

UK WRITTEN COMMENTS ON THE EUROPEAN COMMISSION'S COMMUNICATION ON THE STOCKHOLM PROGRAMME

Summary

General

- The UK welcomes the Commission's communication on the Stockholm programme. It contains much to which we can agree without qualification. We look forward to the opportunity over the coming months to help develop the final version of the Stockholm programme in detail with the Swedish Presidency and with other Member States.
- We particularly welcome the focus on implementation and evaluation. We also believe that if we are to deliver on the Communication's focus on the citizen as being at the heart of JHA co-operation, we need to make a very significant effort to research and understand the needs of those citizens and take action on the basis of those needs.

Promoting citizens' rights: a Europe of rights

- The UK welcomes the strong emphasis on promotion of citizens' rights, particularly the measures proposed to ensure a strategic approach to how we use data and the measures to ensure that freedom of movement rights are not subject to abuse.

Making life easier: a Europe of justice

- *Mutual recognition*: The UK agrees that mutual recognition should continue to be the cornerstone of co-operation in both civil and criminal justice.
- *A core of common standards*: The UK agrees that minimum standards in civil procedure should be considered further. However, we do not accept that there is any need for an alignment of substantive criminal law.

Protecting citizens: a Europe that protects

- *Child protection*: The UK particularly welcomes measures to enhance child protection.
- *European Evidence Warrant*: The UK supports attempts to improve judicial cooperation amongst member States but thinks this must be done through an instrument that will demonstrably add real value to mutual legal assistance.
- *Criminal procedural standards*: The UK supports the proposed roadmap approach, which will ensure that progress is made in areas where there is an identified and demonstrable need for change. We would like to see this approach enshrined in the Stockholm Programme. The wholesale duplication of existing law is unnecessary.
- *Terrorism*: The UK welcomes the recognition of the need for continued co-operation on counter-terrorism. But co-operation must be set in the context of the international terrorist threat to Europe and the need for a broad response across all four strands of the EU CT Strategy.
- *Organised crime*: The UK seeks the creation of a comprehensive EU Organised Crime Strategy in order to improve the operational response to the serious organised crimes committed across the EU.

Promoting a more integrated society for the citizen: a Europe of solidarity

- *Implementation of the Migration Pact*: The UK strongly agrees with the Commission that the Stockholm Programme should reflect the priorities set out in the Migration Pact.
- *Asylum*: The UK has reservations about: the proposal to expand the role of the European Asylum Support Office in 2013; the mutual recognition of decisions to grant protection; the concept of issuing humanitarian visas at an EU level; and a coordinated mechanism for internal relocation within the EU.

External relations

- The UK takes the view that the final text of the Stockholm programme should include a specific section dealing with external relations in Justice and Home Affairs if it is to properly reflect the full range of challenges and opportunities facing EU citizens. We attach a proposed draft text for this chapter as an Annex.

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September 2009

1. Introduction

- The UK supports many of the proposals in the Commission's Communication, in particular measures to **enhance child protection**, ensure a **strategic approach to the use of data**, **improve the enforcement of judicial decisions across borders**, **facilitate legitimate travel**, **clamp down on illegal immigration**, and enhance **co-operation on counter-terrorism**.
- The new programme should be built on principles of better regulation, with a focus on **implementation, evaluation and analysis**. Full and proper impact assessments should be carried out. These should consider, among other things, whether practical measures, rather than legislation, could address the issues. We also believe that if we are, as the Communication rightly recommends, to focus on the citizen as being at the heart of JHA co-operation, we need to make a very significant effort to research and understand the needs of those citizens and take action on the basis of those needs. Legislation should only be pursued where it will add value and where there is a realistic chance of agreement, taking into account the specifics of all Member States' legal traditions. These principles should be reflected clearly in the new programme.
- The final Council conclusions should include a **separate chapter on external relations**. This would reflect the priority that must be given to a coherent external relations strategy for work on freedom, security and justice. This strategy would continuously enhance and contribute to our internal objectives and ensure that opportunities to realise efficiency gains and synergies across the body of our work are realised. A **proposed draft text for this chapter**, which sets out the principles that should underpin such a strategy, is attached to these written comments as an Annex. The UK's views on the specific key priorities that should follow are contained in our strategy paper of 26 June 2009, which is also attached.

