



## Third Quarter Legislative Update

September 2006

(With links for more detailed information)

Facing one of the most hotly contested mid-term election seasons in some time, Republicans and Democrats are working strenuously to promote their records and energize their political bases.

National security will be a key focus for the Republican leadership going into the last leg of 109<sup>th</sup> Congress and pre-election agenda this fall, capitalizing on an issue that Republicans traditionally poll better on than Democrats. Republicans will also emphasize recent positive economic growth and job creation figures. Democrats will link Congressional Republicans to President Bush, who is still facing low approval ratings, and will attempt to portray the Republican leadership as mismanaging the economy and the war on terror. In doing so, Democrats will work to capitalize on the unpopularity of the war in Iraq and the perception by many Americans that the economy is performing poorly, even though some economic statistics suggest otherwise.

The current calendar provides for less than twenty legislative days and roughly fifteen voting days for the month of September, which does not leave much time for Congress to act on a number of key items this fall. As a result, the Congressional leadership has indicated that it will convene a mid-November “lame duck” session, postponing some business until after the elections, to give Members a chance to spend October in their districts on their campaigns.

As is the case most years, Congress is far behind in its work on the annual spending bills, which must be completed before the new fiscal year begins on October 1. The House has passed all its spending bills except for the Labor, Health and Human Services bill, which is traditionally the most difficult spending bill to pass. The Senate has passed only the spending bill for the Homeland Security Department. It restarts appropriations work by resuming debate on the \$468 billion Defense bill this month.

The five year anniversary of September 11 opens the door for the natural focus on national security as policy makers attempt to define whether the country is more or less secure since the Al-Qaeda attacks in 2001. Several court decisions, including the recent the Supreme Court rejection of military tribunals, and the on-going debate of the National Security Agency’s wiretap and surveillance program may create specific opportunities for Congressional action on anti-terror initiatives this fall.

A port security bill, which was already approved in the House, will be up for consideration in the Senate in September. The Senate will also consider several nominations, including the contentious appointment of John Bolton as the U.S. Ambassador to the United Nations. A new immigration bill may also be discussed, although it is very doubtful whether a compromise on the differing House and Senate versions of the legislation can be reached in this Congress.

Regarding trade, conventional wisdom now holds that any additional trade votes, such as a vote on a Peru Free Trade Agreement and the Vietnam Permanent Normal Trade Relations bill (which is related to that country's accession to the World Trade Organization), will not occur until the lame-duck session due to the sensitivity of the potential effect of a trade vote so close to the November elections.

Although gas prices have dipped somewhat in recent weeks, energy policy remains on the congressional agenda. President Bush, in a Labor Day address, emphasized the importance of achieving less dependence on foreign oil, catering to the public's on-going concern over high energy costs. While the House has approved a broad energy package, providing for off-shore drilling, such expansive measures have been blocked in the Senate. However, a more scaled back off-shore drilling bill that passed the Senate before the August recess may be taken up in the House

As with energy policy, the Senate continues to block more ambitious action on tax cuts. Before the August break, the Senate voted down a House approved package of tax cuts that combined non controversial tax extenders, including a heavily supported research and development credit, with a more controversial provision to make a partial estate tax repeal permanent. Even though that package contained an increase in the minimum wage – a long sought goal of many Democrats in Congress – the legislation was defeated because many Democrats felt the price (i.e., various tax cuts) was too high. Nevertheless, there will likely be some sort of effort to pass at least the tax extenders package before the elections.

Many pundits are now predicting that the Republicans could lose the majority in the House and, possibly, the Senate. Except for a brief period when they lost control of the Senate a few years ago, Republicans have held the majority, albeit a very slim one, in the Congress since 1995. This year Democrats need only 15 seats to take control of the House and six to take control of the Senate. A change in control in the House appears most likely with several surveys suggesting that there may be as many as 45 endangered Republican incumbents. A change in the Senate appears less likely but could occur if the all the races that are deemed competitive break for the Democrats. While Democrats have had plenty of issues to capitalize on including numerous political scandals, though not unscathed by scandal themselves, they have failed to develop a clear message. Instead, they seem to be hoping that disapproval of President Bush and the Republican leadership, or incumbents in general, will be sufficient to bring enough voters to the polls eager to see a shift in control in one or both Houses of Congress.

There is little doubt that the elections will be tight and that Republicans will likely lose seats if mid-term election trends hold. The question will be if they will lose enough seats to give the Democrats control of either chamber. In 33 of the last 36 midterm elections the opposition party gained seats in the House. However, there are always anomalies to any trend and two of these exceptions occurred in the last two mid-term elections. Political observers on both sides of the aisle stress that, while national issues will play an important role overall, local issues and characteristics in each race will be even more important. In this regard, while many polls show low disapproval ratings of Congress in general, those same polls often show that individuals have more favorable views of their own elected representatives. In addition, voter turnout,

which played a decisive factor in the 2004 Presidential elections, will be even more important this November.

