



## USCIB Washington Update

### Highlighting Key Activities, February – March 2015

During the months of February and March 2015, USCIB hosted the second joint ICT conference titled “Promoting Inclusive Growth in the Digital Economy: The OECD Evidence and Practice Base” and hosted the first-ever joint USCIB/ICC Customs and Trade Facilitation Symposium, “Finding Solutions to Cross-Border Challenges.” Staff and members met with Everett Eissenstat, Chief International Trade Counsel for the Senate Finance Committee and William Danvers, Deputy Secretary General of the OECD, as well as officials from the Department of Homeland Security, the National Telecommunications and Information Administration, the U.S. Trade Representative, the EPA and multiple bureaus of the State Department; participated in public consultations with the OECD on tax, investment and ICT; and represented member views on panels in California, Washington, DC, Geneva, Brussels and Paris. 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.

#### Table of Contents:

1. [Trade and Investment – Opening Global Markets for Trade and Investment](#)
2. [ICT Policy – Promoting Sound Policies for New Technologies](#)
3. [Tax – Advancing Tax Policies that Promote U.S. Competitiveness](#)
4. [Customs and Trade Facilitation – Reducing Barriers and Costs from Customs and Border Control Practices](#)
5. [APEC – Enhancing U.S. Business Cooperation with the Asia-Pacific Region](#)
6. [China - Supporting Policies and Relationships that Enhance U.S.-China Business](#)
7. [Corporate Responsibility – Developing Standards and Principles, Increasing Awareness of Positive Business Impact](#)
8. [Membership](#)
9. [Upcoming Events](#)
10. [Staff List](#)

## Trade and Investment – *Opening Global Markets for Trade and Investment*

- ***USCIB Trade and Investment Committee Meets with Everett Eissenstat, Senate Finance Trade Counsel:*** On March 12, 2015, USCIB Trade and Investment Committee members met with Everett Eissenstat, Chief International Trade Counsel for the Senate Committee on Finance, to discuss trade-related measures including Trade Promotion Authority. Susan Stone, Senior Trade Policy Analyst at the OECD spoke with members concerning an upcoming paper on cross-border data flows and possibilities for business input. Ambassador Lisa Kubiske, Deputy Secretary of State for International Finance and Development, as well as Michael Tracton, Director, Office of Investment Affairs, both of the U.S. Department of State, listened to member concerns regarding the then-upcoming OECD Investment Committee meetings in Paris. For a summary of the meeting, please contact [Diana Jack](#).
- ***USCIB Leads BIAC Investment Team in PFI Consultation:*** USCIB Vice President for Investment and Financial Services Shaun Donnelly [led the BIAC team](#) at a February 23, 2015 OECD public outreach consultation session on the draft revisions to the “Policy Framework for Investment (PFI) in Brussels. The BIAC team advocated that, in updating the 2006 PFI, the OECD should focus on host government responsibilities to adopt and enforce pro-investment policies and regulations. While some NGO and labor stakeholders have been advocating anti-business approaches, USCIB and BIAC have been strong consistent voices for pro-investment approaches. The OECD is in the final stage of the PFI Update with a view to adoption at the 2015 OECD Ministerial meeting in early June.
- ***Fighting at UNCTAD for Strong Investment Agreements:*** Shaun Donnelly also led a small but vocal business contingent in a three-day “Experts Group on International Investment Agreements” hosted by the UN Conference on Trade and Development (UNCTAD) February 25-27, 2015. Although outnumbered by NGOs, academics, developing country government representatives, and UNCTAD representatives, Shaun and a handful of international allies from Dutch and German counterparts in BIAC as well as a few helpful academics, made the case that strong and enforceable investment agreements are essential to the sort of investment climate which can attract foreign direct investment (FDI) and thereby help drive economic growth, job creation and global competitiveness. [Click here](#) to see Shaun’s comments representing the business participants at the opening plenary.
- ***USCIB Participates in OECD Investment Meetings:*** USCIB Director, Investment, Trade and Financial Services Eva Hampl participated in various investment-related meetings at the OECD the week of March 16. On Monday, the OECD’s Freedom of Investment Roundtable hosted an all-day conference on [Investment Treaties: Policy Goals and Public Support](#) to assess opportunities and challenges associated with investment treaties and how these treaties can be improved. Notable speakers included Lisa Kubiske, Deputy Assistant Secretary of State for International Finance and Development, and Winand Quaedvlieg, Chair of the BIAC Investment Committee. During Tuesday’s OECD Investment Committee consultation, BIAC presented its case on the [Policy Framework for Investment](#), the proposal of promoting adherence to the MNE Guidelines, and on the OECD’s role in investment treaties. In addition, Eva also made an intervention on the OECD draft paper on State-Owned Enterprises (SOEs) in the

