



Third Quarter Legislative Update September 2007

As Congress returns from its annual August Recess, congressional Democratic leaders are expected to lead a legislative agenda that will continue to attack President Bush's policy on Iraq, attempt to finish the annual spending bills, deal with looming tax issues, and tackle college tuition, children's health insurance and some of the pending free trade agreements.

With the 2008 Presidential election well underway and four months until the first state primary in Iowa, Iraq is going to dominate debate in the Capitol and on the campaign trail. On September 10 and 11, Major General David Petraeus, commander of the multi-national forces in Iraq, delivered his widely anticipated report to Congress. Suffice to say, his comments and testimony have and will continue to ignite a flurry of debate in Congress in the next couple months.

The House has passed all twelve of its annual appropriations bills, but floor action in the Senate has been slow, as the President has issued veto threats on almost every measure. Nevertheless, the Congress will spend a great deal of time this fall trying to get those funding measures to the President's desk. Assuming the President follows through on his threats, the final act of the 1st session of the 110th Congress may simply be a continuing resolution (CR) funding the government at its current levels through next year. Congressional leaders are already planning a 4 to 6 week CR to keep the government funded well past the beginning of the fiscal year on October 1, 2007.

Congress is also trying to tackle several other legislative initiatives, many of which face steep hurdles. For example, in the intellectual property world, the White House has announced its opposition to legislation seeking to revamp the patent system. The Bush administration said the bill, which passed the House 220-175 on September 7, limits a court's discretion in determining damages in infringement cases. The legislation also contains a "first to file" provision, which has drawn deep criticism from many industries. Companion legislation in the Senate has also been ordered out of committee and could see floor time in the coming months. Even if congressional action takes the bill all the way to White House, the bills do not currently have the support to fend off a presidential veto.

Reauthorization of the State Children's Health Insurance Program (S-CHIP) should also find time on the congressional calendar in September as the program is set to expire at the end of the month. SCHIP is a national program designed for families who earn too much money to qualify for Medicaid but who cannot afford to buy private insurance. At present, House and Senate leaders have seemed to agree on only one aspect of the legislation – allowing SCHIP to expire would represent a serious failure for both sides of the Capitol. However, the specifically crafted policy make-up of the two different bills reflects the political challenges that leadership in both houses face in an attempt to gain the support needed to pass them separately in each chamber.

On the trade front, Congress is expected to turn its attention to the Peru Free Trade Agreement (FTA) during the early fall, with action on the Panama FTA possibly occurring a month or two later. Action on Colombia and Korea FTAs will likely be stalled until 2008 or beyond. Congress is also expected to devote considerable time and energy to two related issues – China and import product safety – which have attracted considerable public attention in recent weeks. In both cases, Congress is tapping into a strong anti-trade sentiment that dominates the views of many Freshmen Congressmen and which has been evident in recent public polling.

Lastly, the 2008 Presidential Election season is in full swing, as candidates have been aggressively campaigning in unprecedented fashion with the first announcement of a Democratic candidacy coming way back in April 2006. Nevertheless, while former Democratic Senator Mike Gravel is not considered to be a major candidate, former Senator John Edwards is. He formally announced his campaign only eight months later on December 26, 2006. Senators Hillary Clinton, Joe Biden and Barak Obama did not hesitate to jump on the early announcement bandwagon, Obama holding off the longest with his February 10, 2007 roll out. While Obama and some of the less seasoned Democratic candidates continue to make some progress in the polls as the voices for change, Hillary Clinton's name recognition and experience continues to resonate loudly within the democratic base, giving her a commanding lead for her party's nomination.

On the Republican side, former Massachusetts Governor Mitt Romney was first out the gate with his January 3, 2007 announcement - the very same day he left the Governor's Mansion in Boston. However, former New York Mayor Rudy Giuliani has maintained his lead in the polls, even after former Tennessee Senator and *Law and Order* actor Fred Thompson's comparatively delayed candidacy announcement on September 6, 2007. Thompson's entrance in the race has given pundits and political commentators a lot to discuss in recent weeks and it will be interesting to see how *else* he will differentiate himself from his opponents. Senator John McCain has found himself uncomfortably tied to the War in Iraq, a strategy certainly aimed at gaining support from the Republican base. In a USA Today Gallup Poll released on September 9, 2007 McCain was running third behind Thompson and Giuliani (2nd and 1st respectively). Recent polls have also indicated that Thompson and Giuliani have basically split the Republican Party in two – Thompson with rising numbers from people over 50, southerners and men; Giuliani with people under 50, New Yorkers (important in a race against Clinton) and women. Other polls have put Thompson and Giuliani in a statistical dead heat among registered Republicans. Suffice to say, the next couple months will be a political showdown between America's mayor and Tennessee Fred.

All this said, the presidential campaign has truly just begun. In the coming months, the public will be inundated by ads, debates and political blows in the approach to the first primaries in January, February and March.

