

Home Affairs Committee

Oral evidence: [UK-EU security co-operation](#), HC 1087

Monday 21 December 2020

Ordered by the House of Commons to be published on 21 December 2020.

[Watch the meeting](#)

Members present: Yvette Cooper (Chair); Ms Diane Abbott; Tim Loughton; Stuart C. McDonald.

Questions 96-180

Witnesses

I: Rt Hon. James Brokenshire MP, Minister for Security, Home Office, Chris Jones, Director, Europe, Home Office, and Paul Lincoln, Director General, Border Force.

Examination of witnesses

Witnesses: James Brokenshire, Chris Jones and Paul Lincoln.

Q96 Chair: Welcome to this evidence session of the Home Affairs Committee inquiring into future security co-operation with the European Union from 1 January. We are grateful to have with us the right hon. James Brokenshire, the Minister for Security at the Home Office; Paul Lincoln, the director-general of Border Force; and Chris Jones, the director for Europe at the Home Office.

May I begin by asking you about the current emergency situation as a result of the border closures? Will you tell us what the latest is and what the implications are for Border Force?

James Brokenshire: Thank you, Chair, for the opportunity to give evidence this afternoon. As you will have heard from the Transport Secretary, we are working closely with the Kent resilience forum, Kent County Council and Highways England on various contingency measures. Operation Stack on the M20 has been activated to queue lorries travelling towards the continent to avoid causing gridlock across Kent's roads, and the site at Manston airfield is being readied should it be needed to hold traffic for the port of Dover.

The Kent resilience forum will deploy its driver welfare plan, should that be required if the queues build significantly in intensity. The forum will move quickly to deploy water, medicine, warmth and sanitation. As you will be aware, Chair, the Prime Minister will chair Cobra this afternoon to discuss the situation.

We note that the French Transport Minister has said that the French will establish a solid health protocol in the next few hours, to ensure that movement from the UK can resume. Obviously, we are working very closely with the French authorities to get this resolved. Unaccompanied freight is still continuing. Paul Lincoln of Border Force might also be able to offer a direct operational insight on current Border Force work and how we are managing some of those immediate questions for our operations as well.

Paul Lincoln: To build on what the Minister just said, effectively Border Force operations continue without any disruption to what we have done before. The French have continued to allow us to deploy to the juxtaposed controls. This was a situation that we had anticipated—that there might be some disruption at some point during the course of proceedings—and we have had contingency plans in place for some time.

We are alive to the risk that there might be queuing lorries in France and that that might have a displacement effect for illegal migration. As part of our wider contingency plans we have already upped the number of dog teams and the like that we have there, and I have had reassurance from the French this morning that they are also alive to this risk, and they

continue to deploy, as you would expect, police aux frontières to tackle the illegal migration risk as part of that.

I should also say that if people are concerned about vaccine importation, that is continuing as planned. I will not say where or at what time, but we have today processed vaccines into this country as planned before, so that continues.

- Q97 **Chair:** There are some reports of the protocol, Minister, that you referred to, which includes a requirement to test drivers. Do you have locations where you can operate lateral flow tests, PCR tests or other kinds of arrangements that you might need for people who don't currently have a negative PCR certificate?

James Brokenshire: These are clearly matters of detail for Kent resilience fora and the DfT that will no doubt be discussed at the Cobra session later this afternoon. Unfortunately, I cannot offer you further details as yet. If needed, those are likely to be operated by other Government Departments, but obviously this is a moving situation. We are and will remain in close contact with the French Government and authorities as they set out any further requirements to get the flow of freight moving. I think there is a recognition of a shared interest and a shared need to resolve this. Some of the operational aspects will no doubt become apparent later but, as Paul Lincoln has indicated, we are used to having queues from time to time at the border because of various different issues, whether they are weather or strike-related, that impact on the short straits and therefore the well-rehearsed plans that Paul Lincoln indicated in terms of how we deal with this, but discussions are continuing with the French Government, and I am sure the Prime Minister will have more to say on this later today.

- Q98 **Chair:** Does this mean that if testing is required, you do not envisage Border Force playing a role either in the operation of that or in the assessment of compliance? Border Force's role normally, whether it is on behalf of Customs or itself, is the compliance check. Does this mean you are not expecting Border Force to play a role in any compliance check?

James Brokenshire: I think it is too early to speculate. As I say, we are still waiting to hear from the French Government as to the detail of any specific requirements and how that would be operationalised if required. The focus is clearly on ensuring that we can get the flow of freight moving as quickly as possible. Obviously, it is a positive to have the discussions with the French authorities that are taking place as we speak. As you have heard from Paul Lincoln of Border Force, we are very conscious as to what this means for our workforce and the wellbeing of our staff and support for them. That will be factored into any operations that might be needed.

- Q99 **Chair:** Mr Lincoln, you referred to contingency planning having been done. Were contingency plans in place exactly for an event like this: a closure of the border for some other reason in the run-up to 1 January?

Paul Lincoln: I would not put it quite in those terms, but what I would say is that the Government published earlier this year a reasonable worst-



HOUSE OF COMMONS

case scenario for potential disruption at the border. We have planned against that scenario, so this is well within the constraints that we would have expected to have to operate. Of course, as the Minister said, there have been numerous occasions over the past few years where unfortunately there have been blockages for a variety of different reasons, so our plans here are well rehearsed.

Q100 Chair: My understanding of the reasonable worst-case scenario is that it does not include the high-end, low-likelihood events such as the complete closure of the border just 10 days in advance of new arrangements coming into place. Perhaps you can confirm whether it does. Is it your assessment, then, that the impact of this does not take us beyond the reasonable worst-case scenario that the Government had assessed, or is this beyond that reasonable worst-case scenario, because it kind of looks like it is?

Paul Lincoln: We will go back to what the Government published previously, which was up to 7,000 lorries for up to two to three days for a period of up to three months. We are capable—collectively, in government—of dealing with that scenario. In the last 24 to 48 hours, we have responded to the situation as we have seen it. The position that the French have put so far is that this is for a period of 48 hours and is under review. As the Minister said, they are looking for a position to try to resolve on freight.

Q101 Chair: So your assessment is that this does not add to the 7,000 assessment and does not in any way increase the worst-case scenario compared with that projection?

Paul Lincoln: No. In general terms, given the volume of traffic that comes across the short straits on any given day in a closed loop system, it is not actually physically possible to get to a certain level, so it is not an additional level. This is just a base level that we are talking about.

Q102 Chair: Could you explain that?

Paul Lincoln: If there are roughly 10,000 lorries going each way, you cannot get above a certain threshold in any case. We are talking about a situation where we have seen freight stacking outside Kent. The incoming situation at the moment is relatively reasonable; we have not seen big queues—certainly, we had not an hour or so ago—in France trying to come in. It is not as if we see two lots of queues both ways at the moment.

Q103 Chair: In terms of how long you have before this needs to be resolved so that it does not have a major impact on your 1 January operations, when do you need the border reopened again?

Paul Lincoln: This is not an issue for Border Force's ability to conduct its operations. We have staffed and trained and had these contingency plans for some time, and we operate them regularly. This is more a question of the Department for Transport and other parts of Government dealing with the French authorities on resolving the situation in front of us. It is not a Border Force-related issue in that regard.



HOUSE OF COMMONS

James Brokenshire: The indication from the French authorities is that this is for 48 hours. Obviously, discussions are continuing at pace, given the mutual desire to see this resolved as quickly as possible.

Q104 **Chair:** Even if Border Force is able to operate its bit well, in terms of the broader implications and the wider impact on supply—whether it goes beyond medicines and on to food supplies and wider operations—are you confident that, if the borders are reopened again within two days, it will have no additional impact on your 1 January operations?

