

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
Rep. Jeff McCabe
Rep. Bernard Ayotte

Robert Umphrey
Stephen Cole
Michael Herz
Dr. Joel Kase



John Palmer
Linda Pistner
Harry Ricker
Jay Wadleigh

Ex-Officio
Mike Karagiannes
Wade Merritt
Pamela Taylor

Staff:
Lock Kiermaier

STATE OF MAINE

Citizen Trade Policy Commission

February 24, 2014

The Honorable Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Negotiations in the TTIP concerning procurement provisions affecting sub-central governments

Dear Ambassador Froman:

The Maine Citizen Trade Policy Commission (CTPC) is established in Maine State Law “..to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.” In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of February 24, 2014 to submit this letter to you indicating our concerns over possible measures in the Transatlantic Trade and Investment Partnership (TTIP) that could undermine our efforts to rebuild local food systems that are healthy, fair and sustainable, and the possibility that European Union officials are directly reaching out to state governments seeking their agreement to be bound by procurement provisions under consideration in the TTIP.

Current Maine law (10 MRSA §13) requires that if the U.S. government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may only bind the State or give consent to the U.S. government to bind the State after consultation with the CTPC and the Legislature’s approval. In addition, Maine has specific procurement administrative rules (Bureau of General Services, Ch. 130; <http://www.maine.gov/sos/cec/rules/18/chaps18.htm>) for textiles and footwear prohibiting purchasing of goods that do not comply with certain fair labor, equal rights, and health and safety standards.

Citizen Trade Policy Commission
c/o Office of Policy & Legal Analysis
State House Station #13, Augusta, ME 04333-0013 Telephone: 207 287-1670
<http://www.maine.gov/legis/opla/citpol.htm>

In addition, the State of Maine and many local governments have proactively promoted “Buy local” and “Maine Made” programs including Farm to School, Farm to Hospital and other initiatives aimed at sourcing healthy, local and regional foods into institutions as a way of enhancing nutritional and other health outcomes for consumers, supporting local economies, and improving farm profitability. We oppose any provisions in the TTIP that would limit preferences in public procurement programs for healthy, locally grown foods.

We are concerned that proposals being advanced in the TTIP negotiations could restrict or even eliminate criteria that favor local or regionally-grown foods as “localization” barriers to trade. We understand that the EU is pushing for procurement commitments in the trade agreement at all levels of government, including municipal, state and federal contracts. These commitments could open these publicly funded contracts to bids from EU firms, and could restrict the kinds of criteria that local communities deem important in making those decisions. We understand from public reports that the EU is insisting on procurement commitments that “go beyond” those already agreed to in the multilateral Government Procurement Agreement (GPA), which currently includes 37 U.S. states.

While the U.S. excluded “procurement of any agricultural good made in furtherance of an agricultural support program or a human feeding program” from its commitments under the international GPA, the EU has stated clearly that it would like to achieve new commitments in this agreement on goods and services not already covered in the GPA, as well as its goal to, “[e]nsure that rules on off-sets/set asides or domestic preferences such as, but not limited to, Buy America(n) and SME [Small and Medium Enterprise] policies, do not restrict procurement opportunities between the EU and the U.S.”

The fact that the U.S. and EU have refused to publish negotiating texts -- which is accepted practice at the World Trade Organization and other multilateral negotiations -- means that we are compelled to consider what might be at risk under this accord. We do not know which sectors might be included, whether bidding criteria designed to promote social, environmental, economic, health and other public goals could be threatened, or even how decisions would be made – or by whom – on whether states or cities are included in procurement commitments in the trade agreement. We urge you to immediately publish negotiating texts on these and other important issues in the trade agreement to foster an informed public debate.

We also wish to bring to your attention the possibility that EU officials are directly contacting state governments seeking commitments to be bound by the procurement provisions in TTIP before these provisions have even been decided upon or made public. Although we do not know of any Maine officials being contacted by EU officials, members of the CTPC have been told that such contacts may be occurring between the EU and officials in other states. If this activity is in fact taking place, it would be highly inappropriate. Any requests to bind state governments should come from our own federal government after informing the Intergovernmental Policy Advisory Committee (IGPAC) that such outreach is planned.

That said, we have been repeatedly assured by USTR negotiators that the US is not seeking to bind sub-central governments in the procurement chapter without their approval, a position that we support. We are asking by means of this letter that you confirm that this understanding is correct. Further, we ask that you insure that any outreach to states and local governments concerning the procurement chapter will be conducted between the federal government and sub-

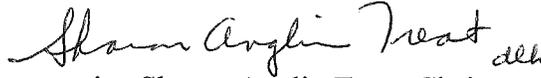
central governments and involve notification of and consultation with IGPAC, and will not involve direct EU to state government contacts.

We would welcome opportunities to discuss these issues with you and hope for an open dialogue based on concrete information and consultation.

Sincerely,



Senator Troy Jackson, Chair



Representative Sharon Anglin Treat, Chair

cc:

Senator Susan Collins

Senator Angus King

Representative Michael Michaud

Representative Chellie Pingree

Kay Wilkie, IGPAC Chair

Rebecca Rosen, Director of Intergovernmental Affairs and Public Engagement, USTR