



Home Office



Ministry  
of Justice

**Third Annual Report to Parliament on  
the Application of Protocols 19 and 21  
to the Treaty on European Union (TEU)  
and the Treaty on the Functioning of the  
European Union (TFEU) (“the Treaties”) in  
Relation to EU Justice and Home Affairs  
(JHA) matters (1 December 2011 – 30  
November 2012)**

April 2013



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Presented to Parliament  
by the Secretary of State for the Home Department  
and the Lord Chancellor and Secretary of State for Justice  
by Command of Her Majesty

April 2013

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# **Third Annual Report to Parliament on the Application of Protocols 19 and 21 to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) (“the Treaties”) in Relation to EU Justice and Home Affairs (JHA) matters (1 December 2011 – 30 November 2012)**

## **The JHA Opt-in Protocol and Schengen Opt-out Protocol**

The UK's participation in EU JHA measures is principally governed by Protocols 19 (Schengen opt-out) and 21 (JHA opt-in) to the TEU and the TFEU. A decision to opt in to a new legislative proposal under Protocol 21 must be communicated in writing to the President of the Council within three months of the date on which the final language version of the proposal is presented to the Council by the Commission. The Government does not, however, need to inform the Council if it decides not to opt in to a legislative proposal. Where the proposed measure builds on part of the Schengen acquis in which the UK participates, the UK has three months to opt out and, again, notify the President of the Council of that decision.

It is important for UK interests that both Protocols are applied in a consistent manner. The Government has, during the past 12 months, noted the publication of measures in non-JHA policy areas which include provisions imposing binding JHA obligations but which do not cite a Title V legal base (the normal TFEU legal base for a JHA proposal). It is the Government's position that the UK is not bound by such measures, unless it has opted into them pursuant to Protocol 21.

The Government believes that this approach best protects the interests of the UK in seeking to retain the widest possible freedom of choice in relation to EU measures containing binding JHA obligations.

It is important to note that decisions taken pursuant to the JHA opt-in and Schengen opt-out Protocols are separate from the decision the UK must take, by 31 May, 2014, pursuant to Article 10(4) of Protocol 36 to the TEU and TFEU (the '2014 Decision').

## **Government commitments on Parliamentary scrutiny of the JHA Opt-in**

In June 2008 the Rt Hon Baroness Ashton made a Written Ministerial Statement (WMS) which outlined the then Government's commitment to strengthening Parliamentary scrutiny of the JHA opt-in. This included a commitment to provide Parliament with an annual report.

The Coalition Government agreed to uphold this commitment and the first annual report to Parliament on the Application of Protocols 19 and 21 to the Treaty on European Union (TEU) and the Treaty on the Functioning of the Union (TFEU) in Relation to EU Justice and Home Affairs (JHA) matters for the period 1 December 2009 to 30 November 2010 was submitted in January

2011. The second annual report was submitted in January 2012. Both reports were followed by a mid-year update.

In his WMS on 20 January 2011, the Minister for Europe outlined the Coalition Government's commitment to continue to honour the commitments made by Baroness Ashton and to further strengthen Parliamentary scrutiny of JHA opt-in decisions. This included a commitment to deposit a WMS in Parliament on all opt-in decisions or to make an oral statement where appropriate and necessary; reiterated the existing right of the House of Commons European Scrutiny Committee and House of Lords European Union Select Committee ('the Committees') to call a debate on an amendable motion on any opt-in decision; and, where there is strong Parliamentary interest, the Government expressed its willingness to set aside Government time for a debate in both Houses on its proposed approach (a "Lidington debate"). All of these commitments apply equally to the Schengen opt-out Protocol.

Following the commitments made in January 2011, during the course of 2012, two Lidington debates were held on the UK's participation in proposed EU legislation in the field of JHA. These were on proposals for Directives on data protection and on the confiscation of criminal assets.

Where the UK has not opted in within the initial three month window, it is open to the Government to indicate its wish to be bound by measures after they have been adopted by the participating Member States. In such cases it will inform the Committees of its intention to do so. The Committees will have an opportunity to offer views on this. The Government will also consider whether to offer a debate on Government time on a post adoption opt-in decision if it is likely to attract significant Parliamentary interest.

## **Code of Practice**

Baroness Ashton's statement also included a commitment to produce a Code of Practice setting out the Government's commitment to effective scrutiny of opt-in decisions. The Ministry of Justice and Home Office have worked with the Committee Clerks to prepare such a Code of Practice and this will be shared with both Scrutiny Committees and presented to Parliament as soon as possible. The Code of Practice will also include the commitments the Coalition Government made in January 2011 to further enhance scrutiny arrangements.

## **JHA opt-in decisions and Schengen opt-out decisions from the period 1 December 2011 – 30 November 2012**

**Annex 1** is a table of all JHA opt-in decisions and Schengen opt-out decisions taken from 1 December 2011 until 30 November 2012. These decisions are listed in chronological order.

Over the past year, the Government has taken 35 decisions on UK participation in EU JHA legislative proposals. In total the UK has opted in to 24 proposals under the JHA opt-in Protocol, one of which we opted in to post adoption. The Government has decided not to opt in to eight proposals. In addition, the Government took three decisions under the Schengen opt-out Protocol, not opting out on each occasion.

Whilst decisions are taken collectively by Government, and the majority are the responsibility of the Home Office and the Ministry of Justice, it is worth noting that the lead on these proposals falls to a wide range of Departments.

## Key opt-in decisions made by the Government

Decisions of particular prominence last year included, in February 2012, the Government's decision to opt into the **Council Decision concluding the EU-US Passenger Name Records Agreement**. The UK places considerable value on the collection and analysis of passenger name record data for the purpose of preventing terrorism and serious crime. The Government believes that clear PNR agreements between the EU and third countries play a vital role in removing legal uncertainty for air carriers flying to those countries, and helps ensure that PNR information can be shared quickly and securely, with all necessary data protection safeguards in place. It is for this reason that the UK opted in to the EU-US agreement on the exchange of passenger name record data.

In March and April 2012, the Government decided not to opt into the **Regulation on the Justice Funding Programme 2014-2020** and the **Regulation for an Internal Security Fund on police cooperation (ISF)**. This was due to concerns over value for money. The Government did however opt into the **Regulation for an Asylum and Migration Fund (AMF)** and the associated **Horizontal Regulation** for the operation of the ISF and AMF.

Also in April 2012, the Government decided not to opt out of the **Directive on Data Protection** under the Schengen Protocol. There were debates on the issue in both Houses, including, in the Commons, a debate in Government time. The Government believes that UK participation will help to keep personal data safe, protect the rights of citizens and enable our police to pursue criminals to protect the lives and interests of our citizens.

In June 2012, the Government decided not to opt into the **Directive on the freezing and confiscation of proceeds of crime in the European Union**. This followed debates in both Houses, including, in the Commons, a debate in Government time. The Government took the decision not to opt in at the outset due to concerns that the proposal posed risks to the UK's domestic non-conviction based confiscation regime.

In September 2012, the Government decided to opt into a **Regulation establishing EURODAC**, with law enforcement access. A debate was held in the Commons, which supported the Government's recommendation. The UK opted in on the basis that EURODAC is an essential part of the Dublin system for managing asylum claims. The Government is committed to the Dublin system.

