

STATE OF VERMONT

First Annual Report of the Vermont Commission on International Trade & State Sovereignty

December 2008

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EXECUTIVE SUMMARY

The Vermont Commission on International Trade and State Sovereignty (Commission) was established on May 29, 2006 through enactment of Act No. 212 of the 2005 Adj Sess. 2006. The Commission was established to assess the legal and economic impacts of international trade agreements on state and local laws, state sovereignty, and the business environment; to provide a mechanism for citizens and legislators to voice their concerns; and to make policy recommendations to the General Assembly, the Governor, Vermont's Congressional Delegation, and the U.S. Trade Representative ("USTR").

The Commission is charged with submitting an annual report to the House Committee on Commerce, the Senate Committee on Economic Development, Housing and General Affairs, the Governor, and Vermont's Congressional Delegation. The Commission is also responsible for conducting an annual assessment of the legal and economic impacts of international trade agreements on state and local laws, state sovereignty, and the business environment.

The Commission has held 11 formal meetings at the State House since September 28, 2006. The Commission also held one subcommittee meeting to plan for public hearings and hosted four public hearings to solicit public testimony and recommendations from Vermont citizens and qualified experts. Public hearings were held in South Burlington, White River Junction, and Enosburg Falls and focused, respectively, on the broad policy areas of labor/business competitiveness, natural resources/environment, and agriculture. In addition, a public hearing on health care was held in Montpelier on July 16, 2007.

In addition, the Commission took the following actions:

- Facilitated dialogue with Vermont's Congressional Delegation, Vermont's State Point of Contact, and the USTR to improve and expand the consultation process with the USTR and Vermont officials regarding international trade negotiations.
- Invited a number of experts on international trade to discuss trade-related issues with the Commission.
- Developed a website for the Commission to publicize meetings and educate the public about issues related to the work of the Commission.
- Delivered a presentation on the potential impacts of Free Trade Agreements as they relate to procurement, investor rights, and services at each of the public hearings. Copies of the presentations can be found on the Commission's website at <http://www.leg.state.vt.us/workgroups/Trade/>.
- Delivered presentations on the potential impacts of Free Trade Agreements on several prominent issue areas in Vermont, including health care, natural resources/environment, agriculture, and general business competitiveness at public hearings with corresponding topics.

- Developed a policy statement on Trade Promotion Authority to publicize the Commission's position and supported the approval of J.R.S.24, a Joint Senate Resolution sponsored by Sen. Lyons relating to the "fast track" process for Congressional review of international trade agreements. Copies of the policy statement and J.R.S. 24 are included in **Appendices D & E**, respectively.
- Distributed letters to the Vermont Congressional Delegation regarding Commission concerns about the proposed Free Trade Agreement with the Republic of Korea (4/18/07); fast track trade agreement authority in general (4/18/07); the federal-state consultation process for development of Free Trade Agreements (12/28/06). Copies of letters are included in **Appendix D**.

Over the next reporting period, the Commission will continue its dialogue with federal, state, and local entities and Vermont's citizens to ensure international trade issues affecting Vermont at the state and local levels are effectively elevated for consideration at the federal level. The Commission will continue to track and weigh in on trade agreements, when appropriate, and will help develop a northeast regional network of states in order to strengthen Vermont's ability to influence U.S. negotiating strategy and the implementation of existing agreements. In particular, the Commission will work with Vermont's Congressional Delegation and other states to enhance the federal government's consultation process with states; to weigh in on the reauthorization of Trade Promotion Authority (Fast Track); and to weigh in on the Trade Adjustment Assistance program, which was created to extend unemployment compensation benefits and provide job training for workers adversely affected by trade.

In June 2007, the Vermont State Legislature appropriated to the Commission funding of \$12,000 for Fiscal Year 2007-2008. This funding will be used to support and expand the Commission's efforts.

I. INTRODUCTION

The Vermont Commission on International Trade and State Sovereignty was established on May 29, 2006. A copy of the establishing legislation, which is codified at 3 V.S.A. § 23, is attached as **Appendix A**. The 8-member commission includes: (1) the chair of the house committee on commerce or his or her designee; (2) the chair of the senate committee on economic development, housing and general affairs or his or her designee; (3) a representative of a nonprofit environmental organization, appointed by the governor from a list provided by the Vermont Natural Resources Council; (4) a representative of organized labor, appointed by the Governor from a list provided by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees' association; (5) the secretary of commerce and community development or his or her designee; (6) the attorney general or his or her designee; (7) a representative of an exporting Vermont business, appointed by

the governor; and (8) a representative of a Vermont business actively involved in international trade, appointed by the governor.

