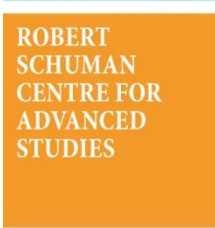




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RSCAS 2015/50  
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Inside the mind of a Permanent Representative in  
Brussels: Personal Reflections

Bobby McDonagh



European University Institute  
**Robert Schuman Centre for Advanced Studies**

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## **Abstract**

This paper is a personal reflection of the role of a Permanent Representative in Brussels. It offers insights into the thought processes of an individual member of COREPER which plays a central role in the EU's negotiating system. Permanent Representatives are 'boundary managers' between the domestic and the EU. The complex thought processes of an EU ambassador are analysed by focussing on seven different dimensions of this complex role.

## **Keywords**

COREPER, Permanent Representative, negotiation, EU negotiator.





## Introduction\*

In 2012 I was invited by the London School of Economics to contribute to a lecture series on the European Union. Having moved from being Irish Permanent Representative in Brussels to take up my job as Ireland's Ambassador in London some three years before that, my direct knowledge of the EU negotiating process had become several years, several fast-moving and turbulent years for Europe, out of date. I therefore chose to speak at the LSE not about the European issues of the day but rather, in a more reflective way, about what it actually feels like to be an EU negotiator; and, in particular, to give a sense what goes on inside the mind of a member of COREPER<sup>1,2</sup>.

It is not the purpose of this article to offer a detailed analysis of the workings of COREPER. Rather it attempts to convey a sense of the psychological experience of being the Permanent Representative of an EU Member State in Brussels operating in one of the most interesting and challenging negotiating environments in the world. It is at COREPER level that the most difficult negotiating issues are usually settled or at which those issues, if they cannot be settled, are shaped for consideration and decision by Ministers.

So what goes through the mind of a Permanent Representative at COREPER? I read somewhere that it has been calculated that at any meeting, on average, 50% of the participants are listening to proceedings, 20% are sleeping and 30% are indulging a private fantasy. What follows is therefore my best attempt to explain what half of COREPER may be thinking at any one time. I would suggest that the necessarily complex thought patterns of a Permanent Representative at COREPER may perhaps be considered as falling under **seven dimensions**.<sup>3</sup> A Permanent Representative does exactly what it says on the tin: he *represents* his Government and country and sits behind his country's nameplate. His role is to represent the national interests of his country in EU negotiations (even if it is always important to recall that there is an important European dimension to the national interest of each Member State as explained below).

## The Permanent Representative: A Complex Role

Given that the purpose and role of a Permanent Representative is to represent his country, the **first dimension** of his thinking at COREPER will normally be to ask “what (if any) are the instructions

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\* Bobby McDonagh, Ireland's Ambassador to Italy, 2013.

<sup>1</sup> COREPER, the Committee of Permanent Representatives, is the senior negotiating body at official level in the European Union. It sits in two formations: COREPER 2 comprising the Permanent Representatives (Ambassadors) of the Member States to the European Union; and COREPER 1 in which the Deputy Permanent Representatives (Deputy Ambassadors) sit. The European Commission participates in both formations. It is the negotiating funnel through which the great majority of the work of the European Union passes: upwards from the myriad working groups below, which report to COREPER, through to the Council of Ministers above and, when necessary, to the European Council. COREPER typically meets for several days each week, often late into the night. COREPER also has regular working lunches as well as occasional “Ambassadors-only” sessions for particularly confidential discussions. I was myself a direct participant in COREPER for seven years, four years as Ireland's Permanent Representative to the EU from 2005 to 2009 and, many years earlier, from 1987 to 1990, as Ireland's COREPER co-ordinator (“Antici”). Additionally, I interacted, often on a daily basis, with Irish representatives in COREPER for the best part of a dozen years working in the European Division of the Department of Foreign Affairs in Dublin, including as Director General from 2001 to 2005.

