

Public Hearing Summary
Maine Citizen Trade Policy Commission
September 19, 2013
Room 214, Burton M. Cross State Office Building
Augusta, Maine

Members Present: Senator John Patrick, Senator Roger Sherman, Senator Troy Jackson, Representative Sharon Anglin Treat, Representative Jeff McCabe, Steve Cole, Linda Pistner, Bob Umphrey, Pamela Taylor, Jay Wadleigh, John Palmer, Mike Karragiannes, Linda Pistner

Staff: Lock Kiermaier (Contract)

After determining that the statutory requirement that 11 members must be present to officially convene had been satisfied, CTPC Chair Senator Troy Jackson convened the Public Hearing at approximately 5 PM.

To begin the Public Hearing, Senator Jackson asked Commission members to introduce themselves.

Senator Jackson then explained to commission members and members of the public who were present how the Public Hearing had been structured. Several individuals had been scheduled to phone in their testimony at specific times and that testimony from individuals who were present at the hearing would be taken in between and after the scheduled call-ins.

As an introduction to the topics in international trade treaties that the CTPC has been reviewing and in anticipation of the topics that the CTPC expected to receive testimony on, CTPC Chair Representative Sharon Anglin Treat made a brief Powerpoint presentation.

In total, the CTPC heard from a total of 13 individuals. Of that total:

- 4 persons provided testimony via telephone from Washington D.C.;
- 6 persons provided testimony in person; and
- 3 persons submitted written testimony but did not appear in person.

The following list provides a brief synopsis of the testimony offered in the order in which testimony was received. Any written testimony and supporting documentation is available for viewing on the CTPC website.

1. Nora Todd, Legislative Director for U.S. Congressman, Michael Michaud; Maine, 2nd District (by telephone, no written testimony)

(Staff Note: Because Ms. Todd's testimony was in the form of a Question and Answer session over the telephone, the following summary provides more detail than the summaries provided for subsequent testimony by other individuals; all of which was supplemented by written testimony.)

Ms. Todd testified via telephone from Washington D.C..

Representative Sharon Treat started a Question and Answer session with Ms. Todd by asking her about the Trade Promotion Authority that President Obama has requested from Congress in order to ratify the TPP and TTIP, when we might expect that legislation to be approved and what it might look like? Ms. Todd answered by relating that President Obama had just made an announcement stating that he had the public support of Senator Mitch McConnell, Minority Leader of the U.S. Senate for his proposal. From Rep. Michaud's perspective, bi-partisan discussions are ongoing but such a bill has not yet been developed and it is important to note that historically, House Democrats have tended to be opposed to previous FTAs and to previous requests for Fast Track Authority. In the recent past, Rep. Michaud has been opposed to Fast Track Authority feeling that it is much too broad and has recently been working with House leadership to craft Fast Track Authority which is much more open and transparent and affords the opportunity for true deliberation. At this point in time, it is too early to say whether this effort for transparency will be successful. Rep. Michaud also believes that the President should be speaking to all points on the political spectrum to ensure that whatever Fast Track Authority is approved is reflective of all points of view in Congress. The TPP under current negotiation is much more comprehensive and far reaching than any previous FTA and the approved Fast Track Authority needs to reflect that status.

As to timing, Fast Track Authority is being held up by several sticking points including disagreement over inclusion of the Trade Adjustment Assistance Program which helps workers that have been displaced as a result

of previous FTAs and has previously been championed by Rep. Michaud. It appears that the Republicans in Congress would like to move more quickly to approve Fast Track Authority and the TPP as a package. All of these efforts are being held up and delayed by the need to pass various appropriation bills by the end of September. She believes that a likely scenario is for Congress to consider a TPA bill at the earliest in January or February next year and that major trade issues such as the treatment of tobacco and footwear tariffs are yet to be resolved.

In response to a question from Senator Sherman, Ms. Todd mentioned that the Congressional Dairy Caucus had sent a letter, which Rep. Michaud signed, that urged USTR to maximize U.S. dairy exports in the TPP agreement. She said the letter highlighted concerns with New Zealand's dairy monopoly and the potential for export opportunities in Canada.

CTPC member Steve Cole then asked Ms. Todd what previous Republican opposition to the Trade Adjustment Assistance Program had been based on. Ms. Todd responded that the Republican position included the belief that job loss due to trade treaties should not be treated differently than other job losses due to the economy and that the program was ineffective in getting people back to work and had failed to adequately retrain people for new jobs. She believes that Republican opposition to the program is also rooted in their objections to federal payments for unemployment and job retraining purposes.

