

Laogai prisoners are often forced to work extremely long hours, deprived of sleep and forced to take on a highly intensive workload. For instance, . . . prisoners at the Beijing Xin'an Female Labor Camp near Beijing were forced to work from 5 a.m. until 2 or 3 a.m. the next day to make toy rabbits. . . . Reports of torture are common and include beatings with fists and cattle prods, exposure to extreme cold and extreme heat, sleep deprivation, shackling and starvation.³⁶¹

The prison facilities often have two names: a prison name and a commercial enterprise name. The products of forced labor are marketed for export under the commercial name.

VII. Background to the Burden on U.S. Commerce

Section VIII below calculates the burden on U.S. commerce due to the Chinese government's persistent violation of labor rights. This Section presents background information. Subsection A provides background on recent employment trends in the United States. Subsection B presents background on the supply shock caused by the Chinese government's export drive.

A. Unprecedented Job Loss in U.S. Manufacturing

China's exports to the United States grew by more than 534 percent in the decade from 1996 through 2005, and the U.S. trade deficit with China grew 596 percent – to the largest bilateral deficit in world history.³⁶² The growth of the trade deficit with China was responsible for the *entire increase* in the United States non-oil trade deficit in 2005.³⁶³ In January, 2006, the overall U.S. trade deficit in goods reached a record monthly level of \$73.4 billion, an increase of 4.6 percent in one month.³⁶⁴ The rate of growth of the bilateral deficit with China, which increased 9.9 percent in a single month, is currently *accelerating*.³⁶⁵

³⁶¹ Harry Wu, Executive Director, Laogai Research Foundation, Testimony Before the Congressional-Executive Commission on China (June 22, 2005).

³⁶² U.S. Department of Commerce, National Trade Data.

³⁶³ Economic Policy Institute, Trade Picture (February 10, 2006).

³⁶⁴ U.S. Department of Commerce, U.S. International Trade in Goods and Services (January 2006).

³⁶⁵ *Id.*

Since January 2001, the U.S. manufacturing sector has lost 2,892,000 jobs.³⁶⁶ A recent study published by the Federal Reserve Bank of New York found that approximately 3.8 million jobs were displaced by U.S. trade in manufactured goods as of 2003.³⁶⁷

This is not a cyclical phenomenon explained by the economy-wide recession that ended in November 2001. Even during the economic “recovery” of the last four years, 1,615,000 manufacturing workers lost their jobs.³⁶⁸ The ordeal of U.S. manufacturing workers continues amidst the most expansionary fiscal policies in memory. In the last two years -- since the President rejected the AFL-CIO’s first petition -- the real hourly and weekly wages of U.S. manufacturing workers have *fallen* 3 percent and 2.2 percent respectively.³⁶⁹ In 2005, the U.S. merchandise deficit rose 18 percent to \$782 billion; an additional 81,000 manufacturing jobs were lost in the U.S; and real hourly and weekly wages fell another 1.8 percent and 1.3 percent – four years into the “recovery.”³⁷⁰

These numbers, as stunning as they are, represent only *net* decreases in manufacturing employment. They do not include the workers who have been discharged in the manufacturing sector and suffered the high costs of unemployment and transition to new manufacturing jobs. Workers can be discharged in small numbers or in “mass layoffs” of 50 or more employees. In the last four years – *after* the last recession -- there have been 69,400 *reported* mass layoffs with initial claimants totaling 7,338,870 workers.³⁷¹ The total of reported and unreported layoffs is much higher still.

³⁶⁶ Bureau of Labor Statistics, Employment, Hours, and Earnings from the Current Employment Statistics Survey (National).