global market place. Finally, on Thursday, BIAC participated in a discussion on the path forward for PFI.

- ***Back to Geneva for More Investment Work:*** Shaun was [back in Geneva](#) for an Investment Experts Task Force meeting March 23-24, 2015 hosted by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum (WEF). This initial session of 25 task force members from around the world quickly showed a wide range of views on state of the international investment system, whether “reforms” (radical to modest) are needed in standard International Investment Agreements (IIAs), and more fundamentally on the contributions foreign direct investment (FDI) makes to economic growth and development in today’s and tomorrow’s globalized economy. Shaun was the only U.S. business representative but was joined by some strong allies, including Gary Hufbauer from the Peterson Institute, Herbert Oberhansli of USCIB-member Nestle, and Nicole Graugnard of the ICC. More sessions are envisioned for 2015, plus intercessional work on policy documents.
- ***USCIB Speaks on Opportunities for Investment in the TPP:*** On March 24, 2015, Eva Hampl was one of four speakers on a Bloomberg Webinar on the Trans-Pacific Partnership (TPP), entitled "Could an Agreement Give U.S. Financial Services Firms 'Unprecedented' Opportunities?" Eva’s presentation covered the opportunities for investment in the TPP, emphasizing the importance of both outward and inward foreign direct investment (FDI), and in that context addressed some of the issues surrounding Investor-State Dispute Settlement (ISDS). For a copy of Eva’s presentation, please contact [Diana Jack](#).
- ***USCIB Presents Business View on Including Services in EGA Negotiations:*** On March 20, 2015, the last day of the most recent round of the negotiations of an Environmental Goods Agreement (EGA) at the WTO in Geneva, Eva Hampl participated in an off-the-record panel discussion organized by the Swedish National Board of Trade discussing [Services in the EGA](#). A recent [report](#) by the National Board of Trade, around which the panel discussion centered, purports to make the case for including services in the negotiations of the EGA. Representing the business perspective on including environmental services in the EGA negotiations, Eva provided an alternative view to that espoused in the report.
- ***B20 Trade Task Force Releases Priorities for 2015:*** The B20 Trade Taskforce, which USCIB Chairman Terry McGraw co-chairs and in which Rob Mulligan participates, released its 2015 priorities in March. The next meetings of the task force will occur in Washington, DC April 16-17, 2015. USCIB has been active on the task force, and has encouraged the group to focus on implementing the WTO Trade Facilitation Agreement, and work on emerging issues like forced localization and cross-border data flows.
- ***Engaging State Department’s IO Bureau on UN Agencies:*** On February 20, 2015, USCIB Senior Vice President, Policy and Government Affairs Rob Mulligan; Vice President, Strategic International Engagement, Energy and Environment Norine Kennedy; and Shaun Donnelly had an excellent and wide-ranging meeting with Nerissa Cook, the Deputy Assistant Secretary for International Organization Affairs. They laid out priorities and concerns in several UN fora, including the post-2015 Sustainable Development Goals, the upcoming Financing for Development conference in Ethiopia,

the Framework Convention on Climate Change, as well specific issues in the World Health Organization, UNCTAD, and World Intellectual Property Organization.