The Government is still considering its approach to the proposed **Directive on the protection of the financial interests of the EU against fraud by means of criminal law**. HM Treasury will provide an update on this as soon as is possible.

Since 30 November 2012, the Government has taken a further eight opt-in decisions. The Government has decided that the UK should opt into six proposals:

- Regulation of the European Parliament and of the Council establishing an action programme for taxation in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision N°1482/2007/EC
- Council Decision authorising the Member States which are Contracting Parties to the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 ("Vienna Convention") to ratify the Protocol amending that Convention in the interest of the European Union, or to accede to it

- Decision to increase the co-financing rate for the European Refugee Fund, the European Return Fund and the European Fund for integration of third country nationals
- Council Decision amending annexes II and III of Council Decision 9 June 2011 which approved, on behalf of the European Union, the 2007 Hague Maintenance Convention
- Directive on Alternative Dispute Resolution for customer disputes
- Regulation on Insolvency Proceedings.

The Government has decided the UK should not opt into two proposals:

- Council Decisions concerning the signature and conclusion of agreements between the EU and Cape Verde on readmission
- Council Decisions concerning the signature and conclusion of agreements between the EU and Armenia on readmission.

These decisions will be reflected in full on the six month update to this report and next year's annual report.

## **Dossiers currently under consideration**

Three legislative proposals were subject to Ministerial and Parliamentary consideration with respect to an opt-in decision at the time of going to print:

- Directive to protect the Euro and other currencies against counterfeiting by criminal law
- Directive on the admission of third country nationals for the purposes of scientific research, studies, pupil exchange, unremunerated training or voluntary service
- Council Decision on the conclusion, on behalf of the EU, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organised Crime.

## **Forthcoming dossiers**

**Annex 2** outlines legislative proposals which are expected, based on information provided by the European Commission, notably in its Work Programme for 2013, to be brought forward this year and that are likely to (subject to confirmation when the text of the proposal is available) require a decision on UK participation under the JHA Opt-in Protocol. This list remains indicative and subject to change by the Commission; it is also possible for groups of Member States to bring forward proposals in this area. A summary of each measure is provided.

In addition, a number of international agreements that may include JHA obligations are expected to be brought forward. These may also require decisions under the JHA opt-in Protocol.

The Government continues to participate in the negotiations on a number of proposals in respect which the UK has already opted in, with the aim of securing the best possible result for UK interests. This includes the EU Passenger Name Records Directive, the Regulation on the mutual recognition of protection measures in civil matters, the eight separate measures on Accession

of various countries to the 1980 Hague Convention on the civil aspects of International child abduction, and the Data Protection Directive.

In addition, negotiations continue on a number of proposals where, although the UK did not opt in during the initial three month period, it remains the Government's objective to seek to amend the text in such a way that it will allow the UK to consider participation post adoption; for example, the Directive on the confiscation of criminal assets and the Internal Security Fund Regulation, the Directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest, and the Regulation Creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters.

**Secretary of State for the Home Department  
and the Lord Chancellor and Secretary of State for Justice**

# Annex 1 – Opt-in Decisions 1 December 2011 - 30 November 2012

Proposal		Decision-making process		Reasoning for Government's decision	
1	<b>Title</b>	Proposal for a Council Decision concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the carriage of passengers and their luggage by sea, 1974, as regards Articles 10 and 11 thereof.	<b>Date of Publication</b>	03/05/2011	The Government opted in to this Council Decision to ensure that it is in a position to be able to ratify the 2002 Protocol to the 1974 Athens Convention – which is incorporated into EU law from 31 December 2012 by Regulation 392/2009 on the liability of carriers of passengers by sea. This was necessary for the appropriate provisions on jurisdiction and the recognition and enforcement of judgements to apply. The Government strongly supports the entry into force of the 2002 Protocol because it will significantly enhance the international regime of liability that exists for damage suffered as a result of the death of, or personal injury to, a passenger and the loss of, or damage to luggage, by sea. A separate Council Decision relating to the other provisions of the 2002 Protocol was adopted in parallel to this Decision. Both Decisions are a direct result of an agreement that was reached at the March 2011 Transport Council to split the Commission's original proposal (which was the basis of EM 17511/10 on 5 January 2011) in two.
			<b>Deposited to Parliament</b>	08/11/2011	
			<b>Date of Explanatory Memorandum</b>	15/11/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in post-adoption	
			<b>EU notified of decision</b>	13/12/2011	
			<b>Parliament notified of decision</b>	14/12/2011	
<b>Ref.</b>	8663/11				
<b>Legal base</b>	TFEU, Article 81(1) and points (a) and (c) of Article 81(2), in conjunction with point (a) of Article 218(6) and the first subparagraph of Article 218(8).				
<b>Department</b>	Department for Transport				

Proposal		Decision-making process		Reasoning for Government's decision	
2	<b>Title</b>	Proposal for a Council Decision on the conclusion of the Trade Agreement between the European Union and Colombia and Peru	<b>Date of Publication</b>	27/09/2011	The Government has supported the EU trade agreement with Colombia and Peru. This agreement will provide a range of benefits and reassurances for UK trade and investment in Colombia and Peru, including liberalisation of Colombian and Peruvian tariffs in key sectors for UK exports. It also includes a robust essential elements clause which covers both human rights and weapons of mass destruction, either of which can be invoked as reason for suspension of trade preferences. It was considered to be in the UK's interest to support this FTA in line with the UK's wider support for ambitious EU trade agreements and to build on the Memorandum of Understanding on increasing UK-Colombia trade signed on 21 November 2011.
			<b>Deposited to Parliament</b>	07/10/2011	
			<b>Date of Explanatory Memorandum</b>	20/10/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	21/12/2011	
			<b>Parliament notified of decision</b>	31/01/2012	
<b>Ref.</b>	14757/11			As with all trade agreements, the agreement includes some limited commitments on temporary movement of services professionals. The UK Government takes the view that these commitments fall within the scope of the JHA Opt-in Protocol. The UK therefore exercised its right to opt in to these provisions.	
<b>Legal base</b>	TFEU, Articles 91, 100(2) and 207(4), first subparagraph, in conjunction with 218(6)(a).				
<b>Department</b>	Department for Business, Innovation and Skills				

Proposal		Decision-making process		Reasoning for Government's decision	
3	<b>Title</b>	Proposal for a Council Decision on the position to be adopted on behalf of the European Union within the relevant instances of the World Trade Organization on the accession of the Russian Federation to the World Trade Organization	<b>Date of Publication</b>	11/11/2011	<p>The Government has supported the accession of Russia to the World Trade Organisation (WTO) on the right terms. On accession to the WTO, Russia will embrace a series of rules and commitments which form the foundation of an open, transparent and non-discriminatory global trading system and which will provide important guarantees for Russia and for the other WTO Members. Accession to the WTO will bring Russia more firmly into the global economy and make it a more attractive place to do business.</p> <p>The UK is already bound by limited commitments to WTO members on temporary movement of services professionals under the General Agreement on Trade in Services (GATS). These commitments will be extended to Russia when Russia becomes a WTO Member.</p> <p>It was considered to be in the UK's interest to support the Proposals to sign and provisionally apply and to conclude the side-agreement on trade in services for Russia. The side agreement includes the maintenance of limited commitments on temporary movement of services professionals.</p> <p>The UK Government takes the view that commitments on the temporary movement of services professionals fall within the scope of the JHA Opt-in Protocol. The UK therefore exercised its right to opt in to these provisions.</p>
			<b>Deposited to Parliament</b>	14/11/2011	
			<b>Date of Explanatory Memorandum</b>	06/12/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/12/2011	
			<b>Parliament notified of decision</b>	31/01/2012	
<b>Ref.</b>	16748/11				
<b>Legal base</b>	TFEU, Articles 91, 100(2) and 207, in conjunction with Article 218(9).				
<b>Department</b>	Department for Business, Innovation and Skills				