James Brokenshire: The point to make on this is that the food chain is very resilient and has shown itself to be so over the last number of months. Border Force has underlined points about ensuring that the vaccine, for example, is able to continue to get into the UK. Clearly, we have seen increases in flows as compared with, say, this time last year. People are getting prepared for the end of the transition period, and therefore further movements have taken place. However, at this stage, I do not think that we see any material change to our planning or our preparations for the end of the year, but obviously I stress that there is a clear desire to see this resolved as quickly as possible. That is what all parts of Government are actively working on. Obviously, this will be assessed at Cobra later, and the Prime Minister will give an update, or there will be an update thereafter from the relevant Minister.

Q105 **Chair:** In terms of those border preparations for 1 January, Border Force will be operating the seven inland transit sites and carrying out compliance activity. Is Border Force now on site in all those seven sites?

Paul Lincoln: We are on site in some, but the planned handover dates with HMRC and DfT are over the next couple of days. We are confident that those will be handed over to us for our familiarisation, so that we are operational by 1 January.

Q106 **Chair:** So how many of the seven are you not yet on site for?

Paul Lincoln: We are not occupying five of those seven sites as we speak, but we do familiarisation, and our teams are confident that we will be able to put in place the procedures that we need for 1 January.

Q107 **Chair:** Blimey, it is only in 10 days' time.

Paul Lincoln: The processes that we need are familiarisation so that the safe systems of work are well tried and tested. We have done that as we have taken over other sites in the past. We have been working very closely with the unions and our health and safety specialists on that. We have dress rehearsals booked in with all the participants as part of that process.

Q108 **Chair:** So you will be on site in all of them within two days.

Paul Lincoln: We will be on site in all of them within the next couple of days.

Q109 **Chair:** Does that give you time to get all the covid preparations and so on in place as well?



HOUSE OF COMMONS

Paul Lincoln: That is part of the process. Sorry, I should be clear that there is one site, Sevington, that is not scheduled to come on on 1 January—it is due to come on in February—but we will be on the other sites. The process that we have put in place allows us, within that period of time, to take over the relevant parts of the sites that we will be responsible for and put in our covid-safe systems of work. We have had a lot of experience of that during the course of the pandemic. Of course, Border Force, unlike a number of other organisations, were at ports and airports throughout the whole of that period.

Q110 **Chair:** In terms of the training and support for those staff, I understand that you are aiming to have trained only 80% of staff before 1 January. Who are the remaining 20% who do not need the training?

Paul Lincoln: That seems to be a misunderstanding. As of Friday night, we were on 97% completion of training.

Q111 **Chair:** That is very welcome. In terms of having sufficient staff, do you have all the staff you aimed to recruit?

Paul Lincoln: Yes, we will have the numbers of people we expected to have in place by the end of the year. On top of that, we have a couple of hundred additional contingency staff to make sure we are as robust as possible for that period.

Q112 **Chair:** In terms of any implementation of either an agreement or not having an agreement, does that make any difference to you, in terms of the Border Force operations in those transit sites and at the border?

Paul Lincoln: No. The key thing here is that the Government published earlier in the year the border operating model, which set out what would be required irrespective of whether there was a further agreement or no further agreement. We have therefore been operating on a deal-agnostic basis throughout, and the 97% of training that we have talked about, with the rest to happen over the next couple of days, exactly responds to that.

Q113 **Chair:** The ICU has raised concern that Border Force will effectively be able to operate current arrangements and what are effectively versions of no-deal arrangements, but you won't be able to cope with something that is new and very different that might come out of any deal or agreement with the EU. Is that your assessment?

Paul Lincoln: I would go back to what I said a moment ago, Chair. As published in the border operating model, the processes are the same, irrespective of whether we are in a deal or no further agreement.

Q114 **Chair:** Thank you. I turn to the wider arrangements, in terms of the security provisions and plans. Given what the European Parliament seems to be saying about it now being too late for them to scrutinise and agree to any deal, is it your working assumption that there will not be a security arrangement in place on 1 January, and that you may be facing at minimum an interim period without those security co-operation measures in place?



HOUSE OF COMMONS

James Brokenshire: Chair, obviously we remain at a very delicate part of the negotiations. As the Prime Minister indicated, we need to go the extra mile—perhaps the extra kilometre. It is still possible to have an agreement in place, but obviously that requires an overall agreement, and as the Prime Minister and others have underlined, there still remain gaps and the EU still needs to move to have that in position. Negotiations are continuing. The most likely outcome, based on where we sit at the moment, is no further agreement, and therefore being prepared on that basis is absolutely what we have been doing.

Q115 **Chair:** Let's suppose that a deal were to be reached tomorrow, in terms of implementation timescales—we are now only 10 days to go—are you likely to need additional legislation or other parliamentary measures and so on, on the security side, in place by 1 January, which would mean that, whatever happens, we are now facing an interim gap?

James Brokenshire: Clearly, if there is agreement—that is what we continue, and our negotiators in Brussels are continuing, to advance—then, depending on the nature of that, it may require legislation, and the Chancellor of the Duchy of Lancaster indicated last week that we stand ready for Parliament to be recalled should further legislation be needed. Therefore, it is those contingencies that we are preparing for, in terms of ensuring that we can be ready and in place for the end of the year, along with seeking to give as much parliamentary scrutiny as is possible, depending on when an agreement is concluded, but as I say, at this stage, we remain in a very difficult place and our working assumption remains that there is unlikely to be further agreement.

Q116 **Chair:** Basically, it is fair to assume now—you have said you think an agreement is unlikely—that even if one is achieved tomorrow or in the next few days, we are likely to be facing a security gap in January, where we won't have those co-operation—

James Brokenshire: If an agreement were to be reached, I think that, as we have indicated, we would be able to recall Parliament to be able to deal with any necessary legislation, and obviously the EU will be considering these issues carefully on their side too, so, no, I would not make that conclusion, but obviously we need to be prepared for all eventualities. That is obviously what we are doing, in terms of readiness and, as I am sure we will come on to in this session, how we will respond in relation to each of the different measures that are available.

Q117 **Chair:** We want to come on to the detail of the individual measures, so this is a final question on the timescale and how long you need, just in terms of implementing or preparing things—for example, arrest warrant or extradition legislation, or other things. Should we expect that legislation will be needed on the security side of things in order to implement any of these things by 1 January even if a deal is reached?

James Brokenshire: On extradition, as you know, we have already put some legislation in place to, for example, provide for a power of arrest—no doubt we will come on to that in the session—in relation to the EU member states. But in relation to broader legislation, if an agreement were to be



HOUSE OF COMMONS

reached, it would depend on the precise nature of that. I hope you will understand that I am not really in a position to give detail, given the sensitive nature of the negotiations, but none the less, should legislation be required and we are able to conclude, I believe that steps can be taken to put things in place and to enable that to happen. As I say, our working assumption is that no further agreement is able to be concluded, but none the less we stand ready to respond in all circumstances.

Chair: We want to pursue some of the detail of the security measures now.

Q118 **Tim Loughton:** Good afternoon, Minister. You are going to have a busy Christmas by the looks of it. Can I turn to Europol and some of the likely arrangements in the event primarily of a no-deal outcome over the next 10 days? We had a session with police chiefs and Steve Rodhouse from the NCA last week, and this question really comes out of that. How confident are you that, in the event of a no-deal arrangement involving security, the UK will be able to retain liaison officers at Europol to keep up that relationship in some reduced form post 1 January?

James Brokenshire: Obviously, we seek an agreement to provide effective co-operation between the UK and Europol, to facilitate multilateral co-operation; I think it is recognised that it is in everyone's interests to do so. In any scenario, we look to continue that close co-operation. We have plans for the transition of our operation and co-operation with EU member states to bilateral and other non-EU, alternative channels if necessary, but obviously we look to maintaining an arrangement—obviously not as an EU member state; it is a different arrangement that we are looking to under any scenario. But I think we remain positive that we will be able to maintain close co-operation with Europol. But in a non-negotiated outcome, if needs be, we have arrangements in place to ensure that UK law enforcement can maintain, to as great an extent as possible, operational relationships.

