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LIMITE

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NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	List of Schengen <i>acquis</i> concerning the United Kingdom

Annex I contains a list of ex-third pillar Schengen *acquis* to which the UK will seek to re-opt in pursuant to Article 10(5) of Protocol 36 and Article 4 of the Schengen Protocol, as from 1 December 2014.

Annex II contains a list of ex-third pillar Schengen *acquis* from which the UK will opt-out as a result of the block opt-out provided for in Article 10(4) of Protocol 36, and which will therefore "*cease to apply*" to the UK as from 1 December 2014.

Annex III contains two tables about pre-Lisbon Schengen *acquis*. The first table (A) is on ex-third pillar Schengen *acquis* and the second table (B) is on Schengen *acquis* by which the UK will continue to be bound because this is not ex-third pillar.

Annex III therefore gives an overview of the pre-Lisbon Schengen *acquis*:

- (a) by which the UK will remain bound (either because this has been "lisbonised" or because this is not ex-third pillar *acquis*);

(b) to which the UK will seek to re-opt in; and

(c) from which the UK will opt-out as a result of the block opt-out.

All numbers used are those used for numbering the ex-third pillar *acquis* in the revised indicative list from the Commission (doc. 9883/14).

List of ex-third pillar Schengen *acquis* to which the UK will seek to re-opt in

- 102 Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 (OJ L 239, 22.9.2000, p. 19)
- Chapter 1 on police cooperation - Art. 39, 40, 42¹, 43¹, 44, 46 and 47²;
 - Chapter 3 on *ne bis in idem* - Art. 54 to 58;
 - Chapter 4 on extradition - Art. 59 to 66;
 - Chapter 5 on the transfer of enforcement of criminal judgments - Art. 67 to 69;
 - Chapter 6 on narcotic drugs - Art. 71 and 72;
 - Title VI on personal data protection - Art. 126 to 130³;
 - Declaration 3 to the Final Act concerning Article 71(2)
- 112 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 (OJ L 248, 3.10.2000, p. 1)
- 116 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 (OJ L 260, 11.10.2003, p. 37)
- 117 Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar) (OJ L 79, 20.3.2007, p. 29)

¹ To the extent that it relates to Article 40.

² Except for Art. 47(2)(c) and (4).

³ To the extent that it relates to the provisions of the 1990 CISA in which the UK participates.

- 118 Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63)
- 122 Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60)
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List of ex-third pillar Schengen *acquis* from which the UK will opt out

- 102 Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 (OJ L 239, 22.9.2000, p. 19)
- Art. 27(2) and (3);
 - Chapter 1 on police cooperation - Art. 47(4);
 - Accession Agreement Italy - Art. 2 and 4 - Declaration⁴ on Art. 2 and 3;
 - Accession Agreement Spain - Art. 2 and 4 - Final Act, Part III, Declaration 2;
 - Accession Agreement Portugal - Art. 2, 4, 5 and 6;
 - Accession Agreement Greece - Art. 2, 3, 4 and 5 - Final Act, Part III, Declaration 2;
 - Accession Agreement Austria - Art. 2 and 4;
 - Accession Agreement Denmark - Art. 2 and 4 - Final Act, Part II, Declaration 3;
 - Accession Agreement Finland - Art. 2 and 4 - Final Act, Part II, Declaration 3;
 - Accession Agreement Sweden - Art. 2 and 4 - Final Act, Part II, Declaration 3.
- 103 SCH/Com-ex (93) 14 (improving practical cooperation between the judicial authorities to combat drug trafficking) (OJ L 239, 22.9.2000, p. 427)
- 104 SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition) (OJ L 239, 22.9.2000, p. 435)
- 105 SCH/Com-ex (97) decl 13 rev 2 (abduction of minors)
- 107 SCH/Com-ex (98) 52 (handbook on cross border police-cooperation) (OJ L 239, 22.9.2000, p. 408)
- 108 SCH/Com-ex (99) 6 (telecommunication) (OJ L 239, 22.9.2000, p. 409)
- 110 SCH/Com-ex (99) 8 rev 2 (payment to informers) (OJ L 239, 22.9.2000, p. 417)

