

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**May 5, 2015**  
**Room 208, State House**  
**Augusta, Maine**

Members Present: Senator Amy Volk, Representative Robert Saucier, Representative Stacey Guerin, Representative Craig Hickman, Sharon Anglin Treat, Mike Karragiannes, Dr. Joel Kase, Linda Pistner, Jim Detert, Jay Wadleigh

Staff: Lock Kiermaier (Contract)

CTPC Chair Representative Robert Saucier convened the meeting at approximately 8:45 AM. (Note: attendance at the meeting did not meet the statutory minimum number for a quorum and no formal votes were taken)

To begin the meeting, Representative Saucier asked Commission members to introduce themselves. During the introductions, a contact sheet was passed around to obtain members' phone numbers and e-mail addresses.

**Review of CTPC statutes** (Lock Kiermaier, Staff)

As a means of orienting the several new members of the CTPC, staff person Lock Kiermaier briefly reviewed the CTPC statutes (10 MRSA §11-13). The following aspects of current CTPC law were highlighted:

- The CTPC was first established by the Legislature in 2003 to “*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.*” (10 MRSA §11 (3))
- The CTPC has 17 voting members who represent different facets of Maine’s political, business and non-profit sectors; these members are appointed by either the Governor, the President of the Senate or the Speaker of the House. The CTPC also has 4 nonvoting members representing the Departments of Labor; Environmental Protection; Health and Human Services and Agriculture, Conservation and Forestry;
- The CTPC is required to hold at least 2 meetings per calendar year as well as two public hearings which must take place in separate locations across the state;
- The CTPC has a quorum requirement: 11 voting and nonvoting members to start a meeting and 9 voting members to take a formal vote; and
- Every 2 years, the CTPC is required to conduct an assessment “*of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment*” (10 MRSA §11 (9) C). The Legislature appropriates \$10,000 for the CTPC to contract with an individual an/or an organization to

accomplish the assessment on predetermined topic that members of the CTPC have agreed to.

**Basic Review of free trade agreement concepts (Lock Kiermaier, Staff):**

Continuing with the effort to provide new members of the CTPC with a basic background in international free trade agreements, staff person Lock Kiermaier briefly reviewed the following:

- a. Overview of free trade agreements and required congressional approval
  - i. Free Trade Agreements (FTAs) are generally designed to reduce the barriers to trade between two or more countries. FTAs are agreements that require approval by majority vote of both the Senate and the House of Representatives’
- b. Current FTA’s under negotiation
  - i. Trans Pacific Partnership (TPP): The TPP negotiations began in 2009 and currently involve 13 Pacific Rim countries located in North and South America, Asia and also include Australia and New Zealand. Of considerable importance is the absence of China in these trade negotiations. The TPP is the FTA that is currently nearest to completion and is it anticipated that the agreement will be up for Congressional approval sometime in 2015.
  - ii. TransAtlantic Trade and Investment Partnership (TTIP): The TTIP negotiations began in 2013 between the United States and the member nations of the European Union (EU). The TTIP is generally considered to be a companion agreement to the TPP
  - iii. Trade in Services Agreement (TISA): The TISA negotiations also began in 2013 and are intended to liberalizing world wide trade of services which are very broadly defined but include such major areas of trade such as banking, health care and transportation. TISA is currently being negotiated between 23 different countries which include the US and the member nations of the EU.
- c. Description of “Fast Track Authority”: Formally known as Trade Promotion Authority, the term “Fast Track Authority” is commonly used to describe negotiating authority for FTAs which is granted to the President by Congress. Fast track authority restricts congressional approval of FTAs to an up or down vote without any opportunity for amendments.
- d. Description of Investor-State Dispute Resolution mechanisms (ISDS): The ISDS mechanism is a controversial measure which has been included in all recent FTAs. The ISDS process is designed to resolve international trade conflicts without creating nation-to-nation conflicts. The ISDS mechanism consists of 3 person arbitration panels consisting of lawyers who hear alleged claims of damages from investors who maintain that their ability to make profits allowed under a particular FTA has been impeded by the laws or regulations of a particular signatory state. The ISDS process does not provide for past precedent or the right of appeal and is generally held as having the ability to supersede a nation’s existing judicial system.

## **Briefing from Chris Rector, Regional Representative, Senator Angus King: update on current Fast Track Authority proposal**

Next, Chris Rector, Regional Representative from US Senator Angus King's office, provided the CTPC with a brief update on the status of President Obama's current Fast Track proposal. Mr. Rector made the following comments:

- The most recent Fast Track Authority proposal which has been negotiated by a bipartisan group of congressional leadership includes provisions which stipulate that:
  - Any FTA agreement will be open for public comment 60 days before the President signs it;
  - Automatic discharge from congressional committees after a certain amount of time;
  - Limited floor debate in both houses of Congress;
  - No congressional amendments will be allowed to any FTA that is before Congress for approval;
  - The entire congressional approval process cannot take longer than 4 months;
  - If the FTA does not meet certain explicit congressional objectives on labor, environmental and human rights standards, a 60 vote majority in the Senate can suspend the fast track process and open the FTA to amendment.
- The Fast Track compromise proposal has been reported out of committee with a majority vote in favor of the compromise; and
- Mr. Rector also relayed Senator King's most recent statement regarding his position on Fast Track: *"Manufacturing is critical to Maine's economy. Our state thrives when we have producers creating jobs and generating growth. But our national trade policies have put Maine manufacturers and other businesses at a disadvantage, and that's why I have been critical on fast-track authority on trade agreements. It's Congress's duty to review the Executive – any executive- when it comes to trade negotiations," said Senator Angus King. "I haven't seen the underlying Trans-Pacific Partnership language yet and I will thoroughly review it when I do, but my priority in these negotiations, as well as any other potential trade agreement, is to make sure that Maine businesses can operate on a level playing field- and I remain concerned that fast-track will make it more difficult to strike a good deal for Maine."*

