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European Union Committee

14th Report of Session 2015–16

**Operation Sophia,
the EU's naval
mission in the
Mediterranean: an
impossible challenge**

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Evidence is published online at www.parliament.uk/operation-sophia and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence

SUMMARY

“Migrants in boats are symptoms, not causes, of the problem.”¹

Since 2014, Europe has been struggling to respond to an exceptional number of irregular but voluntary migrants² seeking to cross European borders. On 19 April 2015, off-the-coast of the Italian island of Lampedusa, a boat carrying nearly 700 migrants capsized and almost all its passengers drowned. The Lampedusa tragedy changed EU policy. Four days later, the European Council pledged to take steps to prevent further loss of life at sea, fight the people smugglers and prevent illegal migration flows. In May, a new naval mission—Operation Sophia—was deployed in the central Mediterranean. It currently patrols a vast area of the high seas off the coast of Libya to Italy, gathering information, rescuing migrants, and destroying boats used by smugglers.

Critics suggested that search and rescue activity by Operation Sophia would act as a magnet to migrants and ease the task of smugglers, who would only need their vessels to reach the high seas; these propositions have some validity. On the other hand, search and rescue are, in our view, vital humanitarian obligations. We commend Operation Sophia for its success in this task.

The mission does not, however, in any meaningful way deter the flow of migrants, disrupt the smugglers' networks, or impede the business of people smuggling on the central Mediterranean route. The arrests that Operation Sophia has made to date have been of low-level targets, while the destruction of vessels has simply caused the smugglers to shift from using wooden boats to rubber dinghies, which are even more unsafe. There are also significant limits to the intelligence that can be collected about onshore smuggling networks from the high seas. There is therefore little prospect of Operation Sophia overturning the business model of people smuggling.

The weakness of the Libyan state has been a key factor underlying the exceptional rate of irregular migration on the central Mediterranean route in recent years. While plans for two further phases would see Operation Sophia acting in Libyan territorial waters and onshore, we are not confident that the new Libyan Government of National Accord will be in a position to work closely with the EU and its Member States any time soon.

In other words, however valuable as a search and rescue mission, Operation Sophia does not, and we argue, cannot, deliver its mandate. It responds to symptoms, not causes.

We recognise the broader, strategic challenges of migration policy, as considered in our report, *EU Action Plan against migrant smuggling* (November 2015).³ Migration to Europe is part of a much larger phenomenon of the mass movement of people globally. Long-standing grievances, both economic and political, as well as the recent deterioration in security conditions in the Middle East and North Africa (MENA), have directed flows of people towards safer

1 Peter Roberts, RUSI, *Militarising the EU Migration Plan: A Flawed Approach to Migration* (7 July 2015): <https://rusi.org/publication/newsbrief/militarising-eu-migration-plan-flawed-approach-0> [accessed 5 April 2016]

2 'Migrant' is widely used as an umbrella term to denote both economic migrants and refugees, and we use the term accordingly in this report.

3 European Union Committee, *EU Action Plan against migrant smuggling* (4th Report, Session 2015–16, HL Paper 46)

havens and better living conditions in Europe. Mediterranean migration has become a global issue, connecting Europe with sub-Saharan Africa and the MENA, and funding a lucrative criminal economy. By virtue of geographical proximity, Europe is at the front line of this trend, but this is a global issue with consequences well beyond the European continent, affecting all developed economies.

Operation Sophia, the EU's naval mission in the Mediterranean: an impossible challenge

CHAPTER 1: THE INCEPTION OF OPERATION SOPHIA

A common security and defence policy mission.

1. In 2014 and 2015, an exceptional number of economic migrants and refugees sought to enter Europe. ‘Migrant’ is widely used as an umbrella term to denote both economic migrants and refugees, and we use the term accordingly in this report. It includes ‘asylum seekers’ (people fleeing persecution or conflict, and therefore, seeking international protection under the 1951 Convention relating to the Status of Refugees), ‘refugees’ (who are asylum seekers whose claim has been approved), and ‘economic migrants’ (people whose primary motivation for leaving their home country is economic opportunity). Furthermore, we use the International Organisation for Migration (IOM)’s definition of ‘irregular migration’—“movement that takes place outside the regulatory norms of the sending, transit and receiving countries”—throughout this report.⁴
2. EU Member States have acted both collectively and unilaterally to stem the flows of migrants. The Commission published a ‘European Agenda on Migration’ in May 2015,⁵ and we addressed one aspect of this wider Agenda, the EU’s Action Plan against migrant smuggling, in our report of November 2015.⁶
3. In addition, and in response to the loss of 700 lives in the Lampedusa tragedy four days earlier, on 23 April 2015, the European Council concluded that it would “mobilise all efforts at its disposal to prevent further loss of life at sea and to tackle the root causes of the human emergency”. It would strengthen EU “presence at sea, to fight the traffickers, to prevent illegal migration flows and to reinforce internal solidarity and responsibility.”⁷
4. On 18 May 2015, Council Decision (CFSP) 2015/778 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) was adopted.⁸ On 22 June 2015, the EU launched its Common Security and Defence Policy (CSDP) mission—EUNAVFOR MED—in the Southern Central Mediterranean. On 28 September 2015, the mission was renamed Operation Sophia, after a baby born aboard one of the mission’s ships off the coast of Libya.⁹

4 IOM, ‘Key Migration Terms’: <http://www.iom.int/key-migration-terms> [accessed 28 April 2016]

5 Communication from the Commission on a European Agenda on Migration, [COM\(2015\) 240 final](http://ec.europa.eu/commission/press_corner/detail/news/20150514)

6 European Union Committee, *EU Action Plan against migrant smuggling* (4th Report, Session 2015–16, HL Paper 46)

7 Statement of the special meeting of the European Council, 23 April 2015 <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/> [accessed 4 April 2016]

8 Council Decision 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) ([OJ L122](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015D0778), 19 May 2015)

9 European Council, *EUNAVFOR Med: EU agrees to start the active phase of the operation against human smugglers and to rename it ‘Operation Sophia’* (28 September 2015): <http://www.consilium.europa.eu/en/press/press-releases/2015/09/28-eunavfor> [accessed 4 April 2016] The EU also undertook a series of Justice and Home Affairs measures which fall outside the remit of this inquiry.

The mandate of Operation Sophia

5. The mission takes aim at the criminal networks—human smuggling and trafficking—that facilitate the movement of migrants.¹⁰ Article 1 of the Council Decision (CFSP) 2015/778 states that:

“The Union shall conduct a military crisis management operation contributing to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean (EUNAVFOR MED), achieved by undertaking systematic efforts to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers or traffickers, in accordance with applicable international law, including UNCLOS and any UN Security Council Resolution.”¹¹

6. The mission is structured in three sequential phases:¹²
- (1) In Phase 1, the mission will “support the detection and monitoring of migration networks through information gathering and patrolling on the high seas in accordance with international law”.
 - (2) In Phase 2, Operation Sophia is tasked to “conduct boarding, search, seizure and diversion of vessels suspected of being used for human smuggling or trafficking”. Phase 2 has two stages: Phase 2A, when the mission acts on the high seas; and Phase 2B, when the mission acts on the “high seas or in the territorial and internal waters” of the coastal state. Phase 2B will be conducted “in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned”, which in this case is Libya.
 - (3) In Phase 3, the mission—again in accordance with any applicable UN Security Council (UNSC) Resolution or consent by the Libyan government—will:

“take all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable, which are suspected of being used for human smuggling or trafficking, in the territory of that State, under the conditions set out in that Resolution or consent.”

7. Operation Sophia is mandated to be deployed for one year after reaching full operational capability.¹³ The mandate is due for renewal in summer 2016. The common costs of the mission, financed by the Member States, amount to €11.82 million for the one-year mandate.¹⁴

10 We note that the European Council conclusions and Council Decision use both the words ‘trafficking’ and ‘smuggling’ in relation to Operation Sophia. Vice Admiral Johnstone informed us that on both the eastern and central Mediterranean routes, “the vast majority of passengers are travelling willingly, thus this is not human trafficking, although it is illegal trafficking run largely by criminal networks.” (ENF0004). We use the term ‘smuggling’ to indicate the fact that the majority of migrants are travelling willingly and using the facilitation services of smugglers.

11 Article 1, Council Decision 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) (OJ L122, 19 May 2015): UNCLOS is the United Nations Convention on the Law of the Sea.

12 *Ibid*, Article 2

13 *Ibid*, Article 13

14 *Ibid*, Article 11

Structure of the report

8. Our report first considers the phenomenon of mass migration (Chapter 2), then proceeds to assess the mission to date—Phases 1 and 2A (Chapter 3). In Chapter 4, we address considerations for the future phases of the mission, and in the final chapter, we turn to the contours of a comprehensive and holistic EU external approach to tackling smuggling and stemming irregular migration, in accordance with the Union's humanitarian values and obligations.
9. We hope that our report will make a contribution to the Member States' assessment of Operation Sophia, in advance of its potential renewal in summer 2016.
10. The inquiry that led to this report was carried out by the External Affairs Sub-Committee, whose members are listed in Appendix 1. A full list of witnesses, including their affiliations, is printed in Appendix 2. We are grateful to all those who assisted us with this inquiry. We regret that although we requested evidence from the Operation Commander of Operation Sophia, we did not receive it.
11. **We make this report to the House for debate.**

CHAPTER 2: THE CHALLENGE OF MASS MIGRATION

An era of mass migration

12. Migration has been described by Mr William Lacy Swing, Director General, IOM, as a “mega-trend’ of this century”.¹⁵ He noted that “more people are on the move than ever before—more than one billion in our seven-billion person world”.¹⁶ Governments had, in particular, not kept pace with the phenomenon of “forced migration”—migratory movements in which an element of coercion exists, including threats to life and livelihood:¹⁷

“There is a disjuncture between contemporary patterns and processes of forced migration, and the current legal ... frameworks to protect forced migrants. The increasingly visible, unintended consequences of the current system call for a new way of thinking about protection, development, and humanitarian response.”¹⁸

Migration into Europe

13. According to the United Nations High Commissioner for Refugees (UNHCR), over 1, 015, 078 migrants arrived in Europe via the Mediterranean Sea in 2015.¹⁹ Between January and late April 2016, 181, 168 migrants had arrived to Europe by sea routes, according to IOM figures.²⁰
14. Three main routes are used to reach Europe:
- The eastern Mediterranean route. In 2015, migration via this route surpassed all others. The route passes from Turkey to Greece across the Aegean Sea. Following arrival by sea in Greece, migrants often move through the Western Balkans to reach their desired final destinations in EU Member States (the Western Balkans route).
 - The central Mediterranean route. This was the most used route in 2014. The route traverses North Africa to Italy. Libya is the principal departure point for this route, with smugglers exploiting the nation’s political instability and the state’s inability to control its territory and borders.²¹

15 William Lacy Swing, ‘Opening remarks, European Conference 2016: Promoting the Multidisciplinary Approach in Addressing Migrant Smuggling’ (12 January 2016): <https://www.iom.int/speeches-and-talks/opening-remarks-european-conference-2016-promoting-multidisciplinary-approach> [accessed 27 April 2016]

16 IOM, ‘Migration in a World in Disarray’: *IOM Director General* (13 October 2015): <https://www.iom.int/news/migration-world-disarray-iom-director-general> [accessed 27 April 2016]

17 The IOM defines forced migration as “a migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects).” IOM, *Key Migration Terms*: <http://www.iom.int/key-migration-terms> [accessed 14 April 2016]

18 William Lacy Swing, ‘Remarks, 15th Plenary Meeting of the Transatlantic Council on Migration: Development, Mobility Protection—Building Opportunity into Refugee Solutions’, (15 January 2016): <https://www.iom.int/speeches-and-talks/remarks-15th-plenary-meeting-transatlantic-council-migration-development-mobility> [accessed 27 April 2016]

19 United Nations High Commissioner for Refugees, ‘Refugees/Migrants Emergency Response: Mediterranean’ (March 2016): <http://data.unhcr.org/mediterranean/regional.php> [accessed 12 April 2016]

