



## Spring 2006 Legislative Update

June 2006

(With links for more detailed information)

Partisan tensions remain strong as the 109<sup>th</sup> Congress slogs its way through the legislative agenda this Spring. Although the 2006 mid-term elections are still about 5 months away, they factor significantly in the planning and strategies of the Congressional leadership already.

The Republican leadership has laid out an ambitious agenda designed to appeal to the conservative base and respond to critics that this is a “do nothing” or corrupt Congress. Their agenda includes action on many traditional Republican themes such as small business health care reform, tax cuts, immigration reform, defense and tort reform. Likewise, the White House is also working to transform its image. The appointment of Josh Bolten as the new White House Chief of Staff, former FOX commentator Tony Snow as the new Press Secretary, and several announced and pending personnel changes are designed to inject new discipline into White House operations so the Administration can be more effective in its dealings with the Congress and the public at large on key issues. One such change that holds ramifications for the trade agenda is the decision to nominate Ambassador Rob Portman to fill Bolten’s former post as head of the Office of Management and Budget and current Deputy US Trade Representative Susan Schwab to replace Portman as head of the USTR

Democrats, eager to capitalize on a series of missteps by the White House, growing discontent with the war in Iraq and the budget deficit, and ethical scandals affecting prominent Republicans, have sought to portray the Republican leadership as dysfunctional and unethical. While they have been quick to criticize, they have so far been unable to project a positive agenda of their own. That negative approach, combined with several well-publicized scandals involving Democrats, has left many in the American electorate with a negative impression for all Members of Congress – both Republicans and Democrats alike.

Although Congress has managed to clear at least one tax cut package, other major initiatives have bogged down in the face of united Democrat opposition or defections from disgruntled members of the Republican Party. For example, conventional wisdom had predicted quick action on a series of ambitious lobby reform measures. Several well publicized scandals had created strong interest in such lobby reform earlier this year and helped elect Ohio Republican John Boehner as the new House Majority Leader. But the passage of time, competing political interests and other distractions have diluted many of the original proposals so that the resulting product may have little impact.

Meanwhile Congress and the public have become more preoccupied with other issues, such as homeland security or rising energy prices. Final action in those areas may be elusive as well because of partisan divisions and jurisdictional battles. Continuing concerns over the budget and

trade deficits and growing opposition to the war in Iraq are also fueling additional anxiety but are likewise unlikely to yield significant action. In the coming months, Congress will also increasingly turn its attention to the annual spending bills – which are supposed to pass by the beginning of the new fiscal year on October 1 – which will further crowd out other initiatives as well. In fact, House Majority Leader Boehner has already announced that Congress may have to return to work after the mid term elections for a “lame duck” session to complete all the pending business.

Conventional wisdom suggests that the upcoming election will create the best opportunity for Democrats to retake control of Congress they have had in some time. Poll numbers show increasing discontent with Congress. While this is viewed as a negative reflection on the Republican leadership, that trend may imperil some incumbent Democrats as well. Moreover, the Party in control of the White House (i.e., the Republicans) often loses seats during the 6<sup>th</sup> year of an 8-year Presidency (i.e., 2006). At the same time, many individual incumbents – both Republican and Democrat appear safe – suggesting that the battle for control in each chamber will be decided upon a relatively small number of seats.

For their part, Democrats will increasingly work to show why the nation needs a change in leadership. They will portray targeted incumbents as allies of either an unpopular White House or former House Majority Leader Tom Delay, who was forced to resign his leadership position, give up his re-election bid, and ultimately, resign from Congress.

One analysis suggests that, increasing discontent with the White House will discourage many conservative voters to stay home on Election Day. This could provide a crucial margin of victory for the Democrat challenger in many House and Senate races. To counter, Republicans will advance issues that will “fire up” their electoral base to ensure maximum turnout of conservative Republicans next November. Among other things, they are raising the specter that a Democrat led Congress could roll back conservative policies put in place over the past decade or initiate damaging investigations, including potential impeachment proceedings against President Bush or Vice President Cheney. Whether these strategies succeed or fail will ultimately be evaluated this November.

