

Home Affairs Committee

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

Wednesday 10 February 2021

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Members present: Yvette Cooper (Chair); Ms Diane Abbott; Ruth Edwards; Laura Farris; Andrew Gwynne; Adam Holloway; Dame Diana Johnson; Tim Loughton; Stuart C. McDonald.

Questions 181-220

Witnesses

[I](#): Sir Julian King GCMG KCVO, former European Commissioner for Security Union, 2016-2019, and Sir Rob Wainwright KCMG, former Executive Director of Europol, 2009-2018.



Examination of witnesses

Witnesses: Sir Julian King and Sir Rob Wainwright.

Q181 **Chair:** Welcome to this evidence session of the Home Affairs Select Committee, part of our scrutiny of the Government's post-transition security agreement with the EU. We are very grateful to our witnesses for their time this morning. We have with us Sir Julian King, the former European Commissioner for Security Union, and Sir Rob Wainwright, the former executive director of Europol. Thank you both very much for joining us this morning. May I begin by asking both of you for your overall assessment of the law enforcement and judicial co-operation parts of the Trade and Co-operation Agreement, starting with Sir Julian?

Sir Julian King: Good morning. I am very glad to have this opportunity to be part of the scrutiny process.

As I have said elsewhere, I think it is very welcome that there is an agreement on these subjects, because the alternative, the absence of an agreement, would have had very severe consequences. The actual substance of the agreement is in some ways better than had been expected in some areas, but it leaves a number of questions, which I have no doubt we will go on to address. There are questions around implementation, notably what steps can be taken to plug the gap that is left by non-participation in the major law enforcement data sharing base, the Schengen Information System, but other issues of implementation as well. There are some outstanding questions, notably around data adequacy: is that decision going to come through, and what are the implications for co-operation in this area?

I think there are some questions, in this area as elsewhere in the TCA, around governance and how it is actually going to work. We do not have the committee yet. There are various provisions in this part of the agreement around suspension, termination and review. How are those going to be followed? How would they work? All of that, I think, underlines the importance of the kind of scrutiny you are undertaking.

Chair: Thank you. Sir Rob?

Sir Rob Wainwright: Good morning, and thank you for inviting me today.

I agree with Sir Julian's assessment: it is a better agreement than we expected. The fact that we have reached an agreement is not to be taken for granted, as we know. Credit is due to both sides for getting it over the line in the end, because as Sir Julian says, the alternative is not at all palatable for our interests. We have agreement; it is better than I expected as well. In particular, in large parts, with the notable exception of access to the Schengen Information System, it allows us to continue



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with our operational co-operation with our European partners. That is very important and significant to the way the UK confronts the challenges of crime and terrorism, for example. Overall, it is better than was expected, but as Sir Julian says, there is still work to do in terms of mitigating some of the gaps, and of course in implementing the main provisions.

Chair: We want to explore each of those areas in turn. We will go first to Laura Farris.

Q182 **Laura Farris:** Thank you very much to both of you. In the light of your introductory remarks, while it is heartening to hear you say that the agreement is better than expected, it is also true to say that the language of things like SIS II, Prüm and so on may not mean anything to an ordinary person who is listening. It would be very helpful—perhaps you could start, Sir Julian—if you explained where you think security areas are adequately provided for under the TCA, and where in reality there are areas where they are not, and perhaps what that means for crime and security.

Sir Julian King: You are of course absolutely right that one of the continuing challenges in this area is trying to translate some of the technical language into something that is more widely understood. Taking half a step back, over a period of time—the past decade, speeding up in more recent years—the EU member states have built a network of co-operation at the European level to support the national authorities that are in the front line in tackling crime, serious crime, cyber-crime, and other threats, notably terrorism.

That co-operation centres on some European agencies that support co-operation, such as Europol, which Rob ran with great distinction and which supports co-operation between police forces, and Eurojust, which supports co-operation between prosecution services. It incorporates some elements of law and legal co-operation, one of the best-known examples of which is the European Arrest Warrant, so you can get back people who are wanted for more serious crimes. There is a whole network of law enforcement databases, which share various sorts of information—personal information and other sorts of information—related to fighting challenges like terrorism and crime.

As the UK left the European Union, it became a third country and there was no automatic right to continued participation in these arrangements, which had been agreed between member states and exist as a basis for co-operation for those who are in the European Union. So the question was—and, to an extent, is—to what extent will the UK outside the European Union be able to continue the type of co-operation that I have just described with the European Union and the European Union systems?

I think most people believe that there was a shared interest in finding ways of doing that, but there were also constraints because that system for members of the European Union is underpinned by EU law. The ECJ has a role and ultimately has jurisdiction in a number of areas in these different agencies, databases and legal instruments, and obviously the UK



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was stepping out of that. The Government made its position clear that it did not want to refer to EU law or have EU law as the basis for co-operation in this area, and it did not want ECJ jurisdiction to run. So how are you going to design co-operation, bearing that in mind?

What has been achieved against that backdrop is important. The UK will continue to have access to the agencies, Europol and Eurojust. The exact details of how that will work we might discuss a little bit more, but they are building on precedents that existed for co-operation with non-EU member states, in some areas going potentially a bit further. The UK will continue to have a framework for what is called "surrender"—extradition, essentially, of wanted people from across Europe. It is not the European Arrest Warrant; it is something else. Again, it builds on a precedent, which was an agreement between the EU, Norway and Iceland—we can discuss the details further. That was the bit that I think people were looking at very carefully in advance.

The UK will continue to have access in different ways to many of the law enforcement databases that exchange information—for example, on vehicle registrations, fingerprints, DNA and crime scene forensics, and on people who are coming in and out of our airports. In a slightly more complicated way, we will continue to exchange information around criminal records, which is very important if you are prosecuting someone and you want to find out whether they have got a criminal record elsewhere in Europe. Those are some of the positive elements of the agreement.

Q183 Laura Farris: Thank you very much for that helpful background. Sir Rob, turning to you, perhaps I could pick up with what Theresa May said in the House during the debate just before new year's eve. She set out the basis on where she thought there was scope to keep negotiating and trying to reach agreement. Sir Rob, where do you think the capacity for the United Kingdom and the EU to go further lies at the moment? Could you set out why that is imperative for the Government?

