



Department for
International Trade

**UK-US Trade & Investment
Working Group
24-25 July 2017
Full Readout**



Agenda and Table of Contents

Original scheduled time/date*	Meeting title and objectives	Page Number
Day 1 - Monday 24th July		
9:30-10:15	Coordination Team meeting (USTR/UK coordination)	3
10:15-10:45	Trade Strategy/WTO	5
10:45-11:15	Goods/Textiles & Apparel	7
11:15-12:30	Informal discussion on Regulatory Issues (USTR/DIT/BEIS)	10
12:30-14:00 - Lunch		
14:00-15:15	Lighthizer-Fox meetings	13
	<i>Suggested running order was:</i>	
	14:00 - 14:15: Fox/Lighthizer bilateral	
	14:15 - 15:15: Main plenary session	
15:30-17:00	SMEs	15
Day 2 - Tuesday 25th July		
9:00-11:30	Services, Data, FS	18
	<i>Running order:</i>	
	9:00 - 10:15: Services, including Financial Services	
	10:15 - 11:30: Data, digital and e-commerce issues	
11:30-15:00	Goods (Part 1 and Part 2)	28
15:00-16:00	IPR & Gis	40
16:00-17:00	Coordination Team meeting (USTR/UK coordination)	44

*Session times may have varied from the schedule for actual meetings



Department for
International Trade

Title of Meeting: ***Opening Coordination Meeting***

Date: **24 July**

Time: **09.30**

Participants

Name	Department/Directorate
Dan Mullaney	USTR
Tim Wedding	USTR
David Weiner	USTR
Ram Rizzo	USTR
Alexandra Whittaker	Assistant General Counsel USTR
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Mark Kent	British Embassy Washington

Key Points to Note

- UK explained seven short term outcomes. US supports concept of STOs but reserves its position pending inter-agency review.
- US question whether Trade Working Group is the right forum for consideration of some of these STOs. UK notes that Economic Working Group only focused on continuity.
- US requests STO proposals remain internal to US and UK Government at this stage.

Report of Discussions and Outcome

1. USTR (Wedding) set out their expectations for the agenda of the 2-day meetings running through the individual sessions and representatives on the side. UK (Griffiths) agreed. The UK asked about the treatment of procurement continuity issues, given US sensitivities prevented its addition to the agenda. The US (Wedding) offered to introduce Scott Pietan, USTR lead on procurement who would be able to discuss. But he cautioned that US policy was in flux given the ‘Buy America, Hire America’ report which was under discussion. The US would not have a policy position at this stage, but this was likely a “temporal issue”.
2. The UK introduced discussion of the 7 short term outcomes (STOs) which did not fit within the separate sessions:
 - a. Defence Technology Transfer. The UK (Gadd) presented. Significant existing dialogue at working level with Dept of Defence and State Dept. There is an opportunity to overcome hurdles on both sides given largely homogenous defence industry. Improving the ability to



Department for
International Trade

move technology back and forth would reduce cost and increase capability of both our militaries. The Defence and Foreign Secretaries had already raised with their US counterparts.

- b. Defence Market Access and Governance. The UK (Gadd) presented. This proposal would build on the Reciprocal Defence Procurement MoU which provides relief from Buy America provisions. The goal would be to expand the scope of coverage.
- c. Science and Technology Agreement. The UK (Colley) presented. Negotiations to secure this agreement are ongoing between BEIS and the State Dept. This would provide a straightforward deliverable.
- d. Offshore Wind Collaboration. The UK (Colley) presented. The UK is a world leader in offshore wind. The US is taking increasing interest, including at the sub-Federal level. Our goal would be enhanced policy dialogue and provide Govt blessing to primarily private sector engagement.
- e. PPP Expertise Sharing. The UK (Colley) presented. In the context of President Trump's infrastructure initiative, the proposal represents a UK offer to share expertise and best practice in PPP. A joint conference could be a useful mechanism to bring together public and private sectors.
- f. Mobile Roaming. The UK (Connolly) presented. The EU agreement to eliminate roaming charges has gone down well with the public. This proposal could do so between the UK and US. This could increase digital trade and generate long-term net benefits. UK telcos already have agreements with US providers, some of which already eliminate roaming charges. There may be mechanisms to do this jointly.
- g. Sports collaboration. The UK (Connolly) presented. There is a significant UK appetite for US sports franchises. American Football has begun exhibition matches and a formal franchise is under consideration. Additional US sports would be welcome.

3. The US (Wedding) welcomed the explanations and endorsed the concept of seeking short term outcomes. Given the outlines had only been received just prior to the Working Group, the US would reserve its position on the specific proposals. The US would need to do some thinking on an inter-agency basis to consider the proposals and may revert with questions. US leads would share their own proposals during the specific sessions. Wedding noted the potential trade policy angle was obvious in some proposals, providing a clear USTR locus, whereas in others the lead would be clearly with other agencies. The US questioned whether the trade working group was the best forum for discussion and recommended an additional discussion with Clete Willems (NSC, Chair of Economic Working Group) regarding the proposals. The UK (Phillipson) noted the Economic Working Group was only mandated at present to look at continuity issues, not the future relationship. The US (Mullaney) recommended experts digging into the detail (e.g. Rob Tanner on roaming). Wedding raised comms around the STOs, noting press reporting of "24" proposals but no specifics, and requested that they remain internal at this stage.



Department for
International Trade

Title of Meeting: **Trade Strategy / WTO**

Date: **24 July**

Time: **10.15**

Participants

Name	Department/Directorate
Dawn Shackelford	Assistant USTR for the WTO and Multilateral Affairs
Mary Thornton	Counsellor, US Mission to the WTO, Geneva
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Antony Phillipson	DExEU
Anne Collett	British Embassy Washington

Key Points to Note

- US sceptical about chance of substantive deliverables at WTO Ministerial
- US remains concerned about operation of WTO Dispute Settlement Body (DSB), but no substantive discussion.
- US seeking improved compliance with existing notification obligations from WTO membership, important in the context of overcapacity.
- US keen to see conversation about special and differential treatment for developing countries that recognises difference between advanced developing and low income countries.

Report of Discussions and Outcome

1. Shackelford set out three current US issues: preparations for the WTO Ministerial; the WTO Dispute Settlement Body; and, the approach to developing countries in the WTO.
 - a. *WTO Ministerial*. The US was approaching this in a different way to the EU. The US is sceptical that concrete outcomes would coalesce in time for the Ministerial. At this stage ahead of Bali, the process was further ahead. Lighthizer dislikes the ‘housekeeping’ characterisation of the Ministerial, seeing instead an opportunity to reinvigorate the WTO.
 - b. *Dispute Settlement Body*. There is an important issue around the operation of the DSB, but this is managed by the Monitoring and Enforcement Office of USTR.
 - c. *Development in the WTO*. A significant issue is emerging with Developing countries regarding transparency and notifications, which is emblematic of a wider problem regarding the



treatment of development at the WTO. This is especially relevant to China and overcapacity issues, where a lack of information is a fundamental problem, but is true for other countries too. Indonesia is woefully behind in notifications. This is not an issue of new rules, but of how to get the existing rules followed. Unfortunately, at present India, Cameroon and Uganda in particular were causing chaos, arguing that there is no mandate to discuss transparency. This is especially challenging, given Argentina and Brazil were both supportive. Navigating this desire for more advanced developing countries to discuss new issues, whilst the backmarkers did not, would be important. The US was looking for ways to begin talking about development differently, particularly for countries like Korea and Mexico still asserting their ‘developing’ status, whilst not “freaking out” genuinely developing countries.

2. Shackleford noted the importance the US attaches to the OECD as a forum for discussion and caucusing amongst likeminded WTO members on trade issues. She typically engages DG Trade but would welcome more discussion with UK counterparts.
3. The UK (Griffiths) responded. The WTO exists to do deals. Working out how to encourage this is in everyone’s interests. The UK would be interested in a conversation about special and differentiated treatment whilst remaining committed to the role that trade plays in development. The UK views dispute settlement as a component of the WTO that currently works well, but we are open to ideas for ways to improve it. Transparency is an important theme which overcapacity is bringing into sharp focus. Ensuring proper notification in accordance with WTO rules is an important issue.
4. The UK (Philipson) highlighted the UK’s goals regarding transition of existing and potential future plurilateral agreements negotiated with the EU. It was important in the context of exiting the EU that the UK and US are active in building global rules which can guide our trade.

Action Items

N/A



Department for
International Trade

Title of Meeting: *Textiles*

Date: **24 July 2017**

Time: **10.45**

Participants

Name	Department/Directorate
Elizabeth Branson	Deputy Assistant USTR for Textiles
Janet Heinzen	Director Office of Textiles, International Trade Administration, Dept of Commerce
Representatives from State Department EU and Multilateral divisions	
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Neil Feinson	DIT, Trade in Goods, Trade Policy Group
Tim Colley	BEIS, International Trade
Mark Kent	British Embassy Washington

Key Points to Note

- Textiles is a sensitive and important issue for the US, typically handled separately from other goods sectors with its own FTA chapter.
- The US approach to rules of origin for textiles supports production in, and economic integration between, the signatories to an FTA but tightly limits third country supply chains and inputs. They were critical of more liberal EU rules which allowed simple finishing processes such as dyeing and printing to confer origin for apparel.
- Given the complexity of the rules of origin and relatively high MFN tariff rates, there is significant customs fraud in the sector. The US emphasised the need for enhanced customs collaboration in the sector, including inspections of producers in the country of export, the latter of which proved particularly problematic in the TTIP negotiations.

Report of Discussions and Outcome

1. The US (Branson) used the session to set out the typical US approach to textiles in trade agreements. UK-US trade in textiles and apparel is notable. The US imports \$432m and exports \$659m. 25% of US exports to the UK are fabric. Imports are 1/3 apparel and 1/3 fabric. The US typically structures dialogue on textiles as a separate negotiating area, which dates back to quota arrangements. It is a key issue for stakeholders. The US definition of textiles encompasses Chapter 50-63 of the HS, along with elements of Chapters 42, 66, 70, 94 and 96. That means the inclusion of some travel goods, umbrellas, comforters etc.