Regardless of who retains the majority in House or the Senate, some of the committees handling legislation tracked heavily by AAFA, namely the Ways and Means Committee, will have a dramatically different look next year. The retirement of Representative Bill Thomas (R-CA) will guarantee a new Chairman of this key Committee no matter who controls the Congress. If Republicans keep control of the House and the Committee's ranking Democrat Charlie Rangel (D-NY) makes good on a promise to quit under such a scenario, the Committee will end up losing both its two leaders.

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

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

Recent developments of note on some of these issues include:

### **International Trade**

1. **Key Bilateral/Regional Trade Initiatives:** With [Trade Promotion Authority \(TPA\)](#), which authorizes and provides guidance for new trade negotiations, set to expire on July 1, 2007, the U.S. Trade Representative, Ambassador Susan Schwab, is focusing on those free trade agreement negotiations that can be completed in the next few months. Congressional approval of a TPA extension is very much in doubt, which means this expiration date serves as 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.
  - **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 [announced](#) will occur 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, and Guatemala on July 1, 2006. The Dominican Republic is hoping to see an entry into force by the fall of 2006. 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 or early in 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. Deals to amend the agreement on pocketing have already been agreed to with El Salvador, Guatemala, Honduras, and Nicaragua. Similar negotiations are at an advanced stage with the Dominican Republic and Costa Rica. No substantive talks have yet occurred on socks, although the Administration has threatened to use a sock safeguard in the future. 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:*** 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 is now turning its attention to two recently negotiated FTAs with [Oman](#) and [Peru](#). The Oman agreement has already been approved by both the House and the Senate, but because of parliamentary reasons has to be approved again by the Senate. The Peru agreement has not yet been considered by either chamber, although the committees of jurisdiction have already examined and approved draft versions of the implementing legislation. While the Oman agreement will almost definitely be signed into law this year, it remains uncertain if the Peru agreement will be approved this year. 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 also began recently 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. Action on that bill, or other extension initiatives that could bridge the duty-free gap between the expiration of the Andean program and the free trade agreements that will enter into force after January 1, 2007, 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 Rangel – will see action this year. House Ways and Means Committee Chair Thomas has indicated he could seek some modifications that would stimulate the production of an African textile industry, although has declined to provide specifics.
- 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](#) (Saipan). The latter has been proposed for inclusion in a possible 2006 Miscellaneous Tariff and Trade Bill (see #5 below).
- 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. In addition, the USTR is now engaged in a review to determine how and when the GSP program should be extended and to the benefit of which countries.

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 the now-stalled Doha Round of multilateral trade talks, to provide duty-free access to at least 97 percent of all products from least developed countries. 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 WTO 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 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. 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 ([HR 5602](#)) 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. Conventional wisdom holds that this PNTR legislation will be considered this fall, although it remains uncertain if it will occur before Vietnam accedes to the WTO or before President Bush makes a long scheduled visit to Vietnam in November. Senators Elizabeth Dole (R-NC) and Lindsey Graham (R-SC) have placed a hold on the bill to delay further consideration in an effort to bargain for additional restrictions on U.S. imports of Vietnamese apparel. With such restrictions expressly prohibited by the agreement itself, it remains to be seen how Dole and Graham can be satisfied. 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 year. Indeed, the aforementioned PNTR bill has already been approved in the Senate Finance Committee by a vote of 18 to 1 and enjoys broad bipartisan sponsorship in both chambers. ***AAFA supports full economic normalization with Vietnam and opposes any efforts to extend quotas or amend the accession agreement with a China style safeguard mechanism.***
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 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. Earlier this year, Congress approved legislation ([S.J.Res 38/HJ Res 86](#)) to reauthorize the ban for an additional 3 year period. That legislation was signed into law by President Bush in July 2006. 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. Based on [comments](#) received to those bills, a Senate companion may be available for action later this year, possibly in a lame duck session. 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. In addition, a number of textile and footwear provisions from the House passed bill have already been enacted into law in an [un-related bill](#) that was approved in late July and signed by President Bush in early August. *AAFA commented on the many apparel and footwear provisions contained in the proposed [House](#) and [Senate](#) bill and will work to ensure that these provisions meet the needs of AAFA’s members.*
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. China has [distributed visas](#) (for quota) using a 70/30 formula allocating 70 percent to Chinese firms based on past performance and 30 percent via auction. This system has led to numerous problems, however, creating high prices and significant unused quota. China was forced to collect “wasted” and unused quota, penalizing those firms that did not use the quota, and redistribute them in an August 2006 auction that has led to dramatically lower prices for visas. It is unclear whether this new auction will lead to increases in Chinese apparel exports for the remainder of 2006. China has also yet to announce how it will distribute quotas for 2007. Efforts also 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 this summer explored the economic impact of revising the definition for booties, so they can be exempted from the baby sock element of the agreement. *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:** Ignoring the fact that it has already been rejected once, the European Commission on August 30, 2006 [re-submitted its previous proposal](#) to the 25 member states of the European Union (EU) for final/definitive dumping duties in the ongoing dumping case against European imports of leather shoes from China and Vietnam. The EU member states had already rejected the same proposal in an August 3 vote of the working-level Anti-Dumping Committee (14 member states opposed, 2 member states abstained, 9 member states in favor). Under the proposal, the EU would impose final dumping duties of 16.5 percent and 10.0 percent, respectively, on imports of all leather footwear (except for athletic

