

Policy Rule Force Majeure for 'Use it or lose it' Rule

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Airport Coordination Netherlands (ACNL) is an independent governing body by public law. In the Dutch “Wet Luchtvaart” (Law on Aviation) designated as the independent coordinator for slot coordinated airports in the Netherlands. ACNL is responsible for slot allocation and slot monitoring at Amsterdam Airport Schiphol (AMS), Rotterdam The Hague Airport (RTM) and Eindhoven Airport (EIN). In order to make optimal use of the airport capacity our mission is to deliver slot coordination and monitoring services in a neutral, non-discriminatory and transparent way.

ACNL is publishing following policy rule according to article 1:3 (4) in conjunction with article 4:81 of the Dutch “Algemene wet bestuursrecht” (General Administrative Law Act). The abbreviation in Dutch is ‘Awb’.

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Introduction

1. Airlines and operators can apply for force majeure in the event that a:
 - a) slot(series) had to be cancelled.
 - b) an airport slot(series) was not operated without cancellation in advance.
 - c) a slot(series) had to be retimed.

Relevant legislation & Guidelines

2. Airport Coordination Netherlands (ACNL) assesses force majeure requests by acting in conformity with the COUNCIL REGULATION (EEC) No 95/93 art.10 para 4 and the [EUACA recommended practice EUSG 4](#).

Policy with respect to Force Majeure for 'Use it or lose it' Rule

Justified reasons of Force Majeure

3. If the applicable % (for the "use it or lose it" rule) usage of the series of slots cannot be demonstrated, all the slots constituting that series shall be placed in the slot pool unless the non-utilisation can be justified.
4. Force majeure can be requested in accordance with the Council Regulation only for a limited set of reasons:
 - Total or partial closure of an airport or airspace as a result of any planned event (e.g. works, restructuring of an airport and/or airspace, implementation or renewal of ATC/airport equipment or facilities) or unplanned event (e.g. extreme weather conditions, action of 'mother nature', failure of ATC (Air Traffic Control) services or EDP (Electronic Data Processing) systems, conflict or political reasons) resulting in at least widespread disruption of services in that period.
 - Interruption of air services due to action intended to affect these services (such as, but not limited to strikes e.g.) which makes it practically and/or technically impossible for the air carrier to carry out operations as planned.
 - Grounding of the aircraft type, generally used for the air service in question.
 - Serious disturbance of operations at the airports concerned, including those series of slots at other Community airports related to routes which have been affected by such disturbance, during a substantial part the relevant season.
 - Serious financial damage for a Community air carrier concerned, with, as a result, the granting of a temporary license by the licensing authorities pending financial reorganisation of the air carrier.

5. Reasons for which force majeure can be requested:

a) Slot(series) that were cancelled in advance of the operation with effect on the “use it or lose it” rule.

In principle Force majeure requests for the “use it or lose it” calculation can only be accepted under the condition that the slots are handed back to the coordinator before the operation.

ACNL does not accept retrospective slot cancellation and retime requests.

Cancellation of slot(s) must be done immediately, ideally not later than 120 minutes after the allocated slot time. If due to an unavoidable situation the slot was cancelled >120 minutes later than allocated (e.g. due to a rolling technical delay) ACNL could request the airline for a motivation.

b) Non-operated slot (series) with effect on the “use it or lose it” rule , as were not pro-actively cancelled.

In the unlikely event that the airline or operator could not act in conformity as described under a) and refused to cancel the airport slot(s) in advance the airline or operator still can apply for force majeure for the non-utilized slot. This can only be done after the Flight Data Report that was received from ACNL’s monitoring department.

When a NOOP is generated the airline or operator by means of an Flight Data Report (FDR) will be informed by the monitoring department of ACNL and must provide explanation for the NOOP slot within 5 business days.

In addition airlines should be aware that generating a NOOP airport slot is considered as misuse.

c) Slot(series) that had to be retimed resulting in a negative effect on the “use it or lose it” rule.

If an airline or operator was forced to amend its slot(series) for a significant period (at least 5 weeks) affecting the historic time on the Slot Historic List (SHL) force majeure can be requested. This however should be done as early as possible and always before the first calendar date of the intended operation.

In any case proof must be supplied to ACNL that the retime was caused beyond the airline or operator’s control. If justification of the alteration of the slot(series) could not be demonstrated the airline may receive the retime on the SHL.

Process

When to submit a force majeure request?

6. A force majeure request ideally should be submitted as early as possible and before the originally allocated slot time, however if this was not possible airlines should submit their request no later 5 business days.

How to submit a request for Force Majeure?

7. A request for force majeure must be sent by email to: monitoring@slotcoordination.nl
A message must not exceed 35MB of data. (Including supporting documentation).
Requests for force majeure that are indicated in the supplementary information line (SI or GI) of SCR messages are not accepted.

The force majeure request should at least contain the following information:

- Season (IATA)
- Airport code (IATA)
- Flight/slot date and time (allocated)
- Operated date and time (if applicable)
- Reason of request for force majeure

Which supportive content does ACNL request?

8. ACNL requires supportive documentation that provides sufficient information in order to verify the force majeure request and to make the assessment. Additional information such as, but not limited to, which can be added to support a force majeure request:
 - Screenshot(s) (incl. original situation of planned flight)
 - NOTAM(S)
 - Official publications issued by (inter)national authorities
 - Official publications issued by airport authorities
 - Official Airworthiness Directives by Aircraft Manufacturers (AD)
 - Official news publications
 - Copy of technical/maintenance logs
9. This policy rule will be effective as of IATA Northern Winter season 2021.