Department for
International Trade

2. The key elements of US textiles FTA chapter include: trade rules and market access; rules of origin; customs cooperation and enforcement; and safeguards.
 - a. Trade rules and market access. In TTIP, the US sought fully reciprocal tariff liberalisation. Average EU tariffs are 6.5% for textiles and 11.4% for apparel, whereas in the US they are 7.9% for textiles and 11.6% for apparel. This creates scope to reduce cost. TTIP had reached 97% tariff elimination and both sides were on a path to eliminate the remaining 3%. The US typically includes safeguard measures in case of trade surges, but these are rarely used (once in CAFTA) and are unlikely in a UK-US context given mature industries and similar competition.
 - b. Rules of origin. This was more difficult in TTIP. The US wants to see producers in the region of an FTA benefit based on a principle that significant production and economic integration occurs within a free trade region. This is through the “Yarn-Forward Rule”, meaning everything from the yarn spinning forward needs to take place within an FTA region. The US seeks to deliver this through tariff shift rules which traders prefer as more predictable and transparent, not subject to shifting cost calculations and complexity. With the EU there was similarity of approach with respect to yarn and fabric but apparel was more problematic as the EU recognised fabric dyeing, printing and finishing as transformation. The US doesn’t recognise this as it provides “minimal value to the region”. The EU also has a framework tariff preference levels for areas where there is no domestic supply. Neither Congress nor US industry likes this approach. The US used this approach temporarily in the past but found it didn’t support domestic production. So the US seeks to address through short supply lists.
 - c. Customs cooperation. No surprise, given complex ROO and high tariffs, that considerable fraud exists. The US goal is for FTA countries to benefit which creates the need for enforcement and clear penalties for fraud. An issue in TTIP had been the US desire to inspect exporters in the country of export to prevent fraud. This involves US Customs and Border Protection inspectors visiting. It is a key enforcement tool which industry and Congress have grown to expect. CBP typically visits 10 countries per year.
3. The UK (Feinson) asked where to find additional information on the US policy approach, where US industry was based and how textiles are treated in the US preferential trade arrangements. The US (Branson) highlighted the Commerce Department’s Office of Textiles and Apparel (OTEXA) website (www.otexa.trade.gov). TPP includes a relevant chapter on textiles which includes much of these provisions. The US domestic textiles industry is concentrated in an arc from Virginia to Alabama with substantial pockets of production in New York and California. Textiles are excluded by US statute from the Generalised System of Preferences, but USTR recently added some specific travel goods.

Action Items

N/A



Department for
International Trade

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

The meeting was a US ask and it was business-like with the US setting out their well-rehearsed positions on textiles, the political significance of the sector to the US and some of the issues that arose during TTIP.

Considerable further sectoral analysis is necessary by the UK to understand whether we can accommodate the US positions or will need to push back.

A potential area of difficulty for the UK could be UK exporters with third country (esp GSP) inputs. The extent and reality of this issue needs further investigation before any FTA discussions.



Department for
International Trade

Title of Meeting: ***Informal discussion on Regulatory Issues (USTR/UK Team only)***

Date: ***Monday 24th July***

Time: ***10.30***

Participants

Name	Department/Directorate
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Julian Farrel	DIT, Policy Directorate
Re Hobley	DIT, Policy Directorate
Antony Phillipson	DExEU, Trade and Partnerships
Tim Colley	BEIS, International Trade
Mark Kent	British Embassy
Jim Sanford	USTR, Assistant USTR for Market Access and Industrial Competitiveness
Rachel Shub	USTR, Senior Director for European Regulatory Affairs
Kent Shigetomi	USTR, Director for Multilateral Non-Tariff Barriers
Ashley Miller	USTR, Director for Industrial Goods Market Access

Key Points to Note

- Significant US interest in the degree of regulatory flexibility the UK currently has, and will be seeking in future, from our relationship with the EU.
- US has significant objectives for a future FTA around national treatment for standards development and conformity assessment.
- The US also has important objectives around good regulatory practice, including transparency and stakeholder input, in all trade discussions.

Report of Discussions and Outcome

1. The US (Sanford) set out current US thinking on regulatory issues in a US-UK context. The key question for the US is to better understand the policy space available to choose regulatory approaches and outcomes. Primarily that creates an interest in UK-EU discussions. The US also has a range of stakeholder engagement frameworks which Sanford's team works closely in and the US is interested in how the UK plans to engage its business community.
2. The UK (Griffiths) highlighted that how we engage stakeholders is a live policy discussion in the UK. We are thinking hard about Parliamentary as well as other stakeholder input in the process in



Department for International Trade

the context of preparations for a Trade Bill. The UK's internal government structures are a matter for us. The UK (Phillipson) responded on the EU negotiation. UK objectives remain as articulated in the Prime Minister's January speech at Lancaster House and in the Article 50 letter. We will be seeking as seamless and frictionless trade as possible with the EU. But we also want an independent international trade policy that allows divergence from the EU. We are beginning from a point of harmonisation. In future we will need to manage both convergence with the EU in some areas and divergence in others. The EU currently lacks a mandate to discuss the future relationship with the UK, but we hope they develop one in November. Phillipson noted the live discussion of an implementation period following our exit. The Secretary of State for Exiting the EU accepts the logic of the need for an implementation period and to send an early signal to business regarding it to help planning.

3. The US (Sanford) noted the need for continuity of existing agreements and characterised the transition of the MRAs as a relatively easy "drafting exercise". He returned to the issue of policy space, highlighting an example from medical devices regulation. In this case, the UK and Ireland attend IMDRF (International Medical Devices Regulators Forum) meetings. This is relevant because this is where the single audit standard has been developed, an important issue for US stakeholders. Does this mean the UK has some policy flexibility here? If so, are there other similar examples which might allow policy change consistent with EU obligations? The US would not be seeking to lower standards. Shub noted the frequent comment from the Commission in TTIP that some areas were Member State competence. Miller raised the issue of e-labelling. There has been global uptake and piloting in much of the world except Europe. Is there policy space for the UK to do something on e-labelling on a pilot basis?
4. The US (Shigetomi) highlighted typical issues in Technical Barriers to Trade (TBT) discussions. The US typically has a TBT chapter (with one exception). But the EU doesn't always (e.g. EU-Mexico). Typically, US text reaffirms WTO TBT commitments whereas the EU incorporates those commitments. The difference amounts to a legal question about whether dispute settlement mechanism applies (it does not in US TBT chapters). The US tends to build on the WTO TBT text, TBT+. It has the following features (summarised in a 2014 USTR Report: <https://ustr.gov/sites/default/files/2014%20TBT%20Report.pdf>) :
 - i. It allows persons of other countries to participate in the standards setting process through national treatment.
 - ii. It requires national treatment of conformity assessment bodies. It requires non-discrimination on where you are based or whether operating for profit or not for profit basis.
 - iii. It requires transparency in the rulemaking process. This means transparent timelines for publication and before finalisation and entry into force, including comment mechanisms and a requirement to respond substantively to comments.
5. The US (Shigetomi) set out US concerns highlighted in a TTIP context. The US feels it faces discrimination in the EU. The US view is that the EU does not use international standards, but rather regional standards developed in the EU through a process closed to outsiders. By contrast, the EU



Department for
International Trade

does not face discrimination in the US system. US law requires the use of international standards wherever developed. Nor does the EU face discrimination of conformity assessment bodies in the US, whereas in the EU only EU based bodies can test in the EU market. In TTIP, the US had sought for an EU body to recognise US conformity assessment bodies. The US had understood that this authority was there, and that precedent exists, but that the political will was lacking. In response to a question, the US promised to circulate the referenced paper and US text.

6. The US (Shub) set out typical objectives around good regulatory practice (GRP). This exists to identify domestic administrative requirements in a more seamless way. It is easier to change a regulation before it is finalised. There is a preference for performance-based (e.g. mph) rather than design based objectives. The UK puts out regulatory proposals for comment and supports evidence-based decision-making through the better regulation programme. The US asked about current UK process for scrutinising directives emanating from Brussels. The UK (Farrel) summarised briefly that the same process applies to domestic and EU regulation, especially given typical implementation flexibility in directives.
7. The UK (Salt) summarised the rich seam of issues which merit greater discussion and the importance of building a shared understanding of our respective regulatory approaches.

Action Items

N/A

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

N/A



Department for
International Trade

Title of Meeting: *Lighthizer-Fox bi-lateral meeting and Plenary Session*

Date: **24 July**

Time: **14.00**

Participants

Name	Department/Directorate
Amb. Robert Lighthizer	USTR
Dr Liam Fox	Secretary of State, DIT
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
David Gloss	DIT, Ministerial
George Thompson	DIT, Ministerial
Niken Wresniwiro	DIT, Ministerial
Antony Phillipson	DExEU
Emma Coppack	DExEU
Freya Jackson	British Embassy Washington
Meghan Ormerod	British Embassy Washington

Report of Discussions and Outcome from Bi-Lat

1. SoS noted the importance of services to the UK and US economies, and emphasised the importance of TiSA which he said could be an important route for the UK to lock in EU services commitments. Lighthizer noted that the US was looking at ‘all these agreements’ and would decide which to prioritise.
2. Lighthizer noted his interest in working together with the UK on the Trade Secrets case. He made it clear that the US was planning to press ahead fairly soon.
3. On the WTO, Lighthizer set out his belief that the system cannot deal with a large economic player which is not structured as an open economy. He cited a Chinese ambition to build up capacity sector by sector to wipe out established industries in liberal economies. SoS reported on his positive conversations with Azevedo, where SoS had floated the idea of a small number of leading countries moving ahead on a plurilateral basis on issues such as data. Lighthizer was interested but wondered how the proposal would deter MFN free-riding.
4. SoS set out his ambitions for the Working Group: a technical exercise on continuity agreements; to move forward on a list of short term outcomes; to prepare for a future FTA; to co-ordinate on WTO. Lighthizer underlined his personal support – and that of the President – “Trade is not always a happy area; this is.”



Department for
International Trade

-
5. SoS concluded by pressing Lighthizer on three points: (i) support for technical rectification in Geneva (ii) support for the UK re-joining GPA and (iii) the importance the UK places on the s232 report, noting the defence interface. Lighthizer noted all three points, including saying that GPA was another of the agreements that the US Administration was looking at.

Report of Discussions from Plenary

1. In the Plenary session with USTR Amb Lighthizer, SoS Fox discussed broader trade issues including WTO, Services, steel and IP.
2. On WTO, Lighthizer looked forward to the time when the UK would be able to operate “in a more innovative capacity” in the WTO. There was much the US and UK could do together.
3. SoS Fox agreed on the need for a rules-based system that was effectively enforced: “free trade did not mean free-for-all trade.”
4. Lighthizer said the US were putting recommendations to the President on aspects of TISA. The difficulty was that the President did not accept we were in a post-industrial period. So the main focus would be on bringing back some manufacturing jobs.
5. The US were also drawing up options for tackling barriers in countries that were preventing efficient markets.
6. On steel, Lighthizer asked for alternatives to their S232 idea on how to tackle over-capacity. He also looked forward to working with the UK to tackle IP theft, which SoS Fox highlighted as a serious issue between China and the UK.

