



USCIB Washington Update

Highlighting Key Activities, October – November 2013

During the months of October and November, USCIB welcomed Kristin Isabelli as its new Director for Customs and Trade Facilitation; met with EU negotiators on TTIP in Brussels; published blogs on investment policy; organized workshops at the IGF; provided input to the OECD on its BEPS initiative; met with USTR on the trade facilitation negotiations; engaged State on the APEC Chemical Dialogue; co-hosted a forum in China; and much more. Below are summaries of these and other highlights from the activities of USCIB in Washington, DC and globally 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*

- ***USCIB Sends Letter to USTR Froman Outlining ICC Business Priorities for WTO Bali Ministerial:*** On November 13, 2013, Senior Vice President, Policy and Government Affairs Rob Mulligan sent a letter to USTR Froman enclosing the International Chamber of Commerce's key priorities for the Ninth World Trade Organization Ministerial Conference in Bali, Indonesia, as the American affiliate of the ICC. The letter emphasized the ICC and USCIB's support for a successful outcome at the Bali Ministerial that included completion of a Trade Facilitation Agreement as well as expansion of the ITA. It noted the potential economic benefits of these agreements and also supported future work on plurilateral agreements such as the Trade in Services Agreement.
- ***Shaun Donnelly and Peter Robinson Write for Investment Policy Central Blog:*** Investment Policy Central, a website dedicated to open investment policies run by USCIB and six other leading associations, has added a blog feature to which affiliate organizations contribute in turns. Shaun Donnelly, Vice President, Investment and Financial Services, provided three blog postings in October and November: one on the Transatlantic Trade and Investment Partnership, one responding to calls for a Multilateral Investment Agreement, and one on the China Bilateral Investment Treaty. Peter Robinson contributed a post on foreign direct investment in the context of the SelectUSA Summit in early November. The four blogs drew heavy traffic to the website.

- ***Rob Mulligan Meets Key Officials in Geneva:*** On October 1, 2013, Rob Mulligan, while attending the WTO Public Policy Forum, arranged meetings with WTO officials to discuss the status of current negotiations. He met with David Shark, one of the four new Deputy Director Generals and former Deputy to Amb. Punke in Geneva, as well as Hamid Mamduoh, Director of the Trade Services Division. As part of the USCIB initiative to enhance business engagement with intergovernmental organizations, Rob also met with Peter Mulrean, Deputy Permanent Representative at the U.S. Mission to the United Nations, Melissa Kehoe, Counselor for Economic and Science Affairs, and James Zhan, Director of Investment and Enterprise at UNCTAD. On October 2, 2013, the ICC Trade Commission met in Geneva and agreed to develop a short paper with key ICC messages for the Bali ministerial, including getting closure on a trade facilitation agreement and expansion of ITA. The Commission also agreed to create a small ad hoc group to draft a paper on forced localization, which Rob will be leading.
- ***USCIB Joins BCTT Delegation to Brussels for Meetings with EU Negotiators:*** On October 3-4, 2013, Rob Mulligan joined several other representatives from the Business Coalition for Transatlantic Trade (BCTT) for a series of meetings with EU negotiators as well as EU business representatives to discuss U.S. business priorities and views for TTIP. While USTR ended up canceling the negotiations scheduled for the following week, the meetings were very useful in gaining insights into the perspectives of the EU government officials and providing the chance for U.S. business to highlight some of our key issues for them. In addition to meeting with the EU lead negotiator, Ignacio Garcia-Bercero, Rob was able to participate in most of the issue-specific meetings that followed including: digital trade, regulatory cooperation, services, financial services, competition and investment.
- ***Shaun Donnelly Speaks at Columbia Vale Center Investment Conference:*** Shaun Donnelly represented business views at the Vale Columbia Center on Sustainable International Investment annual conference November 13-14, 2013. He spoke on the importance of inward and outbound foreign direct investment for American businesses, jobs and communities. He also spoke with foreign journalists in New York at a press conference on the Transatlantic Trade and Investment Partnership held by the State Department's New York Foreign Press Center.
- ***USCIB Talks TTIP in Denmark:*** Shaun Donnelly was the lead U.S. speaker at a conference on TTIP organized by the Confederation of Danish Industries (DI) October 7, 2013 in Copenhagen. The conference drew over 400 attendees from governments, business and media. Shaun laid out U.S. business community priorities and approach toward TTIP. USCIB views aligned considerably with the presentation from Marcus Beyrer, the new Director General of BusinessEurope. As a follow-up to the conference, Rob Mulligan and Shaun met with DI's CEO and Director General, Karsten Dybvad, in Washington, DC November 14, 2013. USCIB will try to partner with DI and other European business groups as TTIP negotiations continue.
- ***USCIB Signs Letter to Members of the Brazil Congress on Data Localization:*** USCIB joined over 40 other business organizations from around the world in sending a letter on October 22, 2013 to members of Brazil's Congress expressing concern about proposals to require in-country data storage requirements. The letter noted the importance of allowing for the flow of data flows across borders in the global economy and highlighted several negative unintended consequences that could result from the

proposed legislation. It urged members of the Congress to enter a dialogue with business on better approaches to addressing their security concerns.

