



First Quarter 2005 Legislative Update

February 9, 2005

(With links for more detailed information)

President George W. Bush delivered his first State of the Union speech since re-election on February 2, 2005. Less than a week later, he transmitted his FY 2006 budget request to the Congress. Combined, the two events provide a good indication of the themes and programs the Administration hopes to pursue during the next few years.

Mindful that many second term Presidents encounter difficulties during the first 12 to 18 months after re-election, and that much of the second term is viewed as a “lame duck Presidency,” (since a twice elected President cannot run for re-election), President Bush is hoping to use this time to articulate and advance several key themes, including saving social security, reducing the budget deficit, and fighting the war on terror. While Members of Congress and special interests will seek to advance their own programs and initiatives during this year, these three themes will remain dominant.

The budget request for FY 2006 equaled \$2.57 trillion, split between mandatory spending (such as payments for entitlement programs like Medicare or Social Security) and discretionary spending (which are allocated each year through 13 annual spending bills that cover various government agencies and programs). Although the President proposed increases in defense, homeland security and a handful of other programs representing his priorities, he also proposed significant cuts in both discretionary and mandatory spending accounts, including the reduction or elimination of 150 programs and more than \$137 billion in mandatory spending cuts over the next ten years. He also proposed making several existing tax breaks permanent, with a budget cost of about \$1.13 trillion over a ten year period. With assumptions about economic growth and future federal revenues, the Administration also forecast that the budget deficit would shrink to about 1.5 percent of GDP by FY 2009. Congressional Republicans welcomed the budget’s message of fiscal restraint while many Democrats criticized the budget as being unrealistic, especially since it does not fully factor in the costs of the war in Iraq. The budget will remain on center stage as individual Members focus on promoting their own budget priorities in the coming weeks and months.

For its part, Congress has already signaled a very full legislative agenda. In addition to the annual budget process (including the 13 annual spending bills as well as any supplemental requests to cover additional disaster or war related expenses), Congress is planning to take up a number of issues including social security reform, tax reform (to simplify the tax code and make previous tax cuts permanent), energy policy, legal reform (such as medical liability, asbestos and tort reform), international trade (including the U.S.-Dominican Republic/Central America Free Trade Agreement (U.S.-DR/CAFTA)), health care, telecommunications policy, and education policy. Bitter fights over judicial nominees (possibly including Supreme Court nominees) and

wedge issues, such as those on abortion and gay marriage, are also likely to feature prominently throughout the year.

The international trade agenda will be surprisingly busy as Congress considers at least two free trade agreements (DR/CAFTA and Bahrain) as well as reauthorization of trade promotion authority and U.S. membership in the World Trade Organization. Although improvements in the economy have lessened job anxiety, the continuing high trade deficit and on-going concerns over China, particularly over China's currency and allegations of unfair trade practices, will no doubt make the trade agenda extremely contentious this year. This may materialize in Congressional debates over international trade or Buy American issues in the Defense authorization or spending bills.

Although some work on these issues has already begun, the pace is expected to pick up during the second quarter of the year because Congress is out of session for so much of the first quarter. Although Republicans increased their numbers in both chambers, it is unclear whether their majorities will translate into easier political victories. Already, there are signs that Conservative and Moderate Republicans may clash on a host of social and fiscal issues, which would make party unity for the larger issues more elusive. Likewise, Democrats, still licking their wounds after their losses in the last election, are trying to iron out a cohesive strategy that will advance their message without appearing obstructionist to outside the beltway voters.

Although it has been only about hundred days since the 2004 elections, campaigns for the 2006 mid term elections and, more incredibly, 2008 Presidential elections have already begun. Potential Presidential candidates for both the Republican and Democrat nominations are starting to make exploratory moves, visit key states and political operatives, and map out positions. While it is still too early to accurately forecast which candidates (a number of whom are current Members of Congress) may be viable, it is not too early to discount the effect of these incipient moves on the legislative agenda. In this environment, AAFA tracks a number of issues relating to the apparel and footwear industries, including:

- **International trade**
- **Government contracting**
- **Labor**
- **Regulatory matters**
- **Tax**

Recent developments of note on some of these issues include:

International Trade

1. **Existing Preferential Trade Programs:** The [Caribbean Basin Trade Partnership Act \(CBTPA\)](#) and [African Growth and Opportunity Act \(AGOA\)](#) legislation have been in operation for more than four years while the [Andean region \(Andean Trade Promotion and Drug Eradication Act -- ATPDEA\)](#) is more than two years old. The Administration has now published interim regulations ([AGOA](#), [CBTPA](#), [ATPDEA](#)) and implementing documents for all three programs. Final regulations should be published shortly. On July

