European Commission

# REPORT OF THE ELEVENTH ROUND OF NEGOTIATIONS

# FOR THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

(Miami, 19–23 October 2015)

## Contents




Date: 6/11/2015

Trade

## SUMMARY

The 11th TTIP negotiating round took place in Washington D. C. and Miami between 14 and 23 October. Talks covered the full range of areas under discussion, with the exception of investment protection and an Investment Court System.

On **market access**, second offers on tariffs were exchanged, covering 97% of tariff lines. The Parties also exchanged proposals for product-specific rules of origin. Progress was made in the negotiations on the general text on trade in goods. Discussions also took place on texts on agricultural market access.

In addition, teams finished working through revised services and investment offers. Negotiators on public procurement engaged in technical discussions ahead of an exchange of offers to take place in February 2016.

All **regulatory issues** were discussed, including regulatory cooperation, technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS) and the nine industry sectors under consideration. Technical progress was made in most areas, though significant work remains ahead.

On **rules**, the EU tabled its proposal on sustainable development. Discussions took place on all the rules topics listed below.

The Parties agreed to accelerate their work between negotiating rounds, in line with our objective of making significant progress in the current phase of the negotiations. Several groups will meet again before the next round in Brussels.

## DETAILS BY NEGOTIATING AREA

### 1. MARKET ACCESS

#### *1.1. Trade in goods: tariffs and market access*

Non-agricultural goods

Market access text

Parties held a productive discussion on a number of articles on the Market Access text chapter on goods. Both sides share objectives on most articles and set out a work plan to further consolidate the textual proposals. Issues discussed include import/export restrictions and licensing, duty free treatment for remanufactured goods and goods returned after repair.

Tariffs

Detailed discussions took place on both sides' revised tariff offers. Parties reviewed product groups where more ambitious phasing out of customs duties were requested by either Party, and product groups which would require longer phasing out periods, allowing domestic producers to gradually adapt to elimination of customs duties.

Agricultural goods

Market access text

The EU side presented its textual proposal for general disciplines in the chapter on agriculture. The proposal establishes the possible scope for cooperation in the area of agriculture in bilateral and multilateral fora. It also sets out disciplines on export competition measures, including export credits and food aid. Finally, it establishes a body overseeing the implementation of the provisions in the chapter (a Committee on Agriculture). This proposal complements the EU's proposals on wine and spirits tabled earlier.

The EU side expressed strong concerns about the recent US special safeguard duties on butter, questioning both their timing and their economic rationale.

The EU side recalled the need to properly address and find solutions to specific non-tariff issues that EU agricultural products are facing in the US market such as:

- prohibition of direct shipping of EU wine to final consumers in the US market;

- US duty-drawback rules on wine;
- discriminatory tax break schemes for US small wine and beer producers;
- US inspection requirement on table olives, and;
- a specific fee imposed on imported dairy products (dairy import assessment).

The EU supported the inclusion in TTIP of specific and comprehensive rules on wines and spirits which would include the protection of EU and US wine and spirits names, winemaking practices, labelling rules and certification. This work should be based on the existing bilateral agreements on wine ("2006 Agreement on trade in wine") and spirits ("1994 Agreement on the mutual recognition of certain distilled spirits/spirit drinks").

The EU insisted that TTIP must lead to the exclusive use for EU producers with regard to 17 names included in Annex II of the 2006 Agreement (Champagne, Chianti, Port, Rhine, etc.).

Finally, the two sides discussed the possibility to develop specific regulatory provisions on labelling for spirit drinks.

Tariffs

First discussions took place on both sides' second tariff offers, which list agricultural products for which import duties will be eliminated. The EU emphasized the need to register comparable progress in other areas of the negotiations, including geographical indications, wine, and sanitary and phytosanitary issues.

### *1.2. Public procurement*

The shared objective for government procurement in TTIP, which was developed in the U.S.-EU High Level Working Group on Jobs and Growth (HLWG), is to "enhance business opportunities through substantially improved access to government procurement opportunities at all levels of government on the basis of national treatment".

The EU continued to pursue this objective during the 11th negotiation round. Procurement was discussed during three full days. The discussions covered both market access topics as well as the textual provisions for the procurement chapter (procedures which public entities apply when they procure).

