

EU/Switzerland

Confederation undertakes risky mission in Brussels

By Tanguy Verhoosel | Monday 19 March 2012

Switzerland's President Eveline Widmer-Schlumpf and Foreign Minister Didier Burkhalter will undertake a risky mission, in Brussels on 20 March. Their objective is to map out the future of relations between their country and the EU. The problem is that the two parties are not at all on the same wavelength, especially on institutional and fiscal issues. As a result, this visit may well be mostly about saving face and avoiding a major crisis.

Widmer-Schlumpf and Burkhalter will meet, in order, European Parliament President Martin Schulz, Taxation Commissioner Algirdas Semeta, European Commission President José Manuel Barroso, and Herman Van Rompuy, president of the European Council.

The two Swiss ministers will not meet the EU's foreign policy chief, Catherine Ashton. It was nevertheless to Ashton that the Swiss government sent a letter, on 2 February, outlining its views on the future of its relations with the Union, which have been plagued by institutional problems for a number of years.

In December 2010, the 27 foreign ministers concluded that the system of bilateral sector-based agreements put in place by Berne and the EU during the 1990s had become "complex," "unwieldy to manage and has clearly reached its limits". The Union therefore recommended that different mechanisms be introduced to achieve a "dynamic adaptation" of these agreements to the EU's evolving legislation and case law, closer surveillance of their application by an "independent" authority, and an effective dispute settlement mechanism.

In parallel, the 27 stressed the need to work out solutions to different problems that arise in connection with business taxation. Since then, they have continuously pressed for extending to Switzerland "application of the principles and criteria" of the EU code of conduct on business taxation, which has already forced them to abolish around 100 schemes found to be harmful to competition.

In their letter of 2 February, Burkhalter and Swiss Economy Minister Johann Schneider-Amman propose to draw up a "road map" as part of the "comprehensive and coordinated approach" to relations with the EU that Berne intends to adopt.

To start, this would entail coming up with a solution to institutional problems within the limited framework of the negotiations under way in the energy sector. It could then "serve as a model for future agreements concerning market access". Berne urges the EU to conclude an agreement on the safety of chemical products (REACH) in particular.

Taxation (renegotiation of the savings taxation agreement and discussions on business taxation) is another "parameter" of the Swiss road map. For Berne, however, there is no question of addressing this issue until all doubts have been cleared up surrounding the entry into force of its 'Rubik agreements' with Germany and the United Kingdom. The European Commission is demanding the

renegotiation of these agreements because their scope impinges on that of the EU's savings taxation regulation.

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Ashton replied dryly, on 8 March, to Burkhalter and Schneider-Amman.

The Union is not opposed in principle to seeking an institutional compromise in the framework of the energy talks, although Ashton does not say so in the letter she sent to Berne, which *Europolitics* has seen. On the other hand, the EU very clearly sets certain limits that it will not cross.

The letter details the "indications" given by the 27 in December 2010, stressing the passages of their conclusions that hit hardest: sector-based bilateralism "has reached its limits" because it "does not ensure the necessary homogeneity" of the internal market; "horizontal issues [...] need to be reflected in EU-Switzerland agreements" in general, not just those that still have to be negotiated.

"This should be the benchmark for an acceptable solution," writes Ashton, who regrets the absence of "concrete" results from the informal talks between the Swiss and her services on this subject. Apparently, she finds this irritating: "It would be useful to know how you would like to proceed with a view to applying the solution to institutional problems to all relevant agreements" that concern the internal market, those already existing as well as future agreements. The foreign policy chief adds that it would be helpful to have a document outlining the arrangements Switzerland is considering. The different EU officials who will meet Widmer-Schlumpf and Burkhalter will stress this point, on 20 March. For once, the main EU institutions – Parliament, Council and Commission – are all on the same wavelength.

Switzerland has in fact already made certain proposals, but they were demolished by the Union's External Action Service.

It proposed in particular to designate an arbitration court that would settle disputes and to set up a Swiss surveillance authority charged with enforcing agreements.

The Union finds this insufficient. It seeks the creation of supranational surveillance and judicial control bodies that would be totally independent of the confederation.

The 27 have just one idea in mind in this context: to be inspired by the model of the European Economic Area (EEA), which the Swiss refused to join in 1992.

The countries of the European Free Trade Association that are part of the EEA – now only three (Norway, Iceland and Liechtenstein) – had at the time decided to set up an EFTA surveillance authority and a court of justice (presided since 2003 by a Swiss national, Carl Baudenbacher) in order to keep the EU institutions from interfering in their business.

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