

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**February 10, 2012**  
**Room 220, Burton M. Cross State Office Building**  
**Augusta, Maine**

Members Present: Senator Sherman, Representative Maker, Senator Patrick, Representative Rotundo, Representative Bernard Ayotte, Deputy Attorney General Linda Pistner, Connie Jones, Jay Wadleigh, Wade Merritt, Harry Ricker, John Palmer, Joseph Woodbury, Mike Karagiannes (for Heather Parent, DEP)

Staff: Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 9:30 AM.

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

**Review of 1/11/12 letters to USTR**

The second item on the agenda was the review of letters sent to the USTR regarding the possible inclusion of Canada, Mexico and Japan in the Trans-Pacific Partnership Agreement (TPPA). During its previous meeting on December 15, 2011, CTPC members voted unanimously to send letters to Ron Kirk, Ambassador, United States Trade Representative, stating the Commission's concern that the inclusion of large trading partners into the TPPA was largely incompatible with a trade agreement that was originally conceived from the perspective of trade between the US and smaller Pacific rim countries.

These letters were sent to the USTR on 1/11/12 with copies to the Governor and members of Maine's Congressional delegation. Copies of the 3 separate letters were provided to Commission members for their review.

**Discussion of Presidential Fast Track Authority**

During its December 15, 2011 meeting, the Commission had a short discussion with Troy Haines, of the Maine Fair Trade Campaign, regarding President Obama's intent to ask Congress for "Fast Track Authority" to negotiate the TPPA. Mr. Haines had explained to the CTPC that Fast Track Authority effectively suspends the requirement that Congress negotiate trade policy agreements and thus eliminates the opportunity for Congress and the states to influence specific provisions of trade policy agreements. Commission members invited Mr. Haines to appear at this meeting to further discuss the topic of Fast Track Authority.

Due to traveling distance, Mr. Haines was unable to attend this meeting and was instead represented by Sarah Bigney, former CTPC member, and currently employed by the Maine AFL-CIO. After a brief presentation by staff person Lock Kiermaier of a recent resolution (HP 1152) pertaining to

states' rights in international trade policy initiated by the CTPC and passed by the First Regular Session of the 125<sup>th</sup> Maine State Legislature, Ms. Bigney made a brief presentation regarding Fast Track Authority and presented copies of three documents to commission members for their review:

- The first document was a previous resolution (SP 649) passed by the 123<sup>rd</sup> Maine State Legislature which was also initiated by the CTPC and asked Congress and the President not to pursue the authorization of Trade Promotion Authority (aka "Fast Track Authority") on the broad grounds that such authority lacks transparency and circumvents congressional responsibility to review and determine the terms of international trade;
- The second document was a advocacy piece authored by PublicCitizen, a Washington DC based lobbying organization, which reviewed the history of Fast Track Authority and strongly advocated against renewing Fast Track Authority for the President stating that this authority "...unnecessarily creates a situation where negotiators cannot be held accountable by the public, and legislators are denied their constitutional authority to set terms of international trade."; and
- The third document presented by Ms. Bigney was an excerpt of legislation proposed by U.S. Representative Michael Michaud in 2009 (H.R 3012) which would have strengthened the process by which trade agreements are reviewed by Congress.

Ms. Bigney strongly urged the Commission to consider sponsoring a new resolution which would memorialize the Congress, the President and the USTR not to pursue or authorize presidential Fast Track Authority. Upon extensive discussion of this possibility, Commission member Joseph Woodbury expressed his support for the concept of presidential Fast Track Authority and remarked that it would be impractical to imagine a process by which Congress and/or the states could participate in the ongoing detailed negotiations required a by a trade agreement such as the TPPA. Mr. Woodbury further stated his opposition to any motion for a resolution which specifically opposed fast Track Authority and instead voiced support for an alternative approach which targeted the current lack of a defined and meaningful process by which trade agreements are negotiated and approved.

After a lengthy discussion, a motion was made by Representative Ayotte , and seconded by Representative Rotundo, to write a letter to the USTR and to initiate a legislative Resolution, both of which would advocate for a an improved trade negotiation process which encourages transparency and helps to preserve state sovereignty. The motion passed unanimously with a directive to staff to circulate drafts of both documents for review and editing by Commission members.

**Presentation from Zoltan Van Heyninge, Executive Director of the U.S. Lumber Coalition, on the U.S. – Canada Softwood Lumber Agreement**

Through the efforts of Senator Sherman, Mr. Zoltan Van Heyninge, Executive Director of the U.S. Lumber Coalition, made a phone presentation from Washington D.C. regarding the U.S. – Canada Softwood Lumber Agreement (SLA). Mr. Van Heyninge presented 2 documents for Commission members to review while he was speaking:

- The first document was a outline of his written remarks and included the following points:

- U.S. and Canadian Industries Operate on Different Principles – With Significant Impact in U.S. Competitive Market

- In the United States, the industry operates under open market principles, and depends on its own competitiveness to survive.
- In Canada, the provincial governments own over 90 percent of the timber supply and make it available to the Canadian industry at far below true market pricing. Government policy, instead of the market, determines the cost of timber in Canada.

-Canada Has Repeatedly Violated Its Lumber Trade Agreement Commitments

- Canada is not living up to its lumber trade agreement commitments, to the detriment of the U.S. industry, its workers and their jobs, and private family forest landowners.

-U.S. Industry is Calling on Canada to Fully Comply With Its Trade Agreement Commitments – While Insisting on Swift and Effective Enforcement of the Lumber Trade Agreement

- While the U.S.–Canada Softwood Lumber Agreement has just been extended for two years – to October 2015 – the big question is “what happens after 2015.”

- The second document was a summary of the SLA:
  - ◆ In 2006, the U.S. and Canada signed a trade agreement to settle on-going disputes regarding Canadian softwood lumber imports;
  - ◆ From a U.S. perspective, the agreement has significant limitations in that the goal of open and competitive timber sales are not likely to ever be achieved;
  - ◆ Under the terms of the SLA, Canada must impose certain restrictions on the shipment of softwood lumber to the U.S; and
  - ◆ The SLA also specifies that future negotiations are intended to end Canadian subsidies and to prevent the dumping of Canadian lumber into the U.S. market.

**Presentation from Representative Sharon Treat regarding recent IGPAC activities and updates on the progress of the TPPA**

The next item on the agenda featured a presentation from Representative Treat regarding information about the current activities of the Intergovernmental Policy Advisory Committee (IGPAC) of the USTR (of which Rep. Treat is a member) and an update on her knowledge of the TPPA.

Representative Treat made the following points:

- She appreciated Mr. Van Heyninge’s presentation and feels that a review of the SLA leads into a very relevant discussion of whether Canada should be included in the TPPA; It appears that the U.S. will be the only country to possibly oppose inclusion of Canada, Mexico and Japan into the TPPA. Concerns were expressed that negotiation of the TPPA should consider what impact, if any, adding Canada and/or Mexico might have on NAFTA;
- A very real concern is a final negotiation of the TPPA which later adds in Canada, Japan and Mexico without duly considering how their inclusion may impact the previously negotiated agreement;

- The investor-state mechanism is an important concept to be considered in the TPPA and without due consideration it is very possible that the TPPA will allow private companies to go to a foreign tribunal to overturn or determine the dictates of U.S. federal and state law;
- It is also conceivable that the TPPA will be negotiated to include the European Union in some fashion; and
- In concluding her remarks, Rep. Treat stated that it would be useful to her participation in IGPAC if she could reference the opposition of the CTPC to including any provision in the TPPA which would preempt a state's ability to regulate insurance.