⁴ To the extent that it relates to Art. 2

- 111 SCH/Com-ex (99) 11 rev 2 (agreement on cooperation in proceedings for road traffic offences) (OJ L 239, 22.9.2000, p. 428)
- 113 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 (OJ L 328, 5.12.2002, p. 1)
- 114 Council Decision 2003/169/JHA of 27 February 2003 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* (OJ L 67, 12.3.2003, p. 25)
- 115 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 (OJ L 67, 12.3.2003, p. 27)
- 119 Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II) (OJ L 57, 1.3.2008, p. 14)
- 123 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) (OJ L 257, 30.9.2009, p. 41)
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SCHENGEN ACQUIS CONCERNING THE UK
ACQUIS BY WHICH THE UK WILL REMAIN BOUND,
ACQUIS TO WHICH IT WILL SEEK TO RE-OPT IN AND ACQUIS FROM WHICH THE UK WILL OPT OUT

A. Ex-third pillar *acquis* concerning the UK (i.e. covered by Art. 10 of Protocol 36)

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Art. 27(2) and (3)	NO	NO	The UK will opt out from Art. 27(2) and (3). As the UK will also opt out from Framework Decision 2002/946 on prevention of facilitation of unauthorised entry (No 113) which repealed the above provisions (see Art. 10), it will therefore opt out both from the CISA relevant provisions and from their replacement
102	1990 CISA - Art. 39		The UK will re-opt in to Art. 39. Art. 39(1), (2) and (3) are replaced by Framework Decision 2006/960 (No 67) ("Swedish initiative") in as far as they relate to exchange of information and intelligence as provided in the FD (see Art. 12(1)), to which the UK will also re-opt in	NO

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Art. 40		The UK will re-opt in to Art. 40. The UK will also re-opt in Decision 2003/725 (No 116) which amends Art. CISA (see Art. 1)	NO
102	1990 CISA - Art. 42, to the extent that it relates to Article 40		The UK will re-opt in to Art. 42, to the extent that it relates to Article 40	NO
102	1990 CISA - Art. 43, to the extent that it relates to Article 40		The UK will re-opt in to Art. 43, to the extent that it relates to Article 40	NO
102	1990 CISA - Art. 44		The UK will re-opt in to Art. 44	NO
102	1990 CISA - Art. 46		The UK will re-opt in to Art. 46. Art. 46 is replaced by Framework Decision 2006/960 (No 67) ("Swedish initiative") in as far as it relates to exchange of information and intelligence as provided in the FD (see Art. 12(1)), to which the UK will also re-opt in	NO
102	1990 CISA - Art. 47, except for Art. 47(2)(c)		The UK will re-opt in to Art. 47, except for Art. 47(2)(c) and (4)	The UK will opt out from Art. 47(4) The UK will also opt out from Decision 2003/170 on liaison officers (No 115) which repealed Art. 47(4) (see Art. 11(2)), it will therefore opt out both from paragraph 4 and from its replacement

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Chapter 2 on mutual assistance in criminal matters - Art. 48 to 53	LISBONISED The "<i>corresponding provisions</i>" of both Chapter 2 of the CISA (Art. 48 to 53) and of the 2000 Convention on mutual assistance in criminal matters (MLA) (No 29),⁵ and its Protocol (No 34),⁶ were replaced by the EIO, adopted on 14 March 2014, to which the UK participates, (see Art. 34(1)(b) and (c)), but "<i>without prejudice to their application in relations between Member States and third States</i>". This Chapter will therefore continue to apply in relations with the Schengen associated countries. In addition, Chapter 2 of the CISA was supplemented by the 2000 MLA (No 29) (see Art. 1(1)(c)), Art. 49(a), 52 and 53 were repealed by the MLA (see Art. 2(2)) and Art. 50 was repealed by the 2001 Protocol (see Art. 8)		NO
102	1990 CISA - Chapter 3 on <i>ne bis in idem</i> - Art. 54 to 58		The UK will re-opt in to Chapter 3 (Art. 54 to 58)	NO

