STATE OF MAINE
124th LEGISLATURE
FIRST REGULAR SESSION

Sixth Annual Report of the Citizen Trade Policy Commission

October 2010

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

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Advisory Members

Mr. Wade Merritt
Mr. Malcolm Burson
Ms. Jane Aiudi
Mr. Michael Roland
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, Augusta, Maine Public Hearing Summary
E. Citizen Trade Policy Commission, Oxford Hills Public Hearing Summary
F. Citizen Trade Policy Commission letter opposing the use of the Special 301 regarding pharmaceutical pricing restraints and Representative Treat's oral statement
G. Citizen Trade Policy Commission letter regarding the establishment of an Office of National Insurance
H. Citizen Trade Policy Commission letter to the Finance Committee regarding duty rates for foreign footwear manufactures.
I. Citizen Trade Policy Commission letter regarding the proposed Public Health Advisory Committee on Trade

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 as amended by Public Law 2007, chapter 266, 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, 2009 through June 30, 2010 during which the commission held 10 regular meetings and two public hearings. The commission held a public hearing on October 15, 2009 at the State House in Augusta and on May 6, 2010, in Oxford Hills at the Oxford Hills Comprehensive High School. The October 15th public hearing provided a forum for public testimony on international trade concerns related to groundwater extraction in Maine and the Oxford Hills public hearing yielded testimony on the affects of international trade agreements on manufacturing jobs and comments about the pending Fair Trade Act sponsored by Congressman Michaud.

The 124th Legislature enacted Resolve 2009, chapter 132, which directed the Water Resource Planning Committee, of the Land and Water Resources Council, in coordination with the commission and the Attorney General (Ground Water Working Group) to conduct an examination of the potential legal impacts of international trade agreements on the State's ability to manage its ground water resources. The working group held five joint meetings as part of the commission's regular meeting schedule and issued its final report to the Joint Standing Committee on Natural Resources in February 2010.

During this reporting period, the commission took the following actions.

1. The commission participated in a groundwater study as directed by Resolve 2009, chapter 132, and voted to approve the Ground Water Working Group's final draft report "The Potential Impact of International Trade Agreements on Ground Water Withdrawal Regulations." The report is located on the commission's webpage at http://www.maine.gov/legis/opla/citpol.htm.

2. In conjunction with the Forum on Democracy and Trade, the commission completed its 2009 assessment that touches on the commission's accomplishments over the past two years and focuses on state sovereignty issues regarding international investment agreements, international service agreements, the Agreement on Technical Trade Barriers, international subsidies agreements and international procurement agreements.

3. In 2008, the commission sent a letter to the United States Trade Representative (USTR) in opposition to the pending Columbia Free Trade Agreement. Shortly after the commission sent its letter, parties to the negotiations postponed discussion on the proposed Columbia Free Trade Agreement. However, USTR signaled in 2009 its willingness to restart negotiations so the commission resent the letter to USTR to ensure the commission's views were consideration during the most recent discussions.

4. As required by Public Law 2003, chapter 699, the commission considered whether to continue its existence as currently structured, modify its structure or to disband entirely. The commission voted to continue in its current form after determining that it continues to be a cost-effective forum on trade matters and that its services is still needed.

5. The commission sent a letter to USTR and Maine's Congressional Delegation in opposition to USTR's proposed Special 301 report regarding pharmaceutical pricing restraints. Commission member, Rep. Sharon Treat, presented the commission's position on the Special 301 report before the USTR on March 3, 2010. The commission expressed its concern that the proposed office would give one person the power to invalidate state insurance laws perceived as "inconsistent with" international trade agreements.

6. The commission sent a letter to United States Congressman Christopher Dodd, Chairman of the Committee on Banking, Housing and Urban Affairs, Maine's Congressional Delegation and Maine's Attorney General opposing the establishment of the Office of National Insurance under the Restoring American Financial Stability Act. The commission expressed its concern that the proposed office may give one person the power to invalidate state insurance laws perceived as "inconsistent with" international trade agreements.

7. The commission sent a letter to the United States Committee on Finance regarding a "loophole" in federal law that allows foreign footwear manufactures to reclassify their footwear as "textiles" by inserting small amounts of fiber in the soles of their shoes. Duty rates for footwear are higher than those for textiles and are designed to level the playing field for our few remaining domestic footwear manufacturers.

8. The commission sent a letter to Maine's Congressional Delegation advising them to support H.R. 2293/S. 1644 the Public Health Trade Advisory Committee Act that amends the Trade Act of 1974 to add a Public Health Advisory Committee on Trade to the Second Tier of the Federal Trade Advisory Committee System. The proposed Public Health Advisory Committee on Trade would enable public health representatives to work with other advisory committees to the President on trade matters.

9. It voted to have Representative Pat Jones represent the commission at the National Association of State Legislatures in California since the Representative planned to attend the meeting but no commission members were able to attend.

10. The commission worked closely with Maine's Congressional Delegation, state officials and other entities involved with international trade to stay abreast of current trade activity and to relay the concerns of Maine's citizenry.

Over the next reporting period, the commission will begin to conduct its 2011 assessment, hold public hearings 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 and amendments to that law are in **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 initially convened on October 6, 2004. The commission's membership roster is in **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 has 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.

Information about the commission's activities and all commission documents can be found online at http://www.maine.gov/legis/opla/citpol.htm or obtained through the Office of Policy and Legal Analysis. During this reporting period, July 1, 2009 through June 31, 2010, the commission held 10 meetings and two public hearings.

II. MEETINGS

During the 2009-2010 reporting period, the commission held ten meetings on the following dates; July 24, 2009, September 11, 2009, October 15, 2009, November 20, 2009, December 11, 2009, January 8, 2010, February 19, 2010, March 19, 2010, April 16, 2010, and June 26, 2009. Meeting summaries are in **Appendix C.**

In general, the commission used its meetings to:

1. Conduct a study of the impacts international trade agreements may have on the regulation of Maine's ground water resources as directed by Resolve 2009, chapter 132;
2. Monitor, discuss and react to on-going and emerging trade issues;

3. To continue to explore the impact of international trade agreements on Maine's businesses, labor force, healthcare system and the environment; and
4. 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.

- The Water Resource Planning Committee members to study the potential impacts of international trade agreements on ground water withdrawal regulations in Maine.
- Carol White, Geologist, gave the commission a presentation on the geology of Maine's groundwater resources.
- Paul Gauvreau and Peggy Bensinger, Assistant Attorney Generals, presented a legal review of Maine's groundwater regulation and groundwater ownership.
- Jim Catella (Senator Snowe's Office) informed the commission about foreign footwear manufactures using a "loophole" in federal law to avoid paying higher duty rates giving those companies an advantage over the few remaining domestic footwear manufacturers.
- Dana Eidsness, Policy Director, Forum on Democracy and Trade updated the commission on international trade agreement activities and potential issues.
- The following groups appeared before the commission to discuss the issue of "paper dumping" by some foreign paper manufacturers: Alliance for American Manufacturing (Daniel Lawson), NewPage Paper Mill (Judilee Whittemore and Donna Weston), and Rumford Paper Mill and USW Local 900 (Ron Hemingway).
- William Waren, Georgetown University School of Law, briefed the commission on trade matters including the potential impact of trade agreements on Maine's ability to regulate ground water resources, updates on the Trans-Pacific Partnership agreement negotiations, New Zealand dairy imports, the pending China bi-lateral investment treaty and updates on World Trade Organization's tribunal decisions.

III. PUBLIC HEARINGS

Over the past seven years, the commission 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 two public hearings over this reporting period, one at the State House in Augusta, Maine on October 15, 2010 and the other on May 6, 2010 at the Oxford Hills Comprehensive High School in Oxford Hills, Maine. The commission, in conjunction with the Water Resource Planning Committee and the Attorney General, conducted the first public hearing to receive public input on the potential impacts of international trade agreements on the State's ability to regulate ground water withdrawals. Approximately 30 people and a number of interest groups attended the public hearing. An audio recording of the public hearing is located on the commission's webpage at http://www.maine.gov/legis/opla/citpolsums.htm and a written summary of testimony received at the public hearing is in **Appendix D**.

The second public hearing was held for the purposes of receiving testimony about the affects international trade agreements have had on manufacturing jobs in Maine and comments on Congressman Michaud's legislation known as the Fair Trade Act. Approximately 20 people attended the hearing and testimony repeatedly highlighted the loss of Maine manufacturing jobs after the passage of the North America Free Trade Agreement in 1994. Speakers voiced support for Congressman Michaud's Fair Trade Act bill. The summary of testimony received at the public hearing is in **Appendix E.**

IV. COMMISSION ACTIONS

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

- Resolve 2009, chapter 132, directed the Water Resource Planning Committee, of the Land and Water Resources Council, in coordination with the commission and the Attorney General (Ground Water Working Group) to study the potential impacts of international trade agreements on Maine's ability to regulate its ground water resources. The Ground Water Working Group held its meetings in conjunction with the commission's regular meetings for the purpose of efficiency. The Ground Water Working Group met five times between July and December of 2009 and held a public hearing on October 15, 2009 at the State House to receive public input on the topic. As directed by the resolve, the Ground Water Working Group reported its findings and recommendation to the Joint Standing Committee on Natural Resources in February 2010. The final report "The Potential Impact of International Trade Agreements on Ground Water Withdrawal Regulations" is located on the commission's webpage at http://www.maine.gov/legis/opla/citpol.htm.
- In conjunction with the Forum on Democracy and Trade, the commission completed its 2009 assessment. The assessment touches on the commission's accomplishments over the past two years and focuses on issues involving international investment agreements, international service agreements, the Agreement on Technical Trade Barriers, international subsidies agreements and international procurement agreements. The report includes a number of options the commission should consider implementing over the next two years to stay involved and relevant in the discussions over trade matters covered by the report. The Assessment Maine Citizen's Trade Policy Commission 2009 report is located on the commission's webpage along with its previous assessments at http://www.maine.gov/legis/opla/citpolassessments.htm.
- In 2008, the commission sent a letter to USTR in opposition to the pending Columbia Free Trade Agreement (See commission's 2008 report). Shortly after the commission sent its letter, parties to the discussion postponed negotiations on the proposed trade agreement. However, in 2009, USTR signaled its willingness to restart negotiations so the commission resubmitted its 2008 letter to USTR to ensure its consideration during the next round of deliberations on the Columbia Free Trade Agreement.

