

Petition

This petition requests that action be taken under section 301 of the Trade Act of 1974, as amended.

I. Introduction and Summary

A. The Linked Fate of Workers in the United States and China

Although they are half a world apart, factory workers in China and the United States face some surprisingly common problems. In both countries the real wages of most manufacturing workers have stagnated and job security has diminished in the last decade, even while manufacturing productivity has increased rapidly. The problems are not only similar. They are linked. Global corporations from Wal-Mart to Proctor & Gamble to Delphi to Dell relentlessly squeeze labor costs in their Chinese affiliates and suppliers and use the threat of low-wage competition to roll back decades of hard-won gains in wages, benefits, and dignified treatment for workers in the United States. The severe exploitation of China's factory workers and the contraction of the American middle class are two sides of a coin.

Just as the petitioners AFL-CIO and U.S. Representatives Cardin and Smith use every legal tool at their disposal to fight domestically for the rights and wellbeing of United States workers, the linked fate of all manufacturing workers in today's harsh global economy dictates that we also use every legal tool to assist workers in other countries. Section 301(d) of the Trade Act is one such tool. Indeed, Congress enacted that law precisely to deter a low-road economic strategy in which global corporations play off workers in lower-wage economies against workers in higher-wage economies.¹ More specifically, Congress understood that corporate complicity in the denial of workers' rights overseas also damages the rights and wellbeing of workers at home. This petition seeks to enforce Congressional intent. Through this petition and many other domestic and international initiatives, the petitioners aim to assist workers in all countries, including Chinese workers, who struggle courageously and often against great odds to be treated with basic dignity and justice.

¹ See Section IV of this petition.

B. Two Years after Rejecting the AFL-CIO's First Petition, the President Has Failed to Advance the Rights of China's Factory Workers

On March 16, 2004, the AFL-CIO filed a petition under section 301, demonstrating that the persistent denial of basic workers' rights in China's export factories has severe adverse consequences for China's workers and for manufacturing workers in the United States. The petition demanded that the President impose WTO-consistent trade remedies against manufactured goods exported from China to the United States market, so long as the Chinese government failed to comply with internationally recognized workers' rights. The trade remedies would create powerful, positive incentives for corporations and the Chinese government to improve the plight of China's workers – since the measures would be incrementally lifted as China's workers gained the basic rights endorsed by the international community. For this reason, the trade remedies would not be “protectionist” but would rather be a remedial tool to assist Chinese workers who struggle for fundamental human rights.

On May 10, 2004, the President denied the petition.² The President did not dispute the AFL-CIO's voluminous documentation that the basic rights of China's export workers are persistently denied and that workers in the United States are adversely affected. The President nonetheless rejected the positive economic incentives proposed by the AFL-CIO on the ground that the Administration was undertaking unspecified “efforts” that would more effectively secure the rights of China's factory workers.³

Two years have passed since the President asserted that his efforts would do more for China's workers than the economic incentives proposed by the AFL-CIO. The President has nothing to show for his assertion, as this petition fully documents.

One month after the President's assertion, the U.S. Department of Labor signed Letters of Understanding with the Chinese government, promising “cooperation” in occupational safety and in wages and hours regulation.⁴ The Letters of Understanding

² As a formal matter, the AFL-CIO's petition was reviewed and denied by the United States Trade Representative (USTR). Since the USTR is an agent of the President in the conduct of his Executive responsibilities, we refer interchangeably to the President and the USTR in this petition.

³ 69 Fed. Reg. 26205 (May 11, 2004).

⁴ U.S. Department of Labor, “The U.S. Department of Labor and The People's Republic of China Signed Four Joint Letters of Understanding” (June 21, 2004). The letters included two Letters of Understanding

carefully avoided any commitments for actual changes in China's labor laws and policies which deny workers' rights. To the contrary: The United States pledged to "fully respect the national laws and legal provisions" of China. This is an astonishing promise, in light of the President's assertion, just one month earlier, that his alternative "efforts" would in fact change those very laws. The Letters of Understanding therefore turned section 301 on its head: Instead of negotiating a bilateral agreement to change the Chinese government's unreasonable trade practices as directed by section 301, the United States government signed bilateral agreements pledging to "fully respect" those practices.