³⁶⁷ Erica Groshen, Bart Hobjin, and Margaret McConnell, 11 Federal Reserve Bank of New York: Current Issues in Economics and Finance 5 (August 2005). The authors present these figures, but then state the startling opinion that the loss of 3.8 million jobs in manufacturing is not worrisome because, according to their analysis, international trade created 1.2 million jobs in services. Even on the heroic assumption that every one of these service jobs was filled by a trade-displaced manufacturing worker, this leaves a net trade displacement of 2.6 manufacturing workers. Nor does the Federal Reserve study’s sunny opinion take account of the loss of wages for manufacturing workers who move to lower-paying service jobs. In any event, as discussed below, the empirical inquiry mandated by section 301 is whether the abuses in China’s manufacturing sector displace jobs and wages in the U.S. Under section 301, it is irrelevant whether trade creates jobs in the service sector. Hence, the Federal Reserve’s finding that trade displaced 3.8 million manufacturing jobs as of 2003 is the relevant datum.

³⁶⁸ Bureau of Labor Statistics, Employment, Hours, and Earnings from the Current Employment Statistics Survey (National).

³⁶⁹ *Id.*

³⁷⁰ *Id.*

³⁷¹ Bureau of Labor Statistics, “Mass Layoff Events, January 2004 - January 2006,” Table I.

The data on job loss by manufacturing sector are also staggering. Employment in textile mills fell from 480,400 to 209,500 between 1994 and 2006.³⁷² Jobs in apparel fell from 853,800 to 252,400 during the same period. In the textile and apparel sectors overall, employment fell by 65.4 percent, with a total job loss of 872,300 during the eleven years since December, 1994.³⁷³

In the last five years alone (through December 2005), employment in the computer and electronic products sector has dropped by 543,900 workers or 29.2 percent; employment in semiconductor and electronic components has fallen by 260,100 or 36.7 percent; electrical equipment and appliances has fallen by 152,500 or 26 percent; in vehicle parts 153,400 or 18.6 percent; in machinery 289,400 or 19.9 percent; in fabricated metal products 235,200 or 13.3 percent; in primary metals 144,800 or 23.5 percent; in transportation equipment 246,300 or 12.1 percent; in furniture products 58,500 or 13.4 percent; in textile mills 158,500 or 43.1 percent; in apparel 220,000 or 46.6 percent; in leather products 24,700 or 38.3 percent; in printing 159,300 or 19.9 percent; in paper products 122,600 or 20.4 percent; in plastics and rubber products 141,400 or 15 percent, in chemicals 94,900 or 9.7 percent; in aerospace 46,900 or 9.1 percent.³⁷⁴

The President's 2004 Annual Economic Report showcased six high-wage manufacturing sectors in which employment grew from 1950 to 2000.³⁷⁵ Tellingly perhaps, in the two years since the President rejected the AFL-CIO's first petition, the President has withdrawn that data from his Annual Reports. He does not report that all six showcase sectors have seen unprecedented free-fall in employment in the five years since he took office, as shown in Chart 1. And, as the next Subsection shows, these are all industries in which the growth of Chinese production and exports to the United States have accelerated, and in which China's superheated capital spending will deliver a still greater supply shock in the next three years.

Employment data for specific manufacturing occupations are available only through November, 2004, and therefore do not reflect the continued hemorrhaging of

³⁷² Bureau of Labor Statistics and MGB Information Services.

