

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

## **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

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<sup>409</sup> See Section V of this petition, above.

tipping point at which they can no longer maintain jobs in the face of the cost advantage of China-based production.<sup>410</sup> The repression of labor standards in China's factories substantially lowers the tipping point and increases the job loss.

Hundreds of thousands of well-paying, middle-class jobs are eliminated, and the communities that depend on those jobs are shattered, as a direct result of the Chinese government's repressive policies. And – as predicted by basic economic theory and confirmed by many empirical studies – the vast majority of displaced United States workers fortunate enough to find alternative work are paid lower wages as a result, in significant part, of competition from production that takes advantage of China's extremely exploited workers.

By the same token, if the Chinese government's labor repression were ended, jobs moving to China to take advantage of *legitimate* comparative advantage would afford Chinese workers better wages, better working conditions, and the fundamental human right of association. Higher wages for Chinese workers would generate greater mass purchasing power in the Chinese domestic market. That purchasing power would benefit both China-based firms producing for the domestic market and U.S.-based firms exporting to China.<sup>411</sup> Enforcement of basic rights of association in Chinese civil society would promote a path of development that is more democratic, equitable, and sustainable – compared to the current path of sweated labor, which disproportionately benefits investors, government officials, and urban elites, and generates excess productive capacity that threatens the stability not only of the Chinese economy but of the global economy as well.

The labor-repression cost advantage of China-based production also diverts production and jobs from developing countries that seek the path of higher wages and democratic development. This diversion directly damages economic development in those countries. It also places competitive pressure on their governments to diminish social rights and democratic processes. And, in impairing the purchasing power of workers in those countries, it further harms United States workers who produce for export.

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<sup>410</sup> The firm-level instances are legion. Many are compiled in Pilot Study Report, Impact of U.S.-China Relations on Workers, Wages, and Employment, Submitted to the U.S.-China Security Review Commission/U.S. Trade Deficit Review Commission (June 30, 2001).

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Using four different methodologies, this Section shows that the Chinese government's labor repression accounts for the loss of approximately 973,000 manufacturing jobs and approximately 1,235,000 total jobs in the United States, and perhaps many more – based on conservative assumptions about wage, price, and output effects.

The first methodology aggregates firm-level data on U.S. corporations that move pre-existing U.S. jobs to China. The second methodology aggregates product and sectoral data on jobs displaced by increases in imports from China. The third uses the COMPAS model of the U.S. International Trade Commission to estimate the displacement of U.S. jobs by the cost advantage conferred by the Chinese government's persistent denial of workers' rights. The fourth uses bilateral trade elasticities to estimate the same phenomenon.

Neither the United States government nor any other organization collects comprehensive firm-level data directly showing U.S. job losses caused by overseas violations of workers' rights. Independent experts advising the U.S.-China Economic and Security Review Commission have called on the United States government to require U.S. corporations to disclose such data.<sup>412</sup> Petitioners join in that call. Pursuant to this petition and the powers vested in the President under section 301(b)(2) of the Trade Act, the USTR and the President should require such disclosure.

Nonetheless, existing data and trade models enable us to generate estimates of the burden on United States commerce with a degree of accuracy that is similar to estimates of the burden on commerce in other cases under section 301 and under other provisions of U.S. trade law.

As with all calculations of the impact of unreasonable trade practices, there is a margin of error in estimating the precise quantitative effect of the Chinese government's repression of workers' rights. The margin of error, of course, provides no ground for the USTR to refuse to investigate. Quite the contrary. The House Committee Report on

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<sup>411</sup> See, e.g., Minqi Li, Aggregate Demand, Productivity, and 'Disguised Unemployment' in the Chinese Industrial Sector, *supra* note 78, at pp. 409-425.

<sup>412</sup> Pilot Study Report, Impact of U.S.-China Relations on Workers, Wages, and Employment, *supra* note 410.

section 301 stated that “[d]etailed information may not be available to petitioners on...domestic actions a foreign country may be taking to afford worker rights. Therefore, a petition may be filed and an investigation initiated based on *alleged* denial of worker rights and/or standards.”<sup>413</sup> Obviously, if Congress anticipated that investigations would proceed even if petitioners could not precisely specify the violation of workers’ rights, then Congress anticipated that investigations would proceed in the absence of precise estimates of the quantitative impact of those violations.

The *fact* that U.S. jobs are displaced by the suppressed labor costs of China-based manufacturing is not in doubt -- whatever the margin of error in calculating the quantitative impact of the Chinese government’s labor repression. In its 2003 Annual Report, the Congressional-Executive Commission on China concluded:

Amidst rising concern in the United States about the loss of U.S. manufacturing jobs to China, the ability of Chinese employers to avoid the expense of meeting international labor standards has continued to be a factor in China’s competitive advantage.<sup>414</sup>

Alan Greenspan, former Chairman of the Federal Reserve Board, stated, “Competition from abroad has risen to a point at which developed countries’ lowest skilled workers are being priced out of the global labor market.”<sup>415</sup>

Equally important, the evidence presented in this petition shows that the supply shock from China’s superheated capital spending will be fully felt only in the next three to five years.<sup>416</sup> Whatever the margin of error in estimating the past loss of jobs, inaction by the USTR and the President will guarantee that many more jobs are irreparably displaced by the Chinese government’s violations of workers’ rights in the years ahead.

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<sup>413</sup> H. Rep. No. 100-40, Part I (1987) at p. 68 (emphasis added).

<sup>414</sup> Congressional-Executive Commission on China, 2003 Annual Report, at p. 25.

<sup>415</sup> Bloomberg Press (January 26, 2004).

<sup>416</sup> See Section VII-B of this petition, above.

## B. The Empirical Question Presented by this Petition

The House Committee Report on section 301 stated that the “injury” requirement -- the requirement that the unfair practice burden or restrict United States commerce -- “is liberally interpreted and varies from case to case.”<sup>417</sup>

The only empirical question raised by this petition is whether there are United States workers who suffer significant losses in employment or wages as a proximate result of the Chinese government’s persistent violation of workers’ rights. It is irrelevant whether U.S. consumers, U.S. corporations, or even other categories of U.S. workers gain from the Chinese government’s violations. Ill-gotten gains cannot counter-balance wrongful losses.

Economists have held lively exchanges about the degree to which international trade explains the recent declines in economic equality, manufacturing employment, and wages in the United States. Economists sometimes ask the question: “Would we be better or worse off, if the U.S. moved to a position of autarchy (that is, if the U.S. eliminated all imports and exports)?”<sup>418</sup> Other economists pose the question: “Would we be better or worse off if we ended the trade deficit, either by raising imports to the current level of exports, or by reducing exports to the current level of imports?” Still others ask “Would we be better or worse off if exports and imports remained at the levels of some specified date in the past?”

These questions are interesting and important, but they are not the questions raised by this petition. Indeed, for purposes of this petition, it is not necessary to inquire whether U.S. trade *with China* causes an increase or decrease in the United States’ *overall* GDP or in some other comprehensive measure of U.S. social welfare. Nor is it necessary to show that *the Chinese government’s persistent violation of workers’ rights*

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<sup>417</sup> H. Rep. No. 100-40, Part I (1987) at p. 58 (House Ways and Means Committee report on H.R. 3, which became the 1988 Omnibus Trade and Competitiveness Act). The Report also stated: “For example, lost sales due to foreign import restrictions can be sufficient to demonstrate burden even though the U.S. industry’s general health is good.” This example supports our view that U.S. job losses resulting from China’s suppression of labor rights constitute a burden on U.S. commerce regardless whether U.S. multinationals profit from the suppression, regardless whether output is rising in U.S. manufacturing, and regardless whether U.S. consumers benefit in a narrow economic sense from goods cheapened by such illegitimate labor exploitation.

<sup>418</sup> See, generally, Susan M. Collins, ed., *Imports, Exports, and the American Worker* (1998).

causes an *overall* reduction in U.S. GDP or social welfare.<sup>419</sup> The inquiry into the “burden on commerce” is not an exercise in welfare economics.

By analogy, a U.S. company or a group of U.S. companies that claims it is harmed by a foreign government’s unfair trade practice under section 301 – whether it be the foreign government’s failure to enforce intellectual property rights, the foreign government’s obstruction of imports from the U.S., the foreign government’s subsidizing of exports, or the foreign government’s resort to slavery – need only show that *it* is harmed by that practice. It need not show that the practice causes a decline in overall GDP or consumer welfare or that ending the practice would increase GDP or consumer welfare. Indeed, when U.S. entertainment companies seek to protect intellectual property rights, they are seeking to raise prices of their products for foreign and U.S. consumers, rather than allow U.S. consumers to buy less expensive knock-offs of their product. Similarly, when U.S. businesses seek to end foreign subsidies to a competitor, they seek to increase the price of the product that U.S. consumers must pay. *The loss to consumers is not weighed against the gain to the petitioning business.*

Enforcing labor rights overseas may indeed cause increases in consumer prices in the United States – just as enforcing intellectual property rights or ending unfair foreign subsidies may raise consumer prices. But under section 301, U.S. consumers have no entitlement to buy goods that are cheapened because made under severely exploitative conditions – particularly when the ostensible benefit to consumers comes at the cost of the shattered working lives and communities of fellow citizens, as well as working conditions in China’s factories that could be much better than they are. In any event, the vast majority of U.S. consumers do not want to buy such goods and reap such foul “benefit.”<sup>420</sup> Economists may attribute to consumers the narrow-minded “preference” of

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<sup>419</sup> In fact, there is substantial economic literature showing that enforcement of workers’ rights in China would more likely than not increase overall economic growth and social welfare in both China and the U.S. Stated conversely, China’s persistent failure to enforce workers’ rights diminishes overall economic wellbeing for both China and the U.S., and therefore burdens or restricts commerce. See sources cited in notes 37 and 78, *supra*.

<sup>420</sup> A survey published in 2003 by the National Bureau of Economic Research concludes that 81 percent of consumers are “willing to pay more for an item if assured it was made under good working conditions” and would pay 28 percent more for a ten dollar item and 15 percent more for a \$100 item. Kimberly Ann Elliot and Richard Freeman, “White Hats or Don Quixotes: Human Rights Vigilantes in the Global Economy,” in Richard Freeman, et al., eds., *Emerging Labor Market Institutions for the 21<sup>st</sup> Century* (Univ. of Chicago for NBER 2003).

minimizing the prices they pay for goods. But U.S. consumers themselves feel that their actual preferences are maximized by buying goods made under decent working conditions, even if they pay a higher price.<sup>421</sup>

Nor should the USTR counterbalance the loss to U.S. workers by any gain in profit or sales that may accrue to U.S. corporations from production in China. As we have shown in Section IV above, Congress intended to *prevent* United States corporations from moving jobs offshore to take advantage of foreign countries' violations of workers' rights. It would flout Congressional intent if the USTR were to count the ill-gotten sales or profits from such production as a "benefit" to U.S. commerce that offsets the burden on U.S. workers. The profits of wrongdoing do not count against the injuries caused by wrongdoing.