Action Items

N/A

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

N/A



Department for
International Trade

Title of Meeting: **SME Working Group**

Date: **24 July**

Time: **15.30**

Participants

Name	Department/Directorate
Christina Sevilla	USTR
Tim Wedding	USTR
Peter Cazamias	Small Business Administration (SBA)
Bryan O’Byrne	Small Business Administration (SBA)
Charles Maresca	SBA Office of Advocacy
Rosalyn Steward	SBA Office of Advocacy
Patrick Kirwan	Commerce
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Julian Farrel	DIT, Policy Directorate
Tim Colley	BEIS, International Trade

Key Points to Note

- US (Sevilla) set out extent of US and UK SME bilateral trade. US (Sevilla and O’Byrne) and UK (Colley and Farrel) explained their respective governments’ approaches to supporting small and medium sized business. The UK noted that it didn’t have an exact counterpart to the SBA.
- US suggested examining EU-US experience (e.g. EU-US SME Best Practices Workshop) as possible way to move forward on SME work stream before launch of formal talks.
- Follow-up: each side to identify areas of immediate engagement/commonality, including an inventory of agencies who do SME work, and to follow-up with a VTC at a date tbd.

Report of Discussions and Outcome

1. USTR (Sevilla) said that UK is the third top destination for US SME exports, totalling \$19 billion. It was her understanding that 44% of UK SME exports go to the US. The US explained that the bulk of the SME work was handled by the Small Business Administration with some work by the Commerce Department and USTR. The SBA supports SMEs by providing capital, grants, counselling, and match-making opportunities. SBA Advocacy (a division within the SBA) advocates for SME interests in the US inter-agency process to minimize the impact of regulations on these companies. DOC manages trade zones, provides counselling to SMEs subject to a/d cases, helps identify global markets for US SMEs (e.g., the Foreign and Commercial Service hosts joint DOC and SBA offices in 26 locations to support SMEs), and



Department for
International Trade

also provides analytical services. USTR's role in SMEs was mandated by the Trade Promotion Act to ensure that the interests of small business are considered in all trade talks.

2. The UK (Colley and Farrel) said that SMEs were an exciting part of the agenda and linked to the UK's industrial strategy. In the UK, SME issues were covered by numerous government agencies as they didn't have a dedicated SBA-like entity. Issues addressed included access to finance, support to SMEs to navigate regulation, and access to skills and technology. The UK Better Regulation Executive oversees the operation of the 'SAMBA' (small and micro business assessment) in UK impact assessments to help address SME needs in new regulation. The UK was keenly interested in helping SMEs via an SME chapter in a future FTA.
3. The US (Sevilla) thanked the UK for their explanation and said that USTR's role in supporting SMEs was focused on chapters in FTAs that, for example, lowered tariffs, reduced NTBs (e.g. inspection requirements and making it easier for SMEs to comment on proposed regulations), as well as addressing de minimis requirements (eg the \$800 de minimis threshold for customs). The SBA (O'Byrne) explained that 22 out of the 24 Korea-US FTA chapters addressed NTBs.
4. USTR (Sevilla) outlined the Best Practice Workshops that were held under the auspices of the Transatlantic Economic Council (TEC). The US and EU had hosted 7 sessions thus far with attendees including Member States, business, and trade associations. Topics included finance, start-ups and training. DOC noted that the EU had also signed a Cooperation Agreement with the US to share information on SMEs, provide for SME networking opportunities and promote international trade and business cooperation between US and EU SMEs. SBA suggested that an MOU might also be an option. The US (Sevilla) noted that an MOU with the UK at this time could run the risk of treading into FTA competence but could be an option for later. The UK (Griffiths) said that they needed to bring UK SMEs into this conversation and suggested that DIT (trade promotion arm) should participate in future discussions, particularly in light of the mention of match-making and trade fairs.
5. The UK (Colley) noted that IPR could also be a focus of cooperation. The US (Sevilla) agreed and said that the Trade Policy Staff Committee typically identified areas of cooperation that could potentially be included in an FTA chapter. Typically the US sought to include three kinds of provisions for SMEs in FTAs: generic provisions which were helpful to SMEs (eg testing and certification); an SME Chapter; and SME-specific provisions in individual chapters. The SBA (O'Byrne) said that they could also bring in the countries' respective patent offices to identify common approaches.
6. The UK (Farrel) asked about how the US sold FTAs to SMEs. The US (Sevilla) said that they mainly worked with trade associations but also did outreach in the US (e.g. USTR visited Peoria, Illinois) to educate SMEs about the benefits of free trade.

Action Items

1. The US (Wedding) said that next steps could include having each side identify areas of immediate engagement/commonality and to follow-up with a VTC at a date tbd. The US (Sevilla) said some initial thoughts could include scoping out which agencies on both sides do what and then to identify sectors/priorities for future cooperation (e.g. the workshops).



Department for
International Trade

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

N/A



Department for
International Trade

Title of Meeting: *Services/Data/FS*

Date: **25 July**

Time: **9.00**

Participants

Name	Department/Directorate
Re Hobley	DIT, International Trade in Services Policy
Sarah Connolly	DCMS
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Rob Ward	HMT
Tim Colley	BEIS, International Trade
Benedict Wagner-Rundell	British Embassy Washington
Meghan Ormerod	British Embassy Washington
Maryam Teschke-Panah	DIT, Trade Policy Group
Adam Williams	IPO
Tom Fine	USTR
Rob Tanner	USTR
Dan Mullaney	USTR
Tim Wedding	USTR
Jeff Segal	US Treasury
David Weiner	USTR
Michael Corbin	Commerce
Mary Thornton	Counsellor, US Mission to the WTO, Geneva
Alexandra Whittaker	Assistant General Counsel, USTR
Sarah Sybilla	Commerce
Jackie Vergis	USTR
Blake Murray	Commerce
Rebecca Nolins	

Key Points to Note

- The previous Administration had been surprised by how difficult the services discussions in TTIP had been. The US has a clear template for dealing with services in the context of a Free Trade Agreement.
- There is a high degree of appetite to work with the UK on services in the context of the trade dialogue and in the future.



- There are two questions that the US is particularly interested in with respect to the UK's future relationship with the EU and the impact of this on the future UK/US relationship. Will the UK adopt a negative list approach to services (like the US) or a positive list approach (like the EU)? Will the UK adopt current EU wide reservations on services – if so how many will the UK adopt?
- The US understands the UK's technical rectification approach to tariffs at the WTO. However, it considers a similar approach to services schedules a mistake as the EU has a 'least common denominator' approach and this is what the UK will adopt. It would be a negative signal for another entity in the WTO to do this.
- It is early in this Administration's thinking on TISA. They suggested the UK should look at the agreement in further detail to inform its position on the agreement.
- On e-commerce there are good existing relationships between regulators. There is interest from the US in discussing data flows, data privacy and data localisation issues further with the UK.
- On short term outcomes:
 - There is willingness to take forward work on a financial dialogue HM Treasury to US Treasury, further work will be needed to decide on a format that works for this. There was an express ask that this work be Treasury to Treasury led.
 - There is potential for the UK and US to work together on mutual recognition of auditor professional qualifications, the US outlined appetite from other professions (legal, nursing and architects) the UK will take away to consider.
 - There was no substantive discussion on Earth observation regulations. The US will put the UK in contact with the relevant people in the US Government.

Report of Discussions and Outcome

1. USTR (Fine) explained that the US would set out their historic approach to services in trade agreements to help set UK expectations about where the conversation would be going. He set out five points to shape the discussion on services.
 - a) The US is used to looking at the UK through the TTIP lens. As the UK would be having conversations with the Commission about services the US could offer some lessons from TTIP.
 - b) The US wanted to relay concerns the US has about the WTO and services, touching on TISA. The US noted that the Administration had not made up its mind on what is going on with TISA yet. They were aware there was UK interest in continuing the TISA talks and it would be good to explore UK expectations.
 - c) Short term wins. There was a lot of interest in doing something ahead of Brexit. US (Fine) noted the UK proposals; the US would have ideas too.
 - d) On continuity agreements there were some conversations underway already and not so many continuity agreements in the services space.



Department for
International Trade

2. The UK (Griffiths) set out that there were three short term outcomes in the services space:
 - a) Financial Services Dialogue
 - b) MRPQ issue/audit
 - c) Earth Observation Regulation
3. On continuity agreements the UK (Griffiths) noted that the division of responsibility tended to sit with the Economics Working Group. He asked the US to let the UK know if any of the Short Term Outcomes were of interest.
4. The US (Fine) then set out the US approach to services in an FTA. He noted, for the avoidance of doubt that the group was not meeting in the context of negotiating an FTA. He set out that not all countries do FTAs in the same way as the US. He asked the UK what it meant when it said that it was not prepared to discuss a trade agreement yet. The US did not want to cross any lines.
5. The US (Fine) explained that the US divides up services into five chapters: Cross Border Services, Investment, Financial Services, Telecoms and E-Commerce. This format had been born out of NAFTA. Internally the USTR was organised along this model. It may be revised in the future, but this was the model for now. The chapters on Telecoms and E-commerce could evolve into a chapter on digital trade.
6. For the purposes of the conversation here the US would set aside the investment point as the UK did not have the experts in the room. The US noted the investment component of the Financial Services Chapter.
7. The US explained that their key approach to services was that of a negative list. The Commission's approach was different. It appeared that there might be a movement towards the US approach – for example in CETA and TISA. But for now the two were different. In TTIP this had been a challenge. There was a basic distinction between positive and negative. The US approach was that everything in services should be open unless there was a very good reason not to. The positive list approach was different. It tried to be more strategic. Where should be open and where should not be? The US argued that economies were much better open than closed.
8. The US (Fine) noted that the Obama administration had been quite surprised by how difficult the services discussion in TTIP had been. They had predicted that Agriculture would be difficult but late in the TTIP process it became clear that services would be. Much of the problem flowed from the positive, negative approach. The US had done a lot of work with Member States including the UK to understand individual positions. There had been US frustration. The EU had reserved the right to introduce new discriminatory measures after the FTA was in place. They found this "horrifying". It was not something they had encountered with other trading partners. There was sympathy for the Commission's position, particularly as they had worked through and better understood the political sensitivities of different Member States but the US had to think about whether they could sell a deal to Congress.
9. The US (Fine) said that the Commission had a good services regime in place on the ground. They knew there was no difficulty in doing business. But this is why they had been surprised by how difficult it was.



Department for
International Trade

The political problems were with the Member States. The UK was not the problem during these negotiations, but other Member States had been pressuring the Commission for reservations in the services schedules. The US knew where their allies were and they had been trying to help negotiate a deal that was better and stronger.