After Representative Treat concluded her remarks, Representative Rotundo made a motion, which was seconded by Senator Sherman, to state that the CTPC was opposed to including any provision in the TPPA which would preempt a state's ability to regulate insurance. This motion was approved by unanimous vote of the Commission.

### **Bi-annual Assessment; Trans-Pacific Partnership Agreement**

For the final agenda item, Staff person Lock Kiermaier updated commission members regarding the upcoming bi-annual assessment required by Maine law. During its December 15, 2011, meeting the Commission had settled on a preliminary plan to structure the next bi-annual assessment as a hybrid of several public hearings in which trade policy subject experts would be contracted to make formal presentations on particular trade policy topics pertaining to the TPPA. These presentations would be followed up by a formal written assessment that would be significantly smaller in scope than previous efforts.

Mr. Kiermaier next reported on several preliminary contacts he had made with a number of recognized trade policy experts. These individuals included:

- Sean Flynn; Associate Director, Program on Information Justice and Intellectual Property Professorial Lecturer in Residence at American University, Washington D.C.;
- Ellen R. Shaffer; Co-Director, Center for Policy Analysis on Trade and Health/CPATH, San Francisco, CA;
- Kay Alison Wilkie; Director for International Policy, Division of Business Advocacy and Research, Empire State Development / NYS Department of Economic Development, Albany NY;
- Robert Stumberg; Director and Professor of Law, Georgetown University, Washington D.C.; and
- Matthew Porterfield; Senior Fellow (trade & climate) and Adjunct Professor; Georgetown University, Washington D.C.

Mr. Kiermaier reminded Commission members that the CPTC has a budget of \$10,000 to conduct this assessment and briefly discussed the possibility of using televised link-ups to maximize the Commission's limited financial resources. Upon further discussion, Commission members voiced support for having presentations on the four following trade policy areas relative to the TPPA:

1. Procurement;
2. Softwood lumber;
3. Pharmaceuticals; and
4. Tobacco

Commission members further specified that they would like presentations on each of these policy areas to reflect subtexts on investor-state mechanisms and the impact of NAFTA. Finally, Commission members agreed to proceed with the development of the assessment plans through the use of e-mail and phone consultation prior to the next CPTC meeting which has been preliminarily scheduled for March 9, 2012.

The meeting was adjourned at approximately 12:30 PM.

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**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**March 9, 2012**  
**Room 220, Burton M. Cross State Office Building**  
**Augusta, Maine**

Members Present: Senator Sherman, Representative Maker, Senator Patrick, Representative Bernard Ayotte, Connie Jones, Harry Ricker, John Palmer, Joseph Woodbury, Mike Karagiannes (for Heather Parent, DEP), Michael Herz, Steve Cole

Staff: Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 9:30 AM.

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

**Review of Legislative Resolution and letter sent to USTR regarding need for transparency, appropriate protection of state sovereignty and adequate congressional review in trade treaty negotiations**

The second item on the agenda was the review of a draft resolution and a letter sent to the USTR. Both documents were approved by the CTPC during its previous meeting on February 10, 2012. Each document advocated for an improved trade negotiation process which encourages transparency and helps to preserve state sovereignty. The letter to the USTR was sent on 3/6/12 with copies provided to the Governor and members of Maine's Congressional delegation. Copies of the 3 separate letters were provided to Commission members for their review. The draft Resolution to the President and the U.S. Congress is currently winding its way through the legislative process for final approval

**News articles of interest;**

The third item on the agenda pertained to five articles of possible interest to the CTPC. Committee staff presented each article with a brief description of its possible relevance to the work of the CTPC:

- **Australia's opposition to inclusion of investor-state dispute settlement (ISDS) clauses in the Trans-Pacific Partnership Agreement (TPPA)**
  - *The Australian government has taken a stand against including investor-state dispute settlements (ISDS) in TPPA;*
  - *ISDS give businesses from one country the power to take international legal action against the government of another country over breaches in an international trade treaty;*
  - *The Australian government believes that ISDS could constrain its ability to make laws on social, environmental and economic issues;*

- *31 business groups in the United States have urged President Obama to oppose Australia on this issue; and*
- *The Australian Chamber of Commerce and Industry also opposed to their government's position against ISDS.*
- **TPPA discussion on new members**
  - *Negotiators are considering inclusion of Japan, Mexico and Canada in the TPPA but no conclusions or decisions are likely in the immediate future;*
  - *Meetings between US and these 3 countries are ongoing regarding the TPPA; and*
  - *Japan's interest in joining the TPPA is manifest; it is likely that Japan would have to make certain concessions on autos, agriculture and insurance before being included in the TPPA.*
- **U.S. position on footwear tariffs in TPPA**
  - *There is currently an intense debate in the US between importers of footwear and manufacturers of footwear;*
  - *Importers favor repeal of US footwear tariffs and manufacturers want them expanded in number; and*
  - *There is also controversy over importer's preference for a "tariff shift rule" which would allow assembly of imported footwear products from a non-TPPA country in a TPPA country and thus gain preferential treatment.*
- **Pharmaceutical reimbursement being negotiated in TPPA**
  - *The current US proposal for a pharmaceutical "transparency" chapter uses the evolution of previous US- Korea and US – Australia Free Trade Agreements as templates;*
  - *The author of the article maintains that the real intent is to "control the efficacy of price restraints in public health programs, not to promote transparency within them";*
  - *Direct quote from the article: "I don't know of any reimbursement (or procurement) program in the US that would give an appeal to a pharma company based on unhappiness with the price offered by a formulary. Companies can refuse to sell at the price offered. But they don't have an appeal based on the "value" of a patent, as is provided in KORUS and the US proposal for TPP." ;and*
  - *In general, states are opposed to this approach.*
- **U.S.- Vietnam Bilateral talks on goods market access**
  - *US and Vietnam are also engaged in bilateral trade talks about trade policies for footwear, textiles, apparel and pork; and*
  - *Footwear disagreements are similar to the discussion in the earlier article about footwear tariffs in the TPPA.*

**Possible CTPC comment to USTR regarding proposed changes in the Rules of Origin under the Dominican Republic- Central America- United States Free Trade Agreement (CAFTA-DR) (April 17<sup>th</sup> deadline)**

Regarding the next item on the agenda, the commission reviewed the possibility of submitting written comment to the USTR regarding proposed changes in the Rules of Origin under the Dominican Republic- Central America- United States Free Trade Agreement (CAFTA-DR). After a brief discussion of this topic with Representative Sharon Treat, the commission concluded that it did not have enough information to make an informed decision as to whether or not to submit any kind of written comment. It was noted that the deadline for written comments was April 17<sup>th</sup> and, should more information become available, that there would be an opportunity for the CTPC to submit a comment at its next meeting.