- As required by Public Law 2003, chapter 699, the commission considered whether to continue its existence as currently structured, modify its structure or to disband entirely. The commission determined that it continues to be a cost-effective forum for facilitating communications between local and state government and business interests and trade related entities at the federal and international levels. If found that its services are still needed and voted unanimously to continue its existence in its current form.
- The commission sent a letter to USTR and Maine's Congressional Delegation in opposition to USTR's use of the Special 301 regarding pharmaceutical pricing restraints. The commission expressed concern about a recent trend of the USTR using trade agreements and pressure, including through Special 301, to push for the international regulation of domestic pharmaceutical pricing programs. The commission stated that the USTR "should not be negotiating for the limitation of programs abroad that are the best practices in the field right now here at home." Commission member, Representative Sharon Treat, presented the commission's position on the Special 301 report before the USTR on March 3, 2010. The February 17, 2010, letter and Representative Treat's oral statement are in **Appendix F**.
- The commission sent a letter to United States Congressman Christopher Dodd, Chairman of the Committee on Banking, Housing and Urban Affairs, Maine's Congressional Delegation and Maine's Attorney General opposing the establishment of an Office of National Insurance under the Restoring American Financial Stability Act. The commission expressed concern that the proposed office would give one person the power to invalidate state insurance laws perceived as "inconsistent with" international trade agreements. The April 16, 2010, letter is in **Appendix G**.
- The commission sent a letter to United States Senator Max Baucus (Chairman) and Congressperson Charles Grassley (Ranking member) of the Committee on Finance urging them to close a loophole in the law that allows some foreign shoe manufactures to pay lower duty rates for their footwear. The United States has very few domestic shoe manufactures and they rely on duty rates adopted by Congress to level the playing field in the global economy. Recently, foreign shoe manufactures have found a way to avoid paying the higher duty rate by inserting small amounts of fabric in the sole of their footwear resulting in the reclassification of that footwear as a "textile" product that is subject to a lower duty rate. The June 23, 2010 letter is in **Appendix H**.
- The commission sent a letter to Maine's Congressional Delegation advising them to support H.R. 2293/S. 1644 the Public Health Trade Advisory Committee Act that amends the Trade Act of 1974 to add a Public Health Advisory Committee on Trade to the Second Tier of the Federal Trade Advisory Committee System. In general, the Trade Advisory Committee System helps the President develop U.S. trade policy and the proposed Public Health Advisory Committee on Trade would enable public health representatives to work with other advisory committees to the President on trade. The July 9, 2010 letter is in **Appendix I**.
- The commission worked closely with Maine's Congressional Delegation, state officials and other entities involved with international trade to stay abreast of current trade activity and to relay the concerns of Maine's citizenry.

- It voted to have Representative Pat Jones represent the commission at the National Association of State Legislatures in California since the Representative planned to attend the meeting but no commission members were able to attend.

V. AGENDA FOR NEXT YEAR

During the next reporting period, the commission will 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.

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

Effective July 30, 2004, unless otherwise indicated.

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

Wednesday, October 13, 2010

Appointment(s) by the Governor

John L. Patrick
206 Strafford Avenue
Rumford, ME 04276
207-364-7666

Representing Nonprofit Organizations Promoting Fair Trade Policies

John Palmer
P.O. Box 519
Oxford, ME 04270
207-539-4800

Representing Small Business'

Paul Volckhausen
1138 Happy Town Road
Orland, ME 04472
207-667-9212

Representing Small Farmers

Appointment(s) by the President

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

Senate Member

Sen. Troy D. Jackson
167 Allagash Road
Allagash, ME 04774
207-436-0763

Senate Member

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

Senate Member

Carla Dickstein
P.O. Box 268
Wiscasset, ME 04578
207-882-7552

Representing Economic Development Organizations

Michael S. Hiltz
45 Pleasant Avenue
Portland, ME 04103

Representing Health Care Professionals

Joseph Woodbury
508 Gore Road
Otisfield, ME 04270

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

Appointment(s) by the Speaker

Rep. Margaret Rotundo – Chair
446 College Street
Lewiston, ME 04240
207-784-3259

House Member

Rep. Jeffery A. Gifford
346 Frost Street
Lincoln, ME 04457
207-794-3040

House Member

Rep. Sharon Anglin Treat
22 Page Street
Hallowell, ME 04347
207-623-7161

House Member

Sarah Adams Bigney
306 Congress Street, Apt. C
Portland, ME 04101
207-356-7322

Representing Nonprofit Human Rights Organizations

Michael Herz
P.O. Box 1462
Damariscotta, ME 04543

Representing Nonprofit Environmental Organizations

Cynthia Phinney
16 Old Winthrop Road
Manchester, ME 04351

Representing Organized Labor

Attorney General

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

Attorney General or designee

Commissioner, Department of Agriculture

Jane Aiudi (until December 2009)

Commissioner or designee

Commissioner, Department of Environmental Protection

Malcolm Burson
DEP
17 State House Station
Augusta, ME 04333-0017
207-287-8662

Commissioner or designee

Commissioner, Department of Health & Human Services

Barbara Van Burgel — **Commissioner or designee**
DHS
Bureau of Family Independence
11 State House Station
Augusta, ME 04333-0011
207-287-3106

Commissioner, Department of Labor

Michael Roland — **Commissioner or designee**
ME Department of Labor
45 State House Station
Augusta, ME 04333-0045
207-623-7932

Director, Maine International Trade Center

Wade Merritt — **Representing Maine International Trade Center**
511 Congress Street
Portland, ME 04101
207-541-7400

Staff:

Curtis Bentley
Office of Policy and Legal Analysis
207-287-1670

APPENDIX C

Citizen Trade Policy Commission Meeting Summaries

Citizen Trade Policy Commission
July 24, 2009
Transportation Committee Room, Augusta
10:00 A.M.

Meeting Summary

Members present: Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Roger Sherman, Sen. Gerzofsky, Rep. Jeffery Gifford, Jane Aiudi, Cynthia Phinney, Leslie Manning, Linda Pistner, Carla Dickstein, Joseph Woodbury, Michael Herz, Malcolm Burson and Sarah Bigney.

Water Resource Planning Committee members present: Bob Marvinney, Andrew Fisk, Jeff McNelly, Andy Tolman, Marcia Spencer-Famous, Barry Sanford, Greg Sweetser and John Harker
Office of the Attorney General: Attorney General Janet Mills, Linda Pistner

Forum on Democracy and Trade: William Waren

Staff present: Curtis Bentley, Legislative Analyst

1. **Introductions**

2. **Discussion of work plan:**

   - Collaborative effort by all parties involved to conduct the study required pursuant to the Resolve 2009, chapter 132 (Review of International Trade Agreements and the Management of Groundwater Resources);
   - Quick briefing on the history of the Water Resources Planning Committee and their current projects;
   - Water Resources Planning Committee members pointed out 4 main questions on this issue for future discussion: (1) is there enough groundwater?; (2) is it properly regulated?; (3) property law questions regarding private vs. public ownership; and (4) how is it impacted by trade agreements?
   - For the public hearing, have an outline of the current groundwater regulation and have a brief session on groundwater resources in Maine; the public hearing on this issue should be part of the Commission's regularly scheduled public hearing.
   - The Attorney General would like to come up with a useful document about how trade laws impact water resources and how to view groundwater issues in light of trade agreements.
   - Discussion of the June 26th draft outline:
     i. Background: suggestion that a brief overview be done of the nature of groundwater in Maine and include areas that have already been identified as potential concerns for groundwater;
     ii. Existing trade agreements- no comments;
     iii. Current negotiations and trade agreements: this is a big issue in other states but this study may be the first concentrated look at groundwater and trade;

iv. Action states may take to enhance their ability to avoid a challenge in this area: need to do much more research to see if there are things that can be done at the State level, including the use of waivers.

3. **Scheduling:**
   - Water Resources Planning Committee ("WRPC") is not planning to have outside meetings but will consider Commission meetings to be joint meetings with the WRPC on this issue.
   - Leslie Manning provided information that the DOL has someone available to help the Commission and for scheduling public hearings;
   - Southern Maine has had a number of groundwater issues and it may be good to schedule a few meetings before the public hearing- the week of October 12th in southern Maine (look at Tue/Wed/Thur of that week);
   - The format of the public hearing: should begin with a briefing on groundwater laws and statutes in order to keep the hearing focused (possible 1 hour information session before it is opened up for public comment); staff to work with Judy to find a location and date during the week of Oct. 12th;
   - Next meeting – have background presented by WRPC and Commission:
   - Who is responsible for what regarding the report: The WRPC will draft the background section; AG will draft domestic/common law content; WRPC will provide current groundwater withdrawal regulations; Forum will provide content on trade agreements and how apply to Maine.
   - Forum could give a preliminary update during the Commission's August meeting (28th) and will come back in September with the preliminary report of legal research;
   - Suggested that while this group is conducting this study it should keep in mind wind power and energy corridors as well – identify issues and how these issues may apply to LNG facilities;
   - Suggested by Commission member that transparency and natural resources may be an issue that could be focused on as part of the Commission's work over the next year;
   - Forum will provide legal background and analysis, but the groups involved will need to make the policy discussions and conclusions for the report;
   - Sarah and Leslie offered to compile a list of experts and reports in this field;
   - Agreement to invite a representative from Nestle to future meetings – pointed out that Nestle is represented on the WRPC.

4. **Funding**

   - Commission does not have resources for this work, but can fund the public hearing;
   - The Forum has received a grant to conduct some of this work on water issues nationwide, not just in Maine;
   - Need to put together a document that makes clear what the Forum is doing for the group and that it is nonpartisan in nature. Include sources of funding (the Forum and the Attorney General's Office will work on a first draft and then provide a draft for members to review).

5. **Assessment:**

- $10,000 for the assessment by the Forum, with work being done for the groundwater study – suggested taking a look at the lessons of the last two years and how can move forward –how to get better consultation with federal government etc.;
- Staff- draft a contract with the Forum;
- Motion: To hire the Forum to perform the work for the Commission's assessment and to incorporate work on the groundwater study (vote: 10-0);
- August 28th meeting to continue work on groundwater study.

Citizen Trade Policy Commission

September 11, 2009

Transportation Committee Room, Augusta
9:00 A.M.

Meeting Summary

Members present: Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Roger Sherman, Rep. Jeffery Gifford, Rep. Sharon Treat, Cynthia Phinney, Leslie Manning, Linda Pistner, Joseph Woodbury, Michael Herz, John Palmer and Sarah Bigney.

Water Resource Planning Committee members present: Robert Marvinney (Maine Geological Survey), Jim Wilfong (H2O for Maine), David Bell (Maine Agricultural Council), Tom Brennan (Nestle), Marcia Spencer-Famous (LURC), Tim Hobbs (Maine Potato Board), Jeff McNelly (Maine Water Utilities Assoc.), Steve Timpano (IFW), Liz Hertz (SPO), John Hopeck (DEP).

Office of the Attorney General: Paul Gauvreau and Peggy Bensinger

Guests: William Waren (Forum on Democracy and Trade by conference call) and Carol White, Maine consulting geologist

Staff present: Curtis Bentley, Legislative Analyst

1. **Introductions**

2. **Presentations: (Documents presented at the meeting are available on the CTPC's webpage)**

    - Background on Maine's groundwater resources and regulations given by Carol White and Bob Marvinney;
    - Background on international trade agreements given by Sarah Bigney;
    - Legal review of Maine's groundwater regulation and groundwater ownership given by Paul Gauvreau and Peggy Bensinger; and
    - Preliminary report on water policy and international trade agreements given by William Waren

3. **Public hearing plan discussion:** Modify plan to limit speakers to 3 minutes and keep questions to a minimum to ensure everyone gets a chance to speak. Have a box at the public hearing that people can put written testimony in if they don't want to speak or if they have comments about groundwater issues they want to submit to the Natural Resources Committee. Ground rules for the hearing should be publicized well in advance. The scope of the hearing should be limited to two areas: 1) whether or not a change in groundwater ownership would better protect the state against claims under

international trade agreements; and 2) whether or not the State's police power to regulate groundwater could be compromised by international trade agreements, and if so, what should be done to avoid it.

4. **Columbia Free Trade Agreement:** Commission agreed to resubmit its February 21, 2008 letter to USTR regarding the proposed Columbian FTA as discussion on this agreement may be pending.

5. **Adjournment:** The meeting adjourned at approximately 1:30PM.

Citizen Trade Policy Commission

October 30, 2009

Transportation Committee Room, Augusta
9:00 AM

Meeting Summary

Members present: Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Gerzofsky, Sen. Roger Sherman, Rep. Jeffery Gifford, Rep. Sharon Treat, Cynthia Phinney, Wade Merritt, Michael Hiltz, Carla Dickstein, Paul Volckhausen, and John Palmer.

