HOUSE OF COMMONS

Foreign Affairs Committee

Oral evidence: The future of Britain's diplomatic relationship with Europe, HC 2505

Tuesday 16 July 2019

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Watch the meeting

Members present: Tom Tugendhat (Chair); Priti Patel; Andrew Rosindell; Mr Bob Seely; Royston Smith; Catherine West.

Questions 1-51

Witness

I: Sir Ivan Rogers, former UK Permanent Representative to the EU.

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Examination of witness

Witness: Sir Ivan Rogers.

Q1 **Chair:** Welcome to this afternoon's sitting. Sir Ivan, thank you very much for agreeing to help us prepare the terms of reference—the structure—of a future inquiry into how the Foreign Office conducted its part in the negotiations and how indeed the United Kingdom Government conducted the wider negotiations on the biggest foreign policy challenge certainly of our generation and possibly of several before. This will clearly draw huge amounts not only on your experience but on other areas, and we will be very grateful for succinct answers, as much as possible. If you wish to add anything later, please feel free to write. For the record, will you briefly introduce yourself?

Sir Ivan Rogers: I am Sir Ivan Rogers. I was the permanent representative of the United Kingdom to the European Union from early November 2013 to January 2017. Before that, I was the UK sherpa running the European Union and global issues secretariat in the Cabinet Office; before that, I had done sundry private sector jobs; and, in the distant past, I was principal private secretary to a previous Prime Minister, Tony Blair, and had various other, mostly Treasury jobs. For the record, I should say at the outset that the only time in my life that I have ever been a diplomat was at the end of my career in UKRep—the only Foreign Office job I have ever done—so I am not a Foreign Office insider, which may help or hinder.

Q2 **Chair:** Thank you very much for that introduction. We will come to that later. As I say, this is really an inquiry to help shape our terms of reference. May I start, briefly, with two questions on official advice? Official policy was that there should be no civil service contingency planning before the referendum. Were there objections from Ministers or senior officials, and what were those objections at the time?

Sir Ivan Rogers: That is essentially right. We did a certain amount in the run-up to the vote, but at a very informal level and with nothing very serious or structured on paper. It was just to think through the first implications, if there were a vote to Brexit, of what would need to be put to incoming Ministers, on the assumption that we were likely to have a change of Prime Minister—what would need to be done, how much time we would need to do it, and what the first raft of papers would say.

You understand that it had been a coalition Government—bear in mind, the in-out referendum decision was taken, or promulgated, at the time of the Bloomberg speech of 23 January 2013, but it was not coalition

Government policy. There were some of us inside the system—look, I inherited the sherpa job from Jon Cunliffe in December 2011, immediately after a huge blow-up over the fiscal compact treaty, which were the first signs that there could have been a terminal rupture with the European Union at that point. When, for my sins, I came back in to do the job, I was saying to the Cabinet Secretary and to others, "This is kind of serious. It could get more serious from here. There is a serious possibility that it will ultimately lead to Brexit."

When I was in Brussels the other day, one of my best European colleagues, whom I will not name, said to me, "You were the first person to mention the term 'Brexit' to us and you did so in 2011. You said, 'You are all obsessing about Grexit'"—which indeed they were at that point—"'but you ought to be thinking about Brexit because it could happen.'"

Q3 **Chair:** For clarity, "Grexit" means Greek exit?

Sir Ivan Rogers: Greek exit from the eurozone. That was brewing. You can understand why, in a coalition Government, Liberal Democrat Ministers in particular, as part of the quad, were not keen to see that work done. I made one or two attempts behind the scenes to persuade them that the work needed to be done come what may. Was it necessarily damaging from their perspective for it to be done? Anyway, we did not do it.

There was another opportunity after the 2015 election when there was an overall Conservative majority. A number of us had conversations about whether you could set up a sort of contingency planning cell in the Cabinet Office—separating it from the team that I had run in the European and Global Issues Secretariat that, by then, Tom Scholar was running—and do some thorough preparatory work, thinking through what post-Brexit models we might offer to Ministers and what the potential propositions were, and thinking through the implications across the system. Again, there was not really an appetite from senior Ministers to go there. You can understand that the Cabinet Secretary did not think that it was within his gift simply to say, "I am going to instigate this work regardless of whether the Prime Minister of the day wants it done."

The problem has been—obviously, there have been lots since 23 June 2016—the absence of a plan. With all respect to the vote leave campaign, which ran a very good campaign, in a sense they almost deliberately avoided having a plan because, in my assessment, they felt that the more that they articulated in any clear terms what the destination would be post-Brexit, the more difficult it might be to keep the coalition together. I am not saying anything that, say, Dominic Cummings has not said on the record himself.

The difficulty was that, personally—being an old Europe bore—I had read every conceivable plan by Eurosceptics from outside. Remember that Institute of Economic Affairs competition in 2013-14? I had read virtually every plan that was put to them about what we would do if faced with it and how we would go about it. Among Whitehall civil servants, I was

probably the person who had given most thought to, "If we were faced with this, what would we actually do? What would we do first and what sort of time would it take?"

None of that is written down anywhere. A lot of it was in my head in June 2016, but I do not think that it was in anybody else's. Of course, we then ended up with a Prime Minister coming into office much earlier than we expected because of the collapse of the Conservative leadership election, so the Prime Minister arrived into office in July rather than in September. The system was rather short of time at that point.

Q4 **Chair:** For clarity, you do not know of any objections by Ministers or any formal objections by senior civil servants to the absence of a plan? You have mentioned that you had words with members of the quad, but for absolute clarity, you do not know of any paper trails or of any records?

Sir Ivan Rogers: I do not think that there is any record of any systematic discussion of "Should we be doing contingency planning for the possibility that the country might vote for Brexit if we get to an in/out referendum?" I remember that the then Deputy Prime Minister did not want to instigate any contingency planning.

Chair: At this stage, we are not going to go into whether they should have done. This is a factually based series of questions.

Q5 **Mr Seely:** On that point, was the objection about political convenience or about ideology? Was it just with the Liberal elements or were Conservatives in the Cameron Government nervous about that work as well?

Sir Ivan Rogers: I do not recall any of the latter, but as I say, it is not that we had detailed conversations. I had one or two conversations with the then Deputy Prime Minister as to whether that work needed to be done. You would have to ask him. I assume that the answer—I do not think that he gave me this answer, in fairness to him—was that he did not want to render the prospect of Brexit more credible by doing work to stand up what it would look like, or what the options, post Brexit, would be. I do not want to put words in his mouth, because I do not think that he said any of that to me, but I assume that that was the objection.

Q6 **Mr Seely:** So by not talking about it the problem would somehow maybe not materialise to the extent that it would.

Sir Ivan Rogers: Yes. Now, as a bureaucrat, that is not how you tend to think. I left Tony Blair's office in 2006, and went to Citigroup, for my sins, which were obviously very considerable in a past life. It then blew up in 2007, but I said to Citigroup senior insiders that I think the question in this country may well be whether we leave the European Union, because at that stage all of them were saying, "When is Britain going to join the eurozone?" I said, "Never. There will never be a popular vote in favour of it, and the question will become—given the divergence between eurozone members and non-eurozone members—whether, over a 10 to 15-year perspective, we leave the whole thing."