³⁷³ *Id.*

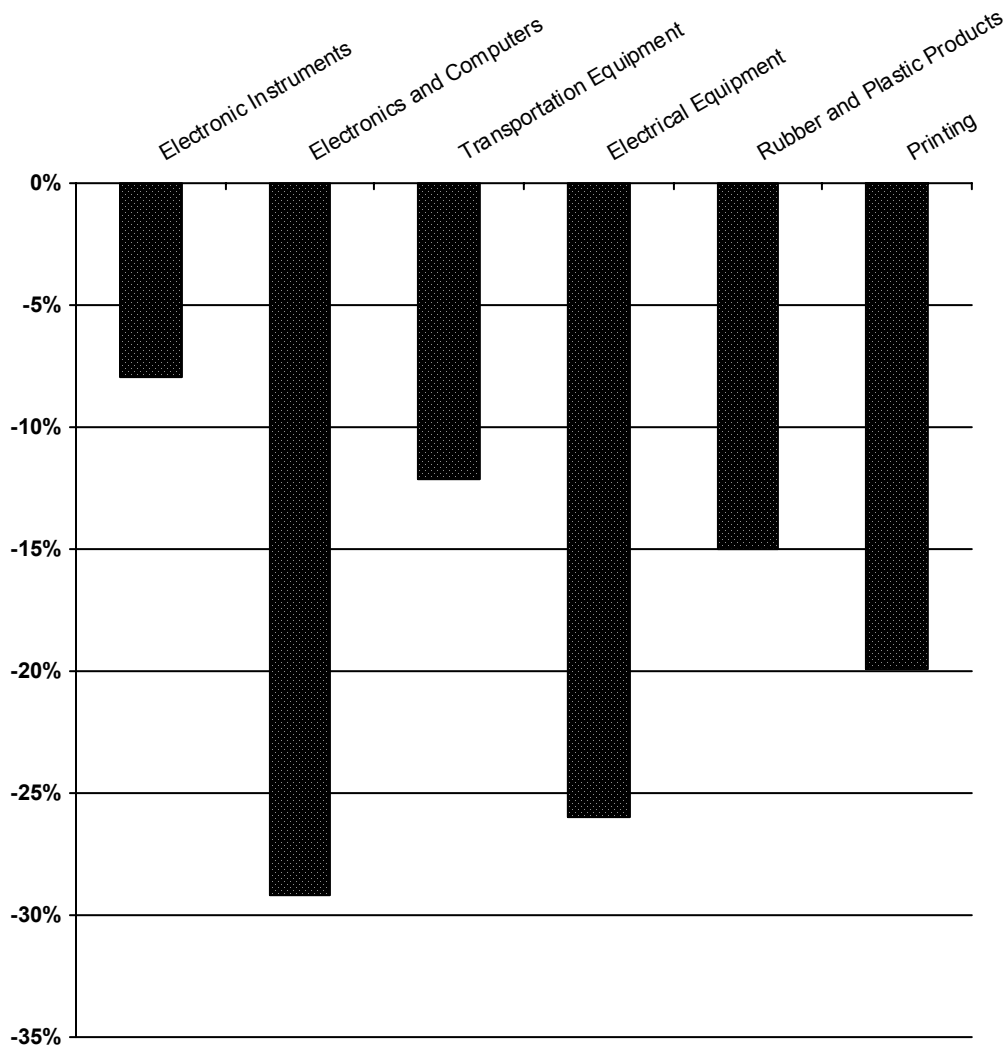
³⁷⁴ Bureau of Labor Statistics, Employment, Hours, and Earnings from the Current Employment Statistics Survey (National).

³⁷⁵ Economic Report of the President 2004, transmitted to the Congress February 2004, H. Doc. 108-145, Table 2-1, at p. 70. The President's Report appears to aggregate these six sectors into four categories.

manufacturing jobs across many sectors through 2005. The data through November 2004 are grim enough. In just five years – from fourth-quarter 1999 to November 2004, *three*

Chart 1. High-wage Industries Showcased in the President’s Economic Report: The Employment Record Dec. 2000 – Dec. 2005

President Bush’s 2004 Economic Report identified six U.S. manufacturing sectors as exemplars of job creation. His Report provided data on employment in these sectors from 1950 to 2000. This chart provides the record in the last five years. **Source: Bureau of Labor Statistics**



full years into the economic recovery – the number of electronics assemblers in the U.S. fell from 457,260 to 260,060.³⁷⁶ The number of textile machine operators dropped from 247,120 to 140,320, and the number of sewing machine operators fell from 403,770 to 244,300. Employment of machinists fell from 419,800 to 364,130; engine assemblers fell from 85,570 to 49,000; computer-controlled machine tool operators from 168,170 to 130,600; tool and die makers from 132,350 to 99,420; welders from 478,720 to 396,380; cutting and press machine operators from 353,300 to 257,500; machine tool setters, operators and tenders in metal and plastics from 322,830 to 172,780; shoe and leather workers from 17,060 to 12,550; woodworking machine operators and furniture finishers from 141,690 to 116,610; inspectors, testers, sorters, samplers, and weighers from 577,650 to 505,100; general assemblers from 1,302,820 to 1,237,700; production helpers from 584,060 to 504,440; and production supervisors from 760,050 to 685,510.

