



## European Scrutiny Committee

Oral evidence: [Migration: international protection \(scrutiny of the Government's opt-in decision\)](#), HC 522

Wednesday 14 October 2015

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Members present: Sir William Cash (Chair); Geraint Davies; Richard Drax; Peter Grant; Damian Green; Kate Hoey; Kelvin Hopkins; Calum Kerr; Mr Jacob Rees-Mogg; Alec Shelbrooke; Kelly Tolhurst; Mr Andrew Turner; Heather Wheeler.

Questions [1-52]

Witnesses: *Rt Hon James Brokenshire MP*, Minister of State for Immigration, Home Office, gave evidence.

**Q1 Chair:** Minister, thank you for coming this afternoon. I will ask the first question. I note that you do not have any advisers with you. Is this because you are so competent you do not need any?

**James Brokenshire:** I would never be as bold as to say that, Mr Cash. I knew that you wanted me to give evidence but I am sure that, in any future sessions, if there is further technical support and advice, then no doubt that will be provided to me, as I am sure that, at times, I will need it.

**Q2 Chair:** It is quite unusual, but thank you very much. We published our first report on the initial set of measures put forward by the Commission to address the migration crisis in the Mediterranean on 21 July. Despite intensive media coverage of the crisis throughout the summer recess, increasing public and political concern at the scale of the humanitarian challenge and frustration at the apparent inability of the EU and member states to articulate a coherent and effective response, it took you eight weeks to write to us. Even then, your letter only dealt with the Commission's first proposal on relocation.

First of all, why did this take so long? Secondly, when will you respond to the other questions raised in our first report? Thirdly, does the delay signify a lack of political will to engage with this Committee, a lack of staff resources in the Home Office, or both?

**James Brokenshire:** I am grateful for the question being framed in that way, because it allows me to underline both the Government's and my commitment to engage with this Committee, and Parliament more generally, in respect of scrutiny of EU-related matters. Certainly, when I look to the approach that I took with this Committee when I was last



dealing with EU-related matters in the last parliament, I did make a clear point of working closely with the Committee and responding in a timely fashion to the inquiries and the questions that you raise with me. I certainly want to put the relationship very much on to that footing.

The events of the summer were challenging in a number of different ways. You have rightly highlighted some of the physical manifestation of the challenges in the Mediterranean of flows of people across Europe. Equally, the fast-changing nature of the documentation that was being produced by the Commission gave us the sense that, as soon as we were almost ready to provide responses, things had moved on, and therefore things needed to be updated and presented in a slightly different way, reflecting the facts and the circumstances as they were. In terms of explanatory memoranda, I believe that we have provided all appropriate explanatory memoranda.

In terms of the timing and delay, I certainly apologise to this Committee for the speed at which some of those dossiers were provided to you. Certainly, as we move forward, I very much want to put this on to the more regular and stable footing that I think has pre-existed with this Committee from the Home Office. It is that analysis that I would give to it. In response to your specific question on outstanding questions, I believe that correspondence has been sent to this Committee addressing all outstanding items of correspondence, but I stand ready to respond to any further questions that you may have.

**Q3 Chair:** We still have the problem on the first report, which is that we have not had a response to those, so that is a matter of fact.

**James Brokenshire:** I know that there was a letter dated 12 October that responded to outstanding items. I think there was also some confusion on an earlier letter in terms of its explanation and not necessarily referring to all of the previous documents.

**Q4 Chair:** That is in the last 48 hours, in other words.

**James Brokenshire:** I have been away from my desk for a couple of weeks for extraneous other reasons that have obviously made it challenging for me to respond more directly to this Committee. I do want to underline to you, Sir William, that I want our relationships to be good, because I personally believe very strongly in the scrutiny of this House. In the Select Committee appearances I have given to this Committee in the past, as well as in terms of Committees upstairs and debates on the Floor of the House, I have always enjoyed the challenge.

**Q5 Chair:** I understand that you are virtually telling us that you could have done better and you are going to do so in the future, so that is a very good step in the right direction. I am now going to ask the next question. You are aware that Standing Orders of the House require this Committee to report documents that are legally or politically important to the House of Commons as a whole. The effectiveness of our Scrutiny Committee and the system itself depends on the Government's willingness to co-operate in providing relevant information. Through what action do you intend to ensure this Committee, and through us the House, receives full and timely responses to the issues raised in future reports? You have indicated that you will give serious attention to that. We are asking you here today, because we are disturbed. You have responded. Let us make a clean break and get down to doing it properly in future. Is that all right?

**James Brokenshire:** It certainly is. In the past, when I held the European brief within the Home Office, I was very happy to have ad hoc informal meetings as required with the Clerk and with you. I very much stand open to reintroduce that type of arrangement. If there



are outstanding items, we can use that as a mechanism outside the formality of this Committee. I hope to deal with any matters of administration like that.

**Q6 Kelvin Hopkins:** Minister, the Commission has published two proposals that together provide for the relocation from frontline member states of 160,000 individuals in clear need of international protection. There is no doubt that these proposals have attracted “particularly strong parliamentary interest”, the principal criterion justifying an opt-in debate on the Floor of the House. In both cases, the Government has pre-empted parliamentary scrutiny of its opt-in decision by means of a footnote to Council Conclusions, indicating that the UK will not participate. Why has the Government not honoured the commitment made to Parliament by the Europe Minister in January 2011 on enhanced scrutiny of important opt-in decisions by scheduling an opt-in debate in September, as requested by this Committee?

**James Brokenshire:** There are a number of different elements to that. The Chair of the Committee is in correspondence with the Leader of the House in respect of outstanding items of scheduling of debates. I know that there is careful consideration being given by business managers to meet the outstanding list of debates, not simply from the Home Office but also in respect of other Departments as well. There is a certain element of the start of a new Parliament. This Committee only came into effect on 21 July, right at the back end before the summer recess, and so we have had only a very short period of time in terms of being able to schedule a debate.

I would say, in respect of the interest of the House on the specific matters you highlight, which relate to relocation of migrants across the EU, that there are two specific proposals, which you have rightly referenced, that have come forward. During the September session of this House, we had a number of occasions where debates did take place in one form or another—indeed, a statement by the Prime Minister, an SO15 debate, an opposition day debate—which all focused on this issue of migration across the EU.