(STAF) footwear) from China and Vietnam starting on October 7. The dumping duties would be imposed on top of normal duties and would remain in place for five years (October 6, 2011). Please note that the proposal eliminates the previous exemption for children's footwear. A final decision by the EU member states is likely to come in a September 25 meeting of member states' ambassadors to the EU. If the Commission cannot get approval of their proposal at this September 25 meeting, the current preliminary dumping duties on EU imports of leather footwear from China and Vietnam will end October 6 as scheduled, ending all dumping duties on the subject footwear at that time. In related news, the European Commission [formally closed its dumping investigation](#) into European imports of safety footwear from China and India. The Commission found no evidence of injury to European safety footwear manufacturers. As a result, no dumping duties were imposed in the case. ***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:*** The continued lack of progress by China on a number of issues 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. U.S. Senators Chuck Schumer (D-NY) and Lindsey Graham (R-SC) have again raised the specter of moving toward a Senate vote at the end of September 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. The House leadership has indicated that it will not take up any China-related measure before the end of the year because it has already passed the above-mentioned legislation (the Thomas-English bill). In related news, the Bush administration on July 21, 2006 [rejected an AFL-CIO Section 301 safeguard petition](#) that urged the US government to impose sanctions against China over labor issues. In rejecting the petition, the Bush administration noted that China has made much progress in improving the labor situation over the past few years, thanks in part to the Bush administration's policy of constructive engagement. Meanwhile, as part of their effort to prevent their economy from overheating and to deflect mounting criticism of their trade surplus, China [confirmed July 24, 2006](#) that it will reduce tax rebates by two percent on exports of resource-intensive and environmentally-harmful products, including apparel and, possibly footwear, sometime this fall. 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 before the end of this year is still 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. However, two other Senate committees – Commerce and Finance – have also claimed jurisdiction over port security. An agreement on a compromise measure over the summer, reflecting an agreement among these three Senate committees, has paved the way for Senate action on this bill during September. Along those lines, the AAFA-supported Supply Chain Security Coalition (SCSC) [sent a July 27 letter to Senate leadership](#) urging the US Senate to quickly pass legislation to improve security at the nation's ports. The letter outlines what the US business community believes should and should not be included in any such legislation. The approaches in both the Senate and the House legislative packages 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. Pressure continues to require 100 percent screening of US-bound cargo before departure from foreign ports. While such amendments have already failed in the House and in Senate Homeland Security and Governmental Affairs Committee, the amendment will likely come up for a vote again when the full Senate considers this bill. Meanwhile, the California General Assembly on August 30 passed [AAFA-opposed SB 927](#) by a narrow vote of 41-36. The California Senate approved the measure shortly afterwards. Governor Arnold Schwarzenegger has until the end of September 2006 to sign or veto the bill. SB 927 requires the ports of Los Angeles and Long Beach to impose a \$60 container (feu) fee to fund undefined transportation, clean air and port security programs. The text of the bill specifically identifies cargo owners as the sole entity responsible for paying the fee. The fee, if enacted into law, is expected to generate about half a billion dollars a year. AAFA and others believe the container fee structure outlined in SB 927 is unconstitutional on several grounds and, more importantly, will drive business away from California ports. While Governor Schwarzenegger has vetoed such measures in the past, a series of powerful national and state interests have lined up to support the bill, including the American Lung Association, the Natural Resources Defense Council and the influential California Nurses Association. These groups have placed responsibility for poor air quality and road congestion in southern California on big corporations moving freight through San Pedro Bay. Several polls suggest that these arguments are playing well among likely California voters. ***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) [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 retaliation lists and supports legislation to remove the underlying trade disputes.***
11. **Doha Round:** The Doha Round of global trade negotiations were halted on July 24 after the 149 members of the World Trade Organization (WTO) failed to break a stalemate over agriculture ([See AAFA Press Release](#)). While WTO members will continue to try to find ways to restart the talks, negotiations will not likely start again until sometime next year, if not longer. If they had been successful, the talks could have lowered tariff and non-tariff barriers worldwide to US-made and US-branded 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:** Congress and the Administration continue to be active on efforts to strengthen intellectual property rights (IPR) protection and enforcement. A law ([HR 32](#), Stop Counterfeiting in Manufactured Goods) that was enacted in March 2006 to provide tougher penalties for the trafficking in counterfeit hangtags and labels has already had some results and will continue to help law enforcers prosecute counterfeiters. A separate bill ([HR 5921](#), the Intellectual Property Enhanced Criminal Enforcement Act of 2006), which was recently introduced by Chairman Sensenbrenner (R-WI), has many elements of a legislative package proposed by the Administration to further strengthen anti-counterfeit enforcement tools. Due to the lateness of the introduction, the bill may not get a lot of traction this year; however, there is a possibility that the legislation will be broken into sections in order to get something done before the end of September. Legislation that would allow for a three year copyright on fashion design ([HR 5055](#)) has also been getting some attention recently. The legislation is sponsored by Congressman Goodlatte, (R-VA), a senior member of the House Judiciary Committee. A hearing held in late July highlighted some of the division within the fashion industry on the bill, in particular the potential broad scope of what could be considered “substantially similar” to designs that get copyright protection. ***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. AAFA remains neutral on HR 5055 due to membership division on the issue, but has engaged with the interested parties to work on a compromise.***