Even apart from the executive branch's startling pledge to the Chinese government, the timing of the President's assertion that he was undertaking alternative "efforts" was not auspicious. According to the U.S. State Department, the Chinese government had just

announced that it was suspending its human rights dialogue with the United States in reaction to the U.S. decision to table a resolution critical of the country's human rights record at the U.N. Commission on Human Rights 2004 session. The U.S. did not agree to schedule a new round of dialogue with China because of the lack of sufficient concrete results from the last round, held in December 2002. The Government also terminated some legal reform cooperation with the United States and U.S.-supported organizations.⁵

Seven months after the President rejected the AFL-CIO's first petition, the Chinese government abruptly cancelled an international conference on the monitoring of workplace conditions.⁶ In its 2005 Annual Report, the Congressional-Executive Commission on China concluded bluntly that "the Chinese government has avoided discussions with the international labor community on Chinese workers' rights."⁷ This is not surprising, in light of the United States government's promise to the Chinese

Between the Department of Labor of the United States of America and the State Administration of Work Safety of the People's Republic of China (June 21, 2004), and one Letter of Understanding Between the Department of Labor of the United States of America and the Ministry of Labor and Social Security of the People's Republic of China (June 21, 2004). A fourth letter addressed cooperation on pension program oversight, a subject not covered by section 301 and the first AFL-CIO petition. Letter of Understanding Between the Department of Labor of the United States of America and the Ministry of Labor and Social Security of the People's Republic of China (June 21, 2004).

⁵ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2004: China (February 28, 2005).

⁶ Congressional-Executive Commission on China, 2005 Annual Report.

⁷ Id.

government that the United States would “fully respect” the very laws that violated workers’ rights.

Far from achieving improvement in the two fields of “cooperation” promised in the Letters of Understanding – health and safety, and wages and hours -- there has been deterioration in those areas, as this petition shows in detail. *Rates of illness and injury have never been higher in China’s manufacturing sector* -- as officials of China’s own Work Safety Administration conceded as recently as February, 2006.⁸ *Aggregate unpaid wages have risen to record levels*, setting off thousands of illegal demonstrations, labor shortages, and increased child labor – as adult workers increasingly refuse to accept such injustice. Workers who merely petition for payment of their wages are *increasingly met with violence by security police* and other local officials.⁹

In any event, the Letters of Understanding did not so much as mention the persistent denial of workers’ right to assert their grievances through exercise of *free association and collective bargaining* – the fundamental rights which, if secured, could enable China’s workers to protect their other workplace rights and interests. In the two years since the President rejected the AFL-CIO’s first petition, the suppression of labor demonstrations and all other “planned worker actions” has been “severe,” “swift,” and “violent.”¹⁰ Indeed the State Department itself reports that in 2004 and 2005 the Chinese government *increased* its already stringent controls and harassment against international monitoring of rights in China, and *increased* its already comprehensive repression of autonomous labor organizations – just the opposite of President Bush’s assertion that international monitoring would become increasingly effective.¹¹

Since the President’s sole legal ground for rejecting the AFL-CIO’s proposed remedies has now been negated by two more years of needless suffering by China’s

⁸ Reported in Cao Dsheng, “Diseases at Work Haunt Migrant Workers,” China Daily (February 17, 2006).

⁹ A recent survey found that police and other agents of the state violently retaliate against fifty percent of petitioners. Human Rights Watch, ‘We Could Disappear at Any Time’: Retaliation and Abuses Against Chinese Petitioners (December 2005) (citing study by Professor at Chinese Academy of Social Sciences).

¹⁰ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2005: China (March 8, 2006).

¹¹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2004: China (February 28, 2005); U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2005: China (March 8, 2006).

factory workers, the Trade Act leaves the President no choice but to take the effective actions that he rejected two years ago.