**Opportunity for written comment to the U.S. House of Representatives, Committee on Ways and Means regarding President Obama's Trade Policy Agenda (March 15th deadline)**

Next, the commission considered the opportunity to submit written comment regarding President Obama's trade policy agenda to the U.S. House Committee on Ways and Means. After a discussion, the Commission voted unanimously to accept a motion to submit written comments which were largely similar to those submitted to the USTR in a letter from the CTPC to the USTR dated March 6, 2012. As a part of that motion, the CTPC also stipulated that the letter clearly state the CTPC's strong support for the recent stance of the Australian government to oppose the inclusion of Investor-State Dispute Settlement Clauses (ISDS) in the TPPA. The CTPC then accepted a further motion by unanimous vote to send an additional letter to the USTR also supporting the action of the Australian government regarding its opposition to using ISDS clauses in the TPPA.

**CTPC Assessment: TPPA**

The commission then returned to its previous decision making process regarding the statutorily required biannual assessment. Previously, the CTPC had decided that this year's assessment would focus on the effect of the TPPA on Maine with regards to several specific trade policy areas by using a process which featured in-person presentations by qualified individuals with a shorter written assessment to be submitted as a final piece of the assessment.

After considerable discussion regarding a list of qualified assessment candidates the Commission accepted a motion by unanimous vote to contract with Robert Stumberg and Matthew Porterfield, both of Georgetown University, to conduct the CTPC assessment. As a part of the motion the CTPC stipulated the following:

- *Commission staff person Lock Kiermaier was authorized to negotiate the specifics of the agreement with Mr. Stumberg and Mr. Porterfield and to develop a formal contract in consultation with CTPC Chairs, Senator Sherman and Representative Maker;*
- *The CTPC has a total of \$10,000 with which to accomplish the assessment; no other funds will be available from the Legislature for this purpose;*

- *The CTPC expects a personal presentation in a public hearing format, an assessment which focuses on the likely impact of the TPPA on Maine with regards to 3 trade policy subjects: procurement, tobacco and pharmaceuticals;*
- *The CTPC also intends that the assessment to devote some analysis as to how the TPPA is likely to impact on softwood trade policy; an issue which is paramount to Maine;*
- *The CTPC anticipates that a preliminary draft of a written assessment would be submitted prior to the scheduled public hearing;*
- *while the CTPC expects a final written assessment to be submitted after the conclusion of the public hearing, it is clear that the CTPC wants a more interactive assessment process, one which features the presentation in a public hearing format with the opportunity for questions and discussion between the assessors, the CTPC and members of the Maine public. Thus, the written assessment is expected to be less lengthy than previous efforts and to function more as a summary of what transpired during the public hearing process; and*
- *The CTPC would like to have the assessment process completely concluded by the end of June 2012.*

#### **Next CTPC meeting**

As a final order of business, the commission decided upon Friday, April 13, 2012 as the date of its next meeting.

The meeting was adjourned at approximately 12:00 PM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**April 27, 2012**  
**Room 220, Burton M. Cross State Office Building**  
**Augusta, Maine**

Members Present: Senator Sherman, Representative Maker, Senator Martin, Representative Bernard Ayotte, Representative Rotundo, Connie Jones, John Palmer, Joseph Woodbury, Mike Karagiannes (for Heather Parent, DEP), Michael Herz, Steve Cole, Jay Wadleigh

Staff: Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 9:30 AM.

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

**Presentation from Bruce Bryant, Northeast Field Representative, Alliance of American Manufacturing on unfair trade practices regarding imported auto parts from China**

The second item on the agenda was a presentation from Bruce Bryant, Northeast Field Representative, Alliance of American Manufacturing, on unfair trade practices regarding imported auto parts from China. Mr. Bryant, who is a former legislator and member of the CTPC, gave a PowerPoint presentation which made the following points:

- China's cheating on existing international trade agreements is putting 1.6 million U.S. auto parts jobs at risk;
- The auto bailout saved domestic assembly; now the fight is over parts; 25% of the jobs in the auto industry are in assembly; the remaining 75% (687,100) of the jobs are involved in the manufacturing of auto parts;
- 389,000 auto parts manufacturing jobs were lost in the United States between 2001 and 2010, an employment drop of 45% ;
- The cycle of auto parts job loss to China is a continual one in which China targets a particular sector of the auto parts market, floods the U.S. with government subsidized auto parts from China, China loses in arbitration but by then the U.S. jobs have already been lost;
- The U.S. has a more than \$8 billion auto parts trade deficit with China compared with positive auto parts trade balances between China and Japan, Germany and South Korea;
- Some positive moves have been taken recently by the Obama administration with the creation of a Special China Enforcement Unit and the use of "self initiated" trade cases; and
- In a recent bi-partisan poll, 95% of Americans said that they wanted to keep America's Trade Laws strong and strictly enforced to provide a level playing field for U.S. workers and businesses.

In the ensuing discussion, the following issues were raised:

- Commission member Michael Herz asked what Germany, Japan and South Korea were doing differently with China to have positive trade balances with China in the auto parts sphere? Mr. Bryant suggested that the U.S. is lacking a coherent manufacturing policy;
- Commission member Steve Cole mentioned that Master Machine located in Round Pond, Maine is an in-state example of an auto parts manufacturing company and then asked if the flood of Chinese auto parts were for original or replacement purposes. Mr. Bryant did not know the answer to that question;
- Commission member Joseph Woodbury stated his strong disagreement with the points of view presented by Mr. Bryant. He also indicated his feelings that the availability of cheap auto parts from China should be applauded, both the U.S. and China are guilty of currency manipulation and subsidizing their respective auto parts manufacturing sectors; the problem with manufacturing in the U.S. is the lack of a manufacturing plan and does not require government protection, the U.S. needs improved employment policies, lower taxes and tax reforms and regulatory reform;
- Commission member John Palmer stated that the Chinese have complete access to the U.S. design of domestic auto parts and maintained that first-quality Chinese auto parts are used by U.S. auto manufactures with second-quality parts going to auto part stores for replacement purposes. Mr. Palmer also cited regulatory barriers and constraints as primary reasons for the current problems in American manufacturing;
- Commission member Representative Bernard Ayotte also cited regulatory barriers and the unwillingness of many in the current work force to work for existing wages as the primary problems with American manufacturing;
- Commission member Connie Jones asked for a description of the “self-initiation” process available to the Executive Branch? While Mr. Bryant was unable to provide the specifics of that process he did state that the primary problem is that the Obama administration is not availing itself of that opportunity; and
- Commission member Mike Karagiannes (DEP designee for Heather Parent) commented that Mr. Bryant’s PowerPoint presentation seemed to be designed for a national audience and suggested that it be adjusted to reflect a Maine perspective.