While we have been unable to schedule the debate that had been specifically requested by this Committee, there have been other means by which the House has been able not simply to ask questions but also to express a view in relation to that, albeit that I know that ongoing discussion with business managers to put things on a more formal footing in terms of debates on the Floor of the House and in Committee upstairs are still ongoing.

**Q7 Kelvin Hopkins:** You appreciate those other discussions in the September session were not formal scrutiny debates, which is what the Committee was asking for. Supplementary to that, do you accept that the Government’s failure to schedule a timely opt-in debate on these important proposals makes a mockery of its commitment to “full transparency and accountability of opt-in decisions”?

**James Brokenshire:** I would respond to that by saying that we were in exceptional circumstances over the summer, with a fast-moving situation of the Commission producing a number of different reports. It did occur over the course of the summer recess as well. There was a need for the Government to respond, given other EU member states who wanted answers to particular issues that they were having to confront literally on a daily basis, so I do not see this as any indication at all of us standing against the commitments that were given by the Europe Minister in the last Parliament of that sense of wishing to be transparent and to facilitate debates. The commitments that were given equally contemplated that there may be exceptional circumstances where that may not be possible, and I think that we have confronted, over the course of the summer, a very fast-moving, taxing situation that falls into that type of category.



**Q8 Kelvin Hopkins:** It is fair to say that, this afternoon, we made a recommendation that the debate should go ahead—we should have an opt-in debate—and it should encompass both of the Commission’s relocation proposals. Will you give your personal undertaking to do your utmost to ensure that the opt-in debate and the wider debate we requested on the Commission’s “European Agenda on Migration” are scheduled at the earliest opportunity?

**James Brokenshire:** It falls outside of my direct influence to be able to schedule time on the Floor of the House, but I will certainly communicate to the leader of the House the clear message that you have given from this Committee. I am sure it will be followed up by further direct communication in that way, to underline the significance that you attach to this debate and the desire for this Committee to see that debate take place on the Floor of the House. This is a cross-governmental issue and it is working with the business managers to get collective agreement in respect of this, but I will certainly underline the key message that you have given to me today.

**Q9 Chair:** Could I just, before we finish this set of questions, make a point that has come to my attention, which is that No 10 have been interfering in this process and that, if that is the case, it would not be a good idea for them to continue to do so? The Leader of the House has functions on behalf of the House as a whole. We have made our point. You look very puzzled by this, but I can assure you it comes from quite authentic sources. What I am saying to you is: please take note; pass the message back. This is a public session and this information will be made available to the public at large, okay?

**James Brokenshire:** I will certainly pass that message back. I know, from the letter that the Leader of the House has sent to you, Sir William, he has underlined that a process is in train and that needs to be followed through.

**Chair:** It is. Thank you very much.

**Q10 Kate Hoey:** The Government and the public have expressed huge concern about those who are coming across as economic migrants and therefore are not eligible for relocation. I think the figures show that there have been more than half a million arrivals by sea in 2015 and the majority of those, some 55%, were Syrians. What actually is going to happen to those individuals? Is it reasonable to expect a small number of frontline member states to assume responsibility for processing the bulk of their claims for protection and providing refuge?

**James Brokenshire:** It is worth highlighting the flows of migrants that you have rightly identified. The figures we have seen from Frontex indicate that flows across from the central Mediterranean route from Libya to Italy between January and September were around 128,600, and from the eastern Mediterranean route from Turkey to Greece were just under 360,000. There is that distinction with, on the eastern route, around 150,000 of those being Syrian, but, in relation to the central Mediterranean route, it is a very different complexion. Eritreans, Nigerians, sub-Saharan Africans actually form the main cohort of the numbers that we are seeing through that route.

There are mechanisms to support member states that are under pressure on receiving migrants in those numbers. We have given support to, for example, the European Asylum Support Office on assisting member states under pressure to process and deal with that. Indeed, what is known as the hotspots proposal that the Commission and Council have been taking forward is absolutely about that. We think that is the right way to proceed and that it is appropriate to support member states in that way. That is certainly how we see the most effective way of solidarity arising.



**Q11 Kate Hoey:** Are we giving any particular help to Turkey, who are clearly having a very large number?

**James Brokenshire:** That moves us away from member states specifically and I think you are right to focus on the upstream issues, as we would characterise them, in countries like Turkey. Creating a stable Libya is key to this.

**Q12 Kate Hoey:** Is Turkey not seen as a safe country?

**James Brokenshire:** Turkey is certainly seen as an absolutely key part of the solution. Indeed, if you look at the way in which we have been applying our international development aid and assistance into the camps, stepping up on that £1.1 billion, it is very focused on that. I know that there has been very keen discussion at EU level, recognising the extraordinary efforts Turkey has undertaken to host more Syrian refugees than any other country in the world, reflective of the support that we have been giving. We have been discussing how the EU can step up its engagement with Turkey, the importance of Turkey being a key partner in the EU's response to the crisis. I think we can welcome the Turkey-EU Draft Action Plan for how the EU will seek to help Turkey, and that Turkey is working with the EU on the refugee burden. It is about how we look at the developmental assistance, how we look at the aid assistance that we are giving. That is certainly a part of the ongoing solution.

**Q13 Kate Hoey:** Is there a problem really, which we do not like to talk about, but that, no matter how much help we give, say, to a country like Turkey to help them, if the people do not want to stay in Turkey and want to come to what they see as Western Europe, there is nothing very much that we can do or the EU can do?

**James Brokenshire:** There are two parts to that. One is creating a solution to the Syrian crisis and therefore the flows: the 11 million-12 million people who have been displaced from Syria, going to adjacent countries. Turkey is obviously a key part of that. We take the approach of international development aid into the camps, providing education for example, which is part of the additional funding that has been committed, so that there is that sense of hope, that sense of not needing to fall into the grips of the people traffickers who are cutely trying to use social media and other means to entice people to try to get on a boat and put their lives at risk. That is how we break that link and give people the sense of staying within Turkey rather than making that perilous journey across the sea.

That is most evidently a key part of this and how we can act against the people-traffickers and smugglers, as is the work that we are doing with Europol on getting good intelligence, the activity that is taking place with the EU naval operations there to go after the vessels that may be seeking to transfer. There are a number of different elements to this, in terms of source countries, transit countries and the challenges in the refugee camps themselves. We need to act on all of those different levels, as well as looking at receiving countries in the EU, in terms of the solutions that will deliver the change we would like to see.