2. Promoting citizens' rights: a Europe of rights

- The UK supports the Commission's strong emphasis on promotion of citizens' rights. We would welcome further clarification of the Commission's assertion that citizens should be able to exercise their specific rights to the full outside the Union.

2.1. Full exercise of the right to free movement

- The UK believes that free movement has been one of the major successes of the EU, but we must continue to act collectively to safeguard the right of free movement and ensure that it is not abused. The UK welcomes the Commission's guidelines on free movement as an initial step, and continues to support the need for further work to safeguard free movement, in particular action against low level persistent offending and fraud. The EU should focus on practical measures and sharing of best practice, in particular on identity management; preventing fraudulent claims to free movement rights, particularly through the family route; and better understanding EEA migration flows. The EU should use the enlargement process to deliver effective border controls in countries on the path to EU membership.
- The UK notes the Commission's calls to improve the availability of civil status documents with the longer-term possibility of mutual recognition of their effects. The UK is open to considering this work, given clear evidence of the need for such an initiative, and taking account of wider implications. If the EU takes action, non-legislative solutions should be considered before legislation is proposed.

2.2. Living together in an area that respects diversity and protects the most vulnerable

- The UK believes that we must evaluate and assess the effectiveness of the new Framework Decision on racism and xenophobia in order to see what further enhancements might be required.
- The UK welcomes the Commission's proposed strategy on the rights of the child. Child protection must be a specific objective of the new work programme, including:
 - a single EU hotline for child abuse images on the internet
 - common standards for tackling images of child sexual abuse on the internet and an "EU quality" seal for parental control software
 - interoperable national child alert mechanisms capable of concurrent EU-wide dissemination of alert messages to the public
 - arrangements to monitor and share information on sex offenders crossing borders including notifications for relevant authorities when known child sex offenders are moving or travelling to other Member States
 - sharing of criminal record information on those convicted of offences against children for the purposes of pre-employment checks and barring to ensure children are protected.
- The UK agrees with the Commission that Roma inclusion must be promoted. In particular, the programme must encourage Member States to mainstream work on problems relating to the Roma into the distribution of their existing EU Structural and Cohesion funds. It is important that the responsibilities of Member States in this area are underlined.

2.3. Protection of personal data and privacy

- The UK believes that information exchange is not an end in itself but a means of working towards providing greater public goods - in combating crime, in facilitating legitimate travel, in doing business abroad, and in managing identity.
- The UK welcomes proposals to establish a framework for future information exchange proposals by, and within, the EU. This must be accompanied by an evaluation of existing information exchange agreements. Effective data protection must be prerequisite for information sharing, along with transparency about the collection, retention, and use of personal information. We should demonstrate how the biometric capabilities across the JHA field can support improved data protection, thereby reducing the need for wider access to biographic data across different purposes and pillars.
- The UK would support a statement from the EU that clearly outlines the principles underpinning the cross-border use of personal information for the whole field of Justice and Home Affairs. Such a statement would help to provide citizens with a better understanding of how the EU will ensure that personal information can be used to the benefit of the public while respecting individual rights.

2.4. Participation in the democratic life of the Union

- The UK supports the Commission's proposal to hold the next European Elections in May, and agrees that Member States should enable citizens to take part in all stages of the voting procedure and register on the electoral roll. The UK would want to retain the current flexibility around the exact date to align with the electoral traditions and practical considerations in Member States.
- The UK considers encouragement to participate in democratic life to be a Member State competence, but would support a proposal to revisit the system under which citizens residing in another Member State can cast their European vote. We would like to see a simpler, speedier system, with bureaucracy kept to a minimum.

2.5. Entitlement to protection in non-member countries

- The UK shares the view of the Commission that the entitlement of unrepresented EU citizens in third countries to consular assistance from other Member States' missions should be effectively communicated. However, we do not agree that this entitlement is correctly described as a "fundamental right". Nor do we agree that its application is neglected. We see this not as an area for reform but as a case for further development, in the light of experience, of existing systems and practices. Further development of the lead State system is being taken forward by Member States. As regards the other two issues listed, the UK believes that a pragmatic approach on the basis of a commitment to co-operation and mutual support may be most effective at this stage.

