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Jean-Claude Juncker  
European Commission

Bern, 7 June 2019

### **Institutional Agreement between Switzerland and the European Union**

Dear President

The consultation process on the draft institutional agreement that has been conducted with the relevant stakeholders since the beginning of this year is now complete. This consultation process reflects the Swiss tradition of building consensus and seeking compromises that need time and are the central pillars of our direct democracy. As stated in the Council conclusions on EU relations with the Swiss Confederation, “The EU and Switzerland are close allies and key economic partners.” This close partnership not only reflects our considerable economic interdependence, but also our common values, as demonstrated through a wide range of cooperation areas. This has also been confirmed many times through popular vote, most recently on 19 May 2019. On this occasion, Swiss voters and the cantons approved, by a clear majority, the adoption of the EU firearms directive, which constitutes a development of the Schengen acquis, with 63.7% of the voters and all but one canton backing the directive. In addition, the tax reform and financing of the old-age and survivors’ insurance was approved by 66.4% of the voters and all cantons. These recent successes show that although Swiss internal procedures take time, they enable solutions to be found predicated on strong, broad-based support.

The Federal Council intends to consolidate and further develop Switzerland’s relations with the European Union and its member states. It acknowledges that this also includes the conclusion of a new institutional framework, as well as the continuation of broad-based dialogue over time. At the same time, the Federal Council recalls that popular participation is an essential component of policymaking. Without the support and engagement of Swiss citizens, government action is unsustainable. With this in mind, it is worth recalling that the institutional agreement will almost certainly be submitted to a popular vote. The Federal Council therefore has to consider the upcoming events on the political calendar, in particular the popular vote on the initiative for moderate immigration (‘limitation initiative’, which calls for an end to the free movement of persons). While the Federal Council clearly opposes the initiative, it has to factor this into its considerations when defining its policy towards the European Union.

The debates and interactive discussions on the draft institutional agreement conducted in Switzerland over the last few months have highlighted three aspects of the text which, as they currently stand, will not allow us to command a majority. These concern the solutions regarding certain aspects of state subsidies, Directive 2004/38/EC on the right of citizens of the Union

and their family members to move and reside freely within the territory of the member states (Citizens' Rights Directive), and the protection of wages in relation to posted workers.

While the Federal Council confirms its intention to find solutions to the institutional questions with the EU and believes the outcome of the negotiations to be largely in Switzerland's interests, it will be necessary, in order to present the agreement to Parliament:

- to clarify that the provisions on state subsidies in the draft institutional agreement have no 'horizontal effect', in particular on the Free Trade Agreement of 1972 prior to its possible modernisation; this could be achieved, for example, by removing the last consideration from the draft decision of the FTA joint committee.
- to provide legal certainty for the current level of wage protection in Switzerland.

In addition, concerning the Citizens' Rights Directive, Switzerland wishes to clarify that no provision of the institutional agreement shall be interpreted as an obligation for Switzerland to adopt the directive, or any related further developments, and that a possible adoption of the directive by Switzerland shall only be achieved by means of negotiations between the parties.

Based on these elements, the Federal Council is willing to engage in dialogue with the Commission over which you preside in order to reach a mutually satisfactory solution. For its part, the Federal Council will include the social partners in its reflections. At the same time, the Federal Council expects the parties to pursue, in a spirit of goodwill, the ongoing negotiations and discussions in the other areas of cooperation. It also expects the stock market equivalence (according to MIFIR23) to be extended for Switzerland in compliance with the internal procedures of the EU.

Yours sincerely

for and on behalf of the Swiss Federal Council:

Ueli Maurer  
President of the Swiss Confederation

Walter Thurnherr  
Federal Chancellor