

EEA contribution to the Additional Consultation / Balanced Approach Schiphol

Introduction

Long recognized as an essential service, especially during the COVID-19 pandemic, express transport contributes to the competitiveness of the Dutch and European industry by connecting businesses and citizens to more than 90% of the world economy within 24 to 72 hours. Express service providers transport time-sensitive documents and packages in a seamless, integrated global logistics chain where various modes of transport come together at and around airports, full flexibility and inter-modality are required for fast delivery, and control of the full transport chain is critical for the express industry to ensure quality, operational safety and security.

In view of the consultation “Additional Consultation Balanced Approach Schiphol”, launched by the Ministry of Infrastructure and Water Management (hereafter ‘the Ministry’) for comments by 21 June 2024, the European Express Association (EEA) would like to herewith present its comments. Please note that EEA Members (DHL Express, FedEx and UPS) are free to also submit comments individually.

We underscore and agree with the input provided to this “Additional Consultation” by IATA, A4A and DEA but want to address certain points specifically relevant for the air cargo / express sector. As an initial matter, we would like to point out that the 28-day deadline imposed for this “additional” consultation was very short, raising questions about the Ministry’s intention to engage in meaningful consultations and compliance with consultation timeframes of the Balanced Approach Regulation (BAR).

1. What is your opinion on the gradual introduction of the measures in three phases and the corresponding pace?

Phases 1 and 2

Any noise-related measure should only be introduced after a robust assessment of the first three pillars of the International Civil Aviation Organization (ICAO) Balanced Approach to Aircraft Noise Management (Balanced Approach). Any measure should be gradually introduced, providing sufficient time to adapt to new conditions, and consider reasonable solutions for the sector, among others by taking into account the state of technology, grandfathering provisions, and long-term operational planning security.

Cargo carriers connect businesses and people across the world. Especially Express carriers like DHL Express, FedEx, and UPS (also referred to as ‘integrators’) control their own end-to-end network, operating 24/7 at set times. Local, regional and international road and air networks are connected. Trucks and planes operate according to a pre-determined time schedule, allowing for time sensitive

transportation. This integrated network sets us apart from other cargo carriers - changing one element somewhere in the network has a knock-on effect elsewhere in our network as well as those of our customers (e.g. affecting agreed pickup and delivery times aligned with manufacturing processes). Changes regarding operation of aircraft often have a multiplying effect because when one flight is altered or even removed, it has significant impact on the rest of the network.

Whilst we support measures to reduce the noise impact from our aviation activities, and historically work closely with affected areas, we would like to stress that the suggested commencement dates lack a rational relationship to established needs and that the pace is still too high and impractical for certain measures, especially operational measures. We will further elaborate on this timing element below per measure and where applicable provide alternatives.

We strongly suggest thoroughly assessing the impact of measures 1 – 4 in Phase 2 before any further consideration is given to the remaining measures 5 and 6 on movement reductions, let alone Phase 3. This is all the more so because the Ministry itself expects that the measures will have an overshoot effect.¹

The Netherlands is bound by the Chicago Convention, the EU-US Open Skies Agreement, and the EU BAR to adhere to the ICAO Balanced Approach before introducing any operating restrictions to address noise-related concerns at Schiphol. It is essential that clearly substantiated noise targets are established first and that alternative actions are taken before such restrictions are pursued further.

Phase 3

The suggested measure(s) for Phase 3 at this point in time appear to be generally at odds with the principle of legal certainty and specifically with the ICAO Balanced Approach, as transposed by EU Regulation 598/2014: The reduction of noise at source, land use planning and management, and noise abatement operational procedures, clearly have not been considered prior to proposing operating restrictions, such as in the case of a curfew, which should only be applied as a last resort after the other Balanced Approach elements have been considered and applied. By introducing the measure at this point in time the Ministry seems to start with a desired outcome, whereas the outcome of the impact analysis is not even known, and the alternatives have not yet been assessed and consulted on. Such pre-determination of outcomes signals that the Ministry is not following the Balanced Approach and not acting consistently with the BAR. Political considerations should not preempt the assessment of the different alternatives.

A night curfew curtails next day delivery of goods and documents and jeopardizes integrators' operations at Schiphol since operating at night is inherent to our business model. Such hardly reversible changes would be highly detrimental to Schiphol's network and the connectivity of the Netherlands and businesses and consumers alike based in the Netherlands.

