

NOTES ON INDIVIDUAL ARTICLES

Article 1

This article defines the terms used in the Decree. The definitions of the terms 'scheduling period', 'State flight' and 'slot' are consistent with those used in the EU Slot Regulation. The traffic distribution rules distinguish two types of flight: transfer flights and point-to-point flights. Transfer flights and point-to-point flights are designated by ministerial order. A relatively small proportion of point-to-point flights entail transfers. The opposite is true of transfer flights. Point-to-point flights and transfer flights are therefore each other's antitheses.

Article 2

Paragraph 1

The first paragraph stipulates that Lelystad Airport will be designated as a slot coordinated airport as mentioned in the EU Slot Regulation, when the airport opens for commercial traffic.

An airport is designated as a slot coordinated airport when there is a capacity constraint. At Lelystad Airport the capacity will be limited in the first years, with a few thousand flights per year, whereas multiple parties have shown an interest in operating at the airport.

From the designation of Lelystad Airport as a slot coordinated airport onwards, air carriers must have a slot for taking off or landing at the airport and for making use of the airport infrastructure. Slots will be allocated by the independent slot coordinator who will apply the rules of the EU Slot Regulation for this purpose.

Paragraph 2

Paragraph 2 uses a priority rule for the allocation of capacity at Lelystad Airport. Air carriers that transfer their historical slots at Schiphol Airport to another air carrier or the slot coordinator will get priority at the allocation of slots at Lelystad Airport. The same principle applies if that air carrier uses the slots at Schiphol Airport that had been previously used for point-to-point traffic to conduct transfer flights at Schiphol Airport.

The slots, moreover, must be historical slots at Schiphol Airport, that is to say slots on which the air carrier has accumulated grandfather rights under the Slot Regulation. This is because non-historical slots are in principle granted for a single season only. Only historical slots are granted for more than one season.

The abovementioned priority rule works as a supplement to the stipulations of the Slot Regulation. This means that, firstly, the rules from the Slot Regulation need to be applied. This results in historical rights of an air carrier that has transferred flights from Schiphol Airport to Lelystad Airport being honoured in the following corresponding seasons.

The priority rule in the Decree entails that in the case of two air carriers having the same priority on the basis of the Slot Regulation, the deciding factor will be the question which one of these two air carriers will be transferring historical slots at Schiphol Airport or using such slots for the operation of transfer flights at Schiphol Airport henceforth.

Paragraphs 3 and 4

The priority rule will apply in first instance to the first 10,000 available for commercial traffic at Lelystad Airport. Based on a growth path of three years, this in practice will result in the following: 4000 slots that become available in 2020 and an additional 3000 slots in both 2021 and 2022, totalling 10,000 slots.

The priority rule will, after approval by the European Commission, also apply to slots between 10,000 and 25,000. Article 7 comprises a separate date for the entry into force of paragraph 4.

Paragraphs 5 through 8

The priority rule only applies insofar the slot that is being transferred or used for a transfer flight henceforth, was used to operate a point-to-point flight. Point-to-point flights and transfer flights are designated by ministerial order. This order is inextricably linked to this Decree. As the nature of flights to a particular destination can change, it must be possible to change the rules if there is a reason to do so. This is why it has been decided to set rules by means of ministerial order.

Paragraph 7 provides that the days and times of the slots relinquished at Schiphol Airport need not correspond with the capacity granted at Lelystad Airport. If a series of slots at 10.15 on Tuesday is relinquished, the capacity at Lelystad Airport need not relate to the same day and time. Both the day and the time may be different.

Paragraph 8 incorporates a duty to inform. Sufficient information must be available in order to be able to enforce the traffic distribution rules. Paragraph 5 therefore lays down that air carriers that apply paragraph 2 must inform the minister thereof. By virtue of paragraph 5, the minister will know which slots at Schiphol Airport will be subject to the traffic distribution rules and may in future be used only for transfer flights.

It is also important that air carriers are aware of the fact that a particular slot is subject to restrictions. The recipient air carrier must therefore also be informed by the transferring air carrier. If slots ultimately revert to the slot coordinator, an air carrier that is allocated the slots should also be informed of the fact that they may only be used for transfer flights. This is laid down in article 4. To ensure that the slot coordinator is also informed, a duty to inform the slot coordinator has been included. It should be noted that the slot coordinator is not responsible for enforcement. The Human Environment and Transport Inspectorate will enforce the rules.

Article 3

Article 3 relates to Schiphol Airport. It provides that slots at Schiphol Airport that are used in accordance with article 2 by an air carrier that moves to Lelystad Airport may be used only for transfer flights.

The transferred slots are earmarked. Air carriers that receive these slots, in whatever manner, may use them only for this type of flight. This article also determines the scope of the traffic distribution rules at Schiphol Airport. The rules set for Schiphol Airport relate only to slots that are used in the context of a move to Lelystad Airport. Slots other than these slots fall outside the scope of this Decree.

Article 4

Under article 4, air carriers must provide information within two months of the end of the scheduling period, demonstrating how they have used the relinquished slots. It can then be established, for enforcement or other purposes, whether the slots have indeed been used for transfer flights only.

Although the information is provided by the air carriers themselves, it will be relatively simple to check. Enough information is available to determine whether the flights concerned were indeed operated as indicated in the information provided.

It is also relevant to this article that the obligation applies only to slots that are earmarked in accordance with article 3. Air carriers are not obliged to provide information on other slots, which fall outside the scope of this Decree.

Further to these traffic distribution rules, the earmark follows the slot. Even if a slot is obtained by another air carrier, it is therefore important that the recipient air carrier be informed of the fact that the slot's use is restricted. The recipient air carrier can receive the slot in one of two ways: from another air carrier or from the slot coordinator. There is an obligation for both the transferring air carrier and the slot coordinator to inform the receiving air carrier of the status of a slot that falls under

the scope of article 3 of the Decree. Again, it should be noted that the slot coordinator does not have an enforcement role or allocate the slots in a way other than laid down in the Slot Regulation.

Article 5

Article 5 provides that the provisions laid down by or pursuant to this Decree apply to a destination serving as the departure point of a flight. It is naturally the intention that the Decree should apply in both directions. Stating this separately in each article, however, would render the Decree less readable and comprehensible. Article 5 therefore contains a general provision on applicability to situations where the destination named is the departure point of a flight.

Articles 6 through 8

The impact of the traffic distribution rules in practice will be evaluated within three years. This evaluation will be shared with the Dutch Parliament and the European Commission.

The Decree's entry into force is linked to the actual opening of Lelystad Airport to commercial traffic. This will be the date that commercial traffic routes are published in the Aeronautical Information Publication. The entry into force of article 2, paragraph 4, will be at a later moment. Article 2, paragraph 4, will only enter into force after a new submission to the European Commission pursuant to article 19, paragraph 3, of Regulation no. 1008/2008.

Finally, article 8 provides that the Decree may be cited as the Schiphol and Lelystad Airports (Traffic Distribution) Decree.

THE MINISTER OF INFRASTRUCTURE AND WATER MANAGEMENT