HOUSE OF COMMONS

Foreign Affairs Committee

Oral evidence: The future of Britain’s diplomatic relationship with Europe: follow up, HC 178

Tuesday 29 October 2019

Ordered by the House of Commons to be published on 29 October 2019.

Watch the meeting

Members present: Tom Tugendhat (Chair); Ann Clwyd; Stephen Gethins; Conor McGinn; Andrew Rosindell; Royston Smith; Catherine West.

Questions 52 - 137

Witnesses

I: Philip Rycroft CB, former Permanent Secretary, Department for Exiting the European Union, Raoul Ruparel, OBE, former Special Adviser to the Prime Minister on Europe, and Florian Eder, Brussels Playbook Editor, Politico.

II: Sir Oliver Robbins, Cabinet Office.

Examination of witnesses

Witnesses: Philip Rycroft, Raoul Ruparel and Florian Eder.

Q52 **Chair:** Welcome to this afternoon's session of the Foreign Affairs Committee. Thank you very much, all three of you, for coming. Could I ask you very briefly to introduce yourselves, in one sentence?

Florian Eder: I am Florian Eder. I am the editor of Brussels Playbook. I write our morning briefing on European politics. Before that, I joined Politico in 2015 to help our European operations take off, and before that I was the Brussels correspondent for a German newspaper.

Philip Rycroft: I am Philip Rycroft. I was head of the UK governance group looking after constitution and devolution issues in the Cabinet Office, and Permanent Secretary at the Department for Exiting the EU. I am now an academic at the Bennett Institute for Public Policy in Cambridge and at Edinburgh University, as well as a consultant and a non-executive.

Raoul Ruparel: I am Raoul Ruparel, formerly special adviser to the Prime Minister on Europe, under Theresa May, and formerly special adviser to David Davis when he was Secretary of State at the Department for Exiting the EU.

Q53 **Conor McGinn:** Could I ask Mr Rycroft and Mr Ruparel specifically, when article 50 was triggered and the negotiating process was established, what were the structures that were designed? What were they modelled on? How did they come into being? Had some preparation been done in advance about what they would look like?

Philip Rycroft: I am sorry to start by saying it was all before my time in DExEU; of course, I was at that time running the UK governance group in the Cabinet Office, obviously dealing with Brexit, but through the lens of devolved policy, and thinking about the integrity of the United Kingdom. What I can say, if it is helpful to you, in terms of the structures that were set up and how they operated, is, clearly, there was a choice, and that choice could have been remade at various points during the process, between setting up a free-standing Department of State, as DExEU, or holding the handling of European issues in its traditional pattern in the Cabinet Office. That was the European global issues secretariat that handled those issues prior to the referendum.

There was a choice there. On the one hand everybody knew that handling Brexit was a huge challenge that would require a lot of ministerial bandwidth, and having a free-standing Department of Ministers gave you that big ministerial team. It would also require a big civil service team to do that. Putting all of that in the Cabinet Office would have been a bit of cuckoo in the Cabinet Office nest. A free-standing Department gave the capacity to run the Brexit-facing business. Also, as a free-standing Department, I found, both as second Permanent Secretary and as

Permanent Secretary, that you can build an esprit de corps. You have a bit more flexibility to do things in the way you wish to do them, to deal with this extraordinary challenge that we had.

On the other hand, however, what you lose by not being part of the Cabinet Office is the impartial convening power of the Cabinet Office. We had to do a huge amount of co-ordination in DExEU throughout this process. As another Department of State, our job in doing that was probably a little bit more difficult than if we had been in the Cabinet Office.

Q54 **Conor McGinn:** So, on balance, do you think it was the right decision to create an entirely new Department to deal with the negotiations?

Philip Rycroft: It was not my decision. I inherited the decision, if you like. I was very happy with it. I had a very interesting job to do and an absolutely brilliant team to work with. I will just put on record that we had a very professional team in DExEU. We recruited some great people. The Department grew a lot in my time in the business. They were very dedicated public servants, and the country should be very thankful for the job that they have done.

As far as I was concerned, the model worked, but there were a couple of choice points while I was there. There was the point where Mr Davis and then Mr Raab resigned, when the Prime Minister had an option to rethink the model, but clearly the Prime Minister at the time believed the model was working, and so allowed it to continue. I thought the model worked well. Clearly, in a different world we could have gone a different way, but the job of civil servants is to make whatever structure we have operate. That is what we do, whatever structure we are given—make sure it works, and Ministers get the advice they need to take the decisions they have to take.

Q55 **Conor McGinn:** Mr Ruparel, of course it was one of Prime Minister May's first decisions to create this new Department. Had she given quite a lot of thought to that beforehand? On what basis did she decide that was the best way to proceed?

Raoul Ruparel: I obviously came in in October 2016, once the Department had been created, so I was not privy to the thoughts in terms of creating the Department; but my sense, partly for the reasons Philip outlined, was that, in terms of the scale of this task, there was the need for a dedicated Department and dedicated civil service resource. Particularly from my perspective, one of the key considerations was the parliamentary implications. During my time in DExEU, we had some kind of parliamentary event almost every day, be that a UQ or something to do with legislation, given the number of Bills that the Department was involved in. So that, really, from my perspective, did require a dedicated Secretary of State and a dedicated ministerial team. I think that was one of the key reasons why the Department was created and then kept together: because it was the focal point for engagement. I think that is a lot harder to do from a central Cabinet Office-type unit.

Q56 **Conor McGinn:** Where were the points of friction between this new, free-

standing Department, both in terms of its relations with other Whitehall Departments—I suppose, most obviously, the Foreign and Commonwealth Office—but also when there was prime ministerial intervention in the negotiations around meetings of the Commission, and in terms of the Cabinet Office's role in preparing across Whitehall for Brexit?

Raoul Ruparel: I think that, at the outset, you had a structure in DExEU where you had a Secretary of State reporting directly, obviously, to the Prime Minister, but you also had a Permanent Secretary in the form of Oliver Robbins who was both the PM's sherpa and the Permanent Secretary at DExEU. So that created a sort of dual reporting line, which was eventually rationalised, with Philip being brought in as the Permanent Secretary. I think that eventual structure worked much more clearly and was much easier for everyone to understand, and proved to be more effective.

I think everyone recognises that, in the early days, there were some growing pains with the new Department and how it was set up. I think that is usual, particularly when taking on a Department of this size from scratch, and an issue of this complexity. In terms of the rest of Whitehall, again—it is a point Philip has alluded to—DExEU had to do a lot of convening and corralling across Whitehall, and that is not something a line Department usually has to do; it is usually done from the centre. So that was a slightly different role, and a role that I think most of Whitehall was not, I would say, particularly familiar with. So that took some getting used to.

Q57 **Conor McGinn:** Was there resentment in other Departments about that, would you say?

Raoul Ruparel: I don't think resentment is the right word. I just think it was a change to how things are usually done, which took some getting used to, but I think everyone got on board, worked together and tried to bring the expertise and the policy detail to where it was needed. It was just a different way of doing things from what had been done before. It is something that, in the end, was made to work, but as with anything new and unusual in government processes, it takes some time to get used to.

Q58 **Conor McGinn:** Just to bring you back in, Mr Rycroft, how was responsibility split between DExEU and the FCO? Presumably other areas of diplomatic relations with European nations that needed to be maintained were the FCO's responsibility. Where was the line? Was it an ad hoc process to work out where the line was, or was there a set of clear rules and criteria?

Philip Rycroft: It is a combination of both. This is a complicated business. We were learning, self-evidently, as we went along. We had not done this before, so there was a lot of learning to do. It is worth remembering, on the range of responsibilities of DExEU, that you can see the interfaces with the FCO: planning for exit domestically—whatever form that takes; deal or no deal; dealing with all the international agreements that hinged off our membership of the EU; the engagement strategy, both overseas and

domestically, with business; legislation; dealing with the devolved Administrations; and so on and so forth.

Across that range of business, you had touch points with pretty much every Department in Whitehall, including the FCO, which had particular pieces of business that they were in the lead on, in terms of thinking about the future relationship—another job that DExEU had—thinking about the foreign policy relationship with the EU and thinking about sanctions policy. However, in terms of international agreements, the overall programme was led out of DExEU.

Clearly, pretty much every post across the world would have some engagement in that process. The Foreign Office owned a number of those agreements, as well as policy on UK nationals in the EU and their handling in both a deal and a no-deal context. There were a number of areas on which they led the policy debate, but they also made a huge and valuable contribution to the wider discourse and thinking about Government policies.

Q59 **Conor McGinn:** How did that work in practice, if they led on the policy but you led on the negotiations on these almost identical issues? Were new structures put in place to allow that to happen, or did it work through existing structures in Whitehall?

Philip Rycroft: We clearly had to put in place new structures. If you look at no-deal planning, for example, they had some component parts in that, but so did the Home Office, DEFRA, DFT—pretty much every Department had elements of that programme. It was not DExEU's job to own each of those policy areas; it was our job to co-ordinate the overall programme. We had many structures in place to support that and other co-ordination of the business. That all sat underneath the Cabinet Committee structures, so we were not doing this in a sort of official vacuum. All of this ended up ultimately reporting to the Cabinet.

We were convening meetings pretty much every day of every week, bringing Departments together to discuss whatever we needed to get through. If we just focus for a moment on the phase 2 negotiations, as we called them, on what is to come once we leave—the negotiation on the future relationship with the EU—we had both an economic partnership steering group and a security partnership steering group, and I set up an overarching phase 2 group to look at the way that this whole negotiation would be handled. The Foreign Office were absolutely integral to that, giving us valuable support and advice on that process.

Q60 **Ann Clwyd:** As a former Member of the European Parliament, I was always trying to follow exactly how negotiations were being conducted with the European Parliament, given that it has the power of veto over any deal struck. Was anybody negotiating with the European Parliament? Every time I asked the previous Prime Minister when she was going to meet the European Parliament, there was always an excuse. I think I must have asked that question about four times. Could you enlighten us?

Philip Rycroft: If I make a start, maybe Raoul will wish to come in. We have a very good team in Brussels—the UK Permanent Representation to the EU—and a big part of their job over recent years has been liaising with the European Parliament as its parliamentary powers have increased in the European context. So, on a day-to-day basis, colleagues in UKRep, with support from Whitehall and Ministers from Whitehall, would spend time to understand what was going on in the Parliament and speaking to Members of the European Parliament, so they understood what the UK's negotiating position was. But, of course, we were not negotiating with the European Parliament; we were negotiating with the Commission, with the Commission acting on behalf of the 27 member states.

However, it would be wrong to assume that there was not a lot of contact with the European Parliament. UKRep, which is a very professional operation, understands very clearly the role of the European Parliament in all of this, and how important it was—is—that the European Parliament understands the UK position in the exit process. Raoul may want to add to that.

Raoul Ruparel: I agree with all that. It was a relationship that was held in DExEU when I was there, so the Secretary of the State and the ministerial team visited the Parliament regularly and engaged with a wide variety of the MEPs there, both from the Brexit steering group within the Parliament and with other MEPs who had an interest, either through their Committees or through their constituencies. So it was something that I think was a regular part of our engagement.

As Philip said, it wasn't negotiations, because the EU was always very clear: "You're negotiating with the Commission, and that's the main negotiating channel." So it was part of a wider web of stakeholder engagement with member states and other interested parties. But it was certainly something, in my experience in my time in DExEU and then in my time at No.10, where we tried to keep up regular contact through ministerial visits.