Water Resource Planning Committee members present: Robert Marvinney, Andrews Tolman, Thomas Brennan, Barry Sandford, Timothy Hobbs, Jeff McNelly, Marcia Spencer-Famous

Guest: William Waren (Forum on Democracy and Trade)

Staff present: Curtis Bentley, Legislative Analyst

1. **CTPC/WRPC groundwater meeting:** William Waren (Forum on Democracy and Trade) presented the first draft of the final report on Water Policy and International Trade law. Bob Marvinney stressed that this report is only part of the final report that will be issued by WRPC. Mr. Waren discussed relevant international case law and explained why some statements or conclusions in this report differ from other articles written on the subject. Mr. Waren felt that Scott Slater's article *State Water Resource Administration in the Free Trade Agreement Era: as Strong as Ever* was overly optimistic about the parallel between U.S. constitutional law and trade agreement provisions. Mr. Waren pointed out that it is not just an issue with substantive rules or obligations under trade agreements but also a structural issue regarding the tribunals where cases are tried. Tribunal arbiters are often international commercial specialists and may be appointed to the tribunal for one or two cases after which that person may represent parties that were once before that arbiter raising a conflict of interest concern. Additionally, tribunals are not bound by the decisions of prior tribunals and tribunals will often try to provide equity in a given case causing decisions to be scattered all over the board. Trade agreements and how a tribunal may interpret it in light of a particular fact pattern is unclear, complex and uncertain.

   Bob Marvinney stated that the WRPC needed to review the testimony from the public hearing and the AG's groundwater analysis from a state law point of view for the next meeting.

2. **CTPC Annual report** the commission reviewed a draft of the final annual report and voted 10-0 to accept the report with a minor addition suggested by Rep. Treat regarding the commission's activities at meetings of the National Conference of State Legislators.

3. **Dana Eidsness, new Policy Director, Forum on Democracy and Trade** Dana Eidsness joined the meeting by conference call. Ms. Eidsness briefed the commission on her background and interest in joining the Forum. She also presented her ideas for the direction of the Forum and hoped the Forum and the CTPC could continue to work together as in the past. Ms. Eidsness would like to see the continuation of regional meetings and possibly a meeting in Washington DC with USTR and state trade commissions. Ms. Eidsness is also exploring the possibility of "webinars" to get and disseminate trade related information among states.
4. **State procurement:** Rep. Rotundo briefed the commission on possible discussions between the U.S. and Canada about removing the "buy American" provision in the stimulus bill in exchange for more open markets in Canada. Canada claims no such deal was imminent.
5. **MOU between New Brunswick and Quebec provinces regarding the cooperation in the energy sector.** Sen. Sherman provided a copy of the MOU to the commission and the commission agreed to make a copy available to the Energy Commission to consider before the Energy Commission's next meeting.
6. **Next meeting/agenda:** The commission agreed to invite the Governor's trade person to all commission meetings to or at least make sure that person is aware commission meetings. The commission directed staff to review LRs and LDs for the next legislative session and report back to the commission on any LRs or bills that may deal with or be impacted by international trade agreements. Rep. Treat would like to put health/prescription drugs on the December meeting agenda. Wade Merritt stated that Janine Bisaillon-Cary (President and State Director of International Trade, MITC) would like to give a presentation to the commission sometime in January.
7. **Adjournment:** The meeting adjourned at approximately 11:45AM.

Citizen Trade Policy Commission

November 20, 2009

Transportation Committee Room, Augusta
9:00 a.m.

Meeting Summary

Members present: Rep. Margaret Rotundo, Rep. Sharon Treat, Sarah Bigney, Malcolm Burson, John Patrick, Cynthia Phinney, Linda Pistner, Paul Volckhausen, Joseph Woodbury, Wade Merritt

Members absent: Jane Aiudi, Carla Dickstein, Sen. Stan Gerzofsky, Rep. Jeffrey Gifford, Michael Herz, Michael Hiltz, Sen. Troy Jackson, Leslie Manning, John Palmer, and Barbara VanBurgel

Water Resource Planning Committee members present: Robert Marvinney (Maine Geological Survey), Jeff McNelly (Maine Water Utilities Assoc.), Andrew Tolman (ME CDC), Timothy Hobbs (Maine Potato Board), Marcia Spencer-Famous (LURC), Barry Sandford (Pine State Drilling), Thomas Brennan (Nestle), James Wilfong (H20 for Maine) and David Bell (Maine Agricultural Council)

Guest: William Waren (Forum on Democracy and Trade via conference call)

Staff present: Linda Nickerson and Judy Gopaul

I. **Called to Order**
The meeting was called to order at 9:10 a.m. by Rep. Margaret Rotundo. Introductions took place.

II. **Conference Call presentation** – William Waren, Policy Director, Forum on Democracy and Trade
William Waren presented Draft #2 – Final Report on Water Policy and International Trade Law and gave a brief summary of his report. The importance of international trade issues and investment law, trade agreements and disputes and investment disputes were addressed. Group discussion followed. Attendees expressed concerns of overall complexity and felt that there was a need for clarification and be more laymen friendly. Appendix I, pages 29, 30, and 31 were heavily discussed. Significant point mentioned is that we have not lost NAFTA case but what would the consequences be if a case was lost.

III. **CTPC/WRPC International Trade Agreements and Ground Water Withdrawal Recommendation**
Robert Marvinney, Chair, Water Resource Planning Committee reviewed recommendations (attached) from the review of international trade agreements.
Members expressed concerns of the need to be more specific and have more background on recommendations. Recommendations 2 and 5 appear controversial and there is a need to look at possible implications; recommendations 1, 3, and 4, members need to look at what is

happening in trade; recommendation 6, discussion of wording "sound basis" to "scientific basis" and concerns of private verses public trust ownership.

Robert Marvinney proposed working with Rep. Rotundo, Linda Pistner and others on revising the list of recommendations prior to the next meeting (December 11th) incorporating concerns, background and specificity. Members were requested to send concerns and suggestions directly to Bob Marvinney as soon as possible.

IV. Progress Report on Forum's Assessment of the Maine Citizen Trade Policy Commission

William Waren was called back into the meeting via polycom. Members reviewed items 1-7. There were no questions on the assessment.

Rep. Treat expressed importance of being represented at the National Association of State Legislators meeting being held in California and stated that Rep. Pat Jones offered to represent CTPC. Motion made by Sarah Bigney to have Rep. Pat Jones or other delegate represent CTPC at the NCSL conference in December. Seconded by Cynthia Phinney. Vote, unanimous.

Suggestion was made to compile a briefing package for Rep. Jones to include the annual report, Columbia Free Trade letter, and other pertinent information.

V. **Next Meeting** – December 11, 2009

VI. Adjournment

Rep. Rotundo expressed thanks to Judy, Linda and Curtis for the assistance to the commission. The meeting adjourned at 11:20 a.m.

/ln

Citizen Trade Policy Commission

December 11, 2009 - 9:00 a.m.

Transportation Committee Room, Augusta

Meeting Summary

Members present: Rep. Margaret Rotundo, Rep. Sharon Treat, Sarah Bigney, Malcolm Burson, Paul Volckhausen, Joseph Woodbury, Wade Merritt, Michael Herz, Michael Hiltz, Linda Pistner

Guests: Robert Marvinney (Maine Geological Survey); William Waren (Forum on Democracy and Trade via conference call)

Staff present: Judy Gopaul

The meeting was called to order at 9:10 a.m. by Rep. Margaret Rotundo.

Robert Marvinney circulated a draft revision of the report "The Potential Impact of International Trade Agreements on Ground Water Withdrawal Regulations" to the Joint Standing Committee on Natural Resources that included recommendations and clarification of language made by members at the previous meeting. The report was reviewed and minor corrections were suggested. Lengthy discussion followed on public ownership section. Suggestion was made to title the end of the report "conclusion and recommendations". Mr. Marvinney will make corrections and circulate a new draft capturing comments.

Rep. Rotundo thanked Mr. Marvinney for his leadership and work preparing the report.

Discussion followed regarding extending the contract with William Waren to allow time for final edits to the assessment report. David Boulter, Legislative Council, advised that the contract can be modified and will work with Curtis Bentley and Mr. Waren on language in terms of extending the contract, as well as any changes in terms of the substance of the work that Mr. Waren is doing. If it is substantial, it will be circulated to members for comment. Linda Pistner made a motion to give Rep. Rotundo authority to decide on language changes to the contract. Seconded. Vote, unanimous.

Discussion transpired on the continuance of the CTPC. Motion made recommending that the Citizen Trade Policy Commission continue in existence because it's proven to be an effective forum and is still needed. The Commission could not officially vote as there wasn't a quorum (short one vote) but will ratify the motion at January's meeting.

The next meeting is scheduled to be held January 8, 2010 at 10:00 a.m. It is very important to have a quorum for voting purposes. Members were asked to please attend.

Meeting adjourned.

Respectfully submitted,

Linda Nickerson

CITIZEN TRADE POLICY COMMISSION MEETING
January 8, 2010

Summary

Members Attending: Rep. Margaret Rotundo, Chair; Sen. Troy Jackson, Chair; Rep. Sharon Treat, Sarah Bigney, Paul Volckhausen, Michael Hiltz, Carla Dickstein, Joseph Woodbury, John Palmer, Linda Pistner, John Patrick, Wade Merritt

Staff Attending: Judy Gopaul

Representative Rotundo called the meeting to order at 10:00 a.m. Introductions were made.

Dana Eidsness, Forum on Democracy via conference call:

Dana Eidsness gave an update on trade and pharmaceutical policy. Appears USTR is using the trade policy to restrict drug pricing regulations. Suggested states take action opposing the use of trade agreements and negotiations to restrict drug pricing programs. The USTR is not a health regulatory authority, has no expertise in public health matters. States should oppose inclusion of pharmaceutical chapters in FTA's; oppose targeting of "reference pricing" programs in any new Trade Promotion Authority Act; and participate in the Special 301 comment process. Every January, USTR solicits comments from all interested parties. States should submit comments opposing the use of Special 301 to restrict foreign pharmaceutical pricing programs.

There is a timetable for submitting comments which she believes is the end of January and will get that information to Curtis immediately. She also arranged for a Special 301 conference call Friday to brief state commissions regarding trade and pharmaceutical policy issues and will forward call-in information to Curtis.

Motion was made to delegate authority to the chairs to draft a letter regarding the Special 301 hearing stating the Commission's position. Seconded; vote, unanimous.

Discussion of 2009 Water Resource Report Assessment with William Warren via conference call:

Discussion followed on the final version of the assessment. Suggestion was made to include an introductory paragraph such as the purpose of the assessment, along with a Table of Contents and web links to each topic.

Rep. Rotundo thanked Mr. Warren on behalf of the State of Maine and commission members for the report and the analysis which was found very informative, eye opening, extremely helpful and much appreciated.

Motion made by Linda Pistner to accept the assessment with the understanding that detailed edits that are suggested could still go forward and if edits result in substantive changes, would have to come back to the commission. Seconded. Vote, unanimous with conditions as noted.

Work plan for 2010:

Linda Pistner reminded members that at the end of the last meeting, a vote was taken for the Commission to continue but there was not a quorum to ratify the vote.

Motion was made to ratify the vote for the Commission to continue and make recommendations to the Legislature. Seconded. Vote, unanimous.

Suggestion was made to have training with the OPLA staff on trade policy. Rep. Rotundo will review with the Governor's advisors.

Members were asked to review today's report and where they want to go it, as well as water extraction issues. Members need to compile topics of interest for future Commission meetings, to include speakers to educate members, communication and to be prepared for full discussion at February's meeting.

Next Meeting:

The next meeting is scheduled for February 19th at 10:00 a.m. Judy will advise members of location.

Meeting adjourned.

