



**Fourth Quarter Legislative Update**  
**December 2006**  
**(With links for more detailed information)**

Congressional mid-term elections, which will enable Democrats to take over BOTH chambers of Congress during the 110<sup>th</sup> Congress – the first time Democrats have controlled both Houses since 1994 – will fundamentally alter the legislative agenda for the coming two years.

***Overall***

Incoming Democrat leaders – presumed House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Harry Reid (D-NV) – have been quick to articulate how Democratic leadership will transform the way Washington works. Pelosi has outlined an ambitious agenda of items to complete during the first 100 legislative hours, including action on making prescription drugs and tuition more affordable, raising the minimum wage, implementing all the 9/11 commission recommendations, and undertaking budget, ethics, and lobbying reforms. Reid has a comparable agenda, although the strategy and timing for action remain far less certain.

Democrats begin the 110<sup>th</sup> Congress with a solid majority (233 to 202) in the House. Pelosi will have her hands full balancing the needs of diverse Democrat caucus members while maintaining party discipline. Nevertheless, she has shown in the past few years a remarkable ability to keep party unity. She will be aided by the incredible advantages (such as the ability to issue and revoke rules at will) that control of the House confers upon the ruling party.

The task will be much harder for Democrats in the Senate, who will begin the year with the slimmest of majorities (51 to 49, counting both Independent Senators as Democrats). Because Senators tend to be more independent than their House counterparts and because Senate rules are much looser than in the House, small groups of Senators can have a greater impact on legislation through parliamentary devices such as “holds” and “filibusters.” The fragile nature of this Senate majority was underscored further in mid December with the serious illness of Senator Tim Johnson (D-SD), and the possibility that a sudden vacancy in that seat could be filled with a Republican Governor. Such a move would presumably change the Senate make up to a 50-50 split, which would then effectively shift control of the Senate back to the Republicans (given the fact that Vice President Cheney is empowered to break ties in the Senate).

Increased oversight is likely to be a common theme of many Congressional committees in the 110<sup>th</sup> Congress. Many Democrats feel that proper oversight of a range of Administration actions, including but not limited to the War in Iraq and the War on Terror, was lacking in the past few years. Democrat controlled Committees will also push

a range of new priorities and legislation, in addition to those advanced during the first 100 hours, which have long been ignored by their Republican counterparts. In this regard, we expect Democrats to focus more on the social and domestic issues that appeal to their base.

Challenges for President George W. Bush will remain significant as well. Reeling from an election that many view as a mid-term referendum on his Presidency, Bush has already made significant changes (replacing Donald Rumsfeld as Secretary of Defense) to respond to voter discontent. More changes are expected as his Administration begins to wind down. While trying to govern in an era of divided government, Bush will also be spending part of the next two years working to build his legacy to cement “his place in history.”

Although the next election does not take place for 700 days, Members of Congress (and potential Presidential candidates) are already working to position themselves for those campaigns. Many political pundits are trying to predict whether the next election could see additional Democrat gains, or losses leading to a return to Republican control. As the elections approach, the atmosphere will turn increasingly partisan – like it did during the past few months – as Members seek to use every advantage to help their campaigns and discredit those of their opponents. Even so, the role of incumbency will remain strong. Despite the large number of Members of Congress who were defeated this past election, an incredible 94.3 percent of incumbents won re-election (as compared with 98 percent in a “normal” year).

### ***Impact on Trade***

Although some argue that the 2006 elections were a measure of dissatisfaction by the American people with the trade agenda, this does not seem to be the case. Clearly, many voters were dissatisfied with lots of things. Trade, or more accurately the economy and jobs, was a piece of that and did feature significantly in several elections. But unease over other issues – namely Iraq – and dissatisfaction with the President and the House Republican leadership played much, much bigger roles.

One quick look at the trade dynamic is the fate of the so-called “CAFTA-15” – the 15 Democrats who bucked the Democratic Party and voted to support CAFTA last year. All 15 survived their Democratic primaries earlier in the year – some relatively easily – and all survived re-election in the general election in November (including Rep. William Jefferson (D-LA), who survived a December run-off election). Similarly, although a number of pro trade Republicans lost, some anti trade Republicans lost as well.