<sup>2</sup> The LSE encouraged me to set out my presentation in writing which I am belatedly doing. I would like to thank my successor as Permanent Representative, Rory Montgomery, Ireland's current Permanent Representative, Declan Kelleher, and Professor Brigid Laffan of the European University Institute for their helpful comments .

<sup>3</sup> I refer to a Permanent Representative as “he”. This will facilitate ease of reading. However, it should be noted that the number of female Permanent Representatives thus far appointed has been pitifully small. I am pleased to say that the first woman appointed to the position was my predecessor in Brussels.

from my capital?" A Permanent Representative, like any diplomat, is not an independent empire. He does not invent his own positions or act on a personal whim. In representing his country, he receives "instructions", or directions, from the Government which he represents.

On every agenda item, the Permanent Representative will need to know and to have digested what his national "instructions" are. Instructions can take many shapes and sizes. On a given item, they can be detailed or exiguous or even non-existent. They can take the form of anything from detailed written argumentation accompanied by suggested "speaking points" to a bare few sentences. Instructions can also be conveyed or backed up orally (even via a quick phone call during the COREPER meeting itself). In principle, written instructions should arrive in the course of the day before the meeting to which they refer although last minute instructions or adjustments to instructions are not uncommon.

The level of detail will differ depending on how complex an agenda item is, on how important it is to the Member State in question and on whether that Member State faces particular negotiating difficulties in relation to it. The level of detail of instructions also tends to vary between Member States, with some countries being much more structured and formal than others in their approach. The nature and quality of instructions will also vary depending on the Ministry or the individual issuing the instructions. Instructions will normally have been received the evening before the meeting at which the item is to be discussed but can also arrive at last minute.

Instructions can be prepared either in the capital or in Brussels by the relevant expert in the Permanent Representation based in turn on any number of recent or previous communications he has had with his capital. In the case of some Member States, all instructions for COREPER are centrally coordinated, by the EU Division in the Prime Minister's Office or Foreign Ministry. In other cases, the instructions come from individual ministries with the Prime Minister's Office and Foreign Ministry taking only a light overview of the instructions and intervening only where they consider this necessary – for example, to soften hard-line negotiating stances of individual Ministries which may run counter to a broader national position or which may make little sense in negotiating terms.

Instructions will typically reflect coordination and compromise between different Ministries. In the case of issues of major national interest, such as the EU's overall approach to climate change, the coordination process will be particularly intense with the Prime Minister's office typically playing a central role. Instructions can, of course, also be contradictory if two Ministries or individuals cannot agree or fully agree. For various reasons, including occasionally where there may be a dispute regarding departmental responsibilities, there may be no instructions at all.

Moreover, beyond the instructions received for a specific meeting, the Permanent Representative will, as a matter of routine, also need to factor-in longstanding national positions, which do not need to be restated in formal instructions on every occasion but which nevertheless form the context for whatever specific instructions he receives.

In principle, instructions - whatever form they take or however they are received - are deemed to be instructions from the Permanent Representative's Government. In some cases of particular sensitivity the relevant Minister or even the Prime Minister will have been consulted. Needless to say, however, that does not mean that the Prime Minister or national Government *as such* has been consulted on every instruction. But the instructions are nevertheless *Government* instructions in that the officials who draft them are responsible to one or more Ministers who in turn are responsible to the Government as a whole. In a formal sense, the level at which the instructions are sent to a Permanent Representative is irrelevant; the official drafting the instructions will more often than not be junior in rank to the Permanent Representative but the instructions are nevertheless to be read as Government instructions.

Typically, a Permanent Representative will prepare for a COREPER meeting on the evening before. Some Permanent Representatives will tend to rely essentially on the written instructions received, seeking clarifications only as required here and there – either from the competent expert in

the Permanent Representation or from the relevant Department. Others, perhaps a majority, will also arrange oral briefing sessions (on the evening before the meeting, early on the morning of the meeting or both) with the relevant experts from the Permanent Representation. These supplementary oral briefings are, in my experience, important in clarifying, for example, negotiating priorities and objectives, the likely positions of other Member States, and indeed with a view sometimes simply to understanding highly complex subjects with which the relevant expert will be most familiar.