/ln

CITIZEN TRADE POLICY COMMISSION
MEETING
February 19, 2010

Summary

Members Attending: Sen. Troy Jackson; Sen. Stan Gerzofsky; Rep. Sharon Treat; John Patrick; Joseph Woodbury; John Palmer; Cynthia Phinney; Malcolm Burson; Sarah Bigney; Michael Roland; Linda Pistner

Staff Attending: Linda Nickerson, Judy Gopaul

Sen. Jackson called the meeting to order at 10:00 a.m. Introductions were made.

Buy America Negotiations – Canada:

Sara Bigney gave an update of the "Buy America Negotiations".

CTPC Letter to USTR – Prescription Drugs:

Rep. Treat reminded members that at the January meeting, members voted to send a letter regarding pharmaceutical pricing restraints and that she would also provide oral testimony at the March 3rd USTR hearing on the Special 301 reports being held in Washington, DC. Discussion followed on how pharmaceutical pricing provisions affect state Medicaid programs and whether USTR understands the implications. Whatever policy is pursued, USTR should be aware and take measures so that states do not get hurt as a result. Rep. Treat will give an update at the next meeting on the results of the hearing.

Water Extraction Report to Natural Resources Committee and Forum's Assessment:

Rep. Rotundo was not available, item tabled for next meeting.

Work Plan for 2010:

Discussion followed on the paper industry issue and significant subsidies being given to China and Indonesia; health care pharmaceutical issues, institutional issues such as relationships with USTR and states, educational components for members and communication.

John Palmer advised members that manufactured housing in Maine has been adversely affected by imports from Canada and how regulations, licensing, workers' compensation, use of subcontractors, etc. have been violated. Sen. Jackson suggested getting Maine Revenue Services involved. John will try to get a speaker from the housing board to attend an upcoming meeting. Sarah suggested sending a letter of introduction to them of who the members are with a brief description.

Meeting Schedule for FY2010:

The following is an established meeting date schedule.

- March 19
- April 16

- May 21
- June 18
- July 16
- August – to be determined
- September 17
- October 15
- November 19
- December 17

Rep. Treat mentioned that the Council of State Governments will be holding the Eastern Regional Conference August 15-18 at the Holiday Inn By the Bay, Portland, Maine and possibly the Commission could schedule a meeting or presentation with them.

John Hennessy from Council of State Government spoke with members and agreed that holding a panel discussion on trade policies, etc. at the conference in August was a great idea. He will follow up with Rep. Treat on coordinating it.

Public Hearing Date/Location:

After lengthy discussion it was determined to hold the mandated CTPC Public Hearing May 6th, 6:00 p.m. at Oxford Hills High School. John Palmer will finalize the meeting location and report back. Subject matter will focus on international trade, impact, and receive testimony from the public on these areas.

Agenda Items for Next Meeting:

- Update on Council of State Government meeting and panel discussion in August
- Water extraction report and assessment
- USTR update
- Work plan for 2010 (report from sub-committee)

Adjournment:

Motion made by Rep. Treat to adjourn. Seconded by Joseph Woodbury. Vote, unanimous. The meeting adjourned at 11:45 a.m.

Respectfully submitted,

Linda B. Nickerson

CITIZEN TRADE POLICY COMMISSION MEETING
March 19, 2010

Summary

Members Attending: Sen. Troy Jackson; Chair; Sen. Stan Gerzofsky, Sen. Roger Sherman, Rep. Sharon Treat, Rep. Jeffrey Gifford; Sarah Bigney, Paul Volckhausen, Michael Roland, Michael Hiltz, Michael Herz, Malcom Burson, John Patrick, John Palmer, Carla Dickstein

Guests Attending: Daniel Lawson, Alliance for American Manufacturing; Judilee Whittemore, New Page; Donna Weston, USW Local 900; Ron Hemingway, USW Local 900

Staff Attending: Linda Nickerson; Judy Gopaul

Senator Jackson called the meeting to order at 10:05 a.m. and introductions were made.

Presentation – Daniel Lawson, Alliance for American Manufacturing

Mr. Lawson was employed in the paper manufacturing industry for twenty-two years, is the Field Coordinator for Alliance for American Manufacturing (AAM) and defined their mission and purpose.

On September 23, 2009 three US paper producers, Appleton Coated LLC, NewPage Corporation and Sappi Fine Paper North America and the United Steelworkers filed antidumping and countervailing duty petitions covering certain coated paper from China and Indonesia alleging that the Chinese and Indonesian exporters of the coated paper covered by the petitions were selling in the United States at prices below normal value and that China and Indonesia producers received subsidies from their governments. The petitions also allege that the U.S. industry producing comparable coated paper is being injured as a result of unfair trade imports from these countries.

Numerous letters of support from the Maine Congressional Delegation were filed with the United States Trade Commission asking for a tariff to be levied on the imports to level the playing field.

Mr. Lawson along with others has been working jointly with companies and towns educating them on the issue of paper dumping and has received letters of support from seven local towns. They have identified twenty-six other towns that they will target for future meetings.

On March 2, 2010, the Department of Commerce found that Chinese and Indonesian coated paper producers have received improper subsidies and issued determinations. As a result, tariffs will be imposed on imports of coated paper to offset the unfair advantage provided by subsidization and that importers of the paper will have to post bond or cash deposits.

The Asian Paper Association filed an appeal on the decision on March 3, 2010.

On April 28, 2010, the Department of Commerce will issue its preliminary determinations in the antidumping duty investigations. In the fall, the International Trade Commission will conduct a public hearing to hear arguments of each side as it prepares final decisions as to whether the domestic industry is injured or threatened by imports of Chinese and Indonesian coated paper.

Mr. Lawson also added that since 2002, approximately 60,000 jobs have been lost in the paper industry. These numbers do not include jobs that have been lost and affected by the paper industry closures such as the trucking companies, drivers, mom and pop stores that depend on the workers, grocery stores, and the like.

Mr. Lawson asked for letters of support from the Citizen Trade Policy Commission and to recommend the same to the Governor.

Sen. Sherman asked if it would be possible for Mr. Lawson to get the overall fiscal impact on what exactly has taken place and that he would like to see the "big" numbers.

Discussion followed on the negative economic impact to Maine if nothing is done for the paper manufacturing industry. Rep. Gifford reminded members that Maine once was a thriving manufacturing state famous for their shoe, tissue, shirt and fabric industries, meat processing, along several others which all have closed and no longer exist in Maine.

Mr. Lawson was thanked for his work and efforts in educating the community in these areas.

Presentation - Donna Weston, Dixfield, NewPage Paper Mill

Ms. Weston described her position and how the economic impact, directly and indirectly affect jobs in Dixfield and how plant closure repercussions go beyond employees.

Presentation – Judilee Whittemore, NewPage Paper Mill

Ms. Whittemore is an employee of NewPage in Rumford. Ms. Whittemore explained how closure of the Rumford mill would affect her family, banks, stores, as well as the state's revenue received in taxes, sales, etc.

Presentation – Ron Hemingway, Rumford Paper Mill and USW Local 900

Mr. Hemingway has been employed at the Rumford Paper Mill for approximately thirty-four years, is with USW, Local 900 and also with the Maine Labor Council for about eighteen years.

Seventy-five to eighty percent of the town's taxes come from the Rumford mill which will decrease to around 40 percent if the mill shuts down. This affects the overall town tax budget, the school budget and the community.

Mr. Hemingway expressed his concerns with the mills shutting down, how it has affected families, loggers, suppliers, wood chip plans and various other vendors. He expressed his concerns on the import of paper from China and Indonesia and how it has affected the mills, the employees, and the overall community of having cheap imported subsidized paper dumped in the US market.

Sen. Jackson thanked Ms. Weston, Ms. Whittemore, and Mr. Hemingway for coming to today's meeting and expressing their concerns.

Discussion followed on the commission drafting a letter of support and sending it to the Department of Commerce, the International Trade Commission, USTR, and should include the Council of State Government which is holding their conference in Portland in August.

Motion was made by Mike Roland for the Commission to draft a letter of support to appropriate trade commissions with copies to USTR, etc. to the affect that we support the paper trade case. The motion was amended to include congressional delegation and the Governor's office.

It was also suggested to include that the costs that China incurs does not get passed onto the workers in China. Discussion followed on how they have no control of what China does. Sharon Treat suggested including language to express concerns of the labor treatment of the workers of other countries.

Malcom Burson reminded members that the motion had to come from an appointed member.

Motion was made by John Patrick for members to draft a letter of support to appropriate trade commissions with copies to USTR, etc. to the affect that they support the paper trade case. The motion was amended to include congressional delegation and the Governor's office.

Seconded by Rep. Gifford. Vote, unanimous.

It was suggested to contact the legal team in the above mentioned case to get a better understanding.

Work Plan for 2010

Discussion followed on strategy for a better communication plan, resources, constituent's feedback and concerns. Suggestion was made to develop a Face book page for the commission. Suggestion was made to create a sub-committee to develop a strategic planning structure for the coming year. Members are Michael Herz and Sara Bigney.

Sharon Treat gave an update on the hearing before the USTR March 3, 2010 where she provided oral testimony representing the Commission. The purpose of the hearing was to get comments and testimony. Testimony we well received which sparked a lot of interest.

Sarah Bigney advised members that there is a new lawsuit filed with NAFTA – AbitbiBowater regarding water trade and will send out information to members about it.

John Patrick suggested inviting speakers from the paper industry to attend the public hearing.

Next Meetings:

The next commission meeting is scheduled to be held April 16th at 10:00 a.m. The Public Hearing is scheduled May 5 at Oxford Hills Comprehensive High School, South Paris, Maine at 6:00 to 9:00 p.m.

Adjournment:

There being no further discussion, the meeting ended at 12:22 p.m.

Respectfully submitted,

Linda B. Nickerson

CITIZEN TRADE POLICY COMMISSION MEETING
Cross State Office Building
Utilities Commission Room 211

June 18, 2010

Summary

Members Attending: Sen. Troy Jackson; Chair; Rep. Sarah Bigney, Paul Volckhausen, Michael Roland, Michael Herz, Malcom Burson, John Patrick, John Palmer, Joseph Woodbury, Carla Dickstein, Wade Merritt, Cynthia Phinney, Linda Pistner

Guests via Polycom: Jim Catella, Sen. Olympia Snowe's Office
William Waren, Forum on Democracy & Trade

Staff Attending: Linda Nickerson, Natalie Haynes

Senator Jackson called the meeting to order at 9:03 a.m. and introductions were made.

Discussion/Comments on the CTPC 2010 Work Plan:

Sara Bigney reviewed the 2010 work plan.

Task Forces:

Paper ruling - John Patrick will get an update from Dan Lawson, Alliance for American Manufacturing, who gave a presentation at the March meeting. He will see if Mr. Lawson can attend an upcoming meeting and also find out the status of the USTR ruling. Mike Roland expressed interest in knowing how industry sees the recent ruling, if there are similar dumpings occurring, what type of commodities may be affected next and how it has affected the mills. John Patrick will contact John Williams, President of Maine Pulp and Paper Association and get information.

Energy corridor and trade policy connections including LNG – Cynthia Phinney will contact Sen. Sherman and collaborate with him on this item. Michael Herz offered to work on this task force and look into LNG item.

Health care and trade policy – Michael Hiltz expressed to Sarah Bigney that he would work on this task force.

Outreach to Legislature, Governor, etc. – Rep. Jackson stated that Rep. Rotundo and all CTPC senators and representatives will serve on this task force.

Other areas – Cynthia Phinney suggested a meeting on federal/state consultation, what they'd like to see and what other states are doing. Sarah will work with Cynthia on this topic.