Sir Rob Wainwright: That is a good point. To your earlier question to Julian around why this matters to members of the public, it is important to understand the context. What I have seen, certainly in my former role, is a distinct shift in the last decade to a globalisation of crime and how it impacts everyday communities. All of us in the UK will still be concerned about the drugs problem that we have in certain communities, about the effects of modern slavery, about rising levels of fraud and cyber-crime. All of this matters in everyday terms and all of it is inextricably linked to a criminal problem that is globalised and is not one that can be confronted within the shores of the United Kingdom itself, because of the nature of the international criminal syndicates that are behind most of this activity.

That has put a significant demand on our policing authorities to work as closely as possible with our European partners and indeed other global partners to help confront this in the most effective way. That is precisely why this architecture of enhanced co-operation—judicial and police co-operation—through the EU has been built up over the last 10 or 20 years



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in the way that Julian described. It matters in those terms, because if you denude the capabilities that the UK has relied on for the last 10 years, then it might impact on our ability to manage the effects of this problem in our communities.

To your question, I think Theresa May made a very important point, because the other notable feature of this agreement is that it keeps the show on the road—quite significantly so. It gets us over the line of 31 December to a point where operational activity and co-operation continue in large part, as I said earlier, and in particular it gives us the platform on which to build for the future. I think it is really important that the UK Government and authorities see—I am sure they do—that this is not a static position that we have reached; it is a platform that we can build on. I do think that in all of these areas that we are talking about, a more positive, constructive future of European security co-operation involving the UK can still be charted. Of course, the kind of legal difficulties that Julian was talking about are still there in certain areas and will continue to be there, but with a bit of imagination and ambition, we can use this as a way to build the new era of security co-operation in Europe. I really believe that.

Q184 Laura Farris: This question is for both of you, but starting with Rob, where are the priority areas that the Government should have in mind? The other side of the question is where do you think security is most exposed, or where is there the greatest degree of exposure around security issues under the terms of the new agreement?

Sir Rob Wainwright: I might be biased because of my former role, but I do think that the continued active involvement in Europol is a very important centre of gravity for the UK, in terms of its operation and scope, because through there, in the way that other non-EU countries, such as the United States, have greatly extended their impact and influence, I think there is still the opportunity to build out from that a very strong footprint for the UK in terms of its European security interests. It is a great launchpad actually, in so many ways.

Of the areas to plug, I think the critical one, which Julian mentioned in his introduction, is the loss of access to the Schengen Information System. This is the largest security database in Europe. Last year, the UK checked it over 600 million times at the border; uniformed police officers around the country use it for basic police checks—looking for wanted suspects, offenders, missing people and stolen artefacts, for example. It is a European form of the UK's police national computer, which in a very fundamental way provides a backbone of policing capability. The UK Government have set out a range of mitigating measures to deal with that issue, but that is the gap that needs to be plugged most of all, and I think the UK Government know that.

Sir Julian King: I agree. As I think I said in the introduction, the biggest operational challenge is to plug the gap that has been left by the absence of access to the Schengen Information System. The most significant outstanding unresolved issue is the question of data adequacy—whether



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that decision is going to be positive and how that would affect the different co-operation frameworks that we have just discussed.

I think that there are one or two other issues that we might look at. It is not entirely clear to me how the new proposed system for sharing criminal records is going to work. However, they are not of the same order as the challenges that Rob mentioned and which I agree with.

Laura Farris: Thank you. That concludes my questions.

Chair: Thank you. We want to move on to SIS II.

Q185 **Stuart C. McDonald:** You have both identified replacing SIS II, essentially, as one of the key challenges. That is obviously consistent with what you have said on many occasions in the build-up to the end of the transition period. I will turn in a moment to the alternative, in the form of use of Interpol; but there is also reference in the European co-operation treaty to other bilateral co-operation and information sharing in response to requests. Can you tell us a little bit about what you understand that to mean—what it might look like and how it might operate as an alternative? I will start with Sir Julian again.

Sir Julian King: In all my replies I just need to make clear that of course I was not, and Rob was not, actually involved in the detail of the negotiations, so our views are more or less informed views, commenting on our interpretation of the outcome of those negotiations; but we were not privy to every twist and turn. My understanding is that it was important for the EU member states to have a legal basis written into this treaty on the future relationship that, for some of them, was required in their national law to be able to exchange this kind of information. It kind of underpins that provision on the possibility to respond to requests—underpins some of the other co-operation that is set out in the agreement. For at least some of the EU member states, if they had not got that then it would be more complicated for them to share information across some of the databases, for example. It does—and it is there in the treaty, so I am assuming that it would—also underpin stand-alone requests for mutual legal assistance that can crop up in the course of investigations or prosecutions.

Sir Rob Wainwright: These are important mitigating measures and alternative measures—both the ones that you mentioned: the bilateral channels and Interpol. Both, of course, are arrangements that pre-dated most of the EU architecture that is built up, including Europol. To a certain extent we are going back to what we have always relied on, for several decades—in the case of Interpol almost 100 years, I think. If you take bilateral channels, for example, for several decades the UK, like other major countries in Europe, has maintained a network of bilateral police officers in countries around Europe and indeed around the world. It was part of my former responsibility, several years ago, to run that international network for the UK. I know from that experience how valuable that is—particularly in allowing for a more intensive bilateral

relationship, in areas of a high degree of sensitivity, maybe, but also a degree of acute priority focus for those two countries.

To a certain extent, those liaison officers have remained in place throughout the time in which the EU has also grown in this area, and remain a backbone of the way in which we do our international policing. On their own, however, they don't provide for the same level of efficiency, I guess—the same level of comprehensive coverage of this more globalised criminal phenomenon that we have now, because by their very nature they only work on a bilateral basis—not on a multilateral cover-all basis for the way in which crime now operates.

Interpol also, it is important to understand, offers a different set of capabilities, and needs some upgrading yet for it to reach the level of technical proficiency, perhaps, and capability that, for example, the Schengen Information System has. What we are losing is the ability, in particular, to plug into this comprehensive system in the EU. The Schengen Information System gives you systemic resilience. What I mean by that, and I might have made this point in earlier evidence, is that if a member state is aware that one of its suspects on the run is heading for the UK, almost certainly, through bilateral channels or through Interpol, they will alert the UK authorities of his imminent arrival. Most of the time you do not know that—you don't know what you don't know, of course.

