Michael Russell

President of the SNP November 2020 – Present

MSP for Argyll and Bute May 2011 – May 2021

Cabinet Secretary for the Constitution, Europe and External Affairs February 2020 – May 2021

Cabinet Secretary for Government Business and Constitutional Relations June 2016 – February 2020
Cabinet Secretary for Education and Lifelong Learning December 2009 – November 2014

MSP for South of Scotland May 1999 – May 2003, May 2007 – May 2011
Minister for Culture, External Affairs & the Constitution February 2009 – December 2009

Minister for Environment May 2007 – February 2009
SNP Chief Executive December 1994 – June 1999

28 May 2021

The 2014 and 2016 referendums

UK in a Changing Europe (UKICE): Was the UK's membership of the European Union, and the prospect that independence might make it difficult for Scotland to join the EU, a factor in the outcome of the 2014 independence referendum?

Michael Russell (MR): Yes, I think it was a very considerable factor. You've got to actually put it in a wider context than that. For Northern Ireland, for Wales and for Scotland, devolution was established when the UK was part of

the EU, and the links that were set up post-devolution took account of that. For example, when I first became a Minister in 2007, it was expected that you had to seek permission – though it was always granted – to attend European Councils, to be part of that discussion.

The mood in Scotland towards the EU has also changed quite substantially during my lifetime. It had gone from, if not a hostility, then a desire to be convinced, in the 1970s, with two areas of Scotland voting against EU membership for a variety of reasons. Fishing was one and, to a limited extent in one limited area, a certain religious element was another one.

But by 2014 there was a much more positive view of Europe, which had come about for a variety of reasons, some of which were political and some of which were due to the change of stance that the SNP had had, led by Winnie Ewing and then subsequently by Jim Sillars, with the ‘independence in Europe’ tagline that Jim was very influential in bringing forward.

Jim being Jim, he has now changed his mind, of course. But that is the one constant of Scottish politics, that you can always rely on Jim to change his mind.

So, the idea that Scotland, as an independent country, could not be or would not be part of the EU was completely bizarre. I think it took many of us by surprise, that that became a big issue. I think, for many of us who saw what was taking place, we began to realise that this was part of the UK game plan. It was the (David) Cameron game plan to work against independence in this way, and to call in favours within the EU, and particularly with key people within the structures of the EU, because of the possibility of the UK pursuing an in/out vote on membership, and the desire of the EU to avoid what became Brexit.

So, it became a very important issue. Along with currency, it was one of the two key issues, and it was played as such. It affected a lot of people – maybe it wasn’t entirely decisive but the idea of a Scotland outside the EU was economically and culturally difficult.

Some of the arguments that the independence movement, and I, used have been changed by circumstance; the fact that we argued that you could seamlessly continue within the EU, that is no longer possible as the UK is not a member. We also know much more know about accession and how it works as a result of seeing at close quarters what has been essentially a process of de-accession by the UK.

So, it was a very serious issue, and it became an even more serious issue during the campaign, and it was one of the determining issues.

There were others. One of my abiding memories of the 2014 campaign is sitting outside the Bank of Scotland in Tarbert next to an old lady who was going in to take out her savings, because she was convinced that there would be a run on the bank and that there would be no money for her. She was being told that, essentially by the 'No' campaign. But Europe was important, and the issue of the EU was important, and remains so.

UKICE: Do you think you could have made more of the fact that the UK's continued membership of the EU couldn't really be taken for granted, given the rise of UKIP in England, and the fact that David Cameron was promising an in-out referendum if he got a majority Conservative government?

MR: The idea of the UK willingly deciding to leave the EU was so outlandish that to use it as a political weapon seemed as daft as the people who were arguing that that's what would happen – the extremists of UKIP for example. There is a clip of Adam Tomkins somewhere arguing that it was a complete scare story, to say that the UK would leave the EU, and that this was complete nonsense.

There is also another clip of Blair McDougall, from the No camp, saying that Boris Johnson would never be Prime Minister. So, the moral of that is don't trust Conservatives, which we should have known anyway.

But the reality of the situation was that was not used, because people thought it was extraordinary and unlikely to happen, and Brexit would have been easily dismissed as being something that was simply not going to happen. Because it didn't, of course, happen in Scotland.

I've been thinking quite a lot in recent days about the week of the referendum itself. I think the reason we were lulled into a false sense of security in Scotland was because the mood in Scotland was very profoundly in favour of staying in the EU, which was a result, to some extent, of the 2014 referendum. There was simply a view that it could not and would not happen.

I was slightly nervous about the result before Jo Cox was killed; it seemed to me that there was a slight infection of Brexit sentiment coming over the border, but you felt it ebbing after that. I remember being on a ferry going across the Clyde, I think the day before polling, and it seemed to me that, from the conversations I was having, as the local MSP particularly and someone known for my European stance, there was no doubt that there would be a very firm vote in favour of remaining, as indeed there was.

UKICE: Did the referendum itself seem different in tone and intensity in Scotland, compared to the independence referendum?

MR: Oh yes. Chalk and cheese. The political temperature was very low. It took place six weeks after the Scottish Parliament election, which had been very intense, and it was not a huge issue in that election. Looking back at it – and I'd have to go and do the research – it strikes me also that that was not a huge issue in that campaign. The assumption was that in Scotland there would be a vote to remain.

The temperature wasn't high. Now, one of the Liberal arguments at the present moment is we did not work hard enough, as a government, as a party, to secure a Remain vote. Well, we got 62%, which wasn't bad, perhaps we could have got 64%, 65%. It wouldn't have made a difference in terms of the overall UK numbers, and it wouldn't have actually produced a result from the UK that was different.

But it was very, very low key. As a local MSP here, I would have been involved in distributing a few leaflets. I think we did a bit of street campaigning. It was nothing like the intensity of the 2014 referendum. I set myself the task, in the 2014 referendum, of speaking in every village hall in Argyll and Bute, and this is not a small task, there are 23 inhabited islands and something like 80 village halls. I didn't quite make them all but I did most.

But it was nothing like that at all. And there was no public mood like that at all. Now, regrettably, I have to say, from what has happened, there just wasn't.

UKICE: Do you think that contributed to the slightly lower turnout in Scotland, compared to England and Wales? A sort of election fatigue following the Scottish Parliament election?

MR: Turnout is a product of perceived closeness, classically. And it was not seen as close, it was seen as something that wasn't going to happen. Therefore, there was no great pressure on it.

We did a photocall outside the Scottish Parliament a few days before the vote, there must have been press material on it. We had quite a few Tories. In the Scottish Parliament, there was nobody on the SNP benches who admitted to being a Brexiteer. There turned out to be one, in the end, but a very close ally of (Jim) Sillars, a very contrary position. On the Labour benches, there were a couple, one who admitted it and probably one who didn't. On the Tory benches, four or five perhaps.

And everybody else was in favour of remaining and most were at that photocall. Everybody thought it was a done deal and in the bag, and essentially, that's the problem.

UKICE: One of the things that we were told was that the leaders of the Remain campaign drew lessons from the independence referendum, particularly in their thinking that the prospect of a more uncertain economic future would swing it. Did you look and think, 'These people are drawing the wrong lessons from the referendum?'