B. Escalating “Supply Shock” in China’s Manufacturing Sector

While U.S. manufacturing workers have faced catastrophic losses, China’s manufacturing output, exports, and productive capacity have grown at unprecedented, accelerating rates – and are poised to grow even more explosively in the next ten years. According to the vice chairman of the U.S.-China Economic and Security Review Commission, we are witnessing “the actual transfer of U.S. national manufacturing capacity [to China] and the export back of the goods.”³⁷⁷ In light of China’s currently escalating capital spending, the transfer of U.S. manufacturing capacity to China will accelerate in the next decade. The President should act now to prevent the imminent, irreversible loss of U.S. jobs and wages due to the complicity of multinational corporations and the Chinese government in the illegitimate exploitation of China’s factory workers. Both the illegitimate exploitation of Chinese workers and the resulting loss of jobs and wages in the United States have continued in the two years since the President denied the AFL-CIO’s petition, in the absence of effective remedies for the violation of those workers’ fundamental rights.

³⁷⁶ The data in this paragraph are from the Bureau of Labor Statistics, National Employment and Wage Data from the Occupational Employment Statistics Survey by Occupation, 1999 and 2004.

Although official statistics show that China became the fourth largest economy in 2005, more realistic data would already put China ahead of Germany and behind only the United States and Japan.³⁷⁸ The Chinese government has reported annual growth rates of approximately 10 percent per year over the last quarter century, but economists believe that actual growth in 2005 was as high as 15 percent.³⁷⁹

Even though China is still in a relatively early stage of industrialization, it is already the second leading exporter to the United States, surpassed only by Canada. China's exports to the United States now exceed the exports of such industrial powerhouses as Japan, Germany, and the United Kingdom, and, at current growth rates, will surpass even Canada's in two years.³⁸⁰ China's exports to the United States also exceed those of Mexico, the low-wage export platform immediately across our border.

Unlike Mexico and other emerging export platforms, China has made "the crucial leap" to producing not just electronic and other consumer goods for global and domestic markets, but also manufacturing the components for those goods, including the fabrication of computer chips.³⁸¹ Guangdong Province encompasses the largest such production base for electronics in the world.³⁸²

China now leads the world in the production of televisions, refrigerators, cameras, bicycles, motorbikes, desktop computers, computer cables and other components, microwave ovens, DVD players, cell phones, cigarette lighters, cotton textiles, and countless other manufactured products – and China's lead is growing at an *accelerating* pace.

³⁷⁷ Richard D'Amato, Vice Chairman, U.S.-China Economic and Security Review Commission, quoted in Rudolph Bell, "The Challenge of China," Greenville News (January 11, 2004).

³⁷⁸ Keith Bradsher, "China Reports Another Year of Strong (or Even Better) Growth," New York Times (January 26, 2006).

³⁷⁹ The government has under-reported growth in recent years to reduce political pressure from industrialized countries to revalue China's currency and to remedy other unfair trade practices, including those set out in this petition. Keith Bradsher, "China Reports Another Year of Strong (or Even Better) Growth," New York Times (January 26, 2006).

³⁸⁰ Economic Policy Institute, Trade Picture (February 10, 2006).

³⁸¹ Dara O'Rourke and Garrett Brown, "The Race to China and Implications for Global Labor Standards," International Journal of Occupational and Environmental Health vol. 9, no. 4 (October/December 2003) at p. 299.

³⁸² Boy Luthjie, Why China Matters in Global Electronics, *supra* note 331, at p. 345.

In 2005, China's production of computers grew by 42.8 percent.³⁸³ Its production of mobile communication equipment grew by 108.2 percent; of motor vehicles by 33 percent; of semiconductors by 36.6 percent; photocopiers by 38.4 percent; fax machines by 33.8 percent; chemical fiber by 33.9 percent; electrical instruments by 27.7 percent; television sets by 22.8 percent; aluminum by 44.2 percent; steel products by 17.4 percent.