They thought I was insane, but if that was obvious to me in 2006 I think it will have been obvious to other people that the issue was coming. It could have come over the Lisbon treaty. David Cameron said to me the moment that I arrived in his office that, had he been in office—he said this publicly, after all—at the time when the Lisbon treaty had not been ratified he would not have advocated ratifying it. Therefore, we would have ended up vetoing the Lisbon treaty, and then we would have had the crisis over the non-ratification of Lisbon. To an insider like me, who has spent a lot of my life on European Union affairs, it is not surprising that the Brexit crisis came because it has been coming for a very long time. Even Jean-Claude Juncker said that it has been coming since 1992. You could argue that, but we have been on divergent tracks from the—

Q7 **Mr Seely:** When did he say that, Sir Ivan?

Sir Ivan Rogers: Last week, I think.

Mr Seely: Okay, so it was quite recent.

Sir Ivan Rogers: Yes. He remembers all the negotiations vividly, and he can cite the day, and the time of day, of his negotiations with John Major on it. My point as an ex-Treasury insider rather than a Foreign Office insider is that we have demonstrably been on a different track from the bulk of the core of the European Union since 1992, and the question was whether that was going to remain manageable and, if so, how. In a sense, the crux of a lot of the Cameron renegotiation, which is now completely forgotten, is section A of the document, which is all about the relationship between a diminishing number of euro outs and a larger number of euro ins, who might have an automatic qualified majority to screw the euro outs. Nobody paid any attention to it in the referendum campaign, but for David Cameron and George Osborne I think that was a very big issue.

Q8 **Chair:** You mentioned setting up your own cell, which may or may not have become an embryonic contingency planning group, and then it did not happen. Did you speak about that with anybody? Did you draft any papers on it?

Sir Ivan Rogers: Really only with Jeremy Heywood, as you would expect, because in the end anything on the machinery of government—a different machinery of government at the centre—would be a matter for him and the Prime Minister. The permanent representative can have views and express opinions, but it is not my business.

I did say to Jeremy, for example, which I do not think he really believed, but I am more steeped in this than he was at the time, "If we do end up Brexiting, it will dominate the life of Whitehall for 10 years, Jeremy, because we'll have legislative programmes across the whole of Government and really two successive Parliaments probably won't do much else than Brexit, or the consequences of Brexit, both in terms of building new capability, new machinery and new regulatory bodies, and the legislative implications of having our own autonomy. This is gargantuan. Therefore, don't we need a plan for what we do first, and what we would do second, and how we would try to sequence it, which

would work domestically but also be potentially negotiable with the other side?"

I could always see that this would be an absolutely gargantuan task that in my view—obviously I have said it publicly since—would take years. Therefore, you would need a very good plan, bureaucratically, to work it through across Whitehall.

Q9 **Chair:** Just for the process argument, not for the merit argument, you did not hear, did not see or were not aware of any other organisation within Government that was attempting, or thought of attempting, a similar idea of setting out a timetable, a process or a plan of any kind.

Sir Ivan Rogers: No, I am not aware of any.

Q10 **Chair:** Right. May I move on? What were the key decisions that were being made in autumn 2016? The vote has happened; the new Prime Minister is in; Theresa May has just begun her first period of the Administration. Was the Foreign Office involved in discussions at the time on the future of the EU-UK relationship?

Sir Ivan Rogers: Well, "the Foreign Office" in the sense of "me", yes. I don't want to go on too long or track back too much, but I think the Foreign Office's role on European issues in the last decade or so has diminished. Incidentally, I do not think that is just a UK phenomenon. That is a post-Lisbon phenomenon of the European Council set up as a European institution by the Lisbon Treaty, which people tend to forget.

Q11 **Chair:** Removing the Foreign Office element.

Sir Ivan Rogers: The Foreign Office and foreign ministries. When I first attended European Councils, which I fear is more than a quarter of a century ago, and when I was working for the Chancellor—I go back too long—both the Chancellor and the Foreign Secretary were attending European Councils. They only happened two or three times a year and the Foreign Secretary was in the room throughout, hence all the famous stories of John Kerr scrambling around under a desk handing bits of paper to whoever was Foreign Secretary. That ceased, and Foreign Ministers and Foreign Secretaries have not been in the room at European Councils for a long time now. European business, I would argue, is in any case more domestic business than foreign policy business, after all. What I did in UKRep was overwhelmingly domestic business with an element of foreign policy.

The foreign offices of Europe have been increasingly cut out of the game. The thing revolves around the chancelleries of Europe and revolves around Sherpas: the Olly Robbins job, the Tom Scholar job before that, me before that, Jon Cunliffe before that—that person is pivotal in the system and across European systems—and the permanent representatives. The two key circuits, which manage a lot of European business in executive fashion, are the sherpas, who prepare European summits, but then the people who do the bulk of the work of the preparation of European

summits and who are almost like a sort of executive managing board of the European Union are the permanent representatives.

That has led to the diminution in work for all foreign offices. For the UK, look at the last four sherpas, who have all been non-Foreign Office people since Kim Darroch, who was the last Foreign Office sherpa who left in 2011 as permanent representative and he had been sherpa before that. So the Foreign Office has not been as consequential in the game since the financial crisis, since the eurozone and migration issues have dominated, since the rise post Lisbon of the sherpa circuit and since the disappearance of Foreign Ministers from the room at European Councils.

Q12 **Chair:** Yet this decision and the way in which we have engaged with Europe has fundamentally affected every aspect of our foreign policy, and yet the Foreign Office has diminished in importance at that table.

Sir Ivan Rogers: Yes.

Chair: Again, I could go down any of these rabbit holes very far, but go on.

Q13 **Mr Seely:** The Foreign Office has done worse than most foreign affairs departments in most countries, but all have suffered because the work is being done by Governments—by leaders and their representatives in the Treasuries and in the Downing Streets around Europe. Is the work that they produce then being taken up by the Commission and the departments within the Commission, which are driving the civil service paperwork around what decision making there still is in the European Union?

Sir Ivan Rogers: It is a great question but a very difficult one to answer. The big question has always been the leaders. The European Council is much more important than it was and meets much more regularly than it used to. David Cameron will have done 40 or 50 European Councils in his six years in office and Theresa May must have done more than a dozen. It has become a more consequential forum where they discuss more business and they reach more conclusions, which are more written down.

Then the question is, is there any connection between that world of what leaders do when they are together—and decide they want to do—and what actually happens on the ground in terms of legislative programme? That gets you into this ghastly stuff about the strategic agenda of the Commission, which has to be agreed by leaders. In the jargon of Brussels, it's the transmission mechanism between the glorious thoughts of our leaders when they meet late at night or early into the morning and, whatever happens, does the legislative sausage machine take any notice of it? That's the kind of stuff that ambassadors and permanent representatives have to do, which is to ask what the transition mechanism is and how we grip these things and ensure that leaders' wishes on these issues are really translated into the work plan of the European Commission.

There is always some tension between the institutions, as you can imagine. There is the European Parliament as well, which hates the idea that it is completely outflanked by leaders on some—you get into that with the personnel debate. So there is a very complex institutional balance going on. Leaders have become more important and the Foreign Affairs Council, which is where Foreign Ministers meet, has become rather ghettoised on to foreign policy business. That is obviously important when they are discussing what to do about Iran or China, but in reality, when leaders discuss what is the European approach to China, or indeed what is the European approach to the United Kingdom, frankly they are not as prepared through the Foreign Affairs Council as much as they used to be. It is much more prepared through the permanent representatives or the sherpas.

