

**Public Hearing Summary**  
**Maine Citizen Trade Policy Commission**  
**June 26, 2014**  
**Room 202**  
**Cross Office Building**  
**Augusta, Maine**

Members Present: Senator John Patrick, Senator Troy Jackson, Senator Roger Sherman, Representative Sharon Anglin Treat, Representative Jeff McCabe, Pamela Taylor, Jay Wadleigh, Mike Karragiannes, Michael Herz, Wade Merritt, Dr. Joel Kase

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After determining that the statutory requirement that 11 members must be present to officially convene had been satisfied, CTPC Chair Senator Troy Jackson convened the Public Hearing at approximately 1 PM.

To begin the Public Hearing, Senator Jackson asked Commission members to introduce themselves.

Current Maine law (10 MRSA §11 (9) C) requires the CTPC to conduct a biennial assessment on the impact of international trade treaties on the State of Maine. The CTPC has fulfilled that obligation for 2014 by contracting with Ms. Karen Hansen-Kuhn, Director of International Strategies for the Institute for Agriculture and Trade Policy, and Mr. John Piotti, President of Maine Farmland Trust, to jointly conduct the 2014 Assessment.

CTPC commissioned Ms. Hansen-Kuhn and Mr. Piotti to assess the potential impacts of the proposed Transatlantic Trade and Investment Partnership (TTIP) from the following perspectives:

1. Farm-to-School and other procurement provisions favoring local food and agriculture; and
2. Agricultural policies including direct and indirect subsidies relevant to Maine such as dairy price supports and tax policies favoring farming easements.

The public hearing held on June 26<sup>th</sup> featured a presentation made in-person by Ms. Hansen-Kuhn and by speaker phone from Mr. Piotti and provided an opportunity for commission members and members of the public to engage both individuals with questions and discussion about the draft assessment.

Ms. Hansen-Kuhn began her presentation by describing the Institute for Agriculture and Trade Policy (IATP) as a nonprofit organization with offices in Minneapolis, Minnesota and Washington D.C. that works at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems. IATP got its start approximately 25 years ago during a farm crisis that affected farmers in both the US and Europe; the founders of IATP realized that trade rules were affecting farmers across the world in ways that had never previously been anticipated. In previous years, the IATP has focused on the WTO, NAFTA and other bilateral trade agreements but also on working with farmers in Minnesota and other locations towards the goal of sustainable agriculture. The advent of the TTIP represented an opportunity for the IATP to refocus its efforts on a bilateral trade agreement that is likely to include sections that will significantly affect the efforts to promote and develop sustainable agriculture on both sides of the Atlantic.

Ms. Hansen-Kuhn also remarked that the CTPC assessment offered the opportunity to shift from a macro focus back to the potential impact that a large FTA like the TTIP is likely to have on the agriculture policies and programs of an individual state such as Maine. Further, Ms. Hansen-Kuhn also highlighted the opportunity to work with Mr. Piotti and the Maine Farmland Trust to benefit from his detailed knowledge about agricultural practice and policy in Maine.

In remarking about the timing of the CTPC assessment and the current state of TTIP negotiations, Ms. Hansen-Kuhn pointed out that were the assessment be conducted after the finalization of the TTIP, the assessment would likely reach somewhat different results and conclusions. The delay in the anticipated timetable for negotiations and the relatively closed manner in which the negotiations are being held, somewhat impede the ability to accurately assess what the TTIP is likely to achieve. However, several important themes of the TTIP are becoming evident:

- A relative lack of transparency characterizes these negotiations forcing interested parties to rely on government summaries and leaked text for a picture of what is being negotiated in the TTIP;
- Investor State Dispute Settlements (ISDS) is also a huge topic in the TTIP negotiations. ISDS provisions allow international corporations to sue

sovereign governments for alleged profit loss due to government regulations and laws which are contrary to the provisions of an FTA like the TTIP. ISDS provisions are particularly controversial in Europe where the country of Germany has been sued under ISDS provisions for enacting laws which restrict the use of nuclear power;