Q119 **Tim Loughton:** What are the grounds for being optimistic about a continued relationship with Europol?

James Brokenshire: I think it is the shared interests that we all have and the close co-operation that law enforcement partners have had. I should underline, for example, in relation to joint investigation teams that we are participating currently in around 36 of those in total, some of which will carry on next year without any difference in that co-operation. I think it is that sense of a shared desire and a shared interest to work together on that law enforcement front on a collaborative.

In the negotiations, there is a good degree of convergence in what the UK and the EU have been seeking to negotiate, but we obviously remain ready to transition to alternative arrangements. The National Crime Agency is looking to provide additional international liaison officer deployments to EU member states as well, to increase UK capacity to operate bilaterally. So there are a number of steps that we are taking to

ensure that we can maintain a close collaborative approach to our working with other EU law enforcement agencies and member states.

Q120 Tim Loughton: I think we all understand that, and we understand that, of course, there is great mutual interest in the UK and Europol continuing to work as closely as possible, and that view is shared by other police forces across the EU. We heard from Rob Wainwright just after he had stood down as the head of Europol, having done a fantastic job—

James Brokenshire: Yes, Rob did a great job.

Tim Loughton: He was saying that, actually, this was a political decision; there is no reason why we could not continue sharing operational data and working as closely with Europol outside of the EU as we had beforehand but these were political decisions, and I think we understand that.

I was somewhat surprised, therefore, when we were speaking to Steve Rodhouse and others in the Committee last week. I would have thought that we would have been doing more modelling with the likes of the Danish security and police forces—Denmark is, of course, not a member of Europol, but is a member of the European Union—for how we might find an example going forward of how we can continue to have that close relationship without actually being members of Europol, as Denmark has managed to do. Apparently, we have not had those discussions. Why not?

James Brokenshire: It is not that we would seek membership of the agency; in essence, it is an association arrangement, as third countries would have with Europol, and of which there are a number of examples. That is the arrangement that we are seeking through the negotiations with our European partners.

What I would say, Mr Loughton, is that there are clearly different ways in which you are able to work with and through Europol. That has been very much part of the discussions and negotiations that we have been having. I think that is why I sort of underline that convergence in interests, as to what the UK and the EU have been seeking to negotiate and seeking to achieve. Obviously, should that not be possible, it is by means of some of these reserve arrangements and some bilateral channels that we would maintain our UK liaison, from the British embassy, should that be needed. But it is that sense of how you can achieve this, with Denmark or with other countries, in terms of that relationship as a third country. That is what has been informing our discussions to date.

Q121 Tim Loughton: Okay, but the point I was making is that Denmark has a very good relationship with Europol; they are not members of Europol, but they are members of the EU. We need to have a very good relationship with Europol without being members of Europol and without being members of the EU, and Denmark appears to be the closest to that. I would have thought we might have a lot more in common, which we would explore, and apparently we have not.

Would you agree that one of the biggest differentials that was flagged up was not that we would not necessarily eventually be able to access some



HOUSE OF COMMONS

of the intelligence that other police forces have—it may be more through bilateral arrangements rather than the central database of Europol—but that the biggest impact was probably going to be the timing? It is a more cumbersome process, and it will take longer to access that degree of intelligence. Do you agree that that is the assessment that Steve Rodhouse and the NCA have made of the major differences? It is not that we cannot necessarily get co-operation, but that it will take much longer potentially to get access to information, including about things that we do not know—things that will not be automatically flagged up as part of cross-border investigations.

James Brokenshire: The point, Mr Loughton, is that there are very clear bilateral ways of being able to share information in fast time. That is bilateral. There are also other means—for example, in relation to counter-terrorism. The counter-terrorism group of European countries provides that means for people to be able to share information in a speedy way. There are obviously differences, which no doubt we will come to, in terms of the different overall types of systems, and this is looking beyond Europol. Some of the systems, obviously, at the moment, are automatic. There may be other processes that may need to be done in relation to the other measures that we would need to operate that we have in place now, but the point is that those are operated with other countries outside of the European Union, and therefore there is the ability to make those work. They are tried and tested in that sense, and we would use those to ensure that there is a good means of sharing information, intelligence and data and therefore to see that we are absolutely having that focus on protecting our citizens and on how this country will remain one of the safest in the world.

Q122 **Tim Loughton:** I understand all that, Minister, but you have to admit that accessing information through Interpol and other bodies outside of Europol can take longer. There is not the automatic obligation to provide that information, as there is in many cases, hence a potential time delay. You keep coming back to—I entirely understand this—the bilateral relationships we will be having with those other Europol police forces.

The NCA told us, and you have just hinted at this, that the UK is looking to surge additional liaison officers to European capitals in the event of no deal. What additional resources are you giving to the NCA? When will that happen? What does it actually look like, given that you cannot then put a load of officers on a train—well, you cannot do that at all at the moment—on 1 January and expect them to arrive in Lisbon, Paris, Brussels or wherever it may be to work with those other 27 police forces. What format is it actually going to take and how quickly is that going to happen?

James Brokenshire: The NCA intends to surge additional liaison officers across 11 priority EU member states to increase our capacity to operate bilaterally. Obviously there already is bilateral connection that does take place, which the NCA takes the lead on. It is rather how we further strengthen that and add to the capacity that is there.



HOUSE OF COMMONS

I would point to other forms of connection on counter-terrorism that equally allow a means of sharing data. I suppose there are a number of methods, as well as the bilateral, and indeed, how we look to the different conventions that you have referenced. It is not that you can say they are exactly the same as the EU arrangements—clearly they are not—but they provide us with a clear and strong basis to maintain a collaborative approach, ensuring that we can protect our citizens.

Q123 Tim Loughton: So how are they different? I do not think anybody would say that what will happen post Europol is as smooth, slick or integrated as the access to the databases and the exchange of information we have been able to enjoy under Europol. Or are you seriously suggesting that it will be just as good, if not better?

James Brokenshire: It is worth clarifying that, obviously, it is not Europol itself; any country outside of the member states does not have access to Europol's databases. What I am saying is that, yes, there are different measures available, including some of the things we have already touched on—whether providing alerts, use of Interpol or reliance on the Council of Europe conventions—that provide the mechanisms that allow us to operate. Yes, of course they are different, and we have never suggested that there would not be a mutual loss of capability—we have said that consistently—but none the less there are clear measures to ensure that this country remains a safe place and to arrest criminals to provide that safety to our citizens. That is the point that is made: there is obviously not complete equivalence between the different measures. There are different steps that we have taken, are taking and would take if we have no further agreement with the EU, and we have had precisely those preparations under way for quite some considerable time.

Q124 Tim Loughton: You would acknowledge that those alternative processes will most probably take longer. They will not necessarily be not as complete or not allow us to access the information, but inevitably it is going to take longer.

James Brokenshire: I know that people have speculated that, for example, it will take x amount longer or y amount longer. I do not think that we can make that assessment, because some of that is on an average basis, on the basis of our relationships more globally. I do not think you can make an assessment like that.

Clearly they are different. Clearly there will be manual processes involved in some, and therefore, yes, the automaticity of certain EU measures will be different, but does that prevent us from ensuring that we protect the public, or mean that somehow the country is fundamentally less safe? No. If we look at some of the measures like SIS II—

Tim Loughton: I think we get the point, Minister, but Steve Rodhouse was clearly saying that the major difference will be not necessarily one of capacity but of time to turn round that information. Perhaps that is a conversation you need to have with the NCA. That is me done, Chair.

Q125 Chair: Minister, can you just confirm the answer that I think you just



HOUSE OF COMMONS

gave to Mr Loughton? You do accept there is a loss of capability?