Q14 **Mr Seely:** But a lot of the decision-making engine you are describing, if I understand it correctly, is the work agreed by "glorious leaders", as you say, and the Commission does a lot of the heavy lifting. That becomes the main engine of driving what change there is. Where the national bureaucracy was once a big set of engines that are now rather more piddly and unimportant—

Sir Ivan Rogers: I don't think they are piddly or unimportant. I just think that the way that the European Union does business now—I have been involved in it a long time—is not the same as it was 20 years ago. The structures are different. The rise of the European Parliament is important, and that has always been a problem for all UK politicians of all hues really, as has the relationship between the European Parliament and Westminster. The Parliament is a more important institution and, in successive intergovernmental conferences, has grabbed itself more powers than it used to have as well as more legislation. Nearly all legislation now goes through the so-called co-decision procedure, which has now become the ordinary legislative procedure in the jargon of Brussels. That is the way we legislate through the system, and the Parliament now is a much more important player than when I was involved in the Commission in the 1990s, for example. Quite a lot of that has changed.

To come back to the question on the Foreign Office, my point vis-à-vis their role is that if you go back to the days of people such as David Hannay and John Kerr, the Union functioned in a different fashion. Monetary union had not yet been developed, the third pillar still existed for at least part of that in terms of justice and home affairs. The European Parliament was much less of a player than it was in my time. Of all the permanent representatives, I am sure I spent more time in the European Parliament than any British permanent representative before, because if you didn't do that then you were not doing a significant part of your job. I really don't think that would have been quite so true 20 years ago.

Mr Seely: Can you describe the European Parliament as a sovereign body now, or is it still an advisory body?

Q15 **Chair:** We are drifting. Do you mind if we come back, as there is a lot to get through in a short time? Having set out that context, these next

answers will, I hope, be briefer. Did the Foreign and Commonwealth Office set priorities for the future relationship, and were they included in the Chequers proposals published in July 2018?

Sir Ivan Rogers: That was after my time, so I wouldn't know. I don't think so, in all honesty, but I am not the right guy to ask about anything on July 2018.

Q16 **Chair:** No indeed, but you were part of the process up until then.

Sir Ivan Rogers: Yes, I think this was dominated by the Department for Exiting the European Union and by No. 10. We can talk about the setting up of the Department for Exiting the European Union, but the Prime Minister wanted to take it off the Foreign Office, or not have it in the Foreign Office. She did not want to do it through the Cabinet Office machinery and just an enhanced European and global issues secretariat, which is why we set up the Department for Exiting the European Union. I don't think you can argue that the Foreign Office was at the strategy-setting level: considering where we are going and why we are going there.

Q17 **Chair:** For the reasons you described, historically—since Lisbon—the Foreign and Commonwealth Office was no longer a key player in the European negotiations, and then with the addition of the Department for Exiting the European Union you have a further move. We will come to the Brexit department in a moment.

Sir Ivan Rogers: Yes, the Foreign and Commonwealth Office was a key player, but it is not as central as it was.

Q18 **Chair:** Right. In October 2016 you drafted a memo that stated that "future relationship negotiations could take many years, and still fail". Who was this memo circulated to, and what was the response to it?

Sir Ivan Rogers: This became an infamous memo, obviously. It was my scene-setter, as they are called in Foreign Office jargon, for the European Council. That is a letter from the permanent representative two or three days before the European Council. It sets out essentially what I tried to do through the Cameron years but also through the Councils I did for Theresa May. It considered the questions, "What are all the moving parts? What is on the formal agenda? What is going to happen in the room? Why is it going to happen in the room? What is on the minds of the key protagonists both in the institutions and in the key member states when they arrive in Brussels?"

Q19 **Chair:** So this would go pretty widely?

Sir Ivan Rogers: This would go pretty widely. Even in the Cameron era I would copy it or blind-copy it to senior Secretaries of State, including for example the Home Secretary when she was Home Secretary. It is quite useful for them. Bear in mind that sectoral Ministers see things disappear to the leader level on migration or development policy, for example, and they think, "What the hell happened to that? They've just taken a different set of decisions at leader level. How did that happen?" Part of your job, as permanent representative or sherpa, is to equip the rest of the system to

understand what the hell is happening at leader level. Obviously, with Cameron's explicit approval, and that of his office, that scene-setter went pretty widely to all the key central Departments—at least, to the top players in those Departments. My scene-setters were notorious for being quite lengthy, usually 40 or 50 paragraphs. They were deliberately so, because Cameron said, "Yours is the thing I read on the plane to remind me what is actually going to happen when I get there." That is its purpose. You are equipping the team coming from London, who are not as close to it. I am having meetings with the main six member states, the institutions, then a different group of 10 member states, then the media—both foreign and UK media. You are piecing it together so that the moment you go and greet the Prime Minister off the plane in Brussels, you think you've covered all the ground and spotted any potential hazards, elephant traps or surprises, so that you know he or she is well-equipped. Going into the room, they know what might happen and know where the danger is. That is the job. You try and bring it all together into one place.

That was that minute. In that minute—which then leaked out in advance of the December European Council—

Q20 **Chair:** Can we not go into the leak?

Sir Ivan Rogers: You want to go into that in the next session.

Q21 **Chair:** Exactly right, if you don't mind. What was the response to it?

Sir Ivan Rogers: None, as I recall. It is not that you expect a response in print; you're expecting the Prime Minister and the entourage to read it, so that when they get there they sort of know what is going on.

Chair: I am going to stop there and ask Priti to take over.

Q22 **Priti Patel:** I want to come back to that whole period around October 2016—autumn time. This is about process: may I ask specifically what channels were established, for Ministers and senior officials such as yourself, to comment? There was quite a lot of content coming out from the Prime Minister, such as big set-piece Brexit policy speeches and announcements. To give one example, in October 2016 the Prime Minister gave a party conference speech where she announced that she was going to trigger article 50. Was there dialogue, or any opportunity for comment, challenge, build—what kind of mechanisms existed at the time?

Sir Ivan Rogers: To come to the speeches first, and to the process, as I saw it, second. She gave two speeches. One was on the Sunday before the party conference, which was announcing a date certain for the triggering of article 50. My recollection is that Olly Robbins rang me up about that. I was in Bratislava, as one is—in each presidency you go and visit the country of the presidency. That happened to be the weekend where all permanent representatives were in Bratislava, being toured round bits of Slovakia, floating down the Danube and all kinds of jolly things. Olly rang me up, saying, "She's going to announce a date certain for the triggering of article 50 tomorrow. I don't think that's a very good idea; what do you think?" I said, "No, I don't think it's a very good idea, because you lose a

lot of leverage the moment you do that. Presumably, if they're telling you that they're going to announce it, we're fighting a losing battle, but I think it's worth fighting—just at least to register that I don't think it's very wise, because that's exactly what the opposition wants you to do". The moment you have agreed to invoke by a date certain—their mantra at the time, which emerged at the June European Council five days after the referendum, was no negotiation without notification. Personally, I think that was unwise of them, but I understood why they did it. What did it mean? "We're not even talking to the British systematically about where we go in the article 50 process until they pull the trigger." Why did they want to do that? Because, frankly, it maximises their leverage and minimises ours, because the moment you've kicked off the article 50 process the clock is ticking against you. You can see the way the European Commission uses the clock.

I understand the domestic politics, and she was under huge pressure at the time of the party conference. I am not naïve about that stuff. As a negotiator, though, from a European perspective, I'm saying, hold off doing that, because that's leverage, and you want to keep people a bit uncertain about how you're going to play this, because the longer there is uncertainty, the more chance there is of breaking down the solid front in the European Union and having some of the informal conversations which, frankly, I think you need to have anyway.