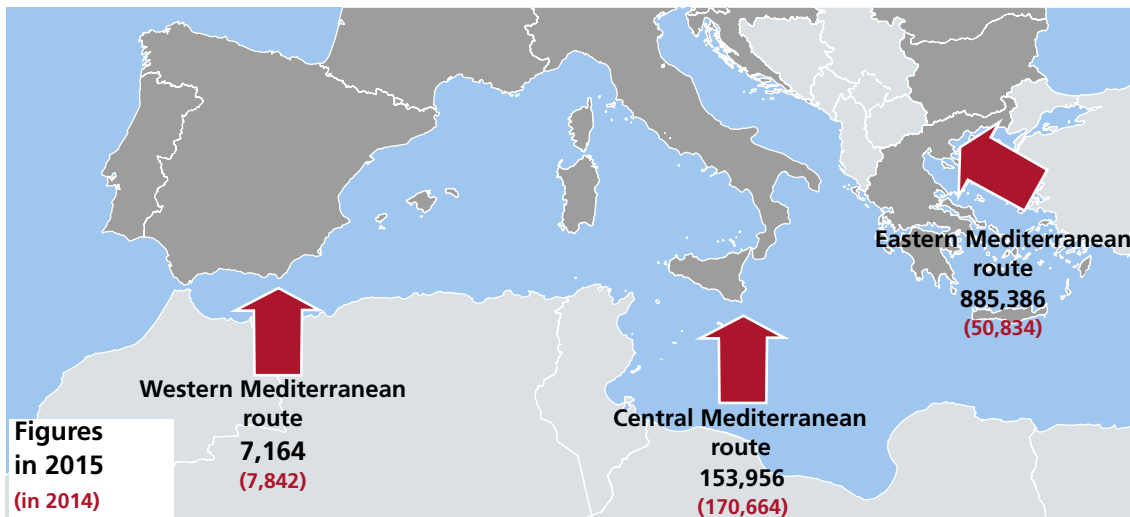
20 International Organisation for Migration, ‘Migration Flows—Europe’ (figures as of 27 April 2016): <http://migration.iom.int/europe/> [accessed 27 April 2016]

21 Frontex, ‘Central Mediterranean route’ (2016): <http://frontex.europa.eu/trends-and-routes/central-mediterranean-route/> [accessed 21 April 2016]

- The western Mediterranean route. Migrants transit Morocco or Algeria to reach Spain. Flows on this route remain low, due to the concerted efforts of transit countries.

The number of migrants using these three routes in 2014 and 2015 are shown in Figure 1.

Figure 1: Migrant routes into Europe in 2014 and 2015



Source: Figures for 2014 and 2015 migration from Frontex, *Risk Analysis for 2016* (March 2016) p16: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf [12 April 2016]

- The top ten nationalities of all Mediterranean Sea arrivals in 2016 to date have been Syrians, Afghans, Iraqis, Pakistanis, Iranians, Nigerians, Gambians, Guineans, Senegalese and Côte d'Ivoireans.²² The statistics demonstrate that Europe is currently witnessing a mixed migration challenge, whereby economic migrants and asylum seekers travel on the same routes to reach Europe. This is particularly evident on the central Mediterranean route, which the European Agency for the Management of Operational Co-operation at the External Borders of the Member States (Frontex) points out has been a historic migration route into Europe.²³
- According to data from Frontex, in 2015 the three principal nationalities crossing on the central Mediterranean route were Eritreans (38,791), Nigerians (21,914) and Somalis (12,430).²⁴ In March 2016 Mr Richard Lindsay, Head of Security Policy Department, Defence and International Security Directorate, Foreign and Commonwealth Office (FCO), informed us that, according to the UNHCR figures for 2016, the principal nationalities of migrants crossing via the central Mediterranean route were Nigerians

22 United Nations High Commissioner for Refugees, 'Refugees/Migrants Emergency Response: Mediterranean': <http://data.unhcr.org/mediterranean/regional.php> [accessed 27 April 2016]

23 Frontex, 'Central Mediterranean route' (2016): <http://frontex.europa.eu/trends-and-routes/central-mediterranean-route/> [accessed 14 April 2016] Frontex was established as an EU agency in 2004, to reinforce and streamline co-operation between national border authorities.

24 Frontex, *Risk Analysis for 2016*, (March 2016) p16: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf [accessed on 27 April 2016] The Frontex statistics are based on the detection of illegal border crossings at the EU's external borders. In 2014, the principal three nationalities were Syrians (39,651), Eritreans (33,559) and un-specified Sub-Saharan African nationals (26,340). Frontex, *Risk Analysis for 2015*, (April 2015) p16: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf [accessed on 27 April 2016]

(17%), Gambians (13%), Guineans (10%), Senegalese (9%) and Moroccans (9%).²⁵

17. These figures should be treated with some caution. A precise breakdown of migrants by nationality is difficult, not least because, across all routes, false declarations of nationality “are rife among nationals who are unlikely to obtain asylum in the EU, are liable to be returned to their country of origin or transit, or just want to speed up their journey.”²⁶ A further challenge is that the sheer number of arrivals make an orderly sorting of migrants extremely difficult for the recipient countries, principally Italy and Greece.
18. The largest single category of migrants coming to Europe (via all sea routes) is adult males. According to the UNHCR, of arrivals since January 2016, 45% were men, 35% were children, and 20% were women.²⁷ In 2015 the demographic breakdown was 50% men, 30% children, and 19% women.²⁸
19. We note two final figures: In 2015, 3,771 people died crossing the Mediterranean (across all routes).²⁹ Since January 2016, 1,261 people are known to have drowned or are missing at sea.³⁰

Conclusions and recommendations

20. **The current migration crisis is exacerbated by conflicts in the Middle East and the security vacuum in Libya, but it is also part of a wider phenomenon of mass migration from the developing to the developed world. This will remain a challenge for the developed world in the long term.**
21. **Current policies to deal with economic migration and refugees are unable to cope with the numbers in question. The international legal architecture, political acceptance and financial resources to manage an era of mass migration are not in place. This must be addressed urgently at the European level.**

25 [Q 58](#)

26 Frontex, *Risk Analysis for 2016*, (March 2016) p7: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf [accessed on 11 April 2016].

27 United Nations High Commissioner for Refugees, ‘Refugees/Migrants Emergency Response: Mediterranean’ (figures as of 27 April 2016): <http://data.unhcr.org/mediterranean/regional.php> [accessed 27 April 2016]

28 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 1](#) (Edward Hobart). The figures have been rounded.

29 United Nations High Commissioner for Refugees, ‘Refugees/Migrants Emergency Response: Mediterranean’: <http://data.unhcr.org/mediterranean/regional.php> [accessed 27 April 2016]

30 *Ibid* (figures as of 27 April 2016) [accessed 27 April 2016]

CHAPTER 3: ASSESSMENT OF OPERATION SOPHIA

Modus operandi of human smuggling

22. In order to assess the effectiveness of the mission, we sought to understand the mechanics of the business model of human smuggling and the *modus operandi* of the smugglers. We focused on the smuggling networks operating out of Libya.

Business model

23. Human smuggling is often part of a broader criminal enterprise. A report by Europol (February 2016) explained that more than 90% of migrants travelling to the EU used the facilitation services provided by smugglers.³¹ In most cases, these services were offered and provided by criminal groups, although we note that the provision of these services may not be illegal in all the countries of origin. Frontex found that these criminal groups were, in some cases, linked to other criminal economies, including drug trafficking, trafficking in human beings, and property crime.³²
24. Criminal networks often co-opt both illegal and legal businesses, such as hotels, car rentals, and travel agencies, to support their activities and launder money. Corruption is a “key facilitating factor for migrant smuggling.”³³
25. Europol further added that the “group of people vulnerable for labour or sexual exploitation is increasing”, and that “these types of exploitation will increase in the upcoming years.”³⁴
26. Our witnesses considered the nature of the criminal activity on the eastern and central Mediterranean routes. On the eastern Mediterranean route, Mr Edward Hobart, Migration Envoy, Europe Directorate, FCO, judged that while there was “plenty of activity that [was] in the grey market or illegal or irresponsible”, at the moment there were no “large-scale organised crime groups.”³⁵ On the other hand, we note that the *Financial Times* has reported that the Turkish mafia dominates the smuggling trade.³⁶
27. Mr Hobart did see a likelihood of an “increase in criminal activity.” He explained that “a symptom of better control ... at the border, will be an increased opportunity for organised crime.”³⁷ As EU borders become more challenging to navigate, migrants will be more likely to turn to smugglers to facilitate their illegal crossings.
28. Lieutenant General Wolfgang Wosolsobe, Director General, EU Military Staff highlighted two types of smuggling networks: one focused on the Libyan coast, and a further wider network originating in countries in West Africa and the Middle East—the source of migration flows—with migrants

31 Europol, *Migrant smuggling in the EU* (February 2016) p2: available at https://www.europol.europa.eu/content/EMSC_launch [accessed 4 April 2016]

32 *Ibid*, p11

33 *Ibid*, p12

34 *Ibid*, p12

35 Oral evidence taken on 21 January 2016 (Session 2015–16), Q 4 (Edward Hobart)

36 Mehul Srivastava, ‘Organised crime moves in on migrant smuggling trade in Turkey’, *Financial Times* (13 December 2015): available at <http://www.ft.com/cms/s/0/17cf4fc0-9ffa-11e5-8613-08e211ea5317.html#axzz477Itpiyo> [accessed 28 April 2016]

37 Oral evidence taken on 21 January 2016 (Session 2015–16), Q 4 (Edward Hobart)

facilitated through the transit countries.³⁸ There was “no evidence of a general oversight” among smugglers acting on the central Mediterranean coast, though “a degree of loose co-ordination” existed between different networks.³⁹

Modus operandi

29. The analysis from Europol is that smuggling networks are multi-tiered. The organiser or leader is usually located in a key migration hub and is responsible for overall co-ordination. The leaders usually operate remotely, and only maintain contact with a limited number of confidants.⁴⁰
30. Local or regional leaders set the price of facilitation services and carry out the co-ordination activities, such as booking flights and facilitating travel. These local leaders hand over the migrants to the next associates along the route, who are responsible for ensuring travel and other services, before the migrants are handed over to the next associates in turn. Local cells are tasked with buying or renting vehicles or recruiting and co-ordinating drivers. Low-level contacts are also used as drivers, crew members, scouts or recruiting agents. These contacts typically operate as part of the network for a limited time only, and are changed regularly.⁴¹
31. This picture is consistent with the analysis of Amnesty International UK (AIUK). Mr Steve Symonds, Refugee and Migrant Rights Programme Director, AIUK, explained that smuggling networks consisted of “people who sit at the top of a big chain of loose connections, who are no doubt making huge profits and probably go nowhere near anyone they are smuggling.” At the lowest level are individuals who own a boat or property to house people, or act as escorts across the border.⁴²

The smuggling operation out of Libya

32. The business of smuggling is deeply embedded in, and critical to, the Libyan economy. The high number of migrants along the North African coast has enabled the development of a lucrative coastal trade of smuggling which in 2015 was valued at “\$255–323 million per year in Libya alone.”⁴³
33. Smugglers are part of the fabric of Libyan political and economic life. Mr Patrick Kingsley, Migration Correspondent, Guardian Media Group, explained that smugglers are often “connected to militias”, “have important roles to play in their local communities”, and “provide quite a lot of money to the local community”. The “people at the top are going to be protected to some extent, even by people who are major players in Libyan politics.”⁴⁴

38 [Q 29](#) and [Q 30](#). The EU Military Staff is a part of the European External Action Service, and provides in-house military expertise for the High Representative of the Union for Foreign Affairs and Security Policy, including strategic advice and assessment of Operation Sophia.