Q61 **Chair:** Can I just ask how the European Union saw this negotiating structure? Was it something they were used to?

Florian Eder: On the European side, I think the deliberations were pretty similar. Michel Barnier was appointed in summer 2016—in July. Then he got his team, the Brexit taskforce, in September of the same year. Then, of course, there was the long period of—you remember the mantra: "No negotiations before notification started."

I am just mentioning this because I think that the thinking in Brussels—I remember speaking to diplomats and officials—was that these negotiations would cut across so many different policy files that it is actually very appropriate to set up a taskforce dealing with all of them, from the future relationship, and then—within the future relationship package—security, trade and so on. But, of course, if you see what was done in these negotiations, it is not just disentangling a trade deal; it's much more. That

was the reason why the European Union eventually decided to put in place the taskforce around Michel Barnier.

Q62 **Chair:** How do you think the European Union saw our structures? Were they structures that they recognised? Were they structures that they felt were easily engageable with?

Florian Eder: On the question just before, the European Union said basically the same: "We are negotiating with the British Government, so whoever they send will be our negotiating partner. But we are not going to negotiate, in the sense of negotiating, with the British Parliament or stakeholders." Of course, Michel Barnier and his team, if you look at the records of their visits and their talks, have met a lot with other stakeholders, but the principle, I think, was shared by both sides, and the structure that was set up was a decision of the United Kingdom, so the European Union, I guess, took what it got.

Q63 **Chair:** Forgive me, maybe I am not expressing myself well. Did the EU find it a structure that was cohesive? Was it a structure the EU recognised, or was this a new adaptation for the EU to deal with?

Florian Eder: The thinking in Brussels was that this is a whole new process, so it needs a whole new approach, I would say.

Q64 **Chair:** So the UK side was a whole new approach, as well?

Florian Eder: I haven't heard any diplomat or official complaining about the structure that the UK chose for these negotiations.

Q65 **Stephen Gethins:** On the question of cohesion, in the aftermath of the EU referendum in 2016, we heard an awful lot from UK-based politicians that the EU might struggle to maintain a cohesive position across 27 member states with various views. Has the unity of purpose that they have shown over the past three and a half years come as a surprise?

Florian Eder: We were very often at a point where you heard rumours or speculation or media articles that the unity would break at some point, and that, basically, it all comes down to the idea that, at some point, the European Union would throw Ireland under the bus, which has not happened, as far as I can see, so far.

I think that had a lot to do with the negotiating structure on the European side of things. Michel Barnier invented a quite transparent—I would say—and innovative process, which has not been applied before, being transparent with the other EU institutions, the European Parliament and the Council, and with the capitals. After he was one year in—I remember a story that I reported—he had done 59 trips, or 59 missions to different member states, resulting in travel costs of €47,000. I wanted to check, but they wouldn't give me the latest number. He was often in national capitals, and often talking to the Brexit steering group in the European Parliament and the Brexit working group in the Council.

I think I can say that that approach has created appetite for more on the European side. If you remember, Ursula von der Leyen, the Commission

President-elect, promised in her candidacy speech in July in the European Parliament that future trade negotiations would basically follow the same model as the Brexit talks, with MEPs being informed about every single step.

Q66 **Stephen Gethins:** Do you think that there is anything that the UK could learn from that approach taken by the EU? I am happy for any of you to answer that question.

Philip Rycroft: Yes, certainly. Look at a lot of the discussion while I was still in the business, in the early part of this year, thinking about phase 2. How was that going to be managed in terms of this place—Parliament—with the devolved Governments or with business? It will be a very different sort of negotiation, a lot bigger—it covers a lot more domains—and we do not yet know how long will it last. The chances are that it will go on for some time. I think we can learn from what happened on the other side in terms of the way that the transparency—the binding of people in behind a negotiating position—strengthened the pitching of that position in the negotiations themselves. However, the Government—certainly when I was around—had recognised that and made various commitments about the engagement of Parliament, the devolved Governments, business and other stakeholders in the process.

Stephen Gethins: I know, Chair, that you want to move on, but I will be keen to return to this later, if that is okay.

Q67 **Andrew Rosindell:** May I move on to the issue of Ireland? It seems to me that Ireland is our closest neighbour and our nearest friend—the most important relationship in the long term within the European Union. What went wrong? Why did we fail, immediately after the referendum, to talk to our Irish friends to look at issues and to find resolutions to them, from day one, rather than letting it become an issue that has, effectively, blocked and prevented Brexit from happening? What went wrong in both the political and diplomatic approaches to that?

Philip Rycroft: Would you like me to start on that? I am happy to have a go. I was not involved in the early days, nor was I leading the negotiations on Ireland. Hindsight is a wonderful thing—it is easy to see whether a different path was potentially available in the early days, and to ask why we did not take it—but the reality at the time was very different, and we found ourselves on the path that we eventually had to follow.

From what I know of that time—Raoul may want to add to this—I don’t think that was for want of talking, whether with the Commission, other member states or indeed the Irish Government. But as the issues around withdrawal emerged, it became clear that the handling of the Northern Ireland-Ireland border was going to be central to that. There were some very important equities at stake in that debate.

With hindsight, I don’t think it is a surprise that it has been so tough to sort those issues out, because so much is at stake for Ireland itself, for Northern Ireland, for the UK, for the Commission and for the European Union. It has been an incredibly tough issue, and it will continue to be one.

Q68 **Andrew Rosindell:** Could I just interject there? Obviously, we know it is tough, but who in government was responsible for dealing with this issue from day one? Was it understood to be something we needed to get a grip on from the moment it started, or was it just assumed that it could be resolved easily and therefore neglected?

Raoul Ruparel: No, I think it was something everyone recognised would be an issue from day one, and there was a big team in DExEU dedicated to Northern Ireland and that stream of work. Certainly, that was a big part of the resource that was being put into the negotiations. I think everyone recognised that it had unique challenges and unique circumstances.

My sense of it, looking back to October 2016 and the run-up into 2017, is that it was not actually Northern Ireland and the border issue that was seen as the most challenging at that point in time. A lot of it was around the structure and sequencing of talks, and then the financial settlement, which was originally envisaged as the most challenging thing to reach an agreement on. That began to change as we got later into 2017, and particularly into October 2017 in the run-up to December 2017 and the joint report, when the issues really came to the fore.

It is hard to know exactly why things shifted. Obviously, there was a change in the leadership in Ireland, from Enda Kenny to Leo Varadkar, and I think that did mark a change in the approach of the Irish Government to the negotiations. I think there was a shift in terms of the desire to have everything legally agreed and sorted during this phase, and to find a solution to the border issue in this phase in legally operable text. Once it moved to that position, it took on a different element and became an even more difficult problem, because everything had to be solved at once and separated off from the future relationship, whereas if you look at the early days of the UK thinking in particular on this, it was always thought, "Yes, we can make steps towards this, but ultimately, inherently, the answer is tied into our future relationship." That was one of the reasons. I think that sequencing and the separation of the issue off, which really crystallised towards the end of 2017 with the joint report, was one of the reasons; the bar was essentially raised in terms of what we were trying to do.

Q69 **Andrew Rosindell:** Do you think there was a change in attitude from Ireland when Enda Kenny stood aside and Leo Varadkar came in? Do you think that was a deliberate change of policy, or do you think prior to that we just weren't discussing the issues and Leo Varadkar turned it into something that he wanted to discuss earlier? Was there a political decision behind that?

Raoul Ruparel: It is very hard to second-guess what was going on in their minds at the time. What I will say is that there were things that were changing on the ground. Obviously, we had the election here, which changed the nature of the UK Parliament and what was likely to be agreed and could pass the Parliament here, and I think that did feed back into the negotiations and the approach that countries such as Ireland were taking. It is clear that they made a political judgment on how to approach it based

on other things going on, but I would not want to second-guess exactly what their motives were.

Q70 **Andrew Rosindell:** Could you tell us what day-to-day channels were used to liaise with Dublin on all these issues? Were there people in place whose job it was entirely to deal with Ireland and to look at how we could work closely with them to find solutions, or was it not given the greater priority that it should have been given?

Raoul Ruparel: It was given significant priority from the Prime Minister down. There was regular contact between the Prime Minister and the Taoiseach. A number of Departments and Ministers have an interest in this issue because it is so important and it cuts across a number of areas. You had the Secretary of State for DExEU having regular contact with his counterparts, particularly Simon Coveney; you had the then Chancellor of the Duchy of Lancaster, who I would say almost owned the relationship as a whole, who had regular contact with his counterpart; and you had the Secretary of State for Northern Ireland involved as well. There were a number of avenues of continuous contact going on, and then you had the official side, where you had the PM's sherpa talking to his counterpart. There were a number of avenues. There was never a lack of contact or a lack of engagement, in my experience.

Q71 **Andrew Rosindell:** From the EU's point of view, was it always the case that Ireland had to follow exactly what the EU wanted on this, or was there any scope at all for Britain and Ireland to use our historic relationship to forge a special arrangement to avoid the problems that we have seen since? Was the EU obstinate in saying to Ireland, "You must stick exactly to what the EU is saying"? Were they given any flexibility or leeway at all?

Florian Eder: The EU is not Brussels in this case. It was an absolute priority for the European Commission to be in regular contact with the Irish Government. The Taoiseach is probably the person Jean-Claude Juncker talked most to in Brexit, when you look at his public calendar. I would say that Ireland had a strong position within EU27, to determine the EU's position on this, that and the other; that stems from our reporting. Ireland had a special position within the EU27—let me put it like that—and probably had better chances than other countries, particularly countries comparable in size, to make its own points and priorities the EU's priorities.

Q72 **Andrew Rosindell:** Looking back, could we have dealt with Ireland differently over these negotiations or was it inevitable that it would lead to this situation?

Philip Rycroft: From my perspective, the key point was the one that Raoul made about the dealing with the border issue getting wrapped up into the withdrawal agreement. Obviously, as history now demonstrates, that became the most difficult issue. There was possibly an alternative route to handling it through the withdrawal agreement negotiations, but it would still have to be dealt with after that.

The issue itself was never going to go away. There was always going to be a problem about how to manage the land border between Northern Ireland and Ireland, and how to deal with that while seeking to maintain the integrated island of Ireland economy and making sure that the Good Friday agreement, and the peace process, could be sustained over time. That was always going to be a difficult problem. As it happens, we've dealt with it earlier rather than later, but it was going to have to be dealt with at some point in this process.

Andrew Rosindell: Thank you.

Chair: Ann and Stephen, do you wish to come in on that?

Q73 **Stephen Gethins:** Just to pick up the point that you made earlier about the learning experience that the Department has been on, can you talk about the role of devolved Administrations in this process and where things could have been done better? Maybe they were done as well as they could possibly have been done.

Philip Rycroft: I am very happy to do that. Clearly, we are in a politically quite tough position, where the Government in Scotland have obviously taken a very different view of the Brexit process than the Government down here and, despite the fact that Wales voted by a majority to leave, the Welsh Government have also taken a very different view. Clearly, we didn't have the benefit of a Northern Ireland Executive pretty soon into the process. There was a whole array of tough issues to deal with, not least how to handle the powers that were coming back from Brussels, where they were aligned with or sat in devolved competence. There was the concern about the devolved Governments having a line of sight on the negotiating process, what was going on in that and having some influence in it.

