



### **3rd Quarter 2008 Legislative Update**

Congress returns from its annual month-long August Recess to try and finish up its legislative business for the year before going home to their districts to fully engage in their own reelection bids. With political tensions understandably high in the wake of an incumbent-free Presidential election, the legislative calendar will be used as political platforms for the White House hopefuls - Democratic Illinois Senator Barack Obama and Republican Arizona Senator John McCain.

The defense authorization bill will come up in early September providing a very political debate on the ongoing wars in Iraq and Afghanistan. The FY09 Defense and Military Construction spending bills will also give ample opportunity for Senators to further politicize the issue, as the country's wariness over the wars continue to be a hot topic for candidates and voters. It has been widely reported that the Defense Appropriations bill may be used as a vehicle for a continuing resolution (CR) that will fund the government at its current levels through next year, since Congress will most likely be unable to pass all twelve annual appropriations bills before the start of the next fiscal year on October 1, 2008.

Unfortunately, it does not appear that anything major will happen on the trade agenda before final adjournment. The Senate could consider and pass a bill approved by the House right before recess that makes some fixes to the U.S./Central America-Dominican Republic Free Trade Agreement (CAFTA-DR), the African Growth and Opportunity Act (AGOA) and extends the Generalized System of Preferences (GSP) program for one year. Congress may also advance the popular Affordable Footwear Act or a short-term extension of the Andean trade preference program. Regrettably, the U.S./Colombia Trade Promotion Agreement and many other trade initiatives will not likely see any movement. However, the fate of the U.S./Colombia TPA and other trade initiatives could change significantly if Congress returns after the election for a lame-duck session of Congress (see below).

At some point in September, the House will take up legislation enforcing the Supreme Court's decision that struck down the District of Columbia's ban on handguns. The measure is designed to give conservative Democrats in competitive races some political cover on the gun issue while protecting them from having to support a much broader bill.

In the run-up to November, the energy debate will undoubtedly continue, especially if the price of gas begins to rise again. Republicans will use this issue to try and lift the energy-drilling moratorium in the Arctic National Wildlife Refuge and outer-continental shelf and may try to include it as a provision to the must-pass CR. September's agenda will also look at a tax cut extender package and a health information technologies bill that will seek to create a nation-wide electronic health records system.

In an unprecedented change of pace, the House and Senate may go out of session on September 26<sup>th</sup> before the scheduled October 1<sup>st</sup> target adjournment date. Traditionally, Congress usually stays in town past that target, but with a number of early October holidays and the election season accelerating to full speed, Congressmen and Senators will most likely return to their districts earlier than expected. Nevertheless, most hill insiders have conceded that Congress will require a lame duck session of Congress after November 4<sup>th</sup> to finish other business that could not be done prior to the election.

With all expectations pointing to the Democrats not only retaining control but also picking up seats in both the House and Senate in November, Washington insiders anticipate that the Democratic leadership will use this advantage to move forward important priorities previously blocked by a stronger Republican minority. For example, the so-called “Card Check” legislation, which circumvents workplace elections in an effort to drive up union membership, was successfully halted this Congress. That legislation will undoubtedly be a key part of the Democratic agenda in 2009. Another target of congressional Democratic leadership may also be a repeal of some of the Bush tax cuts. Lastly, the Wars on Terror in Iraq and Afghanistan will be a perpetual debate on the floor as some Democrats seek to implement an exact deadline for withdrawal – particularly for Iraq.