MR: No, I didn't. I wish, with hindsight, I could say that. In Scotland in 2014 it was a successful UK campaign that produced a result against independence and it was one that was rooted in what they called "Project Fear". So they were right to assume it would work again, but the difference was, I think, that the Leave campaign decided that our detailed approach in 2014 was wrong. Instead they went for broad brush generalities and mood music. That is what the difference was.

But we probably didn't see that too much as there wasn't a vigorous Leave

campaign in Scotland either. I mean, Michael Gove turned up and talked supercilious nonsense about immigration and things, and made all sorts of promises that did not happen. But, actually, it was very limited and it didn't really have much impact.

UKICE: Where where were you when you heard the results?

MR: I was in bed.

UKICE: And presumably you were quite surprised as well?

MR: Indeed. I have a very acute memory of it, part of which I documented. I'm a photographer, and I do a photograph every day on a website called Blipfoto. I've done it for 10 years. It documents my life. And there is one which I think is quite a good picture, from 24 June 2016, which is a very threatening picture of a ferry in the Island of Mull, at Craignure.

I didn't go to the count, I stayed at home here, because where the count takes place is an hour and a half away. I was going to hold a surgery in Mull the next morning. It's two hours to Oban, and almost an hour on the boat. I had gone to bed, assuming that Remain had won. And my wife shook me, at about three or dfour in the morning. She had her iPad open, and she said, 'I think you'd better look at this'.

I couldn't believe what I was seeing. I just thought it was unbelievable. I didn't go back to sleep, I had to get up, I had to get dressed, I had to drive to Oban early in the morning. I was listening to the radio coverage driving to Oban, just finding this impossible to believe.

The moment at which (David) Cameron came out and made his speech was when I was driving through the Pass of Brander, where the signal is terrible, so I missed most of what Cameron was saying, it came and went. I got to Oban and I was quite shell-shocked. I went and got a ticket and got into the car and drove the car onto the ferry.

Then it's 45 minutes or so from Oban to Craignure, and I went to get a bacon roll or something. It was like a surgery; people kept coming up to me on the boat, and wanting to talk about it. We did talk about it, and it was impossible to

predict what would happen. I also didn't know what my involvement was going to be, I was out of government at that stage.

It was just very strange. I got off the boat, and I remember taking the picture- I talk about it being lowering and threatening. There was just this sense of unreality, that this couldn't have happened. And if it had happened, this must be a parallel universe or something.

Then, as the day went on, people, as they always do in Scotland, began to say, 'Well, it can't be that bad, we'll find a way around it'.

UKICE: Was there any messaging coming at that stage from the First Minister, about what you should be saying and how you should be reacting?

MR: Contrary to what the view of the SNP is, we are not a group of automatons.

I assure you that is not the case. I wasn't in government; I suppose I would be called a leading former minister, but I wasn't in government.

It was quite obvious from the beginning, from the people I was talking to, that there was a sense of disbelief right across the political parties. I mean, Ruth Davidson was indicating how shocked she was. Kezia Dugdale was the Leader of the Labour Party at that stage, and was talking about how shocked she was. Indeed there was, apparently, quite a lot of dialogue going on.

But Nicola moved very quickly, to reassure people. With her usual feel for this, she was very quick to reassure EU nationals, and also very quick to say there has to be a way forward for Scotland, because Scotland had voted to stay. I spoke in the first debate on this, which would be within the week in the Parliament.

And I remember commending what she had said for that, because I felt it had set the tone over the weekend, and I remember getting in touch with her, I think, on that Monday or Tuesday, and saying, 'I think your tone is absolutely right in this and I think you are providing the type of leadership that we need'.

I had always regarded Europeanism as a key part of who I was as a politician,

and it was therefore profoundly challenging in that regard. But it also seemed to me that it did define, or started to define, what the issues were again between Scotland and elsewhere. We had said, in our manifesto in 2016 – specially said – that taking Scotland out of the EU could be a trigger for a referendum. So, that was in my mind too.

I think the biggest thing was just shock at it, and an element of triumphalism south of the border. But also a complete lack of knowledge of what would happen next. I mean, it was absolutely without precedent, and therefore, what the hell would happen?

Forging the Scottish Government's Brexit policy

UK in a Changing Europe (UKICE): You were formally appointed in August. Did you begin to feed in more regularly into party discussions about what to do from June onwards?

Michael Russell (MR): Not really. I had just become Chair of the Parliament's Finance and Constitution Committee. I had not thought I would do that, and then I was actually persuaded by John Swinney, who was the former Finance Minister, to do it.

So, I was just taking that on. It was obvious that we were going to have the constitutional role as a committee, which was a new role for the committee, and that was going to become quite an issue. So, I was thinking about that. But in terms of formally feeding in, I probably spoke to people, but I wouldn't put it as grandly as that.

I was very surprised to be asked to come back into government, I had not expected to be a minister again. Therefore, I was actually chairing an away-day for the committee in Stirling, when the then-Finance Minister, Derek Mackay, let slip that morning that they were going to appoint a minister. I think I actually said to him, 'I wonder who that is', and he said, 'It might be you', and I said, 'No, I don't think it's going to be me'. He knew of course.

Then, driving home, I heard from one of the spads that Nicola wanted a chat, and the rest just happened. But it was a big surprise to me and, given the nature of it and what I then had to put up with for the following five years,

maybe I was foolish to say yes!

UKICE: Did Nicola Sturgeon mention the conversation she'd had with Theresa May, when she came on her visit to Edinburgh? Did that give you any reason to expect that Scotland's views would be taken into account, as the government decided its Brexit process? Or had you looked to what was going on down south, with the appointment of people like David Davis and the creation of the Department for International Trade, and thought, 'We're set on a very hard Brexit already'?

MR: You've got to remember, this is before the Lancaster House speech, well before the Lancaster House speech. I don't think there was any indication of an openness from Theresa May, but then we didn't quite know how closed she was.

As you got experience of Theresa May, you began to realise that, when she said she wanted other people's opinion, what she really wanted was to tell you her opinion. She wasn't interested in other people's opinions, and I saw that often enough.

But they had no fixed position on many things at that stage. I'm sure they hadn't decided on the issues of the Single Market or the customs union. My first conversation with (David) Davis was in early October, in Glasgow. But on the Tory Conference speech, May had been in touch with Nicola, and Davis had been in touch, and we were told in advance that she was going to make an announcement about what turned out to be the Withdrawal Bill.

When you actually think about it, it was a fairly obvious thing to happen, but it seemed a shock at the time, because nobody knew when Article 50 would be triggered. So, that was the announcement. I then met David Davis, so we knew that they were going to proceed in a certain way, and the first stage of that was to put together a Withdrawal Bill, so that they could then move forward with the Article 50 letter.

We had a conversation, Davis and I, in Glasgow. As ever with Davis, it was entertaining, civilised and not very deep. We had a conversation, we then had the Downing Street meeting, which was a JMC plenary. The JMC process is utterly bankrupt, never achieves anything, but it was still operating, at least. It

doesn’t operate at all now.

We had a Downing Street meeting, and I think that was our first experience of how whatever was said, by whatever devolved administrations, it would make no difference.