The point of view of the way in which the EU has built its architecture, most notably the Schengen Information System, is to give you that systemic resilience whereby, whichever port he might arrive at anywhere in the European Union, the Schengen Information System is designed to alert the authorities in that country. That is the gap that we have to plug, and the availability of access to bilateral channels and Interpol goes quite some way to plugging that, but not quite all the way.

Q186 Stuart C. McDonald: My final question; I will continue with you, Sir Rob. What should be the priorities for the UK Government in trying to plug those gaps? How does it build up that extra resilience? Is there an extent to which that capability gap is not completely surmountable? In any event, how do we try to make it as small as possible?

Sir Rob Wainwright: To a certain extent, because of the availability the UK had to those EU systems, the investment priority attached to these other two arrangements that we are talking about was a little bit less perhaps over the past decade. That has to change now. I think this is a question of how imaginatively the UK can refocus again on those two areas. Maybe we can talk a little bit about how they might do that, but I would think that that would be a major part of how the UK now approaches its next chapter of international policing.

Q187 Stuart C. McDonald: Sir Julian, it is not just a matter of what the UK Government does; it is also about getting other countries to take the Interpol system or to use it almost in the same way they do SIS II. How does it do that, and what else would you recommend that it try to do to make these alternative systems work as well as they can?



Sir Julian King: Exactly. First of all, I very much endorse what Rob has just said about the bilateral co-operation, but the challenge, as Rob has described, is to plug the gap in in multilateral information sharing. As I understand it, the proposal from HMG is, first, for HMG to use the Interpol databases to share its alerts and, secondly, to encourage the European member states to share the same volume and quality of information that they share among themselves on the Schengen Information System via the Interpol databases, so that that is available to the UK on those channels.

The first challenge is to encourage the EU member states to put information in twice, putting the information that they are putting into the Schengen Information System into the Interpol databases. They have said that they will do that, because there is a shared interest in trying to preserve co-operation in this area and make it effective, and I think some of the early indications are that the number of alerts going into the Interpol system from European countries has increased, but it is an extra effort, so that is something that we need to encourage and follow.

The next challenge, as I understand it, is to plug those Interpol databases into national police information systems. In the UK's case, that means into the national police computer system, because the advantage of the Schengen Information System, as Rob was saying, was that it was automatically available, effectively in real time, to officers on the frontline— not only police officers, but border guard and immigration officers—for them to consult from their desks or, as I have seen in Sweden, in their cars. Police could get immediate access to the information, so if they were presented with somebody whom they wanted to know about and they wanted to check their identity, they could do that.

At the moment, that kind of automatic link all the way from the frontline through to this information is not there for the Interpol databases. There is a challenge in the UK, which they are very focused on and pursuing, as I understand it, to make that information very quickly available to the police national computer and therefore to frontline officers. That challenge will exist in other EU countries, too, for the UK alerts, because of course the UK alerts are not being shared across Schengen Information System; they are being shared across the Interpol systems. So another question which we need to pursue is: how easy is it for frontline border guards, immigration officers and police officers in EU member states to get access to the information that the UK is sharing about its alerts over the Interpol system? I hope that makes sense.

Q188 **Stuart C. McDonald:** It does, but it sounds like quite a significant piece of work to make that happen. In terms of timescale, obviously, the UK Government can control what happens here, but it will take a lot of persuading and cajoling, because some countries will be more willing than others to take these steps. How quickly should we look for this work to be done? Are we are talking years down the line?



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Sir Julian King: As I understand it, in terms of sharing alerts over the Interpol system, that is going well. The reason for that—

Q189 **Stuart C. McDonald:** Sure. But in terms of direct access for frontline officers, that seems like an incredibly significant piece of work.

Sir Julian King: I agree that that does look like it would potentially require more effort not only in the UK's case but in the case of other police forces as concerns the UK alerts shared over Interpol. However, there is a shared interest, and that is why I think the numbers of alerts shared over Interpol are high. There is a clear shared interest in finding ways of maintaining the closest possible co-operation against these shared threats.

Stuart C. McDonald: Thank you very much.

Q190 **Ms Abbott:** Sir Julian, you talked about outstanding questions on data adequacy. Do you want to say a little more about that?

Sir Julian King: Of course. As you know, there was not a decision on whether or not to grant the UK data adequacy before the end of last year. It was agreed that that decision would come within four to six months, so we are still waiting to see the outcome of that process. It is a process that the Commission carries out, as you know—we have discussed some of this on previous occasions—to assess whether it is going to grant data adequacy status to a third country like the UK. It assesses a range of factors, it consults the European data protection authorities, and it puts out its decision. That is then capable of being challenged. The European Parliament can express a view and ask the Commission to think again if it wants to. Indeed, a range of bodies—the European Parliament, state bodies and, in some circumstances, individuals—can challenge elements of the data adequacy decision, so it is a story that is likely to continue to run for some time.

In my view—it is only my view—I cannot see why the Commission should not be able to grant the UK data adequacy, because the UK Government should be able to have satisfactory answers and replies to the sort of factors they are concerned about. Activities of law enforcement and security authorities in potentially surveilling EU citizens and having access to EU citizens' data is one of the concerns. That has led in the past to data adequacy arrangements being struck down with the United States, as you know well. As things stand, the UK operates the European levels of protection of personal information in GDPR as effectively as any EU member state.

In my view, arrangements for the governance of the activities of the intelligence agencies in the UK are at least as good and at least as transparent as similar arrangements in EU member states. I hope that, on that basis, the Commission will be able to reach a positive decision, but we don't know yet. If they do reach a positive decision, as I have said, that decision can be challenged.

Q191 **Ms Abbott:** I note that you say that, in your opinion, we should get a data adequacy certificate. What would be the consequences of their not



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being prepared to issue a data adequacy certificate?

Sir Julian King: Rob will have views on this as well. It would certainly complicate the co-operation that is set out in the agreement, but I note that at an earlier stage in the negotiations, it was reported that the EU side were making the existence of a positive data adequacy decision effectively a precondition for co-operation in this area. I note that in the agreement reached, that isn't the case.

