



WASHINGTON UPDATE

A UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS PUBLICATION

Highlighting Key Activities, October – November 2016

During the months of October and November, 2016, USCIB Staff filed a 65-page submission with USTR on foreign trade barriers, testified before the U.S. Government on China concerns, launched a new Working Group on Digital Trade, led coalition meetings in Geneva pressing completion of the EGA, contributed to the OECD public consultation on transfer pricing, met with government leaders at the 2016 APEC CEO Summit, 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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Trade and Investment – *Opening Global Markets for Trade and Investment*

- ***BIAC Trade Committee Engages with Chair of OECD Trade Committee on Business Priorities:*** On November 3, 2016, Rob Mulligan, USCIB Senior Vice President for Policy and Government Affairs participated as a Vice Chair in the meeting

of the [Business at OECD](#) (BIAC) Trade Committee. He also attended the OECD Trade Committee meeting later in the day. The BIAC group received a briefing from Didier Chambovey, Chair of the OECD Trade Committee, on OECD's key work streams and responded to questions from members regarding OECD's work on digital trade, the future priorities for the WTO, and the nexus between trade and environmental policy. The BIAC committee also discussed updating its Trade Priorities paper to address the changing global environment and to include new issues for the OECD to tackle in its work. Members provided input at the meeting and a revised draft has been circulated for input with the goal of finalizing the updated paper early in 2017. The committee also agreed to update its papers on several issues related to Colombia accession to the OECD.

- ***USCIB Providing Input to Germany B20 Trade and Investment Taskforce:*** Rob Mulligan joined the first call of the Germany B20 Trade and Investment Taskforce on November 3, 2016 to discuss preparation of draft recommendations around three main topics: digital trade, multilateral trade system, and investment facilitation. Mulligan provided input on the call and in writing with suggested improvements related to the focus and action items under these topics. The first draft policy paper was shared with the taskforce members on November 25 and USCIB is seeking member input on the draft in preparing its comments for submission by December 9.
- ***USCIB Meets the New Team OECD at the State Department:*** On November 2, 2016, USCIB staff from Washington and New York hosted a meeting with the new team of officers from the State Department's Economic and Business (EB) Bureau who manage and coordinate the U.S. Government's relationship with the OECD. That team from the EB Bureau's Office of economic Policy Analysis and Public Diplomacy (EB/EPPD), led by Office Director Marc Dillard and Deputy Office Director Robert Gabor plus two OECD desk officers, Tom O'Keeffe and Stacy Wood, all rotated into their jobs over the summer. The session enabled us to familiarize the new team at State with USCIB and the OECD's Business and Industry Advisory Committee (BIAC), as well as our unique roles in representing business throughout the OECD system. We were also able to lay out USCIB substantive views on some important issues in OECD Tax, Health, and Investment Committees as well as on some important accession issues.
- ***ICC Sweden Secretary General Visits USCIB:*** Lena Johansson, Secretary General of ICC of Sweden, visited USCIB's Washington office on November 3, 2016, comparing assessments with USCIB staff on the Transatlantic Trade and Investment Partnership (TTIP) and a range of transatlantic issues, from data flows and privacy to competition and regulatory coherence. Ms. Johansson was in Washington on a private trip but it was very useful to compare notes with the head of our ICC national committee counterpart in one of Europe's most resolute pro-trade countries.
- ***USCIB Pushes for Strong Investor Protections at OECD/BIAC Investment Meetings:*** Eva Hampl, USCIB Director, Investment, Trade and Financial Services, participated in the October 19-21 OECD and BIAC investment meetings. The meetings included a dinner with the chair of the OECD Investment Committee, as well as the Chair of the OECD Working Party on Responsible Business Conduct, which provided another opportunity to advocate on behalf of USCIB members on investment issues. The discussions throughout the week covered international investment agreements (IIAs), market openness, state-owned enterprises, and the OECD Guidelines for Multinational

Enterprises. USCIB continues to advocate strongly on the importance of IIAs and investor protection. The OECD continues to focus research in this area, and request stakeholder input on the direction of their research. One issue that is repeatedly raised by opponents of IIAs, and came up again, is the lack of concrete evidence linking IIAs to investment flows. The OECD is looking into this area for further research, and USCIB will be monitoring this work closely.