The only empirical question raised by this petition, therefore, is *whether there are U.S. workers who suffer losses in employment or wages as a result of China's persistent violation of workers' rights.*

### **C. Preliminary Analytic Distinctions**

For purposes of analyzing the available data, five analytic distinctions should be kept in mind. These five distinctions are orthogonal to each other. That is, each distinction cross-cuts the other four.

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<sup>421</sup> It is true, of course, that consumers actually buy goods that are cheapened by reason of labor-rights repression, even though consumers overwhelmingly say that they prefer not to buy such goods. This petition, after all, might not be necessary if consumers acted on their stated preferences. There are at least three reasons, however, why consumers are unable to act on their stated preferences. First, consumers lack information about the working conditions in the factories that produce the goods offered for sale in the United States. Second, it is difficult to find consumer goods that are not made in countries with poor labor-rights records, precisely because of the race to the bottom. All producing countries feel strong pressure to lower labor standards in their competition for mobile capital – including their competition with China, a country that comprehensively denies labor rights. Third, individual consumers know that their *individual* decision not to buy goods from a particular company will have no impact on working conditions. Their buying decision will only have an impact if it is coordinated with the buying decisions of millions of other consumers. There is presently no such coordinating body – other than Congress, that is. In enacting Section 301(d), Congress assigned the USTR the task of implementing the preferences of U.S. citizens, by using the *collective* buying power of U.S. consumers as a lever to achieve human rights for workers in producing countries.

*Distinction I.* The popular image of U.S. multinationals moving work to China to produce goods for export back to the U.S. is, in fact, only one of the ways in which U.S. workers are burdened by the illegitimate cost advantage of China-based production.

The relevant overall question is, instead, *whether U.S.-based production is displaced by China-based production regardless of the global destination of the product* – regardless, that is, whether the production is for sale in China’s domestic market, the U.S. domestic market, or third-country markets.

Hence, China-based production may displace (1) U.S. workers who would otherwise produce for the U.S. domestic market, (2) U.S. workers who would otherwise produce for export to the Chinese market, or (3) U.S. workers who would otherwise produce for export to third-country markets. For purposes of exposition, the discussion below refers to these three categories as I(1), I(2), and I(3), respectively.

In the case of I(1), the job loss in the U.S. will coincide with increased imports from China to the U.S., but no change in U.S. exports to China or to third-country markets. In the case of I(2), the job loss in the U.S. will coincide with decreased exports from the U.S. to China, but not increased imports from China to the U.S. In the case of I(3), the job loss in the U.S. will coincide with no change in bilateral trade between the U.S. and China, but instead with a decrease in U.S. exports to third-country markets and an increase in Chinese exports to third-country markets.

Hence, data showing increased imports from China to the U.S. may capture job displacement through mechanism I(1), but not through mechanisms I(2) or I(3). Data showing decreased exports from the U.S. to China may capture job displacement through mechanism I(2) but not through mechanisms I(1) or I(3). Data showing decreases in U.S. exports to third-country markets attributable to increases in Chinese exports to the same markets may capture job displacement through mechanism I(3) but not through mechanisms I(1) or I(2).

*Distinction II.* New China-based production that displaces U.S. production may be undertaken not only (1) by U.S. multinationals that open or expand in China, but also (2) by Chinese-owned or third-country-owned enterprises that open or expand facilities in China. In case II(1), of course, U.S. companies layoff U.S. workers or fail to create new jobs in the U.S., and open or expand facilities in China. In case II(2), U.S. companies

layoff U.S. workers or fail to create new U.S. jobs but do not open or expand facilities in China.

Firm-level data on U.S. firms that move existing work from the U.S. to China will only capture job displacement that takes the form of II(1). That data will not capture job displacement that takes the form of II(2).

*Distinction III.* The third distinction is between (1) China-based production that causes the layoff or discharge of U.S. workers, and (2) China-based production that prevents the creation of new U.S. jobs.

Once again, firm-level data on U.S. firms that move existing work from the U.S. to China will only capture job displacement that takes the form of III(1). That data will not capture job displacement that takes the form of III(2). Similarly, trade data showing a fall in U.S. exports from a baseline of existing U.S. exports to China or to third-country markets (categories I(2) and I(3) above) will capture III(1) but not III(2). Trade data showing an increase in Chinese exports to the U.S. will capture both III(1) and III(2).

*Distinction IV.* The fourth distinction is between (1) U.S. job displacement caused by the Chinese government's persistent violation of workers' rights, and (2) U.S. job displacement that would have occurred even in the absence of the Chinese government's violations of workers' rights. Gross data on U.S. jobs displaced by China-based production will include both categories IV(1) and IV(2).

*Distinction V.* The fifth distinction is between (1) jobs that are directly displaced by production in China, and (2) jobs that are displaced by multiplier effects of direct job displacement. Multiplier effects include jobs lost in U.S.-based factories that formerly supplied U.S. plants that closed as a result of the Chinese government's labor repression, jobs lost to businesses that formerly served displaced manufacturing workers, and wage loss to workers who make bargaining concessions under the threat of further job loss. Databases that aggregate reports of plant closings or sectoral employment losses in the U.S. typically capture only V(1). Calculations of implied job losses from bilateral trade deficits also typically capture only V(1).

## **D. Estimated Job Loss Due to the Chinese Government's Persistent Denial of Workers' Rights**

### **1. Aggregation of Firm-Level Data.**

There is only one national database of shifts in production from the United States to China. The database was created in two studies commissioned by the U.S.-China Economic and Security Review Commission ("Commission Studies").<sup>422</sup> The Commission Studies were undertaken by economists and labor-relations specialists at Cornell University and the University of Massachusetts. The database is a compendium of firm-level decisions to lay off workers in the United States and move production to China in the seven month period from October 1, 2000 to April 30, 2001 and the three-month period from January 1, 2004 to March 31, 2004. The Commission Studies also undertook a macroeconomic analysis of the U.S.-China trade balance.

The Commission Studies conclude that between 70,000 and 100,000 jobs are moved each year from the United States to China, and that the number of jobs moving to China *accelerated after 2001*. The Studies indicate that job shifts to China caused the loss of 1,160,000 jobs between 1992 and 2006.<sup>423</sup> The 2001 Study found that production shifts ranged across electronics, electrical equipment, chemicals, petroleum products, household goods, toys, textiles, plastics, sporting goods, wood and paper products, and other manufactured goods. The 2004 Study finds that China's manufacturing has become increasingly comprehensive and now also encompasses industrial equipment and machinery, metal fabrication and production, aerospace, and plastic and rubber products.

The Commission Studies find that the majority of production shifts to China are intended to serve not only China's domestic market, but U.S. and third-country markets as well. The Commission database, in other words, appears to include all three categories -- I(1), I(2), and I(3) – in Distinction I above.

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<sup>422</sup> Pilot Study Report, Impact of U.S.-China Relations on Workers, Wages, and Employment, *supra* note 410; Kate Bronfenbrenner and Stephanie Luce, "The Changing Nature of Corporate Global Restructuring," submitted to the US-China Economic and Security Review Commission (October 14, 2004).

<sup>423</sup> This total number is obtained by combining the conclusion of the first study – that 760,000 jobs were displaced between 1992 and 2001 – with the conclusion of the second study – that as of the year 2004,

However, the Studies do not reach the full range of firm-level data of interest to this petition.<sup>424</sup> The Studies' database is *underinclusive* in three critical respects:

First, the database includes only cases in which a particular U.S. multinational reduces employment in the U.S. and concurrently begins or increases production in China. The database therefore does not include the opening or expansion of Chinese-owned or third-country-owned facilities in China, generating China-based production that displaces U.S. workers without a "shift" of work to China by a U.S. multinational. Nor does the database include cases in which a U.S. multinational begins or expands production in China, causing a reduction in employment by another company based in the U.S. That is, the Commission database includes category II(1) but not category II(2) above.

Second, the database includes only cases in which existing jobs in the U.S. are terminated. It does not include cases in which potential U.S. jobs are not created in the face of actual or threatened competition from China-based production. That is, the Commission database includes category III(1) but not category III(2).<sup>425</sup>

Third, the database includes only cases of direct job loss, defined by category V(1), not cases of indirect job loss resulting from multiplier effects defined by category V(2).

At the same time, the Commission database is *overinclusive* in one key respect. The database includes all cases of production moving to China. It does not distinguish between shifts in production owing to the Chinese government's persistent violation of workers' rights – category IV(1) – and shifts in production owing to other competitive advantages of China-based production.

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100,000 jobs are moved each year to China. The total of 1,160,000 assumes that 100,000 jobs were moved each year from 2002 through 2005.

<sup>424</sup> This is in no way intended to criticize the Commission's excellent Studies. The firm-level data aggregated in the Studies are simply not aimed at the particular empirical question raised in this petition, namely, to what degree is U.S.-based production displaced by repression of workers' rights in China-based production? The Studies asked the question: To what degree have U.S. firms shifted existing U.S. production to China? The latter question is important because it focuses particularly on the Chinese economy's impact on U.S. workers and communities that have come to rely on existing jobs. As important as that question is, however, it does not capture the other forms of job displacement discussed in this petition.

<sup>425</sup> Although the Commission's firm-level database does not include category III(2), the Commission Studies' macroeconomic analysis may have picked up some of the cases in that category. The macroeconomic analysis assumes that imports from China in excess of U.S. exports displace U.S. production.

The three other methodologies set forth below suggest that the *underinclusiveness* of the Commission database is quantitatively more significant than its *overinclusiveness*. That is, the Commission Studies' conclusion – that the U.S. loses between 70,000 to 100,000 existing jobs per year to China, yielding an aggregate job loss of 1,160,000 – is a conservative estimate of all U.S. jobs displaced by the Chinese government's persistent repression of workers' rights.

