

# EC/Canada agreement: air transport

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**PURPOSE:** signature and conclusion of the EU-Canada Air Transport Agreement.

**PROPOSED ACT:** Decision of the Council and the representatives of the Governments of the Member States of the European Union, meeting within the Council.

**BACKGROUND:** this Agreement was negotiated under a mandate received from the Council in October 2007. Air services between the EU and Canada presently operate on the basis of bilateral agreements between individual Member States and Canada. These bilateral agreements contain provisions that the European Court of Justice ruled in November 2002 to be incompatible with Community law.

It is therefore essential that a **new Community-level framework for EU/Canada air services** is established.

The negotiating mandate set the objective of establishing an Open Aviation Area (OAA) between the EU and Canada. This would create a single market for air transport between the EU and Canada in which investment could flow freely and in which European and Canadian airlines would be able to provide air services without any restriction, including in the domestic markets of both parties. Achievement of the mandate in full would require significant legislative changes in Canada, in particular to remove the existing legal restrictions on foreign ownership and control of Canadian airlines and on cabotage. For this reason, the mandate explicitly recognises the possibility of implementing an agreement in a phased approach.

The EU accepted during the negotiations that full **investment opening could not be achieved from the start**, but would be gradually introduced in different phases during a transitional period. Based on the negotiating directives of the mandate, and in line with conclusions of the

EU-Canada summit of October 2008, the draft Agreement with Canada was finalised by the Commission in November 2008.

**IMPACT ASSESSMENT:** the Agreement ensures the gradual establishment of an EU/Canada Open Aviation Area. A report prepared for the Commission in 2006 by consultants, estimated that an EU /Canada Open Aviation Area would generate upwards of 17 million extra passengers a year, consumer benefits of at least EUR 5 billion a year, and would support employment on both sides of the Atlantic.

**CONTENT:** this Agreement represents a comprehensive agreement that will replace the existing bilateral agreements concluded by the Member States with Canada. It removes all existing restrictions on the rights of both Community air carriers and Canadian air carriers to operate between points in the European Community and points in Canada. In this respect, the Agreement removes the obstacles to the ability of Community air carriers to benefit from the right of establishment within the Community, including the right to non-discriminatory market access, in relation to the provision of air services to and from Canada.

It includes a gradual phasing-in of traffic rights and investment opportunities. It would meet the legal requirements of the Community and deliver substantial immediate economic benefits for transatlantic air travellers and shippers.

The Agreement:

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creates simultaneously for all Community air carriers uniform conditions for market access, and establishes new arrangements for regulatory co-operation between the European Community and Canada in fields essential for the safe, secure, and efficient operation of transatlantic air services. In particular, there will be strengthened co-operation in matters concerning aviation security and aviation safety. There will also be new arrangements for cooperation to ensure a competitive level playing-field. These arrangements can only be achieved at Community level because they involve a number of areas of exclusive Community competence;

- allows for the simultaneous extension of its terms to the 27 Member States, applying the same rules without discrimination and benefiting all Community air carriers regardless of their nationality. These carriers can now operate freely from any point in the European Union to any point in Canada. Removal of all market access restrictions between the EU and Canada will not only attract new entrants to the market and create opportunities to operate to underserved airports, but will also facilitate consolidation between Community air carriers;
- secures for all Community air carriers access to commercial opportunities, such as the possibility to freely establish prices, which no Member State has been able to secure by negotiating individually. One of the main objectives of the mandate is to create a level playing field between all EU and Canadian air carriers, and this requires strong regulatory co-operation which can only be delivered at Community level.

**BUDGETARY IMPLICATION:** the proposal has no implication for the Community budget.