The discussion on market access was largely based on the EU's questions which concerned in particular the following topics:

- restrictions in the US which affect market access for European suppliers (and their goods and services),
- the expansion of market access commitments, at both federal and state level, and
- the facilitation of access to procurement markets for SMEs.

The EU asked questions for example on federal funding of US infrastructure procurement which is covered by US domestic preferences. EU also underlined the need to improve access to procurement contracts within States. As for transparency, EU took the position that it would be important for SMEs to have better access to information on US government procurement opportunities.

As for procurement procedures, the textual proposal under discussion contains proposals made by the EU and US. Discussions during the third round allowed the Parties to clarify their positions. For instance, the EU considers it important to ensure that environmental and social considerations are properly reflected in procurement procedures. The starting basis is the text of the WTO Agreement on Government Procurement (GPA), to which both the EU and US are signatories.

### *1.3. Trade in services and investment*

The services and investment chapters aim at improving the conditions for transatlantic trade in both areas. Since the EU and the US have tabled textual proposals for services and liberalisation of investment, discussions focused on:

- deepening the understanding of the respective texts in order to better grasp the commonalities and differences, and
- preparing "consolidated texts" where appropriate and feasible (i.e. bringing together the EU and US textual proposals) in order to facilitate next steps in the negotiations.

Investment protection and resolution of investment disputes were not discussed at this Round.

Both sides exchanged views on possible steps regarding mutual recognition agreements (MRAs) for professional qualifications and in particular:

- the establishment of a general framework to facilitate the negotiations of MRAs;

- as regards specific professions, the work underway in relation to architects and the reflection underway concerning auditors and lawyers.

Both sides exchanged revised services offers in July. This round provided an opportunity to further examine the respective offers with a view to reaching a better understanding of each other's proposed commitments and reservations.

Telecommunications services and e-commerce

Telecommunications

The EU's objective is to agree on rules that contribute to market access and competition for all "electronic communications services", including telephony, but also for instance broadband and internet access services.

At the 11th round the EU and the US discussed the entirety of the consolidated negotiation document. Negotiators in particular discussed the scope of the chapter (what type of operators can be regarded as telecommunications service suppliers?) and 'access to essential facilities' (to what extent and under what conditions can new market entrants use infrastructure from incumbents to offer their services?).

Moreover, negotiators discussed provisions on interconnection, the regulatory authority, licensing procedures and redress. The EU reiterated that it is a priority to agree on a broad scope for the chapter and access to infrastructure.

E-commerce

The EU and the US had constructive negotiations**.** The EU's main objective for the TTIP e-commerce chapter is to agree on a set of 21st century rules that facilitate digital trade in all sectors of the economy.

At the 11th round, the EU and the US had a first discussion on the EU textual proposal on e-commerce which covers in particular the issues of 'spam', e-trust services, authorisation procedures for online services, customs duties on electronic transmissions and the conclusion of contracts by electronic means.

Moreover, negotiators discussed the US proposals on non-discrimination of 'digital products', net neutrality and consumer protection. Negotiators started working on a consolidated text that merges the EU and US proposals.

### *1.4. Rules of origin*

The objective in this group is to define the rules on origin of products benefitting from preferential treatment under the agreement.

During Round 11, the Parties agreed on a merged text of their initial proposals on horizontal rules and principles governing origin. On origin procedures no discussion took place.

The Parties exchanged partial proposals on specific criteria for industrial products to be considered as originating in their respective territories. These proposals did not cover certain chemicals, textiles or clothing. Both sides engaged in a first examination of the differences in structure and content, in particular the practice of determining a product's origin based on the value of its constituent parts.

## 2. REGULATORY COOPERATION

### *2.1. Regulatory coherence*

The Parties discussed both Good Regulatory Practices and Regulatory Cooperation, providing reactions on their respective textual proposals, and answering questions for clarification. Parties also continued to provide clarifications on legal issues including in regard to terms and definitions used in the textual proposals.

The Parties provided an overview and demonstration of each other's planning tools, and in particular considered which kind of information will be made available on regulatory initiatives at an early stage in the regulatory process.

The EU initiated this discussion to examine how the regulators' from both sides could benefit from these tools to support regulatory cooperation. The US provided information on a recent initiative aimed at improving and steering regulatory cooperation activities by federal regulatory agencies, in particular those which may lead to significant regulatory actions.