The suggested night curfew options would disconnect the Netherlands from the rest of the world by air during the night– which undermines strategic independence and autonomy. The same applies to competitiveness and economic welfare for the Netherlands. The EEA is of the opinion that this should be taken into account when balancing interests within the Balanced Approach. The EEA therefore urges the Ministry to consider the alternatives foreseen by the BA.

2. What is your opinion on the new and adapted measures (phase 1 and 2) proposed to achieve the

¹ Up to 21%, slide 13 of the Presentation "Informatiesessie Aanvullende Raadpleging balanced-approach procedure", dated May 30, 2024.

noise abatement objective.

Phase 1 – Nov 2024

We would like to underline that for our networks to run efficiently, we cooperate with other cargo and passenger carriers (belly freight). We appreciate the value of passenger carriers' fleet renewal plans but stress that express carriers' fleet planning operates very differently from passenger carriers. Cargo aircraft by their nature are not the newest models on the market (often converted passenger planes) and newest-model aircraft are not produced for cargo operations.

Since the Ministry itself acknowledges that other airlines operating at Schiphol Airport cannot participate in nighttime "fleet renewal optimization" efforts, it follows that only the national airline would be subject to compliance with this measure in Phase 1.

We believe that the Phase 1 measure is non-compliant with the BAR. The BAR states that "[b]efore introducing an operating restriction, the competent authorities shall give to [...] the Commission and the relevant interested parties six months' notice, ending at least two months prior to the determination of the slot coordination parameters as defined in point (m) of Article 2 of Council Regulation (EEC) No 95/93 (1)" for the airport concerned for the relevant scheduling period. In this case, neither of the two conditions can be met.

As we have general concerns in addition about how the procedure has been conducted as such, in our opinion, this measure should be disregarded.

Phase 2 – Nov 2025

- Airport charges for noisy aircraft become more expensive (new)

The EEA would like to express strong reservations about the inclusion of this measure in the proposed package. Our review of the analysis carried out by Decisio and Beelining² clearly shows that this measure offers no cost effectiveness and has extremely limited noise reduction potential. In addition, its applicability is extremely narrow, targeting only 893 S1 movements out of a total of 397,000 annual movements in 2022.

Given this limited scope and questionable effectiveness, the proposal of including it in the new pack of measures does not conform with the BAR, which states, "Member States shall ensure that, when noise-related action is taken, the [following] combination of available measures is considered, with a view to determining the most cost-effective measure or combination of measures".

Article 5.3 holds significant importance as it underscores the necessity for a thorough and systematic approach to addressing noise-related concerns in aviation. By mandating Member States to consider a comprehensive range of measures when implementing noise-related actions, the regulation promotes a holistic and evidence-based decision-making process. This ensures that efforts to mitigate aircraft noise are not only effective but also economically efficient. By evaluating various measures and their cost-effectiveness, Member States can identify the most suitable strategies for noise reduction while optimizing resource allocation. This provision fosters responsible stewardship of environmental and financial resources,

² Report entitled "Measuring the cost-effectiveness of noise-mitigating measures for Schiphol Airport" 2nd addendum to initial report, 22 May 2024 (Final) ("Decisio report").

contributing to the sustainable development of aviation infrastructure and operations.

Finally, airport charges at Schiphol are already differentiated based on the noise production of the aircraft. Schiphol distinguishes 7 categories of aircraft. We strongly believe that a stronger differentiation of airport charges to incentivize greater uptake of quieter aircraft will not affect airline behaviour regarding fleet.

For the reasons above, in our opinion, this measure should be disregarded.

- Excluding noisy aircraft at night (new)

The ban of aircraft with a cumulative margin lower than 13 EPNdB during nighttime impacts Chapter 3 and Chapter 4 aircraft. Under the BAR, Chapter 4 aircraft are neither categorized as marginally compliant, nor can they be banned.

While the implementation of this measure in other airports suggests “an apparent selected mitigation measure”,³ the Ministry should prioritize its compliance with BAR, and recognize the principle enshrined in the Balanced Approach that “measures available for management of the noise situation will vary depending on the unique circumstances of the airport”.⁴ Therefore, effective noise reduction measures should be adapted to the specific circumstances of Schiphol airport. Simply implementing a Chapter 4 ban at another airport, regardless of its international hub status or cargo orientation, does not automatically translate into its suitability at Schiphol airport.