Q23 **Priti Patel:** On that point, Sir Ivan—presumably you were speaking to Olly Robbins?

Sir Ivan Rogers: Yes.

Q24 **Priti Patel:** Was he your conduit, your channel of communication—where was the information from Olly Robbins going to?

Sir Ivan Rogers: That would have been going direct to the Prime Minister and, I assume, to the chiefs of staff at the time.

The bulk of the communication has to come from the sherpa and maybe the Cabinet Secretary, because they're the people on the spot. You're 250 miles away in Brussels. I counted it up the other day: I came back that autumn 27 times in 17 weeks. That shows I was averaging a day and a half a week in London. Why? Because you are summoned back to ministerial meetings but you also want to be present in the UK debate, so that they are understanding what the world looks like from Brussels, and sort of noticing what is going on in the Brussels end of things, and they are hearing from me as the expert on the spot.

In the end, the person in possession is the sherpa, the person who has to put the advice on paper to the Prime Minister about where we are and what we think you should do. That has to be him, not me. I have done the sherpa job, and when you are in the sherpa job, you have to do the advice. The permanent representative can, and should, feed in emails, letters, phone calls, texts, whatever to the sherpa, but the advice has to go through the sherpa to the boss.

Just to come to the second speech. That was obviously the big one on the red lines. There, look, I didn't get any sight of it in advance. It is a party conference speech, a party leader speech not a Prime Minister speech, and we respect that. All previous party leader speeches where I have had any involvement with different Governments, a few of us at the top of the system would nevertheless have seen the speech.

Now, you have to be careful what you say about the speech because a party conference speech is none of our business, except on things such as public expenditure commitments and commitments that then apply to policy. I didn't see the speech. The moment I did see it, I of course thought: "Blimey. That is going to elicit quite a reaction in Brussels."

I talked to Jeremy Heywood and said, "Did you see the speech? It is a bit puzzling that we suddenly get landed with this and red lines that are really going to take people by surprise in Brussels." He said he had not seen it.

Q25 **Priti Patel:** Just on that: what do you do at that stage when you hadn't seen the speech, Jeremy hadn't seen the speech? Are you then kicking in a contingency plan and process, in terms of how to handle people in Brussels, and working across the civil service, Cabinet Office and DExEU, in terms of putting down the appropriate tramlines, the processes, to meet some of those red lines that were outlined?

Sir Ivan Rogers: What do you do? I was thinking by then that because it was party conference—I can't remember the exact date—that about 10 days later she is coming to the first European Council she will ever have attended.

Because the June European Council, even though it was after the referendum, was the one attended by Cameron. That was the one where they set out the no negotiation, and they start to get the solidarity of the 27. So, you think she is coming to her first European Council and at that point she inevitably has not met most of her opposite numbers of the small member states. This could be an interesting atmosphere that she walks into, having given that party conference speech.

There was also the Amber Rudd speech about the treatment of EU citizens, so there was quite an interesting brew going on in Brussels, and you are reacting. You don't want to stir it up, but equally, you do want to get a clear assessment from the top of the Council Secretariat, the top of the Commission, the French, the Germans, key other permanent representative colleagues and friends, particularly among the friendly member states of, "How do you view that? What's the political reaction in your member state? How do you see the October council running in the light of that?" That's what you are trying to do and what you are trying to put in the scene-setter a few days later.

Q26 **Chair:** You gave an interview to Anne McElvoy of *The Economist* earlier this year in which you said that you were surprised that neither you nor the Cabinet Secretary had seen the speech. Would you see that, as part of the process of preparing an orderly departure, public statements—and

very few are as public as the conference speech—should at least be run by those in the positions of negotiation, the perm rep and the Cabinet Secretary?

Sir Ivan Rogers: You would obviously hope so. I was surprised not to have seen it. I was more surprised that Jeremy Heywood hadn't seen it, which is what he said to me.

Q27 **Chair:** And it caused immediate issue.

Sir Ivan Rogers: Oh yes. I spoke to Juncker and Tusk afterwards as well as their teams, or they spoke to me. Juncker told me personally that he had read the speech three times and could draw only one conclusion from it.

Q28 **Chair:** That conclusion?

Sir Ivan Rogers: That we were going a lot further out of the European Union than he expected. I had been trying to tell people over the summer, "We are going a lot further out of the European Union than you were expecting."

Bear in mind, they were expecting in July that the next British Prime Minister would be along in a minute, demanding a different renegotiation in order to stay in. A lot of my job over the summer—July and August—was saying to people, "No, that's not going to happen. Leave is leave. We will have a new Prime Minister but the Prime Minister will have to take their time in terms of whether they invoke article 50, let alone when." That was the mood. It took them by surprise. I am not sure it should have done.

One of the things I said in the minute you allude to—we can come back to that at the next session—was, "This has surprised people here. You're going further out than they think. They assume, from your speech, that you're leaving both the single market and the customs union and that you've set out red lines that take you further out than Norway, Switzerland and arguably even Turkey. And they're surprised by that."

Q29 **Priti Patel:** Sir Ivan, I want to take the article 50 discussion and elaborate on that further. The FCO told us that advice on the timing of triggering article 50 came from DExEU, but that the FCO had contributed to that. What view did the FCO express? Can you remember a formal view coming forward? Also, did you know the date on which article 50 would be triggered before it was all announced? Was there anything within the system, basically, that was alluding to the potential date of this?

Sir Ivan Rogers: I don't recall what the Foreign Office's advice would have been or whether it would have been on paper or, indeed, whether it would have come from the Foreign Secretary at the time. I don't recall, and as I say, the only conversations I recall were on that Saturday before the Sunday conference speech, between me and Olly, where his instinct was to say, "I think this is a bad idea. Do you agree?" I said, "Yes, for the following reasons, and I think we should try to explain why this impacts

your leverage and why it plays into other people's hands in the no negotiation without notification," because I'm going around, especially with the friendly permanent representatives but with the others in the Council as well, saying, "Look, you're handling this"—bear in mind that after the referendum, their reaction is, "This might be the beginning of the end." They had their Bratislava statement prepared, and that was the stuff they did in the September. They had to demonstrate there was momentum behind the EU27. They're scared that the UK diplomacy, which they think is formidable, might be able to pick them apart. And so they took the sort of oath of solidarity and loyalty to each other. You're saying to them, "Of course I understand that and of course you have to demonstrate momentum and that the project carries on, but is it wise—it's not wise, in my view—to freeze out a Prime Minister who is new to this, has never been to a European Council, and has to weigh up where she is going and have a complex internal process? Sure, you don't want to negotiate, but you're effectively refusing any serious substantive talks about what is the art of the possible here."

Now, I don't know whether I could have got anywhere on that. I think if the Prime Minister had played more hardball in the three months after—October to December—particularly with the key member states, you don't know what would have happened, but once she has given away the leverage and said, "By the end of March," because that was the date chosen—she didn't give a date, but she said, "By the end of March I shall have triggered", I have said in a public speech, you know, the champagne corks were pretty much popping in Brussels, because they think, "Well, job done. No negotiation without notification has worked. We've got them to sign on the dotted line that they will have notified, so we can just do this until they notify."

Q30 **Catherine West:** The FCO also told us that it contributed to DExEU advice on the sequencing of the negotiations. What was the FCO's view at the time and, from your discussions with your opposite numbers in Brussels, could the UK have secured better terms on sequencing?