### *2.2. Technical barriers to trade*

The Parties continued to discuss a range of issues across the technical barriers to trade chapter. This includes pertaining to standards such as identifying opportunities for greater participation and transparency in respective systems. The Parties also discussed the EU's work with its neighbours on regulatory and standards approximation and whether this affects US exporters, as well as discussed a range of cooperation and

institutional provisions regarding the functions of the TTIP Technical Barriers to Trade Committee and mechanism for the resolution of issues affecting bilateral trade.

The Parties also discussed issues related to the conformity assessment of products, and in particular how to improve the recognition by one Party of certification carried out in the territory of the other Party on the basis of the requirements of the importing Party. As a part of this discussion, the Parties provided information on the ongoing review of the Occupational Health and Safety Administration (OSHA) Nationally Recognised Testing Laboratories (NRTL) programme. This programme regulates the certification process for some categories of electrical products used in the workplace in the United States.

### *2.3. Sanitary and phytosanitary issues*

The Parties continued their constructive work in consolidating and developing this chapter. This work included continuing to seek further areas of agreement on text in the provisions discussed during the 10th round in July 2015 in Brussels (articles on scope, rights and obligations, competent authorities, and a planned SPS Committee). The Parties next reviewed the article on equivalence.

Good progress was made in identifying agreeable language that reflected the respective objectives and concerns of both Parties for large sections of the article. The parties also identified text where we will need further discussions. The Parties started a discussion on an article on science and risk, based on existing WTO commitments. The question of anti-microbial resistance was also addressed and the additional EU textual proposal was discussed in detail.

The Parties agreed to continue their active engagement in the text based discussions between rounds and ahead of the next round. This will include completing the proposed text with those annexes that have not yet been drafted and on which the Parties agreed to share the work. This work concerns possible annexes on audits, certification, equivalence, import checks and regionalisation[1].

[1] According to the WTO definition, regionalization is a concept where an area of a country is recognized as pest or disease-free or with low pest or disease prevalence. Trade from such areas is allowed even if the health status in the rest of the country is not favorable.

## *2.4. Specific Sectors*

### *2.4.1. Pharmaceuticals*

Good Manufacturing Practice (GMP) inspections

Regulators from both sides (DG SANTE and European Medicines Agency (EMA) and the US Food and Drug Administration (FDA)) provided an update on the work carried out so far by the task force in charge of assessing the equivalence of EU and US GMP inspection systems.

So far there had been an extensive exchange of information (e.g. respective legislation, guidelines and procedures, audit reports, conflict of interest rules).

The FDA has participated as observer in several audits of Member States organised in the framework of the EU internal review process (Joint Audit Program (JAP)). An audit of the US GMP system was carried out by an EU team. There is therefore detailed knowledge about respective GMP systems. The outcome as regards GMP as well as the next steps to achieve it should be defined in the next few months.

Biosimilars:

The EU welcomed the adoption of the final US guidance on biosimilars and the exchange of information regarding other draft guidelines that are currently the subject of a public consultation in the US. The EU repeated its interest in working towards aligned rules on the naming and labelling of biosimilars.

Generics:

EU confirmed its intention to submit before the next round a technical paper that will identify opportunities for further collaboration and harmonisation on the authorisation of generic products.

International Council for Harmonisation of Technical Requirements for Registration of pharmaceuticals for Human Use (ICH) reform:

The establishment (October 2015) of the ICH as an independent association was highlighted as an important step in the ICH reform process. The ICH reform will strengthen collaboration between current and future ICH partners on the development of harmonised guidelines for medicinal products.

Common Standards for Unique Identifiers:

The EU provided an update on the EU Delegated Act laying down detailed rules for the safety features appearing on the packaging of medicinal products for human use.

Exchange of confidential information between regulators:

Discussions will continue on the means to establish a framework allowing the exchange of confidential information (including trade secrets) between regulators.

Other Issues:

A number of topics will continue to be addressed in future rounds, e.g. Parallel Scientific Advice by EMA and FDA, Paediatrics (authorization of paediatric medicines, transparency on pricing and reimbursement).