James Brokenshire: We have said that there would be a mutual loss of capability. That is something I said to the Lords Committee several months ago. Therefore, how we—

Q126 **Chair:** So this is a loss of capability on security for the UK and for the EU.

James Brokenshire: There is a mutual loss of capability in terms of the different systems that we operate. That is something that the Government has said consistently in terms of the assessments we have made. But, actually, when we look at the overall mitigations and the measures we are putting in place, we remain absolutely clear that the UK remains a world leader in—*[Inaudible]*—security, counter-terrorism and indeed the steps to ensure that we remain a very safe place, one of the safest places—

Q127 **Chair:** Indeed. But just in terms of Europol, when the NCA says that, without a deal, “the potential loss of access to Europol...is the tool area we are most concerned about from a SOC perspective” and that the “multilateral coordination and specialist analytical services offered by Europol cannot be replicated through bilateral channels”, are you saying that they are wrong?

James Brokenshire: The NCA clearly will have given their assessment on the utility of Europol. We want to see a means by which we can conclude an associate agreement with Europol. That is part of the discussions we have been having, and that is why I remain positive on the basis that there is a coalescence, if I can put it like that, of interest between the EU and the UK—given, actually, the really important role that the UK plays in providing security to EU member states as well.

Chair: We all think that, and we are all very keen for there to be a security agreement in place.

Stuart C. McDonald: Season’s greetings to our witnesses. First, a quick question in relation to the delays at the border with France. Obviously, the 48-hour timescale that was spoken about earlier is pretty bad news for everyone trying to export, but for some in particular it will essentially bring them close to a timeframe where their goods will be pretty much written off—that is, food and drink, and seafood in particular. Is there a way, once things get back up and running—hopefully sooner rather than later—to prioritise those exporters so that they are at the front of the queue, given that their goods will be written off rather than delayed for 48 hours?

James Brokenshire: Paul Lincoln from Border Force may wish to supplement, but part of the preparations we have been doing for the end of the transition period is how we are able to have category 1 goods—in other words, exporters of the kind you have highlighted—prioritised. We are obviously very conscious of issues in relation to, for example, shellfish, which I know will be very pertinent in Scotland, and measures have been rehearsed and tested in terms of being able to identify those exports and to see that they can continue. It is part of the preparation, and indeed we are very conscious of the sensitivity and the timeliness in terms of the



HOUSE OF COMMONS

preparations that have been put in place for the end of the transition, should that be needed. Paul Lincoln, you may wish to say something further.

Paul Lincoln: The other thing I would add at the moment, Minister, is that we know that a range of companies are, through commercial processes, looking to try to reroute to the degree they are able to, which is of course available to people, even if it is a bit lengthier and in some cases also a bit costlier. We know that that is available and we know that conversations are ongoing on that basis.

Q128 Stuart C. McDonald: Hopefully the processes for category 1 goods work. I will turn to the European arrest warrant, then: before it was in place, I think the figures are that we would extradite somewhere in the region of 60 people per year and under the European arrest warrant it is about 1,400 or 1,500 a year. What are the Government trying to achieve? Previously there was talk of something similar to the Norway and Iceland deals. Is that still roughly the ballpark? If there is a deal, do we anticipate something like that emerging?

James Brokenshire: It is that type of arrangement that we set out in our negotiating mandate: in essence, a surrender agreement that [*Inaudible.*] for that. Obviously, that takes into account the ability, for example, for a judge in the UK to dismiss a warrant from an EU member state on the basis of proportionality, if the person faced long periods of pre-trial detention, and if it would mean that extradition was not compliant with a person's human rights. It is that fast-track extradition arrangement, based on the arrangements with Norway and Iceland, that we are seeking. Negotiations are in a very sensitive space, but it is that approach that we have been adopting.

Q129 Stuart C. McDonald: What would be the disadvantages of a Norway-style model? What are the contingencies you have to prepare for if that is what emerges?

James Brokenshire: If we are in a non-negotiated situation, then obviously we would fall back on the 1957 convention on extradition. In addition, the Extradition (Provisional Arrest) Act 2020, which received Royal Assent on 22 October, once commenced, will enable law enforcement officers to arrest individuals wanted by a specified country for a serious offence. That obviously takes you into Interpol red notices, and therefore the ability to identify people in that regard and to arrest them, such that we can bring them into custody quickly and manage the process. That would be the fallback arrangement should no further agreement be reached.

Q130 Stuart C. McDonald: But if there is an agreement, the Norway agreement is not the same as the European arrest warrant. I am trying to push on what the downsides are. Am I right in thinking that one of them is that, similar to the 1957 extradition convention, it would mean that certain countries would refuse to extradite their own citizens to the UK?



HOUSE OF COMMONS

James Brokenshire: Since the start of the transition period, there have been some countries that have not been prepared to see the removal of own nationals. I would say that that is often, and will be, the case not because people would have impunity, but because there are provisions in their national law allowing them to try their own citizens at home for crimes committed abroad, and therefore it is a slightly different arrangement.

None the less, if we look at the numbers, which may be of interest to the Committee, for the countries that have adopted that approach since the start of the transition period, and actually looking back over an extended period, they are very small in number. For example, if I look at extraditions by nationality between 2009 and 2019, Austria surrendered to the UK two, of which own nationality was one; Germany surrendered to the UK 72 in total over the 10-year period, of which own nationality was five; and Slovenia surrendered to the UK two, of which own nationality was zero. I obviously appreciate the focus on the difference, but we believe that in practice this will be, as I indicated from the numbers, quite small.

Q131 **Stuart C. McDonald:** I take your point that it is useful to have those numbers. Is it Germany, Austria and Slovenia that we are talking about? Are there any other countries that might be in a similar situation?

James Brokenshire: They are the three that have indicated thus far. Obviously, it is open to other member states to make a declaration. The point is that that does not mean there is some absolute bar. We have, for example, negotiated an agreement with Albania that had a similar sort of bar to enable a bilateral agreement to enable that to take place. All I am saying to you, Mr McDonald, is that we know that there are those three, for which there are a small number, but equally, there are other arrangements that can be put in place to ensure that people are brought to justice, if needs be in their home country. It is precisely that type of approach that we would expect to see maintained.

Q132 **Stuart C. McDonald:** What sort of preparation has been done to try to take that approach? What other examples are we learning from? Prosecuting a serious offence in Germany is obviously going to be a much more difficult task than doing it here. How does it work exactly?

James Brokenshire: Obviously, it is a question of the individual crime that may need to be prosecuted. It is a fact that, in this country, we have a very narrow approach to extraterritoriality, whereas other countries that have that approach are much more expansive in asserting extraterritoriality, which is why I make the point in the way that I do about bringing people to justice in the home state. It would be a question of liaison around evidence. We would obviously expect support and contact to be provided to victims of that crime as well. Therefore, it would be by way of the bilateral support that we would offer in terms of exchanges of evidence and the way in which it would be conducted.



HOUSE OF COMMONS

I would point to the fact that there are live cases I am aware of where, for example, it is not possible to bring a prosecution in this country, but where a prosecution has been asserted in the relevant home state. Therefore it is a question of ensuring that we share the relevant evidence to support that prosecution.

Q133 Stuart C. McDonald: You have given us the figures for Germany, Austria and Slovenia in recent years. I do not need the information now, but it is would useful to know the nature of the crimes that they were extradited for. Obviously the numbers might be small, but the significance and seriousness of those crimes are also of interest to us.

Can you also comment on the timescales, either under a Norway-style agreement or under the 1957 convention? As I understand it—correct me if I am wrong—under the European arrest warrant, you have strict deadlines of 10 and 60 days. Under the convention, you could be talking about a process that takes several months instead.

James Brokenshire: It is right to say that there are different processes that would operate. Clearly, the surrender agreement, we believe, can still be fast-tracked. That would not see a great differential between performance from the European arrest warrant compared with the fast-track extradition arrangements that would be similar to Norway and Iceland. Obviously, on moving back to the arrangements under the convention, it is tried and tested; we know the processes that are there. The nature of the preparedness of each member state will depend on those member states.

