Highlighting Key Activities, June – July 2016

During the months of June and July 2016, USCIB hosted the 11th annual OECD International Tax Conference with over 350 attendees; participated in the OECD Digital Economy Ministerial and related BIAC Stakeholder Day; held committee meetings with high-level government officials including Everett Eissenstat, Chief International Trade Counsel for the Senate Finance Committee, S. Deepak, Secretary of the Indian Department of Telecommunications, and Bruce Hirsch, Assistant U.S. Trade Representative for Japan, Korea, and APEC; presented as part of a WITA panel on trade and investment; hosted a briefing for members on FENSA and other key WHO issues; and much more. Below are 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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USCIB Trade Committee Meets with Everett Eissenstat, Senate Finance Committee, and Michael Tracton, U.S. Department of State: At the June 23, 2016, meeting of the USCIB Trade and Investment Committee, Everett Eissenstat, Chief International Trade Council for the Senate Finance Committee, discussed the current state of play regarding TPP and provided his thoughts on the current political environment relating to trade. He also outlined some of the history leading up to TPP, highlighting significant progress on trade over the last few years including TPA, TAA, and the recent Trade Facilitation and Trade Enforcement Act of 2015. Michael Tracton, Director of the Office of Investment Affairs, U.S. Department of State, then joined the committee as a second guest speaker. He provided a timely update on the status of the U.S.-China Bilateral Investment Treaty (U.S.-China BIT) negotiations following the latest exchange of negative lists at the 25th round of negotiations the week before. Tracton also outlined the current status of U.S. trade and investment relations with India following the visit of Prime Minister Modi earlier in June.

Mulligan Talks Trade and Investment on Panel Following OECD Sec. Gen. Angel Gurria: On June 17, 2016 Rob Mulligan, USCIB’s Senior Vice President for Policy and Government Affairs participated on a panel organized by the Washington International Trade Association (WITA) with the OECD on Trade and Inclusiveness, which followed a speech by OECD Secretary General Angel Gurria. The panel, moderated by Shawn Donnan of the Financial Times, also featured Ken Ash of the OECD Trade and Agriculture Directorate and Nancy Donaldson of the International Labor Organization (ILO). Mulligan talked about the 10 recommendations that the Business and Industry Advisory Committee (BIAC) to the OECD made for increasing productivity, growth and prosperity. The recommendations included the need to address cross border trade barriers, improve regulation and regulatory cooperation, provide an environment conducive to investment, encourage lifelong learning, create a framework that supports innovation and the digital economy, and flexible labor markets. There was a loose consensus among the speakers that policies to open trade and investment had to be supported by complementary policies that facilitate opportunities for all to benefit from growth generated by trade.

USCIB Pushes China to Lead Successful Conclusion of EGA by the End of 2016: USCIB, as a co-chair of the Coalition for Green Trade, led an effort to send a letter to Chinese government officials on July 8, 2016 urging them to take a leadership role in concluding an ambitious Environmental Goods Agreement (EGA) this year. Sent just ahead of the G20 Trade Ministers meeting in Shanghai, USCIB was joined as a signatory by over 40 global business associations, including BIAC affiliates like the Australian Chamber of Commerce & Industry, BusinessNZ, Confederation of Danish Industry, Confederación Española de Organizaciones Empresariales, Confederation of Swedish Enterprise, Ibec, and Keidanren. The letter notes that China has taken an increasing interest in playing a global leadership role on energy and environmental issues, and urges China, as this year’s host of the G20, to take advantage of their golden opportunity to lead the successful conclusion of the EGA by the 2016 G20 Hangzhou summit in September.
**USCIB Helps Launch State Department Investment Climate Statements:** Shaun Donnelly, USCIB Vice President for Investment Policy (and former State Department Economic and Business Bureau senior officer) was an expert panelist at the July 5, 2016, launch of the 2016 Investment Climate Statements (ICSs), hosted by the Center for Strategic and International Studies (CSIS). Shaun joined State Department Deputy Assistant Secretaries Kurt Tong and Lisa Kubiske, CSIS Scholl Chair in International Business Scott Miller, and other expert panelists in explaining the importance of the annual Investment Climate Statements, highlighting their utility for American business. The individual country ICSs, running about 20 pages per country, are issued annually by the State Department based on reporting from U.S. Embassy staff on the ground in each country. More information on, and a link to the just-issued 2016 reports, is available [here](#). The hour-long CSIS conference is available [here](#).

