

November 10, 2023

RE: Dutch Government Experimental Regulation to Reduce Movements at Amsterdam Schiphol Airport & Special Meeting of the EU-US Joint Committee on 13 November 2023

Dear Commissioner Vălean,

Understanding that the European Commission (EC) has received formal notice from the Dutch caretaker Government of its plans to implement operating restrictions at Amsterdam Schiphol Airport (AMS) on 01 September 2023 and that this matter will be subject to discussions during a special meeting of the EU-US Joint Committee on 13 November, we the undersigned would like to share our serious concerns about these plans, calling upon the EC to take into account the following elements in its review of the process for the introduction of these measures, in the light of applicable EU rules. We also request a meeting with you at your best convenience to have a further opportunity to discuss the elements below and to exchange views with you on this highly critical topic.

We share the concerns already expressed by the airline industry - both within and outside the EU - over the lack of compliance with the EU requirements in relation to (1) the proposed restrictions at Schiphol through the Experimental Regulation and (2) the consecutive policy rule on slot allocation in case of historic rights that Airport Coordination Netherlands (ACNL) is now in the process of implementing.

Therefore, we hereby call upon the EC to take into account the following key elements for its assessment of the Dutch caretaker Government's notification in relation to the foreseen operational restrictions at Amsterdam Schiphol Airport:

1. We continue to consider that that the Experimental Regulation (track 1) and the overall flight reduction plan (track 2, through the Balanced Approach) announced by the caretaker Government in the Netherlands **violate the principles of the ICAO Balanced Approach enshrined in EU Regulation 598/2014 (Balanced Approach Regulation/BAR) and the noise assessment process set in Directive 2002/49/EC on the assessment and management of environmental noise**. These plans had actually been announced as a political decision before a Balanced Approach process was even conducted. We indeed have serious concerns over the selection of a seemingly arbitrary date (again set politically prior to the commencement of the Balanced Approach process) by which the stated required movement reductions at AMS must become effective as of November 1st 2024. This time period, especially in the aviation sector, is extremely short and prevents any thorough and meaningful discussion and analysis. This is stated to have caused the principal alternative options available under the Balanced Approach to be discarded based solely on their apparent inability to be introduced before that date. This

in itself sets a highly dangerous precedent: if setting such timescales are deemed acceptable, then we can expect future cases to adopt this practice, disregarding the first three pillars of the Balanced Approach, thereby undermining the purpose, value, and effectiveness of the Balanced Approach as a whole. Also, in terms of actual noise mitigation, this approach did not allow for better options on the (slightly) longer term to be considered which would potentially better accommodate the interest of all stakeholders, including local residents. For example, some relevant stakeholders have presented alternative plans that achieve the noise reduction goals without such a drastic movement reduction by 2026¹. We believe that a more adequate timeframe would allow other measures under the Balanced Approach to be thoroughly assessed and implemented. Besides, we believe that an in-depth assessment of the actual noise situation at AMS is yet to be completed. The current baseline for the noise situation is outdated and not based on the actual situation. Therefore, we strongly urge the EC to look at the timeframe to achieve noise reduction targets and its proportionality as well as the noise assessment procedure.

