Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	10 January 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 4 final
Subject:	Amended proposal for a COUNCIL DECISION on the conclusion, on behalf of the Union, of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part

Delegations will find attached document COM(2018) 4 final.

Encl.: COM(2018) 4 final

EUROPEAN
COMMISSION

Brussels, 10.1.2018
COM(2018) 4 final

2009/0018 (NLE)

Amended proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Commission has negotiated, on behalf of the European Community and its Member States an Air Transport Agreement with Canada (hereinafter the Agreement) in accordance with the Council Decision authorising the Commission to open negotiations. On 17 and 18 December 2009, the European Community and its Member States, of the one part, and Canada, of the other part, signed the Agreement that was intended, inter alia, to facilitate the expansion of international air transport opportunities by opening access to markets and maximising benefits for consumers, airlines, workers and communities on both sides of the Atlantic ocean.

As regards the EU side, both the Union and its Member States are parties to this Agreement. The ratification process has been completed by all Member States on 25 October 2016, except for the Republic of Croatia. It is intended that the Republic of Croatia will accede to the Agreement in accordance with the procedure provided for in the Act of accession annexed to the Treaty of Accession of 5 December 2011.

With a view notably to take account of the entry into force of the Treaty of Lisbon, and following the judgement of the European Court of Justice of 28 April 2015 in Case C-28/12, this proposal modifies the intial proposal of the Commission (under COM(2009)62 final), which was adopted on 17 February 2009 and subsequently submitted to the Council. In order to ease the examination by the Council, the whole of the relevant text is submitted as an amended proposal.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

Not applicable

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Not applicable

4. BUDGETARY IMPLICATIONS

Not applicable

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable

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COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100(2), in conjunction with Article 218(6)(a) thereof

Having regard to the proposal from the European Commission,

Having regard to the ~~opinion~~ **consent** of the European Parliament[1],

Whereas:

(1) The Commission has negotiated on behalf of the European Community and its Member States, an Agreement on Air Transport with Canada (hereinafter, the "Agreement") in accordance with the Council Decision authorising the Commission to open negotiations.

(2) The Agreement was signed on 17 and 18 December 2009, subject to its conclusion at a later date, in accordance with Decision 2010/417/EC of the Council and of the Representatives of the Member States of the European Union meeting within the Council.[2]

(3) The Agreement has been ratified by all Member States, except for the Republic of Croatia. It is intended that the Republic of Croatia will accede to the Agreement in accordance with Article 6(2) of the Act of Accession annexed to the Treaty of accession of 5 December 2011.

(4) The Agreement should now be approved on behalf of the Union.

(5) Articles 3 and 4 of Decision 2010/417/EC contain provisions on decision making and representation with regard to various matters set out in the agreement. In view of the judgement of the European Court of Justice of 28 April 2015 in case C-28/12, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary, nor are provisions on information obligations of the Member States, **such as those set out in Article 5 of Decision 2010/417/EC**. Consequently, Articles 3, 4 and 5 of Decision 2010/417/E~~U~~**C** should cease to apply at the date of entry into force of this Decision.

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1 OJ C , , p. .

2 OJ L 207, 6.8.2010, p. 30.

HAS ADOPTED THIS DECISION:

Article 1

The Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part, (hereinafter, the "Agreement") is hereby approved on behalf of the Union.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the European Union, the instrument of approval provided for in Article 23 of the Agreement in order to express the consent of the Union to be bound by the Agreement and shall make the following notification:

'As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the text of the Agreement are, where appropriate, to be read as to "the European Union".'

Article 3

Articles 3, 4 and 5 of Decision 2010/47/EC shall cease to apply at the date of entry into force of this Decision.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President