*2.4.2. Medical devices*

Medical Device Single Audit Program (MDSAP)

The EU became an observer in the plurilateral Single Audit Pilot Project of MDSAP which aims to develop an audit of manufacturers' quality management systems that would be accepted by different jurisdictions (single audit). Experts from the Commission and from Member States (UK, Ireland, Poland) participate already as observer assessors to the audits. The EU will review its experience of the pilot at the end of 2016 to consider further steps.

Unique Device Identification (UDI)

The traceability of medical devices by means of a UDI system significantly facilitates the monitoring, by competent authorities, of devices once placed on the market.

The US requires as of September 2014 the identification of high risk medical devices through a UDI labelling. These requirements are aligned with the International Medical Device Regulators Forum (IMDRF) UDI Guidance.

The EU is envisaging similar provisions on UDI to the US ones in the framework of the revision of medical device legislation. Technical exchanges are taking place to ensure the compatibility and interoperability of EU and US UDI databases.

Regulated Product Submission (RPS):

Efforts to develop a harmonised model format for data submission are being made at the IMDRF. Both Parties are currently involved in the testing of the Table of Contents

agreed at the IMDRF. Depending on the outcome of this testing, Parties will decide on further implementation.

Other Issues:

EU updated the US on the state of play regarding the revision of EU legislation (draft Medical Devices and IVD Regulations) and next steps in the legislative process.

*2.4.3. Cosmetics*

Cooperation on Risk Assessment:

Technical discussions on EU and US safety assessment methods for cosmetics ingredients will continue between scientific experts from both sides via a videoconference dedicated to the assessment of UV filters.

UV filters and Sun Protection Factor (SPF):

Information regarding the implementation of the US Sunscreen Innovation Act is available online. The first draft guidelines should be published by the end of November 2015 with a commenting period of 90 days. They should be finalized by November 2016. EU showed interest in increasing experts' exchanges on these matters. In addition the EU repeated that it would be worthwhile for experts to explore the possible acceptance of sunscreen SPF efficacy testing based on ISO standards.

Cooperation in the ICCR:

Discussion took place on how to reinforce the role of the International Cooperation on Cosmetics Regulation (ICCR) as a tool for regulatory cooperation. The EU will present a strategy for strengthened international cooperation in cosmetics regulation at the ICCR-9 annual meeting in Brussels in early November.

Labelling:

The use of the International Nomenclature of Cosmetic Ingredients (INCI) for ingredients labelling is a tool for providing consumers with adequate information. Discussions on how to promote the use of INCI in both jurisdictions will continue.

Alternative Test Methods (ATMs) to animal testing:

The EU reiterated its suggestion for the US to issue a formal statement that would encourage manufacturers to opt for alternative methods to animal testing in the US.

Other topics:

A number of topics will continue to be addressed in future rounds, e.g. Good Manufacturing Practices, and the batch testing of colorants).

*2.4.4. Textiles*

Fibre names (labelling):

Discussions were held on the possibilities of coordinating respective processes for the designation of new fibres names. The main objective would be that both administrations give the same name to the same fibre to the extent possible to reduce labelling adaptations. As regards existing fibres with divergent names, it was noted that US rules (16 CFR 303.7) provide for the acceptance of ISO names for manmade fibres (ISO 2076) as an alternative to US names.

Silk flammability:

On request from the European Silk Association (AIUFASS), the CPSC (Consumer Product Safety Commission) issued a Notice of Petition for Rulemaking inquiring whether the flammability test method (i.e. sampling conditioning) defined in the US rule (16 CFR part 1610) should be amended.

After assessing the comments received, it is expected that the CPSC will deliver an opinion (staff report) on whether or not the US rule should be amended and be included in the CPSC work programme of 2016.

Care labelling (FTC rule) and CPSC certificate of compliance rule:

The EU asked for an update on the 2012 Federal Trade Committee (FTC) proposal on care labelling, that would allow manufacturers to be able to use either ASTM care symbols or, as an alternative, ISO care symbols. FTC has not yet produced a staff report nor taken a decision on this matter. EU inquired about the state of play of a draft rule on CPSC certificates of compliance, notably the type of information required. A call for volunteers to participate in a pilot of electronic filing for imported products was organised by CPSC in August 2015.