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. **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 has announced several new FTAs, it is unclear how much time will remain to complete work on this agenda. TPA is now set to expire on July 1, 2007. With Congressional approval of an extension very much in doubt, this expiration date creates an effective deadline by which time 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 April 2007 if the agreement is to be ready for Congressional consideration by July 2007. Already several Members of Congress are urging USTR to engage in a form of “trade triage” to focus resources and attention on those FTAs that are the most important or that can be completed expeditiously.

- ***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 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. Under this program, CAFTA-DR entered into force for El Salvador on March 1, 2006 and for Honduras and Nicaragua on April 1, 2006. Guatemala and the Dominican Republic are hoping to see an entry into force by July. Costa Rica, where newly inaugurated President Oscar Arias remains firmly committed to this trade agreement, is hoping to approve the agreement so it can enter into force with respect to that country by the end of the year. Rolling implementation has created considerable disruption, particularly in scenarios involving the co-production of an article among several Central American countries. Although no schedule for such action has yet been set, Congress is likely to take up a series of bills to fix this co-production problem and to address outstanding business relating to pocket fabrics, socks, the Nicaragua TPL, and other technical fixes. 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, possibly by July 1. Congress is now turning its attention to two recently negotiated FTAs with [Oman](#) and [Peru](#), both of which are expected to be approved by the August recess. The Administration has also recently concluded an agreement with [Colombia](#), which, along with Peru, had initially been

part of a larger negotiation with the Andean nations. It remains to be seen when the Colombia agreement will be presented to Congress and how it may be joined with the Peru agreement. The United States continues to negotiate FTAs with the five countries of the [Southern African Customs Union](#) (Botswana, Lesotho, Namibia, South Africa, and Swaziland), the [United Arab Emirates](#), [Thailand](#), and [Panama](#), although all are proceeding on slow tracks. In early February 2006, the President also announced plans to begin talks with [South Korea](#). Those talks began in early June 2006. Talks will also begin soon with [Malaysia](#) while FTA talks with Switzerland and Egypt have been postponed. In addition, several 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. A [Free Trade Area of the Americas \(FTAA\)](#), which hopes to link together trade among the 34 democracies in the Western Hemisphere, has made little progress in recent years. *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 (see below), attention is shifting away from trade preference arrangements.
- 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 will ultimately expire in a little more than two years on September 30, 2008.
  - Similarly, the [Andean Trade Promotion and Drug Eradication Act \(ATPDEA\)](#), which is set to expire this year looks like it will be ultimately replaced by individual or regional FTAs with Andean nations as discussed above. Legislation sponsored by Representative Rangel below would extend it for an additional year, although action on that bill remains uncertain.
  - Members of Congress continue to propose changes for the [African Growth and Opportunity Act \(AGOA\)](#), although it is questionable if such legislation – including a [bill \(HR 5070\)](#) introduced by Representative Charlie Rangel (D-NY) – will see action this year.
  - Others have introduced a series of bills providing trade preferences for [Haiti](#), the poorest developing countries (also known as the [Trade Act](#)), [Sri Lanka](#), and the [Commonwealth of Northern Marianas](#).
  - Finally, the Generalized System of Preferences (GSP) program, which provides duty preferences for developing countries, but which generally does not apply to footwear or apparel, is scheduled to expire in December 2006. In the aforementioned bill to

extend AGOA, Representative Rangel has proposed a one year extension of the GSP program.

