

Appendix D

Citizen Trade Policy Commission Public Hearing Summaries

Citizen Policy Trade Commission
Summary of Public Hearing Testimony
Husson Business College, Bangor
February 3, 2005

I. TESTIMONY BY TOPIC

Democracy Issues

- Civil governments are taking second place to a system of corporate power and trade tribunals under CAFTA
- CAFTA will erode basic democracy and local sovereignty and control, as well as the systems of protection of our health, environment and economic security
- Trade agreements are based on the premise that most government regulations are "nontariff" barriers to trade; this creates a fundamental challenge to local and state democratic authority; Maine will not benefit from these treaties, only multinational corporations
- Trade agreements are considered Trade Promotion Authority(Fast Track) legislation that allows the President and US Trade Representatives to negotiate a trade deal and force it on Congress, unaltered, for a yes or no vote with no ability for Congress to amend it; this process limits the democratic process; public participation is limited in these circumstances
- Negotiations for trade agreements are being done without the input of citizens from here and abroad who are the ones being impacted by those agreements

Maine Jobs/Economy

- At 163 locations across Maine over 11,630 workers have been laid off
- Verizon Communications has been forced by the Free Trade Agreements to accept lower pay and pensions for operators hired after 1999 in order to keep the jobs in Maine
- Potential impact of trade agreements on the "Poland Spring Water Use Agreement" with the State of Maine
- Procurement rules in CAFTA undermine a state's ability to exercise purchasing preferences to promote local economic development or the conservation of natural resources
- International trade agreements such as CAFTA, NAFTA and GATT would make it possible for global corporations to override local controls on development, zoning and planning
- Impact of job losses on care of children; families can no longer afford quality child-care for their children because of job losses due to trade agreements
- Erosion of Maine manufactured products and jobs due to cheap imports of items from other countries, including furniture (impact on forest industry in Maine)
- Free trade agreements are negatively effecting Maine's pulp and paper industry; IP already has operations in more than 40 countries and sells its products in more than 120 nations
- Trade agreements have created nothing but stagnant incomes and rising inequality; NAFTA has been a disaster for Maine, costing the people of Maine nearly 24,000 high

paying manufacturing jobs in the last 10 years; American corporations are often forced to compete with foreign corporations who are not held to the same labor or environmental standards

Labor Issues

- Commercial rights have more power than labor rights under CAFTA
- Entry of Canadian workers into the US as business visitors to set modular homes violates NAFTA and US immigration law. Canadian workers are going beyond status granted to them and are engaging in building or construction work that otherwise would be available to US labor force
- Maine representatives should demand the creation and enforcement of fair laws that will govern all workers under NAFTA before duplicating their mistakes with CAFTA (i.e. inequitable pay and child labor)

Healthcare/Pharmaceuticals

- US-Australia Free Trade Agreement (section 2, transparency) potential impact on U.S. Medicare/Medicaid programs
- US-Australian Free Trade Agreement impact on prescription drug prices for US and Australian consumers; agreement could block the importation of less expensive drugs into the US; higher prices for drugs under the Medicaid program and VA health services
- Inclusion of test data secrecy/market exclusivity provisions in the FTA will slow the introduction of generic drugs, decrease competition, raise prices and hinder access to lifesaving medicines in the Dominican Republic-CAFTA countries (erodes countries' protections under the Douha Declaration).
- Healthcare is considered a service and can be regulated by trade agreements
- Under CAFTA, "Non-tariff barriers to trade" can be interpreted to mean that private companies can demand access to provide, for profit services; that are currently administered by the government; this provision of CAFTA could impact the Maine RX law and Dirigo Health insurance program

Libraries

- Public libraries may be subject to the same market access rules as private sector businesses under trade agreements (libraries should not be considered key players in our economic system and should not be subject to market access, national treatment and most-favored nation rules)

CAFTA/NAFTA

- Petition submitted to US Congress by 800 delegates representing five hundred social organizations at the Meso-American Forum on Free Trade Agreements held in San Salvador, El Salvador in July of 2004 in opposition to CAFTA because they believe it will benefit only the most wealthy and powerful in their countries at the expense of the majorities of their population
- Some of CAFTA's provisions are alarming: violation of people's democratic right to enact laws protecting their own health and safety; privatization of government services, including water supplies and fair-labor standards are not enforced