So, it was a difficult political context. All of us involved would probably admit that we were slower to get into the groove of that sort of exchange than we might have been. We set up the JMC—the Joint Ministerial Committee structures—to have a dedicated structure to deal with European negotiating issues. That found its rhythm after time. By the time we got to the end of my time in dealing with the withdrawal agreement Bill process, as it was in my day—dealing with no deal, dealing with the so-called common frameworks and how to handle the UK internal market post Brexit with the return of powers—we had, at official and ministerial level, found the mechanisms to have those discussions. What that would never resolve was the different political views about how this whole enterprise should be taken forward.

There is a lot of learning in all of that. It is critical learning because post Brexit, with the return of those powers, the issues about handling the internal market in the UK on agriculture and fisheries, on environment issues and on a whole slew of other issues, is going to be bread and butter business for the four Governments of the UK from here on in. I would hope that the processes that were followed and the learnings of that, from both the UK Government and the devolved Governments, are taken into

thinking about how we manage intergovernmental relations in a post-Brexit era, in a way that respects the powers and competences of the four Governments.

Q74 **Stephen Gethins:** When you talk about the differences, do you not accept that devolution means that there will regularly be differences of opinion between the Westminster Government and the devolved Administrations?

Philip Rycroft: Sure.

Q75 **Stephen Gethins:** Can you therefore tell me why the UK permanent representative withdrew official support from the First Minister of Wales and the First Minister of Scotland when they were out in Brussels, because they had a different view?

Philip Rycroft: I do not know what particular episode you are referring to.

Stephen Gethins: This was the withdrawal of support from the First Ministers of Scotland and Wales.

Philip Rycroft: When did this happen?

Stephen Gethins: Just recently, in the past few weeks.

Philip Rycroft: This is after my time, so I am not in a situation to give you—

Stephen Gethins: So there is nothing—okay.

Philip Rycroft: What I can say is that, through my seven years of dealing with devolved issues in government, there were a number of occasions on which there was a difference of view between the UK Government, the Scottish Government, the Welsh Government and, indeed, the Northern Ireland Executive about the handling of visits overseas by members of the devolved Administrations. There are processes set out in the protocols about all of this, which both sides had to respect, and there were occasions on which there was a disagreement about whether those protocols were being respected.

On those occasions, the UK Government said, "Fine. If you want to go off and do political stuff in Brussels or Washington"—or wherever it is—"that is absolutely fine. That is your prerogative, but to do that, you do not get the support of UK Government officials. If you are doing Government business, of course, you get that support." That support was very willingly offered on many occasions, and the withdrawal of support was very much the exception. The rule was that devolved Government Ministers got the support of the civil service.

Q76 **Stephen Gethins:** But given that there have been very substantial disagreements going right back to the Labour and Liberal Administration—I do not want to speak for the Labour party, but there have even been disagreements between a Labour First Minister and a Labour Prime

Minister, for example—in these circumstances, at this critical time, do you see why that withdrawal of support could look churlish, and could you maybe talk through the exceptional circumstances that might have led to that?

Philip Rycroft: Again, from my experience—I cannot relate it to this particular incident—these decisions were never taken lightly, because they clearly engage quite important political equities on both sides. In my experience, it was only if the circumstances were such that the engagement that was being sought by Ministers from the devolved Governments had a political character to it. You would not expect civil servants to get drawn into essentially political engagements, even for UK Government Ministers. There are lines to be drawn. There is a rulebook around this, which everybody signed up to, and sometimes there are disputes about how those rules are interpreted in the instance.

Q77 **Stephen Gethins:** Would you not accept that politicians will make political decisions and have political disagreements?

Philip Rycroft: Sure, absolutely. By and large, in my experience of overseas trips, there will be an official part, and occasionally there will be a political addition to it. It becomes more complex when you are dealing with devolved Governments in these circumstances, but the rules are clear, and in my day, we did our best as officials to ensure that our Ministers in the UK Government had the appropriate advice. We would talk to our colleagues in the devolved Governments to make sure we understood what was going on, and then deploy the support—generally, the Foreign and Commonwealth Office—in an appropriate manner. However, as I say, we respected, or sought to respect, the protocols that are laid down.

Q78 **Stephen Gethins:** My colleague wants to pick up on this from a Welsh perspective as well, but finally, you said that there was learning to be done. What could be done differently?

Philip Rycroft: It comes back to the point about transparency. The withdrawal process was difficult, and there was so much learning going on in the early days; it was such a political process in quite fraught circumstances. With those learnings, we go into the phase 2 negotiations, which as I said earlier are much bigger and encompass a much wider scope of policy issues, some of which are of central importance to the devolved parts of the UK. When it comes to the fisheries chapter, for example, clearly the Scottish Government will say, "More fish are landed in Scotland than anywhere else in the UK, so we have a central interest in the way that negotiation is conducted."

For my part, the learning from the previous phase is to draw the devolved Governments into the process early, and share the thinking on the UK Government position so you develop common negotiating positions that the devolved Administrations can get locked in behind. They can promote the UK's overall position along with the UK Government, giving us a far greater chance of succeeding in delivering the negotiating aims. Transparency is the key.

Q79 **Stephen Gethins:** Sure, but what happens if, say, there is a disagreement on fisheries, where Scotland has 70% of the landings?

Philip Rycroft: You know the constitution of the UK as well as or better than I do. Ultimately, the international negotiations are a reserved matter, and there are times—there have been many times in the past—when the UK Government does not see eye to eye with the devolved Governments, but ultimately the UK Government has to make its decisions. You would see this well before Brexit in numerous fisheries councils, agriculture councils and other domains: it is far better for the UK to go into those negotiations with a unified position, to have the debate, work out what the common position is and get locked in behind that to push a UK position. The same will be true for the forthcoming negotiation. But at the end of the day, in our constitution, given the devolution settlements, international negotiations are a reserved matter and ultimately the UK Government can make the decisions.

Q80 **Stephen Gethins:** So when the Prime Minister said that there is no role for the devolved Administrations in passing the Brexit deal, he was wrong.

Philip Rycroft: Sorry—could you repeat that?

Stephen Gethins: When the Prime Minister said that the Scottish Parliament should have no role in terms of the Withdrawal Agreement—

Chair: I'm actually going to stop you, because I do not think that is a fair question to these witnesses. I appreciate where you are coming from.

Philip Rycroft: I was ready to answer it, but that's fine.

Chair: If you wish to answer it, do.

Philip Rycroft: I was going to say, on the context of the quote you just gave, that certainly the Prime Minister I worked for was absolutely at pains to ensure that there was discussion and debate with the devolved Administrations throughout the process. Indeed, commitments were made for phase 2 about including them in a more thoroughgoing way as the negotiating mandate was developed. I can only go on what I experienced and saw and what was said publicly. I would be interested in the context of the quote you just read out.

Chair: Ann, perhaps you would like to pick up from there?

Q81 **Ann Clwyd:** On the back of that, I would like to ask about the role of the First Minister in Wales. Can you give any examples of where the Welsh First Minister would be excluded from discussions?

Philip Rycroft: Has been, should be or will be?

Ann Clwyd: All three, if you like.

Philip Rycroft: I think the First Minister would say that they did not get as much of a line of sight on some of the decisions that were made in the negotiating process. It is a matter of public record that they did not feel that they were involved enough in the triggering of article 50 and at

various other points. But there was always an endeavour to ensure that they were informed at advance of announcements being made.

Looking forward, it comes back to the answer I gave to Mr Gethins. It is how you ensure that Welsh interests as well as Scottish and Northern Irish interests are embedded in the thinking of the negotiating position of the United Kingdom, as well as English interests. The best way of doing that is to ensure that there is a good discourse at the highest level between the Prime Minister and the First Ministers of Scotland and Wales—and, if there is a Northern Ireland Executive back in place, the First Minister and Deputy First Minister in Northern Ireland. I would hope—though I no longer have direct influence over this—that in the future structures, right the way through the way in which Whitehall organises this, it is thinking about those contact points with the devolved Governments to ensure that those interests are fully respected through the negotiating process.

With the position the UK is in, it is hugely important that people in Scotland, Wales and Northern Ireland can look at how the negotiations have been transacted and understand and see visible evidence that their interests have been respected in it.

Q82 **Ann Clwyd:** Do you think they feel that?

Philip Rycroft: I certainly don't at the moment. That is pretty evident. But there are options for this or succeeding Governments to think through how they approach the phase 2 negotiations with a very clear view to ensuring that, when they are looked at from the perspective of Glasgow, Cardiff, Swansea or Belfast, people understand how this is being taken forward as a UK exercise which engages the interests of the devolved parts of the UK. That is hugely important.

Q83 **Catherine West:** Obviously, we still have not left the European Union. For those of us who represent large populations of people who want to remain in the European Union, I want to ask your professional opinion about the culture and negotiations, and what the relationships are like. In the remain camp or tribe—unfortunately, that is where we are at—one area that we discuss is to remain and improve the arrangements within the European Union. You have a long overview, at least back to since I became an MP in 2015. I believe that Mr Cameron's negotiations to try to get a better deal for the UK were undertaken to try to achieve change.

Having been through the past few years of negotiations, have lessons been learned on the European side, in terms of whether it would be possible, if, in the end, there was a decision to have a closer relationship with the EU or maybe not to leave the EU, to have change, from the 27 point of view? Do you feel that a fresh approach to changing things around the valid concerns which people have is on the table, or do you feel that the door would close on that, and they would say, "Well, that did not work very well for the UK, ha, ha, ha, and now we will just get on with business as usual"?

Florian Eder: I can start on that. I will say two things. First, I remember a day in the summer of 2016 when a very senior member of the European

Parliament I bumped into told me, "Thank God we did not ever have to use the deal that David Cameron struck with the EU, because it would be the end of the EU as we know it." I thought that was a little bit dramatic, but it would have made a considerable change to the relationships. Before, the fear—a little bit like the fear that other countries would follow Britain out of the EU—was that other countries would want their own deal as well and you end up having 27 different kinds of relationships and membership.

At least at the beginning of the Brexit negotiations, there was no appetite from anybody to take Brexit as a lesson that the EU should reform itself, at least not along British wishes. If you look at President Macron, the French President, and his latest interventions on things from EU enlargement to Brexit, he keeps saying that the EU has to reform itself and make processes easier and smoother, and has to come to a better way of making decisions and so on. I think there is a certain appetite to reform things. In terms of whether there is an appetite to re-welcome the United Kingdom, if it eventually decides to remain, and to immediately give a long wish list of what has to change, I don't think, talking to diplomats and officials in Brussels, that there is much appetite for that—full stop.

Philip Rycroft: This is way off my patch, as a former civil servant, but I think one of the disappointing things about the debate at the moment is that there is very little discussion about what a long-term, sustainable relationship looks like between the UK and the EU. To achieve that in the 10 to 15-year horizon will require a lot of creative thought on both sides of that debate. We are not yet out, as you say, so it is difficult for that debate to kick in.

Chair: Forgive me, can I constrain this series of questions? We are really trying to look into the process that was constructed and that did conduct negotiations, to see what worked and what did not, as a preliminary process of investigation into that. Your questions are entirely valid—

Catherine West: He thinks it's too soon, but there is an election this afternoon, and you never know what might happen—we will be sending you back to do the opposite.