13, 2004, the President signed into law legislation ([HR 4103](#)) to extend the AGOA 3rd country fabric provision for 3 additional years and to make other key technical fixes. In addition, further corrections to these programs – affecting both footwear and apparel – are contained in a miscellaneous tariff and trade bill ([HR 1047](#)) that passed the Congress at the end of last year. Although the House and Senate briefly examined proposals to further expand these programs to provide enhanced benefits for Haiti last year ([S. 2261](#)), textile state Republican Members of Congress were successful in preventing final action, forcing that issue into this Congress. ***[AAFA](#) applauds enactment of the Africa, Caribbean Basin, and Andean trade enhancement legislation, including AGOA III. AAFA has submitted comments on each program ([AGOA](#), [CBTPA](#), [ATPDEA](#)) and is working closely with Administration officials responsible for implementation to achieve the most accurate interpretation, and, with Congress, to obtain needed legislative improvements. [AAFA](#) is also working on legislation to enhance the Haiti program. [AAFA](#) has also lobbied the Administration to issue final regulations for these programs so that AAFA members can fully utilize the programs in a predictable environment.***

2. ***Key Bilateral/Regional Trade Initiatives:*** Stimulated by passage in 2002 of [Trade Promotion Authority \(TPA\)](#), which authorizes and provides guidance for new trade negotiations, U.S. Trade Representative Ambassador Robert B. Zoellick has launched an ambitious schedule of free trade agreement negotiations.

- ***Central America:*** On August 5, 2004, Ambassador Zoellick signed a [U.S./Dominican Republic - Central America Free Trade Agreement](#), which it has negotiated with five countries in Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The U.S.-DR/CAFTA is expected to be considered by Congress early in 2005, possibly by Memorial Day. Once it enters into force, the FTA should build upon the CBTPA by making the U.S./Central American trade partnership permanent, reciprocal, broader, and more flexible. ***[AAFA](#) supports congressional passage during 2005 and the swift implementation of this FTA with all five Central American countries and the Dominican Republic as a way to strengthen the footwear, textile and apparel trade partnership.***
- ***Singapore, Chile Australia, and Morocco:*** The President proclaimed the entry into force of new FTAs with [Singapore](#) and [Chile](#) effective January 1, 2004, and [Australia](#) on January 1, 2005. An FTA with [Morocco](#) should enter into force soon. The FTAs, among other things, provide a combination of duty free and reduced duty treatment for certain qualifying textiles, apparel, and footwear. ***[AAFA](#) supported the legislation to remove trade barriers with these four countries.***
- ***Other FTAs.*** In addition to the above FTAs, the Bush Administration has launched negotiations for FTAs with the five countries of the [Southern African Customs Union](#) (Botswana, Lesotho, Namibia, South Africa, and Swaziland), [Thailand](#), the [Andean Nations](#), and [Panama](#). In September, the Administration signed a completed FTA with [Bahrain](#). Congressional action on that FTA could occur early this year. Negotiations

will soon begin on FTAs with Oman and the United Arab Emirates. In addition, several new initiatives, including [Enterprise for ASEAN Initiative](#) and an ambitious proposal to create a [Middle East Free Trade Agreement](#), could see additional FTA negotiations with some or all of the countries that are members of the Association of South East Asian Nations (ASEAN) and in the Middle East. *AAFA generally supports such initiatives and is evaluating each one to determine how they best serve members' needs.*