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

(1) To conduct an annual assessment of the legal and economic impacts of international trade agreements on state and local laws, state sovereignty, and the business environment.

(2) To provide a mechanism for citizens and legislators to voice their concerns, which it shall use to make policy recommendations to the general assembly, the Governor, Vermont's Congressional Delegation, or the United States Trade Representative. Recommendations shall be designed to protect Vermont's job and business environment, and state sovereignty from any negative impacts of trade agreements.

(3) To submit an annual report, prepared by the Secretary of Commerce and Community Development, to the House Committee on Commerce, the Senate Committee on Economic Development, Housing and General Affairs, the Governor, and Vermont's Congressional Delegation.

In addition, the Commission may recommend legislation or preferred practices, and it shall work with interested groups in other states to develop means to resolve the conflicting goals and tension inherent in the relationship between international trade and state sovereignty.

In response to a request from the Governor or the General Assembly, or on its own initiative, the Commission shall consider and develop formal recommendations with respect to how the state should best respond to challenges and opportunities posed by a particular international agreement.

II. MEETINGS

During the 2006-2007 reporting period, the Commission held 11 meetings, which occurred on the following dates: September 28, 2006; October 26, 2006; November 27, 2006; December 18, 2006; January 29, 2007; February 21, 2007; March 26, 2007; May 21, 2007; July 16, 2007; August 22, 2007 (subcommittee meeting to plan for public hearing on business competition); September 11, 2007. Summaries of the 2007 meetings are included in **Appendix B**.

In general, the Commission used these meetings to work with the USTR to improve channels of communication between Vermont and the USTR; to discuss ongoing trade negotiations; to continue exploring the impact of international trade on Vermont's businesses, labor force, health care system; and the environment and to coordinate its efforts with Vermont's Congressional Delegation, state officials, and other entities involved with international trade. The Commission also used the meetings as an educational forum utilizing presentations from experts from the Forum on Democracy and Trade as well as Maine's Citizens' Trade Policy Commission. Conversations were begun to explore avenues for cooperation between the two commissions, and NH's new Citizen Trade Policy Commission. As a result of these conversations and through the coordinating efforts of the Forum on Democracy and Trade, there is a newly formed Northeast Trade Policy Working Group. In addition, the Commission regularly invited expert guest speakers to its meetings to provide information on trade issues relevant to the Commission's work. During this reporting period, the Commission invited the following guest speakers to attend its meetings:

- **Patricia Moulton Powden, Vermont Commissioner of Labor**, introduced Andrea Hussey, the Career Grants Program Administrator who handles the Trade Adjustment Assistance Program (TAA) for the Vermont Department of Labor (DOL) and Andy Condon, Economic and Labor Chief at the Department of Labor to discuss the federal requirements for TAA and how TAA is handled by the state of Vermont. Commissioner Moulton Powden distributed a summary sheet describing the TAA process. TAA is a U.S. DOL program. The state DOL can file a claim with the Federal Department of labor for TAA. The U.S. DOL investigates the petition for TAA. The state DOL does not participate in the investigation and does not communicate with state businesses during the investigation. After the U.S. DOL grants a TAA petition, the state DOL provides services to the affected workers. Services are provided through the regional offices to "mature workers" who are unable to obtain employment at their former wage level. There is also a health care tax credit that affected employees may be able to utilize. The state DOL tries to bring services to affected workers. The department notifies the employees of the TAA program, but it is important to note that employees must act to take advantage of the benefits. The services available are typically training or extension of unemployment compensation. Commissioner Moulton Powden acknowledged that there are instances when many people are affected, and it can take the department a substantial amount of time to respond. Commissioner Moulton Powden stated that when the U.S. DOL issues a notice stating that a TAA petition has been granted, it includes a notice that the job loss was trade-related.
- **Andy Condon, Economic and Market Information Chief, Department of Labor**, testified as a replacement for Commissioner of Labor, Patricia Moulton Powden, regarding the Vermont Department of Labor's role in providing information and outreach on behalf of the federal Trade Adjustment Assistance program. Mr. Condon was also asked to share information regarding impacts of international trade and international trade agreements on jobs in Vermont.

