



Third Quarter 2005 Legislative Update

May 25, 2005

(With links for more detailed information)

The Senate recently avoided a showdown on what has been called the “nuclear option” through the efforts of 14 moderate Senators from both sides of the aisle to reach a compromise. Before this compromise was reached, the Senate was headed toward a round the clock debate cumulating with vote and ruling that would have removed the ability of the minority to filibuster the President’s judicial nominees. Had the Senate moved forward it would have essentially locked up the legislative agenda in the Senate other than for appropriations bills. Republicans had maintained that the filibuster tactic was being used by the minority to bottle up the President’s judicial nominees. The filibuster is a procedural tactic used in the Senate to stall a measure by preventing it from ever coming to a vote, generally by prolonged debate as once a Senator is recognized he may not be interrupted without permission.

The compromise will bring several judicial nominations that have been held up by filibusters up for a vote, including the nomination Priscilla Owen to the Fifth Circuit Court of Appeals whose nominating debate was being used to bring about the “nuclear option” had the compromise not been reached and the cloture motion failed. Although a guaranteed up or down vote on judicial nominees was not part of the agreement, Democrats agreed to allow a votes on Owen, Janice Rogers Brown to the U.S. Circuit Court of Appeals for the District of Columbia, and William Pryor to the 11th U.S. Circuit Court of Appeals. They will still be able to filibuster the nominations of William Myers to the 9th Circuit and Henry Saad to the 6th Circuit. As part of the agreement, the Republicans will not attempt to change the rules in the 109th Congress unless the deal is breached by the Democrats, who will also refrain from filibustering judicial nominees except in extreme situations.

The Moderate Senators responsible for the agreement include lead negotiators John McCain, R-AZ and Ben Nelson, D, NE. Other Democrats signing on were Sens. Robert Byrd, D-WV, Mark Pryor of Arkansas, Mary Landrieu of Louisiana, Daniel Inouye of Hawaii, Joseph Lieberman of Connecticut and Ken Salazar of Colorado. Republicans signing on were Sens. John Warner of Virginia, Mike DeWine of Ohio, Lindsey Graham of South Carolina, Olympia Snow and Susan Collins of Maine and Lincoln Chafee of Rhode Island. Also part of the deal was for the White House to consult more with the Senate as part of the judicial nomination process. All sides have claimed victory, which will bode well for the legislative process and hopefully has preserved some bipartisanship for the future consideration of the U.S. Dominican Republic/Central American Free Trade Agreement (DR/CAFTA).

The Senate will take up the 2006 Defense Authorization Bill (S.1042) after the Memorial Day break next week. Before the Senate sincerely started down the nuclear road, the Congress was able to pass a Budget Resolution as well as the Supplemental Appropriations bill. Both the

House and the Senate have stated a strong commitment to passing all individual appropriations bills this Congress and the House is on schedule to pass all perhaps by their statutory deadline of October 1st. The Senate's appropriations schedule has slipped a bit due to the debate on the nuclear option, but the majority remains committed to getting the appropriations bills done this year and avoiding an omnibus as has been the case the past couple of years.

Despite the contentious and partisan activities in the Senate, the debate on the DR-CAFTA has continued to percolate and got a boost with recent endorsement of the National Cotton Council (NCC) and the National Council of Textile Organizations (NCTO), but the resistance related to the sugar provisions remain as well as the Democrat opposition to the labor and environmental provisions of the agreement. The Senate Finance Committee has scheduled the non-mark mark-up of the DR-CAFTA for the week of June 13, though the ability of Senators to pass amendments on sugar at the non-mark remains in question and could continue to delay the consideration even though industry has been working extensively to educate Members of Congress on the facts of the agreement. It was feared that the vote would be lost if pushed past the Memorial Day break, but the President has come out very strong in support of the agreement recently and thus raising the passage of the DR-CAFTA agreement on the Administration totem pole of priorities, which has been dominated by Social Security.

The Social Security debate will continue to be at the top of the Administration's priorities. The issue will start to get more attention in the House as Chairman Bill Thomas (R-CA) will soon begin a litany of hearings on the issue. The Chairman's obvious goal is to find the combination of proposals that it is hoped will capture the support of enough members on both sides of the debate to pass. Thomas' stated plan is to put together a bill that encompasses not only Social Security, but numerous other retirement- related proposals including pension and tax. So, with this in mind AAFA and other industries and associations in support of the DR/CAFTA continue to push MOCs to commit votes in support of the agreement and push for the earliest consideration possible while ensuring passage in order to avoid getting squeezed out by the Social Security debate.

