BUSINESS for BRITAIN

Measuring Britain's influence in the Council of Ministers

BfB Briefing Note 3

One argument against Britain seeking a substantial renegotiation of its relationship with the EU is that we don't want to jeopardise or compromise our position at the EU's 'top table'. In reality it is very hard to determine how much influence Britain has in the main bodies of the EU – much of Brussels' key decision-making takes place out of the public eye and stories about Britain's lobbying successes are anecdotal at best. A more accurate measure of Britain's influence is to consider the number of times that UK ministers have voted against proposals in the Council of Ministers (also known as the Council of the European Union), and whether those objections have been taken on board or dismissed.

Using EU documents seen for the first time and received by Freedom of Information request (FOI), Business for Britain has analysed every single vote in the Council of Ministers that has been made available since records began in 1996, which demonstrate how the current system prevents the UK from effectively blocking EU laws considered against our national interest.

Our research finds:

- Since records began, the UK has not managed to prevent a single proposal placed in front of the Council from becoming European law. **This amounts to 55 measures that the UK has opposed, since 1996, but have gone on to become British law**.

- The UK's representation in all of the EU's bodies has declined dramatically. **Since 1973 the UK's voting power in the Council of Ministers has decreased from 17% to 8%, in the European Parliament it has decreased from 20% to 9.5% and in the European Commission it has decreased from 15% to 4%**.

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Background

Today most laws enacted by the European Union are decided via a process known as the "ordinary legislative procedure" (also called "co-decision") where proposals from the European Commission have to be approved by both the Council of the European Union and the European Parliament (although there are some areas on which only the Council will vote e.g. internal market exemptions). This makes the Council of Ministers, arguably, the most important body in the EU. It is required to vote on new legislation and is the only body in which the member states are formally represented (rather than individual constituencies) – making it the organisation which allows national governments to say if they support or oppose European laws and to vote accordingly.

For many years the Council of Ministers worked on the basis of unanimity in many policy areas, whereby a state could effectively veto a law that they opposed. However successive treaties have replaced this with Qualified Majority Voting (QMV) in different policy areas, meaning that member states can no longer unilaterally oppose measures. Each major Treaty change has increased the number of areas decided under QMV; in the Lisbon Treaty alone 68 articles were moved to QMV.

Today, under QMV, in order to block a proposal Britain needs to be able to form a blocking minority via 91 votes out of the total 352 (or 38% of EU population).[1] The theory is that Britain, as a leading power in the EU, can make alliances with other countries to block harmful European laws. Our research, however, shows that in practice the current system is failing the UK badly – and that **every single time the UK has tried to block a law it opposes in the Council of Ministers that law has been introduced anyway**.[2]

As our research below demonstrates, Britain's ability to block bad European laws has diminished in the other key institutions as more countries have joined the EU. With each new accession the percentage of votes accounted for by UK representatives has fallen.