In addition, the last two years have highlighted (a) that the nearly total lack of transparency in China's workplaces obstructs accurate measurement and verification of compliance, and (b) that multinational corporations are fully complicit in the denial of basic workers' rights in their China-based affiliates and contractors. For these reasons, it is essential that the President implement a comprehensive program of disclosure and reporting about wages, hours, and other working conditions in the China-based affiliates and contractors of U.S. corporations. We therefore demand such a program of corporate disclosure, as detailed in Part IX of this petition.

C. The Denial of Workers' Rights in China's Factories: An Overview

Each year, millions of Chinese citizens travel from impoverished villages to take industrial jobs in China's export factories. Most are young and a large proportion are female. They go in search of wages to support themselves and supplement their families' rural income. They join an enormous submerged class of temporary factory workers denied full citizenship rights by the legacy of China's system of household registration.¹² Purported recent "reforms" to the Chinese government's control of internal migration have not altered that fundamental fact – according to all serious, independent analysts, as well as the Bush Administration itself.¹³ In October, 2005, the Western press gave much attention to the Ministry of Public Security's announcement that it was considering proposals to reform the system of internal migration – even though no actual proposal was put before the State Council.¹⁴ Almost no attention was paid when, one month later, the Ministry quietly rejected the idea, under intense pressure from provincial and local party officials and corporations that profit from the cheap labor system.¹⁵ In its most

¹² See Sections V and VI-B of this petition, below.

¹³ See Sections V and VI-B of this petition, below.

¹⁴ E.g., Joseph Kahn, "China to Drop Urbanite-Peasant Legal Differences," New York Times (November 3, 2006).

¹⁵ "Rural-Urban Split Remains," The Standard (November 28, 2005) (local pressure causes "quiet shelving" of any plans to allow ruralites to claim residency in cities and obtain urban household registration).

recent report on human rights in China, the U.S. State Department concludes concisely that the migrant factory workers remain “easy to exploit.”¹⁶

As recounted in the stories told below in Section I-E, when migrants enter the factory system they often step into a nightmare of twelve-hour to eighteen-hour work days with no day of rest, earning meager wages that may be withheld or unpaid altogether. The factories are often sweltering, dusty, and damp. Workers are widely exposed to chemical toxins and hazardous machines, and suffer sickness, disfiguration, and death at the highest rates in world history. They live in cramped cement-block dormitories, up to twenty to a room, with each worker’s space limited to a bed in a two-tiered bunk – comparable in space, discomfort, and privacy to prison cells in the United States. They typically face militaristic regimentation, surveillance, and physical abuse by supervisors during their long day of work and by private police forces during their short night of recuperation in the dormitories.¹⁷ Ten to twenty million workers in China are children. No one knows the precise number, because statistics of that kind are state secrets, and anyone disseminating such data is subject to criminal punishment. Another one to six million are detained without fair trial and forced to labor in China’s prison system, under threat of violence and torture.

Under legal regulations that have created deeply entrenched social norms, migrant workers are not permitted to seek better-paying jobs reserved for privileged urban residents, and are denied basic public services and civil rights. If they assert their rights, they may be detained or sent back to the countryside, or worse. Attempts to organize unions or to strike are met with discharge, denial of accrued wages, brutalization by riot police, summary detention, long-term imprisonment, and in some cases torture. Those who are enmeshed in bonded labor can leave their factory jobs only at great cost and peril, no matter how abusive the employer.

Migrant workers have minimal access to China’s legal system which, in any event, is pervasively corrupted by the local Party officials who extract personal wealth from

¹⁶ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2005: China (March 8, 2006).

¹⁷ The working conditions summarized in this paragraph are described at length in Section VI of this petition. Some multinationals operating in China, under pressure from labor and consumer activists, have showcase factories that are well-lit and ventilated. But the vast majority of foreign-invested enterprises (FIEs) in China, as well as domestically owned enterprises, have no safety or health controls whatsoever.

factory revenue. As a result, their courageous resistance and protest are often expressed in desperate acts of violence. The high rate of attempted public suicide among migrant factory workers is a shocking indicator of workers' desperation.¹⁸ Three months after President Bush denied the AFL-CIO's first petition, twenty-three workers from Heilongjiang Province threatened mass suicide from the roof of a building near the Supreme People's Court in Beijing when their peaceful petitions for compensation led nowhere. They were imprisoned, and workers traveling to Beijing to support them were arrested.¹⁹

The Chinese government's unremitting repression of labor rights robs China's workers of wages, health, and dignity. By lowering wages by between 47 and 85 percent,²⁰ the Chinese government's labor repression also diverts millions of manufacturing jobs from countries where labor rights are not so comprehensively denied, increasing unemployment and poverty among workers in developed and developing countries.