## 2. Aggregation of Product and Sectoral Data

The President's Economic Report of 2004 included a special section defending the trade relationship between the United States and China. The Report was effectively a legal brief on behalf of the economic interests of the Chinese government and the multinational corporations that have made an export platform there. This was an odd exercise. Congress and the Constitution charge the President with defending the interests of the United States – the interests of *all* the citizens of the United States -- not the interests of the global investors who have set up shop in China. In any event, the President's *apologia* for offshore production in China fails. The Economic Report states:

[J]ob losses in U.S. manufacturing have been mainly in industries in which imports from China are small. For example, the computer and electronic equipment industry accounts for 15 percent of all manufacturing job losses since January 2000, but imports from China were only 8 percent of U.S. output in 2002....<sup>426</sup>

It is unclear why the President (or his economic advisers) considered this analysis compelling. Since January 2001, the U.S. computer and electronics industry has lost 29.2 percent of its workforce, or 543,900 workers, constituting 18.8 percent of the 2,892,000 manufacturing jobs lost in the U.S. During the same period, imports of computers and electronic products from China increased by 327 percent to \$79.72 billion – exceeding 18.5 percent of the value of U.S. production at the start of the period.<sup>427</sup> Hence, jobs displaced by imports from China are as many as 63.6 percent (18.5 percentage points out

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<sup>426</sup> Economic Report of the President, *supra* note 375, at p. 66.

<sup>427</sup> U.S. production figures are from the Current Industrial Reports of the U.S. Census Bureau.

of 29.2) of the jobs lost in the computer and electronic products sector alone, or 345,920 jobs.

The President and his advisers may think that the loss of more than 345,000 jobs in a single sector of manufacturing is negligible. The workers affected, and their families and communities, do not.

And, of course, the computer and electronics sector is far from the only one to which the President's methodology could be applied. Since January 2001, the U.S. electrical equipment and appliances industry has lost 152,500 workers or 26 percent of its workforce. During the same period, imports of electrical equipment and appliances from China increased by 101 percent to \$17.34 billion – exceeding 15.1 percent of the value of U.S. production at the start of the period.<sup>428</sup> Hence, jobs displaced by imports from China are as many as 58 percent (15.1 percentage points out of 26) of the jobs lost in the electrical equipment and appliances sector alone, or 88,450 jobs.

China's exports of fabricated metal products to the United States increased 170.93 percent in the last five years, while U.S. employment in this sector fell by 235,200 or 13.3 percent. In 2005, China's exports of fabricated metal products grew to \$48 billion or 3.75 percent of U.S. production at the start of the period. Hence Chinese imports displaced as much as 28.2 percent of the lost jobs in fabricated metal (3.75 percentage points out of 13.3), or up to 66,326 jobs.

China's exports of vehicle parts to the United States increased 452.88 percent in the last five years, while U.S. employment in this sector fell by 153,400 or 18.6 percent. In 2005, China's exports of vehicle parts grew to \$1.99 billion or 1.07 percent of U.S. production at the start of the period. Hence Chinese imports displaced as much as 5.75 percent of the lost jobs in vehicle parts (1.07 percentage points out of 18.6), or up to 8,820 jobs.

China's exports of primary metal products to the United States increased 355.4 percent in the last five years, while U.S. employment in this sector fell by 144,800 or 23.5 percent. In 2005, China's exports of primary metal products to the U.S. grew to \$4 billion or 2.9 percent of U.S. production at the start of the period. Hence Chinese imports

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<sup>428</sup> U.S. production figures are from the U.S. Census Bureau, Annual Survey of Manufacturing.

displaced as much as 10.3 percent of the lost jobs in primary metal products (2.9 percentage points out of 23.5), or up to 14,914 jobs.

China's exports of plastic and rubber products to the United States increased 163.1 percent in the last five years, while U.S. employment in this sector fell by 141,400 or 15 percent. In 2005, China's exports of plastic and rubber products to the U.S. grew to \$6.64 billion or 3.9 percent of U.S. production at the start of the period. Hence Chinese imports displaced as much as 26 percent of the lost jobs in plastic and rubber products (3.9 percentage points out of 15), or up to 36,764 jobs.

China is now the world's largest producer of textile and apparel. China's exports of apparel to the United States increased 493 percent in the last five years, while U.S. employment in the apparel sector has fallen by 220,000.<sup>429</sup> 46.6 percent of the jobs in the U.S. apparel sector were eliminated. In 2005, China's exports of apparel to the United States grew to \$38.68 billion or 70.84 percent of U.S. production at the start of the period.<sup>430</sup> Hence, Chinese imports displaced as many as 100 percent of the lost apparel jobs (70.84 percentage points exceeding 46.6 percentage points), or up to 220,000 jobs. What this means, of course, is that Chinese imports were greater than the lost output flowing from the absolute decrease in U.S. apparel employment. That is, Chinese imports were sufficient to displace not only the lost output and employment of the last five years but also additional output and employment displaced in previous years or the potential output and employment that would otherwise have been created in the United States in the last five years.

Hence, using the President's own methodology, China's imports displaced up to 781,194 U.S. workers in just seven sectors – electronics, electrical equipment, apparel, fabricated metal products, vehicle parts, primary metal products, and plastic and rubber products. Even these figures account only for the displacement of pre-existing jobs – and not for potential new U.S. jobs that were not created by reason of competition from China-based production.

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<sup>429</sup> U.S. Department of Commerce, National Trade Data; Bureau of Labor Statistics, Employment, Hours, and Earnings from the Current Employment Statistics Survey (National).

<sup>430</sup> Import data are from the ITC trade database. Production data are from the U.S. Bureau of the Census, M3 Series, "Manufacturers' Shipments, Inventories, and Orders" (August 2003).

Nor do the figures on job losses in these sectors take account of the many more U.S. jobs that stand in imminent jeopardy from China-based production in the near future. As noted above, in recent years China's capital spending in manufacturing has been approximately 40 percent of production and is far higher in several of the sectors analyzed above.

Perhaps for these reasons, the President's Annual Economic Report of 2006 simply deletes this methodology which, as noted above, was trumpeted in his 2004 Report.

Like the firm-level data aggregated in the Commission Studies discussed above, the product and sectoral data do not distinguish between jobs lost due to the Chinese government's violation of workers' rights and jobs lost due to the other competitive advantages of China-based production. The methodologies in the next two sections make this distinction.

### **3. International Trade Commission Model**

The U.S. International Trade Commission has developed several economic models for use in estimating the economic impact of unfair trade practices, including foreign import dumping, subsidies, and import surges. These so-called COMPAS models are fully applicable to this case. Using a set of highly conservative assumptions detailed in this Subsection, the COMPAS models show that the Chinese government's labor repression has resulted in the loss of between 143,000 and 973,000 manufacturing jobs in the United States, and the loss of up to 1,235,000 total jobs in the United States.

In order to apply the COMPAS models, we follow three steps. First, we estimate the average percentage decrease in manufacturing wages caused by the repression of workers' rights in China's factories. Second, we estimate the percentage decrease in total production costs caused by that decrease in manufacturing wages. Third, we apply the COMPAS model, in order to generate estimates of the loss in U.S. manufacturing jobs caused by the illegitimate cost advantage afforded corporations in China.

1. *Estimate of Decrease in Chinese Wages caused by the Chinese Government's Repression of Workers' Rights.* There is a wealth of economic research that enables us to make accurate estimates of the decrease in Chinese wages caused by the Chinese

government's repression of workers' rights. For ease of exposition, we ask the counterfactual question: What increase in wages would China's manufacturing workers enjoy if the Chinese government ended its persistent repression of workers' rights? The increase in wages can be disaggregated into the following four components:

a. *Increase in wages if minimum-wage, child labor, forced prison labor, and occupational safety and health standards were enforced.* The data presented in Section VI-C of this petition show that average manufacturing wages in China range from 38.5 percent to 75 percent of minimum wage standards. To achieve minimum standards, wages must therefore increase between 33.33 percent and 159.74 percent. In other words, a worker paid 30 cents per hour should instead be paid 40 cents to 80 cents per hour. This is a quite reasonable estimate. Recall that the estimated decrease in wages below legal minima is the *combination* of all of the following *well-documented, pervasive* violations: local governments' failure to set standards that meet the central government's directives; enterprises' failure to stipulate basic wage rates that meet local government standards; enterprises' failure to pay (higher) minimum wage standards for overtime hours; enterprises' illegal deductions from wages; enterprises' withholding of wages, which employees lose when they quit or are discharged; and enterprises' simple failure to pay months of wages due.

These estimates, which are the same as those in the petition filed two years ago by the AFL-CIO, remain accurate two years later. The official minimum wage standard promulgated by the central government requires that minimum factory wages rise by the same percentage as average urban incomes. According to official statistics of the Chinese government, average income of urban residents has risen approximately 10 percent in each of the last two years.<sup>431</sup> Hence, China's minimum wage laws require that minimum wage standards increase by 10 percent in each of the last two years. As we have shown above, real factory wages have in fact remained flat or, in some categories of skilled work, have risen modestly – and, hence, the percentage gap between actual wages and minimum wage standards has actually increased. But even on the rosiest assumption that average wages for all factory workers have risen 10 percent in each of the last two

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<sup>431</sup> 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).

years, the percentage gap between actual wages paid and central government standards for minimum wages would remain the same. Hence, our estimate that the percentage gap has not changed in the last two years is quite conservative.

There is no question that child labor and forced prison labor diminish unit labor costs for a significant portion of China's manufacturing exports. We know that the combined number of child and forced laborers in the Chinese economy is the same order of magnitude as the entire manufacturing workforce of the United States. The President is therefore obligated to take effective action to remedy those violations.

However, solely for purposes of estimating the impact on U.S. manufacturing employment, we will not attribute any additional decrease in unit labor costs to the large-scale violations of child labor and forced labor standards in China's manufacturing sector. There is a particularly wide range of estimates of the number of child laborers and forced prison laborers both in the overall economy and in the manufacturing export sector; and there are wide-ranging estimates of the wage suppression among child laborers and forced laborers. Therefore there is great uncertainty about the consequent decrease in labor costs in the export sector. The wide range is due to the nature of these violations, and to the Chinese government's and global corporations' extreme resistance to international monitoring of these problems. A very strong argument can be made that the Chinese government should not benefit from its own secrecy, and that analyses such as ours must simply use best estimates or the full range of estimates. Nonetheless, in order to avoid extremes in both the *uncertainty* and *range* of estimated effects on U.S. employment, we err on the most conservative side and simply exclude the range of data points on child labor and forced prison labor.