10. The US explained that they had told Lighthizer that services was an area the UK and US could work together on when it was having an FTA style conversation. The US (Fine) explained that they had a lot of respect for the Commission and the way the EU had liberalised services on the ground, but they bore the scars from the experience of TTIP. They appreciated that the Commission had political challenges to face. The US explained that the conversation on services could be positive and the success of a UK-US conversation on services could be an example to other Member States and other non-EU countries. They could fly the good flag of services liberalisation.
11. The US (Tanner) explained that the negative list approach was very important to the US. There could not be carve outs for future innovation. He asked what the UK's current thinking was on approach.
12. The UK (Griffiths) explained that it was too early for that specific conversation. He set out that the UK saw the services elements of a future relationship as very important. The UK had a very open system already and the US should expect the UK to be a liberalising influence. The UK (Hobley) thanked the US for their helpful explanation of the US approach. She agreed with Griffiths comments on timing and the importance of services elements and was interested in the US approach to listing. The UK wanted to focus on outcomes rather than the list structure and asked the US to expand on how the negative list system fitted in with its regulatory system. What were stakeholder views on it? She was keen for the UK to learn from US experiences. The UK (Hobley) suggested an offline conversation and that the group continue to talk about outcomes. On the US assessment of the TTIP negotiations it was good to hear the UK approach then had not been too problematic.
13. The US (Fine) raised that there were EU wide future reservations in TTIP. There had also been 6 UK specific future reservations. The US said that they understood that those 6 UK specific reservations were politically sensitive. Setting aside those 6 they asked which of the EU wide reservations the UK anticipated keeping. Would the UK keep audio visual for example? The US assumption was that for many of the EU wide reservations the EU would want the UK to keep them. The EU had tried to get other countries to adopt them, in order to demonstrate that it was normal to do so. Which would the UK keep? The US also asked what the UK would do in the WTO. Would the UK be trying to simply do something quickly? Would the UK just pick up the EU approach? The US appreciated that it made sense to do so on tariffs, but less so on services. Were there EU reservations the UK did not care about?
14. The UK (Hobley) explained that the UK was starting to look at technical rectification of all EU-3rd country FTAs. This was primarily about ensuring continuity on Day 1 of EU exit. On GATS the UK would propose to the WTO that they transfer over all of the existing arrangements. The UK explained that they realised this was not what the US would want to hear, but that to do otherwise would take too long and we would not wish to enter into a full blown negotiation with other countries. Our primary objective was to ensure our businesses did not fall off a cliff edge on day 1 of exit.



Department for
International Trade

15. The UK (Griffiths) explained that there were 40 existing FTAs to transition and a trade remedy regime to create. The UK wanted to make sure that the UK and its trading partners were not in a worse position on leaving. To ensure this the UK needed to transition to a baseline.
16. The US (Fine) understood this “baseline” position on tariffs. Continuity was important and it could be based on the premise that the EU had a good tariff schedule. He said that the assumption did not apply on services. The EU services schedule was the lowest common denominator and the worst of what every Member State wanted put together. The US had a sense of how the UK would function on services in practice and asked why the UK would take all the dirty laundry from the EU. They understood the workload issue and that this meant that the UK could not rework all schedules. But it would be a negative signal to have another party in addition to the EU that wouldn’t take competition for audio visual and that took a future reservation in this area. The US asked how they could accept the UK not taking a single step forward, under Article 21 at the WTO.
17. The UK (Hobley) explained that the UK wanted to avoid the transposition exercise at the WTO becoming a negotiation under WTO rules. The US (Fine) understood, but said that no Article 21 process has ever concluded. The US asked again if the UK had to take on all the EU’s “dirty laundry” in services reservations? Could there be any middle ground? The UK (Hobley) said that the UK had to stick within WTO rules. Griffiths said that the point had been noted.
18. The US (Fine) said that the bigger issue was how far the UK wanted to be like the EU in the long run and how far it wanted to be something different. He explained that the US sees some small countries – for example Switzerland – as “satellites of the EU”. They did not want the UK to be that. The US wanted to know what kind of TISA member the UK would be. Lighthizer hadn’t settled the US approach yet. But want to know more on the UK attitude.
19. The UK (Griffiths) said that in principle, the UK was enormously supportive. Ministers were not looking at it in detail though as TISA talks were currently suspended. The UK (Hobley) explained that they were interested in where the US was going. She emphasised that the UK had a very liberal services market and wanted TISA negotiations to continue. The UK had offered a lot on services in TISA and wanted to know how this had landed with the US. What did US stakeholders think and want?
20. The US (Fine) explained that there was a distinction between TTIP and TISA. The US had placed a very different emphasis on each. TTIP was about Market Access. TISA was about the rules. In some cases the reverse was true, but the emphasis had been entirely different in each agreement. TISA had been about granular rules. The detailed conversation on content was in TTIP.
21. The US (Fine) asked if the UK had seen the full text of TISA. The UK (Hobley) explained that the UK saw less now from the EU than it once did. Stakeholders had been enthusiastic about TISA. The US (Fine) said, that the UK said they were interested in TISA but if the UK had not seen the text there might be things in the agreement that the UK did not like. The UK (Hobley) clarified that as it had been many months since TISA was last discussed there had not been text since then. The UK (Griffiths) said that the UK would need to find the right legal vehicle for TISA if it was agreed. The US (Fine) noted that the UK would need to negotiate with the EU, US and others on this.



Short Term Outcomes – Financial Services

22. The US (Fine) noted that the US had seen the UK list of proposed short term outcomes. He noted that US Treasury (Segal) would lead on the Financial Services Dialogue discussion and that a lot of this would take place US Treasury (UST) to HM Treasury (HMT).
23. The UK (Ward) noted that the covered agreement on insurance was among the continuity agreements that mattered from a financial services perspective. There were a number of other issues dealt with under the equivalence regime including the central counter-parts agreements and EMIR legislation. Noted that these would be dealt with in the Economic Working Group.
24. The UK noted that they were keen to address a dialogue on a UST/HMT and regulator to regulator basis. The UK said that the principles they were guided by were stability in financial services, the scope for alignment on regulation, support for market efficiency and ways the UK and US could co-operate to make these happen. There were several dimensions to why this would be useful. Firstly, continuity and rectification issues. The UK was conscious that as EU negotiations developed there may be issues to consider regulator to regulator. The UK was also interested in US future financial services regulation. How would the US approach international fora and seek to avoid market fragmentation? Were there areas of common interest before the UK left the EU? Beyond Brexit what would the relationship look like?
25. The UK (Ward) was keen to involve regulators in any discussion. The UK took the same position as the US regarding independence of regulators. They thought a financial dialogue would report into the Trade Working Group, the Economic Working Group and to the Chancellor and Secretary Mnuchin.
26. The US (Fine) thought that the UK was talking to the right people about the dialogue, with the majority of the conversation occurring UST-HMT. They said there was a complex relationship between what went into the regulatory box and what went into the trade box. On trade issues USTR shared the chair with UST; the covered agreement on insurance was an example of an issue that fell within this space. Issues that fell squarely within the regulatory box fell outside of the trade purview (and out of USTR's area). The US explained that the line between them was not always clear and that it was important to approach issues through both avenues.
27. The US (Segal) passed on his thanks to HMT for their visit to UST and discussions with Susan Baker's team. The US (Segal) said that every time they discussed the UK-US relationship with the Fed and other regulators the relationship with the UK was held up as the gold standard. They considered the UK a bedrock of the international system on financial regulation. The US set out that they were in a period of political transition too and they wanted to approach this in a thoughtful way. They wanted to figure out a way and format for the dialogue that would work and fit alongside the EU negotiations. They looked forward to working with the UK on this, but needed to do so in the right way. The US emphasised that it was important to keep conversations UST to HMT.



Short Term Outcomes - Audit

28. The UK (Colley) set out BEIS' role in managing HMG's relationship with industry, including on professional services. The UK would be looking to maintain its relationship with the EU and the Brexit negotiations were very important. But mutual recognition of audit seemed like an area in which the UK and US could move forward. The UK was conscious there would be challenges for the US – in particular where professional qualifications and licensing were done at the State rather than federal level. The UK was interested in whether we could give political impetus to this area, perhaps encouraging regulators to speak to one another. The UK understood that the US had made progress on this area with Mexico and Canada and wanted to explore this further.
29. The US (Fine) explained that there had been discussion on this issue in the context of TTIP. The US had been ready to talk about the who but not the what. Each country should be allowed to adopt their own standards, (the what) but if someone was qualified in a profession, travelled to the other country and gained qualification in the other country they should be able to practice (the who). The UK agreed that both were talking about the who. The US (Fine) thought that the UK and US could move forward on this topic. They wondered why we should be constrained to auditing but noted that it was where the US had been particularly successful in the past.
30. The US had previously played a co-ordination role between the 50 states on this issue. In some professions the states were more united (e.g. had similar standards) and Auditing was the "pinnacle" of this. It was particularly easy for an auditor in one state to move and practice in another. The US noted that they had a lot of international agreements on this, for example with Australia, New Zealand, Hong Kong, Canada and Mexico. This enabled people to take a simplified exam when they moved to the US. There was enthusiasm from firms. It was a profession dominated by a few firms and they were invariably keen to move their people around.
31. The US noted that they had had problems with the Commission approach. There was an 'all for one and one for all' approach adopted by the EU and the Commission had insisted that all Member States were the same. The US commented that they were not. US regulators might know a lot about standards in the UK, but very little about those in Cyprus for example. TTIP had stumbled in this area as a result. The US also noted that there were other professions who were also interested in progressing work in this area. Architects had expressed an interest – there were agreements with Australia and New Zealand. Under those agreements a new board had been established. Architects from Australia and NZ could approach the board, take a simplified exam and practice in most states.
32. Nursing was the other profession that the US was interested in. Nursing in the US was very closely co-ordinated with Canada and Ireland. The relationship with Canada was particularly close and Canada had adopted the US exam. A compact between 25-30 states meant that nurses were able to move between those states. The US were interested to know if it would be really problematic for the UK to act in this area – they were sensitive to the particular sensitivities with the health sector in the UK.
33. The US also noted potential in Legal services. The profession was keen to "work together" on what might be possible. The US thought that the UK and US could establish a group to talk about this further,



determine which professions to cover and begin to look at the state level regulators that would be involved.

34. The UK (Salt) noted that there was a big sensitivity for the UK around areas that were currently EU competence. Audit was very nice because there was a specific carve out for mutually recognised qualifications in this field. There was an established track record on this. The UK would need to look at the situation for any other professions. The US (Fine) said that they were highly sceptical about the EU's position on EU competencies. Surely, he asked each member state still retained the competence to decide who would be qualified in a particular profession. The US said they understood that part of the conversation was about the political relationship with the Commission.
35. The UK (Griffiths) said that they needed to make sure they were confident in questions around EU competence. The UK (Salt) were interested to hear there was a relationship with Ireland on nursing. The US (Fine) explained that Ireland had adopted the US exam. Each state had their own approach to how they treated foreign lawyers. Mullaney noted that there was a more liberal approach in some EU Member States than others in the way foreign lawyers were treated. The UK (Hobley) liked the idea of a group to consider this issue further and asked if we could consider this an outcome of the discussion. The US (Fine) agreed that it could be. The US was ready to bring regulators in to have this discussion and could do so relatively quickly. If there was greater ease for the UK in just looking at auditors then they could do this.

