

EU/Switzerland

Berne and Union on same institutional wavelength

By Tanguy Verhoosel | Wednesday 10 July 2013

The 28 member states welcomed, on 9 July, progress by Swiss negotiators and the European Commission on institutional matters, which will serve as the foundation for working out a common solution. They were more reserved, on the other hand, on the “medium-term strategy for Switzerland’s European policy” in which the Federal Council has placed this negotiation.

The diplomats of the Union’s EFTA Group debated for the first time, on 9 July, the decision on “renewal of the bilateral approach” adopted by the Swiss government, on 26 June. It “implies finding solutions to institutional matters” (adaptation of agreements to evolving EU law, surveillance and judicial review of their implementation, dispute settlement) that have poisoned the confederation’s relations with the Union, acknowledged Berne at the time.

Swiss State Secretary for Foreign Affairs Yves Rossier and the Chief Operating Officer of the European External Action Service (EAS), David O’Sullivan, have identified three ways forward in this context. Predictably, it is the third, already advocated by Berne, that will be explored further with the 28’s blessing.

It provides that, in the case of a dispute on the interpretation of EU law incorporated into bilateral agreements, a “preliminary opinion” may be sought from the EU Court of Justice. Should Switzerland refuse to abide by the opinion (which would probably be exceptional), and if no solution can be found at political level, the agreement concerned by the dispute would be suspended and then “terminated automatically after a certain time”.

On this basis, the European Commission will be drafting a formal mandate for negotiations with Switzerland. It will present it to the 28 for review in late September or early October and the states will come to a decision at the end of 2013 at the earliest. A similar procedure has been launched in Switzerland.

Meanwhile, the EU member states and the EAS have agreed not to “rush” Berne, although some of the red lines it has drawn are not to their liking.

For Switzerland, there is no question for instance of touching the “accompanying measures” of the agreement on free movement of persons, measures it adopted unilaterally and that are challenged by the EU. Only towards the end of the process, “in the light of all the negotiations” carried out or planned with the Union, including on savings taxation and business taxation, will Berne decide whether or not to renew its financial contribution to reducing economic and social disparities in the enlarged EU. Switzerland has so far put up around €1 billion to this effect.

For the Union, that is “really a bit rich,” say observers.