39 [Q 29](#)

40 Europol, *Migrant smuggling in the EU* (February 2016) p9: available at https://www.europol.europa.eu/content/EMSC_launch [accessed 4 April 2016]

41 *Ibid*, p10

42 [Q 3](#)

43 ‘Libya: a growing hub for Criminal Economies and Terrorist Financing in the Trans-Sahara’, *The Global Initiative Against Transnational Organised Crime* (11 May 2015): <http://www.globalinitiative.net/download/global-initiative/Libya%20Criminal%20Economies%20in%20the%20trans-Sahara%20-%20May%202015.pdf> [accessed 21 April 2016]

44 [Q 50](#)

34. Migrants are recruited via social media, by facilitators who find migrants, gain their trust and introduce them to smugglers or their associates, or by travel agency services run by smuggling networks.⁴⁵ Migrants are first gathered in safe houses near the beach, where they stay for a period ranging from a few days to months. On the night of the launch migrants are escorted to the beach to board the vessels. This can require the bribing of officials at check-points *en route*.
35. Mr Kingsley explained that two kinds of boats are used in Libya: wooden fishing boats and rubber dinghies. Migrants either depart on board smaller boats, which then transport them to the wooden boats waiting a few miles out at sea, or they depart for Europe in rubber dinghies straight from the beach itself.⁴⁶ Wooden boats are more valuable because they can carry more people, are more resilient to bad weather, and can be re-used if recovered.

Composition of the mission

36. Italy is the lead nation for Operation Sophia, and hosts the operational headquarters in Rome. The Operation Commander is Rear Admiral Enrico Credendino of the Italian navy.
37. The composition of the mission varies according to the rotation of ships and assets assigned by the Member States, as well as the needs of the mission as assessed by the Operation Commander. Starting in June 2015, in Phase 1, the mission could count on four naval units (the Italian flagship *Cavour*, two German and one UK ship) and five air assets (one French and one Luxembourg plane, two Italian and one UK helicopter).⁴⁷ For Phase 2, starting in October, the mission had five surface naval units and six air assets including planes and helicopters.⁴⁸ In October–November 2015, when the Operation Commander assessed that migrant numbers would be highest (the surge), the Operation could count on nine ships.⁴⁹ In March 2016, Mr Lindsay confirmed that the Operation Commander was “content with the resources that he has at the moment.”⁵⁰
38. The UK provided the survey ship *HMS Enterprise* to the assessment phase. When the Operation Commander requested a surge of assets in October and November, the UK also contributed the “frigate *HMS Richmond* with a *Lynx* helicopter, *ScanEagle* UAV and Royal Marines boarding party. This constituted two out of the nine ships at the peak of the surge.”⁵¹ Mr Lindsay added that the UK had also offered *HMS Bulwark* as a search and rescue asset in advance of the operational stage of the mission. Furthermore,

45 ‘Rubber boats for Libyan human smugglers imported from China, transhipped through Malta’, *Malta Independent* (22 February 2016): <http://www.independent.com.mt/articles/2016-02-20/local-news/Rubber-boats-for-Libyan-human-smugglers-imported-from-China-transhipped-through-Malta-6736153656> [accessed 21 April 2016]

46 Q 33

47 European Union External Action, ‘EUNAVFOR MED FORCE fully operational’ (28 July 2015): http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/press-releases/20150728_en.htm [accessed 21 April 2016]

48 European Union External Action, ‘Factsheet European Union Naval Force: Mediterranean Operation Sophia’ (23 March 2016): http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet_eunavfor_med_en.pdf [accessed 21 April 2016]

49 Letter from the Rt Hon David Lidington to Sir William Cash, Chairman of the House of Commons European Scrutiny Committee, (20 January 2016)

50 Q 63

51 Letter from the Rt Hon David Lidington to Sir William Cash, Chairman of the House of Commons European Scrutiny Committee (20 January 2016)

“a number of officers ha[d] been seconded to the Italian-led operational headquarters”.⁵²

39. The question of whether the resources the mission deploys are adequate is highly pertinent. We note that in Phases 1 and 2A, Operation Sophia is patrolling an area of operations of 525,000 square nautical miles—“wider than six times the extension of Italy”.⁵³ Mr Peter Roberts, Senior Research Fellow, Sea Power and Maritime Studies, Royal United Services Institute, noted that on some days:

“six ships and four or five sorties of fixed-wing aircraft, plus unmanned aerial vehicles, [are] trying to cover an area the size of mainland Europe and police all activity in it based on those limited platforms.”⁵⁴

Mr Lindsay responded that the idea was “not to patrol the whole of the Libyan coastline” but to identify the “launch points used by the smuggling networks and to be at those points to tackle them.” This was achievable but “only with the sophisticated intelligence picture” that Operation Sophia was building.⁵⁵

40. Mr Roberts expressed two further concerns about the resourcing model. He pointed out that as Operation Sophia had “no fixed forces”, its assets “rotate in and out”. There was no “consistency in the force’s design”, because the vessels at the mission’s disposal depended “very much on the short-term political needs of individual nations.”⁵⁶ The assets were also, in Mr Roberts’ view, too sophisticated for Operation Sophia’s mission. He told us that aircraft designed to hunt nuclear submarines in the north Atlantic are being used to hunt small rubber dinghies. This, he considered, was probably a “wasted resource.”⁵⁷ He suggested that the EU should use “much cheaper commercial vessels” for the search and rescue elements of the mission.⁵⁸
41. Mr Lindsay countered that while commercial vessels had a role to play in search and rescue and humanitarian work, in order to break the smuggling networks the mission required the “intelligence, surveillance and reconnaissance (ISR) capabilities that these high-end vessels and aircrafts provide”.⁵⁹

Assessment criteria

42. We assessed the mission against its own military strategic objectives, and against two further stated aims of the European Council: reducing the flow of migrants, and search and rescue at sea.

52 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

53 ‘EUNAVFOR MED OP SOPHIA; A contribution towards disrupting the business model of human smuggling and trafficking networks in the Central Mediterranean’, *Impetus: Magazine of the EU Military Staff, EEAS, Brussels* (Autumn/Winter 2015): http://www.eeas.europa.eu/csdp/structures-instruments-agencies/eu-military-staff/documents/impetus_n20.pdf [accessed 21 April 2016]

54 [Q 36](#)

55 [Q 57](#)

56 [Q 36](#)

57 [Q 36](#)

58 [Q 42](#)

59 [Q 56](#)

Military strategic objectives in Phase 1

43. Phase 1 of Operation Sophia was launched on 22 June 2015 and proceeded until October 2015. It focused on monitoring and intelligence gathering.
44. Lieutenant General Wosolsobe pointed to two successful outcomes of Phase 1. Processes had been “developed to gain information from the migrants”, in order “to determine not only their particular circumstances, but how and by whom their passage was effected.” A second result was the “identification of a network that exists to traffic women and children with a view to their sexual exploitation.” The EU had “built up a much improved understanding of the traffickers’ networks, personnel and tactics.” Operation Sophia had been able to contribute to a number of EU, UN and national programmes to counter trafficking for sexual exploitation.⁶⁰
45. On the other hand, Mr Roberts was less positive about the added value of Operation Sophia in intelligence gathering. It was doing “nothing new”; “you could go to an Italian or Libyan fisherman and glean exactly the same kind of information that the naval and air forces have been gathering”.⁶¹ He criticised the use of naval forces that had “no experience of intelligence-gathering against organisations ashore”, and were “unfamiliar with some of the forensic evidence-gathering required to provide the linkages higher up the chain.”⁶²

Military strategic objectives in Phase 2A (high seas)

46. On 14 September 2015, the European Council noted that the conditions had been met for the mission to proceed to the next phase, and on 7 October it transitioned to Phase 2A, operation on the high seas. On 9 October 2015, the UNSC adopted Resolution 2240, paragraph 5 of which permits Member States to inspect, on the high seas:

“any un-flagged vessels that they have reasonable grounds to believe have been, are being, or imminently will be used by organised criminal enterprises for migrant smuggling or human trafficking from Libya, including inflatable boats, rafts and dinghies”.⁶³

If those vessels are confirmed as being used for migrant smuggling or human trafficking, Member States are authorised to take “further action ... including disposal.”⁶⁴

Arresting smugglers

47. Mr Lindsay pointed to the “tangible effect” of Operation Sophia: “80 smuggling vessels so far have been destroyed, over 50 suspected smugglers have been arrested”.⁶⁵

60 [Q 17](#)

61 [Q 35](#)

62 [Q 33](#)

63 United Nations Security Council, *Resolution 2240* (9 October 2015): http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2240.pdf [accessed 4 April 2016]

64 United Nations Security Council, *Resolution 2240*, para 8 (9 October 2015): http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2240.pdf [accessed 4 April 2016]

65 [Q 54](#)

48. Apprehended smugglers are taken to Italy where the judicial process is led by the Italian authorities. Lieutenant General Wosolsobe confirmed that smugglers had been “detained in Italy for ongoing juridical processes and eventual prosecution.”⁶⁶ “Much care”, he asserted, had “been taken to ensure a legally watertight process, using the Italian law enforcement authorities throughout.” To date, “no prosecution has been dismissed due to a failure of process.”⁶⁷
49. Other witnesses voiced doubts about the value of Operation Sophia’s arrests. Mr Kingsley said people “were being arrested before Operation Sophia was created”—Operation Sophia was not a “game-changer in that regard.”⁶⁸ Mr Roberts dismissed the number of arrests as “incredibly small” in comparison to the scale of smuggling on the central Mediterranean route.⁶⁹

Destruction of boats

50. Operation Sophia’s destruction of boats prevents their reuse by smugglers. Mr Lindsay told us that there was a “deterrent effect in that smugglers are being apprehended and their boats are being destroyed.”⁷⁰ Lieutenant General Wosolsobe added that, with the exception of one incident where a maritime unit was prevented by armed men from destroying a boat, the mission had “succeeded in destroying all the boats” it had captured.⁷¹
51. The smugglers have adapted. Lieutenant General Wosolsobe said that the mission had “forced the traffickers to amend their business model”: the more expensive wooden or fibre-glass boats were no longer used, as they represented a “significant financial loss” when they were destroyed. Instead, smugglers and traffickers are bulk-buying inflatable rubber craft from China. These “have less carrying capacity and are more limited by sea conditions”;⁷² in other words, they are more unsafe. There is no legal basis for preventing shipments of these rubber crafts into Libya.

Tackling the smuggling networks

52. In a letter to Sir William Cash MP, Chairman of the House of Commons European Scrutiny Committee, the Rt Hon David Lidington MP, Minister for Europe, noted that the Operation Commander argued that Operation Sophia “had a deterrent effect”, as smuggling networks could “no longer operate with impunity in international waters.”⁷³
53. On the other hand, we heard that Operation Sophia had apprehended only low value targets. Mr Kingsley informed us that once the boats reached international waters, “the major Libyan smugglers are no longer involved

66 [Q 17](#)

67 [Q 23](#)

68 [Q 35](#)

69 [Q 35](#)

70 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

71 [Q 17](#) The current mandate does not include force protection or a mandate to use force. Lieutenant General Wosolsobe told us that “the inherent right of self-defence provides sufficient scope to permit the execution of the mission on the high seas”. He described the “de-escalatory posture of the unit” in this incident as “entirely proper”, and noted that the vessel in question was “intercepted and sunk by other units a few days later”. Should the mission move into Phase 2B, this would result in an “increased threat level”, and he expected that “a suitably modified set of rules of engagement” would be authorised by the EU Political and Security Committee. [Q 22](#)

72 [Q 17](#)

73 Letter from the Rt Hon David Lidington to Sir William Cash, Chairman of the House of Commons European Scrutiny Committee, (20 January 2016)

in the boat journey.” By that stage, it was “mostly the migrants who are on these ships and some very low-level smugglers”: the people “driving the rubber boats are usually co-opted migrants.”⁷⁴ This accorded with the accounts received by AIUK that many of those intercepted and believed to be smugglers were “probably just refugees who have been nominated as the person who takes charge of the boat.”⁷⁵

54. As a result, witnesses questioned the impact of Operation Sophia on the smuggling networks. Mr Symonds said that “much of the activity inevitably ends up being targeted at the people right at the bottom”, many of whose involvement was merely opportunistic. This “is not tackling the smuggling network itself; that still exists.”⁷⁶ Mr Roberts explained that the “small-time operators” apprehended by Operation Sophia could be “replaced within 10 or 15 minutes ... They are not the people behind the business model, so it is making no impact.”⁷⁷ He added that “linking the small fry to the kingpins is almost impossible”, and foresaw no success in overturning this particular business model through Operation Sophia.⁷⁸