E-Commerce/Telecoms

36. The US (Tapper) set out that after NAFTA mutual recognition had incrementally improved upon the GATS approach. The US had a package of disciplines that they sought in telecoms. TPP was the most recent example of this in an FTA. The US regulator had no formal MOU with OFCOM but did have lots of conversations with them – the relationship was quite good already. They considered the UK and US to be very much aligned. While regulators may sometimes have taken different decisions they generally had a similar approach. For example, on transparency and impartiality of the regulator. The US always asked that there were no restriction of foreign investment in telecoms. They noted that a number of countries had restrictions on this.
37. The US said that the EU approach was much more concerned with setting laws on telecoms/e-commerce whereas the US approach was to take a path to agree an outcome. The EU had a strong preference for regulation to solve problems whereas the US did not endorse this as the only solution and were outcomes focused. The US preferred to set obligations around outcomes and for each party to work out how to reach those outcomes. The UK (Hobley) asked how this type of approach could be enforced. The US (Tapper) explained that if a party felt that the outcomes had not been observed then in practice the first step would be discussion between the parties about this and then an assessment based on the facts of the case.



Department for
International Trade

E-Commerce

38. The US (Tapper) explained that electronic commerce was a buzz word currently, but that it had meant transformation across the economy with the movement of data and digitisation transforming the way we trade. It was important to build out disciplines to deal with actual problems and look ahead to potential problems. The US chapter on e-commerce was not limited to services, but it did not apply to government procurement. There were a lot of disciplines in an e-commerce trade discussion or agreement, for example around source codes. It also touched on things on the customs side, for example de minimis – all were connected to e-commerce. The UK (Connolly) asked if the US could share a list of everything the US thought was involved in an e-commerce chapter. The US (Tapper) said that they did not have a list but could talk to the UK about this to give the UK some sense of what would be involved.
39. The US (Tapper) set out that the latest example of an e-commerce chapter that the UK could look at was TPP. On moving data and cloud services the US had tried to craft rules and put discipline around something. It raised big issues, for example on privacy. A model had developed in TPP designed to allow exceptions for privacy and some guidelines around it. The US (Tapper) said they would be interested in discussing developing (UK) thinking on EU data flows. The UK (Connolly) explained that the UK were strong supporters of the free flow of data and data protection. The UK was bound to bring in the GDPR and would be bringing forward legislation. There were a different set of interdependencies around data. Data protection was right in the right set of circumstances. The US (Tapper) said that knowing the UK would have the GDPR but would not be in the EU meant it was unclear what that would look like in practice. The US (Segal) explained they were committed to preventing data localisation issues. They looked forward to talking about this with the UK. TTIP had worked on a different approach for FS than on other areas for this. The UK (Connolly) explained that they were very aware of this issue.
40. The US (Tapper) explained that the FTC had an MOU with the UK on consumer protection. Beyond cloud services there were also rules on data services. Most countries had been supportive of GATS. The US was interested in talking to the UK about this when we were ready. In TPP the US had agreed to a number of provisions that were slightly less relevant to trade, but were instead about providing a good environment for trade. For example consumer protection, rules around spam emails, online protection, privacy. The US set out that they remained open to discussing these issues in the context of trade discussions. They had begun to see some problems in this area, for example on divulging sharing source codes. There could be some future work to look at how to address this.
41. The UK (Williams) explained that there were quite a lot of Intellectual Property connections with source code elements. The UK (Hobley) commented on consumer policy - the UK had a high appetite for ensuring that any agreements benefit consumers and not just businesses. The US (Tapper) wondered if the group should discuss sporting events. The UK (Connolly) suggested not.



Department for
International Trade

Observation regulation

42. The UK (Colley) introduced the short term outcome on Earth observation regulation. He explained that the UK was in the process of building significant capacity on satellite/space. It was a challenging area due to the use of observation data. They did not want to end up in a situation where problems were caused for businesses. The US (Fine) indicated that the right people were not in the room, but that USTR would find the right people for the UK to talk to about this.

Action Items

1. To continue to keep in touch with a possibility of a phone call in mid-September once both US and UK have revisited their TiSA offers.

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

- The atmosphere of the meeting was jovial and relaxed, however it was obvious that the US really did not like the EU Commission and their approach to Services negotiations. There was much talk which painted the EU Commission as the bad guys.
- The UK should continue to push for an understanding of how any outcomes would work in practice given that different rules could apply at State level compared to Federal level.
- In future dialogue, the US will continue to ask the UK about agreeing to a negative listing structure. We will need to seek policy clearance on the approach and detailed analysis will need to be undertaken to support this, however, in terms of sequencing of discussions, it is possible to talk about various issues/chapters in Services first and then discuss structure later on during the process.
- This was a good initial meeting which reaffirmed that the US were keen to work with the UK on those short term outcomes in the services policy area which were discussed.



Department for
International Trade

Title of Meeting: **Goods (Part 1, Part 2)**

Date: **25 July**

Time: **11.30; 13.00**

Participants

Name	Department/Directorate
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Neil Feinson	DIT, Trade in Goods, Trade Policy Group
Julian Farrel	DIT, Policy Directorate
Tim Colley	BEIS, International Trade
Ceri Morgan	DEFRA
Tom Surrey	DEFRA
Adam Williams	IPO
Antony Phillipson	DExEU
Emma Coppack	DExEU
Meghan Ormerod	British Embassy Washington
Sushan Demirjian,	Deputy Assistant USTR for Market Access and Industrial Competitiveness
Roger Wentzel	Deputy Assistant USTR for Agricultural Affairs
Jim Sandford	Assistant USTR for Market Access and Industrial Competitiveness
Ashley Miller	Director for Industrial Goods Market Access
Rachel Shub	Senior Director for European Regulatory Affairs
Alexandra Whittaker	Assistant General Counsel, USTR
Julie Callahan	Senior Director for Agricultural Affairs
Dan Mullaney	Assistant USTR for Europe and the Middle East
Tim Wedding	Deputy Assistant USTR for Europe
David Weiner	Deputy Assistant USTR for Europe
Alex Hunt	Office of Information and Regulatory Affairs
Richard Kaufman	Office of Information and Regulatory Affairs
Jessica Simonoff	USTR Legal
Alexander Mc...	EPA
Kristin Nadji	Commerce Department
Elizabeth Wewerka	State Department
Mary Thorne	US Delegation to the WTO, Geneva
Brian O'Byrne	Small Business Administration



Department for
International Trade

Jonathan Coleman	USITC
Emma Lawries	
Jonathan Coleman	USITC
Karen Welch	USTR
Chuck Burch	USDA
Becky Resler	

Key Points to Note

Part 1:

- US outlined their standard approach to goods in trade talks and FTAs.
- There will need to be future discussions around Rules of Origin.
- On Conformity Agreements there is a strong desire from the US to only rollover those agreements and sectors that are currently in use.
- Continuity Agreements in this space do not require legislation to be passed through Congress.
- There will be a future discussion to determine the right forum (e.g. Trade Working Group/Economic Working Group) in which to take forward work on each STO.

Part 2

- Agreements on Wine and Spirits matter to both parties. Certification and names of origin are particularly important elements of both to ensure continuity in the wine and spirits trade.
- The UK committed to look into whether transferring over the *acquis* through the Repeal Bill would include transferring over commitments under international (e.g. EU-US) agreements.
- The UK committed to look into how far they could take rolling over agreements ahead of Brexit. For example, could the agreement be worked up and agreed in advance and then signed and dated on the day of exit?
- There would need to be more direct lawyer/lawyer discussions as part of the continuity agreement process.
- There was agreement that rolling over commitments on organics should be relatively straightforward. In due course the UK and US should consider a future vision for post-Brexit and work out how to articulate this to interested stakeholders.
- There is strong US interest in the UK's approach to adopting EU Regulation 1107/2009.
- The US is unwilling to discuss UK exports of beef to the US separately to the question of access for US beef to the UK market.



- The way in which the UK seeks to rectify its position on TRQs is of significant interest and concern for the US.

Report of Discussions and Outcome - Part 1

1. The US (Demirjian) explained that Chapter 2 of US FTAs cover Goods. Commitments on import and export restrictions had evolved in recent years. Remanufactured goods tended to be a sensitive subject. They sought to prohibit use of domestic content to get a reduction on customs duty. Their FTAs (including TPP) incorporated WTO notification obligations for import licensing, and similar obligations for export licensing. None of the commitments the US generally included in FTAs were new or challenging for developed countries but they were fundamentally important.
2. The UK (Feinson) expressed interest in understanding the relationship vertical chapters (e.g. textiles) in FTAs and horizontal chapters (e.g. goods). The US (Demirjian) explained that everything in the “Market Access for Goods” chapter applied to all goods. The Agriculture and Textiles chapters were supplemental lists that added to the Market Access chapter in those areas.
3. The UK (Feinson) asked which parts of the “Market Access for Goods” chapter industry was most interested in. The US (Demirjian) explained that the customs community was most interested in elements around the resale of repaired/temporary conditioned goods. The US is not a signatory to the Istanbul Convention (1990). Elements of the chapter focused on remanufactured goods were the main point of interest for industry. Industry also paid a lot of attention to the annex to this chapter - the tariff schedule. The UK (Feinson) explained that engagement with UK industry was a work in progress.
4. The US explained that within some industrial sectors there was a lot of interest in the whole chapter. Sometimes different personnel within the same industry or even same company had different interests. For example, those tasked with moving goods around were particularly interested in rules around the movement of goods.
5. The UK (Feinson) asked about the interaction between FTAs and Foreign Trade Zones (FTZs). The US explained that NAFTA had influenced the way the US deals with FTZs. The administration of FTZ’s is not really a part of FTAs. A regulator in an FTZ can export anything they like and then pay duty coming into the US. The US doesn’t address the issue specifically in FTAs.
6. The US (Demirjian) explained that Rules of Origin (ROO) would need to be a topic for a future discussion. The UK (Colley) commented that ROO was clearly a big issue and that the sooner the UK was able to get its head around the US approach the better. The US (Wedding) explained that there had been a lot of EU-US discussion on ROO. The US proposed a VTC on the issue with experts; Kent Shigatomi (USTR) is the lead.

Continuity Agreements

1. The UK (Phillipson) opened on Continuity Agreements. The UK preference is for a technical rollover of EU-US agreements to UK-US agreements. This is preferred for reasons of efficiency and the UK’s relationship with the Commission. If there is an opportunity to enhance agreements the UK is open



to this, but it cannot risk the timetable, and would need to work through whether any amendments were sensitive with the Commission.

2. On next steps and actions the UK is keen to work back from the time it needs to have the agreements in force. One option would be to bring agreements up to the point of signing by a set date, for example by March 2018, and then actually sign the agreements on the day the UK leaves the EU. This might allow the UK and third country to signal to stakeholders in advance that agreements would be operable upon the UK exiting the EU.
3. The UK (Phillipson) explained that DExEU's role is to make sure that across all agreements experts are talking to their foreign counterparts. If there are concerns about how well this is working these should surface up through the Economic working Group and Trade Working Group. Phillipson had discussed this with Clete Willems on Monday afternoon.