**Presentation from Representative Sharon Treat on updates of the Dallas round of TPPA negotiations and an update on the newly adopted model for future bilateral trade agreements**

The third item on the agenda involved a presentation from Representative Sharon Treat, former CTPC member and current IGPAC member of the USTR, regarding various international trade treaty issues:

- Representative Treat informed the CTPC that the next round of TPPA negotiations are going to be held in Dallas, Texas in early to mid May. She plans on attending as a stakeholder and asked the CTPC how she could best represent recent CTPC actions and positions to those in attendance in Dallas. Without a formal vote, Commission members agreed that she should be authorized to distribute copies of recent CTPC letters and that copies would be provided to her to distribute in Dallas; and

- Representative Treat then discussed the recently developed 2012 Model Bilateral Investment Treaty (BIT). She mentioned the BIT's inclusion of Investor-State Dispute Settlement (ISDS) clauses and how she has noticed that the use of ISDS clauses allows foreign corporations to have "two bites of the apple" in the resolution of trade disputes. More specifically, foreign corporations can avail themselves of a solution through the adjudicatory process of the sovereign entity and then, if the desired outcome or ruling has not been obtained, opt for resolution through the ISDS process using a foreign tribunal. On the more positive side, Representative Treat lauded the model BIT for its inclusion of provisions which establish child labor standards but noted that these provisions are not enforceable through the use of the ISDS process.

In the discussion regarding Representative's Treat's presentation, the following remarks were made:

- Commission member Michael Herz asked how many other states had commissions like the CTPC? Representative Treat stated that Vermont, New Hampshire, Washington and Utah were the states that had commissions that were similar to, and as active as Maine's CTPC. Mr. Herz also suggested the wisdom in the possibility of having these commissions work together in to express commonly held positions. Representative Treat indicated her intention to contact these other commission's prior to her trip to Dallas to explore that very possibility;
- Commission member John Palmer indicated his desire to review a complete copy of the model BIT. Commission staff person Lock Kiermaier will follow through on providing all CTPC members with a copy of this document; and
- Commission Chair Representative Joyce Maker thanked Representative Treat for her many efforts to provide relevant and useful information to the CTPC.

### **Presentation from Don Tardie, Managing Director/ Sales for Maine Woods Company LLC, on the Softwood Lumber Agreement**

The fourth item on the agenda was a presentation from Don Tardie, Managing Director/ Sales for Maine Woods Company LLC, on the Softwood Lumber Agreement. Mr. Tardie's remarks were divided into 2 sections. First, he presented an update chronology of the Softwood Lumber Agreement (SLA) between the U.S. and Canada:

1. Current Agreement signed in 2006 by Harper and Bush Governments
  - 7 Year deal scheduled to end in Sept of 2012.
  - US producers complained that Canadian exporters were subsidized by Crown Lands stumpage fees sold at bargain basement prices.
  - Canada won the first decision before NAFTA Panel.
  - US filed a subsequent petition to World Trade Organization and won.
  - Approximately \$5.6Billion levied against the Canadian Producers.
  - \$4.5Billion in levies returned back to the same producers.

- SLA extremely important to softwood lumber producers on both sides of the border with the exception Canadian Mills along the Maine and New Hampshire international boundary.
2. August of 2011: USTR announced it was seeking \$500Million in damages from BC Forest Industry before the London Court of International Arbitration. Decision is due this Summer.
  3. Two other USTR filed disputes have been won by the US.
    - Dispute that Canada failed to calculate volume quotas properly by Provinces. \$68Million export duties levied against the Federal Government.
    - Dispute that Provinces of Quebec and Ontario failed to justify market rates for Crown Lands Stumpage creating a breach of the agreement. \$60Million levied against the respective Provinces.
  4. SLA extended on Jan 23rd 2012 until Oct 2015.
    - Done within days after the Obama Administration rejected the Keystone Pipeline proposal.

The second part of Mr. Tardie's presentation consisted of his recommendations about how the TPPA and how future iterations of NAFTA could be improved:

- Future agreements should include a subsidy calculation based on US weighted average stumpage cost by region less the less the weighted average stumpage rate calculated for all Canadian Provinces by region;
- Settlements should be based on the level of financial injury collected by DOC by region and returned to injured claimants by region;
- Theoretically, no countervailing duties or anti-dumping duties would be allowed to be collected by the Canadian Government and redistributed back to their mills;
- No more debate on what qualifies for a log under the agreement nor should there be a debate on Crown land Stumpage Values;
- All costs associated with Claims Process borne by losing party;
- Dispute Resolution Process must be fair, impartial and equitably defined without prejudice before a new signed agreement;
- An independent and judicially qualified third party must be chosen and mutually agreed to prior to a new agreement;
- Decisions should not violate jurisdictional trade laws; and
- Should incorporate SLA Dispute Resolution and Claims Process.

### **News articles of interest**

The fifth item on the agenda consisted of a brief review of recent articles presented by Staff person Lock Kiermaier:

- Translation of article by Hirobumi Sengongi, Staff Writer with The Japan Agricultural News
  - Opposition in U.S.to extreme free trade which tends to benefit corporate entities

- Opposition in Maine to use of groundwater by multinational mineral water company
- Concern in Maine about state sovereignty being overridden by use of ISDS clause in TPPA
- Interviews with Senator Sherman, Representative Treat and Representative Rotundo (misspelled as “Lotando” in translation)
- Lost in translation: anti-TPP Campaign befuddles Washington
  - The agricultural lobby in Japan is working against the TPPA by taking out advertisements in US media
  - TPPA would require further opening of Japan’s currently protected farm sectors
- PHAA Issue Brief: Public Health and the TPPA
  - U.S. proposals for increasing intellectual property rights for pharmaceutical companies go far beyond current WTO agreements and undermine pharmaceutical reimbursement and pricing schemes
  - Inclusion of ISDR clauses could negatively affect government’s ability to regulate industry in key areas of health policy
  - Other TPPA provisions will make it more difficult to introduce policy interventions such as tobacco control, nutrition and alcohol labeling and restrictions on advertising of unhealthy goods;
- Last US Sneaker manufacturer wants to maintain balance in new trade pact
  - New Balance is working with lawmakers to insure that TPPA will preserve footwear duties that will allow the continued manufacturing of shoes in the US
  - Senator Snowe is leading the effort to preserve footwear tariffs in TPPA
- Former USTRs support expanding TPP membership; differ on sequencing
  - Six former USTRs support inclusion of Japan, Mexico and Canada in TPPA but differ on whether these countries should be allowed to participate in the negotiations or brought in after the provisions have been finalized
- WTO orders US to dump landmark Obama youth anti-smoking law
  - WTO tribunal in Geneva struck down the provisions of a US law which banned the sale of flavored cigarettes, most notably clove-flavored cigarettes from Indonesia
  - US has 60 days to implement the WTO order or face trade sanctions
- TPP schedule for 2012 taking shape, starting with Dallas round in May
  - TPPA negotiations are being pushed forward by the US and others to avoid complications by the participation of new members and the politics of the upcoming US presidential elections
  - However, TPPA is unlikely to be finalized before the end of this year
  - Next round of negotiations is scheduled to take place in Dallas starting in early May

- Mining for profits in international tribunals
  - Transnational corporations are increasingly turning to IRDS tribunals to resolve disputes over natural resource rights
  - The most frequently used tribunal is the International center for Settlement of Investment Disputes which has 137 pending cases; 43 pertain to oil, mining or gas
  - Contrast with only 3 pending cases in 2000 for oil, mining or gas
  - Latin American countries comprise 10% of ICSID membership but 50% of all currently pending cases
  
- Pacific illusions: the administration's latest trade deal is supposed to revive the US export economy and counter Chinese influence, it does neither
  - A series of anti-TPPA articles which comprehensively make the case against the TPPA; recommended as background reading for upcoming CTPC assessment in June.