- **Tiffany Moore, Public Affairs Liaison, U.S. Trade Representative's (USTR's) Office**, testified via telephone along with a number of other USTR staff, including: Daniel Watson of the Services Office and the USTR Negotiator for the Working Party on Domestic Regulation; Bob Gibson of the USTR Services Office; and Patrick Kilbride of the Intergovernmental and Public Affairs Office regarding the Commission's communication with the USTR. Issues discussed included the potential impacts of the U.S.-Korea Free Trade Agreement (FTA) and other similar agreements on Medicare Part D, state Preferred Drug Lists, the procedural aspects of World Trade Organization (WTO) tribunals, the rights of foreign investors, environmental and labor requirements in the Peru, Colombia, Panama, and Korea FTAs—as well as discussions about domestic regulation and concerns about state standards.
- **Bob Stumberg, Professor of Law, Harrison Institute for Public Law, Georgetown Law School**, provided an update via telephone on General Agreement on Trade in Services (GATS) Domestic Regulation negotiations. He reported that negotiations at the WTO appear to be on the verge of endorsing new “disciplines” on domestic regulation that would apply at all levels of government – federal, state, and local. The negotiations are authorized by the GATS. Mr. Stumberg led discussions on safeguarding regulatory authority; constraining regulatory authority; the importance of further, improved state-federal consultation with regard to domestic regulation; and the importance of clarifying ambiguous terms in the text of GATS.
- **Peter Riggs, Director, Forum on Democracy and Trade**, a nonprofit organization then based in New York, met with the Commission in person and by conference call on several occasions to provide trade policy information as it relates to state sovereignty issues. At the Commission's March 26, 2007 meeting, Mr. Riggs reviewed three documents he distributed on Trade Promotion Authority (Fast Track), Vermont in the National Debate on Trade, and 19 U.S. Code § 2191 (Statutory authority related to Bills Implementing Trade Agreements on Nontariff Barriers).

III. PUBLIC HEARINGS

The Commission relies heavily on community involvement at its public hearings to gather information and identify trade issues that have been identified at the local level in order to communicate and elevate those issues for consideration at the state, federal, and international levels. To date, the Commission has held the following public hearings: October 30, 2007, *International Trade and Vermont Business Competitiveness*, South Burlington; November 13, 2007, *International Trade and Vermont's Environment*, White River Junction; December 18, 2007, *The Effects of International Free Trade Agreements on Vermont Agriculture*, Enosburg Falls. In addition, a meeting scheduled for November 27, 2007 on health-related issues and international trade was cancelled due to potentially dangerous weather, and rescheduled on April 17, 2008.

The public hearings were designed both to educate the public about the potential effects of free trade agreements on state sovereignty and to solicit information from the public about the positive and negative effects international trade agreements are having on Vermont's economy, labor force, health care, and environment, and on agriculture in the state. Participants in the hearings were encouraged to provide testimony about specific impacts trade agreements are having on these areas. A partial list of concerns raised at the public hearings is below. **Summaries of the testimony received at each of these public hearings are included in Appendix C.**

- Under the GATS, the ability to regulate land use under Act 250 and under 24 V.S.A. chapter 117, Vermont's zoning enabling law, may be subject to attack regarding regulation of certain aspects of the hotel, retail, and restaurant sectors.
- Vermont's utility regulation may be vulnerable for various reasons, including its subjective review criteria (such as the requirement that there be a determination of public good), its portfolio requirements, and the limits it places on the number of suppliers operating in a territory.
- The European Union has requested that the United States commit water services to inclusion under GATS, which might put local and state regulations in conflict with "market access" rules and might cause difficulties with the U.S. Environmental Protection Agency (EPA) loans that favor municipalities.
- Natural resources issues may be seriously affected by investment clauses in trade agreements, which give foreign companies the ability to bring a claims proceeding directly against national governments; historically, only a foreign country could bring a claims proceeding against a government.
- A private company that does business in 140 countries around the world urged the continuation of free and unencumbered international trade and cautioned that pursuing the state sovereignty issue could cause a competitive problem for companies doing business in many states-- indicating that there is nothing Vermont makes that will keep undying loyalty from consumers if the same product can be made elsewhere at a lower cost.
- Vermont is urged to minimize burdens on companies trying to do business within the state because it affects their competitiveness in the international arena.