- ***HampI Advocates for OECD SOE Panel Discussion:*** At the end of October, Eva HampI spoke on a panel as part of a full day of meetings on State-Owned Enterprises (SOEs) at the OECD. HampI spoke on the gaps remaining in the SOE space, focusing on the issue of transparency, specifically addressing a proposed transparency check-list the OECD has drafted. This document addresses the various issues of concern regarding SOEs, including the governance structure and any benefits SOEs receive by virtue of their status. HampI pushed back strongly against the idea that transparency will solve all concerns regarding SOEs that companies competing with them in the global market may have. The OECD will continue to focus on the SOE issue in the investment committee, to which USCIB will continue to provide active stake-holder input.
- ***USCIB Hosts USTR and Leads Business Delegation at EGA Negotiations:*** On October 27, 2016 USCIB hosted Jennifer Prescott, Assistant USTR for Environment and Natural Resources and Bill McElnea, USTR Director for Environment and Natural Resources, at our offices on behalf of the Coalition for Green Trade, to provide a readout on the October round of negotiation of an Environmental Goods Agreement (EGA), as well as the WTO Mini Ministerial that took place in Oslo, Norway immediately following the Geneva round of negotiations. Representing the Coalition, Eva HampI was on the ground in Geneva for the round, leading a group of Coalition members in meetings with various negotiating delegations, as well as Ambassador Punke. The goal of that round was to move things forward significantly on the product side, with everybody coming to the table with new proposals on potential flexibilities and opportunities for compromise. The final round of negotiations takes place starting November 26, with a concluding Ministerial scheduled for December 3 and 4, which HampI and the Coalition for Green Trade will attend.
- ***USCIB Participates in Important Investment Discussions at World Bank Investment Forum:*** On November 1, 2016, Shaun Donnelly, USCIB Vice President, Investment and Financial Services, and Eva HampI attended an all-day conference at the World Bank on Enabling Investment Retention and Expansion, together with several member companies. The roundtable discussion, which was led by Anabel Gonzales, Senior Director of Trade & Competitiveness Global Practice at the World Bank, focused on maximizing the investment potential of international trade and investment agreements. The discussion, guided by the World Bank's new work in the international investment space, suggested that rather than focusing on attracting investment and the arbitration mechanism (ISDS), the focus should be fixing the underlying issues to retain and expand investment. The goal of the World Bank's work is to quantify why investment is gained and lost. Amb. Lisa Kubiske, Deputy Assistant Secretary of State, International Finance and Development, also spoke on one of the panels generally supporting the World Bank's work and noting that FDI is a critical driver in development by supporting investor confidence, reducing regulatory risk, and improving the business climate.

- ***Hampel Speaks to Foreign Service Officers about USCIB Anticorruption Work:*** On November 18, 2016, Eva Hampel spoke at the Foreign Service Institute (FSI) about USCIB's work on anticorruption and anti-bribery issues, specifically addressing the private sector's role on these issues. USCIB works closely with the Business and Industry Advisory Committee (BIAC) to the OECD on the [OECD Working Group on Bribery's](#) work implementing the OECD Bribery Convention. In addition to advocating for issues like improving compliance and including voluntary disclosure, USCIB participates in roundtables with the working group to continue to build relationships and increase transparency between governments and the private sector on these important issues. In addition, USCIB also works with the ICC and their [Commission on Corporate Responsibility and Anticorruption](#). Both BIAC and the ICC also provide input into the G20/B20 process, which for the upcoming German G20 will feature a B20 working group on [Responsible Business Conduct and Anticorruption](#).