**Q14 Peter Grant:** On 3 June, the Prime Minister told the House that the vast majority of people who set off into the Mediterranean are not asylum seekers. Do you share that assessment?

**James Brokenshire:** If you look at the numbers that I have given you, and I have given evidence to other Committees, the focus on that has always been that flow from Libya heading northwards. That breakdown that I look at on the central Mediterranean, Libya to Italy, I think you can see is of a very different characterisation from the routes that we have seen from the eastern Mediterranean. As I say, when I look at those numbers from the central Mediterranean, the make-up of nationalities there do suggest that the majority of people taking that central Mediterranean route are more likely to be economic rather than pure



refugees. There will of course be refugees that will be included in that. When we look at the eastern Mediterranean route, the biggest proportion of that is Syrian refugees. Our focus previously had been the central Mediterranean route. Therefore, I do draw that distinct characterisation between the two different routes and, equally, the differences that we see in the make-up of people who are travelling through those routes.

**Q15 Peter Grant:** Of the half million or so that we think arrived over 2015 so far, does either the Home Office or the Foreign Office have any estimate at all as to how many are asylum seekers and refugees, and how many are more correctly described as economic migrants?

**James Brokenshire:** We can point to the nationality make-up of those who declare themselves to be from particular countries. As you will recognise, some people will claim to be from one country or another when they may not be from that country. Indeed, when I look at some of the challenges on asylum in this country, documenting people, identifying who they are, their nationality and using language specialisations to determine it, it is not always a straightforward mechanism. I do point to the numbers we have received from Frontex, which is the EU external border force and does a lot of that activity co-ordinated with member states. That gives that breakdown of nationalities, and certainly that information has been shared with the Committee through correspondence. I would refer you to that analysis as giving the clearest indications as to the number of different countries and the nationalities of people who are arriving.

It is also worth recognising when we talk about countries like Germany and the different flows into the EU, that probably around 40%—some even suggest higher than that—will be people coming from the western Balkans and therefore not necessarily having a valid asylum claim because of the country they are coming from. Germany will process those people quickly and turn them around. It is the question of looking at the different routes and looking at the different cohorts that needs that analysis to give you the clearest possible picture.

**Q16 Alec Shelbrooke:** Minister, how do you class a refugee?

**James Brokenshire:** The Refugee Convention itself sets out a lot of the basic requirements that we then assess in terms of how we grant asylum. I suppose that is the definitional things that we point back to on people fleeing persecution, being in fear of their lives, fleeing war. It is those sorts of definitions that are used in determining whether someone is granted refugee status in this country. Other EU countries will seek to adhere to the Refugee Convention in that way in conducting their own asylum processes.

**Q17 Alec Shelbrooke:** Would it be fair to say that, against the policy of our taking people in from refugee camps who have met the criteria by definition because they are in refugee camps, the flow of people coming through Europe you on your definition cannot class as refugees coming to this country?

**James Brokenshire:** No. We will come on to, I am sure, some broader discussions that we can have over, for example, the Dublin regulations on where people who may be genuine and valid asylum claimants should be claiming asylum. Through clandestine detections of people smuggling their way into this country and the ongoing issues in northern France, we are working with the French Government to see that those who should be benefiting from the protections as a refugee receive that at the earliest possible time.

We support the Dublin regulations that say that someone should assert that claim in the first member state they arrive in, and there is continued focus on Dublin that may well be subject to further scrutiny by this Committee. If someone is here, we have to validly assess



their asylum claim. There still is a question of where the emphasis should lie and the work that we are doing, yes, to resettle people from Syria in the camps to this country, but there are still people who have claimed asylum, who have taken that journey. The point that we make is seeking to break some of those flows, breaking the risks attached to people putting their lives at risk on the sea, the organised crime that sits behind this as well. I would not make the distinction in the same way that you framed it, Mr Shelbrooke.

**Q18 Chair:** One of the most senior members of the UNHCR, so I have been given to understand, has just today made remarks about the attitude coming from the United Kingdom in describing refugees as compared to economic migrants or others as reminiscent—I am paraphrasing—of the kind of language that was used by the Nazis in the pre-war period of the Second World War. It is astonishing that something like this could be said and I think we will need to look into it quite carefully.

Do you not agree that, actually, there is a real problem, which you have alluded to indirectly, of those who are obtaining fake passports? This is a serious problem. The 55% who are said to be Syrian in certain cases, it appears from some of the evidence that is around, are not Syrian at all; they come from other countries. We have had BBC programmes and others. Then the other question is the extent to which some of them will be embedded Jihadists, which must be a serious problem in terms of any potential terrorist campaigns that might take place later. Do you have any thoughts on any of those matters?

**James Brokenshire:** On the first point, I would entirely reject any characterisation that this country does not have a proud record of welcoming refugees to this country, of showing compassion in those circumstances. Indeed, when I look at the over £1.1 billion that this Government has committed to aid into the camps, absolutely targeted at those in most need, fleeing persecution, giving them hope, trying to bring about that change in the region, it is that sense of compassion and focus that this Government has demonstrably shown in its actions, frankly helping hundreds of thousands of people in so doing. Indeed, we have conducted work, through the Royal Navy and through Border Force as well, on rescuing people in the Mediterranean Sea and taking action against smuggling networks as well.

It is this focus that we have given, but I would want to reassure the Committee of the steps that this Government takes on issues of national security. Indeed, as we extend and increase the Syrian Vulnerable Persons Relocation Scheme, there are screening processes absolutely embedded in that. Of course, we take refugees that the UNHCR has identified to us as vulnerable. There is then a screening process that is undertaken. There is a medical assessment that is undertaken. There are various different facets to this, of which security is a core component.

It is obviously why we are vigilant in terms of our border security. We have not seen any terrorist emergence, using the front of refugees as a means of transiting or transferring themselves in that way, but it is something that I can say we remain vigilant on and why we do underline the responsibilities of all member states to document, to take biometrics, to take the relevant information of people who are arriving on our shores, so that we have the best possible picture.

**Q19 Kate Hoey:** If you find out that the remarks that the Chairman has alleged were made by someone senior in the UNHCR, will our Majesty's Government respond to that urgently? We cannot have intergovernmental organisations like the UNHCR making those kinds of comments.