The degree to which occupational safety and health (OSH) standards increase manufacturing costs is highly contested. Surveys of business executives conclude that net costs are substantial. These estimates may be exaggerated, for purposes of advocacy and lobbying for deregulation. Some proponents and practitioners of OSH standards conclude, to the contrary, that OSH standards reduce the costs of employee turnover and worker compensation, and that these benefits outweigh the capital and operating expenses of safety systems. These proponents argue that business executives' opposition to OSH standards is motivated by the short-term net costs rather than the long-term net benefits of

OSH standards. In light of the uncertainty in this field, we will make the conservative assumption that net costs of implementing OSH standards are zero, adding *no increment* to the prices of manufactured goods.

We wish to reemphasize that our use of these conservative assumptions in no way means that the President should not undertake effective remedial measures to ensure that corporations and the Chinese government enforce these internationally recognized standards. As noted above, Congress has made clear that empirical uncertainty regarding the consequences of unfair and unreasonable trade practices provides no grounds for ignoring the practices. This is especially true in light of the fact that workers' incapacity to enforce OSH, child labor, and forced labor standards is in part the result of violations of other basic workers' rights, including the denial of free association, which have large measurable effects for U.S. workers. The estimated burden on U.S. commerce caused by child labor, forced prison labor, and occupational safety and health violations in China's factories is properly a subject for close examination during the USTR's investigation of the unreasonable trade practices identified in this petition.

*b. Increase in wages if workers could bargain as free individual employees* – that is, if manufacturing workers were not held in bonded labor and not otherwise limited in mobility by the *hukou* system. Section VI-B above showed that factory wages fell by 15 percent to 46 percent when permanent urban workers were replaced by bonded migrant workers. If migrant workers achieved a work status not burdened by bonding and other constraints of the *hukou* system, their wages would therefore increase between 18 percent and 85 percent.

*c. Increase in wages if rights of association were enforced, and workers could therefore credibly threaten to engage in collective action.* This is the so-called “threat effect” or “rule of law effect” – as distinguished from the “union wage effect” estimated below. If a country shifts from a state of wholesale repression of workers' rights to organize and strike (state 1) to a state of vigorous enforcement of workers' rights to organize and strike (state 2), workers' bargaining power and wages will increase even if no actual unionization occurs. The reason for the increase is that in state 1, workers' *threat* to organize and strike is either non-existent or much less credible than in state 2. In the language of transaction-cost economics, a country that enforces

labor rights thereby reduces the transaction costs of collective action by workers and increases the credibility of workers' explicit or implicit threat of collective action, during bargaining over wages with employers.

This effect can be estimated from two bodies of empirical research. The first is the "union threat effect" literature, which measures the phenomenon of non-unionized employers paying their workers higher wages in response to explicit or implicit threats to unionize, in countries that protect workers' right to organize and strike. Examining firm-level data, this research shows that the "threat effect" increases non-unionized workers' wages by 10 percent to 20 percent.<sup>432</sup> Because this estimate includes increases in wages but not increases in benefits, it is highly conservative.

This estimate is conservative for a second reason. It assumes that the effect of credible threats to unionize is linear – an assumption that is almost certainly inaccurate, for the following reason. The rule of law effect is the increase in non-union workers' bargaining power and wages that results from (1) the shift from violent repression, torture, blacklist, and discharge against nonunion workers who wish to unionize, to full legal protection against such reprisals. The threat effect measures the increase in non-union workers' bargaining power and wages that results from (2) a marginal increase in actual rates of unionization in a country that already provides full legal protection against anti-union reprisals by employers and the government. Our use of estimates of the threat effect as a proxy for estimates of the rule of law effect is conservative in light of the evident non-linear nature of the rule of law effect, noted by several researchers – that is, the large-scale structural shift (1) is manifestly more important than the marginal shift (2).<sup>433</sup> The empirical studies of the union threat effect cited above measure only the latter phenomenon.

The second body of research uses country-level data, and tests for correlations between enforcement of workers' rights and wage levels across countries. These studies

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<sup>432</sup> For the classic conceptualization of the threat effect, see Ashenfelter, Orley, George E Johnson and John H. Pencavel, "Trade Unions and the Rate of Money Wages in United States Manufacturing Industry," *Review of Economic Studies* 39 (January 1972) pp 27-54, and (3) Sherwin Rosen, "Trade Union Power, Threat Effects, and the Extent of Organization," *Review of Economic Studies* 36 (April 1969) at pp 185-196. See also Richard B. Freeman and James L. Medoff, *What do Unions Do?* (1984) at p. 153.

<sup>433</sup> For a good conceptualization of the non-linear nature of the threat effect, see Lawrence Mishel and Matthew Walters, "How Unions Help All Workers," *Economic Policy Institute Briefing Paper No. 143* (August 2003).

therefore directly measure a “rule of law effect” that is indirectly related to the “threat effect.” To repeat: The “threat effect” measures the increase in wages enjoyed by non-union workers in a single country that already provides fundamental labor rights – the increase in wages, that is, relative to the implicit baseline of wages that would be earned in individualized labor markets that afford a weaker “threat” to unionize. The “rule of law effect” measures the increase in wages that results from a shift from a labor market that affords no opportunity to organize collectively to one that does, due to a shift from worker-rights repression to worker-rights compliance. The leading econometric study of this kind, analyzing cross-country data from a sample of approximately seventy economies, finds a strong positive correlation, with high statistical significance.<sup>434</sup> In that study, countries are ranked on a 4-point scale of worker-rights enforcement. The Chinese government easily falls into the lowest ranking. The study concludes that wages will rise by as much as 60 percent in a country that moves from the lowest ranking to the highest ranking of worker-rights enforcement. To err on the conservative side, we will use the firm-level data showing that the legal capacity to unionize and strike raises wages of non-unionized workers by 10 to 20 percent – even though the higher estimates of the rule of law effect capture more directly the phenomenon at stake.

*d. Increase in wages if workers unionize (“union wage effect”).*

There is much economic literature devoted to estimating the percentage increase in wages caused by unionization on a country-by-country basis – in both developed and developing countries. The studies use firm-level data to compare the earnings of unionized and non-unionized workers of similar productivity within each country. The post-1990 findings for emerging and developing economies range from 31 percent in Ghana to 42 percent in India to 123 percent for black male workers in South Africa.<sup>435</sup> No such study exists for China, of course, since independent unionization and collective bargaining are prohibited. The data for South Africa seem especially relevant, in light of the similar history of controls over temporary workers in South Africa and China – systems which radically

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<sup>434</sup> Thomas Palley, *Labor Standards, Economic Governance, and Income Distribution: The Cross-Country Evidence*, supra note 37.

<sup>435</sup> P-C Michaud and D. Vencatachellum, “The Union Wage Premium for Blacks in South Africa” (October 15, 2001) at [www.commerce.uct.ac.za](http://www.commerce.uct.ac.za); S. Madheswaran and K.R. Shanmugam, “Econometric Analysis of Trade Unions and Wages: Evidence from India,” paper prepared for the European Econometric Conference

suppress labor costs relative to productivity, allowing the subsequent intervention of wage-raising institutions such as unions to have amplified effects. Also relevant, perhaps, are historical studies of the union wage premium in the early phases of industrialization in the now-industrialized economies. Studies of U.S. manufacturing workers in the 1890s found union wage premiums of 34 percent.<sup>436</sup> The estimated wage increase from independent unionism in China is between 30 percent and 123 percent.

*e. Aggregating the Four Components.* The distinct components capture distinct mechanisms for increasing wages. The first mechanism would raise wages to their statutory minimum. The second mechanism would raise wages above the statutory minimum through individual bargaining and individual mobility in the labor market. The third would raise wages above the level set in an individualized labor market, by means of the threat to engage in collective action. The fourth would raise wages above the non-union collective-threat level, by means of actual unionization. Hence, the percentage increase caused by each mechanism might plausibly be compounded at both the high and low ends, to obtain an overall range of estimated increases in labor costs.

To err on the conservative side, however, we will assume that the first and second mechanisms are not subject to compounding in this way. We will instead assume that the statutory minimum wage would play no independent role in raising wages if individual bargaining power would suffice to raise wages above the statutory minimum; and that individual bargaining power would play no independent role if it would not suffice to raise wages above the statutory minimum. Treating the first and second mechanisms in this way yields wage increases ranging between 33.33 percent and 159.74 percent. This range represents the combined effect in the individual labor market from enforcement of the minimum wage and termination of the system of bonded labor. Note that this conservative method of aggregation effectively gives no weight to the wage increases that would result from ending China's system of bonded labor, since the minimum-wage effects dominate the bonded-labor effects. Hence, the estimates presented here will still

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(August 2001); Paul Schultz and Germano Mwabu, "Labor Unions and the Distribution of Wages and Employment in South Africa," 51 *Industrial and Labor Relations Review* 680 (1998).

<sup>436</sup> Barry Eichengreen, "The Impact of Late Nineteenth-Century Unionism on Labor Earnings and Hours: Iowa in 1894," *Industrial and Labor Relations Review* vol. 40, no.4 (July 1987) at pp. 501-15.

be sound (a) even if the Chinese government formally abolishes the *hukou* system – a reform which, it should be reemphasized, the government rejected decisively as recently as November, 2005 – and (b) even if the *de facto*, discriminatory legacy of the *hukou* system were miraculously dispelled.

Combining this wage increase in the individual labor market with the rule of law effect and the union wage effect yields a total range of between 90 percent and 595 percent increase in wages if the Chinese government ends its persistent repression of workers' rights.

Stated conversely, the *Chinese government's labor repression lowers manufacturing wages by 47.4 percent to 85.6 percent.* This depression of wages is large. But the figures are highly plausible. Indeed, they are quite conservative. Recall that credible researchers have found that many export workers are underpaid by 45 to 59 percent relative to local minimum wage standards – a degree of suppression that does not take account of additional wage suppression owing to: the failure of local minimum standards to meet central government standards; noncompliance with occupational safety and health, child labor, and forced labor standards; bonded labor; the rule of law effect; and the union wage effect.

2. *Estimate of Decrease in Price (Overall Cost) of China's Manufactured Exports Caused by the Chinese government's Persistent Repression of Workers' Rights.* Labor costs account, on a weighted average, for 13 percent of the total price (or overall cost) of final manufactured goods in China.<sup>437</sup> This figure rests on the extremely conservative assumption that all intermediate inputs used to manufacture those goods are imported. It assumes, that is, that none of the inputs include value-added by Chinese labor. This is a conservative assumption, in light of the fact that China has recently developed large networks of enterprises producing components, in apparel, computers, electronics, auto parts, and many other sectors.<sup>438</sup> If labor costs rise in the range estimated above, then *the price (overall cost) of manufactured goods will rise by 11.83 percent to 77.35 percent* if the Chinese government ceases its persistent denial of workers' rights.