Next, CTPC member Bob Umphrey then asked if there has been any movement in Congress with respect to textile issues such as transshipment and special treatment. Ms. Todd responded by saying that textile issues are huge in the TPP negotiations with Vietnam pushing strongly for zero tariffs on textiles. The USTR has adopted a stance in favor of a relatively weak "yarn forward" approach which makes use of a "short supply list" rationale to permit the importation of tariff free (or reduced) textiles. Ms. Todd also brought up the importance of footwear tariffs in the negotiations, as textile and footwear issues are seen as Vietnam's top two priorities in the agreement. Rep. Michaud favors a "carve out" for domestically produced footwear products in the TPP and has supported a long phase out of textile tariffs. Ms. Todd remains "nervous" about the USTR commitment to domestic industry in the TPP with a specific concern that during his recent trip to Maine, USTR Froman did not specifically commit to saving US footwear jobs via the TPP.

2. *Chris Buchanan, Organizer for Defending Water for Life in Maine (Written testimony supplied, along with a DVD which is available from CTPC staff)*

Ms. Buchanan presented her written testimony which made the following points:

- Ms. Buchanan is an organizer for Defending Water for Life in Maine and is statewide coordinator of the Stop the East-West Corridor coalition;
- Defending Water for Life in Maine is opposed to ratification of both the TPP and the TTIP as well as the proposed ‘fast track’ legislation ; the organization maintains that both FTAs would result in irreparable damage to Maine’s water as well as local control over that natural resource; and
- The Stop the East-West Corridor coalition is also opposed to the fast track authority and ratification of both FTAs on the grounds that the development of this transportation corridor would gravely harm small business, traditional land use practices, sustainable economic activity on the local level, efforts to preserve local ecosystems and effective environmental protection.

3. *Michael Poland, Papermill Worker at the Sappi Somerset Plant in Skowhegan (Written testimony supplied)*

Mr. Poland presented his written testimony which made the following points:

- Mr. Poland is testifying on behalf of USW Local #4-9, the Maine fair Trade Campaign and Maine Forest Workers;
- Previous FTAs like NAFTA have been devastating to Maine’s paper and forest industry; recent data supplied by the U.S. Department of labor shows that more than 2,000 industry jobs were lost between 1997 and 2003;
- He opposes the proposed “fast track” authority on the grounds that it lacks transparency and inhibits proper congressional review and approval of trade treaties; and

- The TPP includes Vietnam which currently has over 250,000 forest product workers and over 200 wood processing plants making them the second largest furniture manufacturer in the U.S. market; the TPP threatens to transform Maine’s forest product industry into one that simply provides raw forest product for manufacturing in countries like Vietnam with a devastating loss of Maine jobs.

4. *Robert Stumberg, Georgetown University Law Center, Harrison Institute for Public Law (By telephone with PDF version of PowerPoint presentation supplied)*

Professor Stumberg testified via telephone from Washington D.C. and made the following points in his Powerpoint presentation which was entitled “Competing Proposals for Tobacco in the TPPA”:

- In general, the proposed TPPA differs significantly from current FCTC requirements with regards to tobacco:
 - Zero tariffs on tobacco;
 - Least trade restrictive;
 - Allows the use of trademarks;
 - Prohibits limits on services (re advertisements);
 - Requires stakeholder participation.
- The current USTR proposal on tobacco includes zero tobacco tariffs, an overly broad health exception which has no legal significance and a consultation requirement which also has no legal significance; and
- The USTR’s current tobacco proposal does not compare well with Malaysia’s proposal for a total “carve out” for tobacco.

5. *Michael Belliveau, Executive Director, Environmental Health Strategy Center (Written testimony and supporting documentation supplied)*

Mr. Belliveau supplemented his testimony with supporting documentation which made the following points:

- In recent legislation, Maine has significantly surpassed the obsolete and insufficient requirements of the federal Toxic Substances Control Act of 1976;
- The substance of Maine’s effort to provide higher measures of public safety with regards to the use of potentially dangerous chemicals is

severely threatened by the possible passage of the TPP and TTIP which could override the provisions of current Maine law;

- In particular, current Maine state law uses a science-based process to restrict the use of chemicals such as mercury, arsenic, PBDEs (flame retardants) and lead in consumer products- all of which could be potentially overturned or nullified by provisions in the TPP and the TTIP; and
- From Mr. Belliveau's perspective, international chemical manufacturers intent to use TPP and TTIP to achieve downward regulatory harmonization which would effectively override state regulation of toxic chemical use which is largely based on the current regulatory framework (known as REACH) used by member nations of the EU.

6. William Warren, Trade policy Analyst, Friends of the Earth U.S. and Baskut Tuncak, Staff Attorney, Center for International Law (By telephone, supplemented by written testimony and supporting documentation)

William Warren and Baskut Tuncak testified via telephone conference call from Washington D.C.

William Warren spoke first and made reference to his previously published blog piece titled "sinister partners: transatlantic trade agreement & toxic chemicals":

- The current focus of the TTIP is on the removal of non-tariff, regulatory trade barriers; this emphasis poses a serious threat to existing environmental and public health safeguards in the U.S. and in Europe;
- The EU approach to ensuring regulatory safeguards to the use of toxic chemicals, known as REACH, is based on the precautionary approach which places the burden of proof on chemical manufacturers; this approach is likely to be undermined in the TTIP through the use of deregulation. REACH is opposed by the USTR as an example of a technical barrier to trade; and
- The current U.S. approach to chemical regulation, TSCA (Toxic Substances Control Act) is widely regarded as a failure and places the

burden of proof on the EPA which is relatively powerless in this regulatory realm.

