

**Citizen Trade Policy Commission**  
**Friday February 27, 2009**  
**Labor Committee Room, Augusta**

**Meeting Summary**

**Members Present:** Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Sen. Roger Sherman; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Sarah Bigney; Jane Aiudi; Wade Merritt; Paul Volckhausen; Malcolm Burson; Carla Dickstein; John Palmer; Joseph Woodbury; Linda Pistner; Leslie Manning

**Guests Present:** Peter Riggs, Forum on Democracy & Trade; John Delahanty, Pierce Atwood; Matthew Beck, IBEW 1837; Edward Gorham, Maine AFL-CIO

**Staff Present:** Linda Nickerson, Dept. Labor; Curtis Bentley, Legislative Analyst

The meeting was called to order by Sen. Troy Jackson and welcoming remarks. Introductions were made. Due to meeting conflicts, the agenda was revised.

**I. Trade Orientation - Peter Riggs, Director, Forum on Democracy & Trade**

Mr. Riggs gave a brief history of the Forum on Democracy and Trade. The Forum is a non-profit agency that works with state and local elected officials and trade over site commissions exploring economic development and state sovereignty implications of international trade agreements and how these agreements impact states.

This week the Maine International Trade Center (MITC) released a report showing that Maine exports increased 9.5% last year. At the same time, in general, Maine's congressional delegation has voted against new free trade agreements which have been highly debated. The opposition at the Maine congressional delegation is based not on opposition to trade, but is based on a server assessment of the current model that's used by the United States to negotiate free trade agreements and conclusion is that the model is flawed. This does not mean that we are going to oppose trade; contrarily it is an opportunity to improve the current model.

Three areas of critical importance:

- (1) ***Labor standards working conditions.*** Until 2007 the free trade model pursued by the United States was totally silent regarding labor standards and working conditions and wasn't part of the negotiating model.
- (2) ***Trade and environmental agreements:*** United States signed up for international trade agreements using international law and signed up as a member of multilateral environmental agreements (international agreements to protect the environment). In general, the trade agreements have binding affects whereas the environmental agreements do not, meaning trade has trumped environment.
- (3) ***Lack of respect for states rights in the current negotiating model:*** The absence of a voice for states in pre code agreements.

With this in mind, the Citizen Trade Policy Commission, the Forum on Democracy and Trade and several other states groups have looked at the current model and asked what and how can it be improved, what would they like to see in a better model and how can it be pursued. Mr. Riggs will be circulating a document called Bill of Rights, a statement of principals on what an improved model for international trade negotiations might look like. The document was formulated by members of the Vermont International Trade Commission.

Mr. Riggs gave a historical context of free trade agreements. The United States of America constituted the world's first free trade zone. States were allowed to set tariffs and issue their own money resulting in weak coordination. Constitution was redrafted removed that power from states to set tariffs and issue their own money and set up a free trade zone known now as the commerce clause.

Through the nineteenth century the United States consolidated its national economy and maintained fairly high barriers to imports and tariffs. East Asia followed the U. S. model maintaining tariffs and industries. In the late 1970's tariffs took a downward turn under the GAT, General Agreement on Tariff and Trade. The GAT was concerned only with one aspect of international trade "the movement of goods across borders." In the late 1970's and early 1980's, the Reagan revolution economic policies of deregulation pursued by Ronald Reagan and Margaret Thatcher saw other barriers to trade called non tariff barriers having to due with product standards and services that previously had not been regulated under the international trade agreements. As a result, in the 1980's leaders pressed for the establishment of a new global trade party and in 1995, the World Trade Organization (WTO) was founded. About the same time, the United States passed a free trade agreement with Canada and Mexico. These trade agreements were passed in the context as an overall economic move towards deregulation.

What we are seeing today is excess of deregulatory activity which makes it extremely hard for national and state governments to regulate in the public interest and pursue economic development policies. The imbalance is seen today with the enormous trade deficit. China and the United States have a gross imbalance in trade, five to one. China exports five times as much goods and services to the United States to what the United States imports to China. The only way that trade and balance can be maintained is through currency manipulation by the Chinese. Chinese manufacturers and exporters do not observe high quality labor standards and environmental costs of the production. This is an unlevel playing field to costs. It may be level in respect to tariffs but is not level to respect to the kinds of costs incurred to manufacturers in the two different countries. In a visit to China, Mr. Riggs saw that trade can lift living standards.

Until these concerns are addressed, it is unlikely that we can get a handle on our serious trade deficits which is an important component of our overall budget deficit.

*Institutions of international trade:* The GAT (General Agreement on Tariff and Trade) was an ad hoc arrangement between different nations and states working on trade and was converted into an actual institution in 1995 with the passage of the WTO (World Trade Organization). The GAT is still part of the WTO but deals only with the movement of goods across borders and is one of seventeen different agreements under the WTO. Of importance to the United States are new agreements in services since more than 80% of our economy now is in services. The Government Procurement Agreement (GPA) brings federal and state government purchasing inside the framework of international trade rules. The shift of goods and tax to this broad set of agreements under the WTO has seen us move from what exporters can do (markets that they can access) to a focus on what governments can't do, what they can't regulate by international

agreements. At the time that the NAFTA agreement was complete and the WTO was set up, there was virtually no consideration of state's interest, no recognition by negotiators that many of the regulations and service and labor markets are regulated at the state level. This was sort of stealth preemption, a consolidation of control and power at the central government level within the executive branch.

The United States is represented at the international trade core by the Office of United States Trade Representative (USTR). The USTR is part of the Executive office of the President and because it's a small agency (300 professionals) it's very powerful and technically competent. Over the years, USTR has had a privileged position within the White House and has the backing of big business to pursue new trade agreements.

*North Agreement Free Trade Act (NAFTA):* If we have the WTO and Canada and Mexico are both members, why do we need NAFTA. The WTO has 152 member countries; representing the consensus of 152 countries in agreements which generally means the Europeans and United States get what they want. One area where neither the Europeans nor the United States got what they wanted was in the area of investments. Current corporations now have the right to sue sovereign governments, not in state or federal courts, but outside of national court systems altogether, and have their disputes heard by an unaccountable unelected three person tribunal that was appointed by the two parties through the dispute. Those who sit on these dispute panels may be trade lawyers, corporate lawyers and do not necessarily have to be Americans and know anything about the US federal system of government. NAFTA has seriously disadvantaged states in terms of defending interests through the US courts.

Part of the Regan revolution also included the Sage Brush Rebellion described as regulatory takings. When there's a dispute about land or resource use and a corporation feels that government regulation has interfered with seeking a profit, the standard of proof for proving that there was an actual taking of potential profitability was set extremely high. The Sage Brush Rebellion tried to undue that and basically was an attempt to say that anytime a government action or regulation interferes with the profit making potential of an enterprise, then that enterprise needs to be compensated and compensated out of tax revenues. Numerous state legislatures looked at these proposals and turned them away and said it was a radical departure of constitutional practice and was rejected.

Being unsuccessful at getting that change incorporated at a state level through national law, it was imbedded into the international trade agreement NAFTA. We have most recently seen this happen in the area of prescription drugs where companies have come forward with law suits against State of Maine, for example, seeking to limit the availability of the State of Maine to set its own reimbursement policies on prescription drugs, drugs purchased by the state where Maine had been negotiating bulk discounts to keep health care costs down. The State of Maine won and the challengers also won. Six months after the Supreme Courts decision upholding Maine's right to set reimbursement policy, we found in a trade agreement signed by the United States, a pharmaceutical chapter which included language on reimbursement policy. Through this and other cases, it shows very clearly when we refer to the democratic deficit in the international trade agreement. It is not designed with our local democracy in mind.

Another example, referencing the toxic toys law and e-waste law. Last year, legislators in MD and VT received in their home mailboxes letters written in Chinese and English and postmarked from Beijing. These letters were sent to legislators who had sponsored toxic toy and e-waste bills. They came from the WTO office in China in Beijing asking them to please withdraw their votes because they believed it constituted a violation of WTO rules. Neither of the laws had

been passed, they were still in draft form, not released. Legislators were rather upset to receive such letters at their home address. They contacted the Forum on Democracy & Trade who investigated and found that the U.S. Department of Commerce and the Office of the U.S. Trade Representative were routinely notifying trading partners of pending state legislation that might have an impact on international trade. Legislators met with representatives of commerce and USTR and advised that it was inappropriate to interfere with state democratic practice. As a result of the meeting, USTR said they would no longer notify state laws to the Peoples Republic and other trading partners when they are still in a draft form.

We can agree that the new stimulus package that was passed is an economic development bill. What is interesting is our trade legislation has not similarly been considered from an economic development perspective. It's as though trade is a different entity disconnected from overall state economic development.

The implementation of the stimulus package relies on the States. For the first time in fifteen years is an approach to the States what could be called a cooperative federalism that takes states roles seriously. The Forum's hope is that in working with CTPC and other state leaders that the process of putting forward interests in trade and economic development so that future trade policy will be based on what's best for the states and best economic advantage.

Senator Jackson thanked Mr. Riggs for his very informed presentation.

Senator Sherman and Senator Gifford were excused to attend a hearing of the Agriculture Committee.

## **II. Review of Commission's History**

Rep. Margaret Rotundo gave a background of the Citizen Trade Policy Commission. The CTPC was established by the 121<sup>st</sup> Legislature to monitor the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. The CTPC consists of members representing the House of Representatives, the State Senate, the Maine International Trade Center, various state agencies, and members affiliated with citizen constituencies including small businesses, manufacturers, labor, environmental organizations, and small farmers. Over the past four years the commission has developed the strongest state level democratic dialogue in this country. The CTPC is charged to hold at least two public hearings annually to solicit public testimony and recommendations from Maine citizens and qualified experts. They also are required by law to submit an annual report on its activities and conduct an annual assessment of the impacts of international trade agreements on Maine's state and local laws and business environment.

## **III. Review of the Commission's Accomplishments**

Sarah Bigney reviewed the Commission's past history and developed an action timeline from 2004 – 2008 (*Attachment 1*). Annual reports and other information are available on the Commission's webpage at [www.maine.gov/legis/opla/citpol.htm](http://www.maine.gov/legis/opla/citpol.htm) . One of the biggest impacts is that the commission developed a model which other states are replicating. In regards to the GATS letter that was written last year on the domestic regulations; she's heard that it is being circulated in Geneva and other areas around the country. It appears other countries are expressing concerns on the same matters. The GATS domestic regulations negotiations have not gone through and are still being monitored.

Rep. Rotundo advised that the CTPC's assessments are available publicly every two years along with their annual report. The regional work has helped bring sovereignty to Washington.

John Patrick gave an update on the NCSL meeting he attended. He was amazed with the lack of knowledge of trade agreements that people had. Discussed CTPC's accomplishments, networked with other groups and was advised that CTPC may be used as a blueprint to develop their own committees.

#### **IV. Action on the USTR letter – Sarah Bigney**

Sarah Bigney clarified the two pieces in today's packet which may be confusing. The regional work has generated a trade bill of rights (VT) and would like people to consider it at some point in the future. In addition to that, there is a draft letter regarding nomination of Ronald Kirk as the US Trade Representative. Mr. Kirk's hearing is scheduled for next Tuesday. She believes a letter of congratulations, as well as advising him who the CTPC is, express our concerns to him, along with changes and the role of the USTR, should be included in the context of the letter. Sarah submitted a draft letter for review and suggestion (*Attachment 6*). Sarah also advised that several people had submitted questions via Sen. Olympia Snowe who is serving on the appointment committee hearing.

Rep. Treat agreed that now is a good time and a good opportunity to create a new relationship with the USTR and get on their radar. We may also want to include attachments to the letter such as annual reports and the action sheet that Sarah presented today.

Leslie Manning suggested it would be helpful to advise the new representative what the previous relationship was with the USTR, so that we could invite him to fully participate in conversations. Rather than just expressing our concerns, believes we should address our strengths stating that we are the oldest established commission in the country, help us informing our federal delegation, as well as our own executive branch about the implications of trade agreements for Maine citizens and that we have a series of ongoing relationships with trade representative offices. We should extend an invitation to come and meet with us as we have invited previous trade representatives.