Proposal		Decision-making process		Reasoning for Government's decision	
4	<b>Title</b>	Proposal for a Council Decision on the position to be adopted on behalf of the European Union within the relevant instances of the World Trade Organization on the accession of Samoa to the World Trade Organization	<b>Date of Publication</b>	11/11/2011	The Government has supported the accession of Least Developed Countries (LDCs) such as Samoa to the World Trade Organisation (WTO). Becoming a Member of the WTO will allow Samoa to benefit from WTO market access and global trading rules and the transparency of the WTO trading system. It will also be able to use the WTO Dispute Settlement Mechanism to solve its differences with other Members and fully participate in the on-going negotiations to design the trade rules of the future. It was considered to be in the UK's interest to support the accession Proposal.  The UK is already bound by limited commitments to WTO members on temporary movement of services professionals under the General Agreement on Trade in Services (GATS). These commitments will be extended to Samoa when Samoa becomes a WTO Member. The UK Government takes the view that commitments on the temporary movement of services professionals fall within the scope of the JHA Opt-in Protocol. The UK therefore exercised its right to opt in to these provisions.
			<b>Deposited to Parliament</b>	14/11/2011	
			<b>Date of Explanatory Memorandum</b>	06/12/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/12/2011	
			<b>Parliament notified of decision</b>	31/01/2012	
<b>Ref.</b>	16785/11				
<b>Legal base</b>	TFEU, Articles 91, 100(2) and 207, in conjunction with Article 218(9).				
<b>Department</b>	Department for Business, Innovation and Skills				
5	<b>Title</b>	Proposal on the conclusion, of an Association Agreement between EU and Central America	<b>Date of Publication</b>	25/10/2011	The EU-Central America Association Agreement will contribute to UK security and prosperity, and to the further development of the UK's bilateral relationships with the countries of Central America and the region as a whole. On this basis the UK supported the Agreement. The Agreement included provisions on the temporary movement of natural persons for business purposes (known as "Mode-4" trade-in services), which fall within the scope of the JHA Opt-in Protocol. These provisions are limited in nature and, given our support for the wider agreement, the Government decided it was appropriate for the UK to opt in to these provisions.
			<b>Deposited to Parliament</b>	07/11/2011 (conclusion)	
			<b>Date of Explanatory Memorandum</b>	01/12/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	28/01/2012	
			<b>Parliament notified of decision</b>	27/02/2012	
<b>Ref.</b>	16316/11 and 16394/11				
<b>Legal base</b>	TFEU, Article 217 in conjunction with Article 218(6)(a)				
<b>Department</b>	Foreign and Commonwealth Office				

Proposal		Decision-making process		Reasoning for Government's decision	
6	<b>Title</b>	Proposal for a Council Decision on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security	<b>Date of Publication</b>	23/11/2011	The UK, in common with many other EU Member States and third countries, places considerable value on the collection and analysis of Passenger Name Record (PNR) data (that data collected by carriers in the exercise of their business) for the purpose of preventing terrorism and serious crime. The appropriate use of PNR data is vital in keeping the public safe. In line with this view, the Government believes that clear PNR agreements between the EU and third countries play a vital role in removing legal uncertainty for air carriers flying to those countries, and help ensure that PNR information can be shared quickly and securely, with all necessary data protection safeguards in place. We fully recognise the importance of working with partners outside the EU given that the threats we face are global in nature and, in common with other EU Member States, we view the US as a key partner. After due consideration of civil liberty, data protection and security issues, the Government has decided to participate in the EU-US PNR Agreement.
			<b>Deposited to Parliament</b>	24/11/2011	
			<b>Date of Explanatory Memorandum</b>	05/12/2011	
			<b>ESC: Did a debate take place?</b>	Yes	
			<b>Date of Commons debate</b>	24/01/2012	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	08/02/2012	
			<b>Parliament notified of decision</b>	27/02/2012	
<b>Ref.</b>	17430/11				
<b>Legal base</b>	TFEU, Article 82(1)(d) and 87(2)(a) in conjunction with 281(5) or the TFEU (signature) Article 82(1)(d) and 87(2)(a) in conjunction with 218(6)(a).				
<b>Department</b>	Home Office				

Proposal		Decision-making process		Reasoning for Government's decision	
7	<b>Title</b>	Proposal for a Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation	<b>Date of Publication</b>	09/11/2011	The Government's decision not to opt in at this point in time is a reflection of the sequencing of the Commission's proposal, rather than particular concerns as to the substance. The proposed Directive is entirely dependent on the outcome of the Market Abuse Regulation (which is currently in very early stages of negotiation), and the Markets in Financial Instruments Directive (also in early stages of negotiation), which will determine the new regulatory landscape for financial services. The Government believes that it is difficult to assess the implications, scope and way this proposal may develop considering the broader uncertainty of the market abuse framework being itself simultaneously subject to a major review.
			<b>Deposited to Parliament</b>	28/10/2011	
			<b>Date of Explanatory Memorandum</b>	08/10/2011	
			<b>ESC: Did a debate take place?</b>	Yes	
			<b>Date of Commons debate</b>	19/06/2012	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	20/02/2012	
<b>Ref.</b>	16000/11			Although the Government has decided that the UK should not opt in to the proposal now, it is participating fully in the negotiations in the hope that the UK will be able to opt in later, once these proposals are better progressed, and not least as the UK already covers the offences of market abuse today in its criminal law.	
<b>Legal base</b>	TFEU, Article 83(2).				
<b>Department</b>	HM Treasury				

Proposal		Decision-making process		Reasoning for Government's decision	
8	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs and taxation in the European Union for the period 2014-2020 (FISCUS)	<b>Date of Publication</b>	29/11/2011	This proposal establishes a tax and customs cooperation programme to support the effective functioning of the internal market and operation of customs procedures, and to improve the functioning of taxation systems within the EU by increasing cooperation between Member States. The programme aims to contribute to the Europe 2020 Strategy for smart, sustainable and inclusive growth, by strengthening the functioning of the single market and EU customs union. It also has the objective of driving technical progress and innovation in national tax administrations with the aim of developing e-tax administrations and contributing to the establishment of a digital single market.
			<b>Deposited to Parliament</b>	17/11/2011	
			<b>Date of Explanatory Memorandum</b>	01/12/2011	
			<b>ESC: Did a debate take place?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	28/02/2012	
			<b>Parliament notified of decision</b>	14/03/2012	
<b>Ref.</b>	16901/11			The UK has benefitted from participation in predecessor programmes, in particular, through involvement in multilateral controls which can assist with the detection of tax fraud and through using Customs 2013 activities to reduce administrative burdens for compliant businesses. The programmes also fund the maintenance and development of EU communication and information exchange systems. This is an area where spend on research and development can represent good EU added-value by providing economies of scale in the development of cross-EU networks.	
<b>Legal base</b>	TFEU, Articles 33 and 114.				
<b>Department</b>	HM Revenue and Customs				

