



USCIB Washington Update

Highlighting Key Activities, December 2014 – January 2015

During the months of December 2014 and January 2015, USCIB staff and members met with Jason Kearns, Minority Trade Counsel for Ways and Means; received a briefing from Andy Wyckoff, Director, OECD Directorate for Science, Technology, and Innovation; arranged meetings with officials including Ambassador Michael Punke on the margins of Environmental Goods Agreement negotiations in Geneva; wrote four letters on chapters of the OECD BEPS Discussion Draft; wrote a letter to President Obama in support of passing Trade Promotion Authority; participated on a panel in Peru regarding single window implementation; pushed the importance of investment protections, especially investor-state dispute settlement, in multiple fora and across Europe; and much more. Below are summaries of these and other highlights from the activities of USCIB in Washington, DC 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 Global Markets for Trade and Investment*

- ***USCIB Promotes TPA in Letter to President Obama Ahead of State of the Union:***
On January 13, 2015, USCIB sent a [letter](#) to the White House urging President Obama to call for the passage of Trade Promotion Authority in his State of the Union Address on January 20. The letter was subsequently sent to Congressional leaders and the chairs of

the relevant Congressional committees, as well as USTR. USCIB was [pleased](#) to hear the President's call for TPA and support for trade overall in the address.

- ***USCIB 2015 Trade and Investment Agenda Outlines Ambitious Goals:*** The USCIB Trade and Investment Committee finalized its ambitious agenda for 2015 and included it in the letter that went to the President on TPA. The Agenda prioritizes getting TPA and TPP approved in Congress this year while significantly advancing work on TTIP. It also sees the potential for completing the TiSA, EGA, and ITA negotiations in 2015. Investment will be a key issue for the year and USCIB will be leading efforts to ensure that strong protections are included in the trade agreements and bilateral investment treaties. Along with our international partner organizations, USCIB will seek to move the WTO forward on Trade Facilitation implementation and its post-Bali agenda. We will also advance our global efforts on key member concerns such as forced localization and cross-border data flow restrictions, competitive neutrality, regulatory cooperation, and global value chains.
- ***Forced Localization Matrix Updated:*** The most recent round of updates to the USCIB Matrix of Forced Localization Policies was completed and shared with members to help with engaging policymakers. The document includes examples provided by member companies related to a broad range of localization policies they have encountered globally including cross-border data flow restrictions, government procurement of local goods and services, local content requirements, encryption and privacy requirements, as well as tax and legal conversion requirements, among others.
- ***USCIB Trade Committee Meets with Jason Kearns of Ways and Means:*** On December 10, 2014, the Committee met with Jason Kearns, Minority Chief Trade Counsel to Ways and Means Ranking Member Sandy Levin to discuss Trade Promotion Authority, the TransPacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). Members gained insight into the new Congress' plans and interests. Additionally, members discussed pressing investment policy issues, especially with regard to investor-state dispute settlement, provided comments on the USCIB 2015 Trade and Investment Agenda, the OECD Anti-Bribery Report and the USCIB Forced Localization Matrix.
- ***USCIB Leads BIAC Team in Policy Framework for Investment Review at OECD:*** USCIB Vice President Shaun Donnelly led a strong BIAC delegation in a morning-long stakeholder input session at the OECD in Paris on December 1, 2014. The OECD assigns a very high priority to this PFI update of the wide-ranging policy guideline for developing countries seeking to attract foreign direct investment (FDI) flows. The PFI update is on track to be a major agenda item for the 2015 OECD Ministerial meeting in early June. USCIB members Kimberley Claman (Citi) and Sofia Villanueva (Chevron) also participated on the BIAC team at the PFI stakeholder session which also involved representations from labor, NGOs and international organizations. The next consultation on the PFI will occur on February 23, 2015 in Brussels.
- ***USCIB Leads American Business in Geneva for EGA Negotiations:*** The fourth round of negotiations, dealing with energy efficiency and cleaner and renewable energy, for an Environmental Goods Agreement took place January 26-30 at the WTO. Eva Hampl, Director, Trade, Investment and Financial Services, attended this round on behalf of the Coalition for Green Trade, which USCIB co-chairs with the NAM and NFTC,