We also should remember the history of trade weakness in this country. The executive branch in any administration regardless of party is always going to seek the authority to directly negotiate with other nations states on issues of commerce. We need to be clear with this appointee that we fully expect him to honor his appointers promise to consult fully with the states before he implements any trade agreements. If we refer back to one of our earlier handouts, Obama made a promise that said that he would fully consult with the states. Remember Obama said he was going to review language in NAFTA and the Canadian government met with him and issued a press release that said of course he's only saying that to candor to his political constituency. Leslie referenced Ottawa and statements made that now isn't the right time to revisit NAFTA; perhaps the Canadians were on to something. If that's the case, then we need to find out. We have the opportunity to find out where the new nominee stands and let's exploit it.

Sen. Jackson stated that a decision needs to be made whether we send a letter and what will be included.

Rep. Treat stated that she liked what Leslie said and would like to have it transcribed into a letter format.

Motion made by Rep. Treat to send a letter to the new trade representative along the lines as outlined by Leslie. Seconded by Paul Volckhausen who agreed that now is the time to start out strong. John Palmer also agreed with Leslie and what she said was very accurate and also wants to see the letter come from the Commission and not the Chairs.

John Patrick also supported the motion. Wade Merritt asked for clarification of what the letter is exactly going to say. Are we using Sarah's letter or rewriting one with Leslie's comments.

Sen. Jackson advised that they would combine ideas and comments into one letter. Sarah advised that she and Leslie will get together and rewrite the letter. Rep. Treat suggested keeping the letter to two pages. Sen. Jackson suggested having the letter drafted, reviewed, and sent out as soon as possible.

Linda Pistner advised that when sending a letter out, the process is to come up with draft, post it on the website to be available to the public for comments to be compliant with access laws.

Rep. Treat stated she liked that process, but if for some reason negative responses were received, it would be delayed and expressed concerns of timeliness.

Sen. Jackson expressed concerns of timeliness as well but also wants to be in compliance with the Freedom of Information (FOI).

Further discussion followed on FOI.

Rep. Rotundo asked if they needed to do anything more with the motion that is on the floor to be in compliance with FOI.

**Amended Motion:**

John Patrick amended the motion to include comments from Linda Pistner in regards to Freedom of Information and post it to the CTPC website. Rep. Treat accepted the amended motion. Seconded by Paul Volckhausen. Vote, unanimous.

**V. Report on Prescription Drug Conference – Rep. Treat**

Rep. Treat advised that she attended a prescription drug conference and circulated some handouts. Pharmaceuticals have a long trade history, some of which Peter outlined already. Rep. Treat outlines past experiences around prescription drugs and preferred drug lists. Preferred drug lists is a way that states set up negotiating process with the pharmaceutical industry. By preferring a drug and not requiring advanced approval by a prescriber or doctor usually ends with a bigger discount. The State of Maine is one of the most aggressive states in the United States in terms of being very effective it setting up these lists and negotiating with the drug companies. The amount of money spent on prescription drugs in the Medicaid program has not gone up the same way that overall health cost of increase. (*Attachment 7*)

She pointed out that if we have a trade agreement with another country, that trade agreement applies to that other country just as it applies to us. As an example, if the U.S. was negotiating an agreement with Korea which said you shall not have a list of drugs for which you set pricing for those drugs, that same agreement applies to U.S. unless there was some specific language stating otherwise. This has been a big issue that the Commission has weighed in on, as well as her job outside the legislature.

The head of Pfizer got together with a professor from Stanford University and both testified at a hearing. A product of this is the letter attached. (*Attachment 8*) This letter raised a lot of alarm. Of concern is it will be harder to import cheaper generic drugs for low income families and also may increase the cost.

Rep. Treat referenced specific areas of concerns in the context of this letter. As a result of this letter, Sen. Baucus met with stakeholders, Pfizer, the professor from Stanford, and other drug companies, as well as a couple of non-profit organizations. A professor from American University on Information Justice and Intellectual Property held their own meeting ahead of the other meeting prior to this and invited all of the non-profits in the states which Rep. Treat attended. Rep. Treat found this meeting very informative and useful.

States need to be informed and involved and concerned with health care initiatives. Further discussion followed in regards to Senator Snowe's ongoing legislation and the fact that staff was not aware of Baucus's letter, and meeting.

Sen. Jackson thanked Rep. Treat for her informative update.

Leslie asked if there was any discussion about drug purity and strengthening of the FDA which has always been an issue in deregulation and less regulation. The issue for healthcare advocates is access to drugs and reimportation of pure and quality drugs.

Rep. Treat advised that drugs are being manufactured in other countries. FDA issue is a huge issue and being taken up in Congress. Sen. Snowe's legislation goes on forever on how to ensure that medications being brought into the U.S. meet specifications. There are numerous proposals in Congress right now.

John Patrick expressed his concerns and was one of the reasons why he got involved with the Commission.

Rep. Treat advised that she will continue to monitor the above.

## **VI. Representative Treat's Bill**

Rep. Treat circulated a copy of a bill she submitted (*Attachment 2*). A couple of states have passed laws that require the legislature to be involved before a governor makes a commitment to be bound by a trade agreement. With this in mind, Rep. Treat submitted a bill that would have a process to involve the Maine legislature before entering into a binding agreement. Rep. Treat reviewed her draft with members. The draft has not been printed. Concerns were expressed about the timelines of bills. Discussion followed. Leslie Manning stated that it was important for people that would be voting on it, to be familiar with the current process and referred it to Wade Merritt to explain what the current process is and/or consultation on the trade agreement.

Rep. Rotundo questioned as to what is the current consultative procurement process being used in Maine in conjunction with the Governor's office and how would we know if something was received.

Mr. Merritt advised that in the early days of the consultative process, every state had a designated state point of contact (SPOC) who was the state directors of international trade. They

would receive faxes notifying them of activities which might have been one or two a month. Since then the system has changed. Mr. Merritt stated that within the past five years he does not recall anything coming in through the SPOC system. The SPOC system has been replaced in the Governors office. Governors have the power to appoint a contact person and in some states it's the State Treasurer, the Attorney General's office, Economic Development and Trade offices. Over time that changed and it is now directly the Governor's office.

Mr. Merritt advised that staff in the Governor's office is very active and they talk with them often. Lance Boucher is the Governor's point person within the governor's staff. Technically, if something was received in the Governor's office right now, Lance Boucher would notify him immediately. Sen. Jackson asked if there was any way they would know before the Governor signed something. Mr. Merritt advised that they would know, especially Peter Riggs before such happened.

Rep. Treat suggested including language in the bill to provide notice of requests to both the Commission and the International Trade Center.

Mr. Volckhausen advised that the Commission years ago started this process and eventually the bill never went anywhere or was even submitted. The bill stated that the process was wrong and to use SPOC and that they wanted to be involved. Rather than submitting a bill, they should talk to the governor's office, form a subcommittee, look at issues, have people from the legislature, the governor's office, Peter Riggs and others to come up with what the best process is to make this work. This did not come about.

Instead of having the Reviser or someone from the legislative office write this bill, the CTPC should be doing this.

Rep. Treat recalled this and advised how the legislative process works and deadlines for submitting bills. Rep. Treat made the decision to submit a bill to make sure they had the opportunity to consider legislation over the next two years. The CTPC does not have the authority to submit a bill because they do not have legislative authority.

Rep. Treat requested member's involvement, suggestions, ideas, between now and the hearings in terms of language they prefer.

Rep. Patrick thanked Rep. Treat for submitting the bill. Discussion followed.

Sarah Bigney suggested developing a subcommittee to work on Rep. Treat's bill and bring proposals back to the CTPC's next meeting. Rep. Treat welcomed working with the group. She does not have the bill from the Reviser's office; editing would need to be done rather quickly.

**Motion:**

Motion made by Wade Merritt to form a subcommittee to work on Rep. Treat's bill consisting of Paul Volckhausen, Sarah Bigney, Rep. Treat, Peter Riggs, Linda Pistner and himself. Sen. Jackson was not sure if Peter Riggs could work on the subcommittee but believed he would work with them. Seconded by Rep. Treat. Vote, unanimous.

Linda Pistner advised of the public notice process for meetings. Policy is that they do not discuss the substance of discussion outside the subcommittee meeting.



## VII. Strategy on Water Bills

Rep. Rotundo advised that there may be approximately fourteen water extraction bills before the legislature. Some are already in work session and are actively being discussed. She wanted to know if the Commission wanted to weigh in on bills and issues. She circulated an incomplete list of groundwater bills (*Attachment 3*). She asked members to look at the list and hold a discussion before they go to the committees.

Rep. Rotundo recognized and welcomed John Delahanty who is the lobbyist for Poland Spring Water.

### **Update - Peter Riggs:**

Mr. Riggs advised that if there was a risk to the water bills then potentially they might be challenged more likely as a result of NAFTA. The two most significant NAFTA cases were concerns with regulation groundwater – Methanex and Metalclad.

#### *Case 1 –Metalclad*

A U. S. company challenged the right of a Mexican municipality to prevent them from opening a hazardous toxic waste facility. The issue was that the federal government of Mexico had told and made assurances to Metalclad that they could open and operate this facility. They had to get a permit but were told it would be taken care of; however, the municipality refused Metalclad permits. Metalclad took their case to NAFTA, Chapter 11 Tribunal seeking 14 million dollars in damages because they had an assurance that they would be able to open this facility. The Tribunal agreed that Metalclad's rights had been violated and ordered the Mexican federal government to pay 14 million dollars in damages. The Mexican federal government then turned around and withheld 14 million dollars funding to the municipality.

#### *Case 2 – Methanex*

California banned the use of the gasoline additive MBTE. MBTE is a harmful chemical that will find groundwater. Methanex Corporation out of Canada sued under Chapter 11 of NAFTA. Methanex was leaking from underground storage tanks contaminating groundwater wells. Methanex sued for 970 million dollars based on the lack of access to the California market and loss of future profits. Five years of hearings transpired and the final decision of the tribunal was that Methanex did not have a right to sue and was rejected. California phased out the use of MBTE.

#### *Case 3 – Glamis*

This case also involves the question of mineral extraction in California. This case is currently being heard by the international tribunal and a decision has not been made.

Peter advised that he had not had a chance to review all the bills that are in the Reviser's office. The opportunity to review legal options is very important.

In regards to groundwater extraction, both the international trade rules and investment rules need to be applied. The standards that are used in NAFTA and other free trade agreement are that an investor has to establish that he is domiciled and has a substantial business presence in that country.

It is possible for a U.S. corporation to set up a subsidiary in a third country, make an investment back in to the U S through the shell company and use the privileges under the international investment agreements to bring a claim.

Until we know more about the corporate structures of those seeking permits, the identity of the investors and capital structures of those investments, it is premature to say that the trade rules do not apply.

Senator Sherman spoke regarding water issues, discussed rules and regulations from the agricultural side and the utilities and energy side. On the agricultural side, he studied water issues, glaciers, etc. and water withdrawal taking into account fish, bugs, wells, and so forth. On the utilities and energy side, he's looking at the sale of water, working with geologists, stream flow, cubic feet and 'x' number of gallons, shut off valves, etc. Out of this, he asked if the Mexican case was a process issue where the company relied on two different levels of government. Could this happen in Maine? Should we take a look at it; there's plenty of data and is more of a process issue and suggested a central place that deals with such.

Peter Riggs handed out a "Statement to the Presidential Transition Team on Trade Policy" stating that regulations passed using due process that are non-discriminatory cannot be the basis for a successful NAFTA claim (*Attachment 4*). Discussion followed.

Senator Jackson asked if a company from Canada or Mexico came to Aroostook county and made an agreement allowing extraction of water and afterwards found that it would hurt the town and area, how would that be handled? Peter responded if the investor moved ahead with a project based on a verbal or signed agreement with an elected official, you'd have a problem. Can't answer if definitively.

Senator Jackson asked if there are any trade issues to watch. Mr. Riggs advised that the Forum on Democracy and Trade will take a position on issues having to do with state and federal consultation and trade. He is outside his mandate to comment on bills, however, proposals to establish a commission state wide review seems to be prudent. Discussion followed.