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<sup>437</sup> China Statistical Yearbook 2005.

<sup>438</sup> See Section VII-B of this petition, *supra*.

Stated conversely, the *Chinese government's labor repression reduces the price (or overall cost) of Chinese manufactured exports by 10.6 percent to 43.6 percent.*

These estimates are consistent with raw data about price changes in imports to the United States. According to the President's 2006 Annual Economic Report, "[b]etween 1997 and 2004, real prices fell for an array of highly trade goods, such as audio equipment (-26%), TV sets (-51%), toys (-34%), and clothing (-9%)."<sup>439</sup> Indeed, in the first *three months of 2005 alone*, wholesale prices of cotton pants and tops plummeted *20 to 40 percent* after the end of quotas on China's exports of those products.<sup>440</sup> These numbers should not be surprising: Recall that up to half of global manufacturing employment is in China, and that extraordinary low-paid migrant workers are still replacing higher-paid urban residents in China's factories.

*To reiterate here the highly conservative assumptions underlying this estimate of the cost advantage resulting from the Chinese government's repression of labor rights:*

1. We have used highly conservative estimates of the shortfall in Chinese wages below China's own minimum wage standards, including the estimate that real factory wages have risen ten percent in each of the last two years, notwithstanding the considerable evidence that wages for most factory workers have remained flat and that wages have risen only for some categories of skilled workers and only in some exporting regions.
2. We have assumed that the Chinese government's failure to enforce child labor laws, prison labor laws, and occupational safety and health standards gives no labor-cost advantage to China-based production (although this purely heuristic assumption in no way absolves the President of responsibility to take effective action to ensure compliance with these standards, and only heightens the urgency of careful examination of this empirical issue by the USTR, during the investigation of the unreasonable trade practices identified in this petition).
3. We have assumed that China's bonded labor and other forms of discrimination against migrant factory workers add no cost advantage to that obtained by the Chinese government's failure to enforce minimum wage

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<sup>439</sup> U.S., Economic Report of the President 2006, at p. 156.

<sup>440</sup> Tracie Rozhon, "A Tangle in Textiles," New York Times (April 21, 2005).

standards – even though there is much empirical support for the conclusion that controls over migrant workers depress wages by 15 to 46 percent.

4. We have used highly conservative estimates of the increase in workers' bargaining power and wage gains that would result from the “rule of law effect” – that is, from the end of violence, imprisonment, torture, discharge, blacklist, and other reprisals against workers who assert their rights.
5. We have assumed that all inputs used to produce China's manufactured exports are imported into China; that is, we have applied the percentage reduction in labor cost only to the value-added in final manufacturing and not to the value of inputs.

3. *Applying the COMPAS Models.*<sup>441</sup> The COMPAS models assume that imports and domestic products are imperfect substitutes, and that the relevant markets can be characterized by certain basic assumptions about market structure and initial import shares.<sup>442</sup> The models are used to estimate the impact of dumping or subsidies on the output, price, and revenues of domestic producers, unfair imports, and other foreign sources of imports.

a. *The Conceptual Model.* The model developed here recognizes that imports and domestic products are generally close but imperfect substitutes for a variety of well-known reasons. The markets for imports and domestic products are therefore treated separately, but the demand for each product is linked to the prices and quantities prevailing in the other market. In particular, *the supply of imports affects the demand for the domestic like product*: if import supply increases, this causes demand for domestic like products to be reduced. Figures 1a and 1b depict the structure of the markets for the imported and domestic products, respectively.<sup>443</sup>

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<sup>441</sup> The following economic analysis, explaining and applying the ITC model, was undertaken by Robert Scott, Ph.D., of the Economic Policy Institute, Washington, D.C.

<sup>442</sup> See section IV of “Armington Models,” in H. Keith Hall and Joseph F. Francois, “Partial Equilibrium Modeling,” in Joseph F. Francois and Kenneth A. Reinert, eds., *Applied Methods for Trade Policy Analysis: A Handbook* (Cambridge University Press 1997) at pp. 122-147.

<sup>443</sup> Non-subject imports constitute a third market that could also be analyzed separately. These markets are not considered in this section for clarity of exposition

Equilibrium prices and quantities are determined by the intersection of the supply and demand curves in these diagrams.<sup>444</sup> In this model, we assume that repression of workers' rights in China reduces production costs (providing a cost advantage), which lowers the prices of Chinese exports. Such a cost advantage is illustrated in Figure 1a, which compares prices and quantities of import products with and without the cost advantage. A cost advantage increases the supply of imported products, causing the import supply curve to shift down and to the right. The first effect of the cost advantage is to reduce the equilibrium price of the Chinese imports in the domestic market, as shown on the vertical axis of Figure 1a. Second, greater quantities of the subject imports are purchased at the lower price, as shown on the horizontal axis.

The decline in subject import prices in turn causes a reduction in the demand for domestic manufactured goods. The demand for domestic products shifts down and to the left, as shown in Figure 1b. The decline in demand for domestic products then reduces the equilibrium prices and quantities of competing domestic goods. Domestic prices, shown on the vertical axis in Figure 1b, fall from the price without cost advantage to the price with cost advantage. The quantity of domestic shipments is also reduced, as shown on the horizontal axis.<sup>445</sup>

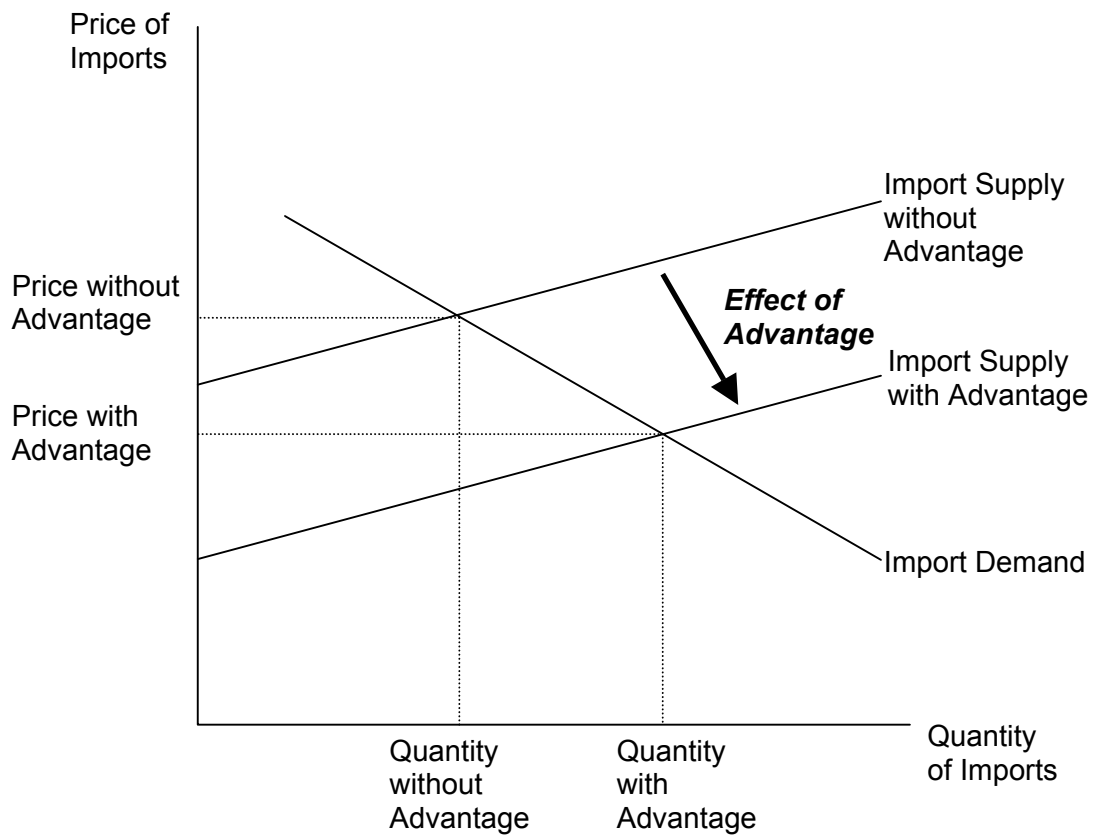
The results in Figures 1a and 1b assume that all other factors that affect supply and demand for the subject products (such as the business cycle, interest rates, and domestic consumption) are held constant. In reality, the demand for consumer goods and

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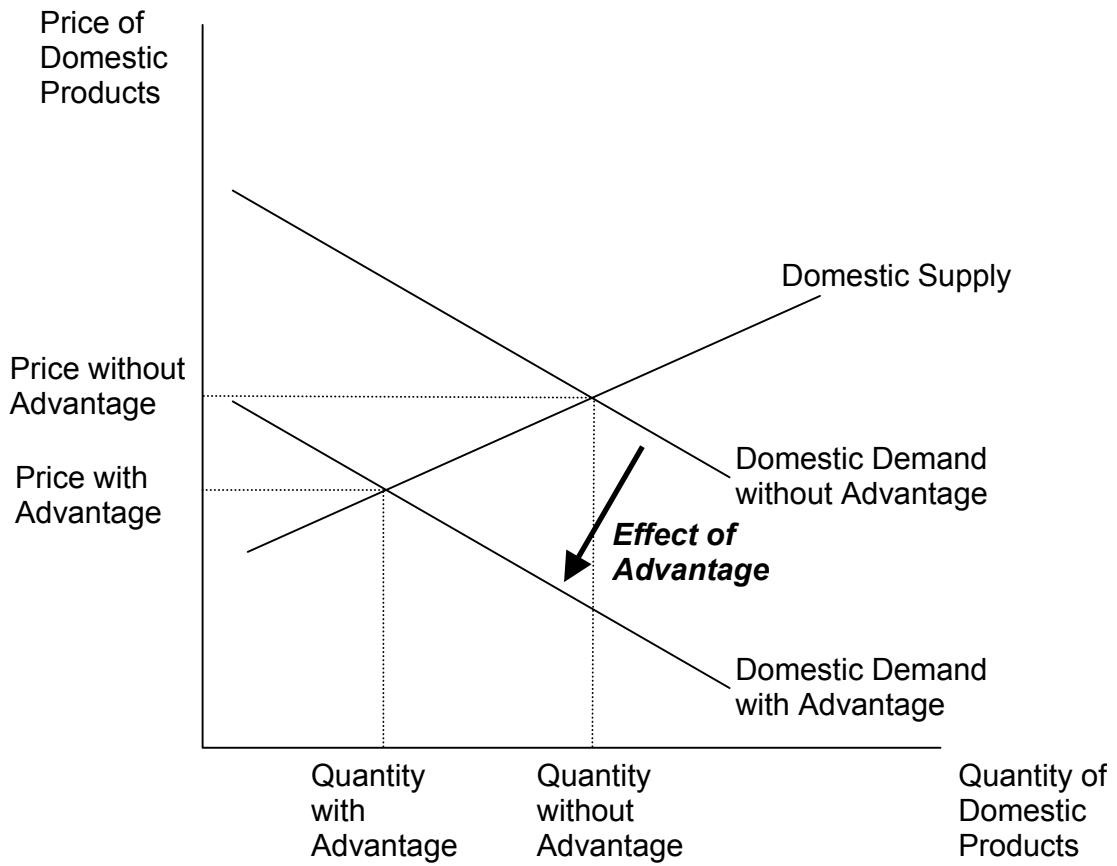
<sup>444</sup> Demand for imports and domestic manufactured products both depend on the prices of each product, and on income and other macroeconomic determinants of demand in the U.S. market, such as interest rates and government spending. The supply of imports is a function of the costs of production (e.g. wages, material and energy costs), installed capacity, and the pricing behavior of foreign suppliers (including dumping, if any), less the value of subsidies. The supply of domestic products is determined by cost factors and production capacity in the U.S.