But while trade didn’t turn the election, it is clear that the election will greatly affect the trade agenda.

Many reliably pro trade votes in both the House and the Senate are leaving through resignation, retirement, and defeat. Many of these are being replaced by Members who have either no trade record or very negative established trade views. Some of those anti trade votes – namely incoming Senators Bernie Sanders (I-VT) and Sherrod Brown (D-OH) – will now be able to exercise even more influence than they had in the House (not counting the fact that they are now in the Majority) by using parliamentary tools in the Senate (i.e., holds and the filibuster). So from this point alone, advocates for the trade

agenda in the next Congress are going to have to look a lot harder to find the 218 votes in the House and the 51 or 61 votes (61 votes are need in the Senate to override holds or filibusters) in the Senate to get trade initiatives passed.

The dynamics of how we get those votes will of course be altered by the change in leadership in both Houses. Trade bills moving through the 110<sup>th</sup> Congress will presumably have the support of the Democratic leadership, so many Democrats who have been “no” votes in recent years could find themselves as “yes” votes. Conversely, some Republicans who voted “yes” after considerable arm twisting by a Republican leadership desperate to find trade votes almost exclusively in its own caucus will now be free to vote “no.” The omnibus trade bill that was approved in the final hours of the 109<sup>th</sup> Congress provides a possible indication of this new dynamic. It passed by a bipartisan majority of 212 to 184. More than 40 percent of Republicans voted against the measure while nearly half the Democrat caucus voted to support it.

The incoming chairs of the House Ways and Means and Senate Finance Committees – Rep. Charlie Rangel (D-NY) and Senator Max Baucus (D-MT), respectively – both have relatively strong trade records, even though neither has been as reliably pro trade as the Chairs they will be replacing – Rep. Bill Thomas (R-CA) and Senator Charles Grassley (R-IA). Rangel, in fact, has already talked extensively over the past few months about forging a new bi partisan consensus on trade. So while the nature of the trade agreements may be different, it is very possible to see the trade agenda move forward under a divided government – with several important caveats.

First, a crucial test will be to what extent a new consensus can be forged on the question of trade and labor. Democrats have long argued that stronger labor provisions should be included in trade agreements. Republicans have resisted that and the current grant of Trade Promotion Authority (TPA) reflects that. As noted below, TPA expires in the middle of next year. Should it be renewed, it will undoubtedly be renewed with more emphasis on labor, and perhaps other trade restrictive provisions that do not appear in the current version. It is too early to know whether that consensus can be achieved and whether there will be enough political will to package it into a new grant of TPA next year.

Second, the kind of trade agenda that moves forward may be very different than in the past few years. There will undoubtedly be a much greater emphasis on enforcement of existing agreements and strengthening of trade remedy laws. There has been a lot of talk about that in the past few years – and some action – but not much in this area has passed both Houses of Congress. That may change. With Rangel and Baucus already talking tough on China, expect that country to be the main target of these initiatives.

Third, trade is not at the top of the Democrat agenda for the coming two years. While it may occupy a place, Democrats are going to focus on other issues – budget deficit, minimum wage, health care, tuition costs, ethics reforms, 9/11 reforms, Iraq oversight – from the outset. While some trade provisions “have” to be considered next year – Burma sanctions renewal or Russian PNTR for example – it remains to be seen what room is left for trade in this overall agenda.

Fourth, a return to divided government may also be a classic recipe for gridlock over the next two years. While much is being made about “burying the hatchet” in the immediate aftermath of the elections, it is important to remember that political motives will remain strong and that Members from both parties are going to work to reinforce or regain their majorities (as the case may be). This often means placing a premium on partisan jockeying rather than on governing. Plus, the upcoming Presidential elections – which will be the first time in more than 60 years that neither the sitting President nor Vice President sought the Presidential nomination of his party – will quickly distract attention of many as potential candidates seek to position themselves vis-à-vis many issues, including trade. The fact that 2 House members and as many as 7 Senators are seen as active Presidential candidates will only exacerbate this problem.

