

SUMMARY:

- A. **BANKED:** 19 measures where the UK has already opted in to a replacement measure which is in force or will be in force before 1st December 2014, or where the HS/ JS recommend we seek to rejoin:
- 3 measures replaced, UK opted in, new measure now in force.
 - 4 measures being replaced, UK opted in, new measure should be in force before Dec, 1st 2014.
 - 12 measures that HS/ JS recommend we rejoin.
- B. **BINNED:** 44 measures which are either defunct or superseded, or where neither DPM, HS nor JS have ever recommended that we seek to rejoin:
- 7 defunct or superseded measures.
 - 37 measures not recommended by DPM, HS or JS. Note: ACPO recommend rejoining one of these measures.
- C. **UNDECIDED:** 68 measures where there is No Coalition Agreement yet:
- 48 measures for immediate discussion which we do not expect to be repealed and replaced:
 - i. *23 High Priority Measures:* Clear operational benefits/ reputational benefits and ACPO or another law enforcement body want us to rejoin, and/ or where the original HS/ JS advice was to rejoin. Note: this includes two measures deemed essential by HMRC but which should be replaced by the EIO which the UK has opted in to but HMRC warn the EIO will not be in place by Dec. 1st 2014.
 - ii. *6 Priority Measures:* Good leadership/ reputational benefits, diffuse operational benefits.
 - iii. *19 Lower Priority Measures:* Some leadership/ reputational benefits.
 - 5 measures which have a live draft replacement measure but the UK did not opt in to negotiations, we can request to opt-in to the final text or seek to rejoin the original measure. Note: of these, 3 measures were originally recommended for rejoining by HMRC/ MoJ. 2 are seen as essential by HMRC.
 - 15 measures expecting a repeal and replacement measure this year. Note: of these ACPO have recommended that 11 are vital to remain in the original or to join the new measure.
- D. **EAW:** 1 measure subject to discussions over a possible Member State led initiative to amend. ACPO and all other law enforcement agencies recommend this as the no. 1 priority to rejoin.

A. BANKED: 21 MEASURES WITH AGREEMENT ON SEEKING TO REJOIN/ ALREADY REJOINED

A.1: 3 Measures Already Repealed and Replaced (Coalition has Opted In, Measure now in Force)

Number	Measure	Reason
42	Council Framework Decision 2002/629/JHA on combating trafficking in human beings	Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.
74	Agreement between the European Union and the United States of America on the processing of Passenger Name Records (PNR) data by air carriers to the United States Department of Homeland Security	Agreement between the European Union and the United States of America on the use and transfer of Passenger Name Records to the United States Department of Homeland Security which entered into force on 1 July 2012.
82	Council Decision 2008/651/CFSP/JHA of 30 June 2008 on the signing, on behalf of the European Union, of an	Agreement between the European Union and Australia on the processing and transfer

	Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service	of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service which entered into force on 1 July 2012
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6 Measures which will be Repealed and Replaced before 1st Dec. 2014 & UK has Opted In (Coalition Opted In, Measure Not Yet in Force):

Number	Measure	New measure that we have opted in to (or not opted out of) which will repeal and replace a measure subject to the 2014 decision
60	Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems	Proposal for a Directive of the European Parliament and of the Council on attacks against information systems, repealing Council Framework Decision 2005/222/JHA <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
91	Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters	Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the EIO
114	SCH/Com-ex (98) 26 def setting up a Standing Committee on the evaluation and implementation of Schengen	Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis
130	Commission Decision 2008/334/JHA of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System	Draft Commission Decision adopting the SIRENE manual (to which the opt-in/Schengen opt-out did not apply)

12 measures: Measures where lead Secretary of State believes the UK should rejoin