Sir Ivan Rogers: Again, that was mostly after my time. There was all the stuff about, "We're going to have the fight of the summer" in 2017, and then we didn't. I had already long since left by then. Even in the infamous minute of October 2016, if I recall it aright—obviously, I don't have intellectual property over the minute, so I haven't got it, but my recollection is that one key bit was, "They think you're heading for an FTA at most. They think that won't be negotiated before the early, mid-2020s. Therefore, thoughts in this town are turning to the question of transition and what happens over transitional arrangements and the money issues over the transition. And they will see that as an opportunity for leverage."

On sequencing, I did say citizens' rights, money questions and the Irish border question—we probably under-emphasised the Irish border question collectively, I think, inside the system in the autumn of 2016; we said something about it, but probably not enough. I said the ambition of the other side will be to brigade those first and get those done and dusted before anything else and before moving on to a discussion of the political

declaration and the potential shape of the future. That was blindingly obvious to me well before I resigned, because I know how the other side of the table thinks, why they think it and what's in their interests. The job of the negotiator, after all, has got to be to understand the other side's incentives and interests well, and you've got to think, "Well, what would I do if I were them? What maximises my leverage and screws the British most if I'm them?" It was blindingly obvious how they would play the sequencing, and they duly did. I do not recall many big sequencing discussions with the Prime Minister or around the system before I resigned. I think that probably happened after I quit, in early January 2017.

Q31 **Catherine West:** On the point that it was quite clear what they wanted, do you feel, as some MPs do, that we did not really know where we wanted to get to at the end of the negotiation?

Sir Ivan Rogers: To answer Ms Patel's question on that too, the process was that we set up DExEU, although that is a separate discussion. David Davis ran that Department, Boris Johnson was Foreign Secretary and Liam Fox was DIT Secretary, because we set up DIT as well. The process behind the scenes with the Prime Minister was meetings with a few officials, without any of the Secretaries of State present.

Part of that was just a pedagogic exercise, frankly. My main role, especially from a distance, was pedagogy on what the other side is thinking and why, and on what all this means. Without wanting to be unkind about the other two officials in the room—the Cabinet Secretary and Olly Robbins, the then Sherpa—Olly had just arrived and had not done much European work in his previous career for at least 15 or so years. This stuff is very familiar to me from treaties and previous negotiations and processes. Part of my added value is just saying, "This is what this means. This is where we might go. This is how they are going to think about it. This is what they mean by cherry-picking. And this is why they will not offer you a partial in-out." I was predicting things like the Barnier staircase graph in autumn 2016, because it was blindingly obvious that that is how they think about the world and the hierarchy of relations with non-member states.

Did we know where we were going? I don't think the Prime Minister could possibly have known in detail where she was going by the time of the party conference, because she had been in office about two months at the time. We had only started a process where three officials were present: Jeremy Heywood, Olly Robbins and me. There was also Peter Storr, the head of the then policy unit, and probably Denzil Davidson as well, and also Nick Timothy, Fiona Hill, JoJo Penn and the Prime Minister. That's probably about it. That was the core group, that met usually every week; it was sometimes a bit random, but usually in the middle in the week, and it was an hour long. I would always make time to come over from Brussels for those meetings, because, obviously, Olly is writing the papers for those meetings and saying, "This is what we are discussing this week, and this is why," and then I am trying to interject from Brussels.

Q32 **Catherine West:** When Mr Barnier said, "You have to tell us what you want," that was not just saying something—there was an element of truth to that.

Sir Ivan Rogers: Inevitably, it takes time. The Prime Minister had huge experience in justice and home affairs; she had been Home Secretary for six years and had been to that Council, and she was very good at it. Part of my role is saying, "But in the world of leaders and European Council, you are in the room on your own—it's very different." The world on the economic side of the European Union does not really work like the world of justice and home affairs, where we did have multiple opt-ins and opt-outside, and she had been part of constructing that world over the previous six years.

So you are giving a rather unpopular message to Ministers, which is, "Yes, I know you can have a lot of pick-and-choose stuff in the world of JHA, because there is a long legacy of that from the collapse of the third pillar to what we joined, what we did not and what we negotiated around the time of the Lisbon treaty under Gordon Brown. But that world, Prime Minister, does not really work like that when it comes to the single market and customs union, and this is why" and "This is why they are going to say to you, 'Look, you can have one of those or one of those, but you can't have anything in between.'" Of course, that is a pretty unpopular message to give to senior Ministers, who think, "Well, why the hell not? I used to have it in the world that I knew best, so why can't I have that in the economic domain?"

Chair: Forgive me, we have a short time left in this session, so we need to narrow it hugely.

Q33 **Andrew Rosindell:** Sir Ivan, you talked a moment ago about underplaying the Northern Ireland-Ireland border. During the referendum and its aftermath, who was discussing this issue with Ministers, in the general context of it being such a crucial issue? From my memory, it was not, during the referendum and immediately afterwards, not as big an issue as it has become today.

Sir Ivan Rogers: That is clearly true—it barely got mentioned nationally in the media. I was in Liverpool when I gave the lecture that turned into my book, and I was told that, in Liverpool, it was a hell of an issue, but nationally it did not figure much as an issue. In the end—again, this is a structural question that is not for me—my understanding is that responsibility and lead on the bilateral Irish questions, as well as the broad European question, lay within the Cabinet Office, with Olly Robbins. I have heard from Irish sources that that is what our Cabinet Secretary told their Cabinet Secretary when asked who is responsible for the bilateral relationship within our machine. I assume that that is the case.

In the days that I worked with several different regimes, I never had full responsibility, or anything like it, for the Good Friday agreement or the follow-up, but I was obviously heavily involved in No. 10 and outside it. There used to be, in the Cabinet Office machine and in the Northern

Ireland Office machine, people who had access to the Prime Minister and who went direct to the Prime Minister; I think of people such as Jonathan Phillips and Jonathan Stephens, who had more access and ownership of that than seems to have happened since 2016.

I think the difficulty for Olly on this, let alone for UKRep—in the end, after my time, UKRep acquired a guy called Simon Case, who came out to be one of Tim Barrow's deputies, effectively. He was not in the second COREPER— not in the deputy ambassador level—but was doing the job. He took responsibility for the Irish issue in UKRep, so, structurally, he became the answer, but that is after my time. There are obviously analogous people in No. 10 who were around, but they were not quite at the same level, and in the end I think they all reported in through Robbins.

I think there are big questions. We have not yet come on to the DExEU and sherpa question. My view is public. I do not think it is possible for somebody to run a Department such as DExEU, and to build a Department from nought to 600 people, and to be the Sherpa, and to be responsible for bilateral Irish policy at the same time. That is just too much, so I am not sure whether, structurally, that was the right answer. However, that was the answer. I know my Irish colleagues from both Dublin and Brussels very well, and from talking to them a lot, you could see, if you were me, that the Irish question was being underplayed. We were not focusing enough on it, and it was obviously going to be the core of the problem. because the Prime Minister—

Chair: Sir Ivan—

Sir Ivan Rogers: I just need to complete this. One of the most unpopular things I think I said to the Prime Minister in the autumn of 2016 was that she had made three commitments in good faith to different audiences, but that they were not really compatible with each other. She said to the Irish that, under no circumstances, will a hard border be erected across the island of Ireland; she said to the Democratic Unionist community that, under no circumstances, will there be divergence from the rest of Great Britain; and she said to the right of her own party that we were heading out of the customs union. She couldn't do all three; she had to choose two. I had the same conversation with the then Foreign Secretary as well.