3. Making peoples' lives easier: a Europe of law and justice

- The UK agrees that mutual recognition should continue to be the cornerstone of co-operation in justice, alongside the parallel principle of subsidiarity. The UK welcomes the recognition that the national legal traditions of all the Member States must be respected, with any legislative proposals reflecting this *ab initio*, and agrees that they should work together to develop and promote a European judicial area.

3.1. Furthering the implementation of mutual recognition

Civil matters

- In principle we support the abolition of exequatur in the area of civil judicial cooperation, although we believe that the implications, including how to retain suitable protection mechanisms, need to be considered on a case by case basis. We would be strongly opposed to creating an automatic link between the abolition of exequatur and harmonisation of conflict of law rules.
- We are unclear what the Commission envisages by a "code of judicial cooperation in civil matters". However we do see value in considering ways to overcome the fragmentation and incoherence of existing instruments. For example where different instruments have rules on the same issues, we should look to standardise such rules, wherever it is sensible to do so.
- We also believe that there should be better interaction between the recent Regulations creating a European Order for Payment and Small Claims procedures. Currently, a claimant who initiates a claim for less than €2000 under the European Order for Payment in the belief that it will be uncontested must initiate separate proceedings under the Small Claims Regulation if the debtor defends the claim. The case should move automatically.

Criminal matters

- The UK strongly supports the extension of mutual recognition to disqualifications, such as disqualification of certain sex offenders from working with children, and hopes that Member States will exchange information more systematically in this area in order to provide protection to EU citizens.

3.2. Strengthening mutual trust

- We support improved evaluation and implementation of existing instruments through the sharing of best practice and the work of the Civil European Judicial Network. However we should avoid any mechanisms which lead to judgements being made of the value of one legal system over another.
- We agree that promoting better understanding of the diversity of legal systems is important, although regard should be had for the practical implications and real costs of exchanges between judges and other legal professionals.

- We also agree with the encouragement of judicial training provided that judicial independence is fully respected. It should be recalled that in many countries, including the UK, judicial training is provided by the judges themselves, and not by the State.
- The UK believes in the effectiveness of twinning as an instrument by which Member States assist candidate and neighbourhood countries in upgrading their justice systems. It will continue to engage in twinning projects where it has the expertise to assist in achieving change, both unilaterally and in consortia with other member states.

3.3. Developing a core of common standards

Civil matters

- The EU has already agreed minimum standards on civil procedural matters in instruments such as the European Enforcement Order and the UK is prepared to consider how minimum standards in civil procedure can be developed further, subject to our comments on the need for coherence in legislation as mentioned under 3.1.
- We note the suggestion that minimum standards should be developed on the recognition of decisions on parental responsibility. The Commission made clear in a meeting of the Civil Law Committee that this was being suggested as a way to improve the operation of the Brussels IIa Regulation. If work is to be taken forward in this area we believe it should be part of the formal review of that Regulation. We also believe that this review should focus on enforcement issues. Evidence of need for change to address real problems in application should determine what, if any, legislative changes are consequently made.
- The Communication also makes reference to what the Commission believes is a current disparity of practice on the application of the law of another Member State. The UK has no difficulty with the application of foreign law in civil and commercial cases under Romes I and II. However the UK, along with a number of other Member States, considers that the application of foreign law in family cases is entirely a matter for Member States. Applicable law rules in the area of family law are generally unacceptable to the UK.

Criminal matters

- Action at EU level is one important way in which Member States can work together to tackle criminal matters such as terrorism, organised crime and attacks on the Union's financial interests, but action at other levels should not be discounted. Accordingly, the UK firmly disagrees with the Commission's observation that "only action at European level can deliver effective results". The EU can reinforce Member States' efforts in this regard, but the majority of operational counter terrorism work is carried out bilaterally or multilaterally, and this remains and must continue to remain within Member State competence.
- The UK recognises that there may be some benefit in Community level action in relation to some serious crimes in those cross-border cases where it is necessary, proportionate and respects the principle of subsidiarity. However the UK does not accept that there is any need for an alignment of substantive criminal law, or that there is any need for model penalties or offence provisions.