**James Brokenshire:** I have not seen the comments. My comments are to underline the stance of the Government. We will see what this statement is and, as needs be, underline the sense of the action this Government is taking. Indeed, we are working very closely with



the UNHCR. They have done, I think, incredible work. In terms of, for example, the identification of refugees who are vulnerable in those camps, we are working in lockstep with them and those that work with us within the resettlement programme. Our relationship with the UNHCR has been very positive, very constructive and, in that sense, it is absolutely assisting in providing the best help to refugees. I do not know the context or the nature of this comment, but, given the very good relationship that we have with the UNHCR, I would find it surprising.

**Chair:** Yes, indeed. Let us hope we can get to the bottom of it.

**Q20 Geraint Davies:** Just so we are clear on this apparent differentiation between an economic migrant and a refugee, would you accept, first of all, that many refugees the Government wants to take are in refugee camps, so they are not in danger, at the moment, of being shot? Secondly, some economic migrants, so-called, may be looking at their children and watching them starve. They may literally be possibly going to die, when the refugee is not. Therefore, the position of the Government is not as black and white as one would put it. What is more, we do take economic migrants, as long as they are well-off and not in fear of their lives from starvation.

**James Brokenshire:** You are drawing a distinction between legal migratory routes and illegal migratory routes, and it is important that we do maintain that distinction. I am always clear, in the debates that we have on issues of migration, not to conflate asylum and refugees with migration more generally. It is important to make that distinction on the support that we are giving through resettlement. Indeed, we have had resettlements schemes for a number of years through what was known as the Gateway programme and other programmes as well.

Clearly, we have to assess on asylum those who are in need of humanitarian protection and those who are not, and seek to return those who are not. In terms of upholding the system, giving integrity to the system, having public confidence in the system, it is important we do uphold that. If someone is not in need of humanitarian protection, they may wish to come to the UK; they may wish to gain a better life in that sense, but absolutely that is not about asylum. If you then suggest that it is, that starts to undermine confidence in the whole process, which is why we have to, in our asylum processes, draw that line based on pointing to the Refugee Convention and other mechanisms.

**Q21 Chair:** I was going to add one final point on that. I was at a conference in Luxembourg about two weeks ago of the chairmen of all the national committees, including our own Select Committee here. I was there on our behalf, but also Keith Vaz was there on behalf of the Home Affairs Committee. I did put forward the suggestion that there was a good case for looking at the Geneva Convention and its definitions, so that we could draw a proper line in current circumstances as to a person who could qualify as a refugee in real circumstances, rather than in purely legal terms. In other words, we would have another look at the definitions, to draw the line properly, in present circumstances, along the lines that you are suggesting needs to be achieved.

At the moment, the expressions like “well-founded fear of persecution” are so broad, it is really quite difficult to categorise who is a justifiable refugee as compared to somebody who may be trying to get in as an economic migrant. You get the drift of it. Could you go back to your lawyers and ask them to have a look at all this please?

**James Brokenshire:** I can perhaps send a further note to the Committee to make clear the distinctions in the evidence and the legal issues that we draw upon, because that may assist this Committee in its own consideration of what other recommendations you or others may wish to put back to us.



**Chair:** That would be extremely helpful, because we want to be responsible about all this, but we are having difficulty in the definitions.

**Q22 Geraint Davies:** I think you described the Commission's "European Agenda on Migration" as the wrong set of policies to address the crisis in the Mediterranean and other migratory pressures. What do you think are the correct policies? Finally, just on the previous question, presumably you do not agree that there is anything, by definition, in terms of economic refugees, for want of a better expression. It is a separate point, but, again, if those were people were escaping for their lives, presumably we should offer them safe haven. Those are two separate questions.

**James Brokenshire:** We have discussed the issue of fleeing persecution and some of the approaches that we are taking in assessing asylum. There are issues to consider further on regional development assistance and some of the programmes that the EU has itself put forward around this, which we are supportive of, particularly when you look at Africa as a whole area to address and the significant investment that we provide in relation to international development, not simply to look at it in a humanitarian way but to see that there is economic development, so we see the establishment of greater operations of government and of economies. It is that long-term focus that we see and the International Development Department is absolutely putting its weight behind.

On the EU action plan, I would describe four areas that need to have that focus, that attention. First, this does lead to the point I have just been talking about, which is how EU aid money is spent tackling problems at source and in transit countries, so the upstream perspective of this, very firmly. We have already in this Committee touched on some of the important facets to that. Second is an increased focus on fighting organised crime with better join-up between member states. We have significant expertise that we are providing into Europol, which is providing a good co-ordination mechanism to put in place that sharing of intelligence to go after the organised crime groups and to strengthen that. That must be galvanised further in terms of law enforcement agencies across the EU being focused on that organised crime.

Thirdly, while some migrants do need our protection, as I have clearly stated today, it is unquestionable that many are simply trying to come to Europe, by extension to the UK, to gain a better way of life, rather than requiring humanitarian support. Therefore, we do need to break that link between dangerous criminals taking advantage of those people, trying to take them across the Mediterranean and ensure we see a break in the link between the transfer across to the EU. Again, we need much stronger coherence between upstream development work and the return of economic migrants. To be clear, I am not talking about refugees; I am not talking about people who are in need of protection. For those who are not, we use that as a means of providing centres that people could be returned to potentially in third countries, so that you are seeing an effective returns approach to deal with some of the challenges. Those are facets that we would see need to be focused on and that is how we see work developing further.

**Q23 Richard Drax:** I have a quick point on security. Interestingly, a very distinguished member of my constituency came back from China, where he has been doing business for many, many years, two weeks ago. He rang me immediately as he got back and said, "As I left, I had a party with some senior Chinese businessmen. All of them to a man were warning that 2,000 Syrian passports have been purchased in China by ISIL." I passed it straight on to the Home Secretary by phone immediately and her office said, "Thank you very much indeed", and that was noted. I believe the next day there was an article along those



lines in the *Daily Mail*. Certainly, as a former soldier, from a military perspective what better way is there to get the terrorists into the West than amidst all this chaos?

Good afternoon, Minister. Sorry, that was a slight divergence. Can I ask you about the Commission's proposals on relocation that have now been adopted? I am sure you are aware of them, but, just to remind myself and anyone else who does not know, there are two of them. One is voluntary, of 40,000 individuals, and one is compulsory, of 120,000. This has been agreed among much acrimony. The President of the European Council, Donald Tusk, has said, in paraphrase, "It is time for mutual recriminations to end and for us all to get on with it." Do you expect all member states, including those who voted against the Commission's second relocation proposal, to co-operate with it, and what will happen if they choose not to?

