

Issues for Maine in The Trans-Pacific and Trans- Atlantic Trade Agreements

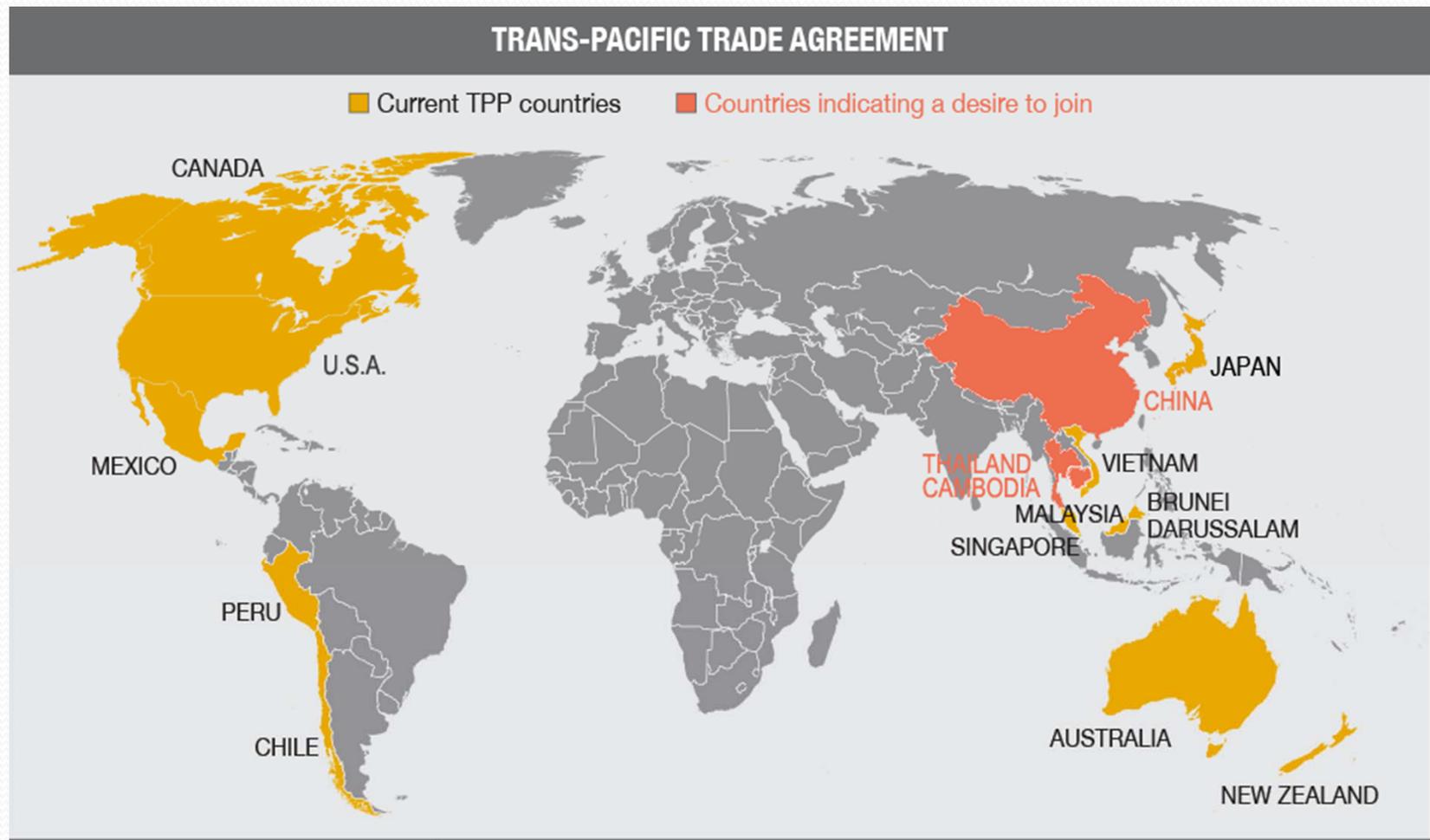
Rep. Sharon Anglin Treat
Maine Citizen Trade Policy Commission
Public Hearing
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Note:

This presentation is adapted with thanks to Celeste Drake, Trade Policy Specialist for the AFL-CIO, from her presentation “Issues for States in the Trans-Pacific and Trans-Atlantic Trade Agreements,” presented at the NCSL Annual Summit, August 2013

What is the TPP?





What is the TPP?

- The Trans Pacific Partnership Free Trade Agreement (TPP) would be a trade agreement among 12 countries: NAFTA + New Zealand, Australia, Peru, Chile, Vietnam, Malaysia, Singapore, Brunei, and Japan
- Dock-on: Potential for China, Thailand, Korea, Cambodia, and others to join



What is the TPP? (continued)

- President Obama has described it as a “21st Century Trade Agreement”
- Has been under negotiation since 2010 through 19 rounds
- But public information available makes it look like NAFTA with tweaks, not a new model
- It is not clear what will be “new and improved” for states



What is the TPP? (continued)

- The TPP will be structured like other FTAs, with the same or similar provisions regarding procurement (Buy American limitations), services, and investment
- But there does not seem to be anything new regarding currency manipulation, good job creation, protections for state law/regulations, or respect for sovereignty