There was a very striking moment during it which, certainly for me, was very symbolic. Martin (McGuinness) was there. Martin was coming to the end of his life, but we didn’t know that, of course, at the time. May starts to go along the table; I think Nicola spoke first, and then I think maybe Arlene (Foster) spoke, and then Martin.

And Martin was absolutely extraordinary, very incisive, and said, ‘Look at the problem you have created’. Now remember, in Northern Ireland, they had managed to agree this letter between them, which was a miracle. But he said, ‘Look at the problem you have created’- essentially, he personalised it to her – ‘You are creating a problem, in which it is very difficult to see how progress can be made in Northern Ireland which is still in a very fragile place’. I can’t remember the exact words, but it was absolutely riveting. Everybody was listening to him.

And he talked about how the Good Friday process was being put at risk by this, and it was an immensely serious situation. Everybody was listening, and May was looking at him. When he finished, there was a beat, and then she just turned and went, ‘And now you, Carwyn’, as if it hadn’t got through at all. There had just been no penetration of what he said.

For me, that confirmed my growing view that she was not going to be influenced by anything but herself. From what I’d seen of her and heard, my own view of her is that she was a Brexiteer. She may not have had the courage to vote as such, but that’s where her natural sympathies were.

We came out of that, we started on the JMC(EN) [Joint Ministerial Committee (European Negotiations)] process, because the meeting agreed a remit for the JMC(EN) to have oversight of the preparation of the Article 50 letter, which was never, ever observed. We never saw the Article 50 letter.

UKICE: I’m sure you didn’t have any advanced sight or warning about the

Conference speeches, in the meeting with David Davis. Did people brief you afterwards about what they meant?

MR: No, no. To be fair to Davis, he was always very matey, there was no great difficulty talking to him. He would talk quite openly about things. He had a favourite phrase. He would sit in his office, with the window behind him, that looked over 10 Downing Street, and when he got to a bit that he obviously didn't want to answer or didn't know, he would simply say, 'That's above my pay grade, you'll have to ask my next-door neighbour'. He would sometimes say, 'Don't take this too seriously', or, 'This is what we're doing'.

There was a sort of unspoken view that they weren't quite as rabid as the speeches were. I mean, the ones who are there now are more rabid even than their speeches, but there was a view that that wasn't quite the case, and some of it was for effect.

There was also a view that Davis wasn't necessarily the key or most significant player, that the big decisions were made in Downing Street and he wasn't necessarily always a part of that. It is said – I don't know if it's true – that he hadn't seen the Article 50 letter until the day before. We, myself and Mark Drakeford, never saw it. No draft of it was ever discussed with us. We might have helped; we might have remembered Gibraltar which, if you remember, was missing from the Article 50 letter.

Everything was in flux, really, until the direction began to be set by the Lancaster House speech. We published our first Scotland's Place in Europe paper in December 2016, that proposed this compromise. I spoke to Davis about it on the phone, before Christmas, and then I went to see him in London in the House of Commons, in early January.

I said to him that I presumed that there was no firm decision on the issue of a customs union or the Single Market. He said no, there wasn't, and that was still under discussion. In fact, that was a week before the Lancaster House speech. Now, either he lied, or he didn't know.

That was the moment at which the red lines are drawn. Once those red lines are drawn, the fight becomes whether any of those red lines can be rubbed out or softened, not primarily about what we, the devolved administrations, are

going to get. That is the process we were engaged in.

UKICE: You mentioned the Scotland's Place in Europe document, and I think you also set up an advisory committee, the Standing Council on Europe. Could you talk us through its role and the thinking behind recruiting in a lot of people? It's a very notable contrast to what the UK government did, where they didn't involve outsiders in their thinking.

And what was your thinking behind that paper – were many of its recommendations a realistic prospect?

MR: I believe it was. I wouldn't have wasted my time if we hadn't though it was a realistic prospect. The Standing Council was set up before I became a minister. There was a special meeting of the British-Irish Council, sometime in July, which I wasn't at. But that was quite important, and I think it expressed the concern. It became a standing item on the British Irish Council, because I re-joined our delegation as soon as I was appointed.

In terms of the Standing Council, it's quite common for us to bring people in and involve people, academics particularly. It has certainly always been something I've done, and Nicola has done it too. It was important that we brought in the wider and deeper view that comes from such interaction, and we also made it clear that you didn't have to believe in independence in order to be against Brexit.

Therefore, there were some distinguished people called upon that who were not, in any sense, SNP supporters. I mean John Kerr is not, and was opposed to independence during the referendum. But we needed people with strong experience. It was set up by Nicola very quickly, but I took great advantage of it when I became the Minister, and talked to a lot of people on it.

There were some interesting people. Of course, one David Frost was a member of it when it started, because he was Head of the Scotch Whisky Association. I do not remember him speaking at the only meeting I was ever at that he was also at. Interestingly, when he was at the Scotch Whisky Association, I did the BBC's *Any Questions?* from Glasgow with him, and he must have spoken at *Any Questions?*, but I don't remember anything he said.

He faded away very quickly before popping up again. But there was a range of people who agreed to serve on the Standing Council and who did so for a long time. All of whom, we thought, found the Brexit situation to be difficult and unacceptable.

UKICE: And did they think that Scotland's Place in Europe was a feasible set of proposals? Did it emerge from them, or was that really thinking within the Scottish government?

MR: It emerged from a group of people, some of whom were in the government – civil servants, ministers – and some of whom were outside. A very key figure in this was Prof Drew Scott, who was one of our advisors, and who remained a key advisor to me during the whole time I was there. Drew was very deeply involved in it. There were others he knew, who were drawn into it.

It was a collective and collaborative effort. The idea was to do three things. Firstly, to draw up what we thought was an acceptable compromise, which would either apply UK-wide – although we were more and doubtful that they were interested in that – or whether it could apply for Scotland.

Secondly, to look at the devolution issues and to indicate where those were required to be changed or developed in the light of Brexit. And thirdly, to postulate the role of an independent Scotland in the EU and how that might come about. The series of papers that we published had those three elements in them, to a greater or lesser extent, throughout the entire period.

I mean, it became like a Victorian serial novel, actually; we just kept producing papers called Scotland's Place in Europe, in which we would add to the arguments. We did it on trade, we did it on a variety of things. But we were always serious about it, and serious about the ability to implement our proposals.

UKICE: Did any people on the EU side indicate that they thought the idea of Scotland remaining in the Single Market even if the rest of the UK left was feasible and worth pursuing?

MR: None of us knew at that time how that would work in detail. But it's not

the detail of the proposals that were important, it was the willingness to try and find ways in which different proposals would apply. That was taken very seriously.

The message we had very clearly was, if the UK government was willing to negotiate separate arrangements for Scotland, or Northern Ireland, or Wales – although Wales had this complication of having voted for Brexit – then that would be possible to put on the table, as long as the UK put it on the table. If the UK did not put it on the table, nobody else would. The EU wouldn't bring it to the table. So, everything lay within the power of the UK.

Brexit's constitutional implications, 2016 – 2017

UK in a Changing Europe (UKICE): At the same time as you were doing this, the UK Government is contesting the Miller case, on whether there was a need to seek the UK Parliament's consent to trigger Article 50.

I think you were also arguing that it's not just for the UK Parliament to seek consent, it's also for the Scottish Parliament to seek consent. When you looked at the Miller judgment, which seemed to be not necessarily desperately helpful on the Sewel convention, what was your reading of it?