along with USCIB member Orit Frenkel of GE. USCIB coordinated various lunch events organized by associations, where business had the opportunity to present on the relevant technologies; organized bilateral meetings with various country delegations, including Australia, Canada, China, EU, Hong Kong, Japan, New Zealand, Norway, Singapore, Switzerland and Taiwan; and met with Ambassador Michael Punke, Deputy USTR and U.S. Permanent Representative to the WTO.

- ***Shaun Donnelly Pushes TTIP in Europe:*** Shaun Donnelly has regularly volunteered to speak for American embassies in Europe on TTIP, as a guest of the State Department. In the first week of December Shaun spoke to business, student, and town meeting groups in Paris and Bordeaux, France, capping the week as the sole American on a panel addressing TTIP and transatlantic trade at the annual conference of France's leading international think tank, IFRI. The week of January 12, 2015, Shaun was back on the road doing similar speeches, meetings and panel sessions in Vienna and Graz, Austria, and in Ljubljana, Slovenia. USCIB is proud to share Shaun with our government in these important efforts to build European understanding of and support for a comprehensive, high standard TTIP.
- ***USCIB Responds to EU Commission Report on ISDS:*** On Tuesday, January 13, 2015, USCIB issued a [press release](#) on the EU Commission's publication of its [final report](#) on the online public consultation concerning investment protection and investor-state dispute settlement (ISDS) in the TTIP, noting the importance of a strong investment chapter including ISDS in the agreement. USCIB also played a leading role in pulling together a group of 15 major business groups on both side of the Atlantic to issue a [joint statement](#) that same day. USCIB [contributed one](#) of few long-form submissions on the consultation, which ended in July 2014 with nearly 150,000 (mostly pre-defined) responses. The Commission had received a total of nearly 150,000 replies by the July 2014 deadline, with the vast majority (around 145,000, or 97%) submitted through various online platforms with pre-defined answers. Instead of prescribing a concrete way forward, the Commission merely noted four areas where they urge further improvements to be explored. USCIB will continue to be actively involved in the ISDS and investment protection issue on multiple fronts to make the pro-investment case on behalf of members.
- ***BIAC Releases Final Paper on ISDS with Help from USCIB:*** Shaun Donnelly and Eva Hampl actively worked with members to contribute to a much needed BIAC paper on investment protection and ISDS: [Investor-State Dispute Settlement – An indispensable element of investment protection](#). This paper was distributed and featured prominently at BIAC's annual meeting held mid-January with OECD Secretary General Gurria, the OECD senior leadership and the corps of OECD Ambassadors. The pro-investment message put forth clearly with the help of USCIB in this BIAC paper was presented and received well at the meeting.
- ***USCIB Attends Launch of OECD Foreign Bribery Report:*** Shaun Donnelly, Vice President, Investment and Financial Services, represented USCIB at the [event](#) launching the OECD's [Foreign Bribery Report](#) in Paris on December 2, 2014. This report presents an important step forward in the OECD's anti-bribery work – a [webcast](#) of the event is available on the OECD website, and a [brief summary](#) with more details on USCIB's website. In connection with the launch, Eva Hampl, Director of Trade, Investment and Financial Services, contributed to organizing a roundtable discussion,

hosted at the OECD Washington Center on December 5, 2014, where representatives from the OECD Secretariat and the U.S. Department of Commerce discussed the findings of the Foreign Bribery Report with a small group of experts, including several USCIB members. The following week on December 9, 2014 at the BIAC Task Force on Anti-Bribery/Corruption meeting in Paris, various business concerns raised during the Roundtable were discussed.