- CAFTA has been revised and no longer includes sanctions for violations of labor standards; CAFTA does not encourage countries to treat their workers better
- NAFTA Chapter 11 gives corporations the rights to sue for damages if they believe they have been hurt by the action of government; this provision challenges democracy
- CAFTA is worse than NAFTA because the definition of "investment" over which a corporation can sue is broader under CAFTA than NAFTA; tribunals can accept appeals directly from a corporation even if a country has not approved the appeal; tribunal proceedings are secret and the public can not see what decisions are made
- CAFTA/NAFTA/FTAA are organizations directly linked to the WTO; WTO is an organization designed by representatives of multinational corporations who have no allegiance to any nation and have no regards for the welfare of common local people; when laws of individual member nations came into conflict with laws of the WTO, they have to submit to the WTO, even against the will of the local people
- Petition submitted by Midcoast Maine citizens demanding that NAFTA be eliminated and that the US and member countries return to bilateral trade as it had before NAFTA was created
- CAFTA will not help the majority of people in Central America, only four groups will benefit; importers of basic grains, private owners of companies that sell electricity, telecommunications and transportation services, developers of assembly plants and banks that charge Salvadoran émigrés 25 cents on every dollar they send back home
- CAFTA prohibits numerical limits on harmful service activities, zoning restrictions based on size or density, restrictions on harmful services such as waste incineration, energy extraction or tourism

Environment

- CAFTA's Chapter 17 provision dealing with protecting the environment are toothless and mostly unenforceable provisions
- CAFTA's new investment provisions give foreign corporations more rights than does NAFTA to challenge laws that protect our health and environment; multinational corporations could sue taxpayers for cash damages if they feel that environment or public health laws interfere with their profits
- Impact of trade policies on the independence of state action to experiment with ways of improving the well being of our people and environment

Agriculture

- CAFTA could devastate small farmers in both the U.S. and Central America; elimination of an effective price floor would force down market prices, allowing corporate agribusinesses to sell their products at well below cost
- CAFTA would open the door to imports into the US of crops that would threaten small farmers and devastate rural Maine communities
- Free trade agreements have adversely affected Maine potato farmers; can not compete with Canadian farmers because the playing field is not level under the trade agreements; Canadian potatoes come into Maine duty free and are priced below Maine potatoes

General Comments

- We need international trade and investments, but they should be governed by fair and equitable trade policy
- Trade treaties threaten to making privatizing the US Social Security system much more difficult and costly to reverse

II. REQUESTS MADE OF COMMISSION BY SPEAKERS

Government procurement

- What is at stake for Maine if we commit to government procurement deals in new trade agreements?

CAFTA/NAFTA

- Will we the people have the power to elect and discharge the members of the trade tribunals where trade disputes will be heard?
- Which body of law will govern these tribunals?
- Do the investment rules contained in CAFTA Chapter 10 and NAFTA Chapter 11 get in the way of Maine renegotiating the terms of the Nestle water agreement?
- What will be the impact of the WTO recent ruling that US laws restricting internet gambling violate the GATTs service treaty have upon Maine's revenues generated from gambling (racinos)?
- Commission should investigate the possibility of ensuring that all measures that affect Maine's public library system are placed beyond the reach of CAFTA, proposed FTA and negotiations to expand GATTs.
- What will be the impact of CAFTA on the majority of people in Central America and who will win and who lose in Maine?
- What are the potential ramifications of trade treaties on the President Bush's social security privatization proposal?

Healthcare

- Investigate and raise questions about whether Maine people really benefit by having healthcare services covered, under any specific trade agreement. If a trade agreement does not benefit Mainers, can state healthcare policies be taken out of trade agreements? If not, what other avenues of recourse exist?

Other

- What are the impacts that the Andean Free Trade Agreement will have on Maine, as well as Ecuador, Columbia and Peru? Who will benefit from this trade agreement?

III. RECOMMENDATIONS FOR IMPROVING TRADE AGREEMENTS

Democracy /Federalism Issues

- Support Representative Michaud's bill to repeal Trade Promotion Authority
- Oppose current investor-state dispute provisions (Ch 10 of CAFTA):
 - Governments should not be able to be sued without their consent

- The public should be allowed to examine all records of all tribunals
- Tribunal judges should be appointed by governments
- Tribunals should not have authority to override the decisions of supreme courts of countries
- Corporations should not be able to challenge non-discriminatory environmental and consumer protection laws
- Foreign corporations should not be granted greater rights than domestic corporations
- Have an exchange of letters:
 - That clarifies ability of governments to set environmental, health etc. regulations and that these decisions cannot be challenged in a tribunal
 - That clearly and narrowly defines “tantamount to expropriation” to not include non-discriminatory environmental, health-related, or security motivated decisions by competent authorities
- USTR should keep state legislators informed about trade agreements, can use NCSL as a resource
- Negotiations of international trade agreements should be public information
- Citizens should be given the opportunity to provide input on trade agreements during negotiation