## **VIII. Review of Current Trade Issues and Issue to Watch – Peter Riggs**

Confirmation hearings for nominee for the U.S. Trade Representative take place next week. The nominee's name is Ron Kirk, former mayor of Dallas. He does not have previous background as a trade negotiator but has built strong electoral coalitions involving the business community. Senator Olympia Snowe is on the committee and is in a position to ask direct questions of nominee, Ron Kirk, at the confirmation hearing next week. If the CTPC has particular questions or interests they want to see addressed, he suggested they get them to Sen. Snowe immediately.

Rep. Michael Michaud is in the process of finalizing resubmission of a bill called the Trade Act. He expects the Trade Act to be reintroduced within the next two weeks to a month. Rep. Michaud sent President Obama a letter which addresses the principles (*Attachment 5*).

The Geneva negotiations with WTO on services will reconvene next week and one of the areas that will be looked at is domestic regulation. So far the US has taken a friendly approach. The Brazilian proposal, Hong Kong proposal, and the Australian proposal attempts to strip business licensing authority from local governments.

CTPC weighed in on this issue two years ago with a letter to USTR and it may be worthwhile to consider doing so again.

There are three holdover trade free trade agreements that have been negotiated but have not yet been signed. They are with Korea, Panama, and Columbia. The Korea agreement is somewhat flawed because of its weak provisions for auto producers. The Columbia agreement is unlikely to move forward since Columbia remains to be a dangerous place, etc. The Panama agreement has been under the radar for awhile. It's known to be a tax haven, an offshore profits/laundering money, banking secrecy, and taking into consideration the financial markets, etc., it seems odd that this will move forward. The CTPC may want to look at the agreement and take a position on it.

Most importantly, the Obama administration will pursue federal/state policy on trade. USTR has said that there will be a new assistant USTR appointed to government relations.

Sen. Jackson thanked Peter Riggs for his very informative presentations.

Rep. Treat stated regarding a letter to Ron Kirk, to make sure we allude to the fact that we want to be involved and questions to Senator Snowe, consultations, what their role is going to be, and the need for a different process.

Rep. Rotundo agrees with Rep. Treat's suggestions for Sen. Snowe and that the subcommittee should come up with questions. John Patrick also agreed with Rep. Rotundo and Treat.

Sarah Bigney wanted to know how formal this should be. Two options – one could be to draft specific wording to the questions and send it in and the other could be to suggest on behalf of the commission, questions on consultation and be straight forward.

Rep. Treat stated to be as specific as possible; general question is not enough.

Leslie Manning suggested looking at the rule of intergovernmental relations and asking; 1) What are your thoughts on consultation with the states in these areas and draw an outline; 2) How to seek a model and what role will they play; and 3) Are you familiar with IGPAC's recommendations for 2004 and what is your position.

Rep. Treat stated these would be questions for the confirmation hearing and we need to get words to Senator Snowe immediately.

**Motion:**

Motion made by Rep. Treat that we submit the three questions that Leslie suggested to Senator Snowe. Seconded by Sen. Sherman. Vote, unanimous.

Rep. Rotundo advised that several chairs have asked us to weigh in on the water bills. She is not sure if we are prepared to make specific recommendations and is wondering if we should make general recommendations. What would be the legal implications?

Sarah Bigney brought to the commission's attention a water bill and read sections.

Rep. Treat stated not knowing what all the bills are and not knowing whether some are procedural issues, caution should be taken whether the commission should take a position on one individual bill as there could be another that makes more sense.

Rep. Gifford stated that the water bills have resulted in rural caucuses and people do have opinions.

Sen. Sherman suggested to talk with Rep. Webster to see what he already knows and wondered how much information might already be out there. They are hearing issues through rural caucuses and suggested to get more information before acting on it.

### **Presentation by John Delahanty – Pierce Atwood and Poland Spring**

Mr. Delahanty has worked for 30 years within Maine's environmental statutes, rules and regulations.

Mr. Delahanty commented on the Mexico case. He is not familiar with Mexico's environmental regulations. It is his understanding that the permit was issued and that the facility was constructed; however, the operational permit was not issued, therefore, investors sought a tribunal. Tribunal found that based on facts that the investors relied on the government's representation regarding the status of the permits and that the government was fully aware that the landfill was under construction. He believes that this type of a process would be extremely difficult to occur in Maine. He cannot imagine a company coming into Maine and beginning to undertake a large scale water extraction simply based upon representations of a local official. Maine has extremely robust environmental laws. If laws and regulations are applied and adopted with due process, application is fair and applies to all in a nondiscriminatory manner which protects the State.

He believes that there is a lot of misunderstanding and a lack of understanding about how Maine's water extraction laws are presently enforced, overseen, and regulated. Two years ago legislation was submitted and passed that changed Maine's water extraction laws. As a result, a commission was created that monitors water resources along with several other state agencies. Mr. Delahanty thanked members for the opportunity to attend and talk at today's meeting.

Senator Jackson asked Mr. Delahanty if he thought it would be better to have one body review water bills instead of three or four groups.

Mr. Delahanty responded that it would make it easier to have one group look at the bills, what the present law is, and regulations. In terms of the Commission, it is getting people more educated and have an understanding on how water is regulated in terms of extraction. A couple of years ago there was a task force that focused on water regulations. There's been a lot of media and press in regards to Poland Spring, as well as a lot of opposition which he believes is a lack of understanding of how it is regulated. He certainly hopes that there would be a way to lessen the concern of people that the activities of companies to extract water, regardless of the type, to lessen the concern that it is not appropriate fair oversight.

Rep. Gifford thanked Mr. Delahanty. Most people on the list of legislative bills have not been to caucuses. He has learned a lot and wells are very well monitored.

Rep. Sherman suggested they wait to see what is already out there for bills.

John Palmer asked Mr. Delahanty if he knew how much water is exported out of the country. Mr. Delahanty was not sure and knew that it was shipped to Boston, New York and possibly Canada but would check on it for him. Mr. Palmer advised that when he was in Saudi Arabia, Poland Spring bottled water was distributed. Again, Mr. Delahanty advised he was not sure but that contractors purchase it and can possibly export it.

Sarah Bigney posed a question for the Commission purposes as to what the regulations are and would they be subject to international challenge when we sign contracts with a multinational corporation. This potentially could be of major concern.

Linda Pistner stated that part of their roles is how to make the bills effective to reduce the possibility of challenge. Discussion followed.

Leslie Manning stated that the Methanax standard as discussed today is the defensive standard. When we review a standard and are comfortable with that standard when it is an accountable transparent standard and equitable to everybody. Our role is to advise and to say do what you feel is necessary to regulate the health, welfare and safety but be aware that if you're going to be held to a higher standard in international laws, make sure that you are not singling out any one entity and make sure that you are held to a standard that is fair and equitable.

Rep. Rotundo advised that the bills represent community concerns all over the state and believes that they should step back and take a bigger view of all issues and figure out what is best. Expressed concerns of looking at the bigger picture of international trade.

Mr. Palmer asked if State bills preempt local bills. Senator Jackson responded that he thought they possibly would. Linda Pistner advised that the State has the authority and explained the process.

Rep. Gifford advised that that it would have to be approved by several state agencies. Sen. Jackson asked if a letter should be drafted by the CTPC expressing concerns.

Rep. Rotundo stated when legislative leadership asks us to weigh in on a bill, what would we say; we do not have an opinion?

Rep. Treat agreed with Linda Pistner's advice in terms of making sure that the committees understand that just because we may not be in agreement doesn't mean not to go forward but to go forward in a way where the standards are adhered to. One of the problems could be at a local level, such as a town grants permission, they go to DEP or wherever, and they decline the permit, that's where the problem is. If the committees do not do anything, there could be trade implications.

Paul Volckhausen stated that this was an issue and that they are stepping out of their role. The legislature has to have an open process and our role is to make clear to people that if something is not done right, that there could be international trade implications. These bills are no different than any other bill that is submitted, reviewed, passed, etc. and that we should not be advising and only be monitoring.

Sen. Jackson stated that in the past seven years, this is the first time he's heard what he did today and expressed concerns.

Discussion followed around awareness and level of understanding of trade implications.

Sen. Sherman suggested developing a matrix checklist around trade that they could use.

Rep. Treat referenced the Right to Know law process and in the past has had to send sections of bills back to the Judiciary committee because some language was in violation of the Right to Know law.

Sen. Sherman suggested a checklist that would identify areas of concerns and/or violation. Further discussion followed.

Leslie Manning expressed that this has been an ongoing concern; issue of water as a resource versus a commodity. Issues of water extraction are not specific to Maine or New England. As a regional group we should say as a community and reps are looking for guidance on these issues. State sovereignty always comes up, water and resource extraction, and issues of procurement in one form or another. Part of the reason why the Commission has been so successful is because we have not been afraid to take on the big issues. We've been able to move forward and make progress and build the credibility that we have so that when we weigh in on an issue, we hear both sides and issues and then make a recommendation. People pay attention to that recommendation and take it seriously. If that process works for us, why wouldn't it for the state. Have public hearings, public discussion, public input into the process as to how we regulate water in this state that may serve as a model for other states. Our responsibility is to report honestly and directly to our federal delegation, legislature and communities what we see the implications of any piece of legislation or implications are of any kind of trade agreement. We have a track record using this approach.

Leslie stated that the Commission is required to hold two public hearings. Within the next 30 to 60 days schedule a public hearing, announce what the subject matter will be, invite all the parties to it, and invite other commissions to join us to weigh in on these issues.

**Motion:**

Rep. Rotundo made a motion to follow the above procedure Leslie laid out. Seconded by Rep. Treat.

Malcolm Burson stated he was very uncomfortable with this and that it is not their job, i.e., water extraction, and that it is putting an intolerable burden on them and asked the CTPC to think this over very carefully before reopening this. Paul Volckhausen agreed with Malcom; international trade may be, but water extraction is not our business. Our business is international trade and its effect on us.

Rep. Rotundo withdrew her motion on the floor. As a commission, we need to find the things that we can agree to today so we can move on.

**Motion:**

Rep. Treat made a motion that they draft a letter to all the policy committees that are hearing bills on water and state that we believe that there are trade implications that could come to the floor in some water proposals that are out there and that none the less this is not a reason not to go forward as long as committees that are focused on this do the three things that Leslie recommended. 1) hold transparencies; 2) fairness, and 3) accountability.

Seconded by Sen. Sherman. Vote: Ten in favor, one opposed.

## **IX. Consideration of Invitation to Secretary of Labor**

Sen. Jackson advised that Congressman Michaud will be in Aroostook County over the weekend and he wanted to ask Cong. Michaud to extend an invitation to the Secretary of Labor to come sometime in the future to discuss trade issues and labor standards.

### **Motion:**

Motion made by Rep. Treat to invite the Secretary of Labor to address the Commission and discuss issues and also provide a brief history of the Commission. Seconded by Rep. Rotundo. Vote, unanimous.

## **VIII Next Meeting**

Discussion followed on holding the regular meeting the last Friday of the month as being difficult for members to attend. Malcom Burson stated that holding the meeting on the same day of the month allows people to plan and schedule accordingly.

Sen. Jackson, Sen. Sherman, Rep. Gifford all have Agriculture meetings on Fridays so cannot attend. Rep. Rotundo suggested holding frequent meetings more often during the legislative session, possibly from 4:00 to 6:00 p.m. Rep. Treat advised that as the session moves forward, it becomes more difficult to attend. After lengthy discussion it was decided to stay with the current schedule.

The next meeting is scheduled for Friday, March 27<sup>th</sup>, 9:00 a.m.

Sen. Jackson reminded members that they can contact him at home or email if they have issues they would like to discuss or place on the schedule.

## **VIII Adjournment**

The meeting adjourned at 1:20 p.m.

Respectfully submitted,

Linda B. Nickerson  
Secretary

/ln  
encs.

**Citizen Trade Policy Commission**  
**Friday March 20, 2009**  
**Labor Committee Room, Augusta**

**Meeting Summary**

**Members Present:** Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Sen. Roger Sherman; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Jane Aiudi; Wade Merritt; Paul Volckhausen; Joseph Woodbury; Linda Pistner; Michael Herz, Cynthia Phinney, Michael Hiltz

**Guests Present:** Peter Riggs, Forum on Democracy & Trade, via conference call; John Delahanty, Pierce Atwood

**Staff Present:** Linda Nickerson, Dept. Labor

The meeting was called to order by Sen. Troy Jackson at 9:05 a.m., welcoming remarks and introductions were made.