- The concept of “regulatory coherence” is central to TTIP negotiations; i.e. the effort to bring US and EU regulations to a common point is a primary focus for many of the negotiators. Having a common level of regulation is intended to reduce or eliminate barriers to trade and investment. In many cases, the regulatory effort in the EU has a higher standard than what exists in the US and this is a real concern from both perspectives. Any effort to harmonize regulations downward could have a negative “boomerang” effect on the efforts of individual states to enact higher regulatory standards for agriculture and food safety; and
- Another significant issue is the current EU focus on negotiating a trade treaty which will apply to sub-national or state programs that deal with government procurement, such as school food programs and “buy local” requirements. This effort also extends to any state regulations or laws that are concerned with the use of toxic chemicals and various labeling requirements.

Ms. Hansen-Kuhn then proceeded to highlight the key findings of the report from the IATP perspective, to be followed by the state perspective and conclusions afforded by Mr. Piotti :

- In particular, the TTIP is not really focused on tariffs. The current levels of weighted tariffs between the US and the EU are relatively low at about 3 %. In reality, fluctuations in exchange rates are likely to have more effects on market access than current tariff levels. With respect to Maine, EU goods that are exported to this state tend to be alcoholic products such as vodka, wine and beer which have very few trade restrictions whereas Maine exports to the EU are led by lobsters which have some tariffs and other processed agricultural goods which tend to have higher tariff levels. Instead of tariffs, the real focus of TTIP talks is that of regulatory coherence. Ms. Hansen-Kuhn related recent discussions with EU agriculture officials that revealed their firm opposition to any lowering of EU standards pertaining to the use of GMOs, hormone use in beef production or chlorinated chicken. This stance is in contrast to recent statements by US Secretary of Agriculture Tom Vilsack who says these issues are definitely subject to negotiation in the TTIP. The EU stance on these issues is largely based on the use of the

“precautionary principal” which holds that products may not enter the market until they are proven safe from a scientific perspective. In contrast, the US approach to food safety issues (but not on medicine) is significantly different and permits the use of certain procedures until that can be proven to be unsafe through scientific conclusion. The discussion on this issue extends to a debate on various EU labeling requirements for GMO products which are opposed by many prominent US agricultural corporations.

- Public procurement is another issue that the assessment focuses on. As stated earlier, EU officials are quite interested in negotiating the TTIP to be binding on procurement policies and programs that exist on the state level. At particular risk are the currently popular farm-to-school programs used in Maine and other states.
- Another prominent issue of concern for a state like Maine is proposals that are likely to be considered in the TTIP regarding “Geographical Indications” for food products that are identified with a particular region such as cheese, wine and meat. These geographical indicators are closely tied to places of origin and particular production techniques. Many countries seek to restrict the use of commonly used product names to those original food products produced in a particular region using a unique production technique or process. Ms. Hansen-Kuhn believes that there is a lot of room for discussion on this issue between the US and the EU and that prior trade agreements have produced precedents which can be effectively implemented in the TTIP.

After her initial presentation, at the request of CTPC Chair, Senator Troy Jackson, Ms. Hansen-Kuhn responded to several questions from CTPC members:

- When asked by CTPC member Dr. Joel Kase about the possible differences in tariff levels, Ms. Hansen-Kuhn responded that in general they are fairly consistent and on average they seem to hover around the 3% mark. She also mentioned that agricultural tariff amounts did not differ greatly from other types of tariffs and that tariffs for processed agricultural products tended to be higher than those for less processed agricultural goods;
- CTPC member Wade Merritt offered that at the request of Senator Collins office, the Maine International Trade Center (MITC) had conducted a study about a year ago analyzing the projected dollar impact of TTIP on the state of Maine. That study showed that the highest tariff rate was 8.5% on lobsters and that the rest of the tariffs were lower; the study concluded that the TTIP was not really to be primarily about lowering or changing tariff rates thus confirming an earlier statement made by Ms. Hansen-Kuhn;

- CTPC member Senator Roger Sherman mentioned several issues relative to his district in Aroostook County:
  - With regards to broccoli production, a local family had tried to get into broccoli growing in Mexico but were thwarted by Mexican authorities and wondered if it might have to do with quality control issues; and
  - With regards to Maine's relatively large seed potato crop, Maine used to export large amounts of seed potatoes to South America and wondered if there was any discussion of seed potato exports in the TTIP discussions.