Deterring migrant flows

55. There was a decline in the number of people travelling via the central Mediterranean route between September 2015 and early January 2016. On 20 January the Minister wrote that for the first time in three years, there had been a “9% reduction in the total number of migrants crossing the Mediterranean.”⁷⁹
56. A number of factors could explain the decline in flows on the central Mediterranean route in this period. Antonello de Renzi Sonnino, spokesperson for Operation Sophia, said that the shift in trends depended on several factors,
- “including deterrence through the action of many naval assets deployed to the area, enhanced border control activities by the Egyptian authorities, and the lower risk associated with the Eastern/Balkan route.”⁸⁰
57. In an interview in December 2015 the Operation Commander of Operation Sophia, Rear Admiral Credendino, attributed the decline in numbers (in the preceding two months) to the fact that more migrants were taking the safer eastern Mediterranean/Western Balkans route, as well as the deterrent effect of Operation Sophia.⁸¹ Mr Lindsay agreed that some of the reduction in migrants using the central Mediterranean route “might be attributed to the opening up of other routes”.⁸²

74 [Q 33](#)

75 [Q 11](#) (Steve Symonds)

76 [Q 3](#)

77 [Q 35](#)

78 [Q 33](#)

79 Letter from the Rt Hon David Lidington to Sir William Cash, Chairman of the House of Commons European Scrutiny Committee (20 January 2016)

80 ‘Operation Sophia’, *Informazioni della Difesa* (2 March 2015): http://www.difesa.it/InformazioniDellaDifesa/periodico/periodico_2015/Documents/R4_2015/id_04_2015_operation_sophia.pdf [accessed 27 April 2016]

81 EU naval operation Sophia saved 5, 700 lives, *EU observer*, 2 December 2015: <https://euobserver.com/migration/131345> [accessed 21 April 2016]

82 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

58. Mr Symonds did not regard missions like Operation Sophia as a deterrent. While such operations could deter a smuggler from taking a particular route, this was not same as deterring smugglers from finding another route, or people from turning to smugglers in search of another route.⁸³ Dr Natalie Roberts, Adviser on Refugees and Migration in Europe, Médecins Sans Frontières, informed us that “people know very quickly when borders are closed ... if one route closes, another one opens.”⁸⁴
59. The most recent figures show that crossings on the central Mediterranean route increased in the first two months of 2016, compared to the same period in 2015. Mr Kingsley informed us that around 7,800 migrants had crossed from Libya to Italy in the first two months of 2015, which had increased to 9,000 for the comparable period in 2016.⁸⁵ A variety of factors might be responsible for this increase, including the knock-on effect of sealing borders along the Western Balkans route.⁸⁶
60. More generally, Mr Symonds was sceptical of the EU's efforts to barricade its external border. Analysis had shown that stronger policing of the EU's external borders had effected only “the movement of ever larger numbers of people around different routes by different journeys, usually at greater danger and cost to them, so of greater profit to smugglers.”⁸⁷
61. A criticism of search and rescue missions has been that by detecting and rescuing migrants and transporting their passengers to European ports, Operation Sophia may be feeding hopes of safe passage. This criticism was levelled by some Member States, including the UK Government, at the search and rescue efforts by the Italian operation *Mare Nostrum* (October 2013–November 2014).⁸⁸ It is also suggested that an unintended consequence of Operation Sophia is that, by operating beyond European coastal waters, the mission is assisting the job of smugglers, who now only need their boats to reach the high seas, rather than EU waters.

Search and rescue at sea

62. Search and rescue at sea is an international obligation, and vessels assigned to Operation Sophia have been ready and equipped to meet their commitments under the International Convention on Safety of Law at Sea (SOLAS) and the UN Convention on the Law of Sea (UNCLOS). In March 2016 Mr Lindsay informed us that the total number of people rescued by Operation Sophia had reached nearly 9,000.⁸⁹
63. Operation Sophia was “doing more or less the same thing that previous operations by Italy and Europe did prior to its establishment”, according to

83 [Q 7](#)

84 [Q 1](#)

85 [Q 35](#)

86 ‘Paths to Europe: As a key route closes, migrants look for others’, *Financial Times* (9 March 2016): available at <http://www.ft.com/cms/s/0/f5418000-e5f3-11e5-bc31-138df2ae9ee6.html#axzz42yINrFx5> [accessed 27 April 2016]

87 [Q 7](#)

88 Rt Hon Baroness Anelay of St John DBE, Minister of State, Foreign and Commonwealth Office, stated in October 2014 that the UK Government did not support search-and-rescue operations in the Mediterranean, because “we believe that they create an unintended ‘pull factor’, encouraging more migrants to attempt the dangerous sea crossing”. ‘Why Britain won’t save drowning migrants in the Mediterranean’, *Washington Post* (28 October 2014): <https://www.washingtonpost.com/news/worldviews/wp/2014/10/28/why-britain-wont-save-drowning-migrants-in-the-mediterranean> [accessed 27 April 2016]

89 [Q 54](#)

Mr Kingsley. He concluded that Operation Sophia was “essentially a search and rescue operation by another name.”⁹⁰ Mr Symonds was satisfied with the EU’s search and rescue effort in the central Mediterranean. It matched the prior Italian efforts (operation *Mare Nostrum*) in terms of quantity of vessels, and was operating in waters close enough to save lives. “People still drown, but it is none the less an effective search and rescue mission.”⁹¹ Mr Roberts praised the operation as “doing a great job in saving lives at sea”.⁹²

64. Anxiety was expressed about the future capacity for search and rescue. Mr Symonds feared that as Operation Sophia became “more targeted at tackling smugglers directly”, it “might undermine the search and rescue mission”.⁹³ Dr Roberts was “very concerned that a move away from search and rescue would lead to much higher death rates at sea.”⁹⁴ Dr Roberts also pointed to the unintended consequence of the shift to rubber dinghies, of increasing the danger of the journey for the migrants: “dinghies are so much more unsafe, more needed to be rescued”.⁹⁵

Conclusions and recommendations

65. **The intelligence gathering phase of Operation Sophia has been useful, but only limited situational awareness can be gathered on the high seas. Significant gaps remain in Operation Sophia’s understanding of the smugglers’ networks and the modus operandi of those networks in Libya.**
66. **Operation Sophia’s concept of operations and mandate were agreed in advance of the intelligence-gathering phase. This was not an ideal way to plan for the mission. The mission will require high-quality intelligence throughout its mandate; this will in turn have force generation implications.**
67. **The intentions and objectives set out for Operation Sophia exceed what can realistically be achieved. A mission acting only on the high seas is not able to disrupt smuggling networks, which thrive on the political and security vacuum in Libya, and extend through Africa.**
68. **Operation Sophia is viewed by NGOs in the humanitarian field as a search and rescue mission. It is undertaking valuable work in search and rescue at sea, but this is not its core mandate.**

90 [Q 39](#)

91 [Q 2](#)

92 [Q 35](#)

93 [Q 2](#)

94 [Q 2](#)

95 [Q 3](#)

CHAPTER 4: CONSIDERATIONS FOR THE NEXT PHASES

The next phases

69. The ability of Operation Sophia to move to Phases 2B and 3 will be critical to the overall success of mission. Mr Lindsay confirmed that “the most important parts of the operation are Phase 2B and Phase 3”.⁹⁶ Lieutenant General Wosolsobe agreed that Phases 2B and 3 were “likely to result in an outcome that better reflects the desired end state of the operation”, of “disrupting and dismantling the trafficking networks.”⁹⁷
70. Vice Admiral Clive Johnstone CB CBE, Royal Navy Commander, Allied Maritime Command, NATO, counselled patience: it was “worth considering that activities of this kind often take years to mature.” He compared the mission with Operation Atalanta, the EU’s anti-piracy mission off the coast of Somalia. NATO and the EU began their missions in the Horn of Africa in late 2008, but it was not until 2010–12 “that the international counter-piracy stakeholders developed the tactics and procedures that maximized effectiveness”.⁹⁸
71. On the other hand, we note that tackling piracy and human smuggling networks are very different tasks. To combat piracy, military assets are used to protect ships from capture, but there is no clear defensive line that can be taken against smuggling networks, which use their own vessels and can profit regardless of whether the boats successfully reach Europe. Mr Roberts was hesitant about the merits of drawing lessons from Operation Atalanta: the EU Military Committee (EUMC), in designing Operation Sophia from “the understanding they had gained from conducting anti-piracy operations”, had designed a plan that was “the wrong shape of hammer.”⁹⁹

The Libyan political context

72. Operation Sophia’s current mandate—UNSCR 2240 (2015)—does not allow it to be deployed in Libyan territorial waters. For this to happen, the mission would need both an invitation from the Government of National Accord (GNA)—as the sole legitimate government in Libya—and a further UNSC mandate.¹⁰⁰ Phase 3 would also require a further mandate and Libyan consent.
73. Mr Lindsay explained that the ability to move to Phase 2B and 3 “has been constrained by our inability to work with a government in Libya, because there has been none.”¹⁰¹ Having a partner in Libya would change “the whole dynamic” of what the operation could achieve.¹⁰²
74. Mr Lindsay drew an explicit connection between the flow of migrants and a weak Libyan government. The EU needed “governments on the shores with whom [it could] work, who have the right incentives to break the business model of smugglers and do not allow this illegal activity to take

96 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

97 [Q 20](#)

98 Written evidence from Vice Admiral Clive Johnstone ([ENF0004](#))

99 [Q 32](#)

100 While it would be theoretically possible for the mission to proceed to act in Libyan territorial waters with only a UNSCR, both China and Russia—two permanent members of the UNSC—have stated that a Libyan invitation would be required by them in order to authorise a UNSC resolution.

101 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

102 [Q 60](#)

place unchecked". The absence of such governments was "why the central Mediterranean route opened in such large numbers over the last couple of years."¹⁰³ Similarly, in the course of a one-off evidence session on Libya in July 2015, Professor George Joffé told us that "the old smuggling networks that existed across the Sahara now exist with no constraint or restraint of any kind at all."¹⁰⁴

75. A political agreement between the House of Representatives in Tobruk and the General National Congress, based in Tripoli, was reached in December 2015, and in March 2016, the GNA was "established and recognised."¹⁰⁵ While this was a positive step, Mr Kingsley noted that "both the rebel government in Tripoli and the formally official government in Tobruk have not recognised the third Government of National Accord."¹⁰⁶
76. In April 2016 the Rt Hon Philip Hammond MP, Secretary of State for Foreign and Commonwealth Affairs, visited Libya to meet the new Prime Minister of the GNA, Fayez al Serraj. Mr Hammond announced the UK's support for the GNA and pledged £10 million in assistance, which included £1.5 million "for tackling illegal migration, smuggling and organised crime".¹⁰⁷
77. While Mr al Serraj has the support of the international community and key Libyan institutions, including the central bank and the national oil company,¹⁰⁸ the situation remains uncertain. At the time of writing, neither the Islamist government in Tripoli nor the powerful General Khalifa Haftar, who leads the Operation Dignity forces,¹⁰⁹ had declared in support of Mr al Serraj.
78. Nor is it clear that a newly formed Libyan government would be a co-operative ally. Mr Lindsay explained that once a GNA was in place, tackling migration "will not be their very top priority".¹¹⁰ Mr Kingsley added that the idea that the new government's "first action would be to invite western powers in—and thus underline the fact that they are the puppet government that their critics claim they are—seems very far-fetched."¹¹¹ Professor Joffé had already told us in July 2015 that the EU's plan to deal with migration from Libya was "seen by many in Libya ... to be an overt threat."¹¹²
79. Phase 2B would not necessarily require a fully functioning Libyan government, but would require an internationally recognised one. On the other hand, in the medium to long term, a functioning Libyan state would be necessary for the mission to proceed onshore (Phase 3). To create the security conditions in which an EU mission could act, to secure Libyan borders, to structure the necessary judicial procedures, and to prevent smugglers acting with impunity throughout Libya, would all require more than a 'government in name'.

