



USCIB Washington Update

Highlighting Key Activities, October-November 2014

During the months of October and November, USCIB honored Roberto Azevedo, WTO Director General, at its annual International Leadership Award Dinner, organized the first annual OECD/USCIB/BIAC Trade and Investment Conference with Ambassador Froman as the keynote, represented business views on investment protection issues at the UNCTAD World Investment Forum, addressed the Inter-American Development Bank on global value chains, hosted a meeting with Amb. Sepulveda, State, to prepare for the ITU conference in Korea, submitted comments to ICANN on the use of geographic names in domain names, arranged for Bob Stack, Treasury, to meet with the Tax Committee, briefed the ICC Customs Committee on the most recent meeting of the WCO Harmonized System Committee, and much more. Below are summaries of these and other highlights from the activities of USCIB in Washington, DC over the last two months. If you have any questions or comments, or want more information on a specific topic, please contact any of the staff members listed at the end of this brief.

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. [Labor and Employment – Pursuing a Coordinated Strategy for Labor Market Flexibility](#)
7. [Marketing and Advertising – Coordinating Ad Policies and Standards Across Countries](#)
8. [Membership](#)
9. [Upcoming Events](#)
10. [Staff List](#)

- ***USCIB Honors WTO's Azevedo at Annual International Leadership Award Dinner:***
On November 19, 2014, USCIB hosted its International Leadership Award dinner in Washington, D.C. for the first time and honored WTO Director General Roberto Azevêdo, just a week after a breakthrough on the Trade Facilitation Agreement was reached. While the breakthrough resulted in Azevêdo not being able to attend because he needed to be in Geneva for continued negotiations, he sent a warm acceptance [video](#) which was played during the event. United States Trade Representative Ambassador Michael Froman, the architect of the WTO breakthrough, attended and provided congratulatory [remarks](#). Additionally, U.S. Customs and Border Protection Commissioner Gil Kerlikowske, International Chamber of Commerce (ICC) and USCIB Chairman Terry McGraw, ICC Secretary General John Danilovich, USCIB President and CEO Peter Robinson, International Labor Organization (ILO) Director General Guy Ryder, BIAC Secretary General Bernhard Welschke and Congressman Peter Roskam (IL-6) also offered their congratulations in front of a full crowd of over 200 USCIB members, friends, government representatives and press.

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

- ***Froman is Keynote for USCIB's First Annual Trade and Investment Conference:*** On October 30, 2014, USCIB presented the first OECD/USCIB/BIAC Trade and Investment Conference, entitled “Exploring New Approaches to Trade, Investment and Jobs: Insight and Impact for Business from the OECD.” The conference featured panels on global value chains, trade facilitation, foreign direct investment, trade in services and the multilateral trading system. Ambassador Michael Froman, USTR, provided keynote remarks alongside ICC and USCIB Chairman Terry McGraw. Other featured speakers included Deputy Director General of the WTO Yonov Frederick Agah; Under Secretary of State for Economic Growth, Energy and the Environment Cathy Novelli; Ambassador Wayne McCook of Jamaica and Ambassador Fernando de Mateo of Mexico. For a summary of discussions and presentations, please click [here](#) or contact [Diana Jack](#).
- ***USCIB Brings Strong Business Perspective to UNCTAD's World Investment Forum:*** USCIB President Peter Robinson and Vice President Shaun Donnelly delivered strong business perspectives at UNCTAD's biannual World Investment Forum in Geneva October 13-16, 2014. With some government representatives, UN officials, academics and NGO activists attacking foreign investors, investment agreements and especially investment arbitration provisions, Peter's plenary panel session plus more detailed specific presentations in a free-wheeling general debate by Peter (on investment agreements) and Shaun (on arbitration/Investor-State Dispute Settlement or “ISDS”) put USCIB squarely on the record on the important role Foreign Direct Investment (FDI), investment agreements (including BITs and FTAs), and ISDS play in driving growth, jobs and competitiveness in today's global economy. USCIB Chair Terry McGraw, in his twin role as chairman of the International Chamber of Commerce, and new ICC Secretary General John Danilovich also weighed in on the pro-investment, pro-growth agenda in their plenary presentations.
- ***Mulligan Speaks to Inter-American Development Bank on Global Value Chains:*** On October 20, 2014 the Integration and Trade Sector of the Inter-American Development Bank (IDB) hosted a forum on “The 21st Century Trade Architecture: Implications for Latin America and the Caribbean” for a discussion about the most pressing trade policy challenges, with an emphasis on Latin American economies. **Rob**

