



## Fourth Quarter 2005 Legislative Update

August 22, 2005

(With links for more detailed information)

Members of Congress spent the August recess in their respective states and districts touting their most recent legislative accomplishments to their constituents. The House and Senate worked furiously to complete their agendas before departing for the summer break. The House was successful in completing all of their appropriations bills in advance of the recess, while the Senate has only passed five of the eleven appropriations bills. The most significant success in the Congress this year by far is the passage of the U.S./Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), at least from AAFA's perspective. After a CAFTA-DR packed summer, the Senate passed the agreement by a vote of 55-45 with a much closer House vote of 217-215. It was a tremendous victory for AAFA members and staff that have worked diligently for CAFTA-DR's passage. Though the CAFTA-DR vote was the most significant for many, the Leadership reserved the final votes before the recess for the Transportation Authorization Bill and the Energy bill. Both were major accomplishments as they have been held up for over a year.

With a vote of 74-26 in the Senate and 275-156 in the House, the energy bill passed, granting \$14.5 billion in tax breaks for matters relating to generating electricity and nuclear power, and improving transmission grids. The transportation bill went on to pass almost unanimously in Congress with a vote of 91-4 in the Senate and 412-8 in the House. The passage of this bill ensures that \$286.4 billion will go to improving transit programs, fixing roadways and bridges, and improving transportation safety. Through the creation of new transit programs and the plan to reconstruct roadways, this bill creates many new jobs for American citizens.

As Congress gets back into its routine after the August recess, the Senate will focus on immigration as well as the appointment of the next Supreme Court Justice, while the House will work primarily on energy policy and social security. On the Senate front, Senators John McCain (R-AZ) and Edward Kennedy (D-MA) have introduced a labor bill that would create a temporary worker program and would allow some illegal immigrants to obtain permanent citizenship in the United States. The labor unions are not united in their opposition. However, if the Senate takes the McCain-Kennedy bill up, the current controversy over immigration will likely spill into the debate. Many labor unions believe that the bill lacks protections to ensure minimum wage for these immigrants. This issue has been highlighted by the recent state of emergency issued by the states of Arizona and New Mexico regarding unchecked illegal immigration and drugs coming across the border from Mexico. In the month of September, the Senate also has the task of thoroughly reviewing President Bush's nominee to the Supreme Court - John Roberts.

While the Senate is moving ahead on the immigration issue and the Supreme Court Justice nomination, the Senate Finance Committee is at a standstill on Social Security until the House

passes a bill. The House has stood firm thus far in their plans to include personal accounts in their final bill. The House is holding out till the end of September to discuss social security in order to avoid further polarization on the issues. Also in September, the House of Representatives will put oil exploration in the Arctic National Wildlife Refuge at the forefront of their agenda, what some see as a bid for the United States to become more self-reliant and help to bring down prices on oil for U.S. consumers.

A number of other major issues will be addressed by Congress this fall, including their attempt to pass all 13 appropriations bills before the start of the U.S. government's next fiscal year, which starts October 31, 2005. AAFA tracks 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 nearly five years while the [Andean region \(Andean Trade Promotion and Drug Eradication Act -- ATPDEA\)](#) is nearly three 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. Most recently, the President [proclaimed modifications](#) for footwear rules of origin footwear for the CBTPA that were enacted 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. Now that CAFTA-DR is completed, attention may turn again to the Haiti legislation. ***[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 2, 2005, President Bush 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. Attention now turns to implementation and to ensuring that all countries ratify the agreement and fully implement it as soon as possible. Talks are also expected to begin soon to resolve last minute agreements relating to pocket fabrics, socks, the Nicaragua TPL, and cumulation. Once it enters into force, the CAFTA-DR will build upon the CBTPA by making the U.S./Central American trade partnership simpler, permanent, reciprocal, broader, and more flexible. A summary of CAFTA-DR's provisions can be found on the [AAFA web site](#). ***AAFA strongly supported congressional passage of CAFTA-DR and now urges 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.***
  
