



Winter 2005-2006 Legislative Update

2006 Annual Meeting Edition

February 2006

(With links for more detailed information)

The 2nd session of the 109th Congress convened in the House of Representatives on January 31^s for the President's State of the Union address. The Senate convened earlier in the month for the consideration of Judge Samuel Alito's nomination to the Supreme Court, who was confirmed 58 to 42 without much fanfare.

The State of the Union address focused on rebuilding American competitiveness and some past Administration priorities such as making the 2001 and 2003 tax cuts permanent and additional benefits for health savings accounts and other health care initiatives. The President emphasized resisting the urge to erect a fence around the United States and working to bring down barriers to free trade, without actually mentioning any particular trade priorities.

The Bush Administration's \$2.77 trillion FY 07 budget was released the following week mirroring these priorities with the goal of slowing the growth of entitlement spending and cutting non-security discretionary spending, while continuing to boost Defense and Homeland Security spending. The savings from these cuts is but a drop in the bucket for the \$423 billion deficit projected for FY 06, up from \$318 billion last year. The dramatic rise attributed to the spending related to the Katrina hurricane relief and reconstruction efforts and continued spending on the wars in Iraq and Afghanistan. Bush's goal is to cut the deficit in half by FY 09, which according to the budget can be done while also making the 2001 and 2003 tax cuts permanent. Considering how difficult it was for Congress to pass the tax reconciliation bill of 2005, H.R. 4297, there is no doubt that any tax cut extensions will be a heavy load. In addition, cuts to entitlement spending programs like Medicare will also come at a heavy political cost, especially in an election year. Needless to say, Congress has their work cut out for them this year.

The political and partisan tensions continue to germinate throughout the House and the Senate with members working largely on their respective sides of the aisle on slightly differing versions of lobbying reform proposals. Passage of some form of lobbying reform is expected early in the second session.

Fallout from recent scandals include the recent change over in the House Republican leadership team, with acting Majority Leader and current Majority Whip Roy Blunt (R-MO) losing out to former Conference Chairman and current Education and the Workforce Committee Chairman, John Boehner (R-OH). After Rep. John Shadegg (R-AZ), the dark horse candidate, drew enough votes away from Blunt for a second ballot, Boehner eked out the win by then taking all of Shadegg's votes plus one. Both Boehner and Shadegg ran a race on change and since incumbent Roy Blunt was a protégé of the former majority leader, Rep. Tom Delay (R-TX), this seemed to

be the winning factor. Blunt will retain the Majority Whip post, as the conference chose to have elections only for the positions that were vacant rather than a complete overhaul and Blunt did not relinquish his position to run for Majority Leader.

Although the agenda remains full for the second session, it is unclear how much can be accomplished because electoral pressures create an environment that makes any progress after July 2006 problematic. Congressional Democrats will continue their attempts to capitalize on the Republican and Administration missteps during 2005, but thus far have had little success in articulating an agenda that brings their own numbers up in the polls. While Congressional Republicans will tout their legislative accomplishments as evidence that voters should elect Republican congressional candidates during mid-term elections in November 2006, they will also have to mitigate the impact of the scandals and legal actions that have affected several Members, including the leadership, in both chambers. The President's low poll ratings remain a concern as the public has expressed dissatisfaction with the war in Iraq, frustration over the Katrina response, a bungled Supreme Court nomination, general economic apprehension, and unease over a scandal involving the possible leak of classified information by senior White House aides. Although the President's ratings did improve somewhat toward the end of 2005, conventional wisdom suggests that his administration will need to work overtime to gain back the momentum he had coming out of the 2004 elections.