3.4. The benefits for citizens of a European judicial area

3.4.1. Providing easier access to justice

- The UK notes the Commission's suggestion that existing measures on legal aid need to be intensified. We would welcome EU level action that focuses on better implementation of Art 6(3) (c) of the ECHR by Member States. Such action would help ensure European citizens have adequate access to legal advice and representation wherever they are in the EU. The UK has the most generous system of legal aid, in

terms of cost, in Europe, and could not therefore contemplate any measure that extended our current obligations. With regard to civil law we do not believe there is any need to change or go further than the existing Directive.

- The UK is open to considering abolition of the formalities for legalisation of authentic documents and would welcome more details of the Commission's plans and the supporting evidence. We do not believe the case for a European authentic instrument has yet been made. If evidence supports work in this area, it must accord similar treatment to equivalent documents from non-notarial States, be subject to an impact assessment, and be compatible with the legal systems of all Member States.

3.4.2. Supporting economic activity

Enforcement

- One of the priorities of the Stockholm Programme should be work to make it easier for creditors to enforce cross-border civil judgments. Therefore we welcome the Commission's commitment to take forward work on the attachment of bank accounts and the transparency of debtor's assets. Indeed, we believe this could be just the start of work in this area. If evidence suggests the need for other measures these should be given priority in the new work programme.

Contract and business law

- The Commission's suggestions on contract law are not in line with the Council's conclusions on the Common Frame of Reference, and it is clear that there is little appetite in the Council for a 28th system of contract law. Therefore this should not be pursued. Instead, the creation of guidelines acting as a source of reference for Community lawmakers when drafting or reviewing legislation should be allowed to come to fruition.
- The UK does not recognise a need for the Community to become involved in the drafting of standard commercial contracts.
- With regard to regulation of business law, we would like further clarification from the Commission on what is suggested here as these issues might more appropriately be considered in the context of the Internal Market.
- If the reference to "transfer of claims" relates to a matter already partially covered by Rome I, then we would support further work in this area. We would welcome clarification from the Commission that this is what is intended.
- We presume that the convergence of national rules on insolvency procedures for banks refers to the Commission's work programme on early intervention and crisis management for ailing banks. We must reserve our position on this point until we have seen that work programme later this year.

3.5. Increasing the EU's international presence in the legal field

- Regarding external relations in the area of civil justice, the UK believes that primary consideration in recognition and enforcement of judgments should be given to multilateral agreements. This could be achieved through extension of the application of the new Lugano Convention and/or an agreement at the Hague Conference.
- In relation to service of documents and taking of evidence, the existing Hague Conventions represent the best international solutions. We must avoid separate bilateral agreements with different procedures wherever possible as these may create problems for practitioners. We do not believe the EC should enter into negotiations on bilateral agreements with third countries on recognition and enforcement of judgements when the third country cannot guarantee reciprocity of treatment in those areas.

4. A Europe that protects

4.1. Upgrading the tools for the job

4.1.1. Forging a common culture

- In principle, the UK supports the exchange of experiences and good practice in pursuit of greater mutual trust. We would like to hear more from the Commission about the practicalities of how training targets might be achieved.

4.1.2. Controlling the flow of information

- The UK supports the creation of a European Information model or Information Management Strategy. We must evaluate existing information exchange agreements and design an information exchange and data protection strategy to steer the direction of future proposals and avoid duplication of effort.
- The strategy must recognise the links between law enforcement cooperation, immigration, customs and judicial co-operation. It must also include data protection frameworks. We can no longer afford silo working.

4.1.3. Mobilising the necessary technological tools

New technologies

- We would like greater clarity on what is meant by “ICT **and services**” infrastructure, as there is no definition of “services” in the EPCIP Directive.

Information system architecture

- The Commission implies that there is a known problem to be fixed, whereas the real issue is that security preparedness and the resilience of critical infrastructure, including ICT infrastructures will need to keep pace with new technologies.