- ***USCIB Attends Launch of House TPP Caucus:*** Shaun Donnelly and Diana Jack, Policy and Program Assistant, represented USCIB at the October 29, 2013 launch of the Congressional TPP Caucus. Bipartisan co-chairs Meeks (D-NY), Boustany (R-LA), Kind (D-WI) and Reichert (R-WA) are pushing colleagues to get on board for a comprehensive, high-standard TPP agreement. USCIB's leadership on the Steering Group of the Business Coalition for the TPP includes supporting this key congressional initiative. Also in the TPP sphere, Shaun participated in a small, wide-ranging exchange with Acting Deputy USTR Wendy Cutler, and in meetings with other key U.S. negotiators.
- ***USCIB Provides Comments to BIAC State-Owned Enterprise Working Document:*** In late October, USCIB collected comments and provided edits to the Business and Industry Advisory Committee (BIAC) to the OECD on its proposed consultation document ahead of the BIAC contribution to the OECD Working Party on State Ownership and Privatization Practices.

ICT Policy – Promoting Sound Policies for New Technologies

- ***USCIB Supports Multi-Stakeholder Outreach to UN Missions on the Economic Development Potential of the Internet:*** On October 1, 2013, Barbara Wanner, Vice President, ICT Policy, and Jeff Brueggeman, Vice President, Global Public Policy and Deputy Chief Privacy Officer at AT&T, participated in a special program at the United Nations sponsored by ICC and the Internet Society (ISOC). The purpose of the program, "Internet as an Engine for Growth," was to enable education and engagement with a broad cross-section of UN Mission representatives on the importance of ICTs and a sound approach to Internet governance and economic development. Speakers emphasized that heavy-handed government regulation risks hampering business and economic development enabled by the Internet.
- ***USCIB and Its Members Lead Workshops at IGF:*** Barbara Wanner and members of USCIB's ICT Policy Committee participated in the 8th annual Internet Governance Forum (IGF) October 21-25, 2013 in Bali, Indonesia, a conference under United Nations auspices to enable multi-stakeholder dialogue on public policy issues related to Internet governance. In particular, USCIB co-organized and supported workshops on (1) mobile telephony and use of the cloud in emerging economies and (2) the economic engine of digital trade. Jacquelyn Ruff, Vice President, International Public Policy and Regulatory Affairs at Verizon, Richard Beard, Senior International Policy Advisor at Wiley Rein, and ICT Policy Committee Vice Chair Joseph Alhadeff, Vice President at Oracle played leading roles in those workshops.
- ***Suzanne Radell, DOC, Preps ICT Policy Committee for ICANN Meeting in Buenos Aires:*** Suzanne Radell, 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), held a preparatory teleconference with USCIB's ICT Policy Committee November 12, 2013. She discussed hold-over issues from ICANN 47 pertaining to pending domain strings for the generic top-level domain (gTLD) rollout. Suzanne and

members also explored the need for greater clarity concerning Board decisions that constitute new policy versus those that relate to implementation, and discussed some governments' efforts to change the consensus-based working methods of the GAC in order to promote their interests.

- ***USCIB Appeals Directly to UN Missions Regarding “ICTs for Development Resolution”***: On November 2, 2013, USCIB sent individualized letters to all 193 UN Heads of Mission expressing members' concerns about the pending “ICTs for Development” resolution, which will be considered by the UN General Assembly in December. The letter extolled the progress realized since the 2005 World Summit on the Information Society (WSIS) in bridging the digital divide. However, it highlighted aspects of the so-called Resolution that members feel would (1) conflict with key provisions of the 2005 WSIS Tunis Agenda; (2) disrupt the positive momentum of the WSIS process and developmental progress in developing countries; and (3) risk undermining a multi-stakeholder model for Internet governance that is enshrined in the Tunis Agenda. Some of these provisions appeared to be influenced in part by the backlash against revelations of National Security Agency surveillance activities.