A Permanent Representative will often have sought to clarify or adjust instructions, if not entirely happy with them, in advance of a meeting or have sought supplementary instructions on a point not initially covered. Armed with an array of instructions, subsequent clarifications and underlying national positions, he heads into COREPER.

Instructions for COREPER, however, will never be delivered at the COREPER meeting exactly as drafted. The **second dimension** of a Permanent Representative's thought process will be to ask himself how he should *interpret and use* his instructions. He will often have a wide measure of discretion in that regard.

The fundamental question a Permanent Representative must ask himself, beyond what his national position is, is how best to advance that position. Simply reading out instructions as drafted would in almost all cases have minimal impact in advancing the interests which the instructions are designed to promote. Instructions need to be adapted on the spot, at the coal-face of the negotiations, to last minute information, to the negotiating environment, to the mood of a meeting, to new proposals emerging, above all to achievable outcomes. Put simply, capitals know what they want in an ideal world. Permanent Representatives, participating in the actual negotiations, have a better sense of what can be achieved in the real world. This is to a very large extent understood in capitals. Where it is not understood there can be tensions and recriminations.

By way of example, on a particular agenda item a Permanent Representative's capital may have conveyed instructions covering what it considers to be perhaps two important points and four less important ones. It will normally be clearer to the Permanent Representative than to his capital how many and which of his capital's desiderata are likely to be achievable. In almost all cases, limiting the number of negotiating aims in relation to an agenda item will be more effective than a scattergun approach. In terms of promoting national interests, it is likely to be more effective to press a small number of points based around an assessment of importance and achievability than to read out a shopping list of objectives identified at a distance and set out in the formal instructions.

A Permanent Representative has many potential tactical options available in order to refine his negotiating objectives. Most simply, he can use his own judgement to narrow down and prioritise the objectives which he is seeking to advance at COREPER; and in many cases the capital will allow him the latitude to do this. Alternatively, he can make clear his prioritisation between issues in the language or tone he uses when he intervenes at COREPER, or by the order in which he addresses the issues. Another example of a technique used for prioritisation between possible objectives is to present the most important points orally and then add that the remainder of the points will be sent to the Presidency or Council Secretariat *in writing* – which is akin to saying “look, if you can take some these additional points aboard, great. If not, we won't die in the ditch”. On the one hand, such an approach increases the chances of advancing the more important achievable points (presented orally); on the other hand it softens the blow for the system at home which is not being asked to accept that its other points have been entirely overlooked.

Another gambit available to a Permanent Representative is to play on the different levels at which a subject can be discussed rather than necessarily using up “COREPER ammunition” on an unattainable point. If he considers that pursuing too many of the points in his instructions will in practice mean achieving little or no progress on any of them, a Permanent Representative can suggest to COREPER that one or more of the points require more work at working group level. Or he can suggest that a point must go up to Ministerial level. Referring a matter to Ministerial level can mean many things: for

example that it is a matter more appropriate for Ministers; that if COREPER doesn't deal with it Member States will have to brief their Ministers to deal with it; that in effect the point is being conceded - drafting compromises are much easier to reach at COREPER and in practice Ministers are usually not inclined to flog dead horses.

Another possibility is for a Permanent Representative to suggest that an item be postponed until the following week's COREPER when maybe he will have fewer national fish to fry or more allies on board or when maybe the position of his Government has been clarified or adapted somewhat (perhaps in the light of discussion at COREPER).

In a small number of cases, a Permanent Representative will know that an instruction from his capital is simply a non-runner, and indeed a waste of negotiating ammunition, but that this is not understood or accepted in his capital and that he therefore has no alternative to giving the idea an airing at COREPER. It is not unknown in such circumstances for a Permanent Representative to start his intervention by saying something like "my instructions inform me" or "for the record". Such language is immediately understood around the table as "going through the motions". (It goes without saying that I have never used this approach myself).