In this setting, AAFA is tracking a number of issues relating to

- **International Trade**
- **Government Contracting**

- **Labor**
- **Tax**
- **Regulatory Matters**

Recent developments of note on some of these issues include:

International Trade

1. ***Key Bilateral/Regional Trade Initiatives:*** Trade Promotion Authority (TPA), which authorizes and provides guidance to the U.S. government for new trade negotiations, expired on June 30, 2007. Although the Administration [supports](#) TPA renewal, the Democratic Congressional leadership has opposed renewal and has expressed interest instead on other trade related priorities, such as renewal of job retraining programs. Moreover, in the aftermath of the 2006 mid-term elections, many Members of Congress in both chambers have expressed wariness over the trade agenda. As a result, Congressional approval of a TPA extension remains very much in doubt and is likely to remain on the “back-burner” until public perceptions on trade shift or until there is a new trade deal, such as the multilateral Doha trade round, that may merit renewal. Pending FTAs relating to Peru, Panama, Korea, and Colombia are already grandfathered in under the expired TPA provisions. [AAFA supports immediate action to approve pending trade agreements and renew Trade Promotion Authority. AAFA is a member of the multi-association and multi-company coalition – Trade For America – formed to push for TPA renewal.](#)
 - ***Central America/Dominican Republic:*** On August 2, 2005, President Bush signed into law the [U.S./Central America - Dominican Republic Free Trade Agreement](#) (CAFTA-DR) with five countries in Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. Attention has since turned to implementation, which the Administration has [implemented](#) on a “rolling” basis, in which each country accedes once it has completed all necessary domestic approval measures. Under this program, CAFTA-DR entered into force for El Salvador on March 1, 2006, Honduras and Nicaragua on April 1, 2006, Guatemala on July 1, 2006, and the Dominican Republic on March 1, 2007. Costa Rica is holding a referendum in early October 2007 in the hopes that this will provide public approval of the agreement so that country can accede to the CAFTA-DR by the end of 2007. Rolling implementation has created considerable disruption, particularly in scenarios involving the co-production of an article among several Central American countries. In early August 2006, the President [signed into law](#) a bill that provides retroactive duty free treatment to rectify some of the co-production problems. That bill also provided proclamation authority so the President could make future modifications to CAFTA-DR dealing with such areas as pocketing, the Nicaragua TPL, socks, and short supply. A multilateral package on pocketing has been agreed to with all six countries, and could take effect by the end of the year. Work also continues on the agreement’s cumulation provisions, which permit the use of Mexican inputs in certain CAFTA-DR garments. Already, one of the prerequisites for cumulation to take effect – a customs cooperation deal

between the United States and Mexico – was [completed](#) in January 2007. The second requirement – modifications to individual FTAs between CAFTA-DR countries and Mexico – may be completed by the end of the year. Facing strong political pressure from the domestic hosiery industry, the Administration has announced it is [initiating proceedings](#) on a potential safeguard against Honduran socks. The process could take up to six months to complete and could result in a range of actions between no changes to an increase in tariffs on imports of Honduran socks. The latest information on CAFTA-DR can be found on the [AAFA web site](#). ***AAFA strongly supported congressional passage of CAFTA-DR and now urges swift and full 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.***

- ***Completed and Pending FTAs:*** In addition to the Proclamations made above for CAFTA-DR, the President proclaimed the entry into force of recent FTAs with [Singapore](#) and [Chile](#) effective January 1, 2004, [Australia](#) on January 1, 2005, [Morocco](#) on January 1, 2006 and [Bahrain](#) on August 1, 2006. The FTAs, among other things, provide a combination of duty free and reduced duty treatment for certain qualifying textiles, apparel and footwear. Congress approved an FTA with [Oman in fall 2006](#), although that FTA has not yet entered into force. Next in the FTA queue are agreements that were recently concluded with [Peru](#), [Colombia](#), [Panama](#) and [Korea](#). The Democrat takeover of Congress has delayed consideration of these agreements while Administration and Congressional trade officials work to modify labor provisions in the agreements to address Democratic concerns. A [bipartisan trade deal](#) announced on May 10, 2007 laid the basis for more support among Democrats, although was not sufficient by itself to guarantee passage of any of the agreements this past summer. At this point, conventional wisdom suggests that Peru and Panama will be the first to be considered by the U.S. Congress, during the fall of 2007. Korea and Colombia are both mired in issues (human rights in Colombia; beef and automobile access for Korea) that were not addressed in the bipartisan trade deal. As noted above, all four can still be considered by Congress under the current grant of TPA. ***AAFA has [issued statements in support of the Colombia and Peru FTAs](#) (and recently [signed on to a letter with the entire textile and apparel supply chain in support of these agreements](#)). AAFA has also signed coalition [letters supporting the Korea deal](#).***
- ***FTAs Under Negotiation:*** Recent initiatives to negotiate FTAs with the [United Arab Emirates](#), the [Southern African Customs Union](#) (Botswana, Lesotho, Namibia, South Africa, and Swaziland) and [Thailand](#) have stalled and resulted in those agreements being downgraded to Trade and Investment Framework Agreements. FTA talks with Switzerland and Egypt have been postponed. FTA talks with [Malaysia](#) continue, although it is unclear when the agreement can be finished since a finished U.S./Malaysia agreement depends on renewal of TPA. ***AAFA generally supports such initiatives, provided they represent commercially meaningful opportunities to expand***

trade, and is evaluating each one to determine how they best serve members' needs.