Standards (ASTM/ISO):

Discussion on closer cooperation on standards applicable to textile and clothing products (ISO/EN and ASTM) continued.

*2.4.5. Cars*

Discussions took place on all four main areas covered by the car sector negotiations.

Equivalence

The US provided feedback on the EU's first and second Test Cases on the proposed methodology for recognition of equivalence. Regulators discussed the possibility of accepting recognition of alternative standards (e.g. braking) and short term harmonisation (e.g. safety belt anchorages). The US agreed to provide further feedback on remaining issues covered by the 2nd Test Case and also on the 3rd Test Case.

Harmonisation

A discussion took place on the procedural aspects of expedited harmonization. The US provided some insight on their work on Automatic Emergency Brake systems and Seatbelt Interlock systems.

In relation to the 1998 UNECE Agreement, both Parties discussed further work on the joint trilateral proposal for discussion at the next WP.29 session in Geneva in November. A discussion took place on comments received so far, and Parties reached agreement on possible ways to address them. There was tentative agreement to have a trilateral discussion in January 2016 on pending Global Technical Regulations and priorities for future work.

Research

Both Parties gave a general update on research projects of joint interest (e.g. vulnerable road users, automated driving) and possible twinning programmes.

*2.4.6. Information & Communication Technology (ICT)*

The US and EU exchanged information on seven different issues in the area of ICT.

Radio equipment

Negotiators discussed the latest developments in the areas of specific absorption rates for mobile phones (SAR) and software defined radio (SDR). Both items have attracted considerable attention from stakeholders and will be subject to regulatory changes in the near future in both the EU and the US. The US and EU agreed to share information during the regulatory process in order to obtain compatible regulations, if possible and always taking into account the levels of safety that each Party deems appropriate.

Product labelling, safety and compliance

Regulators discussed their respective approaches to the electronic labelling of ICT equipment with integrated screens. This is an area in which the US is already involved in a regulatory process. Furthermore they explored options on how cooperation between market surveillance authorities can be improved between the EU and the US to ensure that ICT products on the EU and US market are safe and comply with the all the regulatory requirements.

E-accessibility

The US provided information on the latest developments in their regulatory process for the revision of the e-accessibility standard, under section 508 of the U.S. Rehabilitation Act and section 255 of the Telecom Act. The EU is following this process closely in order to ensure that the US standard and the EU one are as closely aligned as possible, aiming at the highest levels of accessibility for disabled users.

On e-health both Parties reported on the progress of actions carried out in the framework of the Memorandum of Understanding between the European Commission and the United States Department of Health and Human Services on Cooperation surrounding Health Related Information and Communication Technologies, and in particular the Transatlantic eHealth/health IT Cooperation Roadmap.

### *2.4.7. Engineering*

The EU and the US continued discussing how to identify areas of regulatory cooperation in the machinery sector, in particular taking into account the input received from stakeholders. The EU suggested one exercise could consist in trying to align standards or technical regulations in areas where there are small differences and the exercise would be feasible without compromising the levels of safety deemed appropriate by each Party.

It was understood that cooperation would need to be in very specific sectors or subsectors in order to avoid overlap with the general Technical Barriers to Trade discussions in this area.

### *2.4.8. Chemicals*

The EU is pursuing the objectives set out in its publicly available Initial Position Paper. In the course of the negotiations it had been agreed to test some of the ideas for cooperation set out by the EU and US in its document on pilot projects.

In the 11th round, progress with the pilot projects on priority chemicals and classification and labelling of substances was reviewed. This allowed Parties to draw some initial conclusions from the pilot projects, e.g. that technical experts are finding the experience useful. The EU underlined that the pilot projects had also shown that it was important to consult and comment on draft updates of priority lists to better align the timing of the work on a given substance.

At the 11th round, there was no further detailed discussion on the EU's draft outline for possible chemicals provisions in TTIP. However, both sides agreed to engage in such a discussion at the 12th TTIP round.

*2.4.9. Pesticides*

US and EU discussed synergies in the broad area of pesticide residue assessment. This might encompass the harmonisation of the review of residue information, but also the question of field trials for minor uses, the sharing of data or the extrapolation of data from one geographic zone or one crop to another one. The US and EU will pursue this dialogue on technical questions also with EFSA and the new EU facility for minor uses.

