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BREXIT – prospects of a breakthrough are bleak

Based on a recent talk by a senior diplomatic official (DO) as recorded by Colin MUNRO

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DO said that Brexit was a tragedy_ However, the EU27 had prepared well for the negotiations, and were solidly behind Michel Barnier (MB). the European Commission's chief negotiator. DO listed the three areas (financial settlement, Irish border and citizens' rights) on which the European Council (of member states) had agreed, satisfactory progress would have to be made, before negotiations between the UK and the EU on their future relationship could begin. When Article 50 of the Lisbon Treaty had been drafted, nobody had imagined that it would ever be invoked. Now that it had been, the first step was to understand what it contained. Two years after invocation, the member state concerned would leave the EU, with, or without an agreement. The European Parliament (EP) had to approve of any agreement The European Council could agree – unanimously - to extend the negotiations. However, elections to the EP would take place in May 2019, six weeks after the UK had scheduled its departure by invoking Article 50 on 29 March 2017_ Therefore, the EP vote would have to take place at the latest in March 2019.

DO recalled the principles agreed by the European Council in April 2017, which formed the basis of MB's mandate:

- Integrity of the Single Market.
- No „cherry picking" by the UK.
- The UK would not have a relationship with the EU better than it had had as member.
- For the UK, there was only one negotiating channel - MB.
- The negotiation would have two phases, first the divorce, second the future relationship.

DO added that if the European Council agreed to a transition phase, it would be time limited. The UK would be subject to the full panoply of EU rules, as a rule taker, no longer as a rule maker. Meanwhile, the UK's persistent wedge driving attempts were a significant impediment to the negotiations_ This was a divorce, not a bazaar. UK officials understood this. UK politicians did not. MB had his mandate. After each round he reported to the 27, and the mandate was adjusted, if necessary. MB did not provide the media with written briefing.

It was evident that preparations on the UK side had fallen far short of those by the Commission. For example, the UK had neglected EURATOM_ British nuclear physicists were enjoying high salaries working for EURATOM. The UK had apparently given no thought as to how nuclear safety and the trade in nuclear materials - e.g. isotopes for operations - would function after Brexit. UK officials appeared to be in “despair” on this issue.

There was also “despair” on both sides with regard to the Irish border. Nor had there had been discernible progress on finance. But there had been good progress on citizens' rights. 65 repeated that UK officials were excellent negotiators. It was “macho” politicians who caused problems, in view of their need, acute since the election in June, to placate the anti-EU UK media.

British political wedge driving had been counter-productive. MB had reacted by toughening his negotiating stance. He had “held back” on citizens' rights. The UK had realised that it had overdone its macho approach: hence Theresa May's speech in Florence. DO said that in substance, this speech had been “blah, blah, blah” apart from a few sentences, conceding direct effect of the European Court of Justice (CJEU) in relation to citizens' rights.

DO said the nub of the matter now was that UK industry and commerce would need to know, at the latest by the spring of 2018, how matters would stand on 30 March 2019. Would Easy Jet be able to sell tickets for example? Thus, the 14 December meeting of the European Council was a critical deadline, with regard to phase two. In view of the conciliatory tone of Theresa May's Florence speech the EU 27 had decided to make a con on by announcing that they would begin preparations for phase two of the negotiations.

DO then reverted to what he described as “current sticking points.” With regard to ring fencing an agreement on citizen's rights protection of EU citizens' rights by EU law, there is a real concern that the UK was intent on lowering standards after Brexit, for example by importing US chlorinated chicken to the EU via Ireland.

Theresa MAY depends for her majority in the House of Commons on the Protestant Northern Irish Democratic Party(DUP). The appalling jingoism of DUP leader Arlene Foster and the border brinkmanship of International Trade Minister Liam Fox might reignite the troubles.

DO said that as far as the future was concerned, the UK envisaged an ambitious, deep and special partnership, unlike any that the EU had with any other state, including Norway and Switzerland. But for the EU the bottom line was that any relationship had to be based on EU law, as in the case of Norway and Switzerland. But the Norwegian example was evidently the reverse of “taking back control”. DO added that the UK was not like the US or Canada. It was next door and had a land border with the EU. The playing field had to be “level.” GS conceded that Brexit would present problems not only for Ireland, but also for some other EU member states. For example, 55% of Danish fishermen's catch was in UK waters. Spanish fishermen were also worried.

DO spoke briefly about foreign, security, and defence issues. Nobody disputed the UK's capabilities and contributions in these fields. The UK government has published a paper on 12 September this year which basically promises to the EU that Britain would continue its leading role in defence and security even after she had left the Union and would make all her expertise available to the European Union. There can be no doubt that the EU would continue to greatly benefit from the UK's gr-eat influence in this field.

The problem was that the UK wanted to continue after Brexit, inside the room,” shaping decisions as if it was still a member.

What about onward movement rights after Brexit? - live in Berchtesgaden but work in Salzburg. DO admitted that, in their preparations, the Commission had not really focussed on this issue. It was a massive problem for example in Luxembourg. Negotiations continued, focussed now also on recognition of professional qualifications. But the Irish border was overshadowing everything else at the moment.

With regard to an agreement on citizens' rights, DO thought that this would be extremely difficult. UK Ministers appeared not to understand what the EU was - an organisation based on 1a and treaties. The EU27 had adopted a comprehensive approach on this basis. There were difficult issues on citizens' rights still to be resolved.

The UK was a major shareholder in, and beneficiary of the European Investment Bank (EIB). there would be a solution, but it would take time to wind things up. The UK was not due to repay some loans until 2035. The EIB illuminated the complexity of Brexit. But on finance generally. the EU would adhere to the principle of “what had been agreed at 28 would have to be paid for by 28.”

On Gibraltar DO said that the UK and Spain would have to agree on the solution. It was a Single Market problem. The EU would support its member state - Spain.

On future trade the UK side suffered from illusions. it would find life difficult outside the EU. The argument with Australia and New Zealand about reallocating quotas for agricultural produce was a case in point.

In response to a question about “Exit from Brexit”, DO said it would be difficult but not impossible. Both the labour and Conservative parties were divided. He then added some further reflections. The British were negotiating with themselves and with their media, preoccupied with their own issues, including the pharmaceutical industry, the automotive industry, the banks, science, the universities, the brain drain, and, overshadowing everything else, the economy which would be severely damaged by a hard Brexit. They lacked awareness of the problems and perspectives of their partners. For example, there were one million Poles in the UK, uncertain about their future.

Amidst all the confusion, the EU27 were trying to stay calm, even “cool.” The situation in Germany after the elections was a complicating factor. But the present coalition building problems, and even new elections would not be Angela Merkel’s Brexit moment. There could be new elections. It was not really clear what Merkel wanted in relation to Brexit. If the UK expected that the situation in Germany would play favourably into its hands, that would be a further illusion.

DO said he was still reasonably confident that in the end there would be a deal, next year, during the Austrian Presidency. But, of course, like any negotiation involving money, it would go down to the wire.

The remarks of DO are recorded in some detail, not because he revealed anything that would surprise those who follow the negotiations, but because they do confirm, not only the difficult predicament in which the UK has placed itself, but also the calm professionalism of its negotiating partners. Mark Almond's piece in the Daily Mail on 21 November about Merkel’s “humiliation” and weakness compared with Theresa May is absurd, confirmation of the extent to which the British government is in thrall to the anti-EU media.

The evident disconnect, to put it no higher, between UK officials and Ministers, has echoes of Suez and the Iraq war. But Brexit is likely to prove even more damaging to the UK's interests.
