



# REPORT OF THE 13<sup>th</sup> ROUND OF NEGOTIATIONS FOR THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

(New York, 25-29 April 2016)

## Contents

SUMMARY .....	3
DETAILS BY NEGOTIATING AREA.....	4
1. MARKET ACCESS.....	4
1.1 Trade in goods: tariffs and market access .....	4
1.2. Public procurement .....	5
1.4. Rules of origin .....	6
2. REGULATORY COOPERATION.....	8
2.1. Regulatory coherence.....	8
2.2. Technical barriers to trade .....	8
2.3. Sanitary and phytosanitary issues.....	9
2.4 Sectors .....	9
2.4.1. Pharmaceuticals .....	9
2.4.2. Cosmetics .....	10
2.4.3. Textiles.....	10
2.4.4. Cars .....	12
2.4.5. Medical devices .....	12
2.4.6. ICT .....	13
2.4.7. Engineering.....	13
2.4.8. Chemicals.....	13
2.4.9. Pesticides.....	14
3. RULES .....	15

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Trade

## Report of the 13th TTIP Round of Negotiations

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<i>3.1. Sustainable development .....</i>	<i>15</i>
<i>3.2. Trade in energy and raw materials (ERM) .....</i>	<i>16</i>
<i>3.3. Small and medium enterprises (SMEs) .....</i>	<i>16</i>
<i>3.4. Customs and trade facilitation .....</i>	<i>16</i>
<i>3.5. Intellectual property rights, including Geographical Indications .....</i>	<i>17</i>
<i>3.6. Competition .....</i>	<i>17</i>
<i>3.7. Investment protection .....</i>	<i>18</i>
<i>3.8. State to state dispute settlement .....</i>	<i>19</i>
<i>3.9. Legal and Institutional Issues .....</i>	<i>19</i>

### SUMMARY

Discussions during the 13<sup>th</sup> Round of negotiations on the Transatlantic Trade and Investment Partnership took place in New York between 25<sup>th</sup> and 29<sup>th</sup> April 2016 and covered all three pillars of the negotiations, i.e. market access, the regulatory cluster and rules.

As during the previous Round, discussions under the regulatory pillar took centre stage. In particular, negotiators made headway in discussing their respective texts on regulatory cooperation and good regulatory practices. There were intense discussions on TBT with a particular focus on conformity assessment. As for regulatory cooperation in sectors, work of technical consolidation started and further proposals will be presented before the next Round planned for July.

On rules, progress was made in text consolidation on several issues, particularly in the SME chapter and with regard to customs and trade facilitation. Negotiators also agreed to explore the consolidation of text of selected issues in the chapter on sustainable development, which includes labour and the environment, as well as in the realm of investment.

Thirdly, the EU and US discussed market access areas. Talks in the realm of industrial tariffs were positive, bringing negotiations well under way to exceed 90 per cent of tariff lines that would be eliminated by both sides upon entry into force of TTIP. Negotiators also discussed services and public procurement, where, in spite of a general forward movement, significant differences remain in market access and strides will need to be made in order to have the main elements of an agreement finished this year. In the services pillar the US tabled its text proposal for a general framework on mutual recognition agreements for professional services, which allowed negotiators to engage on these specifics. Steady progress was also made in the consolidation of the services text. Discussions on public procurement saw the beginning of a consolidation of the respective texts. Nevertheless, it is clear that a lot of work remains to be done in order to reach a similar level of progress in access to services and procurement markets as in tariffs so as to move the negotiations under this pillar to the end game.

Finally, Parties reiterated their commitment to accelerating the work between Rounds with a view to quicken the overall pace of negotiations. Several groups agreed to meet intersessionally in the run up to the next fully fledged negotiation Round, envisaged for July. The objective for the forthcoming Rounds would then be to continue the work of consolidation in all areas in order to end up with a very limited number of open issues that can ultimately be resolved at political level. It remains our pivotal and overarching

objective to negotiate an ambitious, high standard and balanced TTIP agreement that responds to both EU and US interests.