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 remains 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 [implemented](#) on a “rolling” basis, in which each country accedes once it has completed all necessary domestic approval measures. Under this program, CAFTA-DR entered into force for El Salvador on March 1, 2006, Honduras and Nicaragua on April 1, 2006, and Guatemala on July 1, 2006. The Dominican Republic is hoping to see an entry into force by January of 2007. 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 summer of 2007. Rolling implementation has created considerable disruption, particularly in scenarios

involving the co-production of an article among several Central American countries. In early August 2006, the President [signed into law](#) a bill that provides retroactive duty free treatment to rectify some of the co production problems. That bill also provided proclamation authority so the President could make future modifications to CAFTA-DR dealing with such areas as pocketing, the Nicaragua TPL, socks, and short supply. Deals to amend the agreement on pocketing have already been agreed to with all six countries. An effective date of implementation of those side deals remains to be seen. In addition, the Administration has sought deals with each of the countries on socks, and continues to hint that it may use the sock safeguard, particularly in connection with imports from Honduras, in the future. Work also continues to secure full implementation of the cumulation provisions, which permit the use of Mexican inputs in certain CAFTA-DR garments. The United States and Mexico completed the first step in implementing the cumulation provisions when they initialed a customs cooperation agreement on November 17, 2006. The Mexicans and the CAFTA countries now must pass amendments to their free trade agreements to allow cumulation to move forward. 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.***

- ***Completed and Pending FTAs:*** In addition to the Proclamations made above for CAFTA-DR, the President proclaimed the entry into force of recent FTAs with [Singapore](#) and [Chile](#) effective January 1, 2004, [Australia](#) on January 1, 2005, [Morocco](#) on January 1, 2006, and [Bahrain](#) on August 1, 2006. The FTAs, among other things, provide a combination of duty free and reduced duty treatment for certain qualifying textiles, apparel and footwear. Congress recently approved an FTA with [Oman](#), although that FTA has not yet entered into force. Next in the FTA queue is an agreement that was recently concluded with [Peru](#). 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. The Democrat takeover of Congress has delayed Congressional consideration of the Peru FTA, which had been tentatively slated to be considered during the lame duck session in November 2006. The Administration has also recently signed 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 if or how it may be joined with the Peru agreement. A third Western Hemisphere FTA – an agreement with [Panama](#) – was completed in mid December 2006. Subject to a consensus on labor, it may also be presented for Congressional review before TPA expires. ***AAFA has [issued statements in support of the Colombia and Peru FTAs](#) and is currently evaluating the Panama deal.***
- ***FTAs Under Negotiation:*** The United States continues to negotiate FTAs with the [United Arab Emirates](#) and [Thailand](#), although both are proceeding on

slow tracks. In addition, a proposed agreement with the five countries of the [Southern African Customs Union](#) (Botswana, Lesotho, Namibia, South Africa, and Swaziland) has been relegated to the status of Trade and Investment Framework Agreement (TIFA) because those countries are not yet ready to negotiate a full fledged FTA with the United States. FTA talks with Switzerland and Egypt have been postponed. FTA talks with [South Korea](#) and [Malaysia](#) are moving on slightly faster tracks. Both have gone through a number of negotiating rounds. Although uneven progress has been made, officials in both countries have recently recommitted to complete talks in time to meet the TPA deadline noted above. It remains to be seen what impact the Democrat takeover of the Congress – with Democrat priorities on labor and the environment in trade negotiations – will have on these existing talks. 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 if TPA is renewed this year. 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 has issued statements in support of negotiations with [Korea](#) and [Malaysia](#). 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 less than two years on September 30, 2008.
  - Similarly, the [Andean Trade Promotion and Drug Eradication Act \(ATPDEA\)](#) looks like it will be ultimately replaced by individual or regional FTAs with Andean nations as discussed above. The Andean program was initially scheduled to expire on December 31, 2006. In one of its final acts, the 109<sup>th</sup> Congress approved a bill ([HR 6406](#), which was incorporated into HR 6111) that contains a straight six month extension, linked to a second six month extension (for countries that have approved FTAs). If Congress approves the FTAs with Peru and Colombia during the first six months of 2007, this second six month extension will hopefully ensure no gap in duty free coverage for imports from the Andean region.
  - As part of [HR 6406](#), the 109<sup>th</sup> Congress also approved an extension of the third country fabric provision in [African Growth and Opportunity Act \(AGOA\)](#) until September 30, 2012. That extension also includes a provision that voids the

