The Lord Boswell of Aynho
Chair
EU Select Committee
House of Lords
London SW1A 0PW

20th March 2019

Dear Lord Boswell of Aynho,

Thank you to your committee and officials for the considered ‘Scrutiny of international agreements - Treaties considered on 12 March 2019’ report. I wanted to write to you as soon as possible and offer a response to the points raised.

Scope of the UK-Switzerland Trade Agreement

As we noted in our report, the EU’s current trading arrangements with Switzerland are complex. There is no single trade agreement between the EU and Switzerland. The UK-Switzerland Trade Agreement transitions, to the extent possible, the main bilateral EU-Switzerland agreements relating to trade. As you are aware, there is no comprehensive agreement on trade in services between the EU and Switzerland to replicate. Given our focus on continuity, we have therefore not sought to expand arrangements under our continuity agreement to cover services.

However, there are other agreements currently in place between the EU and Switzerland that support and facilitate trade, including trade in services. Recognising this, as part of its overall work on continuing international agreements, the Government has taken steps to address these areas outside of the UK-Switzerland Trade Agreement. The Government as a whole has secured UK-Switzerland agreements in all the key areas currently covered by the EU’s arrangements with Switzerland, including:

- Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation relating to Scheduled Air Services, presented to Parliament on 29th January 2019.

• Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Direct Insurance other than Life Insurance presented to Parliament on 30th January 2019.

• The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on Citizens’ Rights following the Withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement presented to Parliament on 28th February 2019.

With regards to opportunities to improve future services trade, building on the existing agreements which facilitate trade in services between the UK and Switzerland, our bilateral Memorandum of Understanding includes a commitment to conduct exploratory discussions, preferably within 24 months of the UK’s exit from the EU, with a view to replacing or modernising the UK-Switzerland Trade Agreement. In doing this, we have indicated we will consider a range of areas including not just trade in services but also trade facilitation, the protection of intellectual property rights, and others.

**Scrutiny of future changes to agreements**

We are aware that the scrutiny of future changes to agreements is of interest to the committee, first raised in your earlier report on 26th February 2019. The Government is considering this issue alongside the discussions we propose to have with parliament on the proposals in command paper ‘Processes for making free trade agreements once the United Kingdom has left the European Union’, published on 28th February. As I set out in my letter of 15th March 2019, I can assure you that the Government is committed to ensuring the right level of Parliamentary scrutiny for all amendments to agreements. As mentioned, the previous scrutiny arrangements, via the EU Scrutiny Committees, developed over time to reflect our position in the EU. We now need a process that is right for the UK whilst ensuring we can keep treaties up to date and respond to changes in domestic legislation or wider economic considerations.

A treaty may be amended by agreement between the parties. In the UK context, the vast majority of agreements amending a treaty that are subject to ratification would engage the process of parliamentary scrutiny set out in the Constitutional Reform and Governance Act (2010). The UK-Switzerland Trade Agreement makes specific provision for the Parties to make amendments to the Agreement and for the Joint Committees established under the Agreement to make changes to the Annexes, Appendices, Protocols or Notes to the incorporated Agreements. It is in our interest for the Committees to have this function, both to ensure continuity as far as possible and to streamline the process of making amendments to the treaty for technical or administrative changes, if required.
For this agreement, amendments are specifically provided for in the context of the currently disapplied Customs Security Agreement (CSM), annexes of the Agriculture Agreement and the Mutual Recognition Agreement (MRA). Both parties have a stated mutual desire to reapply further elements of the MRA, the disapplied annexes of the Agriculture Agreement, and the CSM into the UK-Switzerland Trade Agreement if possible, which is set out in the Memorandum of Understanding, published alongside the treaty and referenced in the Parliamentary report. If agreement can be reached, we anticipate that the Joint Committee will make amendments to the incorporated MRA and Annex 9 of the Agriculture Agreement concerning organics as soon as possible and that these will come into effect without prior parliamentary scrutiny. This is appropriate to bring these into effect rapidly and secure continuity of the existing EU arrangements for those sectors, given both parties' formal commitments to make progress and the increasing likelihood of there being no implementation period. As with all continuity agreements, this reflects that our aim is continuity and preserving the position which has already been scrutinised by Parliament.

Consultations, including engagement with the Devolved Administrations (DAs)

As noted in our previous letter, we have reflected on the process followed with the DAs on continuity agreements following your committee's report, and I can confirm that we now share text of agreements, once stable, with DAs. We have also offered briefings on the agreements on request and where appropriate. We share draft Parliamentary Reports and Explanatory Memorandums on individual agreements, and we welcome DAs' views as progress is made.

I would like to reassure you that the Government values scrutiny of the trade continuity programme and welcomes your committee's report. I look forward to your subsequent reports on our trade continuity agreements.

I am placing a copy of this letter in the library.

Baroness Fairhead
Minister of State for Trade and Export Promotion
Department for International Trade