2. ***Preferential Trade Programs:*** With the proliferation of FTAs and the work on multilateral trade initiatives, attention had shifted away from trade preference arrangements. Attention may shift back in the coming months and years, however, as new Democratic trade priorities emphasize unilateral trade preferences with developing countries, instead of bilateral free trade deals.
- As the CAFTA-DR enters into force for Central American countries, the Caribbean Basin Trade Partnership Act (CBTPA) ceases to be effective for those countries. Although it will still remain in force for such countries as Haiti and Jamaica, it is currently set to expire on September 30, 2008. Although still early, no legislative action is contemplated yet to renew this program.
 - Similarly, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) is set to be replaced by individual FTAs with Andean nations as discussed above. The Andean program was initially scheduled to expire on December 31, 2006. In one of its final acts, the 109th Congress approved a bill ([HR 6406](#), which was incorporated into HR 6111) that contains a straight six month extension (through June 30, 2007), linked to a second six month extension (for countries that have approved FTAs). Congress subsequently [extended \(HR 1830\)](#) the Andean program for an additional 8 months – until February 29, 2008. Although many expect Congress to approve the Peru agreement this fall, it remains unclear if that agreement can be implemented before the current ATPDEA expiration date. Moreover, there is no chance the Colombia FTA can be approved and take effect by then. Thus, there will be pressure on Congress to extend the Andean program again. However, such an extension will be difficult to secure because many believe such an extension sends the wrong message to the Andean countries who are not FTA partners (Ecuador and Bolivia) and that it relieves pressure on Congress to act on the Colombia FTA.
 - As part of [HR 6406](#), the 109th Congress also approved an extension of the third country fabric provision under the [African Growth and Opportunity Act \(AGOA\)](#) until September 30, 2012. That extension also includes a provision that voids the third country fabric provision for components deemed in “abundant supply.” During the initial year, the law designates “denim” as being in abundant supply, potentially complicating the ability of companies to use third country denim if they do not use sufficient quantities of African denim. Congress may revisit that provision in the coming months. In the meantime, the U.S. International Trade Commission is conducting [investigations](#) to determine whether the denim provision should be extended into 2008 (***See AAFA Comments #1 and #2***).
 - As part of [HR 6406](#), the 109th Congress also approved an expansion of preferences with respect to Haiti to include a new value added rule and a small 3-year TPL for woven apparel. Although this new program sparked strong opposition from the textile industry, it took effect on March 20, 2007. Customs published [interim regulations](#) governing this program in June 2007 (to which

AAFA commented – **See [AAFA Comments](#)**). Congress may explore making changes to the Haiti program to fix technical errors and/or expanding benefits in the coming months and years.

- Preference programs for the least developing countries (LDCs), and for other countries of interest (such as Sri Lanka and Pakistan), were not enacted by the end of the 109th Congress. However, several of these ideas have already been introduced this year or are under active development by Members of Congress. For example, Senator Gordon Smith (R-OR) recently introduced the Trade Act of 2007 ([S. 652](#)) to create preferences for least developed countries and Sri Lanka, echoing a similar bill he sponsored in the previous Congress. Similar legislation by Representatives Jim McDermott (D-WA) and Joe Crowley (D-NY) is expected soon.
- The Administration is rumored to be working on a program to provide limited preferences to Pakistan (the border areas near Afghanistan) and Afghanistan as part of a program dubbed Reconstruction Opportunity Zones (ROZs). Although the Administration announced such an [initiative](#) in March 2006, it has not yet submitted a specific proposal to the Congress (since any program would require an Act of Congress to take effect). Current estimates suggest this program will include some textile and apparel products, although the precise details are still pending final interagency clearance.
- Finally, as part of [HR 6406](#), Congress renewed the Generalized System of Preferences (GSP) program for an additional two years. The GSP program, which provides duty preferences for developing countries, but which generally does not apply to footwear or apparel, is now scheduled to expire at the end of December 2008.

Further action on these and other preference measures could occur in the 110th Congress. Democrat leaders in both Houses have already indicated they expect to conduct reviews of preference programs and may seek an opportunity to make additional reforms (in terms of product coverage, country coverage, duration, and rules of origin) for several of these programs. In particular, several Democratic Members of Congress may introduce legislation to simplify, harmonize, and make permanent the range of preference programs. ***[AAFA supported enactment and enhancement of the Africa, Caribbean Basin and Andean trade enhancement programs. AAFA is working closely with Congress and Administration officials on other trade preference legislation and to improve current programs.](#)***

3. ***[Vietnam](#)***: Vietnam entered the World Trade Organization (WTO) on January 11, 2007, completing a gradual period of economic normalization that had taken nearly 10 years. As part of its WTO accession, the United States and Vietnam concluded a [bilateral WTO accession agreement](#) in May 2006. That agreement provides that, upon Vietnam's accession to the WTO, the United States discontinue imposition of quotas on U.S. textile and apparel imports from Vietnam. The agreement also requires Vietnam to discontinue prohibited export subsidies in the textile and