Ms. Hansen-Kuhn stated that she did not see any specific mention of seed potatoes in the literature that she reviewed but did mention that Maine apparently imports large amounts of various vegetable seeds and annually exports about \$600,000 worth of other vegetable seeds and guessed that the possible use of chemicals might constitute a limit on vegetable seed exports;

- CTPC Chair Representative Sharon Anglin Treat mentioned several aspects of the draft assessment:
  - Referring to an earlier comment from Ms. Hansen-Kuhn regarding previous bilateral trade agreements on agricultural organic standards, Representative Treat suggested that these previous agreements might serve as a model for how difficult issues in the TTIP could be resolved;
  - Representative Treat also asked about how a country could back out of a previously agreed to bilateral trade agreement which featured onerous provisions such as ISDS;
  - With regards to labeling and country of origin agricultural issues, Representative Treat asked if the assessment could discuss more about this issue as well as a discussion of ISDS relative to agricultural issues.

Ms. Hansen-Kuhn responded by mentioning a recent case in Australia where Philip Morris made use of the ISDS process to sue Australia regarding certain tobacco regulations and she could easily imagine similar cases being brought up in the US and elsewhere regarding agriculture related regulations. Ms. Hansen-Kuhn emphasized that any such cases using the ISDS process will not be focused on the validity of the health and public safety reasoning behind any such

agricultural rules but instead will be focused on whether such regulations serve to undermine a corporation's right to profits under the terms of a trade agreement like the TTIP. Ms. Hansen-Kuhn also mentioned that with regards to the organic equivalency trade agreements, those negotiations were highly transparent and offer the opportunity to be revised as the science evolves. Ms. Hansen-Kuhn then stated that the possibility that some of the objectives mentioned by Representative Treat could perhaps be more easily achieved outside of the TTIP through separate bilateral agreements.

- Senator Roger Sherman also asked about a particular sentence included in the introduction of the draft assessment which states that "...a fair amount of information can be deduced from existing information, as well as the results of recent trade deals, particularly the EU-Canada Comprehensive Economic and Free Trade Agreement (CETA)." (page 1, second paragraph). Senator Sherman wanted to know if that agreement had been finalized.

Ms. Hansen-Kuhn replied that CETA is in the final stages of negotiations and mentioned that leaked text from that agreement has been useful as indicators of what the EU's trade agenda is.

- CTPC member Jay Wadleigh asked a question about Maine's blueberry industry and any labeling/ country of origin requirements that might exist in terms of existing bilateral trade agreements.

Ms. Hansen-Kuhn responded by stating that she had no specific knowledge of blueberries as a trade topic but that she had a recent conversation with an official from the American Origin Products Association who stated that ensuring these types of protections for American agricultural products such as Vidalia Onions had been difficult to achieve. Ms. Hansen-Kuhn also suggested that there are probably valuable lessons to be learned from how the EU has recently handled these types of geographical indications for agricultural products but that it might be unwise to try to lock into these kinds of approaches so early in the TTIP negotiations.

- CTPC member Senator John Patrick then took an opportunity to thank Ms. Hansen-Kuhn for her work on the assessment, particularly with the focus on regulatory coherence, and stated his long standing opposition to the lowest common denominator approach to regulatory coherence in trade agreements like TTIP.

Next, CTPC Chair Senator Troy Jackson invited Mr. Piotti from the Maine Farmland Trust (MFT) to make comments over the speaker phone regarding his perspective and contributions to the draft assessment.

