



USCIB Washington Update

Highlighting Key Activities, August – September, 2013

During the months of August and September, USCIB's Washington, D.C. office arranged for members to meet with Dan Mullaney and Daniel Bahar from USTR to discuss TTIP, TPP and new developments on the China BIT negotiations; organized a program in Geneva on forced localization; filed a submission on China compliance with the WTO; met with Arrow Augerot of USTR on APEC priorities for 2014; led U.S. industry input into the OECD on its action plan for BEPS; engaged Caitlin Fennesy of Commerce on EU data privacy issues; sent comments to ICANN on domain name collisions, and much more. Below are brief summaries of these and other highlights from the activities of USCIB in Washington, D.C. over the last two months. If you have any questions or comments, or want more information on a specific topic, please contact any of the staff members listed at the end of this brief.

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Trade and Investment – Opening Markets for Trade and Investment

- ***Dan Mullaney (USTR) Speaks to USCIB on Upcoming TTIP Negotiation Goals and Challenges:*** Dan Mullaney, Assistant U.S. Trade Representative for Europe and the Middle East, met with the USCIB Trade and Investment Committee on September 5, 2013. He described activities at USTR since the preliminary round of negotiations of the Transatlantic Trade and Investment Partnership (TTIP) in July, as well as expectations for the upcoming round in Brussels, starting October 7. In the key area of regulatory cooperation, he indicated there are five areas of focus: technical and regulatory standards; agricultural, sanitary and phytosanitary standards, regulatory transparency and coherence; sectoral regulatory issues; and institutional mechanisms for addressing regulatory issues post-negotiation. Mullaney stressed the unique opportunity that TTIP represents, as well as the ambitious negotiation schedule. Rob Mulligan will be joining other members of BCTT for meetings in Brussels with EU negotiators on October 3-4.
- ***Daniel Bahar (USTR), Pamela Phan (State) Brief USCIB Trade Committee on Recent TPP, TTIP and BIT Developments:*** Daniel Bahar, Director for Investment Affairs at USTR, explained at the same meeting of the USCIB Trade and Investment Committee that the Administration is eager to wrap up discussions on TPP by the end of the year, but a number of difficult issues, including inward and outward investment, remain on the table. At this summer's U.S.-China Strategic and Economic Dialogue, China committed at the highest levels to reinvigorate the BIT negotiations and to work from the U.S. model BIT text on some key policy areas. Mr. Bahar called the fact that the Chinese have agreed to negotiate on a negative list basis a breakthrough. Special Advisor to the Office of Investment Affairs at DOS, Pamela Phan, further described the progress with China, emphasizing that the negotiations should now be much more substantive, especially in the areas of SOEs, tech transfer, market distortion and transparency.
- ***USCIB Co-Hosts Roundtable on Forced Localization in Geneva:*** On September 30, 2013, USCIB Senior Vice President for Policy and Government Affairs, Rob Mulligan, provided the opening comments for a program on forced localization organized in Geneva by USCIB, NFTC and the ICC. Over 50 people participated in the program including several representatives from foreign government delegations to the WTO. USCIB also joined several other business groups in hosting a reception after the

program. This forced localization effort is the latest in a string of developments in the area: USCIB recently released an updated version of its Forced Localization Matrix, and Rob Mulligan volunteered to chair a Forced Localization Working Group under the umbrella of the Business Coalition for Transatlantic Trade (BCTT).