HO ref. (where applicable)	Title of measure	Summary and key views of lead department
110, 120, 121	<p><i>Convention implementing the Schengen Agreement of 1985</i></p> <p><i>Council Decision 2000/586/JHA of 28 September 2000 establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65((2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders.</i></p>	<ul style="list-style-type: none"> • <i>Underpins UK participation in police co-operation parts of Schengen Acquis</i> • <i>Cross-border surveillance measure of particular importance (e.g. UK asking French cop to follow UK suspect in Paris)</i> • <u>ACPO RECOMMENDS SCHENGEN AGREEMENT AS VITAL.</u> • <u>ACPO RECOMMENDS 2000 DECISION</u>

		<u>FOR REJOINING</u>
	Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders	
128	Council decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System ('SIS 2')	<ul style="list-style-type: none"> • EU database to swap alerts between MS on wanted people and objects • Means by which EAW alerts will be transmitted when SIS 2 is up and running (SIS 1 currently operations but UK doesn't take part in this) • Will mean that UK has access to all EAW alerts transmitted around EU. We currently rely on bi-lateral transmission. So there will be people entering the UK who are subject to EAWs which we have not been made aware of. • ACPO RECOMMENDS SIS II AS VITAL.
14	Council Act of 18 December 1997 drawing up the Convention on mutual assistance and co-operation between customs administrations 'Naples 2')	<ul style="list-style-type: none"> • Exchange of information between MS to combat illicit trafficking • Last year believed to have prevented losses to UK of at least £121m • HMRC RECOMMENDS.
38	Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams ('JITs')	<ul style="list-style-type: none"> • Allows law enforcement agencies in two or more MS to establish joint team to carry out criminal investigations • ACPO RECOMMENDS JITs AS VITAL
18	Joint Action 987/700/JHA of 3 December 1998 concerning the setting up of a European Image Archiving System ('FADO')	<ul style="list-style-type: none"> • Computerised archive system on falsified or stolen ID documents. • UKBA RECOMMENDS WE SHOULD REJOIN.
93,94	<p>Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States</p> <p>Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA</p>	<ul style="list-style-type: none"> • Enables exchange of information on previous convictions. • ACPO RECOMMENDS ECRIS AS VITAL.
85	Prisoner Transfer Framework Decision - Council Framework Decision of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union	<ul style="list-style-type: none"> • Enables transfer of prisoners back to their country of nationality or habitual residence without the need for their consent.
90	Data Protection Framework Decision 2008/977 on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters	<ul style="list-style-type: none"> • Establish rules for governing protection data in the area of police and judicial co-operation. • ACPO RECOMMENDS DATA PROTECTION FRAMEWORK AS VITAL
92	Trials in absentia – Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decision 2002/584/JHA, 2005/514/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA thereby enhancing the procedural rights of persons and fostering the application	<ul style="list-style-type: none"> • Measure amends a number of other measures to ensure sufficient safeguards for a defendant where he has been tried in his absence in another country

of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial	
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B. BINNED: 45 MEASURES WHERE WE AGREE NO NEED TO SEEK TO REJOIN:

7 Measures: Defunct and Superseded measures

Number	Measure	Reason
3	Joint Action 96/610/JHA concerning the creation and maintenance of a Directory of specialized counter-terrorist competences, skills and expertise to facilitate counter-terrorist cooperation between the Member States of the European Union.	There is no record of the continued existence of this Directory.
6	Joint Action 96/747/JHA concerning the creation and maintenance of a directory of specialized competences, skills and expertise in the fight against international organized crime, in order to facilitate law enforcement cooperation between the Member States of the European Union	Member States' Heads of Europol National Unit closed the Directory on 16 February 2012 in favour of maintaining and taking forward the role of the Expert Platforms. Obligations are theoretically still placed on Member States.
11	Joint Action 97/372/JHA of 9 June 1997 for the refining of targeting criteria, selection methods, et. and collection of customs and police information	This measure has been superseded by Naples II. HMRC has confirmed that we have never used this instrument to share intelligence or information or for joint customs operations.
22	Council Decision 2000/261/JHA of 27 March 2000 on the improved exchange of information to combat counterfeit travel documents	This was a temporary measure until the European Image Archiving System (FADO) was up and running. FADO is now fully operational (98/700/JHA).
112	SCH/Com-ex (93) 14 on improving practical judicial cooperation for combating drug trafficking	This measure has been superseded by the Mutual Legal Assistance Convention 2000, which will itself be superseded by the European Investigation Order.
113	SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition)	This declaration relates to a 1996 intra-EU Convention on extradition that has been superseded by the EAW (2002/584/JHA). Were we to leave the EAW we would fall back on the 1957 Council of Europe Extradition Convention.
117	Decision of the Executive Committee of 28 April 1999 on liaison officers (SCH/Com-ex (99) 7 rev. 2)	Although properly included on the list of measures subject to the 2014 decision due to its nature and legal base, the UK does not actually participate.