## **DETAILS BY NEGOTIATING AREA**

### **1. MARKET ACCESS**

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

##### **Non-agricultural goods**

###### ***Trade in Goods***

The EU and the US continued to narrow down differences on the general provisions relating to trade in goods. The EU and the US also looked at solutions for expanding the number of situations where they can provide duty free treatment for temporary imports and for goods that have been reimported after repairs performed in each other's territory.

###### ***Tariffs***

Parties discussed proposals for removal of customs duties on the first day the agreement enters into force. The majority of customs duties for industrial and fisheries products are now to be eliminated on day one except for tariff lines which the EU or the US deem sensitive for which a transition period will be considered.

###### ***Textiles***

The EU and the US discussed how to remove customs duties as well as the US proposal for a textile chapter.

##### **Agricultural goods**

The session on agriculture consisted of three parts: the draft chapter on agriculture, tariffs and non-tariff issues.

As regards the consolidated text on agriculture, good progress was achieved with respect to the least controversial provisions, such as cooperation, committee on agriculture, and spirits, for which the EU had presented a textual proposal in the February round. The Parties maintained their diverging positions regarding other aspects of the chapter.

Regarding tariffs, the discussion centered upon products within the 97% of lines covered by the second offer, with each side flagging specific export interests and requests to reduce proposed staging periods. Products identified as the most sensitive were not reviewed.

Finally, the two sides continued discussing specific non-tariff issues related to agriculture.

### ***1.2. Public procurement***

During the 13<sup>th</sup> negotiation round procurement was discussed during two full days. Discussions centred upon on the provisions for the procurement chapter text. The starting basis for textual discussions is the text of the WTO Agreement on Government Procurement (GPA) to which both EU and US are signatories. The text defines procedures which public entities apply when they procure.

Discussions allowed for the clarification of positions and helped identify areas for common ground. The EU underlined proposals which support transparency and non-discrimination. The EU also underlined proposals which properly reflect environmental and social considerations as well as labour rights in procurement procedures.

As for transparency, the EU highlighted the importance of a single point of access to information on procurement opportunities, in particular, to facilitate the participation of SMEs in public contracts. In this context, there was also a discussion on the encouragement of electronic procurement processes as well as on the provision of advisory mechanisms to help SMEs participate in public procurement on both sides. For example, discussions explored mechanisms to assist companies by establishing a so-called "help desk" or contact point for informal complaints.

There were discussions on market access, but significant gaps remain.

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

Negotiations in services and investment saw seven days of intensive discussions, covering a whole array of issues, i.e. financial services, cross-border trade in services, liberalization of investment, domestic regulation, mutual recognition of professional qualifications as well as on market access, telecom, e-commerce.

As regards **financial services**, we made further progress on the consolidation of the text with respect to obligations, rules, exceptions and definitions.

As for **regulatory cooperation in financial services**, the EU and the US confirmed their respective positions.

Discussions relating to **mutual recognition in professional services** focused on US recent proposal of a framework for future examination of the issue. We obtained a good understanding of the implications and reasoning behind the text. Furthermore, each side updated the other on professions under discussion for an MRA or those that might have

expressed an interest. Also a meeting with US regulators of statutory auditing took place.

The EU introduced its text proposal related to **domestic regulation**, i.e. rules related to licensing and qualification.

Regarding **market access**, the EU and the US exchanged factual information on their respective offers.

We also made further progress in the consolidation of **cross-border trade in services** as well as **investment** texts.

Furthermore, EU and US negotiators spent three days discussing **e-commerce and telecommunications**, covering all issues at the negotiation table. With regard to e-commerce, negotiators made headway in drafting provisions, most notably with a view to ensuring online consumer protection, to protecting consumers from spam, to recognising the open nature of the internet and to ensuring the recognition of so-called "electronic trust services" (such as e-signatures and electronic time stamps).

As for telecommunications, negotiators also made good progress in drafting a number of regulatory principles, including on interconnection, the regulatory authority, licenses and universal service obligations. Moreover, the Parties had an in-depth discussion on the important issue of ensuring that new market entrants have access to dominant incumbents' networks, including broadband networks.

#### ***1.4. Rules of origin***

The overarching objective in this group is to define the rules on origin of products benefitting from preferential treatment under the agreement. The following issues were discussed:

##### **(i) 'Origin procedures' (Section B)**

The Parties discussed how to reconcile the EU and US positions, as regards the conditions to claim preferential status, the verification procedures and the requirements to deny the preferences.