103 [Q 66](#)

104 Oral evidence taken on 9 July 2015 (Session 2015–16), [Q 3](#) (Professor George Joffé)

105 [Q 54](#)

106 [Q 38](#)

107 Foreign and Commonwealth Office, 'Philip Hammond visits Tripoli to support new Libyan Government' (18 April 2016): <https://www.gov.uk/government/news/philip-hammond-visits-tripoli-to-support-new-libyan-government> [accessed 20 April 2016]

108 'Libya's new government', *The Economist*, 9–15 April 2016

109 Operation Dignity was launched by former Libyan army general Khalifa Haftar in May 2014, against Islamist militants in Benghazi and the east of Libya. In March 2015 Libya's House of Representatives appointed him commander of the Libyan National Army.

110 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 5](#) (Richard Lindsay)

111 [Q 38](#)

112 Oral evidence taken on 9 July 2015 (Session 2015–16), [Q 2](#) (Professor George Joffé)

Judicial process in Libyan territorial waters

80. The Council Decision is silent on what should happen to smugglers and traffickers once they have been apprehended in Libyan waters. Two options are possible: the Libyan authorities could waive their right to prosecute suspected smugglers, and allow them to be prosecuted in an EU Member State, or the suspected smugglers could be transferred to the Libyan authorities. In either case, a new legal basis would be required.
81. The Meijers Committee, a standing committee of experts on international immigration, refugee and criminal law (based in the Netherlands), advised that in the case of Operation Sophia, as the EU is not party to an armed conflict, normal peace time law applies:

“This means that after arrest, those suspected of migrant smuggling should be brought promptly before a judge. In the case of subsequent criminal prosecution, jurisdiction should be established in one of the [EU] Member States ... If smugglers are to be extradited or released to third countries, their fundamental rights should be guaranteed.”¹¹³

In this regard, we note the problems posed by Libya's instability and lack of judicial infrastructure.

82. On 18 March, it was reported that the Prime Minister had suggested that Operation Sophia should be expanded so that—in conjunction with the Libyan coastguard—boats could be sent back to Libya.¹¹⁴ Dr Roberts and Mr Symonds viewed such a proposal with grave concern: “Forcing people ... back to Libya ... would merely expose many already severely abused people back into the hands of those who have abused them”. This would present “smugglers with a further opportunity to exploit these same people for more money”. Both Dr Roberts and Mr Symonds said that returning asylum-seekers to Libya would also undermine the right to asylum enshrined in Article 14 of the Universal Declaration of Human Rights.¹¹⁵

Co-ordination with other actors: Frontex and NATO

83. NATO and Frontex also have missions relating to irregular migration, in the Aegean and Mediterranean respectively. Figure 2 illustrates the geographical extent of the various operations against migrant smuggling in the Mediterranean. Lieutenant General Wosolsobe advised against any extension of Operation Sophia's area of operation, which could result in “duplication of efforts, with the consequent impact on resources and increased potential for complication.”¹¹⁶

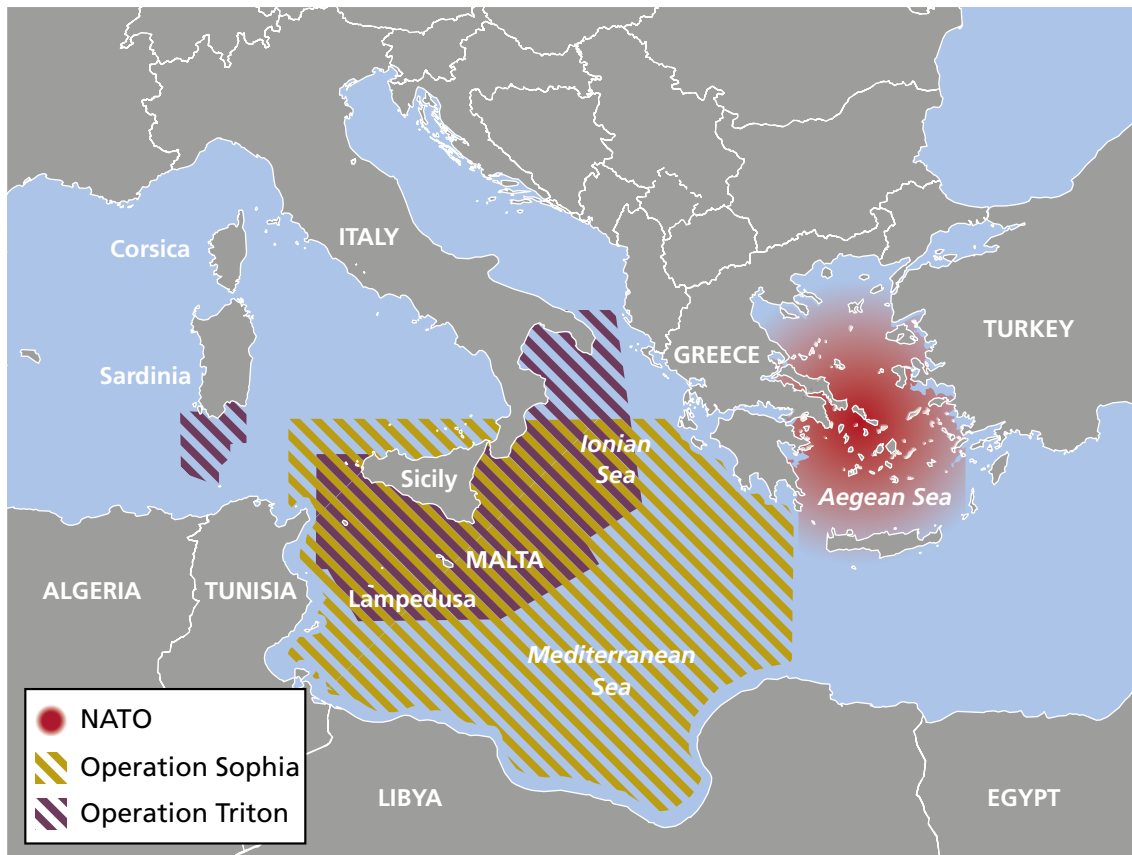
113 ‘Military action against human smugglers: legal questions concerning the EUNAVFOR Med operation’, Meijers Committee, 23 September 2015: [http://www.commissie-meijers.nl/sites/all/files/cm1513 - legal questions on eunavfor med.pdf](http://www.commissie-meijers.nl/sites/all/files/cm1513_-_legal_questions_on_eunavfor_med.pdf) [accessed 25 April 2016]

114 Rowena Mason and Patrick Kingsley, ‘David Cameron: send more patrol ships to turn refugee boats back to Libya’, *The Guardian* (18 March 2016): <http://www.theguardian.com/world/2016/mar/18/refugee-boats-david-cameron-early-intervention-libya-migrants-mediterranean-eu-leaders> [accessed 4 April 2016]

115 Written Evidence from Dr Natalie Roberts and Steve Symonds (ENF0003)

116 Q 18

Figure 2: Naval operations to combat irregular migration on the EU's borders



Frontex—Operation Triton

Box 1: Operation Triton

Operation Triton was launched in November 2014 by Frontex. It acts in the sea south of Sicily and the Pelagic islands, as well as the coastal areas around Calabria, southern Italy.

Operation Triton co-ordinates the deployment of the assets of 26 Member States, which include two fixed wing surveillance aircraft, three patrol vessels, two coastal patrol vessels, two coastal boats and one helicopter. Five debriefing teams support the Italian authorities in collecting intelligence on the people-smuggling networks operating in origin and transit countries, alongside two screening teams. The 2015 budget for Operation Triton was €37, 420, 000.¹¹⁷

Between the launch of the Triton operation on 1 November 2014 and January 2015, the participating authorities dealt with 130 incidents, of which 109 were search and rescue cases. 16,402 people were detected, including 15,325 persons found on boats in distress. In addition, 57 facilitators were arrested.

Source: Frontex, 'Joint Operation EPN Triton': <http://frontex.europa.eu/operations/archive-of-operations/djhlpB> and European Commission, 'Questions and Answers: Smuggling of Migrants in Europe and the EU response': http://europa.eu/rapid/press-release_MEMO-15-3261_en.htm

117 The realisation period for this budget was 1 February 2015 to 31 December 2015.

84. Lieutenant General Wosolsobe viewed the work of Frontex and Operation Sophia as “complementary, rather than as duplication and competition.”¹¹⁸ A “great deal of effort” was “going into mutual support, interaction, information sharing and exchange of experience by means of the developed lessons processes.”¹¹⁹ In 2015, Frontex was satisfied that there was “an effective co-operation structure and information flow” between Operation Triton and Operation Sophia, to ensure that the missions “deliver the expected EU value and are fully co-ordinated”.¹²⁰
85. We considered what value a CSDP operation, as opposed to a Frontex mission, added in the case of the central Mediterranean route. Mr Lindsay explained that a CSDP operation had the “military tools, which Frontex does not, to tackle the smuggling networks”.¹²¹ Mr Lindsay also referred to the sophisticated ISR capacities of Operation Sophia.¹²² Furthermore, Operation Sophia has a wider remit: it is tasked with boarding, searching, seizing and destroying boats and apprehending smugglers. In Triton’s operational plan, it is clearly stated that the vessels co-ordinated by Frontex, unlike the assets of Operation Sophia, cannot destroy any boats. The apprehended boats are usually towed to shore, where the national authorities or host Member States can destroy them in port.¹²³

NATO mission in the Aegean

Box 2: NATO mission in the Aegean

In early February 2016, a new NATO mission was launched in the Aegean Sea. NATO warships have been tasked to conduct “reconnaissance, monitoring and surveillance of illegal crossings in the Aegean Sea.” NATO is acting in the international and territorial waters of the Aegean Sea, surrounding the Greek islands adjacent to Turkey. Ships were initially deployed around the island of Lesbos and have since expanded to the south.

The lead nation is Germany. The mission deploys the assets of Standing NATO Maritime Group 2 (SNMG2), which consist of seven vessels from Canada, France, Germany, Greece, Turkey and the UK. The NATO Aegean mission has agreed that Greek and Turkish warships will not operate in each other’s territorial waters. Any migrants rescued by NATO will be transported to Turkey, rather than to the EU.¹²⁴

Source: *Written evidence from Vice Admiral Clive Johnstone* ([ENF0004](#))

86. Mr Lindsay told us that Operation Sophia and NATO’s Aegean mission had “very different theatres and very different activities.”¹²⁵ While Operation Sophia had its own capabilities and was trying to tackle the smuggling networks, NATO’s goal was “to find the intelligence to cue” the Turkish

118 [Q 27](#)

119 [Q 18](#)

120 Written evidence submitted to the EU Home Affairs Sub-Committee on 31 August 2015 (Session 2015–16), [PMS0009](#) (Frontex)

121 [Q 54](#)

122 [Q 54](#)

123 Oral evidence taken before the EU Home Affairs Sub-Committee, 16 September 2015 (Session 2015–16), [Q 70](#) (Fabrice Leggeri)

124 NATO, ‘NATO Secretary General welcomes expansion of NATO deployment in the Aegean Sea’ (6 March 2016): http://nato.int/cps/en/natohq/news_128833.htm [accessed 25 April 2016]

125 [Q 62](#) We also note that NATO’s ability to work in Turkish territorial waters—an origin point of migrant flows—is a key advantage NATO has compared to Operation Sophia (in Phases 1 and 2A).

and Greek coastguards and EU Frontex assets, “to be able to intercept the migrant boats and bring them back onshore into Turkey.”¹²⁶

87. Furthermore, NATO has a more restricted mandate, and has not been tasked with boarding, searching, seizing and destroying boats or apprehending smugglers. Admiral Johnstone stressed that “NATO has no mandate to interdict or turn away migrant boats.”¹²⁷
88. The EU and NATO are co-ordinating their activities and sharing information informally. Mr Lindsay told us that the UK Government was “pushing hard to get NATO-EU co-ordination” between the operations.¹²⁸ Vice Admiral Johnstone set out the informal linkages that had been established: the two Maritime Operations Centres were in regular communication and Flag Officers have visited each other, and received operational updates and briefings. There was, however, no “formal intelligence sharing arrangement” between NATO and Operation Sophia.¹²⁹
89. At the moment, as the two missions are acting in different theatres and have different mandates, Vice Admiral Johnstone was “content that the level of deconfliction and co-ordination we have achieved is adequate to our respective requirements”; he noted that this could change if Operation Sophia were extended beyond Phase 2A.¹³⁰ Similarly, Lieutenant General Wosolsobe said he “would not exclude that there might be a need for more intensive exchange of information”, as the NATO mission developed.¹³¹
90. Unlike NATO or Frontex missions, EU military operations cannot be staffed by double-hatted assets.¹³² Some EU Member States are, therefore, resourcing multiple, distinct missions. There are also gaps in the resources available. Lieutenant General Wosolsobe noted that the EU mission was in need of “increased capability in ISR [Intelligence, Surveillance and Reconnaissance] and in force protection.” On the other hand, Vice Admiral Johnstone informed us that, as European naval powers led both the EU and NATO missions, there was “little difference in ISR capabilities ... The issue of access to those capabilities turns on national prioritisation.”¹³³
91. Although the two missions are indeed discrete, they both take aim at the smuggling networks based on the Middle Eastern and North African shores. There is, therefore, an overlap in the intelligence required. We therefore considered the possibility for deeper co-operation between the EU and NATO missions in this sphere.
92. Vice Admiral Johnstone noted that NATO had some autonomous assets beyond those available to EU CSDP missions, including “extensive command and control, communications and intelligence capabilities”, and the “autonomous Air-Ground surveillance capability” that it was building. He believed that the prospect for “mutual support” between the EU and NATO did arise in the central Mediterranean, but was limited by the current

126 [Q 62](#)

127 Written evidence from Vice Admiral Clive Johnstone ([ENF0004](#))

128 [Q 62](#)

129 Written evidence from Vice Admiral Clive Johnstone ([ENF0004](#))

130 Written evidence from Vice Admiral Clive Johnstone ([ENF0004](#))

131 [Q 28](#)

132 [Q 25](#) Double-hatting allows military assets to be available to more than one command structure (such as NATO and the EU) at the same time.