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

- **International Trade**
- **Government Contracting**
- **Labor**
- **Regulatory Matters**
- **Tax**

Recent developments of note on some of these issues include:

International Trade

1. ***Preferential Trade Programs:*** The [Caribbean Basin Trade Partnership Act \(CBTPA\)](#) and [African Growth and Opportunity Act \(AGOA\)](#) legislation have been in operation for more than five years while the [Andean Trade Promotion and Drug Eradication Act \(ATPDEA\)](#) is over three years old. Although, the ATPDEA expires the end of this year, renewal is not a foregone conclusion because several beneficiary countries are currently engaged in free trade agreement negotiations. At the end of 2004, the President [proclaimed modifications](#) for footwear rules of origin for the CBTPA. During 2005, Members of Congress proposed a series of bills to expand preferences for [Haiti](#) and [Africa](#) and create preferences ([HR 886/S. 191](#)) for a number of poor developing countries (such as Bangladesh, Sri Lanka, and Cambodia) who are dependent upon their apparel industry but are excluded from the existing preference schemes. Finally, the Generalized System of Preferences (GSP), which provides duty preferences for developing countries, but which generally does not apply to footwear or apparel, is scheduled to expire in December 2006. Further action on these initiatives may occur this year. Alternatively, it

may be delayed depending how it is linked to a U.S. commitment, made in Hong Kong as part of on-going multilateral trade talks, to provide duty free access to at least 97 percent of all products from least developed countries (See #11). [*AAFA applauds enactment of the Africa, Caribbean Basin, and Andean trade enhancement legislation. AAFA is working closely with Congress and Administration officials on other trade preference legislation and to improve current programs.*](#)

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. Although his successor, Ambassador Robert Portman, has adopted this ambitious schedule, and may announce new FTAs in the coming year, it is unclear how much time will remain to complete work on this agenda. TPA is now set to expire in July 2007. With Congressional approval of an extension very much in doubt, this expiration date creates an effective deadline by which an FTA, if it is to benefit from expedited parliamentary procedures, must be submitted to Congress. Because of a lag time built into the TPA law, negotiations on an agreement must generally be concluded by December 2006 if the agreement is to be ready for Congressional consideration by July 2007.
 - **Central America:** 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 now turns to implementation, which the Administration has [announced](#) will occur on a “rolling” basis, allowing each country to accede once it has completed all necessary domestic approval measures. Talks are now ongoing to resolve last minute agreements relating to pocket fabrics, socks, the Nicaragua tariff preference level (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, [Australia](#) on January 1, 2005, and [Morocco](#) on 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. In December 2005, Congress completed action on an FTA with [Bahrain](#), which had been negotiated in 2004. Entry into force for that agreement is not expected until sometime in 2006. Congress may also take action in 2006 on recently negotiated FTAs with [Oman](#) and [Peru](#), although the Administration may delay action on the Peru agreement to give other [Andean nations](#) an opportunity to accede to those talks. Other pending FTAs, which are currently being negotiated, include the five

countries of the [Southern African Customs Union](#) (Botswana, Lesotho, Namibia, South Africa, and Swaziland), the United Arab Emirates, [Thailand](#), and [Panama](#). In early February 2006, the President announced plans to begin talks with South Korea. Talks may also begin soon with Malaysia while other talks with Switzerland and Egypt have been postponed. 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. A recent summit in Argentina revealed that strong differences still remain. *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 World Trade Organization (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. U.S. negotiators reportedly made considerable progress during talks on Vietnam's accession in January and could wrap up talks as early as March 2006. Until Vietnam joins the WTO, however, it will remain subject to quotas that are established in a bilateral textile and apparel quota agreement. Congress 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 – as early as this summer – when Vietnam accedes to the WTO. *AAFA supports full economic normalization with Vietnam and opposes any safeguard mechanism in any final WTO accession agreement.*
 4. ***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. However, it must be completely reauthorized in 2006 for it to be renewed for additional one year periods. On July 27, 2005, President Bush signed into law a second one-year renewal of the import ban. 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 Bush administration to work with other countries to renew and multilateralize the import ban.

5. **Miscellaneous Trade and Tariff Bill:** The House Ways and Means Trade Subcommittee recently [solicited 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. The Subcommittee expects to begin action on the bill in February 2006. Senate action on a companion measure remains uncertain at this point. ***AAFA commented 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.***

