commission is required only to apply the criteria in paragraph 4 of the policy statement. Under paragraph 4 the use of Australian entitlements by a 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. Therefore, the Commission concludes that an

allocation to Qantas of unlimited all-cargo capacity and frequency on the United States route would be of benefit to the public.

#### **4 Determination allocating capacity on the United States (All-Cargo) route to Qantas ([2003] IASC 121)**

4.1 The Commission makes a determination in favour of Qantas, allocating unlimited all-cargo capacity and frequency on the United States (All-Cargo) route as described in Annex II of the Australia – United States Air Services Agreement.

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

4.3 The determination is subject to the following conditions:

- Qantas is required to utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- 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 – United States 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 - United States air services arrangements.

Dated: 31 October 2003

Michael Lawriwsky  
Member Presiding

Stephen Lonergan  
Member