Most serious empirical studies of the Chinese labor market conclude that real wages have fallen or remained flat for the majority of China's factory workers in the last fifteen years, even if there has been a modest increase for certain categories of skilled and technical workers in the last four years.²¹ Whether wages have fallen, remained flat, or (for a minority) risen modestly, there is no question that wages have not kept pace with rapid increases in productivity. Nor have actual factory wages risen in tandem with average urban incomes, even though central government directives mandate increases in minimum wages that match the percentage increases in average urban incomes.

Recent, optimistic journalistic reports that minimum wage standards have risen in China's big cities in the last two years ignore at least four fundamental facts: (1) real wages have risen for certain categories of skilled, technical, and managerial workers, but not for the majority of ordinary factory workers; (2) the actual pay of most factory workers remains below minimum wage standards set by local governments, (3) local minimum wage standards themselves are below central government directives, and (4) in

¹⁸ See Sections V and VI of this petition, below.

¹⁹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices 2004: China (February 28, 2005).

²⁰ See Section VIII of this petition, below.

any event, the majority of China's factory workers are located outside the big cities where local minimum wage standards have risen, and factories are increasingly moving to the lower wage areas outside those big cities.

The purported labor shortage faced by some big-city factories has not led to predicted, large increases in wages for the vast majority of factory workers -- precisely because global corporations continue to squeeze China-based suppliers to reduce costs, and workers lack the basic rights to bargain for substantial increases. The (locally confined) labor shortages are the *result* of poor labor conditions, not the *cause* of improved conditions.

Equally important, even accepting the rosy assumption that actual factory wages have risen 10 percent a year for the last two years, *the percentage wage reduction caused by the denial of basic workers' rights remains as large in 2006 as it was in 2004.*²²

Highly conservative methodologies show that China's labor repression displaces approximately 1,235,000 jobs in the United States alone, and perhaps many more.²³ This remains true, even assuming that China's factory wages have risen 10 percent in each of the last two years.

China's current level of investment in new factories is unprecedented and will deliver an even greater supply shock to global industry in the next decade, producing even greater losses in U.S. manufacturing jobs and wages -- unless the President takes the decisive action he rejected two years ago. Developing countries such as Bangladesh and Indonesia stand to lose as many as one million manufacturing jobs to China, and Central American and the Caribbean may lose up to one half million jobs, in the textile and apparel sector alone.²⁴

China's workers, of course, are not to blame for the consequences of corporate managers' and government officials' failure to comply with fundamental workers' rights. To the contrary, workers in all countries have a common interest in promoting the human rights and working conditions of China's factory workers.

²¹ See Section VI-C of this petition, below.

²² See Section VI-C of this petition, below.

²³ See Section VIII of this petition, below.

²⁴ United Nations Development Program data, and ITGLWF data, reported at International Textile Garment and Leather Workers Federation (January 23, 2004) at www.itglwf.org.

Nor is this petition targeted against “free trade” or against China’s “comparative advantage” in global markets. Rather, this petition challenges the *artificial* and *severe* reduction of China’s labor costs below the baseline of comparative advantage defined by standard trade theory. Labor costs in China’s factories are reduced by a system of corporate and government-engineered labor exploitation on a scale that is unmatched in the present global economy. U.S. and other multinational corporations are fully complicit in the abuse of Chinese workers.