Mulligan, USCIB's Senior Vice President for Policy and Government Affairs, participated in a panel on "Trends in Trade and Integration: Trading Against Headwinds," in which he spoke about global value chains (GVCs). The panel was moderated by **Gary Hufbauer**, Senior Fellow at the Peterson Institute for International Economics, and Mulligan was joined by **John Melle**, Assistant U.S. Trade Representative for the Western Hemisphere; **Ken Ash**, Director of Trade and Agriculture at the Organization for Economic Cooperation and Development; **Abdel-Hamid Mamdouh** Director of Trade in Services at the World Trade Organization and **Sally Yearwood**, Executive Director of the Caribbean-Central American Action. In his remarks, Mulligan noted that in order to remain competitive in GVCs companies require access to efficient imports of goods and services. Latin American economies have much to gain from participating in global value chains, and government policies can impact the extent of that participation. But certain policies inhibit companies' ability to operate through GVCs, such as forced localization, restrictions on cross-border data flows and restrictive customs rules and regulations.

- ***Fighting Against Sectoral Exclusions in TPP's Investment Chapter:*** USCIB along with other leading Washington trade associations has been meeting with senior Embassy representatives (Ambassadors or Embassy Economic Ministers) in key TPP partner embassies in Washington to underline our shared strong opposition to any sectoral carve-outs in the TransPacific Partnership (TPP) Investment chapter. Reaffirming USCIB's strong, long-standing position that a TPP agreement must be "ambitious, comprehensive, and high standard" across the board, Shaun and Eva have been emphasizing the particular need to avoid carving out any sectors from access to any parts of the key investment chapter.
- ***USCIB Hosts Meeting with G20 and B20 Sherpas from U.S., Australia and Turkey:*** On October 9, 2014, USCIB members met with **Robert Miliner**, the Australia B20 Sherpa, **Caroline Atkinson**, the G20 Sherpa for the U.S. government, and **Sarp Kalkan**, Policy Advisor at the Union of Chambers and Commodities Exchanges of Turkey (TOBB) and upcoming Turkey B20 Sherpa. During the meeting, members and the Sherpas discussed [the 2014 B20 recommendations](#) to the G20 and members' priorities for achieving economic growth and job creation. The recommendations include focused proposals in the areas of trade, infrastructure, human capital, finance and transparency.
- ***BIAC Trade Committee Discusses 2015 Priorities:*** Rob Mulligan represented USCIB at the November 5, 2014 meeting of the BIAC Trade Committee which focused on identifying key issue areas for 2015. In addition to the priority issues identified in its paper released in May of this year ([here](#)), the Committee agreed that they should intensify work on policies impacting cross border data flows, investor-state dispute settlement provisions in investment agreements, regulatory issues impacting services, and restrictions on raw materials. The Committee heard presentations from OECD staff on their work related to localization requirements, cross border data flows, and environmental goods negotiations.

