

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**December 15, 2011**  
**Room 220, Burton M. Cross State Office Building**  
**Augusta, Maine**

Members Present: Senator Sherman, Representative Maker, Senator Martin, Senator Patrick, Representative Rotundo, Representative Bernard Ayotte, Deputy Attorney General Linda Pistner, Connie Jones, Michael Hertz, Stephen Cole, Michael Roland, Jay Wadleigh

Staff: Danielle Fox (OPLA), Jean Guzzetti (OPLA), Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 1:30 PM.

In the first item of the proposed agenda, Senator Sherman and Representative Maker convened the meeting and asked Commission members to introduce themselves.

Representative Bernard Ayotte introduced himself and noted that this was his first CTPC meeting. The Commission Chairs also noted that the newly appointed member from DEP, Ms. Heather Parent, was unable to attend this meeting.

The Commission Chairs then introduced Lock Kiermaier who will be staffing the CTPC on a contractual basis through the end of June 2012. OPLA legislative Analysts Danielle Fox and Jean Guzzetti are unable to provide necessary staffing coverage due to the demands of the Second Regular Session of the Legislature.

**Consideration of Annual Report**

The second item on the agenda was the consideration of the draft Seventh Annual Report of the Citizen Trade Policy Commission dated December 2011. The commission is required by current law (10 MRSA §11(9)D) to submit an annual report to specified parties including the Governor and the Legislature. The report is to contain relevant information about the commission's activities from July 1, 2010 through June 30, 2011. Accordingly, the draft of this year's report includes:

- a description of the many actions taken by the commission;
- a list of the seven dates on which the Commission met;
- a list of guest speakers who appeared before the commission;
- a description of a proposed agenda for the upcoming year; and
- a comprehensive list of appendices of supporting information

Upon consideration of the draft report, a motion was made by Senator Patrick and approved unanimously by those commission members present to accept the draft report as final and distribute it according to the requirements of current law.

**Transpacific Partnership Agreement (TPPA)**

The third item on the agenda was further review and discussion of the Transpacific Partnership Agreement (TPPA). Staff person Danielle Fox briefly summarized the TPPA by describing it as a major international trade agreement that is currently being negotiated. Most notably, the prospective agreement was originally intended to include smaller trading Pacific Rim partners of the U.S. but recent proposals have been made to include Canada, Mexico and Japan.

To provide a background understanding of international trade agreements and why they have an important bearing on state sovereignty, Commission member Linda Pistner, Chief Deputy Attorney General, was invited to summarize a memo dated 12/13/11 that she had prepared for the commission's consideration. Ms. Pistner's comments included the following points:

- Trade treaties are enforced on a nation-to-nation basis; thus, provisions of state law that are challenged under the provisions of a trade treaty are defended by the office of the U.S. Secretary of State. Further, the implications of this process suggest the possibility of a significant loss of state sovereignty through limitations on its ability to regulate various aspects of intra-state commerce and other activities. Also of significant concern is the very real possibility of state liability in the form of arbitration costs or compensation if a state regulation is found to be in violation of a trade treaty;
- The current process by which trade treaties like TPPA are negotiated occurs on the federal level by the U.U. Trade Representative (USTR) and the details of ongoing negotiations are confidential which has the practical effect of limiting the ability of states to proactively provide input to provisions which may have a serious negative impact to state sovereignty.

In comments following Ms. Pistner's presentation, Senator Sherman advocated that the commission's upcoming assessment needed to focus on the topics raised by Ms. Pistner. Representative Sharon Treat, former Commission member and current member of the Intergovernmental Policy Advisory Committee (IGPAC), concurred with Senator Sherman's suggestion and emphasized that the upcoming CTPC assessment needs to reflect a clear understanding of TPPA process and its potential impact on Maine.

Next, Commission members proceeded to discuss at length a potential approach and methodology for the commission's upcoming bi-annual assessment as required under current law (10 MRSA §11(9)C). This discussion included the following points, suggestions and possible actions:

- The state procurement process is crucially important matter of state sovereignty and needs to be specifically addressed in the assessment process. In addition, the commission need to consider writing a letter in the very near future on this topic to Ambassador Kirk, USTR, highlighting the provisions of current Maine law (10 MRSA §13) which states that Maine may not be bound by a specific trade agreement unless the State has enacted a specific law to enter into that agreement;
- Other potential issues to be covered by the upcoming assessment include pharmaceuticals and fishing subsidies;
- Commission member Steve Cole suggested that he knows qualified people at the University of Minnesota that possibly could be used in the assessment process;
- There was considerable sentiment among Commission members towards adopting an approach for the assessment which uses a public hearing model in which particular experts on specific subject areas would be invited to make presentations to the commission. This public hearing process would be supplemented by a subsequent analysis by a individual qualified in

trade policy analysis. Further comments by Commission members suggested that the audience for this kind of assessment model would include members of the Maine Public, the legislature and Governor, the Maine Congressional delegation and the USTR; and