##### **(ii) 'General provisions' Part (Section A)**

On the basis of an EU proposal for texts on some provisions discussed in last Round, the EU and US discussed: accessories, spare parts and tools, packing and packaging materials and further exchanged views on origin requirements, non-alteration and value calculation methods.

(iii) Product Specific Rules (PSR)

The Parties finalised the comparison on the PSR texts exchanged during the 11th Round (HS Chapters 89 to 97). Specific discussions followed on chemical products and footwear.

*Textiles rules of origin*

Discussions took place on the following:

- (i) the US proposal on 'anti-circumvention', 'information sharing' and verification for the textile and clothing sector.
- (ii) the standard approaches of both Parties to Product Specific Rules, using concrete examples and establishing equivalents between the different approaches of both Parties.

The Parties will be in touch on the possibility to exchange texts on Product Specific Rules for the next Round.

## **2. REGULATORY COOPERATION**

### ***2.1. Regulatory coherence***

Parties examined their respective texts on regulatory cooperation and good regulatory practices. Discussions covered, inter alia, the scope and practical implications of regulatory cooperation in TTIP and how it would help to identify new opportunities for cooperation and how to involve stakeholders. The exchange of information will continue inter-sessionally in the run-up to the 14th negotiating round, to provide additional information that will help us to further assess each other's proposals.

### ***2.2. Technical barriers to trade***

During this round the TBT group discussed proposals on cooperation, role and functions of the TBT Committee, conformity assessment and standards.

Both sides share the objective of having a strong TBT Committee which will help implement the provisions of the TBT Chapter. The functions of the Committee will consist in monitoring the implementation of the obligations derived from the Chapter and serve as a forum for the discussions of any matter arising under the Chapter, including specific trade concerns and trade facilitating measures / initiatives within the TBT area. Given the relevance of the transatlantic trade relationship, the Parties agree on having regular meetings and contact points on both sides in order to facilitate good progress.

On conformity assessment, the Parties discussed possible modalities for the recognition by one Party of conformity assessment bodies located in the other Party in order to facilitate that testing and certification for both markets can be carried out by European and US manufacturers at origin. In particular, the Parties discussed the modalities for the assessment of the technical competence of the conformity assessment bodies, the rules the conformity assessment bodies would have to comply with and the obligations of the Parties to guarantee that the conformity assessment bodies would continue to comply with applicable requirements over time. In this regard, the Parties specifically discussed the roles of their authorities in assisting each other in the enforcement of product safety rules involving products certified by a conformity assessment body located in the territory of the other party. Both sides also discussed the conformity assessment procedures required by the Occupational Safety and Health Administration in relation to the safety of electrical equipment for use at the workplace, where the EU is requesting a substantial simplification and modernisation of the existing procedures according to an accelerated time-frame.

On standards, discussions centred upon issues related to the transparency of the processes through which regulatory authorities select the standards to be referenced in support of technical regulations and the participation of stakeholders of one Party in the



standardisation bodies located in the territory of the other Party. On that same note, talks also focussed on how to encourage cooperation aspects between EU and US standard development organisations.

### ***2.3. Sanitary and phytosanitary issues***

During this round negotiators discussed proposed articles on import checks, certification, the set-up of a Committee structure, emergency measures, transparency, audits, anti-microbial resistance, animal welfare, modern agriculture technologies and trade facilitation to map out objectives and possible ways forward. Good discussions took place on import checks. Both parties agreed on maintaining risk based import checks. Further progress was made on certification, Committees, audits and verification. The EU indicated it does not support a US proposal on modern agricultural technologies.

On animal welfare, the Parties had a first detailed discussion of their respective expectations and concerns. The EU explained the nature of its proposed animal welfare provisions. It was noted that the regulatory approach differs significantly in the EU and US. The EU described the expectations of its legislature and stakeholders. The EU explained its proposal in more detail. The EU answered questions from the US. The EU insisted on the importance of animal welfare provisions in trade agreements and the relevance of the matter for SPS.

On anti-microbial resistance (AMR), a technical presentation by the US was made illustrating the US efforts on AMR domestically and internationally. The EU stressed the importance of joint efforts to fight AMR at all levels in all fora and argued for the inclusion of AMR in the SPS Chapter.

