

## **Policy Rule**

# **Slot allocation in case of exceedance of historic rights**

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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

## How does slot allocation under the Slot Regulation take place?

1. The airport managing bodies determine the coordination parameters for slot allocation. In the Netherlands it is common that, the number of slots available for allocation constitutes one of the coordination parameters.
2. ACNL has the legal task of allocating slots in the Netherlands. As slot coordinator, ACNL allocates slots to airlines within the coordination parameters based on the priority rules in the Slot Regulation. These priority rules provide that when an air carrier has operated scheduled and programmed non-scheduled air services for at least 80%, the air carrier concerned is entitled to request the same series of slots in the next equivalent scheduling period. These are also referred to as historic slots or historic rights. Historic rights may include certain characteristics of slots (such as aircraft type and route) that are relevant in the context of coordination parameters.
3. The remaining available (non-historic) slots (this is also called slot pool) are allocated according to criteria such as new entry, year-round operation and additional ones.

## Why this policy rule?

4. There are no provisions in the Slot Regulation on how to proceed in the event that, on the basis of the coordination parameters, the number of available slots is lower than the number of requested historic slots (and/or the number of available slots with certain characteristics is lower than the number of requested historic slots with such characteristics). With this policy rule, ACNL explains how slot allocation will take place if such a case would occur. There are a number of current developments that give rise for to develop policy, such as the potential reduction in capacity at Amsterdam Airport Schiphol (AMS) announced by the government, the ongoing review processes for the Eindhoven Airport (EIN) and Rotterdam The Hague Airport (RTM) airport traffic decrees and revised or newly introduced coordination parameters regarding operational and technical constraints.

## Relevant legislation & guidelines

### Designation of coordinated airports and responsibilities

5. Airports are designated by member states as coordinated when capacity is scarce. Available capacity is expressed in coordination parameters reflecting technical, operational and environmental factors, which in the Netherlands are established by the airport managing body.

#### *Article 3(5) Slot Regulation (EC) 95/93 as amended*

Where capacity problems occur for at least one scheduling period, the Member State shall ensure that the airport is designated as coordinated for the relevant periods only if: (a) the shortfall is of such a serious nature that significant delays cannot be avoided at the airport, and (b) there are no possibilities of resolving these problems in the short term.

#### *Article 2(m) Slot Regulation (EC) 95/93 as amended*

'coordination parameters' shall mean the expression in operational terms of all the capacity available for slot allocation at an airport during each coordination period, reflecting all technical, operational and environmental factors that affect the performance of the airport infrastructure and its different sub-systems;

#### *Article 6(1) Slot Regulation (EC) 95/93 as amended*

At a coordinated airport the Member State responsible shall ensure the determination of the parameters for slot allocation twice yearly, while taking account of all relevant technical, operational and environmental constraints as well as any changes thereto.

#### *Article 5a Slot allocation decree*

1. The managing body of a coordinated airport:
  - a. determines the coordination parameters twice a year in accordance with Article 6 of the Regulation and taking into account the ATM capacity determined by the air traffic service provider; and
  - b. communicates the determined coordination parameters to the airport coordinator in good time before the initial slot allocation for the preparation of scheduling conferences.

### Slot allocation

6. Without a slot that has been allocated by the slot coordinator, it is not permitted for an air carrier to operate at a slot-coordinated airport.

#### *Article 2(9) Slot Regulation (EC) 95/93 as amended*

'coordinated airport' shall mean any airport where, in order to land or take off, it is necessary for an air carrier or any other aircraft operator to have been allocated a slot by a coordinator, with the exception of State flights, emergency landings and humanitarian flights;

#### *Article 2(a) Slot Regulation (EC) 95/93 as amended*

'slot' shall mean the permission given by a coordinator in accordance with this Regulation to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator in accordance with this Regulation;

7. The slot coordinator uses priority rules in allocating the available slots. Air carriers are entitled to the same series of slots in the next equivalent scheduling period when they have met the use-it-or-lose-it requirements.