  - **Other FTAs:** 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 January 1, 2006. The FTAs, among other things, provide a combination of duty free and reduced duty treatment for certain qualifying textiles, apparel, and footwear. The Bush Administration has also 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. 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. Until Vietnam joins the WTO, however, it 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 currently 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.***
5. ***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 July 27, 2005, President Bush signed into law a second 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.***
6. ***Miscellaneous Trade and Tariff Bill:*** The House Ways and Means Trade Subcommittee is now [soliciting comments](#) on a new miscellaneous tariff and trade bill. This bill provides an opportunity for Congress to make technical corrections and to suspend duties on products that are no longer produced in the United States. ***AAFA plans to comment on the many apparel and footwear provisions contained in the proposed bill and will work to ensure that these provisions meet the needs of AAFA's members.***
7. ***China Safeguards:*** 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. All of these safeguard quotas embargoed for the year by early August. The U.S. government has already delayed final decisions on six other safeguard petitions – sweaters (Category 345/645/646), bras (Category 349/649), dressing gowns (Category 350/650) and wool pants (Category 447). The U.S. government has also accepted for public comments safeguard petitions on socks (Category 332/432/632-Part), women’s and girls’ woven tops (Category 341/641), skirts (Category 342/642), pajamas (Category 351/651), swimwear (Category 359-S/659-S) and curtains/drapes (Category 369-Part/666-Part). Final decisions on these products are expected in September or October. Faced with the threat of more safeguards and due to some last minute deals on CAFTA-DR (see related article), both China and the United States agreed to instead pursue a “comprehensive bilateral textile agreement.” While the two sides failed to reach an agreement in its first round of negotiations (August 16 & 17 in San Francisco), negotiations will continue at the end of August in China. Most experts agree that some sort of agreement will be reached. Meanwhile, the European Union (EU) and China in June [reached a comprehensive bilateral agreement](#) re-imposing quotas on EU imports on a range of Chinese apparel and textile products through 2007. The bilateral agreement was reached after the EU also threatened to impose safeguards. Already, EU quotas on Chinese sweaters/pullovers and Chinese pants have embargoed. These embargoes have caused a strong backlash from European retailers and many EU member governments, with Germany and many other Northern European members calling for increased flexibilities in the agreement. ***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 implementation of recently passed CAFTA-DR is more likely to stimulate domestic textile and apparel employment and production.***

8. ***EU Antidumping Cases Against Chinese Footwear:*** The European Union (EU) in July launched two investigations alleging that Chinese and Indian safety-toe footwear and Chinese and Vietnamese leather footwear were being dumped on the European market at below cost. If the EU finds dumping in these cases, it could impose punitive duties on EU imports of these products, which, based on previous cases, could range from 40 percent to 120 percent. AAFA [filed comments](#) as an "outside interested party" with the European Union (EU) strongly opposing proposed punitive anti-dumping duties. In each case, AAFA would like to hear from AAFA members who are participating in the investigations as an official "interested party" or who are interested in joining AAFA's EU Footwear Dumping Task Force to learn more about this ongoing situation and to find ways for the U.S. footwear industry to fight the cases. Please contact Nate Herman at 703.797.9062. ***AAFA strongly opposes the EU investigations. In addition to keeping its members informed of the ongoing situation, AAFA is actively working with the U.S. government and AAFA’s European counterparts to fight the anti-dumping cases.***
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. China has made some progress on counterfeiting issues, but most, including AAFA, believe much more is required. In response to this pressure, China announced July 21 that, effective immediately, it has officially revalued its currency. According to China's Central Bank, the currency was immediately revalued upward 2.1 percent (from 8.28 Yuan/1 US Dollar to 8.11 Yuan/1 US Dollar). In future, the currency will be allowed to trade in a tight 0.3 percent band against a basket of foreign currencies. The announcement left unclear whether China would allow the currency to appreciate further. Despite this move, the U.S. House of Representatives on July 27 approved by a 255-168 vote a bill (HR 3283) that makes a number of changes to China trade policies, including provisions to permit the application of countervailing duties on Chinese goods that are illegally subsidized, a number of reports relating to bilateral trade issues, additional funding to ensure better monitoring and enforcement of Chinese trade commitments. The overall thrust of the bill is to ensure that China lives up to the commitments it has made in various bilateral agreements. While it is unclear if this legislation will be considered in the Senate, cosponsors of Senate legislation to impose new import tariffs on Chinese products are reportedly planning to insist on a vote in the Senate before the end of the year. ***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 and the U.S. government continue to propose initiatives purportedly aimed at increasing the security of our nation's ports. One such initiative is a July 20 proposal by the US Department of Homeland Security's Bureau of Customs & Border Protection that, by the end of this year, every container moving through the Ports of Los Angeles/Long Beach will move through a radiation portal monitor to check for radioactive elements. The move, part of Customs' continuing efforts to secure the nation's ports, could instead create disarray and long delays for cargo moving through LA/Long Beach. Almost half of all ocean-bound freight entering the United States enters through the Ports of LA/Long Beach. Concerns regarding Customs' proposal range from the possibility that Customs will have too few machines and/or staff to handle the volume of cargo and whether Customs' radiation monitors can accommodate on-dock rail to uncertainty surrounding how Customs will handle legitimate cargo that naturally emits trace amounts of radiation.
  - Meanwhile, the AAFA-supported Waterfront Coalition, which represents US shippers and importers from a variety of industries, recently issued a white paper proposing both short and long-term solutions to the growing congestion at West Coast ports. Among the group's recommendations are encouraging the increased use of alternative