Mr. Piotti began with a brief review of his background by mentioning that he has been professional focused on Maine agricultural issues for the past 20 years and has been President of MFT since 2008 and thus has been supporting Maine farmers in a variety of significant ways. Mr. Piotti also mentioned his service in the Maine Legislature having served for 4 terms in the House and serving as Chair of the Joint Standing Committee on Agriculture.

Mr. Piotti proceeded to state that being able to work on the assessment with Mr. Piotti provided him with a new opportunity to learn a great deal about international trade agreements. His principal roles in the assessment were twofold:

1. To be a sounding board regarding the particulars of Maine agriculture; and
2. To provide factual information about Maine's complicated system of dairy subsidies and how those policies might be affected by the TTIP.

Mr. Piotti then highlighted a few aspects of Maine's dairy subsidy programs that might be affected by the TTIP:

- International trade agreements do have the potential to have an impact on the price that Maine dairy farmers are paid for their products; the amount paid to the farmer for milk, the "producer's price" is not set by the market directly but rather by a federal milk marketing order system. The federal pricing system is determined by a complicated set of formulas and that these formulas could be significantly affected by the TTIP. As an example, Mr. Piotti mentioned the price of Class One milk (what we drink) is set by a federal formula which is largely determined by the current price for either dried milk or butter- whichever is higher. In the past 4 years, the price of dried milk has been higher than that of butter and thus driving the final price paid to Maine dairy farmers. The current price structure is good news for Maine dairy farmers in that they are being paid more for Class One milk that they produce. The bad news is that if the price for dried milk were to go down significantly, then Maine farmers would be receiving a lot less for Class One milk. With regards to the TPP, the US dairy industry has opposed that treaty because of the fear that subsequent prices for dried milk could be decreased significantly thereby resulting in seriously depressed prices paid

to dairy farmers throughout the nation. As of yet, the US dairy industry has not taken a similar stand regarding the TTIP but clearly the potential exists for the same trade results resulting in the lowering of the price paid for dried milk on international trade markets;

- Next, Mr. Piotti highlighted the circumstances of the Maine Dairy Stabilization Fund (MDSF) as established by the Maine State Legislature in 2004. The MDSF pays out subsidies to Maine dairy farmers based on a tier or scale system and has been critically important in keeping Maine's dairy industry solvent. The MDSF is unique among all the states and thus, could be at significant risk from whatever the final results of the TTIP are particularly in terms of the possible results of regulatory harmonization;
- In addition, the way that Maine deals with artificial growth hormones for cattle is an important factor. Although not required by law, Maine's two major milk producers do not currently accept milk from cows that have been fed artificial growth hormones therefore creating a significant market advantage for Maine milk. Mr. Piotti emphasized that this current practice in the Maine milk industry could be threatened by any effort towards regulatory harmonization that is agreed to in the TTIP.

Mr. Piotti then welcomed comments and questions regarding these highlighted points of the draft assessment:

- CTPC Chair Representative Sharon Anglin Treat suggested that the unique circumstances of Maine's dairy industry may not be adequately represented by national dairy organizations, thereby underlining the need for Maine's congressional delegation to effectively communicate these circumstances to the USTR. In particular, Representative Treat singled out her concerns about the MDSF which she feels is quite possibly threatened by the TTIP. She suggested that the draft assessment be revised, perhaps through use of an appendix, to accurately and clearly describe the circumstances and importance of the MDSF to Maine's dairy industry. Mr. Piotti agreed that such a revision would be important and could easily be done;
- Senator Roger Sherman then asked about any effect to the dairy industry from the soon to be finalized CETA agreement between Canada and the EU. Mr. Piotti responded by stating that he was not very knowledgeable about how the Canadian government supports their dairy industry but suggested that direct price supports probably result in the lower costs of milk production. Mr. Piotti also stated the paramount need to ensure that the unique regulatory circumstances surrounding Maine's dairy industry be highlighted as much as possible and that every effort should be made to

avoid the effects of regulatory harmonization in the TTIP which could threaten the current status of Maine's dairy industry;