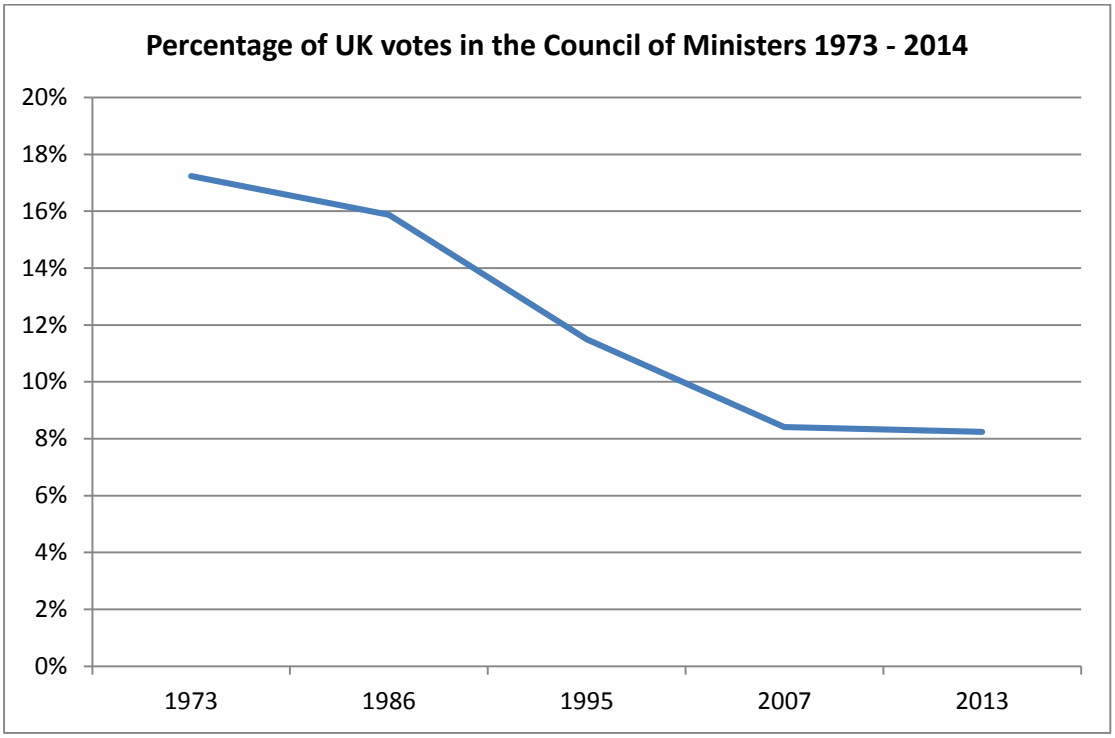
Recent changes have brought to the fore the problems that come from Britain having little voting power. New voting weights being introduced in 2014 will mean that the Eurozone countries will have an inbuilt permanent majority under QMV. This was deemed such a serious problem that Chancellor George Osborne demanded that UK's interests were protected via the introduction of a "double majority lock" in the European Banking Authority (EBA). This new system required Eurozone countries and the non-Eurozone countries to vote separately and for both to give their support for any new proposal. This gives the UK a much greater voting weight and hence improves its ability to block legislation that is not in Britain's national interests.

[1] Information provided by the Europa website found at <http://europa.eu/legislation_summaries/glossary/weighting_votes_council_en.htm>

[2] This is based on analysis of every vote the Council has released so far from 1996. The Council has released information on all votes individually since 2006. Information from 1996 – 2005 has only been released in the form of monthly summaries; however these appear to account for all votes in the Council during the same period.

Britain's declining influence

This failure to block harmful laws can better be understood if one looks at the voting weights in the Council, which show that the UK's influence has been steadily declining as new member states have joined the EU and new voting weightings have been introduced. **Between 1973 and 2014 the UK's voting power in the Council of Ministers decreased from 17% to 8%.**[3] With more and more decisions being taken by Qualified Majority Voting (QMV) this decline of power has severely reduced Britain's ability to have a say in the Council over decisions that affect our national interest.