Q34 **Andrew Rosindell:** Do you feel that there was a point during this period, particularly when Enda Kenny left as Taoiseach, and Leo Varadkar came in, that suddenly this became a much bigger issue than it had been before? There was the underplaying you have described within our own mechanisms—our own officials underplaying it—but also the change of Government and Taoiseach in Ireland, with them suddenly deciding to make it a far bigger issue than it had been before.

Sir Ivan Rogers: No. On the Irish issue, I would contest that. I think that the hardening of the Irish approach and the decision to move it to a multilateral domain, rather than bilateral, was taken when Enda Kenny was Taoiseach; I think it was taken towards the end of January 2017, when he was still there. I happened to see him at some other event, at

which it was blindingly clear that he had taken that decision well before Varadkar arrived on the scene. I do not buy this analysis that, suddenly, the position hardened up. We knew that the issue that turned into the backstop issue was on the table, and I knew that it was going to be a neuralgic issue before I resigned.

Chair: Can I stop there on the Irish issue? Not because it is not hugely important, but because we are sticking to process, not to answers, at this stage. I am sure we will come back to it. Andrew, do you want to continue on the FCO's work in Brussels?

Q35 **Andrew Rosindell:** Yes, certainly. What action did you and the FCO take to maintain positive relations with EU member states and institutions after the referendum?

Sir Ivan Rogers: That is a difficult question, in the sense that you do everything possible at all levels within UKRep. The main message within UKRep was obvious, and I gave it on the morning of 24 June. It was twofold. First, it was, "We now have the biggest negotiation in UK history ahead of us, and you guys here"—the 150 or so staff I had in UKRep, some locally based but the bulk UK based, were probably about half or more of the total negotiating talent and expertise that the country had available—"are going to be absolutely central to the negotiation of Brexit." I could not guarantee that, because I did not know whether that would be the view of Ministers, the Cabinet Secretary or the sherpa, but you have to say that at the start.

The other thing you say on the morning of the 24th is, obviously, "If you don't think you can work for a Government that is committed to a Brexit that may well end up being a hard Brexit, don't stay. Either leave the civil service, or go and do something else in the civil service, because you need to be absolutely committed now to the delivery of Brexit." Bear in mind that an awful lot of the people I had in the summer of 2016 had come with the expectation that they would be working on a presidency in the second half of 2017, which is a very glamorous thing to do, because you are chairing all the working groups. For most of these staff, they are suddenly seeing that their career plan, which had been based on doing a glamorous job chairing a working group in their domain, was not what they were going to be doing in 2017. My job is to try to ensure that those people are completely motivated for the challenge ahead.

For the other member states, it was an incredibly busy summer in 2016—talking to everybody, explaining what is going on in British politics, where the new Prime Minister might or might not be coming from, what might happen next, when they might hear something and what the process might be. As I say, you are trying to keep channels open so that they do not just privilege the solidarity of the 27 and say, "To hell with you; you're now ex-players." I think that was tactically shrewd from their point of view, but strategically unwise, and I am afraid—

Chair: Can we focus back on the process?

Q36 **Andrew Rosindell:** Two final points before we move on. Having spoken

to all the member states immediately after the referendum, do you think there was a feeling that this was just a blip, that we would not actually be leaving, that it would be another process and another negotiation, and that Britain would probably stay, but it needed a fresh approach? Did you think that was what they really thought? Secondly, did you feel it was ever Government policy here, either official or unofficial, to try to bypass the European Commission and go directly to member states to try to find a way of dealing with this without treating the European Commission as the main body where we had to negotiate and agree all these things?

Sir Ivan Rogers: On the first question, as I said earlier, yes, there is a bit of that: "Okay, so we'll have a new Prime Minister, and he or she will come along with a different set of demands, which will be more difficult than Cameron's, and we'll go through the same rigmarole as we went through with you, Ivan, under Cameron, will we?" And you were saying to people, "No, that's not going to happen. This is not a repeat of Ireland, the Netherlands or what happened in 2005. We are leaving."

I was not even in a position to say that we would invoke the article 50 route, so you cannot give people any guarantees of how we are going to do so. You are explaining to people that there is a complex process under way in London under a new Prime Minister to go through all the issues and that, at this stage, there is very little you can say about precisely where we will end up. Sure, we understand there are multiple different potential destinations after Brexit. I got through most of that by early autumn, but, as I said earlier, the radicalism of her speech at the party conference in October still came as a shock to Juncker, Tusk and the people around them.

Tusk, at the time of that speech—it has been constantly referred to since, mostly by Brexiters—said, "There is no such thing as a soft Brexit." He had said that to me, and his team had said it to me. In other words, there is no halfway in, halfway out option on either the single market or the customs union that will be on offer. The bit that has got a bit lost in the UK debate is what he did say, which was, "Of course, if you want to go to a distant FTA and a Canada-style relationship, that is doable." But that was only doable for Great Britain, because it does not solve the problem of the backstop. They were shocked by the party conference speech, and that did have an impact on the atmosphere in October.

In terms of whether we can bypass the Commission, that is a long question, and you would probably need a much longer session to go through it. There was obviously an appetite from Ministers to say, "Well, can't we deal with the organ grinder and not the monkey?" That is a fairly perennial British sort of approach, which I have dealt with many times over 25 years—a kind of, "Well, can't we just bypass the bean counters in the Commission and the accountants and the theologians and the theocrats, and go to the serious people in capitals?" Look, you have to go to the serious people in capitals, and should, both at leader level and at sherpa level, but do not kid yourselves that those people are not as theological as the people in Brussels. That was my advice to David Davis, Boris Johnson and others. There is always this belief that it is the ghastly

theologians in Brussels who are the keepers of the true flame, whereas if you just liberate it and go to leaders, it will all be fine and dandy. That is never true—it was never true for Cameron and the renegotiation, it was not true for Blair and Brown, and it has not been true for Theresa May—this belief that you will get flexibility from the capitals, but you will get intransigence and inflexibility from the institutions. If anything, I would have to say that the inventiveness and the flexibility come more from some of the top theologians in the Commission and the Council when push comes to shove, because they are the people who actually are the architects of the deals, and the capitals are not. We are not scratching the surface of the complexity of this issue.

Q37 **Andrew Rosindell:** So in terms of all this running round Europe with a begging bowl—David Cameron and Theresa May spent a lot of time travelling to every capital, meeting every leader and trying to have a good discussion—essentially, you are saying that it is pretty much a waste of time?

Sir Ivan Rogers: I don't think it is a waste of time, because it goes down extremely well if you do it, take them seriously and turn up in Sophia or something for the first time a UK Prime Minister has been there for 40 or 50 years. That matters to people, and you have a serious, intelligent discussion.

Without going into enormous detail on what I said to David Cameron at the time, in the renegotiation process there was—in the jargon of Brussels, when the Council or Commission are putting together a package—a so-called confessionals process, where the sherpa, the permanent representative and maybe one other from the key member states are summoned in and asked to give their real views and their Ministers' real views on the proposition on the table.

The real views often did not bear an awful lot of relation to what David Cameron, William Hague or others had heard from capitals, because, oddly enough, when they see other leaders, leaders pull punches and think, "I don't really want to have that difficult conversation. I'll leave it to my sherpa or permanent representative to give it to Ivan straight between the eyes."