4.2. Effective policies

4.2.1. More effective European police cooperation

- We agree with the Commission that Europol has a key role to play in co-ordinating EU police cooperation, but, in common with the majority of Member States, we would have concerns over a proposal that it takes over CEPOL's activities, since much of this activity sits outside of Europol's remit.

4.2.2. A criminal justice system that serves to protect the public

- The UK supports efforts to improve judicial co-operation and accepts that new and improved MLA instruments should be explored. However, the UK considers that only instruments that demonstrably add real value to MLA should be introduced. We would ask the Commission to think carefully before repealing the 2000 MLA Convention, which we feel has worked extremely effectively. The UK would not object to the existing European Evidence Warrant and Freezing Orders Framework Decisions being replaced.
- Any further work on the EEW should avoid a ‘one size fits all’ approach to deadlines that could actually hamper wider judicial co-operation. In particular the UK believes that a more effective system should :
 - require executing authorities to set out a timeframe within which a request will be executed
 - make proper provision for central authorities
 - include proportionality as a ground of refusal
 - make the instrument available to the defence.

Defendants' Rights

- The UK supports plans to make a reality of high criminal procedural standards across the EU but believes that any action must be consistent with the European Convention on Human Rights, add value and produce real results. The UK supports the proposed

road map approach, which will ensure that progress is made in those areas where there is an identified need for change. We would like to see this approach enshrined in the Stockholm Programme.

Alternatives to prison

- Subject to the protection guaranteed by the ECHR and the European Prison Rules, the UK believes that penalties are a matter for Member States. We do not therefore consider that the case has been made for EU intervention in this area.

4.2.3. More secure access to the territory

4.2.3.1. Control and surveillance of borders

- The UK welcomes a role for Frontex in promoting collaborative working between the Member State border guard and customs authorities. However, should the coordination role for Frontex at the external borders of the EU be extended to the customs function as well as the border guard function – the ‘one stop shop’ - it will be important to ensure that the UK retains full control over customs matters which fall under national competence.
- The UK will seek to ensure that we work with the Commission on their entry/exit proposals as far as possible under current arrangements. We will explore the extent to which we are able to develop synergies with the proposals to ensure the greatest benefit and security for the travelling public.
- The UK agrees that the operational capabilities of Frontex should be strengthened and looks forward to receiving the Commission proposal to introduce further legislation to amend the Frontex Regulation early next year. We would like to see Frontex’s mandate extended to include the ability to process personal information gathered from joint operations for dissemination to Europol as this would allow more effective action against cross border crime.
- The UK supports the Agency’s role in the development of the European Border Surveillance System (Eurosur), as we believe increased border surveillance can benefit the security of the citizens of Europe by helping to counter terrorism, trafficking in persons, human smuggling and other cross border crime. Eurosur will also contribute to search and rescue operations, the identification of persons in need of international protection and the detection of illegal immigration.

4.2.3.3. Visa policy

- Although the UK does not participate in EU common visa policies and issuing of Schengen visas, and will not be bound by the visa facilitation agreements signed by the EU, we welcome moves by the EU to raise the standards of visa-issuing, including the assessment of individual risk. The UK believes that the usefulness of new and additional visa facilitation agreements should be assessed and evaluated before promoting their conclusion; or indeed, pursuing new agreements.

4.3. Common objectives

4.3.1. Fight against international organised crime

- The Stockholm Programme must create a new EU serious organised crime strategy for a more coherent and consistent EU approach to tackling organised crime. It should bring together the work of relevant EU bodies (e.g. Europol, Eurojust) and systems designed to support Member States in pursuing investigations into serious and organised crime (e.g. the Schengen Information System and PRÜM). The strategy should reflect the priorities of the Council (e.g. drugs, people trafficking) and include a focus on EU border countries.

Human trafficking

- The EU is a key player in the fight against trafficking. Even within the EU there are source, transit and destination countries. Measures on prevention, enforcement and victim support therefore need to be tailored to combating trafficking into, within and out of the EU.
- Prevention needs to cover all areas: from improving awareness amongst the public through to better detection by law enforcement and border control agencies. Greater co-operation amongst agencies will improve enforcement efforts. Victims must also be accorded appropriate protection where necessary, although we must recognise that being a victim of a serious crime such as trafficking should not provide an automatic route to a particular migration status. These measures need to be implemented in accordance with national legislation and international agreements.