IV. COMMISSION ACTIONS

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

- Reviewed a joint resolution submitted by Senator Lyons, J.R.S. 24, relating to the federal "Fast Track" process for Congressional review of international trade agreements.

- Reviewed a joint resolution submitted by Senator Lyons, J.R.S. 25, urging Congress to develop legislation with respect to international trade agreements to protect state environmental and land use laws.
- Facilitated dialogue with Vermont’s Congressional Delegation, the Governor’s Office, the Agency of Commerce and Community Development, Vermont’s State Point of Contact, and the USTR to improve and expand the consultation process between the USTR and Vermont officials regarding international trade negotiations.
- Invited a number of experts on international trade to discuss trade-related issues with the Commission.
- Submitted a letter from the Commission to Vermont Congressional Delegation regarding H.R. 26, a resolution enacted by the House, relating to Fast Track, 4/18/07.
- Submitted a letter from the Commission to Vermont Congressional Delegation regarding Commission concerns about proposed Free Trade Agreement with Republic of Korea, 4/18/07.
- Submitted a letter from the Commission to Sen. Vince Illuzzi and Rep. Warren Kitzmiller regarding J.R.S. 24, 4/3/07.
- Developed a Fast Track position as the Vermont Commission on International Trade and State Sovereignty, 3/30/07.
- Prepared a letter from Senator Lyons, on behalf of the Commission, to Vermont Commissioner of Labor Patricia Moulton Powden, 1/26/07.
- Prepared a letter from Senator Lyons and Representative Keenan, on behalf of the Commission, to Senator Patrick Leahy, 12/28/06.
- Prepared a letter from Senator Lyons and Representative Keenan, on behalf of the Commission, to Vermont’s Congressional delegation, 11/27/06.
- Reviewed a resolution introduced by Representative Keenan, J.R.H.65, which was enacted by both houses, relating to “disciplines,” or rules, being developed as part of the GATS.

V. NORTHEAST TRADE POLICY WORKING GROUP

Members of the state-level trade policy commissions from Vermont, Maine, and New Hampshire, along with legislative and citizen leaders from elsewhere in the northeast, met in Portsmouth, New Hampshire, November 18-19, 2007 to explore ways to work together to share resources for developing policy recommendations to mitigate potentially negative impacts of free trade agreements on their individual states. The group pledged to review options for improving federal-state communication on trade and invited other states to join their call for a better state-federal partnership. The working group plans to cooperate on researching and doing outreach on certain issues related to trade agreements and their impacts on state sovereignty and to speak with one, regional voice when communicating with the USTR on named issues.

A second meeting of the working group was held on September 19, 2008 in Manchester, N.H.. The group reviewed existing ideas for federal-state consultation and began to formulate talking points or key messages for the region. Vermont agreed to take the lead on creating a statement of common principles for the other state's to review. The purpose of this document is to create a regional message on trade, which can be communicated to President-elect Obama and Congress. In addition, the group has been holding monthly conference calls to discuss issues of importance to the region. Notes from the meetings are included in **Appendix G**.

The group also agreed to bring the issue of notification of state laws under the Technical Barriers to Trade (TBT) agreement back to each Commission. As a result, the Maine and Vermont Commissions have sent a joint letter to USTR and Kay Wilkie, Chair of the Intergovernmental Policy Advisory Committee (IGPAC) expressing concern about the process developed on notifying state laws under the TBT. The letters are included in Appendix H. In addition, each state has sent letters to the National Conference of State Legislatures expressing support for a resolution introduced by Senator Lyons, which has since been adopted as NCSL policy.

VI. COMMISSION ISSUES OF IMPORTANCE

State and local governments generally have supported multilateral, regional, and bilateral efforts to expand market access, both for resident businesses reaching out to global markets, and for international investors engaged in the local economy and creating employment. Trade liberalization successes of recent years, achieved by the coverage and scope of FTAs and WTO agreements, have increasingly extended U.S. commitments beyond the federal level, and in turn, have expanded impacts on state and local laws, practices, and regulations.

In the current decade, members of IGPAC have consistently expressed views about the impacts of certain FTA provisions – notably those related to procurement, investor-state dispute mechanisms, and the domestic regulation of services - while also making broader recommendations for improving trade policy consultations/capacity and trade development programs. The Vermont Commission on International Trade & State Sovereignty, while relatively new in its role to analyze FTA impacts, shares these views and will continue its advocacy to improve state-federal consultative mechanisms with regard to development of international trade policy. It is the Commission's shared belief that USTR consultation with states and localities is as crucial as consultation with the private sector; accordingly, the Commission submits these observations on FTA impacts.