ICT Policy – *Promoting Sound Policies for New Technologies*

- ***USCIB Hosts Special Multistakeholder Preparatory Meeting for the International Telecommunications Union (ITU) Plenipotentiary Conference (PP-14):*** On October 6, 2014 USCIB convened a special meeting in Washington, DC to enable U.S. members of the business, technical community, civil society, and academic community to engage with Ambassador Daniel Sepulveda, Deputy Assistant Secretary of **State** and U.S. Coordinator for International Communications and Information Policy, Lawrence Strickling, Assistant Secretary of Commerce for Communications and Information and Administrator of the NTIA, and senior officials from the State Department and NTIA on policy priorities and challenges for the PP-14, October 20-November 7, in Busan, South Korea.
- ***USCIB Members Provide Expert Advice to U.S. Government at ITU Plenipotentiary Conference (PP-14):*** USCIB ICT Committee Chair Eric Loeb, Vice President of International External Affairs, AT&T, and Barbara Wanner, Vice President, ICT Policy, along with USCIB members from AT&T, Boeing, BT, Cisco, Facebook, Google, Intel, ITIC, Lockheed Martin, Microsoft, Qualcomm, The Walt Disney Company, VeriSign, Verizon, and Wiley Rein participated in the 130+ U.S. Delegation to the ITU's 19th quadrennial Plenipotentiary (PP-14), October 20-November 7, in Busan, South Korea. The PP-14 addressed a broad array of issues, ranging from the ITU's Constitution and Convention, to telecommunications interoperability, to technical operation and governance of the Internet, about which USCIB Members provided expert advice to U.S. Government negotiators. The treaty-writing conference culminated in issuance of the PP-14 consensus-based [Final Acts](#), which did not require a vote.
- ***ICC-BASIS/USCIB Urge Extended Authorization of the Internet Governance Forum (IGF):*** On October 29, 2014 ICC-BASIS, which serves as the voice of global business in Internet governance forums, sent a letter to UN Deputy Secretary General Jan Eliasson urging an extension of the IGF's mandate beyond five years to better ensure its institutional viability. USCIB is a member of ICC-BASIS. A copy of the letter also was sent to the Chair, Vice Chairs, and Rapporteur of the 2nd Committee of the General Assembly, which has jurisdiction over the so-called ICT for Development Resolution that addresses the IGF and its mandate. The letter also underscored the importance of preserving the IGF's essential character as a bottom-up, all-inclusive multistakeholder mechanism for participation.
- ***USCIB Submits Comments to the ICANN Governmental Advisory Committee Concerning the Use of Geographic Names in Domain Names:*** On November 14, 2014, USCIB submitted comments to ICANN's Governmental Advisory Committee (GAC) Sub-Group on Geographic Names concerning a draft document for future new gTLD rounds, outlining several public policy considerations related to geographic names. USCIB expressed serious concerns with the GAC Sub-Group's proposal, citing problems with lawfulness and GAC scope, procedural concerns, and lack of definitional clarity. USCIB urged further public discussion about the use of geographic names in new gTLDs at ICANN 52, February 8-12, 2015, in Singapore.
- ***USCIB Hosts OECD Official for Preview of the 2016 ICT-Related Ministerial:*** On November 21, 2014 USCIB hosted Anne Carblanc, Head of the OECD Committee on Digital Economy Policy (CDEP) Division in the Directorate for Science, Technology and

Industry, for a special briefing. She updated USCIB Members on the OECD's latest vision for a 2016 ICT-Related Ministerial, which will be held in either April or May, 2016, in Cancun, Mexico. She solicited USCIB Member views on themes for the event and priorities for "Stakeholders Day," the day before the Ministerial. USCIB, which is a member of the Business and Industry Advisory Committee to the OECD (BIAC), will contribute to BIAC's submission on Ministerial themes and actively support BIAC's development of special business-focused programming on Stakeholders Day.