ICT Policy – Promoting Sound Policies for New Technologies

- ***USCIB Launches Digital Trade Working Group:*** On October 18, 2016, USCIB launched a special Digital Trade Working Group (DTWG), co-chaired by Jackie Ruff (Verizon) and Sahra English (MasterCard). The DTWG was created in response to the substantial increase in the number of projects and initiatives on digital trade, the digital economy, and e-commerce undertaken in various international forums such as APEC, WTO, WCO, UN, G20, UNCTAD and OECD. Within USCIB, these topics are currently covered by several different committees including Trade and Investment, ICT, Customs, Tax, IP, APEC, and China. The new group, coming from a cross-sectoral background, will work to coordinate the views from these policy committees in order to provide coherent and effective input into these wide ranging work streams on digital trade. The group will create a list of USCIB priorities on digital trade and help determine where we decide to engage and focus our resources. The October 18 meeting provided an opportunity for preliminary discussion of members' priority topics. Members were encouraged to offer additional inputs in the coming weeks in response to developments in several forums, such as APEC, the OECD, the UNCTAD Ministerial, and the B20 Task Forces. The DTWG will meet quarterly, with the next meeting planned for January 2017. If you are a USCIB member and want to be included on the DTWG, please contact Erin Breitenbucher at ebreitenbucher@uscib.org.
- ***USCIB Submits Comments Regarding Foreign Trade Barriers to Telecommunications, Other U.S. Exports:*** On October 25, 2016 USCIB submitted [comments](#) concerning significant barriers to U.S. exports of goods, services, and U.S. foreign direct investment for inclusion in the annual National Trade Estimate (NTE) report. Pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1998, we also included comments concerning the operation and effectiveness of U.S. telecommunications trade agreements. USCIB's submission included comments detailing a wide assortment of trade barriers affecting a broad range of industries. Such cross-sectoral barriers include local content requirements, data storage requirements, customs-related issues (de minimis), and intellectual property protections. The submission also delved into burdensome financial services regulations, problems with food safety laws, problematic tax laws, foreign direct investment restrictions, and foreign

telecommunications policies and regulations that have the effect of restricting efficient and economic provision of these services, among others trade barriers.

- ***USCIB Contributes to Launch of B20 Task Force on Digitalization, Shapes Induction Document:*** On October 26, 2016, Barbara Wanner, Vice President of ICT Policy, Joseph Alhadeff (Oracle), Chair of the ICC Digital Economy Commission, Chair of BIAC's Committee on Digital Economy Policy, and Vice Chair of USCIB's ICT Policy Committee, and other USCIB members joined the teleconference launch of the B20 Germany Task Force on Digitalization to discuss the process for developing a policy paper with key recommendations for the G20. The recommendations will be developed around three topics: (1) Global Connectivity; (2) Industry 4.0, which refers to policies aimed at increasing the use of digital technologies to boost innovation, growth, and productivity in manufacturing and related services; and (3) Artificial Intelligence (AI). On October 31, 2016, USCIB contributed comments on the induction document. Among other points, USCIB urged B20 Germany to encourage broader dialogues on how AI can be shaped to maximize its potential at its current nascent stage of development and broad industry deployment. USCIB proposed that the potential challenges put forward by B20 Germany concerning liability and agency should be addressed as part of the technology development, but not as the sole focus.
- ***USCIB Members Refocus ICANN's Domain Name Policy Initiatives and Shape its Organizational Future:*** Barbara Wanner and USCIB Member representatives from 21st Century Fox, Amazon, Facebook, Google, Verizon, VeriSign and others participated in ICANN 57, November 3-9, 2016, in Hyderabad, India. In what was described by ICANN President Goran Marby as the "historical first meeting" following the transition of oversight of the Internet Assigned Numbers Authority (IANA), a set of core functions necessary for the running of the Internet domain name system, from the U.S. Commerce Department to the global multistakeholder community, participants focused on implementing post-transition changes aimed at holding ICANN accountable to global stakeholders. ICANN 57 also enabled re-energized focus on domain name policy (DNS) issues, such as subsequent procedures for the next generation of generic top-level domain names, reviewing rights protections mechanisms for domain names, and development of a new Registration Directory Service (RDS) to replace the current WHOIS (domain name directory).
- ***USCIB Endeavors to Shape Launch of OECD's post-Ministerial Digital Economy Agenda:*** Barbara Wanner, Joseph Alhadeff (Oracle), Chair BIAC's Committee on Digital Economy Policy (CDEP), and USCIB Member representatives from AT&T, Apple, Juniper Networks, Fenwick and West, among others participated in the November 14-18, 2016, meetings of the OECD's Committee on Digital Economy Policy (CDEP) and its Working Parties. They made important contributions to discussions aimed at developing new work streams and projects that respond to mandates that emerged from the June 2016 [Digital Economy Ministerial](#) -- "2016 Ministerial on the Digital Economy: Innovation, Growth, and Social Prosperity" -- held June 22-23, 2016 in Cancun, Mexico. These include: (1) a horizontal project "Seizing the Benefits of Digitalization for Growth and Well-Being," a holistic, comprehensive analysis that will consider impacts of digitalization across tax, trade, education, health, and other disciplines; (2) a related Program of Work and Budget (PWB) for 2017-2018 that will establish priority work areas that will feed into the horizontal project as well as focus on policies that strengthen the foundations of the digital economy; and (3) renewal of the Working Parties' mandates and working methods to better address important new demands in relation to the 2017-2018 PWB, particularly