Governance and Regulation

- Commission members believe firmly that FTAs – as with all trade agreements -- should be drafted, implemented, and interpreted to respect and give due consideration to existing state and local regulatory, tax, and economic development policies, and to support the social, economic, and environmental values that those policies promote.

The Trade Act of 2002 included the directive that **trade agreements be negotiated so as not to “weaken or reduce the protections afforded in domestic environmental and labor laws”** and the Act makes **“ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States”** a critical trade policy negotiating objective.

- The principle that the United States may request, but not require, states to alter their regulatory regimes in areas over which they hold constitutional authority must be maintained. Full and effective coordination and consultation should include requesting authority from the appropriate state or local authority before a state or local rule, regulation, or statute is listed in – or otherwise implicated by – a trade agreement, offer, or other binding commitment.
- Commission members would prefer that trade commitments be derived via a process based upon “positive lists,” that are based on the affirmative, informed consent from affected state and local entities, rather than upon a system of “negative list” opt-outs. The recent WTO tribunal ruling against the United States in the **GATS Internet gambling case** brought by Antigua & Barbuda illustrates the inherent peril of the “negative list” approach, which risks covering matters that were expected to be excluded, either by inadvertence or by lack of knowledge of relevant laws and regulations.

Services Provisions in FTAs and WTO Agreements

- Commission members are particularly concerned about ongoing efforts within negotiations to impose trade disciplines on domestic regulation. Service provisions in FTAs typically specify that amendments will be made to render such FTAs consistent with any results under GATS negotiations of **Article VI:4 on domestic regulation**. In light of the importance of GATS negotiations to domestic regulation provisions in FTAs, IGPAC as well as the Vermont Commission on International Trade & State Sovereignty applaud the traditional U.S. stance at the WTO in **opposition to necessity tests, and in support of transparency**.
- The Commission urges that U.S. core principles respecting the right to regulate at all levels of government be enshrined in all FTAs and that necessity tests in such agreements be eliminated through substantial modifications to their domestic regulation provisions. The North American Free Trade Agreement (NAFTA) provides a useful model for explicitly recognizing the state and provincial basis for setting regulatory objectives in the context of national treatment that could be incorporated into FTAs. The Commission looks forward to further representation by IGPAC to lead comprehensive discussions with the USTR on this and other issues in the context of negotiations by the WTO Working Party on Domestic Regulation and under the Doha Development Round.

- Negotiations on GATS and related provisions on services in FTAs should strive: 1) for requirements that are sufficiently limited and consensual that they *can* be applied across the board (nondiscrimination is such a policy, limits on numbers of providers are not), and 2) for *clarity* in the provisions to which parties agree.
- Services sectors warranting analysis regarding potential GATS and FTA impacts on states' regulations:
 - Gambling case: compensation offer following withdrawal of commitment
 - Energy and electricity: transmission, distribution, storage, transportation
 - Health care, health insurance, health facilities
 - Prescription drug benefits, retail/wholesale distribution
 - Business services
 - Zoning, e.g., commercial; retail, wholesale, hotel and restaurant services, acquisition, coastal zone regulation (LNG terminals)
 - Licensing of professionals, e.g., legal services, professional services
 - Construction
 - Desalination facilities, wastewater
 - Financial law enforcement, insurance, and consultancy
 - Hazardous materials, wholesale distribution, solid/hazardous waste management
 - Higher education
 - Library services
 - Municipal telecom franchises, information, other communications

Procurement Provisions

- Procurement provisions in FTAs and in the WTO Government Procurement Agreement impact selected states, and IGPAC has brought to our attention detailed concerns about process, language, and implementation issues under the USTR's "**reciprocity policy**" pertaining to some FTAs. Federal officials' interaction with states on procurement matters seems insufficiently cognizant of complex state-level procurement processes, including separation of powers in policy-making.
- Some states, including Vermont, have raised concerns about ensuring that procurement policies related to **core labor standards** and to "**green**" policies on energy efficiency and environmental protection be safeguarded.
- Awareness of the benefits of U.S. firms winning international procurement contracts, and of the contributions of foreign direct investment and foreign affiliate employment to the U.S. economy seems less evident than is fear of offshoring. Relevant federal agencies need to **provide data** to the public and technical assistance to U.S. firms regarding the value, benefits, and strategies for improving market access to contract opportunities in newly opened **international procurement markets at the federal and subfederal levels**. One example would be the identification of **Australian states' procurement opportunities** opened by the FTA.