- ***USCIB Coordinating with U. S. Mission to the OECD:*** As the sole U.S. affiliate of the OECD's Business and Industry Advisory Committee (BIAC), USCIB works closely with the U.S. Mission to the OECD and with the relevant U.S. Government agencies active in the wide range of OECD policy work. In late August, USCIB's DC team met in Washington with D.A. Brown, Ombudsman for business outreach and Secretary at the U.S. Delegation in Paris, and Special Assistant to the U.S. Ambassador to the OECD. USCIB highlighted its and members' priorities on upcoming issues at the OECD, including major concerns over OECD's BEPS tax proposals. President Obama has nominated Daniel Yohannes, current CEO of the Millennium Challenge Corporation, as the next U.S. Ambassador to the OECD, but the Mission will be led by Charge D'affaires Jeri Guthrie-Corn until he is confirmed. USCIB staff can connect interested member companies with the right people at the U.S. Mission in Paris and with U.S. Government experts around Washington.
- ***Urging State Department to Push Business Interests with the UAE:*** The United Arab Emirates (UAE) is the largest U.S. export market in the Middle East. Shaun Donnelly joined a broad group of company and association leaders in an early September pre-meeting with State Department Economic and Business Bureau Assistant Secretary Jose Fernandez as he prepared to lead the U.S. side in the annual U.S.-UAE Economic Policy Dialogue in Abu Dhabi. Drawing on his experience leading the U.S. negotiating team on the U.S.-UAE FTA, Shaun urged Assistant Secretary Fernandez to press hard for improvements in the UAE's IPR standards, financial services, and investment policy regimes.
- ***USCIB Co-Chairing TTIP Preparations:*** USCIB has been at the forefront of U.S. preparations for the second round of U.S.-EU Transatlantic Trade and Investment Partnership (TTIP) negotiations. Rob Mulligan is active on the Business Coalition for Transatlantic Trade (BCTT) Steering Committee and co-chairs the key Regulatory Cooperation working group. Shaun Donnelly co-chairs the BCTT working groups on Investment Policy and Competition/State-Owned Enterprises. On both Investment and SOE issues, Shaun continues to play a leading role as these working groups elaborate on policy positions and priorities, and work with U.S. negotiators to have those views reflected in U.S. positions.
- ***Shaun Donnelly Following Up on China BIT Movement:*** Shaun Donnelly continues to play a leading role, both formally and informally, as a business voice on the U.S.-China Bilateral Investment Treaty (BIT). He chaired a USCIB China BIT seminar in New York September 23, 2013 with Tim Stratford, a leading China trade and investment expert from Covington and Burling's Beijing office. He also continues to work informally with U.S. policy makers on the many complex issues in these BIT negotiations.

- Arrow Augerot (USTR) Meets with USCIB Members on APEC Priorities:** On August 6, 2013, USCIB members met with USTR's Arrow Augerot and Ed Brzytwa to discuss the upcoming APEC Leaders' meeting in Bali and preparations for the 2014 China host year. Arrow highlighted China's willingness to participate actively in APEC work streams and to deal with issues such as food safety, health, good regulatory practices and energy. USCIB recently finalized the [2014 APEC Priority and Recommendations Statement](#), where members commented on over 20 issue areas including chemicals, climate change, digital trade, localization barriers to trade and women in the economy. USCIB President, Peter Robinson, and Director for Regional Initiatives, Justine Badimon, will travel to Bali, Indonesia in early October for the APEC CEO Summit and will have the opportunity to communicate key USCIB messages and priorities, as well as to attend U.S.-APEC Business Coalition meetings with APEC leaders and high-level officials.
- USCIB Files Submission with USTR on China WTO Compliance:** On September 20, 2013, USCIB submitted its [Statement to USTR on China's Compliance with its WTO Commitments](#). In this report, USCIB members outlined ongoing concerns and updates for USTR on areas where China has not met its commitments. These areas include market access, government procurement, intellectual property and software piracy, among others. The USCIB China Committee will continue to develop a more detailed version of this report with further examples of compliance issues that member companies experience in China.

