STATE OF MAINE
124th LEGISLATURE
FIRST REGULAR SESSION

Fifth Annual Report of the Citizen Trade Policy Commission

October 2009

Voting Members

Sen. Troy Jackson, Co-Chair
Rep. Margaret Rotundo, Co-Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Jeffery Gifford
Rep. Sharon Treat

Ms. Sarah Bigney
Ms. Carla Dickstein
Mr. Michael Herz
Mr. Michael Hiltz
Mr. John Palmer
Mr. John Patrick
Ms. Cynthia Phinney
Ms. Linda Pistner
Mr. Paul Volckhausen
Mr. Joseph Woodbury

Staff
Curtis Bentley, Legislative Analyst
Natalie Haynes, Legislative Analyst
Office of Policy & Legal Analysis
Maine Legislature
(207) 287-1670
http://www.state.me.us/legis/opla

Advisory Members

Mr. Wade Merritt
Mr. Malcolm Burson
Ms. Jane Aiudi
Ms. Leslie Manning
Ms. Barbara Van Burgel

Table of Contents

Page

Executive Summary i

I. Introduction 1

II. Meetings 1

III. Public Hearings 2

IV. Commission Actions 3

V. Agenda for Next Year 5

Appendices

A. Authorizing Legislation; Public Law 2003, chapter 699 and Public Law 2007, chapter 266
B. Citizen Trade Policy Commission Membership List
C. Citizen Trade Policy Commission Meeting Summaries
D. Citizen Trade Policy Commission Bangor, Maine Public Hearing Summary
E. Citizen Trade Policy Commission's Vote to Endorse Vermont's Resolution "Challenge to State Law-making Authority"
F. Representative Rick Burn's July 14, 2008 Letter Requesting the Commission Review the Proposal before the Kennebunk, Kennebunkport and Wells Water District to Sell Groundwater to Nestle Waters North America
G. Notes from the Commission's participation in the New England Regional Conference Calls on January 30, 2009 and June 9, 2009
H. Citizen Trade Policy Commission's March 11, 2009 Letter to U.S. Trade Representative
I. Citizen Trade Policy Commission's April 17, 2009 Letter Welcoming Lisa Garcia as the New Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison
J. Citizen Trade Policy Commission's April 17, 2009 Letter Providing Guidance to the Joint Standing Committee on Natural Resources Regarding the Implications of International Trade Agreements on the Extraction of Groundwater
K. Citizen Trade Policy Commission's June 3, 2009 Letter to President Barack Obama
L. Citizen Trade Policy Commission's July 31, 2009 Letter of Support for the Proposed Resolution Relating to International Trade and State Governments Presented at the Council of State Government's Eastern Regional Conference
M. Citizen Trade Policy Commission's and the Vermont Commission on International Trade and State Sovereignty's December 24, 2008 Joint Letter to Kay Wilkie, Chair of the InterGovernmental Policy Advisory Committee Regarding Communications from the

People's Republic of China to Vermont and Maryland Legislatures Regarding the Regulation of Toxic Toys

N. Citizen Trade Policy Commission's and the Vermont Commission on International Trade and State Sovereignty's December 24, 2008 Joint Letter to the U.S. Trade Representative Regarding the Notification Process Under the World Trade Organizations Agreement on Technical Barriers to Trade

O. Citizen Trade Policy Commission's June 3, 2009 Letter to Maine's Congressional Delegation Opposing the Proposed Panama Free Trade Agreement

P. Citizen Trade Policy Commission's June 26, 2009 Letter to the Presiding Officers of the Maine State Legislature Requesting that a Member of the Commission be Appointed to the Newly created Commission to Study Energy Infrastructure

EXECUTIVE SUMMARY

Public Law 2003, chapter 699, established the Citizen Trade Policy Commission (commission) during the Second Special Session of the 121st Legislature. The 22–member commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Maine International Trade Center, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and 10 public members representing business, labor, health, government and environmental interests. The commission provides an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions.

Among other things, Public Law 2003, chapter 699, requires the commission to hold regular meetings, to gather information from the public through public hearings, to conduct a biennial assessment on the impacts of international trade agreements on Maine and to submit a report on its activities annually. This report covers the commission's activities from July 1, 2008 through June 30, 2009 during which the commission held 9 regular meetings and 1 public hearing. The commission held the public hearing on December 4, 2008 at Husson College in Bangor to provide a forum for public testimony on international trade concerns and to give congressional and state candidates the opportunity to speak on international trade issues and answer questions directly from the public.

As a result of those meetings and the public hearing, the commission took the following actions.

1. It voted to endorse Vermont's resolution "Challenge to State Law-making Authority" supporting the state lawmaking authority to pass laws and regulations protecting human health and the environment. Senator Ginny Lyons of Vermont introduced this resolution on July 11, 2008 before the National Conference of State Legislatures (NCSL) Labor & Economic Development Committee.

2. It periodically communicated with Maine's Congressional Delegation about various international trade issues including but not limited to, the Trade Adjustment Assistance program, the proposed Columbia Free Trade Agreement, Congressman Michaud's Trade Act, and enforcement mechanisms for trade agreements.

3. At the invitation of Representative Rick Burns, the commission reviewed and monitored events involving a proposal that was before the Kennebunk, Kennebunkport and Wells Water District to sell groundwater to Nestle Waters North America.

4. It participated in several conference call meetings with members of the New Hampshire and Vermont trade commissions and the Forum on Democracy and Trade to discuss international trade issues.

5. The commission sent a letter welcoming Ambassador Kirk as the new United States Trade Representative (USTR) under the Obama Administration and encouraged him to build a more

collaborative relationship between the Federal Government and the states regarding international trade agreements.

6. It requested that USTR consider the establishment of a Federal-State International Trade Policy Commission and/or a Center on Trade & Federalism and a change in the structure and role of USTR trade advisory committees to ensure states have meaningful involvement in international trade matters.

7. The commission sent a letter welcoming Lisa Garcia as the new Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison and expressed the commission's interest in participating in the USTR's review of the policy advisory committee structure and having the opportunity for states to make proposals regarding federal-state consultation with respect to a "transparency review" of the current system.

8. It provided guidance to the Joint Standing Committee on Natural resources regarding the implications of international trade agreements on the extraction of groundwater.

9. It sent a letter to President Barack Obama to express its concerns with the proposed U.S.-European Union settlement in the World Trade Organization's Internet gambling case brought by Antigua against the United States.

10. The commission supported the Proposed Resolution Relating to International Trade and State Governments presented at the Council of State Government's Eastern Regional Conference and urged its adoption by the Council.

11. It reviewed the provisions of LD 1485 – An Act Regarding Maine's Energy Future (Public Law 2009, chapter 372) in light of existing international trade agreements and rules.

12. The commission and the Vermont Commission on International Trade and State Sovereignty sent a joint letter to Kay Wilkie, Chair of the InterGovernmental Policy Advisory Committee to express concerns about communications from the People's Republic of China to Vermont and Maryland legislatures regarding pending legislation that would regulate toxic toys and e-waste disposal.

13. The commission and the Vermont Commission on International Trade and State Sovereignty sent a joint letter to USTR expressing their appreciation for USTR's open conference call with states to discuss the notification process under the World Trade Organizations Agreement on Technical Barriers to Trade and to urge USTR to establish a formal federal/state consultation on the Technical Barriers to Trade process over the coming year.

14. It sent a letter to Maine's Congressional Delegation opposing the proposed Panama Free Trade Agreement.

15. The commission sent a letter to the Presiding Officers of the Maine State Legislature requesting that a member of the commission be appointed to the newly created Commission to Study Energy Infrastructure.

16. Commission members participated in NCSL meetings and presented letters informing the relevant NCSL committees of the Commission's positions on the Columbia Free Trade Agreement and on other trade resolutions under consideration.

Over the next reporting period, the commission will conduct its 2009 assessment, hold a public hearing on how international trade agreements may impact the State's groundwater ownership laws and its ability to regulate that resource and continue its dialogue with federal, state and local entities and Maine's citizenry to improve the Federal Government's consultation process with states. The commission will also continue to monitor international trade negotiations and elevate trade related issues affecting Maine at the state and local levels to Maine's Congressional Delegation and other appropriate federal entities.

I. INTRODUCTION

The Citizen Trade Policy Commission was established during the Second Special Session of the 121st Legislature by Public Law 2003, chapter 699. A copy of the law establishing and governing the commission is attached as **Appendix A**. The 22–member commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Maine International Trade Center, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and 10 public members representing business, labor, health, government and environmental interests. The commission's membership roster is attached as **Appendix B**.

The commission provides an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. Specifically, the commission is charged with the following duties:

1) To assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment;

2) To provide a mechanism for citizens and Legislators to voice their concerns and recommendations;

3) To make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impacts of trade agreements; and

4) To establish and maintain a communication link between local, state and federal agencies and the public.

The commission initially convened on October 6, 2004, and information about its activities can be found in its annual reports that can be obtained through the Office of Policy and Legal Analysis or online at http://www.maine.gov/legis/opla/citpol.htm. During this reporting period, July, 1, 2008 through June 31, 2009, the commission held 9 meetings and 1 public hearing.

II. MEETINGS

During the 2008-2009 reporting period, the commission held nine meetings on the following dates: July 18, 2008, November 20, 2008, December 4, 2008, February 27, 2009, March 20, 2009, April 17, 2009, May 22, 2009 and June 26, 2009. Summaries of these meetings are attached as **Appendix C**. Summaries of all the commission's meetings can be found on its webpage at http://www.maine.gov/legis/opla/citpolsums.htm

In general, the commission used these meetings to do the following:

- Work with the United States Trade Representative (USTR) to improve channels of communication between Maine and USTR;
- Review proposals for new trade models and their potential impact on Maine's state and local laws;
- Work with other state trade policy commissions to voice concerns to the USTR regarding specific international trade agreements and rules and their implications;
- Discuss on-going trade negotiations, track state legislation regarding international trade issues and groundwater extraction;
- Discuss state groundwater regulations and groundwater extraction issues;
- Discuss Maine's procurement policies in light of current international trade agreements and ongoing trade negotiations; and
- Coordinate its efforts with Maine's Congressional Delegation, state officials and other entities involved with international trade.

In addition, the commission regularly invited guest speakers to its meetings to provide information on trade issues relevant to the commission's work. During this reporting period, the commission invited the following guest speakers to attend its meetings:

- Dylan Williams, staff to U.S. Senator Olympia Snowe, Kim Glas, staff to U.S. Representative Michael Michaud and Alison Walsh, staff to U.S. Representative Thomas Allen. They provided an update regarding the status of discussions on the trade adjustment assistance program and the Columbia Free Trade Agreement, as well as the status of proposed legislation regarding the Trade Act;
- Lori Wallach, Global Trade Watch, provided an update on the General Agreement on Trade in Services (GATS) Antigua settlement case and the Panama Free Trade Agreement;
- Kay Wilkie, Chair, Intergovernmental Policy Advisory Committee to the United States Trade Representative, provided a review and briefing on the Trade Act;
- Peter Riggs, Executive Director, Forum on Democracy and Trade, a non-profit organization based in New York, met with the commission in person and by conference call on numerous occasions to provide timely, nonpartisan trade related information; and
- William Waren, Georgetown University School of Law, briefed the commission on trade matters including the Trade Promotion Authority (Fast Track), Trade Adjustment Assistance, domestic regulation of consumer products containing lead and the application of certain trade agreements to water extraction in Maine.

III. PUBLIC HEARING

Throughout the commission's history it has relied on community involvement at its public hearings to gather information and identify trade issues at the local level in order to

elevate those issues to the state, federal and international levels. The commission held a public hearing on December 4, 2008 at Husson College in Bangor to provide a trade forum with congressional and state candidates running for office and the public. The trade forum provided a rare opportunity for the public to give testimony about international trade matters directly to legislators and for candidates to speak on international trade issues and answer questions directly from the public. The commission appreciated the interest and participation of Congressman Michael Michaud and state legislators representing the region and others who provided information and fielded questions about the effects international trade agreements are having on Maine.

The testimony received at the Bangor public hearing was generally in favor of international trade when trade agreements provide a fair and level playing field for all the parties involved. A summary of the testimony received at the Bangor public hearing is attached as **Appendix D**. Summaries of all the commission's public hearings can be found on its webpage at http://www.maine.gov/legis/opla/citpolsums.htm

IV. COMMISSION ACTIONS

In addition to activities previously discussed, the commission engaged in the following activities.

- The commission voted to endorse Vermont's resolution "Challenge to State Law-making Authority" **(Appendix E)** supporting the state lawmaking authority to pass laws and regulations protecting human health and the environment. Senator Ginny Lyons of Vermont introduced this resolution on July 11, 2008 before the NCSL Labor & Economic Development Committee.

- The commission periodically communicated with Maine's Congressional Delegation about various international trade issues including but not limited to, the Trade Adjustment Assistance Program, the proposed Columbia Free Trade Agreement, Congressman Michaud's Trade Act, and enforcement mechanisms for trade agreements.

- At the invitation of Representative Rick Burns, the commission reviewed and monitored events involving a proposal that was before the Kennebunk, Kennebunkport and Wells Water District to sell groundwater to Nestle Waters North America **(Appendix F)**.

- Members of the commission participated in several conference call meetings with members of the New Hampshire and Vermont trade commissions and the Forum on Democracy and Trade to discuss international trade issues **(Appendix G)**.

- The commission welcomed Ambassador Kirk as the new United States Trade Representative under the Obama Administration and encouraged him to build a more collaborative relationship between the Federal Government and the states regarding international trade agreements.

- The commission asked USTR to consider the establishment of a Federal-State International Trade Policy Commission and/or a Center on Trade & Federalism and a change in the structure and role of USTR trade advisory committees to ensure states have meaningful involvement in international trade matters **(Appendix H)**.

- The commission welcomed Lisa Garcia as the new Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison and expressed the commission's interest in participating in the USTR's review of the policy advisory committee structure and having the opportunity for states to make proposals regarding federal-state consultation with respect to a "transparency review" of the current system **(Appendix I)**.

- The commission provided guidance to the Joint Standing Committee on Natural resources regarding the implications of international trade agreements on the extraction of groundwater **(Appendix J)**.

- The Commission sent a letter to President Barack Obama to express its concerns with the proposed U.S.-European Union settlement in the World Trade Organization's internet gambling case brought by Antigua against the United States **(Appendix K)**.

- The commission supported the Proposed Resolution Relating to International Trade and State Governments presented at the Council of State Government's Eastern Regional Conference and urged its adoption by the Council **(Appendix L)**.

- The commission reviewed the provisions of LD 1485 – An Act Regarding Maine's Energy Future (Public Law 2009, chapter 372) in light of existing international trade agreements and rules.

- The commission and the Vermont Commission on International Trade and State Sovereignty sent a joint letter to Kay Wilkie, Chair of the InterGovernmental Policy Advisory Committee thanking her for the work she has done on that committee. The two commissions also express concerns about communications from the People's Republic of China to Vermont and Maryland legislatures regarding pending legislation that would regulate toxic toys and e-waste disposal **(Appendix M)**.

- The commission and the Vermont Commission on International Trade and State Sovereignty sent a joint letter to USTR expressing appreciation for USTR holding an open conference call with states to discuss the notification process under the World Trade Organizations Agreement on Technical Barriers to Trade. In that letter, the commissions urged USTR to establish a formal federal/state consultation on the Technical Barriers to Trade process over the coming year **(Appendix N)**.

- The commission sent a letter to Maine's Congressional Delegation opposing the proposed Panama Free Trade Agreement because Panama is known as a tax-haven for corporations and the proposed agreement would provide foreign-investors special privileges and a private enforcement system that promotes off shoring and would subject Maine's public interest policies to challenges by foreign investors in foreign tribunals **(Appendix O)**.

- The commission sent a letter to the Presiding Officers of the Maine State Legislature requesting that a member of the commission be appointed to the newly created Commission to Study Energy Infrastructure **(Appendix P)**.

- Commission members participated in NCSL meetings and presented letters informing the relevant NCSL committees of the Commission's positions on the Columbia Free Trade Agreement and on other trade resolutions under consideration.

V. AGENDA FOR NEXT YEAR

During the next reporting period, the commission will conduct its 2009 assessment as required by law, hold a public hearing on how international trade agreements may impact the State's groundwater ownership laws and its ability to regulate that resource and continue its dialogue with federal, state and local entities and Maine's citizenry to improve the Federal Government's consultation process with states. The commission will also continue to monitor international trade negotiations and elevate trade related issues affecting Maine at the state and local levels to Maine's Congressional Delegation and other appropriate federal entities.

G:\STUDIES 2009\CTPC 2009\2009 Report\CTPC 2009 report.doc

APPENDIX A

Authorizing Legislation; Public Law 2003, chapter 699 and Public Law 2007, chapter 266

CHAPTER 699

H.P. 1337 - L.D. 1815

An Act To Establish the Maine Jobs, Trade and Democracy Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-I, sub-§79-A is enacted to read:

79-A. Trade	Citizen Trade Policy Commission	Legislative Per Diem and Expenses for Legislators/ Expenses Only for Other Members	10 MRSA §11

Sec. 2. 10 MRSA c. 1-A is enacted to read:

CHAPTER 1-A

INTERNATIONAL TRADE AND THE ECONOMY

§11. Maine Jobs, Trade and Democracy Act

1. Short title. This section may be known and cited as "the Maine Jobs, Trade and Democracy Act."

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A.

B. "Trade agreement" means any agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas.

3. Purposes. The commission is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

4. Membership. The commission consists of the following members:

A. The following 17 voting members:

(1) Three Senators representing at least 2 political parties, appointed by the President of the Senate;

(2) Three members of the House of Representatives representing at least 2 political parties, appointed by the Speaker of the House;

(3) The Attorney General or the Attorney General's designee;

(4) Four members of the public, appointed by the Governor as follows:

(a) A small business person;

(b) A small farmer;

(c) A representative of a nonprofit organization that promotes fair trade policies; and

(d) A representative of a Maine-based corporation that is active in international trade;

(5) Three members of the public appointed by the President of the Senate as follows:

(a) A health care professional;

(b) A representative of a Maine-based manufacturing business with 25 or more employees; and

(c) A representative of an economic development organization; and

(6) Three members of the public appointed by the Speaker of the House as follows:

(a) A person who is active in the organized labor community;

(b) A member of a nonprofit human rights organization; and

(c) A member of a nonprofit environmental organization.

In making appointments of members of the public, the appointing authorities shall make every effort to appoint representatives of generally recognized and organized constituencies of the interest groups mentioned in subparagraphs (4), (5) and (6); and

B. The following 5 commissioners or the commissioners' designees of the following 5 departments who serve as ex officio, nonvoting members:

(1) Department of Labor;

(2) Department of Economic and Community Development;

(3) Department of Environmental Protection;

(4) Department of Agriculture, Food and Rural Resources; and

(5) Department of Human Services.

5. Terms; vacancies; limits. Except for Legislators, commissioners and the Attorney General, who serve terms coincident with their elective or appointed terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may

continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

6. Chair; officers; rules. The first-named Senate member and the first-named House of Representatives member are cochairs of the commission. The commission shall appoint other officers as necessary and make rules for orderly procedure.

7. Compensation. Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

8. Staff. The Office of Policy and Legal Analysis shall provide the necessary staff support for the operation of the commission. After one year, the commission shall assess the need for and qualifications of a staff person, for example, an executive director. If the commission determines that it requires such a person, it may request additional funds from the Legislature.

9. Powers and duties. The commission:

A. Shall meet at least twice annually;

B. Shall hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State;

C. Shall conduct an annual assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment;

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain

information acquired pursuant to activities under paragraphs B and C;

E. Shall maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy;

F. May recommend or submit legislation to the Legislature;

G. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and

H. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate.

10. Outside funding. The commission may seek and accept outside funding to fulfill commission duties. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director administers any funds received.

11. Evaluation. By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 11, subsection 5, the appointing authorities for the original appointments of public members of the Citizen Trade Policy Commission shall designate their first appointment for a one-year term, their 2nd appointment for a 2-year term and any other appointments for a 3-year term. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Legislature

Initiative: Provides funds for the per diem and expenses for members of the Citizen Trade Policy Commission as well as public

hearing and general operation expenses. A base allocation in the amount of $500 is included below in the event outside sources of funding are received for this purpose.

General Fund	**2003-04**	**2004-05**
Personal Services	$0	$1,320
All Other	0	11,050
General Fund Total	$0	$12,370

Other Special Revenue Funds	**2003-04**	**2004-05**
All Other	$0	$500
Other Special Revenue Funds Total	$0	$500

PLEASE NOTE: The Office of the Revisor of Statutes ***cannot*** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law

123rd Legislature

First Regular Session

Chapter 266

S.P. 542 - L.D. 1519

An Act To Amend the Membership and Reporting Requirements for the Citizen Trade Policy Commission

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §11, sub-§4, ¶B, as enacted by PL 2003, c. 699, §2, is amended to read:

B. The following ~~5~~4 commissioners or the commissioners' designees of the following ~~5~~4 departments and the president or the president's designee of the Maine International Trade Center who serve as ex officio, nonvoting members:

(1) Department of Labor;

~~(2) Department of Economic and Community Development;~~

(3) Department of Environmental Protection;

(4) Department of Agriculture, Food and Rural Resources; and

(5) Department of Human Services.

Sec. 2. 10 MRSA §11, sub-§9, ¶C, as enacted by PL 2003, c. 699, §2, is amended to read:

C. Shall every 2 years conduct an ~~annual~~ assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment. The assessment must be submitted and made available to the public as provided for in the annual report in paragraph D;

Sec. 3. 10 MRSA §11, sub-§9, ¶D, as enacted by PL 2003, c. 699, §2, is amended to read:

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association

of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain information acquired pursuant to activities under ~~paragraphs~~paragraph B and may contain information acquired pursuant to activities under paragraph C;

Sec. 4. 10 MRSA §12 is enacted to read:

§ 12. Quorum

For purposes of holding a meeting, a quorum is 11 members. A quorum must be present to start a meeting but not to continue or adjourn a meeting. For purposes of voting, a quorum is 9 voting members.