Investment Provisions

- Commission members are concerned about **investor-state dispute settlement provisions** in FTAs. Three particular issues warrant highlighting: 1) the problematic and **overly broad definition of investment**, as it is far more expansive than the investment definition in the NAFTA, includes concepts of “investment authorization,” licenses, and permits, and is less linked to business enterprises; 2) the “**minimum standard of treatment**” language, seeming to codify the holding in *Loewen Group, Inc. v. United States and Mondev International ICSIS Case No. ARG (AF19813 (NAFTA Ch. 11, Arb. Trib., June 26))*, 42 I.L.M. 811. that state court actions are subject to review by international investment tribunals, thus giving such tribunals, which are not directly accountable to any democratic institution, extraordinary discretion and expansive power; and 3) the **due process standards**, based on unclear international norms rather than reflecting U.S. constitutional norms of substantive due process, as required by the Trade Act of 2002.
- The ruling in the *Methanex v. United States*¹ dispute established an important precedent for safeguarding principles of federalism and state sovereignty. However, since such tribunal judgments are not formally precedential, Commission members agree with the IGPAC recommendation that the case’s finding that “*as a matter of general international law, a non-discriminatory regulation for a public purpose, which is enacted with due process and which affects ... a foreign investor or investment is not deemed expropriatory and compensable ...*” be codified as a formal Interpretive Note in NAFTA and all other existing FTAs, and that corrected language be included in all future trade agreements. Ongoing investment disputes -- such as the NAFTA Chapter 11 arbitration claim filed by Glamis Gold Ltd. that challenges California’s environmental and extractive industry regulations, and the claim filed by Grand River Enterprises Six Nations Ltd. that implicates state and local regulation of the tobacco industry (including settlements of litigation) -- continue to be troubling.
- While investor-state challenges cannot directly or automatically overturn local, state, or federal laws, regulations, or court decisions, the Commission and IGPAC would prefer to clarify and limit the circumstances in which these types of challenges may be raised, not the least because they impose significant demands on state agencies’ time and resources, cause confusion about the scope of state and state/local authority under FTAs, give foreign investors (or domestic investors with an office in a foreign country that is a treaty signatory) rights that are greater than those available to domestic investors, and unnecessarily dampen state and local policy innovations.
- IGPAC recommends that the federal government commit to seeking compensation for legal costs, including staff time, incurred by states and localities when assisting the federal government to defend investor-state disputes. At the close of the *Methanex* dispute, for instance, the federal government was awarded full payment of the millions

¹ : See *Methanex v. United States*, Final Award of the Tribunal on Jurisdiction and Merits (Aug. 2005), available at <http://www.state.gov/documents/organization/51052.pdf>.

of dollars in fees and costs that it incurred while defending the case; however, California was not similarly compensated. Vermont could not support the burden borne by California in this instance.

Improvements to Trade Development Programs and Data

- At the same time that the United States pursues market access initiatives, the Commission also stresses the importance of expanding America's trade promotion capacity and improving the process of collecting and disseminating trade data. Resource constraints confronting U.S. trade development and investment attraction programs and services overseas threaten to undermine the ability of small businesses to take advantage of new market opportunities around the world.
- Commission members applaud the recent actions undertaken by the U.S. Department of Commerce (USDOC) to improve the quality of state- and local-level trade information by reintroducing zip code specificity to merchandise export data. However, as the U.S. economy is increasingly driven by the services sector, it is vital that the collection and dissemination of state-level *export* data on *services* be improved. Similarly, states and regions will continue to have difficulty assessing their trade balances and relative global competitiveness unless the federal government makes significant progress in collecting state-level merchandise and services *import* data. While the Commission recognizes the challenges inherent in collecting such data, Canadian data track product exports and imports by province, country, and U.S. state, offering an impressive example to be emulated. See for example http://strategis.gc.ca/sc_mrkti/tdst/tdo/tdo.php?lang=30&headFootDir=/sc_mrkt.