While further action on some of these initiatives may occur this year, action may be delayed depending how these preferences are linked to pending FTA talks or 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). Moreover, several Members of Congress have recently made statements critical of various preference programs because of the perception that several developing country beneficiaries' governments are using their countries' existing preferential access to the U.S. market to delay or thwart further liberalization in bilateral or multilateral fora. ***[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.***

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 May 2006 when the United States and Vietnam concluded a [bilateral accession agreement](#). That agreement advances and deepens many of the commitments in the 2001 trade agreement. It also provides that, upon Vietnam's accession to the WTO, the United States will discontinue imposition of quotas on textile and apparel imports from Vietnam. That 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. Attention now turns to Geneva where a special working party is completing multilateral accession talks and where a General Council meeting is expected to take up Vietnam's accession before the end of 2006. Although Congress does not vote on the agreement itself, it will vote on legislation to extend permanent normal trade relations to Vietnam, possibly as early as this summer, which is required before the United States can benefit from Vietnam's accession to the WTO. Congress has had 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. Many are looking at the strong margin of that 2002 conditional NTR vote as a possible indication of strong support for the U.S./Vietnam trade relationship in the approach to the PNTR vote this summer. ***[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. Early conversations suggest that the legislation will likely be renewed during the summer of 2006 and, in fact, such renewal legislation ([S.J.Res 38/HJ Res 86](#))

has already been introduced by Representatives Bill Thomas (R-CA) and Tom Lantos (D-CA) and Senators Mitch McConnell (R-KY) and Dianne Feinstein (D-CA). 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. **Miscellaneous Trade and Tariff Bill:** On March 15, 2006, the House approved a bill – [Miscellaneous Trade and Technical Corrections Act of 2006 \(HR 4944\)](#) – that provides for technical corrections and the suspension of duties on products that are no longer produced in the United States. The Senate is hoping to produce a companion measure and asked Senators to introduce bills that could be included in the Senate version by May 27, 2006. A Senate draft bill may be available for comment during the summer. The range of provisions for consideration in both the House and Senate bills include a number of provisions of interests to AAFA members relating to apparel, footwear, and textile components. [AAFA](#) *commented on the many apparel and footwear provisions contained in the proposed House 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, 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. Meanwhile, China [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 second of which occurred in April 2006). The visas in the first auction fetched \$2.8 billion. Figures are not yet available on the second auction. Efforts continue to fix certain problems arising from the agreement with respect to baby socks, fine-gauge sweaters and performance outerwear pants. As part of that effort, the US International Trade Commission will explore economic impacts of revising the definition for booties, so they can be exempted from the baby sock element of the agreement, this summer. [AAFA](#) *continues to work with the Bush administration and Congress to fix the problems associated with implementation of the agreement.*
7. **EU Antidumping Cases against Chinese, Vietnamese, and Indian Footwear:** The European Commission [formally issued its regulation](#) imposing preliminary anti-dumping duties of 19.4 and 16.8 percent, respectively, on European leather footwear imports from China and Vietnam as of April 7. The regulations also outline the Commission's rationale for imposing the dumping duties. The battle now turns to the decision on definitive duties in this case, which must be formally approved by European Union (EU) member states in early September. Early word is that the battle over definitive duties will not only center on the level of the dumping duties (should they be higher or lower than the preliminary duties), but whether the current children's footwear exemption should be maintained. Italy and others are pushing to eliminate this exemption. Meanwhile, the European

Commission has still not issued a formal notice announcing its decision NOT to impose preliminary dumping duties on EU imports of Chinese and Indian safety footwear. According to published reports, the Commission was unable to find injury to European manufacturers in the case. Please note that the safety footwear case is still officially open and that the Commission could return to EU member states in August or September and urge some form of definitive dumping duties. This is highly unlikely since no duties were imposed in the preliminary phase. Finally, there is still no word yet on if the European Commission will now proceed with a dumping case against EU imports of Chinese textile-upper footwear. This case was delayed due to the leather and safety footwear cases. ***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.***