133 Written evidence from Vice Admiral Johnstone ([ENF0004](#))

“intensive tasking” of NATO assets that are deployed in multiple missions in the Mediterranean, including counter-terrorism. Vice Admiral Johnstone added an important caveat: “certain Allied national positions on EU-NATO co-operation ... limit the scope for such support.”¹³⁴

Relations with NGOs

93. Lieutenant General Wosolsobe told us that migrants appeared to be “receiving guidance and instructions on how to avoid giving information” about smuggling networks. There was evidence of “at least one of the NGOs that are operating in the area” adopting such an approach.¹³⁵ He suggested the motivation of that NGO might be to “try to protect migrants from measures that might be taken by smugglers against new migrants who are still on the shores.”¹³⁶
94. Both Mr Roberts and Mr Kingsley pointed out that humanitarian organisations could have serious doubts about co-operating with a military mission, the primary purpose of which was not to save lives.¹³⁷ Mr Roberts said that a humanitarian organisation was “less likely to be open with the military than it is with a constabulary force, or indeed a political one.”¹³⁸
95. Dr Roberts had “never heard of NGOs advising refugees and migrants not to provide information.” On the other hand, she would “not be at all surprised if smugglers were telling refugees and migrants not to provide information.” Her experience of those planning a journey or *en route* was that they were “very afraid of providing any information to any authorities”, believing that this “would lead to their being returned to a country that cannot care for them.”¹³⁹ Mr Symonds said there had also been reports of volunteers and NGOs “feeling deterred from undertaking an effort to rescue a boat ... or being intimidated in their work by the authorities clearly seeking to deter their activity.”¹⁴⁰

A further step: supporting the Libyan coastguard?

96. Supporting the Libyan coastguard has been suggested as a potential additional activity for the EU.¹⁴¹ On 18 April, in response to the arrival of the new Prime Minister, Mr al Serraj, into Tripoli, the European Council confirmed that the EU stood ready to offer Libya assistance with security sector reform, and that further consideration would also be given to support Operation Sophia “for example through potential capacity building for the Libyan coastguard”.¹⁴²

134 Written evidence from Vice Admiral Clive Johnstone ([ENF0004](#)). The ‘participation problem’ caused by the Turkish-Cypriot bilateral disagreement has reduced the scope of effective cooperation between the EU and NATO.

135 [Q 17](#)

136 [Q 24](#)

137 [Q 37](#) (Peter Roberts) and [Q 39](#) (Patrick Kingsley)

138 [Q 37](#)

139 Written evidence from Dr Natalie Roberts ([ENF0001](#))

140 [Q 11](#)

141 Patrick Wintour, ‘Libya offered security help by European Union’, *The Guardian* (19 April 2016): <http://www.theguardian.com/world/2016/apr/19/libya-offered-security-help-by-european-union-fayez-seraj> [accessed 21 April 2016]

142 Council conclusions on Libya, 18 April 2016: <http://www.consilium.europa.eu/en/press/press-releases/2016/04/18-fac-libya-conclusions/> [accessed 21 April 2016]

97. Mr Lindsay was “waiting to see a proper proposal” on capacity building for the Libyan coastguard and navy, but it sounded like “something that [the UK] could consider in a positive light”.¹⁴³
98. Mr Roberts offered us an insight into the scale of the task: “the captain of the only Libyan coastguard vessel that operates out of Tripoli is a fisherman who owns a restaurant; that is his main job.” Tribal factionalism was manifest: “the headquarters of the coastguard in Tripoli cannot and will not communicate with its subordinate units in the east of the country because they are from a different faction.”¹⁴⁴ According to the *Financial Times*, the Libyan coastguard relies on a “fleet of a dozen or so small inflatable craft with limited room for passengers and a recommended range of no more than five nautical miles”.¹⁴⁵
99. Wider border assistance might also be reconsidered, should the security situation in Libya improve. The EU deployed a Border Assistance Mission (EUBAM Libya) in May 2013, with the aim of supporting the Libyan authorities in their efforts to improve the security of the country’s borders. In August 2014, thanks to insecurity in the country, the mission was moved to Tunisia. With limited capacity, the mission has continued to support the Libyan navy, customs and coastguard through workshops and seminars organised outside Libya.¹⁴⁶ On 19 January 2016 the Political and Security Committee of the EU agreed a revised mandate for EUBAM Libya, to provide civilian planning expertise “with a view to the mission potentially evolving into a civilian capacity building and assistance mission”.¹⁴⁷

Conclusions and recommendations

100. **While Operation Sophia plays a role in gathering intelligence and in search and rescue, this is not sufficient to justify a Common Security and Defence Policy mission. Given appropriate political support in Libya—however unlikely that may be—it could, potentially, play a more useful role if able to operate in Libyan waters (Phase 2B) and onshore in Libya (Phase 3). In order to keep this possibility open, we recommend that the Member States should review and renew the mandate in summer 2016.**
101. **Libya has become a springboard for irregular migration to Europe. Libyan state weakness has been a key factor underlying the exceptional rate of irregular migration on the central Mediterranean route in recent years.**
102. **A Libyan government that is recognised internationally and accepted internally is a prerequisite to the future success of the mission. Should it become evident that the necessary conditions in Libya will not be forthcoming, and that Operation Sophia will be unable to proceed beyond its current phase, Member States should reconsider**

143 Q 55

144 Q 38

145 Borzou Daraghi, ‘Embattled Libyan coastguard struggles to stop migrants’, *Financial Times* (15 May 2015): available at <http://www.ft.com/cms/s/0/2c9f22c0-f949-11e4-be7b-00144feab7de.html#axzz43kE17qCd> [accessed 5 April 2016]

146 European External Action Service, *EU Border Assistance Mission in Libya (EUBAM Libya)* (January 2015): http://eeas.europa.eu/csdp/missions-and-operations/eubam-libya/pdf/factsheet_eubam_libya_en.pdf [accessed 25 April 2016]

147 Letter from David Lidington MP to Lord Boswell of Aynho, (27 January 2016)

the concept of the mission. Member States may have to limit their activities to a search and rescue mission, while acknowledging the risks inherent in such an approach.

103. **It is vital that Operation Sophia should be protected by the necessary legal foundations. In particular, a clear legal framework for prosecuting smugglers apprehended in Libyan territorial waters must be considered and resolved before Phase 2B begins, to avoid the possibility of a damaging legal challenge.**
104. **Member States' naval assets are stretched between three distinct missions in the Mediterranean and Aegean aimed at stemming irregular migration. We recommend that every effort should be made to deepen co-operation between the missions, especially in intelligence sharing.**
105. **Member States should be prepared for the unintended consequences of their efforts to stem irregular migration in the central Mediterranean, in particular the displacement of migrants to other sea routes and a possible evolution of the business model of smuggling.**

CHAPTER 5: THE BIGGER PICTURE

106. The EU's comprehensive approach to external action seeks to bring together its full range of tools and instruments in a coherent manner, and the European Agenda on Migration (May 2015) also set out a wide ranging package of measures to respond to the phenomenon of migration.¹⁴⁸ In this chapter we consider the contours of a comprehensive approach to tackling human smuggling and stemming the flows of migrants.

Tackling the root causes of migration

107. Our witnesses stressed the importance of tackling the root causes of the migration crisis. Mr Symonds underscored that conflicts in the Middle East and African continent were “becoming more protracted and intractable and they are spreading”, which increased the number of refugees.¹⁴⁹ Mr Roberts has written that “migrants in boats are symptoms, not causes, of the problem.”¹⁵⁰ Mr Symonds agreed: “If you do not have an answer to the situation of those people, we are sceptical about the mere targeting of the smugglers.”¹⁵¹

108. In particular, the Syrian crisis continues to have an enormous social, economic and political impact on countries in the Middle East and North Africa (MENA) region. At the time of writing, the Syrian cease-fire was in place. Mr Roberts informed us that the majority of Syrians wished to return to Syria, and said that contributing to “a peaceable area in their homeland for them to return to” should be the EU's long term aim.¹⁵²

109. As we noted in our report, *Europe in the world: Towards a more effective EU foreign and security strategy* (February 2016), the protracted crises in the EU's wider neighbourhood, sectarian conflicts and economic inequalities are beyond the capacity of the EU to resolve. On the other hand, there is a role for the EU to play in the rebuilding of Syria and in capacity building in states in the MENA region.¹⁵³

Supporting transit and host countries

110. Countries in the MENA, particularly Jordan, Lebanon and Turkey, have been severely challenged by large refugee flows. According to the UNHCR, 2.7 million Syrians have taken refuge in Turkey, 1 million in Lebanon, and 600, 000 in Jordan, since the start of the Syrian conflict in 2011.¹⁵⁴ This is in addition to the responsibility for more than 5 million Palestinian refugees displaced in the region.¹⁵⁵ Palestinians who were formerly living in Syria

148 Communication from the Commission on a European Agenda on Migration, [COM\(2015\) 240 final](#)

149 [Q 1](#)

150 Peter Roberts, RUSI, *Militarising the EU Migration Plan: A Flawed Approach to Migration* (7 July 2015): <https://rusi.org/publication/newsbrief/militarising-eu-migration-plan-flawed-approach-0> [accessed 5 April 2016]

151 [Q 2](#)

152 [Q 42](#)

153 European Union Committee, *Europe in the world: Towards a more effective EU foreign and security strategy* (8th report, Session 2015–16, HL Paper 97)

154 United Nations High Commissioner for Refugees, ‘Syrian Regional Refugee Response’: <http://data.unhcr.org/syrianrefugees/regional.php> [accessed 12 April 2016]

155 Website of the United Nations Relief and Works Agency for Palestine Refugees in the Near East: <http://www.unrwa.org/palestine-refugees> [accessed 21 April 2016]

have taken refuge primarily in Lebanon and Jordan since the Syrian civil war began.¹⁵⁶

111. Mr Symonds' assessment was that the burden on host countries was critical to understanding why Europe was experiencing the current crisis:

“The pressure for people to move on is increasing because the situations they have immediately fled to have become increasingly unsustainable over a long period.”¹⁵⁷

The number of refugees in the MENA region continues to rise. It is projected that by December 2016 the region will host 4.7 million refugees.¹⁵⁸