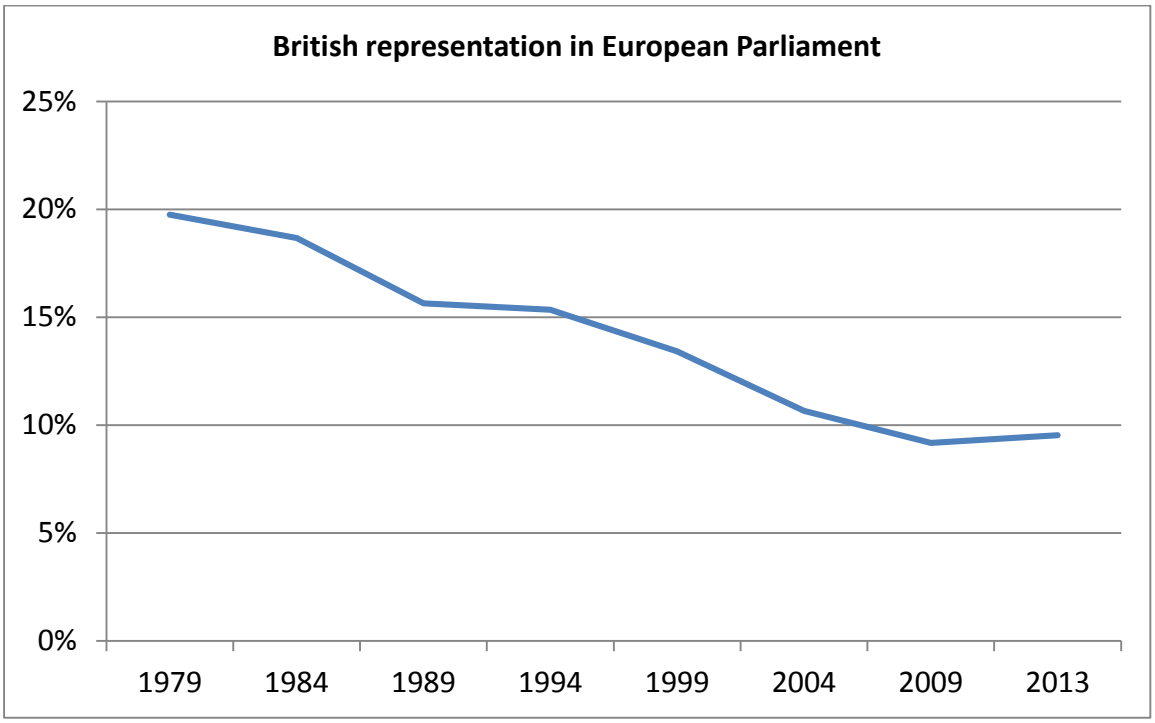
Year	UK votes	Total votes	Percentage
1973	10	58	17.2%
1986	10	63	15.9%
1995	10	87	11.5%
2007	29	345	8.4%
2013	29	352	8.2%

While the voting weights are going to change again in October 2014 (when the UK is estimated to get around 12% of the vote), it is important to note that the former voting weights can still

3 Historic information on QMV weightings can be found in Czech Economic Review 2 (2008) p. 76 – 96, found at <http://www.ceeol.com/aspx/getdocument.aspx?logid=5&id=71bfb6dafb11481dafaf7a42ade74123> Current voting weights can be found at <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/qualifiedmajorityvoting.htm >Future voting weights can be found at <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/137537.pdf>

be used and that the changed definition of a "qualified majority" also gives the Eurozone countries a permanent majority.[4]

Britain's declining influence isn't limited to the Council. In 1979 Britain had 20% of seats in the European Parliament. Today we only have 9.5%. While the number of MEPs has nearly doubled in 40 years, the number of UK MEPs has actually fallen.[5]



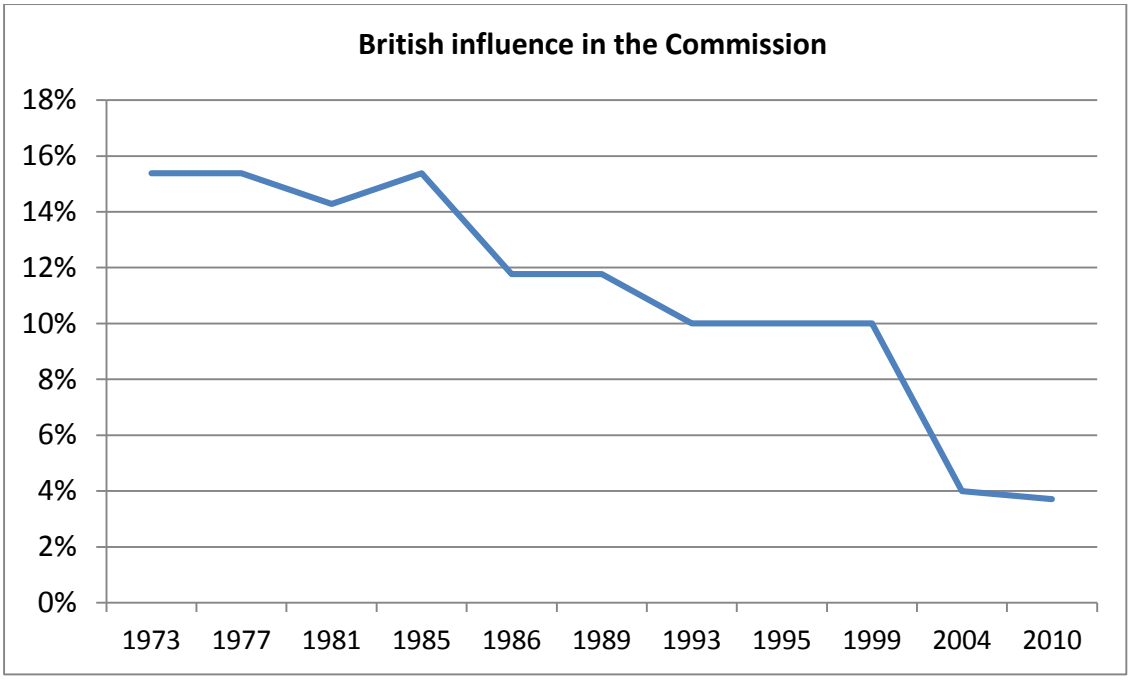
Year	Number of UK seats	Total number of seats	Percentage
1979	81	410	19.8%
1984	81	434	18.7%
1989	81	518	15.6%
1994	87	567	15.3%
1999	87	626	13.9%
2004	78	732	10.7%
2009	72	736	9.2%
2014	73	766	9.5%