- ***Free Trade Area of the Americas:*** Trade negotiators for the 34 democracies in the hemisphere have made considerable progress in developing a [draft text](#) of an agreement for a [Free Trade Area of the Americas \(FTAA\)](#) that would drop trade and investment barriers across North and South America. Despite this progress, action on this potential trade pact has been elusive for much of the past two years. Although a Presidential summit in Mexico reinforced broad support for the notion of this FTAA in 2003, there remain considerable differences over how best to accomplish this goal. The United States is on record as seeking to [eliminate all tariffs](#) on hemispheric textile and apparel goods by 2010 and all tariffs on other goods, including footwear, by 2015. Lack of progress has caused the initial January 1, 2005 target date for completion to slip. *AAFA supports a well-negotiated, balanced, and comprehensive FTAA.*
3. ***Vietnam:*** Since it concluded a [bilateral trade agreement](#) with the United States in December 2001, Vietnam has been steadily working toward WTO membership. That effort received a boost in October 2004 when Vietnam concluded a bilateral accession agreement with the European Union. Vietnam is now working to achieve a similar deal with the United States, which advances and deepens many of the commitments in the 2001 trade agreement. Many observers believe Vietnam could wrap up talks and accede to the WTO by the end of 2005. Until Vietnam joins the WTO, however, will remain subject to quotas that are established in the bilateral quota agreement, which was negotiated in May 2003, and which has been the subject of considerable controversy in the textile industry. Congress still has an annual opportunity to consider Vietnam's normal trade relations (NTR) status, which is still conditioned on freedom of emigration concerns, although it has not seriously done so since the summer of 2002. The next significant action in Congress is likely to be a vote to approve permanent NTR when Vietnam accedes to the WTO. *AAFA supports full economic normalization with Vietnam. Although AAFA opposed the imposition of quotas on Vietnam, it supported swift conclusion of the negotiations to eliminate uncertainty created by the talks and is now urging full disclosure of all factory information related to the transshipment investigations.*
 4. ***Cambodia:*** Cambodia joined the WTO on October 14, 2004, signifying an end to quotas on products already integrated and a full quota free regime in 2005, when all remaining quotas on all other WTO countries were removed. This accession also effectively ends an [agreement](#) with Cambodia that provides an opportunity for quotas to increase up to an additional 18 percent each year if working conditions in the garment industry substantially comply with internationally recognized core labor standards through

[periodic monitoring](#) by the [International Labor Organization \(ILO\)](#). However, Cambodia and the ILO recently announced that they have reached a landmark agreement to continue ILO monitoring of labor conditions in Cambodia's apparel industry even after quotas are removed. Cambodia is one of several countries that may be eligible for new trade preferences (See next item) if a new bill pending before Congress is enacted. *AAFA supports efforts to provide preferences to Cambodia especially in light of the country's commitment to workers' rights. AAFA also believes that labor accords should provide opportunities for foreign garment industries to measure their compliance using independent certification programs, such as the Worldwide Responsible Apparel Production ([WRAP](#)) program.*

5. **Other Trade Preference Programs:** Several in Congress are now actively pushing legislation (S. 191 – The TRADE Act of 2005) to create a new trade preference program with a series of least developed countries that current do not enjoy trade preferences with the United States. Many of those countries are very dependent upon their apparel industry and are considered at risk following the elimination of quotas. That legislation also includes Sri Lanka, which was devastated by a Tsunami in late 2004, because that country is also very dependent upon the apparel industry for its livelihood. The legislation parallels other trade preference programs, such as the AGOA, which contain more flexible input requirements for footwear, apparel and other products than other trade preference programs. *AAFA supports this trade initiative.*
6. **Burma:** In late July 2003, outraged by continuing human rights and labor rights abuses of a dictatorial regime in Burma, Congress approved and the President signed into law a new series of sanctions including a [complete ban](#) on U.S. imports from Burma. The new import ban took effect on August 28, 2003 and is renewable by Congress every year. On June 7, 2004, President Bush signed into law a [one year renewal](#) of the import ban. *AAFA was one of the first organizations to publicly call for the original import ban last year and for its renewal this year. AAFA continues to urge the Bush administration to work with other countries to multilateralize the import ban.*
7. **Miscellaneous Trade and Tariff Bill:** AAFA applauded President Bush's December 3 enactment of [new footwear provisions for the Caribbean Basin Trade Partnership Act \(CBTPA\)](#). The legislation, effective immediately, modifies CBTPA by making virtually all US footwear imports from Central America and the Caribbean (including the Dominican Republic) duty-free under very flexible rules of origin that allows the use of third-country uppers. The footwear provisions were part a package of miscellaneous tariff and trade technical corrections that were intended to be non-controversial ([HR 1047](#)). It includes a number of other provisions to fix problems with the trade preference programs as well as other provisions that temporarily suspend the duties on products that are not produced in the United States. It also includes several controversial provisions, including one offered by Senator Richard Shelby (R-AL) that would impose onerous labeling requirements on hosiery. *AAFA supported enactment of this legislation, except for the sock provisions, and will continue to work minimize the negative effects of the sock labeling rules during the development of regulations implementing the rules.*