**USCIB Talking TTIP with EU Journalists:** USCIB staffers Shaun Donnelly and Eva Hampl held an on-the-record briefing on the Transatlantic Trade and Investment Partnership (TTIP) July 18, 2016, with a group of ten journalists from around the European Union on a week-long visit to the U.S. under State Department auspices. Shaun and Eva were able to explain USCIB positions, priorities, and concerns on key TTIP issues. Much of the discussion focused on issues under the investment chapter of TTIP, including “Investor-State Dispute Settlement arbitration” or “ISDS”, regulatory convergence, intellectual property, and the broad political environment on both sides of the Atlantic forming the backdrop for TTIP. The visiting European journalists appreciated getting definitive statements on key issues from a major U.S. business group, complementing other sessions they were having with USTR officials, Hill staff, think tanks and labor organizations.

**USCIB Joins with ICC Germany in Standing Up for Strong Investment Provisions in TTIP:** USCIB President Peter Robinson and his German counterpart in the International Chamber of Commerce network Oliver Wieck, Secretary General of ICC of Germany, penned a joint Op Ed “Investor Protection Has Proven Itself” for the leading German newspaper Tagesspiegel on July 12, 2016. With political opposition to strong investment provisions in TTIP running quite high in Germany, Peter and his German counterpart felt it was important to stand up clearly for a strong investment chapter in TTIP, including strong Investor-State Dispute Settlement (ISDS) arbitration provisions to ensure enforcement of investment protections. The Op-ed goes on to clearly point out the problems in the radical new provision from the European Commission to scrap the long-standing and well-established ISDS enforcement system in favor of a new “investment court” staffed by government-appointed “judges”, clearly threatening to diminish the level of expertise and independence of those key panels.

**ICT Policy – Promoting Sound Policies for New Technologies**

**USCIB Advocates ‘Light Touch’ Regulation and Voluntary Standards for IoT:** On June 2, 2016, USCIB responded to the National Telecommunications and Information Administration’s (NTIA) April 6, 2016 request for comments concerning the benefits, challenges and potential roles for the government in fostering the advancement of the Internet of Things (IoT). Members advocated a “light-touch” approach to regulation on grounds that this best enables IoT innovation and urged NTIA to encourage business
collaboration in open and global standardization efforts to develop technological best practices and voluntary standards.

- **USCIB Convenes Special Meeting with India’s Secretary of Telecommunications:**
  On June 14, 2016, J.S. Deepak, Secretary of the Department of Telecommunications (DoT), Government of India, kicked off the second-quarter meeting of the ICT Policy Committee. Mr. Deepak provided a special briefing to USCIB members on upcoming spectrum auctions in India and reforms related to the “Digital India” program. He further noted that India’s Internet of Things (IoT) market is expected to amount to 6-7 percent of the world market by 2020. At this stage, the Indian government plans to work with international bodies to have open, interoperable standards for IoT that take into consideration data privacy concerns, according to Secretary Deepak.

- **USCIB Members Ensure Successful OECD Digital Economy Ministerial, BIAC Stakeholder Day, and Ground-Breaking Hackathon:** More than 1300 participants from 40 OECD and non-OECD member countries convened in Cancun, Mexico, June 20-23, 2016, for several events organized around the “OECD 2016 Ministerial Meeting on the Digital Economy: Innovation, Growth, and Social Prosperity.” The Ministerial, held June 22-23, 2016, focused on moving the digital agenda forward in key policy areas considered foundational to the growth of the digital economy – Internet openness; trust in the digital economy; building global connectivity; and the transformation of jobs and skills. Plenary panels featured the expert commentary of USCIB members from eBay, Facebook, Google, IBM, MasterCard, and Microsoft. In addition, BIAC held its own day-long program, June 21, 2016, “Unleashing the Benefits of Innovation in the Global Information Society.” Close to 30 speakers participated in a program, which explored themes that mirrored the focus of the Ministerial panels. Both USCIB President and CEO, Peter Robinson, and USCIB Senior Counsel Ronnie Goldberg moderated panels, on “Framework Conditions for Success in the Digital Economy” and “Workforce Development and Mobility,” respectively, as did USCIB members Peter Davidson, Senior Vice President of Verizon, on “Enabling the Benefits of Innovation” and Dorothy Attwood, Senior Vice President of The Walt Disney Company, on “Promoting Trade, Inclusion, and Trust.” Finally, USCIB members played invaluable roles both as organizers and sponsors of a highly successful Hackathon on June 20-21, 2016, which attracted nearly 200 young coders and app developers from both OECD and non-OECD Member countries.