It is difficult to say specifically what the timescale would be. Obviously, slightly different processes would operate, which could impact on timing, but even with the sorts of measures that you outline, European arrest warrants rightly still take time; there are processes before the court that would be equivalent and similar. Yes, there are differences in terms of timing, but it is difficult to make some of these direct judgments in the way that you, understandably, wish to.

Q134 Stuart C. McDonald: In fairness, other witnesses, such as the NCA, managed to make them last week, so I not just making it up off the top of my head when I say “months”.

James Brokenshire: No, no; I would never suggest that you would, Mr McDonald.

Q135 Stuart C. McDonald: Good. In terms of legislation, you referred to the Extradition Act; is there anything else you would need to change if there is an agreement—any legislation that would be required between now and the end of the year? Would those changes be made by statutory instrument, if there are powers providing for that? What is your plan?

James Brokenshire: If there is no further agreement, no further steps will be required, to be clear. We are ready from a legislative and operational perspective. Support has gone into the ICCC—the police co-ordination centre—in which we have the national extradition unit; that was established to support this. We are ready for that, together with the CPS

and the UK Central Authority. Obviously, we wait to see what emerges from the negotiations. It is possible that further legislation will be required, depending on the nature of any agreement, as I indicated to the Committee, and we stand ready to move quickly if that is the case.

Q136 Stuart C. McDonald: You are a sensible Minister, with your head screwed on right; surely to goodness you are knocking on the door of No. 10 and saying, "Things would operate much more smoothly if we extended the transition period, even for a short time." Given everything that is going on, even today, that is the sensible option, is it not?

James Brokenshire: I understand why you might wish to make that point, Mr McDonald, but the clear position of the Government, as enshrined in primary legislation, is that there will be no extension to the transition period.

Stuart C. McDonald: I will put that down to collective responsibility. Thank you very much.

Q137 Ms Abbott: I thank our witnesses for taking the time to give evidence to the Committee on a day that must be a little bit busy for them. I have listened to the responses that the Minister has given my colleagues. He has made a lot of the idea that, after we have brexited, there will be a close, collaborative arrangement with EU law enforcement agencies. It can be as close and collaborative as you like, but there are databases to which, legally, we will not have access. Can I start by asking the Minister about the European criminal records information system? Is it true to say that we will lose access to it on 1 January?

James Brokenshire: As I indicated to the Committee, if there are no further agreements, we will move to the 1959 convention on mutual legal assistance; that would support the exchange. That would mean making requests through ACRO, which operates this on behalf of policing. They have implemented a new IT system that allows transmission by secure email. That will allow for an electronic exchange without the use of ECRIS. The timescales are dependent on the response times and capabilities of EU member states.

As we have set out in our published approach to the negotiations, our ambition is for an agreement that will provide for the fast and effective exchange of criminal records data between the UK and EU member states. This, obviously, is a capability that is important for both of us, in terms of being able to have those exchanges. But as I have indicated, we have put in place alternative arrangements, should that be necessary.

Q138 Ms Abbott: Currently, we use the European criminal records information system 4,000 times a week. Are you saying that your alternative arrangements can be as speedy as that?

James Brokenshire: I appreciate that, as was made clear to the Committee last week, ACRO's estimates on the average non-EU request vary according to country. We are confident that, under the Council of

Europe convention, this would be unlikely to take as long with EU member states.

Q139 **Ms Abbott:** I wasn't talking about the length of time. I was talking about the number of times we use it—4,000 times a week.

James Brokenshire: If I look at the numbers, I see that over the entirety of last year we sent over 100,000 requests for information and received 30,000 requests. We also sent around 30,000 notifications to the EU and received 10,000 back. That is why I make the point about the ability to have a new IT system to allow transmission via secure email. That is why we have put that in place and why we are committed to working with member states whose technical abilities may be more limited, to improve the basis for exchange in the future. But we remain confident that there is an approach that would support the sharing of information in an effective way to protect the public.

Q140 **Ms Abbott:** No one is saying that you won't have a system that will support the sharing of information. This is a system that we use 4,000 times a week, and the question to which I think the public want an answer is: will it be possible to access that volume under the system you are talking about?

James Brokenshire: As I think I have indicated, Ms Abbott, the system that we have put in place to make those requests under the Council of Europe convention provides the basis for that exchange and to make various exchanges to provide and give assurance to the public in relation to safety and security. It is that flow of information in both directions that underpins so much of the work that we do, and that will be continued through the arrangements that are being put in place.

Of course, it is a different arrangement. I appreciate that, rightly and responsibly, the Committee is seeking assurances, as I think the public would expect us to do. What I can say to you, Ms Abbott, is that we will have those arrangements in place so that the exchange of criminal record data can continue to provide assurance to the public. Yes, it will be different, but none the less it will provide the basis to support the activity of law enforcement and ensure that they are able to operate well. It is clearly a different system, but as I have indicated, we will continue to work closely with member states, some of which have individual technical support issues, to support them in terms of the mutual exchange of information in this way.

Q141 **Ms Abbott:** So you are unable to confirm whether your new system will actually mirror the 4,000 strikes a week that we are able to use with the European criminal records information system. *[Interruption.]* You are unable to confirm it—you say you have a new system.

James Brokenshire: It is a different arrangement, which allows for exchanges of and requests for information to be given. As I have indicated, we have put in place a new system—new IT systems—to allow for the transmission to take place via secure email, allowing for an electronic exchange without the use of ECRIS. That is the point I am

seeking to make to the Committee. It supports the exchange of information, recognising the importance that we both attach to this.

Q142 Ms Abbott: The point I am trying to make is that it's fine that you have a new system, but will our law enforcement agencies be able to access it 4,000 times a week as they currently do?

James Brokenshire: It is important just to say that it is the making of requests; it is not a database as such. It is individual requests that we receive from member states, and that obviously we then make to member states, and they then provide the information back to us. It is that nature of the system that we are seeking to put alternative arrangements in place for.

Q143 Ms Abbott: Let us move on to the Schengen information system. As matters stand, we will lose access to that when we Brexit on 1 January. I am asking; I do not want to make any assumption.

James Brokenshire: We have maintained an offer to the EU consistently on the ability to have data exchanges in an equivalent framework to SIS II. The Commission has stated its view that it is not legally possible for a non-Schengen third country to co-operate through SIS II and that a future agreement between the UK and the EU need not provide similar capabilities. We regret that that is the case, but that is the position that the EU has taken. Therefore, we will need to operate outside the SIS II structure and look to alternative arrangements, Interpol being the ability to share fast-time alerts, to effectively operate in the way that we did prior to 2015.

Q144 Ms Abbott: That was my initial point, actually: that legally we would not be able to access some of these databases, however closely we want to collaborate.

Last year we used the Schengen information system 603 million times. Are you confident that whatever system you think you can organise can allow that volume of access?

James Brokenshire: I think it is important to explain, Ms Abbott, that that number effectively counts every PNC search and every search at the border, where there may have been almost an automatic access that has been taken. Therefore, if alerts have been provided, it is about the nature of identifying an alert. It is important just to understand what that number actually means. It is effectively every time a UK law enforcement office checks border or policing systems. Those border and policing systems will be maintained; it is a question of the alerts being provided in a different format. I hope that explains: in other words, if we are seeing a country wanting to put an alert on—or indeed us wanting to alert an EU country, putting that alert in through Interpol—to see that that then is able to flag that up against that search.

Q145 Ms Abbott: You are saying that we will have the same volume of access under Interpol as we currently have under the Schengen information system?



HOUSE OF COMMONS

James Brokenshire: They are different systems; it is important to state this. We participate in SIS II in relation to the law enforcement element. We do not participate in relation to the immigration element. When we look at some of the numbers that are on SIS II already, we do not already have access to all of that information. That point is important for me to explain.