8. ***China Safeguards:*** AAFA filed comments in December 2004 and January 2005 strongly opposing the China safeguard petitions on a variety of U.S. imports of Chinese threat based apparel that were filed by a coalition of textile associations on products that, at the time, were still under quotas. The U.S. Court of International Trade issued a December 30, 2004 preliminary injunction preventing the U.S. government from taking any further action on or any of the 12 threat-based China textile safeguard petitions filed to date. However, given that CITA has not provided the public with any confirming guidance to that effect as of the deadline dates initially established for the petitions, AAFA submitted comments in order to preserve its rights under the current China textile safeguard procedures. The U.S. Justice Department announced that it would appeal the preliminary injunction sometime in February. Even so, the appeals process could take 1-2 months and will occur simultaneously with the regular proceedings in the case. Meanwhile, the injunction will remain in place. According to press reports, the U.S. government also announced that it will impose a monitoring system by the end of February on U.S. imports of Chinese textiles and apparel products recently removed from quota to provide "real-time" data on U.S. imports from China, despite numerous concerns about the accuracy of such data, for use in possible future China safeguard cases. To obtain copies of AAFA's comments as well as the latest information on all of the China safeguard apparel petitions, please go to the China Safeguard Matrix on [AAFA's website](#). ***AAFA strongly opposes the concept of "threat-based" safeguard petitions for products still under quota. Further, AAFA continues to lobby the U.S. government to publicly release the procedures governing "threat-based" petitions since, otherwise, the government appears to be considering petitions in a black box under "secret" rules.***
9. ***Other China Issues:*** Throughout 2004, U.S./China economic relations dominated many international trade discussions in Congress. Much of the focus has been on the rising trade deficit the United States maintains with China and the perception that the U.S. is hemorrhaging manufacturing jobs to that country. Considerable focus continues to be on whether China is adhering to its obligations under the terms of its December 11, 2001 WTO [accession package](#) through which China and its trading partners made a number of specific commitments. Many policy makers are concerned that China is not abiding by its obligations in such areas as currency, market access, and counterfeiting and is thus artificially maintaining a competitive advantage. The United States and China continue to make progress on a number of these issues, principally on intellectual property rights and several high tech trade issues. Further progress could be slowed, however, due to ongoing disputes with China over the United States' application of the China textile Safeguard as well as mounting pressure from Congress over the currency issue. ***AAFA is actively working on bilateral issues to ensure its members maintain as well as increase market access in China, to ensure China adheres to its WTO obligations, and to promote China as a predictable business partner.***
10. ***Customs/Port Security Issues:*** In the aftermath of 9/11, Congress and the Administration have worked on a number of security related trade issues.
- In December 2004, Congress passed legislation to revamp the U.S. government's security structure and implement the recommendations of the 9/11 Commission as

well as other measures to improve homeland security. The actual implementation of the bill's provisions, however, is ongoing. Its effect on port security still remains unclear. Meanwhile, members of Congress continue to propose initiatives purportedly aimed at increasing the security of our nation's ports. AAFA has [fought to defeat or change numerous proposals](#) that could adversely affect U.S. apparel and footwear firms while doing little to improve homeland security. At the same time, AAFA continues to work with Congress to find constructive solutions to improving homeland security without impeding trade. AAFA has also successfully [fought to ensure that](#) oversight of the U.S. government's revenue and trade facilitation (Customs) functions remain under the House Ways & Means and Senate Finance Committees - a role that the Committees have played for the last two centuries - in order to ensure that important and necessary efforts to improve cargo security don't bring international trade to a halt.

- At the same time, AAFA continues to monitor the port situation on the West Coast and search for new ways for AAFA members to address port delays and other related issues that affect members' cargo.
- Meanwhile, Customs continues to aggressively pursue a series of new customs and port security initiatives – including the [Customs Trade Partnership Against Terrorism \(C-TPAT\)](#) and the [Container Security Initiative](#) – focusing interdiction and investigation resources on higher risk containers. The C-TPAT process now includes thousands of participants ranging from importers, freight forwarders, carriers, customs brokers, and even some foreign manufacturers. Although it has not formally changed the requirements of importers under C-TPAT, Customs has recently indicated that it will impose new and stricter requirements on C-TPAT participants. AAFA continues to track these changes and, through its Port Security Taskforce, explore possible solutions to AAFA members facing these challenges. The CSI process, which initially focused on the top 20 foreign ports servicing the United States, is now actively expanding to other ports around the world.
- Finally, with the new security emphasis, attention still remains on computer automation to facilitate trade and provide state of the art risk assessment. The business community and the U.S. government are working to ensure funding for the replacement system – known as the Automated Commercial Environment (ACE) – which comes with an estimated \$1.4 billion price tag over several years. In [President Bush's Proposed FY 2006 Budget](#), Bush has proposed spending \$306 million towards completion of ACE.