ICT Policy – Promoting Sound Policies for New Technologies

- **USCIB Submits Section 1377 Comments:** On December 5, 2014, USCIB submitted comments on the operation and effectiveness of U.S. telecommunications trade agreements pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1998. Specifically, Members examined Argentina, Canada, China, Colombia, Dominican Republic, El Salvador, the European Union, Germany, Ghana, Guinea, India, Indonesia, Jamaica, Mexico, Nigeria, Pakistan, Thailand, Tonga, Turkey, Uganda, Uruguay, and Vietnam. Themes running throughout the comments included: (1) the importance of establishing a strong independent regulator with effective enforcement powers; and (2) the importance of keeping borders open to the free flow of data, prohibiting the requirement of the use of local data servers or other computing infrastructure.
- **Members Play Leading Roles at OECD Meetings of CDEP and its Working Parties:** ICT Policy Committee Vice Chair Joseph Alhadeff, Vice President for Global Public Policy and Chief Privacy Officer, Oracle, who also chairs BIAC's CDEP Committee, Barbara Wanner, USCIB Vice President, ICT Policy, and members of USCIB's ICT Policy Committee made important contributions at OECD meetings December 8-12, 2014 in Paris. In particular, USCIB members provided key input to the OECD's continued efforts to revise the 2002 Security Guidelines. Under the BIAC banner, members also (1) offered comments about elements of the OECD's draft Ministerial Themes document for the 2016 ICT Ministerial in Cancun, Mexico, (2) provided a general framework for BIAC's Stakeholder Day at the 2016 Ministerial, (3) elaborated on BIAC'S interest in planning a Developer's Conference at the 2016 Ministerial, a contest geared toward students-age APP developers, (4) guided further development of an OECD paper on the Industrial Internet of Things, and (5) made important contributions to the CISP's review of a OECD Council recommendation on international mobile roaming, among other initiatives.
- **USCIB Submits Comments on Draft Proposal on Naming-Related IANA functions:** On December 18, 2014 USCIB submitted [comments](#) concerning the CWG Stewardship's Draft Proposal for Naming-Related Functions, one of three groups submitting a proposal to the IANA Stewardship Transition Coordination Group (ICG). Key points included: (1) the importance of fully implementing *and* stress testing broader ICANN organizational accountability mechanisms before proceeding with the IANA transition plan; (2) not duplicating accountability reforms, which could enable "forum shopping;" (3) although mindful of the ICG's September 30 deadline, development of a quality proposal should remain the paramount issue over timing and deadlines.
- **USCIB Announces 2nd Annual Joint Program with BIAC and OECD, "Promoting Inclusive Growth in the Digital Economy: The OECD Evidence and Practice Base":** On January 5, 2015, USCIB announced that the USCIB Foundation, BIAC, and the

OECD will jointly sponsor the second annual conference on March 10, 2015 in Washington, D.C. This program will bring together business and government leaders for an important dialogue on policy and regulatory challenges affecting the ICT sector and U.S. companies that rely on ICT for business operations. It will feature top experts from the OECD's Directorate for Science, Technology and Industry and senior US and foreign government officials. As of January 23, confirmed speakers included: Andrew Wyckoff, Director, OECD Directorate for Science, Technology, and Innovation; Amb. Daniel Sepulveda, Deputy Assistant Secretary of State and U.S. Coordinator for International Communications and Information Policy; Christopher Painter, U.S. Department of State Coordinator for Cyber Issues; and Jørgen Abild Andersen, Chair, OECD Committee on Digital Economy Policy (CDEP). The program will be held at the Microsoft Policy & Innovation Center, Washington, DC.