Moreover, Article 8.4 of the BAR requires a tailored approach that balances environmental concerns with operational realities, i.e. “Where the operating restriction concerns the withdrawal of marginally compliant aircraft from an airport, [...] the Member States shall ensure that the competent authorities decide on the annual rate for reducing the number of movements of marginally compliant aircraft of affected operators at that airport, taking due account of the age of the aircraft and the composition of the total fleet. And without prejudice to Article 5(4), that rate shall not be more than 25% of the number of movements of marginally compliant aircraft for each operator serving that airport”. The imposition of this requirement on marginally compliant aircraft logically entails its application to Chapter 4 aircraft.

Additionally, on one hand, according to ICAO Resolution A35-5⁵, the phasing-out of Chapter 3 aircraft is permissible only if it is done following the Balanced Approach principles. If the ban was implemented without a comprehensive Balanced Approach, then, the ban lacks the necessary legal foundation as it bypasses the mandated procedural and consultative steps required for implementing such restrictions, and it disregards the full set of considerations that are critical to the Balanced Approach. The lack of economic impact assessment further highlights the arbitrary nature of the decision, making it legally indefensible.

On the other hand, the ban of Chapter 4 aircraft at night is inconsistent with the established framework of BAR. The BAR defines “marginally compliant aircraft”⁶, forbids withdrawal of marginally compliant aircraft from airport operations that comply, through either original certification or re-certification, with the noise standard laid down in Volume 1, Part II, Chapter 4

³ To70 Balanced Approach study Schiphol Airport, Second addendum, 23.171.37, May 2024, p. 8.

⁴ ICAO Doc. 9829 *Guidance on the Balanced Approach*, Article 3.6.1.

⁵ See above, footnote 28.

⁶ BAR, Article 2(4).

of Annex 16 to the Chicago Convention,⁷ and outlines its withdrawal rate and criteria.⁸

Chapter 4 aircraft are neither categorized as marginally compliant under the BAR, nor can they be banned without the BAR withdrawal process. Any attempt to ban these aircraft without following the BAR withdrawal process undermines the applicable regulatory framework and constitutes non-compliance with established international and EU standards. The Chapter 4 aircraft, being fully compliant with noise standards, should not be subjected to operating restrictions without a justified and procedural basis as outlined in the BAR.

The BAR outlines specific procedures for the withdrawal of marginally compliant aircraft, including detailed criteria and a phased withdrawal rate. These procedural safeguards are designed to ensure that any operating restrictions are implemented fairly and systematically, avoiding arbitrary or discriminatory actions.

The imposition of a ban on Chapter 3 and Chapter 4 aircraft at night, without following the stipulated BAR withdrawal process, represents a procedural violation. Such an action is arbitrary, lacking the necessary procedural due process. By circumventing the established withdrawal rate and criteria, the ban disregards legal requirements and principles of administrative law, making it susceptible to legal challenge on grounds of procedural non-compliance.

- Less use of secondary runways near densely populated areas (amended)

EEA regrets to note that the Ministry is not putting forward more/additional options under the pillar operational measures (see below). IATA and A4A have commented extensively on this section, so we refer to this submission for further details.

- Additional fleet renewal (new)

Airlines have an inherent interest in renewing their fleets as it improves their fuel efficiency and reduces their noise impact. However, it is not possible for many cargo airlines to deploy quieter aircraft because they are not available on the market. To illustrate, it is possible to buy newly built wide-body freighters, but not newly built B737 or even B737 MAX narrow-body freighter. Therefore, the EPNDB scheme should take into account this industrial reality for cargo carriers, including appropriate time for renewal.

- Fewer flights at night - maximum of 27,000 flights per year

We do not support this measure when other alternatives can still be implemented as it would reduce the economic contribution of air cargo to Schiphol and Dutch welfare and have a disproportionate effect on cargo carriers. When our operations are forced out of Schiphol, we need to switch to trucking which is incredibly difficult because for instance destinations cannot be reached within the same time windows, roads are already congested, and it may not be desirable from an environmental perspective.

- Lower total number of flights - maximum between 460,000 and 470,000 flights per year

Same as above, we do not support this measure.

3. Other observations

⁷ BAR, Article 5.5.

⁸ BAR, Article 8.4.