third country fabric provision for components deemed in “abundant supply.” During the initial year, the law designates “denim” as being in abundant supply, potentially complicating the ability of companies to use third country denim if they do not use sufficient quantities of African denim.

- As part of [HR 6406](#), the 109<sup>th</sup> Congress also approved an expansion of preferences for apparel with respect to Haiti to include a new value added rule and a small 3-year TPL for woven apparel. Because this new program sparked strong opposition from the textile industry, it remains unclear when it will take effect. Although a designation on whether Haiti meets conditionality laid out in the bill is required by March 20, 2007, Congressional leaders may amend this law to give the Administration additional time. In addition, textile benefits do not flow to Haiti until after the Administration makes a determination that Haiti has an effective visa system in place.
- Preference programs for the poorest developing countries (also known as the [Trade Act](#)), [Sri Lanka](#), Pakistan, and the [Commonwealth of Northern Marianas](#) (Saipan) were not enacted by the end of the year. However, several of these ideas may be advanced again during 2007.
- Finally, as part of [HR 6406](#), Congress renewed the Generalized System of Preferences (GSP) program for an additional two years. The GSP program, which provides duty preferences for developing countries, but which generally does not apply to footwear or apparel, is now scheduled to expire at the end of December 2008.

Further action on these and other preference measures could occur in the 110<sup>th</sup> Congress. Democrat leaders in both Houses have already told us they expect to conduct reviews of preference programs and may seek an opportunity to make additional reforms (in terms of product coverage, duration, and rules of origin) for several of these programs. ***[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***: Vietnam is scheduled to enter the World Trade Organization (WTO) on January 11, 2007, completing a gradual period of economic normalization that has taken nearly 10 years. A highlight in this effort came in December 2001, when Vietnam concluded [a bilateral trade agreement](#) with the United States. More recently, in May 2006, 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. [**Note:** Although the Administration recently [established quota limits](#) for the 2007 calendar year, these quotas will be discontinued for textile and apparel products exported on or after January 11, 2007.] The agreement also requires Vietnam to discontinue prohibited export subsidies in the textile and apparel industry. Further, it provides for an

enforcement mechanism, through the temporary reimposition of quotas at 2006 levels, if the United States believes, and the WTO affirms, that Vietnam has violated that requirement. Although the U.S. Congress was not able to vote on the agreement itself, it was able to vote on legislation to extend permanent normal trade relations (PNTR) to Vietnam, which is required before the United States can benefit from Vietnam's accession to the WTO. Vietnam PNTR was approved as part of the trade omnibus package ([HR 6406](#)) during the final hours of the 109<sup>th</sup> Congress. Considerable controversy continues to surround a [late September 2006 commitment](#) made by the Administration to Senators Elizabeth Dole (R-NC) and Lindsey Graham (R-SC) to monitor textile and apparel imports and possibly initiate anti dumping investigations on apparel products from Vietnam (even though apparel companies have not requested such trade remedies, which is necessary under the tight "standing" rules of trade remedy law). Importers and retailers have pushed the Administration to clarify how this commitment will be implemented and have been aided in these efforts by Senators Dianne Feinstein (D-CA) and Gordon Smith (R-OR). On November 3, 2006, those two Senators sent a [letter](#) to the Administration protesting the deal. When they failed to get a satisfactory public response, they published a "colloquy" (see 12/8/06 *Congressional Record* [page 1](#) and [page 2](#)) in the *Congressional Record* to detail the private conversations they have had with the Administration. The Administration has also published a *Federal Register* [notice](#) soliciting input on the development of the monitoring program itself. ***AAFA supports full economic normalization with Vietnam to ensure a transparent and predictable trade environment. AAFA has expressed its opposition to the proposed monitoring deal and is now working to provide comments as the monitoring is developed to ensure it does not burden trade or exceed US statutory authority and WTO obligations.***