If you'd actually had that power to consent, would you have withheld it from triggering Article 50?

Michael Russell (MR): Oh yes. We did withhold it. I think on every possible occasion, we voted against consenting to Brexit, and that was the right thing to do. If we'd have had the ability to stop Brexit, we'd have done so. I mean, it was always speculative. Because there is no written constitution as such, enforcing a constitutional convention like the Sewel was difficult as it relied on accepting unwritten agreements and as we know the current Tories don't even observe written ones.

I still think there is a statable and indeed proper case in that, because I think the intention of the House of Commons, which is quite clear from the Scotland Act, would be that this would not be a process to be taken lightly. The UK Government had never before vetoed a refusal from the Scottish Parliament, but it happened. The UK Government has never take a piece of our legislation

to court before, but they did that with the Continuity Bill.

This is a story of an ever-worsening relationship, in which the unwritten agreements that had sustained the delicate dance that is devolution were gradually cast aside by the Tory UK Government. If I look back now to the autumn of 2016, and Davis, and going to those bizarre early meetings of the JMC(EN), they were much more civilised and much more hopeful than, in the end, the process became.

It has just been a process of deterioration, and the job has been to continue to make the representations and to try and find imaginative ways of moving forward and to remind Scotland of what is important and why Brexit cannot ever be accepted.

But I'm pretty sanguine about what we achieved in terms of actual change in the UK attitude and actions. I mean, we didn't succeed. It seems to me an object lesson on how you cannot succeed within the current constitutional structure, and I draw my conclusions from that. The current structure is massively disadvantageous to Scotland and we need to get out of it. It also treats us with contempt.

UKICE: I think we all thought that the Prime Minister was about to trigger Article 50 in early March, but then, instead, the First Minister made her announcement about seeking another independence referendum in March 2017.

What was the thinking behind that? Had you seen Brexit giving a big boost up to independence?

MR: I think it was much more pragmatic than that. We could see the damage that was going to be done and we could see, the longer this went on, the more damage that was going to be done, and we needed to do something about it.

As it turned out, we were working in advance of where public opinion was on that. We weren't able to be persuasive enough, and the UK general election proved that.

I only regret that on the basis that we didn't, in the end, succeed in doing so.

Because I think we have been consistently right in what our views have been on Brexit and the need to escape from the spiral of decline that it represents.

Brexit is a fools errand and it has caused, and will go on causing, huge damage for a long time to come. I think we were right to continue to emphasise that, but we were in advance of where people were.

There was still willingness amongst many to give the UK the benefit of the doubt. It's very hard to believe. It's the Alan Greenspan moment, from the recession, that nobody believed that bankers were going to do themselves harm. Nobody believed that the UK government was embarking on an activity which would cause so much harm to the people it was meant to protect and support.

Therefore, when we were saying it, they were saying, 'Oh well, the SNP are at it, they just want independence', they didn't realise that we were right.

UKICE: So, you don't think there was any realisation in Number 10, the Cabinet Office, the Constitution Group, that Brexit was going to have very profound implications for the future of the Union?

MR: Yes. They thought they could get away with it. They still do. That's the issue – can they get away with it? I profoundly hope not, because it says something very depressing about the future of Scotland. But they thought they could get away with it and, on that occasion, they proved themselves right, in 2017.

Nobody has really looked at the 2017 election in this context. There is an element of sense in what (Theresa) May did in April 2017, because it stymies that argument and puts it in another context. It was a reverse, in the election in June 2017. It wasn't a disaster, but it was a reverse – I mean, we still got our third best election result in history – but it was a check on ambition.

UKICE: Was that mainly, you think, due to just the unfortunate timing of the election for the SNP? Given you'd made this announcement on independence.

MR: Yes. There were a number of other issues that were hovering around too. For example, changing the business rates system. The results were being felt

in the spring of 2017, in the north east of Scotland particularly, that was a problem. So, it was bad timing. With retrospect, it wasn't a move that was wrong per se , it was a move the timing of which turned out to be disadvantageous. We couldn't have known it at the time.

Inter-governmental relations, 2017-2019

UK in a Changing Europe (UKICE): One of the things that was quite noticeable about the Parliament that came back, with Theresa May's minority government, were 13 Scottish Conservatives that were regarded as a bit of a bloc which the Government had to make sure stayed on board with the course that they were steering.

Those seats in Scotland were critical to the fact that Theresa May could form any sort of government at all. Was there any sort of cross-party working on that, to make sure that the Scottish dimension was taken seriously in Brexit?

Michael Russell (MR): I'm sorry to be cynical about this, but the bloc of 13, all they needed to know was how high to jump, when they were told to. They were never going to be a blockage to anything. That was a Ruth Davidson spin, in 2017: 'I've got this bloc here, Scotland is going to be looked after because I'm going to direct it'. It was never true.

Those 13 wanted to go to London, they wanted to be MPs. Two of them had been in the Scottish Parliament for less than a year. They wanted to go there, they were going to go there, they weren't going to be bothered with the Scottish dimension again. They were taking what Dr Johnson called 'the noblest prospect – the high road to England' and they weren't going to put in jeopardy that trip or what happened to them there. So the reality was that was irrelevant, they were not going to be rebels.

I think what David Mundell and Davidson said repeatedly – fishing, Northern Ireland all those things – those red lines were never real in terms of a distinctive Scottish Tory vote and the soon disappeared. They – Davidson, Mundell, the Tory MPs from Scotland – weren't to be reckoned with and May and Johnson later knew that.

But the debate in the Scottish Parliament was, could we keep everybody else

on side, for things like the Continuity Bill, for things like the Withdrawal Bill? And the answer was yes, we did. I think we managed on almost every occasion. The Tories were a lost cause, even though most of them had opposed Brexit. Being Tory was more important and backing up whatever happened in London. It still is.

Now, in Labour, for example, they had Brexiteers, one obvious, probably two others, but they stayed on side. So, the Scottish Parliament, as a whole, was Remain, anti-Brexit, and was prepared to vote in that way. There was also – which in my view strengthened us – a much, much better working relationship between Wales and Scotland than there had ever been.

That was largely because Mark Drakeford and I managed to set up a very productive relationship early on to work very closely together, which we did, throughout the whole thing. We missed Northern Ireland. They were with us until the spring of 2017, then the Executive collapsed, and we didn't have them back until January 2020. So, that was difficult.

The first part of that was really quite interesting; there was quite a challenge coming to the UK Government from ourselves, from Wales and from Northern Ireland. Not just Sinn Féin, but they were clearly crucial to it, but also actually a pragmatic approach from Arlene (Foster). She could see the difficulties and she wanted the UK to accept that there would be problems and find solutions.

May is a Brexiter and said she wasn't, Arlene says she is, and I think isn't really. It's quite interesting. Arlene seemed much less happy with Brexit than she had appeared to be publicly, and she was very keen to make sure that Northern Ireland was heard. That played a role then, from February 2020, for a period of time. Strangely, I've always got on well with Arlene, because she was Environment Minister when I was Environment Minister in 2007 and 2008.