As this petition details, the regimentation of China’s young migrant factory workers has some elements that are similar to the control of black workers in apartheid-era South Africa.²⁵ Both systems use internal controls that prevent workers from moving their permanent residence from impoverished villages to factory towns and cities. Both systems subject temporary migrant workers to extreme deprivation of workplace and social rights. Both systems turn ordinary workers into highly exploitable outcasts in their own country. It is not exaggeration or condescension to call China’s factory workers a “subclass.” Han Dongfang, the now-exiled leader of the independent workers’ movement during the Tiananmen uprising of 1989, uses the same vocabulary.²⁶

The dark side of China’s “economic miracle” is that factory workers’ real wages have stagnated or risen only modestly, pension and medical benefits have vanished, job security has deteriorated, and urban unemployment and poverty have risen, even while manufacturing productivity and gross domestic product have risen dramatically. These trends result in part from factories’ wholesale replacement of better-paid urban residents with lower-paid migrants who are much more easily exploited for the reasons summarized above.²⁷ This process of replacement will continue for many years, and factory wages will continue to be artificially suppressed – unless China’s factory workers are afforded such basic rights as free speech and free association, enabling them to protest, unionize, and bargain for their fair share of China’s growing wealth.

²⁵ This similarity is detailed in Section V of this petition, below. Many scholars and human rights organizations have drawn this parallel. See note 100, below.

²⁶ See, e.g., China Labor Bulletin, “High Cost of Wage Recovery Deepens Sense of Futility in Legal Route” (November 10, 2005).

²⁷ See William Ward, “Manufacturing Productivity and the Shifting US, China, and Global Job Scenes – 1990 to 2005, Clemson University Center for International Trade Working Paper 052507 (August 4, 2005).

These developments seem inexplicable to free-market economists who cannot put aside their fantastical assumption that China's labor regime operates like an idealized competitive market, and who are mesmerized by the new wealth of China's urban managerial and technical class. Western economists' fascination with the urban wealth of cities like Shanghai and Beijing ignores the fact that the majority of China's factory workers labor in rural towns and villages, albeit typically not the villages where the workers' household is permanently registered. In any event, there is no competitive labor market in China's factory system, let alone rights of unionization, to ensure that workers' earnings grow with their productivity. The vast majority of factories refuse to pay one or more months of wages that are earned each year, and China's workers lack the means to enforce even this most basic right of a competitive labor market – the right to be paid.

D. Overview of this Petition

U.S. Representatives Cardin and Smith and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) – whose constituent unions represent more than nine million workers in the United States, including more than two million manufacturing workers -- file this petition under sections 301 and 302 of the Trade Act of 1974, as amended, seeking action by the President to end the Chinese government's unremitting repression of the rights of its manufacturing workers.

Section 301(d) of the Trade Act provides that a trading partner's persistent denial of workers' internationally recognized rights constitutes an unreasonable trade practice.²⁸ These basic workers' rights include: freedom of association; the right to bargain collectively; freedom from compulsory labor; freedom from child labor; and standards for minimum wages, hours of work, and occupational safety and health. This petition shows that the People's Republic of China (PRC) persistently denies these rights.²⁹

Section 301(b) authorizes the USTR and the President to take all appropriate and feasible action to end China's repression of workers' rights, if that repression burdens or

²⁸ 19 U.S.C. § 2411(d). The relevant statutory language is set forth in Section III of this petition, below.

²⁹ China's persistent denial of these rights is detailed in Section VI of this petition. The impact of these violations is worsened by China's overall suppression of free labor markets, through the system of internal migration controls that denies basic civil and political rights to manufacturing workers.

restricts United States commerce.³⁰ The Chinese government's repression of workers' rights burdens United States commerce by lowering the costs of China-based production and displacing more than a million United States workers.³¹

Congress first mandated that our trading partners enforce workers' internationally recognized rights in the mid-1980s.³² One explicit goal of Congress was to implement the Universal Declaration of Human Rights of 1948, which declares that unionization, employment, and adequate wages are fundamental human rights.³³ Even before the dramatic acceleration in the flow of manufacturing jobs to China in the last few years, Congress had concluded that "[t]he lack of basic rights for workers" in developing countries is "a very important inducement for capital flight and overseas production by U.S. industries."³⁴

Congress also recognized that the denial of workers' fundamental rights distributes the benefits of economic growth to "narrow privileged elites,"³⁵ thereby "retarding economic development."³⁶ Congress was right. Econometric analysis of cross-country data for a large sample of economies in the 1980s and 1990s confirms that the denial of labor rights reduces wages and economic growth, increases inequality, and hampers democratic development.³⁷

³⁰ 19 U.S.C. § 2411(b)(1), (2).