# 3rd Quarter 2008 Legislative Update Matrix



## International Trade:

| Issue  | Description   | Status/Next Steps   | AAFA Position                                | Contact                     |
|--|---|---|--|-----------------------------|
| <b>Affordable Footwear Act (HR 3934/S 2732)</b>                  | Eliminate the hidden, regressive tax on footwear.                                 | Strong bipartisan support. Efforts underway to move AFA during final days of this Congress.   | Support Enactment.                           | <a href="#">Nate Herman</a> |
| <b>Andean Preferences (ATPA)</b>                                 | Preference program with Andean countries.   | Expires 12/31/08. Extension legislation needed until FTAs are fully implemented.  | Support Renewal.                             | <a href="#">Nate Herman</a> |
| <b>Burma Import Ban</b>  | Economic sanctions to force political progress                                    | Last annual renewal took effect in July 2008 with enactment of HJRes 93. Supplemented with enactment of additional import bans on Burmese gems and jewelry in HR 3890.  | Supported Renewal.                           | <a href="#">Steve Lamar</a> |
| <b>CAFTA-DR</b>  | Permanent reciprocal free trade agreement with CAFTA-DR countries.                | Full implementation occurring slowly. Efforts underway to fix problems with Dominican footwear and bottom trouser, Nicaraguan TPLs, and short supply system. Dominican trouser bill passed House (HR 6560) and now pending in Senate. Cumulation and pocketing changes took effect on August 15, 2008. Deadline for Costa Rica to join CAFTA-DR is October 1. | Support Full Implementation.                 | <a href="#">Steve Lamar</a> |
| <b>Caribbean Basin Preferences (CBTPA)</b>                       | Preference program for Caribbean Basin countries not party to CAFTA-DR            | Recently renewed. Now expires September 30, 2010.   | Supported Renewal.                           | <a href="#">Nate Herman</a> |
| <b>China Quotas</b>  | Final year of safeguards on apparel and textile imports from China.               | Quotas expire on December 31, 2008. Textile industry seeking new safeguards, monitoring, or trade remedies to replace expiring quotas.  | Monitoring Situation; Oppose New Safeguards. | <a href="#">Nate Herman</a> |
| <b>Colombia Trade Promotion Agreement (TPA) (HR 5724/S 2830)</b> | Permanent reciprocal free trade agreement with Colombia.                          | Tabled in House. Efforts underway to schedule vote on passage of TPA.   | Support Vote on TPA.                         | <a href="#">Steve Lamar</a> |
| <b>EU Anti-Dumping Cases</b>                                     | Punitive duties on Chinese and Vietnam footwear imposed by EU                     | Current duties expire on October 7, 2008. Now includes Macau. Could be renewed.   | Oppose Anti-Dumping Duties.                  | <a href="#">Nate Herman</a> |
| <b>Peru Trade Promotion Agreement (TPA)</b>                      | Permanent reciprocal free trade agreement with Peru.                              | Awaiting entry into force (start date).   | Support Start By 12/31/08.                   | <a href="#">Steve Lamar</a> |
| <b>Trade Promotion Authority</b>                                 | Framework for creating and expediting the passage of new trade agreements.        | Lapsed. Not likely to be renewed until 2009 or later.   | Support Renewal.                             | <a href="#">Steve Lamar</a> |
| <b>Vietnam AD Monitoring</b>                                     | Unprecedented Commerce Dept. commitment to self-initiate anti-dumping (AD) cases. | 2nd review completed with no finding of dumping. 3rd and final review scheduled for October 2008. Program terminates 1/20/2009  | Oppose Trade Remedies.                       | <a href="#">Steve Lamar</a> |