Mutual Recognition Agreements/Marine Equipment Agreement

4. The UK (Farrel) explained that their main interests were in the Mutual Recognition Agreements on Conformity Assessment (1998) and Marine Equipment (2004). The UK wanted to avoid a cliff edge so that UK-US trade affected by these agreements could continue. DIT wanted to start drafting amended agreements in these areas. On Conformity Assessment they were conscious that there would need to be the creation of new national mechanisms.
5. The UK (Farrel) questioned sectoral coverage in relation to the Conformity Assessment Agreement. Only two out of the six sectors in the agreement were operational, with a third due to come into force later in the year. The UK was interested in what this meant in practice for a continuity agreement. The UK asked if the US had any idea of the level of use of the Agreements. Was there pent up demand in the sectors that were not operational? Does updating the list of designated bodies currently work or is it problematic?
6. On legislative process, the UK explained that HMG needs to lay legislation 21 days before it comes into force, but the upcoming Trade bill might make an amendment to this process for the purposes of continuity agreements. The UK asked about the US legislative process. The US (Sandford) explained that the agreements were executive actions and that replicating them would not require the involvement of Congress. There was an inter-agency process and there would be consultation with cleared advisors but the US didn't expect lots of comments to be provided. It would likely be a light lift from the US side.
7. The US (Sandford) said that it would be good to understand more about the UK process. The US experience was that the EU tended to take longer to ratify this type of agreement than the US. The US often found they were often sitting around waiting for the EU – for example on the pharma agreement which Commissioner Malmstrom had signed three months after Ambassador Froman. The US didn't see delays (caused by the US) as being a major issue.
8. The US underlined that they were keen to focus on replicating existing agreements that work. If annexes were not operational they should not be replicated. The UK asked if the US was aware of a decision not to operationalise certain annexes under the 1998 MRA. The US explained that there



- had not been a decision per se. They were not sure how much the agreement was being used. Regulators were not interested in renegotiating the scope. The UK (Farrel) asked if a lawyer reading the agreement would know which parts were operational and which parts were not. Was there a legal document to this effect? The US didn't think so. The medical devices annex had never been operational. The pharma annex had been renegotiated and was in the process of being implemented – it was an ongoing process.
9. The US had gone through a similar process with the EEA/EFTA states (as it would now go through with the UK) and negotiated a similar agreement with Norway in 2005. The US asked what kind of a relationship the UK would have with the EMA and MSA (on marine equipment). Both had played an important role in implementation of the agreements. Proposals under the conformity agreements had come through the EU. The FCC signs off on UK labs. Where would proposals come from if not the EU?
 10. The US reiterated that they didn't see the sense in replicating everything – it only made sense to replicate what works and then use this time to work through technical questions on implementation.
 11. The UK (Phillipson) understood the interdependency between the EU negotiations and talks on trade with the US but said that the likelihood was that the UK would end up with a transitional arrangement. There was a question about what the implications of a longer transition time would be. Would it affect the timeline for all agreements? For example meaning that not all of them needed to be ready for March 2019? It was important that this remain a dynamic part of the discussion.
 12. The US wanted to know to what extent the UK had discussed its plans for this type of discussion with the EU (i.e. Trade Working Group discussions). The UK explained that it had told the Commission it would be having conversations on all sectors with all trading partners. There had already been discussions on aviation. The US asked if the UK had already had discussions of this kind with other countries. The UK explained that it was further ahead with the US than most other partners with the exception of Switzerland. The assumption was that discussions of this kind were part of the rectification process. The US explained that this was their starting point too.
 13. The UK (Farrel) touched upon inoperative sectors in the 1998 Mutual Recognition Agreement. The UK wondered if medical devices were different to other inoperative sectors. Was there greater potential for the UK and US to do something on this? The US said that they wouldn't want to right now. It was not currently an operational area; they had tried to make it so a few years ago and not succeeded. This could perhaps be part of a future relationship negotiation. The US turned to single audit (IMDRF). Maybe steps could be taken to get this working. Maybe this was something for constructive discussion going forward. This could go beyond continuity.
 14. The US set out their key points for taking this conversation forward. The US argued that exploring these points in a discussion was the best way to proceed rather than a drafting exercise. The US would need answers to these questions in order to proceed with inter-agency and stakeholder consultation:



- a) What are the technical issues at hand for these continuity agreements, eg who would be the UK designating authorities?
- b) How is the UK aligning with the EU, specifically what relationship would the UK have with relevant EU regulators?
- c) To what extent would the UK seek other kinds of regulatory co-operation?
- d) What were the views of regulators?

Satellites

1. The US (Wedding) raised satellites. There is a big market for small satellites in Europe. The US wanted to ensure that US technology could be used in the UK. The USTR didn't work on export control issues so would have to defer to partners elsewhere in government on this. The US (Wedding) explained that there were some issues in the STO list outside trade – would these be better situated in the Economic Working Group? There was an architecture issue that the parties would need to consider the best way to address.
2. The UK (Phillipson) had discussed these issues with Clete Willems on Monday. The guide should be substance rather than architecture. The US (Wedding) said that both parties should look at whether there was interest in any of the STOs and then work on where they should sit.

Goods Part II

Detail

1. The US (Wentzel) asked the UK for an update on Brexit, suggested that they start the discussion on continuity agreements, discuss Agricultural TRQs and SPS.
2. The UK (Phillipson) explained that formal Brexit negotiations started on the 19 June. The second round had taken place w/c 17 July. The initial focus was on withdrawal issues including EU citizens in the UK. Agriculture would be an important part of the EU-UK relationship. In the first instance the UK would be looking to replicate rather than enhance or upgrade the relationship. This was for the sake of efficiency. It was intended to send a signal to stakeholders ahead of exit – there would be replication. The UK was not against enhancement but this could not be the central goal.
3. The UK recognised that it was not operating in a normal world. The UK has told the Commission that it will be talking to other countries. There is interdependency between UK/EU and UK/3rd country relationships.
4. The UK (Morgan) opened discussion on agricultural continuity agreements. The UK's focus was to get to Day 1 but also to smooth the road beyond.
5. The US explained that the Wine and Spirits agreements would be important. The US wanted to know if the UK would continue to recognise UK names of origin in the agreement. What kind of certification requirements would there be for US wine in the UK market? What would the labelling requirements be? For example, would terms "Bream" and "Classic" still be recognised? What were



the plans for certification of UK wine in the US market? The UK was currently exempt from some labelling and certification requirements.

6. The US (Welch) was interested in natural wine certification. It applied to all countries and there was an exemption where a country had a wine agreement with the US. The UK (Morgan) said that given that the overarching conversation was about continuity we would need to think about issues to prioritise. What were the US' key interests in the wine and spirits agreement?
7. The US set out that certification was their main interest. It worked both ways. Was there a simplification that could be achieved? The Wine agreement provided certainty around labelling. They wanted to ensure there wouldn't be uncertainty about what producers would need to do once the UK left the EU. For example on labelling relating to the appellation origin and grape variety.
8. The US (Wedding) asked if the UK was clear on the legislative route for the UK on exit. The UK (Phillipson) explained that the Withdrawal Bill would be the main legislative vehicle. It had been introduced into Parliament and was expected to complete passage by March 2018. It would repeal the EC Act and import the whole EU acquis. This would give the UK the time to work out what to keep and what to amend. This could be used as the base case assumption.
9. The US (Wentzel) asked what the relationship between adopted regulations and agreements on wine would be if the UK brought in all EU wine regulations. Currently the wine agreement makes it easier for the US to send wine to the UK. The UK (Phillipson) explained that this was exactly why it was important to have this discussion. The US (Mullaney) asked if the acquis included international agreements. The UK (Phillipson) said that the UK would need to look into this. The implications were different for EU directives/regulations and agreements made by the EU. The UK did not want to default to less good terms of trade with any of its trading partners. If the UK and third country decided to enhance any of the agreements then that should happen, but the focus had to be on replication. The UK (Morgan) explained that the range of issues here fell into a few buckets. There may be things that couldn't be improved in time for exit but that could be improved later.

Distilled Spirits

1. The US explained that the EU recognised certain labels, for example Kentucky Bourbon, and the US recognised others, for example, Scotch Whiskey. The USTR said that the US would continue to recognise Scotch. Would the UK continue to recognise Tennessee Whiskey and bourbon?
2. The US wanted assurance on the process for rolling over this agreement. Industry wanted a quick answer. They could see opportunity for changes later, but certainty on Day 1 was the priority. There were a number of multinational players in this area. The UK (Morgan) explained that it was certainly the UK's intention to have this in place by Brexit. The UK (Surrey) asked what the US legislative requirements were to reach that stage. The US (Wentzel) explained that they didn't see the need for the US to have new legislation on this.
3. The UK (Phillipson) explained that they would need to think about the UK's legal ability to bring decisions and agreements into force before exit. The UK may want to have the agreement ready to



Department for
International Trade

go ahead of Brexit, perhaps by March 2018. The UK (Griffiths) wondered if there was a cross-cutting theme here for HMG to look at – the extent to which agreements could be taken to the point of signing by a particular date ahead of Brexit – e.g. March 2018 and then simply date and sign them on the day of exit to ensure continuity. The UK (Phillipson) said that from the centre DExEU needed to think of this as a cross-cutting theme but that they would want individual policy leads to be thinking about what would work best in their individual areas.

4. The US (Mullaney) suggested that this demonstrated a need to bring in the lawyers. There would be a suite where we would need executive orders signed ready to come into force when they're notified the UK has left the EU. What would happen in a default situation if no new legislation were enacted? They would need lawyers to look at the logistics for each transition to ensure it was as seamless as possible. The US (Whittaker) said that there were a lot of legally creative ways to approach this.
5. The US (Callahan) said that the UK independently had some agreements with the FDA. The US (Wentzel) didn't see anything changing from a US perspective; the question would be the UK's approach. The UK (Surrey) suggested that the parties should agree how best to take forward, the parties should speak directly.

Organics

1. The US (Callahan) said that on organics both sides could see the value in continuing to trade as currently. There were preliminary discussions of a plurilateral agreement on organics but it seemed unlikely that this would conclude pre-Brexit. The US recalled that prior to the 2012 organics agreement between the EU and US there had already been a UK-US agreement. The US was interested in whether the UK would continue to treat organics in the same way as it does now; would anything change?
2. The US suggested that this did not feel complicated. The UK (Morgan) felt similarly, this would be quite straightforward. The UK thought that the countries should think about a shared future vision for the longer term on organics. The language that both parties shared with stakeholders would be important, both on continuity and the future vision. The UK (Morgan) noted that there were a committed group of stakeholders in this area.
3. The UK (Surrey) suggested that the parties look at the pre-2012 agreement. The US was interested in whether the UK had to change their organics programme in 2012 to fit in with the EU-US agreement. The UK (Morgan) explained that on the trade operations and systems side there was some work for the UK to dust off.
4. The UK (Morgan) noted that during an earlier discussion the US had raised a Cheese Agreement and a Tinned Fruit agreement. Had the US found out any more about these in the interim? The US thought that they had been wrapped into WTO agreements and so did not require any further action from this group.