apparel industry. Further, it provides for an enforcement mechanism, through the temporary reimposition of quotas at 2006 levels, if the United States believes, and the WTO affirms, that Vietnam has violated that requirement. Although the U.S. Congress was not able to vote on the agreement itself, it was able to vote on legislation to extend permanent normal trade relations (PNTR) to Vietnam, which is required before the United States can benefit from Vietnam's accession to the WTO. Vietnam PNTR was approved as part of the trade omnibus package ([HR 6406](#)) during the final hours of the 109th Congress. As required, the U.S. government [eliminated all quotas on U.S. apparel and textile imports from Vietnam](#) that were exported from Vietnam after January 10, 2007. However, considerable controversy continues to surround a [late September 2006 commitment](#) made by the Administration to Senators Elizabeth Dole (R-NC) and Lindsey Graham (R-SC) to monitor textile and apparel imports and possibly self-initiate anti dumping investigations on apparel products from Vietnam (even though apparel companies have not requested such trade remedies, which is necessary under the tight "standing" rules of trade remedy law). Importers and retailers, as well as several Senators (Senators Dianne Feinstein (D-CA) and Gordon Smith (R-OR)) and Congressmen (Rep. Earl Blumenauer (D-OR)), have pushed the Administration to clarify how this commitment will be implemented. While the monitoring program was implemented on January 11, 2007 (the day Vietnam joined the WTO), the U.S. government has failed to provide much detail on the implementation program or how it will work. The first review is expected during September 2007. ***AAFA continues to press the U.S. government to ensure that the Vietnam apparel and textile import monitoring program does not burden trade nor exceed U.S. law or WTO obligations. In addition to numerous meetings and discussions with U.S. government officials regarding the program, AAFA has twice submitted comments ([December 27, 2006 comments](#), [January 31, 2007 comments](#)), independently as well as with importers and retailers, in response to U.S. government Federal Register (FR) notices ([December 4, 2006 FR Notice](#), [January 23, 2007 FR Notice](#)). AAFA also [testified at an April 24, 2007 hearing](#).***

4. ***Burma***: In late July 2003, outraged by the 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 3-year ban](#) on U.S. imports from Burma. The import ban took effect on August 28, 2003 and was renewed by Congress every year. In July 2006, President Bush signed into law new legislation ([H.J. Res 86/S.J. Res 38](#)) to reauthorize the ban for an additional 3-year period. Under that extension, Congress recently approved a one year ban ([H.J. Res 44](#)) until 2008. On a related point, the Bush administration has now brought the Burma issue before the United Nations Security Council, raising the profile of the situation to a new level. ***AAFA was one of the first organizations to publicly call for the original import ban. AAFA continues to urge the Congress and the Bush administration to work with other countries to renew and multilateralize the import ban.***
5. ***Affordable Footwear Initiative (AFI)***: Over the last five years, a number of actions – through free trade agreements and through targeted duty suspension and

elimination bills – have been taken that have lowered footwear duties. However, with 99 percent of all footwear sold in the United States being imported and with more than 80 percent of all footwear sold in the United States being imported from China, U.S. footwear firms still pay the U.S. treasury more than \$1.9 billion in duties every year. With markup this \$1.9 billion translates into a \$4-5 billion hidden, regressive tax at retail on hardworking American families. In response, a coalition of U.S. footwear companies, retailers and associations has created the [Affordable Footwear Initiative \(AFI\)](#). The purpose of AFI is to have Congress approve legislation to permanently eliminate U.S. duties on lower-priced and high-dutied shoes and children’s footwear – footwear no longer made in the United States. By focusing on these types of footwear, the AFI coalition hopes to convince Congress that this initiative would bring much needed tax relief to hardworking lower- and middle-income American families on one of their most essential necessities. With 18 key, bi-partisan sponsors in the U.S. House of Representatives and our first sponsor in the U.S. Senate, the AFI is in a good position moving into the fall. ***AAFA strongly supports elimination of duties on footwear no longer made in the United States. AAFA successfully eliminated duties on virtually all footwear (under liberal rules of origin) in every U.S. free trade agreement during the past five years. Furthermore, AAFA has successfully lobbied for the temporary elimination or reduction of duties on U.S. imports on over 30 specific types of footwear through the U.S. Congress’ Miscellaneous Trade Bill (MTB) process. AAFA was the first association to endorse the AFI and has taken a lead role in developing and lobbying for this important initiative, including identifying and obtaining early co-sponsors, to help accomplish AAFA’s footwear duty elimination goals.***

6. ***China Safeguards:*** The United States and China [reached an agreement on November 8, 2005](#) to impose safeguard quotas on U.S. imports of 34 individual categories (21 combined categories) of Chinese apparel and textiles for the period of January 1, 2006 - December 31, 2008. After China underutilized its quota allocation during 2006, the Chinese government announced [new procedures](#) for allocation during 2007. In part because of better quota allocation and in part due to growing concerns over Vietnam, a number of quota categories could possibly fill and embargo before the end of this year. ***AAFA continues to work with the Bush administration and Congress to ensure smooth implementation of the agreement.***

7. ***EU Antidumping Cases against Chinese and Vietnamese Footwear:*** The European Union (EU) on October 6, 2006 [approved a European Commission proposal](#) to impose final dumping duties (on top of normal duties) of 16.5 percent and 10 percent, respectively, on European imports of certain leather footwear from China and Vietnam for a two-year period beginning October 5, 2006. Meanwhile, the EU in the summer of 2007 proposed a “clarification” of the definition of shoes classified as Special Technology Athletic Footwear (STAF) – which would remove most footwear from the STAF custom’s category by making it virtually impossible to qualify footwear under the “clarified” STAF definition. If the EU is successful, this definition change could have a significant impact on the EU dumping case. Millions

of pairs of shoes currently exempted from the dumping case (because they currently fall under the STAF exemption) could suddenly become subject to the punitive dumping duties in the case. A final decision could occur as early as this fall. In related news, the EU [launched an investigation](#) September 5, 2007 into allegations of possible circumvention through Macau of the anti-dumping measures. If the EU finds that the subject imports from Macau are indeed of Chinese and/or Vietnamese origin and are being circumvented through Macau to avoid anti-dumping duties, EU leather footwear imports from Macau would then be subject to the dumping duties. The investigation should be completed by June 5, 2008. ***AAFA strongly opposes the EU anti-dumping action. 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, and prevent other countries from replicating this action.***

