NOTE

From: Commission Services
To: Delegations
Subject: EU-U.S. Agreement on e-evidence
- Agenda of the first negotiating round

Delegations will find in Annex the agenda of the first negotiating round that took place on 25 September 2019.
Agenda

First negotiating round - EU-U.S. Agreement on electronic evidence

25 September 2019, 12.30-18.00 (Brussels, Rue Montoyer 59)

12:30 Negotiation Round 1 (also with US DoJ via video-link)

1. Introduction and updates on negotiating mandates

2. Categories of data (subscriber, access, transactional, content)

3. Types of offences and proceedings
   - Lists of offences; Levels of penalties
   - Criminal proceedings (pre-trial and trial)

4. Cooperation channels/workflow
   - Direct cooperation between competent authorities and service providers
   - Transfer of e-evidence by service providers
   - Notification of competent authorities

5. Competent issuing authorities
   - Law enforcement authorities
   - Judicial authorities
   - Federal / State authorities
   - Other competent authorities
   - Procedural conditions (prior judicial authorisation and exceptions)

6. Safeguards
   - Non-discrimination between EU Member States/EU citizens
   - Fundamental rights (incl. freedom of speech, effective remedy, fair trial, ne bis in idem, death penalty and life imprisonment)
   - Privileges and immunities
   - Data protection safeguards (scope of application of the Umbrella Agreement, need to adapt specific safeguards to situation of direct cooperation)
   - Information of data subject and judicial review

7. Legal form and relationship with EU-US MLAT

8. Next steps and negotiation schedule