**I. Conference Call – Peter Riggs, Forum on Democracy & Trade**

Peter Riggs was on the polycom speaker phone calling in from the West Coast to give members current updates. Peter reported on the confirmation hearings of Ron Kirk, new USTA representative confirmed Wednesday and advised members that he sent an email with two attachments to them last evening. One of the attachments is 129 pages of Mr. Kirk's written response to questions submitted by members of the Senate Finance Committee which is the committee jurisdiction that reviews his confirmation. The other is a document from Congressman Mike Michaud in his role as the head of the House Trade Working Group where he has approximately 50 cosigners on a letter to the Obama administration calling for changes in the way trade policy is conducted.

The confirmation process had some interesting facts about trade agenda and interests of Mr. Kirk. Of particular interest are questions that the Maine Citizen Trade Policy Commission raised by Senator Snowe in her questions to Mr. Kirk. Senator Snowe followed up with very good questions and focused in considerable detail on manufacturing and the loss of manufacturing jobs and noted that manufacturing is entirely absent from the document called US Trade Strategy which is prepared annually by staff at the USTA. This year's report was prepared before Mr. Kirk was confirmed. Senator Snowe also asked about federal and state consultation and mentioned the Maine Citizen Trade Policy Commission. Congratulations to the Commission!

In Mr. Kirk's answers, he does not mention state legislators, trade policy commissions, governors, AG's or local officials and others which were rather interesting. One of the items for USTR in 2009, Mr. Kirk quote "wants to demystify the role of USTR." This appears to be an opportunity to work on consultation. Mr. Kirk stated he came to the job with no preconceptions. Kirk footed the idea of there being a new assistant USTR for small business and repeatedly mentions the May 10<sup>th</sup> deal. This was the bi-partisan trade deal which is now between



the Bush Whitehouse and Congress dated May 10, 2007. Mike Michaud and others would like to see changes in the policy go well beyond the bipartisan compromise outlined in the May 10<sup>th</sup> agreement. Kirk sees this as a starting point and made clear his position on the holdover free trade agreements; i.e., the agreements with Panama, Columbia and Korea that were negotiated by the Bush administration but not ratified by Congress prior to the change in administration. Mr. Kirk stated that the Panama agreement is ready and can be taken down off the shelf; so we may see a decision by the Obama administration to move on Panama within a month. Mr. Kirk made clear that he thought the Columbia agreement was not fatally flawed and could be passed if changes were made in labor laws. Mr. Kirk signaled that the Korea agreement is fatally flawed and isn't going to move and is a dead letter.

Mr. Kirk was asked about investment provisions and responded that investment provisions and free trade agreements and their impact on the financial crisis and banking had enough skilled prudential measures in Chapter 11 and other investments chapters and that we shouldn't worry about investment chapters in the context of the current financial crisis. Peter stated that we might want to approach investment questions with a little more caution and potentially work with the USTA on a new model NAFTA Chapter 11 type of disputes.

Rep. Treat asked Peter if there was anything interesting going on around the country that legislators might need to know about since their last meeting.

Peter referenced Sarah Bigney's letter regarding Vermont. In general, a couple of states have come forward with ideas on federal and state consultation. Washington State through a legislative committee passed a memorial that calls for USTR to look at federal state consultation on trade, calls for a reform of IGPAC. New England has been having conversations around regional state principals.

Peter advised that they are hoping to convene a regional conference call on April 6, 2009 around noon and will send an email confirming it. This would give us a chance on a regional level to talk about ongoing issues and joint strategies. There are a couple of bills pending for commissions to be created in New Jersey, Massachusetts and Pennsylvania and one recently passed in Minnesota. More and more states are creating trade mechanisms.

Cynthia Phinney in regards to Ron Kirks nomination wanted to know about the Columbia trade agreement and whether there was an indication or likelihood of changing labor laws and if they did, would they be enforced.

Peter stated that they did question this but no, there was not a lot of detail in his response. Kirk does not have a background as a trade negotiator and doesn't really get into this much.

Linda Pistner asked if anything was said about the issue of USTR monitoring proposed legislation at the state level and alerting trading partners to issues as experienced last spring.

Peter responded no, that was not addressed in any confirmation discussions. The NCSL Spring Meeting Agenda, National Conference of State Legislators meeting April 23-24, 2009, Washington, DC will include a session on that and will be attended by Jeffrey Weiss from USTR who will continue to talk about the implications.

Paul Volckhausen stated that later on in today's meeting, the commission would be discussing Congressman Michaud's Trade Bill and asked Peter if he heard if there were any possibilities that the bill will move forward.

Peter responded that this is the trade act that was originally introduced last year. Both the House and Senate versions are being rewritten. Michaud's staff has taken the lead on the House side. The chief sponsors are trying to get as many co-sponsors as possible at this stage. He thinks that the Senate version will very likely get a hearing, however, whether the House gets a hearing depends on House and Means Committee. He thinks it's fair to say that the new version will be tighter, shorter, prioritized and will be an attempt to get on the docket for House Ways and Means and Senate Finance.

Sen. Jackson thanked Peter for taking the time today to update the commission. He also asked Peter, if there were other states that he may have talked with regarding the high unemployment rates and if he's heard any discussion on the US DOL alien labor certification program.

Peter stated that it did not come up in the confirmation hearing. He suggested that Senator Snowe's questions were very good and probably the best place to look for clues on how that issue may be addressed. One of the things Kirk was asked is whether he thought trade deficits mattered and he acknowledged that it did and that the trade deficit was a problem.

Sen. Jackson asked that in the future if he hears anything come up about it, he would appreciate it if he would let him know.

Rep. Rotundo advised that the State is looking at transmission lines project that Central Maine Power has proposed and she's been receiving questions on what's happening in other states around transmissions, utility issues, and so forth. Would you be willing to send through to us some references for us that we could pass on to legislators who are concerned about this issue trying to educate themselves on the subject.

Peter responded he would look at the utility and transport committees and see what he could find.

Sen. Sherman advised that he is on the Utilities Committee in Maine and is wondering if there's any other state (other than Canada) where a standard offer comes in from. We are having trouble with Canadian lines and would be curious to know, soon, if there are any other states that we could talk to.

Peter advised that he would find out how the standard offer comes in and get back with him.

Sen. Sherman also stated that at one time there was a Canadian Ombudsman and mentioned Washington state had something and wondered if he'd had a chance to pursue it. We're interested in knowing what other states are doing.

Peter has not been able to pursue it but suggested it be an agenda item for the April 6<sup>th</sup> conference call.

Sen. Jackson asked Peter if he'd heard anything on the liquefied natural gas ports and bringing them into Maine through Canada and other countries and if he had any thoughts on that.

Peter responded that Maine and Oregon have been looking at this very carefully. They have prepared a case study of potential impacts of these facilities and looked at the gambling decisions of WTO which may involve the US making new commitments on pipeline services and bulk

storage of fuels. He will send within the next week or two what's in play in terms of US commitments and how they may impact energy developers.

Rep. Rotundo asked Sen. Sherman if he had something in the Utilities Committee that they were reviewing. Sen. Sherman stated that they had a long list of LR's.

Rep. Rotundo advised Peter that they very much appreciated his taking the time to talk with them today.

Peter stated it was great to talking with them again and will follow up via email regarding the April 6<sup>th</sup> conference call.

Sen. Jackson recognized new member Michael Hiltz. Mr. Hiltz addressed members and advised that he is a registered nurse representing healthcare and was glad to be there today.

## **II. Minutes of February 27, 2009 Meeting**

Senator Jackson asked members to take a few minutes to review the minutes.

### **Motion:**

Rep. Gifford made a motion to accept the minutes as presented. Seconded by Rep. Rotundo. Vote, unanimous.

Cynthia Phinney also seconded the motion. Rep. Rotundo noted that the minutes were complete, thorough, and was good to have a write up for members that are unable to attend.

## **III. Subcommittee Update on Rep. Treat's bill**

Rep. Treat first addressed the members regarding an email she sent March 14<sup>th</sup> about Trade Advisory Councils.

She asked everyone to review and see who is on the list and would find it interesting. Every person on the list was from industries such as pharmaceuticals and chemicals. What it does not include is health care industry. IGPAC decided to provide an opportunity for participation but does not have the staffing and access to documents and often the turn around time is not enough time to respond. An issue is trying to get someone appointed to IGPAC. Some have made attempts but have been unsuccessful. There are fact sheets posted on the Forum Democracy & Trade homepage. Rep. Michaud is working on a proposal to his trade bill. Discussion followed.

Rep. Treat advised that she submitted legislation and circulated copies of the subcommittee report. The subcommittee consisting of Rep. Treat, Paul Volckhausen, Sarah Bigney, Wade Merritt, Linda Pistner (along with Peter Riggs comments) met, reviewed and drafted the legislation. Using enacted laws and pending legislation from states such as MN, RI, CA, MD, and HI, they incorporated items and comments from Peter Riggs and drafted legislation. (*Attachment 1*). The subcommittee unanimously agreed to move forward with what was outlined.

Commission members reviewed the subcommittee report and discussed each line item. Different scenarios were discussed such as an agreement getting passed without anyone even knowing that

is has taken place. This legislation will alert the CTPC, who can review by setting up procedures to determine how it may affect Maine.

Joseph Woodbury advised that they should proceed very carefully, that this could become very cumbersome and put more constraints on folks and felt that he could not support this type of legislation, overrule the agreement and possibly come up with something else.

Paul Volckhausen stated that they are not really overruling, they are saying that if the State of Maine is signing off, we have to approve it in a positive way. A trade representative in the past could sign off without us having any knowledge.

Rep. Treat stated that they did not make it clear that they are talking about only instances where they are being asked what the State wants to do. This gives them the opportunity to know what is going on. At the last meeting, discussion transpired on SPOC and what information they are receiving. Concern was that information was not received and they want to know what is going on. As a business, believes you would want to know what is going on and what agreements are being entered that are helping our businesses.

Sen. Sherman discussed the separation between federal and state and if the Governor's office agreed to something, how would we know about it, and asked if there is any other way.

Wade Merritt discussed procurement services and investment. He appreciates Rep. Treat's drafting legislation and could not say whether he could support it due to the relationship with the Governor's office. Understand he has to have feedback from his people and the Governor's office.

Rep. Rotundo wanted to clarify that this would kick in only when states were asked and is trying to figure a system of whether to opt in or not and to get more public understanding.

Sen. Jackson agreed with the checks and balances and that it was good to get a chance to understand and thanked Rep. Treat for opening the bill to the CTPC.

Sen. Sherman discussed free trade and appreciates what's being done, as well as Wade's comments. There are five other states on this and someone has to decide whether it's okay, move forward and have a discussion.

Michael Hiltz asked to have the CTPC clarify the bill as a newcomer to the commission. Rep. Treat gave some examples of past experiences, SPOC, USTR, etc.

John Patrick thanked Rep. Treat for bringing the bill forward, public hearings and work session will be held which has a lot of value. He stated it is timely, worthwhile and will support it.

Rep. Treat asked if they needed to vote on this. They will have an opportunity to comment on the bill at hearings.

Wade Merritt stated that his concerns are the part where we are being affected on procurement and discusses investments. Member discussion followed.

**Motion:**

Sen. Sherman moved to go forward with the draft and that they will have time to comment on it.

Rep. Treat advised that they have three days to revise the draft and she has to have something for **this afternoon**. They do not have enough time to weigh in on it. Another draft is received and you have no opportunity to weigh in on it until the public hearing.

Sen. Jackson advised they will meet before the public hearing or work session.

The vote is to go forward on Rep. Treat's bill and review it at the next meeting and she could take revisions back in.

**Amended Motion:**

Paul Volckhausen moved to amend the motion to support the subcommittee report and does the commission agree to what we say in the report.

Rep. Treat stated that it does not commit the commission to support the bill and that the commission can take their position at the public hearing.

Sen. Jackson stated that even if they did support it, the public hearing can make changes before the final draft, either way, it's part of the process.

Sen. Sherman stated that what they are really saying is go ahead, we know how drafting takes place.