8. ***Other China Issues:*** Chinese President Hu Jintao's [meetings April 20](#) with President George W. Bush in Washington, DC produced few concrete results. The lack of progress from the high-profile meeting has caused many experts to speculate whether Congress will now step into the vacuum and aggressively push legislation to "punish" China for its alleged transgressions on IPR, currency, subsidies and a host of other issues. The U.S. Treasury Department's refusal to cite China as a currency manipulator in the May 10 release of its [latest semi-annual report to Congress on foreign exchange rate policies](#) just furthered that speculation. After publication of the report, U.S. Senators Chuck Schumer (D-NY) and Lindsey Graham (R-SC) again raised the specter of moving toward a Senate vote, recently delayed until September 2006, on their legislation to impose a 27.5 percent punitive duty on all US imports from China in retaliation for perceived Chinese currency manipulation. The Senators hope the Chinese will take significant action on currency before then. Meanwhile, Senate Finance Committee Chair Chuck Grassley (R-IA) and Ranking Member Max Baucus (D-MT) also [introduced new legislation March 28](#) that would provide new tools to the US government to define, determine and prosecute currency manipulation by other countries as well as elevate the US government's chief trade enforcer to a Senate-confirmed position. The bill is a much milder version of legislation passed by the US House of Representatives last year that would have also subjected U.S. imports from China to Counter-veiling Duty (CVD) cases and other new trade enforcement measures. Finally, a number of prominent Democrats on the House Ways & Means Committee [introduced anti-China legislation March 29](#) that would dramatically lower the hurdles for successful prosecution of trade cases against China, including lowering the thresholds for the overall WTO China Safeguard (Section 421). Many experts believe the US textile industry will likely use the Section 421 general safeguard against US imports from China once the currency textile safeguard agreement expires at the end of 2008. The prospect for passage of the Schumer-Graham, Grassley-Baucus or House Democrat anti-China bills or Congressional passage of some combination of those bills is unclear at this time. ***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:** The US House of Representatives [overwhelmingly approved \(421-2\) the Security and Accountability for Every \(SAFE\) Port Act](#) May 4. Meanwhile, the Senate Homeland Security and Governmental Affairs Committee [approved similar legislation](#), called the *GreenLane Maritime Cargo Security Act*, on May 2. It is unclear when the full Senate will consider the legislation. Both bills would require Customs to put in place pilot programs and increase funding to improve technology that would eventually allow screening of virtually all incoming cargo for nuclear materials. The legislation would also increase requirements for participants in Customs' Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT) program and require background checks of all workers at US ports. The full House rejected, by a party line vote, an [AAFA/US business community-opposed amendment](#) that would have required 100 percent screening of US-bound cargo before departure from foreign ports. The amendment would also have required electronic seals on all US-bound cargo containers. The House also rejected an amendment that would have removed the lower scoring that C-TPAT participants receive under Customs' Automated Targeting System (ATS). Customs uses ATS to assign a risk score to US-bound cargo to determine which cargo should be flagged for further inspection. Neither amendment was offered in the Senate Committee markup of the GreenLane legislation. In related news, the US Department of Homeland Security (DHS) issued its [Maritime Infrastructure Recovery Plan](#) on April 28. Among other things, the report includes a plan for a coordinated response to quickly resume cargo traffic in the case of a "major disruption" to US maritime commerce. Both bills would require DHS to beef up these plans, which some consider inadequate. *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:** The European Union (EU) had threatened to re-impose punitive tariffs against a variety of U.S.