Staff funding - Sarah Bigney stated that money in the fund will roll over into the next FY budget but currently the dollar amount is not available. A lot depends on budget cuts.

Presentation via Polycom – Jim Catella, Sen. Snowe's Office regarding rubber shoe trade issue

Jim Catella addressed Sen. Snowe's May 3rd letter to Chairpersons, Max Baucus and Charles Grassley, U. S. Committee on Finance, and signed off by several senators and members of Congress.

Mr. Catella advised that he visited the New Balance plants in Maine, was approached by workers advising him of what was going on in the industry, and was asked if Sen. Snowe's office could help.

Genfoot, Inc. of New Hampshire and New Balance of Maine are among the few domestic shoe manufacturers that have not outsourced production. There appears to be companies based in New York and New Jersey (but the product is made in China) that have created a way to get around paying duty tariffs. By spraying a small amount of fabric textile material onto the sole of the footwear, the footwear is reclassified as a textile product and subject to a lower duty rate. The textile fabric that has been sprayed onto the sole wears off within a couple of weeks. Mr. Catella saw footwear that has sprayed fabric on the sole. It is only a matter of time before other companies start using the same process and paying lower tariffs. This leads to an unfair playing field for the manufacturers located here.

Sen. Snowe's letter is requesting Congress to include a provision to S 730, Affordable Footwear Act that will close the loophole that allows importers to evade the duties.

Mr. Catella asked for a letter of support from the CTPC regarding this practice and the impact on workers and jobs in Maine.

Sara advised that Rep. Rotundo expressed her thanks to Sen. Snowe and others in pursuing to preserve hundreds of jobs and preventing importers from skirting tariff rates that protect domestic footwear manufacturers.

Wade Merritt asked what the status was of the small business jobs bill. Mr. Catella reported that the export provisions looked secure; they were looking at other concerns such as estate tax and other provisions that may be attached to the job. They should move forward on this before July 4th.

There being no further questions, Rep. Jackson thanked Mr. Catella and Sen. Snowe's office for sharing their concerns.

Discussion followed on the subject of how footwear is classified as soles being 50% rubber and duty tariff rates. Whatever part of the footwear has the greatest service area is how it is classified, so if the sole is fabric coated, it's classified as "textile". By spraying fabric over the soles of footwear, the footwear is reclassified as a textile product, therefore subject to a much lower duty rate.

Motion made by Cynthia Phinney to submit a letter of support from the CTPC. Seconded by John Patrick. Vote, unanimous.

Public Hearing Comments:

Cynthia Phinney reported that attendees were from a variety of walks of life. There appeared to be a lot of farmers in attendance. A variety of issues were discussed.

There was no further discussion on the public hearing.

Presentation via Polycom – William Waren, Forum on Democracy & Trade

Bill Waren attended a forum in Pocantico, NY which brought together legislators and local/state officials of which Rep. Rotundo was in attendance. As a result, a decision was made in order to be better informed on issues; they need to establish international contacts.

Negotiations have begun on the Trans-Pacific Partnership (TTP), a trade and investment agreement intended to integrate economies of the Americas and East Asia. The United States initiated negotiations with seven countries in March 2010. Other countries may be invited to join negotiations at a later date. Discussions are focusing on the model that the U.S. may use.

Discussion followed on issues regarding dairy imports from New Zealand. U.S. dairy farmers and members of Congress believe that this engages in unfair trading practices and excessive power over the global dairy market.

Another topic pending is the China bilateral investment treaty. China is a major exporter, invests and owns a lot of U.S. There's talk of the Obama administration retreating the bi-partisan trade policy agreement that the Bush administration settled upon which includes labor and environmental protections. The "talk" is, in order to sign a bilateral investment treaty with China; we will have to remove labor protections out of the US model.

Another major issue, the Forum is expecting a decision from WTO tribunal that's looking at legality of state and local government economic development tools used to encourage Boeing to keep its production facilities in the U.S.. Discussion focused on two commercial aircraft companies, Boeing and Airbus. Complaints have been filed that there are violations of the WTO agreement on Subsidies and Countervailing Measures (SCM).

The forum is working on developing papers that show the connection between trade and federalism policy and the general economic fiscal crisis.

We experienced difficulties maintaining a phone connection with Mr. Waren and the polycom. Since there was no further questions, Mr. Waren ended his presentation.

Sen. Jackson thanked Mr. Waren for his updates and information.

Update – Sarah Bigney regarding National Office of Insurance issue

A couple of meetings ago, Mila Kofman, Superintendent, Maine Bureau of Insurance, brought to our attention of a clause in the financial reform bill that would create an Office of National Insurance that would give them power to preempt state insurance regulations. Currently the Senate version still contains the clause. The House version contains language indicating it

cannot be preemptive of state insurance regulations. The two bills now have to go through committee to reconcile their differences and come up with one bill. Rep. Pingree has submitted a letter requesting to use the House language clause in the final bill.

Other Discussions:

Sarah Bigney circulated a handout titled "Clearing the Hurdles: Steps to Improving Wages and Working conditions in the Global Sportswear Industry." Workers from factories in China, India, Indonesia and Thailand about their wages, experiences, and working conditions. The handout summarizes their findings.

Sarah mentioned when purchasing footwear to look at the tags inside. They'll indicate whether the item was made in the China or USA.

Upcoming Meetings and Future Guest Speakers:

Action Items:

Sen. Jackson will contact Hilda Solis, U.S. Secretary of Labor; invite her to attend/present at an upcoming meeting.

Wade Merritt will look into how customs and border patrol make determinations on classifying products. Will also invite Pat Mears, Director, International Economic Affairs, National Association of Manufacturers, to speak at a future meeting.

John Palmer will contact Peter Connell for an update at the October meeting.

Next meetings:

July 16 – Updates from task groups.

August – TBD, possibly schedule in Portland with Council of State Governments 50th Annual meeting, need to talk with Sharon Treat to get an update.

September 17 - Wade Merritt stated that Janine Bisaillon-Cary, President, MITC will give a presentation.

October 15

November 19

December 17

Adjournment:

The meeting adjourned at 10:45 a.m.

Respectfully submitted,

Linda B. Nickerson

APPENDIX E

Citizen Trade Policy Commission, Oxford Hills Public Hearing Summary

CITIZEN TRADE POLICY COMMISSION
PUBLIC HEARING

May 6, 2010
Oxford Hills Comprehensive High School
Meeting Start Time: 1800
Meeting End Time: 1930

In attendance:

Full Commission
Staff: Judy Gopaul

Speakers:

Deborah Kendall. Peer Support Worker, Wausau Paper Mill. She lost her job when the mill closed in 2009 after more than 25 years. Part of her work as a Peer Support worker is to assist other displaced workers in finding jobs. Most of the mill employees are over 50 years old, with limited computer skills. It is difficult to find employment because of their qualifications. Jobs are needed in Maine; manufacturing jobs need to stay in United States. She advocated for better jobs, better benefits. "Everyone needs to support the Fair Trade Policy and stop this insanity before we lose every manufacturing job in Maine and possibly the United States."

Dean Gilbert. Master Electrician with 29 years' tenure at the Rumford Paper Mill and Vice-President of the Local 2144 – IBEW (International Brotherhood of Electrical Workers). Over the past two years our mill has idled paper machines, reduced production, and laid off workers. 60% of my crew was laid off, many of whom had more than 15 years' seniority. Families struggled to get by; they lost their pay checks and in many cases, their dignity. He emphasized that trade laws that favor foreign competition hamper American workers. It is important to keep manufacturing jobs in the United States. He favors tariffs and other sanctions that eliminate unfair advantages for countries that manipulate and undervalue their currency. He also favors a re-evaluation of current trade laws and supports Rep. Michaud's Trade Act.

Ron Hemingway. VP Maine Labor Council. Thanked the commission for their support of fight against illegal dumping and subsidizing of coated paper from Indonesia and China. Supports the Trade Act and seeks support from the Commission, along with Senators Collins and Snowe, for the act. He is not asking for protectionism, but for fair trade, with reasonable environmental standards, and standards for human rights, health and safety enforcement, and economic justice instead of currency manipulation.

Don Berry. Master Electrician. President, local AFL-CIO. Employed in Maine since 1976. He started with an outside electrical contracting company working in paper mills in Maine; at the time he started there were over two hundred contracted electricians working throughout Maine; now there are none from his company. He attributes the job losses to unfair trade agreements. He supports the Trade Bill from Rep. Michaud and provided copies of recent Trade Assistance Act layoffs in Maine.

William Brennan. Mr. Brennan noted that in Maine, 30,000 manufacturing jobs have been lost in Maine over the past 16 years as corporations have moved jobs overseas where they don't have to worry about regulations that protect the health and safety of their workers or the environment. Urged the commission to push for a reappraisal of NAFTA and the WTO, including an assessment of economic outcomes that factor in health and safety, human rights, and social and environmental indicators. Urges the commission to support the Trade Act. Provided a copy of an article of an accident in Bangladesh that caused twenty-one apparel workers to die in a factory fire after they were locked in.

Mike Castaneda. Was employed for Wausau Paper in Jay for 20 years; lost his job when the mill closed. Created very high stress levels for the now unemployed workers. Noted that one coworker has committed suicide and another died of a heart attack; three additional workers have become disabled as a result of the layoffs. All of those working, despite their efforts with the Trade Adjustment Act of 1974 to become retrained, are underemployed. Mr. Castaneda noted that Maine has lost over 30,000 manufacturing jobs since the passage of NAFTA in 1994. He urges support of the Trade Act sponsored by Rep. Mike Michaud.

Delia Gorham. Speaking as an individual, a Mainer. She applauded Rep. Michaud's support of the American Clean Energy and Security Act and encourages support of the Trade Act to ensure that environmentally sounds jobs that look at alternative energy do not go overseas.

Tom Whitney. Discussed his first-hand observations of workers in appalling conditions in countries abroad and the effects of NAFTA on the economies of the US and other countries.

Peter O'Connell. Via e-mail to Rep. Rotunda: Former member of the Commission. Noted that his company and others that were manufacturing companies no longer exist because of the unfair trade practices and advantages given to Canadian manufacturers as a result of NAFTA. Emphasized that trade policy needs a complete overhaul. Viable industry must be brought back to local manufacturers.

Rep. Chellie Pingree submitted handwritten testimonials in support of the Trade Act from **Peter Theriault, Rick Savoy, Robert Arsenault** and **Paul Ouellette, Jr.**, each of whom noted that the illegal dumping of coated paper must stop.

Rep. Mike Michaud was represented at the Commission by _____, who presented a letter from Congressman Michaud about the Trade Act he submitted to Congress.

APPENDIX D

Citizen Trade Policy Commission Augusta, Maine Public Hearing Summary

Citizen Trade Policy Commission and Water Resources Planning Committee Public Hearing

Thursday October 15, 2009
Appropriations Committee Room, Augusta

Meeting Summary

CTPC Members Present: Rep. Margaret Rotundo, Chair; Sen. Roger Sherman, Rep. Jeffrey Gifford; Sarah Bigney; Malcolm Burson, Carla Dickstein; Michael Hiltz, Leslie Manning, Wade Merritt, Linda Pistner; and Paul Volckhausen

WRPC Members Present: Dave Bell, Tom Brennan, John Harker, Tim Hobbs, John Hopeck, Robert Marvinney, Jeff McNelly, Barry Sanford, and Terry Trott

Attendees who Testified: Rep. David Webster, Martin Britten, Barbara Britten, Shelly Gobeille, Ben Chin, Bonnie Presten, Charles Mullins, Stephen Donnell, Rick Burns, Daphne Loring, Eileen Hennessey, Betsy Anderson, Herbert Hoffman, Emily Posner, Gloria Dyer, Denise Carpenter, Jim Freeman, Chris Jackson, Rick Nolton, Chip Ahrens, and Grace Braley

6:30 p.m. Robert Marvinney opened the public hearing by welcoming the people present, explaining the public hearing procedures and asking the members of the CTPC and WRPC to introduce themselves.