Effective September 20, 2007

APPENDIX B

Citizen Trade Policy Commission Membership List

Citizen Trade Policy Commission (on-going)
Public Law 2003, Chapter 699

Appointment(s) by the Governor

John L. Patrick
206 Strafford Avenue
Rumford, ME 04276
207-364-7666
Johnpat2000@hotmail.com

Representing Nonprofit Organizations Promoting Fair Trade Policies

John Palmer
P.O. Box 519
Oxford, ME 04270
207-539-4800
jpalmer@exploremaine.com

Representing Small Business'

Paul Volckhausen
1138 Happy Town Rd.
Orland, ME 04472
207-667-9212
pkvolckhausen@escrap.com

Representing Small Farmers

Appointment(s) by the President

Sen. Stanley J. Gerzofsky
3 Federal Street
Brunswick, ME 04011
207-373-1328
stan1340@aol.com

Senate Member

Sen. Troy D. Jackson
167 Allagash Road
Allagash, ME 04774
207-436-0763
jacksonforsenate@hotmail.com

Senate Member

Sen. Roger L. Sherman
P.O. Box 682
Houlton, ME 04730
207-532-7073
rsherm_2000@yahoo.com

Senate Member

Carla Dickstein
Coastal Enterprises Inc.
102 Federal St.
Wiscasset, ME 04578
882-7552
cbd@ceimaine.org

Representing Economic Development Organizations

Michael S. Hiltz
45 Pleasant Ave.
Portland, ME 04103
michaelshiltz@gmail.com

Representing Health Care Professionals

Joseph Woodbury
508 Gore Road
Otisfield, ME 04270
jwoodbury@nwpmaine.com

Representing Maine-based Manufacturing Business' with More than 25 Employees

Appointment(s) by the Speaker

Rep. Margaret Rotundo – Chair
446 College St.
Lewiston, ME 04240
207-784-3259
mrotundo@bates.edu

House Member

Rep. Jeffery A. Gifford
346 Frost St.
Lincoln, ME 04457
207-794-3040
207-290-5088
giff@linc-net.net
RepJeff.Gifford@legislature.maine.gov

House Member

Rep. Sharon Anglin Treat
22 Page St.
Hallowell, ME 04347
207-623-7161
satreat@earthlink.net

House Member

Sarah Adams Bigney
135 Forest Ave.
Bangor, ME 04401
207-777-6387
207-356-7322
sarah@mainefairtrade.org

Representing Nonprofit Human Rights Organizations

Michael Herz
P.O. Box 1462
Damariscotta, ME 04351

Representing Nonprofit Environmental Organizations

Cynthia Phinney
16 Old Winthrop Rd.
Manchester, ME 04351
organize@ibew1837.org

Representing Organized Labor

Attorney General

Linda Pistner
6 State House Station
Augusta, ME 04333-0006
207-626-8821

Designee

Commissioner, Department of Agriculture

Jane Aiudi
Department of Agriculture
28 State House Station
Augusta, ME 04333
207-287-9072
Jane.aiudi@maine.gov

Designee

Commissioner, Department of Environmental Protection

Malcolm Burson
DEP
17 State House Station
Augusta, ME 04333-0017
207-287-7755
Malcolm.c.burson@maine.gov

Designee

Commissioner, Department of Health & Human Services

Barbara Van Burgel, Director
DHS
Bureau of Family Independence
11 State House Station
Augusta, ME 04333-0011
207-287-3106
Barbara.VanBurgel@maine.gov

Designee

Commissioner, Department of Labor

Leslie Manning
Department of Labor
Office of the Commissioner
54 State House Station
Augusta, ME 04333-0054
207-287-3055
Leslie.a.manning@maine.gov

Designee

Director, Maine International Trade Center

Wade Merritt
511 Congress St.
Portland, ME 04101
207-541-7400
merritt@mitc.com

Representing Maine International Trade Center

Staff:

Curtis Bentley, Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013
207-287-1670
Curtis.bentley@legislature.maine.gov

Natalie Haynes, Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013
207-287-1670
Natalie. haynes@legislature.maine.gov

APPENDIX C

Citizen Trade Policy Commission Meeting Summaries

Citizen Trade Policy Commission
Friday July 18, 2008
Transportation Committee Room, Augusta
10:00 A.M. Commission Business Meeting

Meeting Summary

Members present: Sen. Margaret Rotundo, Senate Chair, Rep. John Patrick, House Chair, Rep. Sharon Treat, Rep. Jeffery Gifford, Elsie Flemings, Malcolm Burson, Cynthia Phinney, Linda Pistner, Jane Aiudi, John Palmer, Leslie Manning, Sarah Bigney, John Palmer and Peter Connell.

Staff present: Natalie Haynes, Legislative Analyst

1. **Commission introductions**

2. **Staffing update:** Sen. Rotundo provided a staffing update detailing the current status of staffing for the commission, including the recent update that Judy Gopaul has accepted a position with the Department of Labor and the chairs intend to meet with the OPLA Director to discuss future staffing plans.

3. **Commission discussion regarding the Vermont resolution:**

Rep. Treat discussed her plans to attend the upcoming NCSL meeting on trade and distributed to members a copy of the Vermont resolution entitled "China's Challenge to State Law-Making Authority," which was introduced by Senator Ginny Lyons of Vermont on July 11, 2008 before the NCSL Labor & Economic Development Committee. After some discussion, the commission voted unanimously to endorse this resolution and requested that a summary of the vote be drafted by staff in time for Rep. Treat to present at the NCSL meeting.

4. **Conference call with Congressional staff members:**

Commission held a conference call with Congressional staff members (Dylan Williams - Sen. Snowe's office; Kim Glas – Rep. Michaud's office; and Alison Walsh – Rep. Allen's office). Dylan provided an update on the Senate perspective regarding the status of the discussions on the trade adjustment assistance program and informed members that issues of trade enforcement may come up in these discussions, as well as the Columbia Free Trade Agreement. Dylan stated that Sen. Snowe has voted for some free trade agreements and opposed others, always looking at the impact on Maine. Kim stated that House leadership is assuring members that the Columbia Free Trade Agreement will not be debated or acted on in the House this year. Kim offered to provide members with information on Rep. Michaud's proposed legislation on the trade act. There was some discussion on the trade enforcement bill, and Alison stated that any bill should have a ramp up in staffing for the USTR to deal with the numerous trade agreements. Dylan briefly identified Sen. Snowe's bill (S-460) as a way to give appellate authority to the US Court of International Trade to ensure that claims for violations of agreements are brought by USTR. Both Alison and Kim noted support for the Trade Act, and Dylan stated that Sen. Snowe supports much of it, but other pieces

she needs more input from the Maine business community to determine its potential impact. Kim stated her office's desire to develop a new model for enforcements and trade agreements, but with the presidential election it was unclear if the model would be changed at all, or to what degree it would be changed. Kim stated that consultation with the states to ensure state sovereignty was strongly supported.

5. Conference call with Peter Riggs (Forum on Democracy and Trade).

Peter reviewed the July 15th GATS conference call, which he stated was convened due to the Doha Round, mostly regarding trade logistics. The working party on domestic regulation is not a prominent enough piece to stop the consensus. Proposed trade measure is the most important thing that could impact the states' regulatory authority. The national delegation is already reading this material and Maine's letter was widely circulated in Geneva. There were 3 recommended actions made to the Forum: (1) Bob wants to work with the AG and Commission to draft policy focused papers; (2) work regionally; and (3) when states engage in WTO issues, make sure national organizations, like NCSL and NAAG hear about it. Three recommendations were made to the Forum: (1) put together a trade 101 power point presentation for use at hearings, etc.; (2) prepare one page summaries for their website; and (3) help with editorial boards, and get news stories on the commission generated. Peter stated that at next week's NCSL meeting there would be 8 different resolutions to be considered by the Labor Committee, including the one from Sen. Lyons.

Peter discussed the regional meeting to be held on September 19th in Manchester at 9:30 in the morning. Discussion will include problems with state/federal dialogue, pointing out what states want to do differently. Also, they will share and compare commission educational materials and trade slideshows, as well as have a discussion on congressional strategy. There was general discussion on the regional meeting and carpooling options. Peter stated that the Forum has set aside rooms for Thursday and Friday.

6. Update from Rep. Burns:

Rep. Burns provided a brief update on Kennebunk/Nestle water issue and two constituents were present to provide testimony on the issue. Rep. Burns informed the members that the Superintendent of the Water District indefinitely postponed the motion to enter into a contract with Nestle, but stated that residents remain very concerned about future attempts by international corporations to enter into a contract with the Water District and the potential for international laws to supersede local control and state laws.

7. Update from Linda Pistner:

Linda provided a brief summary of the application to Maine of the new transparency obligations proposed by the Chairman's fourth draft of proposed disciplines under GATS. She stated that the Maine APA standardizes the due process requirements in state and federal law to make it easier for agencies to apply the law. She explained that agencies have the authority to fill in the gaps to the extent necessary and proper to fulfill the statutory requirements, and courts give deference to their decisions, unless inconsistent with their statutory authority, because agencies are responsible for applying and enforcing the law. She further explained that GATS is largely consistent, or substantially similar with the APA, however the transparency proposal requires all rules to be posted in detail. This could be problematic since agencies have a course of dealing, which is not necessarily written down; publication of technical standards, the use of experts to apply regulations, or criteria for assessment of qualifications, which often involves accepting best professional judgment, are examples of where the state may have difficulty meeting the "detailed information"

requirements. Linda stated that agency standards are similar from state to state, and there could likely be agreement on how these areas may be of common concern among the states. Linda offered to continue her analysis on this issue.

8. Planning discussion:

The Commission agreed to postpone the "work shop", which was tentatively scheduled for Friday, September 26th until January 2009. Members agreed that the planning session would be most effective if it was postponed until after any new appointments are made. Members agreed to decide the date for the January workshop at the next meeting.

9. Public hearing in Bangor:

Members agreed that the next meeting would be a public hearing on October 9th from 6 to 9pm at Husson College and that it would be a public hearing as well as a trade forum for congressional and state candidates, as well as presidential candidates (their surrogates). The trade forum would allow for public testimony, a time for candidates to speak on the issues, as well as time for questions from the audience. Staff was directed to invite candidates to the meeting.

10. Commission's Assessment:

General discussion on the assessment and members agreed to think of ideas as to how to move forward with the assessment at the next meeting.

11. Next meeting date:

Members agreed that there would be no meetings in August or September and the next meeting would be held on October 9th. The public hearing in October will be held in lieu of the commission's regular October meeting. Sen. Rotundo, Leslie and Sarah would be involved in distributing the proposal for the next meeting.

CITIZEN TRADE POLICY COMMISSION MEETING
SUMMARY
November 20, 2008

Attending: Jane Aiudi; Sen. Bruce Bryant; Malcolm Burson; Carla Dickstein; Elsie Flemings; John Palmer; Rep. John Patrick; Cynthia Phinney; Rep. Margaret Rotundo; Rep. Sharon Treat; Paul Volckhausen; Sarah Bigney; Rep. Jeffrey Gifford;

Meeting called to order at 10:05 a.m. in the Transportation Committee Room, Augusta, ME.

Rep. Rotundo advised that she has to leave to attend Appropriation meeting and Rep. Patrick will chair the meeting.

Introductions were made. Malcolm Burson congratulated Elsie Flemings on her recent election.

Discussion followed regarding the September 19th Regional meeting. Peter Riggs reviewed the IGPAC letters drafted by Robin Lunge addressed to Kay Wilkie and Joe Hackney (copy attached) regarding People's Republic of China's communications to Vermont and Maryland about proposed legislation on lead in toys and electronic waste.

As there were not enough members present, the Commission would wait for Rep. Rotundo's return from her meeting to hold a quorum vote. Rep. Patrick advised that he would have the letters signed and sent as he did not believe the commission needed to vote on it since the policy contained within the letter was already approved at an earlier meeting.

Discussion also transpired regarding a letter to Ambassador Susan Schwab. Peter Riggs commented on a couple of changes to the letter.

The Commission's 2009 assessment agenda item was tabled for discussion at the next meeting.

Rep Treat gave an update on the lack of support and information from federal counterparts and NCSL.

Public Hearing – December 4th.

Rep. Patrick asked members to let Linda know whether they can attend, car pool, etc. Hearing to include possible radio ads, newspaper ads. Check to see if Cong. Michaud's office can give an overview of the bill, possibly attend or have a staff member attend.

Rep. Patrick will contact the house and senate majority offices to have a blurb sent to local reps to see if they will attend.

Commission Strategies for 2009

Rep. Patrick advised that they will have to look at the house and senate chairs new roles.

Malcolm Bursom reminded members of a former discussion of holding a meeting at an outlying facility to discuss the direction of the commission, structure, etc. Rep. Patrick agreed that this

was an excellent idea. Discussion followed on when such a meeting could be held, possibly January sometime.

Rep. Treat discussed the northern Maine orientation for legislators and the possibility tagging onto it since representatives will already be present. Lengthy discussion followed regarding holding a meeting off site and not part of a regular meeting.

Different dates were suggested but would not work due to conflicts. Suggestion made by Rep. Patrick to fill vacancies and then hold an off site meeting.

Membership Vacancies:

Rep. Patrick asked for an updated membership list. Natalie Haynes offered to email the membership list and vacancies. Appointments should be made as soon as possible.

Subcommittee Structure:

Tabled to January meeting.

Dr. Weiss Sentiment:

Suggestion made to have Dr. Weiss's daughter attend the public hearing and do it then.

Rep. Rotundo returned. Vote was held on IGPAC letter. Rep. Patrick entered a motion for the commission to accept. Seconded by Rep. Treat. Vote, unanimous.

Letter to Ambassador Schwab to include a note of thanks. Motion made by Rep. Patrick to accept. Sen. Bryant seconded. Vote, unanimous.

Next Meeting:

Rep. Patrick suggested holding meetings the third Friday of each month. Discussion followed of conflicts of dates etc. It was determined to hold meetings the third Friday of each month unless otherwise changed.

Meeting adjourned at 11:45.

Citizen Trade Policy Commission
Friday February 27, 2009
Labor Committee Room, Augusta

Meeting Summary

Members Present: Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Sen. Roger Sherman; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Sarah Bigney; Jane Aiudi; Wade Merritt; Paul Volckhausen; Malcolm Burson; Carla Dickstein; John Palmer; Joseph Woodbury; Linda Pistner; Leslie Manning

Guests Present: Peter Riggs, Forum on Democracy & Trade; John Delahanty, Pierce Atwood; Matthew Beck, IBEW 1837; Edward Gorham, Maine AFL-CIO

Staff Present: Linda Nickerson, Dept. Labor; Curtis Bentley, Legislative Analyst

The meeting was called to order by Sen. Troy Jackson and welcoming remarks. Introductions were made. Due to meeting conflicts, the agenda was revised.

I. Trade Orientation - Peter Riggs, Director, Forum on Democracy & Trade

Mr. Riggs gave a brief history of the Forum on Democracy and Trade. The Forum is a non-profit agency that works with state and local elected officials and trade over site commissions exploring economic development and state sovereignty implications of international trade agreements and how these agreements impact states.

This week the Maine International Trade Center (MITC) released a report showing that Maine exports increased 9.5% last year. At the same time, in general, Maine's congressional delegation has voted against new free trade agreements which have been highly debated. The opposition at the Maine congressional delegation is based not on opposition to trade, but is based on a server assessment of the current model that's used by the United States to negotiate free trade agreements and conclusion is that the model is flawed. This does not mean that we are going to oppose trade; contrarily it is an opportunity to improve the current model.

Three areas of critical importance:

(1) ***Labor standards working conditions***. Until 2007 the free trade model pursued by the United States was totally silent regarding labor standards and working conditions and wasn't part of the negotiating model.

(2) ***Trade and environmental agreements***: United States signed up for international trade agreements using international law and signed up as a member of multilateral environmental agreements (international agreements to protect the environment). In general, the trade agreements have binding affects whereas the environmental agreements do not, meaning trade has trumped environment.

(3) ***Lack of respect for states rights in the current negotiating model***: The absence of a voice for states in pre code agreements.

With this in mind, the Citizen Trade Policy Commission, the Forum on Democracy and Trade and several other states groups have looked at the current model and asked what and how can it be improved, what would they like to see in a better model and how can it be pursued. Mr. Riggs will be circulating a document called Bill of Rights, a statement of principals on what an improved model for international trade negotiations might look like. The document was formulated by members of the Vermont International Trade Commission.

Mr. Riggs gave a historical context of free trade agreements. The United States of America constituted the world's first free trade zone. States were allowed to set tariffs and issue their own money resulting in weak coordination. Constitution was redrafted removed that power from states to set tariffs and issue their own money and set up a free trade zone known now as the commerce clause.

Through the nineteenth century the United States consolidated its national economy and maintained fairly high barriers to imports and tariffs. East Asia followed the U. S. model maintaining tariffs and industries. In the late 1970's tariffs took a downward turn under the GAT, General Agreement on Tariff and Trade. The GAT was concerned only with one aspect of international trade "the movement of goods across borders." In the late 1970's and early 1980's, the Reagan revolution economic policies of deregulation pursued by Ronald Reagan and Margaret Thatcher saw other barriers to trade called non tariff barriers having to due with product standards and services that previously had not been regulated under the international trade agreements. As a result, in the 1980's leaders pressed for the establishment of a new global trade party and in 1995, the World Trade Organization (WTO) was founded. About the same time, the United States passed a free trade agreement with Canada and Mexico. These trade agreements were passed in the context as an overall economic move towards deregulation.

What we are seeing today is excess of deregulatory activity which makes it extremely hard for national and state governments to regulate in the public interest and pursue economic development policies. The imbalance is seen today with the enormous trade deficit. China and the United States have a gross imbalance in trade, five to one. China exports five times as much goods and services to the United States to what the United States imports to China. The only way that trade and balance can be maintained is through currency manipulation by the Chinese. Chinese manufacturers and exporters do not observe high quality labor standards and environmental costs of the production. This is an unlevel playing field to costs. It may be level in respect to tariffs but is not level to respect to the kinds of costs incurred to manufacturers in the two different countries. In a visit to China, Mr. Riggs saw that trade can lift living standards.

Until these concerns are addressed, it is unlikely that we can get a handle on our serious trade deficits which is an important component of our overall budget deficit.

Institutions of international trade: The GAT (General Agreement on Tariff and Trade) was an ad hoc arrangement between different nations and states working on trade and was converted into an actual institution in 1995 with the passage of the WTO (World Trade Organization). The GAT is still part of the WTO but deals only with the movement of goods across borders and is one of seventeen different agreements under the WTO. Of importance to the United States are new agreements in services since more than 80% of our economy now is in services. The Government Procurement Agreement (GPA) brings federal and state government purchasing inside the framework of international trade rules. The shift of goods and tax to this broad set of agreements under the WTO has seen us move from what exporters can do (markets that they can access) to a focus on what governments can't do, what they can't regulate by international

agreements. At the time that the NAFTA agreement was complete and the WTO was set up, there was virtually no consideration of state's interest, no recognition by negotiators that many of the regulations and service and labor markets are regulated at the state level. This was sort of stealth preemption, a consolidation of control and power at the central government level within the executive branch.

The United States is represented at the international trade core by the Office of United States Trade Representative (USTR). The USTR is part of the Executive office of the President and because it's a small agency (300 professionals) it's very powerful and technically competent. Over the years, USTR has had a privileged position within the White House and has the backing of big business to pursue new trade agreements.

North Agreement Free Trade Act (NAFTA): If we have the WTO and Canada and Mexico are both members, why do we need NAFTA. The WTO has 152 member countries; representing the consensus of 152 countries in agreements which generally means the Europeans and United States get what they want. One area where neither the Europeans nor the United States got what they wanted was in the area of investments. Current corporations now have the right to sue sovereign governments, not in state or federal courts, but outside of national court systems altogether, and have their disputes heard by an unaccountable unelected three person tribunal that was appointed by the two parties through the dispute. Those who sit on these dispute panels may be trade lawyers, corporate lawyers and do not necessarily have to be Americans and know anything about the US federal system of government. NAFTA has seriously disadvantaged states in terms of defending interests through the US courts.

Part of the Regan revolution also included the Sage Brush Rebellion described as regulatory takings. When there's a dispute about land or resource use and a corporation feels that government regulation has interfered with seeking a profit, the standard of proof for proving that there was an actual taking of potential profitability was set extremely high. The Sage Brush Rebellion tried to undue that and basically was an attempt to say that anytime a government action or regulation interferes with the profit making potential of an enterprise, then that enterprise needs to be compensated and compensated out of tax revenues. Numerous state legislatures looked at these proposals and turned them away and said it was a radical departure of constitutional practice and was rejected.

Being unsuccessful at getting that change incorporated at a state level through national law, it was imbedded into the international trade agreement NAFTA. We have most recently seen this happen in the area of prescription drugs where companies have come forward with law suits against State of Maine, for example, seeking to limit the availability of the State of Maine to set its own reimbursement policies on prescription drugs, drugs purchased by the state where Maine had been negotiating bulk discounts to keep health care costs down. The State of Maine won and the challengers also won. Six months after the Supreme Courts decision upholding Maine's right to set reimbursement policy, we found in a trade agreement signed by the United States, a pharmaceutical chapter which included language on reimbursement policy. Through this and other cases, it shows very clearly when we refer to the democratic deficit in the international trade agreement. It is not designed with our local democracy in mind.

Another example, referencing the toxic toys law and e-waste law. Last year, legislators in MD and VT received in their home mailboxes letters written in Chinese and English and postmarked from Beijing. These letters were sent to legislators who had sponsored toxic toy and e-waste bills. They came from the WTO office in China in Beijing asking them to please withdraw their votes because they believed it constituted a violation of WTO rules. Neither of the laws had

been passed, they were still in draft form, not released. Legislators were rather upset to receive such letters at their home address. They contacted the Forum on Democracy & Trade who investigated and found that the U.S. Department of Commerce and the Office of the U.S. Trade Representative were routinely notifying trading partners of pending state legislation that might have an impact on international trade. Legislators met with representatives of commerce and USTR and advised that it was inappropriate to interfere with state democratic practice. As a result of the meeting, USTR said they would no longer notify state laws to the Peoples Republic and other trading partners when they are still in a draft form.

We can agree that the new stimulus package that was passed is an economic development bill. What is interesting is our trade legislation has not similarly been considered from an economic development perspective. It's as though trade is a different entity disconnected from overall state economic development.

The implementation of the stimulus package relies on the States. For the first time in fifteen years is an approach to the States what could be called a cooperative federalism that takes states roles seriously. The Forum's hope is that in working with CTPC and other state leaders that the process of putting forward interests in trade and economic development so that future trade policy will be based on what's best for the states and best economic advantage.

Senator Jackson thanked Mr. Riggs for his very informed presentation.

Senator Sherman and Senator Gifford were excused to attend a hearing of the Agriculture Committee.

II. Review of Commission's History

Rep. Margaret Rotundo gave a background of the Citizen Trade Policy Commission. The CTPC was established by the 121st Legislature to monitor the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. The CTPC consists of members representing the House of Representatives, the State Senate, the Maine International Trade Center, various state agencies, and members affiliated with citizen constituencies including small businesses, manufacturers, labor, environmental organizations, and small farmers. Over the past four years the commission has developed the strongest state level democratic dialogue in this country. The CTPC is charged to hold at least two public hearings annually to solicit public testimony and recommendations from Maine citizens and qualified experts. They also are required by law to submit an annual report on its activities and conduct an annual assessment of the impacts of international trade agreements on Maine's state and local laws and business environment.

III. Review of the Commission's Accomplishments

Sarah Bigney reviewed the Commission's past history and developed an action timeline from 2004 – 2008 (*Attachment 1*). Annual reports and other information are available on the Commission's webpage at www.maine.gov/legis/opla/citpol.htm . One of the biggest impacts is that the commission developed a model which other states are replicating. In regards to the GATS letter that was written last year on the domestic regulations; she's heard that it is being circulated in Geneva and other areas around the country. It appears other countries are expressing concerns on the same matters. The GATS domestic regulations negotiations have not gone through and are still being monitored.

Rep. Rotundo advised that the CTPC's assessments are available publicly every two years along with their annual report. The regional work has helped bring sovereignty to Washington.