AAFA supports full funding of the ACE and measures to strengthen security without interdicting legitimate commerce. AAFA will also continue to monitor the situation on the West Coast and will explore alternative solutions (including possible legislative fixes) for AAFA members.

11. **Miscellaneous User Fees:** Several trade-related user fees have been discussed in Washington over the past Congress, including:

- Customs User Fees: Congress extended the Customs User Fee (called the Merchandise Processing Fee) through September 30, 2014 under the American Jobs Creation Act (H.R.4520) signed into law by President Bush on October 22, 2004. Despite opposition from AAFA and others who argued that the fee should only be used for customs purposes, the fee will be used to partially offset the costs of the manufacturing tax breaks and other incentives in the legislation (see related article below). As part of a [miscellaneous tariff and trade bill](#) (HR 1047) approved by Congress in December 2004, the Comptroller General has been ordered to study the Customs user fee to determine how best the revenues associated with that fee should be used.
- New Port Security Fees: Thanks to an [AAFA-supported industry effort](#), the Senate Commerce, Science and Transportation Committee voted April 8, 2004 to strip the port security use fee provisions in legislation to improve port security - [The Maritime Transportation Security Act of 2004 \(S. 2279\)](#). In echoing calls from industry, many committee members instead suggested that current Customs tariffs and duties be used to pay for improved port security.

AAFA has generally opposed the levying or extension of such fees, or using the revenue generated from such fees to pay for non-customs related issues.

12. EU Retaliation: In retaliation over three separate trade disputes, the European Union (EU) levied, or had proposed to levy, punitive tariffs on a variety of U.S.-made textile, apparel, and footwear exports to Europe. The **first** case involved retaliation for duties the U.S. had imposed on European steel exports. Ultimately, the EU suspended the retaliation in December 2003 once the United States revoked the duties, following an adverse WTO ruling and a revised appraisal of the benefit of the duties for the U.S. economy. The **second** case involves [retaliation](#) over a tax subsidy that the United States provided to certain U.S. exporters. Before adjourning for the elections, Congress passed legislation to modify U.S. tax laws (see below) to prevent the EU from continuing with this retaliatory action. Despite passage of the legislation and President Bush signing it into law on October 22, the EU did not remove the sanctions until February 1, 2005. Further, the EU has threatened to re-impose the sanctions starting January 1, 2006 if the WTO finds that the legislation is still in violation of the WTO rulings. In a **third** potential case, the [European Union](#) joined with [Canada](#) and [Japan](#) in the fall of 2004 in threatening to impose new sanctions on Canadian, European and Japanese imports of U.S.-made apparel, footwear and textiles in retaliation for the failure of the United States to comply with a World Trade Organization (WTO) ruling against the Byrd Amendment. The Byrd Amendment disburses the proceeds from the punitive duties placed on US imports in anti-dumping and countervailing duty (AD/CVD) cases to the U.S. manufacturers who originally filed the AD/CVD cases. The WTO ruled the Byrd amendment illegal because the WTO believes it provides a direct financial incentive to U.S. manufacturers to file AD/CVD cases. All three countries recently announced, however, they they will not impose sanctions until the end of 2005 in order to give the United States time to repeal the law. *AAFA has been working to help remove members'*

products from these retaliation lists and supports legislation to remove the underlying trade disputes.

13. **Doha Round:** The United States and the more than 140 other countries of the WTO agreed to launch a [new multilateral trade round](#) in Doha, Qatar in early November 2001. In the final [declaration](#), trade ministers agreed to negotiations that could lead to reductions/eliminations in tariff and non-tariff barriers affecting U.S. branded textile, apparel, and footwear. After a disastrous ministerial meeting in Cancun in September 2003, WTO members got negotiations back on track by [agreeing to a framework for further negotiations](#) in July 2004. Based on the agreement, the parameters of the future package will cover five key areas: agriculture, industrial market access, development issues, trade facilitation and services. The parameters adopted will entail, in particular, a substantial cut in trade-distorting agriculture support, a solution for cotton, a reduction of tariffs on industrial products with special rules for developing countries and stepped up negotiations on services. Although the original January 1, 2005 target date for completion has passed, most countries hope to have modalities completed by the December 2005 WTO Ministerial in Hong Kong. ***AAFA supports the successful completion of the Doha round and welcomes a U.S. [proposal](#) to eliminate tariffs worldwide as a way to address and eliminate tariff and non-tariff barriers in key markets worldwide.***