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

- ***USCIB Participates as an Observer in UN Committee of Tax Experts Annual Meeting in Geneva:*** The UN held its annual week-long meeting of the Committee of Tax Experts the last week of October. Carol Doran Klein participated as an observer on behalf of USCIB. A focal point of the meeting was the taxation of services. Although a new article has not yet been agreed, the UN is working on an article (which is included in a treaty) would permit so-called "source" countries to impose a gross basis withholding tax on services consumed by a resident of the source jurisdiction. A substantial minority of the Committee has objected to the proposal. It seems like the minority view will be expressed in the commentary. There will be a statement of pros and cons of the new article. USCIB should consider contributing to that work by providing input into the pros and cons.
- ***Carol Doran Klein Represents USCIB in OECD Public Consultation on the Definition of Permanent Establishment:*** The OECD held a public consultation in Paris on the definition of permanent establishments on September 7, 2012. Carol Doran Klein, International Trade Counsel and Vice President of Tax Policy for USCIB participated in the meeting. A preliminary draft of changes to the Discussion Draft ([link](#)) that reflects the OECD's initial response to public comments was distributed at the meeting. The consultation offered business a preliminary opportunity to respond to the OECD's tentative responses to the public comments on the Discussion Draft. Revisions to the concept of "at the disposal of" were a focus of significant discussion. Business remains concerned that the OECD is moving away from the concept of a fixed place of business "at the disposal of" the enterprise to a more flexible standard that looks more at the mere performance of services over a period of time. The OECD intends to release a revised version of the Discussion Draft within the next few weeks. The OECD expects to solicit additional comments on the new draft. USCIB will continue participating in these discussions as they move forward. The next update to the OECD Model is scheduled for 2014 and the final version of these changes will be included in *that* update.
- ***Bob Stack, Treasury, Meets with USCIB Tax Committee:*** The Tax Committee held a well-attended meeting on November 19, 2014. Bob Stack, Deputy Assistant Secretary, International Tax Policy, spoke to the Committee concerning a recent US proposal on BEPS. The proposal would mimic the structure of the hybrid report in that it proposes a primary rule and a secondary rule for low-taxed income. Essentially if income is subject to tax at a low rate (lower than Ireland was suggested) then the primary rule would permit a residence country to tax under CFC rules. If the residence country did not tax, then the source jurisdiction would have a secondary right to tax. This proposal is interesting in part because it may be an attempt to get Congress on board with Treasury's Greenbook proposal on excess returns. If the OECD were to adopt this proposal as a best practice and the US did not amend its CFC rules, then source

jurisdictions would be permitted to tax those excess returns. So the political calculus might change. The Tax Committee also discussed the ongoing work on interest deductions, permanent establishments, treaty abuse and transfer pricing. A more complete summary of the meeting will be circulated shortly.

- ***USCIB Attends OECD Meeting on VAT:*** Carol Doran Klein also represented USCIB at the meeting of the VAT/TAG in Vienna on VAT issues held in September which was preceded by a half day business preparatory meeting. The meeting participants had an opportunity to review and comment on the draft B2C guidelines prior to their publication. The discussion draft should be issued shortly. This work is important because of its implications for the digital economy. Making the B2C guidelines work is not a complete answer to the issues with respect to the digital economy, but is an important part of the total response.

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

- ***USCIB Represents Members at the ICC Commission on Customs and Trade Facilitation:*** Kristin Isabelli represented members at the October 16-17, 2014 meeting of the ICC Commission on Customs and Trade Facilitation in Brussels, where a full agenda addressed the WTO Trade Facilitation Agreement, the Mercator Program within the WCO, Free Trade Zones, the WCO Customs-Business Partnership, transport and the environment, *de minimis*, rules of origin, a paper on customs valuation and transfer pricing, e-commerce, Authorized Economic Operator (AEO) programs, Incoterms and more. USCIB has been a leader in the Commission on assisting the ICC with the drafting of the AEO, e-commerce, *de minimis* papers and will continue to be a strong voice for USCIB members at the commission in 2015. Kristin gave a readout of the 54th WCO Harmonized System Committee Meeting, which she attended on behalf of the ICC in September. Additionally, attendees heard from Secretary General of the WCO Kunio Mikiyuria. For a full readout of the meeting, contact Diana Jack.
- ***USCIB Discusses the Way Forward on Trade Facilitation with USTR:*** On November 17, 2014, Kristin Isabelli and Rob Mulligan spoke with representatives from USTR, who briefed them on the most recent developments on the WTO Trade Facilitation Agreement, which saw a breakthrough on the impasse to implementation earlier in November. Most importantly, two WTO General Council decisions will be taken simultaneously: one on a clean protocol for the amendment, and one that addresses the food security issues raised by India in July. USCIB will continue to be a strong leader and voice for business in advocating for the ratification and implantation of the TFA in 2015. For more details on the call or on the Agreement, please contact Kristin Isabelli.