	Proposal		Decision-making process		Reasoning for Government's decision
9	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund	<b>Date of Publication</b>	17/11/2011	The objective of the Asylum and Migration Fund is to contribute to an effective management of migration flow in the Union drawing together the capacity building process developed within the current EU Migration Funds and extending these to cover some aspects of external migration policy under the framework of the EU Global Approach to Migration. The Government chose to opt into the draft Regulation as we have seen significant benefits from participation in predecessor EU funding programmes. The current EU Migration Funds partly finance our charter flight programmes and have enabled the UK to expand the range of destinations and programme parameters. The UK also has a well established resettlement programme due to the co-financing from the current EU migration funding streams. Without this funding UKBA would not be able to continue the scale of resettlement activity currently undertaken. Furthermore, the current European Fund for the Integration of third country nationals has become an important source of funding for third country nationals seeking to integrate into British society.
			<b>Deposited to Parliament</b>	25/11/2011	
			<b>Date of Explanatory Memorandum</b>	29/11/2011	
			<b>ESC: Did a debate take place?</b>	Yes	
			<b>Date of Commons debate</b>	04/07/2012	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	10/04/2012	
			<b>Parliament notified of decision</b>	25/04/2012	
<b>Ref.</b>	17289/11				
<b>Legal base</b>	TFEU, Articles 78(2) and 79(2)(4).				
<b>Department</b>	Home Office				
10	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<b>Date of Publication</b>	21/11/2011	The Horizontal Regulation establishes the management procedures for the Asylum and Migration Fund. In concluding that it was in our interests to opt in to the Asylum and Migration Fund it was therefore necessary to opt in to this measure.
			<b>Deposited to Parliament</b>	25/11/2011	
			<b>Date of Explanatory Memorandum</b>	29/11/2011	
			<b>ESC: Did a debate take place?</b>	Yes	
			<b>Date of Commons debate</b>	04/07/2012	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	10/04/2012	
			<b>Parliament notified of decision</b>	25/04/2012	
<b>Ref.</b>	17285/11				
<b>Legal base</b>	TFEU, Articles 78(2), 79(2)(4), 82(1), 84 and 87(2).				
<b>Department</b>	Home Office				

Proposal		Decision-making process		Reasoning for Government's decision	
11	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management	<b>Date of Publication</b>	17/11/2011	The decision not to opt in to the Internal Security Fund (ISF) (police) was driven by the substance of the proposal as it currently stands, coupled with the overall need for budgetary constraints in this time of fiscal austerity. The UK sees real value in the ISF (police) in supporting practical action on police cooperation and internal security. Not least, we believe the ISF can support the roll out of the work on Passenger Name Records, to which we attach considerable importance. However, we have had ongoing concerns about the budgetary elements of the programme, given the obligations that will arise from shared management. We need to be absolutely sure that the value benefits or costs savings we will secure from the Programme outweighs the cost of participation. We will consider whether to apply to opt in post adoption when the parameters, size of commitment and likely return will be clearer.
			<b>Deposited to Parliament</b>	25/11/2011	
			<b>Date of Explanatory Memorandum</b>	29/11/2011	
			<b>ESC: Did a debate take place?</b>	Yes	
			<b>Date of Commons debate</b>	04/07/2012	
			<b>EUC: Did a debate take place?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>EU notified of decision</b>	10/04/2011	
			<b>Parliament notified of decision</b>	25/04/2011	
	<b>Ref.</b>	1787/11			
	<b>Legal base</b>	TFEU, Articles 82(1), 84 and 87(2).			
	<b>Department</b>	Home Office			
12	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014-2020 the Justice Programme	<b>Date of Publication</b>	16/12/2011	The draft Regulation establishes a single Justice funding programme which combines three previous programmes in the current Fundamental Rights and Justice framework (2007-2013). The stated objectives of the Commission's proposal are to promote judicial cooperation in civil and criminal matters, to facilitate access to justice and to prevent and reduce drug supply and demand. Although there are some aspects of the proposal that could be welcomed, the Government is not satisfied on the value for money of the programme as a whole and has not opted in to the proposed Regulation. A post adoption opt in could be considered if it transpired that the focus of the activities to be funded truly added value and was worthwhile.
			<b>Deposited to Parliament</b>	22/11/2011	
			<b>Date of Explanatory Memorandum</b>	05/12/2011	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	N/A	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	22/03/2012	
	<b>Ref.</b>	17278/11			
	<b>Legal base</b>	Art. 81(1) & (2), Art. 82(1) & Art. 84 of the TFEU			
	<b>Department</b>	Ministry of Justice			

Proposal		Decision-making process		Reasoning for Government's decision	
13	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Gabon to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
			<b>Deposited to Parliament</b>	17/01/2012	
			<b>Date of Explanatory Memorandum</b>	30/01/2012	
			<b>ESC: Debated?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debated?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/04/2012	
			<b>Parliament notified of decision</b>	23/04/2012	
<b>Ref.</b>	5218/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				
14	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Andorra to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
			<b>Deposited to Parliament</b>	17/01/2012	
			<b>Date of Explanatory Memorandum</b>	30/01/2012	
			<b>ESC: Debated?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debated?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/04/2012	
			<b>Parliament notified of decision</b>	23/04/2012	
<b>Ref.</b>	5306/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				

Proposal		Decision-making process		Reasoning for Government's decision	
15	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Seychelles to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
	<b>Deposited to Parliament</b>		17/01/2012		
	<b>Date of Explanatory Memorandum</b>		30/01/2012		
	<b>ESC: Debated?</b>		No		
	<b>Date of Commons debate</b>		N/A		
	<b>EUC: Debated?</b>		No		
	<b>Date of Lords debate</b>		N/A		
	<b>Decision</b>		Opted in		
	<b>EU notified of decision</b>		13/04/2012		
	<b>Parliament notified of decision</b>		23/04/2012		
<b>Ref.</b>	5307/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				
16	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Albania to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
	<b>Deposited to Parliament</b>		17/01/2012		
	<b>Date of Explanatory Memorandum</b>		30/01/2012		
	<b>ESC: Debated?</b>		No		
	<b>Date of Commons debate</b>		N/A		
	<b>EUC: Debated?</b>		No		
	<b>Date of Lords debate</b>		N/A		
	<b>Decision</b>		Opted in		
	<b>EU notified of decision</b>		13/04/2012		
	<b>Parliament notified of decision</b>		23/04/2012		
<b>Ref.</b>	5309/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				