Human Smuggling (Facilitated Illegal Entry)

- It is important to recognise that human trafficking is only one aspect of the much wider criminal industry of organised immigration crime. It is right to consider people smuggling in the wider context of illegal immigration, but it should be treated as a serious and organised crime in its own right, generating huge profits for criminals, placing vulnerable people at risk and undermining the security of Member States.

Sexual exploitation of children and child pornography

- Priority must be given to work to improve the exchange of criminal records to protect the public. Information about convicted offenders can often be used to prevent re-offending.
- The UK welcomes the Commission's proposals for better child protection arrangements and increasing co-operation between law enforcement and the private sector to tackle online child abuse. Activity relating to the misuse of communications technology must also consider those third countries that have greatest impact on the EU.
- The UK also recommends building on the child alert mechanism to explore the creation of an EU-wide child abduction taskforce. We share the commitment to encourage the participation of all Member States in establishing interoperable child abduction alert systems, to enable an alert to be launched simultaneously across member state borders.

Economic crime

- The inclusion of financial crime as one of the five key areas of organised crime to be targeted is welcomed, and the Government will seek to ensure that this and the work on mutual recognition embraces all forms of confiscation (including Non-Conviction Based Confiscation) and improved international co-operation in the confiscation field.

Drugs strategy

- The UK welcomes the recommended adherence to the EU Drugs Action Plan and the evaluation process as a basis for future cooperation. The Action Plan, which was agreed by the Council at the end of 2008, strikes the right balance between supply and demand, supported by international engagement, research and information. The UK considers it important that the approach to the drugs problem should adhere to a consistent programme, and the Drugs Action Plan provides this. At the same time, the commitment to base future action on evaluation of the Plan provides the necessary flexibility to adapt to changing and developing circumstances. The Commission proposal to include drug trafficking within a European organised crime policy fits well within the Drugs Action Plan.

4.3.2. Reducing the terrorist threat

- The UK believes that the Stockholm programme needs to recall the context of the ongoing international terrorist threat to Europe, the need to respond, and our aim of

remaining vigilant against terrorism, so people can go about their lives freely and with confidence. Providing security to our citizens is an essential responsibility of Member States and the European Union needs to demonstrate ongoing commitment to support that work by stepping up practical delivery of the EU's existing counter-terrorism strategy. In particular:

- We welcome inclusion of work on counter-radicalisation as one of the top priorities. This should include supporting exchange of best practice between Member States, including on working with and for communities, strategic communications and broader practical co-operation.
- We believe continued EU level action on countering terrorist use of the internet should be based on implementation of the findings from the existing work, due to be released in September 2009. The current language used does not reflect sensitivities in this field.
- We would welcome more information on transparency/responsibility of charitable organisations, and would also welcome more detailed text on EU level co-operation to counter terrorist financing.
- The UK agrees that the Information Communications and Technology sector should be the next sector to be considered for inclusion within the European Programme for Critical Infrastructure Protection (EPCIP), Directive. However, the EU should not make any commitments on extension of the Directive to other infrastructure sectors until implementation in the transport and energy sectors has been properly evaluated.
- The UK would welcome a clearer reference to implementation of the Chemical, Biological, Radiological and Nuclear (CBRN) Action Plan. The UK supports implementation of the EU Action Plan on Explosives, but does not believe the EU should pre-empt the outcome of the ongoing Impact Assessment on potential legislative and non-legislative restrictions on chemical precursors to explosives.

5. Promoting a more integrated society: a Europe that displays responsibility and solidarity in immigration and asylum matters

- The UK strongly agrees with the Commission that the Stockholm Programme should reflect the priorities set out in the Migration Pact, and agrees with the importance of solidarity towards those Member States most exposed to migratory pressures.