UKICE: One of the effects though of the fall of the Northern Ireland Executive is, if you combine that with the confidence and supply arrangement in Westminster with the Democratic Unionists, that you have a Northern Ireland cross-community voice in the Executive transferring to a Unionist voice in Westminster, led by Nigel Dodds, Sammy Wilson, people like that.

What did you think when you saw Conservatives doing the confidence and

supply deal with the DUP?

MR: There is a session of the Westminster Brexit Committee that has me being questioned by Gove and Sammy Wilson, amongst others. Sammy actually succeeded Arlene as Environment Minister. I had fortunately moved on by that stage; an Environment Minister who does not believe in creation or evolution is probably a bit strange, but that's how he is.

It was just weird. And they had everything they wanted. The problem was all of us knew it wouldn't last, and it would be a problem for them later on. But whilst they had it, they enjoyed having it. and they got what they wanted.

Historically the Tories have always done that to NI Unionists. They have flattered them, promised them things and then let them down. They have done it again with the Protocol.

But NI Unionists keep getting taken in. They felt that they mattered and the rest of us – the nationalists particularly – didn't count.

Now that situation in 2017 till 2019 weakened Mark (Drakeford)'s hand and my hand, because there was no sense in which we were useful or important to the Government. They had the votes the needed. So they simply had to keep pretending that what we were saying had no validity and that everything was going well.

Gove was particularly good at that. Gove was Education Secretary when I was Scottish Education Secretary. I've worked, I suppose, opposite him for a long time. The constant seemingly reasonable repetition of things that are untrue, but which are asserted as if true, is his speciality and was ideal for them. He and to some extent his predecessors would constantly say they had good relations with the devolved administration, when we weren't being told anything and being worked against constantly.

You would go to meetings, and there was no agenda. I think Mark described it to a Welsh Committee as being less well-organised than St. Asaph's Community Council. That was true. We went to a famous meeting of the Joint Ministerial Committee at which there was no room booked for the meeting. We had to sit in the House of Commons cafeteria for the first half hour, while they

tried to find us a room.

This sort of chaos was not uncommon. Essentially, we were simply being told that everything was fine and we were simply troublemakers.

UKICE: If we go to the introduction of the famous EU Withdrawal Bill – had you had input into the draft of the bill? What did you think was really problematic and challenging about it?

MR: We were not in favour of withdrawal, so we weren't going to vote for it anyway. But we always had twin objectives, and you have to have twin objectives in this. One is to say that we are opposed to withdrawal. But secondly, if it is going to happen, can we ameliorate it in any way, or mitigate its effects in any way? So, we were trying to do that.

There was a deterioration in political relationships, and in the normal official relationships, which are the sort of oil that allows the system to work. People were not being told things, officials found that their counterparts in London were not telling them what was going on. They were not being consulted on drafts, when normally, there is a long process in which drafts of legislation are shared.

There were still some constructive elements in place during the May administration, although it was getting worse and worse. But the tensions and lack of joined up government in London became increasingly ludicrous.

That is worthy of note by the way. The functioning of government in London became increasingly chaotic and bizarre. Brexit caused chaos and led to farce. On one occasion, at the time of Chequers, Mark and I went to a meeting in London, in which we were not allowed to see the drafts of parts of the document to be discussed at Chequers. We were only allowed to listen whilst Robin Walker and Chloe Smith read us bits of the synopsis of some chapters, It was like eating in a medieval scriptorium, you had the improving text read to you.

What was being read was also of no importance to us at all – the important stuff was never shown to us. But even so the things we eventually were allowed to read – irrelevant chapters – came in a sealed envelope, stamped all

over with ‘Secret’. And in fact that envelope only went to the Scottish and Welsh Permanent Secretaries who were then allowed to share it only with the Minister going to the meeting. Essentially, we almost had to agree to eat it afterwards.

Mark and I got fed up with all this. And at the famous reading meeting I think we got ten minutes in and we both said, ‘Stop, we’re just not doing this, because it is so utterly daft and actually humiliating for all involved’.

Yet everything was leaking not from us but from UK Ministers. You left your phone outside meetings because they were terrified about phones. You had sealed papers. Everything was stamped. The whole thing was an exercise in paranoia by May, but it had no effect.

UKICE: You’ve mentioned a lot of joint working with Mark Drakeford. Were you surprised when the Welsh finally agreed to give consent to the EU Withdrawal Bill?

MR: No. We’ve worked very closely, I understood where they were coming from, and it’s not where we could go. I think the interesting thing is how much they regretted doing that, later on. I think they recognised that was not the right thing to do.

But we were always very clear. Mark is not a nationalist. I am. We agreed very early on that we were on the same journey, we just had different end points. Whilst we were on the same route, we could work very closely together and we could support each other, which we did. That carried on with Jeremy Miles, when he took over and Mark became First Minister.

UKICE: Did you get any sense that anyone in the UK Government was concerned about proceeding with breaking the Sewel Convention? Because I think this was the first time that they had wasn’t it?

MR: They pretended to be, but I don’t think it meant anything to them. Mundell would have loved to avoid it I think but he was the only one who cared and he of course had been an MSP and knew how damaging it would be to the Tory reputation in Scotland and to relationships.

What they were concerned about was trying to find a way to separate us from the Welsh. I mean, that was a constant theme. That was what consenting to the Withdrawal Bill was about – could you get the Welsh into a position where they would leave the Scots high and dry? Despite that difficulty, it didn't affect the relationship. We understood where they were with it, and that was that.

We were talking about the drafting of the bill, and I just want to come back to that. At the earlier stages, particularly under May, there was an attempt to share material. Although, I think we also underestimated how chaotic they were and that some material just wasn't there. But that died away.

The two people who were good on that were Ben Gummer, who tried, in the early days, to have a reasonably civilised relationship, and strangely Suella Braverman, now the Attorney General. Suella was civilised about it, she did try to share texts. But most of the others, no. To be fair to the criticism made of us, we stopped doing it too. Because we thought, 'Why are we letting them see things and it's giving them advanced notice, and they're not giving it to us?'

But it wasn't just text and legislation. There was the famous list of 150 intersections, which became sort of mythical, yet the numbers kept changing; on one occasion, the redraft of that, with lots of new material on it, was actually introduced at a meeting, and it was then realised that none of us had seen it. It hadn't been shared with any of the non-UK Ministers present. So, essentially, we got to the stage where even the papers for the meetings weren't shared with those who were taking part.

It was just silly. But it was just partly because of chaos. When you saw how things were being done, the Government themselves had little idea of what was taking place. Then, during the latter May days, everything was so controlled and centralised.

The one who actually made the biggest difference in trying to get it to work was Damian Green, who I think disliked disorganisation and chaos, and tried to bring some order to it. The JMC(EN) had sprawled out into a meeting of far too many people and too many UK ministers, and he managed to pull it back. Mark and I were very keen that it became a much smaller, more focused, meeting, and that's what eventually happened, and he achieved that.

You could work with him and you could work with (David) Lidington. Lidington was quite clearly not a Brexiter but was, as a Tory loyalist, prepared to do it. It became much, much more difficult thereafter.

Westminster officials found it difficult to get Ministers to decide on things and give a steer and that uncertainty had an effect too. They were nervous that I might – or Mark Drakeford might – get in first and persuade their Ministers to do something that would cause difficulties for them and for the UK Government.