CTPC member Linda Pistner from the Attorney Generals Office provided a brief comparison for Absolute Dominion Rules and Reasonable Use rules. (See electronic copy of notes.) Maine groundwater laws currently adhere to 'absolute dominion rules' whereby the owner of the surface land owns any of the groundwater resources contained on the property. Other states use a 'reasonable use' standard whereby use of the water is comparable to the use of the surrounding land. In Maine although property owners may actually own the water, state and local laws exist that monitor, regulate and protect the groundwater resources.

CTPC member Sarah Bigney provided a brief background of key trade terms, the different international trade agreements, some Maine laws potentially vulnerable to challenge by those agreements and some cases where state sovereignty has been challenged by foreign interests. (See Handouts.)

After the brief background presentations by CPTC members, people who wished to testify concerning the potential impacts of international trade agreements on Maine's groundwater resources were asked to speak for a maximum of 3 minutes in the order listed on the sign up sheet. People testified representing diverse backgrounds, including the legislative sponsor of LD 1310—Resolve Relating to a Review of International Trade Agreements and management of Groundwater Resources, public advocacy groups including POWWR, Maine People's Alliance, Alliance for Democracy, Maine Fair Trade, Save our Water, Defending Water for Life, Friends of Sears Island, Maine State Chamber of Commerce, Aqua Maine, Pierce Atwood, and private

citizens without any group affiliation. Many of the people who spoke also provided written testimony.

A common theme among many of the people who testified was that water, as a public resource must be held and protected for the public trust. People who testified voiced concern that international trade agreements as currently written have provisions that expose Maine citizens, towns and resources to challenges by foreign companies and interests. Another issue mentioned was that water as a natural resource and a basic necessity for human life should not be treated as a commodity for profit in international trade and should be carved out of international trade agreements both to protect the water resources and state sovereignty. Concern about whether local, state or federal laws would hold up if challenged by foreign entities also pointed out that any challenges would be decided upon in a special international tribunal, not in a U.S. court of law—often in another country and closed to the public.

When the public testimony was complete, Rep. Rotundo closed the public hearing by thanking all of the participants for their time and concern. She explained that the CTPC had not had an opportunity to review a draft report that was mentioned during the testimony and that the next step was for both committees (CTPC and WRPC) to review and approve the report. In January the WRPC will present the report to the Joint Select Committee on Natural Resources who will have the authority to report out legislation based on the report.

The meeting adjourned at 7:52 p.m.

Citizen Trade Policy Commission
Water Resources Planning Committee
International Trade Agreements and Ground Water Regulations
Public Hearing
State House Room 228
Augusta, Maine
October 15, 2009
Summary

Introduction to the hearing by Robert G. Marvinney, State Geologist.

Linda Pistner, Deputy Chief Attorney General, provided an overview of Maine's legal setting for ground water and an outline of the current regulations that govern the withdrawal of ground water.

Sarah Bigney, Commission member, outlined the major international trade agreements and potential impact to state and federal sovereignty. She provided several examples from cases in other states.

David Webster, Maine Representative from District 106, reviewed Resolve 132 that initiated this analysis of the potential impacts of international trade agreements on the state's ability to regulate ground water withdrawals.

Groups

Shelly Golbiel, Chairperson, Protecting Our Water and Wildlife Resources (POWWR), a grassroots organization founded in 2007: The organization was founded by the townspeople of Shapleigh and Newfield to raise awareness of the water testing by Poland Spring, a division of Nestle Waters North America. She related her town's experience in dealing with potential ground water extraction by Poland Spring. Ms. Golbiel stated that the already-existing local and state-level water laws will not hold in court in their current state. Ms. Golbiel used the Maine shoe industry as an example of the previous statement. The state needs to take lessons from the past and think about future generations. The chair of the POWWR recommended trade and investment agreement reform as well as stricter provisions on policies.

Martin and Barbara Britten, POWWR: The Brittens specifically called for water resources to be carved out of international trade agreements and that Maine's ground water be placed in the public trust. Ms. Britten is concerned that NAFTA and GATT commodify water resources on a global scale. Ms. Britten said, "With the world water crisis and global international agreements, Maine's water is left vulnerable." Ms. Britten also noted that other states, like Vermont, New Hampshire and Massachusetts have recognized the limitation of their water resources and made efforts to protect them. She expressed concern that under NAFTA, Maine is required to give all NAFTA signers the same benefits and deals as the United States. Both of the Brittens seconded the recommendations made by Mrs. Golbiel.

Ben Chin, Maine Peoples' Alliance: The Alliance focuses on laws that benefit the population's well-being. The availability of water for drinking and recreation is of particular concern as it pertains to the well-being of the people of Maine. Mr. Chin stated that the provisions of NAFTA give foreign investors rights and liberties that could potentially "trump" state and national sovereignty. The organization has specific concerns with Chapter 11 of NAFTA. Under this Chapter, for example, the Kids Safe Law could be challenged as too burdensome to a company. With the belief that the power to make legal decisions should be made in Maine and not in international tribunals, Maine People's Alliance also supports the removal of water from international trade agreements.

Bonnie Preston, The Alliance for Democracy: The Alliance for Democracy had specific issues with Article 6 of the GATS of the World Trade Organization, namely Domestic Regulation. Local and state regulations such as "goals to ensure qualifications and standards" could be deemed too burdensome if they hindered a company's profits or services. "National measures shouldn't hinder" these profits or services in anyway. The organization is concerned that basic human needs and drinking water standards could be determined too burdensome. The United States has opposed changes to the agreements under the World Trade Organization and the organization noted that there have been no new disciplines or changes made to article 6.

Stephan Donnell and Daphne Loring, Maine Fair Trade: Maine Fair Trade is comprised of 55 member organizations. Both Donnell and Loring reiterated risks of international trade agreements, namely that they threaten state sovereignty and circumvent local policies that are meant to benefit the public, like those pertaining to the environment and public health. They also recommended that water be carved out of all international trade agreements and specifically the GATS, along with the establishment of investment disclosure, and the protection of sovereignty and local control by enforcing the hearing of conflicts in domestic courts. Ms. Loring also described the experience of Bangor's sister city in El Salvador – Carasque. PacificRim, a Canadian corporation (Canada is not a signatory to CAFTA), used a U.S. subsidiary to sue El Salvador over permits to mine gold. Mr. Donnell and Ms. Loring used this as an example of potential abuses of the international trade agreements to which Maine may be vulnerable.

Betsy Anderson, Steering Committee of Save Our Water from Wells: Ms. Anderson seconded POWWR's concern that if challenged through international trade agreements through an international tribunal, Maine would not succeed. Water is an essential element and Ms. Anderson, along with her organization, does not think it should be treated like oil or pharmaceuticals. Save Our Water also calls for the removal of water from all free trade and investment agreements, specifically the GATS. The economy depends on a clean and safe environment. Ms. Anderson hopes that the legislature will "think globally and act locally, keeping the "Maine" in Maine by refusing to be enslaved by Nestle."

Herbert Hoffman, Ogunquit, co-chairman of Save Our Water: Mr. Hoffman called for the abolishment of absolute dominion. He believes that the role of water is too precious not to be in a public trust. Mr. Hoffman is concerned that international corporations have been given rights, constitutional and otherwise, similar to those of individual people. His concern is that this "person-status" gives companies the potential to make decisions outside of the local, state and even federal domain. He called for Maine to defend its water.

Emily Posner, from Sheepscot River represented the Defending Water for Life Campaign: This organization also recommends that water be carved out of the GATS and all trade agreements. Ms. Posner expressed her organizations' concerns r specifically with articles 11 and 20 of GATT. Article 20 allows for a country to restrict access to a resource in order to protect human life and conserve the environment. The Defending Water for Life Campaign focuses on the protection of life and health and question the overall root cause of the global shortage of water which seems to have resulted in Maine's water becoming such a desired commodity. The Campaign is also concerned about the effects of bottled water, for example the cancerous effects of plastic manufacturing, aquifer destruction, and effects on other organisms besides humans. Ms. Posner also wanted it to be clear that Maine's water has yet to be determined inexhaustible, with particular concern for the world water shortage and the impacts of climate change.

Economic Supporters

Chip Ahrens, representing Poland Spring, part of the international Nestle company: Mr. Ahrens made it clear that the GATT specifically regulated the trade of *goods* (emphasis from hearing material). Groundwater, or water in its natural state, is not technically regulated under the GATT. Bottled water is, however, regulated by the GATT. Mr. Ahrens also wanted to make that distinction that any disputes over WTO agreements would be heard member nation versus member nation. The WTO also cannot rewrite laws or order any state to change their regulations. International Investment agreements (IIA) under NAFTA, according to Mr. Ahrens, are different from the WTO agreements. The United States, not individual states, can initiate cases. The United States has yet to lose a IIA challenge, although the IIA outcome do not include rewriting any regulations. "Buy American" procurement provisions, "Mad Cow" disease quarantines, and others have all been upheld. IIA only consider monetary damages. Mr. Ahrens also made it clear that nondiscriminatory regulations for public purposes enacted through due process cannot constitute an expropriation.

Chris Jackson, The Maine State Chamber of Commerce: . The Chamber represents at least five-thousand businesses. Mr. Jackson noted that water extraction is already heavily regulated in Maine. The Chamber is also concerned that the state needs more foreign investment. For every single growing local business, there are four or five that are struggling. Unemployment as increased 50% statewide to about 8.5% statewide, and bankruptcies have increased 33%. The Chamber of Commerce noted that Poland Spring employs about 800 people in-state and pays vendors and contractors. The official position of the Chamber is that water replenishes naturally and these types of businesses should be encouraged as long as they are sustainable and reasonable.

Rick Knowlton, Vice President of Aqua Maine: Aqua Maine, a division of Aqua America, an investor- owned company, has served twenty municipalities, some for over fifty years.. Mr. Knowlton expressed concerns with Mr. Waren's draft report and reviewed existing regulations. There is already a bulk water law. Mr. Knowlton referred to a legal article by attorney Scott Slater. He also stated that water is a property under the absolute dominion rule and therefore the GATT and other international trade agreements do not apply. Mr. Knowlton also referred to the Public Utilities Commission and Title 35A which restricts return on a company's investment. Aqua Maine believes, similar to the Chamber of Commerce, that the focus should be on reasonable regulations of water resources before water can be considered goods, products, or services regulated by GATT.

Individuals

Denise Carpenter, Newfield planning board member, a woodlot owner and cattle farmer: Ms. Carpenter reiterated the same information as Shelly Golbiel. . All resources are interrelated. Ms. Carpenter referred to the borders being closed to Mad Cow importation and international companies owning logging in Northern Maine as examples of the effects international policies and agreements have at the state and local levels. She recommends that town-level provisions should be stricter than the state, or "life as we know it will change."

Charles Mullins, Shapleigh: Mr. Mullins does not want domestic regulations to be subject to international policy and believes "there will only be political compromise if the legislature lets it." The goal of the state should be to represent the needs of the people.

Gloria Dyer, Newfield: Ms. Dyer reiterated Hoffman's concern over the constitutional rights given to companies, the threat to state sovereignty, and lack of transparency. Investor's rights give companies power to challenge policies and agencies that interfere with economic profits (including local businesses). In the Newfield-Nestle case, Nestle acted for three years without public notice. Dyer called for laws that would protect Maine's state sovereignty. She also called for water to be removed from the GATT and placed in a public trust for future generations. She recommended that states should be represented in NAFTA and CAFTA negotiations if they are to be affected, directly or indirectly.