Yet another consideration is that entirely different issues can sometimes be linked from a negotiating point of view. If, for example, a member of COREPER has some very important points to make on, say, a Justice and Home Affairs issue in the afternoon, he is unlikely - with a view to negotiating effectiveness - to wish to be pursuing too many, say, budgetary issues in the morning. It is simply not possible to have "crucial" concerns on every occasion (as "the boy who cried wolf" would confirm).

Another occasional challenge is to avoid potential internal contradictions between the points one is making on one issue and another.

Every Permanent Representative strongly welcomes good clear instructions. However, to be of maximum use, instructions should take account of the real negotiating environment and of realistic outcomes, and should leave sufficient flexibility to Permanent Representative on the spot to pursue national objectives as effectively as possible.

The **third dimension** of a Permanent Representative's psychology is to decide what negotiating style is best to adopt.

There are undoubtedly different national negotiating styles which reflect national characteristics, traditions, education systems and perceptions as to how to achieve optimal negotiating outcomes. Some Member States are better than others at digging in their heels: when they say "no" colleagues around the table know that it will be difficult to budge them. This negotiating style is often combined with an assertive manner of expression. Other Member States adopt a more conciliatory negotiating style and are more readily open to compromises. In general it is easier for large Member States to act tough but not all large Member States adopt the same style.

Personality can also, of course, play an important role in negotiating styles. Sometimes personality reflects nationality type; sometimes not. The Permanent Representative of a country generally known for its assertiveness can be mild-mannered and vice versa. In my view, for effectiveness, individuals should normally to the extent possible align their general day-to-day negotiating style with their natural personality. A style may, of course, have to be adapted to the particular negotiating situation.

Contrary to what some capitals or commentators may think, it is far from clear that a more confrontational assertive style of negotiation is in the long run more effective. Indeed if anything over time the opposite is probably the case. In the EU, there is a collective interest in being constructive. While each Member State rightly pursues its own national interests, by definition nobody gets everything they want. It is important therefore for a negotiator not to lose sight of the fact that the Member States have a *shared* interest in balanced effective compromises. That shared interest, at a

deeper level, *is* actually a *national* interest. It is also good *from a national interest point of view* to be reasonably flexible: if a member of COREPER is flexible when colleagues have serious concerns on various issues, those colleagues are in turn more likely to be flexible towards him when he himself has an important concern on an issue. Scripture may have got it right when it suggests, even if intended as a counsel of altruism rather than a negotiating tactic, that you should do unto others as you would have them do unto you.

Striking the right tone can be an immensely important negotiating tool. Any negotiator who ignores considerations such as those set out above, apart from not helping the negotiating process, will not be advancing his country's interests to best effect. In short, maximising demands is not the same as optimising outcomes.

These realities explain why the abiding ethos of COREPER is one of accommodation rather than isolation, one of compromise rather than one of notching up victories. While the voting procedure which applies in a particular case, unanimity or QMV, always lurks in the background and can shape the overall way an issue is perceived, COREPER's consistent approach is to seek to accommodate every sensitivity rather than to override sensitivities with majorities.

A **fourth dimension** of what a Permanent Representative needs to think about is at what point in the discussion of an item he should intervene.

The nature of negotiations in COREPER, as in other EU negotiating fora, has evolved, especially since the big bang enlargement in 2004. The EU had coped reasonably well with 27 (now 28) Member States around the table. The increasingly complex machine, perhaps against the odds, has continued to function effectively. However, successive enlargements have had an impact: individual interventions are necessarily shorter; discussion has become more managerial and less philosophical. Individual interventions tend to be more succinctly focussed on practical outcomes than on the reasoning behind the views expressed.

In the 1980s when I first experienced COREPER on a regular basis it was fairly typical for every Member State to intervene on each agenda item. These days, full "table rounds" take place much less frequently, although "table rounds" (sometimes clockwise and sometimes anti-clockwise) are still used, in particular in discussing draft European Council Conclusions in relation to which it is assumed that every Member State will have something to say.<sup>4</sup>

These developments reflect the nature of a larger Union and are not necessarily a bad thing but they do represent a change which the negotiator must factor in.