6. **China Safeguards:** After months of negotiations and after the United States imposed safeguard measures on U.S. imports of a string of apparel and textile products, the United States and China [finally reached an agreement on November 8](#) 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. Two weeks after completion of the agreement, the US government's interagency Committee for the Implementation of Textile Agreements (CITA) finally terminated all 24 outstanding safeguard petitions, including petitions on products not covered under the safeguard. CITA, however, has yet to provide any guidance on how it will "exercise restraint" in the consideration of future safeguard petitions as required by the agreement despite [repeated requests by AAFA](#) and others for CITA to do so immediately (*actual AAFA proposal*). Meanwhile, China [has announced how it will distribute visas](#) (for quota) among Chinese firms, allocating 70 percent to firms based on past performance and 30 percent via auction (the first of which [occurred in December 2005](#)). On a related note, the EU and China also reached an [accord](#) in September to avert a crisis over EU imports of Chinese apparel, which was necessitated by the fact that an early [restraint agreement](#) had been concluded without warning or provision for goods already in transit. ***AAFA strongly opposed the safeguard petitions because there was no evidence that imports from China had disrupted the U.S. market for these products. Under the circumstances, however, AAFA welcomes efforts to return a level of certainty to current U.S./China trade and encourages the U.S. government to publish guidelines as soon as possible on the treatment of future safeguard petitions to ensure the certainty the agreement helped create is maintained. AAFA continues to believe that swift implementation of recently passed CAFTA-DR is more likely to stimulate domestic textile and apparel employment and production.***

7. **EU Antidumping Cases Against Chinese, Vietnamese, and Indian Footwear:** Officials of the American Apparel & Footwear Association (AAFA), and leading U.S. footwear companies, met in Washington, DC December 7 with trade officials from several European nations to express concern over the possibility of punitive anti-dumping duties being imposed on European imports of footwear from China, Vietnam and India ([AAFA Press Release](#)). The "fly-in" meeting was held to discuss two anti-dumping cases being considered by the European Commission (EC), which has been investigating Asian shoe prices and may be about to impose punitive duties against Chinese, Vietnamese and

Indian leather and safety toe shoe exports it believes are being sold in Europe at prices cheaper than sold in those countries. Many of the shoes sold in Europe by US footwear companies come from these and other Asian countries. Further, most of the shoes subject to the dumping cases are no longer manufactured in Europe. The European Commission has already formally rejected market economy status for all respondent factories in China and Vietnam in the ongoing anti-dumping case against European imports of Chinese and Vietnamese leather footwear. Instead, the determination of dumping margins for all respondents will be made by the Commission using Brazil as the surrogate country for determining prices and costs. This decision means that all factories from these countries would likely face the highest dumping margins possible if the Commission makes a determination to impose dumping duties. The Commission has still not made a decision, however, on a potential exception for Special Technology Athletic Footwear (STAF). Thanks to growing opposition from European and American footwear brands, European footwear groups, European retailers and a growing list of European member states, the Commission will likely postpone its preliminary decision on this case until March 9 ([AAFA Press Release](#)). A preliminary decision in the safety footwear case is due by early April. If the European Commission imposes dumping duties in the leather footwear case, footwear companies could face dumping duties as high as 40-120 percent on the leather footwear they are selling into Europe by the end of March, which in turn will cause soaring prices and/or empty shelves for European consumers. ***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.***

8. ***Other China Issues:*** U.S./China economic relations have dominated virtually all international trade discussions in Congress throughout 2005 and is expected to again take center stage in 2006. Much of the focus has been on the rising trade deficit the United States maintains with China and the perception that the United States is hemorrhaging manufacturing jobs to that country. Considerable focus continues 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 also 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. The announcement left unclear whether China would allow the currency to appreciate further. While a number of bills to penalize China for these perceived infractions have been introduced in Congress, none has passed both Houses. Meanwhile, cosponsors of popular Senate legislation to impose new punitive import tariffs on all Chinese products are reportedly planning to insist on a vote in the Senate early in 2006 if China does not take further action to float/revalue its currency. ***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:** 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 the 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 early 2006, every container moving through the Ports of Los Angeles/Long Beach will move through a radiation portal monitor to check for radioactive elements. 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 periodic congestion problems at West Coast ports. At the same, Customs continues to aggressively implement its [Customs Trade Partnership Against Terrorism](#) (C-TPAT) and the [Container Security Initiative](#) programs, focusing its interdiction and investigation resources on higher risk containers. Customs continues to strengthen its C-TPAT program through new requirements and regulations. 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. ***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 will also continue to monitor the situation on the West Coast and will explore alternative solutions (including possible legislative fixes) for AAFA members.***
10. **EU Retaliation:** In retaliation over three separate trade disputes in recent years, the European Union (EU) has levied punitive tariffs on a variety of U.S.-made textile, apparel, and footwear exports to Europe. The **first** case – involving European steel exports – was concluded after the United States discontinued a program discriminating against imported steel. A **second** case, involving a tax subsidy that the United States provided to certain U.S. exporters, was initially resolved but may now be revived because the EU alleges that the U.S. has not sufficiently complied with its WTO obligations (see #22). In the **third** case, however, the European Union on May 1, 2005 [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 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. That case may be close to resolution because of a provision in a recently passed budget bill, which repeals the Byrd Amendment effective October 1, 2007, that cleared Congress in late January 2006. ***AAFA has been working to help remove members' products from these retaliation lists and supports legislation to remove the underlying trade disputes.***

