

Two Air Services Agreements

Background

- 2.1 This chapter contains the results of the Committee’s review of two air services agreements, namely:
- an *Air Services Agreement with Chile*; and
 - an *Air Service Agreement with the Cook Islands*;
- 2.2 The purpose of each treaty is to allow direct air services to operate between the parties and hence to facilitate tourism and trade through freight and passenger transportation. Each agreement is aimed at providing greater options for Australian travellers.¹
- 2.3 The agreements are treated together as they are both based on *The Australian Standard Draft Air Services Agreement* that has formed the basis of a large number of other air service agreements. This agreement was developed in consultation with aviation stakeholders.
- 2.4 Each agreement obliges the partners to allow designated airlines to operate scheduled air services carrying passengers and freight between

¹ Unless otherwise specified the material in this and the following section was drawn from the National Interest Analyses (NIAs) for the *Air Service Agreement with Chile* and the *Air Service Agreement with the Cook Islands*. The full text of the NIAs can be found at the Committee’s website on www.apf.gov.au/house/committee/jsct.

destinations in their respective countries. The agreements cover areas such as safety, security, customs regulations and the ability to establish offices, and sale of fares to the public in the territory of the other party. The agreements do not allow the transport of domestic passengers or freight by a designated airline of the other party.

- 2.5 Without these agreements in place a range of intergovernmental arrangements necessary to conduct a service would not be available and the service provider would find it difficult to operate in the long-term.
- 2.6 The agreements will involve no direct costs to Australia and implementation will be done through existing legislation under the *Air Services Act 1920* and the *Civil Aviation Act 1988*. The NIAs indicate that all major stakeholders have been consulted during the negotiations and all stakeholders supported the agreements.

Proposed treaty actions

Agreement with Chile

- 2.7 The agreement with Chile provides a framework for the operation of scheduled air services between Australia and Chile by the designated airlines of both countries.
- 2.8 Subject to obtaining the necessary operational and safety approvals, Qantas and LanChile are the designated airlines, which have recently announced the commencement of air services between Sydney and Santiago from 1 July 2002.
- 2.9 The Annex to the agreement designates intermediate points as New Zealand and French Polynesia and for each party three landing points in the destination country and beyond plus two additional points of choice. Points not specified under the agreement can be nominated by the respective Governments and may be changed at any time.

Agreement with the Cook Islands

- 2.10 The agreement obliges Australia and the Cook Islands to allow the designated airlines of each country to operate scheduled air services carrying passengers and cargo between the two countries on the specified routes. Neither specific airlines nor specific landing points are designated under the agreement.

Evidence presented and issues arising

- 2.11 The Committee noted that there are approximately 57 air services agreements in place and that unlike current free trade agreements these air agreements limit the exchange of rights to the bilateral partners.² The Department of Transport noted that Australia was working through multilateral groups to try to free up that system, but that takes consensus with a number of nations and obviously will take some time.³ The Committee was also informed that in a recent agreement with Singapore on free trade the air services agreement would be negotiated separately. This would also be the case in free trade negotiations with Japan.

Agreement with Chile

- 2.12 The Committee noted that an arrangement was already in place in the form of a Memorandum of Understanding (MOU) that allowed the Chilean airline LanChile and Qantas to operate services, while the proposed treaty was being finalised. This arrangement is of less than treaty status and represents an understanding between the aeronautical authorities of Australia and Chile:

... that provides a lower level framework for the airlines to operate under. It sets out capacity limits and provides the way that they can operate their services—for example, through code sharing and other ways.⁴

The MOU enables minor changes in commercial aspects of the treaty and by using the powers of the treaty it allows small commercial changes to be made to meet commercial operating needs.⁵ The proposed treaty will become the head agreement and gives the MOU legal force.

- 2.13 Qantas and LanChile previously operated services that met in French Polynesia and exchanged passengers under a code sharing arrangement. The proposed agreement still allows intermediate stop-off points, however, due to changes in technology it is likely that direct long-haul flights between Santiago and Sydney will be the norm. This does not preclude the airlines from making commercial decisions to pick up passengers from Auckland if they choose.

2 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 3.

3 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 5.

4 Ben Willoughby, *Transcript of Evidence*, 12 July 2002, p. 6.

5 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 6.

- 2.14 The proposed agreement will continue the code-sharing agreement allowing Qantas to sell seats on LanChile planes and allow the airlines to set down passengers in three Australian locations selected from Sydney, Melbourne, Brisbane or Perth. It is a commercial decision of the airline whether it chooses regional destinations apart from those designated. The Committee noted evidence that all bilateral partners are to be contacted offering unlimited regional access to airports across Australia.

Agreement with the Cook Islands

- 2.15 As the Cook Islands has no designated airline the purpose of this agreement is to provide small Pacific Island nations, like the Cook Islands, improved access to Australia and international destinations. By providing a hub through an Australian city passengers will be able to get connections to international services and transcontinental services thus assisting in the further development of tourist trade in this area.⁶
- 2.16 As with the agreement with Chile an MOU is currently in place that allows the same minor changes between the aeronautical organisations to take place until the proposed treaty comes into place.

Conclusions and recommendations

- 2.17 The Treaties Committee has in the past supported binding treaty action on a number of air services agreements. While the level of traffic between Australia and the countries covered by the proposed agreements is likely to be relatively small for some time yet, the Committee considers that it is reasonable to put in place arrangements to allow the level of traffic to develop as commercial opportunities emerge.
- 2.18 Accordingly, the Committee supports both of the proposed air services agreements.

Recommendation 1

- 2.19 **The Committee supports the *Air Services Agreement with Chile* and recommends that binding treaty action be taken.**

6 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 3.

Recommendation 2

- 2.20 **The Committee supports the *Air Services Agreement with the Cook Islands* and recommends that binding treaty action be taken.**