**James Brokenshire:** The measure has been adopted by those member states that are part of it, and they will therefore need to implement them. As the UK, we have an opt-out. We are not part of those arrangements, and therefore there will be that implementation phase that will need to take place. I recognise that this is going to be difficult, particularly as it is still unclear how migrants relocated to a country that, for example, is not their first choice will be prevented from simply moving on. This has been one of the points that we have made consistently and why we have not been supportive of a relocation measure, because, from experience in the past, people tend to have a country of destination of choice that they wish to go to, and you can seek to relocate, the challenge being that they then may move on to the original place that they wished to go to.

There is still work that no doubt the member states that are party to that measure will need to undertake to implement the proposals that were adopted. Ultimately, it will be for the Commission to take enforcement and infraction proceedings against those countries that do not adhere to the relevant measure.

**Q24 Richard Drax:** So the Czech Republic, Slovakia, Hungary and Romania could expect trouble ahead from the Commission.

**James Brokenshire:** It is obviously something that we are not party to, and no doubt discussions will take place between member states and with the Commission. We will wait to see how that progresses.

**Q25 Richard Drax:** You touched on it in your first answer, but how realistic is it to compel those qualifying for relocation to move to a country that they do not want to go to—we have touched on that point—or that does not wish to welcome them? How do we square all these?

**James Brokenshire:** Further work will need to be carried out to turn the numbers that were agreed into the reality of people being relocated within the EU. It is that implementation phase that other member states are involved in at the present point in time. There are logistical challenges on physical movement of people, giving confidence to those migrants that may be entitled to protection that they are not being returned to a country that they thought they had fled from and how you work with migrants in those circumstances, and, indeed, the challenge of secondary movement after someone has been relocated. It is all these measures that no doubt the Commission itself and other member states will be working through, albeit that we are not party to that.

**Q26 Richard Drax:** So, in short, it is not our problem, and maybe thank God it is not.

**James Brokenshire:** As I say, we have not supported the relocation measures because of some of those challenges that we do see, and actually our focus should be on resettlement,



on taking refugees from the camps—those in absolutely vulnerable situations—to assist them. It is for member states themselves now to determine how they will implement the measure that has been put in place.

**Q27 Calum Kerr:** Is this not part of the problem here? If the Government really want to show leadership and a policy that has compassion at its core, does it not need to look at some of the most vulnerable people that are arriving on our shores—not our shores, EU shores. According to the Italian Ministry of Labour, 13,026 children arrived alone in 2014; 3,707 of them disappeared after arriving in Italy. Save the Children expect the numbers to be higher in 2015. These children arriving alone are at serious risk of falling prey to people-traffickers, being forced into prostitution, child labour—you name it. If the Government really want to show compassion why do we not take our fair share of these vulnerable children, which in this case they say would be 3,000?

**James Brokenshire:** We do take a different approach on this. We judge that the practicalities of resettlement, moving someone around, is difficult and challenging when those who are arriving on the shores will have clear, determined view to travel to a particular country. In showing that sense of compassion and solidarity with other EU member states, it is why we have supported and will continue to support the initiatives of the European Asylum Support Office in working with member states around what we describe as capacity-building to process newly arrived migrants and refugees to ensure that their cases are processed quickly, so that they can receive the support that they require. It is that emphasis that we give, and we stand ready to do more around that to see that people who are entitled to a humanitarian protection claim receive that in the country that they arrive in—countries like Greece and countries like Italy.

We judge that that, allied with our work directly in the refugee camps, is absolutely focused on helping those who are vulnerable, helping those who are in need of support. That is the manner in which we are doing it, yes, in a different way from certain other member states, but we judged that as the appropriate way in meeting our profound responsibilities that we recognise. That is why we are going to take the 20,000 Syrians from the camps around Syria and resettle them, and that will be focused on those in the most need. Let us recognise that people who have made the journey are more likely to be fit and well to have got to the shores of Europe. Our focus very much is on helping those who are traumatised, who may be orphans, who may be victims of sexual abuse in a number of these camps. That is precisely what our vulnerable persons resettlement scheme is aimed at achieving.

**Q28 Calum Kerr:** Minister, can you not see why people, my constituents who write to me, see that as an abdication of moral responsibility, especially when you are talking about young, vulnerable children that we are not taking an allocation of? I totally respect everything you are saying. You gave your four areas you want to focus on, which very much focused on trying to stop and get to the heart of the problem, taking people from the camps, but it just feels like we are turning a blind eye to something much closer to home where we should be taking some responsibility.

**James Brokenshire:** If people are within Europe, that is a safe space. That is a place where they can receive humanitarian assistance, protection, the economic development that European countries have. Our judgment is that, in meeting that moral responsibility, in meeting that sense of doing the right thing, it is about focusing our investment, our £1.1 billion that we provided to those camps. It is about the resettlement programme that the Prime Minister has announced, in really focusing where we absolutely can on those who are most vulnerable. Our country can be proud of the steps that we are taking in meeting our responsibilities there.



**Q29 Kelly Tolhurst:** Financial assistance is being provided to member states who are participating in the relocation. Will the UK be required to make any financial contribution to the support of the relocation?

**James Brokenshire:** My colleague, the Financial Secretary David Gauke, has issued an explanatory memorandum relating to what is described as the draft amending budget 7, which provides for an additional €331 million in additional commitments to address the migration situation. This was agreed by Council on 8 October, and we expect the European Parliament to approve it shortly. The UK supported the proposals. We see the need for concerted action. This, I have to say, to underline to this Committee, was consistent with the 2015 financial ceiling under the Multiannual Financial Framework. That is where we currently sit in terms of the commitments that have been given through that draft amendment to the budget.

**Q30 Kate Hoey:** How much are we, as the UK, contributing extra to this relocation that we are not actually involved in?

**James Brokenshire:** It is all part and parcel of the existing EU budget in the manner that I have described it, in terms of the allocation through the draft amending budget 7. We obviously contribute to the EU budget as a whole, as this Committee will be well aware of. There is more detail in this that still needs to be worked through, in terms of us not participating in the relevant Council decision that is part of this—not completely, but is part of this. It is something that we see in terms of that overall macro contribution that is being given. It is also being routed through the Asylum, Migration and Integration Fund, as a pot that this money comes through, cascaded down. There is still more detail to be worked through to be able to answer that question directly in terms of the manner in which this will be finalised. Obviously we do make a contribution to the EU budget as whole, and it is this further sum that is being committed through that budget route.