Sanitary and Phytosanitary (SPS)

5. The US (Callahan) explained that agricultural chemicals give the US the most “angst”. The EU used EU Regulation 1107/2009 to characterise substances based on hazard rather than looking at exposure. The US saw a growing number of substances that had formerly been approved by the EU “taken off the books”. Producers were worried. There was a risk that there would be no sweet potato exports from next year. This was a cause of consternation. A second, earlier piece of EU legislation required the EU to conduct risk assessments.
6. The US considered the two pieces of legislation (EU Regulation 1107/2009 and this second one) to be in conflict. The Commission had a plan to modify the second piece of legislation allowing the EU to set standards based on hazard alone. EU Regulation 1107/2009 was quite prescriptive. It set the limit to the level of detection. There was a cross-cutting concern across agricultural commodities. The US had raised concerns about the EU’s approach at the WTO SPS Committee. 30 other countries had supported the US. The EU said it realised this was against its WTO commitments. The US wanted to know if the UK could look at this.
7. The US was interested to know if the UK had heard from its own producers. The UK (Morgan) explained that it was part of an interesting triangle. The UK was simultaneously a part of the EU, negotiating with the EU, and then working closely with UK stakeholders. The UK explained that it routinely “banged the table” about scientific based assessment.
8. The UK (Phillipson) explained that discussion had touched on this point in the context of regulatory co-operation. The Agrifood sector was going to be an important part of what the UK was trying to achieve with new opportunities for trade. The UK would want to make sure that its relationship with the EU did not cut off all opportunities for trade with third countries. It would be important to keep the dialogue going. There were global rules and global standards and Agriculture and Food were an important part of that discussion. The UK (Phillipson) recognised that there might be a point at which the UK can no longer participate in discussions between the EU as part of the EU. The US (Mullaney) wanted to know if the UK could push for an outcome on EU Regulation 1107/2009 that would work. If that failed the UK would obviously have the challenge of working out how it could face both ways (towards the EU and US).
9. The US (Callahan) asked the UK what timeline it would be ready to discuss SPS specifics with the US on. The UK (Morgan) explained that it wasn’t ready yet. Conversations in Brussels had only just started, but they would take an action to get back to the US on this timing question. It was very helpful to understand what was important to the US.

Equivalence determinations

1. The US (Callahan) noted that complex agreements underpinned equivalence determinations. In the context of the EU the US had to make judgements about different Member States. The US was interested in the UK perspective on whether the UK and US needed an agreement on this. Could the UK and US not just make equivalence determinations between individual regulators? The UK (Morgan) said that it understood and took the US’ point on this one.



Department for
International Trade

2. The US explained that their understanding was that without a new agreement in this area existing trade wouldn't fall off a cliff. The UK (Morgan) agreed. The question really was about having a mechanism to approve new (regulators?). The US (Callaghan) was interested in whether the UK intended to establish a national mechanism or process for equivalence determinations. The UK (Morgan) explained that this was dependent on the transition. The UK would be working its way through the different issues. It was important to have experts involved.
3. The US set out that one evaluation (on Shellfish) was coming to a close. The US had been surprised by the UK decision to drop out of the shellfish equivalence programme. The UK explained that they had done so partly as a result of resourcing and partly following stakeholder input. The US was interested in UK intentions moving forward. Would the UK allow the EU inspection of the US to read across to the UK? The UK (Surrey) said that they would take this away to policy leads.

Lamb/Beef

1. The UK (Surrey) set out the STOs on both Lamb and Beef. The process for securing approval to export Lamb and Beef to the US was underway. This was ongoing business as usual. The UK had provided material to the US. They were awaiting a visit from inspectors. The US (Callahan) said that the FISA was taking this forwards. There was no timeline.
2. The US was interested in whether the UK would receive US imports of beef and lamb. Could the UK and US establish a two-way evaluation? The US set out that on Lamb all the rulemaking had been going through review by the Administration. The US was "really interested" to have a UK evaluation of the US for equivalence in this area.

TRQs

1. The US set out that on beef the US saw the UK's exit from the EU as an opportunity to reset the market access relationship. The EU had hundreds of TRQs covering agricultural products. Not all were of interest to the UK – for example almonds. The US was interested to know if the UK planned to maintain EU TRQs when a TRQ didn't serve a real purpose for the UK.
2. The UK (Philipson) noted that there were some general questions around TRQs. There had been a few discussions with the Commission and conversations in Geneva too. The UK had met with the EU's Deputy Chief Negotiator on Agriculture. The UK had always been clear in dealing with its status at the WTO that this was not a negotiation it was having with the EU. This negotiation would be related to Brexit, but not a negotiation with the EU. The UK wanted to be able to lay down schedules.
3. The UK wanted to be transparent with the Commission. Some areas were quite straightforward to adopt the EU version of – for example, tariffs. TRQs on the other hand were very complex. The UK wanted to be co-ordinated with the EU on its outward position to the rest of the world on this so the rest of the world didn't find its trade impeded by the UK's exit from the EU. It would be important for the UK and EU to have a discussion about a methodology to split the TRQs. The UK and EU were at the start of this process. In April there had been a constructive conversation with



Department for
International Trade

the Commission. In early June there had been a more constructive one. The UK was going to be going its own way in the world.

4. The UK (Morgan) explained that there was a team in DEFRA working on technical rectification. If the US didn't feel they were getting enough attention they should feel free to tell the UK. The US (Wentzel) explained that their biggest concern was that the process of rectification around TRQs would result in reduced market access for the US in either the EU or the UK market. One of their concerns was on data.
5. Lots of trade passes through Rotterdam. It was difficult to look at the export data and know where a good ended up once in the EU. For example, a lot of rice entered the EU through Rotterdam, but a fair percentage of it went to the UK. Short of talking to exporters the US wasn't sure how to work out what proportion. The UK (Surrey) explained that everyone was thinking about the same "Rotterdam" issue. Economists at DEFRA and USDA should talk. There might be some data that could be shared. There should be a VTC to discuss further. The US (Thorne) explained that the lack of data was why discussions at the WTO had focused on this not being a data driven process.
6. The UK (Phillipson) said that the aim was not to have trading partners being denied or having reduced access. The UK appreciated the complexities of this, but the EU negotiations would have an impact on this discussion. What if rice entering Rotterdam could still go to the UK without tariffs? The UK intended to have discussions on intra-EU trade as part of the discussion on TRQs. The US (Wentzel) explained that this is what made it difficult for the US. The US was worried. Did the UK have any intra-EU data? The UK (Surrey) explained that it had some but not a total picture. The UK (Morgan) explained that there were statistics for some intra-EU trade, on products that had to be tracked; some other information was available via regulators and trade associations.
7. The US (Wentzel) asked what the next steps were on TRQs. The UK (Phillipson) said that it would take this conversation away and find out where conversations had reached. The UK thought that there could be an ambition to have a meeting in Geneva in the margins of the October Agriculture Week. The UK (Phillipson) explained that for each agricultural issues there needed to be a critical path by the next meeting setting out what legislation would be needed, and the outstanding questions related to the issue.

Additional Action Items

- Action Item: Inform lead Departments that we need a steer on US questions on how we propose to replace EU references in transitionally adopted MRAs in advance of next Working Group meeting (done).

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

- USTR have no problems in principle, but want to know our intentions for replacing references to EU agencies, and our plans for UK designation authorities, before considering draft text. On the 1998



Department for
International Trade

MRA, they were clear that they were only interested in transitionally adopting the three active (or shortly to be active) annexes.

- Atmospherics: Just to reinforce that USTR were perfectly content with the principle of transitional adoption of the MRAs, but were clear there was no point in looking at text until we had answered the questions on replacing EU references, and also that they had no interest in transitionally adopting inoperative annexes to the 1998 MRA.



Department for
International Trade

Title of Meeting: **Intellectual Property Rights**

Date: **25 July**

Time: **15.00**

UK Participants

Name	Department/Directorate
Maryam Teschke-Panah	Policy Directorate, DIT
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Mark Kent	British Embassy Washington
Adam Williams	IPO
Tom Surrey	DEFRA
Ceri Morgan	DEFRA
Christine Peterson	Director for Innovation & Intellectual Property, USTR
Shira Perlmutter	Chief Policy Officer and International Director US PTO
Robert E Copyak	US Customs and Border Protection
Kevin Amer	US Copyright Office

Key Points to Note

- At US request, UK explains structure of IP policy in UK and IP policy issues raised by Brexit.
- UK sets out proposal for short-term outcome around IP enforcement collaboration.
- US proposes short term outcome to produce an SME toolkit on IP protection. The goal would be to explain to SMEs how to protect and enforce their rights and (for the UK) how this will continue, after Brexit.
- Agreement to follow up by phone/VTC. US offers to share representative text of IP chapter.
- [FROM SIDE MEETING WITH USTR]: USG intend to appoint “IPR Chief Negotiator”.

Report of Discussions and Outcome

1. The US highlighted significant levels of interest in IPR issues. In addition to USTR, US Dept of Agriculture (USDA), the US Patent and Trademark Office (USPTO) , the US Copyright Office and US Customs and Border Protection were in attendance. Other US agencies also had an interest. US (Peterson) asked how UK IP policy was developing and how HMG was structured on IP issues. UK (Teschke-Panah) gave a brief overview. DIT SoS recognises mutual interest in innovative sectors and the creative industries. The UK was looking to build confidence where possible and support



- the trading relationship. One possible short-term outcome could be around enforcement collaboration. DIT had a trade and IP coordinating function, working closely with IPO, Defra, DCMS, HMRC and other interested departments.
2. The US (Peterson) asked how Brexit affected IP policy. The UK reiterated the general approach to Brexit, including the Repeal Bill. The UK IPO (Williams) set out eight areas of IP policy affected by Brexit. Patent law is largely delivered via the European Patent Office (EPO) which is unaffected by Brexit. Copyright policy contains more EU touchpoints, with simplification procedures currently in place. There will need to be decision on the legal approach to 'exhaustion' of copyright. The more significant issue surrounds trademarks which currently operate in a largely harmonised regime. The overall approach will be to reinforce IP rights and the Repeal Bill will deliver the necessary transition of legal rights. Future opportunities to diverge from EU law would depend on the negotiation, but IPO is beginning to look at current policy areas which don't work as well as they could.
 3. The US raised geographical indications (GIs). The US has an interest in how the UK continues to assess and recognise GI rights upon Brexit. The UK (IPO and Defra) highlighted that agriculture GI policy sits with Defra whilst non-agriculture GIs are led by the IPO. On day 1, the current legislation would be moved across as is. UK and US industry is stressing the need for continuity and we need to continue to recognise our TRIPS obligations. Precisely how the UK delivers that remains to be seen, including contingent on the EU negotiation. We have heard US concerns loud and clear, including from stakeholders. The US (Peterson) encouraged HMG to be open to hearing stakeholder concerns as these are central to US policy. The US (PTO) highlighted the US belief in transparency and due process. The current EU approach is flawed. Prior rights, coexistence and the removal of generic rights from the marketplace are current issues. The important goal should be the ability to challenge rights before they were granted. The US would welcome the chance to discuss further. The PTO would be happy to share stakeholder experiences. The UK (Defra) shared the importance of transparency. The UK was currently considering UK usage of GIs relative to other countries. For instance, there were no UK GIs in CETA.
 4. The UK (Teschke-Panah and Williams) presented on the short term outcome proposal on IP collaboration and enforcement. The US Special 301 Report highlights UK enforcement efforts as best practice, like the US. Given this gold-standard, would be good to share our respective experience. The specific proposals follow a discussion between then White House IP Enforcement Coordinator Dani Marti and Baroness Neville-Rolfe and their exchange of letters. The UK proposal for a dialogue on IP collaboration and enforcement comprises five areas:
 5. Working with rights holders. Government has a role facilitating the enforcement of private rights. Could share best practice of collaboration with private rights holders.
 6. SME engagement. SMEs are a huge source of innovation, but IP rights protection seldom a top priority. Could share best practice of engaging SMEs. Are there institutional ways to facilitate access to justice for SME rights being infringed? The UK has a fasttrack claims system.