**Motion Withdrawn.**

Sen. Sherman withdrew his motion.

Rep. Treat advised that they are not at a point where a motion is needed.

Sen. Jackson thanked Rep. Treat and the subcommittee and asked that when the bill is printed, to see that they get copies.

**IV. Update on Ron Kirk Appointment**

Rep. Rotundo referred to the letter of congratulations that was drafted as a result of the last meeting stating that the CTPC is looking forward to working with him and building a collaborative approach to trade and inviting him to meet with the CTPC. This letter did go out.

Rep. Rotundo also referenced a letter as a result of the last meeting that was written to Sen. Snowe respectfully asking specific questions be addressed during the confirmation hearing. Sen. Snowe did pose these questions at the hearing.

**V. Update of Water Extraction bills**

Rep. Rotundo recognized John Delahanty, Poland Spring.

Rep. Rotundo understands only one bill has been enacted so far which came out of the Utilities Committee that deals with citizen involvement in the process for providing permission for extraction to take place and the bill was passed in amended form.

With the exception of the bill on taxation of water extraction which has been referred to the Taxation Committee, all the other bills have been referred to the Natural Resources Committee so that all of the bills could be heard at the same. The CTPC will have the opportunity to weigh in on them at the hearings.

John Delahanty reported that there were two bills heard yesterday, Rep. Schatz's bill and Rep. Sarty's bill. On March 12<sup>th</sup>, LD 238, "An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water" sponsored by Rep. Legg was voted Ought to Pass as amended.

Rep. Rotundo thanked Mr. Delahanty for his update.

## **VI. Vermont letter regarding Technical Barriers to Trade**

Rep. Rotundo advised that Sarah Bigney was not able to attend today's meeting and that the commission might want to table this until the next meeting. This is a letter written by our counterparts in Vermont and the Vermont Trade Commission dealing with consultation. Sarah has been very involved with this and the commission may want to wait until Sarah's return before taking action on this.

Rep. Treat asked if this was the subject of the conference call in April. If so, they may want to be briefed on it prior to the April 6<sup>th</sup> conference call.

Rep. Rotundo asked members to take a few minutes to look at the Vermont letter to see if they should take some type of action on it.

It was noted that the year should be corrected to 2009 on page one and page two.

Rep. Treat stated that the Commission already weighed in on this. As background information, the Commission acted on this in the past and may want to say something about it again. This was an issue of how information got from the USTR to the Country of China telling them about Sen. Lyon's bill concerning the recycling of electronic waste, as well as similar communications concerning toxic ingredients in children's toys concerning legislation pending in Maryland. We, in fact, had a representative from the USTR on the telephone talking to our commissioner about this, sometime last spring, and said it was all a mistake and should not have happened and would not happen again. However, it was very unclear what the corrective process would be. Subsequent to that there was a conference call which Rep. Treat participated in where Jeff Weiss referenced in this letter, was on the telephone with state legislators stating that this would not happen again, that they were changing their procedures, and repeated this at an NCSL (National Conference of State Legislators) meeting which she attended in November. Mr. Weiss stated that he was going to personally review every single communication that went out that concerns state action [or any action] to make sure it did not inadvertently include information such as in the past concerning state legislators bills. He also said something about being interested in having a state advisory process or some additional way to have states more involved to actually give the USTR what their concerns were. She does not believe that there has been any follow up to this. Perhaps, the Vermont letter is to say that this is all very interesting and we would like to know specifically what it is you have in mind. It was a very positive statement on Weiss's part and appeared to be sincere and interested in understanding how states are affected and states concerns and point of view.

Perhaps, this may be what this April 6<sup>th</sup> conference call is about how we might weigh in on what we would like to see.

Rep. Rotundo stated that she believes that Peter Riggs said something about NCSL meeting in April and talking about technical barriers to trade agreements.

Rep. Treat was thanked for her update and asked if members wanted to hold discussion today so in April at the NCSL meeting, someone will be there knowing where we stand and speak on behalf of the CTPC.

Rep. Treat advised that she will not be able to attend the NCSL meeting in April. She advised that she has been fortunate to have been able to attend the meetings in the past and stressed that it would be a good idea for someone to attend. The Commission does have a budget that allows a member to attend. To be clear, the NCSL meetings are open to nonprofit, businesses, and legislators; however, the voting is open ONLY for legislators. It is a legislative organization which requires legislator's votes. Ideally, if we could have at least one legislator attend, would be very helpful and encouraged attending.

CTPC participation is hugely important and as a legislator participating in this, enables you to talk to other legislators about the roles of the Commission, its importance, and believes that this may be one of the reasons why other states have adopted the CTPC model.

Sen. Jackson asked when the NCSL meeting is scheduled. Rep. Treat responded during April school vacation week in Washington, DC. Rep. Treat stated she would get the NCSL information and stated if anyone was interested in attending, she could provide them with lots of information.

Sen. Sherman stated he had questions regarding the VT letter and the TBA reviews. He suggested that in regards to technical barriers to trade, people need to be brought up to speed on this, especially someone who may be attending the NCSL meeting. In the second paragraph of the letter, where Weiss indicates that state legislation would be "screened out" from TBT reviews, could be problematical, how then could a state pass legislation that is screened out but in the end, China could show up with some real problems. Does not see how the screening out process would be. We've heard of a couple of cases, i.e. Mexico, already and he would like to know more about how this operates.

Sen. Jackson asked if the commission wants to send a letter to the Trade Representative to find out about the screening process.

Rep. Treat stated that the conference call might give us an opportunity to hear more about it and then make a decision as to how we want to proceed. We already sent a letter to the former USTR representative. She thinks that this VT letter is that USTR has heard our message and Mr. Weiss has offered to create a new process to ensure that things that we are objecting too and inappropriate, do not continue, but it is unclear as to what that process is. This is where the Vermont commission is weighing in to say "wait, let's hear more". The conference call will also be an opportunity for new members to learn more about it as well.

John Patrick agreed with Rep. Treat. Saying that he's [Weiss] going to do one thing and what we need to do is find out what he's going to do and where he ended up. Some of the processes we've had in the past with the USTR is poor communications.

Now that we are communicating at the start, follow through is very important on this and our relationship with national trade. We need to recognize that there is a problem and be kept in the loop as to what happens in the future.

Rep. Rotundo reminded that there are members that don't have the benefit of following the history and wants to make sure that members are feeling comfortable with actions they take and asking for clarification.

Rep. Rotundo asked if members wanted a letter written now or wait until the conference call in April and provide information at the next meeting. New members need to be comfortable with taking action.

Sen. Jackson referenced Sen. Sherman's questions regarding what they meant on screening out and agreed with Sen. Sherman.

Mike Hiltz referenced the Vermont letter and asked if it were possible to telephone Michael O'Grady who is listed in the last sentence of the letter asking for clarification.

Rep. Rotundo sensed that the commission will not take action on the Vermont letter and will wait to see if they get a response back from Vermont. She also referenced the conference call on April 6<sup>th</sup> and advised that they are always informative. Generally they receive an email from Robin Lunge giving them the specific details, date, time, telephone number and access code and an agenda of what will be discussed.

Rep. Rotundo advised members that if the conference call involves a fee to your personal telephone, please submit the bill to the Commission and they will be reimbursed.

## **VII. Discussion of 2008 Trade Act**

Rep. Rotundo advised members that Congressman Michaud's bill will be discussed at the next meeting. Between now and the next meeting, members were asked to read the bill and be prepared for discussion. The web address is [http://thomas.loc.gov/home/gpoxmlc110/h6180\\_ih.xml](http://thomas.loc.gov/home/gpoxmlc110/h6180_ih.xml)

Joseph Woodbury wanted to know what the discussion would entail.

Rep. Rotundo responded that discussion may be whether or not this is something the CTPC encourages congressional delegation to support.

Michael Herz stated that as a new member, wanted to know in the history of the CTPC, has there ever been an opportunity to look at any set of implications of trade agreements and prioritize such and is there such a document that exists.

Rep. Rotundo advised that the first three years they had subcommittees that looked into areas to develop a deeper understanding and to look in the impacts that trade agreements might have. One was healthcare, another was environment and another was labor and manufacturing. There are reports from the subcommittees on the CTPC website and by law assessments have to be done very two years on the impact of trade agreements on the states and the assessments are posted on the website. The last two were done by the Forum on Democracy and Trade where they looked at the impact on the states and other areas. Our experience was that some subcommittees were more successful than others in terms of getting work done outside the



meetings, so they disbanded them. We also weigh in with our congressional delegation on numerous areas.

Michael Herz advised that it would be useful to get briefed by a predecessor so that there would be some continuity and would be helpful.

Rep. Rotundo stated that it was a great idea and will call Elsie Flemings and ask that she contact him for briefing and getting him up to speed.

Rep. Treat stated that there may be five new members and having some type of orientation like in the past would be helpful. Possibly holding a forty-five minute segment into each meeting on history subjects such as environment, health, etc. over the course of the next year. The Vermont legislative staff has a powerpoint program and other training materials that is available for anyone and would be helpful.

Paul Volckhausen echoed what Rep. Treat said. Stated that in the past at every meeting, time was devoted for some type of presentation to educate themselves about these issues. Some members thought they knew what they were getting into and very quickly learned that they didn't. They had presentations on how trade affects different segments of the economy as well as other issues and areas. He believes they should make it part of their continuing education, specifically with the new USTR.

Rep. Rotundo thanked members for their comments and that it is appreciated. We do need the education and we will build an educational component into future meetings.

## **VIII. Discussion of Work Plan**

Rep. Rotundo reminded members that they were going to discuss the development of a work plan at the last meeting, but the agenda always seems to be full and they run out of time. She asked if members had any thoughts or suggestions for a work plan other than developing an educational component to it.

Rep. Treat reminded members that they had discussed holding an all day retreat but unfortunately, schedules and legislative meetings got in the way and new members needed to be appointed. It's a great idea to have a work plan; the problem right now is that they [CTPC] are lucky just to get everyone together to hold the CTPC meetings. It makes sense to list ideas that are priority and find the time to devote to it.

Michael Herz asked whether in the past three to four years, were there work plans.

Rep. Rotundo advised that they did have work plans but other issues would come up and they ended up focusing on those instead of what was on the work plan. Legislative issues, schedules, and trade issues that came up made it hard to stay on course and continue to do so.

The Commission is very fortunate to have Linda Nickerson from the Department of Labor assist and Curtis Bentley, who is a legislative analyst for two committees, assist us, but we do not have a permanent position to staff the commission.

John Patrick advised that part of the work plan was by law they have to hold two public hearings per year. Over the past four years, the education process was educating us, our legislators, and the public as well and to make sure that things did get done.

Sen. Sherman advised that he was new to the commission as well. He has some issues on free trade and is a member of the energy committee. He suggested that if members do have issues on free trade, to bring them forward.

Rep. Rotundo stated that it is an excellent point and asked members to bring ideas and issues forward. The first meeting had a full agenda and did not have enough time to actually talk to members on areas of interest and education.

She asked members to let the Chairs know what their areas of interests are and they will build the agenda to cover those interests.

Rep. Treat suggested devoting part of each meeting to education and that they should be able to do so. We are already in a work plan but we have not articulated it. It needs to be understood too that when USTR does something or there's some agreement pending, that changes our work plan.

Rep. Rotundo suggested that the Chairs bring to the next meeting a tentative work plan and welcome any ideas between now and the next meeting. They also welcome suggestions for speakers. They used to invite speakers to come in and address the group. If there's anyone in particular you would like to hear from, kindly let them know.

Rep. Gifford agreed that it was a good idea and he would like to have someone talk to them about natural gas and its affects.

Sen. Sherman asked Linda Pistner of the AG's office if they would be in violation of the FOI by communicating via email to the chairs.

Linda Pistner advised that it was not inappropriate and that emails are public records.

Wade Merritt stated he would like to see the commission tackle what is the adequate international trade expert development. Maine companies appear to be strong having a 9 ½% increase in exports last year. He would like to see the commission pursue to the federal delegation adequate funding for export promotion. At the federal level this is a real issue for a state like Maine which is small. A large state like Pennsylvania has a network and twenty overseas offices. Maine has none and relies heavily on companies going overseas to business meetings. This is a big issue and he would like to see the commission tackle that one.