- ***Bringing Business Viewpoints to Transparency International-USA:*** Shaun Donnelly participated in the Policy Advisory Committee meeting of the U.S. chapter of Transparency International (TI-USA). A member of TI-USA's policy advisory group for over a year, Shaun joined fellow group members from NGO, labor, and academia sectors. Shaun was able to offer business perspectives on some on challenging new issues on TI-USA's agenda at the March 11, 2015 meeting.

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

- ***USCIB Holds Second Joint Program with BIAC and OECD, “Promoting Inclusive Growth in the Digital Economy: The OECD Evidence and Practice Base”:*** On March 10, 2015 the USCIB Foundation, BIAC, and the OECD jointly [sponsored a program](#) that brought together leading experts from business, government, and the OECD's Directorate for Science, Technology and Industry. Participants discussed how the OECD has pioneered effective stakeholder consultation and participation, the enabling benefits of digital innovation across all sectors, and the importance of promoting trade, trust, and inclusion in the digital ecosystem. Keynote speakers included Raul Rendon, Director General for Innovation, Services, and Domestic Commerce, Ministry of Economy, Government of Mexico, and Commissioner Julie Brill of the U.S. Federal Trade Commission. Ambassador Daniel Sepulveda, Deputy Assistant Secretary of State and U.S. Coordinator for International Communications and Information Policy, delivered the luncheon keynote speech. Corporate sponsors included AT&T and Microsoft – whose Microsoft Innovation & Policy Center served as the venue.
- ***USCIB Joins Letter to USG Urging Action on China's Cyber-Related Trade Barriers:*** On February 4, 2015 USCIB joined a number of associations in asking the Departments of State, Justice, and Commerce, USTR, and key White House officials for their urgent engagement at the highest levels of the Chinese government in objecting to new cyber-related protectionist policies. This followed up a late January letter by these same associations to the Office of the CCP Leadership Group for Cyberspace Affairs requesting “urgent discussion and dialogue” regarding China's “secure and controllable” ICT industrial policy. In early March, President Obama indeed raised these concerns with his Chinese counterpart, Xi Jinping.
- ***USCIB Continues to Shape Revisions of 2002 OECD Security Guidelines:*** A core group of USCIB Members played a leading role in drafting inputs for the 6<sup>th</sup> draft of revised OECD Security Guidelines. BIAC ultimately submitted these comments on February 18. In particular, USCIB members proposed changes aimed at clarifying conceptual elements, improving definitions of key terms, and addressing potential ambiguities.
- ***USCIB Members Engage with NTIA Chief Strickling on IANA, NETMundial:*** At the March 9, 2015 meeting of the ICT Policy Committee, Assistant Secretary of Commerce Lawrence Strickling engaged with USCIB Members on latest developments in the IANA Stewardship Transition work-stream, the inter-linked Enhancing ICANN Accountability process, and other important Internet governance issues, such as the NETMundial

Initiative. In addition, Christopher Hoff, Policy Advisor, Commerce Department, and Chair, APEC E-Commerce Steering Group (ECSG), provided a recap of the APEC Data Privacy Subgroup meeting January 30-February 3 in Subic, Philippines, and discussed plans to revitalize the ECSG via development of a new strategic plan. Ed Brzytwa, Director for APEC Affairs, USTR, explored the U.S.-led development of an APEC Digital Agenda and expressed interest in business inputs.