There are provisions for the possibility of suspending parts, or indeed all, of the agreement, if there are serious and systemic concerns about data protection, but that is a decision that the various governance bodies would need to take. As I read the text, it doesn't necessarily automatically follow from a data adequacy decision being either granted or challenged.

As you go through the different parts of the agreement, there are also separate provisions for data protection around Prüm, for example, and PNR. It is at least possible, as you look at the framework of the agreement, that in the absence of a data adequacy decision, or if a data adequacy decision were to be challenged, elements of the co-operation that are set out here could continue.

If you take a step back, that shouldn't be entirely surprising, because there has been, and there is, co-operation in some of these areas between the EU and third countries, who do not have data adequacy, or whose data adequacy decisions have been challenged.

As Rob knows very well, there is very significant co-operation with the United States and Europol. The EU co-operates with the United States over sharing passenger name records—information on people coming in and out of our airports. That has continued, despite two challenges to data adequacy agreements with the United States.

Q192 **Ms Abbott:** Sir Rob, is there anything you want to add?

Sir Rob Wainwright: There is still a level of uncertainty around the full impact of it. It is not going to be a small impact, I agree. In respect of the UK's continued involvement in Europol, the exact form of that is still to be decided, through so-called working arrangements that will be decided and agreed upon between the UK and Europol directly, or at least the management board of that agency.

It is not clear to me precisely if that is also contingent on a favourable data adequacy decision down the track. The direct impact on the security provisions is still a little bit up in the air, but it would certainly complicate it, to use Julian's words—and not just on security, but on trade as well.

If you were to look at the impact that recent European Court judgments have had on, for example, transatlantic data flows, the impact that that is having already, or is likely to have, on business exchange between Europe and United States is quite significant. If that is any example to follow, I think the potential fallout will be significant.



Julian is right in the sense that as the UK has effectively operated—without any significant criticism in the past 10 or 20 years—within the EU framework of data protection norms, one wonders why that reality would not be taken as the default assumption here. None the less, it is true that all the European institutions, notably Parliament and the Commission, are becoming increasingly concerned with upholding data privacy rights. It is one to watch, I think, for the Committee and, indeed, on a wider basis.

Q193 Ms Abbott: So what you are saying is that if we do not get a data adequacy certificate—in other words, if the EU does not feel that we have the right data protection standards formally in place—that could render meaningless some of the things that have been agreed to that we are discussing this morning.

Sir Rob Wainwright: I think there is that uncertainty that I referred to. I do not know if it would render it meaningless; as Julian says, other parts of the agreement would provide some mitigation. I do not know, but I think it would certainly be a new challenge and a new complication to address at the time. I think, if I am right in understanding it, the agreement provides for the Commission to make its decision, yay or nay, within six months. That is something that will have to be focused on over that period. It is a potential issue.

Q194 Ms Abbott: Thank you very much, Sir Rob. May I just ask you one more question, about criminal records? How would you characterise the new relationship for exchanging data on criminals compared with ECRIS?

Sir Rob Wainwright: I think Julian perhaps could go on this. I have heard him talk more authoritatively on this recently than I have, so I will pass the baton to him.

Ms Abbott: Sir Julian, give me the benefit of your authority.

Sir Julian King: I do not know about that, but I will try to answer the question. It is not entirely clear, so far as I can see. It is not quite as significant as the questions around the gap left by the Schengen Information System, but this is another one of those implementation-operation questions that I think it is definitely worth us continuing to pursue, and pursuing with practitioners—those who actually use these systems—to find out what it means for them in practice, because it is a change.

Among the EU member states, the ECRIS system, as you know, allows you enter an inquiry if you want to know whether an individual has criminal records in other countries in Europe; that will automatically be checked against the ECRIS records in each of the EU countries. If there is a match, you will get an indication that there is a match, and then you are able to get in touch with the country or countries where a match has come up, and you can get the details. That happens in a matter of days. I also note that it has been agreed that the ECRIS system should be extended to cover criminal records of third country nationals who have been found guilty of crimes in the EU.



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Outside, the UK isn't going to be plugged into that system, but it is going to have an arrangement that is set out in the agreement, where it has a central authority that collects criminal records on European nationals who are found guilty of a crime in the UK, and the EU member states agreed that they will have national authorities as well that collect that information. There will be a regular—I think monthly—exchange of that information, so that if a Brit has been found guilty of a crime somewhere in the EU, that fact will be shared with the UK. That doesn't sound to me quite the same as this ability to type in a search and get a hit, or no hit, across the records of 27 now—it was 28—countries. I am not entirely sure exactly how this is going to work in practice.

We come back to the point that was raised earlier about responding to inquiries. It is in the agreement that EU member states will respond to inquiries from the UK. There is a particular time limit in the part of the agreement that deals with criminal records that says that it will respond within 20 days, so if the UK knows that there is a Brit whose records are kept somewhere else and they would like to consult them, they are going to be able to ask for those. There will be a reply and, according to the provisions in this part of the agreement, it will come within 20 days. It is better than falling back on the outdated Council of Europe conventions, but it is not the same as the ECRIS system amongst the EU member states.

Q195 Ms Abbott: Under the ECRIS system, you could type in a name and find out automatically if they had a criminal record anywhere in the EU. Under the new system, which has taken its place, it won't be automatic. How long could it take to get that information?

Sir Julian King: I don't know, I'm afraid. It is a valid question to ask to those who are actually operating the system. I note that in separate evidence the representative of the NCA has said recently that they are pretty confident that this will work, and that they will be getting information in a timely manner.

It is true that under the existing ECRIS system it does take some days; I think the average is six days, when you have found out the information is there, to ask for it and to get it. Under the new system, as we have said, there is a provision with a time limit of 20 days. I am sure that because there is a shared interest in co-operation, wherever possible the EU authorities would try to beat that time limit.

It may be, in practice, that the difference is not that large, but I don't know and I cannot, in all honesty, tell from reading the face of the agreement.

Q196 Ms Abbott: Finally, under the old system, you didn't have to know whether someone might have a criminal record; you could just find out automatically. Now, British law enforcement, whether it is frontline policing, the NCA or whoever, will have to know that they think somebody might have a criminal record, and that is not completely foolproof, is it?