Obviously there are alerts that are put on to Interpol, and therefore it would be the Interpol system through which we will be looking to facilitate the exchanges, for example through red notices, of those who should be arrested for extradition. It is using that mechanism, rather than SIS II, to make those alerts, in the same way, as I said, that we did prior to 2015. When we look, for example, at the relationship with Ireland, who are not currently part of SIS II, it is that sort of arrangement that we already operate with Ireland.

Q146 **Ms Abbott:** Can I move on to passenger name records, which apparently we access once a day? Are you confident that the alternative systems you would seek to set up will give us that volume of access?

James Brokenshire: With passenger name records, the desired capability, through a negotiated outcome, is a legally binding international agreement on PNR between the UK and the EU, and transfers from EU airlines continuing in that way. In the event of a non-negotiated outcome, we will engage directly, and are in contact with EU airlines directly operating to the UK to seek to conclude arrangements for the transfer of PNR data to the UK, in compliance with relevant data set provisions. The proposed agreements will set out the data protection safeguards, although whether or not to conclude a data transfer agreement with the UK is a decision for each airline, albeit there are sanctions if airlines do not transfer such information.

Q147 **Ms Abbott:** Will these individual arrangements with the individual airlines be as speedy as accessing the passenger name records?

James Brokenshire: If an airline agrees, then it is using the same systems and processes to be able to do so. It is also worth stressing that we have passenger name records, but we also have advance passenger information on, effectively, the advance manifest data that is provided, which would identify if there are named individuals who are wanted. Again, it would be flagged up through that measure: that would not be affected by these discussions. It is the PNR data—some of the additional information that we gain from PNR—that is relevant.

Q148 **Ms Abbott:** Finally, I want to ask about the Prüm system for the exchange of biometric data. Since June 2019, we have had 13,000 matches, which obviously means there were many more hits. Are you confident that any alternative system you might set up will have the scale and utility of the Prüm system?

James Brokenshire: Again, it is worth explaining what the Prüm system is. In essence, it is a way of washing the data that is held on one database as against the data that is held on the database of the relevant member

state. Therefore, in joining Prüm, we have had those 13,000 matches that you have identified, Ms Abbott. Equally, from the EU standpoint they have had 43,000 matches on our own database, because we have one of the largest in the EU.

That actually gives you your highest level of utility at the outset, because it is a hit/no-hit basis. That is the only information that Prüm gives you: whether there is a hit on someone else's database. You then have to interrogate that on a bilateral basis to get more information, so the strongest position that you get is almost at the outset, by flagging that there is that connection that you are then able to follow through. If we are in a non-negotiated situation, we would exchange DNA and fingerprints through Interpol and mutual legal assistance requests, in line with the approach that we adopted on this prior to July last year, and in October of this year in terms of Prüm fingerprints. There are already arrangements that we have used in relation to these exchanges until very, very recently.

Q149 Ms Abbott: Finally, Minister, in the event of no deal on 1 January—you said earlier that it was a reasonable working assumption that an agreement would not be reached—we will lose direct access to the European criminal records information system, which we currently use 4,000 times a week. We will lose direct access to the Schengen information system, which we currently access 603 million times a year. We will lose access to passenger name records, which we use once a day, and we will lose access to the Prüm system for the exchange of biometric data. Can you tell the Committee with complete confidence that none of this will have any effect on this country's crimefighting capacity?

James Brokenshire: We have already explained the alternative arrangements in relation to passenger name records, and that we are having those discussions with individual airlines, as well as in relation to the use of Interpol and Interpol red notices, as contrasted with SIS II. We will continue to be a global leader on security, as I have already said, and one of the safest countries in the world. The UK had a high level of security before these measures came on stream: as I say, SIS II was 2015, ECRIS was 2012, and Prüm was 2019. In any scenario, we will continue to be one of the safest countries in the world.

Of course there is difference here—I have already explained that to the Committee in this evidence session. I would underline, on that sense of public confidence, the importance that we attach to the safety and security of our citizens. Indeed, the police and the National Crime Agency have underlined that they are prepared for any eventuality. This is incredibly important. I certainly want to stress to the Committee the absolute weight we give to safety and security. That is why we have taken all the measures and all the steps we have taken over the last number of years in preparedness to see that we do remain one of the safest countries in the world.

Ms Abbott: Thank you very much, Minister.

Q150 Chair: I have a couple of follow-on questions from Diane Abbott's points.



HOUSE OF COMMONS

How many airlines have you reached agreement with to get that additional passenger name records information?

James Brokenshire: This is a very live discussion, Chair. Obviously, because of the nature of those discussions and the very live negotiations that are taking place, I cannot confirm today their specific nature. I assure you that we are in contact with all relevant airlines. If it would be helpful, I am very happy to update the Committee, given that this obviously is a very live discussion. Equally, the airlines are assessing whether an agreement is in place as to their own approach to this. I would be happy to update the Committee with further information to give further clarity.

Q151 **Chair:** There are only 10 days to go.

James Brokenshire: As you have heard, Chair, from the points that have been flagged by others in evidence to this Committee, the steps that are being put in place have been rehearsed. We have been through this before with airlines, when no further agreement was contemplated previously. This is a discussion that has been had previously with the airlines. It is the nature of the arrangements that they will be coming forward with the confirmations. As I have already highlighted, if they do not, the sanction is there in terms of the non-provision of PNR data.

Q152 **Chair:** When you were making the preparations last time around, did any of them actually come to an agreement with you to provide that information?

James Brokenshire: I do not want to breach commercial discussions, but some of them did, yes.

Q153 **Chair:** And have any of them—you do not need to tell us which ones at this point—reached agreement with you now to provide the same information?

James Brokenshire: We do have an agreement, and there are live discussions taking place.

Q154 **Chair:** At what point do you need that agreement in place for it to be implementable in practice? Presumably a quarter to midnight on 31 December is a little bit late, in terms of having the practical systems in place.

James Brokenshire: No, because effectively you are using exactly the same systems that we have already, so nothing would change. I appreciate why you would be looking at the timing here, but actually this can be agreed very quickly, and then it would maintain the arrangements that already operate. That is why the discussions that took place last time were late and, indeed, why discussions are taking place with airlines at this point in time, rather than previously.

Q155 **Chair:** Would that give you every bit of information you currently get through the PNR agreement?

James Brokenshire: If an airline agrees, they would provide exactly the same data. That is why I make the point about the sanction potentially

being there if they were not to. We have clarity as to the information that would be provided and, indeed, the systems to be able to do it.

- Q156 **Chair:** Let's suppose that some of those airlines are based in other EU countries. Is there agreement from the EU that they have the legal basis to be able to provide you with that information? Supposing that they want to and they have come to an agreement, is there a legal basis for them to be allowed to do so?

James Brokenshire: Yes, it is effectively standard terms and conditions. For the data protection arrangements that can exist and, indeed, have been tested previously, the terms and conditions have been updated in the light of recent EU case law, so that is something that is understood in terms of, for example, our GDPR and the protections that we afford in that regard.

- Q157 **Chair:** On ECRIS, how many other European countries do not have the technology in place to be able to respond swiftly to your requests?

James Brokenshire: I think it is the fact that we have a system to take place via secure email. The point I was making is that that system is there. Some EU member states, for example, do not have the police national computer-type of system. In other words, EU member states would, as they do now in terms of their support of ECRIS, potentially go back to some of their own more manual systems to be able to obtain the data. It is more about the pre-existing arrangements that already sit within EU member states and the manner in which they hold and record their criminal record data. It is more about how we will continue to support them, should that be welcomed or appropriate, in terms of the systems that are put in place.

- Q158 **Chair:** Are you relying on them to provide additional staff to reply to your emails?

