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**Second Annual Report of the
Citizen Trade Policy Commission**

November 2006

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Table of Contents

	Page
Executive Summary	i
I. Introduction	1
II. Meetings	1
III. Public Hearings	3
IV. Commission Actions	4
V. Subcommittees	6
VI. Agenda for Next Year	7

Appendices

- A. Authorizing Legislation; Public Law 2003, chapter 699
- B. Citizen Trade Policy Commission Membership List
- C. Citizen Trade Policy Commission Meeting Summaries
- D. Transcript of Christina Sevilla, Director for Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative testimony before the Citizen Trade Policy Commission
- E. Citizen Trade Policy Commission Public Hearing Summaries
- F. Citizen Trade Policy Commission's June 16, 2006, letter to the Office of the United States Trade Representative regarding domestic services under the General Agreement on Trade in Services
- G. Office of the United States Trade Representative July 10, 2006 letter to the Citizen Trade Policy Commission responding to the Commission's June 16, 2006 letter
- H. Citizen Trade Policy Commission's Contract for Services with the Forum on Democracy and Trade to conduct its 2006 assessment
- I. Vermont's draft Joint Senate Resolution relating to international trade agreements and pharmaceutical drug programs.
- J. Citizen Trade Policy Commission's June 19, 2006 letter to the U.s. Department of Commerce regarding appointments to advisory committees to the Office of the United States Trade Representative

- K. Office of Policy and Legal Analysis's document identifying border/trade issues considered by legislative committees during recent legislative sessions.
- L. The Citizen Trade Policy Commission's letter correspondence with federal and state officials working to coordinating activities regarding trade related issues.

EXECUTIVE SUMMARY

The Citizen Trade Policy Commission (Commission) was established during the Second Special Session of the 121st Legislature by Public Law 2003, chapter 699, to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. Public Law 2003, chapter 699 requires the Commission 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. This document is the Commission's 2006 annual report.

Public Law 2003, chapter 699 directs the Commission to hold at least two annual meetings and two annual public hearings to solicit public testimony and recommendations from Maine citizens and qualified experts. The Commission initially convened on October 6, 2004, and held eight meetings and two public hearings before June of 2005 (See First Annual Report of the Citizen Trade Policy Commission, November 2005).

During this current reporting period, the Commission held 6 meetings and 2 public hearings between September 30, 2005 and June 2, 2006. The Commission held all of its meetings at the State House in Augusta, Maine. On November 21, 2005, the Commission held a public hearing in Houlton, Maine and another in Lewiston, Maine on May 11, 2006. As a result of those meetings and public hearings, the Commission took the following actions:

- Met with and worked directly with the Office of the United States Trade Representative's (USTR) to establish a direct and open dialogue to maximize the ability of the Commission to convey the concerns of Maine's citizens to USTR in a timely and effective manner.
- Worked with Maine's Congressional Delegation, the Governor's Office, Maine's State Point of Contact and USTR to improve and expand the consultation process with USTR and Maine officials regarding international trade negotiations.
- In conjunction with the Forum on Democracy and Trade developed and conducted the Commission's 2006 annual assessment.
- Provided USTR with policy recommendations during the most recent round of the World Trade Organization's (WTO) Working Party on Domestic Regulation (WPDR) negotiations on rules implementing a provision of the General Agreement on Trade and Services (GATS) dealing with the domestic regulation of services.
- Established a legislative outreach subcommittee to better inform Maine's Legislature about trade related issues.
- Opposed the adoption of the proposed rules by the Department of Homeland Security pursuant to the Intelligence Reform and Terrorism Prevention Act that would require U.S. citizens and nonimmigrant aliens to present a passport or alternative form of documentation approved by the department in order to enter the United States from Canada.

- Supported the National Legislative Association on Prescription Drugs Prices' nomination of Sharon Treat to two USTR advisory committees.
- Began exploring possible funding sources to support an executive director position within the Commission.
- Requested that the Office of Policy and Legal Analysis identify bills from recent legislative sessions that may have trade implications and provide a list to the Commission.

In its first year of existence, the Commission created three subcommittees to focus on the broad policy areas of natural resources/environment, healthcare and labor/economic development for analysis. These subcommittees' continued to support the Commission's work throughout the period of this report by analyzing complex areas of international trade and reporting their findings to the full Commission.