There has also been an even more noticeable decrease in the percentage of British Commissioners. In 1973, 15% of European Commissioners were British. Today only 4% are

[4] Found at <http://www.openeurope.org.uk/Content/Documents/PDFs/EBAsafeguards.pdf>

[5] Historic information on European elections can be found in the following House of Commons briefing notes: Research Paper 99/57 European Parliament Elections 1979 - 1994 (2 June 1999) found at <http://www.parliament.uk/briefing-papers/RP99-57.pdf>, Research Paper 08/12 Election Statistics UK 1918 – 2007 (1 February 2009) found at <http://www.parliament.uk/documents/commons/lib/research/rp2008/rp08-012.pdf>, Research Paper 09/53 European Parliament Elections 2009 (17 June 2009) found at <http://www.parliament.uk/briefing-papers/RP09-53.pdf>. Information on current situation can be found at <http://www.europarl.europa.eu/us/en/elections_2014.html;jsessionid=B325D8B4821E92930998576CD141F38E>

from the UK. Britain used to have two of thirteen Commissioners in Brussels. Today we only have one in twenty-eight.[6]



Year	British Commissioners	European Commissioners	Percentage
1973	2	13	15.4%
1977	2	13	15.4%
1981	2	14	14.3%
1985	2	13	15.4%
1986	2	17	11.8%
1989	2	17	11.8%
1993	2	20	10.0%
1995	2	20	10.0%
1999	2	20	10.0%
2004	1	25	4.0%
2010	1	27	3.7%
2013	1	28	3.6%

In addition, the House of Commons Foreign Affairs Committee has also has also warned that "the UK faces a serious problem with respect to its declining representation among EU staff"[7] and pointed out that the number of UK nationals on the staff of the European Commission

[6] Historic information on European Commissions can be found in the University of Pittsburgh's Archive of European Integration, found at <http://aei.pitt.edu/1535/1/Commission_list.pdf>, contemporary information can be found on the European Commission's website, found at < http://ec.europa.eu/archives/commission_2004-2009/index_en.htm> and <http://ec.europa.eu/commission_2010-2014/members/index_en.htm>

[7] House of Commons Foreign Affairs Committee, The UK staff presence in the EU institutions, found at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmfaff/219/219.pdf>

has fallen by 24% in seven years and now stands at 4.6% of total staff (compared to 9.7% for France).

Solutions

There have been a number of viable proposals put forward for how Britain could reverse the gradual decline of influence and secure greater powers to block harmful EU laws.

1. Red card

The first proposal is for a "red card" system which would allow groups of national parliaments to join together and veto new European laws, as proposed by the Fresh Start Group.[8] This could either compliment the current legislative process, allowing groups of national parliaments to issue a demand to the Commission that it withdraw a proposal or, possibly, allow groups of national parliaments to demand the repeal of existing European law.

2. Double majority voting in the Council

Another option is expanding Chancellor George Osborne's new double majority voting system and introducing it in other institutions beyond the European Banking Authority (EBA); namely the Council of Ministers (such a change would almost certainly need to be enshrined in the Treaties). This would mean that when certain proposals are voted on in the Council then two separate votes would take place – one of the Eurozone members and one of the non-Eurozone members. Both parties would have to vote in approval for the measure to be adopted.