Rick Burns: Mr. Burns is an advocate for democracy, private property and fair trade. He noted that there are an increased number of citizens fighting multinationals. Mr. Burns came to the hearing as a supporter for the townspeople of Newfield and Shapleigh. He believes that companies are granted a privilege to use resources and should not undermine municipal ordinances. He also stated his belief that absolute dominion is a product of times past that has eroded and needs to be abolished or rebuilt. "Reasonable Use" has a much better sound than "Absolute Dominion" Mr. Burns also referenced the court case of *Lucas vs. South Carolina Coastal Council* as an example in which regulations were established and businesses had to expect that subsequent regulations would affect the way they do business. He also quoted a former Attorney General, who stated that international tribunals threatened democracy. Consider the rights based ordinance such as that passed by Shapleigh.

Eileen Hennessey: Ms. Hennessey is simply concerned for all natural resources. Everything needs water to survive. Ms. Hennessey is particularly concerned that the 2006 installment of eminent domain allows a company to come onto private land and take ground water for profit.. Water should not be a commodity. She further reiterated the recommendation for the removal of water from the GATT and the creation of a public trust for the natural resource. Ms. Hennessey also noted that foreign companies control Maine's wood and electricity.

Jim Freeman, Verona Island: Mr. Freeman raised awareness for the East-West Highway, a 1000ft swath including road, rail, a utility and water pipeline. Maine would be exporting water in pipes. Gravel would go to Europe for roads, and trees would go to Europe for wood pellets to lower carbon dioxide emissions. Both would leave Maine with no value added. This is another example of already-existing economic relationships between Maine and international companies.

Grace Bradley: Ms. Bradley emphasized her concern over the legislature's "potential overconfidence or complacency." Ms.. Bradley hopes the legislature will not lose sight of the larger picture, the broader and long-term implications the GATT for Maine. She referred to her own personal experience working with the GATS in Mexico.

APPENDIX F

Citizen Trade Policy Commission letter opposing the use of the Special 301 regarding pharmaceutical pricing restraints and Representative Treat's oral statement

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

February 17, 2010

Jennifer Choe Groves
Senior Director for Intellectual
Property and Innovation and Chair of the Special 301 Committee
Office of the United States Trade Representative

Re: Submission of Written Testimony and Notice of Intent to Testify at a Public Hearing Concerning the 2010 Special 301, Docket #USTR-2010-0003

Dear Ms. Groves:

On behalf of the Maine Citizen Trade Policy Commission (CTPC or Commission), we write to oppose the recent and disturbing expansion of the Special 301 report into the realm of disciplining countries for implementing effective and non-discriminatory pharmaceutical pricing policies. This letter, and our request to testify orally at the hearing that will be held in on Wednesday, March 3, 2010, is pursuant to the unanimous vote of the Commission at our January 8, 2010 meeting.

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. We have members representing the Maine House of Representatives, and 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.

Pursuant to our statutory mission, we have included a focus on health policy and trade issues, including pharmaceutical policy and in particular, the impact of that policy on Medicaid implementation and costs in the state. Our membership is determined by statute and includes a health professional. We have previously written to the U.S. Trade Representative concerning carving out Medicaid from free trade agreement provisions relating to pharmaceuticals. Legislative members of the commission have also met with USTR staff on these issues, and we were gratified that the Korea FTA included a footnote recognizing the role of the states implementing and paying for Medicaid and explicitly carving out these state programs.

Despite this past advocacy and the at least tacit recognition by the USTR that when trade agreements address pharmaceutical policy, there can be unintended and deleterious consequences for state health policy and access, it appears that the USTR has nevertheless embarked on an even broader effort to promote a new international trade framework to restrict domestic regulatory responses to excessive pricing by monopoly pharmaceutical suppliers.

This new direction concerns us greatly, because it will increase state health care costs and significantly reduce access to health care. The timing of this initiative is particularly questionable given the multi-million dollar deficits in state Medicaid budgets caused by the ongoing worldwide recession. The consequence of its implementation will be to reduce access to affordable health care at the very time the Administration is pushing for universal health coverage in partnership with the States.

Maine relies on evidence-based reimbursement decisions to restrain pharmaceutical prices. Like other states, Maine uses a wide variety of regulatory tools and policies to control excessive pricing by medicine suppliers. These are often the same tools used by foreign governments that USTR lists as "unreasonable" under Special 301 and has sought to restrict or eliminate in recent trade agreements. One of the most important of these state mechanisms is the Preferred Drug Lists (PDLs) in the Medicaid program.

More than forty states use PDLs for Medicaid and other programs. These are programs that, like those in other countries, use the bulk purchasing and reimbursement power of governments to pressure drug companies to accept steep reductions in their reimbursement prices as a condition for gaining preferred access to a large market. The industry calls these "price controls," governments call them "negotiation." Regardless, these are the same tools that USTR for several years has been highlighting as in need for a new international standard setting exercise to restrict domestic policy options.

Use of PDLs by Maine and other U.S. states has resulted in tremendous savings; eliminating or restricting this tool will have serious negative repercussions. The prices paid by the state of Maine for prescription drugs in its Medicaid program average around 50% of the "Average Wholesale Price" (AWP) as a result of both the federal Medicaid rebate, rebates through the state's supplemental rebate program, and a tiered PDL. The state also has improved its bargaining power while maintaining this basic approach by expanding the size of its

purchasing pool. At a time when brand-name drug prices and spending has increased in the double digits over a decade, Maine has been able to keep its drug spend relatively flat.

Maine's approach to drug pricing is consistent with the approach taken in the majority of states. Indeed, the President's budget for 2008 specifically noted that Medicaid "allows states to use [such] private sector management techniques to leverage greater discounts through negotiations with drug manufacturers."[1] Maine's current Supplemental Budget as proposed by Governor John E. Baldacci would already cut back on pharmaceutical access programs such as Drugs for the Elderly,[2] a program initiated in the early 1970's – the first such program in the Nation – in an effort to balance the budget in light of reduced revenues due to the economy.

Although it is commonly posited by industry that foreign countries "free ride" on U.S. pharmaceutical prices, U.S. governments that use policy tools that are similar to foreign governments pay similar prices. The prices paid by state Medicaid programs or the Veterans Administration hospitals, for example, are frequently *lower* than Canadian and European prices.[3] Similar tools are used by almost every bulk purchaser of drugs – including private insurance companies, branches of the U.S. federal government and most other industrialized countries.

The Maine Citizen Trade Policy Commission opposes USTR's promotion of international restrictions on domestic pharmaceutical pricing programs. As noted above, we are concerned about a recent and disturbing trend of the United States Trade Representative using trade agreements and pressure, including through Special 301, to push for the international regulation of ***domestic*** pharmaceutical reimbursement programs.

Maine and other states have repeatedly raised concerns about USTR's recent use of Free Trade Agreements with Australia and Korea to begin establishing international disciplines on pharmaceutical pricing programs. In several submissions to USTR and Congress we have warned that U.S. states already use the same tools that USTR was attempting to restrict abroad. The Korea agreement included a radical provision appearing to allow industry appeals of government pharmaceutical reimbursement decisions on whether they adequately respected the "value" of patented pharmaceutical products. Such provisions, if applied to state pharmaceutical pricing programs, would significantly hamper the operation of important public health programs.

The 2009 Special 301 Report contains additional evidence of USTR's shift of its negotiating priorities into the arena of restricting evidence based pricing programs. The Report singles out Japan, Canada, France, Germany, New Zealand, Taiwan and Poland for administering "unreasonable . . . reference pricing or other potentially unfair reimbursement policies." The Report further states that:

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[1] Budget of the United States Government, FY 2008. Available at www.whitehouse.gov.

[2] See information posted at: http://www.maine.gov/dhhs/mainerx/del.htm

[3] See the 2004 Annual Report of the West Virginia Pharmaceutical Cost Management Council, available at http://www.wvc.state.wv.us/got/pharmacycouncil/.

> The United States also is seeking to establish or continue dialogues with Organization for Economic Cooperation and Development (OECD) members and other developed economies to address concerns and encourage a common understanding on questions related to innovation in the pharmaceutical sector.

It appears to the Commission that USTR is targeting the same policies that it has in the past – i.e. innovative reimbursement policies that effectively restrain medicine pricing in a manner similar to state preferred drug lists and other public policies. ***We oppose this use of Special 301. The U.S. should not be negotiating for the limitation of programs abroad that are the best practices in the field right now here at home***

Finally, we are concerned that the actions of USTR threaten best practices needed for health reform. Maine has been a leader in expanding access to health care for its residents and identifying and implementing best practices to rein in excessive medical cost and promote public health.[4] Pharmaceutical policy in the U.S. is a major component of health policy – and costs – and is no less in need of reform. We spend more on pharmaceuticals than any other country in the world. Maine and other U.S. states are effectively using policies to reduce costs and promote public health by influencing prescribing decisions with evidence. As the federal government continues working on health reform, we strongly urge that it learn from these examples, and not allow its USTR to negotiate them out of existence.

Thank you for your consideration.

Yours sincerely,

Senator Troy Jackson, Chair

Representative Margaret Rotundo, Chair

cc: Ron Kirk, USTR
John Baldacci, Governor
Member of Maine's Congressional Delegation

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[4] Initiatives include Dirigo Health, the Maine Quality Forum, increased transparency of medical pricing and quality (including a first-in-nation web-based disclosure) and the Advisory Council on Health Systems Development which just issued a draft report on payment reform. See http://www.maine.gov/governor/baldacci/policy/health_care.html

ORAL STATEMENT PRESENTED MARCH 3, 2010 BY MAINE REP. SHARON TREAT ON BEHALF OF THE MAINE CITIZEN TRADE POLICY COMMISSION BEFORE THE USTR ON THE SPECIAL 301 REPORT

Good afternoon. I am Sharon Treat, a Maine State Representative and a member of the Maine Citizen Trade Policy Commission (CTPC or Commission). I am here today representing the co-chairs of the Commission, Senator Troy Jackson and Representative Peggy Rotundo, and the entire CTPC which voted has unanimously to testify at this hearing and to oppose the recent and disturbing expansion of the Special 301 report into the realm of disciplining countries for implementing effective and non-discriminatory pharmaceutical pricing policies.

The Maine Citizen Trade Policy Commission was established by the Maine 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. We are bipartisan and have membership representing the Maine House of Representatives and Senate, the Maine International Trade Center, various state agencies, and citizen constituencies including small businesses, manufacturers, labor, environmental organizations, and small farmers.

Our membership is determined by statute and includes a health professional. We have since our inception included a focus on health policy and trade, including pharmaceutical policy and in particular, the impact of that policy on Medicaid implementation and costs in the State. We have previously written to the U.S. Trade Representative concerning carving out Medicaid from free trade agreement provisions relating to pharmaceuticals.

Legislative members of the Commission have also met with USTR staff on these issues, and we were gratified that the Korea FTA included a footnote recognizing the role of the states implementing and paying for Medicaid and explicitly carving out these state programs.

Despite this past advocacy and the at least tacit recognition by the USTR that when trade agreements address pharmaceutical policy, there can be unintended and deleterious consequences for state health policy and access, it appears that the USTR has nevertheless embarked on an even broader effort to promote a new international trade framework to restrict ***domestic*** regulatory responses to excessive pricing by monopoly pharmaceutical suppliers.

This new direction concerns us greatly, because it will increase state health care costs and reduce access to affordable health care at the very time the Administration is pushing for universal health coverage in partnership with the States.