## **Briefing from CTPC member Sharon Anglin Treat: Update on status of TTIP**

CTPC member Sharon Anglin Treat made a brief presentation regarding her recent attendance at a TTIP negotiating session in Brussels. In a written memorandum to the CTPC, Ms. Treat made the following points:

- Since the CTPC last met in November of 2014, two TTIP rounds of negotiations have been held; one in Brussels in February and most recently during April in NYC;

- The European Parliament is taking a much higher level of interest in current TTIP negotiations than the US Congress;
- Public sentiment in Europe is currently strongly opposed to the inclusion of an ISDS mechanism in the TTIP;
- The topics of food safety and agriculture are priorities within the EU; the EU is concerned that the TTIP will undermine food safety protections, GMO laws and small farming policies;
- The EU is seeking to have the TTIP bind US state procurement policies so as to ensure that foreign corporations will have the indisputable right to bid on state-level procurement contracts; and
- The concept of “Regulatory Cooperation” has been the subject of negotiations in recent TTIP sessions. In brief, the Regulatory Cooperation concept would require trade impact assessments of proposed federal or state regulations or laws before they are adopted. This proposal is proving to be quite controversial in both the US and the EU.

#### **Briefing from Attorney General Janet Mills: update on her recent meeting with USTR**

The CTPC next heard from Attorney General Janet Mills who reported on her recent meeting with USTR Michael Froman. The Attorney General’s comments included the following:

- AG Mills and Idaho Attorney General Lawrence Wasden met with USTR Michael Froman in Washington Dc on Friday, May 1, 2015;
- As background, AG Mills recounted that in February of 2014, 48 state AGs had signed on to a letter to Ambassador Froman focused on their concerns about their ability to regulate tobacco as it pertains to provisions in the TPP;
- As of February of 2015, the USTR had not provided a formal response to that letter and as a result, AG Mills had suggested to her fellow AGs that the letter be re-sent and it was re-sent in March of 2015;
- With still no response from the USTR, AG Mills began to draft another letter to the USTR regarding the Attorneys General concern that the TPP and other FTAs needed to be more transparent, needs to include a “carve out” for tobacco and address the state’s ability to regulate predatory lenders. While this letter has yet to be sent, it has been endorsed by 23 other state AGs and became known to the USTR;
- As a result of this yet-to-be-sent draft letter, USTR Michael Froman invited AG Mills (Democrat) and Idaho AG Lawrence Wasden (Republican) to come to Washington to discuss these bipartisan concerns;
- The meeting between USTR Froman and AG Wasden and AG Mills touched on many FTA topics including ISDS and tobacco and financial regulation;
- AG Mills reported that USTR Forman was cordial and “predictably noncommittal” regarding the concerns voiced by both Attorneys General;
- AG Mills also had the impression that the USTR was not going to press for a tobacco “carve out” in the TPP nor were they overly concerned about certain existing generalities in the model Bilateral Investment Treaty (BIT) and held that footnotes within the model BIT protect *consumer* financial regulation- an assertion which is disputed by AG Mills;

- During the meeting, USTR Froman focused on three actions that the USTR is focusing on:
  1. Refining the definition and use of “expropriation” in FTAs;
  2. Making sure that “sham corporations” don’t leave one country and simply resume business in another country so as to bring ISDS complaints against the US or any other signatory nation;
  3. Ensuring that the FDA has the ability to regulate tobacco; AG Mills commented that her concern was retaining the authority of states to regulate tobacco.
  
- USTR Froman also discussed the use ISDS and emphasized that the US government has never lost an ISDS case in arbitration, to which AG Mills indicated her concern about the results of whatever the next case may be.
- USTR Froman stated that the federal government would take full responsibility in defending federal and state government in any ISDS proceeding to which AG Mills indicated her concern regarding a precise understanding of exactly what role the states have in an ISDS proceeding that involves a challenge to state laws and regulations. She also indicated her concern about a situation in which a state has one set of laws or regulations that are different than those of the federal government and more precisely, state laws that the federal government might disagree with. The USTR assured her and AG Wasden that the federal government would defend the state in that situation to which AG Mills stated that she would like to see that guarantee in writing;
- The USTR and Attorneys General Mills and Wasden also discussed the practice of investors engaging in “forum shopping” in which investors chose ISDS as the forum to initiate their challenge to various governments and cited the recent Bilcon case in Nova Scotia as a prime example of this practice. They further discussed the possibility of using an international court in place of ISDS to resolve these disputes; and
- Those present at the meeting agreed that a conference call involving the USTR and other state Attorneys General could be arranged to further discuss the draft letter in question.

**Possible invitations to members of Maine’s Congressional Delegation:**

Upon discussion, it was agreed that the CTPC Chairs would write to members of Maine’s Congressional delegation to appear before the CTPC in the near future to discuss FTAs, fast track authority, ISDS and other international trade agreement topics. Accordingly, the CTPC Chairs will soon be sending letters of invitation to:

- Senator Susan Collins,
- Senator Angus King,
- Representative Chellie Pingree,
- Representative Bruce Poloquin

**Articles of interest (Lock Kiermaier, Staff)**

Due to a lack of time, it was suggested that CTPC members could review the printed copies of the articles of interest for the month of April on their own. Staff person Lock Kiermaier also pointed out that these articles are also available on the CTPC website:

<http://legislature.maine.gov/legis/opla/ctpcmtgpacket5515.pdf>

**Discussion of next meeting date**

Those members present tentatively decided to schedule the next CTPC meeting for:

*Thursday, May 28, 2015  
8:30 AM to 10:30 AM  
Room 208, Cross Office Building  
Augusta, ME*

It was also decided to poll CTPC members about scheduling future CTPC meeting dates for the summer.