Proposal		Decision-making process		Reasoning for Government's decision	
17	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Singapore to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
			<b>Deposited to Parliament</b>	17/01/2012	
			<b>Date of Explanatory Memorandum</b>	30/01/2012	
			<b>ESC: Debated?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debated?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/04/2012	
			<b>Parliament notified of decision</b>	23/04/2012	
<b>Ref.</b>	5310/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				
18	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Morocco to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
			<b>Deposited to Parliament</b>	17/01/2012	
			<b>Date of Explanatory Memorandum</b>	30/01/2012	
			<b>ESC: Debated?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debated?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>EU notified of decision</b>	13/04/2012	
			<b>Parliament notified of decision</b>	23/04/2012	
<b>Ref.</b>	5311/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				

Proposal		Decision-making process		Reasoning for Government's decision	
19	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of Armenia to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
	<b>Deposited to Parliament</b>		17/01/2012		
	<b>Date of Explanatory Memorandum</b>		30/01/2012		
	<b>ESC: Debated?</b>		No		
	<b>Date of Commons debate</b>		N/A		
	<b>EUC: Debated?</b>		No		
	<b>Date of Lords debate</b>		N/A		
	<b>Decision</b>		Opted in		
	<b>EU notified of decision</b>		13/04/2012		
	<b>Parliament notified of decision</b>		23/04/2012		
<b>Ref.</b>	5312/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				
20	<b>Title</b>	Proposal for a Council decision on the declaration of acceptance by the Member States, in the interest of the European Union, of the acceptance of the Russian Federation to the 1980 Hague Convention on the Civil Aspects of International Child Abduction	<b>Date of Publication</b>	16/01/2012	Although not foreseen in the proposals, the Government believe that the UK opt-in under the Protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so. The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the Council.
	<b>Deposited to Parliament</b>		17/01/2012		
	<b>Date of Explanatory Memorandum</b>		30/01/2012		
	<b>ESC: Debated?</b>		No		
	<b>Date of Commons debate</b>		N/A		
	<b>EUC: Debated?</b>		No		
	<b>Date of Lords debate</b>		N/A		
	<b>Decision</b>		Opted in		
	<b>EU notified of decision</b>		13/04/2012		
	<b>Parliament notified of decision</b>		23/04/2012		
<b>Ref.</b>	5308/12				
<b>Legal base</b>	Articles 218 and 81(3) of the Treaty on the Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				

Proposal		Decision-making process		Reasoning for Government's decision	
21	<b>Title</b>	Proposal for a directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data	<b>Date of Publication</b>	27/01/2012	The Government believe that our national interests are best served by participating in this Directive so that we are party to the common framework governing data sharing for policing and criminal justice across the EU. By participating, we can best build trust across member states for the necessary sharing of data to protect our citizens and make the strongest case possible for this to be done within a framework of appropriate and proportionate rules.
			<b>Deposited to Parliament</b>	30/01/2012	
			<b>Date of Explanatory Memorandum</b>	13/02/2012	
			<b>ESC: Debated?</b>	Yes (Lidington)	
			<b>Date of Commons debate</b>	24/04/2012	
			<b>EUC: Debated?</b>	Yes	
			<b>Date of Lords debate</b>	20/06/2012	
			<b>Decision</b>	Did not opt out (Schengen)	
			<b>EU notified of decision</b>	N/A	
	<b>Parliament notified of decision</b>	19/06/2012			
<b>Ref.</b>	5833/12				
<b>Legal base</b>	Article 16(2) of the Treaty on Functioning of the European Union (TFEU)				
<b>Department</b>	Ministry of Justice				

Proposal		Decision-making process		Reasoning for Government's decision	
22	<b>Title</b>	Directive on the freezing and confiscation of proceeds of crime in the European Union	<b>Date of Publication</b>	14/03/2012	<p>The Government welcome the overall aims of the directive and recognise the benefits of increased international co-operation to recover assets held overseas. However having analysed the contents of the directive, and consulted with policy and operational partners, the Government identified a number of issues with the directive, including a serious problem with article 5 of the directive which introduces provisions on non-conviction based confiscation in limited circumstances.</p> <p>The UK has strong powers which are successfully used to tackle criminal finances. Our powers are already compliant with or stronger than many of those contained in the directive. As the directive offers no direct benefit and the risk to our domestic regime posed by article 5 is sufficiently serious, we decided that the best course of action is not to opt in at this stage.</p>
			<b>Deposited to Parliament</b>	15/03/2012	
			<b>Date of Explanatory Memorandum</b>	26/03/2012	
			<b>ESC: Debate recommended?</b>	Yes (Lidington)	
			<b>Date of Commons debate</b>	12/06/2012	
			<b>EUC: Debate recommended?</b>	Yes	
			<b>Date of Lords debate</b>	22/05/2012	
			<b>Decision</b>	Did not opt in	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	18/09/2012	
<b>Ref.</b>	7641/12				
<b>Legal base</b>	82(2) and 83(1) TFEU				
<b>Department</b>	Home Office				
23	<b>Title</b>	Proposal for a Council Decision on the position to be taken by the European Union within the Cooperation Committee established by the Agreement on Cooperation and Customs Union between the European Economic Community and their Member States, of the one part, and the Republic of San Marino, of the other part, with regard to the adoption of provisions on the coordination of social security systems	<b>Date of Publication</b>	10/04/2012	<p>The content of the proposals relating to Montenegro, Albania and San Marino is similar and is based on a similar package of amendments in 2010 to the agreements with six other countries, where the UK decided not to opt in, principally because of the effect on the Government's policy of not uprating pensions outside the EEA or where we have a bilateral agreement to pay annual increases. In line with our approach to the 2010 package, the Government decided not to opt in to the proposals with Albania, Montenegro and San Marino.</p>
			<b>Deposited to Parliament</b>	10/04/2012	
			<b>Date of Explanatory Memorandum</b>	24/04/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	03/09/2012	
<b>Ref.</b>	8555/12				
<b>Legal base</b>	Articles 218(9) and 79(2)(b) TFEU				
<b>Department</b>	Department for Work and Pensions				

Proposal		Decision-making process		Reasoning for Government's decision	
24	<b>Title</b>	Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Association Council set up by the Agreement establishing an association between the European Economic Community and Turkey with regard to the provisions on the coordination of social security systems	<b>Date of Publication</b>	10/04/2012	This proposal follows on from similar measures based on Article 48 to amend social security provisions in the EU agreements with the EEA and Switzerland. Then, as now, we took the view that these proposals would have the effect of extending social security coordination rights to people moving between the EU and a third country. The Government intends to maintain a consistent approach to the proposals on Turkey, in line with the action taken in the EEA and Switzerland cases.
			<b>Deposited to Parliament</b>	10/04/2012	
			<b>Date of Explanatory Memorandum</b>	24/04/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	03/09/2012	
<b>Ref.</b>	8556/12				
<b>Legal base</b>	Articles 218(9) and 79(2)(b) TFEU				
<b>Department</b>	Department for Work and Pensions				
25	<b>Title</b>	Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, with regard to the provisions on the coordination of social security systems	<b>Date of Publication</b>	10/04/2012	The content of the proposals relating to Montenegro, Albania and San Marino is similar and is based on a similar package of amendments in 2010 to the agreements with six other countries, where the UK decided not to opt in, principally because of the effect on the Government's policy of not uprating pensions outside the EEA or where we have a bilateral agreement to pay annual increases. In line with our approach to the 2010 package, the Government decided not to opt in to the proposals with Albania, Montenegro and San Marino.
			<b>Deposited to Parliament</b>	10/04/2012	
			<b>Date of Explanatory Memorandum</b>	24/04/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	03/09/2012	
<b>Ref.</b>	8554/12				
<b>Legal base</b>	Articles 218(9) and 79(2)(b) TFEU				
<b>Department</b>	Department for Work and Pensions				