## Government Contracting Issues

13. **Preservation of “Berry Amendment” Buy America protections:** Congressman Robin Hayes (R-NC) was the sponsor of the legislative provisions providing transparency and clarification that were 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, the Transportation Security Agency, and other agencies. The bill does not have a Senate sponsor yet, though there are a few interested candidates. Additionally, though the legislation was considered as a potential amendment to the DHS Authorization bill marked up in the Homeland Security, it was not included. The Senate has no plans to mark-up a DHS authorization bill, which is viewed as the best potential for action on HR 4946. Thus, further action on this issue in this Congress remains uncertain. *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 and worked closely with Representative Hayes’ staff to ensure that the legislation introduced was compliant with US trade obligations. 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):** Efforts continue to focus on securing enactment of a comprehensive reform package ([HR 2965](#) - the FPI Competition in Contracting in 2006), sponsored by Congressman Peter Hoekstra. Similar to a bill ([HR 1829](#)) which passed the House overwhelmingly in the 108<sup>th</sup> Congress, HR 2965 was reported out of the Judiciary Committee on July 12, 2006 by voice vote. Efforts to secure earlier Committee action were thwarted during the first session of the 109<sup>th</sup> Congress, and then delayed for many months while Hoekstra attempted to work out a compromise approach with the Bush Administration Justice Department. Hoekstra and coalition members gave up on negotiations with the Bush Administration after it became apparent that there would be too many concessions from industry to gain their support. Unfortunately, due to procedural hurdles, HR 2965 was not able to be passed on the suspension calendar before the August recess, but it should be passed in the House before the October break. The prospects for HR 2965 in the Senate are pretty bleak at this point, considering the number of days remaining in the session. Senators Carl Levin (D-MI) and Craig Thomas’ (R-WY) reform bill [S.749](#) has not even had a hearing in this Congress as their strategy has been to 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 by requiring the same price, quality, and delivery time requirements met by the private sector. AAFA was a key player in the 2002 effort that allowed contracting officers in DoD to evaluate FPI to determine best value before awarding contracts. This was permanently extended to the entire government in 2004.*

## 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 Robert Andrews (D-NJ), for example, would subject all children's clothing to the tighter standards that now govern sleepwear. Separately, Greenpeace has pursued 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 was held at the CPSC headquarters in June 2006 with Chairman Stratton and his compliance team to discuss children's apparel and general wearing apparel issues AAFA companies are facing.***
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, 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 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.***
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) 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, the US Government had proposed text to harmonize labeling standards as part of the Doha Round to prevent such non tariff trade barriers in the future. With those trade talks suspended, the labeling harmonization initiative remains on hold. *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. 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

19. **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 (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 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. For FY 2007, the Senate CJS appropriations bill has proposed a continuation of funding

for NTC but is ominously silent on funding for [TC].<sup>2</sup> *AAFA supports continued funding for NTC and [TC]*<sup>2</sup>.

20. ***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.

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