**Adjournment**

The CTPC Chairs adjourned the meeting at approximately 10:30 AM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**May 28, 2015**  
**Room 208, State House**  
**Augusta, Maine**

Members Present: Senator Amy Volk, Senator John Patrick, Representative Robert Saucier, Representative Stacey Guerin, Representative Craig Hickman, Sharon Anglin Treat, Mike Karragiannes, Dr. Joel Kase, Linda Pistner, Jim Detert, Jay Wadleigh, Christy Daggett, John Palmer, Pam Megathlin

Staff: Lock Kiermaier (Contract)

CTPC Chair Senator Amy Volk convened the meeting at approximately 8:45 AM.

To begin the meeting, Senator Volk asked Commission members to introduce themselves.

**Review letters to Maine's Congressional delegation**

During the May 5, 2015 meeting of the CTPC, it was agreed that the CTPC Chairs would write to members of Maine's Congressional delegation to invite them to appear before the CTPC in the near future to discuss FTAs, fast track authority, ISDS and other international trade agreement topics. Accordingly, the CTPC Chairs sent letters of invitation dated 5/19/15 to:

- Senator Susan Collins,
- Senator Angus King,
- Representative Chellie Pingree,
- Representative Bruce Poliquin

Staff person Lock Kiermaier reported to the commission that given the relatively short notice between the dates from when the letters were actually sent out (5/19/15) and the date of the current meeting, it was not really expected that any of the congressional delegation, or members of their staff, would be able to attend the current meeting. Instead, it was hoped that meaningful contacts would be established from which future meetings between the commission and members of the delegation could be arranged. Mr. Kiermaier also reported that he had received phone calls from members of Senator Collins' and Representative Poliquin's office indicating their interest in meeting with the CTPC on dates to be determined in the near future. b

These letters have been posted at the CTPC website:

<http://legislature.maine.gov/legis/opla/CTPCMay2015lettersCongressional.pdf>

## **Update from CTPC member Sharon A. Treat on recent activities of USTR**

Next, the Chairs recognized CTPC member Sharon Anglin Treat, who is also a member of the USTR Intergovernmental Policy Advisory Committee (IGPAC), to provide a brief update on recent USTR activities. Because of the classified nature of the information provided to her as a member of IGPAC, Ms. Treat made the following comments based solely on news reports:

- TPP (TransPacific Partnership): After 6 years, the secret TPP negotiations are nearing an end and are in what is commonly called the “end game”, Several issues of past concern to the CTPC regarding the TPP include:
  - Dairy pricing and the possible threat to Maine’s system of regulating the price of milk;
  - Retaining the state’s authority to regulate tobacco to protect public health;
  - Possible TPP provisions which would significantly delay the manufacture of generic drugs and also provisions which might keep drug prices higher than they might be otherwise;
  - Issues pertaining to the footwear manufacturing industry and whether current tariffs will be retained which help to preserve jobs in Maine and Massachusetts; and
  - To what extent will ISDS (Investor-State Dispute Settlement) provisions be included in the TPP?

Unfortunately, Ms. Treat was unable to provide the commission with meaningful updates on these issues of concern to the CTPC and she stated that is unclear to what extent the TPP addresses these issues.

- COOL (Country of Origin Labeling): Around 2002, the federal government passed laws requiring the labeling of beef and pork products to show where the meat was grown, produced and processed. These laws and rules were challenged by Mexico and Canada as to whether they were legal and/or discriminatory. As a result of these challenges, the WTO has issued a final decision concluding that these rules are discriminatory. Consequently, the US has to either repeal these laws or face some sort of trade penalty and Congress has taken initial steps to repeal the COOL legislation.
- TISA (Trade in Services Agreement): This trade agreement which is in the early stages of negotiation is important to take note of in that congressional consideration and approval of this extensive Free Trade Agreement would fall under the conditions of review established by the Trade Promotion Authority (aka “Fast Track”) legislation which is currently being debated in Congress. TISA is currently under negotiation between 24 nations (including the US) in Geneva. It covers everything that is considered to be a “service” which ranges from private education to internet provided data to utilities to insurance and financial services. TISA is also likely to have rules which pertain to immigration with regards to professional licensing standards for doctors, engineers and other highly specialized (and sought after) professionals.

- TTIP (TransAtlantic Trade Investment Partnership); This free trade agreement is currently under negotiation between the US and the member states of the European Union (EU). Negotiating sessions are currently taking place about every 2 months; and the next round of negotiations is scheduled to take place in Brussels in July of 2015. It is anticipated that the USTR will hold meetings in the early part of Fall 2015 regarding issues under discussion for the TTIP and these issues are likely to be ones that the CTPC has previously expressed an interest in. Ms. Treat mentioned the possibility of having a CTPC member present at these meetings to make a presentation regarding the interests and concerns of the CTPC and how valuable such a presentation may be.