³¹ Section VIII of this petition, below, calculates the burdens on United States commerce that result from China's persistent denial of the workers' rights enumerated in section 301.

³² In 1984, Congress required that developing countries comply with internationally recognized labor rights as a precondition to receiving special trade benefits under the Generalized System of Preferences. 19 U.S.C. § 2461. In 1985, Congress required such compliance as a precondition to providing insurance to U.S. investors in foreign countries under the Overseas Private Investment Corporation Amendment Act of 1985. 22 U.S.C. § 2191. In the Omnibus Trade and Competitiveness Act of 1988, Congress amended section 301 the Trade Act of 1974 to impose similar conditions on all U.S. trading partners. P.L. 100-418, Title I, Subtitle C, Part I, § 1301, 102 Stat. 1164 (1988).

³³ H. Rep. No. 98-1090 (1984) (Ways and Means Committee) at p. 12, reprinted in 1984 U.S.C.C.A.N. 5101, 5112 (enacting labor rights provisions of the Generalized System of Preferences, a forerunner to the labor rights provisions of the Trade Act amendments of 1988).

³⁴ 130 Cong. Rec. E978-79 (March 14, 1984) (statement by congressional sponsor of workers' rights provision in Generalized System of Preferences).

³⁵ 130 Cong. Rec. E978 (March 14, 1984) (statement by congressional sponsor of workers' rights provision in GSP).

³⁶ H.Conf.Rep. No. 99-428 (1985) at p. 12 (conference report accompanying Overseas Private Investment Corporation Amendment Act of 1985, requiring foreign countries to enforce basic labor rights as a precondition to providing U.S. governmental insurance to investors), reprinted in 1985 U.S.C.C.A.N. 2583, 2584.

³⁷ Thomas Palley, "The Economic Case for International Labor Standards: Theory and Some Evidence," AFL-CIO Public Policy Department Economic Policy Paper E036 (1999); Thomas Palley, "Labor

The denial of workers' rights by the Chinese government and corporations operating in China is encouraged by a system of world trade and finance that fails to enforce minimum standards of decency at work. Low-wage countries compete for mobile capital. Even if political elites wish to raise the labor standards of their people, they face extreme pressure not to do so, in the absence of global standards that ensure that their competitors will do the same. Like the discredited laissez-faire regimes of the nineteenth century,³⁸ today's global rules protect rights of property, contract, and capital but not fundamental rights of personhood, community, and labor. Section 301(d) embodies an alternative model, in which human and social rights are the necessary precondition to democratic and equitable development.

The Chinese government has signed many international agreements requiring it to enforce workers' rights.³⁹ In the absence of material incentives to live up to its commitments, the Chinese government has broken them, with the complicity of corporations having affiliates and contractors in China. It is therefore appropriate that the USTR pursue all available WTO-consistent remedies against the Chinese government if it fails to come into compliance with workers' rights.

The purpose of the trade remedies is not protectionist -- the petition does not seek permanent, protectionist tariffs. The trade remedies are, rather, intended to bring about positive change for China's workers and to ensure that global competition is fair for workers everywhere. In this spirit, if the Chinese government fails to come into compliance, the USTR should also negotiate a binding, WTO-consistent agreement with the Chinese government, specifying incremental decreases in the remedies if the Chinese government increasingly complies with workers' rights, measured by specific and verifiable indicators. Every six months after entering into the agreement, the USTR should assess if the Chinese government is in full compliance with workers' rights, and

Standards, Economic Governance, and Income Distribution: The Cross-Country Evidence," AFL-CIO Public Policy Department Economic Policy Paper (2004).