- **Multistakeholder Advisory Group Selects USCIB Workshop Proposals for 2016 Internet Governance Forum (IGF):** The Multistakeholder Advisory Group (MAG) of the Internet Governance Forum (IGF) wrapped up its second, three-day Open Consultation on June 14, 2016 at UN Headquarters-New York. They made further headway in planning the 2016 IGF, which will be held December 5-9, 2016, in Guadalajara, Mexico, at the Instituto Cultural Cabañas. Barbara Wanner, USCIB Vice President, ICT Policy, represented USCIB in the Open Consultations. MAG members include USCIB members Virat Bhatia (AT&T) and Cheryl Miller (Verizon). Importantly, the MAG approved two USCIB-proposed workshops among the more than 260 proposals submitted by stakeholders from business, government, civil society, and the technical community. These proposals are (1) “An ‘Internet of Women’ by 2020: Making the WSIS Vision a Reality,” which was the second-highest ranked proposal, and (2) “Building ‘Demand-Side’ Capacity for Internet Deployment.”
**USCIB Holds Eleventh Annual OECD Tax Conference June 6-7:** USCIB together with the OECD and BIAC held the 11th annual OECD Tax Conference at the Four Seasons Hotel in Washington, D.C. Over 350 people attended the conference which focused on issues related to BEPS implementation and included topics on tax, trade and investment; dispute resolution; permanent establishments; and transfer pricing. The conference included high-level speakers from around the world including: Robert Stack, Deputy Assistant Secretary for International Affairs at the U.S. Treasury; Pascal Saint-Amans, Director of OECD Centre for Tax Policy; Martin Kreienbaum, Director General for International Taxation at the German Federal Ministry of Finance; Bill Sample, Microsoft Vice President for Tax (Chair of the USCIB Tax Committee); and many more. The panels sparked a lively discussion on a wide range of topics between the OECD, business, and governments. A summary of the conference can be found here.

**USCIB Submits Letter to Treasury Concerning Proposed Section 385 Regulations and Testifies at Public Hearing:** The Tax Committee devoted significant resources to pull together a comment letter on the controversial section 385 regulations. The comment letter argued that the regulations are deeply flawed and ought to be withdrawn. If the regulations are not withdrawn they should be limited by adopting, at a minimum, the following changes: The regulations’ ordinary course exception should be significantly expanded and should include an exception for cash pooling; An appropriate de minimis rule excepting transactions from the application of these regulations should be provided; The regulations’ exception for distributions out of current earnings and profits should be expanded to include accumulated earnings and profits; A similar exception for distributions out of previously taxed income should be provided; The per se rule should be eliminated and replaced with a rebuttable presumption; If the government is unwilling to eliminate the per se rule, then the period during which the regulations’ per se funding rule applies should be shortened; Foreign-to-foreign transactions should be excluded; An appropriate exception should be provided for regulated financial services entities recognizing the fundamentals of their business model; An exception from the application of these regulations should be provided for stock-based compensation; These regulations should not dilute currently available deemed paid foreign tax credits by creating situations resulting in less than 10%, non-voting interests from recharacterizing debt into equity; The documentation rules should be significantly modified, eliminating forced recharacterization solely from a simple failure to satisfy the documentation requirements, changing the time for producing the documentation to conform with normal tax return filing deadlines, and providing a documentation exception for trade payables; The proposed regulations recharacterizing an EGI as in part indebtedness and in part as stock need to be clarified or withdrawn; The effective date should be changed to January 1, 2019.

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

**Consumptive Demand Provisions of Customs Legislation Move to Forefront:** During June and July of 2016, the USCIB Customs and Trade Facilitation Committee held a series of meetings with U.S. Customs and Border Protection (CBP) leadership on
provisions regarding consumptive demand in the recently passes Customs Reauthorization legislation. Meetings with CBP officials included Executive Assistant Commissioner Brenda Smith, Executive Director Alice Kipel, and CBP Senior Trade Advisor, Maria Luisa Boyce. USCIB has been invited by CBP to participate on the COAC Working Group on Forced Labor, and Megan Giblin attended the Commercial Customs Operations Advisory Committee (COAC) meeting in Boston on July 27, 2016, where this group was announced. Additionally, this topic was discussed at the June 29, 2016, meeting of the USCIB Customs and Trade Facilitation Committee. The USCIB Labor and Employment Committee is working closely with the Customs Committee on this issue.

- **ICC Commission on Customs and Trade Facilitation Meetings held in Shanghai:** On June 2-3, 2016, Megan Giblin, USCIB Director for Customs and Trade Facilitation, attended the meetings of the ICC Commission on Customs and Trade Facilitation in Shanghai, China. At the meeting, several key topics of interest to USCIB members were discussed, including: customs valuation and transfer pricing; digital trade, authentication, and supply chain connectivity, which included a presentation from a USCIB member on the topic of 3D printing an issue which USCIB is engaged in from a WCO classification level; ecommerce, a topic which is growing in importance for USCIB members and a topic, which we are focusing on from a customs and border perspective; and the topic of non-preferential rules of origin in efforts to take steps forward in the drafting of a possible ICC policy statement on the topic. On June 1, 2016, Giblin also attended the 2016 Forum of the Global Facilitation Partnership on Transportation and Trade (GFP), which focused on implementation of the WTO’s Trade Facilitation Agreement (TFA).