*Article 8(1) Slot Regulation (EC) 95/93 as amended*

Series of slots are allocated from the slot pool to applicant carriers as permissions to use the airport infrastructure for the purpose of landing or take-off for the scheduling period for which they are requested, at the expiry of which they have to be returned to the slot pool as set up according to the provisions of Article 10.

*Article 8(2) Slot Regulation (EC) 95/93 as amended*

Without prejudice to Articles 7, 8a and 9, Article 10(1) and Article 14, paragraph 1 of this Article shall not apply when the following conditions are satisfied:

- a series of slots has been used by an air carrier for the operation of scheduled and programmed non-scheduled air services, and
- that air carrier can demonstrate to the satisfaction of the coordinator that the series of slots in question has been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which it has been allocated.

In such case that series of slots shall entitle the air carrier concerned to the same series of slots in the next equivalent scheduling period,

*Article 8(3) Slot Regulation (EC) 95/93 as amended*

Without prejudice to Article 10(2), in a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to commercial air services and in particular to scheduled services and programmed non-scheduled air services. In the case of competing requests within the same category of services, priority shall be given for year-round operations.

8. ACNL has issued a policy rule regarding Additional Allocation criteria according to article 1:3 (4) in conjunction with article 4:81 of the Dutch General Administrative Law Act. This policy rule concerns the application of the following additional allocation criteria in line with article 8.4.1 of the Worldwide Airport Slot Guidelines (WASG):

- a) *Effective Period of Operation*
- b) *Operational Factors*
- c) *Time Spent on Waitlist*
- d) *Type of Consumer Service and Market*
- e) *Connectivity*
- f) *Competition*
- g) *Environment*
- h) *Local Guidelines*

9. The WASG includes provisions on capacity reduction, which must be considered by the slot coordinator.

*Article 8(5) Slot Regulation (EC) 95/93 as amended*

The coordinator shall also take into account additional rules and guidelines established by the air transport industry world-wide or Community-wide as well as local guidelines proposed by the coordination committee and approved by the Member State or any other

competent body responsible for the airport in question, provided that such rules and guidelines do not affect the independent status of the coordinator, comply with Community law and aim at improving the efficient use of airport capacity. These rules shall be communicated by the Member State in question to the Commission.

*Article 6.10.1 World Airport Slot Guidelines (WASG)*

If a planned capacity reduction is unavoidable the Coordination Committee must be consulted during the decision process and as soon as possible before any reduction of capacity occurs. In all cases, airlines' historic slots must be honored. The coordinator, or other competent body, must communicate the capacity change to all relevant stakeholders well in advance of each scheduling season as soon as possible and at least 14 days and not later than 7 days before the Initial Submission Deadline for the SC.

*Article 6.10.3 World Airport Slot Guidelines (WASG)*

A capacity reduction after the Initial Submission Deadline, or a capacity reduction that cannot accommodate historic slots must be avoided except in exceptional circumstances.

## **Policy with respect to exceedance of historic rights**

10. Based on the applicable legislation both the airport managing body and the slot coordinator have clear tasks. Firstly, the airport managing body determines the coordination parameters expressing the available capacity reflecting technical, operational and environmental constraints. Subsequently, the slot coordinator allocates such slots within the coordination parameters among the air carriers that have requested slots in accordance with the Slot Regulation.
11. Because of this division of tasks, it is never possible for the slot coordinator to exceed the coordination parameters. This applies also in the case that not all historic slots can be accommodated. The slot coordinator simply cannot exceed capacity made available by the airport managing body for slot allocation.
12. In the current practice coordination parameters are determined amongst others in terms of:
  - a. a maximum number of slots for a season reflecting an environmental constraint;
  - b. a maximum number of slots for a specific curfew (e.g. night) reflecting an environmental constraint;
  - c. a maximum number of arriving and departing flights in a certain time bracket reflecting runway capacity;
  - d. a maximum number of departing and arriving passengers reflecting terminal capacity;
  - e. a maximum number of departing and arriving flights on certain routes reflecting border control and customs capacity;
  - f. a maximum number of aircraft types that can arrive within a certain bracket reflecting stand capacity;
13. Above examples indicate that the historic rights can – besides the slot itself – also include aircraft type, service type, route and number of seats (when relevant in relation to the coordination parameters).