<sup>445</sup> The decline in price of the domestic products would have a secondary impact on the demand for imports, shifting the demand for the latter slightly down and to the left, as shown in sources cited in note 447, below. This secondary shift is generally regarded as small in magnitude and is omitted from Figure 1a for clarity of exposition.

Figure 1a  
Conceptual Model: Effect of a Cost Advantage  
(Suppression of Workers' Rights)  
on U.S. Market for Chinese Imports



**Figure 1b**  
**Conceptual Model: Effect of a Cost Advantage**  
**(Suppression of Workers' Rights)**  
**on U.S. Market for Domestic**  
**Manufactured Goods**



industrial intermediates has grown significantly over the past decade.<sup>446</sup> Therefore, we need to consider trends in demand and supply in order to obtain a complete picture of how the increasing supply of unfairly traded subject imports affected the domestic market for the like products.

Figure 2 depicts the impact of the increased supply of unfairly traded subject imports on the domestic market for domestic producers, taking into account the other shifts in demand discussed above. This analysis explains conceptually how domestic workers were injured in spite of the growth of overall demand. The initial price and quantity of the domestic products are determined by the intersection of the supply and demand curves at point A in Figure 2. The increase in demand is reflected in a shift up and to the right of the demand curve for domestic products between 1992 and 2004 (to the dashed line labeled 2004 Domestic Demand: Pure Business Cycle Effect in Figure 2). Note that this dashed line shows what the demand would have been in 2004, except for the effects of increased supplies of unfairly traded imports.

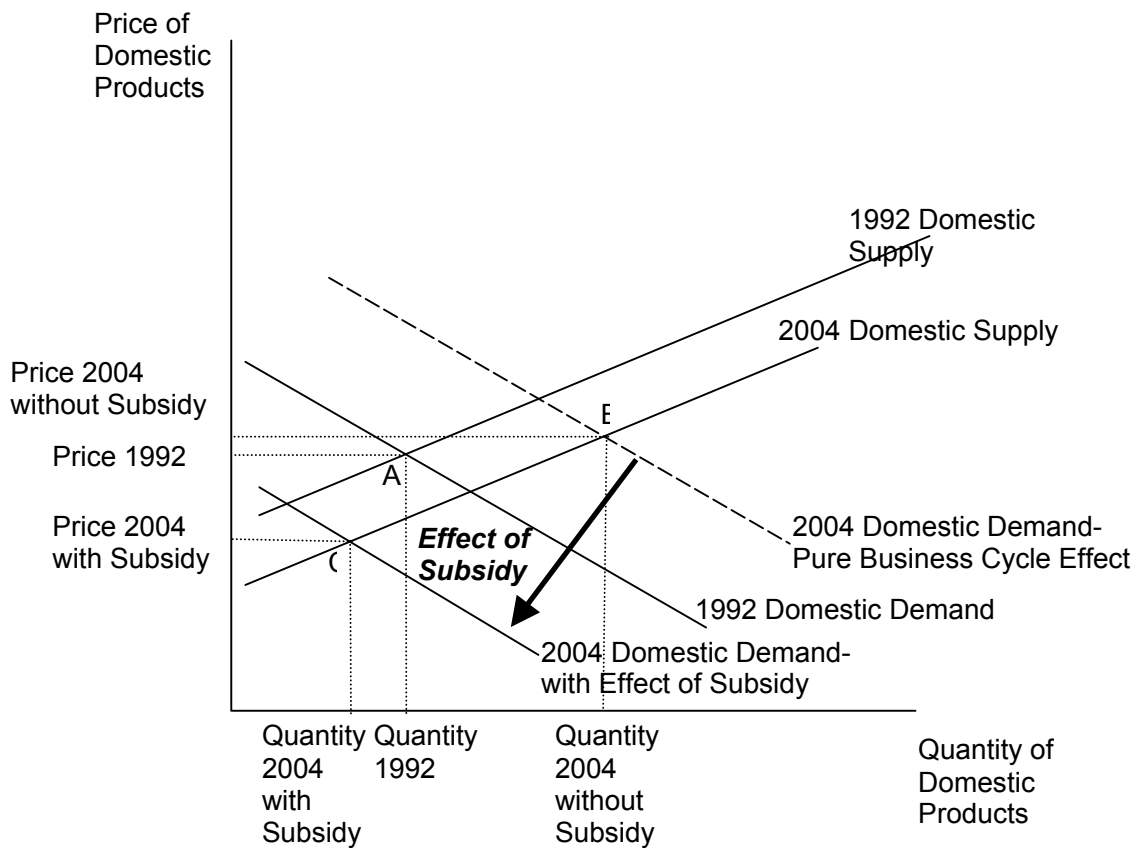
A significant increase in domestic demand (in the absence of the Chinese cost advantage in 2004, i.e., the pure business cycle effect demand curve) should have led to a new market equilibrium at point B in Figure 2. Relative to actual prices in 2004, the price of the domestic like products should have been substantially higher at point B than at point A. As a result, total domestic revenues (price times quantity) would have been substantially higher. Quantity levels should also have increased much more significantly

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<sup>446</sup> Real gross domestic product in manufacturing industries increased 40.3% between 1995 and 2005. Bureau of Economic Analysis “Services and Goods Sectors Both Strong Despite Slowdown in 2005: Advance Estimates of Gross Domestic Product (GDP) by Industry” at <http://www.bea.gov/bea/newsrel/gdpindnewsrelease.htm>, and “Gross Domestic Product by Industry Data,” at [http://www.bea.gov/bea/dn2/home/annual\\_industry.htm](http://www.bea.gov/bea/dn2/home/annual_industry.htm).

## Figure 2

### Trends Analysis of the Effects of Increased Supply of Subsidized (Labor Rights Suppressed) Chinese Imports on Domestic Producers of Manufactured Goods



between 1992 and 2004 than they actually did, as shown on the horizontal axis. (See the 2004 prices and quantities without cost advantage in Figure 2.)

Increasing supplies of Chinese products, aided by an artificial cost advantage (resulting from the suppression of workers' rights) significantly altered this picture, by reducing demand for domestic producers of manufactured goods. This is shown by the solid line labeled 2004 Domestic Demand with Effect of Advantage in Figure 2, which lies significantly below and to the left of the pure business cycle effect demand curve for 2004 (dashed line). Actual equilibrium prices and quantities of the domestic like products in 2004 are determined by the intersection of the 2004 supply curve and the 2004 domestic demand with cost advantage, which occurs at point C in Figure 2. The actual price in 2004 is significantly lower than it would have been without the increased supply of unfairly traded imports. The actual quantity of domestic manufactures in 2004 is also significantly lower than it would have been without the cost advantage, as shown on the horizontal axis.

The increase in Chinese imports aided by the cost advantage was clearly responsible for the observed decline in demand for manufacturing workers and the relatively slow growth of manufacturing output in a period when domestic apparent consumption was rising. Thus, the increased supply of unfairly traded imports results in a substantial decline in prices, output, and employment over the past decade. This is illustrated by the comparison between the actual 2004 point C with the hypothetical 2004 point B that would have prevailed if not for the increased supply of Chinese imports resulting from their artificial cost advantage. In the absence of this cost advantage, both domestic prices and output would have been substantially higher than they actually were.

*b. Estimation.* Extensive economic research has determined that the overall demand for U.S. imports is moderately inelastic to slightly elastic,<sup>447</sup> in

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<sup>447</sup> H.S. Houthakker and Stephen Magee, "Income and Price Elasticities in World Trade," *The Review of Economics and Statistics* vol. 51, no. 2 (May 1969) at pp. 111-125 report estimates of the price elasticity of demand for imports, using various techniques, of -.54 (Table 1), -1.25 (Table 5), and -.88 (Table 6, calculated). Mordechai E. Kreinin, "Price Elasticities in International Trade," *The Review of Economics and Statistics* vol. 49, no. 4 (November 1967) at pp. 510-16 estimates that the price elasticity of demand for imports was -1.107. Robert C. Feenstra and Clinton R. Shiells, "Bias in U.S. Import Prices and Demand,"

part because of the lack of availability of substitutes for manufactured products in general. Hence, in this estimate, we assume that the price elasticity of demand ranges between -0.1 and -1.5, to bracket all available estimates.

In contrast, domestic and imported products are relatively good substitutes for one another. However, they are not perfect substitutes because of limitations in production capacity and differences in patterns of comparative advantage for various products. Hence, researchers have estimated that the elasticity of substitution between domestic and imported products ranges between -3.3 and -5.5.<sup>448</sup>

The elasticity of supply of domestic producers is relatively high because of the relatively low level of capacity utilization in the domestic industry producing manufactured goods. We therefore assume that the domestic supply elasticity falls between 5.0 and 10.0 in this case.