### ***2.4 Sectors***

Nine sectors have been identified for looking at how to enhance regulatory compatibility. Discussions are led by the respective EU and US regulators in these sectors.

#### ***2.4.1. Pharmaceuticals***

Both EU and US tabled first legal text proposals on pharmaceuticals. On GMP (Good Manufacturing Practices) inspections, both sides provided an update on the works of the task force assessing the equivalence of both systems and discussed the work plan for 2016.

## Proposals of legal text for the pharmaceutical sector

A first exchange took place on the proposals of each side for a legal text on the pharmaceuticals sector. The [EU proposal for an annex on medicinal products](#) describes the conditions under which each competent authority takes decisions on marketing authorisations, promotes international harmonisation and establishes frameworks for the mutual recognition of GMP inspections, for the exchange of confidential information including trade secrets and for bilateral regulatory cooperation. Discussions on the two proposals will continue at the next round.

### **Good Manufacturing Practice (GMP) inspections**

Regulators from both sides noted the progress of the work carried out so far by the task force in charge of assessing the equivalence of EU Member States and US GMP inspection systems. The tasks to be carried out in the coming months were identified and there was agreement to pursue efforts towards the possible establishment of mutual recognition of respective GMP inspections.

#### *2.4.2. Cosmetics*

Proposal of legal text for the cosmetics sector: US tabled the first provisions for a legal text on cosmetics. EU undertook to table the EU proposal before the July round.

Cooperation on Risk Assessment: The Parties will continue discussing how to continue expert level discussions on EU and US safety assessment methods for cosmetics ingredients.

Cooperation on labelling and Alternatives to Animal Testing (ATMs): The EU noted that there is no interest from its industry to undergo a pilot on colorants testing/labelling. Alternatives to animal testing (ATMs) were briefly touch upon in the discussions.

Cooperation in the ICCR (International Cooperation on Cosmetics Regulation): Both sides will continue working on a strategy to reinforce cooperation in ICCR.

#### *2.4.3. Textiles*

None of the Parties tabled legal texts. EU undertook to table the EU legal text proposal before the July round.

Exchange of views on structure of a legal text on textiles:

The EU presented the structure of the future EU legal text proposal on textiles. That text will likely contain cooperation provisions on labelling of textile/clothing products, on safety requirements, on cooperation on market driven standards and on a bilateral cooperation mechanism.

Textiles voluntary market driven standards:

Both sides confirmed the interest to promote bilateral cooperation on market driven standards. This could include promoting the cooperation between relevant EU and US standardisation organisations at the most appropriate level.

Fibres names cooperation:

The EU reiterated interest for effective cooperation with the US Federal Trade Commission on the process leading to the designation of new fibre names (labelling).

Flammability testing

The US CPSC (Consumer Product Safety Commission) informed that the EU silk industry petition requiring the US to amend the textile flammability test has been denied. Detailed exchange of views took place on this matter. Further information can be found at: <http://www.cpsc.gov/en/Newsroom/FOIA/Records-of-Commission-Action-and-Commission-Meeting-Minutes/2016/2016-Docs/RCA-Petition-for-Rulemaking-under-the-Flammable-Fabrics-Act-Requesting-Modification-of-the-Test-Procedure-in-the-Standard-for-the-Flammability-of-Clothing-Textiles/>

CPSC informed about a recent decision of CPSC to exercise "enforcement discretion" regarding certificates of compliance for low risk adult apparel. In practice, this enforcement discretion (i.e. exemption of requirement to provide for a certificate of compliance) will apply to clothing made with fabrics CPSC has already found to be safe and compliant with flammability standards. It does not apply to children apparel. Fabrics more likely to be flammable will still need testing and certification.

Care labelling

The EU asked for an update on the 2012 Federal Trade Commission (FTC) proposal on care labelling (that proposal 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

#### 2.4.4. *Cars*

Regarding regulatory aspects for cars, we had a constructive discussion on the improvement of transparency of the 1998 Agreement and implementation of Global Technical Regulations. On the margins of the TTIP round, the discussion also included Japanese regulators.

In the bilateral context, we exchanged information on recent progress on the three cases of expedited harmonization.