8. ***Other China Issues:*** The Senate Banking Committee [approved new anti-China legislation \(S.1677\)](#) on August 1. That bill is very similar to legislation approved by a 20-1 vote in the Senate Finance Committee on July 26. The [Currency Exchange Rate Oversight Reform Act of 2007 \(S.1607\)](#) would require the U.S. Treasury Department to identify "fundamentally misaligned" currencies to Congress twice a year, classifying some countries for "priority action" if the misalignment is clearly caused by a foreign government's economic policies. Treasury would be required to consult with countries found to have fundamentally misaligned currencies. The legislation imposes a number of immediate consequences for countries designated for "priority action," including accounting for currency undervaluation in determining whether a country should graduate from non-market economy status for purposes of U.S. antidumping rules. If a country fails to take appropriate action within three months, the U.S. Commerce Department must take currency undervaluation into account when making antidumping calculations for products exported from the designated country. Meanwhile, the powerful House Ways and Means Committee held [a hearing August 2nd](#) covering a wide range of topics related to China – including currency manipulation, subsidies, product safety (*see related article*), and other issues – in preparation for marking up their own version of anti-China legislation this fall. The future of anti-China legislation in Congress remains unclear, however, due to competing legislation in the U.S. Senate and a jurisdictional dispute between the Senate Finance and the Senate Banking Committees as well as the myriad of different "anti-China" bills working their way through the U.S. House of Representatives. ***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.***
9. ***Customs/Port Security Issues:*** As part of the "first hundred hours" push of the new Democratic majority, the House and Senate approved [9/11 Commission Implementation Act \(HR 1\)](#), which, among other things, contains a new mandate for 100 percent scanning for radiological materials of all inbound cargo before leaving foreign ports. This provision would override a 100 percent scanning pilot program created in [The Security and Accountability for Every \(SAFE\) Port Act](#), which the

President signed into law in October 2006. The compromise has delayed implementation of 100 percent scanning provision until July 1, 2012. Among other things, the SAFE Port Act increases requirements for participants in U.S. Department of Homeland Security's Bureau of Customs and Border Protection (Customs) Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT) program and require background checks of all workers at U.S. ports. That Act also requires Customs to ensure it has sufficient data on shipments entering the United States, which has led to a proposed new 10+2 data requirement. Meanwhile, on February 23, 2007 California Senator Alan Lowenthal [re-introduced SB 974, AAFA-opposed legislation](#) which calls for a \$60 per 40-foot container fee at the ports of Los Angeles, Long Beach and Oakland to pay for goods movement infrastructure investments and goods movement-related pollution reduction programs. The same bill passed the California General Assembly last year, but Governor Arnold Schwarzenegger (R) [vetoed the measure](#). Senator Lowenthal [announced September 5, 2007](#) that his legislation would be delayed for a year while efforts are made to develop alternatives through some newly formed state working groups. However, in the wake of this announcement, the Ports of Long Beach and Los Angeles held a meeting of their [Clean Air Action Plan \(CAAP\) Stakeholders Committee](#). An economic analysis of the CAAP truck replacement and concession proposal was presented and the ports announced that they planned to move forward, by the end of September, with an unprecedented joint meeting of their commissions to approve some version of the truck replacement plan as well as a \$52 per 40-foot container infrastructure container fee to pay for the plan. ***AAFA opposed the 100 percent scanning rule and is now actively working with our partners in other industries to defeat cargo and container tax plans that could adversely affect U.S. apparel and footwear firms.***

10. ***EU Retaliation:*** The European Union (EU) in April 2007 [expanded retaliatory duties](#) of 15 percent (on top of normal duties) on European imports of certain U.S.-made footwear, apparel and textile exports in connection with a dispute settlement case on the Byrd Amendment – which provided for distribution of anti dumping and countervailing duties to trade remedy petitioners (U.S. manufacturers) – an action the WTO ruled was in violation of international trade agreements. Although the Byrd Amendment was repealed in 2005, that repeal does not take effect until late 2007. Because of the delayed repeal, the EU has successfully petitioned the WTO to keep retaliatory duties in place. This situation is a perfect example of how an action that is supposedly meant to protect U.S. manufacturers (i.e. petitioners in an anti-dumping case) actually hurts U.S. manufacturers (i.e. the U.S. apparel, footwear and textile products manufacturers whose exports to Europe, their biggest export market, are now subject to sanctions in the form of 15 percent punitive duties). ***AAFA has been working to help remove members' products from retaliation lists and supports legislation to remove the underlying trade disputes.***
11. ***Doha Round:*** In a last ditch attempt to save the faltering Doha Round of global trade talks, the World Trade Organization (WTO) on July 17 [issued draft negotiating texts](#) on the crucial non-agricultural market access (NAMA) and agriculture aspects of the trade negotiations. The draft texts attempt to forge a compromise between