Supply of other imports is also relatively elastic because other exporters around the world have substantial amounts of excess capacity to produce manufactured goods to the United States. We therefore also assume that the elasticity of supply for other imports ranges from 5 to 10.<sup>449</sup>

It is assumed here that the Chinese cost advantage in these cases could be offset by a tariff of 10 percent, 43 percent, or 77 percent, based on the estimate explained above

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Cambridge, MA: National Bureau of Economic Research, Working Paper No. 4841 (August 1994) report estimates of the price elasticity of demand for imports, using various techniques, of -.979 to -1.23 (Table 3). Menzie D. Chin, "Doomed to Deficits? Aggregate U.S. Trade Flows Re-examined," National Bureau of Economic Research, Working Paper No. 9521 (February 2003) reports estimates of the price elasticity of demand for imports, using various techniques, of -1.31 to -1.467, but the only statistically significant estimate was found at -.295. Note that Chin's estimates are for non-computer imports only, and that he finds a large, statistically significant, positive (hence nonsensical) price elasticity estimate for computer imports, presumably due to the use of hedonic pricing in that sector.

<sup>448</sup> H.B. Junz and R.R. Rhomberg, "Prices and Export Performance of Industrial Countries, 1953-1963," International Monetary Fund Staff Papers (July 1965) at pp. 224-271 (cited in Kreinin *supra* note 447, at p. 511).

<sup>449</sup> Modifying our supply elasticity assumptions to make domestic supply more elastic and import supplies less elastic results in relatively greater estimated quantity effects and relatively smaller estimated price effects in our COMPAS runs, with generally similar total revenue effects. Changing these supply elasticity assumptions therefore does not change the overall result of significant burden caused by the cost advantage given to Chinese exports through its repression of workers' rights.

in this petition. Market share data, and sources of those data, are shown in Table 1. In particular, it is important to note that Chinese imports captured 8.1 percent of total apparent consumption of manufactured goods in the U.S. in 2004. Other foreign

**Table 1**  
**Data for Compas-China Analysis--2004**  
 (billions of U.S. dollars)

A	US manufacturing trade-equivalent output (BEA, GPO) (M*N)	1,803
B	US world manufacturing general imports***	1,214
C	US world manufacturing domestic exports***	642
D	US general imports from China***	192
E	ROW imports (World - China)	1,022
F	Domestic market (Production - Exports + Imports)	2,375
<u>Market shares</u>		
G	Domestic share ((production - exports)/domestic market)	48.9%
H	China share domestic market	8.1%
I	ROW share domestic market	43.0%
K	Export share of domestic production (row C over row A)	35.6%
L	Domestic share of domestic market (Row A over Row F)	75.9%
<u>Background Data</u>		
M	U.S. manufacturing value added in 2004*	1421
N	Ratio of total jobs to manufacturing jobs, imports from China, 2003**	1.27

Sources:

\*Bureau of Economic Analysis, Gross-Domestic-Product-by-Industry Accounts, <http://www.bea.gov/bea/industry/gpotables>

\*\*Scott, Robert E. 2005. "U.S. China Trade, 1989-2003:

Impacts on jobs and industries, nationally and state-by-state". Washington, DC

Economic Policy Institute, Working Paper # 270, <http://www.epinet.org/content.cfm/wp270>)

\*\*\*U.S. International Trade Commission, "ITC Trade DataWeb"

<http://dataweb.usitc.gov/>

**Table 2**  
**Estimated Impacts of Implicit Chinese Labor Cost Advantage**  
**On U.S. Domestic Manufacturing Industries**  
(prepared using USITC COMPAS models)\*

	low	high
<b>10% tariff</b>		
price	-0.1%	-0.7%
output	-1.0%	-3.5%
revenue	-1.2%	-3.9%
employment**		
manufacturing	-143,000	-501,000
total	-182,000	-636,000
<b>43% tariff</b>		
price	-0.7%	-1.4%
output	-3.8%	-6.8%
revenue	-4.6%	-8.1%
employment**		
manufacturing	540,000	973,000
total	690,000	1,235,000
<b>77% tariff</b>		
price	-1.4%	-1.4%
output	-6.1%	-6.8%
revenue	-8.1%	-8.1%
employment**		
manufacturing	873,000	973,000
total	1,108	1,235,000

\*Assumes aggregate demand elasticity between -0.1 and -1.5

Total domestic production for the domestic market:

\*\*Assuming average manufacturing

employment of 14.315 million in 2004

and that ratio of total employment to manufacturing

employment for imports from China equals 1.27,

based on Scott, Robert. 2005. "U.S.-China Trade 1989--2003

Impact on jobs and industries, nationally and state-by-state."

(Washington, DC: Economic Policy Institute). January:

<http://www.epinet.org/content.cfm/wp270>

producers provided 43 percent of goods consumed in the U.S., while domestic producers had a market share of only 48.9 percent. It was also assumed that the weighted average tariff rate on all U.S. imports was 3 percent.

Using the margins listed above, and the reasonable elasticity assumptions specified here, along with the market share information shown in Table 1, the COMPAS model was used to estimate the impacts of the cost advantage provided by the suppression of workers' rights in China. Tables 2 through 4 summarize the results for domestic, other foreign, and Chinese producers of manufactured goods in the U.S. if the implied Chinese cost advantage were eliminated. Table 2 indicates that prices of U.S. domestic manufacturing industries were reduced by 0.1 percent to 0.7 percent, if we assume that China-based producers benefited from a 10 percent cost advantage. Output and employment in domestic manufacturing production would fall by 1.0 percent to 3.5 percent under these assumptions. As a result, domestic employment in manufacturing would fall by 143,000 to 501,000 workers. Total employment, including non-manufacturing workers would decline by 182,000 to 636,000.<sup>450</sup> The total revenues of domestic producers fall by 1.2 percent to 3.9 percent, substantially reducing domestic profits.

Similarly, if China-based producers enjoyed a 43 percent cost advantage, this reduced domestic prices by 0.7 percent to 1.4 percent, reduced output by 3.8 percent to 6.8 percent, and domestic revenues by 4.6 percent to 8.1 percent. Manufacturing employment was reduced by 540,000 to 973,000 workers, and total employment was reduced by 690,000 to 1,235,000 workers. If China-based producers enjoyed a 77 percent cost advantage, this reduced domestic prices by 1.4 percent, reduced output by

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<sup>450</sup> This analysis includes the direct effect of unfair suppression on employment in manufacturing, and the indirect effects on employment in other industries that supply non-manufacturing inputs (e.g. accounting, legal and programming services) to manufacturing industries. As shown in Row N or Table 1, 1.27 total jobs are displaced for each manufacturing job displaced by unfair imports from China in 2003 (latest data available). In other words, .27 jobs in supplier industries are supported by each job supported by trade in the manufacturing industry. This ratio is based on unpublished data from Scott, Robert E. 2005. "U.S. China Trade, 1989-2003: Impacts on jobs and industries, nationally and state-by-state". Washington, D.C. Economic Policy Institute, Working Paper # 270, <http://www.epinet.org/content.cfm/wp270>).

6.1 percent to 6.8 percent, and domestic revenues by 8.1 percent. Employment effects of a 77 percent cost advantage are shown in Table 2.

Other foreign suppliers were also injured by reason of China-based producers' unfair cost advantage. As shown in Table 3, they suffered price reductions of -0.2 percent to -1.4 percent, output reductions of 1.0 percent to 6.8 percent, and revenue reductions of 1.2 percent to 8.1 percent. Since the total number of manufacturing workers employed in other countries is not known, employment impacts cannot be calculated. However, other foreign producers' share of domestic production was similar to the share of U.S producers, so employment impacts were likely similar as well.

**Table 3**  
**Estimated Impacts of Implicit Chinese Labor Cost Advantage**  
**On Other Foreign Suppliers**  
 (prepared using USITC COMPAS models)\*

	low	high
<b>10% cost advantage</b>		
price	-0.2%	-0.7%
output	-1.0%	-3.4%
revenue	-1.2%	-3.9%
<b>43% cost advantage</b>		
price	-0.4%	-1.4%
output	-3.8%	-6.8%
revenue	-4.6%	-8.1%
<b>77% cost advantage</b>		
price	-1.4%	-1.4%
output	-6.8%	-6.8%
revenue	-8.1%	-8.1%

\*Assumes aggregate demand elasticity between -0.1 and -1.5  
 Total domestic production for the domestic market:

Table 4 summarizes the impacts of China-based producers’ artificial cost advantage on China’s domestic producers. Price impacts ranged from -8.1 percent to -27.6 percent or more. It is important to note that for the case in which China-based producers have a 43 percent or 77 percent cost advantage, most of the subject products would be unable to compete but for the labor-cost advantage resulting from the denial of labor rights – in other words, these products would be uncompetitive in the domestic market but for the implicit subsidy. Chinese output of manufactured exports to the U.S. was increased by 29.7 percent to essentially all of China’s exports. In other words, in the “excluded” cases shown in Table 4, China-based producers would not be able to compete in the U.S., were it not for the artificial cost advantage provided by its suppression of labor rights.

**Table 4**  
**Estimated Impacts of Implicit Chinese Labor Cost Advantage**  
**on China-Based Suppliers**  
 (prepared using USITC COMPAS models)\*

	low	high
<b>10% cost advantage</b>		
price	-8.1%	-8.1%
output	29.7%	57.4%
revenue	19.1%	45.6%
<b>43% cost advantage</b>		
price	-27.6%	excluded**
output	189.2%	excluded**
revenue	109.5%	excluded**
<b>77% cost advantage</b>		
price	excluded**	excluded**
output	excluded**	excluded**
revenue	excluded**	excluded**

\*Assumes aggregate demand elasticity between -0.1 and -1.5

Total domestic production for the domestic market:

\*\*In the absence of this cost advantage, Chinese imports would be excluded from the U.S. market.

The estimates generated by the COMPAS model show clearly that the Chinese government's labor repression, and the artificial cost advantage it provides, place a substantial burden on U.S. workers.

Significantly, the range of estimates is consistent with the firm-level database presented in the Commission Study summarized above. As with the firm-level database, the macroeconomic estimates presented in Table 2 are *underinclusive* in at least one respect. The estimates capture only those cases in which U.S. workers lose jobs as a result of production in China for sale in the United States. The estimates do not include cases in which U.S. workers lose jobs as a result of production in China for sale in China's domestic market or in third-country markets. The estimates also rest on the five other, highly conservative assumptions listed in the previous subsection.

*To repeat our results: Even with these five highly conservative assumptions, the Chinese government's repression of labor rights is estimated to displace up to 973,000 manufacturing jobs and 1,235,000 total jobs in the United States. These estimates take full account of the increase in exports to the United States from third-party countries if the Chinese government ceased its persistent denial of workers' rights.*

#### **4. Bilateral Trade Elasticities and Implied Job Changes**

The results obtained from the International Trade Commission model in the previous subsection can be checked against implied job changes derived from estimates of the price elasticities of U.S. imports in bilateral exchange models.<sup>451</sup>

If the price of Chinese imports to the U.S. were to rise by a specified amount, the resulting decrease in the quantity of U.S. imports can be calculated from the price elasticity of U.S. import demand. A given decrease in imports, in turn, corresponds with an implied job change – that is, the change in U.S. employment that results from increased production in the U.S.