⁵ Pursuant to Art. 2(1) of the 2000 MLA, "*the provisions of Art. 3, 5, 6, 7, 12 and 23 and, to the extent relevant to Art. 12, of Art. 15 and 16, to the extent relevant to the Articles referred to, of Art. 1 constitute measures amending or building upon the* [Schengen *acquis* applicable to the associated countries]" (see below).

⁶ Pursuant to Art. 15 of the 2001 Protocol to the 2000 MLA "*Article 8 [of the Protocol] shall constitute measures amending or based upon the* [Schengen *acquis* applicable to the associated countries]" (see below).

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Chapter 4 on extradition - Art. 59 to 66		The UK will re-opt in to Chapter 4 (Art. 59 to 66).⁷ The "<i>corresponding provisions</i>" of this Chapter were replaced by the EAW (Framework Decision 2002/584 (No 43) see Art. 31(1)(e)), but "<i>without prejudice to their application in relations between Member States and third States</i>". This Chapter will therefore continue to apply in relations with the Schengen associated countries. As the UK will re-opt in the EAW, these rules will apply between Member States. Once the 2006 Surrender Agreement (No 65) with Norway and Iceland is concluded, it will replace the corresponding provisions of the Chapter 4 of the CISA vis-à-vis these countries (see Art. 34(1)(b) of the Surrender Agr.)	NO

⁷ Art. 61, 62(1) and (2), 63, 65 and 66 were "developed" by the 1996 Extradition Convention (No 4) (see Art. 2 of Decision 2003/169) (No 114) below).

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Chapter 5 on the transfer of enforcement of criminal judgments - Art. 67 to 69		The UK will re-opt in to Chapter 5 (Art. 67 to 69). The "<i>corresponding provisions</i>" of this Chapter were replaced by Framework Decision 2008/909 on the transfer of prisoners (No 78) (see Art. 26(1) 3rd indent), but "<i>without prejudice to their application in relations between Member States and third States</i>". This Chapter will therefore continue to apply in relations with the Schengen associated countries. As the UK will re-opt in to FD 2008/909, these rules will apply between Member States.	NO
102	1990 CISA - Art. 71		The UK will re-opt in to Art. 71	NO
102	1990 CISA - Art. 72		The UK will re-opt in to Art. 72	NO
102	1990 CISA - Art. 73	LISBONISED Art. 73 is repealed by the 2000 MLA Convention (No 29) (see Art. 2(2)) which is itself lisbonised by the EIO. This Article will therefore continue to apply in relations with the Schengen associated countries.		NO

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	1990 CISA - Title VI on personal data protection - Art. 126 to 130 ⁸		The UK will re-opt in to Title VI on personal data protection (Art. 126 to 130) ⁹	NO
102	1990 CISA - Declaration 3 to the Final Act concerning Article 71(2)		The UK will re-opt in to Decl. 3 concerning Art. 71(2)	NO
102	Accession Agreement Italy - Art. 2 and 4 - Declaration on Art. 2 and 3 to the extent that it relates to Art. 2	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Italy) The updating of the names of the competent authorities referred to in Art. 40 and 65 of the CISA is made in accordance with Decisions 2000/586 (No 112) and 2003/725 (No 116), to which the UK will re-opt in
102	Accession Agreement Spain - Art. 2 and 4 - Final Act, Part III, Declaration 2	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Spain) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]

⁸ Applies to the UK to the extent that it relates to the provisions of the 1990 CISA in which the UK participates by virtue of Art. 1(a)(i) of Decision 2000/365.

⁹ To the extent that it relates to the provisions of the 1990 CISA in which the UK participates by virtue of its Art. 1(a)(i) of Decision 2000/365.