John Patrick gave an update on the NCSL meeting he attended. He was amazed with the lack of knowledge of trade agreements that people had. Discussed CTPC's accomplishments, networked with other groups and was advised that CTPC may be used as a blueprint to develop there own committees.

IV. Action on the USTR letter – Sarah Bigney

Sarah Bigney clarified the two pieces in today's packet which may be confusing. The regional work has generated a trade bill of rights (VT) and would like people to consider it at some point in the future. In addition to that, there is a draft letter regarding nomination of Ronald Kirk as the US Trade Representative. Mr. Kirk's hearing is scheduled for next Tuesday. She believes a letter of congratulations, as well as advising him who the CTPC is, express our concerns to him, along with changes and the role of the USTR, should be included in the context of the letter. Sarah submitted a draft letter for review and suggestion (*Attachment 6*). Sarah also advised that several people had submitted questions via Sen. Olympia Snowe who is serving on the appointment committee hearing.

Rep. Treat agreed that now is a good time and a good opportunity to create a new relationship with the USTR and get on their radar. We may also want to include attachments to the letter such as annual reports and the action sheet that Sarah presented today.

Leslie Manning suggested it would be helpful to advise the new representative what the previous relationship was with the USTR, so that we could invite him to fully participate in conversations. Rather than just expressing our concerns, believes we should address our strengths stating that we are the oldest established commission in the country, help us informing our federal delegation, as well as our own executive branch about the implications of trade agreements for Maine citizens and that we have a series of ongoing relationships with trade representative offices. We should extend an invitation to come and meet with us as we have invited previous trade representatives.

We also should remember the history of trade weakness in this country. The executive branch in any administration regardless of party is always going to seek the authority to directly negotiate with other nations states on issues of commerce. We need to be clear with this appointee that we fully expect him to honor his appointers promise to consult fully with the states before he implements any trade agreements. If we refer back to one of our earlier handouts, Obama made a promise that said that he would fully consult with the states. Remember Obama said he was going to review language in NAFTA and the Canadian government met with him and issued a press release that said of course he's only saying that to candor to his political constituency. Leslie referenced Ottawa and statements made that now isn't the right time to revisit NAFTA; perhaps the Canadians were on to something. If that's the case, then we need to find out. We have the opportunity to find out where the new nominee stands and let's exploit it.

Sen. Jackson stated that a decision needs to be made whether we send a letter and what will be included.

Rep. Treat stated that she liked what Leslie said and would like to have it transcribed into a letter format.

Motion made by Rep. Treat to send a letter to the new trade representative along the lines as outlined by Leslie. Seconded by Paul Volckhausen who agreed that now is the time to start out strong. John Palmer also agreed with Leslie and what she said was very accurate and also wants to see the letter come from the Commission and not the Chairs.

John Patrick also supported the motion. Wade Merritt asked for clarification of what the letter is exactly going to say. Are we using Sarah's letter or rewriting one with Leslie's comments.

Sen. Jackson advised that they would combine ideas and comments into one letter. Sarah advised that she and Leslie will get together and rewrite the letter. Rep. Treat suggested keeping the letter to two pages. Sen. Jackson suggested having the letter drafted, reviewed, and sent out as soon as possible.

Linda Pistner advised that when sending a letter out, the process is to come up with draft, post it on the website to be available to the public for comments to be compliant with access laws.

Rep. Treat stated she liked that process, but if for some reason negative responses were received, it would be delayed and expressed concerns of timeliness.

Sen. Jackson expressed concerns of timeliness as well but also wants to be in compliance with the Freedom of Information (FOI).

Further discussion followed on FOI.

Rep. Rotundo asked if they needed to do anything more with the motion that is on the floor to be in compliance with FOI.

Amended Motion:

John Patrick amended the motion to include comments from Linda Pistner in regards to Freedom of Information and post it to the CTPC website. Rep. Treat accepted the amended motion. Seconded by Paul Volckhausen. Vote, unanimous.

V. Report on Prescription Drug Conference – Rep. Treat

Rep. Treat advised that she attended a prescription drug conference and circulated some handouts. Pharmaceuticals have a long trade history, some of which Peter outlined already. Rep. Treat outlines past experiences around prescription drugs and preferred drug lists. Preferred drug lists is a way that states set up negotiating process with the pharmaceutical industry. By preferring a drug and not requiring advanced approval by a prescriber or doctor usually ends with a bigger discount. The State of Maine is one of the most aggressive states in the United States in terms of being very effective it setting up these lists and negotiating with the drug companies. The amount of money spent on prescription drugs in the Medicaid program has not gone up the same way that overall health cost of increase. (*Attachment 7*)

She pointed out that if we have a trade agreement with another country, that trade agreement applies to that other country just as it applies to us. As an example, if the U.S. was negotiating an agreement with Korea which said you shall not have a list of drugs for which you set pricing for those drugs, that same agreement applies to U.S. unless there was some specific language stating otherwise. This has been a big issue that the Commission has weighed in on, as well as her job outside the legislature.

The head of Pfizer got together with a professor from Stanford University and both testified at a hearing. A product of this is the letter attached. (*Attachment 8*) This letter raised a lot of alarm. Of concern is it will be harder to import cheaper generic drugs for low income families and also may increase the cost.

Rep. Treat referenced specific areas of concerns in the context of this letter. As a result of this letter, Sen. Baucus met with stakeholders, Pfizer, the professor from Stanford, and other drug companies, as well as a couple of non-profit organizations. A professor from American University on Information Justice and Intellectual Property held their own meeting ahead of the other meeting prior to this and invited all of the non-profits in the states which Rep. Treat attended. Rep. Treat found this meeting very informative and useful.

States need to be informed and involved and concerned with health care initiatives. Further discussion followed in regards to Senator Snowe's ongoing legislation and the fact that staff was not aware of Baucus's letter, and meeting.

Sen. Jackson thanked Rep. Treat for her informative update.

Leslie asked if there was any discussion about drug purity and strengthening of the FDA which has always been an issue in deregulation and less regulation. The issue for healthcare advocates is access to drugs and reimportation of pure and quality drugs.

Rep. Treat advised that drugs are being manufactured in other countries. FDA issue is a huge issue and being taken up in Congress. Sen. Snowe's legislation goes on forever on how to ensure that medications being brought into the U.S. meet specifications. There are numerous proposals in Congress right now.

John Patrick expressed his concerns and was one of the reasons why he got involved with the Commission.

Rep. Treat advised that she will continue to monitor the above.

VI. Representative Treat's Bill

Rep. Treat circulated a copy of a bill she submitted (*Attachment 2*). A couple of states have passed laws that require the legislature to be involved before a governor makes a commitment to be bound by a trade agreement. With this in mind, Rep. Treat submitted a bill that would have a process to involve the Maine legislature before entering into a binding agreement. Rep. Treat reviewed her draft with members. The draft has not been printed. Concerns were expressed about the timelines of bills. Discussion followed. Leslie Manning stated that it was important for people that would be voting on it, to be familiar with the current process and referred it to Wade Merritt to explain what the current process is and/or consultation on the trade agreement.

Rep. Rotundo questioned as to what is the current consultative procurement process being used in Maine in conjunction with the Governor's office and how would we know if something was received.

Mr. Merritt advised that in the early days of the consultative process, every state had a designated state point of contact (SPOC) who was the state directors of international trade. They

would receive faxes notifying them of activities which might have been one or two a month. Since then the system has changed. Mr. Merritt stated that within the past five years he does not recall anything coming in through the SPOC system. The SPOC system has been replaced in the Governors office. Governors have the power to appoint a contact person and in some states it's the State Treasurer, the Attorney General's office, Economic Development and Trade offices. Over time that changed and it is now directly the Governor's office.

Mr. Merritt advised that staff in the Governor's office is very active and they talk with them often. Lance Boucher is the Governor's point person within the governor's staff. Technically, if something was received in the Governor's office right now, Lance Boucher would notify him immediately. Sen. Jackson asked if there was any way they would know before the Governor signed something. Mr. Merritt advised that they would know, especially Peter Riggs before such happened.

Rep. Treat suggested including language in the bill to provide notice of requests to both the Commission and the International Trade Center.

Mr. Volckhausen advised that the Commission years ago started this process and eventually the bill never went anywhere or was even submitted. The bill stated that the process was wrong and to use SPOC and that they wanted to be involved. Rather than submitting a bill, they should talk to the governor's office, form a subcommittee, look at issues, have people from the legislature, the governor's office, Peter Riggs and others to come up with what the best process is to make this work. This did not come about.

Instead of having the Reviser or someone from the legislative office write this bill, the CTPC should be doing this.

Rep. Treat recalled this and advised how the legislative process works and deadlines for submitting bills. Rep. Treat made the decision to submit a bill to make sure they had the opportunity to consider legislation over the next two years. The CTPC does not have the authority to submit a bill because they do not have legislative authority.

Rep. Treat requested member's involvement, suggestions, ideas, between now and the hearings in terms of language they prefer.

Rep. Patrick thanked Rep. Treat for submitting the bill. Discussion followed.

Sarah Bigney suggested developing a subcommittee to work on Rep. Treat's bill and bring proposals back to the CTPC's next meeting. Rep. Treat welcomed working with the group. She does not have the bill from the Reviser's office; editing would need to be done rather quickly.

Motion:
Motion made by Wade Merritt to form a subcommittee to work on Rep. Treat's bill consisting of Paul Volckhausen, Sarah Bigney, Rep. Treat, Peter Riggs, Linda Pistner and himself. Sen. Jackson was not sure if Peter Riggs could work on the subcommittee but believed he would work with them. Seconded by Rep. Treat. Vote, unanimous.

Linda Pistner advised of the public notice process for meetings. Policy is that they do not discuss the substance of discussion outside the subcommittee meeting.

VII. Strategy on Water Bills

Rep. Rotundo advised that there may be approximately fourteen water extraction bills before the legislature. Some are already in work session and are actively being discussed. She wanted to know if the Commission wanted to weigh in on bills and issues. She circulated an incomplete list of groundwater bills (*Attachment 3*). She asked members to look at the list and hold a discussion before they go to the committees.

Rep. Rotundo recognized and welcomed John Delahanty who is the lobbyist for Poland Spring Water.

Update - Peter Riggs:

Mr. Riggs advised that if there was a risk to the water bills then potentially they might be challenged more likely as a result of NAFTA. The two most significant NAFTA cases were concerns with regulation groundwater – Methanex and Metalclad.

Case 1 –Metalclad

A U. S. company challenged the right of a Mexican municipality to prevent them from opening a hazardous toxic waste facility. The issue was that the federal government of Mexico had told and made assurances to Metalclad that they could open and operate this facility. They had to get a permit but were told it would be taken care of; however, the municipality refused Metalclad permits. Metalclad took their case to NAFTA, Chapter 11 Tribunal seeking 14 million dollars in damages because they had an assurance that they would be able to open this facility. The Tribunal agreed that Metalclad's rights had been violated and ordered the Mexican federal government to pay 14 million dollars in damages. The Mexican federal government then turned around and withheld 14 million dollars funding to the municipality.

Case 2 – Methanex
California banned the use of the gasoline additive MBTE. MBTE is a harmful chemical that will find groundwater. Methanex Corporation out of Canada sued under Chapter 11 of NAFTA. Methanex was leaking from underground storage tanks contaminating groundwater wells. Methanax sued for 970 million dollars based on the lack of access to the California market and loss of future profits. Five years of hearings transpired and the final decision of the tribunal was that Methanex did not have a right to sue and was rejected. California phased out the use of MBTE.

Case 3 – Glamis

This case also involves the question of mineral extraction in California. This case is currently being heard by the international tribunal and a decision has not been made.

Peter advised that he had not had a chance to review all the bills that are in the Reviser's office. The opportunity to review legal options is very important.

In regards to groundwater extraction, both the international trade rules and investment rules need to be applied. The standards that are used in NAFTA and other free trade agreement are that an investor has to establish that he is domiciled and has a substantial business presence in that country.

It is possible for a U.S. corporation to set up a subsidiary in a third country, make an investment back in to the U S through the shell company and use the privileges under the international investment agreements to bring a claim.

Until we know more about the corporate structures of those seeking permits, the identity of the investors and capital structures of those investments, it is premature to say that the trade rules do not apply.

Senator Sherman spoke regarding water issues, discussed rules and regulations from the agricultural side and the utilities and energy side. On the agricultural side, he studied water issues, glaciers, etc. and water withdrawal taking into account fish, bugs, wells, and so forth. On the utilities and energy side, he's looking at the sale of water, working with geologists, stream flow, cubic feet and 'x" number of gallons, shut off valves, etc. Out of this, he asked if the Mexican case was a process issue where the company relied on two different levels of government. Could this happen in Maine? Should we take a look at it; there's plenty of data and is more of a process issue and suggested a central place that deals with such.

Peter Riggs handed out a "Statement to the Presidential Transition Team on Trade Policy" stating that regulations passed using due process that are non-discriminatory cannot be the basis for a successful NAFTA claim (*Attachment 4*). Discussion followed.

Senator Jackson asked if a company from Canada or Mexico came to Aroostook county and made an agreement allowing extraction of water and afterwards found that it would hurt the town and area, how would that be handled? Peter responded if the investor moved ahead with a project based on a verbal or signed agreement with an elected official, you'd have a problem. Can't answer if definitively.

Senator Jackson asked if there are any trade issues to watch. Mr. Riggs advised that the Forum on Democracy and Trade will take a position on issues having to do with state and federal consultation and trade. He is outside his mandate to comment on bills, however, proposals to establish a commission state wide review seems to be prudent. Discussion followed.

VIII. Review of Current Trade Issues and Issue to Watch – Peter Riggs

Confirmation hearings for nominee for the U.S. Trade Representative take place next week. The nominee's name is Ron Kirk, former mayor of Dallas. He does not have previous background as a trade negotiator but has built strong electoral coalitions involving the business community. Senator Olympia Snowe is on the committee and is in a position to ask direct questions of nominee, Ron Kirk, at the confirmation hearing next week. If the CTPC has particular questions or interests they want to see addressed, he suggested they get them to Sen. Snowe immediately.

Rep. Michael Michaud is in the process of finalizing resubmission of a bill called the Trade Act. He expects the Trade Act to be reintroduced within the next two weeks to a month. Rep. Michaud sent President Obama a letter which addresses the principles (*Attachment 5*).

The Geneva negotiations with WTO on services will reconvene next week and one of the areas that will be looked at is domestic regulation. So far the US has taken a friendly approach. The Brazilian proposal, Hong Kong proposal, and the Australian proposal attempts to strip business licensing authority from local governments.

CTPC weighed in on this issue two years ago with a letter to USTR and it may be worthwhile to consider doing so again.

There are three holdover trade free trade agreements that have been negotiated but have not yet been signed. They are with Korea, Panama, and Columbia. The Korea agreement is somewhat flawed because of its weak provisions for auto producers. The Columbia agreement is unlikely to move forward since Columbia remains to be a dangerous place, etc. The Panama agreement has been under the radar for awhile. It's known to be a tax haven, an offshore profits/laundering money, banking secrecy, and taking into consideration the financial markets, etc., it seems odd that this will move forward. The CTPC may want to look at the agreement and take a position on it.

Most importantly, the Obama administration will pursue federal/state policy on trade. USTR has said that there will be a new assistant USTR appointed to government relations.

Sen. Jackson thanked Peter Riggs for his very informative presentations.

Rep. Treat stated regarding a letter to Ron Kirk, to make sure we allude to the fact that we want to be involved and questions to Senator Snowe, consultations, what their role is going to be, and the need for a different process.

Rep. Rotundo agrees with Rep. Treat's suggestions for Sen. Snowe and that the subcommittee should come up with questions. John Patrick also agreed with Rep. Rotundo and Treat.

Sarah Bigney wanted to know how formal this should be. Two options – one could be to draft specific wording to the questions and send it in and the other could be to suggest on behalf of the commission, questions on consultation and be straight forward.

Rep. Treat stated to be as specific as possible; general question is not enough.

Leslie Manning suggested looking at the rule of intergovernmental relations and asking; 1) What are your thoughts on consultation with the states in these areas and draw an outline; 2) How to seek a model and what role will they play; and 3) Are you familiar with IGPAC's recommendations for 2004 and what is your position.

Rep. Treat stated these would be questions for the confirmation hearing and we need to get words to Senator Snowe immediately.

Motion:

Motion made by Rep. Treat that we submit the three questions that Leslie suggested to Senator Snowe. Seconded by Sen. Sherman. Vote, unanimous.

Rep. Rotundo advised that several chairs have asked us to weigh in on the water bills. She is not sure if we are prepared to make specific recommendations and is wondering if we should make general recommendations. What would be the legal implications?

Sarah Bigney brought to the commission's attention a water bill and read sections.

Rep. Treat stated not knowing what all the bills are and not knowing whether some are procedural issues, caution should be taken whether the commission should take a position on one individual bill as there could be another that makes more sense.

Rep. Gifford stated that the water bills have resulted in rural caucuses and people do have opinions.

Sen. Sherman suggested to talk with Rep. Webster to see what he already knows and wondered how much information might already be out there. They are hearing issues through rural caucuses and suggested to get more information before acting on it.

Presentation by John Delahanty – Pierce Atwood and Poland Spring

Mr. Delahanty has worked for 30 years within Maine's environmental statutes, rules and regulations.

Mr. Delahanty commented on the Mexico case. He is not familiar with Mexico's environmental regulations. It is his understanding that the permit was issued and that the facility was constructed; however, the operational permit was not issued, therefore, investors sought a tribunal. Tribunal found that based on facts that the investors relied on the government's representation regarding the status of the permits and that the government was fully aware that the landfill was under construction. He believes that this type of a process would be extremely difficult to occur in Maine. He cannot imagine a company coming into Maine and beginning to undertake a large scale water extraction simply based upon representations of a local official. Maine has extremely robust environmental laws. If laws and regulations are applied and adopted with due process, application is fair and applies to all in a nondiscriminatory manner which protects the State.

He believes that there is a lot of misunderstanding and a lack of understanding about how Maine's water extraction laws are presently enforced, overseen, and regulated. Two years ago legislation was submitted and passed that changed Maine's water extraction laws. As a result, a commission was created that monitors water resources along with several other state agencies.
Mr. Delahanty thanked members for the opportunity to attend and talk at today's meeting.

Senator Jackson asked Mr. Delahanty if he thought it would be better to have one body review water bills instead of three or four groups.

Mr. Delahanty responded that it would make it easier to have one group look at the bills, what the present law is, and regulations. In terms of the Commission, it is getting people more educated and have an understanding on how water is regulated in terms of extraction. A couple of years ago there was a task force that focused on water regulations. There's been a lot of media and press in regards to Poland Spring, as well as a lot of opposition which he believes is a lack of understanding of how it is regulated. He certainly hopes that there would be a way to lessen the concern of people that the activities of companies to extract water, regardless of the type, to lessen the concern that it is not appropriate fair oversight.

Rep. Gifford thanked Mr. Delahanty. Most people on the list of legislative bills have not been to caucuses. He has learned a lot and wells are very well monitored.

Rep. Sherman suggested they wait to see what is already out there for bills.

John Palmer asked Mr. Delahanty if he knew how much water is exported out of the country. Mr. Delahanty was not sure and knew that it was shipped to Boston, New York and possibly Canada but would check on it for him. Mr. Palmer advised that when he was in Saudi Arabia, Poland Spring bottled water was distributed. Again, Mr. Delahanty advised he was not sure but that contractors purchase it and can possibly export it.

Sarah Bigney posed a question for the Commission purposes as to what the regulations are and would they be subject to international challenge when we sign contracts with a multinational corporation. This potentially could be of major concern.

Linda Pistner stated that part of their roles is how to make the bills effective to reduce the possibility of challenge. Discussion followed.

Leslie Manning stated that the Methanax standard as discussed today is the defensive standard. When we review a standard and are comfortable with that standard when it is an accountable transparent standard and equitable to everybody. Our role is to advise and to say do what you feel is necessary to regulate the health, welfare and safety but be aware that if you're going to be held to a higher standard in international laws, make sure that you are not singling out any one entity and make sure that you are held to a standard that is fair and equitable.

Rep. Rotundo advised that the bills represent community concerns all over the state and believes that they should step back and take a bigger view of all issues and figure out what is best. Expressed concerns of looking at the bigger picture of international trade.

Mr. Palmer asked if State bills preempt local bills. Senator Jackson responded that he thought they possibly would. Linda Pistner advised that the State has the authority and explained the process.

Rep. Gifford advised that that it would have to be approved by several state agencies. Sen. Jackson asked if a letter should be drafted by the CTPC expressing concerns.

Rep. Rotundo stated when legislative leadership asks us to weigh in on a bill, what would we say; we do not have an opinion?

Rep. Treat agreed with Linda Pistner's advice in terms of making sure that the committees understand that just because we may not be in agreement doesn't mean not to go forward but to go forward in a way where the standards are adhered to. One of the problems could be at a local level, such as a town grants permission, they go to DEP or wherever, and they decline the permit, that's where the problem is. If the committees do not do anything, there could be trade implications.

Paul Volckhausen stated that this was an issue and that they are stepping out of their role. The legislature has to have an open process and our role is to make clear to people that if something is not done right, that there could be international trade implications. These bills are no different than any other bill that is submitted, reviewed, passed, etc. and that we should not be advising and only be monitoring.

Sen. Jackson stated that in the past seven years, this is the first time he's heard what he did today and expressed concerns.

Discussion followed around awareness and level of understanding of trade implications.

Sen. Sherman suggested developing a matrix checklist around trade that they could use.

Rep.Treat referenced the Right to Know law process and in the past has had to send sections of bills back to the Judiciary committee because some language was in violation of the Right to Know law.

Sen. Sherman suggested a checklist that would identify areas of concerns and/or violation. Further discussion followed.

Leslie Manning expressed that this has been an ongoing concern; issue of water as a resource verses a commodity. Issues of water extraction are not specific to Maine or New England. As a regional group we should say as a community and reps are looking for guidance on these issues. State sovereignty always comes up, water and resource extraction, and issues of procurement in one form or another. Part of the reason why the Commission has been so successful is because we have not been afraid to take on the big issues. We've been able to move forward and make progress and build the creditability that we have so that when we weigh in on an issue, we hear both sides and issues and then make a recommendation. People pay attention to that recommendation and take it seriously. If that process works for us, why wouldn't it for the state. Have public hearings, public discussion, public input into the process as to how we regulate water in this state that may serve as a model for other states. Our responsibility is to report honestly and directly to our federal delegation, legislature and communities what we see the implications of any piece of legislation or implications are of any kind of trade agreement. We have a track record using this approach.

Leslie stated that the Commission is required to hold two public hearings. Within the next 30 to 60 days schedule a public hearing, announce what the subject matter will be, invite all the parties to it, and invite other commissions to join us to weigh in on these issues.

Motion:

Rep. Rotundo made a motion to follow the above procedure Leslie laid out. Seconded by Rep. Treat.

Malcolm Burson stated he was very uncomfortable with this and that it is not their job, i.e., water extraction, and that it is putting an intolerable burden on them and asked the CTPC to think this over very carefully before reopening this. Paul Volckhausen agreed with Malcom; international trade may be, but water extraction is not our business. Our business is international trade and its effect on us.

Rep. Rotundo withdrew her motion on the floor. As a commission, we need to find the things that we can agree to today so we can move on.