11. **Doha Round**: The United States and the more than 140 other countries of the World Trade Organization (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. Trade ministers of the 150 member nations of the World Trade Organization (WTO) met in Hong Kong in December 2005 to advance these negotiations. Much of the debate involved proposals to provide duty free and quota free access for the poorest developing countries in areas such as cotton and textiles. In the meetings [final declaration](#), trade ministers reached an agreement in several areas, including:

- Providing duty free/quota free access for at least 97 percent of goods produced by the world's 50 least developed countries. Under the agreement, the United States retains its rights to pursue an import ban with respect to Burma and considerable flexibility in how it will implement this commitment through the U.S. legislative process.
- Seeking additional tariff cuts by both developed and developing countries in textiles, apparel, and footwear through a broad package affecting all industrial tariffs, possibly doing so in the context of sectoral negotiations. Industrial market access commitments also contemplate elimination of trade distorting non tariff barriers (see #12).
- Mandating an end to cotton export subsidies by 2006, requiring developed countries to provide quota and duty free access for cotton from developing countries when the overall Doha round is implemented, and contemplating a reduction in domestic support for cotton. Because the United States is already required to reduce cotton export subsidies due to an adverse decision in a WTO trade case with Brazil, recently passed budget legislation already calls for the repeal of the so-called Step 2 program for cotton by December 2006.

Negotiators and trade ministers are hoping to step up work during 2006 in an effort to reach a final deal by the end of the year. AAFA sent a delegation of members and staff to the talks to monitor their progress and promote the interests of U.S. apparel and footwear companies. ***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.***

12. **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, and other steps that foreign countries take to close their markets to U.S.-branded products. 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 the Doha Round. On November 16, AAFA [submitted comments](#) to the U.S. government regarding the most egregious trade barriers U.S.-made and U.S.-branded apparel and footwear face worldwide. The letter, which cites Japan's tariff-rate quotas (TRQs) on leather footwear imports, South Africa's proposed labeling scheme for imported consumer goods, Europe's onerous care labeling rules and other barriers, was submitted as part of the preparations for publication of the U.S. government's next annual [National Trade Estimate Report on Foreign Trade Barriers](#). Nevertheless, new non tariff barriers seem to crop on a daily basis. Most recently, the Government of Colombia proposed new onerous restrictions regulating the importation into Colombia of many textile, apparel, and footwear products. *AAFA strongly supports the elimination of non-tariff barriers to U.S.-branded products worldwide.*
13. **Anti-Counterfeiting and IPR Issues:** On October 4, 2004 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, Congress is close to approving [AAFA-supported](#) legislation to strengthen the U.S. law used to prosecute counterfeiters. Other legislation addressing anti-counterfeiting concerns is at various stages of the legislative process. AAFA also supports the U.S. government's [recent efforts](#) to encourage China improve enforcement of intellectual property rights (IPR). *In response to the growing impact on U.S. apparel and footwear brands, AAFA [recently launched a Brand Protection Council](#) to coordinate the industry's response to the scourge of counterfeiting and other problems that jeopardize the integrity of U.S. brands*

Government Contracting Issues

14. **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.