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|--|---|--|---|-----------------------------|
| <b>Anti-China Legislation</b>                  | Various bills creating new enforcement mechanisms to deal with Chinese currency and other alleged trade violations. | Legislative efforts stalled in 2008 while Congressional committees sort out complicated jurisdictional, process, and policy implications.                                      | Oppose punitive China Legislation.              | <a href="#">Nate Herman</a> |
| <b>Doha Round</b>                              | WTO multi-lateral talks to reduce and eliminate tariff and non-tariff trade barriers.                               | Negotiations collapsed in July 2008. Efforts under way to see if and when talks can be salvaged or restarted.  | Support ambitious multilateral trade agreement. | <a href="#">Nate Herman</a> |
| <b>AGOA</b>                                    | Trade preference program providing for duty free access for garments made in African countries.                     | HR 6560 passed House in late July. Action in Senate is pending. It repeals trade-restricting AGOA abundant supply provision and extends 3rd country fabric rules to Mauritius. | Support both AGOA provisions in HR 6560.        | <a href="#">Steve Lamar</a> |
| <b>Mexican/China AD</b>                        | Punitive anti-dumping (AD) duties imposed on Chinese textiles, apparel, and footwear imported into Mexico.          | Bilateral agreement will terminate some AD duties immediately and eliminate all by end of 2011.  | Support removal of AD duties.                   | <a href="#">Steve Lamar</a> |
| <b>Child Labor List</b>                        | Dept. of Labor (DOL) publishing list of products & countries that use child labor.                                  | Pending bill could force early publication of list by 1/15/2009.   | Monitoring.                                     | <a href="#">Nate Herman</a> |
| <b>Panama FTA</b>                              | Permanent reciprocal free trade agreement with Panama.  | Agreement is before Congress. Action this year unlikely.   | Support FTA.                                    | <a href="#">Steve Lamar</a> |
| <b>Korea FTA</b>                               | Permanent reciprocal free trade agreement with Korea.   | Although beef dispute recently solved, ongoing disputes over autos and general labor opposition continue to delay consideration.   | Support FTA.                                    | <a href="#">Steve Lamar</a> |
| <b>HOPE (Haiti)</b>                            | Preferential trade program for Haitian apparel exports to the United States.  | HOPE II, which extended and expanded trade preferences for Haiti, took effect on 10/1/08.  | Supported enactment.                            | <a href="#">Steve Lamar</a> |
| <b>Pakistan ROZ (S 2776)</b>                   | Preferential duty treatment for imports from Afghanistan and parts of Pakistan.                                     | Restrictive bills introduced and pending in both chambers.   | Monitoring; Support more ambitious program.     | <a href="#">Nate Herman</a> |
| <b>LDC Preference Program</b>                  | Preferential duty treatment for Least Developed Countries' exports to US.   | Bills introduced and pending in both chambers.   | Support enactment.                              | <a href="#">Steve Lamar</a> |
| <b>Generalized System of Preferences (GSP)</b> | Duty preferences (not affecting apparel or footwear).   | Expires December 31, 2008. Extension legislation passed House as part of HR 6560. Pending in Senate.   | Support renewal.                                | <a href="#">Steve Lamar</a> |
| <b>Misc. Tariff Bills</b>                      | Package of miscellaneous tariff and trade provisions, including technical corrections and duty suspensions.         | House reviewing public comments and contemplating action in September. Senate exploring timetable for action.  | Monitoring; Support inclusion of certain bills. | <a href="#">Nate Herman</a> |

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## Regulations/Customs:

| Issue                             | Description  | Status/Next Steps   | AAFA Position                                   | Contact                       |
|-----------------------------------|--|---|---|-------------------------------|
| <b>Proposed First Sale Repeal</b> | CBP proposed elimination of popular cost-saving import valuation method.   | Congress imposed delay on CBP proposal until 1/2011. CBP announced withdrawal of proposal. CBP will study First Sale use during next two years.                   | Oppose First Sale repeal.                       | <a href="#">Steve Lamar</a>   |
| <b>Design Copyright Bill</b>      | Well-intentioned legislation that will cause a litigation nightmare for apparel and footwear industries.                     | Hearing in February 2008. "Fashion police" bill pending in both chambers.   | Strongly Oppose.                                | <a href="#">Kurt Courtney</a> |
| <b>Anti-Counterfeiting</b>        | Broad campaign to crack down on illegal trade of counterfeit products.   | PRO-IP bill approved by House to strengthen IPR enforcement and coordination in USG. Sweeping Enforcement IPR bill introduced in Senate before August Recess.     | Support.  | <a href="#">Kurt Courtney</a> |
| <b>Product Safety</b>             | Various federal and state initiatives to reform product safety agencies (including CPSC) and restrict individual substances. | CPSC Improvement Act of 2008 (HR 4040) signed into law in August with sweeping new product safety requirements and authorities.                                   | Working on implementation issues.               | <a href="#">Rebecca Mond</a>  |
| <b>"10+2" Rule</b>                | Proposed rule to require additional data elements on containerized cargo for security purposes.                              | Strong concerns expressed over proposal. CBP evaluating comments and contemplating implementation roll out.   | Monitoring; Very strong concerns over proposal. | <a href="#">Steve Lamar</a>   |
| <b>9801 Repeal</b>                | CBP proposed elimination of rule providing for duty free entry for goods warehoused offshore.                                | Comment period closed. Significant opposition to repeal. CBP evaluating comments. Legislative efforts to block repeal possible.                                   | Oppose repeal.                                  | <a href="#">Steve Lamar</a>   |
| <b>Container Fees</b>             | Heavy fees and restrictions on transporting goods  | California ports approved fees. State level fees continue to be examined. Federal legislation pending. Legal challenges being pursued by ATA and possibly others. | Oppose.   | <a href="#">Kurt Courtney</a> |
| <b>Children's Sleepwear</b>       | Regulations governing flammability of children's sleepwear.  | CPSC reissued loungewear guidance and expected to crack down on violations.   | Monitoring.                                     | <a href="#">Rebecca Mond</a>  |
| <b>Drawstrings</b>                | National standards governing drawstrings.  | Wisconsin/New York enforce tough guidelines. CPSC continues enforcement efforts.  | Monitoring.                                     | <a href="#">Rebecca Mond</a>  |
| <b>Flammable Fabrics Review</b>   | Guidelines for flammability testing and standards for general wearing apparel.   | Revised standards with only technical changes passed CPSC in winter 2008. Upholstery regulations pending.   | Monitoring.                                     | <a href="#">Rebecca Mond</a>  |
| <b>Labeling</b>                   | Various efforts to harmonize labeling at regional and multilateral levels.   | Future uncertain for harmonization proposal in WTO Doha round.  | Support.  | <a href="#">Rebecca Mond</a>  |
| <b>Performance outerwear</b>      | Initiative to eliminate duty on performance outerwear.   | Legislation pending in both chambers. Could create funding mechanism for TC2.   | Support.  | <a href="#">Nate Herman</a>   |