- Next, Dr. Joel Kase asked about a section in the assessment in which the current dairy system in Maine was compared to that of Vermont and it was pointed out that Vermont's dairy industry produces about 6 times as much dairy products as the state consumes on an annual basis whereas in Maine production and consumption are relatively equal. In his response, Mr. Piotti confirmed that dairy production and consumption in Maine is about equal but part of the equation is a significant amount of exports and imports of dairy products that contribute to the overall equation. Given these facts, Dr. Kase then asked if there was some barrier to the expansion of the dairy industry in Maine. Mr. Piotti answered by saying that there is not currently an in-state barrier to the expansion of Maine's dairy industry; Maine has a good climate for dairy production but is somewhat constrained by the current federal pricing structure.

CTPC Chair Senator Troy Jackson then asked Ms. Hansen-Kuhn about any existing tariffs on the export of wood fiber or raw paper products and how any such tariffs might be affected by the TTIP. Ms. Hansen-Kuhn replied that she had not come across any mention of specific tariff on wood fibers but will research the topic and will include an extensive list of tariffs relevant to Maine's most prominent exported agricultural products. CTPC member Wade Merritt supplemented Ms. Hansen-Kuhn's comments with information from the MITC staff which indicates that seed potatoes have a tariff of 4.5%, broccoli has a tariff of 13.6% and he later reported that there is no existing tariff for wood fiber.

Dr. Joel Kase then suggested that it might be appropriate for the assessment to include an appendix which identified the 10 most important import/export products in the state.

CTPC member Mike Karagiannes then asked a follow-up question about organic equivalency trade agreement and how it might relate to the ISDS process; i.e. how would differences in FDA and EU standards be resolved? Ms. Hansen-Kuhn replied by saying that she would have to look into that issue but that she was aware that there are agreed upon organic standards but that it is an evolving process that appears to be functioning well. Representative Sharon Anglin Treat further followed up by saying that it would be useful for the assessment to document and then suggest other ways to achieve trade goals without many of the previously identified negative effects and that this part of the assessment could be offered to the USTR for their consideration.

CTPC Chair Senator Troy Jackson then invited any members of the public to offer testimony. In response to this invitation, Mr. Ron Hemingway, a resident of Dixfield, representing United Steel Workers, Local 900 started his testimony by stating that he had not been clear whether this public hearing had had a particular purpose or theme and his original intention was to provide testimony on trade in general. Senator Jackson encouraged Mr. Hemingway to proceed with his intended testimony. Mr. Hemingway made the following points:

- It is unfortunate that current trade deals are mostly negotiated by the USTR behind closed doors without adequate public knowledge of what the treaties contain. The actual provisions of agreements like the TTIP are often not fully understood for several years after being finalized. Most recently, countries such as China have taken advantage of the overall trade situation to dump enormous amounts of cheap paper products into the US market, thereby resulting in the eventual loss of American paper making jobs. Mr. Hemingway suggested that the US government, not private industry, should have to bear the legal costs of fighting alleged trade violations which often pertain to a very narrow trade topic;
- The USW represents many manufacturing industries besides paper making and these trade issues are common to many of these industries and have to be fought on many fronts;
- Mr. Hemingway hopes that the TTIP will not result in lower common standards because the current EU standards are higher and better than ours in the US; he believes that US corporations want to use the TTIP to lower overall standards;
- The US needs fair trade, not free trade with sensible rules for all countries to abide by;
- Trade agreements should mandate fair and humane standards of labor with fair and comparable wage practices;
- Trade agreements should provide adequate protection for intellectual property, patents and copyrights;
- Trade agreements should deal directly with the issue of currency manipulation; countries like China deliberately undervalue their currency to create an unfair trade advantage;
- Predatory pricing and illegal subsidies should be prohibited in international trade;