Motion:

Rep. Treat made a motion that they draft a letter to all the policy committees that are hearing bills on water and state that we believe that there are trade implications that could come to the floor in some water proposals that are out there and that none the less this is not a reason not to go forward as long as committees that are focused on this do the three things that Leslie recommended. 1) hold transparencies; 2) fairness, and 3) accountability.

Seconded by Sen. Sherman. Vote: Ten in favor, one opposed.

IX. Consideration of Invitation to Secretary of Labor

Sen. Jackson advised that Congressman Michaud will be in Aroostook County over the weekend and he wanted to ask Cong. Michaud to extend an invitation to the Secretary of Labor to come sometime in the future to discuss trade issues and labor standards.

Motion:

Motion made by Rep. Treat to invite the Secretary of Labor to address the Commission and discuss issues and also provide a brief history of the Commission. Seconded by Rep. Rotundo. Vote, unanimous.

VIII Next Meeting

Discussion followed on holding the regular meeting the last Friday of the month as being difficult for members to attend. Malcom Burson stated that holding the meeting on the same day of the month allows people to plan and schedule accordingly.

Sen. Jackson, Sen. Sherman, Rep. Gifford all have Agriculture meetings on Fridays so cannot attend. Rep. Rotundo suggested holding frequent meetings more often during the legislative session, possibly from 4:00 to 6:00 p.m. Rep. Treat advised that as the session moves forward, it becomes more difficult to attend. After lengthy discussion it was decided to stay with the current schedule.

The next meeting is scheduled for Friday, March 27th, 9:00 a.m.

Sen. Jackson reminded members that they can contact him at home or email if they have issues they would like to discuss or place on the schedule.

VIII Adjournment

The meeting adjourned at 1:20 p.m.

Respectfully submitted,

Linda B. Nickerson
Secretary

/ln
encs.

Citizen Trade Policy Commission
Friday March 20, 2009
Labor Committee Room, Augusta

Meeting Summary

Members Present: Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Sen. Roger Sherman; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Jane Aiudi; Wade Merritt; Paul Volckhausen; Joseph Woodbury; Linda Pistner; Michael Herz, Cynthia Phinney, Michael Hiltz

Guests Present: Peter Riggs, Forum on Democracy & Trade, via conference call; John Delahanty, Pierce Atwood

Staff Present: Linda Nickerson, Dept. Labor

The meeting was called to order by Sen. Troy Jackson at 9:05 a.m., welcoming remarks and introductions were made.

I. Conference Call – Peter Riggs, Forum on Democracy & Trade

Peter Riggs was on the polycom speaker phone calling in from the West Coast to give members current updates. Peter reported on the confirmation hearings of Ron Kirk, new USTA representative confirmed Wednesday and advised members that he sent an email with two attachments to them last evening. One of the attachments is 129 pages of Mr. Kirk's written response to questions submitted by members of the Senate Finance Committee which is the committee jurisdiction that reviews his confirmation. The other is a document from Congressman Mike Michaud in his role as the head of the House Trade Working Group where he has approximately 50 cosigners on a letter to the Obama administration calling for changes in the way trade policy is conducted.

The confirmation process had some interesting facts about trade agenda and interests of Mr. Kirk. Of particular interest are questions that the Maine Citizen Trade Policy Commission raised by Senator Snowe in her questions to Mr. Kirk. Senator Snowe followed up with very good questions and focused in considerable detail on manufacturing and the loss of manufacturing jobs and noted that manufacturing in entirely absent from the document called US Trade Strategy which is prepared annually by staff at the USTA. This year's report was prepared before Mr. Kirk was confirmed. Senator Snowe also asked about federal and state consultation and mentioned the Maine Citizen Trade Policy Commission. Congratulations to the Commission!

In Mr. Kirk's answers, he does not mention state legislators, trade policy commissions, governors, AG's or local officials and others which were rather interesting. One of the to do items for USTR in 2009, Mr. Kirk quote "wants to demystify the role of USTR." This appears to be an opportunity to work on consultation. Mr. Kirk stated he came to the job with no preconceptions. Kirk footed the idea of there being a new assistant USTR for small business and repeatedly mentions the May 10th deal. This was the bi-partisan trade deal which is now between

the Bush Whitehouse and Congress dated May 10, 2007. Mike Michaud and others would like to see changes in the policy go well beyond the bipartisan compromise outlined in the May 10th agreement. Kirk sees this as a starting point and made clear his position on the holdover free trade agreements; i.e., the agreements with Panama, Columbia and Korea that were negotiated by the Bush administration but not ratified by Congress prior to the change in administration. Mr. Kirk stated that the Panama agreement is ready and can be taken down off the shelf; so we may see a decision by the Obama administration to move on Panama within a month. Mr. Kirk made clear that he thought the Columbia agreement was not fatally flawed and could be passed if changes were made in labor laws. Mr. Kirk signaled that the Korea agreement is fatally flawed and isn't going to move and is a dead letter.

Mr. Kirk was asked about investment provisions and responded that investment provisions and free trade agreements and their impact on the financial crisis and banking had enough skilled prudential measures in Chapter 11 and other investments chapters and that we shouldn't worry about investment chapters in the context of the current financial crisis. Peter stated that we might want to approach investment questions with a little more caution and potentially work with the USTA on a new model NAFTA Chapter 11 type of disputes.

Rep. Treat asked Peter if there was anything interesting going on around the country that legislators might need to know about since their last meeting.

Peter referenced Sarah Bigney's letter regarding Vermont. In general, a couple of states have come forward with ideas on federal and state consultation. Washington State through a legislative committee passed a memorial that calls for USTR to look at federal state consultation on trade, calls for a reform of IGPAC. New England has been having conversations around regional state principals.

Peter advised that they are hoping to convene a regional conference call on April 6, 2009 around noon and will send an email confirming it. This would give us a chance on a regional level to talk about ongoing issues and joint strategies. There are a couple of bills pending for commissions to be created in New Jersey, Massachusetts and Pennsylvania and one recently passed in Minnesota. More and more states are creating trade mechanisms.

Cynthia Phinney in regards to Ron Kirks nomination wanted to know about the Columbia trade agreement and whether there was an indication or likelihood of changing labor laws and if they did, would they be enforced.

Peter stated that they did question this but no, there was not a lot of detail in his response. Kirk does not have a background as a trade negotiator and doesn't really get into this much.

Linda Pistner asked if anything was said about the issue of USTR monitoring proposed legislation at the state level and alerting trading partners to issues as experienced last spring.

Peter responded no, that was not addressed in any confirmation discussions. The NCSL Spring Meeting Agenda, National Conference of State Legislators meeting April 23-24, 2009, Washington, DC will include a session on that and will be attended by Jeffrey Weiss from USTR who will continue to talk about the implications.

Paul Volckhausen stated that later on in today's meeting, the commission would be discussing Congressman Michaud's Trade Bill and asked Peter if he heard if there were any possibilities that the bill will move forward.

Peter responded that this is the trade act that was originally introduced last year. Both the House and Senate versions are being rewritten. Michaud's staff has taken the lead on the House side. The chief sponsors are trying to get as many co-sponsors as possible at this stage. He thinks that the Senate version will very likely get a hearing, however, whether the House gets a hearing depends on House and Means Committee. He thinks it's fair to say that the new version will be tighter, shorter, prioritized and will be an attempt to get on the docket for House Ways and Means and Senate Finance.

Sen. Jackson thanked Peter for taking the time today to update the commission. He also asked Peter, if there were other states that he may have talked with regarding the high unemployment rates and if he's heard any discussion on the US DOL alien labor certification program.

Peter stated that it did not come up in the confirmation hearing. He suggested that Senator Snowe's questions were very good and probably the best place to look for clues on how that issue may be addressed. One of the things Kirk was asked is whether he thought trade deficits mattered and he acknowledged that it did and that the trade deficit was a problem.

Sen. Jackson asked that in the future if he hears anything come up about it, he would appreciate it if he would let him know.

Rep. Rotundo advised that the State is looking at transmission lines project that Central Maine Power has proposed and she's been receiving questions on what's happening in other states around transmissions, utility issues, and so forth. Would you be willing to send through to us some references for us that we could pass on to legislators who are concerned about this issue trying to educate themselves on the subject.

Peter responded he would look at the utility and transport committees and see what he could find.

Sen. Sherman advised that he is on the Utilities Committee in Maine and is wondering if there's any other state (other than Canada) where a standard offer comes in from. We are having trouble with Canadian lines and would be curious to know, soon, if there are any other states that we could talk to.

Peter advised that he would find out how the standard offer comes in and get back with him.

Sen. Sherman also stated that at one time there was a Canadian Ombudsman and mentioned Washington state had something and wondered if he'd had a chance to pursue it. We're interested in knowing what other states are doing.

Peter has not been able to pursue it but suggested it be an agenda item for the April 6th conference call.

Sen. Jackson asked Peter if he'd heard anything on the liquefied natural gas ports and bringing them into Maine through Canada and other countries and if he had any thoughts on that.

Peter responded that Maine and Oregon have been looking at this very carefully. They have prepared a case study of potential impacts of these facilities and looked at the gambling decisions of WTO which may involve the US making new commitments on pipeline services and bulk

storage of fuels. He will send within the next week or two what's in play in terms of US commitments and how they may impact energy developers.

Rep. Rotundo asked Sen. Sherman if he had something in the Utilities Committee that they were reviewing. Sen. Sherman stated that they had a long list of LR's.

Rep. Rotundo advised Peter that they very much appreciated his taking the time to talk with them today.

Peter stated it was great to talking with them again and will follow up via email regarding the April 6th conference call.

Sen. Jackson recognized new member Michael Hiltz. Mr. Hiltz addressed members and advised that he is a registered nurse representing healthcare and was glad to be there today.

II. Minutes of February 27, 2009 Meeting

Senator Jackson asked members to take a few minutes to review the minutes.

Motion:

Rep. Gifford made a motion to accept the minutes as presented. Seconded by Rep. Rotundo. Vote, unanimous.

Cynthia Phinney also seconded the motion. Rep. Rotundo noted that the minutes were complete, thorough, and was good to have a write up for members that are unable to attend.

III. Subcommittee Update on Rep. Treat's bill

Rep. Treat first addressed the members regarding an email she sent March 14th about Trade Advisory Councils.

She asked everyone to review and see who is on the list and would find it interesting. Every person on the list was from industries such as pharmaceuticals and chemicals. What it does not include is health care industry. IGPAC decided to provide an opportunity for participation but does not have the staffing and access to documents and often the turn around time is not enough time to respond. An issue is trying to get someone appointed to IGPAC. Some have made attempts but have been unsuccessful. There are fact sheets posted on the Forum Democracy & Trade homepage. Rep. Michaud is working on a proposal to his trade bill. Discussion followed.

Rep. Treat advised that she submitted legislation and circulated copies of the subcommittee report. The subcommittee consisting of Rep. Treat, Paul Volckhausen, Sarah Bigney, Wade Merritt, Linda Pistner (along with Peter Riggs comments) met, reviewed and drafted the legislation. Using enacted laws and pending legislation from states such as MN, RI, CA, MD, and HI, they incorporated items and comments from Peter Riggs and drafted legislation. (*Attachment 1).* The subcommittee unanimously agreed to move forward with what was outlined.

Commission members reviewed the subcommittee report and discussed each line item. Different scenarios were discussed such as an agreement getting passed without anyone even knowing that

is has taken place. This legislation will alert the CTPC, who can review by setting up procedures to determine how it may affect Maine.

Joseph Woodbury advised that they should proceed very carefully, that this could become very cumbersome and put more constraints on folks and felt that he could not support this type of legislation, overrule the agreement and possibly come up with something else.

Paul Volckhausen stated that they are not really overruling, they are saying that if the State of Maine is signing off, we have to approve it in a positive way. A trade representative in the past could sign off without us having any knowledge.

Rep. Treat stated that they did not make it clear that they are talking about only instances where they are being asked what the State wants to do. This gives them the opportunity to know what is going on. At the last meeting, discussion transpired on SPOC and what information they are receiving. Concern was that information was not received and they want to know what is going on. As a business, believes you would want to know what is going on and what agreements are being entered that are helping our businesses.

Sen. Sherman discussed the separation between federal and state and if the Governor's office agreed to something, how would we know about it, and asked if there is any other way.

Wade Merritt discussed procurement services and investment. He appreciates Rep. Treat's drafting legislation and could not say whether he could support it due to the relationship with the Governor's office. Understand he has to have feedback from his people and the Governor's office.

Rep. Rotundo wanted to clarify that this would kick in only when states were asked and is trying to figure a system of whether to opt in or not and to get more public understanding.

Sen. Jackson agreed with the checks and balances and that it was good to get a chance to understand and thanked Rep. Treat for opening the bill to the CTPC.

Sen. Sherman discussed free trade and appreciates what's being done, as well as Wade's comments. There are five other states on this and someone has to decide whether it's okay, move forward and have a discussion.

Michael Hiltz asked to have the CTPC clarify the bill as a newcomer to the commission. Rep. Treat gave some examples of past experiences, SPOC, USTR, etc.

John Patrick thanked Rep. Treat for bringing the bill forward, public hearings and work session will be held which has a lot of value. He stated it is timely, worthwhile and will support it.

Rep. Treat asked if they needed to vote on this. They will have an opportunity to comment on the bill at hearings.

Wade Merritt stated that his concerns are the part where we are being affected on procurement and discusses investments. Member discussion followed.

Motion:

Sen. Sherman moved to go forward with the draft and that they will have time to comment on it.

Rep. Treat advised that they have three days to revise the draft and she has to have something for **this afternoon**. They do not have enough time to weigh in on it. Another draft is received and you have no opportunity to weigh in on it until the public hearing.

Sen. Jackson advised they will meet before the public hearing or work session.

The vote is to go forward on Rep. Treat's bill and review it at the next meeting and she could take revisions back in.

Amended Motion:

Paul Volckhausen moved to amend the motion to support the subcommittee report and does the commission agree to what we say in the report.

Rep. Treat stated that it does not commit the commission to support the bill and that the commission can take their position at the public hearing.

Sen. Jackson stated that even if they did support it, the public hearing can make changes before the final draft, either way, it's part of the process.

Sen. Sherman stated that what they are really saying is go ahead, we know how drafting takes place.

Motion Withdrawn.

Sen. Sherman withdrew his motion.

Rep. Treat advised that they are not at a point where a motion is needed.

Sen. Jackson thanked Rep. Treat and the subcommittee and asked that when the bill is printed, to see that they get copies.

IV. Update on Ron Kirk Appointment

Rep. Rotundo referred to the letter of congratulations that was drafted as a result of the last meeting stating that the CTPC is looking forward to working with him and building a collaborative approach to trade and inviting him to meet with the CTPC. This letter did go out.

Rep. Rotundo also referenced a letter as a result of the last meeting that was written to Sen. Snowe respectfully asking specific questions be addressed during the confirmation hearing. Sen. Snowe did pose these questions at the hearing.

V. Update of Water Extraction bills

Rep. Rotundo recognized John Delahanty, Poland Spring.

Rep. Rotundo understands only one bill has been enacted so far which came out of the Utilities Committee that deals with citizen involvement in the process for providing permission for extraction to take place and the bill was passed in amended form.

With the exception of the bill on taxation of water extraction which has been referred to the Taxation Committee, all the other bills have been referred to the Natural Resources Committee so that all of the bills could be heard at the same. The CTPC will have the opportunity to weigh in on them at the hearings.

John Delahanty reported that there were two bills heard yesterday, Rep. Schatz's bill and Rep. Sarty's bill. On March 12th, LD 238 , "An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water" sponsored by Rep. Legg was voted Ought to Pass as amended.

Rep. Rotundo thanked Mr. Delahanty for his update.

VI. Vermont letter regarding Technical Barriers to Trade

Rep. Rotundo advised that Sarah Bigney was not able to attend today's meeting and that the commission might want to table this until the next meeting. This is a letter written by our counterparts in Vermont and the Vermont Trade Commission dealing with consultation. Sarah has been very involved with this and the commission may want to wait until Sarah's return before taking action on this.

Rep. Treat asked if this was the subject of the conference call in April. If so, they may want to be briefed on it prior to the April 6th conference call.

Rep. Rotundo asked members to take a few minutes to look at the Vermont letter to see if they should take some type of action on it.

It was noted that the year should be corrected to 2009 on page one and page two.

Rep. Treat stated that the Commission already weighed in on this. As background information, the Commission acted on this in the past and may want to say something about it again. This was an issue of how information got from the USTR to the Country of China telling them about Sen. Lyon's bill concerning the recycling of electronic waste, as well as similar communications concerning toxic ingredients in children's toys concerning legislation pending in Maryland. We, in fact, had a representative from the USTR on the telephone talking to our commissioner about this, sometime last spring, and said it was all a mistake and should not have happened and would not happen again. However, it was very unclear what the corrective process would be. Subsequent to that there was a conference call which Rep. Treat participated in where Jeff Weiss referenced in this letter, was on the telephone with state legislators stating that this would not happen again, that they were changing their procedures, and repeated this at an NCSL (National Conference of State Legislators) meeting which she attended in November. Mr. Weiss stated that he was going to personally review every single communication that went out that concerns state action [or any action] to make sure it did not inadvertently include information such as in the past concerning state legislators bills. He also said something about being interested in having a state advisory process or some additional way to have states more involved to actually give the USTR what their concerns were. She does not believe that there has been any follow up to this. Perhaps, the Vermont letter is to say that this is all very interesting and we would like to know specifically what it is you have in mind. It was a very positive statement on Weiss's part and appeared to be sincere and interested in understanding how states are affected and states concerns and point of view.

Perhaps, this may be what this April 6th conference call is about how we might weigh in on what we would like to see.

Rep. Rotundo stated that she believes that Peter Riggs said something about NCSL meeting in April and talking about technical barriers to trade agreements.

Rep. Treat was thanked for her update and asked if members wanted to hold discussion today so in April at the NCSL meeting, someone will be there knowing where we stand and speak on behalf of the CTPC.

Rep. Treat advised that she will not be able to attend the NCSL meeting in April. She advised that she has been fortunate to have been able to attend the meetings in the past and stressed that it would be a good idea for someone to attend. The Commission does have a budget that allows a member to attend. To be clear, the NCSL meetings are open to nonprofit, businesses, and legislators; however, the voting is open ONLY for legislators. It is a legislative organization which requires legislator's votes. Ideally, if we could have at least one legislator attend, would be very helpful and encouraged attending.

CTPC participation is hugely important and as a legislator participating in this, enables you to talk to other legislators about the roles of the Commission, its importance, and believes that this may be one of the reasons why other states have adopted the CTPC model.

Sen. Jackson asked when the NCSL meeting is scheduled. Rep. Treat responded during April school vacation week in Washington, DC. Rep. Treat stated she would get the NCSL information and stated if anyone was interested in attending, she could provide them with lots of information.

Sen. Sherman stated he had questions regarding the VT letter and the TBA reviews. He suggested that in regards to technical barriers to trade, people need to be brought up to speed on this, especially someone who may be attending the NCSL meeting. In the second paragraph of the letter, where Weiss indicates that state legislation would be "screened out" from TBT reviews, could be problematical, how then could a state pass legislation that is screened out but in the end, China could show up with some real problems. Does not see how the screening out process would be. We've heard of a couple of cases, i.e. Mexico, already and he would like to know more about how this operates.

Sen. Jackson asked if the commission wants to send a letter to the Trade Representative to find out about the screening process.

Rep. Treat stated that the conference call might give us an opportunity to hear more about it and then make a decision as to how we want to proceed. We already sent a letter to the former USTR representative. She thinks that this VT letter is that USTR has heard our message and Mr. Weiss has offered to create a new process to ensure that things that we are objecting too and inappropriate, do not continue, but it is unclear as to what that process is. This is where the Vermont commission is weighing in to say "wait, let's hear more". The conference call will also be an opportunity for new members to learn more about it as well.

John Patrick agreed with Rep. Treat. Saying that he's [Weiss] going to do one thing and what we need to do is find out what he's going to do and where he ended up. Some of the processes we've had in the past with the USTR is poor communications.

Now that we are communicating at the start, follow through is very important on this and our relationship with national trade. We need to recognize that there is a problem and be kept in the loop as to what happens in the future.

Rep. Rotundo reminded that there are members that don't have the benefit of following the history and wants to make sure that members are feeling comfortable with actions they take and asking for clarification.

Rep. Rotundo asked if members wanted a letter written now or wait until the conference call in April and provide information at the next meeting. New members need to be comfortable with taking action.

Sen. Jackson referenced Sen. Sherman's questions regarding what they meant on screening out and agreed with Sen. Sherman.

Mike Hiltz referenced the Vermont letter and asked if it were possible to telephone Michael O'Grady who is listed in the last sentence of the letter asking for clarification.

Rep. Rotundo sensed that the commission will not take action on the Vermont letter and will wait to see if they get a response back from Vermont. She also referenced the conference call on April 6th and advised that they are always informative. Generally they receive an email from Robin Lunge giving them the specific details, date, time, telephone number and access code and an agenda of what will be discussed.

Rep. Rotundo advised members that if the conference call involves a fee to your personal telephone, please submit the bill to the Commission and they will be reimbursed.

VII. Discussion of 2008 Trade Act

Rep. Rotundo advised members that Congressman Michaud's bill will be discussed at the next meeting. Between now and the next meeting, members were asked to read the bill and be prepared for discussion. The web address is http://thomas.loc.gov/home/gpoxmlc110/h6180_ih.xml

Joseph Woodbury wanted to know what the discussion would entail.

Rep. Rotundo responded that discussion may be whether or not this is something the CTPC encourages congressional delegation to support.

Michael Herz stated that as a new member, wanted to know in the history of the CTPC, has there ever been an opportunity to look at any set of implications of trade agreements and prioritize such and is there such a document that exists.

Rep. Rotundo advised that the first three years they had subcommittees that looked into areas to develop a deeper understanding and to look in the impacts that trade agreements might have. One was healthcare, another was environment and another was labor and manufacturing. There are reports from the subcommittees on the CTPC website and by law assessments have to be done very two years on the impact of trade agreements on the states and the assessments are posted on the website. The last two were done by the Forum on Democracy and Trade where they looked at the impact on the states and other areas. Our experience was that some subcommittees were more successful than others in terms of getting work done outside the

meetings, so they disbanded them. We also weigh in with our congressional delegation on numerous areas.

Michael Herz advised that it would be useful to get briefed by a predecessor so that there would be some continuity and would be helpful.

Rep. Rotundo stated that it was a great idea and will call Elsie Flemings and ask that she contact him for briefing and getting him up to speed.

Rep. Treat stated that there may be five new members and having some type of orientation like in the past would be helpful. Possibly holding a forty-five minute segment into each meeting on history subjects such as environment, health, etc. over the course of the next year. The Vermont legislative staff has a powerpoint program and other training materials that is available for anyone and would be helpful.

Paul Volckhausen echoed what Rep. Treat said. Stated that in the past at every meeting, time was devoted for some type of presentation to educate themselves about these issues. Some members thought they knew what they were getting into and very quickly learned that they didn't. They had presentations on how trade affects different segments of the economy as well as other issues and areas. He believes they should make it part of their continuing education, specifically with the new USTR.