Chair: Catherine, your questions are entirely valid, but, forgive me, I am going to be very dull and bring us back to what we are trying to—

Catherine West: I understand what you are saying, Chair. I give way.

Q84 **Chair:** You're very kind. Can I ask a few very basic things? How did the tours by the various Secretaries of State for Exiting the European Union of European capitals inform the negotiations? How did the Foreign Secretaries' tours inform the negotiations?

Philip Rycroft: I will start, and Raoul may want to add something. In a very direct way, the purpose of those tours by the Secretaries of State for DExEU, the Foreign Secretaries and other Ministers was to understand the position of other member states, and to engage them in thinking about

where the UK interest lies. A big part of what we did in DExEU for all three Secretaries of State was to think about their exposure in foreign capitals, the European Parliament and so on. We sent them off on trips to garner that intelligence, bring it back in and feed it into the overall mix, to inform the UK's negotiation position, and it was a very valuable part of it.

Raoul Ruparel: I would agree with all of that. It has definitely been an important part of teeing up and working through the negotiations. Technical negotiations are incredibly important and form a big bulk of what has been done, but, as you will have noticed, some of the key flashpoints throughout the whole negotiation have been political. You need to have political contacts to move things along and to get over some of the potential humps in the negotiation.

The Secretary of State for DExEU, the Foreign Secretary and other Ministers engaging with their counterparts across Europe has been an important part of pushing the negotiations along at various key points. As Philip said, it is something that DExEU did—it had an engagement unit that tried to work with the FCO to try to co-ordinate engagement across Europe, so that we were picking up the right intel and pushing our message out in the right way.

Q85 **Chair:** Can I just interrupt you? Is there an example of where the tone and substance of the negotiation changed because of these engagements?

Philip Rycroft: This negotiation on a relatively constrained number of issues running over quite a considerable period of time was a complicated negotiation unfolding over time. You do not have those flashpoints where the negotiation moves from state A to state B. On a constant basis you were just testing: this is what we are thinking of doing on money, citizens, Northern Ireland, the transition and other separation issues. You are going to be pushing your luck a wee bit there, but that looks like a more productive line to follow.

Q86 **Chair:** May I interrupt? Before Salzburg, how did those conversations go?

Philip Rycroft: I was not involved in the discussions to do with Salzburg, so I'll not attempt to answer that one.

Raoul Ruparel: I think Salzburg was a summit that was a bit misjudged on both sides. I think that is why we saw the sort of fallout we did.

Q87 **Chair:** Sorry, I am not looking to ascribe blame. I am just wondering where the process failed that led to that misjudgment. Was it that the conversations were not held frequently enough at the right level? What went wrong?

Raoul Ruparel: It is hard to say procedurally, looking back. It is hard to pin down one point. From my recollection, going into it, perhaps the pitch rolling had not been done sufficiently for what the Prime Minister was going to say in the room. My understanding is a sense from the other side that maybe they were not expecting what was coming. It is hard to say exactly what the turning point was, but there are little bits of misunderstanding and how things land in the Council chamber that can

have an impact. It did not go to plan, clearly, from the reaction on both sides, but it was also rectified quite quickly in the aftermath and ended up leading into a period of intense negotiations that ended up with the deal being struck.

Q88 **Chair:** Florian, what would you say went wrong?

Florian Eder: I am afraid I am not in a good position to say where the process failed before Salzburg, but I agree that it was wrong expectations from both sides. Clearly, it also went wrong communications-wise from both sides. It would have been just after the summer—I do not remember the weeks before, as I was on holiday.

Q89 **Chair:** Okay, good excuse. What processes were established so that the centre of Government could make use of the Foreign Office's Europe network of diplomatic posts to gather intelligence or test negotiations?

Philip Rycroft: Raoul has already given the answer to that. We had an engagement unit set up in DExEU, led by one of my senior folk, who is actually a diplomat himself from the Foreign Office, Alex Ellis. We had a lot of Foreign Office people on the DExEU team bringing their perspective—their European experience—into the mix, and they did a super job for DExEU and for the wider Government.

The engagement unit was set up to do that co-ordination, and of course worked very closely with posts and with the Foreign Office. There would be weekly calls with posts to update them on where the thinking was at, and to get their feedback. This was a highly integrated operation to ensure that they understood what was going on, that they knew what they were going to be saying to their host Governments, and that we were getting the intelligence feedback.

Q90 **Chair:** Just as an example, would you have been able to phone up the embassy in Paris and know which five French Members of Parliament would have put most pressure on the French presidency to secure an agreement on a certain area, or which Länder in Germany would put most pressure on?

Philip Rycroft: We would expect the embassies to understand the politics of the host member state. How that was expressed—whether through European Parliament members of through the Länder—clearly would vary on circumstances and issues. The underlying point of your question is: was there a direct line to embassies to get the intelligence that we needed, and was that well-informed intelligence? The answer to that is absolutely yes.

Q91 **Chair:** And it was used to leverage and put pressure on other Governments in order to—

Philip Rycroft: Yes.

Q92 **Stephen Gethins:** Did the last Prime Minister consider not sending officials to all meetings in Brussels so that more resources could be put into other aspects of the negotiations?

Philip Rycroft: Not to my knowledge.

Q93 **Stephen Gethins:** That is quite interesting. What do you think the impact has been of the current Government policy not to send officials to all the meetings?

Philip Rycroft: I speak as no longer being in government. One point to make is that the UK, whatever the outcome of this process, assuming we leave, is going to have an intimate interest in decisions that are made in Brussels, because those decisions will impact on UK businesses seeking to sell goods or services into the EU. Understanding what has gone on and how those dossiers have been taken forward will continue to be of critical importance. My view is that you sustain your influence over those processes as long as you can—that would be a sensible thing to do.

The countervailing viewpoint to that, of course, is that removing people from non-essential business brings home the point, both to Whitehall and Brussels, that the UK is on the way out. This is going to be a new world, and the way in which the UK seeks to influence business in Brussels is going to have to change, so you can argue the toss between the desirability—

Q94 **Chair:** You don't think they've got that message anyway?

Philip Rycroft: Of course, everybody understands that the UK is leaving, but actually knowing that the world is changing—the visible sign that there is no longer somebody in the UK seat—brings it home emotionally as well as intellectually, if I can put it like that.

Q95 **Stephen Gethins:** Last week, when Minister Heather Wheeler was giving evidence to the Committee, I think she conceded that the UK had failed to attend a meeting about flows of migrants and refugees from northern Syria. Isn't that the kind of meeting that the UK ought to be attending?

Philip Rycroft: You are drawing me on to thinnish ice here. The official still beats in my heart.

Chair: They can't get you now.

Philip Rycroft: Yes, I know. Those are precisely the sorts of issues where good co-ordination in the future is going to be so important for the UK and for the EU. From my perspective, staying close to those debates in Brussels for as long as we can would be a good thing to do, but clearly Ministers have decided differently, and that is obviously their prerogative. I have no influence over those decisions now.

Q96 **Stephen Gethins:** Look, I understand the difficult position that you are in, and you are giving us very helpful evidence, but that would strike me as having been quite an important meeting for the UK's security and other considerations. Let me ask you it this way: can you think of any good reason why a UK Minister would not attend that kind of meeting?

Philip Rycroft: Other than the symbolic point that I have made already? There is a bigger set of issues, clearly, behind this. It is relatively short term if we do leave by 31 January next year. The bigger point is about how the UK disposes of its resources through the transition period and

beyond to influence the business that is being transacted in Brussels once we are out of the institutions. That is a very big change, and I suspect it will preoccupy the attention of this Committee for quite some time to come. What we are going through now is obviously a bumpy process of getting out. The longer term future will require very serious UK capability to continue to influence debates in Brussels, as other third countries have long done. That is a huge and important change.

Florian Eder: Just one thing on your question. Diplomats who I talk to sometimes wonder what is regarded as non-essential business by the UK. Generally, however, the policy per se is actually seen in the light of the expectation that the latest text says that the United Kingdom does not jeopardise the EU's core business or does not hinder the EU from taking decisions. Somebody who is not there cannot hinder anybody from doing anything, so it is not generally unwelcome by other EU Governments or diplomats in Brussels, I would say.

Q97 **Stephen Gethins:** But in terms of the UK's perspective, would you consider migration flows from northern Syria to be non-essential business?

Florian Eder: Whether I consider it essential business or not, the example you cited was indeed something where a diplomat told me that he wondered why the UK representative was not there.

Stephen Gethins: So somebody has already expressed that concern.

Q98 **Royston Smith:** Do you agree with Sir Ivan that it is not 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"?

Philip Rycroft: That job description describes the job at the origins of DExEU. Clearly, that changed over time in recognition of the centrality of the sherpa role—you can have only one Sherpa. That is a hugely all-encompassing job. As Ivan's evidence so eloquently demonstrated, so much of EU business revolves around sherpas. As the UK's position developed and we began to move into the negotiations, that was clearly occupying more and more time of the Permanent Secretary of DExEU, Olly Robbins, at the time. Hence the recognition that he needed to be able to focus on that, and hence the subsequent changes that were made. I was brought in in March '17 to assist Olly in running the Department, to take some of the burden off him—for example, in terms of planning for an exit deal or no deal, handling the legislation and all the rest of it that I described earlier. A decision was then taken in October '17 for the Cabinet Office Europe unit to be created that Olly could lead, which would focus explicitly on the negotiations and leave me to lead DExEU to cover off all those other hugely important issues.

Q99 **Royston Smith:** Who in the Government was responsible for drawing attention to the importance of the Northern Ireland border issue before the referendum and in its aftermath? Was there anyone?

Philip Rycroft: Before the referendum—this is to some extent me surmising from discussions that I was party to and from others that I would not have been—there were a lot of people in government who did understand the importance to the referendum outcome of Northern Ireland and the situation on the border.

Of course, however, as Ivan explained when he gave evidence, we were not tasked to do contingency planning. That was a decision the Prime Minister took, not just in that referendum but in another referendum, in 2014, as well. Ivan has explained in some detail to you what happened in government in the run-up to the referendum. From my engagement, which came from a different perspective until I joined DExEU in 2017, people did of course clock the importance of the Northern Ireland-Ireland border issue early in the process and, as Raoul has described, a team was put in place to focus exclusively on that, which was in DExEU for most of my time there, but then, given the centrality of that to the negotiation, became part of the Cabinet Office's Europe unit, to support the sherpa in the transaction of that part of the negotiation.

Q100 **Royston Smith:** It all seems like a long time ago, doesn't it? It feels as though we all knew about the Northern Ireland issue all the time, but I am not entirely sure that we thought about it as much as we talk about it now, because it is becoming the defining issue. But they knew about it and they talked about it, and the Irish highlighted it. Was there any response in government at all?

Philip Rycroft: Again, I do not have the direct knowledge of what was going on post October around that specific issue. From a more general perspective, there were a lot of people in government who did understand the importance of the issue from early on, because it self-evidently was going to be a big issue. Indeed, memories can be selective, but I remember it being well advertised in the referendum campaign itself, so it was not as though people went into this with their eyes shut on that issue. There was discussion of it, and clearly there are a lot of folk in government whose job it is to understand Northern Ireland's relationship with Ireland and how Northern Ireland relates to the rest of the United Kingdom, so the issue was on the agenda from the early days.