- **Maine relies on evidence-based reimbursement decisions to restrain pharmaceutical prices.** Like other U.S. states, Maine uses a wide variety of regulatory tools and policies to control excessive pricing by medicine suppliers. These are often the same tools used by foreign governments that USTR lists as "unreasonable" under Special 301 and has sought to restrict or eliminate in recent trade agreements. One

of the most important of these state mechanisms is the Preferred Drug Lists (PDLs) in the Medicaid program.

- **Use of PDLs by Maine and other U.S. states has resulted in tremendous savings; eliminating or restricting this tool will have serious negative repercussions.** The prices paid by the State of Maine for prescription drugs in its Medicaid program average around 50% of the "Average Wholesale Price" (AWP) as a result of the federal Medicaid rebate, additional discounts through the state's supplemental rebate program, and a tiered PDL. The state also has improved its bargaining power while maintaining this basic approach by expanding the size of its purchasing pool. *At a time when brand-name drug prices and spending has increased in the double digits over a decade, Maine has been able to keep its drug spend relatively flat.*

- **Maine's approach to drug pricing is consistent with the approach taken in the majority of states, at least 40 of which rely on PDLs to bring drug prices down.** Indeed, the President's budget for 2008 specifically noted that Medicaid "allows states to use [such] private sector management techniques to leverage greater discounts through negotiations with drug manufacturers."

- **Maine is already facing budget cuts resulting from revenue shortfalls caused by the ongoing worldwide recession – cuts that will take spending back to 2004 levels and hit health care funding especially hard.** The current Supplemental Budget as proposed by Governor John E. Baldacci would cut back on pharmaceutical access programs such as Drugs for the Elderly, a program initiated in the early 1970's – the first such program in the Nation – in an effort to balance the budget in light of reduced revenues. Any measure that increases the prices we pay now for prescription drugs would further devastate our budget and cause untold harm by cutting access to medicines.

- **The Maine Citizen Trade Policy Commission opposes USTR's promotion of international restrictions on domestic pharmaceutical pricing programs.** As noted above, we are concerned that the USTR is using trade agreements and pressure, including through Special 301, to push for the international regulation of ***domestic*** pharmaceutical reimbursement programs. In several submissions to USTR and Congress we have warned that U.S. states already use the same tools that USTR was attempting to restrict abroad. The Korea agreement included a radical provision appearing to allow industry appeals of government pharmaceutical reimbursement decisions on whether they adequately respected the "value" of patented pharmaceutical products. Such provisions, if applied to state pharmaceutical pricing programs, would significantly hamper the operation of important public health programs.

The 2009 Special 301 Report contains additional evidence of USTR's shift of its negotiating priorities into the arena of restricting evidence-based pricing. The Report singles out Japan, Canada, France, Germany, New Zealand, Taiwan and Poland for administering "unreasonable . . . reference pricing or other potentially unfair reimbursement policies." The Report further states that:

> The United States also is seeking to establish or continue dialogues with Organization for Economic Cooperation and Development (OECD) members and other developed economies to address concerns and encourage a common understanding on questions related to innovation in the pharmaceutical sector.

It appears to the Commission that USTR is targeting the same policies that it has in the past – i.e. innovative reimbursement policies that effectively restrain medicine pricing in a manner similar to state preferred drug lists and other public policies. ***We oppose this use of Special 301. The U.S. should not be negotiating to limit programs abroad that are the best practices in the health care field here at home.***

- **Finally, we are concerned that the actions of USTR threaten best practices needed for health reform.** Maine has been a leader in expanding access to health care for its residents and identifying and implementing best practices to rein in excessive medical cost and promote public health. In addition to our early adoption of PDLs to expand access to medicines and implementation of pharmaceutical discount programs including Drugs for the Elderly and MaineRx Plus, Maine has pioneered initiatives including the public-private Dirigo Choice insurance product, the Maine Quality Forum, increased transparency of medical pricing and quality (including a first-in-nation web-based disclosure) and the Advisory Council on Health Systems Development which just issued a draft report on payment reform.

  Pharmaceutical policy in the U.S. is a major component of health policy – and costs – and is no less in need of reform. We spend more on pharmaceuticals than any other country in the world. Maine and other U.S. states are effectively using policies to reduce costs and promote public health by influencing prescribing decisions with evidence. As the Federal government continues working on health reform, we strongly urge that it learn from these examples, and not allow its USTR to negotiate them out of existence.

APPENDIX G

Citizen Trade Policy Commission letter regarding the establishment of an Office of National Insurance

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

April 16, 2010

The Honorable Christopher J. Dodd, Chairman
Committee on Banking, Housing, & Urban Affairs
United States Senate
448 Russell Senate Office Building
Washington, DC 20510

Re: Restoring American Financial Stability Act of 2010

Dear Senator Dodd:

We are writing on behalf of the Maine Citizen Trade Policy Commission which by unanimous vote today expressed its strong opposition to the Office of National Insurance (ONI), created by Title V, Subtitle A of the Restoring American Financial Stability Act of 2010 (Chairman's Mark, Senate Standing Committee on Banking, Housing, & Urban Affairs). Subtitle A would establish a new federal bureaucracy (ONI) and give one person the power to invalidate state insurance laws that are perceived as "inconsistent with" international agreements.

We are concerned that this legislation bypasses the trade negotiation and implementation process and vests in one person in the Treasury Department the power to preempt validly enacted state laws – without waiting for a specific allegation of a trade violation, and based on a vague and expansive definition of potentially affected trade agreements. All of this would be done without any of the protections provided by the U.S. Constitution when international treaties are negotiated and Congress preempts state law. Disturbingly, even a treaty that has been submitted for ratification and defeated could be considered an "agreement" with preemptive force.

The Maine Citizen Trade Policy Commission (CTPC) is a bipartisan commission established 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, and to make policy recommendations to the Legislature and the Governor concerning the impact of trade agreements

and trade-related policies. In our view, the preemption provisions of Subtitle A reach well beyond the scope of current trade policy and constitute an unprecedented intrusion into matters reserved to the states.

We are cognizant that international agreements can have an impact on state policies, and indeed the CTPC has an advisory role within Maine to insure that policy makers are aware of the parameters of trade policy. Subtitle A goes well beyond any trade policy we are aware of and vests within one agency employee the power to sweep aside state insurance laws regulating purely domestic markets, such as licensing laws or laws requiring the use of U.S. statutory accounting principles. Any "international insurance agreement" with a foreign government or regulatory entity (even a non-governmental entity) could be used by this federal employee as the rationale for an action to preempt state-based standards, overturning the actions of state legislatures without resort to the courts or to international trade dispute resolution tribunals.

We urge you to strike the preemption provisions and the authority given to Treasury to negotiate and enter into new international insurance agreements in Title V, Subtitle A.

Thank you for your consideration.

Sincerely,

Senator Troy Jackson, co-chair

Representative Peggy Rotundo, co-chair

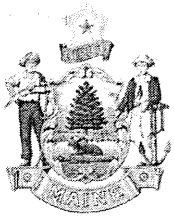
cc:
Senator Susan M. Collins
Senator Olympia J. Snowe
Senator Harry Reid
The Honorable Michael Michaud
The Honorable Chellie M. Pingree
Mila Kofman, Superintendent of Insurance
Janet Mills, Attorney General

APPENDIX H

Citizen Trade Policy Commission letter to the Finance Committee regarding duty rates for foreign footwear manufactures

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

June 23, 2010

The Honorable Max Baucus
Chairman
Committee on Finance
U.S. Senate
Washington, D.C. 20515

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
U.S. Senate
Washington, D.C. 20515

Dear Chairman Baucus and Ranking Member Grassley:

The Maine Citizen Trade Policy Commission is a bipartisan commission established 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, and to make policy recommendations to the Legislature and the Governor concerning the impact of trade agreements and trade-related policies.

The Maine Citizen Trade Policy Commission voted unanimously to express its strong support of Congressional efforts to preserve jobs in Maine that are threatened as a result of some foreign companies manipulating our tariff system to gain an unfair economic advantage over our domestic manufacturers. If left uncorrected, this situation will encourage other foreign manufactures to manipulate their products for the purposes of avoiding tariffs to which they should be subject.

Genfoot, Inc. and New Balance are among the few remaining domestic shoe manufacturers. New Balance employs roughly 1,000 individuals at their three manufacturing facilities in Maine in skilled, middle class jobs that have brought a direct economic benefit to the State of Maine during this time of high unemployment. The viability of this company has depended on duty rates Congress adopted years ago on the recommendation of the U.S. Trade

Representative. These duty rates help level the playing field and are essential to the preservation of jobs at this facility. However, some international manufacturers have found a way around these tariffs by implanting a small amount of textile material onto the sole of their footwear causing that footwear to be reclassified as a textile product subject to a lower duty rate.

We cannot afford to lose these valuable jobs in our state to unfair tariff practices especially during this time of high unemployment. We strongly urge Congress to close the loophole that allows importers to evade duties that help domestic manufacturers compete in the U.S. and global markets.

We urge you to take action to save Maine jobs and prevent importers from avoiding tariff rates that protect domestic footwear.

Sincerely,

Senator Troy Jackson, co-chair

Representative Peggy Rotundo, co-chair

cc:
Senator Susan M. Collins
Senator Olympia J. Snowe
The Honorable Michael Michaud
The Honorable Chellie M. Pingree

APPENDIX I

Citizen Trade Policy Commission letter regarding the proposed Public Health Advisory Committee on Trade

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

Malcolm Burson
Michael Roland
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

To: The Honorable Olympia Snowe
United States Senate
154 Russell Senate Office Building
Washington, DC 20515-0001

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

The Honorable Michael Michaud
U. S. House of Representatives
1724 Longworth House Office Building
Washington, DC 20515-1902

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

From: Senator Troy Jackson, co-chair
Representative Peggy Rotundo, co-chair
Maine Citizen Trade Policy Commission

Date: July 9, 2010

Re: HR 2293/S. 1644, The Public Health Trade Advisory Committee Act

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We are writing to ask you to support H.R. 2293/S.1644, the Public Health Trade Advisory Committee Act that was introduced by Reps. Chris Van Hollen (D-MD) and Lloyd Doggett (D-TX), and Sen. Debbie Stabenow (D-MI). The legislation amends the Trade Act of 1974 to add a Public Health Advisory Committee on Trade to the Second Tier of the Federal Trade Advisory Committee System. The provisions of this legislation are consistent with policy positions the Maine Citizen Trade Policy Commission has voted to support over the years.

In general, the Trade Advisory Committee System helps the President develop U.S. trade policy. The system has three tiers with the Advisory Committee for Trade Policy and Negotiations on the top tier and the Industry Trade Advisory Committees on the lowest tier. The proposed new

Public Health Advisory Committee on Trade will enable public health representatives to work with other advisory committees to express their unique perspectives. Even though global trade agreements significantly affect public health matters from the price of medication to the regulations that protect the safety of our food and water supplies, there is an absence of public health representation on U.S. trade advisory committees. This bill will also pave the way for greater public health representation on the Advisory Committee for Trade Policy and Negotiations and the Industry Trade Advisory Committees.

We feel this bill will improve the Trade Advisory Committee system in several ways:

1. It would give public health concerns consideration at the onset of trade agreement formation;
2. It would require greater openness and transparency in the way all of the trade advisory committees operate. The changes would involve more timely communications among committees, Congress and the Administration, and hold the Administration accountable for responding to committees' concerns; and
3. It would be the first Trade Advisory Committee to be exclusively composed of nongovernmental organizations to provide a more thorough and effective representation of public interests.

Thank you for attention to this matter and we hope you will support this piece of legislation.