- ***USCIB Hosts Special Meeting for Senior OECD ICT Official:*** On January 13, 2015 USCIB's ICT Policy Committee hosted a special meeting in Washington with Andrew Wyckoff, Director, OECD Directorate for Science, Technology, and Innovation. Mr. Wyckoff provided a brief recap of the December 8-12 meetings of CDEP and its Working Parties as well as updated Members on planning for 2016 CDEP Ministerial.
- ***USCIB Hosts Meeting with Suzanne Radell, U.S. Representative to ICANN GAC:*** On January 29, 2014, Suzanne Radell, Senior Policy Advisor, National Telecommunications & Information Administration (NTIA), who represents the United States on the ICANN Governmental Advisory Committee (GAC) met with USCIB members in anticipation of the ICANN 52 Singapore meeting, February 8-12, 2015. The important work-streams currently underway concerning the IANA Stewardship Transition and the interrelated ICANN Accountability issue dominated discussions.

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

- ***Carol Doran Klein Represents USCIB in OECD Public Consultation on the Definition of Permanent Establishment and Treaty Abuse:*** The OECD held public consultations in Paris on the definition of permanent establishments and treaty abuse on January 21-22, 2014. Carol Doran Klein, International Trade Counsel and Vice President of Tax Policy for USCIB participated in the meetings. The permanent establishment discussion focused on the issues of commissionaire arrangements and specific activity exemptions. The business community made the point that clear rules will prevent double taxation and disputes. The high costs of creating an accounting framework around a PE were emphasized. It is relevant to look at profit attribution. If the activities are marginal is it appropriate to create a PE? There is not yet sufficient clarity on how profit attribution works. On treaty abuse, collective investment vehicles and other funds seek tax neutrality. There is a wish to improve on the 2010 report and go beyond. On limitation on benefits, there is a need to discuss the mechanics of the rule. USCIB suggested that a model LOB might not be either necessary or appropriate. Derivative benefits was flagged as needing attention, particularly by small countries. On the principal purpose test, business wants certainty both in application and implementation. Global implementation is necessary.
- ***USCIB participates in OECD Public Consultation on Dispute Resolution:*** USCIB was represented by Michael Danilack and Carol Doran Klein at the public consultation on dispute resolution the week of January 19, 2014. The business community as a

whole made the case for mandatory binding arbitration as a necessary component for any robust dispute resolution mechanism. Michael Danilack made a presentation on appropriate tax administration practices, which generally covered barriers for access to MAP and changes that need to be made to improve access. Some businesses think this is the key action point in the entire action plan. Disputes are the result of rules and rules should be clear. Dispute resolution is part of a bigger problem of tax administration. FTA and MAP Forum should be central. We need MAP statistics - not everyone does them and the picture is not accurate. BEPS will increase disputes. The OECD needs to go from paper solutions to real solutions in practice. Real political commitment with concrete aims and monitoring.

- **USCIB Submits Comment Letters:** USCIB has submitted letters to the OECD regarding [low-value adding intra-group services](#); [permanent establishments](#); [treaty abuse](#); and [dispute resolution](#). We are also working to finalize letters on profit splits, risk and recharacterization, and interest deductibility. Those letters will be submitted by February 6, 2014.

Customs and Trade Facilitation – Reducing Barriers and Costs from Customs and Border Control Practices