112. Mr Hobart said that, in the short to medium term, action in regional host countries “could have the biggest impact on migration flows”, and was therefore “worth a great deal of attention”.¹⁵⁹ Acting in Turkey, Lebanon and Jordan “reduces the risk of travel, it enhances the potential to return to Syria and rebuild it, and the support [the EU] can give is more cost-effective.”¹⁶⁰
113. We note that this is a rapidly evolving field and the EU has already been developing new policies on irregular migration. On 19 April, the Minister for Europe told us that, to tackle irregular migration, the European Council had agreed to work with countries that are the source of economic migrants, to provide development assistance and trade access. He highlighted the agreements made with a number of African countries at the Valletta Summit on migration, through which the EU would provide development assistance and financial support in return for action by these countries to reduce irregular migration.¹⁶¹ On 27 April, it was reported that the EU and Nigeria would begin negotiations on a readmission agreement, which “would probably involve migrants from Nigeria being deported in exchange for EU economic aid”. The *Financial Times* noted that this would be the EU's first major readmission deal with a sub-Saharan African nation.¹⁶²

Resettlement

114. Some witnesses advised that a shared policy of resettlement of refugees between the EU and MENA countries was a more equitable and sustainable policy. For Dr Roberts, support to the surrounding MENA countries “should not replace the immediate need to increase the number of places for resettlement in Europe.”¹⁶³ Mr Symonds said that “not sharing responsibility for hosting refugees is itself a driver of growing instability and thus more refugee migration.”¹⁶⁴ Mr Kingsley recognised that, though “the key point is not a popular one”, “one of the main ways to disincentivise the boat journeys

156 [Q 1 \(Steve Symonds\)](#)

157 [Q 1](#)

158 United Nations High Commissioner for Refugees, *Overview: 2016 Syria Humanitarian Response Plan and 2016–2017 Regional Refugee and Resilience Plan* (4 February 2016) p2: https://2c8kkt1ykog81j8k9p47oglb-wpengine.netdna-ssl.com/wp-content/uploads/2016/01/2016_HRP_3RP_Chapeau_Syria_FINAL_hi_res.pdf [accessed 25 April 2016]

159 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 4](#) (Edward Hobart)

160 Oral evidence taken on 21 January 2016 (Session 2015–16), [Q 7](#) (Edward Hobart)

161 Oral evidence taken before the European Union Committee, 19 April 2016 (Session 2015–16), [Q 6](#) (David Lidington MP)

162 Maggie Fick, ‘Nigeria and EU to start migrant return talks’, *Financial Times* (27 April 2016): available at <http://www.ft.com/cms/s/0/c082e124-0c77-11e6-b0f1-61f222853ff3.html#axzz477Itpiyo> [accessed 27 April 2016] The EU has an existing readmission agreement with Cape Verde.

163 [Q 8](#)

164 [Q 12](#)

is to step up large-scale resettlement programmes from the Middle East and North Africa.”¹⁶⁵ Mr Symonds added that safe and legal routes and resettlement would “remove the market for smugglers”, and would be “an ordered way for states to receive refugees.”¹⁶⁶

Processing claims outside the EU

115. It has been reported that the European Commission will bring forward proposals to set up migrant-processing offices in countries of transit and origin, in order to process applications for asylum and refugee status before migrants reach Europe. Italy and France are strongly in favour of such a policy.¹⁶⁷ We weighed up the benefits and possibilities of such a policy.
116. Mr Kingsley told us that processing people in transit countries, before they set out for Europe, would be a way for European countries to “screen them before they arrive and weed out people who you think might not be best for the continent.”¹⁶⁸ For Mr Roberts, the advantage of ensuring that resettlement offers were made outside the EU was that there would be “no attraction for people to come across”.¹⁶⁹ It would also “undermine the business model” of smugglers, by depleting the demand for illegal crossings.¹⁷⁰ Mr Kingsley believed that processing claims for asylum in the EU in countries neighbouring the source countries, in conjunction with an enlarged resettlement programme, could “create an incentive for people to invest in a formal process”.¹⁷¹
117. We do not underestimate the challenge of introducing migrant-processing offices in key transit countries, which may be unstable or have weak infrastructure. Mr Roberts drew our attention to the need to protect such centres militarily: “you would need a level of protection around them because initially they would be absolutely swamped with people.”¹⁷²
118. In our view, processing centres in countries of transit will not have an impact on the numbers of economic migrants seeking to reach Europe, but processing the claims of migrants early on in their journeys could help to impose some order on the flow of people, help distinguish genuine claims for refugee status, and assist the transit countries manage the challenge.

Turkey

119. Turkey is the critical launch point for migrants travelling on the eastern Mediterranean route. While this falls outside the purview of Operation Sophia, in its attempts to stem migration flows the EU has developed a new policy approach with Turkey, which goes far beyond that with any other host or transit country of the MENA.
120. In March 2016 the EU and Turkey negotiated a deal to manage the migrant flows. All new irregular migrants crossing from Turkey into the Greek

165 [Q 35](#)

166 [Q 3](#) and [Q 6](#)

167 Ian Traynor, ‘Brussels plans migration centres outside EU to process asylum applications’, *The Guardian* (5 March 2016): <http://www.theguardian.com/world/2015/mar/05/european-commission-third-country-immigrant-processing-centres> [accessed 25 April 2016]

168 [Q 45](#)

169 [Q 35](#)

170 [Q 49](#)

171 [Q 45](#)

172 [Q 49](#)

islands will be returned to Turkey. This will apply to migrants not applying for asylum, or those whose application has been found inadmissible. In return, Europe will open legal routes for asylum and resettlement in the EU for an equivalent number of Syrians directly from Turkey. The deal further reaffirmed that the EU and Turkey would work towards visa-free travel by the end of June 2016, and the EU would speed up the disbursement of the already agreed €3 billion refugee facility fund up to the end of 2018.¹⁷³

121. Mr Lindsay assessed the EU-Turkey agreement as a “very significant step”, which “could make a real difference”, though it relied on “implementation.”¹⁷⁴ Doubts have already been expressed over the implementation of the deal: whether the Greek authorities would have the administrative capacity to process the migrants, the legal basis of deporting refugees, and the willingness of the EU to deliver visa-free travel.¹⁷⁵
122. We note that while questions remain about the implementation of the longer-term measures of the deal, there has already been a deterrent effect on migrant numbers crossing via the eastern Mediterranean route. The President of the European Council, Donald Tusk, pointed to a “sharp reduction of the illegal migration flows” from late March to late April 2016.¹⁷⁶
123. Any similar deal with a Libyan state is highly unlikely. With Turkey and Greece, the EU has functioning state partners, but such a state in Libya is a distant prospect. Vice Admiral Johnstone pointed to a practical consequence of Libyan state weakness: the concomitant weakness of the Libyan coastguard. In Libya, the smuggling gangs can act with “relative impunity”, but by contrast the Turkish coast guard and navy “are highly professional forces that have made substantial efforts in recent weeks to stop the flow of illegal migrant boats.”¹⁷⁷

Tackling illicit financial flows

124. Migrant smuggling is a profitable business. According to Europol, the estimated criminal turnover associated with migrant smuggling “to and within the EU is between €3–6 billion for 2015 alone.”¹⁷⁸ Given the level of illicit revenue that is being generated from migrant flows, and probably being funnelled to the top of the smuggling networks, tracking the profits and combating these criminal economies should be a priority.
125. Mr Kingsley noted that calculations on the profits of the migrant smuggling business were often “back-of-the-envelope figures”. His own back-of-the-envelope calculation for the smuggling business operating out of Libya was about \$150 million per year, based on every migrant paying \$1,000 and approximately 150,000 people launching from Libya. Migrants would also

173 European Council, ‘EU-Turkey statement, 18 March 2016’: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/> [accessed 5 April 2016]

174 Q 65

175 Gideon Rachman, ‘Major doubts about workability of EU-Turkey migrant deal’, *Financial Times* (19 March 2016): available at <http://www.ft.com/cms/s/0/0fd92e42-edd1-11e5-aff5-19b4e253664a.html#axzz43e7HyM5f> [accessed 5 April 2016]

176 ‘Migrant crisis: EU-Turkey deal is “working”’, *BBC News* (24 April 2016): <http://www.bbc.co.uk/news/world-europe-36121083> [accessed 28 April 2016]

177 Written evidence from Vice Admiral Clive Johnstone (ENF0004)

178 Europol, *Migrant smuggling in the EU* (February 2016) p13: available at https://www.europol.europa.eu/content/EMSC_launch [accessed 27 April 2016]

have to pay for the route through the Sahara to Libya, which he estimated to come to a similar figure of around \$150 million annually.¹⁷⁹

126. The challenge of tracking financial flows associated with smuggling from Libya is that many of the payments are made in cash or through an informal *hawala* system, where a relative pays an associate of the smuggler.¹⁸⁰ Mr Kingsley said that it was “hard to keep a handle on exactly where a lot of these payments are made”; the transaction can take place “far” from the migrant.¹⁸¹ Consistent with this view, Europol noted that there was only “limited intelligence available on the criminal proceeds, illicit financial flows or money laundering processes” associated with migrant smuggling activities. “In 2015, less than 10% of investigations into migrant smuggling activities produced intelligence on suspicious transactions or money laundering activities.”¹⁸²
127. This Committee considered improvements to EU information gathering on financial transfers in its report, *EU Action Plan against migrant smuggling* (November 2015).¹⁸³ The Home Affairs Sub-Committee heard that the Commission had launched a counter-group of EU agencies—Frontex, Europol, Eurojust, European Maritime Safety Agency and European Police College—which had been discussing working together on “co-operation in tracing, tracking and freezing smugglers’ assets.”¹⁸⁴

Devising a new migration policy: political leadership and public debate

128. The current EU approach to migration is not equipped for the phenomenon of mass movement of people. The challenge will be to shape a policy response that is in the shared interests of Europe, but one that has due regard for the values and legal obligations of the EU Member States. For example, there are other global approaches to migration that could serve as an example. Mr Roberts raised the Australian model of “enforced repatriation”,¹⁸⁵ noting that Australia’s migration policy was “one of the few models in the world that has disincentivised migration”.¹⁸⁶ There was “no sign” that the EU had the “political appetite” to follow such a model, but nor had it “considered some of these approaches.”¹⁸⁷
129. On the other hand, witnesses urged the EU to recall its values and obligations. Mr Roberts said that the EU discussed “what we want and not what we are obliged to do.”¹⁸⁸ Mr Kingsley reminded us that the EU was a signatory to the UN Refugee Convention, with concomitant obligations.¹⁸⁹ Mr Roberts warned that if the EU broke with international normative behaviour and international law, it could create a “precedent for other powerful states to do

179 [Q 33](#)

180 [Q 34](#)

181 [Q 34](#)

182 Europol, *Migrant smuggling in the EU* (February 2016) p13: available at https://www.europol.europa.eu/content/EMSC_launch [accessed 5 April 2016]

183 European Union Committee, [EU Action Plan against migrant smuggling](#) (4th report, Session 2015–16, HL Paper 46)

184 Oral evidence taken before the EU Home Affairs Sub-Committee, 16 September 2015 (Session 2015–16), [Q 65](#) (Dana Spinant)

185 [Q 42](#)

186 [Q 44](#)

187 [Q 42](#)

188 [Q 45](#)

189 [Q 35](#)

the same thing in other domains.”¹⁹⁰ As we noted in our report, *Europe in the world: Towards a more effective EU foreign and security strategy* (February 2016), the EU's values are also an important dimension of its power to persuade and dissuade, and of its authority as a trusted and reliable international actor.¹⁹¹

130. Witnesses recognised that any discussion on migration policy would take place in the limelight of public scrutiny. Mr Symonds informed us that public communication and engagement with local communities would be necessary: “if you are willing to do that and explain the reasons, there is more scope than we thought there was for [resettlement] to happen.” He pointed to the evolution of thinking within the UK: AIUK had seen “enthusiasm for [resettlement] right across the UK.”¹⁹² Mr Kingsley agreed that, while there had “been some very angry responses”, there had “been some very human ones as well.” He warned against “prejudging what people might think” and “making assumptions and policy based on those assumptions”.¹⁹³