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	Accession Agreement Portugal - Art. 2, 4, 5 and 6	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Portugal) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]
102	Accession Agreement Greece - Art. 2, 3, 4 and 5 - Final Act, Part III, Declaration 2	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Greece) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]
102	Accession Agreement Austria - Art. 2 and 4	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Austria) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]
102	Accession Agreement Denmark - Art. 2 and 4 - Final Act, Part II, Declaration 3	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Denmark) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
102	Accession Agreement Finland - Art. 2 and 4 - Final Act, Part II, Declaration 3	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Finland) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]
102	Accession Agreement Sweden - Art. 2 and 4 - Final Act, Part II, Declaration 3	NO	NO	The UK will opt out from the relevant provisions of the Accession Agreement (Sweden) [on the updating of the names of the competent authorities, see above under Accession Agreement Italy]
1	The Schengen relevant provisions of the Convention established by Council Act of 10 March 1995 drawing up the convention on simplified extradition procedures between the Member States of the European Union - i.e. Art. 1 of Decision 2003/169 (No 114) qualifies the whole 1995 Simplified Extradition Convention as a development of the Schengen <i>acquis</i> , and in particular of Art. 66 of the 1990 CISA	NO	NO	The UK will opt out from the relevant provisions of the 1995 Simplified Extradition Convention [the identification of the 1995 Simplified Extradition Convention as a development of the Schengen <i>acquis</i> was dependant on the entry into force of this convention between Member States, but these conventions never entered into force]

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
103	SCH/Com-ex (93) 14 (improving practical cooperation between the judicial authorities to combat drug trafficking) ¹⁰	NO	NO	The UK will opt out from SCH/Com-ex (93) 14 (improving practical cooperation between the judicial authorities to combat drug trafficking)
104	SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition)	NO	NO	The UK will opt out from SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition)
4	The Schengen relevant provisions of the Convention established by Council Act of 27 September 1996 drawing up the Convention relating to extradition between the Member States of the European Union - i.e. Art. 2 of Decision 2003/169 (No 114) qualifies Art. 2, 6, 8, 9 and 13 of the 1996 Convention and Ar. 1 thereof, to the extent that that Article is pertinent to those other Articles, as a development of the Schengen <i>acquis</i>, and in particular of Art. 61, Art. 62(1) and (2), and Art. 63 and 65 of the 1990 CISA	NO	NO	The UK will opt out from the relevant provisions of the 1996 Extradition Convention [the identification of Art. 2, 6, 8, 9 and 13, and Art. 1, to the extent it is pertinent, of the 1996 Extradition Convention as a development of the Schengen <i>acquis</i> was dependant on the entry into force of this convention between Member States, but these conventions never entered into force]

¹⁰ Applies to the extent that it relates to the provisions of the 1990 CISA in which the UK participates by virtue of Art. 1(a) of Decision 2000/365.

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
105	SCH/Com-ex (97) decl 13 rev 2 (abduction of minors)	NO	NO	The UK will opt out from SCH/Com-ex (97) decl 13 rev 2 (abduction of minors) [This act is obsolete, as it has been superseded by other instruments]
106	SCH/Com-ex (98) 26 def (setting up the Schengen implementing Convention Standing Committee), subject to an internal arrangement specifying the modalities of participation of United Kingdom experts in missions carried out under the auspices of the relevant Council Working Party	LISBONISED Repealed by Council Regulation 1053/2013 adopted on 7 October 2013, and therefore lisbonised		NO
107	SCH/Com-ex (98) 52 (handbook on cross border police-cooperation)	NO	NO	The UK will opt out from SCH/Com-ex (98) 52 (handbook on cross border police-cooperation) [This handbook is obsolete, as it has been superseded by other documents]
108	SCH/Com-ex (99) 6 (telecommunication)	NO	NO	The UK will opt out from SCH/Com-ex (99) 6 (telecommunication)
110	SCH/Com-ex (99) 8 rev 2 (payment to informers)	NO	NO	The UK will opt out from SCH/Com-ex (99) 8 rev 2 (payment to informers)