3. Restoring unanimity

A third option is to return a number of policy areas to unanimity voting in the Council of Ministers. Such a policy would undo some of the most contentious points of the Lisbon, Nice and Maastricht Treaties. An alternative suggestion has been put forward by the European Scrutiny Committee who have proposed that the House of Commons should have the right to veto new European laws applying in the UK and to disapply existing parts of the Acquis Communautaire (this would require an amendment to the European Communities Act 1972).[9]

All of these options have their own advantages and drawbacks. All would probably require Treaty change to be fully effective – but it is clear that they all take substantial steps to address the justifiable concerns that the UK cannot currently block harmful EU legislation.

Sources and Methodology

In order to work out how much power the UK has in the EU, Business for Britain undertook original research to investigate the ability of the UK to block harmful laws in the Council and the British representation in the other decision making bodies of the EU. The Research Team did this by going through all publically available Council information and highlighting proposals made in the Council of Ministers which the UK opposed. They then investigated to

[8] Fresh Start, *Mandate for Reform,* p. 6 found at <http://www.eufreshstart.org/downloads/mandateforreform.pdf>
[9] House of Commons European Scrutiny Committee, *Reforming the European Scrutiny System in the House of Commons,* House of Commons, London, 2013, p.97

see how many of these laws the UK was able to block. All facts and figures were found by using official European Union information and various academic resources. Freedom of Information requests to the Council of the European Union provided historic voting information from between 1996 (the year votes started being recorded) and 1999. Records of public votes and Council activity were also analysed to build up a collection of all publically available voting records between 1 January 1996 and 28 February 2014. It should be noted that the Council has failed to make information on some votes available (for example there is no accessible record for how governments voted in the 1970s, 1980s and early 1990s), this method however gave the Business of Britain research team a list of all votes that the Council has made accessible to the public.

While national governments usually try and stop proposals that they don't like from ever reaching the Council of the European Union, usually via working groups or via the Committee of Permanent Representatives (COREPER), there is no consistent source of information available for us to analyse such informal influence (COREPER doesn't formally vote). What this research does instead is look at how much influence the UK has once a vote in the Council actually takes place. This gives an accurate depiction of the UK's influence in the formal structures of the EU.

Our investigation showed that there were serious shortcomings with the status quo. The UK has, so far, failed to block even one law in the Council of the European Union from being voted through and becoming law. It also showed that Britain's representation in the key bodies of the European Union has declined dramatically since joining in 1973.

The Council of the European Union meets in public when voting on legislative acts. The results of public votes from 1999 to 2014 are provided on the Council's website either as summaries of individual votes or as part of a summary of the month's activities. Taken with the information secured via FOI, each vote was analysed to see if i) The UK had voted against the proposal and, if so, then ii) if the Council had still voted for the law anyway. The Research Team did not count votes in which the UK abstained.[10]

In the vast majority of instances the proposal put before the Council of the European Union is approved and placed in the Official Journal of the European Union (for the more recent votes the decision of the Council hasn't yet made it into the Journal). British officials from COPRER have told MPs that COREPER often supported voting for a proposal even if it wasn't deemed in the UK's interests. This is done in order to prevent the UK being seen as isolated, trying to make some changes to the measure if possible.[11]

This tradition of putting an image of European consensus above voting in the national interest clearly undermines the ability of national governments to block harmful laws in the Council of the European Union. It has also done nothing to help secure the British more influence as, despite voting in favour in the vast majority of instances, we have not once been able to block

[10] It was decided not to count abstentions as while under QMV, abstentions count as no-votes, they count as yes-votes under different types of votes. It was noted that for all the votes in which the UK abstained the measure was still passed.
[11] House of Commons Library Standard Note SN/IA/6646, *Voting Behaviour in the EU Council,* 23 May 2013, found at <www.parliament.uk/briefing-papers/SN06646.pdf>

a single law – especially as we have opposed less than 2% of the proposals placed before the Council of the European Union.