37 measures identified by DPM as being of less importance

Number	Measure
4	Joint Action 96/698/JHA on cooperation between customs authorities and business organizations in combating drug trafficking
5	Joint Action 96/699/JHA concerning the exchange of information on the chemical profiling of drugs to facilitate improved cooperation between Member States in combating illicit drug trafficking
7	Joint Action 96/750/JHA concerning the approximation of the laws and practices of the Member States of the European Union to combat drug addiction and to prevent and combat illegal drug trafficking

10	Joint Action 97/339/JHA of 26 May 1997 with regard to cooperation on law and order and security
15	Council Act of 17 June 1998 drawing up the Convention on Driving Disqualifications. ACPO DO NOT WANT TO REJOIN.
16	Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters
20	Council Decision 1999/615/JHA of 13 September 1999 defining 4-MTA as a new synthetic drug which is to be made subject to control measures and criminal penalties. ACPO DO NOT WANT TO REJOIN.
33	Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting
36	Council Decision 2002/188/JHA of 28 February 2002 concerning control measures and criminal sanctions in respect of the new synthetic drug PMMA. ACPO DO NOT WANT TO REJOIN.
39	Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism
43	Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence
50	Council Decision 2003/847/JHA of 27 November 2003 concerning control measures and criminal sanctions in respect of the new synthetic drugs 2C-I, 2C-T-2, 2C-T-7 and TMA-2. ACPO DO NOT WANT TO REJOIN.
51	Council Decision 2003/335/JHA on the investigation and prosecution of genocide, crimes against humanity and war crimes
56	Council Decision 2004/919/EC of 22 December 2004 on tackling vehicle crime with cross-border implications
57	Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol
70	Council Decision 2006/317/CFSP of 10 April 2006 concerning the conclusion of the Agreement between the European Union and the Republic of Croatia on security procedures for the exchange of classified information
76	Council Decision 2008/206/JHA of 3 March 2008 defining 1-benzylpiperazine (BZP) as a new psychoactive substance which is to be made subject to control measures and criminal provisions. ACPO DO NOT WANT TO REJOIN.
81	Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations. ACPO RECOMMENDS WE SHOULD REJOIN.
84	Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime
87	Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism. ACPO DO NOT WANT TO REJOIN.
99	Council Framework Decision 2009/905/JHA of 30 November 2009 on accreditation of forensic service providers carrying out laboratory activities
102	Agreement on extradition between the European Union and the United States of America
103	Council Decision 2009/933/CFSP of 30 November 2009 on the extension, on behalf of the European Union, of the territorial scope of the Agreement on extradition between the European Union and the United States of America
111	Accession Protocols: (amended in conformity with article 1 (b) of CD 2000/365/EC and CD 2004/926/EC article 1) Italy: Articles 2, , 4 + common declaration on articles 2 and 3 to the extent it relates to article 2, Spain: Articles 2, 4 and Final Act, Part III, declaration 2 Portugal: Articles 2, , 4, 5 and 6 Greece: Articles 2, 3, 4, 5 and Final Act, Part III, declaration 2 Denmark: Articles 2, , 4 and 6 and Final Act Part III joint declaration 3 Finland: Articles 2, , 4 and 5 and Final Act, Part II joint declaration 3 Sweden: Articles 2, , 4 and 5 + Final Act, Part II Joint declaration 3
116	SCH/Com-ex (99)6 on the Schengen acquis relating to telecommunications
118	SCH/Com-ex (99)8 rev 2 on general principles governing the payment of informers
122	Council Decision 2004/849/EC of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen Acquis
123	Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism
124	Council Decision 2006/228/JHA of 9 March 2006 fixing the date of application of certain provisions of Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism
125	Council Decision 2006/229/JHA of 9 March 2006 fixing the date of application of certain provisions of

	Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism
126	Council Decision 2006/631/JHA of 9 March 2006 fixing the date of application of certain provisions of Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism
127	Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar)
129	Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II)
131	Council Decision 2008/328/EC of 18 April 2008 amending the Decision of the Executive Committee set up by the 1990 Schengen Convention, amending the Financial Regulation on the costs of installing and operating the technical support function for the Schengen Information System (C.SIS)
132	Council Decision 2008/149/EC of 28 January 2008 on the conclusion, on behalf of the European Union, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis
133	Commission Decision 2009/724/JHA of 17 September 2009 laying down the date for the completion of migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)
134	Council Decision 2003/169/JHA determining which provisions of the 1995 Convention on simplified extradition procedure between the Member States of the European Union and of the 1996 Convention relating to extradition between the Member States of the European Union constitute developments of the Schengen acquis in accordance with the Agreement concerning the Republic of Iceland's and the Kingdom of Norway's association with the implementation, application and development of the Schengen acquis

C. UNDECIDED: MEASURES WITHOUT AGREEMENT / CLARITY ON REJOINING

48 measures for Immediate Discussion (Differing Views in the Coalition on Rejoining)

Combination of those originally recommended for rejoining by HS or JS, or by DPM (excludes those expecting repeal and replace).

Number	Measure	Description
	23 x HIGH PRIORITY	
23	2000/375/JHA to combat child pornography on the internet	<ul style="list-style-type: none"> • Minimum standards (which UK already exceeds) for tackling online child pornography • <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
26	Council Decision 2000/641/JHA of 17 October 2000 establishing a data protection secretariat	<ul style="list-style-type: none"> • Establishes a single secretariat – limited practical impact of not rejoining • <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
37, 72	Council Decision 2002/348/JHA of 25 April 2002 concerning security in connection with football matches with an international dimension Council Decision 2007/412/JHA of 12 June 2007 amending Decision 2002/348/JHA concerning security in connection with football matches with an international dimension	<ul style="list-style-type: none"> • Establishes National Football Information Points for sharing of intelligence. • Home Office argues this would happen without NFIPs and has worked effectively when UK police been making arrangements for champions league games involving UK and non-EU teams. • <u>ACPO RECOMMENDS WE SHOULD REJOIN BOTH.</u>

		<ul style="list-style-type: none"> • <u>HOME OFFICE ORIGINALLY RECOMMENDED WE REJOIN.</u>
46, 65	<p>Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States</p> <p>Council Decision 2006/560/JHA of 24 July 2006 amending Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States</p>	<ul style="list-style-type: none"> • SOCA thinks there may be operational impact on UK of not participating • But HO suggests that successful contacts will continue to thrive without it • And remaining bound could arguably lead to requirement (rather than encouragement) on UK to provide assistance – tricky as UK has big network so could place unfair burden on UK liaison officers • <u>ACPO RECOMMENDS WE SHOULD REJOIN BOTH.</u>
47	Council Framework Decision 2003/568/JHA of 22 July 2003 on combatting corruption in the private sector	<ul style="list-style-type: none"> • Minimum standards on criminalising corruption involving private sector employees. • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN.</u>
30	Council Decision 2001/419/JHA on the transmission of samples of controlled substances between member states	<ul style="list-style-type: none"> • Some benefits – uniformity of process in important area. But UK not reliant on participation to exchange. • <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
49	<p>Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union</p> <p>Council Decision 2003/642/JHA of 22 July 2003 concerning the application to Gibraltar of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union</p>	<ul style="list-style-type: none"> • Minimum standards for public sector corruption offences and requires Member States to ensure that corruption involving public officials is criminalised and that such offences attract a minimum maximum penalty • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN.</u>
9	Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (1997)	
59	Mutual recognition of financial penalties – Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties	<ul style="list-style-type: none"> • Exchange of fines from one EU Member State to implement e.g. UK citizen gets speeding ticket in France. Transferred to UK. UK issues fine (and keeps the money). • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN</u>
69	Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (the 'Swedish Initiative')	<ul style="list-style-type: none"> • Provides for standard form to be used for exchange of information between law enforcement authorities. • Police view form as overly bureaucratic and not necessary • Asset recovery offices have made use of it • Linked to No.73 below • <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
73	Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices	<ul style="list-style-type: none"> • Obligation to set up ARO • UK ARO would exist even if we didn't