### **Update on Fast Track legislation in Congress**

The commission then began a discussion regarding President Obama's TPA (Trade Promotion Authority) proposal that was before Congress. CTPC staff person Lock Kiermaier made reference to a recent article dated 5/22/15 from CQ Roll Call which reported that the Senate had narrowly approved the President's TPA proposal. Congressional approval of TPA now means that the President can submit FTAs to Congress for an up or down vote in a narrow, prescribed timeframe of 90 days with no amendments allowed. Mr. Kiermaier also reported that both of Maine's Senators, Susan Collins and Angus King, voted against TPA and that Representative Chellie Pingree was on record as opposing TPA. In addition, Mr. Kiermaier read a statement provided by Representative Bruce Poliquin's office indicating that he had not yet announced a public stance on TPA. (Note: Representative Poliquin later announced his opposition to that legislation.) Finally, Mr. Kiermaier also stated that a provision that expanded the Trade Protection Assistance for workers displaced by FTAs had been added to the final TPA legislation.

### **Discussion of possible commission actions including Joint Resolution(s) and Congressional Letter(s)**

Next, Mr. Kiermaier recounted a brief history of past CTPC sponsorship of legislative Resolutions. The most recent Resolution posed a number of concerns about "Fast Track" or TPA legislation and suggested a compromise proposal to increase transparency and public involvement and that this past Resolution had passed unanimously. Mr. Kiermaier presented a list of options if the CTPC wished to sponsor another Resolution regarding TPA, FTAs currently in negotiation or the use of ISDS in FTAs; these options ranged from positions which were in favor of TPA (or a particular FTA or the use of ISDS) to those which would be in opposition.

After considerable discussion, those CTPC members present voted unanimously to approve a draft Resolution with a moderate tone to submit to the Legislature which addressed certain concerns regarding TPA. Those concerns included the following:

- Maine seeks to be an active participant in the global economy, and strongly supports international trade when fair rules of trade are in place;

- Maine seeks to maximize the benefits and minimize any negative effects of international trade; and
- international trade agreements should ensure a level playing field for Maine workers and businesses and not undermine Maine's constitutionally guaranteed authority under the system of federalism to protect the public health, safety, and welfare; and
- the United States is negotiating trade agreements with countries where wages, working conditions and environmental standards are substantially lower than in Maine, which can disadvantage Maine businesses, workers and communities; and
- trade agreements have effects that extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas, and can impact state laws and regulations, including but not limited to food safety and labeling, tobacco policies, prescription drug prices, agricultural, environmental and energy policies, and state procurement;
- foreign investors use trade agreements to challenge state and federal laws in a system of arbitration known as Investor State Dispute Settlement or ISDS that bypasses state and federal courts and provides remedies not available to domestic investors; and
- United States trade policy has been formulated and implemented in a process that lacks transparency and accountability, where even fully negotiated texts are secret and not available for public review, and where trade negotiators have failed to meaningfully consult with states;
- the Trade Promotion Authority fails to provide sufficient transparency and accountability in the trade negotiation and review process, lacks sufficient opportunity for congressional review and acceptance, and does not improve consultation with the states;
- Urge the improvement of the process by which United States trade agreements are developed and implemented in order to assure transparency and accountability, to ensure equal treatment of domestic and foreign investors by requiring investor disputes to be brought to our federal and state judicial systems for resolution, and to appropriately acknowledge the vital role of state sovereignty;
- Urge that each instance in which trade promotion authority is authorized by the United States Congress be limited to a specific trade agreement to help ensure the adequate review and approval of each such agreement.

The unanimous vote to approve this draft resolution authorized the CTPC Chairs to work on a draft Resolution that will be circulated among CTPC for comments and suggestions before the final draft is submitted to the Legislature for approval. The vote also authorized that copies of the resolution be sent separately to members of Maine's Congressional Delegation.

### **Discussion of next meeting date**

Next, the members present discussed at length the possibilities for determining the date of the next CTPC meeting. It was agreed that staff would use a Doodle poll to determine the best date out of the following choices:

- June 17<sup>th</sup>;
- August 18<sup>th</sup>;
- August 25<sup>th</sup>;
- August 26<sup>th</sup>; or
- September 1<sup>st</sup>.

**Briefing from Attorney General Janet Mills: update on her recent meeting with USTR**

The CTPC next heard from Attorney General Janet Mills who reported on another recent set of interactions with USTR Michael Froman. The Attorney General's comments included the following:

- She recounted that AG Mills and Idaho Attorney General Lawrence Wasden met with USTR Michael Froman in Washington Dc on Friday, May 1, 2015;
- As background, AG Mills further recounted that in February of 2014, 48 state AGs had signed on to a letter to Ambassador Froman focused on their concerns about their ability to regulate tobacco as it pertains to provisions in the TPP;
- As of February of 2015, the USTR had not provided a formal response to that letter and as a result, AG Mills had suggested to her fellow AGs that the letter be re-sent and it was re-sent in March of 2015;
- With still no response from the USTR, AG Mills began to draft another letter to the USTR regarding the Attorneys General concern that the TPP and other FTAs needed to be more transparent, needs to include a "carve out" for tobacco and address the state's ability to regulate predatory lenders. This letter has been endorsed by 23 other state AGs and became known to the USTR;
- Having sent the letter, some predictable controversy and reactions began to arise mainly from the President's office and the USTR;
- A recent conference call in late May involved AG Mills, two other state AGs, USTR Michael Froman and a large number of other offices;
- From her perspective, AG Mills did not find the results of the call to be very satisfactory nor was it very informative. The specific topics discussed in the conference call included the following:
  - The need for more transparency in the negotiation of FTAs with an assurance from USTR Froman that every effort was being taken to maximize transparency in a way that furthered the US trading goals;
  - USTR Froman also cited the large number of Congressional briefings that have taken place in recent years and mentioned the creation of IGPAC as yet another measure of transparency;
  - When asked about what version of ISDS was being advocated for by the USTR, Ambassador Froman, he stated that the model BTIP contained the ISDS proposal that is being used in the negotiations as the starting point and that this model does include financial protections for consumers- a point disputed by AG Mills;
  - USTR Froman also assured the conference call participants that preserving the authority of the FDA to regulate tobacco was a high priority for the US in the current FTA negotiations. AG Mills and other participants highlighted the contents of the Master Settlement Agreement reached in 1998 which has a complicated set of provisions which establish the state's rights to regulate tobacco

and nicotine-related products and maintained that this authority should not be compromised; and