Recent AAFA Accomplishments:

- 2005 – Secured passage of key legislative enhancements that make Berry waivers more transparent, clarify that leather and other components are covered by the Berry Amendment and provide for additional education for clothing and textile procurement personnel. The transparency provision requires the notification of waivers for non-availability by posting on FedBizOps within seven days of a contract award.
- 2005 – Blocked a change that would have allowed a waiver for the purchase of force protective equipment, including clothing & textiles.
- 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.
- 2001 – Secured passage of (Section 832) in FY 2002 Defense Authorization Act ([P.L. 107-333](#)), which codified the Berry amendment into law.

Congressman Robin Hayes (R-NC-8) was the sponsor of the legislative provisions providing transparency and clarification, included in the FY 2006 Defense Authorization Act, and has been a long-time supporter of these issues. Senator Elizabeth Dole (R-NC) was the sponsor of the education language that was included and led the effort in the Senate. Separately, Congressman Rick Renzi (R-AZ) successfully included in an immigration bill ([HR 4437](#)) a provision (Section 119) that would require uniforms worn by the border patrol to be made in the United States. It is unclear whether that provision, or the underlying legislation, will be advanced in 2006. However, a related effort to extend Berry Amendment protections to the Department of Homeland Security, which includes the Border Patrol and other agencies, may gain momentum in 2006. ***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 has worked for several years to secure enactment of the 2005 enhancements and views them as a huge win for AAFA members. AAFA will continue to monitor and guard against any efforts to dilute or weaken DoD Berry protections and will monitor the DHS dialogue to advance AAFA member interests.***

15. **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:

- 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.

- 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.

These changes have already helped 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 supports 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 108th Congress, a hearing on HR 2965 during the first session of the 109th Congress was forced to adjourn due to a lack of unified support for the bill. AAFA and the FPI Coalition have been working to reestablish the former support for the legislation; however, the Coalition also ran into another roadblock consisting of issues the Department of Justice has with the bill. The DOJ recommendations for changes to H.R. 2965 have been submitted and are under review. The prospects for HR 2965 in the 109th Congress are unknown at this point, but if a compromise can be reached it may bolster prospects for passage in the House and in the Senate. Senators Carl Levin (D-MI) and Craig Thomas (R-WY) have also reintroduced their reform bill [S.749](#), though there has not been any activity as the Senate will wait for the House to pass H.R. 2965 prior to considering S. 749. ***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.***

Labor Issues

16. ***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, perhaps buoyed by a recent announcement by Wal*Mart that it will also support an increase in the minimum wage. ***AAFA supports efforts to keep the U.S. minimum wage at current levels.***
17. ***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

18. **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. Nevertheless, House and Senate members periodically introduce legislation to overturn or "tighten" these standards. A recent bill ([HR 4185](#)) introduced by Rep. Andrews (D-NJ), for example, would subject all children's clothing to the tighter standards that now govern sleepwear. 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.*
19. **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.*
20. **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.*
21. **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. In addition, Colombia recently proposed

onerous new labeling requirements as part of a new initiative to regulate imports. *AAFA strongly opposes these proposals 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, in response to a legislative mandate, the FTC has issued new labeling guidelines for hosiery that take 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. 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

22. ***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. Finally, AAFA submitted comments to the Department of Treasury and to House Committee on Ways and Means regarding the tax provisions in H.R. 4520. AAFA initially requested that the Department of Treasury release an interpretation of the law to allow sub-contractors to benefit from the manufacturing deduction, as well as considering design part of the manufacturing process. The interpretation from Treasury was not favorable and therefore AAFA submitted similar comments to Ways & Means requesting these changes be included in a H.R.4520 technical corrections act. Neither were included. *[AAFA supported the enactment of the American Jobs Creation Act of 2004 and is opposed to the reimplementaion of sanctions.](#)*

Other

23. ***Funding for NTC/[TC]²***: Each year, the [National Textile Center](#) (NTC) and the [Textile/Clothing Technology Corp. \[TC\]²](#) receive federal appropriations through the annual Commerce/Justice/State appropriations bill to support their work to advance the competitiveness of the U.S. textile and apparel industry complex. Over the years, NTC has received about \$10 million while [TC]² usually receives around \$3 to \$3.5 million. FY 2006 funding levels are set at \$13 million and \$3.5 million, respectively. ***AAFA supports continued funding for NTC and [TC]².***
24. ***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](#). In 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.apparelandfootwear.org. You can also get more information by clicking on the hot links embedded throughout this document.