	<i>('AROs') of the Member States in the field of tracing and identification of proceeds from, or property related to, crime</i>	<p><i>rejoin (it's part of SOCA and will be part of the Economic Crime Command of the NCA)</i></p> <ul style="list-style-type: none"> • <i>ACPO want us to rejoin</i> • <i>Linked to No.69 above</i> • <u>ACPO RECOMMENDS WE SHOULD REJOIN.</u>
83	Taking into account Convictions Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings	<ul style="list-style-type: none"> • Requires MS to take account of a defendant's previous convictions in any other EU MS. • <u>CPS WANT TO REJOIN.</u>
88	Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions	<ul style="list-style-type: none"> • Mutual recognition and supervision of suspended sentences, license conditions and alternative sanctions. • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN.</u>
97	Framework Decision on bail ('The European Supervision Order') in pre-trial procedure between MS of the EU 2009/829/JHA	<ul style="list-style-type: none"> • Enables people to be bailed back to their country of residence/residence • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN.</u>
107	Conflicts of jurisdiction Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of jurisdiction in criminal proceedings	<ul style="list-style-type: none"> • Sets out procedures to be followed to prevent situations where same person is subject to parallel proceedings in more than one Member States • Has a direct link to Eurojust • <u>MOJ ORIGINALLY RECOMMENDED WE REJOIN.</u>
100	Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes	<ul style="list-style-type: none"> • EU database to share information from Member States on discreet surveillance and checks • HMRC thinks could be useful – but usage currently low. • <u>HMRC RECOMMEND FOR REJOINING.</u>
40	<i>Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes</i>	<ul style="list-style-type: none"> • <i>List of contacts in this area</i> • <u>CPS RECOMMENDS WE SHOULD REJOIN.</u>
17	Joint Action 98/699/JHA of 3 December 1998 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and proceeds from crime. <u>HMRC IDENTIFY THIS AS BEING ESSENTIAL.</u>	
68	Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognitions to confiscation orders	<ul style="list-style-type: none"> • CPS believes it could be useful although little take up across EU. Infraction risk. • <u>HMRC IDENTIFY THIS AS BEING ESSENTIAL.</u>
25	Council Act of 29 May 2000 establishing the Convention on mutual assistance in criminal matters between the Member States of the European Union	<p>Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters (EIO).</p> <p><u>HMRC IDENTIFY THE UNDERLYING MEASURE AS ESSENTIAL AND WARN THAT</u></p>