-made textile, apparel, and footwear exports to Europe starting May 16 over a tax subsidy that the United States provided to certain U.S. exporters. The issue appeared resolved at the end of 2004 after the U.S. Congress passed legislation to eliminate the export subsidy. The EU, however, opposed the provisions in the legislation that grandfathered current contracts and again brought the case to the World Trade Organization (WTO). The WTO sided with the European Union in the case. As a result, the EU announced that it would [re-impose retaliatory duties on European imports of](#) a wide range of US-made apparel and footwear. The retaliatory duties of 14 percent (on top of regular duties) will be imposed on all subject US-made goods imported into Europe on or after May 16, 2006 ([See Annex on p. 3 of European Council Regulation \(EC\) 171/2005 for complete list of products subject to sanctions](#)). In response, Congress, in mid May 2006, passed a provision, included in tax cut legislation, which would address EU concerns. In response, the EU decided to discontinue its reimposition of these sanctions. Separately, the EU [continues to maintain retaliatory sanctions](#) of 15 percent on certain US 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 – an action the WTO ruled was in violation of international trade agreements.) Although the Byrd Amendment was repealed late last year, 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. ***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 150 countries of the World Trade Organization (WTO) missed their self-imposed April 30 deadline to reach an agreement on the framework ("modalities") for an agreement in the ongoing Doha Round of global trade talks. With the passage of the deadline, the AAFA-supported American Business Coalition for Doha (ABCDOha) [sent a May 3, 2006 letter](#) to all 150 WTO trade ministers urging them to remain committed to an ambitious agreement. The US business community will not accept a "Doha Lite" deal or a weak deal just for the sake of reaching an agreement. If successful, the Doha Round could result in the lowering of tariffs and the elimination of non-tariff barriers worldwide for US-made and US-branded apparel, footwear and textiles. Meanwhile, AAFA joined with importer and retailer associations [in sending an April 18, 2006 letter](#) to President George W. Bush urging the Bush administration to oppose [a recent proposal by the government of Turkey](#) to exempt textiles and apparel from trade liberalization in the talks. The letter argues that US support for such a proposal would not only undermine the Bush administration's repeated commitment to free trade, but could further destabilize the already fragile global trade negotiations by setting the precedent where other countries could take other industries important to the United States off the table. The AAFA letter [echoed a similar letter](#) from the broader U.S. business community. Despite the current status of the overall negotiations, substantive work continues on proposals by the United States and the European Union to eliminate Japan's restrictive tariff-rate quota (TRQ) on leather footwear and eliminate export taxes on raw hides worldwide as well as harmonize labeling regulations and eliminate other non-tariff barriers for apparel, footwear and textiles. ***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. ***Anti-Counterfeiting and IPR Issues:*** In November of 2005, AAFA launched the [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. In March 2006, Congress approved legislation [HR 32](#), Stop Counterfeiting in Manufactured Goods, supported by AAFA, to strengthen the U.S. law used to prosecute counterfeiters by outlawing the trafficking in labels, patches, stickers, hangtags or medallions. AAFA is monitoring and evaluating other relevant legislation addressing anti-counterfeiting concerns currently at various stages of the legislative process. One such bill is HR 5055 to protect fashion design with three year copyrights, sponsored by Congressman Goodlatte, (R-VA), and member of the House Judiciary Committee. This bill is being promoted by the Council of Fashion Designers of America. Also, the DOJ has a legislative package on enforcement which is being evaluated by the members of the [Coalition Against Counterfeiting and Piracy](#) (CACP), which includes AAFA. A bill has not yet been