³⁸ Today's global race to the bottom is precisely analogous to the domestic deadlock among the sister states of the United States, prior to the implementation of nationwide labor rights in the 1930s. Congress and the Supreme Court recognized that states wishing to protect labor standards are fearful of acting, without assurance that sister states will do the same. More specifically, their fact-finding concluded that capital and jobs move across borders to states with the lowest labor standards. When Congress enacted federal labor rights, the Supreme Court acceded and ended the laissez-faire constitution that protected rights of property and contract but not labor. *U.S. v. Darby*, 312 U.S. 100 (1941).

³⁹ See Section VI-A of this petition, below.

adjust remedies accordingly. To ensure that the Chinese government's compliance with workers' rights can be verified and to diminish corporations' resistance to compliance, the President should also mandate the disclosure of wages, hours, and working conditions of China-based affiliates and contractors of U.S. corporations, as detailed in Section IX of this petition.

If the Chinese government and China-based corporations fully protect the basic rights of China's workers, they can enjoy normal access to United States markets *and* create jobs that are not an affront to human dignity. In this sense, the remedy demanded by the petitioners is a classic, market-based incentive – imposing a tax on noxious conduct, relaxing the tax when the conduct improves, and mandating transparency to ensure that improvement is verified.

Two years ago, the President denied the AFL-CIO petition that made similar demands. The President did not dispute the petition's voluminous evidence that workers' rights are persistently denied in China's factories and that the consequent reduction in labor costs has a significant adverse effect on employment and wages in the U.S. manufacturing sector. The President instead denied the petition on the ground that other "efforts" would better remedy the damage to Chinese and United States workers.

The record of the past two years is conclusive. The President's ostensible efforts are a manifest nullity. As documented at length in this petition, the President's policies toward China have been utterly ineffective in encouraging global corporations and the Chinese government to comply with fundamental workers' rights. As recounted above in Section I-B, just one month after rejecting the first petition, the executive branch of the United States government pledged that it would "fully respect" the very laws of the Chinese government that violated workers' rights. Against the backdrop of that astonishing pledge, international monitoring and international dialogue over the enforcement of rights in China have diminished. Enforcement of wage and hour rules and health and safety standards has worsened. Increasing numbers of labor protests have been repressed. Child labor is on the rise in the manufacturing sector, as factories seek more pliable, cheap workers. Forced labor in the penal system, including forced labor for export, continues in defiance of the international community. Hence, the sole legal basis for the President's rejection of the petitioners' demands is negated. The Trade Act

therefore requires, as a matter of Congressional mandate, that the President implement those demands.

E. The President's Failure to Act – Six Stories

1. A story of one strike in Xianyang, China. Four months after the President asserted that he was undertaking effective “efforts” to improve the lot of China’s workers, nearly seven thousand workers, mostly young women, launched a strike in Shaanxi province against the Xianyang Huaran textile factory, newly acquired by a Hong Kong-based conglomerate. The workers demanded rights that are routinely unenforced in China even though promised on paper by China’s employment laws, including the basic right to a contract of employment. Han Dongfang, the renowned leader of worker protests during the Tiananmen uprising of 1989, lent his strategic support from his exile outside the Mainland.⁴⁰

A prominent Beijing attorney traveled to the factory to advise the workers about establishing a factory-level union affiliated with the government-controlled All China Federation of Trade Unions (ACFTU), in accordance with China’s Trade Union Law. Upon his arrival, the Public Security Bureau arrested the attorney on the ground that it was “forbidden to provide legal advice to Chinese workers.” When the police threatened him with grave criminal prosecution for “endangering state security,” he “voluntarily” withdrew from the case.⁴¹

Alarmed by workers’ initiative in organizing a union, peacefully striking, and seeking to bargain, the Xianyang city government, the Shaanxi provincial government, and the ACFTU itself closed ranks against the workers -- notwithstanding that the workers sought to lawfully establish their own factory-level affiliate of the ACFTU. After holding out for seven weeks, the strike was quashed by one thousand riot police. Twenty strike leaders were arrested.

