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Meeting Note

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Ideally, would prefer a “**pre-Lisbon**” world.

- not content with new role for the EP in PCJ regulations. If at all it should just be done inter-governmentally.
- EP tend to hold a civil liberties bias in PCJ arguments – with the subsequent costs falling to national governments. (While the Commission is more neutral on security matters).
- The UK should have a unique relationship with the EU – the post-Lisbon opt-in arrangements recognises this. Our legal traditions put us into an inevitable minority so the UK will always be outnumbered. If we use the opt-in at all it should always take place post-adoption and efforts to shape the proposal should take place from this position.

The **ECJ issue** is the crucial issue for Open Europe.

- The opt-in mechanism gives us some flexibility however we should additionally be able to opt back out at a later date since the ECJ and subsequent case law could take a regulation/directive in directions that are not in UK interests. Currently the UK's opt-in decisions may be “cautious” and skewed due to a “rational fear” at what take the ECJ may take on it. The current approach risks lacking coherence precisely because there is so much perceived political and legal risk in handing power to the ECJ.
- The UK should be able to elect if a measure is to be subject to the ECJ where it applies to the UK

The role of the ECJ on raising standards is potentially positive, but any benefits are outweighed by the risks to our legal systems that could come from its interpretations.

- There are other methods that can be used to raise standards across all Member States such as peer reviews or peer pressure would work similarly without the need for the ECJ. We should allow all Member States the freedom to make their own mistakes.
- This type of approach is in contrast to the Brussels wish for increased centralisation and harmonisation (“one size fits all”).

There is **different types of EU action** - “political vs need”

- Political action which might include something like extradition, and cooperation measures such as the EU-US PNR where there is a need for action. But these can and should be delivered bi-laterally.
- The cooperation aspect is acceptable, it makes sense on an operational level. Policy cycle provides useful guidance at a practical level. There is generally no problem with co-operation the point is not to have control from Brussels.

**“EU obsession with legislation for legislation’s sake”**

- There is a sense of the “cart before the horse” a lot of the time.
- The drivers for regulation should be a problem in need of solution. Too often EU legislation is passed with the hope that it will be helpful/utilised.

- And this is compounded by further impositions such as Framework Decisions where things haven't had time to prove their efficacy or even been implemented yet.

Overall, the EU should be limited to an arena for **practical cooperation on PCJ matters**. Cooperation not control.