introduced. AAFA also supports the U.S. government's efforts to encourage China and other countries to improve enforcement of intellectual property rights (IPR) and empower small businesses to secure and enforce their rights through the multi-agency [Strategy Targeting Organized Piracy \(STOP!\)](#) program and evaluations of IPR enforcement such as the "Special 301" report. AAFA submitted comments with some member input in advance of the 2006 ["Special 301" report](#) that was recently issued by the USTR. China and Russia were the top offenders with eleven other countries placed on the "Priority Watch List." AAFA has also strongly encouraged members to participate in the Organization for Economic Cooperation and Development (OECD) [survey](#) to quantify the depth of the global capacity for trafficking in counterfeit goods, which will ultimately help AAFA and the US government to demonstrate the importance of improving IPR enforcement globally. *AAFA supports the continued strengthening of US laws used to prosecute counterfeiters as well as the US government's efforts to improve the enforcement of IPR laws globally.*

### **Government Contracting Issues**

13. **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. This year Congressman Hayes has introduced legislation, HR 4946, the Berry Amendment Extension Act, to extend Berry Amendment protections to the Department of Homeland Security, which includes the Border Patrol and other agencies. AAFA worked closely with Representative Hayes' staff to ensure that the legislation introduced was compliant with US trade obligations. The bill does not have a Senate sponsor yet, but expects one soon. ***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 work the DHS issue to advance AAFA member interests.***

14. **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 108<sup>th</sup> Congress, HR 2965 has not been reported out of the Judiciary Committee. A markup of HR 2965 during the first session of the 109<sup>th</sup> 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. Some of the DOJ recommendations for changes to H.R. 2965 have been accepted in an effort to gain the full support of the Attorney

General; however, there are still some sticking points to be worked out before going back to markup. The prospects for HR 2965 in the 109<sup>th</sup> 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.](#)***

## **Regulatory Issues**

15. ***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. In order to keep the lines of communication open between the CPSC and AAFA members, AAFA's Childrenswear Division hosted a reception with CPSC Chairman, Hal Stratton on March 9, 2006. Mr. Stratton offered remarks and took questions concerning children's apparel issues. A follow up meeting is being planned at the CPSC headquarters with Chairman Stratton and his compliance team.***
  
16. ***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. The Consumer Product Safety Commission (CPSC) issued a [letter](#) on May 19 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 to make certain 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. ***AAFA believes national drawstring guidelines are preferable to state regulations. AAFA will be visiting the CPSC offices and meeting with the Compliance Department on June 14, 2006 to discuss several issues including drawstrings.***

17. ***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.***
18. ***Labeling Issues:*** On December 15, 2005, Representative Marsha Blackburn (R-TN-7) introduced [H.R. 4583](#), titled the “Wool Suit Fabric Labeling Fairness and International Standards Conforming Act” proposing the revision of the requirements for labeling certain wool and cashmere products. This bill would amend the wording for the labeling of wool and cashmere products to “facilitate compliance and protect consumers” with an applicability date to include all wool products manufactured on or after January 1, 2006. On January 3, 2006 H.R. 4583 was referred to the House subcommittee on Commerce, Trade, and Consumer Protection. ***AAFA has [written](#) to Representative Blackburn expressing support for this legislation***

The South African government 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. Moreover, as noted before, the US Government has proposed text to harmonize labeling standards as part of the Doha Round to prevent such non tariff trade barriers in the future. ***AAFA strongly opposes labeling regulations when they act as non tariff barriers 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 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. 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

19. ***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 WTO obligations. The European Union (EU) sanctions, totaling \$4 billion in annual retaliatory duties on U.S. imports, were lifted at the beginning of 2005; however, the EU included provisions that would reapply the sanctions if the repeal was ruled insufficient to meet the requirements for WTO compliance. The WTO affirmed the EU's claims that H.R. 4520 continued to allow illegal export subsidies through a grandfather clause of ETI benefits for some contracts in effect before September 13, 2003 and a transition phase out which allowed U.S. exporters to continue ETI benefits through the end of 2006. Although sanctions of 14% were due to be reinstated on May 16, 2006, those sanctions were avoided when the Congress passed, as part of the Tax Relief Extension Reconciliation Act of 2005 (HR 4297), a repeal of the grandfather provisions of the ETI. ***AAFA supported the enactment of the American Jobs Creation Act of 2004 and is opposed to the reimplementing of sanctions.***

## Other

20. ***Funding for NTC/[TC]<sup>2</sup>:*** Each year, the [National Textile Center](#) (NTC) and the [Textile/Clothing Technology Corp. \[TC\]<sup>2</sup>](#) receive federal appropriations through the annual Commerce/Justice/State appropriations bill to support their work to advance the competitiveness of the U.S. textile and apparel industry complex. Over the years, NTC has received about \$10 million while [TC]<sup>2</sup> 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]<sup>2</sup>.***
21. ***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](http://www.apparelandfootwear.org). You can also get more information by clicking on the hot links embedded throughout this document.