Raoul Ruparel: As I said, there was a team in DExEU from early on. If you remember, the Government published a paper on Northern Ireland, Ireland and the border issue in August 2017, and that was the culmination of some work that had been going on for, I would say, four to six months in the run-up to that. That included discussions with the Irish, as well as internal work in government. It is something that was on the agenda and was very much high up in our thinking, because it is such a sensitive area and the politics are so sensitive.

As I alluded to earlier, though, I think the issue evolved during the course of 2017 after the general election here, because of the changing nature of the leadership in Ireland and the desire and aim that became clear towards the end of 2017 of having an absolute solution to the border issue in this phase. As that evolved, it moved the issue up in prominence,

complexity and difficulty in the negotiations. I don't think that it has been a static issue that was there the whole time and that it is just that the way people engaged with it changed; I think the issue itself and the political approach to it have evolved over time. That is why its salience and its importance in the negotiation also changed.

Q101 **Catherine West:** Following on from that, how new is the current protocol of the border down the Irish sea?

Raoul Ruparel: There are, of course, many similarities. First of all, the withdrawal agreement as a whole and the protocol as a whole are largely the same as the previous protocol and withdrawal agreement that were negotiated. There are then obviously similarities to the proposal put forward by the Commission originally in 2018 for the Northern Ireland-only backstop, as it has been known. The two real crucial differences are, first, the consent mechanism, which marks an acceptance from the EU side and from the Irish that this can be brought to an end at some point in the future if there is no longer broad consent for it in Northern Ireland, and it can be brought to an end without there being an obvious answer to what will come next in terms of how the border will be dealt with. That is a significant shift from what they had been saying previously, which was, "In all scenarios, we need to have a legally operative solution to how the border will work, no matter what the scenario is." That is the first substantive change.

Secondly, on customs, the previous proposal that the Commission put forward was simply Northern Ireland in the EU's customs union. This protocol as drafted sees Northern Ireland remaining legally in the UK's customs territory, but applying the EU customs code between Great Britain and Northern Ireland. It allows for what some have called a hybrid approach to customs, whereby if a product is being sold into Northern Ireland from another part of the UK Union, it can be eligible for lower tariffs through a rebate, some form of state aid or through being able to prove on arrival that that will be its destination. That, again, is quite a different approach to customs.

Not only does the combination of these two things allow Northern Ireland to remain in the UK's customs territory; it allows it to potentially be part of any free trade agreements that the UK might strike in the future. It is also a marked difference in terms of potentially how trade could take place between Great Britain and Northern Ireland, but there was a lot of detail still to be fleshed out during the implementation period. We do not have all the details of how that will work now.

Q102 **Chair:** Can I just ask, because we have been focused entirely backwards, for obvious reasons, on the process—do you think the UK should negotiate a free trade deal with the EU in parallel or in series with the United States CPTPP and others?

Philip Rycroft: Shall I start?

Chair: You will all have views.

Philip Rycroft: That is going to be a big question for this Government or the next one. My anticipation is that these things would be conducted in parallel, but there are dependencies between them. As part of the way the Government handles this, ensuring that relevant interests have a good line of sight on those dependencies, and knowing that where a choice is made in one domain—for example, if a US deal happens to be transacting more quickly than an EU deal—will see you making those choices. It will restrict your choices over here, notably on things such as agri-food, which is a fairly obvious example. There is no reason why they cannot be conducted in parallel, and why more than one free trade agreement with the rest of the world cannot be conducted at the same time. The critical thing is that Parliament, business, the devolved Administrations and other interests understand those dependencies and how decisions made in one domain will impact on or restrict choice in another domain.

Chair: Mr Eder, what do you think?

Florian Eder: I will refrain from giving advice to the UK Government, but it is actually a very interesting question. Let me just observe that the negotiator will be the same—Michel Barnier has been made the boss of the UK taskforce for the negotiations on the future relationship. That might help or hinder—I don't know.

Chair: Raoul, what do you think?

Raoul Ruparel: I think Philip makes the key point: whatever decisions are taken, they have to be done together. We must realise the interdependency between these two negotiations, because they will impact on each other. It is an important question, when looking at the structures that are put in place in Whitehall, about how decisions are made—how the Cabinet or Cabinet Committees take decisions on what to do about a free trade agreement with the US, and on what to do about a free trade agreement with the EU. They are, if not two sides of the same coin, very interrelated, as are other free trade agreements. There is an important question for Whitehall and the Government about how they set up these decision-making structures and how they approach it going forward. At the moment, and in my experience of the past three years in government, those two have been slightly separate decision-making structures. You have DIT and Cabinet Committees relating to trade, and you have DExEU and Cabinet Committees relating to the EU. Although they obviously take account of what the other one does, they are not a single, joined-up decision-making structure. Personally, I would think that having a single structure for that would be advantageous. There are different ways to do it, but it is something that should be seriously considered as a way to streamline and make sure that Government is pushing in a single direction and that there are not competing interests pulling in different ways.

Chair: Thank you all very much. It has been hugely revealing.

HOUSE OF COMMONS

Examination of witness

Witness: Sir Oliver Robbins.

Q103 **Chair:** Welcome to the second part of this afternoon's Foreign Affairs Committee. Sir Oliver Robbins, may I ask you to introduce yourself very briefly?

Sir Oliver Robbins: Certainly. Thank you, Chair. My name is Olly Robbins and I have been a civil servant for 23 years. I was the first permanent secretary of DExEU, and then Europe adviser to the Prime Minister—the senior official responsible for the policy behind the negotiations and the conduct of them. I am still a Cabinet Office official, but no longer involved in Brexit.

Q104 **Chair:** May I quickly start off with some structural questions? What structures were established to conduct these negotiations, and what were they modelled on?

Sir Oliver Robbins: I suppose the first thing to say is that, although as one of your colleagues said earlier it is quite hard to remember how time has passed over the last three years, crudely, for the first year of the three I was involved in Brexit, we were not really conducting a negotiation—at least not one in the classic sense—with the European Union. As Philip said to you earlier, the "No negotiation until notification" mantra meant that it was, at best, a sort of shadow negotiation for most of my first year in the job. For all of that period, I was working with my team to try to set up cross-departmental structures that would allow us to really distil what the issues were going to be in the negotiation and make sure we were giving Ministers at least a first set of briefings and advice on how we might handle those, how they were likely to come up, who had an interest in them, et cetera.

From the general election in 2017 onwards, we entered what I suppose you would call formal negotiations with the European Union—do shut me up if I go on too long, Chair; I know time is tight this afternoon. To set the scene a bit, I always saw the negotiation as being four things. First, the official machine needed to support Ministers in reaching a policy. Secondly, it needed to support Ministers in convincing the United Kingdom of Ministers' policy. Thirdly, it needed to support Ministers in achieving a context in the EU27 where the EU might be willing and receptive to listen to that policy and negotiate on it. Fourthly, a group of extremely dedicated colleagues of mine then needed to sit in a rather windowless set of rooms in the Berlaymont and hammer out some legal text with somebody.

The commentary tends to focus on the of those, but I would say that the first three were at least as important. What I tried to do from the very start—perhaps then I'll pause—was to set up structures that allowed us to focus on each of those tasks, initially from DExEU and then, in partnership with Philip, across DExEU and the Cabinet Office.

Q105 **Chair:** That is a very helpful way of looking at it. In that first stage, as you were setting up the negotiating team structures, how did the Foreign

Office's Europe network feed into that, and how did it later feed into both the collecting and influencing operations to achieve your aims?

Sir Oliver Robbins: When I was created as DExEU's permanent secretary, Sir Simon McDonald and I were keen in those first few days—conscious of the reputation of the civil service over the coming years—to identify and then sensibly steward what was, to be honest, a scarce and incredibly valuable capability: knowledge of the EU, its institutions and processes and the histories, cultures and laws of its member states. Crucially, we also did the same with the deep expertise that is scattered across Whitehall—for good reason—in each of the policy areas that were going to be part of the negotiation with the European Union.

The arrangement that the new Prime Minister decided in summer 2016 was that a chunk of the EU expertise of the Foreign Office would be part of the kernel of the new DExEU. On day one, DExEU was effectively the sum of the expertise from King Charles Street, the old Europe and global issues secretariat from the Cabinet Office, which I had been head of for a few enjoyable brief weeks, and also, in a slightly arm's length way, our permanent representation in Brussels.

Culturally—which matters—the first instinct of all those people was to reach out to our network across Europe, because that is what everybody had been doing in their day job up until that point. As an ex-desk officer in the European secretariat in the Cabinet Office, one of your first calls every morning is to several of your colleagues strewn around the network in Europe. I think that was quite bedded into the DNA of all the people who started as DExEU.

What we then needed to do, which Philip successfully took over for me when creating the engagement unit, was to bake that into the DNA when DExEU was suddenly a lot bigger. The creation of the engagement unit was a way of trying to make sure that that constant two-way engagement with the network was baked into the structure, as well as the culture.

Q106 **Chair:** You spoke about the process. Can you tell me a little bit about the politics as well? The Brexit Secretaries and the Foreign Secretaries obviously had their own links with Michel Barnier, and also with others around Europe. How did that feed into or influence your work? Did it improve your work? Did it help?

Sir Oliver Robbins: Yes, absolutely. Without, I hope, sounding trite, two-way communication always helps. Two-way senior political conversation particularly helped, because at several points in this process, the frustration for those of us at the coalface was the mutual misunderstanding of the politics. Encouraging that constant dialogue at the senior political level— Brexit Secretaries, Foreign Secretaries and, more broadly, successive Chancellors of the Duchy engaged widely with European colleagues. Of course, there were also the sectoral councils; the Chancellor for most of that period had close contacts with a number of his European colleagues, and so on. It did really help.

Without straying beyond my role, the only thing we would have forgotten at our peril was that the 27 were Michel Barnier's authorising environment. Without being pompous, this building was our authorising environment. Secretaries of State to some extent focusing on the EU27, to the exclusion of understanding, influencing and trying to engage with the British authorising environment, would have been a mistake. I do not believe that that happened. I am just trying to point out that there are these two authorising environments. I think Mr Barnier and his team were very successful at understanding and operating within their authorising environment. We—officials at least as much as Ministers—fell into the trap of thinking that it was a competition for the affections of the EU27.

Q107 **Chair:** I will not say whether I agree with it or not, but there is an argument that some in, as you put it, the UK's authorising environment—the Houses of Parliament, and the House of Commons in particular—were influenced by the EU, or EU states, to put pressure on the UK. Would you say that you were successful in shaping some of the EU27 to shape those conversations through political contact, through the embassy network or through their own Parliaments and regional assemblies?

Sir Oliver Robbins: Yes. I am not saying this out of false humility, but I would not want to personalise it to me: I think the Government's effort was on some occasions very successful in that wider influencing.

Where embassies were absolutely irreplaceable for me, for Ministers and for my team was not in the obvious people. I knew who the sherpas were, Tim Barrow knew who the permanent representatives were and we all knew who the Foreign Ministers were, but the interesting question—I heard you ask something similar to my colleagues earlier—is "Who are the six people who Monsieur Macron will ring up when he puts the phone down on my Prime Minister and say 'Well, what do you think of that?'?" They may be people in official offices or they may not be. What Ed Llewellyn in Paris can do for us is understand who those people are and make sure that messages are going in parallel to them, as well as the more official and formal channels of communication that are given to us on a plate.