Finally, Members of Congress more now than ever are linking the anxiety over China's trade practices and particularly the currency valuation, intellectual property violations and the issues revolving around China's status as a non-market economy, to their support for the DR/CAFTA. Several bills have been introduced to address China concerns. The Administration has also granted safeguards on several categories of textile imports from China, though the claim is that the two issues are not related and should be considered on their own merits. With the passage of the DR/CAFTA, the Bahrain agreement will be the next agreement up for consideration. The dynamics of the Senate on trade or any other issue "post nuclear" remain to be seen and 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 may be published soon. 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, the former U.S. Trade Representative, Ambassador Robert B. Zoellick, launched an ambitious schedule of free trade agreement negotiations.
 - ***Central America:*** On August 5, 2004, Ambassador Zoellick signed the [U.S./Dominican Republic - Central America Free Trade Agreement \(CAFTA-DR\)](#) with five countries in Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The CAFTA-DR is expected to be considered by Congress during 2005, possibly by the July 4th recess. Strong concerns by sugar and labor interests have helped delay consideration. In addition, initial concerns by some in textile industry were alleviated when several textile trade associations endorsed the agreement following several commitments and clarifications of agreement provisions by U.S. Trade Representative, Ambassador Robert Portman. Once it enters into force, the CAFTA-DR should build upon the CBTPA by making the U.S./Central American trade partnership simpler, permanent, reciprocal, broader, and more flexible. [AAFA](#) *strongly 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 by July 1, 2005. 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 2004, the Administration signed a completed FTA with [Bahrain](#). Congressional action on that FTA could occur soon after Congress has completed consideration of the CAFTA-DR. Negotiations may soon end 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 little progress in negotiating an agreement for a [Free Trade Area of the Americas \(FTAA\)](#) that would drop trade and investment barriers across North and South America. 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. 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. **Other Trade Preference Programs:** Several in Congress are now actively pushing legislation ([HR 886/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 will support renewal of the import ban when the issue comes before Congress again this summer. *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. Learn more about the new CBTPA footwear provisions in [AAFA's Footwear Trade Matrix](#). 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:** In March, the U.S. government announced that they would expedite the release of trade numbers with respect to U.S. textile and apparel imports from China, releasing first quarter 2005 on April 1. This action led the U.S. government to announce April 4, 2005 that it would self-initiate safeguard investigations on U.S. imports of Chinese cotton knit shirts (Category 338/339), cotton pants (Category 347/348) and

underwear (Category 352/652). Then, on April 27, the U.S. Court of Appeals for the Federal Circuit overturned the injunction preventing consideration of the threat-based China safeguard petitions submitted in the Fall of 2004. As a result, the U.S. government re-started consideration of these petitions where the process stopped when the safeguard was implemented. The U.S. government then accepted new petitions from the U.S. textile six other apparel categories on May 4, many of which were also covered by the threat-based petitions. The US government's interagency Committee for the Implementation of Textile Agreements (CITA) [announced May 20](#) that it has imposed, as of May 23, safeguard quotas on Categories 338/339, 347/348, and 352/652. On May 18, the United States announced that [it will also impose safeguard quotas](#) on U.S. imports of Chinese men's and boys' cotton and man-made fiber woven tops (Category 340/640), man-made fiber pants (Category 647/648) and man-made fiber knit tops (category 638/639) based on the threat-based petitions submitted last fall. According to the announcement, the safeguard quotas will be imposed by the end of May. At the current rate of imports, according to [AAFA's China Safeguard Matrix](#), safeguard quotas would likely lead to embargoes on ALL six products between July and September. The U.S. government has not made final decisions on safeguard petitions on four other apparel products – sweaters (Category 345/645/646), brassieres (Category 349/649), dressing gowns (Category 350/650), and wool trousers (Category 447), mostly because the public comment periods on many of these petitions remain open until early June. AAFA had filed comments both on the self-initiated petitions ([338/339](#), [347/348](#), and [352/652](#)) and on the threat-based petitions ([340/640](#), [638/639](#), and [647/648](#)) strongly opposing safeguard quotas on three of these categories. AAFA also signed onto comments submitted by the American Apparel Supply Chain Coalition ([347/348](#) and [340/640](#)) and the U.S. Sweater Coalition ([338/339](#) and [638/639](#)). Following the United States' lead, the European Union (EU) [announced May 17](#) that, due to the "seriousness of market disruption in these categories," the EU will ignore its own published regulations requiring 60-day process for considering safeguard. Instead, the EU will impose safeguard quotas on EU imports of Chinese t-shirts (Category 4) and flax yarn (Category 115) by early June, unless China imposes its own export restraints on these products by that time. Meanwhile, the US government announced that the only other safeguard currently in place, on U.S. imports of Chinese socks (Category 332/432/632 Part), [embargoed on May 12](#). As a result, all U.S. imports of Chinese socks shipped between now and October 28, 2005 must be entered under the [new China safeguard staging process](#). ***AAFA strongly opposes the safeguard petitions because there is no evidence that imports from China have disrupted the U.S. market for these products. Instead, swift passage of CAFTA-DR is more likely to stimulate domestic textile and apparel employment and production. for products still under quota.***

9. ***Other China Issues:*** Already in 2005, U.S./China economic relations have dominated virtually all 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. Possibly to deflect criticism on some of these issues, China [announced May 20](#) that it would raise export tariffs on 74 sorts of textile products, with a 400 percent hike for most of the products, beginning June 1, 2005. The export tariffs on most products would increase from 0.2 yuan (2.4 US cents) to 1 yuan (12 US cents). But the new export tariffs for women's cotton overcoat and mantle would be 4 yuan (48 US cents), compared with the current 0.3 yuan (3.6 US cents). ***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.