James Brokenshire: No. I am conscious that I have not brought in one of my officials, Chris Jones, who may want to add to what I have said. I think it is rather that information is shared through ECRIS—it is about how information requests are made using our email system, which I have already pointed to, and therefore yes, they will be receiving those requests under the existing convention that we would be relying upon in terms of our legal basis for those requests, and therefore it is that type of responsiveness that they would need to provide to those requests, hence the reason why we look to support of whatever type we can get.

- Q159 **Chair:** It sounds like they do need additional staff to be able to respond to your requests.

If the current system takes six days, and you are resisting the assessment that it is going to take 66 days on average in future, what is your current estimate of how long, on average, the new system is going to take?

James Brokenshire: It is very difficult for me to give an assessment until we have been operationalising this. The 66 days is obviously an average of all our international contacts. That is likely to be skewed by a number of

countries that might take a very long time. All I can say to the Committee is that we expect it to be a much shorter period than that.

Q160 **Chair:** But longer than six days.

James Brokenshire: Not necessarily, no. That is what I am saying about it being about individual member states and their responsiveness around this, and how we will be using these new mechanisms and the responsiveness that they give to that. I suppose what I am trying to challenge is the 66 days, which is a much wider average that takes into account all the world. Our expectation is that, given the systems that are in place in EU member states, it will be a lot shorter than that.

Q161 **Chair:** Indeed, but just to press you on this, are you seriously saying to us that you have this new system that you will have to operate from 1 January, which no other European country has operated before and which they will be doing for us only because of a lack of agreement, and that it may well not take longer than the current six days? Are you seriously telling us that?

James Brokenshire: I cannot guarantee that—of course I cannot. I appreciate why you frame this in that way, Ms Cooper, but of course I cannot guarantee that. That will require the responsiveness of EU member states. The simple point I am making is that the 66-day average is weighted from a wider international perspective, with a range of different countries that will not have the same sorts of systems and processes that EU member states will have put in place as a consequence of ECRIS. That is the simple point that I am trying to make.

Q162 **Chair:** Have you practised this new system?

James Brokenshire: Obviously, we currently operate ECRIS. It is an email system, a secure email system, to the relevant individual member states.

Chair: Have you practised?

James Brokenshire: We are confident in the system, but it is a question of how EU member states respond to that, which we will have to see in the new year. My point is, what about the average in terms of performance?

Q163 **Chair:** It sounds like that has not been practised on. On the SIS II and Interpol relationship, is it right to say that you will have to delete 40,000 individuals from your databases on the night of 31 December?

James Brokenshire: I think you point to the 38,000 person alerts on SIS II and, in particular, the specific part that falls under article 26, which relates to the alerts on things like European arrest warrants. We would need to delete those, you are absolutely right, in the same way that EU member states would need to delete the equivalent information relating to the UK, albeit that in the analysis that we have seen, the number of red notices has increased—we already have approximately the same amount of Interpol red notices from EU member states.



HOUSE OF COMMONS

Obviously, we have that deletion that will take place, but equally, then, the keying that individual member states would need to do to see that that data becomes available through Interpol, rather than through SIS II. Certainly, the assessment that I have seen on those wanted for arrest and extradition is that we have already received approximately—I cannot say that it is exactly the same number—a similar number in terms of increases in Interpol red notices.

Q164 Chair: In your assessment country by country, have all the member states fully uploaded their current live arrest suspects? Have they fully uploaded the people wanted for arrest or suspected of crime in their country—the cases they have currently on SIS II—to Interpol?

James Brokenshire: I cannot guarantee every single case, because that is a matter for each EU member state. I can say that when we look at the number of SIS II alerts related to those wanted for arrest and extradition, we have seen an equivalent number of Interpol red notices put on by EU member states. I hope the Committee will understand that it is difficult to do that sort of case-by-case analysis over such a number, but I can indicate that we have seen EU member states responding to some of the issues that we would understandably be concerned about.

Q165 Chair: My question is, is that all member states? Have you done this assessment on a country-by-country basis to see whether any countries are not doing it, and whether some are way ahead and others not?

James Brokenshire: It is difficult. The evidence that you received last week rightly highlighted that Interpol does not publish—and our systems are not currently configured to provide—the breakdown of alerts by country. Figures relating to the use of Interpol tools by specific countries are not made publicly available by Interpol.

I can say that we have had extensive engagement with EU member states and are confident that critical alert information will continue to be shared with the UK. As I said, the overall numbers we have seen would certainly give that indication of seeing approximately the same amount of Interpol red notices from EU member states. In terms of individual member states, the systems are not calibrated on that basis and Interpol itself does not provide that breakdown.

Q166 Chair: What about vehicle alerts, licences, number plates and so on? Currently, there will be a huge number from France on the SIS II database, for example. Where will you find that information in future?

James Brokenshire: Again, through Interpol we will be able to access approximately 90 million records on suspect documents. There are means through different forms of Interpol notices to provide alerts. It is through that mechanism that information is able to be shared on documentation. That is the type of volume that we are able to access. In terms of the visibility, unfortunately, because Interpol does not provide that breakdown of the manner in which EU member states use or provide notices in that way, I cannot provide the Committee with further detail in that regard. However, it is through the various different strands of Interpol that EU



HOUSE OF COMMONS

member states will be able to share documentation and other forms of information.

Q167 **Chair:** But at the moment there about 68 million issued document alerts—potentially false documents and so on—on Europol and a further three and a half million vehicles listed on Europol. On just vehicles and issued documents, if Interpol has only 90 million and the EU already accounts for around 70 million, that does not sound like you have equivalence on issued documents.

James Brokenshire: Again, it is important to stress that the vast majority of documentation—indeed, if we look at the person alerts on SIS II—relates to immigration purposes. We do not participate in—

Q168 **Chair:** I am not asking about those. I am specifically not asking the—

James Brokenshire: I am highlighting some of the macro numbers. Information is provided for different purposes within SIS II. Countries have the ability to share data in different ways, as I have indicated, using Interpol.

Q169 **Chair:** Sure. So you do not have detailed assessments of other EU countries and which of them are fully putting, for example, their suspect vehicles on to Interpol compared with on to Europol?

James Brokenshire: No, that would be a question for each individual member state. That information is not provided by Interpol and is not readily provided by EU member states. Let us not forget that there is not complete alignment between what you could put on SIS II and what you can put on Interpol; there are different recording sets, which is why it is not completely like for like. However, we can say that, from the discussions we have had with member states, these issues are recognised, as we have seen from the red notice provision—there has been an increase in the number of red notices that are coming on from EU member states.

Q170 **Chair:** But you cannot assess the scale of the capability gap, then, in terms of the differences between the Interpol system and the SIS II system?

James Brokenshire: I genuinely understand why you press on this, but they are different systems, so the way in which they record data and the way in which they operate is different. As I say, because of the immigration nature of SIS, and equally the more crime-related approach of Interpol, they are different systems that are calibrated with different datasets in different ways, which is why they are not like-for-like equivalents. We have underlined that sense of the changes that will take place, and we have equally underlined the emphasis that is being given to public safety and seeing that the police remain able to arrest and to be able to share data through those means, as well as bilaterally, which equally remains an incredibly important part of the way in which law enforcement operates.

Q171 **Chair:** In conclusion, you are saying that the police will of course continue



HOUSE OF COMMONS

to be able to arrest people. However, would you accept that if there is much less information, and if it takes longer to get it, they will be arresting fewer of those people?

James Brokenshire: Again, because of the focus on, for example, the Interpol red notices and the utility—the overall very low fraction of a per cent. that may be a hit when you look at all of the aggregation of the data—I do not think you can make that direct read-across. Obviously, there are different systems that have been put in place. As I have indicated, there is mutual exchange capability between the UK and EU member states. Does that prevent a police officer from making arrests? No, it just does it in a different format. The emphasis that I would give is that, clearly, we want to ensure that in whatever arrangement, we continue to collaborate closely with EU member states, and continue the very good law enforcement co-operation that already takes place and the very close communication that law enforcement operates. That is what I would stress, albeit there are changes in arrangements here. I would not want to pretend otherwise.