Over the next reporting period, the Commission will work to maintain and improve its existing relationship with federal and state officials and to establish a network with other states entities similar to the Commission to enhance the role of Maine and other states in the negotiation of trade agreements. As part of its educational efforts, the Commission will work to ensure Maine legislators are informed about the potential benefits and pitfalls of existing trade agreements. Additionally, the Commission will continue with its analysis of the three major policy areas identified previously and seek to mitigate the adverse impacts some sectors in Maine are experiencing through on-going dialogue with federal and state officials and when practical, legislation.

I. INTRODUCTION

The Citizen Trade Policy Commission was established during the Second Special Session of the 121st Legislature by Public Law 2003, chapter 699. A copy of the law is attached as **Appendix A**. The 22-member Commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Department of Economic and Community Development, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and ten public members representing business, labor, health, government and environmental interests. The Commission membership roster is provided in **Appendix B**.

The Commission was established to provide an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. Specifically, the Commission was charged with the following duties:

- 1) To assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment;
- 2) To provide a mechanism for citizens and Legislators to voice their concerns and recommendations;
- 3) To make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impacts of trade agreements; and
- 4) To establish and maintain a communication link between local, state and federal agencies and the public.

Public Law 2003, chapter 699 requires the Commission to hold at least two meetings and two public hearings annually to solicit public testimony and recommendations from Maine citizens and qualified experts. The Commission is also required 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. The Commission issued its first annual report and assessment in November, 2005. A copy of that report can be obtained through the Office of Policy and Legal Analysis or online at www.maine.gov/legis/opla/reportsnew.htm.

II. MEETINGS

During this 2005-2006 reporting period, the Commission held six meetings on the following dates: September 30, 2005; October 28, 2005; December 2, 2005; January 6, 2006; March 24, 2006, and June 2, 2006. Summaries of these meetings are attached as **Appendix C**. In general, the Commission used these meetings to establish an open dialogue with USTR to discuss on-going trade negotiations, to continue exploring the

impact of international trade on Maine's businesses, labor force, healthcare system and the environment and to coordinate its efforts with Maine's Congressional Delegation, state officials and other entities involved with international trade. During this reporting period the Commission had the following guest speakers attend its meetings:

- Christina Sevilla, Director for Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative. Ms. Sevilla provided the Commission with a case in general for international trade and then discussed what trade agreements do and don't do regarding local and federal regulation, procurements and investment rules and discussed USTR's consultation process with states. Martha Spiess provided the Commission with an audio recording of Ms. Sevilla's comments and a transcript of that audio is attached as **Appendix D**.
- Thea Lee, Chief International Economist/Policy Director, AFL-CIO. Mr. Lee presented information on the impact of trade policies on the state and national economy and noted the difficulty in isolating the economic impact of trade agreements because there is no standard agreed upon tool for measuring the effects.
- Staff of USTR (Christine Sevilla, Lewis Coress, Jean Grear and Chris Melly) all participated in a conference call with the Commission to discuss trade related issues such as GATS timetables, immigration issues, financial services, gaming commitments, consultation with states, domestic regulation of services, procurement, and worker's rights.
- Perry Newman, President of the Atlantica Group, an international consulting group, provided an overview of what the Atlantica Group does to facilitate international trade and stated that trying to slow the rate of international trade would ultimately fail and lead to a stagnation of the economy. Mr. Newman stressed that Maine must continue to increase its competitiveness in the global market.
- Peter Riggs from the Forum on Democracy and Trade, a non-profit organization based in New York, New York, met with the Commission in person and by conference call on numerous occasions to provide timely and invaluable trade related information and worked with the Commission to develop and conduct its 2006 assessment.
- Alan Stearns, Senior Policy Advisor to Governor Baldacci updated the Commission on the Governor's activities regarding trade related matters including the Governor's responses to ongoing negotiations of the General Agreement on Trade and Services at the World Trade Organization and to a USTR request for reciprocity on state government procurement components of trade agreements being negotiated with Panama and Andean countries.
- Commission members Rep. Carr and Mr. Peter Connell briefed the Commission on inequities between Canada and U.S. businesses and provided examples of these inequities in the modular home, logging, dairy, trucking, cement and potato industries.