- **New Symposium to Explore Customs and Trade Facilitation Feb. 22-24 in Miami:** On February 22-24, 2015, the ICC and USCIB will host their first joint Customs and Trade Facilitation Symposium, titled “Finding Solutions to Cross-Border Challenges.” The Symposium will bring together speakers from government and IGOs, including World Customs Organization Secretary General Kunio Mikiyuria; U.S. Customs and Border Protection Commissioner Gil Kerlikowske and Assistant Commissioner, Office of International Trade Brenda Brockman-Smith; WTO Deputy Director General Xiaozhun Yi; Director, Office of Trade and Regulatory Reform at the U.S. Agency for International Development Virginia Brown; and from the Department of Homeland Security, the Inter-American Development Bank, the Mexican Tax Administration, and the Organization for Economic Cooperation and Development (OECD), as well as from the private sector. For a full agenda and list of speakers, click [here](#). In order to register, please fill out a [registration form](#) or go [online](#). Please contact [Diana Jack](#) if you have questions.
- **USCIB Speaks at Inter-American Development Bank (IDB) Workshop on Single Window:** On December 4, 2014, Kristin Isabelli (Director, Customs and Trade Facilitation) served as a customs expert on a private sector panel discussing the benefits of single window implementation in the Latin American Region for USCIB members and U.S. business hosted by Red VUCE. The Red VUCE is a forum that seeks to continue the exchange of experiences and good practices in the design and implementation of national single window projects, as well as aspects for making progress in the interoperability of regional single windows in the future. Single window implementation by countries in the region is a critical tool for trade facilitation and international trade, and USCIB is an active public stakeholder in the Border Interagency Executive Council (BIEC), which is coordinating the implementation of the U.S.’ own single window the International Trade Data System, which will be finalized in 2016.
- **USCIB Meets with Embassy of Canada to discuss U.S.-Canadian Border Issues:** On December 11, 2014, the USCIB Customs and Trade Facilitation Committee met with the Canadian Embassy to discuss U.S. Canadian Border Issues and the TransPacific

Partnership (TPP). USCIB discussed how the private sector could continue to engage with Canada and TPP countries in support of the agreement. The Customs committee will continue to actively push TPP, specifically regarding the customs chapter, in 2015. In addition, USCIB members discussed how we could coordinate further with the Canadian government on different border issues in 2015, as it is important to promote ease of access for good across the U.S.-Canada border to benefits both economies. For a summary of the meeting, contact Diana Jack (djack@uscib.org).

- **USTR and USAID Brief Members on WTO Trade Facilitation Agreement Breakthrough:** On January 8, 2015, USCIB and its members met with USTR and USAID for an update on the WTO Trade Facilitation Agreement breakthrough in November 2014, after a stalemate related to a food security issue. The solution has allowed work on Trade Facilitation Agreement as well as other agreements identified in the post-Bali agenda to move forward. USAID discussed a public-private trade capacity building alliance that would allow the U.S., WTO donor members and the private sector to coordinate on capacity building and technical assistance projects for countries that need assistance in implementing their commitments. USCIB has played an active role, as a founding member of the Global Trade Facilitation Agreement Coalition as well as the USAID alliance, on mobilizing the business community to assist in the agreement implementation through capacity building and technical assistance. In 2015, USCIB will continue to be a leader in trade facilitation. For a summary of the meeting, contact Kristin Isabelli (kisabelli@uscib.org).

Membership

- **Membership Meetings:** The Washington, DC Membership department and policy staff met with representatives from member companies American Chemistry Council, Imperial Tobacco and United Technologies to better understand their policy priorities for the next year and beyond, and to see how USCIB can better serve their policy needs.
- **New Members:** USCIB has recently welcomed Business Alliance for Secure Commerce (BASC), Ericsson, and United Technologies as new members.

Upcoming Events:

APEC Data Privacy Subgroups Meeting – February 1-3, Subic, Philippines

USCIB Customs and Trade Facilitation Meeting – February 3, Washington, DC

ICANN 52 – February 8-12, Singapore

[ICC and USCIB Customs & Trade Facilitation Symposium](#) – February 22-24, Miami

OECD Stakeholder Consultation on Updating the Policy Framework for Investment (PFI) – February 23, Brussels, Belgium

UNCTAD Experts Group Meeting on International Investment Agreements – February 25-27, Geneva, Switzerland

[USCIB/BIAC/OECD Program, “Promoting Inclusive Growth in the Digital Economy: The OECD Evidence and Practice Base”](#) – March 10, Washington, D.C.

USCIB Trade and Investment Committee Meeting – March 12, Washington, DC

OECD and BIAC Investment Committee Meetings – March 16-20, Paris, France

ICC Digital Economy Commission Meeting – March 17-18, Paris, France

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