Incremental progress was made on the projects related to trade facilitation for olive oil and fruit juice concentrates.

## 3. RULES

### *3.1. Sustainable development*

Sustainable development is at the core of the EU action, both at home and around the word. This is a principle enshrined in the provisions of the EU Treaty, and an objective guiding all of the EU's different policies – including trade policy and the negotiations of agreements.

In TTIP, the EU wants to include provisions on labour and environmental issues of relevance in a trade context, for increased trade and investment to improve workers' rights and environmental protection – not to be at their expense.

The EU core objectives in this regard include the respect of key international principles and rules on workers' rights and environmental governance; ensuring that each side can set ambitious labour and environmental laws and cannot pursue a race to the bottom; establishing high levels of occupational health and safety and decent working conditions in accordance with the ILO Decent Work Agenda; providing for the conservation and sustainable management of key natural resources such as wildlife, forestry, fisheries; and furthering responsible conduct by EU and US business.

During the 11th round, the EU presented its first legal textual proposal for a chapter on Trade and Sustainable Development, which covers the above-mentioned aspects as well as other substantive matters, e.g:

- environmentally sound management of chemicals and waste to minimize adverse effects on human health and the environment,
- encouraging the development of fair and ethical trade schemes,
- opportunities for joint initiatives in third countries to further labour rights and environmental protection.

The three-day discussions were based on the EU proposal and focused on:

- explaining the various elements of the EU text,
- flagging issues of particular interest for either or both sides, and
- outlining the next steps, for instance with regard to exchange of further information on domestic frameworks and practices in areas covered in the EU proposal (e.g. on Corporate Social Responsibility).

The EU recalled its approach to the negotiations: to fully seize the real opportunity TTIP presents for an ambitious outcome on the integration of labour and environmental considerations in a trade agreement. The EU stressed its commitment to have innovative and comprehensive provisions in this regard.

The EU explained that provisions on institutional and procedural aspects – including dispute settlement – will be developed at a later stage. This is because, in the EU's view, before moving into discussions on the implementation and enforcement procedures applicable to labour and environmental obligations, we first need to get the substance right and know what we commit to implement and enforce.

### *3.2. Trade in energy and raw materials*

Two days of constructive discussions took place on Energy and Raw Materials (ERM). Discussions covered all the issues identified by the two Parties during the rounds held so far, including all those that were presented in the EU's initial position paper.

The EU continued to state its position that TTIP should incorporate provisions specific to energy and raw materials in a standalone chapter. The EU and the US also discussed issues related to trade and investment in renewable energy and energy efficiency. The relationship between potential ERM provisions and relevant horizontal chapters was also reviewed, as was the relationship between TTIP and current EU - US and US – Member States cooperative activities on energy and raw materials.

### *3.3. Small and medium-sized enterprises (SMEs)*

The Parties discussed two issues in the draft SME chapter: provisions on "information sharing" and the institutional dimension.

Information sharing

The EU and US agree on the need to ensure that comprehensive, up-to-date information is provided to SMEs from both sides in a user-friendly way. The EU is proposing a one-stop-shop system. However, the precise content of the information to be provided and on how it should be presented by each Party is still undecided.

Institutional dimension

There were constructive discussions on the proposed SME Committee. The EU presented its new proposal for this article. Parties agreed on the importance of strong interaction with stakeholders, and cooperative relations between the SME Committee

and other future TTIP committees to address SME-specific issues in all areas covered by TTIP. Some drafting issues remain to be addressed.

The session also provided the opportunity to discuss ongoing cooperation on SME support between the two administrations and to plan future joint work.

### *3.4. Customs and trade facilitation*

In the area of Customs and Trade Facilitation the EU is seeking rules that facilitate and accelerate export and import operations between the EU and the US, while ensuring that goods exchanged are subject to the necessary customs checks and controls.

During the 11th round of negotiation the EU and the US engaged in detailed discussions on their respective customs rules and procedures. Such exchanges included presentations on :

- US procedures used for the clearance of imported goods ("entry procedures");
- US rules relating to customs penalties, focusing on the concepts of mitigation and prior disclosure;
- EU rules on temporary admission, a customs procedure allowing certain goods to be temporarily imported and re-exported without the payment of duty or other charges;
- US programs relating to duty deferral, which is the US equivalent to the EU suspensive procedures;
- The concepts of repair and alteration for consideration in the duty relief treatment of goods re-entered after repair.