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

- ***USCIB Provides 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 held a one day meeting with the OECD and CFA members to discuss elements of the Action Plan on October 1, 2013. The USCIB Tax Committee has been developing input in the areas of transfer pricing, documentation, interest deductibility, risk, data collection and methodologies and other areas. Carol Doran Klein, Vice President and International Tax Counsel, attended the business meeting on September 30 and shared U.S. business views with governments and the OECD Secretariat on October 1, 2013.
- ***Carol Doran Klein Represents USCIB at UN Committee of Tax Experts Meeting***: The UN's Committee of Tax Experts met the week of October 21 in Geneva Switzerland and discussed taxation of services, an update to the Transfer Pricing Manual, and taxation of natural resources, among other topics. The Committee decided to draft a new model Article to the UN Convention on the taxation of fees for technical services with four elements, covering managerial, technical and consulting services. The Committee agreed to update the Transfer Pricing Manual within the four-year term of the committee, especially in the area of intangibles. A new subcommittee on taxation of natural resources was established and USCIB has secured a place for a USCIB representative.
- ***USCIB Joins BIAC Meetings in Brasilia***: Carol Doran Klein attended BIAC meetings in Brasilia to discuss the BEPS initiative with both governmental representatives and members of the private sector. There was a sense that perhaps BEPS is less important for the Brazilian authorities because their tax system does not conform to global standards. There was significant focus on indirect taxation and the difficulties companies have complying with the current rules, and the negative impact that taxation has on foreign direct investment. Carol Doran Klein also attended the CNI Conference with the Brazilian tax authority.
- ***USCIB Presents at OECD Public Consultation on Intangibles***: Carol Doran Klein and Ken Christman, Executive Director, Ernst & Young, attended the OECD Public

Consultation on Intangibles on behalf of USCIB. At the invitation of the OECD, USCIB presented on the issue of location savings. The OECD will be finalizing Chapter VI in the second half of 2014 and it is unlikely that there will be another public consultation before the draft is finalized. The U.S. delegation pushed for these revisions to Chapter VI to be consistent with the arm's length standard and require the OECD to consider deviations from the arm's length standard as part of the longer term BEPS project.

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

- ***Kristin Isabelli Joins USCIB:*** USCIB and the Customs and Trade Facilitation Committee welcomed its new Director for Customs and Trade Facilitation, Kristin Isabelli on October 29, 2013. She worked previously on the House Ways and Means Committee in trade and customs, and has moved quickly to work with members on the Trade Facilitation Agreement negotiations within the WTO, the Customs Reauthorization Bill, and on priorities and goals for the Committee in 2014.
- ***Elena Ryan, CBP, Speaks to USCIB on Centers for Excellence and Expertise:*** Elena Ryan, Director, Centers of Excellence and Expertise Transition Team, Office of Field Operations at CBP, met with the USCIB Customs and Trade Facilitation Committee on November 19, 2013. She updated the committee on Customs and Border Protection's progress in making all ten centers fully operational within the next year, in order to provide a more streamlined, uniform and holistic approach to import and export procedures. The CEEs are currently working with CTPAT and Trusted Traders to jumpstart the program, but all businesses are encouraged to apply for future admission to the centers (applications are in the Federal Register).
- ***Maria Luisa Boyce, CBP, Speaks to USCIB on CBP's Trade Symposium:*** Maria Luisa Boyce, Senior Advisor, Private Sector Engagement at CBP, also met with USCIB Customs and Trade Facilitation Committee on November 19 to describe the changes to the CBP Trade Symposium, which has been rescheduled for March 6-7, 2014 due to the government shutdown in October. Maria highlighted CBP's current projects, including the CEEs, the transition to ACE, single window and the One U.S. Government initiative. She also discussed the Advisory Committee on Commercial Operations for Customs and Border Protection (COAC) meeting that took place on November 15, 2013 in Washington, DC, and encouraged members to participate in COAC surveys to improve CBP function in the future.
- ***Dawn Shackelford, USTR, Briefs USCIB on Trade Facilitation Negotiations:*** Also at the Customs Committee meeting, Dawn Shackelford, Deputy Assistant U.S. Trade Representative for WTO & OECD Affairs, updated members on the discussions occurring in Geneva ahead of the WTO Ministerial in Bali. She noted that many provisions have been completed but a number still remain that need to be agreed on. Dawn felt negotiations would continue throughout the weekend of November 22-24 but was not sure if they would be continued at the Bali Ministerial December 3-6. Rob Mulligan will attend the Ministerial to represent USCIB and member companies.
- ***USCIB Writes Letter to Acting Commissioner of CBP Thomas Winkowski:*** In the wake of the government shutdown in the first half of October, Rob Mulligan and USCIB Customs and Trade Facilitation Committee Chairman Jerry Cook, Vice President, Government and Trade Relations at Hanesbrands, sent a letter to Customs and Border

Protection, care of Thomas Winkowski, thanking him and his whole staff for the smooth operation of the agency despite not being paid and other agencies being closed. The Customs Committee expressed gratitude for workers' dedication and expediency, and expressed a hope for similar results in the future. The letter was well-received.