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
111	SCH/Com-ex (99) 11 rev 2 (agreement on cooperation in proceedings for road traffic offences)	NO	NO	The UK will opt out from SCH/Com-ex (99) 11 rev 2 (agreement on cooperation in proceedings for road traffic offences) [As this is an Agreement between Member States and also Norway and Iceland, this cannot be "EU <i>acquis</i> " (see CLS opinion doc. 12882/99) and should therefore be removed from the list of EU <i>acquis</i>]
29	The Schengen relevant provisions of the Convention established by Council Act of 29 May 2000 establishing the Convention on mutual assistance in criminal matters between the Member States of the European Union - i.e. the provisions of Art. 3, 5, 6, 7, 12 and 23 and, to the extent relevant to Art. 12, of Art. 15 and 16, to the extent relevant to the Articles referred to, of Art. 1 constitute measures amending or building upon the Schengen <i>acquis</i> applicable to the associated countries	LISBONISED The " <i>corresponding provisions</i> " of the 2000 Convention on mutual assistance in criminal matters (MLA), and its 2001 Protocol (No 34), were replaced by the EIO, adopted on 14 March 2014, to which the UK participates, (see Art. 34(1)(b) and (c)), but " <i>without prejudice to their application in relations between Member States and third States</i> ". These provisions will therefore continue to apply in relations with the Schengen associated countries.	NO	NO

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
112	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		The UK will re-opt in to Council Decision 2000/586/JHA (procedure for amending Art. 40, 41 and 65 CISA) In addition, the UK will re-opt in to Art. 40 and 65 and its replacement in the EAW	NO
34	Art. 8 of the Protocol to the 2000 MLA Convention (No 29), as established by Council Act of 16 October 2001 - pursuant to Art. 15 of the Protocol, Article 8 constitute measures amending or based upon the Schengen <i>acquis</i> applicable to the associated countries	LISBONISED The " <i>corresponding provisions</i> " of the 2001 Protocol to the 2000 MLA (No 29), were replaced by the EIO, adopted on 14 March 2014, to which the UK participates, (see Art. 34(1)(b) and (c)), but " <i>without prejudice to their application in relations between Member States and third States</i> ". These provisions will therefore continue to apply in relations with the Schengen associated countries.	NO	NO
113	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	NO	NO	The UK will opt out from Framework Decision 2002/946 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
114	Council Decision 2003/169/JHA of 27 February 2003 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 <i>acquis</i> 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 <i>acquis</i>	NO	NO	The UK will opt out from Decision 2003/169/JHA [the identification of the 1995 Simplified Extradition Convention (No 1) and of Art. 2, 6, 8, 9 and 13, and Art. 1, to the extent it is pertinent, of the 1996 Extradition Convention (No 4) as constituting a development of the Schengen <i>acquis</i> was dependant on the entry into force of these conventions between Member States, but these conventions never entered into force]
115	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	NO	NO	The UK will opt out from Decision 2003/170/JHA
116	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		The UK will re-opt in to Council Decision 2003/725/JHA (amending Art. 40(1) and (7) of CISA) In addition, the UK will re-opt in to Art. 40 which is amended by that Decision	NO

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
117	Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar)		The UK will re-opt in to Commission Decision 2007/171/EC (on networks, SIS II)	NO
118	Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)		The UK will re-opt in to Council Decision 2007/533/JHA (third pillar part of SIS II)	NO
119	Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II)	NO	NO	The UK will opt out from Council Decision 2007/533/JHA (on tests, SIS II) [This Decision is considered as obsolete, as it has consumed all its effects]
120	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 <i>acquis</i>	LISBONISED The Decision (2011/349) adopted on 7 March 2011 to conclude with Liechtenstein the Schengen Protocol which was annexed to the Schengen Agreement with Switzerland has lisbonised the latter.		NO