Proposal		Decision-making process		Reasoning for Government's decision	
26	<b>Title</b>	Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, with regard to the provisions on the coordination of social security systems	<b>Date of Publication</b>	10/04/2012	The content of the proposals relating to Montenegro, Albania and San Marino is similar and is based on a similar package of amendments in 2010 to the agreements with six other countries, where the UK decided not to opt in, principally because of the effect on the Government's policy of not uprating pensions outside the EEA or where we have a bilateral agreement to pay annual increases. In line with our approach to the 2010 package, the Government decided not to opt in to the proposals with Albania, Montenegro and San Marino.
			<b>Deposited to Parliament</b>	10/04/2012	
			<b>Date of Explanatory Memorandum</b>	24/04/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt in	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	03/09/2012	
<b>Ref.</b>	8553/12				
<b>Legal base</b>	Articles 218(9) and 79(2)(b) TFEU				
<b>Department</b>	Department for Work and Pensions				

Proposal		Decision-making process		Reasoning for Government's decision	
27	<b>Title</b>	Proposal for a Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)	<b>Date of Publication</b>	04/05/2012	The Government has decided not to exercise its right, under Protocol 19 to the Treaty on the Functioning of the European Union (the Schengen Protocol) and the Treaty on European Union, to opt out of the Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).  Participation in SIS II will provide significant public protection benefits to the UK whilst reducing crime, and providing greater identity assurance at the border. The UK's connection to SIS II is currently scheduled for the fourth quarter of 2014.
			<b>Deposited to Parliament</b>	10/05/2012	
			<b>Date of Explanatory Memorandum</b>	17/05/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt out (Schengen)	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	24/10/2012	
<b>Ref.</b>	9485/12				
<b>Legal base</b>	Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)				
<b>Department</b>	Home Office				

Proposal		Decision-making process		Reasoning for Government's decision	
28	<b>Title</b>	Regulation of the European Parliament and of the Council on the establishment of an evaluation mechanism to verify the application of the Schengen acquis	<b>Date of Publication</b>	25/06/2012. Note that a change in legal base to Article 70 was agreed on 7 June 2012, meaning that UK participation begins on 7 June 2012.	The Government believe that our national interests are best served by participating in this regulation. Through this mechanism we can ensure that member states implement and continue to apply the correct standards, as required by the Schengen acquis, in order to maintain an area of lowered border controls which is secure for its citizens. Our participation will ensure our existing active role in the scrutiny of those policing and judicial co-operation elements of the Schengen acquis in which we participate.
			<b>Deposited to Parliament</b>	07/06/2012	
			<b>Date of Explanatory Memorandum</b>	20/06/2012	
			<b>ESC: Debate recommended?</b>	Yes	
			<b>Date of Commons debate</b>	03/09/2012	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Did not opt out (Schengen)	
			<b>Date EU notified of decision</b>	N/A	
			<b>Parliament notified of decision</b>	23/10/2012	
<b>Ref.</b>	11846/12				
<b>Legal base</b>	Article 70 TFEU				
<b>Department</b>	Home Office				

Proposal		Decision-making process		Reasoning for Government's decision	
29	<b>Title</b>	Proposal for a Council Decision concerning the conclusion of the Agreement between the European Union and the Republic of Turkey on readmission of persons residing without authorisation	<b>Date of Publication</b>	22/06/2012	The Agreement will help tackle the flow of illegal migration to the UK by making sure that every country in the EU has good arrangements for returns, so that would-be illegal entrants are removed before they reach our border. Participating in the Agreement also makes clear the Government's intention to stay active in addressing a range of strategic interests that the EU and Turkey share.
			<b>Deposited to Parliament</b>	26/06/2012	
			<b>Date of Explanatory Memorandum</b>	27/06/2012	
			<b>ESC: Debate recommended?</b>	Yes	
			<b>Date of Commons debate</b>	10/09/2012	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	21/09/2012	
			<b>Parliament notified of decision</b>	24/10/2012	
<b>Ref.</b>	11743/12				
<b>Legal base</b>	Articles 79(3) and 218 TFEU				
<b>Department</b>	Home Office				
30	<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council on the establishment of EURODAC (with law enforcement access)	<b>Date of Publication</b>	27/06/2012	The decision to opt in meets the criteria set out in the Coalition Agreement with regard to EU justice and home affairs measures, principally the need to consider UK security, the protection of civil liberties and enhancement of our ability to control immigration. The Regulation will govern the operation of the EURODAC fingerprint database, which collects the fingerprints of asylum seekers, and certain illegal entrants to the EU, in order to help Member States determine who is responsible under the Dublin Regulation for dealing with an asylum claim. The Government is committed to the Dublin system, of which EURODAC is an essential part, as it helps tackle the problem of people abusing asylum systems across Europe by making multiple claims in different EU Member States.
			<b>Deposited to Parliament</b>	07/06/2012	
			<b>Date of Explanatory Memorandum</b>	18/06/2012	
			<b>ESC: Debate recommended?</b>	Yes	
			<b>Date of Commons debate</b>	10/09/2012	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	27/09/2012	
			<b>Parliament notified of decision</b>	19/10/2012	
<b>Ref.</b>	10638/12				
<b>Legal base</b>	Articles 78(2)(e), 87(2)(a), 88(2)(a) TFEU				
<b>Department</b>	Home Office				

Proposal		Decision-making process		Reasoning for Government's decision	
31	<b>Title</b>	Insurance mediation Directive	<b>Date of Publication</b>	19/07/2012	<p>The Government has opted in to the European Commission's proposal for a Directive of the European Parliament and of the Council on insurance mediation (recast) (IMD 2).</p> <p>The Commission's objective in revising the IMD is to improve regulation in the retail insurance market in an efficient manner. The proposals for IMD 2 aim at ensuring a level playing field between all participants involved in the selling of insurance products and at strengthening policyholder protection.</p> <p>The proposal currently includes provisions on Alternative Dispute Resolution which impose requirements on the UK's civil justice system, in terms of the operation of limitation periods and the availability of interim remedies. On this basis the Government considers that the JHA Opt-in Protocol applies and that the UK can therefore choose whether to opt in.</p> <p>The Government believes that in view of the wider benefits of this proposal it is in the UK's interests to participate, therefore we have opted in.</p>
			<b>Deposited to Parliament</b>	12/07/2012	
			<b>Date of Explanatory Memorandum</b>	05/10/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	16/10/2012	
			<b>Parliament notified of decision</b>	15/01/2013	
<b>Ref.</b>	4141/12				
<b>Legal base</b>	Article 81 TFEU				
<b>Department</b>	HM Treasury				