**Q31 Kate Hoey:** We are not involved in the decision about it because we are not part of that, but we are paying for it. We do not know how much we are paying yet, but we are paying.

**James Brokenshire:** That is not necessarily the case. You have the budget that is provided and the €331 million that is given to fund the proposals and also to respond to the migration crisis as a whole across the EU. There is still further work to be undertaken on the contributions that are paid in to give a direct answer in numerical terms as to what the UK contribution to that may be.

**Q32 Mr Jacob Rees-Mogg:** Thank you for coming in, Minister. Whilst you are here, may I say, I noticed in the Court Circular that you kissed hands last week when other people were absent? May I congratulate you on your assiduous attendance on Her Majesty, which others failed to do? On this money side, under the Title V opt-out, the UK should not bear any financial consequence, other than those related to the administrative costs of the European institutions, for those justice and home affairs measures in which we choose not to participate. Therefore, we should not have any cost from the €6,000 per head amount that has been given to the member states for taking people being relocated, or any incidental costs other than the administrative costs existing with the institutions in relation to this. I do not understand why you are therefore suggesting that we do have these costs.

**James Brokenshire:** To be clear to you, Mr Rees-Mogg, you have rightly set out the rightful legal basis to the contributions. It was why I made the point around, for example, the Asylum, Migration and Integration Fund, which we have opted into, in terms of how that



would be distributed and the use for which that fund is provided. We have not opted into this separate measure, and therefore the monetary flows that may flow. It may well be that there is the reconciliation work, and that is why there are further steps to be taken to ensure that appropriate reconciliation is made to meet the points that you have rightly identified.

**Q33 Mr Jacob Rees-Mogg:** It seems to be relatively clear that the costs of what we have not opted into must be borne by a separate budget, not out of the normal EU budget that we contribute to. Our normal contribution is about 15% of the EU budget. This is something agreed by other member states without us and for which we have no liability. It would seem to me to say that we have opted into a budget for different purposes, and that budget is now being transferred to something we are not part of, is financial gerrymandering, and that the Government should be absolutely clear that it is not paying a penny for this. A nice firm statement like Margaret Thatcher might have given us about “we want our money back” would be very helpful.

**James Brokenshire:** That is precisely why there is this work on the reconciliation, and, underlining that, moneys may flow through particular funds that may be earmarked for particular purposes, but obviously we are not partaking in the decision in respect of this. Therefore, it is about that reconciliation so that we are not paying out and getting the appropriate rebate back.

**Q34 Mr Jacob Rees-Mogg:** No, money cannot flow from something that we have opted into to something to which we have not opted in. The budget is not available for that which we have not opted into. They have to find a separate pot of money from the member states who are participating. It would be financially improper to use money that we have contributed for purposes from which we are specifically, by treaty, excluded.

**James Brokenshire:** You make a very clear and important point that I endorse. It is the detail of the flows from budgets into particular funds and the application of those that we are talking about here. On the commitment that has been given by the DAB 7, this additional budget, the funds going into the Asylum, Migration and Integration Fund, which we had opted into, are then being used in a mechanism that sits within a separate directive because it relates to migration and immigration. Therefore, you are right in saying we are not party to the other directive. We are moving on the basis that therefore there should be that reconciliation and that we should not be funding that particular aspect in that way because we are not partaking to it.

**Q35 Chair:** I want to ask you a question in the light of the very interesting exchanges you just had with Jacob Rees-Mogg. It is complex, but David Gauke has made remarks; you have as well now. There is some uncertainty about this. The line of questioning suggests to me that, without spending another 25 minutes on this, it would be quite helpful if you could produce a note from within your Department in order to get to the bottom of just exactly how it is being allocated and the principles that operate to ensure that it is done properly and legally. Jacob, would that be alright for the time being?

**Mr Jacob Rees-Mogg:** I am very happy with that.

**James Brokenshire:** I am happy to do so.

**Q36 Geraint Davies:** On the issue of spending money where we are not required to, would the Government consider spending money on food and medical aid in Greece? The reason I mention this is that you will be aware, of course, that thousands upon thousands of refugees are arriving in Greece. At the moment, we have a situation where the economy has been shrunk through austerity by 25%. By implication, their debt as a share of GDP has



jumped to 175%. Half of children in Greece are living in poverty and millions have not got medical support. The Greek population are relying on aid. Now they have thousands upon thousands of refugees arriving as well, and we have a situation where Golden Dawn is pulling refugees out of hospital beds. I wonder, given they are part of the European Union with us, whether we could actually focus some vires, in terms of food aid, medical aid and financial aid, at the refugee crisis in Greece.

**James Brokenshire:** I can tell the Committee that DFID is funding activities in Greece. The monetary sum currently stands at £3.9 million. Support is being channelled through organisations working in support of the Greek Government. The UNHCR is a beneficiary of that, IOM another beneficiary and the Red Cross as well. The programmes include working with the authorities to improve reception conditions, access to and quality of determination process, transportation of newly arriving migrants, distribution of food and non-food items, the protection of children, and logistic systems to support all of those. There is support being provided to the Greek Government.

**Q37 Geraint Davies:** I only ask because I was in Athens last weekend and I could see on the ground, in terms of going to food aid places and places that were providing free dentistry, etc, that there is a desperate need and shortage of drugs. I am glad to hear something is being done, but all I would say is perhaps we could look again at the level of support, at the moment, we are giving.

**James Brokenshire:** DFID is providing that support, and that is probably a lead for them rather than for me, but we do keep these matters under close review.

**Geraint Davies:** A deflection at the end.

**Q38 Mr Andrew Turner:** Without a deal on relocation, the evidence suggests that frontline member states would have little incentive to fulfil their obligation to register, screen and fingerprint newly arrived migrants. Viewed in this light, can you see some merit in relocation as a tool for preserving the Dublin system?

**James Brokenshire:** There are two elements that that question poses. The first is in respect of doing the basic, right checks when people arrive within the external border of the EU. That is something that is being taken forward under what is known as the hotspots proposal, with processing and mechanisms being set up to support that. We stand ready, through EASO, to contribute to that work, and so there is a distinction between the practicalities of conducting those basic reception types of arrangements as contrasted with the broader issues perhaps in relation to Dublin. I think they are distinct.