Procurement

- Government procurement policies such as living wage laws, anti-sweatshop policies, “buy-local” preferences, and human rights procurement legislation must be protected
- Maine should not bind itself to government procurement rules of CAFTA

Labor / Economic Development

- Preserve Maine’s ability to set zoning restrictions based on size and/ or density
- Labor rights in CAFTA should be more robust, set high international standards, not just local laws
- ILO’s Core Conventions of labor rights should be linked to trade in the way that intellectual property rights have been through TRIPS
- Labor provisions should be enforceable
- Fines of labor violations should not be capped at \$15 million
- There should be oversight of countries’ payment of fines so that the money goes to improving labor standards
- Fines that countries pay for labor violations should be paid to an international fund to relieve poverty in developing nations, not to government where violation took place
- Support right to unionize overseas

Agriculture

- Maintain FDA regulations
- Price floors should not be eliminated when it forces prices below the cost to produce and hurts small farmers
- US agricultural subsidies to corporate agribusinesses should be eliminated
- Ensure Canadian compliance with NAFTA regulations re: potato importation

- Oppose US importation of sugar

Environment/ Natural Resources

- There should be an exchange of letters that clarifies that Parties of NAFTA and CAFTA have the right to make environmental regulations that are necessary to protect human life and health and that this decision shall be taken by competent authorities in that country and that tribunals cannot override these regulations
- Preserve Maine's ability to set environmental regulations:
 - emissions caps and trade with lower emissions producers
 - prohibition of waste incineration
 - phasing-out of arsenic treated lumber
 - numerical limits on harmful service activities, energy extraction, and tourism
 - government purchase of recycled materials, clean cars, and electricity from alternative energy sources (biodiesel)
- Make environmental regulations of CAFTA enforceable
- Strengthen environmental provisions of CAFTA beyond simply "strengthening *capacity* to protect the environment"
- Provide funding to help Central American countries enforce environmental regulation
- Oppose privatization of drinking water (which the EU is pressuring the US to do); i.e. don't list drinking water as a service covered under GATS
- Don't prohibit people from collecting rain water for personal use
- Address the issue of invasive species of animals, insects and plants

Healthcare/ Pharmaceuticals

- Intellectual property rights should not restrict ability of governments to make generic drugs available in case of public health crises
- Oppose "test data" secrecy/ pharmaceutical market exclusivity provisions in CAFTA which effectively prohibit generic competition to brand name drugs for five years
- Oppose extension of patent rights of pharmaceutical drugs to 25 years
- Make sure that trade agreements don't interfere with:
 - drug re-importation policies
 - Dirigo Health Plan
 - Maine RX
 - Medicare

Essential services

- Governments should be allowed to choose which services to bid for, instead of the current policy in which they carve out certain services
- Libraries should be protected from market access rules of trade agreements even if they do charge small fees to cover basic costs

Modular Homes

- Enforce NAFTA regulations at US-Canadian border to prohibit the entry of Canadian drivers as business visitors to set modular homes

General Suggestions

- Vote against CAFTA
- Get rid of NAFTA
- Withdraw from WTO / support it's abolishment
- Support only bilateral trade agreements

**Citizen Policy Trade Commission
Summary of Public Hearing Testimony
University of Southern Maine, Portland
April 19, 2005**

I. TESTIMONY BY TOPIC

Democracy Issues

- Trade deals which undermine democratic institutions via secret dispute resolution tribunals or other mechanisms should be rejected
- Current model for passage of trade agreements is deeply undemocratic; "fast-track" authority places total power in the hands of a few trade bureaucrats
- NAFTA gives corporations the right to challenge our laws in secret tribunals and to demand compensation from the government; NAFTA's investment chapter is flawed and multinational corporations have exploited these flaws to challenge legitimate government regulations designed to protect the environment, shield consumers from fraud and safeguard public health
- AFL-CIO strenuously objects to the inclusion of investment measures modeled on NAFTA Chapter 11 in a trade agreement with Central America; an agreement with Central America should contain broad carve-outs allowing governments to regulate corporate behavior to protect the public interest; a trade agreement should rely on government-to-government rather than investor-to-state dispute resolution