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Sir Julian King: That would be a very good question to put to somebody who has to plug into this system and make it work. As I say, as I read the agreement, there is a provision that these national authorities across Europe will be gathering the information and sharing it, at least on a monthly basis. If a Brit has been found guilty of a crime somewhere in the EU, as far as I can see, that information will feed back, but it is not the same as having a system where you can get hit or no hit across 27 other jurisdictions.

Ms Abbott: Thank you very much, Sir Julian.

Q197 **Chair:** To follow up on that, it sounds as if that monthly exchange is just about new criminal records, as opposed to existing ones. What if the police here are investigating a Spanish citizen and want to know if they have criminal records, not just in Spain but maybe in France or anywhere else in the EU? Does that mean that the police have to send requests to all 27 individual countries? Do they just wait for a month until this monthly exchange between these collective organisations or institutions takes place? What do they do?

Sir Julian King: Chair, you are asking me things that I can't answer. I don't know how that is going to work. I agree. That is why I think both Rob and I have mentioned this as one of the areas of implementation that merits scrutiny. I agree with your and Diane Abbot's questions. I think they are the right questions to ask.

Sir Rob Wainwright: At the basic level of police checks like that, what we are describing across various parts of the arrangements are mitigating measures. They are not going to be quite as instantaneous as those we have relied on in the past.

That said, in more serious cases—organised crime, terrorism—where the British officer in the case is investigating a serious criminal syndicate, different channels are still available, most notably through Europol. In that case, the UK will continue to be part of a very large, vibrant, liaison officer community at Europol. There are 200 officers from 40 countries, and they are still plugged into that, and into the pan-European databases that are exactly designed to cater for the fact that you need to build up a picture across all countries in Europe of the most serious forms of crime. The UK will still rely on that. In its most important demands, perhaps—policing in that sense—the UK will still have it. I think we are talking at a lower, though none the less important, level of more everyday police investigation, where the gap has to be filled.

Sir Julian King: I agree with that. We are talking about individual bits of the agreement and individual arrangements, but there is an overall context. As we said at the outset, both Rob and I agree that more of the framework for co-operation has been maintained and preserved in this agreement than people feared at some stages, so that overall framework will give you some reassurance.

Q198 **Chair:** Before we move on to Prüm and other aspects, I have a quick



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follow-up on SIS II. Rob, when you gave evidence to us a few years ago when we were first looking at this, you described how SIS II was really important; for example, Border Force was able to identify a sex offender who was wanted elsewhere in Europe. How does the replacement system operate compared with that SIS II situation, in a case like that or a similar kind of example?

Sir Rob Wainwright: Critically, it would depend on how much information the UK or the European partner in that case had on that suspect. As I said earlier, if we know that the offender is on his way to France or Spain, then that is rather easy, because these bilateral channels will allow us to none the less take effective police action. It is when we don't know. Therefore, to cover that and to cover the loss, we are largely, if not totally, dependent on the ability of our European partners to also continue to operate at an effective level with the Interpol systems. The Interpol systems are somewhat similar, and designed in a somewhat similar way, but, of course, on a global basis, across this 190-plus member country framework that Interpol maintains.

It is certainly the case that most EU member states have tended to prioritise their use of the Schengen Information System above the Interpol one, because it gives a greater range of capabilities and is a bit more efficient and a bit more attendant to its local needs in Europe. That said, all of them still maintain so-called Interpol national central bureaux, and all of them still maintain their operation of the Interpol system, so the framework doesn't have to be built from scratch.

None the less, to answer your question, in the end, we become dependent on the response of other member states in keeping up to date the use of the Interpol systems, alongside the information that they enter into the Schengen Information System. There are different information types.

There are different information types. It is not quite an exact copy, but it can provide for a certain amount of mitigation here, providing that our partners are committed to doing that in a way that we would need.

Q199 **Chair:** Is it right, though, that we cannot tell how many cases France, Germany or other countries have entered on to the Interpol system, and that it is not transparent in that way?

Sir Rob Wainwright: I am not sure about that. I think we might know that, or we could find out that information, if not from Interpol directly. I don't know.

Q200 **Chair:** Neither the NCA nor Ministers have been able to tell us, when we have asked, how many cases they have entered on to Interpol or on to SIS II. They have been unable to tell us. They said the cases on Interpol are not transparent. In terms of going forward and how you fill some of these Interpol gaps, should our aim be to try to reform the Interpol system and get it to be more like the SIS II system, with more accessible databases? Should it be to try to add technology and commitments at either end, so that Interpol sits in the middle but we have a more efficient, fast-moving tech system attached to it, so that we can more



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speedily access things, enter things and so on? Or should it be to try to create something new and parallel, perhaps working with Five Eyes countries as well as other European countries? We have clearly lost something. If we want to try to get it back or to replicate it, what do we do?

Sir Rob Wainwright: I do not think you should be in the business of creating anything new. It is about maximising the access to capabilities we already have. To a certain extent, it includes Five Eyes, but largely not. With a bit of ambition and imagination, what does a future, stronger Interpol look like—particularly to your second point—with better technology capabilities? For years, Interpol has suffered from serious amounts of under-investment. It does not have the right profile that it should have, it does not have the right investment, and it should have a greater range of technology capabilities. If the UK can be part of leading that effort, it will of course benefit not just the UK, but others. Let's not forget that, most notably, Interpol potentially provides a framework of far more global co-operation than what the EU arrangements provide. Increasingly, as I said in my introductory comments, crime is changing and becoming more global—it is certainly more than just European—so a stronger Interpol benefits us all, and all of us in Europe. I think there is some imagination that can be applied here to building up a better system.

Q201 **Chair:** Sir Julian, can I ask you briefly to come in on that? I am conscious that it is such a big question, and I am also conscious of your time, because I think you are time constrained as well.

Sir Julian King: Thank you; we have a bit more time. To complement what Rob said, what is happening, as I understand it, is that HMG are investing in Interpol. Indeed, they are putting staff in and are committed to working with Interpol to get other countries more engaged. I think that is welcome. There is a question about the nature of co-operation across a network with 194 members, some of whom, to put it politely, have a slightly different approach to fighting terrorism and organised crime. That may be part of the reason why, as I understand it, HMG are also at least exploring the possibility of complementing co-operation over Interpol with an additional way of sharing alerts with like-minded countries—starting with the Five Eyes, but perhaps going wider than that—and benefitting from new technology. But as I understand it, this is at an early stage and obviously would take some time to build up.