the competing interests of the 151 WTO member countries, particularly among the so-called G-4 countries — the United States, the European Union (EU), Brazil and India. Under the proposed NAMA text, which includes footwear and apparel, all non-agricultural tariffs on imports entering the United States and other developed countries would be reduced to a maximum of 8 or 9 percent over a period of five years while developing country tariff rates would be reduced to a maximum of 19-23 percent over a period of nine years. Regrettably, the draft text would allow developing countries to either exempt five percent of their imports outright from the tariff reductions or subject 10 percent of their imports to smaller tariff cuts. Least-developed countries are exempted from the tariff reductions altogether. Least-developed countries, however, would still receive duty-free, quota-free access to the United States and other developed country markets for at least 97 percent of their products. The proposed negotiating texts received a very mixed response from WTO member countries, leaving the future of the global trade talks in doubt. Meanwhile, facing a possible presidential veto and calling into question the U.S. commitment to a successful conclusion of the ongoing Doha Round of global trade negotiations, the U.S. House of Representatives on July 27 [approved legislation \(HR 2419\) authorizing a new five-year farm bill](#) on a largely partisan vote of 231 to 191. The bill, which has a price tag of almost \$286 billion, would preserve the existing system of subsidies for commercial farmers and add billions of dollars for conservation, nutrition, and new agricultural sectors. Many of these subsidies are already being challenged at the WTO. The sheer size of the subsidies included in the legislation further jeopardizes global trade talks already stalled, in large part, by the United States' refusal to reduce its agricultural subsidies. ***AAFA supports the successful completion of the Doha round as long as it substantially reduces and/or eliminates tariff and non-tariff barriers in key markets worldwide. AAFA remains opposed to efforts that would use these talks to create new trade barriers or safeguards, particularly with respect to textiles and clothing.***

12. ***Anti-Counterfeiting and IPR Issues:*** Congressman Delahunt (D-MA) and Congressman Goodlatte (R-VA) reintroduced legislation from the 109th Congress that would allow for a three year copyright on fashion design entitled the [Design Piracy Act \(H.R. 2003\)](#). Before the August Recess, Senators Chuck Schumer (D-NY) and Orrin Hatch (R-UT) introduced companion legislation in the Senate. This bill continues to receive harsh criticism from some parts of the industry for potentially opening up a Pandora's Box of litigation. Action is not expected on the legislation in the coming months. In other IPR news, In February 2007, Senators Evan Bayh (D-IN) and George Voinovich (R-OH) introduced S. 522, the Intellectual Property Rights Enforcement Act. This bill would create the Intellectual Property Enforcement Network (IPEN) that will work to establish policies concerning international intellectual property protection and law enforcement. To date, S. 522 is awaiting action in the Senate Committee on the Judiciary. ***AAFA supports the Bayh/Voinovich legislation. AAFA is actively working to craft legislation that will truly protect innovation without causing legal havoc and sever litigation issues for the industry.***

Government Contracting Issues

13. **Preservation of “Berry Amendment” Buy America protections:** Congressman Robin Hayes (R-NC) sponsored the legislative provisions providing transparency and clarification on the Berry Amendment that were included in the FY 2006 Defense Authorization Act, and continues to be a long-time supporter of these issues. Work continues to make sure these valuable changes are implemented faithfully. In addition, apparel and footwear contractors continue to express concerns over the manner in which contracts are awarded, which prevent adequate business planning. Separately, Hayes has reintroduced legislation, [HR 917](#), to extend Berry Amendment protections to the Department of Homeland Security (DHS), which includes the Border Patrol, the Transportation Security Administration (TSA), and other agencies, in a manner consistent with national security and international trade obligations. The bill does not have a Senate sponsor yet, though there are a few interested candidates. In early May, however, the House approved a FY2008 DHS Authorization bill ([HR 1684](#)) containing a separate provision that would require uniforms, protective gear, badges, and ID cards to be manufactured in the United States. That provision was included at the request of the House Homeland Security Committee staff and is identified with Rep. Bob Etheridge (D-NC) who has also introduced a stand alone bill ([HR 1686](#)) with that same procurement requirement. Unfortunately, this language does not track with the Berry Amendment and therefore does not require inputs to be of U.S. origin. In addition, the language is not compliant with U.S. international trade obligations. Although Hayes tried to insert his language through a series of parliamentary moves, he was ultimately rebuffed on a [vote of 217 to 199](#) (the voted needed to fail in order for the procedural tactic to succeed). A separate vote to strip the Etheridge language from the bill entirely also failed on a [vote of 36 to 390](#). It remains to be seen if this language will survive or if the underling DHS Authorization bill will even be signed into law. Among other challenges, the Administration [opposes](#) the DHS bill, and has even cited opposition to the Etheridge language as one of the factors contributing to its adverse position. ***AAFA strongly supports the preservation of the Berry Amendment as a national security issue and as a vital way to maintain a warm industrial base for the national defense. AAFA worked closely with Representative Hayes’ staff to ensure that the new legislation introduced on the U.S. Department of Homeland Security was compliant with U.S. international trade obligations while providing new opportunities for government contractors. AAFA does not support the Etheridge language. AAFA will continue to monitor and guard against any efforts to dilute or weaken Deptment of Defense (DoD) Berry protections and will work the DHS issue to advance AAFA member interests.***