- Sharon Treat, Executive Director of the National Legislative Association on Prescription Drug Prices presented information about a legislative working group on prescription drugs and trade. Ms. Treat presented the Commission with a draft of a Vermont resolution calling on USTR to form guidance on the definition of a “federal care program” under Annex 2-C of the United States-Australia Free Trade Agreement and asked the Commission to endorse Vermont’s model legislation and to advise Maine’s Legislature to come forward with a similar resolution.
- Commission member Linda Pistner, Chief Deputy Attorney General briefed the Commission on her participation in the National Association of Attorneys General national meeting and provided an overview of the status of legal challenges under trade agreements to local laws.
- Wade Merritt, Director of the Bangor office of the Maine International Trade Center (MITC) provided information about MITC’s position on the new passport requirements for U.S. citizens entering the United States from Canada.

III. PUBLIC HEARINGS

Over this reporting period the Commission also held two public hearings, one at the Houlton Southside Middle School in Houlton on November 21, 2005, and a second at Andover College, Lewiston on May 11, 2006. In general, the hearings were designed to solicit information from the public about both the positive and negative affects international trade agreements are having on Maine’s economy, labor force, healthcare and environment. In particular participants were encouraged to provide testimony about the impact trade agreements are having on business, labor the environment and democracy and requested input on what future trade agreement should include. The Commission also asked the public to comment on the creation of a national trade commission to vet trade related issues among all states. Summaries of the testimony received at the Houlton and Lewiston public hearings are attached as **Appendix E**. Additionally, DVDs of the Lewiston public hearing and the Bangor (February, 2005) and Portland (April 2005) public hearings are housed in the Office of Policy and Legal Analysis courtesy of Martha Spiess. Summaries of the Bangor and Portland public hearings are available in the Commission’s November 2005 annual report.

The Houlton hearing was attended by approximately 20 people and the Lewiston hearing was attended by approximately 45 people. Similarly to prior public hearings, the testimony was decidedly negative regarding the impact trade agreements are having in Maine. However, a number of participants stated that many Maine businesses benefit from global trade and more would if Maine became more aggressive in marketing Maine products in foreign markets.

In addition to general statements about the negative consequences trade agreements, particularly NAFTA, are having in Maine, participants provided specific

examples in agriculture (dairy and potatoes), healthcare and labor. The Commission used public input from these hearings as part of its discussions with USTR, Maine's Congressional Delegation and state officials about on-going trade negotiations. As a result, Maine was able to present a united front to USTR thereby enhancing the state's influence over on-going trade negotiations. (See section on Commission Activities for more details). Based in part on testimony received at these public hearings, the Commission developed the blue print for its 2006 assessment to create a strategy that will allow the state to better deal with on-going trade issues including issues identified at public hearings.

The Commission will continue to hold at least two public hearings annually in different geographic regions of the State as these hearings are an essential vehicle for the citizens of Maine to convey their concerns and ideas to the Commission and vis-à-vis to other state and federal officials.

IV. COMMISSION ACTIONS

In addition to activities previously discussed, the Commission engaged in the following activities:

1. The Commission voted unanimously to oppose the adoption of proposed rules by the Department of Homeland Security pursuant to the Intelligence Reform and Terrorism Prevention Act that would require United States citizens and nonimmigrant aliens to present a passport or an alternative form of documentation approved by the Department in order to cross the border from Canada. Currently, U.S. citizens and nonimmigrant aliens do not need to present a passport to enter the United States from Canada. The Commission opposed the new requirements because of concerns that the new requirement may unduly impede business and tourist activities between Maine and Canada while having a negligible impact on potential terrorism. The new requirements will take effect on January 1, 2008.
2. On June 16, 2006, the Commission communicated by letter its concerns to USTR regarding ongoing GATS negotiations for the adoption of rules pertaining to the regulation of domestic services. A copy of the letter to USTR is attached as **Appendix F**. The World Trade Organization's Working Party on Domestic Regulations (WPDR) was developing binding rules to implement GATS' Article VI. 4 requirements that a service regulation is "not more burdensome than necessary to ensure the quality of service." Previously the Commission had expressed concern that the creation of a test for "burdensomeness" or "necessity" would result in a standard for states that is more restrictive than the "rational basis test" provided for under federal law. Unfortunately recent proposals circulating within WPDR to define the GATS Article VI 4 language would create a standard of "national policy objectives" thereby potentially restricting the ability of states to adopt standards differing

form those at the federal level. In its letter the Commission urged USTR to reject that proposal or any proposal that would include a “necessity” or “burdensome” test. Instead, the Commission recommended that USTR seek the broadest possible definition of “quality of the service” to maintain the right of states to regulate all aspects of a service within its borders. Additionally, the Commission stressed that USTR had not been addressing concerns raised by the Commission and the Governor’s Office on a timely basis and requested that a USTR representative brief members of the Commission on current WPDR negotiations as soon as possible. Since the Commission’s communications with USTR, the WPDR has suspended its activities related to GATS, Article VI. 4 and USTR has agreed to meet with the Commission at its next meeting. A copy of USTR’s letter is attached as **Appendix G.**