What is the TPP? (continued)

- *Important:* This information is based on USTR's public statements and reports in the mainstream and specialized trade press
- Because the negotiating text is not made public until the negotiations are concluded, Maine people should make their preferences known now, before it's too late



What is the TPP? (continued)

- No signs of change on issues such as
 - investment
 - government procurement
 - public services
 - financial services (banking, insurance)

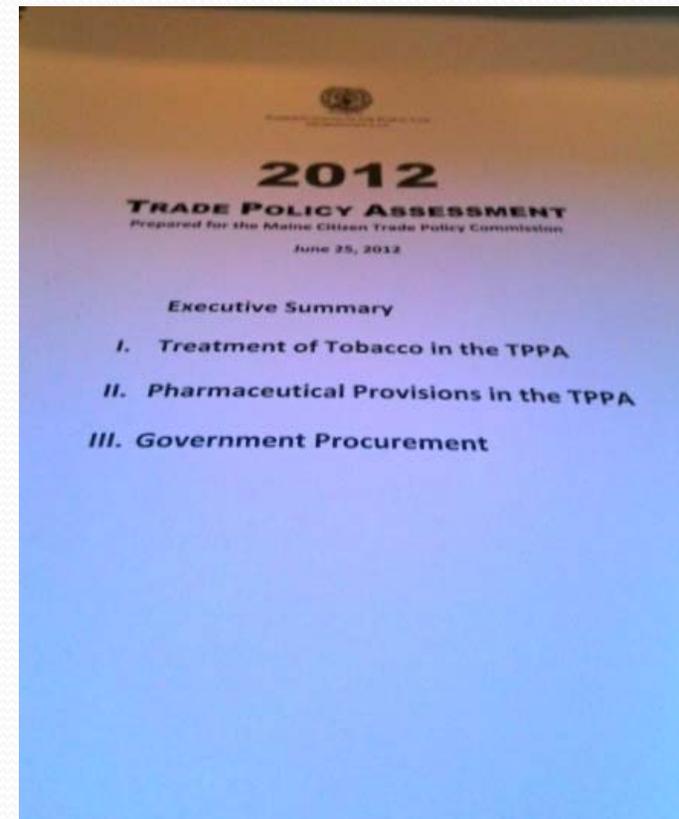
2012 Policy Assessment of TPPA Impacts on Maine

Tobacco – challenges to state smoking prevention measures authorized

Pharmaceuticals – reduced-price Medicaid, access to generics could be limited

Procurement – state govt purchasing guidelines could be overridden

<http://www.maine.gov/legis/opla/CTPC/2012finalassessment.pdf>





TPP Progress of Negotiations

- USTR's Goal: to finish by **October 2013**
- Only “political” issues are left – including *athletic footwear tariffs (New Balance), tobacco text, pharmaceutical pricing and patent provisions, environmental annex, financial services*
- Do you know enough to support the TPP regardless of its details?

What is the TTIP (U.S.–EU FTA)?





TTIP (U.S. – EU FTA)

- Like the TPP, it is promised to be a 21st Century agreement
- Has only had one negotiating round (July 2013); next round October 2013
- Unlike TPP, small risk of off-shoring jobs
- But like TPP, large risks for states in terms of right to regulate/legislate
- ***Leaked paper:*** intent of EU negotiators to preempt state regs that differ from federal regs, procurement



TPP/TTIP Issues for Maine #1

- Will Maine join the procurement chapter, voluntarily limiting our ability to employ “Buy American” and other procurement policies, such as the requirement to comply with “sweat free labor” provisions and recycled content in certain situations?
- Maine law requires legislative as well as gubernatorial approval to make such commitments.



TPP/TTIP Issues for Maine #2

- USTR is seeking to include investor-to-state dispute settlement (ISDS)
- ISDS provides foreign investors (or foreign subsidiaries of US companies) the right to bypass our courts to challenge state & local laws, regulations, permits, judicial and other decisions in unaccountable arbitration panels
- Federal gov't responsible to pay losses, but states bear legal costs



TPP/TTIP Issues for Maine #3

- USTR is seeking to include Services Chapters that go beyond the WTO/GATS
- Services commitments have the potential to interfere with a state's right to regulate/legislate
- A “necessity test” has implications for licensing & certification reqs, e.g. doctors, teachers
- Positive v. Negative lists (opt in or out?)
- Your ability to provide the public services in the manner you choose is implicated



TPP/TTIP Issues for Maine #4

- If USTR seeks to include drug pricing and approval provisions similar to those included in the US-Korea FTA, this could have implications on our state's ability to require rebates from prescription drug providers, to limit costs through the use of approved drug lists, etc.



TPP/TTIP Issues for Maine #5

- Will the TPP reduce athletic footwear tariffs so that hundreds of New Balance jobs in three communities are at risk?
- The stated intent is to reduce tariffs to zero.

Issues for Maine #6: “Fast Track”

- Pending “Fast Track”/Trade Promotion Authority vote in Congress – by end of 2013?
- Fast Track delegates Constitutional authority (Art. 1, Sec. 8) to the Executive Branch to negotiate trade agreements
- It limits debate, prohibits amendments to a trade agreement or its implementing legislation – up or down vote only
- There is no way to send the Administration back to the negotiating table if it fails to meet negotiating objectives