14. **Federal Prison Industries (FPI):** Work continues on efforts to reform Federal Prison Industries (FPI). Efforts in the 109th Congress were focused on securing enactment of a comprehensive FPI reform package. AAFA-supported legislation (see [HR 2965](#) - the FPI Competition in Contracting Act of 2006 or [HR 1829](#) – FPI Competition in Contracting Act of 2003) passed the House overwhelmingly in two

previous Congresses, but never passed the U.S. Senate. This bill would have instituted far-reaching reforms, building upon legislation approved in 2002 for the military, and extended in 2004 for the entire government, that gave U.S. government contracting officers the ability to require FPI to meet the price, quality and delivery points of the private sector. Efforts in the 110th Congress have so far focused on a provision (Section 824) within the FY2008 Department of Defense Authorization bill ([S 1547](#)) that would accomplish some of the same goals as the comprehensive reform package. Section 824 levels the playing field for the industry mandating that any DOD purchase from FPI now must be bid like any other contract. Action is now pending on that bill in the full Senate, where FPI supporters are expected to make an effort to strip Section 824 from the bill. If the provision survives in the Senate, it must be reconciled with the House version ([HR 1585](#)), which is silent on FPI reform. ***In July, AAFA [sent a letter in support of Section 824 in the DOD bill](#). 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 by requiring the same price, quality and delivery time requirements met by the private sector.***

Labor Issues

15. ***Anti Sweatshop Legislation:*** In January 2007, U.S. Senator Byron Dorgan (D-ND) introduced the [Decent Working Conditions and Fair Competition Act \(S. 367\)](#). Congressmen Michael Michaud (D-ME) and Chris Smith (R-NJ) [introduced similar legislation \(H.R. 1992\)](#) in the House on April 18. The legislation would define trafficking in sweatshop goods as an unfair practice before the Federal Trade Commission. It would also create a private right of action for companies (including individual shareholders in those companies) to sue other companies because they are allegedly selling sweatshop made goods. Finally, it would grant new powers to the U.S. Government to investigate contractors to ensure the U.S. government is not purchasing goods made with sweatshop labor. As currently written, the bill would create a mountain of litigation while doing nothing to improve labor conditions overseas. Because of the bill's wide scope and poorly defined provisions, it is unclear if the legislation will see much action in Congress. Interest in the legislation has increased dramatically recently – the bill now has 83 co-sponsors in the House and 13 co-sponsors in the Senate – raising concerns that the legislation is starting to gain traction. Regardless, the bill will continue to be a vehicle to generate debate, as it did during [a hearing before the Senate Commerce Committee](#) in mid February 2007. ***AAFA supports efforts to eliminate goods produced under sweatshop conditions, but believes the S. 367/H.R. 1992 would fail to advance that goal.***

16. ***Minimum Wage:*** On May 25th, President Bush signed into law a new version of the Iraq War Supplemental that included a provision to increase the minimum wage over the next three years. The minimum wage has not been raised for the past 10 years and played a popular role as part of the Democrats' 100 hour push earlier this year. The 1st phase of the three-phase minimum wage increase, raising the minimum wage from \$5.15/hour to \$5.85/hour, was enacted on July 24, 2007.

Under the new law, the minimum wage will eventually increase to \$7.25/hour on July 24, 2009. ***AAFA has taken no position on the minimum wage issue but would like to ensure it applies fairly to all Americans, including those employed by Federal Prisons Industries.***

17. **Card Check:** The Employee Free Choice Act (EFCA) legislation would replace the current system of federally supervised secret ballots with a simple card check system (which would be triggered if a majority of employees sign a card designating a union as their preferred collective bargaining representative), potentially subjecting workers to intimidation while preventing employers from presenting their views to employees. The legislation, however, would leave intact the secret ballot necessary to end a union's designation. On March 1, 2007, the House approved its version of the EFCA ([H.R. 800](#)) by a vote of 241 to 185. The Senate version ([S.1041](#)) was introduced on March 29, 2007 by Senator Kennedy (D-MA). On June 26th, however, Senators were unable to obtain the 60 votes needed to stop debate and move to a final vote. The defeat of this bill represents a clear victory for working men and women across the country. ***As a member of the [Coalition for a Democratic Workforce](#), AAFA sent letters to Members of Congress and encouraged AAFA member companies from across the country to become involved and help defeat this undemocratic bill.***

Tax Matters

18. **New York City Tax:** In February 2007, an amendment to the tax code for the New York City General Corporation Tax was adopted with the affect that a business performing extensive pre-production activities in the City, but not manufacturing in the City, will be considered a manufacturer. As a manufacturer, a business can double-weight specified expenses in computing their City corporate taxes with the result that taxes could be lowered. The change is retroactive to all open tax years. ***AAFA strongly supported this change. This effort, spearheaded by the AAFA Tax Managers Committee, began in 2005 with the Committee meeting with the City Department of Finance.***