3. The Commission developed and adopted a “blue print” for its annual assessment and voted unanimously to contract with the Forum on Democracy and Trade to conduct the Commission’s annual assessment pursuant to that blueprint. ¹A copy of the contract and blueprint are attached as **Appendix H.**
4. The Commission voted unanimously to endorse Vermont’s model legislation requesting that USTR provide guidance on the definition of a “federal care program” under the United States-Australia Free Trade Agreement and to advise Maine’s Legislature to come forward with a similar resolution. A copy of Vermont’s Resolution is attached as **Appendix I.**
5. The Commission voted unanimously to support the National Legislative Association on Prescription Drugs Prices’ nomination of Sharon Treat to the Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services and the Industry Trade advisory Committee on Intellectual Property Rights that advise USTR on public health and healthcare matters. A copy of the letter of support is attached as **Appendix J.**
6. The Commission polled committee staff of the Office of Policy and Legal Analysis for any bills from recent legislative sessions that may have trade implications. A copy of the responses is attached as **Appendix K.**
7. As provided for by PL 2003, chapter 699, the Commission began exploring possible funding sources to support an executive director position within the Commission.

¹ Public Law 2004, chapter 699, provides that the Commission’s annual report include the Commission’s annual assessment. However, because the Commission is conducting this year’s assessment in conjunction with the Forum on Democracy and Trade, the Commission decided to release the report and assessment as separate documents. The assessment is scheduled to be released in early December, 2006.

8. Continued to work with Maine's Congressional Delegation and the Office of the Governor to coordinate efforts in addressing trade issues. Correspondence is attached as **Appendix L**.

V. SUB-COMMITTEES

During its first year of existence the Commission chose to focus on three broad policy areas natural resources/ environment; healthcare and labor/economic development. Additionally, the Commission established a legislative subcommittee to work with the other three policy subcommittees and the full Commission to assess the need for potential legislation and to draft language when appropriate. The Commission assigned members to subcommittees based on their expertise and interests and directed the subcommittees to focus on the development of a long-term work plan, tracking and analysis of trade agreements, functional roles in Maine and to identify issues that may require legislative action to resolve.

Also during its first year of existence, the Commission formed a legislative education subcommittee to develop overall goals and strategies to determine if and when legislation may be necessary and/or appropriate in order to take full advantage of trade agreements while minimizing any negative impacts on the State.

On October 28, 2005, the Commission reviewed its subcommittee structure and focus and agreed to continue with that structure but partially modified their areas of focus. In addition to the other subcommittees, the Commission established a legislative subcommittee to focus on providing relevant trade information to legislative committees and individual legislators in a timely manner to raise awareness about the implications of current trade agreements on the legislative process and how these agreements are affecting their constituency. Typically, subcommittees held meetings in conjunction with the Commission and reported their activities, findings and recommendations to the Commission for its consideration and action.

During this reporting year, the subcommittees continued to work on specific trade topics relevant to Maine but focused their research on the following areas:

- Healthcare Subcommittee: Health insurance commitments under GATS, nurse licensing standards, drug importation and preferred drug list pharmaceuticals, provision of health insurance, and the licensing of health-care officials and facilities;
- Labor/Economic Development Subcommittee: Government procurement; foreign direct investment and a review of current NAFTA/WTO trade issues and disputes with Canada;

Natural Resources/Environment Subcommittee: Current Farm Bill and WTO decisions, water withdrawal services, land use zoning and bulk storage of fuels and pipelines in light of GATS commitments and investment challenges.

In addition to these areas, subcommittees worked and continue to work on developing a model trade agreement that provides a positive vision of what should be in future trade agreements.

VI. AGENDA FOR NEXT YEAR

The Commission will continue to monitor trade negotiations over the next reporting period and strive to maintain and enhance its communications with USTR, Maine's Congressional Delegation, state officials and other states' trade related organizations to promote the adoption of trade agreements that are most advantageous to the citizens of Maine and other states. The Commission will hold regular meetings and at least two public hearings in divergent areas of the state over the next reporting period. As part of its educational efforts the Commission will work to ensure Maine legislators are informed about the potential benefits and pitfalls of existing trade agreements.