These detailed discussions were useful in bringing clarifications on the terminology and processes used across the Atlantic, and allowed for further progress to be made on the consolidated text of the chapter.

### *3.5. Intellectual property rights (IPR), including Geographical Indications (GIs)*

IPR discussions took place over two full days, including half a day dedicated to Geographical Indications. As in previous rounds, the discussions covered: patents, copyright, certain aspects of regulatory test data protection, plant varieties, trade secrets, trademarks, enforcement (including border measures), principles and cooperation, as well as international IPR agreements.

Copyright and trade secrets

The Parties exchanged updates on their respective domestic legislative processes. Similarly, on international IPR agreements, the US and EU gave updates on respective ratification procedures for various agreements.

Trademarks

The Parties further explored the possibility and potential shape of provisions on cooperation in this area, notably concerning bad faith filings.

Patents

The Parties followed up to the discussion at the previous round regarding respective laws and past FTAs.

Regulatory test data protection

The Parties discussed the impact of existing IPR-related incentives for research into treatments.

Plant varieties

The Parties noted stakeholder interest in transatlantic cooperation between the relevant authorities, as well as the implementation of the Nagoya Protocol on Biodiversity.

Enforcement

A brief discussion also took place concerning border measures, building upon the EU text.

Shared principles and cooperation

There were constructive discussions about future sections on shared principles and cooperation where the parties exchanged views on existing strategy documents and action plans, as well as multilateral and international declarations in international fora such as the WTO or G8.

Geographical Indications

The EU side recalled that the protection of Geographical Indications (GIs) constitutes a key EU priority in TTIP. The EU wants the US to improve its system in several ways, notably by protecting an agreed list of EU GIs, with rules to stop other producers misusing them and by enforcing those rules effectively.

The EU renewed its call to the US to move to negotiating mode on this topic, so as to bring it in line with progress made on other areas of negotiations on TTIP, in particular on tariffs. The EU explained again the shortcomings of the US trademark system.

The EU side completed its presentation to the US side of the results of the pre-screening of a short list of EU GI names in the US territory against a set of criteria, such as registered trademarks from an EU GI holder or another operator, prior use by non-GI operators, and allegedly generic terms, in the original language of the GI and/or in translation.

### *3.6. Competition*

The EU and the US continued their discussion of ideas for a potential Competition Chapter text. The discussions are based on textual proposals from both sides.

Several rounds of negotiations and inter-sessional exchanges have moved the Parties closer to a tentative consensus in many areas.

During this round, the EU and the US continued to explore further possibilities to find common ground. They identified a number of areas where they made significant progress.

These areas include: general principles, reference to the EU and US legal frameworks, cooperation, and ongoing review of Chapter implementation.

Further work is still needed in, *inter alia*, the areas of procedural fairness (e.g. issues such as transparency of the investigative procedures and rights of participants) and how to address any exemptions from the application of competition laws.

Both Parties agreed to continue working towards the objective of narrowing down the remaining differences of view in the months to come.

### *3.7. State-owned enterprises (SOEs) and subsidies*

The EU and the US engaged in substantive discussions on their respective SOE textual proposals. The talks were constructive and, in particular, allowed the Parties to identify a number of converging positions in terms of several definitions and provisions. A number of outstanding issues however remain, which will at some stage have to be addressed at the appropriate level.

As regards subsidies, the Parties discussed the US textual proposal in detail, with the EU seeking further clarifications on a number of points. The discussions allowed both sides to further clarify their respective positions with regard to the textual proposals.

### *3.8. State-to-state dispute settlement (SSDS)*

This chapter aims at establishing an effective mechanism for resolving any disputes between the Parties on the interpretation and application of the Agreement. Both sides' textual proposals are to a certain extent based on the WTO Dispute Settlement Mechanism, and so there is a high degree of convergence in this area.

Constructive discussions continued, making good progress towards further consolidation of the respective textual proposals into a joint text. This round's discussions additionally focused on the compliance phase, which comes after a panel report has been issued on a certain dispute. The Parties identified possible ways to compromise on those aspects where the two textual proposals differ substantially.