New Hampshire and Vermont are finding themselves in the same position. Our federal counterparts in Congress are about to lose 7% of their overseas budget. Discussion followed.

Rep. Rotundo suggested that maybe she and Sen. Jackson could talk more about it later after today's meeting.

Michael Herz asked if the author of the trade bill has addressed the CTPC to make an attempt to brief them on his perspective.

Sen. Jackson responded yes. It was agreed at the last CTPC meeting to invite the new Labor Secretary to speak to us and to ask Congressman Michaud that weekend if he thought she would be willing to come. Sen. Jackson talked with Congressman Michaud who thought she [Labor

Secretary] would and extended our invitation. Both she and Congressman Michaud will be addressing the commission after she is more familiar with her position.

Rep. Rotundo also stated that Congressman Michaud has been very generous with his time to the Commission, as well as his staff, and thanked members for their suggestions. If you have interests and suggestions for speakers, let Rep. Rotundo and Sen. Jackson know.

Rep. Rotundo stated that she and Sen. Jackson will prepare a tentative draft work plan for discussion at the next meeting which will include member's interests, educational components and pieces required by law, as well as state and legislative issues.

Rep. Gifford asked about speakers and areas of expertise. Rep. Rotundo advised to let her know of areas that they want information on, they will find speakers. In the past they've had national speakers address them by being able to incorporate presentations into their schedules, especially if they happen to be in Maine.

Sen. Jackson advised members to feel free to call him at home or on his cell phone. Rep. Rotundo stated the same.

## **IX. Next Meeting**

Rep. Rotundo stated that along with scheduling the next meeting date, they will try to set aside an educational component. Meetings were originally scheduled to be held the last Friday of each month. Due to scheduling conflicts, they have had to change meeting dates time to time. They would like to schedule the meeting dates for the remainder of the year so that members can add them to their schedules and plan accordingly.

The last week in April was not a good date for member's attendance. After lengthy discussion it was determined to schedule the **next meeting for April 17<sup>th</sup>, Labor Committee Room, 9:00 a.m.**

*The following dates were established for the remainder of the year: May 22, June 26, July 31, August 28, September 25, October 30, November 20 and no meeting scheduled for December. These dates may change but members were asked to write them in on their calendar.*

## **X. Other Business**

Rep. Rotundo advised new members of the reimbursement policy for meals and mileage and to complete, sign and date their expense accounts and pass them on to she or Sen. Jackson and they will have them processed.

The NCSL meeting is being held in April 23-25, Washington, DC. If there is a legislator that wishes to attend, the commission does have some funding to pay for expenses, kindly let them know. Rep. Treat advised that there are several committees that will be looking for legislators to be appointed to. She advised that it was very important and beneficial for a legislator to get appointed to one of these committees. If anyone has questions, contact her and she will explain further.

It was asked if attendance to the NCSL needed to be voted on and Linda Pistner advised that it can be approved now or later.

In regards to Rep. Treat's legislative bill, Rep. Rotundo would like the Chairs to hold a conversation with the Governor's office so that they will know what is being discussed.

Wade Merritt advised that he notified the Governor's office of the bill and that Lance Boucher is aware of it.

John Patrick wanted to go on record that being on the commission for four years he is 100% in favor of free trade provided that its fair trade and encompasses labor environment and human rights standards and that all free trade agreements cover those.

## **XI. Adjournment**

Motion made by Sen. Sherman to adjourn the meeting. Seconded by Rep. Gifford, vote unanimous. The meeting adjourned at 11:37 a.m.

Respectfully submitted,

Linda B. Nickerson

Attachment

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49

**Citizen Trade Policy Commission**  
**Friday April 17, 2009**  
**Labor Committee Room, Augusta**

**Meeting Summary**

**Members Present:** Sen. Troy Jackson, Chair; Rep. Margaret Rotundo, Chair; Rep. Sharon Treat; Rep. Jeffrey Gifford; John Patrick; Paul Volckhausen; Linda Pistner; Michael Herz, Cynthia Phinney, Michael Hiltz; Sarah Bigney; Carla Dickstein; Leslie Manning

**Guests Present:** Peter Riggs, Forum on Democracy & Trade, via conference call; Harold Ian Emery, Calais LNG

**Staff Present:** Linda Nickerson, Dept. Labor

The meeting was called to order by Sen. Troy Jackson at 9:08 a.m., welcoming remarks and introductions were made.

**I. Update – LD 1257 “An Act to Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements.”**

Rep. Sharon Treat gave a summary of the above legislation that she submitted. The Commission created a subcommittee that met and reviewed the proposed bill, discussed it with Peter Riggs and incorporated some of his suggested language into the revision. An amendment was suggested to tweak the language so that people would understand what the terms mean such as procurement, services, investments, and non-tariff barriers to trade. Rep. Treat’s strategy is to have the support of the Commission and be able to attend the hearing with full support.

Sarah Bigney thanked Rep. Treat for sharing the information and commented on what would happen if the legislature was not in session and recalled a previous situation where the Governor was given six months to get back to them.

Sen. Jackson asked for further comments.

**Motion:**

Motion made by Cynthia Phinney to support the legislation. Seconded by John Patrick. Vote, unanimous.

Rep. Rotundo suggested that if there were members that wanted to be present when Rep. Treat gives testimony, to let her know and welcomes testimony from anyone. She also asked Rep. Treat to advise them of hearing and work session dates and times. She advised the either she or Sen. Jackson would be present at the hearing.

50 Rep. Treat advised that she incorporated several suggestions into the bill and has held  
51 conversations with the Governor's office on the bill. One of the issues is with the point people  
52 on trade issues. May be able to get Jim Nimon to attend one of our meetings as [he] expressed  
53 interest. Possibly reach out to other members on the Governor's staff.

54  
55 Rep. Rotundo advised that they recently held orientations and talked with Lance Boucher but  
56 since then, he has moved into another slot in the Governor's office which happens frequently.

57  
58 John Patrick mentioned that was a good point. The Commission has in the past had people that  
59 were familiar with international trade agreements and currently we have a governor and a  
60 congressman who are familiar with trade but who knows what can happen in the future.

61  
62 Sen. Jackson advised that the Governor has one year left which was not conveyed at their  
63 meeting.

64  
65 Sen. Jackson asked if there were any other comments.

66  
67 **II. Review/approved Minutes March 20, 2009.**

68  
69 **Motion:**

70  
71 Motion made by Rep. Treat to accept the minutes. Seconded by Michael Herz. Vote,  
72 unanimous.

73  
74 **NEXT MEETING REQUEST:**

75  
76 Rep. Rotundo advised that she received a request to change the next meeting start time, May 22<sup>nd</sup>  
77 to 8:00 a.m. and the June 26<sup>th</sup> meeting to start at 10:00 a.m.

78  
79 Members were in agreement to begin the May 22<sup>nd</sup> meeting at 8:00 a.m. and to start the June 26<sup>th</sup>  
80 meeting at 10:00 a.m. Future scheduled meetings will begin at 9:00 a.m.

81  
82 **III. Update on Sweat Free Communities and Maine's Procurement Policy – Bjorn Clausen**

83  
84 Bjorn Clausen gave an update on current activities. He wanted to bring to light the important  
85 work the State and Commission is doing right now. History: Maine is one of the first states in  
86 the nation to adopt an anti-sweatshop purchasing law back in 2001. Since then the Legislature  
87 has twice improved that law. In surveys conducted, numerous labor rights violations were found  
88 in well known plants and factories. However, we are moving towards better sweat free shops.  
89 We actually know where and what factories make specific items. The connection with this and  
90 the Commission was a trade letter written to Gov. Baldacci for information on trade deals that  
91 were being negotiated. Deals had not been finished and not available for review. Maine was  
92 asked to conduct procurement according to a set of rules which they could not read and were  
93 private. They learned that the USTR had written to Gov. McKernan to authorize the US  
94 procurement markets to the WTO partners and to commit Maine to follow procurement rules.  
95 Maine was already signed onto these rules which set off alarm bells. They found out the rules  
96 limiting Maine to take into consideration non-economic procurement and barriers to trade. Gov.  
97 Baldacci rescinded his earlier authorization to USTR to offer rules, CAFTA, trade rules, etc. In  
98 2005 they again requested authorization and Maine to sign on and threatened Maine, which lead  
99 to an uproar. USTR was facilitation an uneven playing field. As a result, only eight states  
100 signed onto the procurement rules under reciprocity. Last year, situation with USTR turned

101 around. Mr. Clausen met with the procurement representative and acknowledged the reciprocity  
102 failure and said that they would no longer push states to sign on to procurement deals. There is  
103 new language in the new trade agreements that address these issues. Mr. Clausen read an article  
104 from a Korea agreement. What this means is that anti-sweatshop purchasing is trade compliant  
105 and a big victory.

106  
107 Rep. Rotundo thanked Mr. Clausen for his update.

108  
109 Leslie Manning asked to go back to enforcement and review section.... The new USTR  
110 Ambassador Kirk stated he is very satisfied with the language in the Peru agreement and there's  
111 a lot of concern among applicants of fair trade the Peru does not set high enough standards.  
112 Question is how do we activity enforce and monitor these conditions and what were some of the  
113 egregious violations found.

114  
115 Mr. Clausen clarified that Maine is allowed to enforce its own labor standards. In answering the  
116 second question, he did not find indentured servitude and yes, did find child labor violations in  
117 the number of hours worked. He sees no improvement in wages and long working hours but has  
118 seen areas of improvement in health and safety. Workers are scared, intimidated, and it's  
119 dangerous for workers to speak up. They are pushing for companies to take responsibility on  
120 their purchasing practices.

121  
122 Michael Herz asked about centralized trade organizations, enforcement and self enforcement.

123  
124 Carla Dickstein referred back to the cooperation of states and what the standards were for  
125 companies and code of conduct and purchasing requirements.

126  
127 Mr. Clausen responded monitoring is up to this point has been done on behalf on universities  
128 setting up codes of conduction (Nike, Haiti, etc.). Universities formed a monitoring consortium  
129 and worked with different organizations making suggestions on improvements, etc. Whenever  
130 there are improvements in factories, that factory becomes less competitive because  
131 improvements made are not sustainable.

132  
133 Carla Dickstein asked if they were shifting monitoring contracts to get better prices?

134  
135 Mr. Clausen responded that will be part of the new work, but at the same time, if violations come  
136 to light, monitor needs to be sure that part of the remediation is to address how they are going to  
137 change your purchasing practices.

138  
139 Sarah Bigney asked about the sweat free consortium that Maine is a part of and how the  
140 commission could help.

141  
142 Mr. Clausen stated that Maine is part of the consortium along with Pennsylvania. The goal is to  
143 persuade other states to join.

144  
145 Mike Hiltz asked if this commission should start this type of dialog with commissions in other  
146 states.

147  
148 Rep. Rotundo stated that it was a great idea and asked for some guidance in this area.

149  
150 Leslie Manning suggested that Mr. Clausen be available to consult with at the regional meeting.  
151 As the new trade ambassador is looking for suggestions, make sure this goes to the top of the list

152 for discussion with the ambassador and his office. He's made the commitment and what we  
153 need is effective enforcement mechanisms and business incentives. If you have any  
154 recommendations on how this can be done through the USTR or future trade agreements, please  
155 advise the commission.

156  
157 Rep. Rotundo stated at the next regional meeting with New England they need to make sure it's  
158 on the agenda and Bjorn, please let us know how we can be helpful.

159  
160 Rep. Rotundo thanked Bjorn Clausen for his informative update.

161  
162 At the last meeting, they discussed the need for ongoing education for members in regards to  
163 trade. Members were asked for suggestions for people to address the commission about different  
164 areas of concerns. Rep. Gifford invited Ian Emery to talk with us today.

#### 165 166 **IV. Presentation – Liquefied Natural Gas (LNG) – Hon. Ian Emery**

167  
168 Ian Emery introduced himself and thanked members for having him today. Mr. Emery gave a  
169 power point presentation on the LNG Project in Calais. There are actually three proposals  
170 actually going on in Washington County.

