IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

DECISION OF THE COUNCIL AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION, MEETING WITHIN THE COUNCIL

of 30 November 2009

on the signing and provisional application of the Agreement on Air Transport between the European Community and its Member States, of the one part, and Canada, of the other part

(2010/417/EC)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European Community and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Whereas:

(1) The Commission has negotiated on behalf of the Community and of the 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 initialled on 30 November 2008.

(3) The Agreement negotiated by the Commission should be signed and applied provisionally by the Community and the Member States in accordance with applicable national law, subject to its possible conclusion at a later date.

(4) It is necessary to lay down appropriate procedural arrangements for the participation of the Community and the Member States in the Joint Committee set up under Article 17 of the Agreement and in the dispute settlement procedures provided in Article 21 of the Agreement, as well as for implementing certain provisions of the Agreement concerning security and safety,

HAVE DECIDED AS FOLLOWS:

Article 1

Signature

1. The signing of the Agreement on Air Transport 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 Community, subject to a Council Decision concerning the conclusion of the Agreement.

The text of the Agreement is attached to this Decision.

2. The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community, subject to its conclusion.

Article 2

Provisional application

Pending its entry into force, the Agreement shall be applied on a provisional basis by the Community and its Member States, in accordance with applicable national law, from the first day of the month following the date of the latest note of which the Parties have notified each other of the completion of the relevant domestic procedures to provisionally apply the Agreement.

Article 3

Joint Committee

1. The Community and the Member States shall be represented in the Joint Committee established under Article 17 of the Agreement by representatives of the Commission and of the Member States.

2. The position to be taken by the Community and its Member States within the Joint Committee with respect to matters of exclusive Community competence that do not require the adoption of a decision having legal effect shall be established by the Commission and shall be notified in advance to the Council and the Member States.

3. For Joint Committee decisions concerning matters that fall within Community competence, the position to be taken by the Community and its Member States shall be adopted by the Council, acting by qualified majority on a proposal from the Commission, unless the applicable voting procedures set down in the Treaty establishing the European Community provide otherwise.

4. For Joint Committee decisions concerning matters that fall within Member States' competence, the position to be taken by the Community and its Member States shall be adopted by the Council, acting by unanimity, on a proposal from the Commission or from Member States, unless a Member State has informed the General Secretariat of the Council within one month of the adoption of that position that it can only consent to the decision to be taken by the Joint Committee with the agreement of its legislative bodies notably due to a parliamentary scrutiny reserve.

5. The position of the Community and of the Member States within the Joint Committee shall be presented by the Commission, except in areas that fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or, if the Council so decides, by the Commission.

Article 4

Settlement of disputes

1. The Commission shall represent the Community and the Member States in dispute settlement proceedings under Article 21 of the Agreement.

2. A decision to suspend or to reinstate the application of benefits pursuant to Article 21(7) of the Agreement shall be taken by the Council on the basis of a Commission proposal. The Council shall decide by qualified majority.

3. Any other appropriate action to be taken under Article 21 of the Agreement on matters which fall within the Community competence shall be decided upon by the Commission, with the assistance of a Special Committee of representatives of the Member States appointed by the Council.

Article 5

Information to the Commission

1. Member States shall promptly inform the Commission of any decision to refuse, revoke, suspend or limit the authorisation of an airline of Canada that they intend to adopt under Article 3 of the Agreement.

2. Member States shall promptly inform the Commission of any requests or notifications made or received by them under Article 6 (Civil aviation safety) of the Agreement.

3. Member States shall promptly inform the Commission of any requests or notifications made or received by them under Article 7 (Civil aviation security) of the Agreement.

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK