September 12, 2023

Adina Vălean
Commissioner
European Commission
Rue de la Loi 200
1049 Brussels, Belgium

RE: Request for a formal review of the Dutch government’s plans to reduce flight movements at Amsterdam Airport Schiphol

Dear Commissioner Vălean,

We, the undersigned, are writing to you concerning the September 1, 2023, announcement by the Dutch caretaker government that they will be introducing a number of measures to reduce aircraft operations at Amsterdam Airport Schiphol (AMS)—a decision that is strongly opposed by the airline industry.

Respectfully, we ask that the European Commission conduct a formal review concerning the application of such significant reductions in aircraft operations and if such a reduction, in the manner proposed by the Dutch caretaker government, is compatible with EU law.

We, the undersigned, have strong reservations concerning the approach taken by the Dutch caretaker government and would ask that the European Commission’s formal review take into account all relevant EU legislation on the requirements for effectuating a reduction in service. The airline industry has a legitimate expectation that existing rules and regulations pertaining to the level of aircraft operations are followed in their entirety by Member States.

The Experimental Regulation, the decision to end anticipatory non-enforcement of Airport Traffic Decree 2008—which should be published shortly according to the Dutch caretaker government—will reduce flight movements to 460,000 movements in March 2024. We further urge the Commission to undertake any steps they deem necessary to evaluate whether these reductions are also in compliance with relevant EU regulations. The package of measures submitted to your services would further reduce movements to 452,000 by November 2024 and introduce significant cuts to night flights, with further reductions planned.

Although the Dutch government based these decisions on the grounds of environmental pollution and noise, it is unclear if it respects the requirements of Regulation 598/2014 on the Balanced Approach to noise-related operating restrictions at EU airports. The Balanced Approach does not impose any outcome but prescribes a process to ensure that noise-related decisions are sufficiently informed and guided by robust analysis and transparent consultation of stakeholders, with the aim that they are fit for purpose.
There is no evidence that the Dutch government considered a number of key steps of the Balanced Approach as outlined in Regulation 598/2014 including the following: Noise assessment, Articles 6(1) and 6(2)(a); Cost-effectiveness, Article 6(2)(c) and Consultation process, Article 6(2)(d). Furthermore, not only are the Dutch authorities bound by the Balanced Approach through Regulation 598/2014, but also by international law.

The Balanced Approach is enshrined through international standards in Part V of Annex 16, volume I to the Chicago Convention. It is also included in some air services agreements, including the U.S.-EU Air Transport Agreement. The agreement requires in Article 15(5) that where new mandatory noise-based operating restrictions at airports are imposed that authorities provide an opportunity for the views of interested parties to be considered and that such operating restrictions shall be “not more restrictive than necessary in order to achieve the environmental objective established for a specific airport”. It also allows the other party to request a written report explaining the measures that were considered, including the evaluation of the likely costs and benefits.

We respectfully request the European Commission to assess if the Balanced Approach principle was applied, and whether that such a policy is proportional, and in line with relevant EU legislation, such as Regulation 1008/2008, Regulation 598/2014, and Regulation 95/93 (on allocation of slots).

Our industry plays a vital role in facilitating connections between people and businesses, enabling global cultural exchange and promoting economic growth. With 588 scheduled passenger flights daily from AMS and 1.4 million tons of cargo being transported in 2022, AMS is a prominent global hub. The networks of both passenger and cargo carriers sustain vital trade flows between the Netherlands and Europe. Restricting flight operations will have far-reaching implications for a wide variety of stakeholders, including airlines, passengers, consumers and businesses.

We appreciate your attention to this matter and remain at your disposal to answer any questions or provide further information for your services.

Sincerely,

[Redacted]

Airlines for America

[Redacted]

International Air Transport Association

cc:  Vice President Maroš Šefčovič, European Commission