

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

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The Honorable Margaret R. Rotundo
Co-Chair
The Honorable John L. Patrick
Co-Chair
State of Maine, Citizen Trade Policy Commission
100 State House Station
August, ME 04333

Dear Senator Rotundo and Representative Patrick:

Thank you for your letter of April 22, 2008, regarding the process of notifying the World Trade Organization of proposed U.S. regulations and the communication received by the State of Maryland from the government of China on proposed legislation to protect children from lead-containing products. Ambassador Schwab has asked me to respond to your letter. We strongly support the goal of ensuring the safety of imported goods. To this end, Ambassador Schwab has assigned a team of professionals within USTR to work with other agencies, the importing community, and our trading partners on the roadmap laid out by President Bush in the "Action Plan for Import Safety."

Let me assure you that no one in the Administration has encouraged China or any other country to intrude in the decision-making processes of state legislatures. We have been careful to ensure that our international trade agreements safeguard the right of governments to enact laws and regulations to protect human health and safety. The authority of the Maine legislature and other state legislatures to take action to protect our nation's children is beyond question.

We have also been successful in convincing other governments to follow the same kinds of fair and transparent decision-making that Maine, our other states, and the federal government apply in developing product regulations. As a result of our efforts, our key trade agreements provide a mechanism for U.S. businesses and organizations to learn of, and provide comments on, proposed regulations around the world that may affect U.S. commercial interests. The World Trade Organization includes a procedure that requires foreign governments to notify us of their proposed product regulations. This procedure makes it possible for the many small businesses in Maine that sell their products in foreign markets to receive notice of, and submit comments on, proposed foreign regulations.

These kinds of transparency procedures are reciprocal, of course, and we notify other governments of proposed U.S. product regulations as well. While foreign governments and companies may seek to comment on our proposed regulations – as they are free to do anyway in this country – our states and the federal government remain fully empowered to take action needed to protect the public.

Senator Margaret Rotundo
Representative John L. Patrick
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The WTO notification system normally calls for us to notify proposed agency regulations rather than federal or state legislative proposals. U.S. notifications occur quite routinely; last year, we notified more than 100 proposed measures to the WTO. The National Institute of Standards and Technology (NIST), which provides U.S. notifications, monitors the U.S. Federal Register on a daily basis for proposed federal agency measures, and an electronic database for proposed state measures. We learned several months ago that our notifications had inadvertently included certain state legislative proposals. We have since asked NIST to ensure that it is not inadvertently notifying state legislative proposals in the future.

Thank you again for your letter. Please contact our office if you have any other questions.

Regards,



Tiffany M. Moore
Assistant U.S. Trade Representative
For Intergovernmental Affairs and Public Liaison

cc: Senator Susan Collins
Senator Olympia Snowe