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 (MTB):*** As part of the AAFA-supported [HR 6406](#), Congress temporarily suspended or reduced tariffs for U.S. imports of more than two dozen different types of footwear as well as for a number of yarns and fibers. The temporary duty suspensions and reductions in the legislation will save US footwear, apparel and textile companies over \$20 million a year in duties alone ([See AAFA Summary of MTB Provisions](#)). The temporary duty

suspensions/reductions become effective January 4, 2007. A number of miscellaneous textile and footwear provisions had already been enacted into law in an [un-related bill](#) that was approved by Congress in late July and signed by President Bush in early August. ***AAFA continues to support using the MTB process to provide AAFA members temporary duty-relief for their inputs and products.***

6. ***China Safeguards:*** The United States and China [reached an agreement on November 8, 2005](#) to impose safeguard quotas on U.S. imports of 34 individual categories (21 combined categories) of Chinese apparel and textiles for the period of January 1, 2006 - December 31, 2008. After China under utilized its quota allocation during 2006, the Chinese government has announced [new procedures](#) for allocation during 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 (ITC) in the summer of 2006 explored the economic impact of revising the definition for booties, so they can be exempted from the baby sock element of the agreement. The ITC in November 2006 also initiated a study determine the level of US production of [performance outerwear](#). ***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:*** In a controversial decision, the 25 member states of the European Union (EU) on October 6, 2006 "approved" a European Commission proposal to impose final dumping duties (on top of normal duties) of 16.5 percent and 10 percent, respectively, on European imports of leather footwear from China and Vietnam for a two-year period beginning October 5. The member states approved the Commission's proposal by a vote of 9 member states in favor, 12 member states against and 4 member states abstaining. Under EU rules, an abstention counts as a vote in favor, meaning the proposal was approved by a vote of 13-12. This action came after several previous proposals were defeated. As of the December 20 deadline for filing such cases, [only four of China's 1,200 shoe manufacturers will file lawsuits](#) against the dumping duties. Meanwhile, in light of the debacle that was the footwear dumping case, the European Union (EU) has begun [a comprehensive review of its anti-dumping laws](#). The results of this assessment could have a major impact on the EU's current footwear dumping duties on China and Vietnam when those dumping duties come up for review in 2008. ***AAFA strongly opposes the EU anti-dumping action. In addition to keeping its members informed of the ongoing situation, AAFA is actively working with the U.S. government and AAFA's European counterparts to fight the anti-dumping cases, and prevent other countries from replicating this action.***
8. ***Other China Issues:*** The continued lack of progress by China on a number of issues, combined with the recent Democratic takeover of Congress, continues to that Congress will 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. Legislation proposed by U.S. Senators Chuck Schumer (D-NY) and Lindsey Graham (R-SC), which would have imposed a 27.5 percent punitive duty on all US imports from China in retaliation for perceived Chinese currency manipulation, was shelved in September 2006. Senators agreed to cancel that vote in exchange for action during the 110<sup>th</sup> Congress on legislation that would address a range of China trade and enforcement issues. Similar [legislation](#) had been pending in the Senate for much of 2006 and actually was approved by the House during 2005. With the Democratic takeover in the Congress, action on such legislation becomes increasingly likely. In fact, incoming House Ways & Means Committee Chair Charlie Rangel (D-NY) and incoming Senate Finance Committee Chair Max Baucus (D-MT) have already made repeated statements putting the Bush administration on notice that they will take action on China if the administration fails to do so. Meanwhile, China has recently stated that it will reduce or eliminate tax rebates exports of resource-intensive and environmentally-harmful products, including many inputs used in apparel and footwear, such as leather ([See AAFA Primer on Issue](#)). ***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 late October, the President signed [the Security and Accountability for Every \(SAFE\) Port Act](#). Among other things, the legislation requires 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 will 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. Although Democrats repeatedly sought to require 100 percent screening of U.S.-bound cargo before departure from foreign ports, each of those amendments failed. Meanwhile, Governor Arnold Schwarzenegger, vetoed a bill (SB 927) approved by the California state legislature that would have required 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. As noted previously, however, presumed House Speaker Nancy Pelosi (D-CA) has indicated that she wants the House to pass all of the 9/11 Panel recommendations, including 100 percent screening of U.S.-bound cargo before departure from foreign ports. Further, in what is likely to be the first salvo in a new battle over cargo fees, a [November 14 report](#) sponsored by the Natural Resources Defense Council and other groups claims importers/exporters moving freight through the Ports of Los Angeles/Long Beach are responsible for rising pollution related health costs in California, including premature deaths, throat cancer and other illnesses. The report recommends that importers and exporters pay for fixing these health costs through a \$30 container fee. ***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. Finally, AAFA will continue to support efforts to improve America's aging port and transportation infrastructure.***