14. **Non-Tariff Barriers:** As numerous efforts continue to reduce foreign and U.S. tariffs on footwear and apparel, both Congress and the Bush Administration have increasingly focused on reducing foreign non-tariff barriers that prevent U.S.-branded products from entering foreign markets. These non-tariff barriers include, but are not limited to, onerous and/or unreasonable labeling standards, reference pricing, tariff-rate quotas, customs procedures, copyright and trademark violations, and other steps that foreign countries take to close their markets to U.S.-branded products. Along those lines, on October 4, the U.S. government announced a new, high-level multi-agency [Strategy Targeting Organized Piracy \(STOP!\)](#). STOP! will empower small businesses to secure and enforce their rights by: stopping trade in fakes at America's borders; raising the stakes for international pirates and counterfeiters; working with the private sector to keep fakes out of the global supply chain; dismantling criminal enterprises that steal intellectual property; and reaching out to trading partners to build an international coalition to block bogus goods. As part of this effort, a bi-partisan group of 21 members of Congress introduced [AAFA-supported](#) legislation in January to strengthen the U.S. law used to prosecute counterfeiters. The U.S. government has also submitted to the WTO a [detailed list](#) of non-tariff barriers and a proposal on a way to address these barriers as an integral and necessary part of its market access proposal in the Doha Round. On April 1, the U.S. government also released its [2004 National Trade Estimate Report on Foreign Trade Barriers](#). The report provides a detailed description of the barriers U.S.-made and U.S.-branded products and services face in foreign countries. The reports single out China, Egypt, India and others for their barriers to textile and apparel imports and Argentina and Japan for their restrictions on footwear imports. The U.S. government believes the reduction/elimination of non-tariff barriers to U.S.-branded products around the world is a necessary step for successfully concluding the Round.

Along those lines, AAFA [sent a December 2004 letter](#) to U.S. Trade Representative Robert Zoellick urging the U.S. government to take immediate action on Japan's continued tariff rate quotas (TRQ) severely restricting imports of leather footwear. *AAFA strongly supports the elimination of non-tariff barriers to U.S.-branded products worldwide. AAFA has already [submitted comments](#) to the U.S. government outlining many of these barriers and will continue to push for the elimination of non-tariff barriers worldwide.*

15. ***Termination of Quotas:*** Worldwide apparel and textile quotas ended as scheduled on January 1, 2005. Since both Canada and the European Union also eliminated quotas on imports from all non-WTO countries at the same time, the United States remains the ONLY country that maintains any sort of quotas on imports of apparel and textiles. The United States continues to impose quotas on U.S. apparel and textile imports from Vietnam and Belarus as well as safeguard quotas on U.S. imports of Chinese socks. Citing concerns over the role China will play in a quota free world, efforts by a [coalition](#) of textile (and some apparel) trade associations to extend quotas for an additional 3 years came to an end at the [October 2004 WTO General Council Meeting](#), when the WTO's members, particularly apparel importing countries, rejected any possible extension of quotas. Instead, the WTO agreed to further explore the concept of post-quota adjustment issues. U.S. Customs is [currently implementing](#) its post-quota processing procedures. The European Union (EU) also announced its [post-quota processing procedures](#). *AAFA supports the scheduled termination of the quota system and continues to work to ensure as smooth a transition as possible for AAFA members.*