- The recent WTO decision regarding Country of Origin Labeling (COOL) that went against the US requirements for the labeling of meat products was also discussed; USTR Froman maintained that that kind of ruling would not happen under the TPP or the TTIP; and
- It was proposed that USTR staff meet with the legal staff of the National Association of Attorneys General to further discuss the tobacco-related issues and how they relate to the details of the 1998 Master Settlement; a meeting which did occur shortly thereafter the conference call.
- After the conference call, AG Mills suggested to her fellow AGs that the draft letter be revised to reflect the results of the conference call.

### **Articles of interest (Lock Kiermaier, Staff)**

Due to the relative lack of time remaining for the meeting, Mr. Kiermaier suggested that the Summary for the Articles of Interest that he had prepared, as well as the complete articles themselves were included in the Commission's written materials and could be reviewed by members on their own.

### **Discuss future speakers and topics**

Mr. Kiermaier mentioned that he is trying to arrange a presentation by Janine B. Cary, president of the Maine International Trade Center for a future meeting of the CTPC. In addition, Mr. Kiermaier welcomed suggestions from commission members regarding speakers that represent different points of view regarding FTAs

### **Adjournment**

The meeting was adjourned at approximately 12:30 PM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**August 6, 2015**  
**Room 208, State House**  
**Augusta, Maine**

Members Present: Senator Amy Volk, Senator Rodney Whittemore, Senator John Patrick, Representative Robert Saucier, Representative Stacey Guerin, Representative Craig Hickman, Dr. Joel Kase, Randy Levesque, Justin French, Wade Merritt

Staff: Lock Kiermaier (Contract)

CTPC Chair Senator Amy Volk convened the meeting at approximately 10:00 AM.

To begin the meeting, Senator Volk asked Commission members to introduce themselves.

**Review 7/10/15 letter from CTPC Chairs to USTR Michael Froman**

Lock Kiermaier, CTPC staff person, briefly reviewed a letter dated July 10, 2015 from the CTPC Chairs to USTR Michael Froman. This letter reiterated the past positions of previous CTPC letters regarding the need for a meaningful tobacco carve-out in the final TTP agreement. In particular, this letter referenced a previous letter dated August 1, 2012 sent to the previous USTR, Ronald Kirk, from the CTPC which strongly advocated for a comprehensive tobacco carve-out in the TPP and absent that approach, suggested a compromise approach which emphasized the need for a provision which specifically exempted all federal, state and local laws pertaining to tobacco from a public health perspective.

Mr. Kiermaier also mentioned that copies of the letter had been sent to members of Maine's Congressional delegation and that as August 6<sup>th</sup>, the Chairs had not yet received a response from the USTR.

**Presentation from Janine Bisailon-Carey, President of the Maine International Trade Center**

The commission next heard a presentation from Janine Bisailon-Carey, President of the Maine International Trade Center (MITC) which is located in Portland, Maine. Ms. Bisailon-Carey made use of a PowerPoint presentation to describe the purpose and recent accomplishments of the MITC:

- In 2014, Maine's top ten export partners included Canada, China, Malaysia, Japan, Netherlands, United Kingdom, Mexico, Republic of Korea, Germany and Italy. The value of goods exported to these countries ranged from a high of \$1.06 billion to Canada to \$37.4 million to Italy;
- For 2014, the top ten exported commodities included paper related products, seafood, wood related products, mineral related products, electric equipment, wood pulp, industrial machines, aeronautical equipment, vehicles and medical equipment. The value of these products ranged from \$294 million for paper related products to \$59 million for medical equipment;

- MITC provides services which include trade assistance, trade education and networking events, trade missions and trade shows;
- In terms of recent trade shows, MITC coordinated booths at 4 trade shows which involved 9 participating organizations with \$5.7 million in projected sales;
- In 2014, MITC also sponsored a trade mission to Iceland and the United Kingdom which featured over 300 attendees, 40 business matchmaking meetings and \$2.5 million in projected sales;
- MITC has also been instrumental in creating and housing the Maine North Atlantic Development Office which has been establishing and promoting trade relationships with Denmark, the Faroe Islands, Greenland and Iceland;
- MITC has also been instrumental in helping to implement StudyMaine which brings approximately 2,150 international students to secondary and post-secondary institutions in Maine with a total economic impact of more than \$70 million;
- MITC also helped sponsor a StudyMaine Education Mission to Kazakhstan which featured 88 one-on-one meetings, 5 school tours and fairs and over 75 attendees at MITC/EducationUSA sessions;
- MITC has also implemented the Invest In Maine program which has helped bring over 100 foreign-owned companies to Maine with 30,400 jobs from Canada, Switzerland, Germany and Japan, and recently established offices in London and Shanghai;
- In 2014, MITC was instrumental in:
  - Helping to secure \$8.2 in exported sales;
  - Promoting export assistance grants with \$6.5 in reported sales with an estimated return-on-investment of 31:1; and
  - Securing more than \$800,000 in federal funding to expand Invest In Maine initiative.
- With regards to TPP countries, in 2014, the top 10 Maine exports included seafood, mineral related products, wood related products, paper related products, electric equipment, industrial machines, vehicles, aeronautical equipment, certain food products, wood pulp; the value of these products ranged from \$1.8 billion for seafood products to \$31 million for wood pulp;
- Existing tariffs on exports with a total value of over \$101 million from TPP and TTIP countries include:
  - Japan: 6 to 9.6% for frozen berries, 3.1% for biotech products; 8% for container bags and 1 to 5% for lobsters;
  - New Zealand: 5% for yachts;
  - Vietnam: 10% for lobsters and 25% for paper products;
  - EU: 6.5% for polyurethane plates; 8% for live lobsters; 20% for frozen lobsters; 2.7% for yachts and 2.7% for aircraft turbines.
- Since the implementation of the US/South Korea FTA in 2012, the export of lobsters has increased by more than \$12 million.