I always used to say to Cameron and others, as I have said to previous Prime Ministers, "But my job is to give you the unvarnished version of that, so that when the Bulgarians or the Croats, or indeed the Germans or the French come and see me and say, 'Ivan, you need to understand that our bottom line is that we are never going to be able to agree x, but we might be able to agree y,' they are probably going to do that in more detail to me, and with me, than they are ever going to do to you. I am able to ferret out more information as permanent representative than you are ever going to get in a nice lunch-time or dinner discussion when you go and visit the capital." Europe works much more like that than the UK does. I think all UK Ministers struggle with this idea that they can have a very affable dinner-time, breakfast-time or lunch-time conversation, but it does not really translate into what—

Q38 **Andrew Rosindell:** So it is really all public relations?

Sir Ivan Rogers: Some of it is, yes, but it is not as simple as that. Some messages are so difficult and so tough that you only transmit them through your side-kicks, not through yourself.

Q39 **Mr Seely:** When it comes to the structure stuff, if I understand correctly, is one of the things that we should be looking at whether our own civil service, in Brussels and here, was somewhat overwhelmed? The broader picture that I have from your incredibly insightful comments, Ivan, is that there was a horrible set of circumstances where everything seemed to be happening at the wrong time. We were giving out different messages, which were partly contradictory, to different audiences. Olly Robbins, who sounds a very talented individual, was entirely new to the job, which may have limited his bandwith for pushing his interlocutors in Europe in the right direction or for knowing exactly how far he could go with them. Is that a correct understanding?

Sir Ivan Rogers: Yes, I think so. Look, this is an enormous challenge, both in negotiation terms and in then building capability in Whitehall to resume sovereignty over all kinds of things that we have not had sovereignty for 45 years or some element of that 45 years. It is an absolutely massive task across the whole of Whitehall. Were we equipped for that by the summer of 2016? Nowhere near. DExEU was intended, obviously, to be part of the answer to that—not one I personally much agree with—but you are building a machine at pace which is dealing both with abroad but then with domestic consequences.

Q40 **Mr Seely:** But if you want to get in a car and drive on a motorway quite fast, that is probably the wrong time to be constructing the car to go drive quite fast in. The argument there is that it was a massive strategic mistake. I do not know this, I am just suggesting—

Chair: I am concerned you are getting into Sir Ivan's opinion, rather than structures.

Mr Seely: But it is something that we should be looking at.

Q41 **Chair:** Yes, can we accept that that is something we should be looking at?

Sir Ivan Rogers: Very happy to do that another time.

Q42 **Royston Smith:** Can I go back to the meetings that you had with the Prime Minister, Nick Timothy, Fiona Hill, Jeremy Heywood and Olly Robbins? Were they the only forums in which that existed, or were there other meetings in a similar vein that included Ministers?

Sir Ivan Rogers: Yes, there were. There was a Cabinet committee, which I also attended, and Cabinet meetings, which I attended when they broached Brexit questions. There were a lot of those, with detailed papers produced by DExEU and by Olly Robbins's office for ministerial consumption. There was a formal and quite intensive process around Cabinet Committees.

I am not saying that there was a kind of shadow process and a real process. Any Prime Minister inevitably wants to sit down with a relatively small number of people, and for some of them—no doubt not Ministers—to go through and explain how things really work, what the real issues are and how they should think about it. That is inevitable. How the Prime Minister chose to do that, and what she divulged to other senior Ministers, I genuinely do not know. We were not told. I was just summoned, as permanent representative, to be one of the few officials at those meetings. Sometimes it would be on a Tuesday night: "Could you come tomorrow afternoon at 3 o'clock?" The answer has to be yes, doesn't it?

You then obviously want to help Olly to prepare the best possible paper, and if you are given any advance notice, you might say, "I wouldn't say that if I were you; I'd say a bit more of this", or "Are you sure that is right?". You are trying to help him craft the papers, but in the end he has to be the author of the papers because he is the sherpa. I can then feed in supplementary stuff, either on paper or in person; I might say, "I don't see it quite like this; I see it more like that." However, in the end, he is the guy in the room, and the one who is in possession of the sherpa job, so he has to brigade the advice and say, "This week we are discussing the role of the European Court of Justice," or what it does, or what it is about, or whether we want it or not, and what it means if we do not want it. He would write a paper that would try to tease out the key questions for which he thought we needed the Prime Minister's answer.

You would not have that process in front of the whole Cabinet, or in front of a Cabinet Committee. The Committee is obviously a highly important process to go through; that is where papers were shared that had to be shared, rightly, across the bulk of Government, because different Departments and different Secretaries of State would have different views and would have wanted to debate those with the Prime Minister in the room. It was an odd architecture. I have never seen anything quite like it, but then we have never been through anything quite like this process. It was odd to have this division.

I then obviously had separate meetings with the Secretary of State and the Foreign Secretary. The Foreign Secretary would come out to Foreign Affairs Councils as well, and we would have chats into the night in my residence. That is the way. I would see these people, and indeed other senior Ministers and officials, separately from my meetings with the Prime Minister, Olly, Jeremy or whoever. That is part of what you spend your time doing when you come over for a day from Brussels.

Q43 **Royston Smith:** Did you get the sense that there was any sort of suspicion about those other meetings that Ministers weren't involved in?

Sir Ivan Rogers: Yes.

Q44 **Royston Smith:** Because we have now seen resignations and the rest. How did you see that when you were in one of those meetings, or in other meetings discussing what you had already discussed in private with the Prime Minister?

Sir Ivan Rogers: Look, this is delicate stuff, and it is difficult for me to answer. I think you are probably really asking me whether I would have set up the DExEU structure, and the honest answer is that I would not. Again, I did not know that it was being set up until it had been set up. I asked Jeremy Heywood how that happened, and whether that was a sensible way to go, in terms of machinery of government. I gave him the benefit of my view, which was that I did not think it was sensible. I said that the strength of our system has always been the co-ordination through the Cabinet Office.

The two key roles are the sherpa role and the permanent representative role. Why are they key roles? I do not want to be naive; I have done both. It is not because people think you are from a saint—far from it—but that they think that you are an umpire, an adjudicator, a bringer together, and a co-ordinator. The moment you sit in a Department like DExEU and work under a Secretary of State, they inevitably think that you have skin in the game. My staff in UKRep were telling me that people were clamming up on UKRep because of the role of DExEU—because they think, "Hang on; DExEU is not an impartial adjudicator or umpire. It has a Secretary of State with a particular view," so the system started breaking down.

Q45 **Chair:** Sorry, forgive me; I do not understand. How do you mean that the permanent representative is an independent adjudicator? Between whom does he adjudicate? Government Departments in the UK? Interests in the UK?

Sir Ivan Rogers: Yes. The machinery that I have worked with for 25 years—I am going back to the days of John Kerr and Geoffrey Fitchew in the early '90s, but there were subsequent incarnations, too—was a Friday morning meeting, co-chaired by the head of the European secretariat or the head of EGIS and the permanent representative, to go through the key European issues of the week, month or year, to take papers, and to reach collective decisions.

Those collective decisions are not binding. You cannot then say to your Minister, if you have been to that meeting, "I'm sorry; you don't have a view on that, because we have already decided that with Wall," or with Darroch or Sheinwald, or whoever it was. That is how those committees worked. That was to brigade stuff, have an intelligent discussion, reach a view officially about what advice was going to be put, both to the Prime Minister and other senior Ministers, and co-ordinate properly.