		<u>THE REPLACEMENT IS UNLIKELY TO BE IN FORCE BY DEC 2014.</u>
32	Council Act of 16 October 2001 establishing the Protocol to the Convention on mutual assistance in criminal matters between the Member states of the European Union	Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the EIO <u>HMRC IDENTIFY THE UNDERLYING MEASURE AS ESSENTIAL AND WARN THAT THE REPLACEMENT IS UNLIKELY TO BE IN FORCE BY DEC 2014.</u>
	<u>6 x PRIORITY</u>	
2	Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union.	<ul style="list-style-type: none"> • UK could continue to post and receive Liaison Magistrate even if we don't rejoin • UK currently has liaison magistrates in France, Italy and Spain and HO hosts one from France
13	Joint Action 97/827/JHA of 5 December 1997 establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime.	<ul style="list-style-type: none"> • Peer evaluation review mechanisms i.e. other MS looking at other MS to assess application of policing measures.
27	Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements between financial intelligence units (FIUs) of the Member States in respect of exchanging information	<ul style="list-style-type: none"> • UK not dependent on measure to exchange suspicious activity reports ('SARS'). Primary benefit has been forcing other EU MS to establish FIUs.
48	Council Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence	<ul style="list-style-type: none"> • Will be partially repealed and replaced by the European Investigation Order • Again CPS has suggested that of some operational use
98	Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network ('EUCPN') and repealing Decision 2001/427/JHA	<ul style="list-style-type: none"> • UK seen as leader but network had little (if any) impact on domestic policy
89	Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network	<ul style="list-style-type: none"> • Directory of contacts for people around EU who work on extradition or mutual legal assistance.
	<u>19 x LOWER PRIORITY</u>	
29	Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment	<ul style="list-style-type: none"> • Minimum standards measures with little operational value to UK (we already met standards).
44, 96	Council Decision 2002/956/JHA of 22 November 2002 setting up a European Network for the Protection of Public Figures Council Decision 2009/796/JHA of 4 June 2009 amending Decision 2002/956/JHA setting up a European Network for the Protection of Public Figures	<ul style="list-style-type: none"> • Network of contact points for sharing information.

45	<p>Council Decision 2002/996/JHA of 28 November 2002 establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism</p>	<ul style="list-style-type: none"> • MS assessing other MS as to their implementation of counter-terrorism legislation. • 2 peer evaluations carried out on UK. No impact on our thinking. • <u>ACPO DO NOT WANT TO REJOIN.</u>
66	<p>Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences</p>	<ul style="list-style-type: none"> • Existing channels effective. Little or no operational value.
86	<p>Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law</p>	<ul style="list-style-type: none"> • Requires MS to ensure criminal law meets certain standards. • Infraction risk: UK has not criminalised 'publicly condoning or grossly trivialising crimes of genocide, crimes against humanity and war crimes'.
101	<p>Agreement on mutual legal assistance between the European Union and the United States of America</p>	<ul style="list-style-type: none"> • UK has existing bi-lateral MLA treaty with US • Commission likely to insist on UK rejoining EU-US extradition agreement too
109, 55, 53, 63, 61, 71, 75, 78	<p>8 EU-third country agreements on the sharing of classified information</p> <p><i>Council Decision 2010/348/EC of 17 November 2009 concerning the conclusion of the Agreement between the Government of the Russian Federation and the European Union on the protection of classified information</i></p> <p>Council Decision of 2004/843/CFSP 26 July 2004 concerning the conclusion of the Agreement between the European Union and the Kingdom of Norway on security procedures for the exchange of classified information</p> <p>Council Decision 2004/731/EC of 26 July 2004 concerning the conclusion of the Agreement between the European Union and Bosnia and Herzegovina on security procedures for the exchange of classified information</p> <p>Council Decision 2005/481/CFSP of 13 June 2005 concerning the conclusion of the Agreement between the European Union and Ukraine on the security procedures for the exchange of classified information</p> <p>Council Decision 2005/296/CFSP, JHA of 24 January 2005 concerning the conclusion of the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the security procedures for the exchange of classified information</p> <p>Council Decision 2006/467/CFSP of 21 November 2005 concerning the conclusion of the Agreement between the European Union and the Republic of Iceland on security procedures for the exchange of classified information</p> <p>Council Decision 2007/274/JHA of 23 April 2007 concerning the conclusion of the Agreement between the European Union and the Government of the United States of America on the security of classified information</p>	<ul style="list-style-type: none"> • Sets the rules for the sharing of classified EU material with the countries listed. • No impact of UK not rejoining as we have own guidelines/discretion for sharing information with these countries. • The agreements are not purely JHA (also CSFP) so we may only be able to partially opt out • <u>ACPO DO NOT WANT TO REJOIN THE RUSSIA AGREEMENT.</u>