Maine Jobs/Economy

- America should not export its jobs, skills and knowledge at the expense of the American worker; Maine is an example of NAFTA's effects: Bass Shoe, Dexter Shoe, Eastland Shoe, Wilner Wood, Hathaway shirts are all victims of trade agreements
- Loss of manufacturing jobs in Maine that pay a living wage with benefits is a predictor of the future for all and not a temporary shift in our region's economy
- Break up large retailers; the small independent retailer must be revitalized; limit large retailers to one store per Congressional district

Labor Issues

- National and multi-national corporations have zero consideration for human rights, the rights of workers to organize or for the environment; trade agreements should not go forward unless they are reprioritized
- Commercial rights have more power than labor rights under CAFTA
- CAFTA and NAFTA brought more poverty to the poorest workers in the world; factory owners in foreign lands are pushed into paying ever-lower wages to workers by the CEO's of huge American businesses that want "Deals" on cheaper products
- Markets are not ends in themselves, but tools to be employed for the benefit of the people; no one opposes trade, but markets without morals – without some socially-determined element of fairness-are prescriptions for disaster
- Trade agreements have lowered the wages of workers both in America and abroad

- Workers in Central America have too often been excluded from the benefits of increased trade in the region, as they continue to have their basic human rights respected in the workplace; not one Central American country included in CAFTA comes close to meeting a minimum threshold of respect for the ILO's core labor standards
- NAFTA and CAFTA make no provisions for the welfare of workers; we must protect the laws we have in effect for the protection of workers, and make sure that no outside organization is empowered to remove these carefully considered provisions in our legal system
- We must find a way to use our labor force in the U.S. and maintain a manufacturing base here; we must challenge corporations to find ways to remain competitive here, prior to exploiting labor forces in other countries that have no laws to protect them
- Corporations should be watch dogged and held accountable to treat all labor forces with respect and dignity and compensate them a fair wage and benefit
- Globalization and free trade as they are currently structured will not increase manufacturing jobs or jobs in general
- Under NAFTA, women in both North and South America have lost jobs, benefits and safe working conditions
- Every agreement at the international and federal levels has a human cost, corporations should not have the power to supersede the laws we make in Maine nor should they control our state's economic well-being
- United States should not be allowed to run a trade deficit

Healthcare/Pharmaceuticals

- Free trade agreements conflict with public health policies, especially those having to do with health care reform; domestic laws that restrict markets for health services, no less than for other commodities, are seen as barriers to trade
- NAFTA and CAFTA contain provisions that allow multinational corporations to sue a government for takings of their profits; this provision can have impacts on environmental laws, working conditions, public welfare and health care; Maine's RX program and Dirigo Health program could be at risk

Libraries

- Impact of international treaties, such as the TRIPS, on public libraries; need to be extremely wary that treaties governing the commercial exchange of intellectual property do not impinge on our democratic access to information and do not thwart the ability of public libraries to provide the citizens in Maine and elsewhere unfettered, free access to information that is so critical to safeguard and revitalize democracy itself
- Public libraries may be subject to the same market access rules as private sector businesses under trade agreements (libraries should not be considered key players in our economic system and should not be subject to market access, national treatment and most-favored nation rules)

CAFTA/NAFTA

- CAFTA/NAFTA are trade agreements that are not carried out in the best interests of all; the only people who benefit are corporate CEOs

- CAFTA is not about free trade; agreements like CAFTA turn people into sharecroppers for the global corporate elite
- Trade deals lacking adequate provisions for labor, the environment and public health should be rejected
- CAFTA will be used as a smokescreen to reward other countries at the expense of the American workforce
- CAFTA is not beneficial to anyone except the already super rich
- Free trade agreements of the last decade have been sold as a panacea, but in reality they have been an agent of destruction for societies in all corners of the World
- Free trade policies promote the conditions of war
- Current model of free trade agreements limits public investment in social programs including education, health care and environmental protection, while placing no limits on military budgets
- The introduction of free trade policies in many countries has resulted in widespread popular unrest which has been targeted by police and military crackdowns
- We need trade agreements that start with human values- dignity of persons, primacy of the common good, safeguarding the environment, agreements win which our government upholds those values, not another agreement that serves only the greedy
- NAFTA has been nothing but a disaster for Maine, costing the people of Maine nearly 24,000 high paying manufacturing jobs in the past 10 years