My point, having done the job for Tony Blair and David Cameron, is that the oddity is—PPS is obviously a bit different from being the head of the European Secretariat—you have partly an umpiring and convening function. You are bringing together the best wisdom from the key Departments, and you are saying, "We have an issue here on emissions trading, and it affects the following Departments. I am going to have a key meeting. I want to know where all those people are and why, and where their Secretaries of State are. I need to be able to put my personal advice to the Prime Minister on that."

I would frequently try to show Departments my personal advice, and say, "This is where I've reached. I know your Secretary of State won't agree. It is his prerogative to go to the Cabinet Committee or the Cabinet, or to go directly to the Prime Minister and say, 'This is bollocks from Rogers,' but you have seen what I said on the basis of the official meeting that we have had."

I am a bit old-fashioned on that. There is a lot to be said for a proper co-ordination process, where there has been a collective discussion and we have aired views round the table. Partly, you are a personal adviser to the Prime Minister, saying, "My assessment, having heard all the arguments from all the Departments, is that our national interest is over here"—the Prime Minister will obviously have their own view—"but you are going to be hearing from Liam Fox or Michael Gove or whoever, because they clearly are not going to agree with that, and they are going to come to you on that question."

The problem with the DExEU structure, which is why it was inevitably going to be difficult between David Davis and Olly Robbins, as it proved, was that David Davis thinks, "I've been appointed as DExEU Secretary to run the Brexit process and I am accountable to Parliament for it, yet this guy Robbins is having his own conversations round his own circuit, reporting direct to the Prime Minister, and I don't get to see what he says." That was structurally bound to be a mess.

Q46 **Chair:** Structurally, you end up with a process where the Brexit Secretary is not representing the whole of Government.

Sir Ivan Rogers: Yes.

Chair: That's a great start. Bob, last point.

Q47 **Mr Seely:** Briefly—I'm sorry if I missed this—would you have assumed that the best way to have dealt with this, given the urgency of the situation, would have been through the Cabinet Office and the FCO, through the traditional structures, rather than this hastily put together Department?

Sir Ivan Rogers: It is easy to be wise after the event, isn't it? I hope I was wise before the event. I would have expanded the Cabinet Office group dealing with this, and maybe had more than one group, and I would have routed it through the Chancellor of the Duchy of Lancaster, working to the Prime Minister, and had it in the Cabinet, so that everybody in Whitehall knew, "This Minister is working direct to the Prime Minister, and speaks with the Prime Minister's authority and is in the Cabinet Office."

Q48 **Mr Seely:** Why not that?

Sir Ivan Rogers: I don't know. I asked Jeremy, "Is this your view? Why have we set up both DExEU and DIT? This is going to make for a complex working environment." It did make for a complex working environment, believe you me, in the autumn of 2016. He said it was very much the Prime Minister's view that she did not want it routed through the Cabinet Office and the Chancellor of the Duchy of Lancaster. I don't know.

The Cabinet Secretary has to be the person having the machinery of government discussions with the Prime Minister, and he obviously had them in August 2016. I was saying, purely from my viewpoint as a Europe expert, "Look, the strength of our system, as everybody in Europe will tell you, is that the Brits are the best co-ordinated member state out there. Once the Brits have reached a single position, they always stick to a single position."

We were envied across the whole of the European Union throughout our membership of the European Union. Even when they thought we were mad, they thought we were bloody well organised and co-ordinated, and had a single position. That stems from a structure, both at official and ministerial level, that works. Once you have invented this different structure, you have set in play things that are bound to cause quite a lot of tensions between players.

Q49 **Mr Seely:** Why not the Foreign Office as the main engine?

Sir Ivan Rogers: I would still have it in the Cabinet Office. It depends what you think of the secretariats, because there are domestic secretariats and other secretariats in the Cabinet Office. The Cabinet Office is a very strange beast, having worked in it a number of times.

The role of the secretariat head has to be a personal adviser to the Prime Minister, where you have your own opinion, reach your own views and make your own assessment, having heard it all from senior officials round the system. You say, "On balance, I think it is more important that we do this on financial services than that on fisheries," or whatever the issue is. But your advice should also include, "Incidentally, the following Secretary of State is going to come and bend your ear on that, because they are obviously not going to agree with that, and this is going to be their argument." I think that's quite a good and healthy system.

Q50 **Priti Patel:** In the light of the processes and structures in place, with DExEU now being established and these various meetings taking place, including the Prime Minister-led meeting and Cabinet Committees—I declare an interest; I was on one of those—did you feel that Ministers were supported? That is, the specific Ministers that attended some of those meetings—not all, because they don't attend all those meetings. Did you feel that the structures, the process and the briefings enabled and facilitated their making decisions and judgments, in the light of what was going on?

Sir Ivan Rogers: It would require several hours to answer that one. As I said, I don't think that the structures militated in favour of very good co-ordination and very good process. I think we also had—I have to assume that this was the Prime Minister's personal choice—a pretty secretive operation. I said early on, vis-à-vis the European Union and the way they all negotiate, because I knew 50 people at the taskforce and I know all the key people in the Commission Council secretariat, "They'll kill you through transparency." That wasn't terribly popular, but they did kill us through transparency, in my view. I said, "They will publish loads of their positions

and stick them on websites, and they'll dominate the debate through transparency."

The problem with being secretive, clamming up all the time and running it from a secretive bunker is that it won't work. It doesn't work inside the system either, in all honesty, because people have to be bought into it. They have to feel, if their interests, and departmental interests, have been subordinated, not necessarily that it is the correct decision, but that it is a decision on which they have had a say—that their voice has been heard, even if they have been overruled because the Prime Minister has decided that financial services are more important than phytosanitary issues. They have to feel invested in it, and their senior officials have to.

If the next stage of the process is to work—I have tried to say some of this in lectures and books—and if we are to have a free trade area negotiation, we should realise we're not going to win everything. We're not going to get all our priorities; we're going to have to decide which priorities are more important, and we're going to have to be a bit more honest about trade-offs. But you can't just tell the Secretary of State for DCMS, or something, "Sorry, I've decided with the Prime Minister that your interests don't really count and the Treasury's do." You have to have some sort of collective decision-making process at official and ministerial level that gives everybody clear buy-in to the result that they have reached: "Okay, that's our best assessment of the national interest."

Q51 **Priti Patel:** On this point about the system and the structure in the civil service, other than you, with your experience, raising concerns, issues and challenges back to Jeremy and Olly Robbins, were other permanent secretaries featuring in some of these discussions in any way? Do you recall them saying, "My Secretary of State is not getting their voice heard," or that they were not even being briefed? There was also the issue about briefing papers. We talk about secretive meetings, but briefing papers were not circulated until a very short period before many Cabinet Committees met. There was a deficit of information.

Sir Ivan Rogers: There is quite a lot in that question in terms of approach, how papers were disseminated, where people could read them, how much notice they got of them and whatever. I am not sure that it was the right process, even for this stage, and it won't be the right process for the next stage. If you're going to do a trade negotiation, you can't run it in that way, but that is probably for another day.

Mr Seely: I'm fascinated; can you give us advice now about what you would do in the next stage, or is that too open-ended?

Chair: Can I stop that question now? That is an important question, but one we will come back to when we do the inquiry, rather than one we do now. Sir Ivan, thank you very much for the first stage of the session. May I ask you to stay in place while I ask Sir Adam and Sir Peter to come and join you?