Rep. Rotundo thanked members for their comments and that it is appreciated. We do need the education and we will build an educational component into future meetings.

VIII. Discussion of Work Plan

Rep. Rotundo reminded members that they were going to discuss the development of a work plan at the last meeting, but the agenda always seems to be full and they run out of time. She asked if members had any thoughts or suggestions for a work plan other than developing an educational component to it.

Rep. Treat reminded members that they had discussed holding an all day retreat but unfortunately, schedules and legislative meetings got in the way and new members needed to be appointed. It's a great idea to have a work plan; the problem right now is that they [CTPC] are lucky just to get everyone together to hold the CTPC meetings. It makes sense to list ideas that are priority and find the time to devote to it.

Michael Herz asked whether in the past three to four years, were there work plans.

Rep. Rotundo advised that they did have work plans but other issues would come up and they ended up focusing on those instead of what was on the work plan. Legislative issues, schedules, and trade issues that came up made it hard to stay on course and continue to do so.

The Commission is very fortunate to have Linda Nickerson from the Department of Labor assist and Curtis Bentley, who is a legislative analyst for two committees, assist us, but we do not have a permanent position to staff the commission.

John Patrick advised that part of the work plan was by law they have to hold two public hearings per year. Over the past four years, the education process was educating us, our legislators, and the public as well and to make sure that things did get done.

Sen. Sherman advised that he was new to the commission as well. His has some issues on free trade and is a member of the energy committee. He suggested that if members do have issues on free trade, to bring them forward.

Rep. Rotundo stated that it is an excellent point and asked members to bring ideas and issues forward. The first meeting had a full agenda and did not have enough time to actually talk to members on areas of interest and education.

She asked members to let the Chairs know what their areas of interests are and they will build the agenda to cover those interests.

Rep. Treat suggested devoting part of each meeting to education and that they should be able to do so. We are already in a work plan but we have not articulated it. It needs to be understood too that when USTR does something or there's some agreement pending, that changes our work plan.

Rep. Rotundo suggested that the Chairs bring to the next meeting a tentative work plan and welcome any ideas between now and the next meeting. They also welcome suggestions for speakers. They used to invite speakers to come in and address the group. If there's anyone in particular you would like to hear from, kindly let them know.

Rep. Gifford agreed that it was a good idea and he would like to have someone talk to them about natural gas and its affects.

Sen. Sherman asked Linda Pistner of the AG's office if they would be in violation of the FOI by communicating via email to the chairs.

Linda Pistner advised that it was not inappropriate and that emails are public records.

Wade Merritt stated he would like to see the commission tackle what is the adequate international trade expert development. Maine companies appear to be strong having a 9 ½% increase in exports last year. He would like to see the commission pursue to the federal delegation adequate funding for export promotion. At the federal level this is a real issue for a state like Maine which is small. A large state like Pennsylvania has a network and twenty overseas offices. Maine has none and relies heavily on companies going overseas to business meetings. This is a big issue and he would like to see the commission tackle that one.

New Hampshire and Vermont are finding themselves in the same position. Our federal counterparts in Congress are about to lose 7% of their overseas budget. Discussion followed.

Rep. Rotundo suggested that maybe she and Sen. Jackson could talk more about it later after today's meeting.

Michael Herz asked if the author of the trade bill has addressed the CTPC to make an attempt to brief them on his perspective.

Sen. Jackson responded yes. It was agreed at the last CTPC meeting to invite the new Labor Secretary to speak to us and to ask Congressman Michaud that weekend if he thought she would be willing to come. Sen. Jackson talked with Congressman Michaud who thought she [Labor

Secretary] would and extended our invitation. Both she and Congressman Michaud will be addressing the commission after she is more familiar with her position.

Rep. Rotundo also stated that Congressman Michaud has been very generous with his time to the Commission, as well as his staff, and thanked members for their suggestions. If you have interests and suggestions for speakers, let Rep. Rotundo and Sen. Jackson know.

Rep. Rotundo stated that she and Sen. Jackson will prepare a tentative draft work plan for discussion at the next meeting which will include member's interests, educational components and pieces required by law, as well as state and legislative issues.

Rep. Gifford asked about speakers and areas of expertise. Rep. Rotundo advised to let her know of areas that they want information on, they will find speakers. In the past they've had national speakers address them by being able to incorporate presentations into their schedules, especially if they happen to be in Maine.

Sen. Jackson advised members to feel free to call him at home or on his cell phone. Rep. Rotundo stated the same.

IX. Next Meeting

Rep. Rotundo stated that along with scheduling the next meeting date, they will try to set aside an educational component. Meetings were originally scheduled to be held the last Friday of each month. Due to scheduling conflicts, they have had to change meeting dates time to time. They would like to schedule the meeting dates for the remainder of the year so that members can add them to their schedules and plan accordingly.

The last week in April was not a good date for member's attendance. After lengthy discussion it was determined to schedule the **next meeting for April 17th, Labor Committee Room, 9:00 a.m.**

The following dates were established for the remainder of the year: May 22, June 26, July 31, August 28, September 25, October 30, November 20 and no meeting scheduled for December. These dates may change but members were asked to write them in on their calendar.

X. Other Business

Rep. Rotundo advised new members of the reimbursement policy for meals and mileage and to complete, sign and date their expense accounts and pass them on to she or Sen. Jackson and they will have them processed.

The NCSL meeting is being held in April 23-25, Washington, DC. If there is a legislator that wishes to attend, the commission does have some funding to pay for expenses, kindly let them know. Rep. Treat advised that there are several committees that will be looking for legislators to be appointed to. She advised that it was very important and beneficial for a legislator to get appointed to one of these committees. If anyone has questions, contact her and she will explain further.

It was asked if attendance to the NCSL needed to be voted on and Linda Pistner advised that it can be approved now or later.

In regards to Rep. Treat's legislative bill, Rep. Rotundo would like the Chairs to hold a conversation with the Governor's office so that they will know what is being discussed.

Wade Merritt advised that he notified the Governor's office of the bill and that Lance Boucher is aware of it.

John Patrick wanted to go on record that being on the commission for four years he is 100% in favor of free trade provided that its fair trade and encompasses labor environment and human rights standards and that all free trade agreements cover those.

XI. Adjournment

Motion made by Sen. Sherman to adjourn the meeting. Seconded by Rep. Gifford, vote unanimous. The meeting adjourned at 11:37 a.m.

Respectfully submitted,

Linda B. Nickerson

Attachment

Citizen Trade Policy Commission

Friday April 17, 2009
Labor Committee Room, Augusta

Meeting Summary

Members Present: Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Paul Volckhausen; Linda Pistner; Michael Herz, Cynthia Phinney, Michael Hiltz; Sarah Bigney; Carla Dickstein; Leslie Manning

Guests Present: Peter Riggs, Forum on Democracy & Trade, via conference call; Harold Ian Emery, Calais LNG

Staff Present: Linda Nickerson, Dept. Labor

The meeting was called to order by Sen. Troy Jackson at 9:08 a.m., welcoming remarks and introductions were made.

I. Update – LD 1257 "An Act to Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements."

Rep. Sharon Treat gave a summary of the above legislation that she submitted. The Commission created a subcommittee that met and reviewed the proposed bill, discussed it with Peter Riggs and incorporated some of his suggested language into the revision. An amendment was suggested to tweak the language so that people would understand what the terms mean such as procurement, services, investments, and non-tariff barriers to trade. Rep. Treat's strategy is to have the support of the Commission and be able to attend the hearing with full support.

Sarah Bigney thanked Rep. Treat for sharing the information and commented on what would happen if the legislature was not in session and recalled a previous situation where the Governor was given six months to get back to them.

Sen. Jackson asked for further comments.

Motion:

Motion made by Cynthia Phinney to support the legislation. Seconded by John Patrick. Vote, unanimous.

Rep. Rotundo suggested that if there were members that wanted to be present when Rep. Treat gives testimony, to let her know and welcomes testimony from anyone. She also asked Rep. Treat to advise them of hearing and work session dates and times. She advised the either she or Sen. Jackson would be present at the hearing.

Rep. Treat advised that she incorporated several suggestions into the bill and has held conversations with the Governor's office on the bill. One of the issues is with the point people on trade issues. May be able to get Jim Nimon to attend one of our meetings as [he] expressed interest. Possibly reach out to other members on the Governor's staff.

Rep. Rotundo advised that they recently held orientations and talked with Lance Boucher but since then, he has moved into another slot in the Governor's office which happens frequently.

John Patrick mentioned that was a good point. The Commission has in the past had people that were familiar with international trade agreements and currently we have a governor and a congressman who are familiar with trade but who knows what can happen in the future.

Sen. Jackson advised that the Governor has one year left which was not conveyed at their meeting.

Sen. Jackson asked if there were any other comments.

II. Review/approved Minutes March 20, 2009.

Motion:

Motion made by Rep. Treat to accept the minutes. Seconded by Michael Herz. Vote, unanimous.

NEXT MEETING REQUEST:

Rep. Rotundo advised that she received a request to change the next meeting start time, May 22nd to 8:00 a.m. and the June 26th meeting to start at 10:00 a.m.

Members were in agreement to begin the May 22nd meeting at 8:00 a.m. and to start the June 26th meeting at 10:00 a.m. Future scheduled meetings will begin at 9:00 a.m.

III. Update on Sweat Free Communities and Maine's Procurement Policy – Bjorn Clausen

Bjorn Clausen gave an update on current activities. He wanted to bring to light the important work the State and Commission is doing right now. History: Maine is one of the first states in the nation to adopt an anti-sweatshop purchasing law back in 2001. Since then the Legislature has twice improved that law. In surveys conducted, numerous labor rights violations were found in well known plants and factories. However, we are moving towards better sweat free shops. We actually know where and what factories make specific items. The connection with this and the Commission was a trade letter written to Gov. Baldacci for information on trade deals that were being negotiated. Deals had not been finished and not available for review. Maine was asked to conduct procurement according to a set of rules which they could not read and were private. They learned that the USTR had written to Gov. McKernan to authorize the US procurement markets to the WTO partners and to commit Maine to follow procurement rules. Maine was already signed onto these rules which set off alarm bells. They found out the rules limiting Maine to take into consideration non-economic procurement and barriers to trade. Gov. Baldacci rescinded his earlier authorization to USTR to offer rules, CAFTA, trade rules, etc. In 2005 they again requested authorization and Maine to sign on and threatened Maine, which lead to an uproar. USTR was facilitation an uneven playing field. As a result, only eight states signed onto the procurement rules under reprocity. Last year, situation with USTR turned

around. Mr. Clausen met with the procurement representative and acknowledged the reciprocity failure and said that they would no longer push states to sign on to procurement deals. There is new language in the new trade agreements that address these issues. Mr. Clausen read an article from a Korea agreement. What this means is that anti-sweatshop purchasing is trade compliant and a big victory.

Rep. Rotundo thanked Mr. Clausen for his update.

Leslie Manning asked to go back to enforcement and review section.... The new USTR Ambassador Kirk stated he is very satisfied with the language in the Peru agreement and there's a lot of concern among applicants of fair trade the Peru does not set high enough standards. Question is how do we activity enforce and monitor these conditions and what were some of the egregious violations found.

Mr. Clausen clarified that Maine is allowed to enforce its own labor standards. In answering the second question, he did not find indentured servitude and yes, did find child labor violations in the number of hours worked. He sees no improvement in wages and long working hours but has seen areas of improvement in health and safety. Workers are scared, intimated, and it's dangerous for workers to speak up. They are pushing for companies to take responsibility on their purchasing practices.

Michael Herz asked about centralized trade organizations, enforcement and self enforcement.

Carla Dickstein referred back to the cooperation of states and what the standards were for companies and code of conduct and purchasing requirements.

Mr. Clausen responded monitoring is up to this point has been done on behalf on universities setting up codes of conduction (Nike, Haiti, etc.). Universities formed a monitoring consortium and worked with different organizations making suggestions on improvements, etc. Whenever there are improvements in factories, that factory becomes less competitive because improvements made are not sustainable.

Carla Dickstein asked if they were shifting monitoring contracts to get better prices?

Mr. Clausen responded that will be part of the new work, but at the same time, if violations come to light, monitor needs to be sure that part of the remediation is to address how they are going to change your purchasing practices.

Sarah Bigney asked about the sweat free consortium that Maine is a part of and how the commission could help.

Mr. Clausen stated that Maine is part of the consortium along with Pennsylvania. The goal is to persuade other states to join.

Mike Hiltz asked if this commission should start this type of dialog with commissions in other states.

Rep. Rotundo stated that it was a great idea and asked for some guidance in this area.

Leslie Manning suggested that Mr. Clausen be available to consult with at the regional meeting. As the new trade ambassador is looking for suggestions, make sure this goes to the top of the list

for discussion with the ambassador and his office. He's made the commitment and what we need is effective enforcement mechanisms and business incentives. If you have any recommendations on how this can be done through the USTR or future trade agreements, please advise the commission.

Rep. Rotundo stated at the next regional meeting with New England they need to make sure it's on the agenda and Bjorn, please let us know how we can be helpful.

Rep. Rotundo thanked Bjorn Clausen for his informative update.

At the last meeting, they discussed the need for ongoing education for members in regards to trade. Members were asked for suggestions for people to address the commission about different areas of concerns. Rep. Gifford invited Ian Emery to talk with us today.

IV. Presentation – Liquefied Natural Gas (LNG) – Hon. Ian Emery

Ian Emery introduced himself and thanked members for having him today. Mr. Emery gave a power point presentation on the LNG Project in Calais. There are actually three proposals actually going on in Washington County.

Mr. Emery gave an overview of the Calais LNG terminal site location. The proposed project will include construction of a 1,000 ft. pier with berthing for one LNG vessel; LNG receiving and associated piping facilities; send out plant and ancillary facilities; two 160,000 cubic meter, full containment LNG storage tanks, with potential expansion for a third; and a 20 mile pipeline connecting to the Maritimes and Northeast pipeline.

The site attributes are limited abutting development – 7 miles from downtown; proximity to the Maritimes and Northeast pipeline – 20 miles; excellent turning basin with ample depth for LNG vessels; no dredging currently anticipated; relatively short 1,000+ foot pier length; topography will limit visual impacts from the land; limited lobster and commercial fishing in immediate proximity; and directly across the river from the existing Canadian industrial site.

Mr. Emery showed the proposed shipping route and the pipeline route alternatives. Explanation of why LNG matters to Maine and New Brunswick was defined. LNG helps to ensure year-round natural gas availability, avoiding more expensive reliance on oil; LNG facility will enhance Maine's energy diversity by creating a more local and more secure supply of natural gas; LNG provides reliable energy to support manufacturing infrastructure; and natural gas is the cleanest of all fossil fuels and minimizes health issues and climate change in Maine and the Maritimes.

Mr. Emery explained energy's impact on our economy - 80% of homes in Maine are heated with oil; oil prices almost doubled in one year; 40% of state's electricity is generated using natural gas; New England has delivery infrastructure could be insufficient by the year 2010; and potential gas shortages and rising fuel prices pose a serious threat to Maine's already struggling economy.

They looked at Washington County and how regional unemployment rate is nearly double the statewide average: Maine 8.9%; Washington County – 13.1%. The population is trending downward despite the slight increase in overall state population.

The Calais LNG project will help Washington County by creating new jobs. Nearly 1,000 jobs created during peak construction; between 120-150 new permanent jobs once it's completed; estimated 35 tugboat related jobs; trucking; transportation jobs; spin-off jobs and benefits to area businesses, including hospitality, restaurants and retail; an opportunity for ancillary development including cold storage and local gas distribution.

LNG will help Maine's economy by providing a much less costly source of fuel, roughly one-half the cost of oil; can be transported over exiting roads and highways without the need for a costly pipeline; excess heat from large boilers can be used to convert LNG and vaporize it back to natural gas; and an LNG storage tank can be construction and shipped to a facility such as a pulp/paper mill.

LNG has received unanimous support. Several organizations and individuals have endorsed the Calais LNG project.

The estimated economic impact is Calais LNG project represents an $800 million investment for Maine and Washington County. Total employment will peak at nearly 1,000 jobs during a 48-month construction period. Total earnings related to the project will rise from approximately $5.9 million to a peak of nearly $25 million during construction and will provide ongoing impact of approximately $12.6 million annually.

Once constructed, the facility will employ between 120-150 employees, including 30-40 new jobs for tug boat operators and crews. Approximately $30 million of construction materials and supplies will be purchased from local vendors. The Calais LNG project will provide $12 million in direct and indirect impacts throughout the Calais region. Local tax revenues from Calais LNG facility could enable the city of Calais to lower its property tax rate by 85 percent or an estimated $2.75 million in new local tax revenue.

The Calais LNG estimated project timeline is expected to take fours years to complete and will require the review of several federal, state and local agencies before construction and operations begin.

Mr. Emery was asked what the frequency would be of the ships going in and out. Mr. Emery responded one to one and half ships per week depending upon demand and market. (That would be two passages per ship, one up and back down.)

Rep. Gifford asked if the tankers were similar to oxygen tankers. Mr. Emery responded that they are like a big thermos bottle and right now are already being shipped to Lewiston.

Sarah Bigney asked if the investors were a multi-national corporation and where they are from. Mr. Emery responded that Goldman, Sachs, & Co. is a leading global investment banking corporation has businesses all over but principally in New York City. Sarah asked where the gas actually is coming from and how long is it expected to last? Mr. Emery responded that the project is dovetailed to coincide with new liquefied projects that are bringing more natural gas into the industry/market. Some gas comes from the Atlantic Basin; others could come from Trinidad, Tobago, Algeria, Norway, and Russia.

Rep. Rotundo thanked Mr. Emery for his informative presentation and thanked Rep. Gifford for inviting him. She asked Mr. Emery if he would get back to them with answers to some of the questions posed today.

V. Update – April 6th Conference Call

Sarah Bigney reminded members that about one month commissions in New England were invited to participate in a conference call to discuss issues affecting different states, how we could support each others work, or weigh in on different issues together. A regional conference call was held on April 6, 2009 where Maine was heavily represented. One area that came up during the call is the new staff person in the USTR office, Lisa Garcia, to be the Assistant Trade Representative for Intergovernmental Affairs and Public Liaison. She is the person that we will have a lot of communication with. We discussed sending a letter to her addressing a lack of transparency and state consultation issues and introduce ourselves to you.

Sarah compiled a draft letter to Lisa Garcia which is in member's packet and asked members to review the letter, comment, and vote on it.

Leslie Manning suggested sending a copy to Kay Wilkie, IGPAC (Intergovernmental Policy Advisory Committee) Definition of IGPAC -Under the trade agreement apparatus there are various advisory committees through which groups like ours would have an opportunity to consult with trade representatives. In the past, it has been extremely difficult to get on to the committee and they have not had a lot of access to.

Motion:

Motion made by John Patrick to accept the draft letter to Lisa Garcia and to cc Kay Wilkie of IGPAC. Seconded by Paul Volckhausen. Vote, unanimous.

VI. Update - Conference Call with Peter Riggs

Peter Riggs, Forum on Democracy & Trade, gave an update via conference call. Peter advised that he emailed a chart late last night; therefore, it was not available. The chart describes what is controversial in the current trade negotiations.

Questions of concern. First, asking what can we as a state affect what is within our existing scope of review or are we already preempted by federal action. This is important with respect to LNG because the federal energy regulatory commission has preempted some decisions that states may have wanted to retain themselves but; in the 2005 energy policy act, the kinds of decisions that have to do with energy supply like the LNG terminal site, states can be preempted from making those decisions. However, states can retain the power to make certain kinds of decisions with respect to LNG under the coastal management act i.e., ability to regulate access to ports, beaches, public water ways, and the like.

Second question is do any of the trade rules impact how we administer the authority. The answer is yes which is laid out on the chart he emailed. One of the rules that could be challenged is in respect to quotas of entry. Public citizens raised this type of question. Therefore, the question is how can a state limit access into a market.

Pre-establishment rights state at the time that we applied for a permit, the rules looked like this. You can't change these rules between the time we applied for a permit and the time the permit was issued. There is a Maine court case *Kittery Retail vs. Town of Kittery* in which the Maine Supreme Court ruled that towns and cities can change their permit granting criteria even after a development permit has been requested so long as his hasn't been granted.

The third trade is regulatory necessity. Would environmental measures be seen as relevant to the services being provided. Another part of the question of necessity is whether the standards arrived at are objective. How can we tell what an objective regulation is?

Licensing procedures and qualification requirements are other areas where state or federal governments can impose types of licensing procedures which would be potentially more burdensome.

There is confusion where if you open up a sector to foreign investment using WTO rules, does that mean that prior to that trade commitment being made that the economic sector was closed? The answer is no; the sector was most likely opened unless there was a national security issue. Most foreign firms coming in to work on this type of business development projects have the expectation of national treatment. The reason why the trade rules are controversial is in addition to expectation that they will be treated just like a US firm, are these additional set of rights in the areas of GATS and investments.

The LNG issue was brought to the floor by public citizens because of the proposal to open up two economic sectors as a way of solving another trade problem i.e., the US Antigua internet gambling decision. USTR moved in the direction and would like to settle the case by opening up these new sectors.

Question is, Congress is the branch of government that has the power to regulate, at a minimum, and therefore, shouldn't USTR have to go back to Congress. We find this is rather dangerous precedence because USTR would be in a position; the executive office of the president would be in a position, of making new trade rules and trade commitments and not giving Congress a change to review those changes.

Peter just received overnight an article regarding Geneva. The negotiations on domestic regulations in the service agreement with WTO are still ongoing and found that the Swiss delegation is holding firm and want a hard necessity test. They would very much like to see the State of Maine's ability to regulate environment for scenic which are not necessary for the supply of LNG.

Leslie Manning asked Peter that access to LNG terminals may be a result of a settlement in the gambling case? Peter responded that LNG is implicated in this case.

Leslie asked if it was because so many of the vessels are registered in this area or because it is a source of fuel. Peter stated it had nothing to do with Antigua. The settlement was negotiated not just with Antigua but also with nine other countries that also have interest in internet gambling (Australia, Canada and European Union). It has to do with what those countries wanted in terms of new market access.

Sen. Jackson asked if that is what it came down to, they pick and choose. Peter responded that the US said makes us an offer and depended upon other countries response. USTR said they were going to offer these sectors anyway. Their argument is what was the big deal anyway, since they were going to make the commitments anyway. We don't know much about the internal horse trading that goes on.

Every year a document is published called American Trade Barriers and lists everything that is unfair, etc.

Leslie mentioned that one of their concerns is transparency. When they negotiate an agreement, is there the same concern about settlement agreements. In these settlement agreements, when they are reaching agreements on issues that are totally unrelated to the sector that's been affected, how much transparency could we demand that's under discussion for settlement?

Peter responded that whatever happens now will be precedence. This is the first time this has happened. US withdrew from the commitment process which happened under President Bush and not much presumption of transparency at USTR. Eventually the settlement documents were obtained through Freedom of Information Act request.

We have talked with the USTR about this commitment and they said that our fears are overblown reason being that they haven't made any maritime commitment.

Michael Hiltz asked what Congress's action on this has been in the past, have they every voted to defer it to USTR?