Environment

- Free trade rules make it easy for the U.S. companies to export hazardous pesticides
- Trade agreement rules may apply to water, including municipal water treatment and wastewater treatment and water investments such as the State of Maine's agreement with Poland Springs
- A state has no authority to alter the rights of foreign investors under international law, either by law, regulation or contract (in reference to the State of Maine's agreement with Poland Spring Water)

Gambling

- As a result of actions taken by the federal government during GATS negotiations, Maine and other state legislatures must now contend with the prospect that tough market access rules in international trade agreements will be applied to their gambling laws and practices, without their consent

Agriculture

- CAFTA could devastate small farmers in both the U.S. and Central America; elimination of an effective price floor would force down market prices, allowing corporate agribusinesses to sell their products at well below cost

II. REQUESTS MADE OF COMMISSION BY SPEAKERS

Gambling

- All members of the Commission and the Legislature should examine the GATS Article XVI Market Access rules and seek legal guidance to begin to understand their significance in relation to our state laws on gambling
- Determine what steps the U.S. Administration can take to ensure that the prerogative of the State of Maine to regulate gambling remains unfettered by the GATS and any other international treaty; what concrete steps can the federal government now take to undo or mitigate the damage it has caused?

CAFTA/NAFTA

- Make a formal recommendation to Maine's Congressional Delegation to vote NO on CAFTA

Healthcare

- Assess in greater detail the risks of international trade treaties affecting democratic control over water in Maine
- Investigate how the State could minimize its exposure to these risks in its day-to-day practices (i.e. caps on water extractions, shorter water license terms)
- Look into the methods for excluding local and State measures relating to water from the terms of international trade treaties

Libraries

- Commission should review the book by Ruth Rikowski, "Globalization, Information and Libraries: The Implications of the World Trade Organization's GATS and TRIPS Agreements" and seek out other information related to the impact of international treaties on Maine libraries and information services
- Guarantee Maine citizens that our public library and information services are protected from CAFTA, GATS, NAFTA and TRIPS

Other

- Maine Citizens Trade Policy Commission should consider adopting benchmark criteria for what constitutes a good trade agreement
- Ascertain if the federal government has rendered existing Maine state measures in service sectors other than gambling vulnerable to the GATS challenge
- Ask USTR to notify the WTO that the U.S. will not give its consent to new GATS restrictions on domestic regulation and wants an end to the GATS negotiations devoted to creating new restrictions on domestic regulation

III. RECOMMENDATIONS FOR IMPROVING TRADE AGREEMENTS

Democracy /Federalism Issues

- Negotiations of international trade agreements should be public information
- Citizens should be given the opportunity to provide input on trade agreements during negotiation

- Trade agreements should not grant transnational firms privileges that exceed national laws, including the power to challenge national laws that protect the public interest in secret tribunals
- Affected citizens must have the right to participate in all dispute resolution procedures between their government and foreign investors
- The process leading to a trade agreement must be widely publicized and must incorporate the real and effective participation of social actors during the negotiations, approval and subsequent evaluation and follow-up

Procurement

- Maine should not bind itself to government procurement rules of CAFTA
- Trade agreements should not ban the use of government procurement policies to pursue legitimate social goals; trade agreements should not restrict the right of governments to legitimately regulate private services to protect the people's interests

Labor / Economic Development

- Trade agreements should incorporate a gender analysis; look to see whether women are impacted differently than men, if women and children are affected positively by the agreement and assure that women re workers are active in helping shape trade agreements as well as workplace policies and practices
- An economic integration agreement must require the participating countries to commit themselves to the effective application of their Constitutional norms and their own labor laws and to comply with the basic standards established in the Declaration of Fundamental Principles and Rights at Work and the ILO Conventions ratified by member countries
- Trade agreements must include compensatory measures for displacements of production and labor resulting from the restructuring of production linked to market opening
- Trade agreements must include measures designed to relieve debts of Central American countries, establish an international arbitration mechanism for debt reduction and allow governments to establish controls on capital flows designed to avoid or alleviate situations of financial crisis

Agriculture

- Trade treaties should protect the rights of small farmers and landless rural workers; subsidies of farm products should be limited and designed for the protection of small and medium producers and not for the benefit of large agricultural exporters

Healthcare/ Pharmaceuticals

- Make sure that trade agreements don't interfere with:
 - drug re-importation policies
 - Dirigo Health Plan
 - Maine RX

General Suggestions

- Vote against CAFTA
- Repeal NAFTA