Conclusions and recommendations

131. **In the short term, work to track and tackle the illicit financial flows associated with people smuggling should be a priority for the EU. We note, however, that journeys through the central Mediterranean route are financed by informal cash transactions, often completed far from the migrants themselves, which will fall outside the scope of action by the EU.**
132. **In the longer term, a broader approach will be required. Operation Sophia is a limited operation with limited objectives. Our inquiry has convinced us that it cannot be considered in isolation from the global phenomenon of mass migration, the implications of which go far beyond the scope of this brief report on Operation Sophia.**
133. **We are witnessing globally large scale movements of people fleeing conflict, persecution, poverty, lack of opportunity and poor governance in their home countries, and seeking safe havens and economic opportunities in the more prosperous parts of the globe, notably Western Europe and North America. The countries of Western Europe, whether in the EU or not, act as a magnet to those in the Middle East and Africa.**
134. **Member States have obligations to refugees from war and persecution, but are struggling to meet them. Economic migration is a different challenge: European citizens cannot be expected to accept all those from neighbouring regions who wish to enter their countries. In public policy and public communication, this distinction should be drawn clearly.**
135. **We conclude that a military response can never, in itself, solve the problem of irregular migration. As long as there is need for asylum from refugees and demand from economic migrants, the business of people smuggling will continue to exist and the networks will adapt to changing circumstances.**

190 [Q 46](#)

191 European Union Committee, *Europe in the world: Towards a more effective EU foreign and security strategy* (8th Report, Session 2015–16, HL Paper 97)

192 [Q 13](#)

193 [Q 52](#)

136. **Nor is policing the EU's external border a feasible long term solution. Measures to tackle the problem must be taken before the migrants journey to Europe. The EU needs governments in the Middle East and North Africa that it can work with on migration. Therefore, building the resilience of these countries is critical.**
137. **The specific challenge on the central Mediterranean route is Libya. Ambitious agreements, akin to the one with Turkey, cannot be replicated there. The current political progress in Libya provides a window of opportunity to contribute to the stabilisation of Libya, which Member States must seize.**
138. **Only when the security and development challenges in source countries have been mitigated will the large movements of people diminish. The countries themselves bear the principal responsibility to resolve their challenges but it is in the interests of the EU and its Member States to provide whatever practical assistance and expert advice they can. This is a long-term project, which will not be cheap or quick: there is no silver bullet.**
139. **In our 2015 report on the EU Action Plan against migrant smuggling, we concluded that the majority of irregular migrants currently entering the EU were *prima facie* refugees, as defined by the United Nations High Commissioner for Refugees. But in the longer term, a comprehensive migration policy must seek to differentiate clearly between economic migrants and asylum seekers, and address questions of resettlement, repatriation and integration of new arrivals. It will require Member States to balance their own interests and domestic considerations with values and humanitarian obligations. The crafting of such a migration policy represents a huge and urgent challenge to the governments and peoples of the EU, and will require a collective response.**

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The challenge of mass migration

1. The current migration crisis is exacerbated by conflicts in the Middle East and the security vacuum in Libya, but it is also part of a wider phenomenon of mass migration from the developing to the developed world. This will remain a challenge for the developed world in the long term. (Paragraph 20)
2. Current policies to deal with economic migration and refugees are unable to cope with the numbers in question. The international legal architecture, political acceptance and financial resources to manage an era of mass migration are not in place. This must be addressed urgently at the European level. (Paragraph 21)

Assessment of Operation Sophia

3. The intelligence gathering phase of Operation Sophia has been useful, but only limited situational awareness can be gathered on the high seas. Significant gaps remain in Operation Sophia's understanding of the smugglers' networks and the modus operandi of those networks in Libya. (Paragraph 65)
4. Operation Sophia's concept of operations and mandate were agreed in advance of the intelligence-gathering phase. This was not an ideal way to plan for the mission. The mission will require high-quality intelligence throughout its mandate; this will in turn have force generation implications. (Paragraph 66)
5. The intentions and objectives set out for Operation Sophia exceed what can realistically be achieved. A mission acting only on the high seas is not able to disrupt smuggling networks, which thrive on the political and security vacuum in Libya, and extend through Africa. (Paragraph 67)
6. Operation Sophia is viewed by NGOs in the humanitarian field as a search and rescue mission. It is undertaking valuable work in search and rescue at sea, but this is not its core mandate. (Paragraph 68)

Considerations for the next phases

7. The ability of Operation Sophia to move to Phases 2B and 3 will be critical to the overall success of mission. (Paragraph 69)
8. While Operation Sophia plays a role in gathering intelligence and in search and rescue, this is not sufficient to justify a Common Security and Defence Policy mission. Given appropriate political support in Libya—however unlikely that may be—it could, potentially, play a more useful role if able to operate in Libyan waters (Phase 2B) and onshore in Libya (Phase 3). In order to keep this possibility open, we recommend that the Member States should review and renew the mandate in summer 2016. (Paragraph 100)
9. Libya has become a springboard for irregular migration to Europe. Libyan state weakness has been a key factor underlying the exceptional rate of irregular migration on the central Mediterranean route in recent years. (Paragraph 101)
10. A Libyan government that is recognised internationally and accepted internally is a prerequisite to the future success of the mission. Should it become evident that the necessary conditions in Libya will not be

forthcoming, and that Operation Sophia will be unable to proceed beyond its current phase, Member States should reconsider the concept of the mission. Member States may have to limit their activities to a search and rescue mission, while acknowledging the risks inherent in such an approach. (Paragraph 102)

11. It is vital that Operation Sophia should be protected by the necessary legal foundations. In particular, a clear legal framework for prosecuting smugglers apprehended in Libyan territorial waters must be considered and resolved before Phase 2B begins, to avoid the possibility of a damaging legal challenge. (Paragraph 103)
12. Member States' naval assets are stretched between three distinct missions in the Mediterranean and Aegean aimed at stemming irregular migration. We recommend that every effort should be made to deepen co-operation between the missions, especially in intelligence sharing. (Paragraph 104)
13. Member States should be prepared for the unintended consequences of their efforts to stem irregular migration in the central Mediterranean, in particular the displacement of migrants to other sea routes and a possible evolution of the business model of smuggling. (Paragraph 105)

The bigger picture

14. In the short term, work to track and tackle the illicit financial flows associated with people smuggling should be a priority for the EU. We note, however, that journeys through the central Mediterranean route are financed by informal cash transactions, often completed far from the migrants themselves, which will fall outside the scope of action by the EU. (Paragraph 131)
15. In the longer term, a broader approach will be required. Operation Sophia is a limited operation with limited objectives. Our inquiry has convinced us that it cannot be considered in isolation from the global phenomenon of mass migration, the implications of which go far beyond the scope of this brief report on Operation Sophia. (Paragraph 132)
16. We are witnessing globally large scale movements of people fleeing conflict, persecution, poverty, lack of opportunity and poor governance in their home countries, and seeking safe havens and economic opportunities in the more prosperous parts of the globe, notably Western Europe and North America. The countries of Western Europe, whether in the EU or not, act as a magnet to those in the Middle East and Africa. (Paragraph 133)
17. Member States have obligations to refugees from war and persecution, but are struggling to meet them. Economic migration is a different challenge: European citizens cannot be expected to accept all those from neighbouring regions who wish to enter their countries. In public policy and public communication, this distinction should be drawn clearly. (Paragraph 134)
18. We conclude that a military response can never, in itself, solve the problem of irregular migration. As long as there is need for asylum from refugees and demand from economic migrants, the business of people smuggling will continue to exist and the networks will adapt to changing circumstances. (Paragraph 135)
19. Nor is policing the EU's external border a feasible long term solution. Measures to tackle the problem must be taken before the migrants journey

to Europe. The EU needs governments in the Middle East and North Africa that it can work with on migration. Therefore, building the resilience of these countries is critical. (Paragraph 136)

20. The specific challenge on the central Mediterranean route is Libya. Ambitious agreements, akin to the one with Turkey, cannot be replicated there. The current political progress in Libya provides a window of opportunity to contribute to the stabilisation of Libya, which Member States must seize. (Paragraph 137)
21. Only when the security and development challenges in source countries have been mitigated will the large movements of people diminish. The countries themselves bear the principal responsibility to resolve their challenges but it is in the interests of the EU and its Member States to provide whatever practical assistance and expert advice they can. This is a long-term project, which will not be cheap or quick: there is no silver bullet. (Paragraph 138)
22. In our 2015 report on the EU Action Plan against migrant smuggling, we concluded that the majority of irregular migrants currently entering the EU were *prima facie* refugees, as defined by the United Nations High Commissioner for Refugees. But in the longer term, a comprehensive migration policy must seek to differentiate clearly between economic migrants and asylum seekers, and address questions of resettlement, repatriation and integration of new arrivals. It will require Member States to balance their own interests and domestic considerations with values and humanitarian obligations. The crafting of such a migration policy represents a huge and urgent challenge to the governments and peoples of the EU, and will require a collective response. (Paragraph 139)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Rt Hon. the Baroness Armstrong of Hill Top
 Lord Balfe
 Baroness Coussins
 Lord Dubs
 Lord Horam
 Earl of Oxford and Asquith OBE
 Lord Risby
 Lord Stirrup KG GCB AFC
 Baroness Suttie
 Lord Tugendhat (Chairman)
 Lord Triesman

Declarations of interest

Rt Hon. the Baroness Armstrong of Hill Top
No relevant interests
 Lord Balfe
No relevant interests
 Baroness Coussins
No relevant interests
 Lord Dubs
No relevant interests
 Lord Horam
No relevant interests
 Earl of Oxford and Asquith OBE
No relevant interests
 Lord Risby
No relevant interests
 Lord Stirrup KG GCB AFC
Periodic discussions with Israeli officials on issues of security and international relations
Periodic discussions with Government of Oman on issues of security and international relations
 Baroness Suttie
No relevant interests
 Lord Tugendhat (Chairman)
No relevant interests
 Lord Triesman
No relevant interests

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

Lord Blair of Boughton QPM
 Lord Borwick
 Lord Boswell of Aynho
 Rt Hon. the Earl of Caithness
 Lord Davies of Stamford
 Baroness Falkner of Margravine

Lord Jay of Ewelme GCMG
Rt Hon. the Baroness Prashar CBE
Baroness Suttie
Lord Tugendhat
Rt Hon. the Lord Whitty
Baroness Wilcox

No interests relevant to the subject-matter of the report were declared by Members of the Committee.

A full list of Members' interests can be found in the Register of Lords Interests <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at www.parliament.uk/operation-sophia and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with a ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

- | | | |
|----|---|--------------------------|
| ** | Dr Natalie Roberts, Adviser on Refugees and Migration in Europe, Médecins Sans Frontières (Doctors Without Borders) | QQ 1–16 |
| ** | Mr Steve Symonds, Refugee and Migrant Rights Programme Director, Amnesty International UK | QQ 1–16 |
| * | Lieutenant General Wolfgang Wosolsobe, Director General, European Union Military Staff | QQ 17–30 |
| * | Mr Patrick Kingsley, Migration Correspondent, Guardian Media Group | QQ 31–53 |
| * | Mr Peter Roberts, Senior Research Fellow, Sea Power and Maritime Studies, Royal United Services Institute | QQ 31–53 |
| * | Mr Richard Lindsay, Head of Security Policy Department, Defence and International Security Directorate, Foreign and Commonwealth Office | QQ 54–69 |

Alphabetical list of all witnesses

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| | Vice Admiral Clive Johnstone CB CBE, Royal Navy Commander, Allied Maritime Command, NATO | ENF0004 |
| * | Mr Patrick Kingsley, Migration Correspondent, Guardian Media Group (QQ 31–53) | |
| * | Mr Richard Lindsay, Head of Security Policy Department, Defence and International Security Directorate, Foreign and Commonwealth Office (QQ 54–69) | |
| ** | Dr Natalie Roberts, Adviser on Refugees and Migration in Europe, Médecins Sans Frontières (Doctors Without Borders) (QQ 1–16) | ENF0001
ENF0003 |
| * | Mr Peter Roberts, Senior Research Fellow, Sea Power and Maritime Studies, Royal United Services Institute (QQ 31–53) | |
| ** | Mr Steve Symonds, Refugee and Migrant Rights Programme Director, Amnesty International UK (QQ 1–16) | ENF0002
ENF0003 |
| * | Lieutenant General Wolfgang Wosolsobe, Director General, European Union Military Staff (QQ 17–30) | |