After her PowerPoint presentation, Ms. Bisaillon-Carey responded to several questions from commission members and staff:

- With regards to the exclusion of China from the TPP negotiations, the prospects for future export trade with China is promising particularly with regards to food products such as blueberries and lobsters;
- With regards to the possibility of establishing a trade relationship with Cuba, there appears to be export possibilities for food products and infrastructure products. Trade possibilities may be hindered by existing trade relationships between Cuba and other nations which have not been observing a trade embargo;
- Given the changing focus of FTAs from the elimination of tariffs to more of a focus on establishing common levels of regulation, FTAs can be used to indirectly to improve the degree to which human rights, standards of living and environmental protection issues are improved. In addition, the MITC role is to help inform the discussion around the policy used to formulate FTAs as opposed to proposing what the content and purpose of FTAs should be.

**Presentation from Linda Murch, New England Field Coordinator for the Alliance for American Manufacturing**

The commission next heard a presentation from Ms. Linda Murch, Field Coordinator for the Alliance for American Manufacturing. Ms. Murch presented written testimony dated August 6, 2015; this testimony included the following points:

- The Alliance for American Manufacturing (AAM) is a nonprofit, nonpartisan organization which was established in 2007 as a partnership between some leading manufacturers and the United Steelworkers. The purpose of the AAM is to strengthen American manufacturing and to create new private sector jobs through well-conceived public policies;
- With regards to the current negotiations for the TPP and TTIP, the AAM favors the following:
  - Trade Enforcement- strong domestic enforcement of FTAs;
  - Currency Manipulation- include enforceable rules in the TPP to deter currency manipulation; recent estimates regarding the elimination of currency manipulation indicate that Maine would gain approximately 24,000 jobs and 5.8 million jobs nationwide;
  - Market Access- remove tariff and non-tariff barriers to promote the export of American-made goods;
  - Rules of Origin- FTAs should include strong rules regarding the national origin of products;
  - Competition and State Owned Enterprises- To create a level playing field and to discourage the advent of state owned enterprises, FTAs should include rules that encourage market-oriented business practices; and
  - Government Procurement and Investment- FTAs should allow for and recognize domestic procurement rules.

Ms. Murch also submitted a letter dated July 24, 2015 from the AAM to USTR Michael froman which made the same points.

### **Articles of interest (Lock Kiermaier, Staff)**

Next, CTPC staff person Lock Kiermaier briefly reviewed a summary of 25 articles pertaining to some aspect of free trade agreements. The written summary and copies of the articles in their entirety can be viewed at the CTPC website: <http://legislature.maine.gov/legis/opla/ctpcmtgmats080615.pdf>

### **Adjournment**

The meeting was adjourned at approximately 12:30 PM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**September 24, 2015**  
**Room 208, State House**  
**Augusta, Maine**

Members Present: Senator Amy Volk, Senator John Patrick, Representative Craig Hickman, Randy Levesque, Sharon A. Treat, Christy Daggett, John Palmer, Pam Megathlin, Linda Pistner, Jim Detert

Staff: Lock Kiermaier (Contract)

CTPC Chair Senator Amy Volk convened the meeting at approximately 1 PM.

To begin the meeting, Senator Volk asked Commission members to introduce themselves.

After the introductions had been made, CTPC staff Lock Kiermaier stated that because the statutorily required minimum quorum of 11 members had not been met, that a formal meeting could not take place and that no formal vote could take place. However, Mr. Kiermaier also pointed out that the CTPC statutes are silent regarding a required quorum of members that need to be present for public hearing to take place and there seemed to be no reason why the scheduled public hearing could not commence.

**Public Hearing**

To begin the public hearing, Senator Volk invited any members of the public who were present and wanted to testify to please come forward.

Dr. Martha Spiess, a veterinarian living in Portland, offered written testimony that she read aloud. Dr. Spiess made the following points in her testimony:

- With regards to the tendency for trade treaties to undermine government's ability to regulate tobacco as a public health measure, the testimony questioned why tobacco and alcohol continue to be treated as "ordinary commodities" in recent FTAs thereby resulting in increased use and availability;
- The CTPC is urged to explore a proposal which would exempt alcohol and tobacco from future FTAs; and
- The CTPC is also urged to explore any commitments that the USTR has made regarding Distribution Services as it pertains alcohol and tobacco.

Dr. Spiess's written testimony also included a copy of a paper titled "Trading Away health: The Influence of Trade Policy on Youth Tobacco Control" by Sohil Sud, Joseph Brenner and Ellen Shaffer.