ICT Policy – Promoting Sound Policies for New Technologies

- U.S. Government De-Briefs ICT Policy Committee on ICANN Meeting in South Africa:** On August 7, 2013, Suzanne Radell, the U.S. representative to the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) and senior policy advisor at the National Telecommunications and Information Administration (NTIA), met with USCIB's ICT Policy Committee. She discussed the outcome of the ICANN 47, which was held in Durban, South Africa on July 14-18, 2013 and its implications for ICANN's management of the evolving domain name system.
- USCIB Bolsters Business Representation in IGF Donors Meeting at UN:** On September 4, 2013, Vice President for ICT Policy, Barbara Wanner, participated in a special meeting of donors to the Internet Governance Forum (IGF) Trust Fund at UN headquarters. USCIB joined representatives from AT&T, Disney, Google, Intel, and Verizon; several other USCIB members who are donors and potential donors also participated via teleconference. The meeting provided an important opportunity for a free exchange of views between donors and staff of the IGF Secretariat and UN Department of Economic and Social Affairs (DESA) about issues affecting IGF funding and management going forward.
- USCIB Submits Comments to ICANN on a Proposal to Mitigate Name Collision Risks:** On September 17, 2013, USCIB responded to ICANN's request for comments on a Proposal to Mitigate Name Collision Risks. The letter recognized the potentially

serious consequences of domain name collisions in the private networks of our Members stemming from the pending roll-out of new generic Top-Level Domain names (gTLDs). The letter underscored USCIB's concern that ICANN still has not provided sufficient analysis of risks to internal namespace posed by a broad range of new gTLDs and urged ICANN to use new data to better refine the analysis of risk and corresponding mitigation efforts. USCIB's comments can be found here:

<http://forum.icann.org/lists/comments-name-collision-05aug13/msg00049.html>

- Caitlin Fennessy (Commerce) Updates ICT Policy Committee on US-EU Safe Harbor Privacy Framework:** On September 17, 2013, Caitlin Fennessy, International Privacy Expert, US Department of Commerce, gave ICT Policy Committee members an update on the U.S.-EU discussions about the Safe Harbor Privacy Framework and the implications of these discussions for the Transatlantic Trade and Investment Partnership (TTIP), all occurring against the backdrop of the revelations of NSA surveillance. Members also discussed the impact of the so-called Prism controversy on the pending EU draft General Data Protection Regulation (GDPR) as well as India's development of new privacy regulations. The committee-wide teleconference wrapped up with a discussion of (1) USCIB's input to the WSIS High-Level Event Open Consultation Process, (2) preparations for the Internet Governance Forum in Bali, Indonesia, October 22-25, and (3) business efforts to influence the development of more stable funding sources for the IGF Secretariat.
- USCIB Provides U.S. Business Input to the WSIS High-Level Event Open Consultation Process:** USCIB submitted comments to the WSIS High-Level Event Open Consultation Process on September 20, 2013. The comments focused on USCIB members' views regarding challenges to be addressed in the coming decade in bridging the digital divide, as well as new priorities and objectives for the WSIS Action Lines in 2015 and beyond. USCIB's comments underscored members' support for the current WSIS Action Lines Framework and the role of the UN Commission on Science and Technology for Development in evaluating progress made in realizing Action Line goals and objectives.

Tax – Advancing Tax Policies that Promote U.S. Competitiveness

- USCIB Weighs in at BIAC Meeting on the Revised Intangibles Discussion Draft:** Carol Doran Klein, USCIB Vice President for Tax Policy, represented member views at a one-day meeting at the OECD in Paris to discuss the BIAC position on the revised Intangibles Draft and the White Paper on Transfer Pricing Documentation. The meeting was also attended by USCIB member Chris Faiferlick (E&Y). There was extensive discussion of key issues including the definition of an intangible, the important functions, the entitlement to the residual, and country-by-country reporting including the possibility of using a template to accomplish the desired disclosure.
- Carol Doran Klein Attends the OECD VAT/TAG Meetings:** The focus of the VAT/TAG has moved from the business-to-business context to the business-to-consumer context. There will be significant focus on the digital economy and in particular the correct proxies for determining the location of consumer consumption. Getting this right is important for

digital business. If tax liabilities are not clear on transactions, (some may be “sold” for under a dollar), then the entire profit can be consumed by tax liabilities, interest and penalties, in addition to the cost of dealing with consumer questions.