Chair: Thank you. I call Andrew Gwynne.

Q202 **Andrew Gwynne:** Thank you, Sir Julian and Sir Rob, for your time. I want to focus on the Prüm database, which basically allows reciprocal searching of each member state's databases for DNA profiles, vehicle registrations and fingerprints. What are the main differences, in the new arrangements on exchanging information on DNA, fingerprints and vehicle registrations through Prüm, from when we were an EU member state?

Sir Julian King: Again, not having been inside the negotiations, but having had a chance to look at the outcome, that is one of the databases



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where it looks to me like those involved have managed to find a way of very largely replicating the existing arrangements for the UK outside the EU. As you go through this part of the agreement, it is clear, perhaps in contrast to ECRIS, which we were just talking about, that there is the possibility of automated searching by the UK across the EU and vice versa, and that there is the possibility of automated exchange of information on DNA, for example

There may be some detailed provisions that are different. Again, I think you would have to ask a practitioner who actually uses those systems on a regular basis. I note that there is a provision for reviewing how that arrangement in the agreement is going to work, with the possibility of reaching a conclusion that there are some problems—presumably including around the protection of data—that might lead to amending those proposed arrangements or, in extremis, to their suspension. Obviously, that is different, because if you were still in the EU, you would not have that, but as you are starting a fresh relationship, it is not unnatural, I think, that there should be some provision for review.

Q203 Andrew Gwynne: On that particular issue, what do you think that necessary evaluation will seek to establish?

Sir Julian King: On the basis of a reading of this agreement, I think it will look in particular at the handling of the data. That is one of the areas where there are specified arrangements for the protection of data, and for its preservation and deletion. I imagine that is one of the areas that they would look at.

Linking back to an earlier part of our conversation, it is interesting that here and elsewhere in the agreement, there are provisions on data and data protection specified in the agreement, so notwithstanding what might or might not happen around data adequacy as an overall umbrella, some detailed provisions are set out and open to review, and that might have a positive outcome as well as a negative outcome. It is, I suppose, possible that the review could conclude that the co-operation and protection of data in this area was working well.

Q204 Andrew Gwynne: One of those conditions is on the sharing of vehicle registration data. What are your thoughts on whether the UK is ready to meet those conditions?

Sir Julian King: I am sorry—that is not a question I feel qualified to answer.

Q205 Andrew Gwynne: Sir Rob, do you have anything to add on those points on Prüm?

Sir Rob Wainwright: Nothing in particular beyond that I have the same assumption that Julian laid out.

Q206 Andrew Gwynne: I will move briefly on to the passenger name record directive. That obviously creates a pan-EU approach to sharing travel data on known individuals. Will the PNR arrangements enable timely information exchange on the same basis as before?



Sir Julian King: Again, as I read the agreement, that is another area where they have found a way of continuing in future—on a new basis set out in the agreement—co-operation between the UK outside the EU and the EU system for sharing PNR information. I think that is very welcome. The UK, as you know, has been a pioneer in sharing and using PNR information, not just in Europe, but internationally. That is a welcome element of the agreement.

In the detail, there are some conditions, again, around the handling of the information on who is arriving in and out of our airports from Europe, using European carriers, that align the relationship between the UK and the EU with the relationship that the EU is now proposing with Canada. That does require some changes in how the UK would handle the data. There are, again, review arrangements specific to this part of the agreement to check over a number of years that the UK is handling the data in the way set out—in particular, deleting old data.

Q207 **Andrew Gwynne:** I am pleased that you have mentioned the EU-Canada agreement. I wonder whether the new UK-EU arrangement on PNR is vulnerable in the same way that EU-Canada arrangements are vulnerable to legal challenges. If so, what would be the implications were such a challenge successful?

Sir Julian King: It is embedded in this part of the agreement. It is not a separate agreement. There is a separate agreement on PNR with Canada. That was challenged, but as you know, as you follow these things, there have been some proposed amendments to the Canada agreement to take account of the court judgment that followed the challenge. As I understand it, those amendments have been incorporated into this agreement, so certainly it should not be open to the same challenge as the challenge that faced the Canada agreement.

Andrew Gwynne: Thank you. Lastly—

Chair: I am conscious that we are very tight for time. I will come back to you, Andrew, at the end if there is time, but several more Members need to get in.

Q208 **Dame Diana Johnson:** Thank you very much for your evidence so far. I wanted to ask you about the experience of a third-party country dealing with Europol: the United States, which seems to have the most extensive arrangements and agreements in place. I wondered whether you, Sir Julian, could say something about that, how that has evolved over time, and what lessons we might be able to learn from those negotiations and that experience.

Sir Julian King: I am happy to have a go, but I think Rob, as he ran the organisation and set up some of those arrangements, might go first.

Sir Rob Wainwright: I think it is a model to follow. Europol negotiated international co-operation agreements with, I think, 22 non-EU member states. They fall into two different types of agreement. That is not relevant here. Among those countries that have really used that agreement to its



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full potential, the United States is one, after a slow start. Australia is another, from the very start, and Switzerland, for example.

Across those three examples you see a willingness and an ability to commit a significant amount of resources. That includes a number of liaison officers posted at the headquarters I mentioned earlier: this very large community drawn from all the countries. In the case of the United States, there have been over 20 police officers from 10 or 12 different federal agencies—not just the FBI, but a range of others as well. That is a significant investment across a very wide footprint of the US law enforcement community, using that, therefore, as the means by which to exchange significant quantities of information relating to investigations, and then using that as a way to help to drive very sizeable international operations against large cyber-syndicates and other areas of crime.

What I saw in the case of the United States, therefore, is increasingly over the last five years the way in which the US had such a footprint in driving a lot of this operational impact that one could not spot the difference, frankly, in operational terms between its being a member state or not. That said, clearly no non-EU member state is part of any formal governance arrangements, of course—at least, not a full voting member of the Europol management board.

None of these countries are able to have their people employed directly at Europol, certainly not in positions of any leadership. But in operational terms, the co-operation worked rather smoothly, and that is indicative—symptomatic—of the way in which police-to-police contacts work around the world: they just get on with the job at hand and make the provisions work. I think there is a lot to be said, therefore, for how promising, in that sense, the UK's future might still be at the agency.