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

- **Audrey Winter, USTR, Briefs USCIB China Committee:** At the November 4, 2013 meeting of the USCIB China Committee in Washington, DC, Deputy Assistant USTR for China Audrey Winter updated members on current exchanges between the U.S. and Chinese governments, including progress on the U.S.-China Bilateral Investment Treaty (BIT) negotiations. Her comments were followed by a discussion of current issues and priorities for the China Committee, including outreach to Chinese and U.S. government agencies for meetings and messaging on China-related initiatives, continued responses to U.S. and Chinese government requests for comments, developing issue-specific white papers to be shared with government agencies and further coordination on issues across USCIB committees.
- **USCIB Co-Hosts U.S.-China Business and Legal Forum in Beijing:** On November 13, 2013, USCIB Director of Regional Initiatives Justine Badimon provided opening comments at the U.S.-China Business and Legal Forum in Beijing, along with Dong Songgen, Vice Chairman of the China Council for Promotion of International Trade (CCPIT) and Jeremie Waterman, Senior Director, Greater China at the U.S. Chamber of Commerce. Over 200 people participated in the program and heard from panels on U.S.-China Bilateral Investment Treaty negotiations, inward and outbound investment, intellectual property rights in China and the role of administrative and judicial authorities. USCIB members including Tim Stratford, Partner at Covington & Burling, and Karl Guo of Procter and Gamble participated as panel speakers.

International Product Policy – Science-Based Policies to Protect Business and Facilitate Market Access

- **EPA, USTR and State Brief USCIB International Product Policy Working Group:** On November 19, 2013, Helen Medina, Senior Director, Product Policy and Innovation and the IPP Working Group met in Washington, DC with Ana Corado, EPA; Laura Nazef, EPA; Barbara Norton, USTR; Kim Cochran, State; and Joan Kane, State to discuss APEC Chemical Dialogue priorities for next year, China's host year. Ana Corado explained that it is too early to tell when the Chinese will be announcing the meeting dates. USCIB members shared their interest in further engaging in the Chemical Dialogue and the Regulators Forum, as both are valuable to interacting with regulators and trade officials to promote business. In addition, the working group talked about USCIB concerns with the United Nations Environment Program (UNEP)-led Chemicals in Products program, specifically that UNEP is moving beyond their mandate from the Third International Conference on Chemicals Management.

Banking – Policies for Standardized and Efficient International Transactions

- **USCIB Appoints Representatives to the ICC Legal Committee:** The new Legal Committee, under the umbrella of the ICC Banking Commission, had its first meeting in October. As the American National Committee for the ICC, USCIB was asked to appoint

representatives to the new body, and chose Harriet Resnick, Managing Director, Legal at J.P. Morgan Chase and James Byrne, of the Institute of International Banking Law and Practice as its delegates.

Membership

- **Membership Meetings:** The DC Membership department and Policy staff met with representatives from member companies Merck, Bechtel, Amgen and Wal-Mart 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 the following new members: Caplin & Drysdale, Institute of Scrap Metal Recycling Industries, PPL Corporation and Wal-Mart.

Upcoming Events

- **Commission on Science and Technology for Development (CTSD) Inter-Sessional**
December 2-4, 2013, Washington, DC
- **Ninth World Trade Organization Ministerial Conference**
December 3-6, 2013, Bali, Indonesia
- **BIAC and OECD Investment Committee Meetings**
December 4-6, 2013, Paris, France
- **OECD Committee for Information, Computer and Communications Policy (ICCP) and its Working Groups Meeting**
December 9-13, 2013, Paris, France
- **USCIB Trade and Investment Committee Meeting**
December 12, 2013, Washington, DC
- **USCIB China Environment Task Force Briefing with Mark Kasman (EPA)**
December 17, 2013, Washington DC
- **ICC Digital Economy Commission Meeting**
January 14-15, 2014, Paris, France
- **CSTD Working Group on Enhanced Cooperation**
March 5-7, 2014, Geneva, Switzerland
- **USCIB/BIAC/OECD Program, "Growth, Jobs, & Prosperity in the Digital Age: OECD Shapes the Policy Environment"**
March 10, 2014, Washington, DC (TBC)

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