- Commission member Steve Cole also suggested that the Margaret Chase Smith Policy Center at the University of Maine could be approached to discuss the possibility of having them focus an issue of *Maine Policy Review* on the same trade policy topics that the Commission would be reviewing in the proposed assessment process.

The consensus of those commission members present was that the upcoming assessment should follow a hybrid public hearing/analysis model and that this format would be fleshed out in subsequent meetings of the commission.

### **Fast Track Authority**

The Commission then heard from Troy Haines, of the Maine Fair Trade Campaign, who spoke informally regarding President Obama's intent to ask Congress for "fast track authority" to negotiate the TPPA. Mr. Haines explained that fast track authority effectively suspends the requirement that Congress negotiate trade policy agreements and thus eliminates the opportunity for Congress and the states to influence specific provisions of trade policy agreements. Finally, Mr. Haines maintained that the granting of fast track authority effectively negates state sovereignty.

Upon discussion of Mr. Haines' comments, Commission members expressed an interest in taking up the topic of fast track authority at the next meeting with the possibility of sending a letter on this topic to members of the Maine Congressional delegation and the USTR.

### **USTR Request for Comment on Canada, Japan and Mexico Joining TPPA**

Next, commission staff alerted the commission about a recent notice from the USTR in the Federal Register which invites public comment (with a 1/13/12 deadline) on the possibility of allowing Canada, Japan and Mexico to join as participants of the TPPA. Upon further discussion of this topic, Commission member Senator John Patrick expressed his strong concern that the TPPA must reflect the ability for signees to enforce high public health standards.

Senator Patrick then made a motion, which was seconded, for the Commission to submit a letter to the USTR stating the Commission's concern that the inclusion of large trading partners into the TPPA was largely incompatible with a trade agreement that was originally conceived from the perspective of trade between the US and smaller Pacific rim countries. The letter should also point out the potentially chilling effect that such a trade agreement would have on state sovereignty for states like Maine that have a contiguous border with Canada. Senator Patrick's motion was unanimously adopted by the Commission.

### **Input on the Report to Congress on How to Modernize the and Improve the System of Regulation in the United States**

Commission staff also informed members of the commission by another recent notice in the Federal Register from the Secretary of Treasury Tim Geithner inviting public comment (with a 12/16/11 deadline) on a Report to Congress on How to Modernize the and Improve the System of Regulation in the United States. Commission members were reminded of a previous action by the Commission

in April of 2010 when the Commission sent a letter to Senator Christopher Dodd regarding a proposed provision in the Restoring American Financial Stability Act of 2010 which would have allowed the federal government to invalidate state insurance laws that were interpreted as being “inconsistent with” international agreements. The Commission’s letter of April 16, 2010 stated the commission’s strong opposition to this proposed abrogation of state sovereignty. Commission staff reminded the Commission that the final federal legislation in question did not include the onerous aforementioned proposal.

After further discussion, Senator Patrick made a motion, which was seconded, to resend the April 2010 letter to Secretary Geithner with a cover letter which reiterated the Commission’s continuing opposition to any change in federal regulation or law pertaining to the ability of trade agreements to supersede existing state sovereignty regarding insurance regulation. Senator Patrick’s motion was approved unanimously by the Commission.

### **Financial Report**

Next, Commission staff presented a financial report on the CPTC which showed the following:

- For FY 12, the CTPC has General Fund appropriations of \$2,600 in Personal Services and \$28,510 in All Other for a total appropriation of \$31,150; and
- Year-to-date GF expenditures through 12/13/11 amounted to \$550 in Personal Services and \$2,823.85 in All Other for total expenditures of \$2,823.85.

Commission members reviewed the report without additional public comment.

### **Scheduling Next Meeting Date and Suggested Agenda Topics**

As a final topic, Commission members agreed to a next meeting date in mid to late January with the specific date to be confirmed by Commission staff person Lock Kiermaier after further communication with Commission Chairs and members. Anticipated topics include further discussion of the design of the upcoming assessment and a consideration of the advisability of fast track authority with regard to the TPPA.

The meeting was adjourned at approximately 4:30 PM.