#### **CTPC Assessment: TPPA**

For the next item on the agenda, Staff Person Lock Kiermaier updated the Commission on the development of a final contract for the upcoming assessment:

- A draft of the contract has been nearly finalized between the CTPC and Bob Stumberg and Matt Porterfield of Georgetown University;
- The assessment and all associated costs will be contracted for a blanket fee of \$10,000;
- A draft of the assessment will be provided to CTPC members for review approximately a week before a public hearing will be held;
- The public hearing is scheduled for Friday, June 15, 2012 and will feature a presentation of the draft assessment by Mr. Stumberg with the opportunity for questions and discussion with Mr. Stumberg by members of the CTPC and members of the public;
- A final assessment reflecting results of the public hearing will be submitted by Mr. Stumberg and Mr. Porterfield by the end of June.

#### **Next CTPC meeting**

As a final order of business, the commission decided upon Friday, May 18, 2012 as the date of its next meeting.

The meeting was adjourned at approximately 12:00 PM.

**Meeting Summary**  
**Maine Citizen Trade Policy Commission**  
**July 11, 2012**  
**Room 220, Burton M. Cross State Office Building**  
**Augusta, Maine**

Members Present: Senator Sherman, Representative Maker, Representative Bernard Ayotte, Representative Rotundo, John Palmer, Joseph Woodbury, Harry Ricker, Michael Herz, Steve Cole, Jay Wadleigh, Linda Pistner, Michael Herz

Staff: Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 1:15 PM.

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

**Presentation from Representative Sharon Treat on updates of the San Diego round of TPPA negotiations and recent TPPA-related correspondence**

The second item on the agenda involved a presentation from Representative Sharon Treat, former CTPC member and current IGPAC member of the USTR, regarding various international trade treaty issues:

- Representative Treat referred CTPC members to a series of documents in their meeting folders pertaining to a recent letter sent to USTR Ambassador Ron Kirk. The letter, dated July 5, 2012, was signed by 130 legislators from all 50 states and Puerto Rico. The letter and an accompanying press release stated the legislators' likely opposition to the TPPA unless certain substantive changes were made. The primary concern stated in the letter was an objection to the possible inclusion of an "investor-state" dispute settlement system in the TPPA which would use foreign tribunals to circumvent federal and state laws to settle international trade disputes;
- Representative Treat then discussed the current status of the recent round of TPPA negotiations held in San Diego by first focusing on the text of a yet-to-be released USTR proposal regarding the treatment of pharmaceuticals. Although Representative Treat is bound by confidentiality restrictions as a member of IGPAC and is not allowed to discuss the details of the proposal, she did state that the proposal represents an improvement over previous drafts regarding pharmaceuticals. Representative Treat suggested that the CTPC might consider sending a letter to the USTR advocating for the concept of affordability to be paramount in whatever pharmaceutical provisions are finally included in the TPPA;
- Next, Representative Treat briefly addressed the subject of the treatment of tobacco in the TPPA by stating that the USTR has held numerous conversations with "uncleared" individuals regarding the USTR proposed compromise on tobacco but no new or revised proposals were presented. Representative Treat reiterated that the protection of existing

tobacco regulation was crucial and that the loopholes in the current USTR proposal need to be closed;

- Representative Treat then discussed the topic of procurement in the TPPA by stating her belief that any procurement provisions included in the TPPA should not bind the states or the federal government to compliance. She further stated that is not currently clear how procurement issues will be treated in the TPPA but that vigilance is required regarding the future development of TPPA procurement provisions; and
- To conclude her remarks, Representative Treat then addressed an international trade topic which is currently outside the TPPA: that of “country-of-origin” labeling. She cited 3 WTO decisions in the last 2 months which invalidated current U.S. laws and regulations pertaining to country-of-origin labeling. According to Representative Treat, the U.S. is currently assessing what next steps should be taken in response to the WTO decisions and these steps range from complete compliance to simply doing nothing. She also stated that is not currently clear what the consequences would be of doing nothing or noncompliance.

### **Consideration of recent CTPC Assessment on the TPPA**

For the third item on the agenda, CTPC members considered possible reactions to the recent Assessment on the TPPA produced for the CTPC by Professor Robert Stumberg of Georgetown University. After considerable discussion, the CTPC approved the following motions:

1. To develop a one page description of the CTPC and its statutory responsibility to conduct a biennial assessment and to include this one page summary with all printed copies of the final Assessment document;
2. To send letters to members of Maine’s congressional delegation informing them of the recent TPPA Assessment and providing them with printed copies of the final Assessment document;
3. To send a letter to the USTR regarding the treatment of procurement in the TPPA. More specifically:
  - a. Endorsing the manner in which procurement issues have been addressed in previous international trade agreements;
  - b. Advocating that the procurement provisions in the TPPA allow for “Buy America” requirements; and
  - c. Ask for a response to what the USTR plans to propose for procurement provisions to be included in the TPPA.
4. To send a letter to the USTR regarding the treatment of tobacco in the TPPA. More specifically:
  - a. State the CTPC preference for a total “carve out” of having the TPPA apply to tobacco regulation;
  - b. Absent a total “carve out” for tobacco in the TPPA, express the CTPC preference for amending the current USTR compromise proposal on tobacco to ensure that federal and state tobacco-related laws and regulations are not subject to TPPA jurisdiction and that the USTR proposal be further amended to ensure an approach which minimizes the possibility of tobacco-related litigation through the TPPA; and
  - c. Ask the USTR to come forth with a clear public statement on whatever tobacco proposal will be made by the U.S.

5. To send a letter to the USTR regarding the treatment of pharmaceuticals in the TPPA. More specifically:
  - a. Cite the previous CTPC letters sent to the USTR regarding the CTPC stand on pharmaceuticals ;
  - b. Advocate strongly for the provision of a “footnote” in the TPPA treatment of pharmaceuticals which allows for the exemption of federal reimbursement programs like Medicaid, 340 B and Medicare Part B; and
  - c. Advocate for TPPA pharmaceutical provisions which emphasize and allow for affordability.
6. To send a letter to the USTR regarding the “country-of-origin” labeling issue. More specifically:
  - a. Ask the USTR exactly who they are consulting with and what options are being considered regarding recent adverse decisions from the WTO regarding country-of origin labeling issues; and
  - b. Ask the USTR precisely what is being done and what formal positions have been taken by the U.S. in response to the recent WTO decisions.
7. To specify that all letters to the USTR also be addressed to the USTR individual responsible for that particular subject area and request that a direct personal response from that individual be provided; and
8. Request to staff that drafts of all the letters authorized in previous motions be circulated among CTPC members for editing suggestions and that final approval of draft letters be delegated to the CTPC chairs.

### **Change in CTPC Staffing**

Current CTPC staff member, Lock Kiermaier, reminded CTPC staff members that his contract to provide staffing to the CTPC is over at the end of July, 2012 and that OPLA will resume staffing responsibilities for the next CTPC meeting. Mr. Kiermaier then introduced Alyson Mayo from OPLA who will be working in tandem with Danielle Fox, OPLA (not present at the meeting) to provide staffing for the CTPC.