We then proceeded to continue our in-depth discussion on possible equivalence, equivalency-plus and harmonization to achieve a tentative categorization for a number of existing safety regulations. All items were discussed with a view to confirm its treatment under equivalence, equivalency-plus or harmonization.

Both sides will aim to table draft agreement texts for the next negotiation round.

#### 2.4.5. *Medical devices*

##### Proposal of legal text for the medical devices sector

The US tabled the first provisions for a legal text on medical devices. EU undertook to table the EU proposal before the July round.

##### Medical Device Single Audit Program (MDSAP)

The US asked the EU to take further steps to implement the International Medical Device Regulators Forum (IMDRF) Medical Device Single Audit Programme guidance documents and to implement the single audit. EU outlined the process/milestones for taking a decision on EU full participation in the international Medical Devices Single Audit Programme (MDSAP). In particular, the European Commission will take stock of the experience gained during 2016 MDSAP participation (Commission, Member States and some EU auditing organisations are involved in MDSAP).

##### Unique Device Identification (UDI)

Technical exchanges are taking place to ensure compatibility and interoperability of the EU and US Unique Device Identification databases. US data base is already operational. Preparatory work for the development of the EU data base is ongoing.

##### Revision of EU legislation

EU updated the US on the state of play regarding the revision of the EU legislation (draft Medical Devices and draft In Vitro Diagnosis Regulations) and next steps in the legislative process during the Dutch Presidency.

#### *2.4.6. ICT*

The Parties continued to exchange information on the different ongoing ICT initiatives in the EU and the US on the areas of e-health, encryption, e-labelling, cooperation in market surveillance, Software Defined Radio, Specific Absorption Rates for mobile phones and e-accessibility. On Software Defined Radio, Specific Absorption Rates, and e-labelling the Parties discussed steps in order to facilitate a regulatory dialogue that eventually could result in convergent regulations. On encryption the US explained the importance of achieving a "golden standard", which hopefully would be followed by third countries.

On e-Health the Parties continued to monitor developments in the implementation of the Roadmap on eHealth/Health IT between the EU Commission and the US Department of Health, and on market surveillance they discussed how to step up cooperation in market surveillance activities for ICT products. Once again, the exchange of information was positive, and both Parties noted progress in some areas. The EU, however, noted the reluctance of Member states for some issues, notably encryption.

#### *2.4.7. Engineering*

The EU continued discussing how to identify areas of regulatory cooperation in the engineering sector, this time based on the ideas of the EU for an Engineering annex, which would establish processes for regulatory cooperation in areas of common interest.

The EU discussed how such provisions could interact with the general regulatory cooperation chapter and the TBT chapter, and how to define their scope. The EU noted once again the great relevance of this sector.

#### *2.4.8. Chemicals*

As during the previous rounds, progress with the pilot projects on priority chemicals and classification and labelling of substances was reviewed. Exchange of information in follow-up to earlier contacts on priority substances continued since the last Round.

The technical analysis concerning differences in the classification rules for mixtures in Safety Data Sheets has been almost completed in view of consultation with Member

States and stakeholders to gather feedback on whether the identified differences lead to problems in practice.

Discussions continued on possibilities for facilitating data exchange between regulators, including the formats for such exchange, while considering the need for protection of confidential business information.

The EU announced that it intended to table a text proposal for a Chemical Sector Annex for the next Round.

### *2.4.9. Pesticides*

The EU and the US continued their discussion on how to engage cooperation on pesticides issues. The EU remains keen that such cooperation will not duplicate the good contacts and cooperation already ongoing in other fora such as the OECD or the Codex Alimentarius. The Parties noted that contacts now have been established between EU Minor Uses Coordination Facility and the US IR4 project. These projects aim at facilitating registrations of conventional pesticides for specialty crops and other minor uses. This has become possible after the recent creation of the EU office. The US informed the EU on its review schedule, and sought the EU's review schedule. The Parties also exchanged views on the ongoing cooperation at a recent Codex meeting, reviewed progress on information exchange on data on global zones and crop groupings, and continued to discuss other possible areas for cooperation.