UK voting record in the Council 1996 - 2014

UK votes	Total votes	Percentage of votes
"Yes"	2800	94.4%
"No"	55	1.9%
Abstained	62	2.1%
Not participated	38	1.3%
Information not available	9	0.3%

We also do not provide a judgement as to whether the decisions cited below were in the UK's interest; however we do note that simply by voting 'no' this suggests that it was clearly felt by the British Government that these policies were not in the national interest and therefore should be opposed. Considering the fact that UK officials have stated that they usually vote for measures even if they disagree with them, the fact the UK was voting against does indicate the British Government's opposition. The UK may later change its attitude on certain policies and later support measures, but it is clear that for each of these votes the UK failed to prevent the measure passing through the Council.

Table 1: Measures that the UK opposed in the Council of Ministers, March 1996 – March 2014

No.	Date	Title of Measure	Countries voting no	Passed?
1	29/03/1996	Council Directive amending Commission Directive 94/54/EC concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Council Directive 79/112/EEC	Germany, UK	Yes
2	29/04/1996	Council Directive concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC	UK	Yes
3	03/06/1996	Council Directive on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway	UK	Yes
4	27/06/1996	Council Regulation laying down for 1996 certain conservation and management measures for fishery resources in the Convention Area as defined in the Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries	Ireland, UK	Yes
5	22/07/1996	Directive of the European Parliament and of the Council amending Council Directive 80/777/EEC on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters	Denmark, Sweden, UK	Yes
6	24/09/1996	Directive of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services	UK	Yes
7	09/12/1996	Council Decision on inter-administration telematic networks for statistics relating to the trading of goods between Member States (EDICOM)	Germany, UK	Yes
8	17/03/1997	Council Directive amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine	Germany, Sweden, UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
9	22/04/1997	Council Regulation amending, for the second time, Regulation (EC) No 390/97 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1997 and certain conditions under which they may be fished	Portugal, UK	Yes
10	26/06/1997	Council Decision concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation (MAGP IV)	France, UK	Yes
11	22/07/1997	Council Regulation amending Regulation (EEC) No 1696/71 on the common organization of the market in hops	France, UK	Yes
12	20/10/1997	Council Regulation amending Regulation (EEC) No 822/87 on the common organization of the market in wine	UK	Yes
13	11/12/1997	Council Regulation laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State	UK	Yes
14	16/12/1997	Council Regulation amending Regulation (EEC) No 338/91 determining the Community standard quality of fresh or chilled sheep carcases and Regulation (EEC) No 2137/92 concerning the Community scale for the classification of carcases of ovine animals and determining the Community standard quality of fresh or chilled sheep carcases	UK	Yes
15	16/02/1998	Council Regulation on additional animal protection standards applicable to road vehicles used for the carriage of livestock on journeys exceeding eight hours	Denmark, Sweden, UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
16	18/05/1998	Council Regulation amending Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff and autonomously according a temporary partial suspension from customs duties for certain gas turbines	Italy, UK	Yes
17	19/06/2000	Council Regulations 60/00, 61/00 fixing certain sugar prices and the standard quality of beet for the 2000/2001 marketing year	Slovakia, UK	Yes
18	04/12/2000	Council Regulation amending Regulation (EC) No 2200/96 on the common organisation of the market in fruit and vegetables, Regulation (EC) No 2201/96 on the commonorganisation of the market in processed fruit and vegetables and Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits	Denmark, Netherlands, Sweden, UK	Yes
19	29/01/2001	Council Regulation amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas	UK	Yes
20	19/12/2001	Directive of the European Parliament and of the Council amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs and repealing Commission Directive 91/357/EEC	UK	Yes
21	27/06/2002	Council Regulation concerning a temporary defensive mechanism to shipbuilding	UK	Yes
22	27/03/2003	Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products	Germany, UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
23	03/06/2003	Decision of the European Parliament and of the Council on computerising the movement and surveillance of excisable products	Ireland, UK	Yes
24	22/07/2003	Regulation of the European Parliament and of the Council concerning traceability and labelling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC	Denmark, Luxembourg, UK	Yes