- Members of Congress continue to propose initiatives purportedly aimed at increasing the security of our nation's ports. AAFA will lobby to defeat or change proposed legislation 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.
- 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. Customs [recently imposed new, more strict 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.

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) has levied punitive tariffs on a variety of U.S.-made textile, apparel, and footwear exports to Europe. The first two cases – involving European steel exports and a tax subsidy that the United States provided to certain U.S. exporters – have since been resolved. In the **third** case, however, the European Union on May [1 began to impose 15 percent punitive duties](#) on European imports of U.S.-made apparel 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. *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, the U.S. House of Representatives on May 23 passed [AAFA-supported](#) legislation 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 [2005 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. AAFA also supports the U.S. government's [recent efforts](#) to encourage China improve enforcement of intellectual property rights (IPR). 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, Ukraine, and Belarus as well as safeguard quotas on U.S. imports of Chinese shirts, pants, and socks. ***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. AAFA considers this position in the interest 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.
- 2001 - Passage of (Section 832) in FY 2002 Defense Authorization Act ([P.L. 107-333](#)) - codified the Berry amendment into law.
 - 2003 - Prevented inclusion of clothing & textiles for “contingency” operations in FY 2004 authorization bill.

Congressman Robin Hayes (R-NC-8) has introduced legislation in the past two sessions of Congress to implement some transparency into the waiver process and to clarify the designation of leather and other components as clothing material and covered under the Berry Amendment. The Congressman’s bill this year, [H.R. 1239](#) the Berry Amendment Notification Act, included the clarification language as well as requiring notification on Berry waivers. Last year language from Hayes’ bill, H.R. 3951, as well as all other Buy America related provisions, was taken out of the final Defense Authorization bill in conference due to Buy America controversies. In order to avoid this result in the FY 2006 Act, AAFA and other interested groups made a strong push to get identical language in both the House and Senate bills – the Senate again proved to be the bigger obstacle. We will continue to work on getting the Hayes language in the final bill either as an amendment on the floor in the Senate or through the conference process as the House DoD bill contains the Hayes language. ***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. 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.

- 2001-2002 - [FY 2002](#) and [FY 2003](#) Defense Authorization laws allowed the contracting officers for Defense contracts to determine whether FPI met these qualifications. Regulations were recently finalized.
- 2004 - [FY 2005](#) Consolidated Appropriations Act permanently 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 item purchases unless best value.

This change will help to further diminish the impact of the mandatory source requirements 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. The Federal Register just recently released the [interim rule](#) to implement Section 637 of the Consolidated Appropriations Act, 2005. Comments are due by June 10, 2005.

AAFA continues to support the more broad comprehensive reform contained in the overwhelmingly approved House bill, ([HR 1829](#)) in the 108th Congress. Congressman Peter Hoekstra and the other sponsors of HR 1829, have yet to introduce a bill in the 109th Congress, but it is expected they will do so in the near future. Senators Carl Levin (D-MI) and Craig Thomas (R-WY) have also reintroduced their reform bill [S.749](#), although it is unclear how much steam the issue will command in the Senate considering the extensive victory in the Omnibus.

- 2005 - AAFA joined with apparel and textile union Unite Here to submit a [March 31 letter](#) urging FPI to cease activity immediately on an FPI solicitation (CTI 1703-05) to supply Bureau of Prisons guard uniforms.

The Bureau of Prisons (BOP) uniforms valued at approximately \$8 million would be supplied to and purchased by the 20,000 Bureau of Prisons (BOP) staff. AAFA & Unite protested the solicitation on the grounds that it violates FPI's statutory requirements by circumventing the competitive process and the requirement for adverse-impact analysis by assuming the contract without notification or competition. If allowed, the contract resulting from such a solicitation would allow FPI to sell into the commercial market place. The purchases of BOP uniforms are individual/private purchases by BOP guards. At this point, the solicitation remains active yet had been extended several times.

[AAFA](#) supports permanent and comprehensive 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. As a result of the alliance, the AAFA-OSHA Alliance has published [Ergonomics for Supervisors: An Introductory Manual for the Apparel and Footwear Industries](#). The AAFA-OSHA plans to produce additional manuals on best practices and case studies. Also, AAFA has offered a series of regional training sessions throughout the United States.*

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.