Baskut Tuncak spoke next and made reference to his written testimony by emphasizing the following points:

- On a federal level, the current U.S. regulatory approach to chemical safety is wholly inadequate;
- The inadequate federal regulatory effort has been superseded by effective regulation on the state level by states like Maine;
- It is likely that the TTIP will be used to undermine the highly effective regulatory approaches used by states and by the EU;
- Mr. Tuncak suggested that the TTIP should avoid:
 - measures which dilute or weaken existing regulations;
 - elevating the interests of private corporations over that of the public through the use investor-state dispute resolution;
 - preempting effective federal, state or local regulation
- The TTIP should be negotiated in an open, transparent and participatory manner; and
- The TTIP should be a *better* trade agreement and not necessarily a *free* trade agreement.

7. Sarah Bigney, Maine AFL-CIO (Written testimony supplied)

In her written testimony, Ms. Bigney made the following points:

- Maine workers are very disturbed by the secrecy and lack of transparency thus far exhibited in the TPP negotiations;
- Previous FTAs like NAFTA have failed and resulted in huge job losses, lower wages, poorer working conditions and the lowering of environmental standards;
- Through the use of investor-state dispute resolution mechanisms, FTAs have been used to undermine local regulations designed to protect communities; and
- The use of fast Track authority is unfair and undemocratic and should be opposed by the CTPC and members of Maine's Congressional delegation.

8. *Cynthia Phinney, President, Maine Fair Trade Campaign (Written testimony supplied)*

In her written testimony, Ms. Phinney made the following points:

- The TPP is being largely negotiated in secret and this situation is one of grave concern;
- The TPP is likely to include provisions for investor-state provisions which allow companies to sue the governments if they feel that regulations create barriers to trade. The tribunals used to administer these provisions are outside any judicial system and are unfair; and
- Ms. Phinney opposes the use of fast track authority because of the secrecy and lack of transparency used to negotiate the TPP.

9. *Anna Ackerman, American Civil Liberties Union of Maine (Written testimony supplied)*

In her written testimony, Ms. Ackerman made the following points:

- The ACLU believes that the TPP raises significant concerns about freedom of expression, due process, innovation and the future of the internet's global infrastructure;
- As currently written, most of TPP does not deal with traditional trade policy and instead concerns itself with a broad range of domestic policies;
- The secrecy of current TPP negotiations is the antithesis of democracy;
- The provisions of the TPP are likely to be a significant threat to free speech and on-line privacy; and
- The ACLU is opposed to the proposed fast track authority which precludes meaningful public discussion and congressional oversight.

The rest of the testimony provided to the CTPC was in written form and did involve a personal presentation:

10. *Becky Smith, Government Relations Director, Maine American Heart Association; Jessa Barnard, Associate General Counsel, Maine Medical Association; and Tina Pettingill, Maine Public Health Association (Written testimony supplied)*

In this written testimony, the following points were made:

- These organizations strongly oppose the current USTR proposal on tobacco measures in the TPP;
- Tobacco use costs \$600 million in annual health costs in Maine and these costs can be reduced through the effective tobacco health measures; and
- The TPP poses a significant threat to existing state tobacco control measures.

11. Grace Braley, resident of Portland (Written testimony supplied with supporting documentation)

In her written testimony, Ms. Braley made the following points:

- Through a competitive structure of acquisition and control of the world's natural resources, labor and production systems and economic and trade policies, FTAs like the TPP works against world peace;
- The treatment of food like any other trade commodity has resulted in the loss of small farms and local control;
- Excessive secrecy has been used to negotiate the TPP and access to the process has been denied to members of the public and their elected representatives;
- The investor-state provisions skirt due process and domestic court systems and promote the rights of corporations over those of the greater public; and
- The TPP should be opposed if the goal is fair trading opportunities and peaceful relationships between nations.

12. Julie Keller Pease, MD, Brunswick (Written testimony supplied with supporting documentation)

In her written testimony, Dr. Pease made the following points:

- The TPP will prevent public health education efforts, such as tobacco health measures, if they are seen as conflicting with corporate profits; the current USTR proposal on tobacco is inadequate;

- The TPP will allow for 20 year patents for pharmaceuticals and medical devices that can be renewed if new indications or methods of delivery are found; this process of “Evergreening” works against generics and seeks to protect profits;;
- The TPP is likely to inhibit the success of MediCare and will support the increased privatization of health care thus resulting in reduced access and increased costs; and
- Congress should be urged to oppose fast track authority and ratification of the TPP.

***NOTE: Copies of all previously cited written testimony and supporting documentation can be viewed at the CTPC website:
<http://www.maine.gov/legis/opla/citpol.htm>***