171  
172 Mr. Emery gave an overview of the Calais LNG terminal site location. The proposed project  
173 will include construction of a 1,000 ft. pier with berthing for one LNG vessel; LNG receiving  
174 and associated piping facilities; send out plant and ancillary facilities; two 160,000 cubic meter,  
175 full containment LNG storage tanks, with potential expansion for a third; and a 20 mile pipeline  
176 connecting to the Maritimes and Northeast pipeline.

177  
178 The site attributes are limited abutting development – 7 miles from downtown; proximity to the  
179 Maritimes and Northeast pipeline – 20 miles; excellent turning basin with ample depth for LNG  
180 vessels; no dredging currently anticipated; relatively short 1,000+ foot pier length; topography  
181 will limit visual impacts from the land; limited lobster and commercial fishing in immediate  
182 proximity; and directly across the river from the existing Canadian industrial site.

183  
184 Mr. Emery showed the proposed shipping route and the pipeline route alternatives. Explanation  
185 of why LNG matters to Maine and New Brunswick was defined. LNG helps to ensure year-  
186 round natural gas availability, avoiding more expensive reliance on oil; LNG facility will  
187 enhance Maine's energy diversity by creating a more local and more secure supply of natural  
188 gas; LNG provides reliable energy to support manufacturing infrastructure; and natural gas is the  
189 cleanest of all fossil fuels and minimizes health issues and climate change in Maine and the  
190 Maritimes.

191  
192 Mr. Emery explained energy's impact on our economy - 80% of homes in Maine are heated with  
193 oil; oil prices almost doubled in one year; 40% of state's electricity is generated using natural  
194 gas; New England has delivery infrastructure could be insufficient by the year 2010; and  
195 potential gas shortages and rising fuel prices pose a serious threat to Maine's already struggling  
196 economy.

197  
198 They looked at Washington County and how regional unemployment rate is nearly double the  
199 statewide average: Maine 8.9%; Washington County – 13.1%. The population is trending  
200 downward despite the slight increase in overall state population.

201



202 The Calais LNG project will help Washington County by creating new jobs. Nearly 1,000 jobs  
203 created during peak construction; between 120-150 new permanent jobs once it's completed;  
204 estimated 35 tugboat related jobs; trucking; transportation jobs; spin-off jobs and benefits to area  
205 businesses, including hospitality, restaurants and retail; an opportunity for ancillary development  
206 including cold storage and local gas distribution.

207  
208 LNG will help Maine's economy by providing a much less costly source of fuel, roughly one-  
209 half the cost of oil; can be transported over existing roads and highways without the need for a  
210 costly pipeline; excess heat from large boilers can be used to convert LNG and vaporize it back  
211 to natural gas; and an LNG storage tank can be construction and shipped to a facility such as a  
212 pulp/paper mill.

213  
214 LNG has received unanimous support. Several organizations and individuals have endorsed the  
215 Calais LNG project.

216  
217 The estimated economic impact is Calais LNG project represents an \$800 million investment for  
218 Maine and Washington County. Total employment will peak at nearly 1,000 jobs during a 48-  
219 month construction period. Total earnings related to the project will rise from approximately  
220 \$5.9 million to a peak of nearly \$25 million during construction and will provide ongoing impact  
221 of approximately \$12.6 million annually.

222  
223 Once constructed, the facility will employ between 120-150 employees, including 30-40 new  
224 jobs for tug boat operators and crews. Approximately \$30 million of construction materials and  
225 supplies will be purchased from local vendors. The Calais LNG project will provide \$12 million  
226 in direct and indirect impacts throughout the Calais region. Local tax revenues from Calais LNG  
227 facility could enable the city of Calais to lower its property tax rate by 85 percent or an estimated  
228 \$2.75 million in new local tax revenue.

229  
230 The Calais LNG estimated project timeline is expected to take four years to complete and will  
231 require the review of several federal, state and local agencies before construction and operations  
232 begin.

233  
234 Mr. Emery was asked what the frequency would be of the ships going in and out. Mr. Emery  
235 responded one to one and half ships per week depending upon demand and market. (That would  
236 be two passages per ship, one up and back down.)

237  
238 Rep. Gifford asked if the tankers were similar to oxygen tankers. Mr. Emery responded that they  
239 are like a big thermos bottle and right now are already being shipped to Lewiston.

240  
241 Sarah Bigney asked if the investors were a multi-national corporation and where they are from.  
242 Mr. Emery responded that Goldman, Sachs, & Co. is a leading global investment banking  
243 corporation has businesses all over but principally in New York City. Sarah asked where the gas  
244 actually is coming from and how long is it expected to last? Mr. Emery responded that the  
245 project is dovetailed to coincide with new liquefied projects that are bringing more natural gas  
246 into the industry/market. Some gas comes from the Atlantic Basin; others could come from  
247 Trinidad, Tobago, Algeria, Norway, and Russia.

248  
249 Rep. Rotundo thanked Mr. Emery for his informative presentation and thanked Rep. Gifford for  
250 inviting him. She asked Mr. Emery if he would get back to them with answers to some of the  
251 questions posed today.

252

253 **V. Update – April 6<sup>th</sup> Conference Call**  
254

255 Sarah Bigney reminded members that about one month commissions in New England were  
256 invited to participate in a conference call to discuss issues affecting different states, how we  
257 could support each others work, or weigh in on different issues together. A regional conference  
258 call was held on April 6, 2009 where Maine was heavily represented. One area that came up  
259 during the call is the new staff person in the USTR office, Lisa Garcia, to be the Assistant Trade  
260 Representative for Intergovernmental Affairs and Public Liaison. She is the person that we will  
261 have a lot of communication with. We discussed sending a letter to her addressing a lack of  
262 transparency and state consultation issues and introduce ourselves to you.

263  
264 Sarah compiled a draft letter to Lisa Garcia which is in member’s packet and asked members to  
265 review the letter, comment, and vote on it.  
266

267 Leslie Manning suggested sending a copy to Kay Wilkie, IGPAC (Intergovernmental Policy  
268 Advisory Committee) Definition of IGPAC -Under the trade agreement apparatus there are  
269 various advisory committees through which groups like ours would have an opportunity to  
270 consult with trade representatives. In the past, it has been extremely difficult to get on to the  
271 committee and they have not had a lot of access to.  
272

273 **Motion:**  
274

275 Motion made by John Patrick to accept the draft letter to Lisa Garcia and to cc Kay Wilkie of  
276 IGPAC. Seconded by Paul Volckhausen. Vote, unanimous.  
277

278 **VI. Update - Conference Call with Peter Riggs**  
279

280 Peter Riggs, Forum on Democracy & Trade, gave an update via conference call. Peter advised  
281 that he emailed a chart late last night; therefore, it was not available. The chart describes what is  
282 controversial in the current trade negotiations.  
283

284 Questions of concern. First, asking what can we as a state affect what is within our existing  
285 scope of review or are we already preempted by federal action. This is important with respect to  
286 LNG because the federal energy regulatory commission has preempted some decisions that states  
287 may have wanted to retain themselves but; in the 2005 energy policy act, the kinds of decisions  
288 that have to do with energy supply like the LNG terminal site, states can be preempted from  
289 making those decisions. However, states can retain the power to make certain kinds of decisions  
290 with respect to LNG under the coastal management act i.e., ability to regulate access to ports,  
291 beaches, public water ways, and the like.  
292

293 Second question is do any of the trade rules impact how we administer the authority. The answer  
294 is yes which is laid out on the chart he emailed. One of the rules that could be challenged is in  
295 respect to quotas of entry. Public citizens raised this type of question. Therefore, the question is  
296 how can a state limit access into a market.  
297

298 Pre-establishment rights state at the time that we applied for a permit, the rules looked like this.  
299 You can’t change these rules between the time we applied for a permit and the time the permit  
300 was issued. There is a Maine court case *Kittery Retail vs. Town of Kittery* in which the Maine  
301 Supreme Court ruled that towns and cities can change their permit granting criteria even after a  
302 development permit has been requested so long as his hasn’t been granted.  
303

304 The third trade is regulatory necessity. Would environmental measures be seen as relevant to the  
305 services being provided. Another part of the question of necessity is whether the standards  
306 arrived at are objective. How can we tell what an objective regulation is?  
307

308 Licensing procedures and qualification requirements are other areas where state or federal  
309 governments can impose types of licensing procedures which would be potentially more  
310 burdensome.  
311

312 There is confusion where if you open up a sector to foreign investment using WTO rules, does  
313 that mean that prior to that trade commitment being made that the economic sector was closed?  
314 The answer is no; the sector was most likely opened unless there was a national security issue.  
315 Most foreign firms coming in to work on this type of business development projects have the  
316 expectation of national treatment. The reason why the trade rules are controversial is in addition  
317 to expectation that they will be treated just like a US firm, are these additional set of rights in the  
318 areas of GATS and investments.  
319

320 The LNG issue was brought to the floor by public citizens because of the proposal to open up  
321 two economic sectors as a way of solving another trade problem i.e., the US Antigua internet  
322 gambling decision. USTR moved in the direction and would like to settle the case by opening up  
323 these new sectors.  
324

325 Question is, Congress is the branch of government that has the power to regulate, at a minimum,  
326 and therefore, shouldn't USTR have to go back to Congress. We find this is rather dangerous  
327 precedence because USTR would be in a position; the executive office of the president would be  
328 in a position, of making new trade rules and trade commitments and not giving Congress a  
329 change to review those changes.  
330

331 Peter just received overnight an article regarding Geneva. The negotiations on domestic  
332 regulations in the service agreement with WTO are still ongoing and found that the Swiss  
333 delegation is holding firm and want a hard necessity test. They would very much like to see the  
334 State of Maine's ability to regulate environment for scenic which are not necessary for the  
335 supply of LNG.  
336

337 Leslie Manning asked Peter that access to LNG terminals may be a result of a settlement in the  
338 gambling case? Peter responded that LNG is implicated in this case.  
339

340 Leslie asked if it was because so many of the vessels are registered in this area or because it is a  
341 source of fuel. Peter stated it had nothing to do with Antigua. The settlement was negotiated not  
342 just with Antigua but also with nine other countries that also have interest in internet gambling  
343 (Australia, Canada and European Union). It has to do with what those countries wanted in terms  
344 of new market access.  
345

346 Sen. Jackson asked if that is what it came down to, they pick and choose. Peter responded that  
347 the US said makes us an offer and depended upon other countries response. USTR said they  
348 were going to offer these sectors anyway. Their argument is what was the big deal anyway,  
349 since they were going to make the commitments anyway. We don't know much about the  
350 internal horse trading that goes on.  
351

352 Every year a document is published called American Trade Barriers and lists everything that is  
353 unfair, etc.  
354

355 Leslie mentioned that one of their concerns is transparency. When they negotiate an agreement,  
356 is there the same concern about settlement agreements. In these settlement agreements, when  
357 they are reaching agreements on issues that are totally unrelated to the sector that's been  
358 affected, how much transparency could we demand that's under discussion for settlement?  
359

360 Peter responded that whatever happens now will be precedence. This is the first time this has  
361 happened. US withdrew from the commitment process which happened under President Bush  
362 and not much presumption of transparency at USTR. Eventually the settlement documents were  
363 obtained through Freedom of Information Act request.  
364

365 We have talked with the USTR about this commitment and they said that our fears are  
366 overblown reason being that they haven't made any maritime commitment.  
367

368 Michael Hiltz asked what Congress's action on this has been in the past, have they every voted to  
369 defer it to USTR?  
370

371 Peter recalled NCSL and other states that have anti-gambling laws were thrilled that USTR  
372 withdrew their commitment. Currently, there is nothing that requires USTR to tell Congress  
373 anything they are doing.  
374

375 Rep. Rotundo asked what the Commission could do to help.  
376

377 Peter responded they could get a statement or an update from USTR on negotiations with  
378 Antigua and the other partners regarding this settlement. There was some discussion that the  
379 Obama administration was going to start over because Antigua was rejecting the offers. A  
380 statement asking would you please come talk to us or one of our representatives about this  
381 settlement before its ratified would be a good start.  
382

383 The other issue area where the Commission has already done a lot of work on is continuing  
384 domestic regulation negotiations.  
385

386 Our job is to keep you updated on what's going on and for the Commission to continue to  
387 indicate that it's watching the domestic regulation negotiations and concerned about its impact.  
388

389 Sen. Jackson stated he was wondering what they have offered to other countries and does that  
390 close the door? Peter stated that it depends on how far they have to start over. Of the eight or  
391 nine countries which US was negotiating on the settlement, all accepted the settlement except  
392 Antigua. EU and Canada said they will take what US has put on the table.  
393

394 Michael Hiltz asked about the use of certificates of need and Peter advised that EU have objected  
395 to the use of certificates of need.  
396

397 Peter asked members to email him if they had any questions or feedback in regards to his email.  
398

399 Sen. Jackson asked Peter if he'd had the opportunity..... Jackson wrote a letter to Secretary  
400 Solice about the change in foreign labor certification from H2b classification going to H2a  
401 classification; he understands she's put a stop to it. Wanted to know if he might be able to find  
402 out if it's going to be affirmed... It's going to make a tremendous difference for those in the  
403 logging field.  
404

405

406 Peter asked Sen. Jackson if he had any sources, to kindly send them to him and he would see  
407 what he could find out.