Peter recalled NCSL and other states that have anti-gambling laws were thrilled that USTR withdrew their commitment. Currently, there is nothing that requires USTR to tell Congress anything they are doing.

Rep. Rotundo asked what the Commission could do to help.

Peter responded they could get a statement or an update from USTR on negotiations with Antigua and the other partners regarding this settlement. There was some discussion that the Obama administration was going to start over because Antigua was rejecting the offers. A statement asking would you please come talk to us or one of our representatives about this settlement before its ratified would be a good start.

The other issue area where the Commission has already done a lot of work on is continuing domestic regulation negotiations.

Our job is to keep you updated on what's going on and for the Commission to continue to indicate that it's watching the domestic regulation negotiations and concerned about its impact.

Sen. Jackson stated he was wondering what they have offered to other countries and does that close the door? Peter stated that it depends on how far they have to start over. Of the eight or nine countries which US was negotiating on the settlement, all accepted the settlement except Antigua. EU and Canada said they will take what US has put on the table.

Michael Hiltz asked about the use of certificates of need and Peter advised that EU have objected to the use of certificates of need.

Peter asked members to email him if they had any questions or feedback in regards to his email.

Sen. Jackson asked Peter if he'd had the opportunity..... Jackson wrote a letter to Secretary Solice about the change in foreign labor certification from H2b classification going to H2a classification; he understands she's put a stop to it. Wanted to know if he might be able to find out if it's going to be affirmed... It's going to make a tremendous difference for those in the logging field.

Peter asked Sen. Jackson if he had any sources, to kindly send them to him and he would see what he could find out.

Leslie had a follow up question from the regional conference call in regards to opportunities for people to weigh in on the advisory groups. Would you have an update on that?

Peter advised that the Obama administration is being extremely active, a lot going on and so far, they are not disclosing a lot of information. They want to review it first.

During the transition Obama called for a review of the transparency policies. It also looked like they were going to look at the advisory committee structure. In the last two weeks, they've backed off from that. They want to distinguish between the two, what the functions will be, no one knows yet. The State of Vermont recently sent a letter to Lisa Garcia requesting her to participate in a meeting with them next month. The dates they gave her were between May 19th and May 21st which will give an opportunity to report out at your next meeting, May 22nd.

Sen. Jackson thanked Peter for his updates.

Sen. Jackson asked if there was a recommendation to ask USTR for an update.

Rep. Rotunda stated that as a result of their conversation with from Peter Riggs, the Commission should write the USTR and ask for an update on the negotiations between Antigua and the other partners.

Motion:

Motion made by Sen. Jackson to write a letter to the USTR asking for an update in regards to the negotiations between Antigua and the other partners. Seconded by Rep. Gifford. Vote, unanimous.

VII. Update – Water Extraction Bills – Sarah Bigney

Sarah advised that there are a number of bills dealing with water extraction and named some: LD 238, sponsored by Rep. Legg, is regarding consumer owner water utilities and contracts for water extraction and for the sale of water; LD 1320, sponsored by Rep. Webster, to establish a Blue Ribbon Commission to examine the legal and policy implications of groundwater extraction; LD 663, sponsored by Rep. Shatz to clarify a municipality's authority to pass ordinances that govern the extraction of groundwater; and LD 645, sponsored by Rep. Sarty, to provide municipal oversight and authority over ground water extraction.

Sarah then referenced the draft letter to the Joint Standing Committee on Natural Resources that members have in their packets today *(copy attached).*

Rep. Rotundo advised that there is a hearing this week, Sen. Jackson has in the past given general information on potential trade implications, and asked if we should have someone attend these hearings to raise issues of implications.

Sen. Jackson advised that he will attend and deliver the Commission's signed letter to the Joint Standing Committee on Natural Resources.

VIII. 2008 Trade Act

Due to the lateness of the meeting, Rep. Rotundo advised that they would take this up at another meeting.

IX. Discussion – Work Plan

Rep. Rotundo gave a list of suggested items for review and discussion.

a) Include educational pieces to meeting;
b) Tasked by statute to hold public hearings;
c) Need to track state and federal trade related issues;
d) Participate with other trade commission from the New England region;
e) Need to take serious our role as a resource to the legislature, congressional delegation, etc.; and
f) Mandated to complete an assessment on the impact.

As an agenda item for the next meeting, Rep. Rotundo suggested they discuss how they are going to do the upcoming assessment.

X. Adjournment

There being no further business, the meeting adjourned at 12:07 p.m.

Respectfully submitted,

Linda B. Nickerson

Citizen Trade Policy Commission
May 22, 2009
Transportation Committee Room, Augusta
10:00 A.M. Commission Business Meeting

Meeting Summary

Members present: Rep. Margaret Rotundo, Sen. Roger Sherman, Rep. Sharon Treat, Rep. Jeffery Gifford, John L. Patrick, Michael Hiltz, John Palmer, Jane Aiudi, Cynthia Phinney, Leslie Manning, Paul Volckhausen, Joseph Woodbury, Michael Herz, Sarah Bigney, Linda Pistner and Carla Dickstein

Staff present: Curtis Bentley, Legislative Analyst

1. **Commission introductions**

2. USTR visit update from Rep. Treat:

   - Trade agreements are not clear as to whether or not prescription drugs are carved out for states regarding preferred prescription drugs.
   - Cover letter provided from meeting with Ambassador Kirk that included 4 points discussed at the meeting;
   - Lisa Garcia – contact for intergovernmental affairs that the commission may want to invite to a meeting;
   - Commission may want to think about discussing this issue further;
   - Commission voted to send a follow up letter to USTR to encourage to continue to think the lines discussed and to find someone to talk to the commission about public health at the next meeting- guest speaker

3. **Lori Wallach (conference call):**

   - GATS Antigua case update - compensation for removing the gambling sector, 6 nations lined up to get compensation.
   - Received EU settlement documents because they were completed which documents that there were 4 new service sectors to be given in compensation such as research and development subsidies and storage/warehousing that would include LNG facilities.
   - This could commit LNG storage facilities and oil/gas tank firms. Groups of states have said to USTR that this is a mistake and it should be fixed by removing "tank farms" and keep the rest of the storage facilities for solid goods - so far there has not been a response from USTR. If this goes through it would bind us to these new sectors without a legislative vote or any input from the states and may take away the federal government's authority to regulate tank forms (LNGs).
   - Panama FTA- USTR has implied that there might be a slow down on the push to get another NAFTA style FTA in place because of legislative questions.

- NAFTA and CAFTA and the Panama agreement have special rights for foreign investors for minimum standard treatment that are greater rights than those provided to domestic investors.
- The Panama FTA may be stalled until the Administration can decide what the policy should be on new trade agreements, which means it is unlikely this will be brought up until after the June recess.
- The Trade Act is alive and should be moving through Congress.
- The commission discussed writing a letter to leave Maine the space to regulate LNG if the new commitment for this sector moves forward; the foreign investor would have new rights to challenge Maine law subject to necessary tests under WTO. If commit Commission voted to send a letter to Congressional delegation regarding the potential impact of Panama FTA on Maine and Maine's financial institutions.
- Send a letter to the President similar to the letters sent by other states to remove "tank farms" from any new commitments under the Antigua case - be clear that the commission is not taking a position on siting LNG facilities in Maine but strongly feels that the state's ability to regulate should not be impinged upon by WTO rules.

4. Planning discussion:

- Update next meeting on LD 1310 (in Natural Resources Committee) and LD 1257 (Rep. Treat's bill)
- Possible public hearing in September
- Next meeting June 26th at 10am; at that time discuss work plan for next 6 months.

Citizen Trade Policy Commission
June 26, 2009
Transportation Committee Room, Augusta
10:00 A.M.

Meeting Summary

Members present: Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Gerzofsky, Rep. Jeffery Gifford, John L. Patrick, Michael Hiltz, Jane Aiudi, Cynthia Phinney, Paul Volckhausen, Joseph Woodbury, Michael Herz, Malcolm Burson and Sarah Bigney.

Staff present: Curtis Bentley, Legislative Analyst

1. **Commission introductions**

2. **Discussion on suggestions for summer meetings:**

   - Possible healthcare powerpoint presentation by Michael Hiltz to the Commission in September;
   - Possible meeting with MITC to discuss what MITC is doing and what the commission may be able to do to help coordinate efforts on upcoming issues; and
   - Commission voted (11-0) to send a letter to leadership in House and Senate to ask that someone from the Commission be appointed to the Commission to Study Energy Infrastructure.

3. **Conference call with Kim Glas on Trade Act:**

   - Trade Act review/ briefing- it has 108 co-sponsors and a number of groups that support the new trade model proposed by the bill; the Act includes a review of existing trade agreements;
   - Requested the Commission write a letter to Sen. Snowe to ask her to be a co-sponsor when it is introduced in the Senate; try to set up a conference call with Sen. Snowe to encourage her co-sponsorship of this legislation;
   - Some Commission members did not want to specifically request support for the Trade Act, but rather a general letter of support for states to be consulted and to weigh in on trade proposals – could support language that would prevent foreign corporations from having an advantage of U.S. companies; agreed to review this again at the next meeting; and
   - Commission directed staff to email the Trade Act to Commission members for their review so it can be discussed at the next meeting.

4. **House Ways and Means Committee, Subcommittee on Trade discussion.**
Commission member gave a briefing on the House Ways and Means Committee, Subcommittee on Trade's work regarding the system of trade advisory committees and how to increase transparency and public participation in the development of U.S. trade policy. The Commission voted (11-0) to reword its March 11, 2009 letter to USTR regarding advisory committees and the current system of federal-state consultation and submit the amended letter to the House Ways and Means' Subcommittee on Trade via its webpage.

5. **Planning discussion:**

- For the Resolve relating to groundwater resources, try to see if there is a possibility for overlap with the experts performing that review and the CTPC assessment;
- Suggestion to invite Rep. Sarty to talk to CTPC about his experiences with the groundwater issues;
- Rep. Rotundo will ask the Forum if they are able to perform the groundwater review pursuant to the Resolve, as well as the CTPC assessment;
- Discussed holding a public hearing with other groups on groundwater examination; and
- Next meeting is July 24th at 9am- also schedule on this day a meeting with the Water Resources Planning Committee and the Office of the Attorney General to discuss plans for the groundwater resources review.

APPENDIX D

Citizen Trade Policy Commission Bangor, Maine Public Hearing Summary

CITIZEN TRADE POLICY COMMISSION
Public Hearing
December 4, 2008
Husson College
Libra Lecture Hall
Bangor, ME

Senator Rotundo welcomed guests and members. Sen. Rotundo described the Commission as a non-partisan commission which was established by the Legislature in May of 2004 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and legislators to voice their concerns and recommendations and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements. The commission consists of 17 voting members representing a broad spectrum of interested parties and five nonvoting members from five state governmental departments.

This hearing is to get input from citizens about how international trade agreements are impacting their lives.

While international trade agreements are negotiated at the federal level, public input can and does have an affect on what happens in Washington.

Congressman Michael Michaud was thanked for attending the hearing, along with Carol Woodcock from Senator Snowe's office and Alison Geagan from Senator Collin's office. Introductions of Commission members were made.

Senator Rotundo advised that the public comment period would remain open for written comments or can be submitted to linda.b.nickerson@maine.gov or to her attention at Bureau of Labor Standards, 45 SHS, Augusta, ME 04333-0045. Individuals were asked to step up to the podium and sign the attendance sheet, clearly state their name, city of residence, affiliation for the record, limit their testimony to ten minutes and asked to speak only once to allow others to speak. Attendees were advised that it was inappropriate to enter into debate or prolonged back and forth discussion during this period. It is not the purpose of the hearing to resolve issues or to answer all questions that may arise, but rather it is the intent to capture all public comments, questions and concerns.

Senator Rotundo opened the hearing for comment.

The following persons presented testimony:

1. Emery Deabay, Bucksport affiliated with the United Steel Workers, supporting the Trade Act bill put forth by Congressman Michaud (submitted written testimony).

2. Bonnie Preston, Blue Hill, member of Alliance for Democracy, supporting the Trade Act bill (submitted written testimony).
3. Terry Whorty, President, Local 12 representing the paper mill industry supporting Congressman Michaud's bill (did not submit written testimony).
4. Jon Falk, Director, Peace through Interamerican Community Action, (PICA), Bangor, (submitted written testimony).
5. Steve Husson, Hampden, works for food and medicine, supporting the Fair Trade Act (submitted written testimony).
6. Alexander Aman, University of Maine, Orono student (did not have written testimony) supported Michaud's trade act.
7. Jamilla El-Shafe, southern Maine, Save Our Water, spoke about the water extraction issues, passed out water bottles, spoke in support (no written testimony).
8. Representative Rick Burns, supporting the Trade Act (no written testimony).
9. Kathleen Caldwell, Brooksville, shared concerns with trade agreements, labor and environmental standards in El Salvador, (submitted written testimony).
10. John Greenman, Old Town, met with residents of Carasque, El Salvadore and explained has many have been adversely affected by trade practices. Mr. Greenman supports the Trade Act and thanked Congressman Michaud. Submitted written testimony.
11. Margaret Baillie, Bangor formerly a garment worker. Ms. Baillie urged the commission and Governor Baldacci to join sweatfree consortiums (submitted written testimony).
12. Noah Dudley, Freedom, represents the Beehive Collective in Machias and member of Maine Atlantica Watch. Expressed concerns of how trade affects ecco systems and generations to come (no written testimony).
13. Liam Burnell, midcoast farmworker, Union and Lincolnville. Supports and thanked Congressman Michaud for submitting his bill (no written testimony).
14. Logan Perkins, works as a farm and food policy coordinator for a small statewide non-profit and is a member of the Fair Trade Coalition and the National Family Farm Coalition. Commented on agriculture and trade issues and expressed concerns for Maine's farmers (no written testimony).
15. Jessie Dowling, Searsmont, works on a farm milking goats and making cheese, is a member of the Maine Atlantica Watch (submitted written testimony).
16. Bill Murphy, Glenburn, Maine and Director of the Bureau of Labor Education, University of Maine. Highlighted how NAFTA has affected not only the paper industries in Maine but other industries in Maine. NAFTA impact on Maine's economy and workers has been devastating. Maine has lost over 24,000 manufacturing jobs. Mr. Murphy commented on Congressman Michaud's legislation and supports the Trade Act. Commended Congressman Michaud for his legislation (submitted written testimony).
17. Dennis Chinoy, Bangor, works with Peace through Interamerican Community Action (PICA). Mr. Chinoy discussed trade policies affecting El Salvador and other Latin America areas. The Fair Trade Act will hardly solve problems of economic hardship in our country or Latin America, but makes it possible for people both north and south can live sustainably in countries they love. He urged state and national officials to support Congressman's legislation (submitted written testimony).
18. Robert Kates, Presidential Professor of Sustainable Science, University of Maine. Geographer by training and Climate Scientist by vocation. Chair of the Nobel Peace Prize and in Maine, Chairs the Science and Economic Resource Panel that helped develop the Maine greenhouse action plan. Trade policy issues affect ability to reduce climate change. Michaud bill addresses some but not all issues, however, supports the Trade bill (submitted written testimony).
19. Daphine Loring, Greene, Coordinator, Maine Fair Trade Campaign (submitted summary of Trade Act).

20. Eric Oder-Fink, co-founder of Justice Clothing, retailer of only union made clothing of United States and Canada. Expressed concerns of being a specialty shop selling clothing that is not made in a sweat shop. They are part of a handful of stores in the world that specializes in this. Supports Michaud's Trade Act (submitted written testimony).
21. Alec Maybarduk, MSEA-SEIU, Local 1989. Supports Michaud's Trade Act (submitted written testimony).
22. Mike Lewis, emailed testimony on to the commission on December 16, 2008.
23. Bjorn Claeson, Bangor, Executive Director, SweatFree Communities. Urged support of the Trade Reform, accountability, development and employment of the Trade Act. SweatFree Communities endorsed the Trade Act (submitted written testimony).
24. Michael Owen, student, University of Maine. Discussed free trade agreements and clarification needed (no written testimony).
25. Martha Spiess submitted a written testimony to the commission on January 2, 2009.
26. Congressman Michael Michaud. Thanked Commission for holding the hearing and patience of everyone listening to testimony. Thanked Commission members for the work that they are doing in Maine and a leader whereas other states are following suit as to what Maine is doing. Was asked to talk about the Trade Act but felt that has already been heavily discussed this evening and the devastation that trade policy has had in Maine and across the country. Has been working diligently on the trade model; has met with President elect transition team on trade which made commitment to them that they will not move forward with any major trade policy change unless they sit down with the trade working group to discuss efforts. Also made it clear that whomever they select as US Trade Representative, they will instruct that individual to get input from them. Congressman Michaud discussed his Trade Act, requirements, issues and how it will affect all. Discussed the Value Added Tax and how the Trade Act will correct this disadvantage to U S businesses. Thanked everyone for all the work they are doing.

Representative Patrick recognized Congressman Michaud and thanked him personally for sponsoring the Trade Act.

27. Brent Hall, resident of Bangor, speaking on behalf of Allan Boulier who could not attend due to sickness. Mr. Hall read the testimony submitted by Allan and Debbie Boulier (submitted written testimony).
28. Will Neils, Appleton, Maine. Expressed dismay of government, politics, union paying jobs, trade, lack of social accountability, and Governor Baldacci. Senator Rotundo interrupted Mr. Neils and advised him to keep his personal comments to himself (no written testimony).
29. Juan Carlos Valencia, student University of Maine, originally from Mexico. Discussed how trade affected his country and his family (no written testimony submitted).

Representatives of Snowe's and Collins office were present but left early and declined the opportunity to speak.

Senator Rotundo thanked everyone for attending. Sarah Komuniecki, from WABI TV5 was in attendance, as well as representatives from WERU 89.9 FM. The hearing adjourned at 9:27 p.m.

Respectfully submitted,

Linda B. Nickerson
Secretary
Bureau of Labor Standards

APPENDIX E

Citizen Trade Policy Commission Vote to Endorse Vermont's Resolution "Challenge to State Law-making Authority"

Sen. Margaret Rotundo, Chair
Sen. Bruce Bryant
Sen. Kevin L. Raye
Rep. John L. Patrick, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Curtis Bentley, Legislative Analyst

Perry Newman
John Palmer
Matt Schlobohm
Paul Volckhausen
Peter N. Connell
Carla Dickstein
Sarah Adams Bigney
Elsie Flemings
Cynthia Phinney
Jane Aiudi
Malcolm Burson
Barbara VanBurgel
Leslie Manning

STATE OF MAINE

Citizen Trade Policy Commission

At the July 18, 2008 meeting of the Maine Citizen Trade Policy Commission, the Commission voted unanimously (of those present) to support Vermont's resolution "China's Challenge to State Law-making Authority" introduced by Senator Ginny Lyons of Vermont on July 11, 2008 before the NCSL Labor & Economic Development Committee. The Commission endorses this resolution to support state lawmaking authority to pass laws and regulations protecting human health and the environment.

APPENDIX F

Representative Rick Burn's July 14, 2008 Letter Requesting the Commission Review the Proposal before the Kennebunk, Kennebunkport and Wells Water District to Sell Groundwater to Nestle Waters North America

HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: (207) 287-4469

Rick Burns
P.O. Box 40
Berwick, ME 03901
Residence: (207) 698-1526
Business: (603) 781-4226

July 14, 2008

Sen. Margaret Rotundo, Chair
Maine Citizen Trade Policy Commission
c/o Curtis Bentley, Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013

Dear Sen. Rotundo and Members of the Commission:

I am writing to respectfully request your expertise in reviewing the proposal before the Kennebunk, Kennebunkport and Wells Water District to sell water to Nestle Waters North America.

There is concern among some area residents that there has not been proper public input and questions to whether the water district has the authority to engage in contract negotiations with a multi national company.

Several residents have requested that the Maine Citizen Trade Policy Commission review the proceedings thus far and hold a public hearing to give an opportunity for questions to be asked in an open forum.

I appreciate your attention and await your response.

Sincerely,

Rick Burns
State Representative

APPENDIX G

Notes from the Commission's participation in the New England Regional Conference Calls on January 30, 2009 and June 9, 2009

New England Regional Conference Call - Notes
June 9, 2009

Attending: Denise Hart [NH], Greg Williams [NJ], Sarah Bigney [ME], Arnie Alpert [NH], Jed Schwartz [MA], Sarah Lyons [ME], Sen. Virginia Lyons [VT], Rep. Kathleen Keenan [VT], Robin Lunge [VT staff], Bill Pellegrino, John Delahanty, William Waren [Forum], Peter Riggs [Forum]

Updates from States:

Maine: Sarah Bigney reported on two Maine bills relating to trade (copies of both attached). LD 1257 requires legislative approval to sign Maine onto chapters/provisions in trade agreements dealing with procurement, investment, or services. This bill has passed both bodies unanimously and is in the Governor's office. It is expected to be signed this week.

LD 1310 creates a study on water and trade issues. Leadership for this study would come from the Attorney General's office, and the Maine CTPC would also play an important role. The bill is still pending, but may pass this week.

The Maine CTPC has also recently sent two letters. The first was to President Obama and discusses the Antigua settlement. The CTPC requests that the settlement should include a carve out for LNG facilities. This letter is available at:
http://maine.gov/legis/opla/CTPCAntiguaLNGcommittletter5-29-09.pdf

The second letter was to the Maine Congressional delegation and raises concerns about the US-Panama FTA. Maine's Congressional delegation has come out against this agreement. The letter is available at:
http://maine.gov/legis/opla/CTPCPanamaFTAletter5-28-09.pdf

The Maine CTPC has many new members and expects to spend much of the next few months focusing on education of the membership.

New Hampshire: Arnie Alpert reported the New Hampshire CTPC drafted a letter to Ambassador Kirk regarding the need for improved federal-state consultation and requesting a meeting. In addition, at its May meeting, the CTPC had an interesting presentation by Professor Doug Erwin from Dartmouth College and recommends Prof. Erwin to speak at the next regional meeting.

Vermont: Senator Lyons reported on the Vermont Commission on International Trade and State Sovereignty's recent activities. The Vermont Commission had a full day meeting and created a draft proposal for federal-state consultation. The proposal includes two models: a redefined InterGovernmental Policy Advisory Committee (IGPAC), and a regional commission model. (Summary of the models attached). The VT Commission has decided to advance both ideas for discussion, since one would necessitate changes at the federal level (either Congressional action or an Executive Order) whereas the other does not.

In addition, the Commission will be sending a letter to Ambassador Kirk asking for state concerns regarding investment chapters or agreements to be addressed in any new FTAs or any renegotiations of FTAs. (Letter attached) The Commission is also communicating with the National Conference of State Legislatures and the Council of State Governments about including trade policy issues more prominently in future meetings.

New Jersey: Greg Williams discussed S.1802 and A.2754, which are bills to create a Commission and require legislative approval before the state signs onto procurement agreements. They are now at Second Reading in the Senate. Greg noted his concerns about staffing, should a commission be approved, and sought advice from other states as to how they've supported their commissions. The NJ Governor's office has raised state Constitutional issues about the bills. Contact Greg at GWilliams@njleg.org if you have any input. There was also a brief discussion of an issue regarding a state preference for in-state solar manufacturers.