- ***USCIB/BIAC Joint Meeting Plans for 2016 OECD CDEP Ministerial:*** On March 9, 2015 the ICT Policy Committee held a special joint meeting with its counterpart committee in BIAC. The purpose was to continue discussions on key elements of Stakeholders Day, June 21, 2016, which will be held immediately before the OECD Committee on Digital Economy Policy (CDEP) Ministerial, June 22-23, in Cancun, Mexico. ICT Policy Committee Vice Chair Joseph Alhadeff (Oracle), who chairs BIAC's CDEP Committee, proposed that the 2016 Ministerial has the potential to be more impactful than the 2008 Ministerial because of the need to address in a practical manner the challenges and opportunities presented by the digitization of the economy. In particular members discussed the importance of involving the most senior levels of corporate management – ideally CEO-level – in the Ministerial in view of the broad, cross-sectoral impact of ICTs. Members also discussed using a case study as a reference that could be used across different topical panels as well as planning of a Developers' Conference.
- ***USCIB Members Help Set 2015 Agenda for ICC Digital Economy Commission:*** ICT Policy Committee Vice Chair Joseph Alhadeff, Oracle, who also chairs the ICC Digital Economy Commission (DEC); Barbara Wanner, USCIB Vice President, ICT Policy, and members of USCIB's ICT Policy Committee, participated in the ICC Digital Economy Commission meeting, March 17-18, 2015, in Paris. USCIB members influenced key DEC decisions concerning: (1) how to address emerging tech issues, such as Big Data, cloud, and the Internet of Things (IoT); (2) important Internet governance developments, such as the IANA transition and the NETMundial Initiative as well as advocacy strategies for the WSIS Review year; (3) further advocacy on the elements of the EU General Data Protection Regulation (GDPR) focused on its treatment of legitimate interests; (4) development of new privacy-related papers on the "one-stop-shop" aspect of the GDPR as well as de-identification and anonymization; (5) a new initiative on regulatory modernization; and (6) strategies related to the release of ICC's Cyber-Security Guide for Business.

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

- ***Bill Sample and Carol Doran Klein Represent USCIB in OECD Public Consultation on the Transfer Pricing Issues:*** The OECD held public consultations on transfer pricing topics on risk, recharacterization, and special measures; profit splits; low-value adding intra-group services, and services on March 19-20, 2015. Bill Sample, Chair of the USCIB Tax Committee, and Carol Doran Klein, International Trade Counsel and Vice President of Tax Policy for USCIB, participated in the meetings. The business community emphasized that changing transfer pricing rules has the power to reallocate taxing jurisdiction. The proposed changes may, however, create the possibility that wealth will be destroyed by creating barriers to trade, especially if the rules create uncertainty and double taxation. The business community pressed on the distinction

between delineation of the transaction and non-recognition or recharacterization. Bill Sample presented on behalf of USCIB, emphasizing that profit splits have a role to play when both parties to a transaction make unique and valuable contributions, and therefore should become the default method. On low-value adding intra-group services, Carol Doran Klein made the point that the principle interest of companies is to obtain a deduction somewhere, the mark-up is less important.

- ***USCIB Participates in the OECD Public Consultation and TAG Meeting on VAT:*** The OECD held a public consultation on February 25, 2015 and a VAT/TAG meeting on February 26. The business community generally supported the draft business-to-consumer guidelines. Nevertheless, concerns were expressed about the implementation of the guidelines. There needs to be a balance between the prescriptive nature of the guidelines (certainty of application) versus the need for flexibility and concern that a prescriptive list would become outdated within a short period of time. The business community also expressed concern about the interaction of VAT and corporate income taxation. In particular, there is concern that a VAT establishment or registration will be considered a permanent establishment for direct tax purposes. USCIB has followed-up on that concern with the U.S. Treasury and the OECD.
- ***Carol Doran Klein Presents Business Views on BEPS at Pacific Rim Tax Institute:*** Carol Doran participated in a panel on BEPS issues including interest deductibility, CFCs, and special measures during the [Fifth Annual Pacific Rim Tax Institute](#) in California February 19-20, 2015. Bob Stack, Deputy Assistant Secretary, International Tax Affairs was a co-panelist on that panel. Carol had the opportunity to rebut some of the numbers supporting the low fixed ratio number.