No	Schengen <i>acquis</i> by which the UK is <u>currently bound</u>	Schengen <i>acquis</i> to which the UK will <u>remain bound</u> (not covered by the block opt-out)	Schengen <i>acquis</i> to which the UK will seek to <u>re-opt in</u>	Schengen <i>acquis</i> from which the UK will <u>opt out</u>
122	Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters		The UK will re-opt in to Framework Decision 2008/977/JHA (data protection JHA)	NO
123	Commission Decision 2009/724/JHA of 17 September 2009 <u>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)</u>	NO	NO	The UK will opt out from Commission Decision 2009/724 (on migration to SIS II) [This Decision is considered as obsolete, as it has consumed all its effects]

B. Non ex-third pillar *acquis* (i.e. not covered by Art. 10 of Protocol 36), but listed in Decisions 2000/365 and 2004/926 or building upon *acquis* listed therein

Schengen <i>acquis</i> by which the UK is <u>currently bound and will remain bound</u>	Amendments/replacements/revokes Comments	Legal basis (outside ex-third pillar)
1990 CISA - Art. 26	Supplemented by Directive 2001/51 (based on Article 61(a) and Article 63(3)(b) ex-TEC), by which the UK is bound (see below)	This is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 63(3) ex-TEC)
1990 CISA - Art. 27(1)	Art. 27(1) is repealed by Directive 2002/90 (see Art. 5), by which the UK is bound (see below)	Art. 27(1) is not ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 63(3) ex-TEC)
1990 CISA - Art. 75		Art. 75 is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 95 ex-TEC)

Schengen <i>acquis</i> by which the UK is <u>currently bound</u> <u>and will remain bound</u>	Amendments/replacements/revokes Comments	Legal basis (outside ex-third pillar)
1990 CISA - Art. 76		Art. 76 is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 95 ex-TEC, with specification that this is " <i>to the extent that these provisions deal only with measures relating to licit trade in controlled drugs</i> ")
Accession Agreement Denmark - Art. 6		Art. 6 is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 2(2) of the ex-Schengen Protocol)
Accession Agreement Finland - Art. 5		Art. 5 is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 2(2) of the ex-Schengen Protocol)
Accession Agreement Sweden - Art. 5		Art. 5 is not an ex-third pillar provision (legal basis determined in Decision 1999/436 = Art. 2(2) of the ex-Schengen Protocol)
SCH/Com-ex (94) 28 rev (certificate provided for in Article 75 for transport of drugs and/or psychotropic substances)		This is not an ex-third pillar act (legal basis determined in Decision 1999/436 = Art. 95 ex-TEC)
Council Decision 1999/439/EC of 17 May 1999 on the conclusion of the Agreement with the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen <i>acquis</i>		This is not an ex-third pillar act (legal basis = Art. 6(1) of the Schengen Protocol)

Schengen <i>acquis</i> by which the UK is <u>currently bound</u> <u>and will remain bound</u>	Amendments/replacements/revokes Comments	Legal basis (outside ex-third pillar)
Council Decision 2000/29/EC of 28 June 1999 on the conclusion of the Agreement with the Republic of Iceland and the Kingdom of Norway on the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Republic of Iceland and the Kingdom of Norway, on the other, in areas of the Schengen <i>acquis</i> which apply to these States		This is not an ex-third pillar act (legal basis = Art. 6(1) of the Schengen Protocol)
Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45)		This is not an ex-third pillar act (legal basis = Art. 61(a) and Article 63(3)(b) ex-TEC)
Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17)		This is not an ex-third pillar act (legal basis = Art. 61(a) and Art. 63(3)(b) ex-TEC)
Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1)		This is not an ex-third pillar act (legal basis = Art. 63(3)(b) and Art. 66 ex-TEC)
Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (API) (OJ L 261 6.8.2004, p. 24)		This is not an ex-third pillar act ((legal basis = Art. 62(2)(a) and Art. 63(3)(b) ex-TEC)
Regulation (EC) No 1986/2006 of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates		This is not an ex-third pillar act (legal basis = Art. 71 ex-TEC (transport legal basis)); measure building upon SIS <i>acquis</i>