## **Presentation by Sharon Anglin Treat, CTPC member**

Next, CTPC member Sharon Anglin Treat made a presentation regarding a recent paper she wrote for the Center for International Environmental Law. This paper entitled Preempting the Public Interest: How TTIP will limit US States' Public Health and Environmental Protections makes the following points:

- As currently constructed, the TTIP includes a proposed chapter on Regulatory Cooperation (RC) which threatens the autonomy of all levels of sovereign government and would significantly change the manner and extent to which environmental laws are developed and adopted;
- The intention of the RC chapter is to reduce the cost of doing business by:
  - Minimizing regulation;
  - Promoting the convergence of regulatory standards; and
  - Defaulting to international standards largely influenced by international corporations.
- Achieving the goals of the RC chapter depend on the prevention of the adoption of local and state laws which exceed the scope of federal legislation;
- Large international corporations have supported the adoption of the RC chapter as means of circumventing numerous state and local laws which go beyond federal regulatory requirements;
- The RC chapter would require the review of proposed state and local laws and regulations before they are formally introduced in the legislative process;
- The review proposed by the RC chapter would focus on a criteria of “least trade restrictive” and would effectively impede the adoption of most environmental and public health laws;
- The proposed RC chapter would apply to proposed laws and regulations on the state and local level;
- The actual text of the RC chapter has not yet been released so its precise effect on proposed legislation and regulations cannot be accurately determined;
- The US Constitution provides states with a “wide latitude” to protect the public health and welfare;
- In particular, the RC chapter has the potential to nullify existing state regulations which limits the use of toxic chemicals; and
- Under the RC chapter concept, the federal government will have an unprecedented role in evaluating and passing judgment on proposed state and local environmental laws and regulations.

### **Phone Presentation and Discussion with Michael Sinacore, Legislative Assistant (trade matters) for US Congressman Bruce Poliquin**

The commission next listened to a brief speaker phone presentation from Michael Sinacore, Legislative Assistant (trade matters) for US Congressman Bruce Poliquin. In his presentation, Mr. Sinacore made the following points:

- Mr. Sinacore relayed Congressman Poliquin's intent to be as responsive as possible to international trade topics and to establish open lines of communication with the CTPC;
- Mr. Sinacore emphasized 2 main points that he wanted to bring to the commission's attention:
  - First, the Congress did pass Trade Promotion Authority (TPA) without Congressman Poliquin's support. His objection was centered around his intention that Maine have the best possible jobs environment and that making it easier for the President to ratify a FTA would have negative consequences for the state of Maine;
  - Second, the other prominent issue is the proposed adoption of the TPP which at this point, based on rumors circulating in Washington DC, may not be going forward.
- Mr. Sinacore then cited the recent case involving Madison Paper in which 2 Canadian paper companies that receive substantial government subsidies and thus unfairly compete with Madison Paper. Congressman Poliquin has raised this issue with various international trade bodies. As a result, the International Trade Commission is reportedly imposing double trade tariffs on the paper products produced by the Canadian mills;

Mr. Sinacore next responded to various questions posed by commission members and staff:

- In response to several questions from CTPC member Sharon A. Treat regarding the TPP, Mr. Sinacore responded that footwear tariffs in the TPP are likely to be a step-down process in which the existing tariffs are gradually lowered over a 12 to 14 year time period and finally eliminated. He also mentioned a more recent proposal which would result in a more sudden and immediate drop-down of tariffs. This issue remains a primary focus of interest for Congressman Poliquin. In addition, with regards to how the TPP may affect drug prices, Mr. Sinacore welcomed the commission to share any of its written materials on this subject. Mr. Sinacore also commented on the importance of the sovereignty issue with regards to the country of origin labeling issue;
- CTPC member Christy Daggett asked Mr. Sinacore about the need to address the issue of the improving US economy and the possibility that low wage countries like Brazil and China that may target our domestic paper production through the use of currency manipulation. Mr. Sinacore responded that the topic of currency manipulation is of great concern to Congressman Poliquin. Mr. Sinacore also stated that the proposals within the TPP on the topic of currency manipulation were not strong enough and that if necessary, he plans to go before the International Trade Commission and ask for appropriate relief; and

- CTPC staff person Lock Kiermaier asked about Congressman Poliquin's position regarding the inclusion of ISDS in FTAs. Mr. Sinacore responded that it is the Congressman's intention to insure that treaty violations are fairly and properly addressed. He cited the country of origin labeling issue with regards to meat products and the right of citizens to exercise their preference in what products are actually available to purchase. Mr. Sinacore emphasized the need to have trade rules which recognize current federal regulations and requirements and are not subject to legal challenge from international corporations or foreign governments under the terms of an FTA. In addition, in response to Mr. Kiermaier's report of an alternative means of dispute resolution that had just been proposed by the EU, Mr. Sinacore welcomed the opportunity to review any such proposal.

### **Articles of interest (Lock Kiermaier, Staff)**

Next, CTPC staff person Lock Kiermaier briefly reviewed a summary of 16 articles pertaining to some aspect of free trade agreements. The written summary and copies of the articles in their entirety can be viewed at the CTPC website:

<http://legislature.maine.gov/legis/opla/ctpcmtgmats080615.pdf>

### **Adjournment**

The meeting was adjourned at approximately 3 PM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**October 27, 2015**  
**Room 208, State House**  
**Augusta, Maine**

Members Present: Senator Amy Volk, Representative Robert Saucier, Representative Craig Hickman, Randy Levesque, Sharon A. Treat, Christy Daggett, John Palmer, Pam Megathlin, Janet Mills

Staff: Lock Kiermaier (Contract)

CTPC Chair Senator Amy Volk convened the meeting at approximately 1 PM.

To begin the meeting, Senator Volk asked Commission members to introduce themselves.