There is a long literature in international economics on the responsiveness of import and export flows (the elasticities of import and export demand) to changes in

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<sup>451</sup> The following economic analysis, explaining and applying the ITC model, was undertaken by Josh Bivens, Ph.D., of the Economic Policy Institute, Washington, D.C.

relative prices. One of the most comprehensive studies estimates relative price elasticities for bilateral imports and exports across a large panel dataset containing 21 countries over 20 years.<sup>452</sup> This study is especially useful because it controls for third-country effects in estimating bilateral trade flows. The study finds that the price elasticity of imports ranges between .3 and .8. These numbers are lower than those found in other studies of bilateral elasticities, mostly because they take into account these third-country effects.

*Estimate of Decrease in Chinese Imports to U.S. if the Chinese Government Complied with Workers' Rights.* To obtain an estimate of the decrease in imports to the U.S. that would result from the Chinese government's compliance with workers' rights,

**Table 5: Implied Change in U.S. Manufacturing Jobs from Compliance with Workers' Rights in China**

	imports	exports	trade balance	balance ch	implied jobs change
<b>Current*</b>	\$243,463	\$41,837	\$201,626		
<i>Forecasts based on medium, high, &amp; low estimates of price elasticity of U.S. net exports</i>					
<b>Medium</b>					
<b>10%</b>	\$227,638	\$41,837	\$185,801	\$15,825	183,571
<b>43%</b>	\$175,415	\$41,837	\$133,578	\$68,048	789,355
<b>77%</b>	\$121,610	\$41,837	\$79,773	\$121,853	1,413,496
<b>High</b>					
<b>10%</b>	\$223,986	\$41,837	\$182,149	\$19,477	225,933
<b>43%</b>	\$159,712	\$41,837	\$117,875	\$83,751	971,514
<b>77%</b>	\$93,490	\$41,837	\$51,653	\$149,973	1,739,688
<b>Low</b>					
<b>10%</b>	\$236,159	\$41,837	\$194,322	\$7,304	84,725
<b>43%</b>	\$212,056	\$41,837	\$170,219	\$31,407	364,318
<b>77%</b>	\$187,223	\$41,837	\$145,386	\$56,240	652,383

<sup>452</sup> Tamim Bayoumi, Estimating Trade Equations from Aggregate Bilateral Data, Centre for Economic Policy Research, Discussion Paper No. 1970 (September 1998).

we apply the estimated price increase derived above – ranging from 11.83 percent to 77.35 percent -- to the price elasticity of U.S. imports. In order to present a range of estimated changes in imports, Table 5 sets out estimates based on elasticities of .3, .65, and .8, and on price increases ranging from 10 percent to 43 percent to 77 percent.

*Estimate of Increase in U.S. Jobs if the Chinese Government Complied with Workers' Rights.* The final column in Table 5 presents the “implied job changes” from the import price and quantity effects of labor rights compliance in China.<sup>453</sup> The estimated increases in U.S. jobs range from the most conservative forecast of 85,000 – based on the lowest estimate of import price increases and the lowest estimate of the price elasticity of U.S. imports – to the upper-end forecast of 1,739,688.

The estimates generated by the International Trade Commission model fall within the range of estimates generated by the bilateral trade elasticities. The two methodologies are therefore mutually corroborating. Both methodologies are based on the highly conservative assumptions listed in the previous Subsection. Both control for increased imports into the United States from third-countries. The ITC model yields an estimate of up to 973,000 manufacturing jobs and 1,235,000 total jobs displaced by the Chinese government’s labor repression. The bilateral exchange methodology yields an estimate of up to 1,739,688 jobs displaced. To err on the conservative side, we take the estimate generated by the ITC model as our best estimate.

### **E. The Burden on Displaced Workers and Their Communities**

Workers who lose jobs as a result of import competition have low rates of re-employment. Even before the precipitous loss of manufacturing jobs in the last five years, twenty-five percent of displaced workers in import-intensive industries remained unemployed six months after losing their jobs.<sup>454</sup> Those fortunate enough to find new jobs had difficulty recovering their earnings. Two-thirds earn less on their new job.<sup>455</sup>

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<sup>453</sup> The ratio of changes in implied jobs to changes in value of trade flows is from Rob Scott, “China and the States,” Economic Policy Institute Briefing Paper No. 92 (EPI 2000).

<sup>454</sup> Lori Kletzer, *Job Losses from Imports: Measuring the Costs* (Institute for International Economics (2001) at p. 40.

<sup>455</sup> *Id.*, at Table 3.3.

One-quarter suffer wage losses of more than 30 percent.<sup>456</sup> Manufacturing workers with long tenure suffer particularly high wage losses.<sup>457</sup> During periods of rapid change in the composition of industrial sectors – such as the current period – wage losses are amplified, since workers who shift from one sector to another suffer greater losses than workers reemployed in the same sector.<sup>458</sup>

The effects of job loss, of course, go well beyond the monetary costs of unemployment and re-employment at lower wages, as crushing as those costs may be. Job dislocation is associated with markedly higher rates of heart disease, divorce, depression, and suicide.<sup>459</sup> The distress radiates beyond families, sapping economic and social vitality from communities in ways that can only be fully conveyed in stories that are as many and particular as the workers who have lost their jobs. The story of Pat O'Dell, recounted in the introduction to this petition, is but one.

## **F. Conclusion**

Four different methodologies, using highly conservative assumptions, estimate that the Chinese government's persistent denial of workers' rights displaces as many as 973,000 manufacturing jobs in the United States and as many as 1,235,000 total jobs, and perhaps many more. These estimates plainly suffice to show that the Chinese government's unreasonable trade practices impose a burden on U.S. commerce and warrant an investigation by the USTR under section 302(a) of the Trade Act.

There is no doubt that the impact of those violations on U.S. workers is substantial. Equally important, the estimated impact is a forewarning of the supply shock from China-based production that has yet to be felt. Once that shock is felt, the damage will be irreparable. The Chinese economy is now undergoing the quickest and largest industrialization in world history, underwritten in part by the most comprehensive and

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<sup>456</sup> *Id.*

<sup>457</sup> Duane Leigh, *Assisting Workers Displaced by Structural Change* (Upjohn 1995) at p. 5.

<sup>458</sup> William Carrington, "Wages Losses for Displaced Workers," *Journal of Human Resources* vol. 28 (Summer 1993) at pp. 571-92.

<sup>459</sup> See, e.g., Jefferson Cowie and Joseph Heathcott, eds., *Beyond the Ruins: The Meanings of Deindustrialization* (ILR Press 2003); Louis Jacobson, et al., *The Costs of Worker Dislocation* (Upjohn 1993); Barry Bluestone and Bennett Harrison, *The Deindustrialization of America* ch. 3 (Basic Books 1982).

large-scale violations of workers' rights in the current global economy. The USTR and the President must act immediately to stop the Chinese government's repression of factory workers and prevent further hemorrhaging of U.S. manufacturing caused not by China's legitimate comparative advantage but by violations of internationally recognized workers' rights.

Two years ago, the President rejected the AFL-CIO's first petition. The President did not dispute the overwhelming evidence that China's factory workers are persistently denied internationally recognized worker rights. Nor did the President dispute the fact that the denial of workers' rights in China has adverse consequences for U.S. manufacturing workers and their communities. Instead, the President asserted that he would undertake more effective measures than those demanded by the AFL-CIO.

The record of the last two years is clear. China's factory workers are still denied the right to organize into unions that are independent of the one-party state. They are still barred from striking – or engaging in any other “planned action.” They are denied minimum wages. They are unprotected against child labor, forced labor, and workplace hazards.

Resisting these deprivations, China's factory workers have bravely risen up to assert their rights in increasing numbers. They have gotten no help from our President. The President was silent when forty-six thousand workers in Shenzhen demanded the right to establish an independent union. The President was silent when a thousand riot police in Xianyang ended the longest strike in the history of the PRC – and when police put down tens of thousands of other labor demonstrations, protests, and strikes. The President was silent when countless workers and their family members were beaten, detained, and imprisoned for asserting such basic workers' rights as the right to be paid wages they have earned. The U.S. government was silent when workers in Shenzhen sought elemental rights in desperate appeals such as these:

Come and save us! If we go on like this, we are going to die from being too tired here in Shenzhen where no compassion is shown. We cannot stand it anymore and this is why we write to you, to beg you to come and help us!...We work in a garment factory 14 hours a day, with 65 minutes' rest only for the two meals together....More than 80% of the workers have health problems....We are not very clear about the Labor Law but we heard on the radio that we should work 48 hours a week. In addition, wages are paid very late....All these violations of the

law show, and this is the worst thing, that we are not considered human beings....But the law is there to protect our security, to prevent us being treated as machines, to force the boss to follow moral rules....<sup>460</sup>

These Shenzhen workers petitioned for help from their own government, not from the United States, and surely when change comes to China's factories it will come from the insistence and courage of China's workers. But can there be any doubt that the resounding silence of the United States government, the most powerful actor in the international community, makes their struggle more difficult? Is there any doubt that intensive international scrutiny of China's workplaces, and powerful economic incentives tied to measurable improvements in compliance with workers' rights, would amplify the voices of strikers in Xianyang, protestors in Hebei, and petitioners in Shenzhen?

## **IX. Action by the President and the USTR**

The President and the USTR should take three actions to remedy the extreme deprivation of workers' rights in China:

1. If the Chinese government fails to comply with internationally recognized workers' rights, the President and the USTR should impose all available WTO-consistent trade remedies to induce the Chinese government and global corporations to fully recognize and safeguard those rights. Every six months, the USTR should assess whether the Chinese government is in full compliance with internationally recognized workers' rights and should adjust the remedies accordingly.

2. If China fails to comply with internationally recognized workers' rights, the President and the USTR should negotiate a binding WTO-consistent agreement with the Chinese government that commits that government to fully cease its denial of workers' rights. The agreement should specify (a) precise indicators of compliance with workers' rights in China, (b) a transparent and rigorous method of verification of those indicators of compliance, to be implemented by the International Labor Organization, and (c) a plan for incrementally relaxing the trade remedies as the Chinese government achieves

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<sup>460</sup> Isabelle Thireau and Hua Linshan, "One Law, Two Interpretations," in Neil Diamant, et al., *Engaging the Law in China* (Stanford 2005) at p. 99.