In the year 2005 alone, China's *total* exports grew by 28.4 percent.³⁸⁴ China's production and export of *manufactured* goods have similarly grown at unprecedented rates in recent years. Over the *decade* of the 1990s, China's manufacturing production grew by 422.65 percent and its manufacturing exports grew by 384.2 percent.³⁸⁵ In the last five years, China's manufacturing production grew another 91.3 percent.³⁸⁶

Since the late 1990s, despite the global recession, China's *annual* rates of growth in manufacturing output and manufacturing exports have *accelerated* from levels that were already astonishingly high. In 1999, China's manufacturing output grew by 11.58 percent and manufactured exports grew by 7.2 percent.³⁸⁷ In 2005, China's manufacturing output grew by 16.4 percent and exports of "new and high technology products" grew by 31.8 percent.³⁸⁸

China's merchandise exports *to the United States* grew by more than 534 percent in the decade from 1996 through 2005, and the U.S. trade deficit with China grew 596 percent.³⁸⁹ The annual merchandise deficit of \$201.6 billion with China is the largest bilateral deficit the United States has ever had with any country. Imports of high-tech goods from China account for the United States' entire trade deficit in advanced technology products.³⁹⁰ As already noted, the growth of the trade deficit with China in 2005 was responsible for the entire increase in the United States' non-oil trade deficit;

³⁸³ PRC National Bureau of Statistics, Output of Major Industrial Products (December, 2005)

³⁸⁴ PRC National Bureau of Statistics, Statistical Communique on the 2005 National Economic and Social Development (March 3, 2006).

³⁸⁵ China Statistical Yearbook 2001, Table 17-4 at p.587.

³⁸⁶ OECD, Indicators for OECD non-member countries (March 10, 2006); China Statistical Yearbook ch. 14.

³⁸⁷ China Statistical Yearbook 2000, Table 13-4 at p. 409; China Statistical Yearbook 2001, Table 17-4 at p. 587.

³⁸⁸ PRC National Bureau of Statistics, Statistical Communique on the 2005 National Economic and Social Development (March 3, 2006); PRC National Development and Reform Commission, Report to the Fourth Session of the Tenth National People's Congress: China's Economic and Social Development Plan (March 5, 2006).

³⁸⁹ U.S. Department of Commerce, National Trade Data.

and the growth of the U.S.-China bilateral trade deficit in goods is currently *accelerating*.³⁹¹ The rate of growth was 9.9 percent in the single month of January, 2006,³⁹² and the trade surplus in March, 2006, was the highest monthly surplus on record, with the exception of October, 2005. The ratio of the U.S.-China trade deficit relative to the U.S. trade deficit with the rest of the world has risen from 22.4 percent in 1994 to 26.3 percent in 2005.³⁹³

In the decade from 1995 through 2005, U.S. merchandise imports from China exceeded U.S. merchandise exports to China by a cumulative total of more than one trillion dollars.³⁹⁴ In that decade, U.S. imports of electrical machinery and equipment from China exceeded exports in that category by a cumulative total of more than \$208 billion. The cumulative deficit is \$194.7 billion in textiles and apparel; \$136.9 billion in toys and sporting goods; \$ 83.5 billion in furniture and bedding; \$24.1 billion in iron and steel products; \$25.8 billion in plastic products; \$15.6 billion in vehicles and parts; \$8.4 billion in wood products; \$16.6 billion in optical equipment; \$10.2 billion in tools and cutlery; \$9.6 billion in ceramics; \$6 billion in rubber products; \$5.6 billion in chemicals; \$4.4 billion in glassware. Last year alone, knitted apparel exports from China to the United States grew by 60.3 percent; non-knit apparel by 54.6 percent; wool fabric and yarn by 162.1 percent; synthetic fibers and fabrics by 130.8 percent; knitted fabrics by 134.6 percent; aluminum products by 67.6 percent; pharmaceuticals by 96.8 percent; rubber products by 51.2 percent; plastic products by 27.8 percent; iron and steel by 34.3 percent; chemicals by 35.7 percent; electronic equipment by 23.8 percent; machinery by 20.2 percent.³⁹⁵

In 2005 China's export of goods to the United States grew much faster – both in percentage terms and in absolute amounts -- than any of the other six leading exporters to the United States. China's export of goods to the United States grew by \$46.76 billion or 23.8 percent – compared to Japan's increase of \$8.5 billion or 6.6 percent; Mexico's increase of only \$14.35 billion or 9.2 percent; the United Kingdom's increase of \$4.66

³⁹⁰ Economic Policy Institute, Trade Picture (February 19, 2006).