I used to have a drink with Damien and then David at the BIC summits after the opening BIC dinner and before we met formally the next day. It was chance to talk through some issues privately without confrontation.

The first time I did it, I had asked Damien if he wanted to come to the bar, and he agreed. Ten minutes in to our chat I looked up and his officials were standing at the bar door peeking in, obviously very nervous about what might be happening and what I might be saying. My office told me later they were paranoic about it.

There has to be mutual respect and trust between Ministers and officials on key issues. If the ministers don't know what they are doing or where they want to take an issue, officials find it difficult to advise. That was often the situation that seemed to prevail in the UK Government.

UKICE: In parallel, you kicked off this discussion again about common frameworks, which were supposed to be the agreed consensual way of managing at least some of those intersections, and which would mitigate the impact of the loss of the EU frameworks post-Brexit.

I think principles were agreed in October 2017. Did that strike you as the beginning of what was going to be quite a productive process?

MR: No. It's this question of differentiation, between what we disagree with and what you have to make work. If you think that the UK leaving the EU is profoundly wrong, you would do everything you could to stop it happening, and we did, and we worked hard at it.

Equally, if it were to happen, we would require frameworks to be in place that allowed us to continue to operate, otherwise there would be no legal basis for anything. That was the nature of what we were trying to do. It wasn't softening on the issue of Brexit, it was simply saying we're going to need something in place.

The absolute *sine qua non* on that is your voluntary activity. If we are prepared to take part voluntarily, and if we negotiate something that we agree on, and operate voluntarily, that's absolutely fine. Nobody has a veto on it. The UK position always was, '*The UK has a veto, nobody else has, and we will tell you what is in these frameworks'.*

So, what we got to was a position where we were able to – and it's still going on, I understand – negotiate these frameworks voluntarily. Now, the bill had, written into it, a reporting procedure every three months, in which the UK government would have to say, 'This is what is taking place, and we have either imposed or not imposed'.

Now, up until when I left government formally, in May, there had been no imposition. And that was the important thing, and that is where the Internal Market Bill was so stupid.

There was a system being developed, which would work and which would provide a voluntary set of frameworks that were collectively meeting the objectives of all the participants, even the UK Government. Yet in comes the current UK Government, and says, 'No, even if that works, we are still going to impose something else upon you

UKICE: So, you don't think the Internal Market Bill – now Act – was based on any genuine realistic analysis that the common frameworks process was going to fail to deliver adequate safeguards?

MR: No. It was delivering adequate safeguards. Gove has never been able to tell me which areas of common frameworks are missing, which would need to be put in place to deliver those safeguards. There is simply nothing missing, and if there was, you could add those in very easily within the structure we had agreed.

I would say that what tends to prove my case is the fact that the key imposed element in the Internal Market Bill, the spending of money on devolved areas, was not in the draft. It was only revealed in the final text. This is a politically motivated bill which is designed, essentially, to try and hem in devolution and reduce devolution. And it was just that from the beginning, but they kept it hidden as long as they could.

It's published just before recess in Scotland, during a pandemic, and we don't get to see it or comment on it until it is essentially a done deal. No this wasn't about helping or securing – this was about undermining.

UKICE: How involved were you in no deal planning, and was that an area where you thought, 'They might do this, and we do need to get stuck in and make this work'?

MR: Yes. I recall a very serious conversation with Mark, myself and Lidington – I think that was all that was there – in Lidington's office in 70 Whitehall. We had taken to having coffee before the JMC(EN) meetings. David was trying to civilise things a bit, as he did. We had a very serious conversation in, I don't know, November 2018 perhaps.

The three of us said, 'Look, if this is going to happen, that is a no deal, no matter how crazy and unnecessary the idea is, we've got to treat this in a different way. And if we treat this in a different way, then we have to commit ourselves to no surprises and no nonsense. If there is going to be a no-deal, which is a complete failure of statecraft, then we all need to be treated properly'.

I sought an assurance that they were not going to impose things upon us, through emergency powers, and Lidington gave me that assurance. I was always able to trust what he said. I wouldn't trust Gove, but I was always able to trust what David Lidington said.

We instituted our own system of working on that through our emergency procedures, mostly chaired by John Swinney, but Nicola took a key role in it too.

I think we built those and got them operating it three times. We started off

doing it in 2018 very seriously, and took it through to the April, when eventually there was the extension. We reinstituted it later that year, and of course the following year.

Brexit in Westminster

UK in a Changing Europe (UKICE): From about December 2018 until April 2019, Brexit was basically all about votes in Westminster and the House of Commons. How did you manage to keep the channels of communication going with the Westminster contingent of the SNP? Did your role change, to becoming a lot more about tactics and discussion about how to manage these votes?

Mike Russell (MR): We've always respected the right of the Westminster Parliamentary Group to make the decisions within the overall framework of what the party's position is. So, I would have a very close liaison with them, and did. I was in London a lot, certainly every week, and sometimes twice a week, at that stage. We hardly ever thought of remote-working, strangely. Things have changed significantly in that regard.

So, I would spend a lot of time with them, but they made their decisions on that. They were not going to support Brexit at any stage. There were some people around who thought we should support this if we got that, making some sort of deal involving a Section 30 order, but that was never going to happen. We were opposed to it and we were going to be opposed to it no matter what.

I also kept them briefed; they would also have conversations with UK ministers and keep me briefed. So there was a good exchange of information. But we have to distinguish between party and government. From a governmental perspective, I was representing Scotland's interests with the UK government, and therefore it was entirely clear that that's what I did and I had the lead on that and would always be in the lead, and have the final say.

UKICE: Did you actually think the People's Vote was going to get anywhere? Did you think there was a real prospect emerging, during that period, that Brexit might actually be abandoned as a project?

MR: My view all along was it was a diminishing chance, but there was always a

chance it wouldn’t happen. It probably started off as a reasonably low chance, but became quite a big one, probably in 2017 and 2018, and then diminished again.

I had three problems with the People’s Vote campaign. One is they were crass in their lack of knowledge in Scotland. I had a very difficult and early conversation with them, where they seemed to think – and it was because some of the personnel were also former Labour spin doctor – that Scotland could be taken for granted and that we would just play along, and we didn’t understand the dynamics of it. That was the first problem.

The second problem was that they needed to reckon with the voting strength of the SNP in the House of Commons, which was crucial to this.

The third one is that the Liberal Democrats did not control everything but behaved as if they did in their usual narrow fashion. In actual fact, they are the people who are most culpable in not being able to stop Brexit. Jo Swinson should take a heavy responsibility for the position that she took that in the end stopped a change of government and probably a People’s Vote.

And we now have the extraordinary performance of the Liberal Democrats, the Party of Europeanism, which no longer supports re-entering the EU. I do think that they have been pretty awful in what they’ve done. Did others make mistakes? Yes, probably so. But I certainly thought, in the latter part of the May administration, and going into the Johnson administration, there was a realistic chance that Brexit wouldn’t happen. The Liberals played a big part in making that hope die.

UKICE: Did you ever see a tension between the possibilities of independence for Scotland and the prospect of not leaving the EU? A UK Brexit would bring the prospect of independence back on the table. Was there ever a discussion within the SNP that, tactically, if your real goal is independence for Scotland within the EU, then actually, Brexit is a sort of catalyst?