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 continue to try to find ways to formally restart the talks (a “soft” restart of the talks began in November 2006), formal negotiations will not likely start again until sometime next year, if not longer. If the talks are successful, the Doha Round could lower 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:*** Intellectual property issues may be an increased priority for at least the Senate Judiciary Committee in the 110<sup>th</sup> Congress with Chairman Patrick Leahy (D-VT) talking the helm. It remains to be seen how much interest incoming House Chairman John Conyers (D-MI) will take in these issues. AAFA remains committed to lobbying efforts to enhance IPR enforcement legislation, such as ([HR 5921](#), the Intellectual Property Enhanced Criminal Enforcement Act of 2006), introduced by outgoing Chairman James Sensenbrenner (R-WI) late in the 109<sup>th</sup>. AAFA also supported [HR 5249](#), the Stop Aid to Counterfeiters Act, which requires recipients of U.S. foreign aid to certify that funds will not be used in support of counterfeit activities. [HR 5055](#), the copyright design bill, allowing for a three year copyright on fashion design will be reintroduced by Congressman Delahunt (D-MA) with Congressman Goodlatte (R-VA). AAFA has developed a working group including the AAFA Board and Brand Protection Council members to examine the bill in more detail, due to the division within the industry on the bill. AAFA is also supportive of a new state initiative developed by several anti-counterfeiting associations to incorporate provisions of HR 32 (the [Stop Counterfeiting in Manufactured Goods Act](#)) which passed in the 109<sup>th</sup> Congress into state laws, including mandatory forfeiture, destruction and restitution, as well as bringing state penalties in line with federal standards on counterfeiting. ***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 Armed Services Committees in both the House and the Senate are expected to remain supportive of the Berry Amendment. Congressman Robin Hayes (R-NC), who has championed these issues on the committee in the past, will still play a key role in the minority. [HR 4946](#), the Berry Amendment Extension Act, introduced by Hayes in the 109<sup>th</sup>, had 38 bipartisan cosponsors and will undoubtedly be reintroduced. This bill would extend Berry Amendment protections to the Department of Homeland Security (DHS), which includes the Border Patrol, the Transportation Security Administration (TSA), and other agencies. The bill never had a Senate sponsor, though several were interested. The legislation was not considered on the House floor, but was considered as a potential amendment to the DHS Authorization bill marked up in the House Homeland Security Committee (it was ultimately not included in the bill). ***AAFA strongly supports the preservation of the Berry Amendment as a national security issue and as a vital way to maintain a warm industrial base for the national defense. AAFA worked closely with Representative Hayes' staff to ensure that the legislation introduced was compliant with U.S. 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):*** FPI reform prospects in the 110<sup>th</sup> Congress remain uncertain. Some long time proponents predict the new Congress may be more eager to expand, rather than restrict, FPI activities, suggesting that efforts of the next two years will focus on defending the reforms already in place rather than passing any new reforms of FPI. A comprehensive reform package ([HR 2965](#) - the FPI Competition in Contracting in 2006), sponsored by Congressman Peter Hoekstra (R-MI), passed the full House by a vote of 362 to 57 in the 109<sup>th</sup> Congress. This victory came after a yearlong battle just to get the bill out of the House Judiciary Committee. While efforts will no doubt be made to push that reform package in the 110<sup>th</sup> Congress, there are growing concerns that that and FPI expansion proposal pushed by the Bush Administration Justice Department over the past two years could gain some momentum in the 110<sup>th</sup> Congress instead. The Senate did not take action on HR 2965 or its own reform bill, [S.749](#), sponsored by Senators Carl Levin (D-MI) and Craig Thomas (R-WY). Although Senator Levin will remain in the 110<sup>th</sup> Congress, he will be deeply occupied as chair of the Armed Services Committee so it is unclear at this point what level of interest he will have to try to drive the issue from the Senate side. ***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 FPI to meet the same price, quality, and delivery time requirements met by the private sector.***