³⁹¹ Id.

³⁹² U.S. Department of Commerce, U.S. International Trade in Goods and Services (January 2006).

³⁹³ U.S. Department of Commerce, National Trade Data.

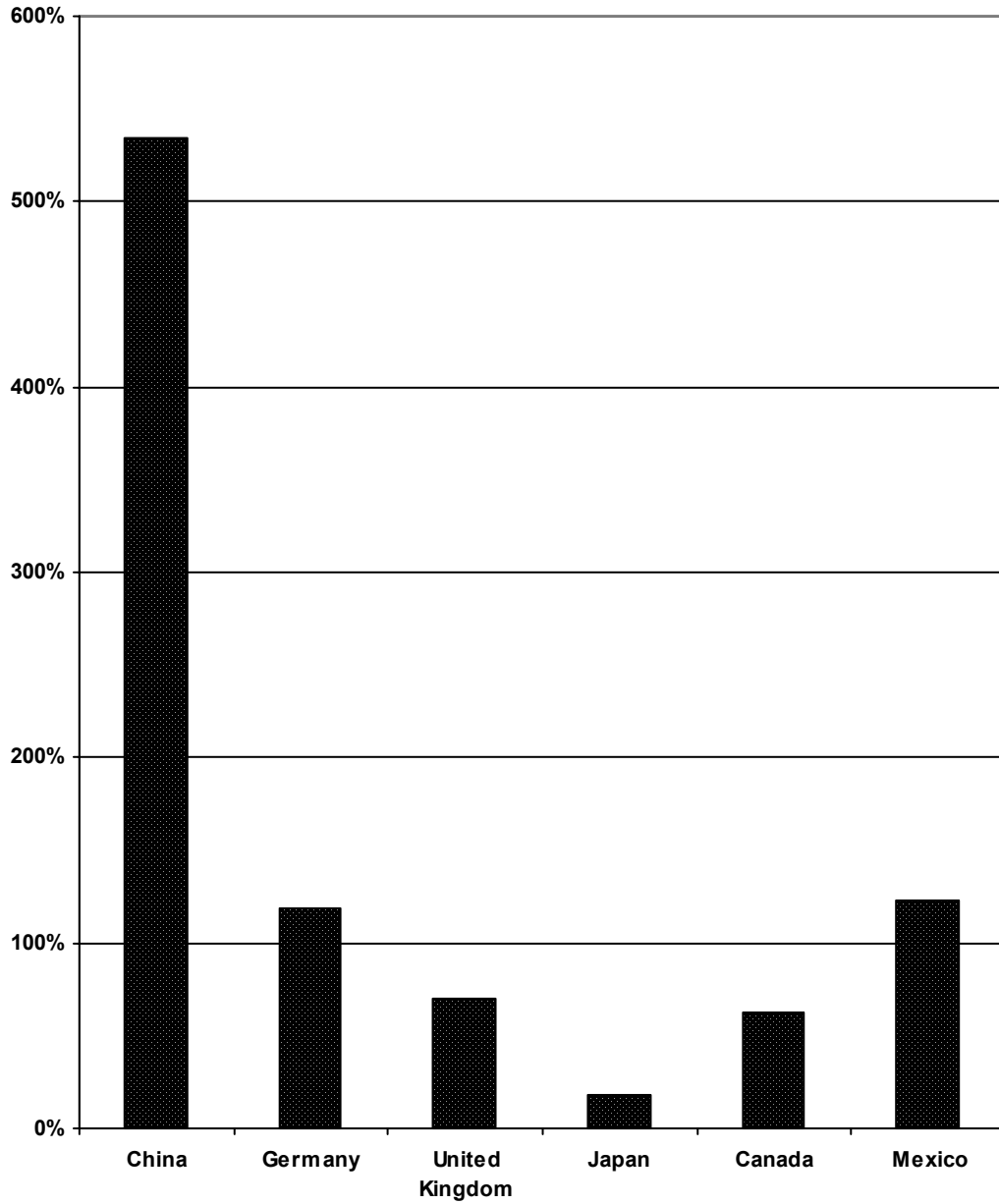
³⁹⁴ MBG Information, at www.uscc.gov.