an improvement of digital economy measurement, statistics, and analysis, among other initiatives.

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

- **Bill Sample Represents USCIB at OECD Public Consultations:** The OECD held a [public consultation](#) on October 11-12, 2016, on the attribution of profits to permanent establishments and the transactional profit split method. Bill Sample, Chair of the USCIB Tax Committee, presented on both of these issues on behalf of USCIB focusing on overarching issues with respect to profit attribution and on risk sharing with respect to the profit split method. Agreement to use the AOA should tend to minimize double taxation and disputes because a common standard would apply. On profit splits, USCIB recognized the need for a transactional two-sided method, but argued that the two-sided method should not become the default method nor should it be interpreted in such a way as to support formulary apportionment. The presentations are linked [here](#) and [here](#).
- **Carol Doran Klein Participates as an Observer in UN Committee of Tax Experts Meeting:** Carol Doran Klein, USCIB Vice President and International Tax Counsel, attended the October 2016 meeting of the UN Committee of Tax Experts. The [meeting](#) covered a series of topics of interest to members including: taxation of royalties in respect of the leasing of industrial, commercial and scientific equipment; taxation of services; the UN response to BEPS; and the update of the UN Transfer Pricing Manual. Changes to the Transfer Pricing Manual were approved at the October meeting. USCIB is preparing a comment letter on the draft report on royalties for submission to the UN. Another meeting of the UN Committee will be held the week of December 5th. Carol will also attend that meeting and report on developments.
- **USCIB Members Participated in an October Meeting of the BIAC Tax Committee:** BIAC held a Tax Committee meeting in October that was attended by many USCIB members. Members of the OECD Secretariat updated the Tax Committee on important work streams including: the work of the Digital Economy Task Force, the work on the deductibility of interest expense, the work on profit attribution to permanent establishments and the transactional profit split method.

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

- **USCIB Customs Committee Meeting Hears from CBP on E-Commerce:** At the October 18, 2016, meeting of the USCIB Customs and Trade Facilitation Committee, members were joined by representatives from U.S. Customs and Border Protection (CBP), including Michael Wash, Director of the IPR Division at U.S. Customs and Border Protection (CBP), Shaun Keller, Chief, E-Commerce and Small Business Branch, CBP. They provided the committee with an overview of CBP's role in facilitating e-commerce, and how it works with other government agencies in the e-commerce space. Members discussed e-commerce efforts underway at the WCO and ICC, and encouraged CBP to take a leading role in developing e-commerce policy. Members were later briefed by Ariel Meyerstein, USCIB Vice President, Labor Affairs, Corporate Responsibility &

Corporate Governance, to discuss the latest developments regarding the Forced Labor provisions of the Trade Facilitation and Trade Enforcement Act of 2016.

