



Mr. Mark Harbers
Minister of Infrastructure and Water Management
E-mail : DBO-min@minienw.nl

7 June 2022

Subject: Ceiling on CO₂ emissions from aviation

Dear Mr. Harbers,

On behalf of the International Air Transport Association (IATA), the Board of Airline Representatives in the Netherlands (BARIN) and Air Cargo Netherlands (ACN), we are writing to you with the purpose of raising our concerns regarding the Dutch Government's plans with respect to a ceiling on CO₂ emissions on international aviation from the Netherlands, with several options on the table, including a CO₂ ceiling per airport, a fossil fuel ceiling regulating fuel suppliers (similar to ReFuel EU) and a national ETS.

Environmental issues are at the top of the aviation industry's agenda, alongside safety and security. The aviation industry recognizes the need to address the global challenges of climate change. As you know, our industry has recently committed to unprecedented goals to reduce the carbon footprint of air transport and notably achieve net-zero carbon emissions from their operations by 2050. In October 2021, a resolution¹ was passed by IATA member airlines committing them to achieving net-zero carbon emissions from their operations by 2050. In addition, the Air Transportation Action Group (ATAG) issued a statement² supporting the same commitment. The European aviation industry also committed to reducing net CO₂ emissions from intra-EU flights by 55% compared to 1990 levels. Thereby, the sector aligns with the Paris Agreement, recognising the urgency of limiting global warming to 1.5°C and effectively contributing to the European Green Deal³.

In addition, within the European Fit for 55 package, specific obligations will be related to the blending for Sustainable Aviation Fuel as well as EU ETS levels. Aviation operates in a global sector and CO₂ does not stop at the border of a country. Climate change requires a global and unified solution, rather than a fragmented approach.

In this regard, the Netherlands must take into account the impact of its policies on international efforts to address aviation's emissions. At the global level, the international aviation emissions are actually covered by CORSIA, including all the international departures from the Netherlands. Annex 16, Volume IV to the Chicago Convention confirms the principle that airlines shall be administered and regulated exclusively by their national authority. Should the Netherlands proceed with the approach of having all the international departures from its territory covered under a standalone national ETS, it would be at odd of the above said ICAO principles. Further to this, a national ETS would trigger double-counting bearing in mind that airlines would be required to comply with CORSIA and the Dutch ETS for the same tonne of CO₂ emitted. The implied application scope of the Netherlands' national ETS unavoidably introduces also the legal and political challenges of extraterritorial effects. There is no legal ground for the Netherlands to regulate the emissions from international aviation, particularly where the emissions are released in another sovereign airspace or above high seas.

¹ [IATA - Fly Net Zero](#)

² [Commitment to Fly Net Zero: Aviation: Benefits Beyond Borders \(aviationbenefits.org\)](#)

³ [Destination 2050](#)



Similar concern applies to the ceiling options for international aviation from the Netherlands, whether the CO₂ ceiling per airport or the fossil fuel ceiling. Carbon budget of one country should only include the domestic aviation as opposed to the international departures from its territory. Art 2.2 of Kyoto Protocol explicitly mandates ICAO to deal with all the international aviation emissions, which, evidently include the international departures from the Netherlands. This stays valid under the Paris Agreement, under the context of which, the international aviation from the Netherlands should be regulated under ICAO, while the Netherlands' NDC can only address the emissions from domestic aviation. As with a national ETS option, any ceiling option applicable to international flights from the Netherlands would be likely to trigger extraterritoriality issues.

There is also no evidence that the CO₂ ceiling plan is in line with the Netherlands' legal commitments and obligations under the U.S.-EU Open Skies Agreement. More specifically, article 15 of this Agreement provides that when a Party is considering proposed environmental measures, it should first evaluate possible adverse effects on the exercise of rights contained in the Agreement. If such measures are adopted, it should take appropriate steps to mitigate any such adverse effects. Under the same provision, the US-EU Open Skies requires to follow the ICAO environmental standards (except where differences have been filed) when environmental measures are established.

Hence, a Dutch ceiling for CO₂ emissions for international flights from the Netherlands not only lacks legal ground, but also would undermine multilateral efforts to mitigate international aviation emissions at ICAO. Putting multilateralism at stake would likely result in reciprocal measures or even retaliatory action from other jurisdictions, which would generate a much wider scope of detrimental impacts.

Achieving aviation decarbonization requires a combination of measures, which we urge the Dutch Government to promote. These include:

- Sustainable Aviation Fuels which reduce emissions by up to 80% compared to traditional jet fuel. Insufficient supply and high prices have limited airline uptake to 120 million liters in 2021—a small fraction of the 350 billion liters that airlines would consume in a 'normal' year. For the industry to reach its net zero goal, the production of SAF needs to ramp up to at least 449 billion liters in 2050. To incentivize SAF production and commercial scale deployment of SAF, the parties to this letter call on the Dutch Government to explore policy options that would deliver the optimal economic outcome, also incentivizing transfer of publicly sourced revenues towards a program or direct financial project support, without attached obligations or regulations.
- Market-based measures to address emissions until technology solutions are fully developed. Climate policy regulation in the form of taxes is ecologically and economically counterproductive. It reduces the industry's capacity to invest and innovate whilst potentially shifting emissions to other regions (carbon leakage). The industry supports the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) as a global measure for all international aviation and believe it must be implemented in line with the standards adopted by ICAO, including all international intra-EU flights.
- Single European Sky (SES) to reduce unnecessary emissions from fragmented air traffic management (ATM) and resulting inefficiencies. Modernizing European ATM through the SES initiative would cut Europe's aviation emissions between 6-10, but national governments continue to delay implementation.
- Radical new clean technologies. While it is unlikely that electric or hydrogen propulsion could have a significant impact on aviation emissions within the EU 'Fit for 55' timeframe of 2030, the development of these technologies is ongoing and needs to be supported.

Finally, an increase in the cost of air transport if intended to reduce the sector's economic activity would also very strongly affect other sectors of the Dutch economy and primarily the tourism sector. Before the crisis, the aviation sector accounted for 3.2 % of the Netherlands' GDP. Moreover, it represented about 4.3% of total employment in the Netherlands.



The dynamism of the Dutch economy and its international influence will depend to a large extent to the connectivity in the Netherlands which is damaged and recovering slowly from the COVID-19 pandemic, the deepest crisis of aviation history.

It would have a counter-productive effect, as this measure would reduce the possibilities to invest in fleet renewal, a much more effective lever to reduce emissions. As a reminder, the efficiency per passenger kilometer has more than doubled since 1990 resulting from airlines' efficient fleet renewals and investments in new technologies.

We thank you for your attention to the above and would welcome the opportunity to provide additional information on the subject.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Rafael Schwartzman".

Rafael Schwartzman
Regional Vice President Europe
International Air Transport Association

A handwritten signature in black ink, appearing to read "Marnix H. Fruitema".

Marnix H. Fruitema
Chairman
BARIN

A handwritten signature in black ink, appearing to read "Maarten van As".

Maarten van As
Managing Director
ACN - Air Cargo Netherlands

In copy:

Mrs. Micky Adriaansens, Minister of Economic Affairs and Climate Policy

Mrs. Sigrid Kaag, Deputy Prime Minister, Minister of Finance

Mr. Filip Cornelis, Director for Aviation DG MOVE

Mrs. Beatriz Yordi, Director Carbon Markets and Clean Mobility DG CLIMA

Mrs. Anna Colucci, Director Markets and cases Energy and Environment