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

- ***USCIB APEC CEO Summit Pre-Meeting and Priorities Discussion:*** On October 14, 2014 USCIB members met with Ed Brzytwa, Director for APEC Affairs, Office of the U.S. Trade Representative, and Bob Wang, U.S. Senior Official for APEC, U.S. Department of State to discuss USCIB and U.S. business priorities as they relate to State Department and USTR's work leading up to the CEO Summit in November in Beijing—

attended by USCIB President CEO Peter Robinson and Senior Director of Innovation and Product Policy Helen Medina—and looking ahead to U.S. engagement in the 2015 Philippines host year. Bob Wang also briefed members on his recent trip to Manila, and the meeting was followed by a call with the U.S. APEC Business Coalition on preparations for the Summit. USCIB's APEC 2015 Priority Issues and Recommendations report was shared with the State Department and USTR.

Labor and Employment – *Pursuing a Coordinated Strategy for Labor Market Flexibility*

- ***USCIB Bi-Annual Corporate Responsibility and Labor & Employment Committee Meetings:*** On October 21 and 22, 2014 members met over two days to network, discuss and listen to updates from peers and leaders from the U.S. government, USCIB member companies, multilateral organizations and civil society groups. Both meetings included a discussion of the OECD Guidelines for Multinational Enterprises and OECD National Contact Point Specific Instances with the new National Contact Point for the United States, Melike Yetkin. The meetings also featured speakers from the U.S. Department of State, Office of the UN High Commissioner on Human Rights, U.S. Department of Labor, and the Better Work Program among others. Topics of note included: the intergovernmental working group on a binding treaty on business and human rights, trends in resolution of labor issues related to U.S. Free Trade Agreements, human trafficking and forced labor legislation, responsible agriculture investment and supply chains, and the initiative to promote fundamental labor rights and practices in Myanmar.

Marketing and Advertising – *Coordinating Ad Policies and Standards Across Countries*

- ***USCIB and the Grocery Manufacturers Association (GMA) Roundtable on the Promotion of Advertising Standards Work in APEC:*** On October 17, 2014, USCIB and GMA members met to discuss and support strong signals that the Chinese government, this year's APEC host, was pushing to endorse the APEC action agenda on advertising standards in the lead-up to the November APEC summit in Beijing. The APEC Action Agenda on Advertising Standards and Practice Development was ultimately endorsed at the Economic Leaders' Meeting in the 2014 Leader Statement, at the conclusion of the 2014 APEC year. Among a number of items, the action agenda calls for APEC economies to develop principles to use in constructing their ad standards regimes, as well as an advertising regulatory checklist of key elements in a regulatory and self-regulatory framework. Members discussed with USTR and FTC representatives what industry would like to see next, and were informed that there is still a steep learning curve among trade ministries as to why addressing ad standards is important in order to facilitate trade and investment.

Membership

- ***Membership Meetings:*** The Washington, DC Membership department and policy staff met with representatives from member companies Intel and Mead Johnson Nutrition Company 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:

IGF Open Consultations and Multistakeholder Advisory Group (MAG) Meeting – December 1-3, Geneva, Switzerland

USCIB ICT Policy Committee Meeting – December 4, Washington, DC

OECD Committee on Digital Economy Policy (CDEP) and its Working Groups – December 8-12, Paris

USCIB Trade and Investment Committee Meeting – December 10, Washington, DC

USCIB Customs and Trade Facilitation Committee Meeting – December 11, Washington, DC

ICANN 52 – February 8-12, 2015, Singapore

[ICC and USCIB Customs & Trade Facilitation Symposium](#) – February 22-24, 2015, Miami, Florida

USCIB/BIAC/OECD Conference on the Digital Economy – March 10, 2015, Washington, DC

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