- ***Giblin Leads ICC Delegation to WCO Harmonized System Committee Session:***
From September 28 – October 7, 2016, Megan Giblin served as the ICC delegate to the 58th Session of the World Customs Organization Harmonized System Committee (WCO HSC) in Brussels, Belgium which deals with product classifications. The 58th HSC had the most items on its agenda in over 10 years, with over 80 items up for discussion and 29 classification decisions made. Some of the topics discussed of importance and interest to USCIB members included: classifications of “coconut water”, “crab flavor”, the scope of terms “non-alcoholic beer” and “beer made from malt”, and the classification of certain virtual reality headsets, among many others.
- ***E-Commerce and TFA Take Center Stage at Meeting of ICC Customs Commission:***
The November 3-4, 2016, meeting of the ICC Commission on Customs and Trade Facilitation, chaired by ICC Commission Chair Norm Schenk (UPS), was hosted by the World Customs Organization in Brussels, Belgium. Members discussed core issues of interest for USCIB members, including e-commerce, customs valuation and classification, origin and more. The Commission also heard directly from several WCO representatives including Kuniyo Mikuriya, Secretary General, and Ana Hinajosa, Director of Facilitation and Enforcement. The e-commerce discussion covered the establishment of the WCO E-Commerce Working Group and the results of its kick-off meeting which included consideration of the ICC papers on e-commerce, preferential rules of origin, and humanitarian shipments, among others. Also prominent was the continued ratification process of the Trade Facilitation Agreement (TFA), which was highlighted in an address by Secretary General Mikuriya, and at the time of the meeting had been ratified by 96 of the 110 WTO members needed for entry into force.
- ***Mexico Customs and Trade Facilitation Issues Key for USCIB Members:*** The USCIB Customs and Trade Facilitation Committee completed a Mexico Issues paper covering a wide array of topics from valuation, legislation, proposed regulatory changes and more. Megan Giblin, along with Committee Chair, Jerry Cook, Hanes, as well as several member companies met with Jason Bernstein, Director of Customs Affairs at USTR; Elizabeth Branson, Deputy Assistant U.S. Trade Representative for Textiles; and Daniel Watson, Deputy Assistant USTR for North America; and Geri Word, Director, Office of North and Central America and the Caribbean; Leslie Wilson, International Trade Specialist; and Matt Siordia, Mexico Desk Officer; of the U.S. Department of Commerce. Currently, meetings with relevant CBP representatives are underway. We are seeking a coordinated approach to leverage all government to government engagement to address USCIB member concerns.

China – Supporting Policies and Relationships that Enhance U.S.-China Business

- ***USCIB Testifies to USTR on China’s Compliance with WTO Commitments:*** On October 5, 2016, Eva Hampl, USCIB Director, Investment, Trade and Financial Services testified on behalf of USCIB at a hearing convened by the interagency Trade Policy Staff Committee (TPSC), which is chaired by USTR, concerning China’s compliance with its WTO commitments. Her remarks drew on comments USCIB submitted in response to

the annual request from USTR concerning China's compliance with its WTO commitments. [The submission](#), which is based on member input, includes cross-sectoral business issues like the Anti-Monopoly Law (AML), Certification, Licensing and Testing Barriers, Customs and Trade Facilitation, Intellectual Property Rights, IT Security Measures, Market Access, National Treatment and Non-Discrimination, Regulatory Environment, Standards, State-Owned Enterprises, and Taxation. It also includes sectoral issues such as Agricultural Biotechnology, Audiovisual, Chemicals, Express Delivery Services, Software, and Telecommunications.