- We would also like to point out the narrow **definition of cost effectiveness** (*cost per reduced house for people experiencing severe disruption or severe sleep disturbance, p. 11*) in combination with the timeline (adjusted criterion – implementable by November 2025, p. 8): the measures under discussion need to meet the requirements as laid out on page 9 and the result is a very limited set of measures. The BAR suggests in Annex II to not only to assess the noise benefit but also the **capacity of the airport and the effects on the European aviation network**. In addition, aspects of **direct, indirect or catalytic employment and economic effects** may be taken into account, as there are potential interdependencies between noise and emissions (which were covered). The current assessment therefore lacks substantial information and does not produce the full picture on the impact.
- In addition, while the Ministry points to the Balanced Approach, the set of proposed measures **do not explore measures from other pillars**, i.e. land-use management and planning as well as operational measures, such as house insulation, improved navigation performance, local route optimizations, improved planning of inbound aircrafts, optimization of current procedures (minimize level segments, optimize climb-out speed, intersection take-offs, reduced thrust take-off etc.), introduction of new procedures (including RNP-AR approaches during parallel approaches), increasing the number of continuous decent approaches, and increasing the concentration of flightpaths to minimize overall noise exposure. These measures could result in significant changes in the noise profile of Schiphol, but remain unassessed, doing a disservice to the airport, the carriers, and the surrounding community.
- The Ministry has not identified the **noise problem**: The BAR provides “*rules on the process to be followed for the introduction of noise-related operating restrictions*” “*where a noise problem has been identified* [emphasis added].” To date, the Ministry has not substantiated the existence of a noise problem; it did not correctly assess the current noise situation in accordance with Doc 29 and thereby ignores that actual noise exposure is the basis of the Balanced Approach. Instead, the Ministry imposed a precondition of 440,000 aircraft movements annually before conducting a consultation and has predetermined certain measures to achieve this objective. Certain researchers have indicated that there has been an increase in aircraft noise annoyance over the past decades, others have found no change provided that the comparisons comprise similar and comparable noise situations. For example, the guidelines published by the World Health Organization (WHO) that were cited by the Ministry contain recommendations “based on a selection of non-representative and non-standardized surveys with results that cannot be applied to a general airport population. The recommendation is therefore unwarranted and unsupported by the reported evidence.” Per the Additional Consultation presentation held on 30 May 2024, “[t]he first step within the balanced approach-procedure is to set a noise abatement objective.” This is fundamentally incorrect. The BAR states that “where a noise problem has been identified, additional noise abatement measures should be identified within the Balanced Approach methodology” and “[n]oise-related operating restrictions should be introduced only when other Balanced Approach measures are not sufficient to attain the specific noise abatement objectives”. As per the BAR, Article 5.2, to introduce operating restrictions, the Ministry shall ensure that the Balanced Approach is adopted in respect of aircraft noise management at the airport where a noise problem has been identified. To that end, the Ministry must (a) assess the noise situation as per Doc 29 methodology to identify the noise problem (b) define the noise abatement objective for that airport, (c) consider the measures from the Balanced Approach pillars, (d) determine that these measures are not sufficient to attain the noise abatement objective, and (e) introduce operating restrictions in accordance with Article 8 of the Balanced Approach Regulation. Instead, the Ministry has proposed an operational

restriction without adhering to the preconditions of the regulation and has imposed arbitrary caps and timelines to achieve an unsubstantiated outcome.

Conclusion

To conclude, the EEA disagrees with the measures put forward within the consultation documentation. We instead urge the Ministry to explore all options that will have meaningful impact on all affected Parties, while complying with its international and regulatory obligations. In that connection, we also urge the Ministry to refrain from implementing movement restrictions without further analysis of the economic effects and to intensify the work on solutions in line with the balanced approach to mitigate the noise situation at Amsterdam Schiphol airport, following thorough assessments of the noise situation at hand and cost-effectiveness, in accordance with Annex I and Annex II of the EU Regulation.

The EEA is at your disposal to discuss our feedback in person and to provide further information on our express business and the relevance for the Dutch economy.

About the European Express Association

The European Express Association (EEA) represents the interests of the express industry in Europe. The express industry provides door-to-door transport and delivery of next-day or time-definite shipments, throughout Europe and the world. According to a 2020 Oxford Economics [study](#) on the impact of the express industry on the EU economy, the European express industry directly supported 330,000 jobs and an estimated 1.1 million indirect jobs in the EU in 2018, while generating €24 billion in tax revenues for EU Member States' governments that same year. EEA's EU Transparency Register number is 1894704851-83.