- **USCIB Organizing U.S. Business Input into OECD Action Plan on BEPS:** The OECD released its Action Plan on Base Erosion and Profit Shifting (BEPS) on July 19, 2013. BIAC will be holding a one day meeting with the OECD and CFA members to discuss elements of the Action Plan on October 1, 2013. USCIB has been developing input in the areas of transfer pricing, documentation, interest deductibility, risk, data collection and methodologies and other areas. Carol Doran Klein will be attending the business meeting on September 30, 2013 and the meeting with governments and the OECD Secretariat on October 1.

Competition – Promoting Legal Policies that Foster an Open Business Environment

- **Deborah Feinstein (FTC) Shares Her Views as New Director of Competition Bureau at Joint USCIB/ ICC Competition Committee Meeting:** On September 24, 2013, the USCIB Competition Committee held a joint meeting with the ICC Competition Commission in Washington, D.C. Members provided updates on regional competition developments in the United States, Europe, Asia and Latin America, as well as organizational activity in the International Competition Network and the ICC. The guest speaker was Deborah Feinstein, Director, Bureau of Competition at the FTC. Ms. Feinstein spoke about her new role as Director of the Competition Bureau, as well as about recent cases and international cooperation with other competition bureaus such as the Japanese Federal Trade Commission. The next meeting will be in Paris in February 2014.

Membership

- **Member Meetings:** The D.C. Membership Department and Policy Staff met with representatives from member companies Grant Thornton, Darden, AT&T, and Viacom to better understand their policy priorities for the next year and beyond and to see how USCIB can better serve their policy needs.
- **Recruitment:** The D.C. Membership Department and Policy Staff met with prospective members H&M and Molson-Coors to discuss how USCIB membership would be of benefit to them.
- **New Members:** USCIB has recently welcomed the following new members: Amgen, Miller & Chevalier, and TD Bank.

Upcoming Events

- **WSIS High-Level Event Open Consultation, Phase 2** – October 7-8, 2013, Geneva, Switzerland

- **BIAC Investment Committee Meeting** – October 14, 2013, Paris, France
- **ICC Commission on Customs and Trade Facilitation Meeting** – October 14, 2013, Brussels, Belgium
- **ICC Banking Commission Meeting** – October 21-25, 2013, Vienna, Austria
- **Eighth Internet Governance Forum (IGF)** – October 22-25, 2013, Bali, Indonesia
- **UN Commission on Science and Technology for Development (CSTD) Working Group on Enhanced Cooperation** – November 6-8, 2013, Geneva, Switzerland
- **ICANN Meeting** – November 16-21, 2013, Buenos Aires, Argentina
- **International Anti-Bribery Roundtable** – December 3, 2013, Washington, DC, USA
- **Ninth WTO Ministerial Conference** – December 3-6, 2013, Bali, Indonesia
- **OECD Committee for Information, Computer and Communications Policy (ICCP)** - December 9-13, 2013, Paris

Again, please feel to contact any of our Washington staff (below) if you would like more information on a specific issue mentioned in this brief. Thank you for your continued support of USCIB.

USCIB Washington Office Staff:

Rob Mulligan

Senior Vice President, Policy and Government Affairs
202-682-7375 or rmulligan@uscib.org

Erin Breitenbucher

Senior Policy and Program Associate and Office Manager,
Washington
202-682-7465 or ebreitenbucher@uscib.org

Shaun Donnelly

Vice President, Investment and Financial Services
202-682-1221 or sdonnelly@uscib.org

Alison Hoiem

Director, Member Services
202-682-1291 or ahoiem@uscib.org

Diana Jack

Policy and Program Assistant
202-617-3156 or djack@uscib.org

Carol Doran Klein

Vice President and International Tax Counsel
202-682-7376 or cdklein@uscib.org

Barbara Wanner

Vice President, ICT Policy
202-617-3155 or bwanner@uscib.org