Massachusetts: will today be considering H 341, sponsored by Rep. Byron Rushing and Rep. David Sullivan, a bill that creates a state oversight commission on international trade. A Fact Sheet on that bill is attached.

President Obama's Preemption Policy:

Peter Riggs discussed a new policy memo released by the White House. On May 20, 2009, the White House released the attached memorandum outlining the Administration's position on preemption of State law by executive departments and agencies. The memorandum states that "preemption of State law by federal agencies and departments should be undertaken only with full consideration of the legitimate prerogatives of the States and with sufficient legal basis for preemption."

In the past, such guidance has been interpreted in such a way so that it has *not* applied to trade measures. It is not clear whether this White House memo will be seen as applying to USTR; because trade measures for the most part are not 'self-executing' (that is, the trade rules themselves can't be used to change state or federal laws), USTR may argue that they do not have preemptive power. Still, the memorandum at a mininum is an extremely useful rhetorical device whereby state trade oversight commissions can remind USTR of President's guidance regarding preemptive action.

The TRADE Act 2009:

This bill, which provides a progressive vision for U.S. trade policy, was introduced last year, and is soon to be reintroduced in this Congressional session, by Rep. Mike Michaud (ME) in the House and by Senator Sherrod Brown (OH). The deadline for 'original co-sponsorship' is 10 June. Currently there are 45 original co-sponsors for the House version of this bill. A few changes have been made to the 2009 version; once the Forum obtains a version of what's to be submitted, they can prepare a comparison sheet. The Senate version is likely to see more changes, as Senator Brown would very much like to have bipartisan sponsorship for this legislation, and the most likely candidate from the other side of the aisle is Senator Olympia Snowe of Maine. Senator Snowe has expressed her concerns about some of the investor-state (investment) provisions of the legislation,

and is also pushing for more small-business-friendly provisions. In March, Senator Snowe sent a letter to USTR (also signed by Sens Landrieu and Schumer) calling on USTR to create an office specifically in support of small business. That letter is at: http://sbc.senate.gov/oversight/lettersout/2009/03_24_to_USTR_SmallBiz_Asst_Trade_Rep.pdf. Ron Kirk's May 22nd response can be found at: http://sbc.senate.gov/oversight/lettersin/2009/USTR_Response.pdf

In general, the 2009 version of the 'TRADE Act' appears to be less of a marker bill—intended to signal political opposition to the Bush administration's trade policy—and more a piece of legislation with a prospect of passing, and certainly of informing any debate about the future of US trade policy. President Obama has withdrawn consideration of the US-Panama FTA until his administration develops and advances a new overall framework for trade. No firm deadline for development of that new framework has been discussed, but the 'trade press' suggests six months. The TRADE Act will form an important counterpoint in that debate.

Upcoming Meetings

Participants on the call noted the timing of the National Conference of State Legislatures (NCSL) annual meeting—July 20-24 in Philadelphia; and the annual meeting of the Council of State Goverments-East, in Burlington Vermont, August 1-4. A number of legislatures have travel bans and so attendance at those meetings may be down as compared to previous years. Vermont has communicated to both NCSL and CSG (as discussed above), calling for greater attention to trade as part of their annual meeting agendas. NCSL's one noteworthy policy expiring this year is on 'Export Promotion'. See http://www.ncsl.org/print/standcomm/sclaborecon/ExportPromotion_DRAFT.pdf

Also noted was the announcement of a World Trade Organization (WTO) Ministerial for November of this year. Ministerials are supposed to take place every two years, yet the WTO has not had such a high-level meeting since 2005 in Hong Kong. WTO Secretary General Pascal Lamy—recently reelected to a second term—has said that this Ministerial will *not* focus on the Doha Round. At the same time, a number of industrialized countries, led by Canada, have suggested a new approach to breaking the Doha Round deadlock, one which would involve a greater level of transparency by all parties, a willingness to put 'all cards on the table', and a round of 'horse-trading' of commitments to follow. It's not clear that this approach would be successful—many developing countries are opposed—but nothing else has worked to spur these talks toward a conclusion.

Finally, Peter Riggs from the Forum noted that the panel decision in the *Glamis v. United States* NAFTA Chapter 11 investment case is likely to be released this week. That case concerned a Canadian corporation's challenge to California mining regulations, and is seen as a very important test case of the ability of state governments to set environmental regulations in the public interest.

The call adjourned at 10:30am EDT.

NOTES: New England International Trade Commissions Regional Conference Call
call of 30 January 09; notes prepared 4 February

Call Agenda:

1) The Obama trade team and Congressional dynamics
2) State updates and commission letters to (nominee) Ron Kirk, USTR
3) Regional Statement of Principles

1) **Nominee** for new **United States Trade Representative is Ron Kirk**, former Mayor of Dallas. Mayor Kirk put together a very effective electoral coalition with support from the business community; he campaigned for Obama in Texas, as well. He has experience as a trade negotiator only in the context of big-city investment attraction. Questions about timing of Kirk's confirmation—it is still not scheduled. Here's a useful weblink to track the timetable for confirmations (scroll to bottom for info on Ron Kirk): http://innovation.cq.com/projects/cabinet_nominee?referrer=tout

At the time of the call the name of **Senator Judd Gregg** had just surfaced as a possible **Secretary of Commerce** nominee. The Senator's interest has since been confirmed—see http://www.usatoday.com/news/washington/2009-02-03-gregg_N.htm

Secretary of State Hillary Clinton is expected to name **Lael Brainard** as her Undersecretary for Economic Affairs. This is significant because of State Dept's role in responding to investment disputes, and its role in administering investment treaties. Brainard was Bill Clinton's former deputy national economic adviser; currently she is a senior fellow at the Brookings Institution in Washington.

The Obama administration and the 111th Congress have inherited three FTAs that have been signed but not ratified: the **US-Colombia, Panama, and Korea Free Trade Agreements.** General consensus is that none of these are moving now. If any is likely to move, it would be the US-Panama agreement, but now even this is less likely due to the fiscal crisis and concerns over Panama's banking sector and lack of transparency regulation. Hillary Clinton stated her opposition to the Korea deal during confirmation hearing. The group on the call also discussed House Ways & Means Chair Rep. Charlie Rangel's comments regarding the Colombia agree-ment, which demonstrates that Chairman Rangel would like to move the agreement, but neither Speaker Pelosi or President Obama are inclined to do so.

The **TRADE Act** that was introduced in the previous Congress by Rep. Mike Michaud (ME) in the House and Sherrod Brown (OH) in the Senate will be reintroduced this year. The House version is likely to drop sooner. Some Democratic members of both House and Senate, who were happy to sign onto this 'marker' bill when Bush was still in office, may be reluctant to get out ahead of President Obama on trade policy; both key sponsors of the TRADE Act are now shoring up their list of co-sponsors.

Denise Hart, NH Commission member and also now Assistant Director of the Water Program at Food & Water Watch, shared information about the possible federal legislation on **water.** She noted the components of the proposed stimulus bill that deals with municipal water supply and wastewater treatment. Another component of this legislation is a proposed Clean Water Trust Fund. See Food & Water Watch's brief on this issue: http://www.foodandwaterwatch.org/water/pubs/reports/clean-water-trust-fund. Rep. Sharon Treat noted that there are at least three bills on water introduced in Maine.

John Friede (NH) noted the current political attention to the 'Buy America' provisions of the stimulus package, as well, and suggested that this is a good time for Fair Trade advocates to offer alternatives. (The Forum would be happy to provide more information on domestic and international debate on the 'Buy America' provisions in the stimulus, on request.)

2) **State Updates: New Hampshire.** The NH Commission has two new legislative members, both Republicans. The Commission is in the process of putting together a roster of speakers for meetings in the next six months. Commission member Susi Nord, and another legislator, Chuck Weed, have submitted **Resolution 3** to the NH legislator; the resolution is largely based on the 'Bill of Rights'/Regional Statement of Principles that Vermont had prepared (see below). The Resolution will be referred to the State-Federal Relations committee for consideration. Commission members were planning to discuss the Resolution at their 2/2 meeting.

Maine. There has been significant turnover in the Maine Citizen Trade Policy Commission due to term limits, etc., and the Commission is just now getting reconstituted and all seats filled. The new Chair of the Commission from the House will be Peggy Rotundo, while the new Senate Chair is Troy Jackson. The commission ran an excellent Public Hearing on December 4; Rep Mike Michaud stayed for the entire event; staff from Sens Snowe and Collins' offices also attended. Rep. Sharon Treat noted Maine's support for Senator Ginny Lyons' NCSL Resolution regarding China's challenge to a proposed Vermont e-waste bill at the NCSL 'Fall Forum' in Atlanta in December. That resolution thus passed unanimously in two different NCSL committees and is an official 'policy resolution.'

Vermont. Congratulations to Senator Lyons for her successful NCSL resolution regarding China's interference in Vermont's legislative process. Vermont has also prepared a letter to USTR clarifying their understanding of the settlement of this problem (in which USTR had notified the People's Republic of China about this proposed Vermont law on e-waste). USTR has stated it will NOT notify state laws, but rather if a notification is to be made to U.S. trading partners regarding the trade impacts of a new state law or regulation, that notification will be done at the administrative rule-writing phase.

The Vermont Commission met two weeks ago, and discussed: a) sending a letter to Nominee USTR Ron Kirk; b) letter to USTR on the matter noted above; c) approval of the nine principles for U.S. trade policy outlined in the 'Regional Bill of Rights.' Vermont is very eager to get feedback on the draft 'Bill of Rights.'

Julian Munnich of Massachusetts' Office of International Trade and Industry noted that legislation to create a trade commission in MA is still moving. Bill Waren reported on a hearing in the New Jersey legislature to create a similar commission along the 'northern New England' model (as it is now known); the recommendation to create a commission was part of a 'Jobs, Trade, and Democracy Act' that unanimously passed the relevant committee last week.

3) Michael O'Grady (VT) introduced the Regional 'Bill of Rights' that was approved by Vermont's commission. He briefly described the nine principles and the group discussed several of these:

a) States should have a voice on trade policy—several participants noted that this principles should be strongly articulated in Resolutions submitted to legislatures and in letters to nominee Ron Kirk.
b) Congress should incorporate the 'Methanex Standard' into its interpretation of investment rules. The 'Methanex Standard' states that non-discriminatory laws, democratically passed ('with due process'), should be "accorded presumptive validity", and cannot themselves be the basis for an investment claim of expropriation or a 'failure to meet a minimum standard of treatment.' The Regional Bill of Rights also notes that the expropriation standard should be consistent with U.S. law on 'takings'. Finally, investors should not be able to 're-litigate' any case; either bring it to the investment tribunal or through the domestic courts, but not both (the so-called 'fork in the road' provision, in which an investor has to choose which dispute-resolution venue to utilize).
c) In the case of any investment or WTO conflict, states should have access to all documents and be able to present its own case before an investment or WTO tribunal. Also, states must be reimbursed for any costs associated with defending its laws before an investment tribunal.
d) State legislatures and not just Governors should have a voice on procurement and whether a state signs onto the procurement chapter of any trade agreement or not.

A COPY OF THE DRAFT IS ALSO ATTACHED TO THESE NOTES.

Next Steps—At meetings this month, the state commissions may:

- ✓ draft/finalize a letter to USTR nominee Ron Kirk
- ✓ review, amend, comment on the draft 'Regional Bill of Rights'
- ✓ review and advance ideas for supporting improved Federal-State consultation on trade
- ✓ review and note actions by legislatures on matters of interest to the Commissions.

The Forum on Democracy & Trade will:

- ✓ prepare notes from this call and be available to assist with tasks noted above, and available for briefings/hearings as needed.
- ✓ begin planning for a national advocacy meeting of state trade commission members, to take place in the summer, probably in Philadelphia.
- ✓ continue communicating with Hill staff regarding developments on trade.

APPENDIX H

Citizen Trade Policy Commission's March 11, 2009 Letter to U.S. Trade Representative

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel

Sarah Adams Bigney
Carla Dickstein
Michael Hertz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst
Linda Nickerson, Administrative Staff

STATE OF MAINE

Citizen Trade Policy Commission

March 11, 2009

Ambassador Ronald Kirk
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ambassador Kirk:

Congratulations on your appointment as the new United States Trade Representative. We, the members of the Maine Citizen Trade Policy Commission, look forward to working with you. We have enjoyed a robust exchange of views with your predecessors, and look forward to working closely with you. We invite you to meet with our Commission at any time convenient to the demands of your new assignment, as we move forward in establishing a relationship based on the interests of our people, our economy and our standing in the world. We believe in the power of trade as a tool for promoting economic growth and enhancing relationships between the United States and its trading partners.

The Citizen Trade Policy Commission was established by the Maine Legislature in 2004 to monitor the impact of international trade policy on our state. We have members representing the House of Representatives, the State Senate, the Maine International Trade Center, various state agencies, and members affiliated with citizen constituencies including small businesses, manufacturers, labor, environmental organizations, and small farmers.

States and local governments are important partners with private business in the design and implementation of our nation's economic development strategies. States and cities have traditionally acted as the 'laboratories of democracy' where different economic policies can be pioneered. Because trade is a critical part of any successful economic development strategy, and because different states, cities and towns have needs related to trade and trade policy that are as different from one another as are the mix of products and services that we export, we seek to add our voices and expertise to this policy arena.

Since the conclusion of NAFTA and the WTO Uruguay Round, states have been allowed to play only a limited role in the policy-making process. USTR has expected our support in all matters pertaining to trade but too often has been unwilling to engage in dialogue with state actors on critical issues of trade and investment.

With your assistance, we intend to build a more collaborative relationship between the federal government and the states on trade. By working together, we can preserve our federal system and reach out for new trade relationships around the world.

In meetings convened with the support of national associations such as the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislatures, officials from the different branches of state and local governments have been meeting in order to articulate a set of approaches that could assist in the development of a better federal-state consultative process on trade. As a result of these discussions, in which Maine has played an essential part, we request your consideration of the following:

The establishment of a **Federal-State International Trade Policy Commission,** and/or the creation of a **Center on Trade & Federalism**, supported by both the federal government and the states, with adequate personnel and resources to ensure that the major provisions of trade agreements and disputes that impact on states can be analyzed, and their findings communicated to and discussed with key state actors on trade.

Changes in the structure and role of USTR trade advisory committees. All state and local government input has been limited to a single committee, the InterGovernmental Policy Advisory Committee (IGPAC); the membership of that committee was determined exclusively by USTR and not by the states themselves. IGPAC was designated few resources and a time line for input that resulted in no meaningful consultation for states. More than half of all states lack any representation on IGPAC.

We look forward to discussing with you opportunities for building a collaborative approach to trade that will strengthen the system of federalism that was part of the genius of our nation's founders. With congratulations and very best wishes for success in your new role.

Yours sincerely,

Senator Troy Jackson, Chair

Representative Margaret Rotundo, Chair

/ln

APPENDIX I

Citizen Trade Policy Commission's April 17, 2009 Letter Welcoming Lisa Garcia as the New Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. John L. Patrick
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Curtis Bentley, Legislative Analyst
Linda Nickerson, Administrative Staff

Joseph Woodbury
John Palmer
Michael Herz
Paul Volckhausen
Carla Dickstein
Sarah Adams Bigney
Michael Hiltz
Cynthia Phinney
Jane Aiudi
Malcolm Burson
Barbara VanBurgel
Leslie Manning
Wade Merritt
Linda Pistner

STATE OF MAINE

Citizen Trade Policy Commission

April 17, 2009

Lisa Garcia
Assistant U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ms. Garcia:

Congratulations on your appointment as the Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison. We know you bring with you the confidence of the President and the respect of professional staff throughout USTR.

The Maine Citizen Trade Policy Commission has noticed and appreciates the outreach to a broader group of state officials and civil society voices, by the transition team and by new USTR staff. Maine was the first state to pass statute creating a citizen commission on international trade, which brings together legislators, attorney general staff, representatives of the governor's office, and citizens representing small business, farmers, exporters, and labor leaders to examine the opportunities and impact of international trade and investment agreements on our states. New England has come together as a region to discuss new agreements, communications with federal counterparts, and the role of IGPAC and national associations such as NCSL. Also, as part of that work, we've had some opportunity to work with USTR staff, and also to develop ideas for improvements in consultation and in the data available for making trade policy.

We appreciate this comment from USTR's 2009 Trade Policy Agenda:

"*In addition to promoting social accountability, U.S. trade policy development needs to become more transparent. Many stakeholders are frustrated with the lack of consultation involved in the development and implementation of trade policy, but we can and should expand public participation in advising U.S. trade negotiators. The methods for doing so will have to evolve but improved websites for the trade*

policy agencies and more public consultation venues outside the established advisory groups are important steps toward this goal."

We were also pleased to see Ambassador Kirk's response to Maine Senator Olympia Snowe's question for his Finance Committee confirmation hearing:

Question: "As USTR, how would you improve your office's interaction with state and local governments and trade policy groups to better address their concerns with U.S. trade policy?"

Answer: "USTR needs to do a much more proactive job of reaching out to Governors, State Attorneys General, local officials and others to solicit their input early and often."

Remarks made by Ambassador Kirk as part of the confirmation process, USTR's Annual Trade Review, and conversations with other USTR staff, also suggest that USTR may soon undertake a review of the policy advisory committee structure. Our Commission is very interested in participating in that review.

We also understand that USTR is undertaking a transparency review, and we hope that there will be an opportunity for states and IGPAC to make proposals regarding federal-state consultation, with respect to both the "transparency review" and also with respect to the formal advisory committee structure to ensure that the discussion format and process takes into consideration the unique needs of state legislators and government officials.

We would appreciate the opportunity to share our ideas on the needs of states in the broader trade debate. Trade policy has a significant impact on our state and the current systems lack sufficient transparency and state consultation.

Attached please find information about the Maine Citizen Trade Policy Commission including the contact information for our members, as well as a summary of actions the Commission has taken since its inception in 2004.

We look forward to working with you in your role as Assistant USTR for Intergovernmental Affairs.

Sincerely,

Senator Troy Jackson Chair

Representative Margaret Rotundo, Chair

SB/ln
Attachments

cc: Kay Alison Wilkie, Director for International Policy

A Brief Description of Maine's Citizen Trade Policy Commission

1. Established. The Citizen Trade Policy Commission was established by the Maine State Legislature in 2004 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

2. Membership. The commission consists of 22 members including six legislators, an Attorney General designee, a member from the Department of Labor, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Services, the Department of Human Services, the Maine International Trade Center and 10 members representing a broad range of interests in the private and nonprofit sectors.

3. Powers and duties. The commission:

1. Must hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State;
2. Must every 2 years conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment;
3. Must maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups;
4. Must maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy;
5. May recommend or submit legislation to the Legislature;
6. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and
7. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate.

4. Additional information. For more information about Maine's Citizen Trade Policy Commission please visit its website at http://www.maine.gov/legis/opla/citpol.htm.

Actions of the Citizen Trade Policy Commission of the Maine Legislature

2004:

- Commission established by the Jobs, Trade and Democracy Act (LD 1815)
- Commission first meets, October 2004

2005:

- Issued a statement urging Maine's Congressional Delegation to work against the passage of DR-CAFTA

- Recommended in writing that United States Trade Representative carve out government actions at the state and local level from the new GATS offer until the Commission had an opportunity to adequately review and analyze the language of the proposed commitment.

- Issued a number of press releases regarding its activities and held press conferences regarding its position on CAFTA.

2006:

- Met with and worked directly with the Office of the United States Trade Representative's (USTR) to establish a direct and open dialogue to maximize the ability of the Commission to convey the concerns of Maine's citizens to USTR in a timely and effective manner.

- In conjunction with the Forum on Democracy and Trade developed and conducted the Commission's 2006 assessment.

- Provided USTR with policy recommendations during the most recent round of the World Trade Organization's (WTO) Working Party on Domestic Regulation (WPDR) negotiations on rules implementing a provision of the General Agreement on Trade and Services (GATS) dealing with the domestic regulation of services.

- Established a legislative outreach subcommittee to better inform Maine's Legislature about trade related issues.

- Opposed the adoption of the proposed rules by the Department of Homeland Security pursuant to the Intelligence Reform and Terrorism Prevention Act that would require U.S. citizens and nonimmigrant aliens to present a passport or alternative form of documentation approved by the department in order to enter the United States from Canada.

• Supported the National Legislative Association on Prescription Drugs Prices' nomination of Sharon Treat to two USTR advisory committees.

• Began exploring possible funding sources to support an executive director position within the Commission.

2007:

• Developed a resolution that passed unanimously in both chambers of the State Legislature to request the U.S. Congress to replace the existing Trade Promotion Authority (Fast-Track) with a more inclusive and democratic system for negotiating trade agreements. Fast-Track expired without renewal on June 30, 2007, and has not yet been replaced.

2008:

• Notified Maine's Congressional Delegation and Governor Baldacci that it opposed the proposed U.S. –Colombian Free Trade Agreement based on public testimony received at the commission's February 21, 2008 public hearing and after determining that the agreement would be unfavorable to the people of Maine, the United States and Colombia.

•As a result of the People's Republic of China's challenge to Maryland's proposed legislation to regulate lead in consumer products, the commission posed the following questions USTR: 1) what agency/entity within the U.S. federal government is responsible for notifying WTO member nations of state legislation; 2) how often such notification occurs and 3) what mechanism or process is used to monitor state legislation. USTR responded that state legislatures remain fully empowered to take action to protect the public and that the WTO notification system normally requires USTR to provide notification on federal agency regulations but not federal or state legislative proposals.

• Advised USTR of its concerns about recent GATS negotiations and in particular, the draft language proposed by the chair of the WTO's Working Party on Domestic Regulations that appeared to shift the constitutionally-protected "rational basis test" for state regulation to a much more restrictive standard of "not more burdensome than necessary to ensure the quality of the service." The commission also expressed concerned about draft language that could restrict a state's ability to adopt standards that may be different from those advanced at the federal level.