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

- **USCIB CEO Attends 2016 APEC CEO Summit in Lima, Peru:** USCIB President and CEO, Peter Robinson, and Vice President of Product Policy and Innovation, Helen Medina, attended the 2016 APEC CEO Summit on November 17-19 in Lima, Peru. Under the leadership of NCAPEC, USCIB and other business groups joined a diverse array of American CEOs and other executives (including numerous USCIB members) in both the official CEO Summit programming and other meetings with governments. Robinson met with Ambassador Robert Holleyman, Deputy United States Trade Representative, the Trade Minister of Canada, Chrystia Freeland, and Trần Đại Quang, the President of Vietnam. Vietnam will serve as the host economy for APEC 2017. He also participated in a meeting with Peru's Finance Minister Alfredo Thorne and Prime Minister Fernando Zavala. Robinson also gave introductory remarks at the Deloitte-U.S. APEC Business Coalition Roundtable, which focused on APEC's current work in the areas of services and good regulatory practices.

Throughout 2016, USCIB has addressed a number of key priorities through APEC, including chemicals policy, advertising self-regulation, data privacy, customs, digital trade, and women in the economy. Our members and staff have engaged in several APEC working groups, including the Chemical Dialogue, APEC Business-Customs Dialogue, Customs Procedures Virtual Working Group, Alliance for Supply Chain Connectivity, the Electronic Commerce Steering Group and Data Privacy Subgroup. Currently, USCIB is in the process of finalizing the 2017 APEC Priorities and Recommendations paper.

- **USCIB Urges All APEC Economies to Join APEC Cross Border Privacy Rules:** On October 21, 2016, Rob Mulligan joined a small group of business representatives for a meeting at the old Executive Office Building with Him Das, David Edelman, and Alex Greenstein, who were working on preparation for the APEC Summit, to discuss the APEC Cross Border Privacy Rules (CBPR) and our support for expanding the scope of countries and companies participating in this system. Since only the U.S., Mexico, Canada, and Japan have committed to CBPR so far, the number of companies participating has been limited. It is believed that several countries (Australia, NZ, Singapore, South Korea, and Hong Kong) have the ability to move quickly on participation in CBPR. Others would likely need some help in building the capacity to meet the requirements of the CBPR. To build momentum for CBPR participation, USCIB joined with six other business groups [issuing a statement](#) in advance of the APEC Summit in November urging all APEC member economies to commit to joining the CBPR by the next Ministers Responsible for Trade meeting in 2017 in Vietnam.

Membership

- **Membership Meetings:** The Washington, D.C. membership department and policy staff met with representatives from member companies JELD-WEN and Koch Industries 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 JELD-WEN, Marriott International, and WeiserMazars LLP as new members.

Upcoming Events:

B20 Task Force on Digitalization Face to Face Meeting, Berlin, Germany – December 1-2

Internet Governance Forum (IGF), Guadalajara, Mexico – December 5-9

USCIB Trade and Investment Committee Meeting, Washington, D.C. – December 8

2016 BIAC Business Day, Paris, France – December 8

WCO 51st Harmonized System Review Sub-Committee Meeting (RSC), Brussels, Belgium – December 12-16

USCIB ICT Policy Committee Meeting, Washington, D.C. – December 13

USCIB Environment Committee Briefing on the New Administration, Washington, D.C. – December 15

USCIB-USG Dialogue on U.S.-China Cybersecurity, Washington, D.C. – December 16

USCIB Customs and Trade Facilitation Committee Meeting, Washington, D.C. – January 12

USCIB/BIAC/OECD Digital Economy Conference, “Facilitating Digital Transformation: The Enabling Role of the OECD”, Washington, D.C. – March 8

ICT Policy Committee Meeting and Joint BIAC/USCIB Committee on Digital Economy Policy Meeting, Washington, D.C. – March 9

USCIB/OECD/BIAC 2017 International Tax Conference, Washington, D.C. – June 5-6

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