Department for
International Trade

7. E-Commerce platforms. How can we work with e-commerce platforms in support of accidental exporters in protecting their rights? The UK has facilitated an MoU with Alibaba for instance.
8. Education. The UK does a considerable amount working with students, both young and post-graduate, to highlight the economic detriment of IP theft and to encourage the use of IP protection. We could share ideas.
9. Third country collaboration. How can we collaborate on third country IP enforcement. The UK's PIPCU has been a model for several countries. What more can we do together?
10. The US proposed a short-term outcome around the development of a joint SME toolkit on protecting IP rights in our respective markets. This could explain how the UK framework will remain strong post-Brexit and how some processes might change. The UK noted the proposal and asked how the US engages SMEs. The US highlighted collaborative working between agencies, webinars (which might be done jointly) and a range of best practice for assistance and capacity programs.
11. There was a discussion of possible collaboration in multilateral and third country issues. The UK suggested closer collaboration between IP attaches in markets where appropriate. The US noted this was certainly desirable, but a lot of this already took place – what might be helpful was greater coordination of activity and programmes to deconflict and maximise the impact. The US also suggested greater collaboration in international fora. WIPO was an obvious one, where collaboration already existed. The US hoped the UK might have more freedom of operation in future, given currently operating within an EU bloc. The US also raised the OECD as an area that coordination might be welcome. The US was concerned about some of what was being discussed on IP, especially in the absence of an IP committee, a situation the US attributed to secretariat inertia and member state capacity. But IP issues arose in an accession context. The US supported a data and evidence driven approach to policy development and so had been supportive of OECD studies on the scope of illicit trade and reported some good studies on trade secrets. The US noted that the WHO also had some IP related initiatives. The US also noted ongoing collaboration between UK and US economists on the importance and impact of IP in the world trading system. The UK noted constrained UK capacity to do more in this space.
12. The US proposed a separate follow-up discussion on the typical US approach to IP issues in an FTA context by phone/VTC. The US (Mullaney) encouraged this approach and invited US IP leads to share a good representative text of a US IP chapter. The UK noted the need for prioritisation and agreed to a follow-up discussion.

Action Items

- Agreement to follow up by phone/VTC on Short term outcomes.
- US offers to share representative text of IP chapter.



FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

Good engagement on proposed short term outcomes on intellectual property enforcement. Broad consensus that this can help build confidence of business and support trade and help establish good practice models for third countries. There were good atmospherics around the potential for US/UK collaboration, though we should tread carefully here given the more heavy-handed approach to enforcement in third countries taken by the US.

Cooperation on IP enforcement and support for SMEs emerged as potential focus area with establishment of a toolkit a possible concrete deliverable. There was agreement to explore this and possible other priorities further in bilateral dialogue ahead of a second working group.

The US were keen to move quickly towards sharing of ‘representative IP chapter text’ in a next meeting. Again, we should be cautious in moving too quickly towards any substantive discussion before sufficient analysis of UK policy positions and need to be clear that we would be listening mode only in any early discussion.

US raised expected concerns with EU's system for Geographical Indications and pressed the UK to move away from current EU approach on generic terms. GIs are likely to emerge as a contentious issue as we seek a balance between a UK-EU and UK-US free trade deal. DIT, DEFRA and IPO policy teams will be discussing policy over the coming weeks and will seek DEXEU input given EU/UK dependencies.

The US did not raise other expected asks on, for example, grace periods or patent linkage issues in this first meeting. This may have reflected their desire to minimise areas of contention to a focus on GIs, which was a major dispute in the TTIP negotiations. It may also have reflected a lack of preparation across agencies, so we should be prepared for other areas to be raised in a second working group discussion and particularly so if the US plan to present ‘template text’.

Finally, the wide range of US agencies and departments with an interest in IP is notable. The main attendees are listed below, but there were several others including from agriculture (GIs), Council of Economic Advisers, State, Commerce etc.

- *Christine Peterson, Director for Innovation & Intellectual Property, USTR*
- *Shira Perlmutter, Chief Policy Officer and International Director US PTO*
- *Robert E Copyak, US Customs and Border Protection*
- *Kevin Amer, US Copyright Office*

Informal bilateral side meeting: Maryam Teschke-Panah/Christine Peterson

- *USTR team of 7 people working on IPR; wide range of US agencies (including a range on enforcement)*
- *GIs major issue of interest (note TTIP history); US interested only in agricultural GIs.*
- *USTR intention to appoint a Chief Negotiator on IP; candidate and timing tbc*



Department for International Trade

Title of Meeting: ***Closing Coordination Meeting***

Date: **25 July**

Time: **16.00**

Participants

Name	Department/Directorate
Dan Mullaney	USTR
Tim Wedding	USTR
David Weiner	USTR
Ram Rizzo	USTR
Alexandra Whittaker	Assistant General Counsel USTR
Oliver Griffiths	DIT, UK-US Trade Policy Group
Richard Salt	DIT, UK-US Trade Policy Group
Mark Kent	British Embassy Washington

Key Points to Note

- Agreement to set up UK-US phone call during w/c 31 July to agree actions following the working group.
- Agreement that both sides would continue to search for short term outcomes.
- Tentative agreement to structure dialogue as quarterly meetings of key coordinators, rather than as a full 'round' with all agencies represented. This format could receive reports from experts, but only discuss issues which were ripe or merited a deep dive

Report of Discussions and Outcome

1. Continuity Agreements. The UK noted great engagement, with clear evidence of a few months of thinking. UK was optimistic on MRAs, a good process was in train on wines/spirits. Broadly, our approach should be to make sure both sides were talking but to devolve the detail to them. The US (Wedding) noted that they wanted to coordinate with all leads on agreed actions and next steps. The US recommended a UK-US phone call during w/c 31 July to agree actions bilaterally. Mullaney noted some clear assignments for policy leads on the mechanics of agreements, what are they, when are they needed, what internal process needs following. The more precise we can be about options, the more comfort we can give stakeholders. The UK noted separate EWG agreement that now was a good time to be specific about the plan. Each agreement needed to consider a checklist – internal ratification, dependence on ultimate UK-EU goal, legal form etc. The US (Whittaker) noted discussion with UK legal directors and would join up with DexEU lawyers. Whittaker noted that giving stakeholder certainty might affect dates and legal form.



2. Short Term Outcomes. The UK noted a rich discussion, albeit the delay in sending had limited some dialogue. A range of reflections, from a well-established dialogue on IP to other issues on which more time to reflect would be needed. The US (Mullaney) noted the need to reflect further on how to involve relevant agencies where USTR equities were limited or non-existent. The US wanted to delve deeper into the specific proposals and on broader trade deepening initiatives. The discussion had uncovered potential areas of UK policy flexibility that the US might not have known about. Medical devices might be one. Auditors could be another. Services in particular could be fruitful. The US planned to encourage deeper consideration and suggested there might be areas where EU competence was incomplete or contested which might also be fruitful to explore, including potentially investment. The UK noted potential EU sensitivities around mutual recognition of professional qualifications which we needed to be mindful of. The UK (Salt) noted that the UK was still thinking about potential STOs and suggested both sides remained open to new ideas emerging. The US (Mullaney) agreed, and hoped the US could come up with more ideas. Both sides also needed to ensure outcomes were politically attractive. 10 dialogues would appear like “weak tea” to our political masters. The UK (Griffiths) noted the need to reflect again on architecture and whether it made sense for some of these to move across to the EWG and Clete Willems had shown tentative interest in this.
3. Trade Strategy and WTO. The UK (Griffiths) welcomed the discussion with Dawn Shackleford. He would connect her to Chris Barton in DIT. UK noted on the three themes of deals, architecture (including the DSB) and transparency the UK and US would not be perfectly aligned, but there were certainly strong overlaps.
4. Future FTA. The UK (Griffiths) noted the need to reflect hard on how, at this early stage, it made sense to think through a future FTA. What exactly would be constructive to lay the groundwork? The US suggested we try to figure out what a deal ultimately looked like given the huge value of the bilateral relationship. The Exit negotiators in DExEU need to know more about what that looked like, to avoid unnecessarily giving away the store to the EU. One example could be around data transfers and the need (or not) for an adequacy finding from the EU. If we submitted to have one, this might preclude or affect data transfers between the UK and EU. The UK suggested a need to think hard about the terminology of this, but there was merit in understanding what mattered to the US.
5. Process and Next Steps. The UK (Griffiths) suggested a quarterly rhythm and invited the US to the UK for the next round. The US was thinking about next steps in two distinct phases. First, immediate contact. We should encourage experts to have phone calls, VTCs and where appropriate meetings and visits bilaterally across all groups and all issues. The Second, was the role of the bigger group. Should we structure it as a large round bringing everyone together? This could be challenging to schedule and burdensome in logistical terms. Or would it be better to stick to coordination teams and have experts report back to a smaller group that could meet. The US preference was the latter – a smaller group meeting, focusing on issues which were ripe for discussion rather than everything, having deep dives on one or two issues (e.g. regulation) that merited deeper engagement.



Department for
International Trade

Action Items

- Set up UK-US phone call during w/c 31 July to agree actions following the working group.
- Continue to search for short term outcomes.
- Gain formal agreement on dialogue structure – whether as quarterly meetings of key coordinators, or as a full ‘round’ with all agencies represented. The former format could receive reports from experts, but only discuss issues which were ripe or merited a deep dive.

FOR INTERNAL DISTRIBUTION ONLY

Lead Negotiator Analysis/Comments

N/A

*For any queries about the contents of this dossier or the Trade Working Group meetings, please contact:
Richard Salt
Deputy Director, UK-US Trade Policy Group
Department for International Trade*