2. **ACNL's policy rule violates the principles established in the EU Slot Regulation 95/93.** By acknowledging the slot reduction as a "*fait accompli*" that would force the slot coordinator to address an excess of historic rights, the Policy Rule obliterates the fact that this situation is created by an arbitrary decision of the Dutch caretaker Government to reduce slots at AMS. None of the frameworks referenced in the Policy Rule (EU Slot Regulation 95/93 or Worldwide Airport Slot Guidelines (WASG) support a confiscation of historic slots. On the contrary, Article 6.10.3 of the WASG, which is referenced in the Policy Rule, provides that "*a capacity reduction that cannot accommodate historic slots must be avoided except in exceptional circumstances*". In this regard, the Worldwide Airport Slot Board (WASB), which oversees the development of the WASG, has published best practice guidance to manage temporary reductions of airport capacity. This guidance, which is complementary to the WASG, refers to extraordinary circumstances that are temporary in nature, such as runway repairs, and do not envisage the long-term cancellation of slots resulting from seemingly arbitrary political decisions, such as those proposed by the Dutch caretaker Government.
3. As the first such case to come before the EC - with the potential to create a precedent for future cases - it is vital that the **EC dutifully ensures that the process fully complies with the BAR requirements and that any shortcomings are required to be corrected.** Admitting such a way of arbitrarily imposing operational restrictions, as well as cutting and reallocating historical slots, would set a precedent that would endanger the airline industry across the European Union, to the detriment of the many businesses and citizens it serves, with potential repercussions in non-EU countries including EU carriers being targeted with reciprocal or retaliatory action. Such an outcome would be heavily detrimental to the competitiveness of the European economy and in fact the connectivity of Europe as a whole.
4. Due to the **critical contribution of AMS to the Dutch and European Economy, restricting flight operations will have far-reaching implications for a wide variety of stakeholders, including airlines, passengers, consumers and businesses across the Dutch economy.** With 52.5 million passengers, 313 destinations and 1.44 million tonnes of cargo being transported in 2022, AMS ranks in the top 5 airports in Europe in terms of passenger and cargo transport². The networks of both passenger and cargo carriers sustain vital trade flows between the Netherlands, Europe and beyond. Recognizing that AMS accounts for up to 5% of the Dutch gross national

¹ [KLM Group and Dutch sector plan "Schoner, stiller, zuiniger" of 15 June 2023](#)

² <https://www.schiphol.nl/en/download/b2b/1681204509/01sROKX6dQFHMXNEWINb1S.pdf>

product (GNP) and provides between 120,000 and 360,000 jobs³, moving forward with the controversial plan of a previous government at this time will lead to adverse effects on job opportunities and a decline in inward investment, to the detriment of Dutch consumers and the Dutch economy. We do not see this socio-economic impact sufficiently analysed in the material, or the application of the cost-effectiveness principle in the analysis of the proposed measures. The consultancy executing the Balanced Approach Study for the Dutch Ministry of Infrastructure and Waterstraat clearly admitted that *“effects on global supply chains, networks and related investment decisions of specific airlines are not part of this gross economic impact analysis. As this falls beyond the scope of this study”*⁴.

5. While the reduction in noise at Schiphol Airport is undoubtedly a critical issue, it appears that current efforts might not be leveraging all available noise reduction measures offered by the SESAR (Single European Sky ATM Research) solutions. These solutions encompass a range of advanced technologies and procedures that can significantly contribute to mitigating aircraft noise. Considering the holistic approach of SESAR, it is crucial to explore the full spectrum of potential noise reduction strategies, such as the implementation of performance-based navigation (PBN) procedures, continuous descent approaches (CDA), optimized runway operations, quota count systems and improved airspace design. Integrating these measures into the noise reduction plan can lead to more effective results and a more sustainable approach to aviation operations.

In light of the foregoing, **we call upon the European Commission to actively engage in a formal review of the procedure as submitted by the Dutch caretaker Government and to comment on the proposed ACNL rule.** We need the EC not only to be active on the Balanced Approach submission (track 2), but also step in as Guardian of the Treaties when it concerns the national Experimental Regulation (track 1). This is of vital importance to the EU’s internal aviation market, connectivity and economy. In addition, given the substantial flaws in the process, we would also respectfully recommend to consider the development of guidelines for the BAR implementation to ensure full and effective implementation of the Balanced Approach in the European Union. This approach is supported by the conclusions of the Final Report on the “Study on Airport Noise Reduction” (June 2022), which concludes: *“Competent Authorities and wider stakeholders would benefit from greater clarity and guidance in relation to the definition of key terms within the legislation and best practice in the application of the END and BAR. [...]. It would be helpful to provide guidance as to how the END and BAR processes are expected to interact with pre-existing national legislation, strategic development plans, noise management frameworks, and broader policy objectives”*.

We look forward to having the opportunity of presenting our comments in more detail and to discussing this important matter with you and your services.

Sincerely,

The undersigned air transport associations

³ [Schiphol | The Netherlands' economy](#)

⁴ [Annex B - Decisio and Beelining Measuring the cost-effectiveness of noise mitigating measures for Schiphol March 2023.pdf](#) (p.12)



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