MR: I’ve always taken a clear position that things that make Scotland suffer are not to anybody’s advantage. Therefore, Brexit, which is a thing that diminishes the opportunities, the chances, the prosperity, and the internationalism of Scotland, is not to be borne, and should be opposed. It

doesn’t seem to me that that brings the prospect of independence one whit closer, by some sort of Machiavellian view that we should allow it to happen in Scotland.

I edited Winnie Ewing’s biography, and Winnie has a famous story about when she was elected and Gwynfor Evans was there, from Wales, before her. One day, she was struggling with this issue of devolution, on whether she should support devolution for Scotland in a limited form or whether she should only support independence.

And he said to her, ‘Remember, if people are starving, half a loaf is better than no bread’. I am strongly in favour of independence, but I’m not going to muck around with the idea that, if I can just encourage all our lives to get a bit worse, people will see my point of view.

The Johnson Government

UK in a Changing Europe (**UKICE):** Were you surprised that Johnson ended up doing the deal he did?

Michael Russell (MR): I think he needed the deal. For those of us who have studied no deal and lived with it, it has always been such an appalling prospect, so I think he needed a deal. I think also you have to give credit to Leo (Varadkar). I think the Irish understood why they had to have a deal and were prepared to go the extra mile.

It is sometimes quite difficult for somebody like me to recognise that, from the perspective of Ireland or Wales – Ireland or any of the European countries – they need a good relationship with the UK, and they need to get that regularised. Therefore, I think there was a strong imperative on both sides, and I think it was pretty obvious that they had to do a deal.

What wasn’t so obvious, I suppose, was that, that having been done, the hardliners – the real hardliners – would continue, and indeed grow, in influence, and would not be prepared to accept that deal and make it work over a period of time.

In other words, that the logic of having a longer transition during a pandemic

was not seen and acted on was a bigger surprise. I think the ultimate cynicism of hiding the cost of Brexit under the cost of Covid was what we saw operating there, and I think that's a really unconscionable thing. And I think the determination of the hard line Brexiteers not to honour any deal, because they dislike the EU so strongly, is now more and more obvious.

UKICE: So, you mentioned that David Frost was on your Standing Council, and later emerged as the Chief Negotiator. How were relations with the David Frost team, as the UK government was approaching the TCA? Was there any sense of involvement, engagement, in that process?

MR: They took part in the JMC. I think I'm the only person who was at every single JMC(EN), regrettably. It says something probably rather silly about me, that I was prepared to go through that. They took part in the meetings, mostly Lindsay Croisdale-Appleby though Frost came from time to time and sat in Gove's office when the meetings were virtual, to make a point about his nearness to the seat of power.

Lindsay Appleby was probably there more often than David was. He is very bright, a formidable civil servant in that regard with a very subtle mind. Much brighter than Frost. But he couldn't hide his disdain for Scotland and Wales and his refusal to consider that we might have a point on any issue. He just talked down to us.

To be blunt I don't think they regard me with affection, let me put it that way. I found their contribution to be dogmatic, too clever by half, unwilling to listen to other perspectives. And always entirely, entirely Brit-centric – by which I mean UK Government centric with no regard for the devolved governments. Everything was thought through by them from that stance.

They seemed to assume that if they took a position in negotiation then that's what would happen. That was self-evidently not true, but they continued to believe it. They saw themselves as the keepers of the flame, the people who would deliver the purest and hardest of Brexits for their political masters and let nothing stand in the way.

Consequently they had no intention of doing anything that would help us at all – and that is what they did. Nothing to help us at all.

The testament to their abilities is however what we have ended up with which is a very messy agreement, which is unravelling, with a protocol that is very difficult to see how it can work, with a continuing decline in trade and shut out almost entirely from the vital service sector. In other words, the third country which we had asked to be, but with the consequences they thought didn't apply to us and which we could ignore. That didn't happen. And never would have.

Interestingly, Arlene wanted a strand of the JMC(EN) process set up to look at the protocol as early as February 2020, and it never happened. There was never such a strand of the JMC(EN) set up. I think, if there had been, we might have worked out earlier on what the problems were going to be and helped to avoid some of them.

There is an interface here of course. The issue of a border point at Stranraer became of importance during the second half of 2020.

I would say 'This is of some importance, we need to have them. We have a duty, as a government, to provide that. We have to do it'. And you were always fobbed off and things didn't happen. And whatever the UK Civil Servants said in response to us – usually at length as if explaining matters to people slow on the uptake – people like Alister Jack, and the other empty ciphers of the Tory Government like his counterpart the Secretary of State for Wales, would nod along and insist that we must be content with what the negotiators and officials were saying, even if they themselves had no real grip on what was happening either in the negotiations or in Scotland. Jack certainly had no such grip and was usually kept in the dark, but he was so keen on keeping his job he just accepted that.

In the last couple of years there was also an attempt of Gove to delay things by contracting out the responsibility. So, they would, for example, put Penny Mordaunt up to chair a meeting. And Penny would be very emollient, and everything was going to happen. She would go away and ask for things, and nothing happened.

Or someone like Oliver Dowden would be sent to Edinburgh to tell me what they were going to do about the inter-governmental review, as if they owned that process. That only happened once actually because I simply told him that

the process was owned by all of us and would be decided jointly at a meeting, not unilaterally on his plane ride north.

There was, I think, quite a deliberate strategy that there would always be somebody who hadn't got the power to deliver, who was the person who was put in the position to talk to and about the devolved administrations. Up to and including the territorial Secretaries of State, though to be fair the NI Sec of State always had more weight and NI was treated more carefully and respectfully.

UKICE: Did you have any input at all into the deal on fishing?

MR: In 2019 I devised something called the 'three-room model', which must be lurking away in papers somewhere, about how I thought negotiations should work.

The negotiation should work, in my view, on the basis that, in the first room, were the devolved administrations, the UK government and others, and they would discuss the overall principles of what people were looking for.

If they could come to an agreement, which was unlikely but might on occasion be possible, then everybody would enter the second room. That room would be the room in which the negotiating mandate was hammered out.

After that room, you could then move into the third room of actual negotiations, if you could agree to the mandate, and agree to be bound by the mandate but if not only the UK Government would be in there.

This was seized on with enormous enthusiasm by first of all by David Lidington and then by Gove. Lidington I think would have tried to put it into effect but under Gove and Frost it never happened, it was just one of those things that was seen as, 'We'll just keep talking about it, we'll talk about it forever'. But because it meant sharing some of the power, it was impossible for them to accept.

But the one area in which perhaps there was a faint echo of the second room discussion was fisheries, where some of our people were able to talk to some of the people who were going to negotiate.

But in terms of the third room, no. And in terms of what was agreed as a mandate, no. Of course, the actual outcome of the fishery negotiations was very, very late in the day, and essentially cobbled together, overseen by people who didn't know anything about fisheries or who by that stage just wanted to get the deal over the line, no matter what.

It just needed to be done to complete the process so they were prepared in the end to throw away any advantage they had, or any position they had taken, just to get the overall deal over the line. Fishing was dispensable, as it always was, because it was not a big vote winner for them in UK terms. It was a repeat of the 1970's betrayal.

We would have been able to point out some of the real pitfalls had we been in the room, and if they had genuinely tried to find a deal that worked for Scotland. Some of those pitfalls are accidental, some of them are still to come out.