### 3. RULES

#### *3.1. Sustainable development*

During the 13<sup>th</sup> round of negotiations, the Group working on Trade and Sustainable Development had a full week of negotiations, addressing labour, environment and cross-cutting issues. Based on the text proposals presented by the EU and the US in previous rounds, discussions focussed on a detailed analysis of areas of convergence, as well as on identifying key issues for the other areas.

On labour, the EU and the US concurred on the importance of including in the text commitments related to the International Labour Organisation (ILO) core labour standards, as well as to effectively enforce, and not derogate from, their respective labour laws. Provisions ensuring protection for health and safety at work and decent working conditions were also identified as an area of interest to both sides. Furthermore, the EU and the US agreed on TTIP being a useful platform for supporting cooperation on trade and labour matters in third countries, and discussed options in this regard.

The EU provided further details on its proposal for "thematic articles" detailing key principles and actions with regard to each of the 4 ILO core labour standards – freedom of association and right to collective bargaining, elimination of forced labour, abolition of child labour, non-discrimination in the workplace.

The EU explained its practice to include provisions on the right to regulate for all sustainable development matters.

On environment, the group made progress in areas of broad convergence, including the conservation and sustainable management of fisheries, including IUU fishing. Concerning the other environmental "thematic articles" proposed by the EU, there was a common understanding on the importance of including provisions on the conservation and sustainable management of wildlife – including on combatting illegal trade in wildlife.

The US asked for clarification on the EU proposal concerning chemicals and waste – an area not addressed so far in the Trade and Sustainable Development/Environment chapters of either side, and which the EU sees as of specific relevance in the TTIP context.

Building on the signature of the Paris Agreement which took place in New York just before the TTIP round, the EU also recalled that it intends to present a dedicated proposal on climate change.

On cross-cutting issues, the EU gave a detailed presentation on its proposal on Corporate Social Responsibility, and an overview of recent initiatives on responsible value chains, and highlighted how this is a priority area also reflected in trade agreements.

Finally, the EU recalled that it pursues a high level of ambition for this chapter, starting with comprehensive and innovative obligations on substance. It confirmed that it will develop provisions on monitoring and enforcement aspects at a later stage, so as to make sure they are well suited to ensure the implementation of the substantive provisions.

### ***3.2. Trade in energy and raw materials (ERM)***

Trade in energy and raw materials saw two days of discussion on respective US and EU priorities. In order to make progress, the Parties discussed the idea of involving regulators more closely, in principle already before next round. The EU side explained its wish to include pro-competitive provisions for energy market access as well as provisions to promote sustainability and green policies. At this stage there is no commitment from the US to accept an ERM chapter. However, contrary to some press statements, they do not rule this out either.

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

On SMEs discussions are based on a full consolidated text. The text of the preamble, Article 1 (cooperation) and Article 3 (Committee) are stable subject to a final check of specific drafting issues. We agree that the Committee will have a strong interaction with stakeholders and with other future TTIP committees to address SME-specific issues.

We made further progress on Article 2 (information sharing), where EU and US agree on the need to ensure that comprehensive, up-to-date information is provided by each Party to SMEs of both sides in a user-friendly way, and we continued discussions on how the information can be presented.

We agreed that the SME chapter should also refer to other areas of TTIP which are specific to SME or present benefits for SMEs, and will liaise with other negotiating groups to work on this.

### ***3.4. Customs and trade facilitation***

During the 13th round of negotiations the EU and the US were able to make further progress on the text of the chapter.

Discussions included an exchange on topics such as data harmonisation, authorised operators (trusted trader programmes), single window systems, advance rulings (binding information) or international standards, that as proposed by the EU during the previous round would benefit from a process of enhanced customs cooperation between the EU and the US.



Finally, the Customs and Trade Facilitation and the Trade in Goods groups held a joint meeting to discuss procedures for temporary admission of goods, in particular.

### ***3.5. Intellectual property rights, including Geographical Indications***

IPR discussion took place over 2.5 days, including a 2 hour section dedicated to GIs (reported separately). The US presented three further IPR text proposals: on cooperation, plant varieties and IPR Border measures.

There was good progress in the discussion of the previously presented text proposals on International Agreements and General Provisions. In order to accelerate pace of negotiation, the EU accepted to work on the basis of US proposals and introduce comments therein.