West Coast, Gulf Coast and East Coast ports, staggering shipping departure times, moving to a 24/7 work environment, increasing cooperation between the ports, shippers and transportation providers and other short term measures as well as implementing a number of specific port, road and rail infrastructure projects in the long term.

- At the same, 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.
- In another step towards increasing security at U.S. ports, on June 24, the World Customs Organization (WCO) approved a Framework of Standards to Secure and Facilitate Global Trade. The Framework represents the WCO's most recent effort to develop a common standard to secure global supply chains against terrorism, criminal activity and commercial fraud while at the same time facilitating legitimate trade flows. The framework features 17 standards relating to the harmonization of cargo information requirements, the development of consistent risk management approaches and the deployment of non-intrusive inspection technologies. The new Framework will eventually apply to all of the WCO's 166 member countries, including the United States.
- 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 will lobby to defeat or change proposed legislation and other initiatives 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 and the U.S. government to find constructive solutions to improving homeland security without impeding trade. 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. **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. Once thought closed, the EU has decided to reopen the case involving an alleged tax subsidy the U.S. government has provided to large exporters. The EU alleges that the actions taken by the U.S. government to resolve the dispute do not go far enough and has challenged this action at the WTO. The situation will likely come to a head again in Spring of 2006. *AAFA has been working to help remove members' products from these retaliation lists and supports legislation to remove the underlying trade disputes.*
  
12. **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.*
  
13. **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 \[elimination of non-tariff barriers worldwide\]\(#\).](#)*

14. **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**

15. **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 to be in the interest of national security with regard to limiting access to U.S. official military uniforms as well as official military boots and other military footwear. 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.

### **AAFA Accomplishments:**

- 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, which would have allowed the military Berry protections for clothing and footwear.

Congressman Robin Hayes (R-NC-8) has introduced legislation in the past two sessions of Congress to implement some transparency into the current Berry 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 language requiring public 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 unrelated 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 Defense Authorization bills, but 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. 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.***

16. **Reform of Federal Prison Industries (FPI):** AAFA continues to work towards legislation that requires [FPI](#) to meet the same price, quality, and delivery time requirements met by the private sector.

**Most Recent AAFA Legislative Accomplishments Affecting FPI:**

- 2001-2002 - [FY 2002](#) and [FY 2003](#) Defense Authorization laws allowed the contracting officers for Defense contracts to determine whether FPI meets these qualifications when awarding the contracts. Regulations were recently finalized.
- 2004 - [FY 2005](#) Consolidated Omnibus Appropriations Act permanently extended the DoD flexibility to the entire government by denying funds for item purchases unless they represent the best value to the government.

