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Committee on Transport and Tourism

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DRAFT RECOMMENDATION

on the draft Council decision on the conclusion of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part
(15380/2010 – C7-0386/2010 – 2009/0018(NLE))

Committee on Transport and Tourism

Rapporteur: Silvia-Adriana Țicău

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the conclusion of the Air Transport Agreement between the European Community and its Member States, of the one part, and Canada, of the other part

(15380/2010 – C7-0386/2010 – 2009/0018(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (15380/2010),
 - having regard to the draft Agreement between the European Community and its Member States and Canada on air transport (08303/10/2009),
 - having regard to the request for consent submitted by the Council pursuant to Article Articles 100(2), Article 218(6), second subparagraph, point (a), point (v) and Article 218(8) first subparagraph of the Treaty on the Functioning of the European Union (C7-14703/2010),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Transport and Tourism (A7-0000/2010),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Canada.

EXPLANATORY STATEMENT

Introduction

The Treaty of Lisbon, which entered into force on 1 December 2009, extended the circumstances in which Parliament's consent was required for the conclusion of an international agreement. Air agreements now fall within this category because they cover a field to which the ordinary legislative procedure applies¹. Previously Parliament had only been consulted on such agreements.

Although the EU and Canada have long-standing economic and political ties, prior to the current Agreement, aviation was the subject of bilateral agreements with 19 of the EU Member States. Many of these agreements were restrictive and did not offer full access to the respective markets. In November 2002, the European Court of Justice ruled that certain provisions in these bilateral agreements were incompatible with Community law. The Council therefore gave the Commission a mandate, in October 2007, to negotiate a comprehensive aviation agreement in place of the existing bilateral agreements. In that year nine million people were travelling between the EU and Canada.

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 in which investment could flow freely and where 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 recognised 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.

The EU-Canada Air Transport Agreement was initialled on 30 November 2008, endorsed by the EU-Canada summit on 6 May 2009 and signed on 17-18 December 2009. The EU and Canada also negotiated an agreement on air safety. This is the subject of a separate recommendation (A7-0298/2010).

Content of the Agreement

The Agreement includes a gradual phasing-in of traffic rights and investment opportunities, as well as far reaching cooperation on a number of issues including safety, security, social matters, consumer interests, environment, air traffic management, state aids and competition. All EU airlines will be able to operate direct flights to Canada from anywhere in Europe. The Agreement removes all restrictions on routes, prices, or the number of weekly flights between Canada and the EU. Airlines will be free to enter into commercial arrangements such as code-share agreements, which are important for airlines serving a large number of destinations, and to establish their tariffs in line with competition law.

¹ Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union

The Agreement contains provisions for the phased market opening linked to the granting of greater investment freedoms by both sides:

Phase one applies where the foreign ownership of airlines is limited to 25 per cent, as was the case when the negotiations on the agreement were completed. Airlines have unlimited freedom to operate direct services between any point in Europe and any point in Canada. There will no longer be limitations on the number of airlines flying between the EU and Canada nor on the number of services operated by any airline. Cargo airlines will have the right to fly onward to third countries.

Phase two starts as soon as Canada has taken the steps necessary to enable European investors to own up to 49% of a Canadian carriers' voting equity. This means certain additional rights, including the right for cargo operators to provide services to third countries from the other party without connection to their point of origin (so called "7th freedom" rights) will be available. In fact, Canada introduced this possibility in March 2009.

Phase three begins once both sides enable investors to set up and control new airlines in each others' markets. Then passenger airlines will be able to fly onward to third countries.

Phase four is the final step with full rights to operate between, within and beyond both markets, including between points in the territory of the other party (cabotage). It will be granted once both sides complete steps to allow the full ownership and control of their carriers by nationals of the other party.

Both sides agreed to cooperate closely in order to mitigate the effects of aviation on climate change. In the field of safety and security, the agreement envisages mutual recognition of standards and "one-stop security" (i.e. transfer passengers, luggage and cargo would be exempted from any additional security measures). There are also specific provisions to improve consumer interests including a commitment to consult, with a view to achieving compatible approaches so far as this is possible, on issues such as compensation for denied boarding, accessibility measures and passenger refunds. The text provides for a strong mechanism to ensure that airlines cannot face discrimination in terms of access to infrastructure or state subsidies.

Evaluation

This Agreement can fairly be described as the most ambitious air transport agreement between the EU and a major world partner. It will significantly improve both the connections between respective markets and people-to-people links, as well as creating new opportunities for the airline sector through a gradual liberalisation of foreign ownership rules. In particular, it is more ambitious and specific than the EU-US Agreement with regard to traffic rights, ownership and control, even following the provisional application of the amending Protocol ("2nd stage").

According to a study launched by the Commission, an open agreement with Canada would generate an additional half million passengers in its first year and, within a few years, 3.5

million extra passengers might be expected to take advantage of the opportunities such an agreement could offer. The Agreement could generate consumer benefits of at least €72 million through lower fares and would also create new jobs.

Although this Agreement is more ambitious than that with the US regarding market access, it is less explicit when it comes to recognising the importance of the social dimension. While either party may request a meeting of the Joint Committee to consider the Agreement's effects on labour, employment and working conditions, there is no explicit statement that "the opportunities created by the Agreement are not intended to undermine labour standards"¹ nor is the Joint Committee required to consider "the social effects of the Agreement as it is implemented and [develop] appropriate responses to concerns found to be legitimate"².

It is therefore important that the Commission uses the Agreement and, in particular, the possibility of reference to the Joint Committee, to promote compliance with relevant international legislation on social rights, in particular the labour standards embodied in the fundamental conventions of the International Labour Organization (ILO 1930-1999), the OECD Guidelines for Multinational Enterprises (1976, revised 2000) and the Rome Convention on the Law Applicable to Contractual Obligations of 1980.

Increased consultation and cooperation on security is undoubtedly needed, particularly in the light of the current international situation. However, this should not lead to excessive or uncoordinated measures that lack a proper risk assessment. It would therefore be desirable that the Commission and Canada review the efficiency of the additional security measures adopted since 2001 so as to eliminate overlapping and weak links in the security chain. In this context, the Agreement's objective of "one-stop security", rather than rechecking passengers and luggage at every transfer, is to be welcomed.

Conclusion

Given the important role assigned to the Joint Committee, including in politically sensitive matters such as environmental and labour standards, it is important that the Commission ensures that Parliament is kept fully informed and consulted about the Committee's work in conformity with the provisions of the Framework Agreement on relations between the European Parliament and the European Commission³. It will also be important that Parliament follows the different phases of market opening described in the section "Content of the Agreement" (page 7 above).

Notwithstanding these provisos, the ambitious nature of this Agreement is very much to be welcomed. It should serve as a target for other negotiations currently underway. Your Rapporteur therefore recommends that Parliament consent to the EU-Canada Air Transport Agreement.

¹ Compare Article 17(b) of the EU-US Agreement

² Article 18(4)(b) following amendment by the Protocol

³ P7_TA-PROV(2010)0366