- Manufacturing is a primary industry necessary for true economic health and any move towards a dependence on a service economy is not economically sustainable;
- Infrastructure upgrading should be predicated on buying American and make use of the American labor force;
- The US should promote patriotism by protecting our economy and our military by making use of products and military equipment produced in America;
- The gradual loss of the manufacturing base in the US is consequently eroding our middle class tax base thus reducing our national capacity to pay for education, social programs and effective government services;
- Fast Track legislation should be opposed; it denies an effective chance to openly and fully debate trade policy in a timely fashion; and
- The WTO should not be allowed to dictate American domestic policy and should not be provided with the opportunity to overturn our domestic laws and regulations.

In response to Mr. Hemingway's testimony, Senator Sherman had several questions:

1. With respect to current US tax policy that allows companies to shield their profits through the use of foreign tax havens, what would be the chance of allowing these profits to reenter the US economy without being taxed? Mr. Hemingway suggested that perhaps a one-time use of tax amnesty followed up a series of laws that effectively prohibit a repeat of this process might be useful.
2. Did Mr. Hemingway have any comment or reaction to the apparent large-scale subsidies provided by the Canadian government of large manufacturing facilities and the current state of paper making facilities in Maine? Mr. Hemingway confirmed the recent expansion of a tissue making facility in Baileyville and mentioned that tissue manufacturing is a growing segment of the paper manufacturing business in Maine; and
3. With respect to Washington County, would the export of torrefied wood pellet manufacturing products be a plus for Maine manufacturing and exports? Mr. Hemingway replied by saying that he was familiar with the product but not know enough to comment on its export potential.

In closing, in response from a request from CTPC members for her impression of what were being asked for revisions in the draft assessment, Ms. Hansen-Kuhn listed the following:

- Through the use of an appendix, provide additional tariff information for particular products that are being exported and imported into Maine;
- Provide information on ISDS and how it particularly may relate to agriculture policies and programs in Maine;
- Provide an additional appendix summarizing the history of dairy pricing regulations and practice in Maine; and
- Provide more information on the Organic Equivalency Agreement and how disputes are handled under that agreement and how terms of the agreement can be modified as time progresses.

Dr. Joel Kase followed up by asking Ms. Hansen-Kuhn to speak more about the unintended consequences of trade treaties on public health. Ms. Hansen-Kuhn responded by mentioning how the food environment in Mexico had changed as a result of NAFTA. In particular, as a result of NAFTA, the rules of investment significantly changed resulting in a large increase in investment in fast-food chains and supermarkets thereby resulting in a shift in the default food environment for consumers. The final result has been a dramatic increase in the obesity rates for the Mexican public.

Mike Karagiannes suggested that the draft assessment could benefit from including a specific example on how manipulation and fluctuation of currency rates has a much more significant effect on international trade than the imposition of trade tariffs.

CTPC member Michael Herz mentioned that there are three places in the draft assessment that constitute specific recommendations that address important points that the CTPC could follow up with specific actions. CTPC Chair Representative Sharon Anglin Treat responded by saying that at its next meeting, the CTPC could decide exactly what actions to take as a result of the assessment. After discussion among members, it was generally agreed to that the next meeting could be probably be scheduled for some time in early or mid-September or possibly the last week in August, particularly August 25<sup>th</sup> or August 27<sup>th</sup>.

Representative Treat also mentioned the existence of another trade agreement currently under negotiation, known as the Trade and Services Agreement (TISA), which the CTPC has not reviewed. TISA could potentially develop rules for the

service sector which would impact virtually every aspect of international trade. Representative Treat mentioned the possibility of inviting a prominent Canadian expert, Mr. Scott Sinclair, to address the next CTPC meeting on this topic.

Michael Herz suggested that it would be useful for the CTPC to know more about ISDS and how it works as well as what exactly the rack record is. Representative Treat commented that Mr. Sinclair could also speak directly to this topic.

The public hearing was adjourned at approximately 3 PM.