In COREPER these days, it will often be most effective to intervene early in a discussion. The first three or four speakers on an agenda item, are likely to shape the debate, with others either intervening more briefly to agree with one of the points of view already expressed or deciding that the points they would have made have already been adequately covered. The chairman of COREPER will never decline a request for the floor; but if a Permanent Representative does not intervene early on an item, the discussion tends to have drifted away from him.

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<sup>4</sup> Interestingly, I understand that since the appointment of a permanent President of the European Council, allied to the greater frequency of (crisis-driven) European Councils, the nature of discussion at COREPER on the preparation of European Council conclusions has further evolved. While the rotating Presidency remains in the chair of COREPER for the discussion, the control of the draft European Council Conclusions (as distinct from normal Council conclusions) is in the hands of the President of the European Council, whose chef de cabinet represents him at the relevant COREPER discussion and essentially steers the discussion. These days, in the COREPER "table rounds" on the European Council Conclusions, each Permanent Representative makes a pitch on his core issues and backs this up with written proposals. There tends to be no textual horse-trading around the table, and the pen remains in the hands of the President of the European Council and his staff.

However, there will also be cases when it is better to hold back initially. For example, a Permanent Representative may wish to see how a particular debate evolves in order to be in a position to synthesise colleagues' positions or otherwise to pitch his intervention most effectively. Judgement on how and when to intervene often evolves in the course of a discussion as the trend of opinion becomes clear. In many cases, if discussion is clearly going in the right direction, it may be judged better not to intervene at all and thus to conserve negotiating ammunition.

On some occasions, if a point of view is likely to be controversial or unpopular, it may be better to allow a like-minded colleague to intervene first drawing some of the heat before then intervening briefly simply to support the position expressed.

It is often important to build support or understanding for a national position, especially when that position is sensitive and risks being a minority one. Sometimes even constructing a wider alliance on the point may be necessary. Building and deploying such support may be considered the **fifth dimension** of a Permanent Representative's reflections.

In the European Union there is no such thing as a permanent alliance. Certain groups of countries do tend to think in a broadly similar way and some even coordinate in a structured way. Benelux and the Nordic countries are perhaps the most obvious examples. But even Belgium and Luxembourg will disagree strongly when national interest requires. Essentially alliances are formed subject by subject and issue by issue with whichever Member State or Member States share, or can be persuaded to share, a position. For this reason, networking with each and every Member State is crucial for members of COREPER as indeed it is for negotiators at every level in the EU. Self-evidently the more influential a Member State, the more important it is to have it on one's side. Size tends to be an important indicator of such influence, but the personal ability, standing and persuasiveness of an individual member of COREPER can also count for a great deal.

The development of shared approaches and alliances can be done at any level, from technical expert to Prime Minister, and through any channel, from corridor chat to capital to capital phone-calls. A Permanent Representative will rely on his colleagues at working group level and in his capital to use their influence as best they can. However, he will also himself contact COREPER colleagues as he deems most likely to be effective in seeking their support - the evening before a COREPER meeting, before the meeting is about to start or often during the meeting itself. A text message across the room can encourage an intervention or suggest a line.

A Permanent Representative will also need to judge the nature and depth of support from colleagues. It is not just a question of numbers. Will a like-minded country, for example, take the initiative or the lead? Will it be prepared to take the flak? Will it carry support expressed at COREPER level through to support at Ministerial level? Considerations such as these are crucial. There is no point girding a Minister's loins for a battle at Council level if his "allies" are going to fade away at the first sign of trouble.

Sometimes mutual support between two Member States can cover several different specific points because of a shared approach to the overall subject under discussion. Member States may also occasionally support each other on some issue at COREPER because of a current unconnected issue in the background. Personal friendships can also play a role from time to time (principally on issues on which no national interest is at stake for the Permanent Representative providing the support).