But that was the only area where I think you could say that there was probably a discussion that went as far as the parameters of the negotiating mandate. Not the mandate itself, but the parameters of the negotiating mandate. But it couldn't in the end be agreed, and the UK was determined to do what it wanted. So we could not change that position.

UKICE: We've heard a lot of talk in recent weeks about an Australian trade deal, and we know that the Department for International Trade is trying to negotiate lots of these post-Brexit trade deals. Is there a different process around that? Is Scotland any more involved with DIT?

MR: No. I mean, a lot of it is ex post facto. You get some sketchy material (usually no more than the press has already been brief on) sent to you an hour before it's published, or a day before it's published. But not, in any meaningful sense, consultation.

I mean, Mark and I often raised a question about agriculture, and particularly lamb; lamb is not the only thing, it's the illustration. We regularly point out that, if that deal was done, and it was offered with the changes that were discussed, then that would have serious consequences. They know that perfectly well. But there was never an acceptance that that was going to be a material

consideration. NI was concerned too but they also realised that the interests of the UK would always come first no matter the warm words.

There are two lessons you can take out of the CETA Treaty process, and the UK takes one and we took the other. The one that the UK takes is, ‘For God’s sake, don’t let the devolved administrations in the room, because then somebody is going to disagree at the last minute, and you won’t get the deal’.

The one I take is, as you are negotiating, get everybody in the room. So, all the Canadian provinces were in the room, so that if you’re going to have to implement something that has devolved competence, you’ve got the people who are responsible for it in the room.

We both took the opposite lessons and there was no meeting of minds on that.

So, there is no involvement in that at all. Nor will there be, because their view of trade is that you wouldn’t seek democratic scrutiny and oversight and approval from Westminster no matter the issue and therefore it is simply taken that you would also never do so from the devolved administrations.

We published a paper on trade in August 2019, which I think is a good one, and which indicates where we think a modern set of trade deals would lie. In some places, Flanders for example, the devolved administration has the competence to deal with international relations within areas of its devolved competence. We do a lot ourselves, but it’s still not as formalised as that.

Interestingly, it has become an issue again in the last week. There is a new Tory MSP, who has written to Dominic Raab, and asked him to intervene and to tell Nicola Sturgeon to stop spending money on offices overseas. Ignoring the fact that the original offices overseas were set up by the Tories before devolution. But never mind.

Scotland's future

UK in a Changing Europe (UKICE): You have been at every JMC. One of the things that the UK government might say would be that, with one of the UK’s devolved governments committed to independence, a system that was devised when there were Labour governments in power everywhere was never going to

work.

Can you foresee a feasible system for managing intergovernmental relations, that actually could be operated with an SNP government in Edinburgh?

Michael Russell (MR): Well, I mean, quite clearly I would want to see independence. But we have never resisted discussing intergovernmental relations. There has been a process of review of intergovernmental relations going on since March 2018. There are whole elements within that that were agreed. But there has to be an element of equity within the arrangement. There has to be an element which we all feel that we have a stake in it and nobody is being treated unfairly, and nobody is a judge and jury in their own cause.

Having a working arrangement in devolution in order to avoid conflict and improve the lot of the Scottish people even marginally does not undermine the case for independence. Indeed it may give an exemplar of how, by adding powers n a negotiated way, independence can be achieved by negotiation and consent.

The Welsh are not in a dissimilar position in terms of supporting better arrangements. Mark has published stuff which I think is very good. Mark gave a lecture at the Institute of Government, and then I gave one, some weeks later, in 2019, that addressed these issues. I think you could put together an arrangement – a pro-tem arrangement, it's not the arrangement we finally want – which could improve on the present model. It would help governance overall.

But I don't think there is a slightest intention of doing so within the UK Government, because it requires them to accept that, when you sit down at the table, you're all sitting down as equals on some issues. And they can't accept that.

Devolution is a delicate dance around the sovereignty of the Westminster Parliament, and there is no escaping that. Unless they are prepared to accept that there are circumstances in which that sovereignty does not apply, and unless they are actually prepared to accept the reality of devolution, which is not a hierarchy of governance, but a hierarchy of Parliaments, I don't think progress can be made.

UKICE: What do you make of the assessment that Brexit makes a political identity case for Scottish independence much stronger, but actually makes the economic case much harder to win?

At least in the short run, when you see the problems that we are having on the Irish Sea border, where the UK's very distant relationship from the EU means that the Scottish border becomes a much bigger issue than it would have been in 2014.

MR: I don't accept that. I think Brexit is a case study of how not to do things. Actually, Brexit is quite a good example of how, if I were setting out to do the negotiating mandate for Scottish independence, I would take everything I've learnt in the last five years and reverse it.

I think the question of borders can be resolved by goodwill on both sides, and should be, and it starts with the principle that we do not wish to create those borders. You accept that there would be a common travel area, you accept that there would be therefore no people border. On goods borders, you can find a way to resolve that with goodwill. And the trouble is, there isn't goodwill at the moment between the UK and the EU. But a workable border in the end will have to be found, and will be able to be replicated.

UKICE: It sounds a bit like alternative arrangements. Do you think those will work?

MR: I think that what you need is a willingness to make it work. What you don't see in the UK Government is a willingness to make it work because, ideologically, there are too many barriers to that. There is bad faith in the UK Government on that too – they are not committed to implementing the agreement they signed. They want to trick the EU into a different position and assert what they think is their right to be treated as something more than a third party. That can never be the case. It is UK exceptionalism and that is will be firmly, and rightly resisted.

UKICE: And that the EU would be willing to make it work?

MR: I'm not asking the EU to make any special arrangements. I think that is quite important. My policy – and I'm no longer in office – on independence,

working out the details, was to understand the 35 chapters of accession. Because if you understood how the relationship would work between the EU and the UK, and how it would evolve – because remember, it is an evolving relationship – then you would understand what the relationship between Scotland and the rest of the UK would be and how it could evolve too.

I still think that is the best way to do it. I'm not asking anybody to give anything up. But I am suggesting that, over a period of time, that relationship between the UK and the EU will have to improve, and will have to get itself into a more fluid state. I don't think it's going to happen today or tomorrow, but I think it will get itself into a better state, and that will be the relationship that exists.

But I also think that we need to recognise that Scotland is not going to be able to afford the cost of the current Union if this goes on because, in actual fact, the economic advantages will be ever greater in being part of the EU rather than being trapped in the UK whilst the UK is locked into a long-term period of decline, unless is changes its view. We must not be caught and enmeshed in that.

We must not go along with what is a massive con trick, to say that, in some sense, there are these benefits of Brexit, just keep with us and you will experience them in time.

That is the position of the true believers in Brexit. In time, they think things will be revealed.

Except there are no such benefits. None. It is at best a delusion, and at worst a deliberate lie.

The Dominic Cummings variant on that of course is to say that the problem with Brexit seems to be that the people who are doing it are stupid. That argument says that if only we had clever people doing it, then it will all be fine.

I don't believe it for a moment. Brexit, with clever people or stupid people in charge is still Brexit. It is a backward step and a disaster, and I will go on opposing it – its xenophobia and isolationism, for those are its roots – for as long as I have breath.