These changes 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. AAFA submitted comments on the rule to implement Section 637 of the Consolidated Appropriations Act, 2005 on June 10, 2005.

AAFA continues to support the broader and more comprehensive reform contained in the House bill, [HR 2965](#), the FPI Competition in Contracting in 2005, sponsored by Congressman Peter Hoekstra. Although, [HR 1829](#), the earlier version of this bill passed the house overwhelmingly in the 108<sup>th</sup> Congress, a recent hearing on HR 2965 was forced to adjourn due to unexpected support from Judiciary members for an amendment that would have essentially nullified the bill. AAFA and the FPI Coalition have been working to reestablish the former support for the legislation before the Judiciary Committee will take the bill up again. 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 victory in last year's Omnibus. ***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**

17. ***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.***
  
18. ***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 Alliance 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**

19. **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 tracking the Greenpeace claims.***
20. **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.***
21. **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 final action by the CPSC.***
22. **Labeling Issues:** The South African government recently proposed rules on labeling of apparel, footwear, travel goods and other consumer products. If implemented, [the proposed rule](#) would require that the labels or permanent markings on all imported clothes, shoes, travel goods, etc. include the registration code of the South African importer as well as the country of origin. ***AAFA strongly opposes this proposal and has submitted [comments](#) to the South African government expressing opposition.***

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 final agreement is expected sometime this fall. 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 government to ensure new onerous sock labeling rules are the least restrictive possible. AAFA is also working with the FTC to promote harmonization and simplification of labeling rules. Recently, AAFA and the FTC***

*released the latest edition of the labeling guide, [Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts.](#)"*

## **Taxes**

23. ***Foreign Sales Corporation/Extra Territorial Income (FSC/ETI):*** Congress passed [H.R. 4520](#), the American Jobs Creation Act (AJCA), on October 11, 2004 to repeal the ETI tax incentive and bring the U.S. into compliance with their WTO obligations. The European Union (EU) sanctions, totaling \$4 billion in annual retaliatory duties on U.S. imports, were lifted at the beginning of the year; however, the EU included provisions that will immediately reapply the sanctions if the repeal is ruled insufficient to meet the requirements for WTO compliance. The WTO has now released a preliminary ruling affirming the EU's claims that H.R. 4520 continues to allow illegal export subsidies by grandfathering ETI benefits for some contracts in effect before September 13, 2003 and allowing U.S. exporters to continue ETI benefits via the phase out through 2006. If the final ruling upholds the claim, the sanctions will be reinstated. Regarding the tax provisions in the bill, the House Committee on Ways and Means has asked for comments on a technical corrections bill on H.R. 4520, which they plan to take up this fall. AAFA will submit comments requesting for a change in the law to allow contractors to benefit from the manufacturing deduction as well as the design portion of the manufacturing process, neither of which are currently included. ***[AAFA supported the enactment of the American Jobs Creation Act of 2004 and is opposed to the reimplementation of sanctions.](#)***

## **Other**

24. ***Funding for NTC/[TC]***<sup>2</sup>: Each year, the [National Textile Center](#) (NTC) and the [Textile/Clothing Technology Corp. \[TC\]](#)<sup>2</sup> 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]<sup>2</sup> usually receives around \$3 to \$3.5 million. FY 2005 funding levels are set at \$10 million and \$3 million, respectively. FY 2006 levels have not yet been set. ***AAFA supports continued funding for NTC and [TC]***<sup>2</sup>.

***Funding for Textile Marker System.*** At the request of Senator Elizabeth Dole (R-NC), the Small Business Administration was provided a grant of 300,000 in FY 2005 to help support development of a [textile marker system](#). Officials at the Oak Ridge Laboratory who have received the grant believe the systems will have application for anti transshipment issues, although it remains unclear if this technology can find an application in this area. ***AAFA is tracking this program closely.***

For additional information, please contact the AAFA Government Relations Staff at 703-524-1864 or through the "Legislative/Trade News" section of the AAFA Web Site at [www.apparelandfootwear.org](http://www.apparelandfootwear.org). You can also get more information by clicking on the hot links embedded throughout this document.