Q209 Dame Diana Johnson: Can I just confirm that the arrangements that we have now got in place through the TCA put us alongside the way the US is currently operating with Europol? Is that right, or are we still missing some of the bits that we need to agree?

Sir Rob Wainwright: The so-called working arrangements, as the TCA said, need to be agreed still, but yes, we can expect, I think, that those arrangements will be at least as good as they are for the United States. I say “at least” but—who knows?—they might even be a little better, in the sense that those arrangements might be forced to accept the reality of the fact that the UK for years has been one of the three heaviest contributors of intelligence to Europol's databases. That goes far above anything even the United States has done, for example. So there is a depth of co-operation between the UK and other partners at Europol that would have to be accommodated in practical form within these working arrangements. That matters, for example, in regard to direct access to and use of Europol's databases. So far, there is only indirect access granted to non-EU member states. I think that that condition is likely to be largely upheld in the case of the UK, so that it doesn't break precedent, but some novelty will have to be arranged in terms of how the UK can still use this in a way that is serviceable on both sides.



Q210 Dame Diana Johnson: Can I pick up on something you said about governance and management structures? I just wondered what your feeling was about the UK's priorities: how are we going to be able to make sure that those priorities feed through to the operations that Europol undertakes? What is your feeling about that? How are we going to square that circle?

Sir Rob Wainwright: Well, of course, we are still in the house and still speaking to Europol officials—also senior ones—every day, so our interests and opinions will still be very well regarded, I think. And in informal ways, the UK, I think, will continue to have influence. It will not have that formal governance clout, of course, and, perhaps importantly, it will no longer have the ability to have people in positions of senior authority, but again, if the US and those other countries I have mentioned are any example to go by, actually the operational impact is still rather significant.

In terms of priorities, actually there are very few—and I can't think of any significant ones now—that the UK has as a top priority in fighting crime that are not shared with our European partners anyway, so to a certain extent, that is a red herring.

Q211 Dame Diana Johnson: Can I ask one final question, Yvette? I know we are very short of time. Does the agreement create any obstacles to the UK participating in joint investigation teams?

Sir Rob Wainwright: As I understand it, it still allows for that possibility; I'm not sure. Again, the arrangements specifically governing that are, I think, still to be found in the detail, but it still keeps that possibility open, as I understand it.

Dame Diana Johnson: Okay, thank you.

Chair: We have three more members wanting to ask questions. Sir Julian, are you able to stay with us for a few minutes longer?

Sir Julian King: I'm really sorry, but is 10 minutes okay?

Chair: That would be great, yes; I think we can get everybody in. Adam Holloway.

Q212 Adam Holloway: It strikes me that you are saying that the EU has been eminently sensible in these new arrangements. Can you see any circumstances where it would not be in the UK's and the EU's interests to work through all these issues in order to sort out crime and to keep our people secure?

Sir Julian King: Rob, do you want to have a go first?

Sir Rob Wainwright: I would have to agree, of course, that it's in nobody's interests not to make these arrangements work as efficiently as possible. The fact that, despite some foreboding at the time, both sides still managed to get the deal over the line in a pretty healthy state is indicative of the common interests that we share. I hope that common interest holds, as I said, so that we can look forward to building on this



agreement an even stronger, more vibrant partnership in the future. The law's the thing, I guess, in terms of some of the legal provisions that still have to be squared away, but I think there is a groundswell of common political interest and a very strong positive mutual interest at the operational level among the law enforcement community.

Adam Holloway: Lovely, thank you very much.

Sir Julian King: Just to say, I agree with that. The only thing to look out for is that co-operation in this area is part of the wider agreement. Rob and I hope that this is an area where co-operation will strengthen the overall future relationship, but I suppose it is at least conceivable that the reverse could happen—that the tensions or stresses and strains or outstanding issues in the overall agreement and future relationship could impact on the implementation of co-operation in this area.

Adam Holloway: I am sure everyone is hoping it will go well.

Q213 **Ruth Edwards:** I would like to ask a couple of questions about cyber-security, which is one of the two areas of thematic co-operation in the agreement. Sir Rob, is there anything in the agreement that concerns you at all? Do you think what we have there is sufficient to maintain the joint working arrangements we have had with EU partners, which have been so effective in bringing down criminal infrastructure such as WebStresser?

Sir Rob Wainwright: In so far as cyber-security does feature in the agreement, it is part of the landscape of the agreement that allows the UK to continue to participate in Europol and some of the other measures that we have talked about. It is notable that the two most significant Europol operations announced so far in this year have both been cyber operations and have both had the active involvement of the United Kingdom still, since 1 January. That is a very positive indication of the UK's continued involvement in the agency and indeed, as you say, the importance of focusing on a problem of cyber-crime that is getting worse to a certain extent. Given that cyber in its manifestation, as those examples showed, is part of the landscape of how the most serious forms of crime are co-operated on, I am pretty happy that the agreement caters for that.

Q214 **Ruth Edwards:** Excellent, thank you. You mentioned the possibility of a new era for security co-operation. What do you think our ambition should be in terms of future co-operation with EU states in this area?

Sir Rob Wainwright: I think it should be around building a new architecture of global security co-operation, a very healthy part of which is Europe. This goes to what the UK's future vision state is, of an architecture that can connect the power of the Five Eyes alliance, the Interpol community and Europol, because, frankly, we have never quite found what that global architecture looks like, and there is a possibility to do that within the construct also of security partners in Europe, who still have a very healthy respect for and openness towards us. There is a possibility to do that if we are to apply the right kind of focus on it in central Government.



Q215 **Ruth Edwards:** Sir Julian, the same question to you, please. What do you think should be the priorities for UK and EU co-operation in the area of cyber-crime and cyber-security?

Sir Julian King: On cyber specifically, it is welcome that it is covered in the agreement. As you will have seen, it is quite thin on detail, but it at least provides a platform for continuing to develop co-operation in this area. In practice, some of the most effective co-operation, certainly in fighting cyber-crime, has been taking place through Europol, and Rob has covered that. There are other frameworks for co-operation that exist and are being developed at a European level to tackle misuse of cyber means, for example to tackle disinformation and external misuse of cyber in Europe. I hope that the UK might be able over time, building on the basis set out in the agreement, to play a role there as well. This is an area where the EU is increasingly co-operating with NATO, so the UK would be able to be actively involved in that co-operation from the NATO end as well.