After the introductions had been made, CTPC staff Lock Kiermaier stated that because the statutorily required minimum quorum of 11 members had not been met, that a formal meeting could not take place and that no formal vote could take place. In a further discussion of this topic, Mr. Kiermaier explained that current CTPC law provides for 22 appointed positions to the CTPC, that only 12 to 15 appointed members attend meetings on a regular basis and that current law requires that 9 voting members must be present for a formal vote to take place. Those members present appeared to favor a statutory change to 9 members required to start a meeting and a quorum of 7 voting members must be present for a vote to take place. It was decided that the CTPC Chairs will work with Mr. Kiermaier to draft a proposed statutory change to be submitted to the Legislature.

**Presentation and Discussion with Matt Jacobson, Executive Director of the Maine Lobster Marketing Collaborative**

During his presentation to the CTPC, Mr. Jacobson made the following points:

- The Maine Lobster Marketing Collective (MLMC) came into being as a response to a decline in prices for lobsters in 2012. The MLMC was designed to be a professional, robust, well-funded marketing effort to stabilize the price and availability of Maine lobsters. Mr. Jacobson was hired in August of 2014 and later that year a commodity marketing firm was hired to further promote the sale of Maine lobsters. The MLMC has a marketing budget of \$1.5 million in the current year and \$2.2 million for next year which is comparatively low for commodity marketing efforts in other states. Because of a lack of reliable data for “dock prices” it has been difficult to accurately determine the exact state of recent prices and thus how to more effectively market lobsters. It was decided to focus marketing efforts on the summer months with the most catch and try to increase the dock price. A total of 10% of Maine’s annual lobster catch is exported with approximately 2% going to China. Because of that relatively low percentage going to exports, it was decided to focus ongoing marketing efforts on increasing domestic

purchase of lobsters and more specifically on the fact that 90% of lobsters are eaten in restaurants with a young clientele that is heavily involved in social media.

- In terms of the TPP, there are several concerns:
  - it is anticipated that the TPP will revise regulatory measures for businesses and the environment, as well as establish a new arbitration process;
  - There is a need for greater transparency in investor/state dispute provisions;
  - One can anticipate cutbacks in domestic manufacturing.
- On a more positive note, the TPP has the potential for:
  - Opening new markets for US goods in quickly growing economies;
  - A reduction or elimination in existing tariffs for lobsters;
  - Increase in the current 41.8 billion in exported goods to TPP countries;
  - A boost for small businesses in that 98% of exporters in the US are small businesses.
- In 2014, seafood was Maine's leading export with a value of \$456.67 million:
  - Of that total, lobster exports accounted for \$366 million with \$21.5 of that total going to China.
- In terms of the TTIP, concerns include:
  - Disparities regarding food safety regulations;
  - Public health standards;
  - Environmental protection standards; and
  - Protection of labor and worker rights.
- Positive aspects of the TTIP include:
  - US exports will become more competitive with elimination of duties and tariffs; and
  - Due to a recent EU-Canadian free trade agreement, the TTIP will allow the US to have an equal tariff status with that of Canada.

**Presentations from CTPC member Sharon A. Treat on the current status of the TPP and an update on the proposed Regulatory Chapter of the TTIP**

Next, CTPC member Sharon A. Treat provided a series of comments on several free trade agreement topics:

- With regards to the current status of the TPP, Ms. Treat offered the following observations:
  - Due to many delays in the projected release date of the TPP text, Ms. Treat suggested that any public hearing held by the CTPC should be delayed until the text has been completely released;
  - The actual release date of the TPP text cannot be determined at this time;
  - The delays in the release of the TPP text have many reasons including the 12 different TPP nations which have to clear the text in at least 3 different languages;
  - The delay in the release of the TPP text is also attributable to the many side agreements that the US and other countries have entered into as a part of the overall TPP agreement;

- In terms of the Fast Track (TPA) agreement reached by Congress with the President, there is a lengthy process of review before the TPP can be voted upon. Some estimates are that the TPP will not be voted upon until late in 2016;
- In addition, final approval of the TPP also depends on approval from the other eleven nation signatories;
- Many of the provisions in the TPP will not go into effect for a period of several (or many) years;
- Disagreement over the topic of drug “exclusivity” also contributed significantly to the delay in finalizing the TPP;
- The inclusion of a tobacco “carve out” from the ISDS process in the TPP is a significant improvement that the CTPC has been advocating for.
- With regards to the proposed Regulatory Chapter of the TTIP, Ms. Treat made the following comments:
  - Ms. Treat recently met with chief negotiators for the TTIP and presented a recent article “*Preempting the Public Interest: How TTIP Will Limit US States’ Public Health and Environmental Protections*” that she wrote for the Center for International Environmental Law;
  - Ms. Treat’s article discusses the possible implications of a loss in state sovereignty that could result from adoption of the chapter on Regulatory Cooperation as presented by the EU;
  - Due to her status as a Cleared Advisor for the USTR, Ms. Treat was unable to discuss the specific contents of her discussions with the TTIP negotiators but she was able to learn that the USTR was going to present its views on Regulatory Cooperation as proposed by the EU. In brief, she found that the USTR negotiators were open to what she had to say in her article and displayed a different perspective on this issue than their EU counterparts.

### **Articles of interest (Lock Kiermaier, Staff)**

Next, CTPC staff person Lock Kiermaier briefly referred to a summary of 18 articles pertaining to some aspect of free trade agreements. The written summary and copies of the articles in their entirety can be viewed at the CTPC website:

<http://legislature.maine.gov/legis/opla/ctpcmtgmtrlsoc2715.pdf>

### **Adjournment**

The meeting was adjourned at approximately 3 PM.