We strongly support the Dublin approach on people being able to claim asylum in the first EU country that they arrive in. I would take, I suppose, a different view in viewing the hotspots proposal, which is starting to take root in Greece and Italy, and actually seeing those proposals coming to fruition on getting reception conditions and getting the screening right, as contrasted with upholding Dublin. Clearly, Dublin relies on our being able to identify individuals and where they are landing first of all, and therefore the first port of call where they could claim asylum. There is that connection, but I do see those as distinct items.

**Q39 Damian Green:** Picking up on the Dublin point, for obvious reasons it has come under a lot of strain. Angela Merkel has described it as obsolete. Is it the Government's position that the Dublin system is still workable or is it broken? If it is broken, what needs to be done to fix it?

**James Brokenshire:** I think it is still workable. We know that Dublin has its critics, but it also has its supporters. We are supporters of the Dublin regulations. Clearly, this is something we sense the Commission will be returning to in the new year. I do not think that



there is any immediate issue in terms of, for example, our continuing participation in Dublin, notwithstanding the arrangements that have been put in place in relation to relocation, for example. It is that connection on seeing that people are appropriately screened and you know who they are. Mr Green, you will be well familiar from your previous experience on some of the challenges that do reside around Dublin.

I think it is something that will be returned to. It may well be that that gives us the opportunity to look at some of the challenges that do reside within it, so for example the fact that you have to show that someone has been accepted or tolerated within the EU for a period of five months, and some of those other facets. That may be something that we could turn our attention to if Dublin is being re-examined, but the basic principles of it still hold good, still are right, and we continue to support it.

**Q40 Alec Shelbrooke:** Minister, when I asked you that previous question about defining refugees, you quite rightly said that we honour our commitment to refugees by taking them through the Dublin agreement and how that happens. We also drew an analogy with Calais. That would more than show that France is not upholding its end of processing refugees or migrants coming through, otherwise they would not then be going through that process of trying to come through the tunnel. As you quite rightly say, the Dublin agreement distributes across the whole of the EU. With that preface, just bearing in mind your previous answer, can you envisage circumstances in which the UK would no longer wish to remain part of the Dublin system?

**James Brokenshire:** As I say, we support Dublin. It is right that we uphold that principle. Some of the challenges from it come on the practical implementation, on showing where someone has come from in those first circumstances. I do support further work to see that people are screened, that fingerprints and appropriate biometrics are taken when they first arrive within the EU, so that we have a clear means and mechanism to show where they did first arrive. If they have arrived in northern France, again they will have come from somewhere else before arriving in France, so it is that end to end approach.

We are working very closely with the French Government, hence the reason why we signed the joint declaration, the Home Secretary and Bernard Cazeneuve, the French Interior Minister. That has embedded and cemented relationships with the French Government. Part of that, for example, is the support that we are prepared to give them in seeing that people who arrive in France are processed quickly and that those in need of humanitarian protection receive that at the earliest possible moment. We will continue to consider the application of Dublin arrangements with them. That is part of that mature relationship we have with the French Government, recognising that there are particular challenges in northern France, and how it is important that we continue to work closely with them on them.

**Q41 Alec Shelbrooke:** You do sort of accept that, unless reformed, the current Dublin rules put at risk the long term sustainability of the Schengen free movement area, recognising the deals that you have had to do with France, in stark contrast to the fact that the German Government pretty much just tore up the Dublin agreement a month ago.

**James Brokenshire:** Again, there are distinctions to draw between Schengen and Dublin. We are obviously not party to the Schengen area, and therefore our upholding of Dublin is on the basis of those fundamental issues on, frankly, people claiming asylum in the first safe country that they arrive in. That is an important principle that I would underline and adhere to. We know that the Commission is evaluating the current regulation. We will co-operate fully and formally with that, because it is about stressing some of the important principles and benefits that derive from the existing Dublin regulation, but looking at some of the practical challenges on evidencing, on showing who people are, so that it can be upheld



and secured. That is something that we will look at when the Commission comes forward again with its own proposals, no doubt. The principle of it absolutely is right and we will seek to uphold that.

**Q42 Alec Shelbrooke:** As you say, it is being worked through. The problem is it does have its weaknesses, and I am sure, as the Immigration Minister, you use the principles of agreements laid down through the Dublin agreement, etc, as to how you handle immigration, migration, refugee status into this country. With all the problems that has and what is going on, do you consider the reintroduction of controls at some internal EU borders to be a necessary or proportionate response to the current migration crisis?

**James Brokenshire:** Ultimately that is not a question for me. That is a question for the member states within the Schengen area, which we are not part of.

**Q43 Alec Shelbrooke:** But can you have faith in the Dublin agreement? You are saying it is a question within the states of the Schengen area and we are not part of Schengen, but the fact of the matter is that it has a knock-on effect to this country. Can you have faith in the Dublin agreement if you have not got faith in how the Dublin agreement is operating in the countries that are members of Schengen?

**James Brokenshire:** What it comes down to is those issues on documentation, on fingerprinting, on biometrics. That is why I make the points that I do about the EU external border, the work of the European Asylum Support Office, how we are absolutely prepared to back that, the work around the hotspots initiative to again underpin that, so that we have that record of who is arriving. We will therefore, for a whole host of different reasons, but including Dublin, be able to uphold it in that way.

It is as distinct between decisions that countries within the Schengen area may take about the suspension of the Schengen rules and internal border controls that they may decide to put in place, which they are permitted to do under the Schengen regulations, but it is a different perspective. Ultimately, it is about getting the right recording of people as they arrive into the EU, so that, if people do come to the UK, we can uphold that if they make an asylum claim here and we can point to the fact they have been accepted and tolerated elsewhere.

**Q44 Alec Shelbrooke:** How do you define the situation in Calais right now? Is that a failure of Dublin; is it a failure of Schengen; or is it something which will never be solved in all of those issues? What pressures does that put on your Department? If the system is operating properly, Calais should not be happening, should it?

**James Brokenshire:** You will always have the challenge of organised criminality, which we have not touched upon in this, and clandestine smuggling of people into the EU to avoid those routes. People may arrive and then not seek to assert an asylum claim, for example, in certain countries as well. What we see in northern France at the moment is complex. It has a number of different aspects to it, which is why our response to the French Government, yes, is about physical proximity, security around Coquelles, the area of the Eurotunnel terminal, and Calais; yes, it is about processing of those who have arrived at the camps. Frankly, if someone is in need of asylum and humanitarian protection, we want them to get that at the earliest possible chance, in France, and that is why we are supporting the French Government.