Proposal		Decision-making process		Reasoning for Government's decision	
32	<b>Title</b>	Key information documents for investment products (PRIIPs) Regulation	<b>Date of Publication</b>	16/07/2012	<p>The Government has opted in to the European Commission's proposal for a Regulation of the European Parliament and of the Council on key information documents for investment products (KIDs).</p> <p>the selling of insurance products and at strengthening policyholder protection.</p> <p>The KID proposals aim to improve pre-contractual disclosure and the comparability of packaged retail investment products for consumers. They will do so by obliging manufacturers to produce a comparable and standardised disclosure called a KID, and requiring distributors to provide the KID before the sale.</p> <p>The proposal currently includes provisions on Alternative Dispute Resolution which impose requirements on the UK's civil justice system, in terms of the operation of limitation periods and the availability of interim remedies. On this basis the Government considers that the JHA Opt-in Protocol applies and that the UK can therefore choose whether to opt in.</p> <p>The Government believes that in view of the wider benefits of this proposal it is in the UK's interests to participate, therefore we have opted in.</p>
			<b>Deposited to Parliament</b>	12/07/2012	
			<b>Date of Explanatory Memorandum</b>	29/08/2012 with supplementary EM submitted 8/10/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	16/10/2012	
			<b>Parliament notified of decision</b>	15/01/2013	
<b>Ref.</b>	4820/12				
<b>Legal base</b>	Article 114 TFEU				
<b>Department</b>	HM Treasury				

	Proposal		Decision-making process		Reasoning for Government's decision
33	<b>Title</b>	Council Decision on the accession of Lao to the World Trade Organisation	<b>Date of Publication</b>	24/09/2012	The Government has supported the accession of Least Developed Countries (LDCs) such as Lao to the World Trade Organisation (WTO). Lao PDR's membership of the WTO will mean that foreign businesses, including those from the UK, will be operating in a more transparent and predictable business environment. There will also be better protection for intellectual property rights.  The UK is already bound by limited commitments to WTO members on temporary movement of services professionals under the General Agreement on Trade in Services (GATS). These commitments will be extended to Lao when it becomes a WTO Member. The UK Government takes the view that commitments on the temporary movement of services professionals fall within the scope of the JHA Opt-in Protocol. The UK therefore exercised its right to opt in to these provisions.
			<b>Deposited to Parliament</b>	27/09/2012	
			<b>Date of Explanatory Memorandum</b>	19/09/2012 (otnyr)	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	22/10/2012	
			<b>Parliament notified of decision</b>	18/12/2012	
<b>Ref.</b>	14170/12				
<b>Legal base</b>	Articles 91, 100(2) and 207(4), first subparagraph, in conjunction with Article 218(9) TFEU				
<b>Department</b>	Department for Business, Innovation and Skills				
34	<b>Title</b>	Amended proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC	<b>Date of Publication</b>	31/08/2012	This proposal establishes a customs co-operation programme to support the effective functioning of the internal market and operation of customs procedures within the EU by increasing co-operation between member states. The programme aims to contribute to the Europe 2020 strategy for smart, sustainable and inclusive growth, by strengthening the functioning of the single market and EU customs union.  The UK has benefited from participation in predecessor programmes, in particular through using Customs 2013 activities to reduce administrative burdens for compliant businesses. The programme also funds the maintenance and development of EU communication and information exchange systems. This is an area where spend on research and development can represent good EU added value by providing economies of scale in the development of cross-EU networks.
			<b>Deposited to Parliament</b>	04/09/2012	
			<b>Date of Explanatory Memorandum</b>	20/09/2012	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	30/11/2012	
			<b>Parliament notified of decision</b>	05/12/2012	
<b>Ref.</b>	13265/12				
<b>Legal base</b>	Article 33 TFEU				
<b>Department</b>	HM Revenue and Customs				

Proposal		Decision-making process		Reasoning for Government's decision	
35	<b>Title</b>	Council Decision on the accession of Tajikistan to the World Trade Organisation	<b>Date of Publication</b>	12/11/2012	The Government has supported the accession of Developing and Least Developed Countries (LDCs) such as Tajikistan to the World Trade Organisation (WTO). Tajikistan's membership of the WTO will mean that foreign businesses, including those from the UK, will be operating in a more transparent and predictable business environment. There will also be better protection for intellectual property rights. The UK is already bound by limited commitments to WTO members on temporary movement of services professionals under the General Agreement on Trade in Services (GATS). These commitments will be extended to Tajikistan when it becomes a WTO Member. The UK Government takes the view that commitments on the temporary movement of services professionals fall within the scope of the JHA Opt-in Protocol. The UK therefore exercised its right to opt in to these provisions.
			<b>Deposited to Parliament</b>	14/11/2012	
			<b>Date of Explanatory Memorandum</b>	02/11/2012 (otnyr)	
			<b>ESC: Debate recommended?</b>	No	
			<b>Date of Commons debate</b>	N/A	
			<b>EUC: Debate recommended?</b>	No	
			<b>Date of Lords debate</b>	N/A	
			<b>Decision</b>	Opted in	
			<b>Date EU notified of decision</b>	28/11/2012	
			<b>Parliament notified of decision</b>	18/12/2012	
<b>Ref.</b>	16101/12				
<b>Legal base</b>	Articles 91, 100(2) and 207(4), first subparagraph, in conjunction with Article 218(9) TFEU				
<b>Department</b>	Department for Business, Innovation and Skills				

# Annex 2 – Opt-in Decisions 2013

Proposal title	Description
<b>Home Office</b>	
Proposal for a Regulation on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA	This proposal from the European Commission would replace two existing Council Decisions: (1) the Council Decision establishing the European Police Office (Europol) and (2) the Council Decision establishing the European Police College (CEPOL). The Commission's proposal will, amongst other things, merge the two Agencies to establish a 'Europol Academy' for training within the Agency for law enforcement cooperation. This proposal will repeal and replace the existing Europol and CEPOL measures.
Proposed Regulation on Eurojust	This initiative aims at developing and reinforcing Eurojust's functioning and determining arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities under Article 85 of the Lisbon Treaty.
Proposal for a European Public Prosecutor (EPP)	We are also expecting proposals under Article 86 of the Lisbon Treaty on establishing a European Public Prosecutors' Office (EPPO) that will initially be responsible for crimes against the financial interest of the EU. The EPP will most probably happen through enhanced co-operation.
Information exchange, risk-assessment and control of new psychoactive substances	The objective of the proposal to amend Council Decision 2005/387/JHA of 10 May 2005 is to improve the assessment process and some of the procedural steps, taking into account the experiences gathered and limitations encountered with this legislative instrument in the past three years. Amendments may include a closer linking with the pharmacovigilance system and with the public health domain.
Proposal on fighting money laundering	Money laundering is already a criminal offence in all EU Member States and is listed in the Treaty as one of the areas where the EU may create minimum standards for offences and penalties. The Commission has concluded that the absence of a common approach in Member States to this issue hinders cross-border investigations and police cooperation, and is therefore suggesting the need to harmonise the offence of money laundering at EU level. This is a substantive criminal law measure which removes a measure from the 2014 list.
EU-Canada PNR (signature and conclusion of international agreement)	This is an international Agreement. The EU-Canada Passenger Name Record Agreement will provide EU based carriers with legal certainty in providing such data to Canada within a robust data protection regime. It will replace the Agreement concluded in 2005 which relies on the existence of a Commission Decision on data protection adequacy which lapsed in September 2009; the Agreement has since been applied on the basis of an exchange of letters between the Commission and the Canadian authorities.
Extension of IT Agency to Associated States (signature and conclusion of international agreement)	Proposal to extend the EU IT Agency to Norway, Iceland, Switzerland and Liechtenstein. Signature and conclusion possible in 2013.
Extension of European Asylum Support Office to Associated States (signature and conclusion of international agreement)	The proposal will allow Norway, Iceland, Switzerland and Liechtenstein to participate in the European Asylum Support Office (EASO). Signature and conclusion possible in 2013.