The parties identified elements of convergence in the respective new trade secret laws and discussed the way forward for possible text based negotiation. The US bill providing civil remedies for disclosure of trade secrets has been signed into law on 11 May 2016. On the EU side the Council is scheduled to have the final vote on similar legislation in May. The parties also exchanged updates on their respective copyright review processes.

#### **GIs**

The EU side recalled that Geographical Indications (GIs) constitute a key EU priority in TTIP and that it is ready to pursue its goals of ensuring better protection for a selected list of EU GIs with pragmatism and tabling creative ideas. The EU renewed its call to the US to make progress on this topic, as to bring it in line with progress made on other TTIP areas of negotiations.

### ***3.6. Competition***

The EU and the US continued their talks regarding the Competition Chapter. The negotiations are based on textual proposals from both sides. The Parties discussed ways to improve the text concerning especially various aspects of procedural rights.

Both sides expressed commitment to work towards successful closure of the Chapter as soon as possible. To this end, the EU will present new ideas regarding how exemptions from the application of the competition law should be worded, notably when it comes to enterprises entrusted with legitimate public services obligations.

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

The discussions on the respective SOE text proposals concentrated this time largely on the SOE definition where the Parties explored various alternative approaches.

As regards subsidies, the Parties explored the respective proposals and gained further understanding on each others' underlying legislative frameworks and administrative systems. Discussions allowed both sides to further clarify their respective position with regard to the text proposals.

Outstanding issues however remain, in particular as regards the scope of both the SOE and subsidies provisions.

### ***3.7. Investment protection***

During this Round discussions on the EU and US text proposals on investment protection and investment dispute settlement continued.

On **investment liberalisation and protection**, discussions covered all substantive rules, as well as definitions and reservations. The in-depth exchanges allowed to compare approaches overall and to progress in consolidating text where the EU and US texts present more similarities (e.g. expropriation, compensation for losses) and to better understand through mainly conceptual discussions other areas of outstanding work (e.g. architecture, national treatment, fair and equitable treatment).

On **investment dispute resolution**, exchanges took place on the remainder of the respective text proposals which had not been discussed during the 12th round. The first part of the session focused on areas of convergence where both sides asked questions about the respective policy, legal and textual approaches in view of identifying conceptual and textual convergence. Topics of discussion included the procedures for consolidating multiple claims, provisions for the early dismissal of unfounded claims, the role of the non-disputing Party to the Agreement, the appointment of experts to report on environmental, health, safety or other matters, and the interrelationship between the investment dispute resolution rules and state-to-state dispute settlement proceedings. The EU also presented its text proposals relating to security for costs of the proceedings and the right of intervention of third persons with a direct and present interest in the result of the dispute.

Both sides then engaged into a detailed discussion of the EU's proposal for an Investment Court System, consisting of a Tribunal of First Instance and an Appeal Tribunal. Following a general presentation of the proposal by the EU, the US asked detailed questions about the policy rationale behind the proposal, as well as about the functioning of the proposed Court System.

### ***3.8. State to state dispute settlement***

This Round saw a continuation of constructive discussions on state-to-state dispute settlement. Negotiators made good progress towards further consolidation of the respective text proposals into a joint text. In particular, this Round's discussions focussed on the establishment of a panel, list of arbitrators, amicus curiae submissions, urgency disputes, and possible information sources by the panel. There was also an exchange of views on the possibility of an arbitrator to publish dissenting opinions.

Lastly, some more negotiations and fine-tuning took place on the consolidated provisions regarding compliance phase, i.e. the phase after a panel report has been issued in a certain dispute.

Good progress was made in all areas discussed, but some important conceptual differences remain. Both sides agreed on further inter-sessional work, notably concerning the EU proposal on mediation given that there was not enough time during this round to have an in-depth discussion.

### ***3.9. Legal and Institutional Issues***

The EU and US side had good discussions on a number of horizontal legal issues, such as common drafting guidelines for leads, definitions, the initial, administrative/institutional and final provisions of TTIP and touched upon exceptions (e.g. incorporation of WTO general exceptions into TTIP). It was agreed that by July both sides would aim to table textual proposals covering those horizontal legal issues for which one or both sides have yet to table text, in particular with respect to definitions and institutional.