The meeting was adjourned at approximately 3:30 PM.

**Meeting summary**  
**Citizen Trade Policy Commission**  
**Wednesday, September 19, 2012**  
**Room 220, Cross State Office Building**

***Committee members present:*** Senator Roger Sherman, Senator John Martin, Representative Joyce Maker, Representative Bernie L.A. Ayotte, Representative Peggy Rotundo, Stephen Cole, Michael Herz, Joseph Woodbury, Jay Wadleigh, Linda Pistner.

The meeting began at 1:20pm and after introductions the commission held a conference call with Nora Todd from Congressman Michaud's office to discuss Representative Michaud's comments on recent letters from CTPC regarding the developing Transpacific Partnership agreement and how it may address tobacco, pharmaceuticals, government procurement and country of origin labeling.

***Nora Todd (by phone) from Congressman Michaud's office***

Ms. Todd stated that Congressman Michaud focuses on trade and Maine workers whose livelihoods are often at stake due to trade agreements. She noted that Congressman Michaud believes it is critical that the Trans-Pacific Partnership Agreement (TPPA) addresses tariffs on imports from Vietnam. Lower labor and environmental standards in some countries, like Vietnam, will disadvantage U.S. companies.

Concerned about manufacturing in the U.S. and Maine in particular, Ms. Todd noted that Representative Michaud sent a letter to the USTR stressing how critical it is to identify specific provisions that directly impact the U.S. manufacturing sector in trade agreements. She stated that the letter encouraged tight currency controls to prohibit the manipulation of currency by countries with whom we engage in trade. According to Ms. Todd, the letter noted that trade agreements should always include provisions that ensure no foreign "state run" company can come to the U.S. and disadvantage U.S. companies by competing on unfair terms. "Rules of origin" provisions pertaining to manufactured and assembled goods in trade agreements must also be carefully negotiated according to Ms. Todd and the letter sent to the USTR. According to Ms. Todd, the letter also urges accessible remedies when trade agreements are violated.

In response to the issues the CTPC raised in the letters sent to Representative Michaud in August, 2012, Representative Michaud feels the agreement shouldn't undermine the state's ability to negotiate. While other leaders in Congress are taking charge of pharmaceuticals, Representative Michaud supports protecting Maine's ability to get low priced pharmaceuticals. Regarding procurement.

Ms. Todd said that Jean Grier, who was speaking to the CTPC later in the meeting, would be a good resource on any questions the CTPC may have on TPPA provision regarding procurement. Representative Michaud's office is of the understanding that the TPPA will deal with federal procurement, not state procurement.

Ms. Todd said that Representative Michaud's office is staying informed about trade agreements and how they relate to tobacco and country-of-origin labeling. Representative Michaud does not

think the TPPA should undermine a state or country's efforts to quell tobacco use. He also agrees with the CTPC's opinion stated in its letter to him on country-of-origin labeling, but he is not sure to what extent this will apply to the TPPA.

Stephen Cole asked if Congressional staff show up at negotiations, or if they just get information from the USTR? Are they invited or allowed to attend? Ms. Todd responded that Congressional staff members are invited to stakeholder events, which are informative, but they do not allow for a lot of back and forth. They do receive regular information and briefings from the USTR. Representative Michaud's office also talks to stakeholders and industry representatives to try and to get information beyond that from the USTR.

Mike Herz stated that he had heard about a letter from Senator Ron Wyden to ensure stronger environmental laws in the treaty and asked Ms. Todd if Representative Michaud's office was familiar with the letter and if Representative Michaud was interested in environmental issues. Ms. Todd doesn't think the letter made it to the House; the House and Senate don't typically sign the same letter. Representative Michaud focuses more on manufacturing so he may not be a target to sign an environmental letter. Ms. Todd said she is happy to look for the letter or see if something can get started.

In regards to transparency issues on the negotiating text and negotiating process, Representative Michaud was one of one hundred members of Congress who signed letter to have increased transparency and more Congressional involvement in negotiations and updates on what's happening in trade negotiations. The leaders on the transparency issue in Congress include Representative Rosa DeLauro from Connecticut and Representative George Miller from California.

Ms. Todd said that Representative Michaud is able to see the text the U.S. has tabled on specific chapters and can see any of those chapters. Ms. Todd said that it is unfortunate there is not more transparency, but Representative Michaud is still trying to be as informed as possible. He's having as many conversations as possible and doing as much as he's allowed to do to weigh in. Ms. Todd shares the CTPC's frustrations on the transparency issue.

Danielle Fox asked whether revisions to the General Agreement of Procurement (GPA) in the WTO regarding procurement might include sub-levels of government. Ms. Todd responded that there are ongoing efforts to amend that provision. She noted that the European Union, in particular, is putting pressure on these amendments because they want greater access to procurement markets in the U.S. Ms. Todd does not feel Congress will ratify these types of changes. The general rules on procurement that give states the option to participate could be changed – which would be concerning.

Ms. Todd said she wants to be as responsive as possible and would like to have an ongoing dialog with the CTPC. She would like people to email her if anybody would like to follow up on a particular topic. She would like to be a resource to the Commission and said that Congressman Michaud appreciates all the work the CTPC does.

***Representative Sharon Treat, Maine's IGPAC member briefed the CTPC on the latest in TPPA negotiations.***

Representative Sharon Treat briefed the Commission on the latest TPP negotiations in Leesburg, Virginia, which she attended in September and provided an overview of the presentation she made there.

The negotiation format in Virginia allowed for participants to set up tables and present to negotiators – similar to a trade show format. Rep. Treat indicated that there was some disappointment because the presentation schedule ran at the same time as the trade show table format portion and it was difficult to present and cover the table at same time. Representative Treat attended for several days and met with several key people negotiating the TPPA. She shared the letters the CTPC sent out in August so that people would see that an organization of elected officials, the executive branch, nonprofits and business may have opinions that can at times be different than those of the USTR. Rep. Treat indicated that here presentation was based on the recently completed biannual CTPC assessment.

Representative Treat said that provisions pertaining to state-owned enterprises are of interest in the TPPA and that the CTPC should pay close attention to developing negotiations in this area. Other elements of the TPPA that were receiving a lot of interest from those following the negotiations include: intellectual property rights, transparency in pharmaceutical pricing; labor standards and environmental protection provisions.

Representative Treat said it is unclear from Ms. Todd's comments on procurement whether the states will still have the ability to opt out of agreements. There is talk of the TPPA as a "living agreement" so things could change.

Representative Treat said that the TPPA could impact sanitary and phyto-sanitary measures as they relate to regulations to promote food safety and general protections of the public health. Provisions in the TPPA could result in allegations of trade violations against the U.S. since our sanitary and phyto-sanitary measures are set at a higher standard than many other countries party to the treaty.

Representative Ayotte asked why negotiations are held behind closed doors. Representative Treat said the attitude is that negotiators can't talk about trade negotiations in public and come to an agreement. She thinks it's possible to have some kind of public participation and still deal with the confidentiality issue.

Representative Treat said that Canada and Mexico will join in on the TPPA discussions in December and the issues will get more complicated, including the issue of sub-federal versus federal. In Canada, there is more consultation with provinces and the federal government than there is between U.S. states and the federal government. There may be opportunities for discussion with provinces to see if they have commonalities with Maine.

