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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