³⁹⁵ U.S. Department of Commerce, 2005 Merchandise Imports from China.

billion or 8.4 percent; Germany's increase of \$7.58 billion or 9.8 percent; and Canada's increase of \$ 31.94 billion or 12.5 percent.³⁹⁶ Chart 2 shows the comparative record for

**Chart 2. Growth in Manufacturing Exports to the United States
1996 – 2005**

Source: U.S. Department of Commerce



³⁹⁶ Id.

the last decade.

As unprecedented as the upsurge in China's manufactured output and exports has been in recent months and years, the "major supply shock to global industry" from China's recent and ongoing capital spending has not yet been fully registered.³⁹⁷ The figures cited above on actual manufacturing output are just a fraction of China's manufacturing capacity.³⁹⁸

The supply shock to global industry will be felt over the next five to ten years.³⁹⁹ William Ward, a former World Bank economist and current director of the Center for International Trade, concludes that China's creation of excess productive capacity will "dramatically increase the competition that American producers feel, both in the U.S. market and in the global markets."⁴⁰⁰

China's capital expenditure is approximately 38 percent of GDP, nearly double the rate of countries such as India, Brazil, and Mexico.⁴⁰¹ In 2003, the year before the AFL-CIO filed its first petition, China's overall capital spending increased by 26 percent to \$662 billion.⁴⁰² In 2005, new capital spending in manufacturing increased by 38.6 percent – an accelerating pace of growth.⁴⁰³ Last year, capital spending grew by 77.3 percent in metal products; by 80.1 percent in furniture production; by 81.6 in general equipment; by 51.1 percent in transport equipment; by 44.9 percent in electrical machinery; by 47.3 percent in apparel; by 38 percent in textiles; by 42.1 in plastic products; by 33.7 percent in chemical products.

³⁹⁷ Both William Ward, a former World Bank economist and current director of the Center for International Trade, and Dao Tong, Credit Suisse First Boston's chief economist for non-Japan Asia, use the phrase "supply shock." See Rudolph Bell, *The Challenge of China*, supra note 377 (quoting Ward); "Worrying About China," *Business Week Online* (January 19, 2004) (quoting Dao Tong).

³⁹⁸ Compare the output and capacity tables for major manufactured products, Tables 13-23 and 13-34 in the *China Statistical Yearbooks 2000 – 2002*. See also Minqi Li, *Aggregate Demand, Productivity, and 'Disguised Unemployment' in the Chinese Industrial Sector*, supra note 78, at pp. 409-425.

³⁹⁹ Dao Tong, Credit Suisse First Boston's chief economist for non-Japan Asia, concludes that the "major supply shock to global industry" will be felt within two or three years. See *Worrying About China*, *Business Week Online*, supra note 397 quoting Dao Tong).

⁴⁰⁰ William Ward, Center for International Trade, Clemson University, quoted in Rudolph Bell, *The Challenge of China*, supra note 377.

⁴⁰¹ World Bank, *Country Profile Tables*, at www.worldbank.org.

⁴⁰² Figures are for January through November, 2003. See National Bureau of Statistics of China, "Investment in Fixed Assets by Industry" (2003.1-11) at www.stats.gov.cn.

⁴⁰³ National Bureau of Statistics of China, "Investment in Fixed Assets by Industry" (2005.01-12).