Government Contracting Issues

16. ***Preservation of "Berry Amendment" Buy America protections:*** The Berry Amendment is a 60-year old staple of Defense procurement law that requires the [Defense Department](#) to procure clothing and footwear from U.S. domestic manufacturers using U.S. inputs. This provision is considered an issue of national security with regard to limiting access to U.S. official military uniforms. The Berry Amendment also strongly contributes to the maintenance of the warm industrial base in the United States for military needs, such as the current conflicts being waged in Iraq and Afghanistan. In 2001, AAFA secured Congressional passage of (Section 832) in the FY 2002 Defense Authorization Act ([P.L. 107-333](#)) that codified the Berry amendment into law. In 2003, as part of the consideration of the FY 2004 authorization bill, AAFA lobbied successfully against a proposal that would have created a loophole to eviscerate Berry for "contingency" reasons. The proposal was accepted, but excluded clothing and textiles due to AAFA efforts. In 2004, Congressman Robin Hayes (R-NC-8) introduced the Berry Amendment Transparency Act, ([H.R. 3951](#)). Language from this legislation was added to the FY 2005 Defense Authorization Act and would have established more transparency into DoD procurement waivers. This legislation also included **language sought by AAFA in the FY '04 bill to classify leather and other components** as clothing material and thus unequivocally covered by Berry. Slightly modified language from H.R. 3951 was included in the FY '05 Authorization bill; however, due to Buy American controversies, all Buy American provisions, including the language from H.R. 3951, were taken out of

the final bill in conference. [AAFA](#) supports preservation of the Berry Amendment for the Department of Defense (DoD) as a national security issue and a vital way to maintain a warm industrial base for the national defense. Congressman Hayes will reintroduce his bill this year and AAFA will be pursuing the introduction of companion legislation in the Senate. If identical legislation is included in both the House and Senate Defense Authorization bills, the provisions will not be conference items and not debatable in conference if passed in each House. AAFA will continue to monitor and guard against any efforts to dilute or weaken DoD Berry protections. AAFA will be working with members of Congress to evaluate various approaches on legislation needed to clarify and strengthen the Berry Amendment in the upcoming legislative session.

17. **Reform of Federal Prison Industries (FPI):** AAFA continues to chip away at the mandatory source requirements for the [Federal Prison Industries](#) (FPI) to instead require FPI to meet the same price, quality, and delivery time requirements met by the private sector. The [FY 2002](#) and [FY 2003](#) Defense Authorization laws contained provisions to give Defense contracts this flexibility permanently. The Administration recently finalized regulations on these provisions. In the FY 2005 Omnibus bill, which passed in December 2004, another permanent reform to diminish the impact of the mandatory source requirements was included. The FY 2005 bill extended the DoD flexibility to the entire government by denying funds under the Omnibus or any other bill for 2005 or any following fiscal year for the purchase of a product or service offered by FPI, unless the said product has been evaluated to provide the best value to the government. AAFA continues to support the more broad comprehensive reform contained in the overwhelmingly approved House bill, ([HR 1829](#)). Senators Carl Levin (D-MI) and Craig Thomas (R-WY) are expect to reintroduce reform legislation this year though it is unclear how much steam the issue will command considering the extensive victory in the Omnibus. [AAFA](#) supports permanent FPI reform to make that agency more accountable and subject to greater and more effective oversight in order to level the playing field for U.S. contractors. AAFA will submit comments on the implementing regulations for the permanency provision and will also continue to pursue other avenues to curtail FPI's ability to undermine these reforms.

Labor Issues

18. **Minimum wage:** Despite repeated efforts in several previous Congresses, Senate and House Democrats have been unable to secure a raise in the U.S. federal minimum wage, which has not been increased in seven years. Several times during 2004, Senate Democrats tried to amend pending legislation with a provision that would raise the federal minimum wage from \$5.15 to \$7.00 per hour in three increments. All attempts thus far have been unsuccessful. Many expect, however, that Congressional Democrats will make similar efforts this year. [AAFA](#) supports efforts to keep the U.S. minimum wage at current levels.
19. **Ergonomics standards:** In March 2001, Congressional Republicans, together with the White House, were successful in overturning the Federal one-size fits all [final rule on](#)

[ergonomics](#). Since then, a number of Congressional Democrats have sought opportunities to require the [Occupational Safety and Health Administration](#) (OSHA) to re-issue new ergonomics guidelines. For example, some have inserted provisions in various appropriations bills to provide funding for the issuance of new ergonomics standards. New efforts could be made again during the current Congress. Following a national forum on ergonomics, at which AAFA testified, OSHA has announced a series of [voluntary guidelines](#) and industry alliances on ergonomics practices. *AAFA opposed the promulgation of a federal one-size-fits-all rule on ergonomics, especially since apparel and footwear industries have recognized and promoted good ergonomic practices for years. AAFA has signed an alliance with OSHA to promote greater awareness of ergonomics issues.*