United States International Investment Attraction Efforts and FTAs

- Since the USDOC has launched intensified efforts to attract foreign direct investment (FDI) into the United States, it would be useful to have **improved and detailed data at the state level on new investment flows from FTA partner countries and regions**. States would then be able to assess the favorable job creation, productivity, technology transfer, and research and development implications of FTAs through tracking new flows of FDI.

Workforce Adjustment Assistance

- States have repeatedly called for action to substantially **transform, expand, and fully fund the Trade Adjustment Assistance** program, more appropriately renamed as the "Workforce Adjustment Assistance" program. Rather than trade flows, advances in technology and productivity, in an increasingly integrated and competitive global context, create opportunity, while often challenging the prospects for many industries, communities, and workers.
- New initiatives, funding, and programmatic flexibility are needed to adapt workforce assistance to these challenges, to meet varying states' needs, and to accomplish

effective outreach to impacted workers, employers, and communities. The redistribution of a small portion of the national gains from technology, productivity, and trade growth to dislocated workers and communities might foster more public understanding of, and support for, investments in education, research, and technology, and an agenda of trade liberalization in the future.

Capacity for Federal-State Trade Policy Consultations

- The Commission believes strongly that enhanced intergovernmental dialogue on FTAs and other trade policy issues is necessary to strengthen future agreements. With that objective in mind, IGPAC has offered the USTR a number of recommendations to strengthen the intergovernmental consultation process since 2004. In addition, other organizations and entities have or are developing a number of ideas for improving federal-state consultation. Together with the Northeast Trade Policy Working Group and other like-minded states, the Vermont Commission on International Trade & State Sovereignty is committed to reviewing the ideas and supporting efforts to advance these recommendations by IGPAC and other organizations.
- Specifically, IGPAC recommended the **creation of a Federal-State International Trade/Investment Policy Commission** to provide institutional structure for continuous bipartisan consultation about U.S. federal-state trade policy. To ensure its effectiveness, such institutional capacity should be guided by the principles of U.S. **constitutional federalism** and **nonpartisan independence**. The Commission would be designed to:
 - Foster consultations among federal/state/local government officials on trade and investment concerns;
 - Provide objective trade policy, trade data, trade law analysis, and other trade and investment policy resources with expert staff and technology providing research and information;
 - Create reports and recommendations for consideration by federal, state, and local governments.

Note that this IGPAC recommendation spans the decades. IGPAC, chaired by Wisconsin Governor Tommy Thompson in 1994, issued its Report on the Uruguay Round (UR) and also called for creating new capacity for federal-state trade policy consultation, stating: *“The changes that the UR Agreements will bring in US trade policy will require that the Federal Government enter a new partnership with state and local governments. This partnership will require establishing and funding adequate organizational capacity within the Federal Government to assist state and local governments in the implementation of the UR and other trade agreements.”*

- IGPAC, and its constituent members and organizations, have other ideas and recommendations for improving consultation that merit U.S. Government Accountability Office review. Comprehensive consultation and informed dialogue

remain the most effective means both for improving trade and investment efforts and for mitigating unintended or undesirable impacts of FTAs. The Vermont Commission on International Trade & State Sovereignty is committed to advocate for these improvements.

***The Vermont Commission on International Trade & State Sovereignty thanks IGPAC Chair, Kay Wilkie, for allowing the Commission to adopt text from IGPAC's established and articulate principles in defining our issues of importance. IGPAC, and in particular, Kay Wilkie, has been a generous and supportive mentor to the Commission.**

VII. AGENDA FOR NEXT YEAR

Over the next reporting period, the Commission will continue its dialogue with federal, state and local entities and Vermont's citizenry to improve the federal government's consultation process with states and to help elevate international trade issues affecting Vermont at the state and local levels for consideration by Vermont's Congressional Delegation and other appropriate federal entities. The Commission will continue to track and weigh in on trade agreements such as the Panama, Colombia, and South Korea Free Trade Agreements, and it will work with other entities to help create a strong northeast regional network of state oversight bodies, in order to strengthen each state's ability to influence U.S. negotiating strategy and the implementation of existing agreements. In addition, the Commission will work with Vermont's Congressional Delegation and other states to weigh in on proposals to replace the recently expired Trade Promotion Authority (Fast Track) and on the newly overhauled Trade Adjustment Assistance program, created to extend unemployment compensation benefits and provide job training for workers adversely affected by trade.