What we managed—sometimes very well, particularly in some of the systems that we know best—and what was also crucial in the negotiation, thankfully, was understanding those patterns of influence and communication and getting our message across to them. For that, of course, the network was really the only way to do it.

Q108 **Chair:** Given the interconnectedness, who is responsible for diplomacy in Europe on Brexit? Is it the Foreign Office, or is it DExEU?

Sir Oliver Robbins: At which stage? Do you mean now?

Q109 **Chair:** That is kind of my point. Who is responsible for our relationship with our European partners? Is it the Foreign Office, or is it the Brexit Department?

Sir Oliver Robbins: Sorry, I didn't mean to be tricky.

Chair: No, no.

Sir Oliver Robbins: I am just trying to get your question straight. I think the position now, and certainly for all the time that I was in the job, is that the United Kingdom's relationship with every European country remains the business of the Foreign and Commonwealth Office. The business of trying to engage Europe on what our specific aims and objectives were in the Brexit process was led by DExEU. I am not trying to pre-empt the next question, but I rarely felt those roles to be in tension.

Q110 **Chair:** You would not have felt that they would have been less in tension and better co-ordinated had you been second permanent secretary at the Foreign Office, say, or in some other position there, rather than in a whole new Department?

Sir Oliver Robbins: Obviously I have reflected a bit on that, but I don't honestly think so. I was impressed by Ivan's evidence to you on this in July; he gave a much better historical sweep than I would have been capable of, as is his wont.

The first time I joined the Cabinet Office was in 1999, when I was a desk officer on European business. The then director general equivalent, in charge of the European secretariat, was the Prime Minister's principal official adviser on European business. He convened a Whitehall meeting every week and a meeting on ongoing business with the permanent representative every couple of weeks. When I arrived in the successor job in June 2016, that was—to my relief, in many ways—exactly the structure that I inherited. The Foreign Office remained one of the most senior players around the table, as it had been in 1999, but it was a Cabinet Office table.

Q111 **Chair:** Did the last Prime Minister's decision to continue to send officials to EU meetings help to inform your work during the negotiations because we were still a "full member", in inverted commas, of the European Union?

Sir Oliver Robbins: Er—

Chair: You can see where I am going with this.

Sir Oliver Robbins: Absolutely, Chair—sorry, I am trying to give you a serious answer. I cannot honestly put my finger on a moment where a junior UKRep desk officer's presence in a particular working group gave us a mind-blowing insight that changed the dynamic of the negotiation. What I would say is that I think UKRep's role of being the people in the atmosphere in Brussels and in the corridors, talking all the time to their opposite numbers in the institutions and the other member states, was a vital piece of colour for us. Not to pre-empt your next question, but I do not think that what the Government has done since I left my post necessarily precludes that—but certainly UKRep's role in understanding and getting a feel for the dynamic in Brussels was invaluable.

Q112 **Royston Smith:** Sir Ivan Rogers told us in his evidence that he felt that it was not possible to run a Department such as DExEU, build a Department from nothing to 600 people, be sherpa and be responsible for bilateral Irish policy at the same time. Does your move from DExEU to the Cabinet

Office in 2017 prove that the Government agreed with his subsequent assessment?

Sir Oliver Robbins: I suppose I would make one slight correction, whether of what Ivan said or perhaps more of how he was understood. Of the three tasks you laid out, Mr Smith, I do not think that DExEU was ever responsible for Britain's bilateral relationship with the Republic of Ireland. As I said earlier to the Chair, throughout my time, the Foreign Secretary remained responsible—formally and in real life—for those bilateral relationships. In the case of Ireland, we also have another Department of State that is intimately involved in that relationship, the Northern Ireland Office, and it was crucial—I am sure it will remain absolutely crucial—with a senior Secretary of State around most of the committee tables that mattered. Almost more than any other issue, on Ireland we always had a co-ordinating role in respect of Brexit, but not a sole lead over the relationship. Given the breadth of the political, people and economic relationship with Ireland, that would have been a bit odd.

Was the job manageable and was the decision to change the structure in late '17 evidence that it never was? I would say, slightly defensively, that I hope it was manageable, because I tried to manage it for a year and a half. As I explained to the Chair at the start, as we entered the formal stage of the negotiations through 2017, where I was not invariably but quite often living in a hotel in Brussels and spending days and nights at a time there, away from the vast majority of those 600 people and the incredibly important bread and butter issues of running a Department and its morale, I increasingly felt a bit of guilt that I was not giving as much to that as I would have wanted to as a permanent secretary and somebody who cares about doing that bit of the job well.

What is sometimes said that I do not agree with—I do not think Ivan does either, although you should ask him—is that somehow the dual reporting to the then Secretary of State, Mr Davis, and the Prime Minister, was inherently a tension that was bound to fail. For most of that time, it worked well. Mr Davis had approved it at the start and was conscious of it, and it was manageable. The workload was tough.

Q113 **Royston Smith:** On Northern Ireland, as the Prime Minister's sherpa, how responsible were you for managing the relationship with Ireland? What responsibilities did you have in addition to the Northern Ireland Office, DExEU and everyone else?

Sir Oliver Robbins: At the start, I was DExEU. The relationship between the UK and Ireland over the 20-odd years of my career has genuinely been one of the three or four most important relationships. Every UK Government I have served, and each of the Prime Minister's I have had the privilege to work closely to, have cared more about that relationship than any relationship in the world, apart from than three or four others. That is sensible, right and proper. Like any relationship of that type—the US, French and German relationships—that means that there is a sort of gravitational pull towards the centre. You only need to look back at Robert Armstrong and his work on the Anglo-Irish agreement.

The nature of this relationship means that the Taoiseach and the Prime Minister are absolutely central to making it work. Once the referendum had happened and we realised how profound the consequences of the United Kingdom's decision would be for the UK-Irish relationship and for Northern Ireland, it was right that there was a strong focus at the centre on the Irish relationship. That was driven from the Prime Minister and the Taoiseach down—or both Taoisigh with whom she worked. I am not at all surprised that Brexit and the Irish relationship became very closely intertwined, because it was almost as central to Irish politics and economics as it was to British.

Q114 **Royston Smith:** I have just a tiny question on that. I am going to say your words back to you, but I am not trying to catch you out in any way. You said that we realised how profound that was after the referendum, so we realised after the referendum. Did we not see that before the referendum? Was that not central to the referendum? I said to the last witnesses that it seems like it has been going on forever. We all thought we knew all this, but we didn't know as much as we know now, of course. You said that you realised how profound this was post referendum.

Sir Oliver Robbins: To clarify what I meant, we realised the extent to which it was going to dominate the process once we were into the process, which was slightly inevitable. Like Raoul, having been more an observer than a participant in the referendum campaign, I remember thinking at the time about the issue and hearing politicians and former Prime Ministers speak about it powerfully. I don't think anyone can claim that it was a surprise.

If I look back and I am personally self-critical, but on behalf of the machine a little, I think we had all to some extent professionally grown up in a world in which the movement of goods was a really very boring and obvious thing, and the movement of people was interesting and politically controversial. We therefore thought that the central issue in settling our post-Brexit relationship with Ireland was going to be the maintenance of the common travel area and the mutual sustainment of rights for Irish people and British people in one another's territories. On the core of the identity problem that the Good Friday agreement had attempted to solve, I think that—to criticise only myself—I was probably slower, I hope by weeks rather than months, to come to the realisation that as a bureaucrat, the people side of it was, without being complacent about any of it, an easier problem to see one's way through than the movement of physical goods.

Q115 **Royston Smith:** Can I ask you about Whitehall structures, the official and unofficial forums, what involvement Ministers—in fact, everyone—had in setting Brexit policy, and which Ministers attended either official or unofficial forums to discuss it?

Sir Oliver Robbins: How long have you got? Part of the reason why it is difficult to explain is that over the three years I was involved, the Prime Minister made several changes to the Cabinet and sub-Cabinet governance

arrangements on Brexit. Even I occasionally struggled to remember all the acronyms of the different committees.

To try to answer your question properly and directly, in my view and in the way I was trained, the role of a senior official advising the Prime Minister means that you are always trying to do two things. You are trying to support them in thinking their own way through some of the hardest problems that the country faces. You are also trying to support them in achieving alignment and consensus with their Government colleagues on the right way forward on those issues.

Of course, those are seriously overlapping tasks, but preparing the Prime Minister to do each of those two tasks takes a slightly different format. You can’t normally run a whole Cabinet training session; you very occasionally can, and they are very fun when you can. On the other hand, it is risky, although we did it a couple of times, to run a session with the whole Cabinet where we genuinely open up the whole position and ask people to try to make some of their own connections and come to some of the answers themselves.

I tried very hard to make sure that the then Prime Minister felt properly supported in her extremely rigorous approach to understanding the policy problems on which she was trying to chair the Government to a solution. It was always with first Jeremy Heywood and then Mark Sedwill looking over my shoulder, making sure that I and my team were delivering high-quality, accessible, thoughtful products to Ministers collectively that would enable them to debate those. Where those could be the same things, that saved me a tiny bit of work.

Q116 **Royston Smith:** Was the Foreign Office a key decision maker in Brexit policy?

Sir Oliver Robbins: Yes. First, in terms of the senior official structure, it wasn’t sensible or possible—I therefore never thought to try to do this—to try to have a steering group of senior officials who would help me to think these issues through without having Foreign Office expertise in the room. Very often, that was Foreign Office expertise provided through the permanent representation in Brussels, but it was also very often from King Charles Street here in London.

Secondly, as I am sure the Committee has heard at other points, a lot of the issues that came up, even in the quite detailed and apparently boring bits of the withdrawal agreement, were really foreign policy issues in formal terms, whether it be the status of our sovereign base areas in Cyprus or, even more prosaically, the privileges and immunities granted to European Union institutional employees in the territory of the United Kingdom. Those are issues for the Foreign Secretary and his Department, so the Foreign Office was a core part of the working team in Brussels for those negotiations.

Thirdly, of course—I should not stray beyond my personal policy expertise, but the Committee will have access to more on this—there was, and

remains to some extent, a big question about precisely what foreign policy relationship the United Kingdom wants with the European Union in the future. There, of course, the Foreign Secretary, at Cabinet and in its Sub-Committees, was the lead presenter and driver of the debate, and the senior Foreign Office personnel who worked with me on those issues were normally the people I would then call upon to try to present some of that thinking alongside me in Brussels.

I would have said, of the three or four Departments that I called upon the most and whose numbers were on metaphorical speed dial the most, the Foreign Office would probably be up there.

Q117 **Chair:** May I go back to a couple of the points you made about Northern Ireland? How much of the issue do you think was down to the fact that the Government had made very little contingency planning and Oliver Letwin had had a very brief—not as long as he thought—moment to do contingency planning? You may think that was a good thing; I will leave you to judge that. How much of it was down to a lack of contingency planning before you got into the talks?

Sir Oliver Robbins: This is very much a personal view, Chair. I know debate continues to rage, rightly and understandably, about whether it was the right political decision not to do contingency planning. I think—as I say, this is a very personal view—that you can probably overdo the extent to which a vast Whitehall process of churning out ring-binders full of papers pre-June 2016 would somehow have meant that the British state was far better prepared afterwards. That is no denigration of the efforts of my then colleagues, but I think this was as much about the extent to which Ministers, and politicians more generally, were ready for that next stage of the argument.