Regulatory Matters

19. **Product/Import Safety:** Fueled by several highly publicized recalls on toys and other products (primarily food), several Members of Congress and the Administration are now reviewing the regulatory system governing the safety of imports (and other products). The Administration is conducting an interagency review to determine what changes are needed, if any, to import and product recall procedures. That [interagency work group](#) is now soliciting comments and expected to generate a report by November 17. Senate and House members are also examining the operation of the Consumer Product Safety Commission (CPSC) and are expected to push through a comprehensive bill to overhaul the way that agency conducts its safety mandate. Finally, other members, focused on the number of recalls related to children's' products or that contain certain substances, have proposed a number of bills that would restrict certain chemicals (such as lead or

formaldehyde) in children's products or require 3rd party investigations for all imports of children's products. ***AAFA is tracking this issue closely.***

20. **Children's Sleepwear:** 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. Although efforts were made in previous Congress's to overturn this standard, no such efforts have been made thus far in the 110th Congress. ***AAFA strongly supports the retention of the 1996 children's sleepwear amendments. In order to keep the lines of communication open between the CPSC and AAFA members, AAFA's Childrenswear Division hosted a reception with the now former CPSC Chairman Hal Stratton on March 9, 2006. Mr. Stratton offered remarks and took questions concerning children's apparel issues. A follow up meeting was held at the CPSC headquarters in June 2006 with former Chairman Stratton and his compliance team to discuss children's apparel and general wearing apparel issues AAFA companies are facing.***
21. **Drawstrings:** The Consumer Product Safety Commission (CPSC) issued a letter on May 19, 2006 to manufacturers, retailers and importers of children's upper outerwear garments, urging them to make certain the garments do not have hood drawstrings that can pose a strangulation hazard to children. Office of Compliance Director John Gibson Mullan urged the firms ensure that all children's upper outerwear imported, manufactured, distributed or sold in the United States complies with the current voluntary safety standard, ASTM F-1816 *Standard Consumer Safety Specification for Drawstrings on Children's Upper Outerwear*. The [states of Wisconsin and New York](#) have enacted laws that exceed these federal guidelines. ***AAFA supports national drawstring guidelines, and urges companies to operate in full compliance with them.***
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. On February 27, 2007 the CPSC issued a [Federal Register Notice](#) proposing to amend some of its flammability standards and seeking comments or oral presentations. ***AAFA filed technical comments on the ANPR and commented on the proposed amendments. On August 14th, AAFA, along with other member companies met with the CPSC to discuss the proposed amendments and address our concerns.***
23. **Labeling Issues:** On December 6, 2006, Congress approved [H.R. 4583](#), titled the "Wool Suit Fabric Labeling Fairness and International Standards Conforming Act," which revised the requirements for labeling certain wool and cashmere products. The Act (which was approved as part of a larger omnibus trade package) amended the wording for the labeling of wool and cashmere products to "facilitate compliance

and protect consumers.” The changes took effect on January 1, 2007. ***AAFA [wrote to Representative Blackburn expressing support for this legislation.](#)***

Numerous governments, including South Africa, Colombia, and S. Korea, continue to propose new rules on labeling of apparel, footwear, travel goods and other consumer products. Moreover, the US and EU Governments have proposed text to harmonize labeling standards as part of the Doha Round of global trade talks to prevent such non tariff trade barriers in the future. ***AAFA [strongly opposes labeling regulations when they act as non tariff barriers, but strongly supports the efforts of the United States and the European Union to harmonize and standardize labeling for apparel, footwear, textile and travel goods products. AAFA submitted \[comments\]\(#\) to the South African government expressing opposition. In response to these comments, the South African government made several modifications.](#)***

The European Union (EU) is trying to [determine](#) whether to require labeling and product information for products sold in Europe to use metric-only measurements beginning on January 1, 2010. ***In its comments to the EU, [AAFA](#) noted that the continuation of the current policy of allowing dual metric/US measurements would benefit both European and U.S. businesses and consumers and help to keep EU and U.S. labeling requirements in harmony.***

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 soon. 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. Finally, in response to a legislative mandate, the FTC has issued new labeling guidelines for hosiery that took effect March 2006. ***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. In 2005, 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.](#)***

Other

24. ***[Funding for NTC/\[TC\]²](#)*: Each year, the [National Textile Center](#) (NTC) and the [Textile/Clothing Technology Corp. \[TC\]²](#) receive federal appropriations through an earmark in the annual Commerce/Justice/State (CJS) 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 about \$10 million in funding while [TC]²**

usually receives around \$3 to \$3.5 million. During consideration of the FY2008 CJS bill, Congressman Jeff Flake (R-AZ) attempted to strip this funding from the legislation. In response, AAFA sent letters to each member of Congress asking for their support in defeating the amendment. Our friends in Congress used AAFA statistics during floor debate to argue against the Flake Amendment and for the industry. After conclusion of debate, the measure was overwhelmingly defeated by voice vote. **AAFA supports continued funding for NTC and [TC]² and recently sent a [letter](#) to Commerce Secretary Gutierrez urging full funding and supported a letter sent to Senators Barbara Mikulski (D-MD) and Richard Shelby (R-AL) asking for full funding.**

25. ***Funding for Textile Marker System.*** At the request of Senator Elizabeth Dole (R-NC), the Small Business Administration was provided a grant of \$500,000 in FY 2005 to help support development of a [textile marker system](#). During FY 2006, that grant – also in the amount of \$500,000 – was channeled via the International Trade Administration. 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.apparelantfootwear.org. You can also get more information by clicking on the hot links embedded throughout this document.

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