It is also about the upstream work. It is about Turkey. It is about Libya and creating stability there to stop those flows of people. It is about confronting and combating the organised criminals. It is about the EU external border. It is all of these facets together that point to the flows of people across Europe that we see manifested in Calais and the area



around that, but also in other parts of the EU as well. It is a question of, yes, law and process, but it is also that sense of the practical challenges and why I outlined the four points that I did, in the way that I set out to the Committee.

**Q45 Peter Grant:** Inevitably, we spend a lot of time talking about process and agreement and whatnot, but we should be talking more about human beings. I do not like using numbers in these circumstances, but we have to, to remind ourselves of the scale of what the world is facing. The UK Government is willing to take 20,000 Syrian refugees during this parliament. That means each of us will be invited to take on the hugely onerous task in our constituencies of welcoming two or three emergency refugee families per year. My constituents would take that tomorrow, over and over and over again, and I suspect all of our constituents would do the same.

UNHCR reckon there are 4.1 million Syrians who have already fled the country. Another 7.5 million are internally displaced, living under god only knows what horrors right now. Britain is going to take 20,000. Of the 4.1 million who have already fled the country, where do you believe the remaining 4.08 million we do not want should go? What is the justification for thinking that any other country has a moral responsibility to take a bigger share of them than the United Kingdom is prepared to take?

**James Brokenshire:** It is interesting the way in which you characterise your question, because almost the implication is that we should be seeking to resettle 4 million people within the EU. I do not actually think that would be—

**Q46 Peter Grant:** With respect, Minister, I did not say within the EU. What countries do you think we can morally and legitimately expect to take the remaining 4.08 million that we do not want to take? I am not talking necessarily about permanent settlement. These people do not want to live in the United Kingdom. A lot of them want to go home to Syria. They need a safe place to stay while somebody sorts out what is happening in Syria. The camps that they are in in North Africa are no place for children to be living now. It is going to get even worse in the winter. Where does the United Kingdom Government think these people should be going now so that the children and the old folk can be kept safe?

**James Brokenshire:** It is interesting, Mr Grant, because you said that it is important that they are close to Syria. It is that regional solution.

**Q47 Peter Grant:** I am sorry; I did not say that. I said that they want to go home. If there is nowhere close to home where they can realistically and safely remain in the short to medium term, they have to go somewhere. I am interested to know where the Government believes that should be.

**James Brokenshire:** In answering that question, and your rightful implication that people would want to return to Syria when it becomes a safe and stable state again, it is important that people are, in the vast majority, located in the region, provided that there are not those issues of vulnerability. That is why we have framed our approach in the way that we have: targeting aid and assistance to those countries around Syria that are seeing the flows of people out of that country; providing through our 0.7% commitment £1.1 billion to that; encouraging all other countries to fulfil that commitment in the same way that we have, so that we can create improved conditions in and around that area.

Ultimately, if there is that sense of vulnerability—and the UNHCR have given their own analysis and estimates of what that is, which is a much smaller number than the 4 million or so that you have alluded to—there are contributions being made by various countries around the world, in terms of the resettlement of those who were bombed and are in the most



need where that cannot be provided within the countries in the region. That is the appropriate response and approach, and that is precisely what the Government is doing.

**Heather Wheeler:** You will be delighted to hear, Minister, that I have the last two questions, so well done for the sterling effort.

**Mr Jacob Rees-Mogg:** He is enjoying himself.

**Q48 Heather Wheeler:** I am sure he is. He needs a cup of tea. Net migration to the UK from April 2014 to March 2015 exceeded 330,000. To what extent has this influenced the Government's decision not to participate in the Commission's relocation proposals?

**James Brokenshire:** Not in the slightest.

**Q49 Heather Wheeler:** Very good answer. I do not believe you, but there we go.

**James Brokenshire:** There is absolutely no link in relation to the grant of humanitarian protection, no consideration at all. It is about doing the right thing to break the link of people thinking that they should try and put themselves at risk. It is why we are resettling in the way that we are and focusing on vulnerability. That has no consideration whatsoever.

**Q50 Heather Wheeler:** Good answer. Absolutely final question: is the current migration crisis helping or hindering the Government's efforts to renegotiate the terms of the UK's EU membership? Has it created more or less sympathy for the Government's objective of reducing the number of EU migrants seeking to live and work in the UK?

**James Brokenshire:** I know this Committee took evidence from my colleague, David Lidington, the Europe Minister, very recently in terms of the overall renegotiation approach, and I would not dare to stray on David's territories. He is very closely involved in all of that process. I do not perhaps see it in that context. What I suppose you could say is that there is a distinction drawn between those countries that are Schengen members and those countries that are not Schengen members. There can be different relationships in response to particular scenarios and particular solutions. In terms of any read-across to the renegotiation, I would not draw that conclusion.

**Q51 Kate Hoey:** Are you, Minister, at all involved in any of the renegotiations? Have you been asked for your advice on what the Prime Minister should be asking on this particular area?

**James Brokenshire:** As I think Mr Lidington said when he gave evidence to this Committee, there are senior members of Government providing input to that, and the core group that are involved in that renegotiation. The Home Secretary, along with other Ministers, will be feeding in views to the core group, and that is, I think, the appropriate way to proceed in relation to this.

**Kate Hoey:** Can I just say, Mr Chairman, how refreshing it is to see a Minister not surrounded by advisers?

**Q52 Geraint Davies:** I simply wanted to ask whether you felt the current scale of the refugee crisis will have a major bearing on the result of the referendum on whether we stay in or out. Do you think it is more likely, as a result of the crisis that is ensuing, we will leave the EU?

**James Brokenshire:** It is too early to say what impact this may have, because some on one side may say, "Well, does this show the EU not acting in a co-ordinated way to work on it?" Others may argue, "Well, actually, it underlines the need for the EU to take action, that our problems reside further away from our shores and therefore it is important to influence in



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a direct manner to ensure that the best interests of this country are upheld". I am sure on this, as no doubt many other issues, there will be two different points of view. It will only be when we get to that referendum and people get into the ballot boxes that we will know.

**Chair:** Thank you very much, Minister, for coming, and we will no doubt be seeing you again fairly soon. Thank you.