***Jean Grier (by phone), Chief Procurement Negotiator, USTR***

Jean Grier joined the commission by telephone to discuss the letters sent to the USTR regarding the CTPC assessment and to respond to questions regarding the development of procurement provisions in the TPPA. One concern mentioned in the letter the CTPC sent to Ms. Grier was if state procurement would be in the TPPA, and the hope that states be consulted if it is an issue. Ms. Grier assured the Commission that negotiators plan to take up the issue of outreach to states under the TPPA. She stated that the USTR will continue the practice of consulting with the states on whether they want their procurement practices governed under the agreement, just like with previous free trade agreements. When asked how this consultation process will be facilitated, Ms. Grier noted that Ambassador Kirk will send a letter to the governor of each state.

Representative Rotundo said she had heard that only federal procurement is bound by TPPA and that state procurement would be excluded, and asked Ms. Grier for clarification on that point. Ms. Grier said that other countries are interested in sub-federal procurement. Negotiators have not yet reached agreement on whether procurement will go below the federal/central level, though negotiators want the U.S. to have good access to federal procurement in other countries. Ms. Grier said the current focus is on federal procurement. This is the first time some countries have dealt with federal/central procurement.

Jay Wadleigh asked Ms. Grier about the Davis-Bacon Act, regarding prevailing wages on projects. In the TPPA, would a low bidder override the Davis-Bacon Act? Ms. Grier said that the Davis-Bacon Act does not affect how bids are evaluated and that there are two ways to do a bid. If cost is the only factor, then the lowest bid will win. When looking for the most advantageous bid, which happens frequently, cost and quality are both factors. The Davis-Bacon Act is not affected, according to Ms. Grier.

Representative Rotundo asked Ms. Grier about a state's ability to opt in and opt out on procurement. Representative Rotundo is concerned about protecting a state's capacity to make its own decisions. Ms. Grier said that it is in the state's hands whether it opts in or out and that practice is not going to change. She said treaties will continue to honor the "opt in or opt out" and the TPPA will not affect any other past or current agreements. If a state opts in, it can decide what procurement it wants to cover. Ms. Grier said the threshold is set at \$500,000 at the state level and she doesn't see this number decreasing, but if did, states would be consulted.

Representative Rotundo asked if the TPPA would bind states considering Ms. Grier had referred to the TPPA as a 'living document.' Representative Rotundo asked if it was possible that something could go in the TPPA years from now and bind the states on procurement even though states aren't currently bound. Ms. Grier said that states could not be bound without the state's authorization. Allowing states to opt in or opt out is an established practice that goes back to early 90's. Representative Rotundo asked what would happen if changes were made to procurement in the WTO? Ms. Grier said that they just made changes to the WTO and it didn't affect state procurements even though trading partners wanted it to happen. Ms. Grier said that just because an agreement is revised doesn't mean that states will be added without their permission. Ms. Grier also said they would adhere to the Berry amendment to the military. When asked if U.S. environmental and labor standards would be enforceable in the TPPA so products can be certified sweat-free, Ms. Grier said she couldn't answer the question because she can't discuss what's in the actual text.

### ***Commission discussion after presentations and phone calls***

- Representative Treat said that it would be good to put something in writing to Ms. Grier to memorialize that she said states would have the option to opt in or opt out and that won't change in the TPPA.
- Since the Commission didn't receive any letters in response to the letters they sent out in August, it was suggested that the Commission invite people to respond by phone like Nora Todd and Jean Grier at this meeting. It's a great way to get a response and more information.
- Representative Rotundo noted the certainty with which Jean Grier affirmed things regarding procurement. Representative Rotundo suggested that a letter memorializing what Grier said is a great idea. The Commission agreed with this suggestion and decided unanimously to send such a letter to Ms. Grier

Danielle Fox briefly summarized major points that came up during the phone calls.

- With regard to TPP and procurement, Jean Grier said that they will seek input from states on sub-federal procurement.
- The changes the USTR agreed to on the WTO do not include sub-federal level procurement changes, just federal level.
- The Berry amendment is something negotiators feel strongly about and will incorporate as they move forward.

Representative Ayotte asked who makes the final decision on procurement? Several commission members responded that it is the state who makes the final decision on whether to be a party to the procurement provisions in trade agreements based on recent practice by the USTR seeking that input from the states. Rep. Ayotte added that he believed it is important, in the context of Maine, that we get to make decisions as a state on what we spend our taxpayer's money with regard to procurement.

Representative Rotundo reminded the Commission that consultation with Maine means a vote of the full Legislature as well. She also said that in order to help educate the Commission on complex trade issues, it might be good for Representative Treat to give the presentation she gave in Virginia at the next meeting.

There was discussion of having the next meeting, which will include a public hearing, in Skowhegan. This site was discussed because of its proximity to the New Balance factory in Norridgewock and because of the attention paid to the area by USTR Ambassador Ron Kirk during a recent visit. Commission members had a general discussion about whether this visit by Ambassador Kirk was a positive development for the shoe factory or whether it was a way of gently letting the region know that their concerns about tariffs and unfair competition from Vietnam shoe exports are well-founded. Representative Maker said she was disappointed that neither the Commission nor Representative Treat, as a member of IGPAC who happens to be from Maine, were invited when Ambassador Kirk visited the Norridgewock factory.

### ***Planning for the next meeting.***

The Commission discussed the location of the next meeting and it was decided that of the three towns in Maine where New Balance has factories, the meeting should be held at the one in Skowhegan. Staff will email the Commission to determine a date for the meeting and hearing. Representative Treat could do a general trade presentation in the afternoon and the public hearing could be in the evening, perhaps later in October.

**Maine Citizen Trade Policy Commission  
Meeting and Public Hearing Summary  
October 24, 2012  
Skowhegan Community Center  
Skowhegan, Maine  
2:00pm and 5:30pm**

**Members Present:**

Rep. Joyce Maker, Senator Roger Sherman, Senator John Patrick, Senator Tom Martin, Rep. Bernard L.A. Ayotte, Linda Pistner, Jay Wadleigh, Stephen Cole, Mike Karagiannes, John Palmer, Joseph Woodbury, and Harry Ricker.

**Staff:**

Danielle Fox and Alyson Mayo (Office of Policy and Legal Analysis)

After introductions, the meeting opened with Rep. McCabe discussing his September trip to participate in stakeholder events at the TPPA trade negotiations in Leesburg, Virginia. According to Rep. McCabe, he was invited to do a presentation along with many other interested parties and non-governmental organizations. His participation in the Leesburg event related to his representation of an area where one of the few American shoe manufacturing facilities is located (New Balance). He indicated that participation was challenging because of the confidential nature in which negotiations take place.

Rep. McCabe also spoke briefly about a recent visit by USTR Ambassador Ron Kirk to the New Balance facility in Norridgewock. Rep. McCabe indicated that he hoped for more of a commitment to US manufacturing from Ambassador Kirk. He noted that when he expressed this to Ambassador Kirk, he responded that a lot of New Balance's concerns were "under consideration."