25	22/07/2003	Regulation of the European Parliament and of the Council on genetically modified food and feed	Austria, Denmark, Luxembourg, UK	Yes
26	26/01/2004	Regulation of the European Parliament and of the Council establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91	Ireland, UK	Yes
27	28/02/2005	Council Regulation amending Regulation (EC) No 2007/2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process	Malta, Slovenia, UK	Yes
28	07/05/07	Proposal for a Decision of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008-2013 as part of the General programme "Solidarity and Management of Migration Flows" (LA) (First Reading)	UK	Yes
29	07/05/07	Proposal for a Decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the	UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
		General programme "Solidarity and Management of Migration Flows" (LA) (First Reading)		
30	23/05/07	Proposal for a Decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" (LA) (First Reading)	UK	Yes
31	23/05/07	Proposal for a Decision of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008-2013 as part of the General programme "Solidarity and Management of Migration Flows" (LA) (First Reading)	UK	Yes
32	30/05/07	Proposal for a Regulation of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (LA+S) (First reading)	UK	Yes
33	24/09/2009	Proposal for a Regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (LA) (Second reading)	UK	Yes
34	14/12/2010	Proposal for a Regulation of the Council amending Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories (first reading)	UK	Yes
35	17/05/2011	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011 (First reading) (LA)	Portugal, UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
36	12/09/2011	Proposal for a Regulation of the European Parliament and of the Council establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice [First reading]	UK	Yes
37	27/10/2011	Amended draft amending budget No 5 for 2011 3121st meeting of the Council of the European Union (JUSTICE and HOME AFFAIRS)	UK	Yes
38	30/11/2011	Draft amending budget No 6 to the general budget for 2011 - General statement of revenue - Statement of expenditure by Section - Section III - Commission	Netherlands, UK	Yes
39	14/02/2012	Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1290/2005 and Council Regulation (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union	Denmark, Sweden, UK	Yes
40	09/03/2012	Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC	UK	Yes
41	26/07/2012	Draft budget of the European Union for the financial year 2013 - Council position	Netherlands, Sweden, UK	Yes
42	08/10/2012	Voting result Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency [First reading]	UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
43	21/11/2012	Draft amending budget No 5 to the general budget for 2012 - General statement of revenue - Statement of expenditure by Section - Section III	Netherlands, Sweden, UK	Yes
44	10/12/2012	Draft amending budget No 6 to the general budget for 2012	Denmark, Netherlands, Sweden, UK	Yes
45	12/12/2012	New draft budget of the European Union for the financial year 2013- Council position 3207th meeting of the COUNCIL OF THE EUROPEAN UNION	Austria, Netherlands, Sweden, UK	Yes
46	26/02/2013	Regulation of the European Parliament and of the Council laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 [First reading] (LA + S) - Adoption of the legislative act	Sweden, UK	Yes
47	24/06/2013	Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC	UK	Yes
48	24/06/2013	Regulation of the European Parliament and of the Council on prudential requirements for the credit institutions and investment firms and amending Regulation (EU) No 648/2012	UK	Yes

No.	Date	Title of Measure	Countries voting no	Passed?
49	10/07/2013	Draft amending budget No 2 to the general budget 2013: General statement of revenue - Statement of expenditure by section - Section III - Commission	Denmark, Finland, Netherlands, Sweden, UK	Yes
50	15/07/2013	Draft amending budget No 5 to the general budget for 2013 – Adoption of the Council's position	Netherlands, Sweden, UK	Yes
51	10/10/2013	Regulation of the European Parliament and of the Council amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union	Austria, Czech Republic, Denmark, Netherlands, UK	Yes
52	20/11/2013	Voting result Amended draft amending budget No 9 to the general budget for 2013 - Council's position 3274th meeting of the COUNCIL OF THE EUROPEAN UNION	Denmark, Netherlands, Sweden, UK	Yes
53	20/11/2013	General budget of the European Union for the financial year 2014 - Approval of the Conciliation Committee joint text	Denmark, Netherlands, Sweden, UK	Yes[12]
54	19/12/2013	Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014-2020)	Germany, UK	Yes
55	11/02/2014	Regulation of the European Parliament and of the Council establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC	UK	Yes[13]

[12] On 1 March 2014 this has not yet been entered into the Official Journal of the European Union
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