Proposal title	Description
<b>Ministry of Justice</b>	
Proposal for a legislative instrument on e-justice.	The Commission is expected to issue a proposal early in 2013 to provide a legal basis and data protection framework for e-Justice to support cross-border transactions. Depending on the nature of the published text this proposal may require an opt-in decision.
Proposal to amend the current EC Regulation No 593/2008 on the law applicable to contractual obligations (Rome I)	Under Article 27 of Rome I, the Commission are required to carry out a review on the issue of assignment (Article 14). As a result of this review, a legislative proposal is expected in this area to resolve this issue.
Proposal to amend the current EC Regulation No 864/2007 on the law applicable to non-contractual obligations (ROME II)	Under Article 30 of Rome II, the commission are required to carry out a study on the effects of Article 28 of this Regulation with respect to the Hague Convention of 4 May 1971 on the law applicable to traffic accidents
Proposal for a Directive on special safeguards in criminal procedures for suspected or accused persons who are vulnerable	The measure will aim to ensure that special attention is shown in criminal procedures throughout the EU to suspected or accused persons who are vulnerable, such as children and vulnerable adults (initiative 45). This will form Measure E of the Criminal Procedural Rights Roadmap. Publication is expected in November 2013.
Initiative regarding legal aid in criminal proceedings	This will form Measure C2 of the Criminal Procedural Rights Roadmap. The Commission have said that it will be published in November 2013.
<b>HMRC</b>	
Protocol to World Health Organisation Framework Convention on Tobacco Control.	This Protocol includes a range of measures, including exchange of information, with the objective of eliminating illicit trade in tobacco products. The protocol text has been adopted by the Parties, and will be open for signature from January 2013. The Commission has not yet issued the text of associated Council Decisions, and there is currently uncertainty over the intended EU legal bases. It is not yet clear whether the opt-in will be engaged or whether UK signature will cover Justice and Home Affairs content.
Possible recast of Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes	This provides for the use of the Customs Information System and related information-sharing services to be used by EU member states to support customs criminal cooperation on matters such as smuggling of illicit drugs and firearms. This measure did not appear in the Commission's 2013 work programme but we have been advised that a proposal for a recast is possible during the Irish Presidency.
<b>HMT</b>	
Legal and technical framework for a European Terrorist Finance Tracking System (TFTS)	When the Council agreed the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (EU-US TFTP Agreement), it also invited the Commission to submit to the European Parliament and the Council "a legal and technical framework for extraction of data on EU territory". The dossier concerns possible amendments to the EU-US exchange of data on terrorist financing.

Proposal title	Description
<b>DFT</b>	
Minimal rules on sanctions and their enforcement in commercial road transport	The Directive is expected to establish common minimal rules with regard to the definition of offences and sanctions, including criminal offences, in the field of commercial road transport. Such a harmonisation aims to reduce distortions of competition and the unequal treatments when committing infringements. There is the risk that subsidiarity and JHA issues may arise. This of course depends on the details of any proposal. Formal proposals are currently expected in mid 2013 as part of an Internal Road Market Package.
Air carrier liability in respect of the carriage of passengers and their baggage by air	This is an international Agreement. This proposal was listed in last year's Commission Work Programme in connection with a forthcoming proposal to revise existing legislation on air passenger rights. That air passenger rights proposal is still expected in the first half of 2013 but at this stage we are not sure whether the air carrier liability proposal is still planned to accompany it. If it does, it is possible that (like the Athens proposal) the UK will consider that there is a JHA aspect (although again the matter is already covered by international law by which we are already bound).
<b>BIS</b>	
EU-Canada Free Trade Agreement (FTA)	International Agreement. Council Decisions to conclude this agreement are expected in 2013. This will trigger the opt-in due to the presence of Mode 4 provisions on the temporary movement of natural persons for business purposes.
EU-Singapore Free Trade Agreement (FTA)	This is an International Agreement. Council Decisions to conclude this agreement are expected in 2013. This will trigger the opt-in due to the presence of Mode 4 provisions on the temporary movement of natural persons for business purposes.
Kazakhstan accession to World Trade Organisation (WTO)	This is an International Agreement. There must be a Council Decision approving the terms of Kazakhstan's accession, before the EU can formally support their entry to the WTO. Mode 4 provisions on the temporary movement of natural persons for business purposes will trigger UK's opt-in.
<b>FCO</b>	
EU-Afghanistan Cooperation Agreement on Partnership and Development (CAPD)	This is an International Agreement. The proposed CAPD would create a strong institutional framework to support EU and UN work on civilian development in Afghanistan beyond 2014, progress UK objectives for Afghanistan, and help secure other member States' commitment to Afghanistan beyond 2014.
EU-Canada Strategic Partnership Agreement (SPA)	This is an International Agreement. A mixed agreement covering human rights, fundamental freedoms and democracy; international peace and multilateralism; economy and sustainable development; justice and the rule of law (drafted by Canada); political dialogue and consultation mechanisms (drafted by the EU). This will come up for signing as soon as the 'political clauses' issues are resolved and this could be in 2013.
EU-Central America Association Agreement (AA)	This is an International Agreement. The Agreement includes clauses on political dialogue, cooperation and trade. The Agreement could be concluded in 2013.
EU Malaysia Partnership and Co-operation Agreement (PCA)	This is an International Agreement. Includes Human Rights, ICC, WMD, Migration, and Taxation. It is thought that nothing will be concluded until mid to late 2013. It is still unknown if the text will include JHA obligations.

Proposal title	Description
EU-Mongolia Partnership and Co-operation Agreement (PCA)	This is an International Agreement. On trade and investment issues this PCA establishes cooperation on market access, in particular through the timely removal of non-tariff barriers and restrictions to trade and through measures to improve transparency. The agreement also establishes cooperation in the areas of labour, particularly on implementation of core labour standards; migration; and reducing the impact and managing the consequences of climate change. The PCA contains a legally binding commitment by Mongolia to respect human rights as well as obligations in the areas of Counter Terrorism and WMD, and on combating terrorism and transnational crimes. Expected the agreement will be concluded in 2013.
EU-Singapore Partnership and Co-operation Agreement (PCA)	This is an International Agreement. The PCA covers a broad range of areas including human rights, combating terrorism, money laundering, non proliferation and WMD, data protections, science and technology and climate change. Conclusion expected in 2013.
EU-Turkmenistan Partnership and Co-operation Agreement (PCA)	This is an International Agreement. The EU-Turkmenistan Partnership & Co-operation Agreement (PCA) was signed in May 1998. It provides a broad framework for developing the EU's political and economic relations with Turkmenistan. It is not yet in force. Expected the agreement will be concluded in 2013.



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