	Council Decision 2008/568/CFSP of 24 June 2005 concerning the conclusion of the Agreement between the European Union and the Swiss Confederation on security procedures for the exchange of classified information	
115	SCH/Com-ex (98)52 on the Handbook on cross-border police cooperation	<ul style="list-style-type: none"> Handbook to assist law enforcement authorities UK could still use it if we don't rejoin
135	Council Decision 2008/852/JHA on a contact-point network against corruption	<ul style="list-style-type: none"> EU forum for discussing corruption (mainly public sector). No trace of meeting ever taking place or if it has, who in UK has attended.
79,80	<p>Prüm (2 measures: Council Decision 2008/615/JHA of 23 June 2008 on stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime</p> <p>Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Council Decision 2008/615/JHA on stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime.)</p>	<ul style="list-style-type: none"> Requires MS to allow reciprocal searching databases for DNA profiles, vehicle registration data and fingerprints Implementation cannot be delivered by 2014 so infraction risk <u>ACPO RECOMMENDS WE SHOULD REJOIN BOTH.</u>

5 Measures with a Live Replacement Measure & UK Not Opted In to Negotiations (Subject to Normal Opt In Decision-Making):

Number	Measure	New measure that we have not opted in to (or opted out of) which will repeal and replace a measure subject to the 2014 decision
7	Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests	Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law.
8	Council Act of 27 September 1996 drawing up a Protocol to the Convention on the protection of the European Communities' financial interests	<u>HMT & MOJ ORIGINALLY RECOMMENDED WE REJOIN THESE.</u>
12	Council Act of 19 June 1997 drawing up the Second Protocol of the Convention on the protection of the European Communities' financial interests	
31	Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (repealing Articles 1, 3, 5(1) and 8(2) of Joint Action 98/699/JHA)	Proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union.
58	Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-related Proceeds, Instrumentalities and Property	<u>HMRC IDENTIFY THE TWO COUNCIL FRAMEWORK DECISIONS AS BEING ESSENTIAL.</u>

15 Measures Expecting To Be Repealed & Replaced Shortly: Subject to Normal Opt-In Decisions, Some Uncertainty over Date at which they will enter into force

Number	Measure	New measure
19	Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees	Europol (in the Commission work programme)

21	Council Decision of 2 December 1999 amending the Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees, with regard to the establishment of remuneration, pensions and other financial entitlements in euro	<u>ACPO RECOMMENDS AS VITAL.</u>
64	Council Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting, by designating Europol as the Central Office for combating euro-counterfeiting	
95		
104	Council Decision 2009/371/JHA establishing the European Police Office (Europol)	
105	Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information	
106	Council Decision 2009/935/JHA of 30 November 2009 determining the list of third countries with which Europol shall conclude agreements	
108	Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files	
	Council Decision 2009/968/JHA of 30 November 2009 adopting the rules on the confidentiality of Europol information	
35	Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime	Eurojust (in the Commission work programme) <u>ACPO RECOMMENDS AS VITAL.</u>
77	Council Decision 2008/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime	
67	Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA	CEPOL (in the Commission work programme) <u>ACPO RECOMMENDS FOR REJOINING.</u>
62	Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances.	control of new psychoactive substances (in the Commission work programme)
24,34	Council Framework Decision of 2000/383/JHA and FD of 2001/888/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro	Minimum standards measures with little operational value to the UK. <u>ACPO DO NOT WANT TO REJOIN.</u>
54	Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking	Drug trafficking (in the Commission work programme). <u>ACPO DO NOT WANT TO REJOIN.</u>

D. EUROPEAN ARREST WARRANT

Number	Measure	Description
41	Council Framework Decision 2002/584/JHA of 13 June 2002	• Operational benefits in streamlining

on the European arrest warrant and the surrender procedures between Member States

intra-EU extradition processes

- *Ministers believe there are flaws in system, notably in respect of proportionality of requests, lengthy pre-trial detention of British citizens in other EU Member States and standard of justice/prison conditions in certain Member States*
- **ACPO RECOMMENDS AS VITAL.**