- **USCIB Customs Committee Members Meet with Hill Staff on Customs Reauthorization Implementation:** Members of the USCIB Customs and Trade Facilitation Committee met with Everett Eissenstat, Chief International Trade Council for the Senate Finance Committee, and Nasim Fussell, Trade Counsel for the House Ways and Means Committee, to discuss the HR 644 (Customs Reauthorization) provisions concerning COAC and the related sense of congress. In addition to discussing the broader Customs Reauthorization legislation, these meetings provided another opportunity to engage with government officials on the forced labor/consumptive demand issue.

**APEC – Enhancing U.S. Business Cooperation with the Asia-Pacific Region**

- **Medina and USCIB Members Meet with USTR and State Department on 2016 APEC Priorities:** Helen Medina, Vice President of Product Policy and Innovation, along with several USCIB members, met with Bruce Hirsch, Assistant U.S. Trade Representative for Japan, Korea, and APEC, and Emily Fisher, Principal APEC Coordinator and Economic Policy Advisor, U.S. Department of State, to discuss USCIB’s 2016 APEC Priorities. Topics of discussion included, among many others, U.S. priorities towards defining digital trade, TPP and the draft Road Map for the Free Trade Area of the Asia Pacific (FTAAP), APEC as a venue for implementing the Environmental Goods Agreement and to generally socialize non-TPP economies on standards, the value of the APEC Alliance for Supply Chain Connectivity (A2C2), the applied tariffs on health care, the promotion of women’s participation in the transportation sector, and Japan’s push for
an agenda item that looks at supply chain resilience in the context of natural disasters. This meeting comes ahead of the Third Senior Officials’ Meeting, which will take place August 15-18, 2016.

Health – Business Engagement for Balanced International Health and Nutrition Regulations

- **USCIB Hosts Debrief with U.S. Officials on FENSA and WHO Key Issues**: On July 14, 2016, USCIB members attended a debrief at the USCIB office in Washington, D.C. on the World Health Assembly and related WHO issues with U.S. Government officials, including Ann Blackwood, U.S. Department of State, Peter Mamacos, U.S. Department of Health and Human Services, and Carrier LaCross, from the U.S. Department of State’s Office of Intellectual Property Enforcement covering WIPO in Geneva. The meeting covered the WHO’s Framework of Engagement with Non-State Actors (FENSA), its implementation, and other WHO issue areas such as trade and IP, WHO procedures limiting interaction with experts, and the process of selecting the next WHO Director-General.


- **USCIB International Product Policy Working Group Discusses APEC Chemical Dialogue with USTR**: Bryant Trick, Deputy Assistant U.S. Trade Representative, Non-Tariff Market Access and Co-Chair for APEC Chemical Dialogue met with USCIB and the members of its Product Policy Working Group on June 23, 2016. Since Bryant is the new Co-Chair for the APEC Chemical Dialogue, the meeting served as an opportunity to introduce USCIB and its members’ interests in the APEC Chemical Dialogue. Chemical management issues continue to be of interest to USCIB members. As users and manufacturers of chemicals, it is important to understand how APEC economies are reforming or implementing new regulations that may impact the trade of chemicals and articles.

Membership

- **Membership Meetings**: The Washington, D.C. membership department and policy staff met with representatives from member companies Pepsi, PayPal, Adecco Group North America, Hess, Chemours, Pirelli Tire North America, Target, Koch Industries and Sprint to develop our understanding of 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 Ferrero USA, Inc. as a new member.
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<td>OECD/USCIB/BIAC Trade and Investment Conference</td>
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<td>USCIB Trade and Investment Committee Meeting</td>
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<td>USCIB ICT Policy Committee Meeting</td>
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<td>ICC/USCIB Competition Committee Meeting</td>
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<td>2016 Engaging Business Forum</td>
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<td>ICC Trade and Investment Commission Meeting</td>
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<td>OECD Investment Week</td>
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<td>BIAC Investment Committee Meeting</td>
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<td>ICC Digital Economy Commission (ICC-DEC) Meeting</td>
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<td>BIAC Finance Task Force Meeting &amp; OECD Financial Roundtable</td>
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<td>ICC Corporate Responsibility and Anti-Corruption Commission Meeting</td>
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<td>ICANN 57</td>
<td>November 3-9</td>
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<td>USCIB Annual Dinner</td>
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