5.1. A dynamic immigration policy

5.1.1. Consolidating a global approach

- The UK welcomes the call for migration to form an integral part of the Union's external activities and for cooperation with third countries to be increased. In particular
 - The UK emphasises the need for EU measures on migration policy to be evidence-based.
 - The UK would welcome further discussion on building the links between migration and development, with emphasis on partnership and responsibility, focussing on voluntary return and reintegration and practical cooperation with third countries to tackle illegal immigration and people trafficking.

5.1.2. A concerted policy in keeping with labour-market requirements

- The UK supports the establishment of a monitoring function to analyse and understand migration issues. Such a function might build on the current role of the European Migration Network (EMN) and its National Contact Points (NCPs). The analysis and understanding of migration issues should build on existing mechanisms for the provision of migration information and analysis and avoid duplicating existing mechanisms.

5.1.3. A proactive policy based on a European status for legal immigrants

- The UK welcomes initiatives to improve co-ordination and the exchange of good practice based on the Framework of the Common Basic Principles and will continue to support the development of EU modules that improve the integration process. We would favour enhancement of the relationship between the National Integration Contact Points Network and the Integration Forum as the most cost-effective way of achieving the EU objectives on integration.

5.1.4. Better controls on illegal immigration

- The UK welcomes the call for increased operational co-operation between Member States in the field of returns and recalls the Migration Pact's strong emphasis on returning those with no right to stay in the EU. Member States should work together through joint returns flights and on issues such as re-documentation and Assisted Voluntary Return. The EU should use its full political weight to secure returns and readmission arrangements with key source countries. However, the UK does not see added value in a common EU approach to individuals illegally in the EU who cannot be returned. Such an approach could easily become a pull factor for the nationalities involved.
- The UK welcomes an Action Plan on unaccompanied minors, and supports a focus on this issue. An Action Plan should be preceded by a thorough analysis of unaccompanied minors and the problems they present for Member States, including the impact on social care, educational and administrative resources. The UK strongly supports greater cooperation on preventative measures and the facilitation of minors' return with their countries of origin.

5.2. Asylum: a common area of protection and solidarity

5.2.1. A single area of protection

- The UK believes the focus should be on the full implementation of the existing asylum *acquis* by Member States. This should focus on addressing the disparities in consideration of asylum claims across the Union and on reducing secondary movements of asylum seekers and illegal immigrants. To that end we support the creation of a European Asylum Support Office, in order to promote practical cooperation between Member States. We should not prejudge the outcome of the proposed review of the Office. We remain firmly opposed to giving the Support Office decision making powers on individual applications.
- The UK is opposed to the mutual recognition of decisions to grant protection if this is intended to provide freedom of movement for recognised refugees within the Union prior to obtaining citizenship.
- Finally on the asylum proposals, we have concerns about the concept of issuing humanitarian visas at an EU level, as this may undermine the robustness of visa issuing processes.

5.2.2. Sharing of responsibilities and solidarity between the Member States

- The UK is fully committed to a European response based on solidarity and shared responsibility, but remains opposed to a mandatory coordination mechanism for internal relocation within the EU. The UK believes that this is not a sustainable solution to particular migratory pressures and indeed may exacerbate them. The UK believes the priorities should be greater practical co-operation and support to those countries most affected in particular in the field of returns; providing practical assistance to states under pressure; stronger border controls; work with source and transit countries, and increased EC financial assistance. These should call on the relevant Community bodies such as Frontex, EASO and Europol.

- The UK believes that the determination of asylum applications should be compatible with Member States responsibilities as set out in Refugee Convention and in the Dublin Regulations. However, we are opposed to the joint processing of asylum applications outside of the Union.

5.2.3. *Solidarity with non-member countries*

- Our primary objective should be to remove the need for persons to seek international protection. Where this is impossible, we should seek to provide protection as close to home as possible and to provide durable solutions for those facing protracted refugee situations. Therefore
 - The UK supports further engagement with non-member countries confronted with large flows of refugees and displaced persons and agrees that the provision of protection to those with a genuine need and adherence to *non-refoulement* should be a priority.
 - The UK supports a strategic coordinated approach to resettlement schemes and Community regional protection programmes in partnership with the United Nations High Commission for Refugees. This work should be informed by and build on previous experience in these areas and should not become external asylum processing centres.