The fact was—I am sure everyone remembers it vividly—the country and its political leadership were engaged in the previous battle in June 2016. If my Cabinet Office colleagues who were in post at the time, or more generally across Whitehall—I was in the Home Office at the time—had been asked to produce a paper on what the border looks like after a no vote, a leave vote, I think we would have ended up in a position whereby we would have produced what I hope would have been a good policy piece of work, but I am not sure anyone would have read it.

Q118 **Catherine West:** Just to push back on that a little, as a new MP when the decision came through, I found that there wasn't even a briefing in the Library for what I thought was going to be a constituency meeting for EU nationals but turned into 500 people who just turned up at the venue—many of them were in tears, because I represent that kind of seat. It felt a bit inadequate to say that there was not even a Commons Library briefing, because there could have been some facts about article 50. There could have been some facts about the different approaches that the Government could take. Even perhaps not having spent a lot on preparations, there could have been a desktop exercise on what we would do.

For those of us who come from a local government context, even in an

election where you only have two members of a different party and they never win elections, you always go through their manifesto in very careful terms and you have a one-page sheet in case they win an election. I do not think that a lot should have been spent on it, necessarily, but Members then had to carry the burden of trying to explain it. We understood the arguments politically, but that is quite different from knowing what the next steps in the process are.

I think it was a dereliction of duty not to give those of us who had to try to explain it to our constituents at least some basic facts or a fact sheet. That also shows that there was not a recognition that each Member of the House of Commons will have to have an element of taking the project forward. That also meant that it got off to a bad start for Members, who were not led in any way.

Sir Oliver Robbins: I completely understand what you are saying. Without, I hope, sounding like a completely caricatured pedant, there is a difference between contingency planning and the provision of information. My recollection—as I say, I was more of an observer than a participant back in June 2016—is that the Government were pumping out what they regarded as information about the consequences of a decision to leave, including the process that the Government would likely follow, the implication of article 50 and the way in which the different options for the future relationship that the United Kingdom might pursue with the European Union might affect the United Kingdom into the future. I do not remember being short of Government information on those things.

I think Ministers at the time asked the civil service not to take that to the next stage, which would have been: having said that in the view of those Ministers, all those things would be bad things, can you now work out the best way of doing them?

Q119 **Catherine West:** But at what stage, as a professional— where the Prime Minister has resigned, very senior people within the structure have a responsibility, particularly when there is an absence in the top leadership. It is a duty of a civil servant; it is not just for the political people to tell you what your job is.

Sir Oliver Robbins: I am glad you asked me that. With respect, I disagree. I think it is the job of a civil servant to listen very carefully to political instruction as to the right way to proceed. Without boring you with repetition, I was not in the Cabinet Office at the time and I was not advising Ministers on the referendum, but I am confident that officials will have put forward to Ministers options for whether contingency planning should have been done and, if so, in what way. I am absolutely clear in my mind that if the decision of Ministers of the day was that we shouldn’t, that should have been followed.

Q120 **Catherine West:** So civil servants were probably blocked by Ministers from providing that information.

Sir Oliver Robbins: No, I think civil servants will have put the options to Ministers and, rightly and dutifully, followed their direction.

Catherine West: That is clear.

Chair: There was a paper in the Library in 2013 on leaving the European Union. I know it is not the same as a contingency paper; I am just saying that there were papers out there. I make that point because there is a difference between having a lot of information—much of which was disputed in the referendum, for a whole series of different reasons—and having a plan to go forward. I find it difficult to see how one could know what the plan to go forward was until one knew who was in government—

Catherine West: I think the House of Commons has a duty to tell constituents some basics about where you go forward 10 days after an election. It was not the Saturday after—the 23rd—but the Saturday after that. There was still nothing in the Library. I went into a meeting with 500 people empty-handed, with nothing from the House of Commons Library.

Chair: I understand the point. The point I am making is that if the country votes to completely change its relationship with all its major trading partners, the status of all citizens in the European Union—including our own—and the status of our imports and exports in one go, I am not sure it is totally unreasonable for the civil service not to be able to provide contingencies within two weeks.

Catherine West: I think our witness has confirmed that that information would have been available, had that been released.

Q121 **Chair:** That is not quite what he said. Do you want to clarify what you said?

Sir Oliver Robbins: I should say that this is with no knowledge—perhaps that suggests I should shut up—but I am confident that Ministers will have been asked what it was they wanted the service to do in preparation for the outcome. I know for a fact, because I was tangentially involved in some of it, that the service supported Ministers intensively with putting out information about the consequences of both remain and leave—remaining with the then Prime Minister's then deal. But if the instruction from Ministers was that that was as far as they wanted the service to take it at that point—I thought I was answering your question, but forgive me if I got you wrong—I do not think the service has some higher duty to say, "That is only Ministers' view, and we should go ahead and do something that Ministers just asked us not to do."

Chair: I think that would be profoundly undemocratic, were you to do it. Answering to elected politicians is exactly the—

Catherine West: It's okay; I would only ever blame Ministers in public.

Chair: I am quite sure that's right, Catherine.

Q122 **Ann Clwyd:** As one who came here from the European Parliament 35 years ago, I am still shocked at the lack of knowledge of what the EU has achieved during the period that the European Parliament has been in office. When I first went there, we were pushing for improvements in

employment rights. I was on the employment committee, so I know what changes were made. The European Union did strengthen employment rights for people all over the Union.

I do not just blame the British Government for not making that kind of information available—I agree with Catherine that I do not think we have had enough information. I also blame the European Commission, which had a responsibility in this country to disseminate information, and in fact has offices for that purpose in the various capitals. Again, they did not make use of that except for at election time, when they would bring boxes of material that would be delivered to our constituencies—those of us fighting European constituencies—with about a week to go. My criticism of them also applies.

For you as a diplomat, however, I wonder how you felt about the continuing pillorying of European negotiators and the fun made of them by the press, in this Parliament and elsewhere. How did you feel about that when you were in the middle of negotiations? A lot of it was very nasty and unfair. Perhaps you will tell us how you felt.

Sir Oliver Robbins: Perhaps I will start with the easiest bit of your question. I am not, to my shame, a diplomat. I have never yet worked in the Foreign and Commonwealth Office. I am a home civil servant.

To address your question properly, what Ministers felt for most of the time—in the Prime Minister's case, almost all of the time I worked on this issue—was that personal attacks, unkind words and sledging, effectively, of one team by the other were unhelpful. That is not just some silly civil service-ese for really rude and unpleasant; I just mean that it was genuinely a very unconstructive way of trying to undertake the process. At various points, the wider political systems of both sides engaged in it in a way that I think escalated temperatures and made it harder, honestly, to cut through to the real arguments. On the whole, British Ministers did not do that. I am pleased and proud that they did not.

I am also, if I may excuse myself one more personal note, immensely proud—prouder than I have been in my whole professional life—of the work of the small team of people who travelled this long journey with me from June 2016. If you take it all the way back to then, you can count on the fingers of one hand who went on that long journey. Many of them gave up weeks at a time, living in flats and hotels, arguing late into the night, missing memorial services and missing sons' birthdays. They were under constant scrutiny, followed from stations and attacked daily—normally anonymously—for the role they were playing. I would like to abuse my presence here and put on the record my enormous gratitude to them for what they did.

Chair: Can I add the thanks of the Committee? I know that not everyone on the Committee will agree with the outcomes or the details of the talks, but we are extremely grateful for the service and dedication that you and your team showed to our country in what must have been some very difficult times, even if divergent views on the outcome may follow.

Sir Oliver Robbins: Thank you, Chair.

Q123 **Chair:** Before I come back to Catherine, may I ask a somewhat fundamental question, which no doubt you will have heard asked before? One of the points raised by Pascal Lamy and others is that, to a certain extent, we started the talks the wrong way round—that David Davis was right and we should have decided where the bridge was going and built it there, rather than starting with the divorce and then working out whether we ever wanted to talk to each other again. Do you agree with that?

Sir Oliver Robbins: Can I give you two answers?

Q124 **Chair:** If it's more helpful, yes. Would it have been more helpful to approach it differently? Were there advantages and disadvantages in each?

Sir Oliver Robbins: Yes. Sorry, that is a very good way of putting it, so you have helped me out. What I meant was that, given the structure of article 50 as a legal instrument, and the commitment of both sides—in the British side's case, given before the referendum—to use and follow that instrument, it was inevitable that some degree of sequencing between settling withdrawal issues and describing in full technicolour the political shape of the future relationship was going to be the European Union's view. Given that, it probably was not actually as difficult or poisonous a problem for the UK to struggle with as some of us made it out to be.

I thought from the start—actually, this sometimes gets a little bit forgotten, and it doesn't really matter what I think. But the Prime Minister and Ministers made clear—the PM very vociferously—that what really mattered was bringing these things to a conclusion in parallel and making sure that Parliament was not confronted with the detail spelled out of our withdrawal, without any sense of the kind of future relationship that both sides were committed to crafting. If I had one thing etched on my brain every time I got on the Eurostar—fine, whatever issue I was dealing with in that set of meetings, I needed to deal with it, and I had a mandate and I needed to get on with trying to bring that to a conclusion—it was that I had to keep trying to get everything moving in parallel, such that I could successfully, in the end, with the help of my team and with Ministers, get to the point where the Government was presenting back to Parliament something that felt cohesive across both withdrawal and the future.

Q125 **Chair:** The reason this keeps coming up—and you will have heard it keep coming up—is that that is clearly not where we are. We do appear to have a withdrawal with a very vague, indeterminate future, which we are calling the political declaration but could be called many other things. Given that that is the case, was there another way to approach this? I do not mean just for the UK but for the European Union as well. After all, these talks are, if one wants to look at the big picture, merely the latest in a 4,000-year history of us dealing with our nearest neighbours, who we sometimes call Norsemen, Vikings, Jutes or Angles, and sometimes call Germans, Danes, Dutch or French. In the sweep of history, this is merely another one of Europe's many internal squabbles. There is an argument that even

the European Union actually chose the wrong approach, and, in fact, responses like President Macron's in the early days after the referendum were a more appropriate response. That was to look at the future building block of not just us but other outside states like Turkey or perhaps Ukraine and say, "Well, this is an opportunity for Europe to recraft itself and to look for help and support outside as well as inside."

Sir Oliver Robbins: Thank you. At the risk of frustrating you, to give you a bureaucrat's answer, there were 1,001—that is probably about the right order of magnitude—connections of precise public and administrative law between the European Union and the United Kingdom that in some way needed to be severed and, as neatly as possible, tied off. That is what the withdrawal agreement was about. What Ministers instructed me to do throughout that process, and what I think my team did brilliantly, was to start every conversation with the Commission with, "Let's not pointlessly cut cords that both of us wish to find a way immediately of retying." The then Prime Minister was also keen throughout that period to say, "Let's not always start the conversation with what bits of European Union membership we are desperate to cling on to. We are trying to build a new and different sort of relationship."

To give you a specific example, Chair, we spent a long time with the Commission on security-related databases—sounds nerdy but, as you know, very important. The Commission came at this—as was clearly said, I don't want to call anyone names—from an utterly proper, European Union-law perspective, which is, "You are now a third country. You will therefore participate in these databases only under the provisions of Union law as it pertains to third countries, and that is rather distant actually, so good luck."