408  
409 Leslie had a follow up question from the regional conference call in regards to opportunities for  
410 people to weigh in on the advisory groups. Would you have an update on that?

411  
412 Peter advised that the Obama administration is being extremely active, a lot going on and so far,  
413 they are not disclosing a lot of information. They want to review it first.

414  
415 During the transition Obama called for a review of the transparency policies. It also looked like  
416 they were going to look at the advisory committee structure. In the last two weeks, they've  
417 backed off from that. They want to distinguish between the two, what the functions will be, no  
418 one knows yet. The State of Vermont recently sent a letter to Lisa Garcia requesting her to  
419 participate in a meeting with them next month. The dates they gave her were between May 19<sup>th</sup>  
420 and May 21<sup>st</sup> which will give an opportunity to report out at your next meeting, May 22<sup>nd</sup>.

421  
422 Sen. Jackson thanked Peter for his updates.

423  
424 Sen. Jackson asked if there was a recommendation to ask USTR for an update.

425  
426 Rep. Rotunda stated that as a result of their conversation with from Peter Riggs, the Commission  
427 should write the USTR and ask for an update on the negotiations between Antigua and the other  
428 partners.

429  
430 **Motion:**

431  
432 Motion made by Sen. Jackson to write a letter to the USTR asking for an update in regards to the  
433 negotiations between Antigua and the other partners. Seconded by Rep. Gifford. Vote,  
434 unanimous.

435  
436

## 437 VII. Update – Water Extraction Bills – Sarah Bigney

438  
439 Sarah advised that there are a number of bills dealing with water extraction and named some: LD  
440 238, sponsored by Rep. Legg, is regarding consumer owner water utilities and contracts for  
441 water extraction and for the sale of water; LD 1320, sponsored by Rep. Webster, to establish a  
442 Blue Ribbon Commission to examine the legal and policy implications of groundwater  
443 extraction; LD 663, sponsored by Rep. Shatz to clarify a municipality's authority to pass  
444 ordinances that govern the extraction of groundwater; and LD 645, sponsored by Rep. Sarty, to  
445 provide municipal oversight and authority over ground water extraction.

446  
447 Sarah then referenced the draft letter to the Joint Standing Committee on Natural Resources that  
448 members have in their packets today (*copy attached*).

449  
450 Rep. Rotundo advised that there is a hearing this week, Sen. Jackson has in the past given  
451 general information on potential trade implications, and asked if we should have someone attend  
452 these hearings to raise issues of implications.

453  
454 Sen. Jackson advised that he will attend and deliver the Commission's signed letter to the Joint  
455 Standing Committee on Natural Resources.

456

457**VIII. 2008 Trade Act**

458

459 Due to the lateness of the meeting, Rep. Rotundo advised that they would take this up at another  
460 meeting.

461

462 **IX. Discussion – Work Plan**

463

464 Rep. Rotundo gave a list of suggested items for review and discussion.

465 a) Include educational pieces to meeting;

466 b) Tasked by statute to hold public hearings;

467 c) Need to track state and federal trade related issues;

468 d) Participate with other trade commission from the New England region;

469 e) Need to take serious our role as a resource to the legislature, congressional delegation,  
470 etc.; and

471 f) Mandated to complete an assessment on the impact.

472

473 As an agenda item for the next meeting, Rep. Rotundo suggested they discuss how they are  
474 going to do the upcoming assessment.

475

476 **X. Adjournment**

477

478 There being no further business, the meeting adjourned at 12:07 p.m.

479

480

481 Respectfully submitted,

482

483

484 Linda B. Nickerson

**Citizen Trade Policy Commission**  
**May 22, 2009**  
**Transportation Committee Room, Augusta**  
10:00 A.M. Commission Business Meeting

**Meeting Summary**

**Members present:** Rep. Margaret Rotundo, Sen. Roger Sherman, Rep. Sharon Treat, Rep. Jeffery Gifford, John L. Patrick, Michael Hiltz, John Palmer, Jane Aiudi, Cynthia Phinney, Leslie Manning, Paul Volckhausen, Joseph Woodbury, Michael Herz, Sarah Bigney, Linda Pistner and Carla Dickstein

**Staff present:** Curtis Bentley, Legislative Analyst

**1. Commission introductions**

**2. USTR visit update from Rep. Treat:**

- o Trade agreements are not clear as to whether or not prescription drugs are carved out for states regarding preferred prescription drugs.
- o Cover letter provided from meeting with Ambassador Kirk that included 4 points discussed at the meeting;
- o Lisa Garcia – contact for intergovernmental affairs that the commission may want to invite to a meeting;
- o Commission may want to think about discussing this issue further;
- o Commission voted to send a follow up letter to USTR to encourage to continue to think the lines discussed and to find someone to talk to the commission about public health at the next meeting- guest speaker

**3. Lori Wallach (conference call):**

- o GATS Antigua case update - compensation for removing the gambling sector, 6 nations lined up to get compensation.
- o Received EU settlement documents because they were completed which documents that there were 4 new service sectors to be given in compensation such as research and development subsidies and storage/warehousing that would include LNG facilities.
- o This could commit LNG storage facilities and oil/gas tank firms. Groups of states have said to USTR that this is a mistake and it should be fixed by removing “tank farms” and keep the rest of the storage facilities for solid goods - so far there has not been a response from USTR. If this goes through it would bind us to these new sectors without a legislative vote or any input from the states and may take away the federal government’s authority to regulate tank forms (LNGs).
- o Panama FTA- USTR has implied that there might be a slow down on the push to get another NAFTA style FTA in place because of legislative questions.

- NAFTA and CAFTA and the Panama agreement have special rights for foreign investors for minimum standard treatment that are greater rights than those provided to domestic investors.
- The Panama FTA may be stalled until the Administration can decide what the policy should be on new trade agreements, which means it is unlikely this will be brought up until after the June recess.
- The Trade Act is alive and should be moving through Congress.
- The commission discussed writing a letter to leave Maine the space to regulate LNG if the new commitment for this sector moves forward; the foreign investor would have new rights to challenge Maine law subject to necessary tests under WTO. If commit Commission voted to send a letter to Congressional delegation regarding the potential impact of Panama FTA on Maine and Maine's financial institutions.
- Send a letter to the President similar to the letters sent by other states to remove "tank farms" from any new commitments under the Antigua case - be clear that the commission is not taking a position on siting LNG facilities in Maine but strongly feels that the state's ability to regulate should not be impinged upon by WTO rules.

#### **4. Planning discussion:**

- Update next meeting on LD 1310 (in Natural Resources Committee) and LD 1257 (Rep. Treat's bill)
- Possible public hearing in September
- Next meeting June 26<sup>th</sup> at 10am; at that time discuss work plan for next 6 months.



**Citizen Trade Policy Commission**  
**June 26, 2009**  
**Transportation Committee Room, Augusta**  
10:00 A.M.

**Meeting Summary**

**Members present:** Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Gerzofsky, Rep. Jeffery Gifford, John L. Patrick, Michael Hiltz, Jane Aiudi, Cynthia Phinney, Paul Volckhausen, Joseph Woodbury, Michael Herz, Malcolm Burson and Sarah Bigney.

**Staff present:** Curtis Bentley, Legislative Analyst

**1. Commission introductions**

**2. Discussion on suggestions for summer meetings:**

- o Possible healthcare powerpoint presentation by Michael Hiltz to the Commission in September;
- o Possible meeting with MITC to discuss what MITC is doing and what the commission may be able to do to help coordinate efforts on upcoming issues; and
- o Commission voted (11-0) to send a letter to leadership in House and Senate to ask that someone from the Commission be appointed to the Commission to Study Energy Infrastructure.

**3. Conference call with Kim Glas on Trade Act:**

- o Trade Act review/ briefing- it has 108 co-sponsors and a number of groups that support the new trade model proposed by the bill; the Act includes a review of existing trade agreements;
- o Requested the Commission write a letter to Sen. Snowe to ask her to be a co-sponsor when it is introduced in the Senate; try to set up a conference call with Sen. Snowe to encourage her co-sponsorship of this legislation;
- o Some Commission members did not want to specifically request support for the Trade Act, but rather a general letter of support for states to be consulted and to weigh in on trade proposals – could support language that would prevent foreign corporations from having an advantage of U.S. companies; agreed to review this again at the next meeting; and
- o Commission directed staff to email the Trade Act to Commission members for their review so it can be discussed at the next meeting.

**4. House Ways and Means Committee, Subcommittee on Trade discussion.**

Commission member gave a briefing on the House Ways and Means Committee, Subcommittee on Trade's work regarding the system of trade advisory committees and how to increase transparency and public participation in the development of U.S. trade policy. The Commission voted (11-0) to reword its March 11, 2009 letter to USTR regarding advisory committees and the current system of federal-state consultation and submit the amended letter to the House Ways and Means' Subcommittee on Trade via its webpage.

## **5. Planning discussion:**

- For the Resolve relating to groundwater resources, try to see if there is a possibility for overlap with the experts performing that review and the CTPC assessment;
- Suggestion to invite Rep. Sarty to talk to CTPC about his experiences with the groundwater issues;
- Rep. Rotundo will ask the Forum if they are able to perform the groundwater review pursuant to the Resolve, as well as the CTPC assessment;
- Discussed holding a public hearing with other groups on groundwater examination; and
- Next meeting is July 24<sup>th</sup> at 9am- also schedule on this day a meeting with the Water Resources Planning Committee and the Office of the Attorney General to discuss plans for the groundwater resources review.

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

**Meeting Summary**

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

**Water Resource Planning Committee members present:** Bob Marvinney, Andrew Fisk, Jeff McNelly, Andy Tolman, Marcia Spencer-Famous, Barry Sanford, Greg Sweetser and John Harker

**Office of the Attorney General:** Attorney General Janet Mills, Linda Pistner

**Forum on Democracy and Trade:** William Waren

**Staff present:** Curtis Bentley, Legislative Analyst

**1. Introductions**

**2. Discussion of work plan:**

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

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

### **3. Scheduling:**

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

### **4. Funding**

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

### **5. Assessment:**

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

# **Citizen Trade Policy Commission**

**September 11, 2009**

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

## **Meeting Summary**

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

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

**Office of the Attorney General:** Paul Gauvreau and Peggy Bensinger

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

**Staff present:** Curtis Bentley, Legislative Analyst

### **1. Introductions**

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

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

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

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

4. **Columbia Free Trade Agreement:** Commission agreed to resubmit its February 21, 2008 letter to USTR regarding the proposed Columbian FTA as discussion on this agreement may be pending.
5. **Adjournment:** The meeting adjourned at approximately 1:30PM.

# Citizen Trade Policy Commission

October 30, 2009

Transportation Committee Room, Augusta

9:00 AM

## Meeting Summary

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

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

**Guest:** William Waren (Forum on Democracy and Trade)

**Staff present:** Curtis Bentley, Legislative Analyst

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

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

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



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

**Citizen Trade Policy Commission**

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

**Transportation Committee Room, Augusta**

**Meeting Summary**

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

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

**Staff present:** Judy Gopaul

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

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

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

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

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

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

Meeting adjourned.

Respectfully submitted,

Linda Nickerson