Regulatory Issues

20. **Children's clothing:** In 1996, the [Consumer Product Safety Commission \(CPSC\)](#) modified the children's sleepwear flammability standards to permit the sale of children's sleepwear made from non-flame resistant material for sizes 0-9 months or that meet certain snug-fitting dimensions. In 1999, the CPSC reaffirmed this rule with additional labeling requirements. Years of data continue to support the facts that this sleepwear is safe. Separately, Greenpeace has launched a campaign to question the safety of certain children's clothing as a result of the use of PVC plastisol printing techniques. Currently, their efforts have been directed at Disney and apparel manufacturers who use screen-printing with PVC/phthalates in Europe. *AAFA strongly supports the retention of the [1996 children's sleepwear amendments](#) and is following the Greenpeace claims.*
21. **Drawstrings:** In July 2004, New York Governor George Pataki signed into law [bill number 10866](#) to clarify ambiguities on restrictions for manufacturing clothing with drawstrings. Despite sporadic efforts, no other state has yet followed suit. *AAFA believes national drawstring guidelines are preferable to state regulations.*
22. **Flammable Fabrics Review:** On September 12, 2002, the Consumer Product Safety Commission issued a notice of [Advanced Proposed Rulemaking \(ANPR\)](#) to review and update the testing standards for the general wearing apparel flammability standard. *AAFA filed technical comments on this ANPR, which is still awaiting action by the CPSC.*
23. **Labeling Issues:** The [Federal Trade Commission \(FTC\)](#) and the U.S. Trade Representative are working with the Canadian and Mexican governments on a draft agreement that would harmonize the meaning of care label symbols across the three NAFTA countries. A similar initiative is occurring under the International Standards Organization (ISO) process, although it has reached stumbling blocks over the insistence of some European countries to use a system trademarked in Europe. A separate initiative may be undertaken to permit the FTC and the Canadian government to recognize each other's manufacturers' ID numbers. This initiative requires legislation since the FTC is only statutorily permitted to recognize its own ID scheme. The FTC has also recently announced a new ["corporate leniency" policy](#) that will enable first time offenders to

disclose minor and inadvertent labeling mistakes without penalty. Finally, as noted above, recently passed legislation amended the labeling requirements with respect to hosiery. *AAFA is working with the FTC to promote harmonization and simplification of labeling rules.*

Taxes

24. ***Foreign Sales Corporation/Extra Territorial Income (FSC/ETI):*** Congress finally passed [H.R. 4520](#), the American Jobs Creation Act (AJCA), on October 11 to repeal the ETI tax incentive and bring the U.S. into compliance with their WTO obligations. The European Union (EU) sanctions were recently lifted and apply retroactively to January 1, 2005. Unfortunately, provisions were included that will immediately reapply the sanctions if the ETI repeal is ruled insufficient to meet the requirements for WTO compliance. H.R. 4520 also contained numerous tax reforms to benefit U.S. manufacturing and businesses. The Treasury Department has recently released interim guidance on the [manufacturing income deduction](#) and [repatriation](#). The manufacturing deduction was designed to benefit manufacturers with domestic production activities. The Treasury provides information on determining manufacturing “in significant part” in the U.S. ([Full Notice](#) / [Fact Sheet](#) / [AAFA's comments.](#)) Repatriation was included to encourage companies with foreign subsidiaries to invest in the U.S. by temporarily reducing the tax rate for one year (2005). The Treasury provided guidance on what investments are permitted and the requirements for an investment plan ([fact sheet](#), [full notice](#)). *AAFA supported the enactment of the American Jobs Creation Act of 2004 and is opposed to the reimplementing of sanctions. (More information on the tax reforms can be found in FSC/ETI section).*

Other

25. ***Funding for NTC/[TC]²:*** Each year, the [National Textile Center](#) (NTC) and the [Textile/Clothing Technology Corp. \[TC\]²](#) receive federal appropriations through the annual Commerce/Justice/State appropriations bill to support their work to advance the competitiveness of the U.S. textile and apparel industry complex. Over the years, NTC has received between \$7 million and \$10 million while [TC]² usually receives around \$3 to \$3.5 million. FY 2003 and 2004 funding levels are set at \$10 million and \$3 million, respectively. FY 2005 levels have not yet been set. *AAFA supports continued funding for NTC and [TC]².*

For additional information, please contact the AAFA Government Relations Staff at 703-524-1864 or through the “Legislative/Trade Action Center” section of the AAFA Web Site at www.apparelandfootwear.org. You can also get more information by clicking on the hot links embedded throughout this document.