Citizen Trade Policy Commission
Membership

Rep. Margaret Rotundo – Chair
446 College St.
Lewiston, ME 04240
Tel. 784-3259
mrotundo@bates.edu

Term: Reappointed 01/15/09

Sen. Troy Jackson, Chair
P. O. Box 221
Ft. Kent, ME 04743
Tel. 398-4081
jacksonfor1@hotmail.com

Term: Appointed 01/15/09

Jane Aiudi
Dept. of Agriculture
28 State House Station
Augusta, ME 04333-0028
Tel. 287-9072
jane.aiudi@maine.gov

Ex-Officio – DA

Sarah Bigney
306 Congress St., Apt. C.
Portland, ME 04101
Tel. 777-6387 or 356-7322
sarah@mainefairtrade.org

Representing Nonprofit Human Rights Organizations
Term: 12/04/07 – 12/03/2010

Malcolm C. Burson
Dept. Environmental Protection
17 State House Station
Augusta, ME 04333-0017
Tel. 287-7755
malcolm.c.burson@maine.gov

Ex-Officio – DEP

Carla Dickstein
Coastal Enterprises, Inc.
102 Federal St.
Wiscasset, ME 04578
Tel. 882-7552
cbd@ceimaine.org

Representing Economic Development Organizations
Term: 11/26/07 – 11/25/2010

Sen. Stan Gerzofsky
3 Federal St.
Brunswick, ME 04091
Tel. 373-1328
Stan1340@aol.com

Term: Appointed 12/08 -

Rep. Jeffery A. Gifford
346 Frost St.
Lincoln, ME 04457
Tel. 794-3040
giff@line-net.net
repjeff.gifford@legislature.maine

Term: Reappointed 12/08

Michael Herz
P. O. Box 1462
Damariscotta, ME 04543
Tel. 563-5435
mherz@lincoln.midcoast.com

Representing Nonprofit Environmental Organizations
Term: Appointed: 02/2009

Michael S. Hiltz, RN, BSN
45 Pleasant Ave.
Portland, ME 04103
Tel. 615-7351
michaelshiltz@hotmail.com

Representing Healthcare Professionals
Term: Appointed 02/17/09 *3 year term*

Leslie A. Manning
Dept. of Labor
Bureau of Labor Standards
45 State House Station
Augusta, ME 04333-0045
Tel. 623-7932
leslie.a.manning@maine.gov

Ex-Officio-DOL

Wade Merritt
Maine International Trade Center
511 Congress St., Ste 100
Portland, ME 04101
Tel. 541-7400
merritt@mitc.com

Represents DECD

Perry Newman
130 Fort Rd.
South Portland, ME 04106
Tel. 791-1460 or 767-3767
perry.newman@yahoo.com

RESIGNED 2/11/09

Representing Maine based Corporations Active in International Trade
Term: 10/09/07 – 10/08/2010

John Palmer
P. O. Box 519
Oxford, ME 04270
Tel. 539-4800 or 743-3337
jpalmer@exploremaine.com

Representing Small Business
Term: 10/31/07 – 10/30/2010

John Patrick
206 Strafford Avenue
Rumford, ME 04276
Tel. 364-7666
Johnpat2000@hotmail.com

Representing Organizations Promoting Fair Trade Policies
Term: Appointed 02/25/09 *3 year term*

Cynthia Phinney
16 Old Winthrop Rd.
Manchester, ME 04351
Tel. 623-1036

Representing Organized Labor
Term: 12/04/07 – 12/03/2010

Linda Pistner
Attorney General's Office
6 State House Station
Augusta, ME 04333-0006
Tel. 626-8820
linda.pistner@maine.gov

Representing AG's Office

Sen. Roger Sherman
P. O. Box 682
Houlton, ME 04730
Tel. 532-7073
Rsherm_2000@yahoo.com

Term: Appointed 12/08 -

Rep. Sharon Treat
22 Page Street
Hallowell, ME 04349
Tel. 623-7161 Cell 242-8558
Office 622-5597
Repsharon.treat@legislature.maine.gov
satreat@earthlink.net

Term: Reappointed 01/15/09

Barbara VanBurgel
Dept. Health & Human Services
Bureau Family Independence
11 State House Station
Augusta, ME 04333-0011
Tel. 287-3106
barbara.vanburgel@maine.gov

Ex-Officio - DHHS

Paul Volckhausen
1138 Happy Town Rd.
Orland, ME 04472
Tel. 667-9212
pkvolckhausen@escrap.com

Representing Small Farmers
Term: 12/17/07 – 12/16/2010

Joseph Woodbury
508 Gore Rd.
Otisfield, ME 04270-6836
Tel. 539-4462
jwoodbury@nwpmaine.com

Representing ME-based Manufacturing Business
with more than 25 employees
Term: Appointed 02/17/09 *3 year term*

Governing Statute: Title 10 MRSA, Chap. 1-A, §11

Membership: 3 senators representing at least 2 political parties, appointed by the President of the Senate;
3 members of the House Representative representing at least 2 political parties, appointed by the Speaker of the House;
4 members of the public, appointed by the Governor as follows:
- Small business person;
- Small farmer;
- Representative on nonprofit organization that promotes fair trade policies;
- Representative of a Maine-based corporation active in international trade.

3 members of the public appointed by the President of the Senate as follows:
- Healthcare professional;
- Representative of Maine-based manufacturing business with 25 or more employees;
- Representative of economic development organization.

3 members of the public appointed by the Speaker of the House as follows:
- Person active in organized labor community;
- Member of a nonprofit human rights organization;
- Member of a nonprofit environmental organization.

Ex-Officio non-voting Membership:
- Department of Labor;
- Department of Environmental Protection;
- Department of Agriculture, Food and Rural Resources, and
- Department of Human Services.

Term: Except for Legislators, Commissioners and the Attorney General, members are appointed for 3-year terms. Appointed members may not serve more than 2 terms. Members continue to service until their replacements are designated.

Duties: Shall hold twice public hearings twice annually;
Shall conduct an assessment every 2 years on the impacts of international trade;
Shall submit an annual report.

Quorum: For purposes of holding a meeting, a quorum is 11 members. For purposes of voting, a quorum is 9 voting members.

Rev. 03/27/09

APPENDIX J

Citizen Trade Policy Commission's April 17, 2009 Letter Providing Guidance to the Joint Standing Committee on Natural Resources Regarding the Implications of International Trade Agreements on the Extraction of Groundwater

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel

Sarah Adams Bigney
Carla Dickstein
Michael Herz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst
Linda Nickerson, Administrative Staff

STATE OF MAINE

Citizen Trade Policy Commission

April 17, 2009

Sen. Seth Goodall, Chair
Rep. Robert Duchesne, Chair
Joint Standing Committee on Natural Resources
124th Maine Legislature
2 State House Station
Augusta, ME 04333-0002

Dear Senator Goodall, Representative Duchesne, and Members of the Joint Standing Committee on Natural Resources:

The Maine Citizen Trade Policy Commission was established by the Legislature in 2003 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

The CTPC would like to highlight implications international trade agreements may have in the dialogue your committee is having regarding groundwater extraction. This is an issue that citizens around the state are dealing with today, and several of these local groups have contacted us seeking assistance with understanding the role trade agreements play in regards to groundwater extraction. We have been looking at the issue for several months and would like to provide you with some important information.

Water is a natural resource that is becoming more of a trade commodity as global demand for it increases. As a globally traded commodity, water then falls under certain international trade and investment agreements.

In some cases, municipalities that sign contracts with multinational corporations, as many of our local towns and cities have done or are debating, may face issues should they need to regulate that water in the future. Free trade agreements like the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) contain investor-state provisions that allow foreign companies the right to challenge laws that they feel restrict their ability to profit.

One example that illustrates this situation is the case of Metalclad vs. Mexico. The town, Guadalcazar in the State of San Luis Potosi, denied Metalclad a permit to build a landfill on top of a drinking water aquifer. The Forum on Democracy and Trade, a national network of state and local officials interested in advancing trade while safeguarding local authority, stated: "In the Metalclad case, Mexico was faulted for allowing environmental regulations adopted at the sub national level to interfere with the use of Metalclad's property, which has the effect of depriving the owner of 'reasonably-to-be-expected economic benefit of the property.' A NAFTA tribunal ruled this as tantamount to expropriation under article 1110 9 (1) of NAFTA."

The threat of challenge under international trade and investment agreements is not a reason for municipalities and the Legislature to hesitate in passing policies to protect its natural resources as it sees fit. We see this as information citizens, legislators, and municipalities should have before they decide to sign a contract with a multi-national corporation, in order to prevent future challenges or limits to their sovereign right to govern their resources such as water.

We would be happy to provide more information for your committee as you move forward with your important service to the people of Maine. Please feel free to contact us, as chairs of the Citizen Trade Policy Commission, for more information.

Sincerely,

Senator Troy Jackson, Chair

Representative Peggy Rotundo, Chair

SB/ln

APPENDIX K

Citizen Trade Policy Commission's June 3, 2009 Letter to President Barack Obama

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel

Sarah Adams Bigney
Carla Dickstein
Michael Herz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst
Linda Nickerson, Administrative Staff

STATE OF MAINE

Citizen Trade Policy Commission

June 3, 2009

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama,

The Citizen Trade Policy Commission (commission) is an ongoing study commission that was established pursuant to Public Law 2003, chapter 699, in recognition of the need to establish a state-level mechanism to appropriately assess the impact of international trade agreements on Maine's state and local laws, business environment and working conditions. We are writing to you to express our concerns with the proposed U.S.-European Union settlement in the World Trade Organization's (WTO's) Internet gambling case brought by Antigua against the United States.

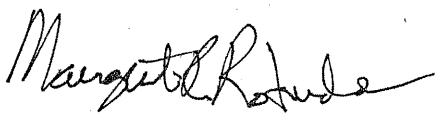
There have been a number of attempts to site a Liquefied Natural Gas (LNG) facility in Maine and each effort has generated a great deal of government concern, public protest and press (as it does in every coastal state where such a facility is proposed) because of potential health, environmental and safety concerns. While the commission has not taken a position on the siting of a LNG facility in Maine, we are troubled by the USTR's proposal to have this sector committed to the WTO. We strongly support Maine's ability to regulate the siting and operation of LNG facilities in Maine without those regulations being subject to WTO challenges in foreign tribunals where WTO rules, not U.S. law, apply and the basic due process rights provided in our courts do not exist. We encourage USTR not to submit this service sector under the General Agreement to Trade and Services (GATS).

We also request that at a minimum, the text of the proposed U.S. commitments be clarified to ensure that the USTR goal of excluding LNG facilities is actually accomplished in the commitment text. The most effective way to do so would be to remove the sub-category of "Bulk storage of liquids or gases" from the U.S. settlement offers in the Antigua gambling case and to ensure that the sub-category is not included in any offers at WTO.

Thank you for your consideration of this matter and we look forward to a new relationship with you and the Office of USTR under your leadership.

Sincerely,

Troy Jackson
Senate Co-Chair



Margaret Rotundo
House Co-Chair

cc: Members of the Citizen Trade Policy Commission
Ambassador Ronald Kirk, United States Trade Representative
Senator Olympia J. Snowe
Senator Susan M. Collins
Representative Michael H. Michaud
Representative Chellie Pingree
Governor John E. Baldacci
Senator Elizabeth Mitchell, President
Representative Hannah Pingree, Speaker

APPENDIX L

Citizen Trade Policy Commission's July 31, 2009 Letter of Support for the Proposed Resolution Relating to International Trade and State Governments Presented at the Council of State Government's Eastern Regional Conference

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel

Sarah Adams Bigney
Carla Dickstein
Michael Herz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst

STATE OF MAINE

Citizen Trade Policy Commission

MEMORANDUM

TO: Members of the Council of State Governments

FROM: Troy Jackson, Senate Chair
Margaret Rotundo, House Chair
Maine Citizen Trade Policy Commission

DATE: July 31, 2009

RE: Support of the proposed Resolution Relating to International Trade and State Governments

---

Maine's Citizen Trade Policy Commission is an ongoing study commission established pursuant to Public Law 2003, chapter 699, in recognition of the need to establish a state-level mechanism to assess the impact of international trade agreements on Maine's state and local laws, business environment and working conditions. We are writing in support of the Proposed Resolution Relating to International Trade and State Governments presented at the Council of State Government's Eastern Regional Conference. We enthusiastically support enhancing federal-state consultation on international trade and efforts to educate and engage states on the importance of international trade and the impacts it has on states. We have been working with Maine's Congressional Delegation over the past 5 years to improve federal-state consultation on trade related matters and the proposed resolution is another important step towards ensuring that states have the consultative mechanisms and the relevant information necessary to have meaningful input on international trade activities. Therefore, we strongly urge you to adopt this resolution.

Thank you for your consideration our position on this important matter.

APPENDIX M

Citizen Trade Policy Commission's and the Vermont Commission on International Trade and State Sovereignty's December 24, 2008 joint letter to Kay Wilkie, Chair of the InterGovernmental Policy Advisory Committee Regarding Communications from the People's Republic of China to Vermont and Maryland Legislatures Regarding the Regulation of Toxic Toys

Maine Citizens' Trade Policy Commission
Vermont Commission on International Trade and State Sovereignty

December 24, 2008

Kay Alison Wilkie
Director for International Policy
NYS Department of Economic Development
30 South Pearl Street
Albany, NY 12245

Dear Kay:

As Chairs, respectively, of trade oversight commissions of two northern New England states, we would like to express our deep appreciation for the work you have done as Chair of the InterGovernmental Policy Advisory Committee. The two conference calls you convened in October--for discussions with the GAO, and with USTR negotiators--were extremely helpful in advancing states' positions on trade policy.

We know that you share many of our concerns about the communications by the Peoples' Republic of China to the Vermont and Maryland legislatures related to pending legislation that would regulate toxic toys and e-waste disposal, and we thank you for creating the opportunity to discuss these issues with USTR staff.

The PRC's actions, putting Maryland and Vermont "on notice" as a matter of international trade law, are perceived as intrusions on the state legislative process, albeit ones that are sanctioned by the TBT agreement. While the notification issues are important, our primary concern remains the extent to which trade agreements restrict state legislative authority. China's notices reference two of the most powerful restrictions on state legislative authority incorporated into the TBT agreement: (1) the requirement that technical standards not be more trade restrictive than necessary, and (2) the presumption that state technical standards ought to conform to international and national standards. The PRC's actions are also a matter of concern, as you know, because the TBT notification process and restrictions on legislative authority are models for some of our trading partners in ongoing WTO negotiations related to domestic regulation of services.

At a joint meeting conducted on September 19 in Manchester, New Hampshire and conference calls on October 14 and November 12, the trade policy oversight commissions of Maine, New Hampshire, and Vermont resolved to work cooperatively to communicate our concerns about the PRC's action and the federalism implications of the TBT agreement to the U.S. Trade Representative, the U.S. Secretary of Commerce, and our congressional delegations.

The state trade policy commissions also resolved to work on this problem in consultation with IGPAC.

We believe that we are close to finalizing something close to a consensus position among the broad-base of state and local officials in New England regarding the more difficult substantive TBT and domestic regulation issues, most importantly the necessity test. That consensus position needs to be effectively communicated to the in-coming Administration and its transition team. We are writing at this time to ask for your continued help as Chair of IGPAC. We believe that a dialogue with administration officials concerning some of the issues related to the TBT notification process could be productive. Third, we have learned that the Department of Commerce is completing a report outlining options on TBT notification and are very interested in learning about the report when it's finished. Finally, we look forward to discussing this matter as part of the Trade Policy Leadership Seminar scheduled for early December in Atlanta, to coincide with NCSL's Fall Forum.

We look forward to consulting with you further and we ask for your guidance in finding the most effective means of resolving our concerns.

Sincerely,

Senator Margaret Rotundo, Co-Chair
Maine Citizen Trade Policy Commission

Representative John Patrick, Co-Chair

Representative Kathleen Keenan, Co-Chair
Vermont Commission on International Trade and State Sovereignty

Senator Virginia Lyons, Co-Chair

Cc: Members, Maine Citizen Trade Policy Commission
Members, New Hampshire Trade Policy Commission
Members, Vermont Commission for International Trade and State Sovereignty

APPENDIX N

Citizen Trade Policy Commission's and the Vermont Commission on International Trade and State Sovereignty's December 24, 2008 Joint Letter to the U.S. Trade Representative Regarding the Notification Process Under the World Trade Organizations Agreement on Technical Barriers to Trade

Maine Citizens' Trade Policy Commission
Vermont Commission on International Trade and State Sovereignty

December 24, 2008

The Honorable Susan Schwab
Office of the United States Trade Representative
600 17th Street N.W.
Washington D.C. 20508

Dear Ambassador Schwab:

We would like to thank you and Senior Director Jeff Weiss for convening an open conference call with states to discuss the notification process under the Technical Barriers to Trade agreement. We appreciate the opportunity to engage in a dialogue with your office on trade issues and the impacts on state governments and legislative authority.

The Peoples' Republic of China in recent months has complained that bills related to toxic toys and e-waste disposal introduced respectively in the Maryland and Vermont legislatures must be "cancelled" or "revised." China makes these requests based on their reading of the World Trade Organization Agreement on Technical Barriers to Trade (TBT), to which the United States is a party.

The PRC's actions, putting Maryland and Vermont "on notice" as a matter of international trade law, are intrusions on the state legislative process, albeit ones that are sanctioned by the TBT agreement. We also understand that interagency consultations are underway regarding how the United States meets its TBT obligations. We are also concerned about substantive issues of how this agreement and others may intrude on areas of regulation traditionally reserved to the states.

At a joint meeting conducted on September 19 in Manchester, New Hampshire and conference calls on October 14 and November 12, the trade policy oversight commissions of Maine, New Hampshire, and Vermont resolved to work cooperatively to communicate our concerns about the PRC's action and the federalism implications of the TBT agreement to the U.S. Trade Representative, the U.S. Secretary of Commerce, and IGPAC.

We are therefore writing at this time to ask for your help in establishing formal federal/state consultations on the TBT process in the coming year.

We look forward to speaking to you at the earliest opportunity.

Sincerely,

Senator Margaret Rotundo, Co-Chair
Maine Citizen Trade Policy Commission

Representative John Patrick, Co-Chair

Representative Kathleen Keenan, Co-Chair
Vermont Commission on International Trade and State Sovereignty

Senator Virginia Lyons, Co-Chair

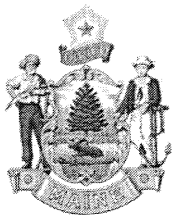
Cc: Members, Maine Citizen Trade Policy Commission
Members, New Hampshire Trade Policy Commission
Members, Vermont Commission for International Trade and State Sovereignty
Kay Wilkie, IGPAC
Hon. Susan Collins, Maine Senator
Hon. Olympia Snowe, Maine Senator
Hon. Michael Michaud, Maine Congressman
Hon. Chellie Pingree, Maine Congresswoman Elect
Hon. Patrick Leahy, Vermont Senator
Hon. Bernard Sanders, Vermont Senator
Hon. Peter Welch, Vermont Congressman

APPENDIX O

Citizen Trade Policy Commission's June 3, 2009 Letter to Maine's Congressional Delegation Opposing the Proposed Panama Free Trade Agreement

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel



Sarah Adams Bigney
Carla Dickstein
Michael Herz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst
Linda Nickerson, Administrative Staff

STATE OF MAINE

Citizen Trade Policy Commission

The Honorable Olympia J. Snowe
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Susan M. Collins
United States Senate
413 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Michael H. Michaud
United States House of Representatives
1724 Longworth House Office Building
Washington, D.C. 20515

The Honorable Chellie Pingree
United States House of Representatives
1037 Longworth House Office Building
Washington, D.C. 20515

June 3, 2009

Dear Senator Snowe, Senator Collins, Representative Michaud, and Representative Pingree,

The Maine Citizen Trade Policy Commission (commission) voted on May 22, 2009, to oppose the Panama Free Trade Agreement (Panama FTA). In general, the commission supports global trade but it has come to our attention that the proposed Panama FTA would have significant negative impacts on Maine as outlined below.

1. Panama is a known tax-haven for corporations including national financial institutions that compete directly with Maine's local banks. Panama's laws create a system of banking secrecy and make it comparatively easy for U.S. companies to create subsidiaries there in order to evade U.S. taxes. According to the U.S. State Department, Panama has more than 350,000 registered corporations, the second most in the world after Hong Kong and it does not have a tax transparency treaty with the U.S. As a result, corporations or their subsidiaries registered in Panama can operate in secrecy and avoid other forms of financial regulations. The

Senate Homeland Security Committee estimated that tax evasion in offshore havens costs U.S. taxpayers $100 billion a year.

The Panama tax haven creates an uneven playing field for companies in the U.S. that pay taxes and abide by the rules. Maine's local banks are comparatively small and are unlikely to have subsidiaries registered in Panama putting them at a competitive disadvantage with national banking institutions that can avail themselves of Panama's banking laws. We are very concerned that passing a free trade agreement with Panama will make this problem even worse, further weakening our local businesses' and financial institutions' ability to compete locally and nationally.

2. The Panama FTA provides foreign-investors special privileges and a private enforcement system that promotes offshoring and subjects our environmental, zoning, health and other public interest policies to challenge by foreign investors in foreign tribunals. The Panama FTA's investment chapters replicate the language in the Central America Free Trade Agreement that allow private investors and corporations to directly enforce FTA foreign-investor rights and privileges by suing governments in foreign tribunals. These FTA investor-rights terms create additional incentives for U.S. firms to locate their U.S. production offshore where they can operate under the foreign-investor status of FTA, rather than dealing with our country's democratically passed federal, state and local laws and our domestic court system. Passing the proposed Panama FTA will further compromise our state's sovereignty and the authority of Maine's Legislature to enact laws in the public interest.

We respectfully encourage you to oppose the proposed Panama Free Trade Agreement.

Sincerely,

Troy Jackson
Senate Co-Chair

Margaret Rotundo
House Co-Chair

cc: Members, Citizen Trade Policy Commission
Governor John E. Baldacci
Senator Elizabeth Mitchell, President
Representative Hannah Pingree, Speaker

APPENDIX P

Citizen Trade Policy Commission's June 26, 2009 Letter to the Presiding Officers of the Maine State Legislature Requesting that a Member of the Commission be Appointed to the Newly Created Commission to Study Energy Infrastructure

Sen. Troy Jackson, Chair
Sen. Stan Gerzofsky
Sen. Roger Sherman
Rep. Margaret Rotundo, Chair
Rep. Jeffery A. Gifford
Rep. Sharon Anglin Treat

Jane Aiudi
Malcolm Burson
Leslie Manning
Wade Merritt
Linda Pistner
Barbara VanBurgel

Sarah Adams Bigney
Carla Dickstein
Michael Herz
Michael Hiltz
John Palmer
John L. Patrick
Cynthia Phinney
Paul Volckhausen
Joseph Woodbury

Curtis Bentley, Legislative Analyst

STATE OF MAINE

Citizen Trade Policy Commission

MEMORANDUM

TO: Sen. Elizabeth Mitchell, Senate President
Rep. Hannah Pingree, Speaker of the House
Governor Baldacci

FROM: Troy Jackson, Senate Chair
Margaret Rotundo, House Chair
Maine Citizen Trade Policy Commission

DATE: June 26, 2009

RE: Request to appoint a member of the Citizen Trade Policy Commission to the Commission to Study Energy Infrastructure

---

The Citizen Trade Policy Commission (CTPC) voted unanimously (11-0) to request that a member of the Citizen trade Policy Commission be appointed to the Commission to study Energy Infrastructure (Energy Commission) established by Public Law 2009, chapter 372. As you know, the CTPC is an ongoing study commission that was established pursuant to Public Law 2003, chapter 699, in recognition of the need to establish a state-level mechanism to appropriately assess the impact of international trade agreements on Maine's state and local laws, business environment and working conditions. Because the Energy Commission will be reviewing the feasibility and effects of the State entering into agreements for utilizing state-owned or state-controlled property for the transmission of energy resources with private entities that includes foreign corporations, we feel it is important to have someone on the Energy Commission that is familiar with international trade agreements and can assist the Energy Commission in resolving or avoiding any trade related issues. For this reason, we strongly encourage you to appoint a member of the CTPC to serve on the Energy Commission.

Thank you for your consideration of this matter.

cc: Members of the Citizen trade Policy Commission

G:\STUDIES 2009\CTPC 2009\Correspondence\Com study Energy infra ltr 7-26-09.doc

100 State House Station Augusta, Maine 04333-0100 Telephone 207-287-1670