Schengen <i>acquis</i> by which the UK is <u>currently bound</u> <u>and will remain bound</u>	Amendments/replacements/repeals Comments	Legal basis (outside ex-third pillar)
Council Decision 2007/801/EC of 6 December 2007 on the full application of the provisions of the Schengen <i>acquis</i> in the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic		This is not an ex-third pillar act (legal basis = Art. 3(2) of the 2004 Accession Act)

Comments

- (a) (No 109) SCH/Com-ex (99)7 rev 2 on liaison officers was not listed in Decision 2000/365 and therefore does not bind the UK;
- (b) the ex-third pillar Commission Decision 2008/334 of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II),¹¹ based on several provisions of Council Decision 2004/533/JHA (ex-third pillar part of SIS II), is not listed, but it has been lisbonised in 2011 by Commission implementing Decision of 1 July 2011 amending the SIRENE Manual¹² and repealed by Commission implementing Decision of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II);¹³
- (c) 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) is not listed. It was an amendment to Decision of the Executive Committee of 14 December 1993 on the Financial Regulation on the costs of installing and operating the Schengen Information System (C.SIS) (SCH/Com-ex (93) 16), which itself has been repealed by Regulation 1987/2006 on SIS II;
- (d) (No 121) Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences is not part of the Schengen *acquis* to which the UK has been allowed to participate;

¹¹ OJ L 123, 8.5.2008, p. 39.

¹² OJ L 186, 15.7.2011, p. 1.

¹³ OJ L 71, 14.3.2013, 1.

PM

- Art. 92 to 95, 97 to 119 of the 1990 CISA, on SIS, which were listed in Decision 2000/365, as well as the five SIS acts listed under point (ii)¹⁴ of Art. 1(c) of that Decision, and SCH/Com-ex (99) decl 2 rev (SIS structure), were all repealed by the SIS II *acquis* (Decision 2007/533 and Regulation 1987/2006);
- the same goes of the three acts¹⁵ listed by the UK in its block opt-out list on fixing the date of application of certain provisions of Decision 2005/211/JHA, that Decision having itself been repealed by the SIS II *acquis* (Decision 2007/533 and Regulation 1987/2006);
- SCH/Com-ex (98) 51 rev 3 (cross border police-cooperation in the area of crime prevention and detection when requested), which was listed in Decision 2000/365, is not listed as part of the *acquis*. It was repealed by Framework Decision 2006/960 ("Swedish initiative") (No 67) (see Art. 12(2)) in which the UK will ask to re-opt in;
- SCH/Com-ex (99) 18 (improvement of police cooperation in preventing and detecting crimes), which was listed in Decision 2000/365, is not listed as part of the *acquis*. It was repealed by Framework Decision 2006/960 ("Swedish initiative") (No 67) (see Art. 12(2)) in which the UK will ask to re-opt in<;

¹⁴ These five acts were: SCH/Com-ex (97) 2 rev 2 (awarding the tender for the SIS II preliminary study); SCH/Com-ex (97) 18 (contributions from Norway and Iceland to the C.SIS operation costs); SCH/Com-ex (97) 24 (future of SIS); SCH/Com-ex (97) 35 (C.SIS Financial Regulations); and SCH/Com-ex (98) 11 (C.SIS with 15/18 connections).

¹⁵ These three acts were: 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; 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; and 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. There were two more of these, not listed by the UK in its block opt-out list, which were also in the same situation as the three above acts: Council Decision 2005/719/JHA of 12 October 2005 fixing the date of application of certain provisions of Decision 2005/211/JHA; and Council Decision 2005/727/JHA of 12 October 2005 fixing the date of application of certain provisions of Decision 2005/211/JHA