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## Government Contracting/Other Issues:

| Issue                                | Description   | Status/Next Steps  | AAFA Position  | Contact                       |
|--------------------------------------|---|--|--|-------------------------------|
| <b>Berry Amendment</b>               | Requires 100% US sourcing for military apparel, footwear and other textile items.   | Working to keep the Berry Amendment strong and expand it to Dept. of Homeland Security.  | Support.   | <a href="#">Kurt Courtney</a> |
| <b>Federal Prison Industries</b>     | Mandatory Source requirement for Government purchases of prison made goods.   | New competitive bidding requirement included in 2008 National Defense Authorization Act.   | Support removal of mandatory source                      | <a href="#">Kurt Courtney</a> |
| <b>Lacey Act</b>                     | 2008 Farm Bill contained significant revisions to Lacey Act, creating a new import declaration requirements for "plants and plant products," as of December 15, 2008. | The US Department of Agriculture and Customs and Border Protection must determine how new rule will be interpreted and enforced  | Monitoring/<br>Concerned about new burdens.              |                               |
| <b>Card Check</b>                    | Eliminates secret ballot to determine if a workplace wants to unionize or not.  | Legislation stalled in Senate after passage in House.  | Oppose.  | <a href="#">Kurt Courtney</a> |
| <b>NTC/[TC]2</b>                     | Funding to advance competitiveness of US industry.  | Annual funding request pending. Other initiatives being developed to ensure more stable source of funding.   | Support.   | <a href="#">Kurt Courtney</a> |
| <b>Textile Marker System</b>         | Government funded effort to develop a system to uniquely identify textiles.   | Originally developed for Customs purposes, technology may reveal other more suitable uses.   | Monitoring.  | <a href="#">Steve Lamar</a>   |
| <b>Ledbetter</b>                     | Legislation to overturn time limits for filing of discrimination cases.   | Legislation defeated in Senate after passage in the House.   | Oppose.  | <a href="#">Kurt Courtney</a> |
| <b>FACTA Reform (HR 4008)</b>        | Legislation to amend the Fair and Accurate Credit Transaction Act (FACTA) to address litigation risks related to printing of expiration date on credit card receipts. | Cleared by Congress in May. Signed into law on June 3, 2008.   | Monitoring.  | <a href="#">Steve Lamar</a>   |
| <b>Climate Change</b>                | Legislation to create cap and trade system to reduce greenhouse gas emissions.  | Senate consideration of a comprehensive bill to cap and trade greenhouse gas emissions stalled in early June. Legislation contains provisions that would phase-in new requirements on importers.                           | Monitoring/<br>Oppose Burden-<br>some require-<br>ments. | <a href="#">Steve Lamar</a>   |
| <b>Canadian Padding Requirements</b> | Canadian authorities have changed the laws on registration and labeling of garments that contain padding.   | A coalition of Canadian and US companies are working to mitigate the impact of this new requirements. Entry into force of shoulder pad requirement slated for 7/1/09 and requirements for padded undergarments for 1/1/09. | Monitoring/<br>Oppose Burden-<br>some require-<br>ments. | <a href="#">Steve Lamar</a>   |