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

- ***ICC and USCIB Present Successful Customs and Trade Facilitation Symposium:*** Together, the International Chamber of Commerce and USCIB put on a very successful Customs and Trade Facilitation Symposium, entitled “Finding Solutions to Cross-Border Challenges” in Miami on February 22-24, 2015. The conference brought together business, government, international organizations and operational customs and trade experts from the world over for an important dialogue on the most effective means to ease the movement of goods and services between countries along supply chains. Topics of discussion included the implementation of the WTO Trade Facilitation Agreement, the expansion of the Panama Canal, the importance of ATA Carnet, stopping counterfeit goods and illicit trade, and strengthening international business cooperation with customs administrations. The conference featured keynote addresses and panel discussions with World Customs Organization Secretary General Kunio Mikuriya, World Trade Organization Deputy Director General Yi Xiaozhun and U.S. Customs and Border Protection Commissioner Richard G. Kerlikowske. USCIB panelists included Hanesbrands, UPS, DHL Express USA, Sandler Travis & Rosenberg, Cisco Systems, Wal-mart, Oracle, Ernst & Young LLP, and Diageo. [Click here](#) for a full report on the symposium.
- ***USCIB Represents U.S. Business at ICC Customs Commission:*** USCIB Director, Customs and Trade Facilitation Kristin Isabelli represented USCIB and its members at the ICC Customs and Trade Facilitation Commission in Miami following the ICC/USCIB

symposium. There was a strong turnout of USCIB members. Kristin gave a brief overview of the 47th World Customs Organization Review Subcommittee meeting in which she discussed the scope of the Harmonized System Review cycle and the 2017 amendments to the harmonized nomenclature and code. Additional topics discussed at the meeting included rules of origin, free trade zones, authorized economic operators/trusted trader programs, and customs valuation and transfer pricing. The commission is currently drafting papers on transport and environment, rules of origin and foreign trade zones, all of which USCIB is engaged in.

- ***USCIB Meets with CBP Representatives in Miami, Florida:*** On February 24, 2015 USCIB and its members met with Brenda Brockman Smith, Assistant Commissioner Office of International Trade, and Maria Luisa Boyce, Senior Advisor for Private Sector Engagement and Executive Director Office of Trade Relations, both of U.S Customs and Border Protection, to discuss CBP's partnership with USCIB as a stakeholder and CBP's international engagement. USCIB was tasked with drafting recommendations and international priorities from USCIB's perspective, which are in the final stages of editing.
- ***USCIB Customs and Trade Facilitation Committee Meets with DHS:*** On February 3, 2015 USCIB and its members met with José Raul Perales, Assistant Secretary for Private Sector, and Christa Brzozowski, Counselor to the Deputy Secretary, both of the Department of Homeland Security. DHS gave a presentation regarding the Border Interagency Executive Council, which oversees the implementation of the International Trade Data System or the U.S.' single window. USCIB is a public stakeholder in the Border Interagency Executive Council and has worked closely with the group to develop metrics for measuring progress of single window. USCIB is a strong partner with DHS and will continue to actively engage and coordinate with the agency.

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

- ***USCIB-NCAPEC Joint Briefing on APEC Global Value Chains Initiatives:*** An APEC Global Value Chain (GVC) briefing took place on March 11, 2015 at the USCIB Washington office with the following government speakers: Ed Brzytwa, Office of the U.S. Trade Representative; William Powers, U.S. International Trade Commission; Jon Habjan, U.S. Department of State, and Lynn Costa, U.S. Department of Commerce. The government representatives discussed with members the U.S. role in current and ongoing initiatives within APEC on GVCs, such as their work to address trade and investment barriers that impact GVCs, improve domestic and foreign trade statistics, and assist small and medium enterprises in benefitting from value chains. This briefing was a follow-up discussion to the U.S. APEC Business Coalition breakfast, [\*Global Value Chains and Trade: Strengthening the Backbone for Greater Economic Integration across APEC\*](#), held in Beijing during the APEC CEO Summit on November 10, 2014.
- ***USCIB-Department of Commerce APEC Working Group Conference Call:*** USCIB hosted a call to discuss potential work that the U.S. could pursue on infrastructure in the APEC region with Eric Holloway, Deputy Director in the Office of East Asia and APEC and Lynn Costa, Senior Trade Policy Advisor & APEC Strategy of the U.S. Department of Commerce on March 25, 2015. The call stemmed from USCIB's [\*2015 APEC Priority Issues and Recommendation Paper\*](#), which included a new section this year on

infrastructure. Commerce heard from USCIB members on their priorities in this area as well as utilized the call as a brainstorming session for possible future U.S. initiatives.