Ruth Edwards: Thank you very much.

Q216 **Tim Loughton:** Sir Julian, I want to come on to asylum issues, but just to recap, you made the statement just now that there is no real reason why we should not be able to co-operate more in the whole area of security. It should be a standalone part of the whole agreement; it is not like other parts of trading and environmental standards that are interchangeable, so it would only be political stresses that meant we went backwards on security and policing co-operation in the future. Is that right?

Sir Julian King: Formally, it is part of the overall agreement. There was speculation at different times, as I am sure you know, that there would be a separate agreement on security co-operation, but that is not how it has come out. The governance of this part of the agreement is part of the overall governance structures. That said, as we have touched upon, there are specific provisions in this part of the agreement for suspension of parts or all, termination of parts or all, and there is a particular link there to respect for fundamental rights and the ECHR. There is also a specific review clause of this part of the agreement, so everything that was said points to the shared interest in finding ways of continuing co-operation in this area, but it is part of the wider agreement.

Q217 **Tim Loughton:** I entirely understand that. The point I am trying to make is that unlike various trade provisions, where there could be knock-on effects if we fall out on standards, quality, animal welfare or whatever—it has implications—it is difficult to see why, if we were to fall out on other things, there should be a knock-on effect on our continued co-operation on security and policing matters. In that respect, it is really a standalone issue, even though it has been parcelled into a single agreement, so any attempt to say, “We are not going to co-operate any more on policing” would be because there is something wrong with policing, or a political decision because we have fallen out on something else within the trade agreement.



Sir Julian King: I agree with that, subject to the provision on fundamental rights and the ECHR, and what happens on the detail around data adequacy and data protection.

Q218 **Tim Loughton:** Fine. We are exactly on the same page there. Can I ask briefly about transfer of asylum seekers, then? Rob Wainwright might want to take this on, as it is something that Europol was obviously involved with before, as well as breaking up crime gangs in this area.

I gather we put forward proposals for the return of unaccompanied children seeking asylum and others, which were not accepted. Do you think it is going to be more difficult in the future to return asylum seekers who have started their journey from the continent? Clearly, that was not working terribly well when we were part of the EU, with all the issues we have had about the boats coming across the channel and us not being able to return them. How is that going to pan out in the future? On the face of it, particularly in the vacuum for safe and legal routes that we appear to have at the moment—hopefully temporarily—it is very difficult to see how we can return people to the EU who end up, for whatever reason, in the UK without due right to be here. Sir Rob, do you want to start?

Sir Rob Wainwright: I am not really in a position to answer that. In so far as you mentioned this being important to Europol, I make the point—which is similar on cyber—that because the UK will continue to have access to those arrangements at Europol, it will maintain a strong capability to work collaboratively in taking down the criminal gangs that are exploiting this trade. However, return of asylum seekers is not an area of expertise that I can comment on. I'm sorry.

Tim Loughton: Okay. Sir Julian?

Sir Julian King: I haven't got an enormous amount to add, I'm afraid. As I understand it—neither Rob nor I was involved in the detailed negotiations—the subject did come up, but it was not discussed very much. The framework for co-operation among EU member states is the Dublin framework and, as you know, that is under discussion among EU member states, but the foundation for it is burden-sharing and solidarity among EU member states, so I imagine that it was more complicated to extend those provisions to the UK, having left. But I was not involved in that part of the negotiation.

Tim Loughton: Okay. Thank you, Chair.

Q219 **Chair:** A final quick question from me. This will clearly evolve going forward, and a wide range of outcomes and directions is possible, ranging from us playing stronger global leadership, working with Interpol and Europol in the way that Sir Rob just described, through to things going further backwards on data adequacy or as a consequence of the wider trade rows Sir Julian referred to. In that full range of things, what is your hunch as to what the central scenario looks like, the most likely outcome in the middle of that, say over the next 12 months? In 12 months' time, do you think that we will have got back to 100% of the co-operation we



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had, or maybe 80% or 90%, or will we have gone further in different directions? What is your hunch at this stage about where we will be in a year's time?

Sir Julian King: Just on one point about the premise of the question, you are not going to have 100% of what you had as an EU member state, because that exists among the EU member states and the UK has left.

What we have described is a successful effort to preserve much of the co-operation that had built up over a decade within the EU, with the kind of details and provisions that we have talked about. My hope is that that will all come into effect, that it will be implemented effectively, and that data adequacy concerns do not get in the way of it, so that we get the effective implementation of what is set out in this agreement. Beyond that, I share the hope that Rob set out, that it is a basis for developing further co-operation in the future in new areas, or new forms of co-operation in these areas. However, that will depend, on the one hand, on the UK's interest and willingness to pursue it and, on the other, on the EU.

When I was inside the Commission, and since, I said that I think that there is a strong case for the EU, led by the Commission, to think about extending co-operation in some of these areas, including potentially the Schengen Information System, to third countries, now including the UK, and finding new ways of reinforcing that co-operation against—as Rob clearly set out—international and global threats. I will continue to make that case, but it—going beyond what is in this agreement—requires an effort both from the UK and the EU side.

Sir Rob Wainwright: We have clearly lost something that we depended on. We have survived the transition in the sense that we have a workable, better than we were expecting agreement. It keeps the show on the road, most importantly in operational co-operation with European partners. From here, I expect that we will build on this, and that both sides will see the positive advantages of doing so. I expect that in the end our law enforcement chiefs and their officers will just make it work, in a way that will be pretty good. Going forward, if the UK Government grabs the bull by the horns and sees that this is an opportunity to build a new age of international security co-operation, then actually I am rather positive.

Q220 **Chair:** That requires leadership. Where does that leadership need to come from—the NCA, the Home Office, No. 10?

Sir Rob Wainwright: There has to be a ministerial lead, of course, and to a certain extent some kind of lead policy maker in central Government. We have to utilise the full range of the UK's assets, not least its diplomatic channels—which Julian certainly knows about—to ensure that we can build a different kind of global partnership, perhaps, in the future.

Chair: Thank you very much. We are very grateful to you both for your time this morning and thank you for the huge amount of work you have both done on security co-operation between the UK and the EU. Our national security has depended on that work, so thank you very much. We are very grateful for your time this morning.