Actually, where we ended up in the political declaration was with a commitment to a much closer relationship on those things. I believe that part of that was because of the way in which we handled the withdrawal negotiations and the way in which we showed earnest commitment to finding ways of approaching those administrative law issues in a tidy and smooth way. I do not think that would have been possible unless the British side of the negotiation—increasingly, the European side too—had always approached it with, "Where are we trying to get to? We don't want to cut these cords just for the sake of tidiness. There is something here that it is worth both sides trying to preserve."

Q126 **Chair:** The reason I bring this up is that, clearly, the question of Northern Ireland is not just one of goods or commerce; it is a question of identity. The genius of the Good Friday accord is the stated ability of people living in that patch of land to be British or Irish or both, according to their choice. The genius of that accord was the ability to give people the idea of a future, moving on from a rather troubled past. I wonder whether we really understood that in the conversations we have been having in Northern Ireland, and I wonder whether we are achieving that in the conversations we are having with the European Union. Forgive me, that is slightly unfair, because you are here to talk about process—but was there a way to structure the talks, the process, to focus more on the future, in

that sense?

Sir Oliver Robbins: I think there would have been, yes, Chair. If I were designing—as you said in your first question, ideally for both sides—a process with what my team and I have learned over the past three years, it would not look precisely like the one laid out by article 50 and then slavishly followed. With the specific question—you are, I think, right to look at it through this lens—of Northern Ireland, it is no surprise, as one of your colleagues said earlier, that in some ways it remained one of the most knotty issues to the very end of the talks. I do think that, at a couple of junctures over the past three years, probably both sides, looking back, could have explained better what they were really worried about in that context.

Given that I am here, as you kindly reminded me, to help you with the process, I would say that at no point did I ever feel that Ministers were not getting that very Northern Irish-specific, very deeply politically aware advice, chiefly from the Northern Ireland Office, but also, incredibly helpfully, from our contact with the Northern Ireland Executive civil servants. At various junctures—Ministers are on the record about this—we were of course hampered a little by not having Northern Irish Ministers in place.

Q127 **Chair:** Were we not also hampered by the fact that the authorising authority for the UK, which as you say is Parliament, was hampered after 2017 because, for the first time in decades, there was no voice of Irish nationalism in the House of Commons? The only representation on our green Benches was the Democratic Unionist party, who—for all their merits—only speak for a community, and indeed only a part of a community, in Ulster.

Sir Oliver Robbins: From my area of knowledge, I can confidently say that the Cabinet and the Prime Minister were well aware of the interests and concerns of the nationalist community throughout, and of the Unionist community, and they focused very heavily on both. The NIO has been one of my closest partners in making sure that they get that information.

Q128 **Catherine West:** We will rattle through these now. On resources, was your recollection that the article 50 negotiators on our side had the same resource as the other side, the EU side?

Sir Oliver Robbins: We approached the business of negotiating in a slightly structurally different way. I would say proudly, but I hope without complacency, that one of the strengths of the British administrative system for many years on Europe—you got a flavour of this from Ivan, in his evidence—has been relatively thin co-ordination and relatively deep departmentally based expertise. I hope I brought some of that out in my evidence about the Foreign Office and the role it had played, but you could take HMRC and the Treasury on customs policy, or the NIO, as I was just saying, on Northern Ireland.

The taskforce 50 model—which appeared to us equally valid, but a bit different—was to bring point people right into a co-ordinating team and

manage the interaction with us very much from taskforce 50. We very rarely met, certainly in the early stages of the process, Commission officials who were not taskforce 50 officials, whereas our model on the whole was that there would be one or two DExEU, Cabinet Office or UKRep people, who were the glue between the different meetings, but if we were presenting on the UK's future involvement in the common foreign and security policy, the Foreign Office and the Ministry of Defence would lead the presentation, engage with the questions and put our points.

It was a slightly different model, which is a bit of a roundabout way of saying that a precise comparison, "They had X people and we had Y people," doesn't really work. If it is any help, I never felt—as the person charged with trying to lead that team as a senior official in Brussels—that I didn't have access to the people I needed, or that we were short of people. There were some diminishing returns from having too many people out in Brussels at one time.

Q129 **Catherine West:** Could you describe how the tunnel negotiations work and the roles of the UK and EU diplomats in that process?

Sir Oliver Robbins: Without debunking an important and entertaining myth, the tunnel—

Chair: Please don't tell me that the Brexitcast is wrong. They would be heartbroken, if you were to say that.

Sir Oliver Robbins: The concept of the tunnel—which is more one that my European colleagues were attached to, but which never meant an awful lot to me—was that it meant a different modus operandi for my European colleagues in how they briefed the member states. When they regarded themselves, in their language, as going into a tunnel, it meant that they said less to the member states about what they were exploring with us. At sensitive points in the negotiations, that was very helpful to us. I don't remember the meetings with the Commission feeling terribly different from our point of view.

Q130 **Catherine West:** You said that you dipped into different Departments when you needed their expertise. What were the FCO's priorities for the political declaration, for example, when you were leading the negotiations? A little time has elapsed now, but just to give us a flavour as we scrutinise the work of the FCO, what would you have gone back to them for, when were they needed and when was their advice sought? How did you align all the different elements of information—because I am sure that everyone has a slightly different perspective—that you had to then calibrate and present?

Sir Oliver Robbins: None of the political declaration, as a whole, was easy—without blowing our collective trumpets—but quite a lot of it, by percentage of words, was not massively politically difficult for either side. As I said to the Chair earlier, a lot of that was thanks to the hard graft in the withdrawal treaty negotiations, which established some sense of common purpose in some of these areas. Foreign and security policy was one of the successful areas, where that debate with them about separation

had achieved a bit more of a common sense of where we wanted to get to.

To answer your question briefly, on the part of the future relationship that was, bluntly, foreign policy, there was no point in me trying to invent my own way forward on any of that. My team relied very heavily on the advice we were getting from the Foreign Office and, as I mentioned earlier, on having the Foreign Office alongside in parts of those negotiations. That is Foreign Office London, I should say. We almost always had UKRep with us.

Then there is a whole series of potentially very tricky problems. I mean, the one I could talk about for a long time, but you won't want me to, is Gibraltar, where there was deep Foreign Office expertise in the law, the history, and the relationship with the Government of Gibraltar—again, I wouldn't have dared to utter a sentence without having checked that I was in the right place on all of that.

So there are some big strategic areas, like foreign policy, and then—often as valuable to me as a human being, obviously—there was the deep expertise of some of my Foreign Office colleagues on some of those problems that we knew could completely trip us up if we got them wrong.

Q131 **Catherine West:** Just our or information and for the tape, in the Commons it was always very clear that the Prime Minister was extremely well briefed from all the different Departments. Obviously, in terms of the role that you were playing, the information level and the number of questions that were answered in the Commons, were all very good.

Sir Oliver Robbins: Thank you.

Q132 **Ann Clwyd:** Can I ask you who in government was responsible for drawing attention to the importance of the Northern Ireland border issue, before the referendum and afterwards?

Sir Oliver Robbins: Again, sorry for the stuck record, but I wasn't there. However, before the referendum the logical answer would be that responsibility for Northern Ireland and the relationship with the Republic of Ireland were for the Northern Ireland Office and the Foreign and Commonwealth Office.

Q133 **Ann Clwyd:** So no particular individual?

Sir Oliver Robbins: Not that I know of, no. Clearly, a number of senior individuals would have played a role in making sure that Ministers of the time were briefed on some of the issues arising, but I think that those two institutions, as I hope I have consistently explained, would have been central to understanding that set of relationships.

Q134 **Royston Smith:** Was the current version of the Northern Ireland protocol discussed with your then opposite number in Brussels while you were leading the technical discussions?

Sir Oliver Robbins: If you will forgive me, I think that, as far as possible, I should try to help you out on process rather than on the underlying decisions of policy that the Ministers at the time—certainly, now—have

reached, because "now" I don't know, and "then" still remains for them. All I would say is that there was almost no idea, as we struggled through 2018 to find a way forward, that we didn't test at one time or another. I don't think the text that has been delivered by Government to Parliament in recent days—I don't remember seeing anything exactly like that.

Q135 **Royston Smith:** In your opinion then—having not seen anything like that, you don't think—how does this differ to the things that you were negotiating?

Sir Oliver Robbins: If I may, Mr Smith, I think that is drawing me into territory where I will not really be able to be very helpful to the Committee, because I've not been responsible for the package that the Government have delivered to Parliament in recent weeks. And I think also that I really ought to stick to trying to support you in understanding the underlying process behind the negotiations, rather than trying to comment on the merits of various available deals.

Q136 **Royston Smith:** I'm not trying to draw you in, and I'm not asking for merits. I'm just trying to understand. Of all the people who understand what has been discussed in the last three years, what was proposed before and what is being proposed today, you probably are the best person to understand the differences between those negotiations that you had and what is on the table now. Not with an opinion or anything, but how that differs.

Sir Oliver Robbins: I obviously thought and studied very hard the issues behind the deal that then Ministers signed up to in November 2018. I hope, on a human level, that members of the Committee might understand that I have not spent my autumn trying to revisit all of that joy in respect of the current deal.

Q137 **Chair:** All right. In the coming months and years, clearly the role of the Foreign Office in supporting these negotiations and the way in which Whitehall was structured will be being reviewed. Today's session was, if not quite a first, then a very early attempt to understand where our foreign policy machinery succeeded and failed in what has to be one of the biggest negotiations that the Government have conducted in generations. Are you going to be putting your mind to this any more? Are you going to be giving it some thought as you move on into a different role? The reason I ask is that it would be of enormous advantage, surely, to the UK to be able to have not just you, but the experience of those who were part of this momentous negotiation to help to shape what will now be another five or 10-year process, depending on who you ask, as we negotiate the next stage of the Brexit talks.

Sir Oliver Robbins: Thank you, Chairman, for the kind way that you asked the question. I have offered to the Cabinet Secretary and colleagues surviving in the system and working on these issues any support that I can give with the various options, structures and issues and, of course, lessons that we should learn from the past few years. I have left behind some thoughts and some papers for them to consider. Despite the often very kind comments of this Committee, I am at pains to remind you that I

was only one person. The team, which I was very proud to lead, had some of the most capable minds in the civil service in it, and most of them remain in connected jobs. It is not as though, with my moving first to academia and then out of the civil service, the civil service has lost even a measurable percentage of its expertise on these issues. Some extremely high-quality expertise and experience has been developed and left behind, and I remain happy to help anybody who wants to think seriously about how to make the best of it over the coming months.

I should say that the privilege of doing this brief sabbatical in Jeremy Heywood's name at the University of Oxford is deliberately, on my part, an opportunity to step back and think a little bit about some of the culture and framework of the civil service as it has been tested over the past few years—beyond the past three, I think—and the values and qualities that I hope will be important in the future. It is not that I have been able to completely leave it behind.

Chair: I know I, and I think many others, will be very grateful for your thoughts. Genuinely, in a non-judgmental fashion, it would have been impossible to get everything right, and it would be interesting to know, starting again, what you would have done differently and why.

On behalf of the Committee, thank you enormously, not just for your time in these talks, but for your public service over an extraordinarily distinguished and very youthful career, where you have quite literally risen to the heights at exceptional speed and served our country in numerous roles with exceptional talent and diligence. Thank you.

Sir Oliver Robbins: That is very kind of you; thank you.