

Speech by Michel Barnier following this week's round of Article 50 negotiations (6th-9th February)

Ladies and gentlemen,

I am happy to be here. I would like to thank you for being here rather than in front of your television watching the opening ceremony of the 23rd Winter Olympic Games, which has just started in Pyeongchang.

Allow me to extend my personal best wishes to both the Korean hosts and the athletes.

To come back to Brexit, we agreed with the UK side this week that the agenda would cover Ireland, the governance of the withdrawal agreement, and the transition.

We also foresaw an "update" by the UK on the future relationship. This update did not take place this morning because of agenda constraints on the UK side. That was the only meeting to have been cancelled.

Before the beginning of this round, I was very happy to meet David Davis on Monday in London, on his invitation, for a political discussion and also to meet Prime Minister Theresa May.

On the points I will now mention, this round was, for us, a "relaunch" round – the first since the Joint Report in December.

I think it is useful, however – for your work and your information – to give you an update today on the negotiations.

These meetings between us, and with David Davis whenever he wishes, will continue to take place regularly.

This negotiation is organised in rounds. This organisation is important to us – the EU side – because it gives us the time, before and after every round, to consult the 27 Member States and the European Parliament.

This is also how we ensure transparency – to which we have committed since the beginning, particularly when it comes to you.

And this method is also how we managed to reach an agreement with the British in December on the first important step of this negotiation.

I – On Ireland, we focused on solutions to avoid a hard border. Any solution must be precise, clear and unambiguous.

As you know, our Joint Report provides for three options:

1. First, solving the issues on the island of Ireland through the future relationship. This future relationship would need to avoid a hard border, and protect North-South cooperation and the Good Friday Agreement. Once again, ladies and gentlemen, it is important to tell the truth. A UK decision to leave the Single Market and the Customs Union would make border checks unavoidable.
2. Second, the UK has committed to proposing specific solutions to the unique circumstances on the island of Ireland. We are waiting for such solutions.
3. The third option is to maintain full regulatory alignment with those rules of the Single Market and the Customs Union – current or future – which support North-South cooperation, the all-island economy and the Good Friday Agreement.
 - Options 1 and 2 can only be made operational in the context of the future relationship.
 - In the meantime, it is our responsibility to include the third option in the text of the Withdrawal Agreement to guarantee that there will be no hard border whatever the circumstances.
 - This means that we must now start legally defining how this scenario would work in operational terms. There must be no ambiguity here.
 - Based on the discussions this week, the UK has accepted the necessity of discussing how to make this full alignment scenario operational, provided we discuss the other two options in parallel. This is what we will work on in the coming rounds.

II – Second point: the governance of the withdrawal agreement

- This is one of the keys of our agreement: in order to be credible and durable, this withdrawal agreement should have effective implementation mechanisms.
- As far as we see it, these mechanisms should provide for a role for the European Court of Justice every time the agreement refers to European law.
- This remains a point of disagreement with the UK.

III – The transition period

- This period consists of extending the *acquis* for a time-limited period, as was requested by the UK itself.
- The Heads of State or Government of the 27 replied positively to this request at the European Council of 15 December. We have a Council mandate since 29 January and we presented this to the UK this week.
- In my meeting in London with David Davis on Monday – and in the negotiations in Brussels this week – the UK insisted on reaching a deal on the transition in March.

- But, at the same time, our interlocutors disagree with us in a number of areas, which –objectively – I consider as substantial. In particular:

On citizens' rights: while the UK recognises that the free movement of people applies fully during the transition period, it does not want – at the end of this transition – to extend the rights, as agreed in the Joint Report, of those citizens who arrived before the withdrawal, to those citizens to arrive during the transition. This is a major point for us, and also for the European Parliament.

On the application of EU rules during the transition: the UK has requested a right of opposition in the case where it disagrees with a new rule or law which could enter into force during this transition period.

On Justice and Home Affairs questions: the UK wants to continue benefitting from new EU policies, the famous *opt-ins*, while at the same time it has decided to leave these policies at the end of the transition.

Frankly, I am surprised by these disagreements.

The EU's positions are, from my point of view, logical:

By asking to benefit from the advantages of the Single Market, the Customs Union and common policies, the UK must accept all the rules and obligations until the end of the transition.

It must also assume the inevitable consequences of its decision to leave the European Union, its institutions and its policies.

- Taking into account these disagreements, and to be frank, the transition period today is not a given.
- As I said, time is short, very short, and we do not have a minute to lose if we want to succeed. We want to succeed in this orderly withdrawal and also begin possible discussions on the future relationship as soon as possible.
- This is precisely why the Commission proposed a legal text on the transition to the Member States this week.
- Once agreed by the 27, this text will form part of our overall draft withdrawal agreement text, which we will then send to the UK. The European Parliament, I repeat, must also give its consent to this draft.
- In this draft legal text, published this week by the European Commission – in full transparency – we set out a provision which will allow existing EU implementation mechanisms to be reinforced during the transition period.
- Why is this provision – which was commented on a lot – necessary for us? This is simply because in the case of a violation of European rules during the transition, our usual infringement procedures, which are applicable to all Member States today, risk taking too much time and will therefore not be operational to resolve any possible dispute

between the UK and the EU during this very short period. That is the only reason.

- It is absolutely normal that, in an international agreement, effective implementation and conflict resolution mechanisms are foreseen. This is the case, for example, with our agreements with Switzerland.
- To be entirely objective, I want to also recall that the UK has traditionally been among those countries with relatively few infringement procedures.
- Throughout this negotiation, you will not find in our attitude or in my attitude – on this subject, or on others – the least trace of discourtesy or willingness to punish. My mind set has been completely the opposite since the beginning of this negotiation and it will continue being so until the last day of the negotiation.
- We need to simply build a legally solid withdrawal agreement, which leaves no uncertainty for anybody.

Ladies and gentlemen,

Once again, we need to advance in this negotiation methodically and in a structured way, through consultation and transparency, which allows us to organise the rounds. This consultation and transparency is first for the 27 Member States, in whose name I negotiate, for the European Parliament, with which we work closely, the national parliaments, which I regularly meet, for citizens, for economic and social actors, and for you.

My deputy, Sabine Weyand, will discuss this afternoon with the UK negotiators the dates and the precise agenda of the coming negotiations.