



Australian Government

Department of Infrastructure, Transport, Regional Development and Local Government

Secretary

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Senator Kate Lundy
Chair
Standing Committee on the National Capital and External Territories
Parliament House
CANBERRA ACT 2600

Dear Senator

Inquiry about air services and shipping in relation to the Indian Ocean Territories

Thank you for your letter dated 29 October 2009, seeking information about transport services to the Indian Ocean Territories (IOTs).

In the aviation context cabotage refers to the right of a foreign airline to pick up and carry domestic passengers in another country on any domestic legs of international routes. The Convention on International Civil Aviation, opened for signature in Chicago on 7 December 1944 (commonly known as the Chicago Convention), recognises the common international practice under which countries restrict access to their domestic aviation markets to their own carriers. There are few countries that allow cabotage except in the context of broader economic integration, such as in the case of Australia and New Zealand under the Single Aviation Market arrangements, and between Member States of the European Union.

Within Australia, with the exception of New Zealand carriers, foreign airlines are generally not permitted to serve the domestic market. Limited exceptions apply in exceptional circumstances where Australian carriers are not able to meet the pressing need (e.g. emergency relief or the movement of oversize cargo). In these circumstances this Department grants one-off dispensations to permit foreign airlines to carry domestic traffic. The approval of the Civil Aviation Safety Authority (CASA) is also required. I note that the *Civil Aviation Act 1988* restricts foreign airlines from carrying domestic traffic within Australia, and that CASA generally only grants short-term, ad hoc approvals for domestic flights by foreign aircraft.

Cabotage restrictions support the safety and security of Australian domestic passengers. Successive Australian Governments have taken the view that it is important for airlines carrying domestic passengers to be subject to the full regulatory oversight of Australia's aviation safety regulator, CASA, through a requirement to hold an Australian Air Operator's Certificate. Operations by a foreign carrier would be under the primary safety oversight of their home regulator. In terms of security, minimising the mixing of domestic and international passengers on the same flight lessens the risk and implications for Australia's border control and security agencies.

As you may be aware, Australia permits foreign persons (including airlines) to own up to 100% of the equity in an Australian domestic airline (subject to Foreign Investment Review Board approval, if required). As a result, any foreign airline interested in competing in the Australian domestic market is able to do so via an Australian-based subsidiary operating under the safety oversight of CASA.

Services between the two Indian Ocean Territories and between the mainland and the Indian Ocean Territories are domestic flights and are therefore the subject of cabotage restrictions.

The Australian Government is currently developing an Aviation White Paper to guide the aviation industry's growth over the next decade and beyond. The White Paper will set out the Australian Government's approach to issues such as cabotage, and is expected to be released later this year. As part of this process the Government released an Aviation Green Paper in December 2008 which signals the Government's intention to retain cabotage restrictions but recognises there may be circumstances where relaxing cabotage restrictions may potentially produce a public benefit, and that the Indian Ocean Territories are an example. However, the Government considers that any decision to grant such rights should only be in exceptional circumstances.

The Aviation Green Paper is available online from <http://www.infrastructure.gov.au/aviation/nap/>

The Hansard transcripts also raise the issue of international access to the Indian Ocean Territories from Indonesia, Malaysia and Singapore. The Australian Government's Regional Package provides unrestricted access for foreign and Australian airlines between the Indian Ocean Territories and those countries, subject to compliance with safety and security requirements.

In relation to the question of offsetting restrictive costs of shipping freight to the Indian Ocean Territories, this Department is not aware of any relevant measures currently in place or under consideration.

I trust this information is of assistance.

Yours sincerely



Mike Mrdak

22 November 2009