Foreign direct investment (FDI) to China increased from \$46.8 billion in 2000 to \$60.3 billion in 2005 -- or \$100 billion including Hong Kong.⁴⁰⁴ This is more than 1500 percent higher than the flows into India, more than 1000 percent higher than flows into Japan, more than 600 percent higher than the FDI inflows to Brazil, and nearly 600 percent higher than the FDI inflows to Mexico. Indeed, China's inflow of FDI is almost as large as the FDI inflows into the United States, the longtime leading destination of global capital.

State-owned banks in China feed the current "frenzy of factory construction" and the blind drive to over-capacity in Chinese manufacturing.⁴⁰⁵ According to credit agencies, Chinese bank lending is driven by corruption and political influence -- most notably, the influence of local government officials seeking to maintain the rent-seeking opportunities afforded by their local "developmentalist" machines.⁴⁰⁶

This decentralized competition for bank lending and capital investment -- driven by local officials' short-term rent-seeking -- produces a classic prisoner's dilemma. According to both economists and business executives, "factories are built with little attention to whether similar plants are being constructed elsewhere, or how low prices will fall if all of them start churning out the same products at the same time."⁴⁰⁷ As recently as March, 2006, Chinese Premier Wen Jiabao bluntly warned the annual meeting of the national legislature that "[t]he problem of excess production is getting worse...causing greater potential financial risks."⁴⁰⁸

The impending supply shock in global manufacturing is closely connected to the extreme exploitation of labor by corporations and the Chinese government. As explained above, China's extraordinary capital expenditure is fueled by policies that suppress the wages and social benefits of factory workers. First, suppressed labor costs attract new capital, both domestic and foreign, seeking competitive advantage. Second, suppressed labor costs increase the factor share of capital, allowing greater reinvestment by existing

⁴⁰⁴ Data in this paragraph is from UNCTAD, "Table: FDI inflows, by host region and selected host economy, 2003-2005," at www.unctad.org.

⁴⁰⁵ Keith Bradsher, "Is China the Next Bubble?" *New York Times* (January 18, 2004).

⁴⁰⁶ Mary Gallagher, *The Transformation of Labor Relations in China*, *supra* note 157.

⁴⁰⁷ Keith Bradsher, *Is China the Next Bubble?*, *supra* note 405

⁴⁰⁸ Andrew Browne, "China Vows Countryside Help," *Wall Street Journal* (March 6, 2006); see also Henny Sender, "China Fights Excessive Lending That Fuels Overcapacity, But Is It Enough?" *Wall Street Journal* (May 1, 2006).

enterprises. Third, the Chinese government's repressive labor policies transfer capital from the countryside to the urban industrial sector.⁴⁰⁹

VIII. The Burden on U.S. Commerce

Section VI of this petition presented detailed information about the Chinese government's persistent denial of internationally recognized workers' rights. In this Section, we calculate the burden on United States labor markets caused by the Chinese government's denial of workers' rights.

A. Introduction

The persistent denial of workers' rights by corporations and the Chinese government gives China-based producers an unfair cost advantage. This *artificial and illegitimate* cost advantage enables firms located in China to out-compete firms located in the United States and elsewhere, whether those firms are producing for U.S., Chinese, or third-country markets. United States workers, workers in other developed and developing countries, and Chinese workers are all injured by the Chinese government's repression of workers' rights.

The most visible consequence is an unprecedented and accelerating shift of manufacturing jobs from the United States to China by U.S. multinational corporations. But United States jobs are also lost when U.S.-based companies lay off workers in the face of new or expanded China-based production by firms other than U.S. multinationals. And United States workers lose further jobs, when U.S.-based companies fail to create new jobs in the face of competition from China-based production.

If not for the repression of workers' rights in China's factories, the extraordinary losses in United States manufacturing jobs and wages would be significantly curtailed. Elementary economic theory teaches that prices and wages are determined on the economic margin. And on the economic margin, labor repression in China's factories is undeniably the proximate cause of substantial job and wage loss. It is a palpable fact that, every month, U.S.-based manufacturers that have competed successfully for years reach a

⁴⁰⁹ See Section V of this petition, above.