Q172 **Chair:** Do you accept that your response to this has a very different tone from all the senior police officers who have given evidence to us, who are clearly considerably more alarmed than you are about the loss of capability that they are about to face and the major operational impact that they describe as a result of losing access to these tools if there is no agreement in place on 1 January?

James Brokenshire: I would underline the public safety message that all operational partners have given. They are prepared for all outcomes and all eventualities. Obviously, there is a change in arrangement and a mutual loss in capability, as I have already said to the Committee. Does that fundamentally alter the UK's being a safe place for its citizens? I would contend that, no, it does not, albeit there are different arrangements and systems that will operate in different ways. That is why, even at this stage, we remain optimistic about what can emerge, but that does require a shift in the overall negotiations. Nothing is agreed until everything is agreed, and we know very clearly that there is a gap that still needs to be bridged. We will see what happens in the coming days, but I want to underline to the Committee the preparation and the incredible work that so many in law enforcement and our operational partners have done. I absolutely pay tribute to them. We will continue to listen incredibly closely to what they say and support them in their work.

Q173 **Chair:** Have you put forward proposals for a fall-back security agreement if no agreement is reached between now and 31 January on fish, a level playing field, or the other outstanding trade-related issues?

James Brokenshire: What I can say to the Committee is that, as the Prime Minister set out in October, we remain willing to discuss the areas where a lot of progress has already been made, including on issues such as law enforcement and security. Clearly, we rightly prepare for no further agreement being put in place. Obviously, we have rightly spent a lot of time in this session underlining all those measures and the steps that will

be put in place. As the Prime Minister said, if there is no further agreement, we remain willing to discuss areas where there is that mutual sense of co-operation, and where there is congruence—that shared outcome and the shared understanding that we have on these issues.

Q174 **Chair:** We hope that there will be a security agreement. Even if other things cannot reach agreement, we certainly hope that there can be a security agreement. I have heard everything you said about continuing to be a safe country, but will we be less safe if we do not have a negotiated agreement on security in place?

James Brokenshire: It would be wrong to suggest that this country will somehow be less safe. The arrangements are different, as I have already indicated to the Committee, but does that mean that we will not be a safe country? No.

Q175 **Chair:** That is not the question I am asking. I am not asking for your assessment of whether we are safe, compared with other countries in the world. I am asking whether, as a result of not having a negotiated agreement in place, we will be less safe in January than we are in December.

James Brokenshire: As I have indicated, Ms Cooper, I think that we will remain safe for the reasons that I have highlighted.

Q176 **Chair:** That is not the question I asked.

James Brokenshire: I go back to what I said about the fact that we have only recently joined SIS II, ECRIS and Prüm. We were one of the safest countries in the world then and we will remain one of the safest countries in the world now. Yes, there are changes in capability, as I have indicated, but does that mean we cannot continue to fight crime and collaborate with our international partners, or use the counter-terrorism group of European partners to combat terrorism? Absolutely not. We have put in place contingency arrangements that will assure the safety and security of our citizens, and that remains our priority.

Q177 **Chair:** You are not answering the question that I asked; you are answering a different question. I am not asking you what your overall assessment is of the safety of our country. I am asking you whether we will be less safe in January than we are now in December—not how it compares with a couple of years ago when we didn't have some of these tools, but compared to right now. If we do not have the new security agreement in place, will we be less safe in January than we are now?

James Brokenshire: As I have said to the Committee, I do not see it in those terms. We will remain a safe and secure country, with a non-negotiated—

Chair: That's not the question I asked.

James Brokenshire—or indeed with a security agreement. I believe that we will remain as safe, because of the incredible work of our policing and the different steps that we have put in place. I hope that responds



HOUSE OF COMMONS

positively to your question about safety and security. We will remain a safe country. We are putting in place the right measures to ensure that. Of course, there are differences and changes in capability but, with the steps that we have put in place and with the incredible work of our police, we will remain as safe as a consequence of those steps that we are implementing.

Q178 **Chair:** I have to say to you, Minister, it was a remarkable thing to say that you now think we will be as safe as we are now if we have no negotiated security agreement in place. I understand your unease about answering my question. You have avoided answering the question many times, but when you finally answered it, I was more astonished by your answer to the question, especially in the light of everything that the police have told us. It is also probably not the right thing for you to do in terms of your credibility with the police with whom you need to work, who you rightly said are working so immensely hard.

James Brokenshire: Absolutely.

Q179 **Chair:** Let me put to you the words of Neil Basu, the counter-terror chief, who said that the UK will be "less safe" without the EU security deal. He said, "That's the bottom line." Is he completely wrong?

James Brokenshire: I obviously respect Neil. We talk very regularly in relation to counter-terrorism issues. There are a range of measures, and we will see what the position is at the end of this year. The negotiations are very, very live. With the different measures that we are implementing and with the arrangements on counter-terrorism through the counter-terrorism group, I believe this country can and will remain safe. I understand the desire to point in different directions and rightly highlight the difference in capabilities and the changes that we will be putting in place, but I remain positive about the arrangements we are stepping up. Of course we want to see an agreement—I would not want to give the Committee a sense that we are turning our face against that—but ultimately that requires an overall agreement's being put in place for all aspects. Those negotiations continue, and we remain positive that a shift in the EU's position can happen, but none the less we remain focused on delivering on all the other aspects that we have touched on in this Committee, to see that this country remains safe and secure, and that absolutely is the priority of this Government.

Q180 **Chair:** We have 10 days to go. It is deeply unfortunate not only for all of those police officers, but for all the Border Force staff and all the victims of crime that they have been put in a position, by both the UK and EU negotiators, where we do not have an agreement in place and none of them currently know what system they will be implementing from 1 January. We certainly pass on our huge thanks to all the police officers, Border Force staff and Home Office staff who will have to be working immensely hard during the Christmas period, and who have probably had their remaining Christmas cancelled as a result of these delays in getting any kind of agreement or any resolution on what will be in place. Please do thank all of them for us.



HOUSE OF COMMONS

James Brokenshire: Thank you, Chair; I will certainly pass on that message, because I think there is a shared appreciation from all of us of the incredible work that is going in at this really challenging time. I will certainly echo your powerful and positive message from this Committee.

Chair: That would certainly be welcome, because we hugely thank them for their work after what has been a very difficult year,

However, as a final comment to you, Minister, in the evidence that you have given us today, you have said that if we do not have an agreement, we will have to use the 1957 convention to arrest people, which we know will take longer. It will take longer to get criminal records, although you do not currently know how long, because you will have to rely on a new email system that has not been operated before. You have no agreements yet in place with airlines on their passenger name records—although, with fingers crossed, we hope that will be in place in time. You are not going to have a replacement for the Prüm DNA system; we are going to go back to the old one, despite the benefits it has brought. SIS II will be replaced by an Interpol system that we know is going to be more bureaucratic and will not have the same Europol support in place.

Listening to your evidence, it certainly sounds as if Neil Basu knows what he is talking about when he gives such stern warnings about the importance of getting a security agreement in place. To the extent that you are able to have any influence on these processes, I strongly hope that you will. I strongly hope that we will get a security agreement in place, but I also urge you to level, not just with the Committee, but with the public about what the consequences will be if we do not, because being honest about some of the consequences—maybe serious consequences—will be extremely important as we go forward.

Thank you very much for your time today, Minister, and your officials as well, and I wish you well with the ongoing negotiations, discussions and preparations over the next 10 days.

James Brokenshire: Thank you very much, Chair. I wish you and the rest of the Committee a happy Christmas, under the different circumstances that we will all be marking it. Thank you, and no doubt we will continue this discussion in the new year.

Chair: Thank you very much.