14. Article 8(5) of the Slot Regulation requires ACNL to take into account the WASG when allocating slots except where the WASG conflicts with Community law, affects the independence of the slot coordinator and does not aim at improving efficient use of airport capacity. With respect to the articles 6.10.1 and 6.10.3 of the WASG remains that ACNL is only responsible for the allocation of available slots. If the airport managing body makes fewer slots available than there are historic rights, ACNL simply cannot allocate all requested slots based on the provisions of the Slot Regulation.
15. This raises the following question: what priority rules should the slot coordinator apply in a situation where historic rights are exceeded?
16. Prioritising is as specific as possible; the aim is to solve the exceedance of the relevant coordination parameter.
17. The air carrier will get as much freedom as possible in contributing to solve the exceedance. For instance:
  - a. if a night curfew would be exceeded the air carrier can choose (if possible within the other coordination parameters) to retime slots of its choice;
  - b. if stand capacity for larger aircraft would be exceeded the air carrier can choose to change aircraft type or to retime the slot;
  - c. if a seasonal limit would be exceeded the air carrier can choose which (series of) slots are eligible for not allocating.
18. ACNL will use the principle of proportionality as included in the best practice paper for managing temporary capacity reduction (17 July 2020) issued by the World Airport Slot Board (WASB). This paper contains the following principle: *“Any mandatory schedule reductions must be spread across all affected airlines that utilise the affected infrastructure, in a fair, transparent, and non-discriminatory manner by a slot coordinator acting independently.”* and provision: *“The required schedule reductions will be measured based on a defined time period where congestion occurs and/or as a total per day, providing that a fair distribution of cancellations across carriers is ensured.”*.
19. ACNL believes that such method based on proportionality is more suitable than an allocation method based on priority rules, like the priority rules for the allocation for slots in the slot pool (as described in Articles 8 and 10 of the Slot Regulation and in the Policy rule regarding Additional Allocation criteria).
  - a. The method of proportionality aligns with the principle of the WASB best practice paper.
  - b. ACNL has conducted a simulation study of the announced capacity reduction of Amsterdam Airport Schiphol. Both the method of proportionality as the method of priority rules were evaluated on the effects on factors like effective period, connectivity, competition and environment and on the spread of the impact across air carriers. The two methods didn't significantly differentiate on the factors mentioned, however the impact on individual air carriers was spread significantly unequal.
  - c. Because of the short announcement period (coordination parameters are determined twice a year ultimately one week before air carriers have to submit their slot requests) it is more difficult for air carriers to anticipate on future allocation criteria. A method based on proportionality does not have this disadvantage.



## Process

20. If ACNL expects an exceedance of the coordination parameters with all to be requested historic slots, ACNL will publish a working procedure to solve the exceedance of the relevant coordination parameter(s). The working procedure contains how ACNL will apply the criterium of proportionality with a holistic approach and provides air carriers with additional information regarding their slot requests at initial submission. ACNL strives to publish this working procedure before the coordination parameters are published.
21. Between SAL and Historic Baseline Date (HBD), air carriers are able to optimise their schedules as always.
22. Slots with historic rights which cannot be accommodated at SAL are placed on the waiting list and will have priority over any submissions that are not based on historical rights. This applies in principle only to the season for which the allocation is made. ACNL can decide to include in the working procedure that this priority applies to one additional equivalent season in case the capacity reduction is of a temporary nature and has a fixed expiry date.
23. This policy rule will be effective as of IATA Northern Summer Season 2024