Obtaining the support of the European Commission, which participates at COREPER, can of course be as important, even more important, than getting the support of another Member State. Influencing the Commission as the initiator of legislation, ideally at a very early stage long before an issue comes near COREPER, is an important part of the role of a Permanent Representative. The Council Secretariat which does not generally speak at COREPER but sits at the table, advises the Presidency and often drafts the compromises is also a key player. The European Parliament is, of course, another increasingly vital actor in the wider negotiating process and each Permanent

Representation must factor in that dimension also. A Permanent Representative is accredited to the European Union and all its institutions (rather than just to COREPER and the Council).

Beyond advancing national interests, narrowly defined, it is important that a Permanent Representative also has a strong eye to the wider European interest. This may be considered a **sixth dimension** which he needs to bear in mind. As indicated above, an EU negotiator should always be conscious of the European dimension to his national interests. While he should not be expected to pursue perceived wider European interests if these run counter to identified national interests, he should recognize that, as a Member State of the European Union, his country has a profound *national* interest in a Europe which functions effectively. The negotiating *tactics* of a Permanent Representative will most frequently reflect primarily national perceptions but his negotiating *strategy* should, insofar as possible, recognise two important things: (a) that without compromise there can be no agreement; and (b) that there is no point each Member State emerging from a dogfight with its share of spoils if the outcome is a dog's dinner for everyone.

This important dimension to the pursuit of national interest is always subtly but pervasively in the background. It can influence the points made or not made, the tone used, the compromises accepted.

A specific role which a Permanent Representative can play in the common interest is to identify and propose compromises on issues in relation to which he has no specific national interest to promote. As English is now the dominant language in COREPER, the Permanent Representatives from English-speaking Member States tend to be looked to more frequently than others in this context. An ability to identify compromises contributes over time to the standing and negotiating strength within COREPER of the negotiator in question.

The **seventh and final dimension** of the mindset of an EU Permanent Representative is the importance of bearing in mind how his interventions at COREPER, and the outcome of the negotiations, will be perceived and judged by the authorities in his capital.

A Permanent Representative's mental focus should be on the negotiations themselves. Inevitably, however, given that a Permanent Representative is operating on behalf of his Government, part of his brain will be computing how the negotiation will be viewed at home. Inevitably, he will not be able to deliver everything his authorities wanted. He will be wondering to what extent his authorities will be satisfied with how he has adapted and used his instructions and with his level of success in achieving their negotiating objectives. He will be very conscious of how discussions at COREPER and in particular his own interventions are reported to his capital by his notetakers. He is wondering also whether his colleagues at home will be subtle and sensible in assessing the next steps: will they, for example, insist on fighting a losing battle at Ministerial level or again at COREPER the following week?

A technique often used at COREPER is to place a "reserve" (a "substantive" reserve or a softer "study" reserve) on an issue. Such a reserve means that a Member State has not definitively signed off on a matter but it can betoken quite different things: anything from a trenchant indication to partners that the issue will have to be addressed again at a higher level to a gentle message to one's capital that the point, if not actually dead, is on life support. Another way of letting a national position down gently is to "enter a statement for the minutes" or to ask the Commission or the Presidency or COREPER as a whole to make such a statement. It obviously falls well short of having one's fundamental point accepted but, by providing a basis for the matter to be considered again or reviewed at a later date, it can be reassuring to the capital concerned and sometimes of significant importance.

I should add that a Permanent Representative at COREPER will in the course of a COREPER meeting also be considering other EU matters. As often as not, at the end of a day at COREPER, he will be handed another detailed brief for the following day - for another COREPER meeting or for a meeting of the Council of Ministers at which he will be advising a Minister or himself representing his country or for a negotiation with the European Parliament. He will often have coordination or policy

issues to be considered and resolved in relation to such future meetings which cannot be left to the following day. COREPER meetings can also offer a useful opportunity for a Permanent Representative to discuss completely different matters, perhaps over a coffee outside the meeting room, with his counterparts. The rise of smart phones/tablets makes it easier to do “other” business during COREPER but can naturally be distracting.

Many of those reading this analysis will no doubt have got distracted by a private fantasy. But I hope that those who have stuck with it have a slightly better understanding of what an EU Permanent Representative may be thinking at COREPER.



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