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

- **USCIB China-Environment Task Force Briefing with EPA:** The USCIB China-Environment Task Force met with U.S. Environmental Protection Agency (EPA) representatives Ethan Shenkman, Deputy General Counsel and Steve Wolfson, Senior Attorney, Office of General Counsel, International Environmental Law Group on March 16, 2015 in the USCIB Washington office. Members heard from the EPA speakers on their January 2015 trip to China with Department of Commerce General Counsel Mr. Kelly Welsh where they met with Chinese government officials and representatives from the business, legal, and academic communities. They discussed such issues as environmental governance, legal infrastructure, implementation and enforcement. These issues were particularly timely as China is in the process of reforming and improving its environmental legal framework. The speakers also discussed with members future U.S.-China cooperation on environmental protection, and engaged with them on USCIB member concerns regarding environmental governance issues in China.

### **Corporate Responsibility – Developing Standards and Principles, Increasing Awareness of Positive Business**

- **USCIB Call on U.S. National Action Plan (NAP) on Responsible Business Conduct:** USCIB Vice President, Labor Affairs, Corporate Responsibility & Corporate Governance Ariel Meyerstein led a conference call with members on February 13, 2015 to collect comments and recommendations for the process and content of the U.S. NAP, which is currently being developed. As an active supporter of the United Nations Guiding Principles on Business and Human Rights and other U.S. government initiatives focused on encouraging business respect for human rights both domestically and abroad, USCIB will submit a first round of comments regarding measures that will be embraced by the wider business community as practical and will be effective in guiding and supporting U.S. businesses in their efforts to respect human rights. Comments will be submitted prior to the upcoming open consultation on the U.S. NAP on April 16 in Washington, DC. USCIB's Vice President and International Tax Counsel Carol Doran Klein will speak on Anti-Corruption and Financial Transparency at the consultation. For further information on the U.S. NAP, please see the government [FAQ](#).

### **Membership**

- **Membership Meetings:** The Washington, DC Membership department and policy staff met with representatives from member companies DirecTV Latin America, Imperial Tobacco, Johnson & Johnson, Merck, Mozilla, P&G, and Tyco to better understand their policy priorities for the next year and beyond, and to see how USCIB can better serve their policy needs.



## Upcoming Events:

**USCIB Competition Committee Meeting** – April 14, 2015, Washington, DC

**USCIB Corporate Responsibility Committee Meeting** – April 15, 2015, Washington, DC

**[The Transpacific Partnership: Setting New Rules for Trade in the 21<sup>st</sup> Century](#)** – April 16, 2015, Washington DC

**USCIB Labor and Employment Policy Committee Meeting** – April 17, 2015, Washington, DC

**USCIB Customs and Trade Facilitation Committee Meeting** – April 21, 2015, Washington, DC

**OECD and BIAC Trade and Investment Committee Meetings and Consultations** – April 21-22, Paris

**ICC Trade and Investment Commission Meeting** – April 23, 2015, Paris

**U.N. Committee on Science and Technology for Development (CSTD)** – May 4-8, 2015, Geneva, Switzerland

**APEC Senior Officials' Meeting II (SOMII)** – May 10-21, 2015, Boracay, Philippines

**Internet Governance Forum (IGF) Open Consultations and Multistakeholder Advisory Group (MAG) Meeting** – May 20-22, 2015, Geneva, Switzerland

**World Summit on the Information Society (WSIS) Forum** – May 25-29, 2015, Geneva, Switzerland

**[2015 USCIB/BIAC/OECD International Tax Conference](#)** – June 10-11, 2015, Washington DC

**ICANN 53**, Buenos Aires, Argentina – June 21-25, 2015

**OECD Committee on Digital Economy Policy and its Working Parties**, Paris, France – June 22-26, 2015

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