Rep. McCabe said that if the tariffs do not stay in place on footwear coming into the United States, New Balance does not think it can continue to produce shoes, resulting in the loss of 800 jobs. John Palmer asked if Rep. McCabe had spoken to Rep. Windsor and Rep. Hamper who also represent districts with ties to New Balance. Rep. McCabe said he had worked to get Ambassador Kirk to meet with other representatives when Kirk came to Skowhegan, but it did not happen and even Rep. McCabe and Rep. Treat were not allowed to ask questions or go on the tour.

**Staff presentation regarding trade agreements and tobacco regulation.**

Danielle Fox summarized what she learned through an October 17<sup>th</sup> webinar organized by the Legacy Foundation, entitled "Tobacco Control and Policy and Trade Negotiations: Bartering Away the Will of the People." The webinar is archived and available at [www.legacyforhealth.org/warnerseries](http://www.legacyforhealth.org/warnerseries). Panelists included: Chris Bostic, Deputy Director for Policy, Action on Smoking and Health; Benn D. McGrady, Director, O'Neil Institute Initiative

on Trade, Investment, and Health, and Adjunct Professor, Georgetown University Law Center; and Rep. Sharon Treat, House District 79, State of Maine.

The webinar highlighted the methods tobacco corporations use to allege trade violations and engage in trade disputes that will set precedents in their favor. Ms. Fox summarized the Framework Convention on Tobacco Control (FCTC), the first ever global health treaty on tobacco signed by 176 countries representing 88% of global population. According to the World Health Organization (WHO) the mission of the treaty, adopted in 2003, is to protect future generations from the negative implications brought about by the sale and use of tobacco. The treaty set minimum standards to which the signatories are bound, though they are encouraged to adopt policies that exceed those standards. All countries involved in TPP negotiations have signed the agreement, except for the United States. In 2009, the Family Smoking Prevention and Tobacco Control Act became US law in 2009, and is similar in principle to the FCTC.

Staff person Danielle Fox described trade disputes where Phillip Morris International (PMI) challenged various regulations supported by the FCTC as violations of multilateral or bilateral trade agreements. The disputes highlighted in the presentation, included those in Australia, Norway and Uruguay.

Ms. Fox stated that the seminar by the Legacy Foundation brought forward examples of trade disputes which showcased the methods a corporation with unlimited money may exploit with regard to trade agreements, sometimes utilizing multiple methods if the first does not work. A corporation could choose from multilateral agreements, bilateral agreements, domestic courts, or even a technique where they convince a country with investor status to bring a claim against another country. The examples were presented to illustrate how a corporation's efforts exhaust the resources of the opponents through its multi-track approach.

**The Commission reconvened at 5:30 pm for a "Trade 101" presentation by Rep. Sharon Treat, followed by a public hearing.**

The following comes from Rep. Sharon Treat's presentation:

*The Office of the United States Trade Representative (USTR) is in the Executive Office of the President. Congress must approve trade agreements. In the past, presidents have "fast-tracked" the agreements, meaning Congress can only vote the entire agreement up or down and cannot make amendments.*

*The negotiation process is flawed and lacks transparency. The role of states in affecting treaties is limited. The Intergovernmental Policy Advisory Committee (IGPAC) has only two state representatives. Experts cannot review texts. The advisory committee consists of lawyers and representatives from corporations. It is difficult to figure out how to get involved if you are not one of these people. Maine is a leader and wants to be at the table more. The Maine Citizen Trade Policy Commission (CTPC) was created in 2003. Other states have tried to emulate Maine's CTPC, but Maine remains ahead of the others. The Maine State Legislature requested less secrecy and more communication on trade agreements through joint resolutions supported by both Democrats and Republicans. Stakeholder participation has been increasingly limited*

*during the negotiation process and it is basically an insider system with no public health representation, a lack of key members of Congress and few state level advisors.*

*There are many agreements and abbreviations in the world of trade: NAFTA, CAFTA, GATT, GATS, TPPA (still under negotiation), BIT and WTO. The WTO (World Trade Organization) continues to be amended. The TPPA consists of eleven countries currently, and any country that touches the Pacific Ocean may participate. Mexico and Canada are joining even though they are entering two years after negotiations began. The TPPA could expand to include China and Japan, and has already been termed "NAFTA on steroids" by the Public Citizen website, where it's also called a power tool and dream of the 1%. The USTR's website states that the TPPA is important in the efforts to support the creation and retention of high quality jobs for Americans. The 15<sup>th</sup> round of negotiations will be in December 2012.*

*Are there benefits to Maine from the TPPA? The USTR states that the TPPA offers tremendous opportunities for US exporters. 82% of Maine's \$3.2 billion of export shipments of merchandise went to the Pacific Rim, including marine, paper, electronic and apparel products.*

*Rep. Treat said there are some key concerns. In regard to tobacco, Maine has its own regulations to keep tobacco away from young people. Another concern is the investor-state. Will the TPPA include a provision that allows foreign companies to use laws and regulations in international arbitration tribunals and sue the United States? Access to medications is another concern in the TPPA, especially relating to intellectual property and regulatory transparency. Procurement and tariffs are also big items.*

*The CTPC had an assessment of TPPA done in 2012 that highlighted issues of concern for Maine. Procurement was one. The US wants to assure basic human rights and fair labor standards are met when taxpayer money is used to purchase goods. The US also wants a level playing field and the ability to govern itself without overruling the treaty.*

*A tariff is a tax on an imported good. They are adopted for a variety of reasons including: to protect domestic employment from unfair competition; to protect consumers; to protect infant industries while they get a foothold; to protect national security; and to retaliate. In the TPPA, the general US goal is to decrease all tariffs to 0 on TPPA partners, but there could be exceptions. All countries have issues they want to treat differently. A timetable for implementation is also an issue.*

*Rules of origin deal with how much of a product's materials or production must be manufactured domestically to be labeled 'Made in USA' or not subject to tariffs. How is that percentage calculated? Will TPPA have the same rules as NAFTA, or a less protective standard? Tariffs and rules of origin can help level the playing field.*

*The US and Vietnam are at loggerheads on market access for footwear in the TPPA. Vietnam is China's new low-wage competitor and can produce goods 35-45% cheaper than some cities in China. Vietnam is the third largest producer of leather and footwear*

*Worker safety, health and environmental protections, minimum wage and benefits, a 40 hour workweek plus overtime, child labor and right to work are issues of importance to the US in TPPA agreements. The enforcement of many of these issues, especially worker safety, and wage and hour enforcement (including exceeding legal overtime amounts) is another concern.*

*Overseas factories, even those "certified" to be safe, are not necessarily. Pakistan recently had a factory that burned three days after an organization certified it safe. The exit doors were blocked and workers could not escape. They also pay low wages and use inappropriate labor. The US State Department discovered a 2011 investigation by the Ho Chi Minh Department of Labor, Invalids, and Social Affairs that found the use of child labor in seven of twenty-four districts. Treaties may have rules against child labor, but they are not necessarily enforced. Communist countries have state-owned enterprises and make laws and then don't enforce them.*

*How can the public get involved? People can inform themselves on trade issues and contact members of Congress and the President as well as talk to state legislators. People can attend hearings, including CTPC public hearings, and offer input. Rep. Treat posts information each week on trade issues on her Facebook page under Sharon Anglin Treat.*