## 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. With Democrat supporters of new sleepwear rules now in positions of prominence, there may be renewed legislative efforts on this issue in the 110<sup>th</sup> Congress. ***AAFA strongly supports the retention of the [1996 children's sleepwear amendments](#). In order to keep the lines of communication open between the CPSC and AAFA members, AAFA's Childrenswear Division hosted a reception with former CPSC Chairman, Hal Stratton on March 9, 2006. Mr. Stratton offered remarks and took questions concerning children's apparel issues. A follow up meeting was held at the CPSC headquarters in June 2006 with 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. The CPSC is now preparing a [Federal Register](#) notice, which should be published by the end of January 2007, soliciting comments on a proposed update to this standard ***AAFA filed technical comments on this ANPR, and expects to comment on the proposed rule as well.***
18. ***Labeling Issues:*** On December 6, 2006, Congress approved [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 will 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, 2007. ***AAFA has [written to Representative Blackburn expressing support for this legislation.](#)***

Numerous governments, including South Africa, Colombia, and S. Korea, continue to propose new rules on labeling of apparel, footwear, travel goods and other consumer products. Moreover, the U.S. Government has [proposed text to harmonize labeling standards worldwide](#) as part of the Doha Round to prevent such non tariff trade barriers in the future. Talks on the labeling harmonization initiative are in their early stages. ***AAFA strongly opposes labeling regulations when they act as non tariff barriers and has submitted [comments to the South African government expressing opposition as well as expressed strong support for the U.S. label harmonization proposal in the Doha talks.](#)***

The [Federal Trade Commission \(FTC\)](#) and the U.S. Trade Representative are working with the Canadian and Mexican governments on a draft agreement that would harmonize the meaning of care label symbols across the three NAFTA countries. A final agreement is expected sometime soon. A similar initiative is occurring under the International Standards Organization (ISO) process, although it has reached stumbling blocks over the insistence of some European countries to use a system trademarked in Europe. A separate initiative may be undertaken to permit the FTC and the Canadian government to recognize each other’s manufacturers’ ID numbers. This initiative requires legislation since the FTC is only statutorily permitted to recognize its own ID scheme. Finally, in response to a legislative mandate, the FTC has issued new labeling guidelines for hosiery that took effect March 2006. ***AAFA is working with the government to ensure new onerous sock labeling rules are the least restrictive possible. AAFA is also working with the FTC to promote harmonization and simplification of labeling rules. In 2005, AAFA and the FTC released the latest edition of the labeling guide, [Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts.](#)***

## **Other**

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 proposed a continuation of funding for NTC but was ominously silent on funding for [TC]<sup>2</sup> instead funding an Auburn University program for advanced research and development of novel polymetrics. Since Congress did not pass a final CJS bill and funded on a continuing resolution, the issue will be whether the conference report takes Senate or House wording. ***AAFA has made our support for continued***

***funding for NTC and [TC]<sup>2</sup> known. We will be monitoring the progression of the appropriations bills in 110<sup>th</sup> and lobbying for the inclusion of the House language in the final CJS bill.***

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](#). During FY 2006, that grant – also in the amount of \$500,000 – was channeled via the International Trade Administration. Officials at the Oak Ridge Laboratory who have received the grant believe the systems will have application for anti transshipment issues, although it remains unclear if this technology can find an application in this area. ***AAFA is tracking this program closely.***

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

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