Courageous protests by China’s workers and the violent repression of such protests are increasingly common. The estimated number of industrial conflicts rose

⁴⁰ China Labor Bulletin, “The Xianyang Textile Workers Strike” (undated).

⁴¹ *Id.*

from 154,621 in 2001 to some 300,000 in 2005.⁴² In 2005, there were more than 1,000 strikes in plants with more than one hundred workers in the province of Guangdong alone.⁴³

The strikes and protests continue this year. On February, 10, 2006, one thousand women workers in Shandong struck in protest of wages less than 15 cents per hour and were threatened with mass discharge.⁴⁴ On April 3, 2006, riot police in Shenzhen violently dispersed three thousand workers who peacefully protested work weeks of eighty-four hours without overtime pay and beatings by factory supervisors and security guards.⁴⁵ These are but two examples of the innumerable worker protests that convulse China's factories each week and each month.

But the Xianyang strike in the autumn of 2004 was remarkable in its scale, duration, and tactics. It may be "the longest recorded industrial action in China's post-1949 history,"⁴⁶ and the workers sought creatively – albeit in vain -- to work within the tight strictures of the government-controlled ACFTU.

What is especially notable from the standpoint of this petition is the U.S. government's utter silence, indeed obliviousness, in the face of such a landmark instance of workers' exercise of free association and such vivid and violent repression of that freedom. The story of the Xianyang strike shows the emptiness of the President's promise to take effective action on behalf of Chinese workers.

Imagine instead that prior to the strike the President had implemented the AFL-CIO's demand that, if the Chinese government fails to comply with workers' rights, the U.S. government impose WTO-consistent trade remedies against Chinese exports and that those remedies be incrementally relaxed when China meets verifiable benchmarks of compliance with workers' rights. The Xianyang workers still might not have succeeded in forming their own union and in peacefully bargaining with their employer – but there

⁴² Antoaneta Bezlova, "China: Grappling With the Dragon of Labour Unrest" Inter Press Service News Agency (April 7, 2006). These estimates are necessarily rough, in part because it is a crime in China to report on labor disputes.

⁴³ The Business Online, "China's Export Factories Hit by Labour Troubles" (February 5, 2006). This number is a rough estimate. It is a criminal violation of China's state secrets regulations to publish statistics about labor disputes.

⁴⁴ China Labor Bulletin, "Over 1,000 Textile Workers in Shandong Strike Against Low Pay" (February 28, 2006).

⁴⁵ China Labor Bulletin, "3,000 Workers Protest Inhumane Treatment" (April 4, 2006).

⁴⁶ China Labor Bulletin, "The Xianyang Textile Workers Strike" (undated).

is no doubt that their efforts would have been significantly aided by the international scrutiny and powerful economic incentives demanded by the AFL-CIO's first petition, as well as by this petition.

2. A story of one factory closing in Fremont, California. Occupational safety and health rules are notoriously unenforced in China.⁴⁷ Indeed, it is a criminal violation of China's state secrets regulations to report on safety and health (and other labor topics) without government authorization.⁴⁸ United States manufacturers often move their production to China to evade the higher labor standards enforced in the United States – notwithstanding that the United State government is increasingly lax in enforcing domestic workers' rights. "One glaring example of this practice is the semiconductor manufacturer AXT, Inc,"⁴⁹ which closed its Fremont, California factory shortly after the President rejected the AFL-CIO's first petition. The workers at the California factory were themselves Chinese immigrants. The following account of AXT is from a Cornell University study on corporations that close United States plants and move the work to China:

"AXT has been in the process of transferring all of its manufacturing, engineering, and R&D from Fremont, California to China since 2001. Before its move to China, [the AXT workforce] produced gallium arsenide wafers, made from an easily inhaled compound that turns to arsenic in the body. In 2000, U.S. government investigations found that, although AXT management knew that employees were being exposed to up to thirty-one times the permitted amount of arsenic, they did little or nothing to remediate the situation. Ventilation systems were found to be in disrepair, and proper procedures for decontamination were not followed, potentially exposing the workers' families to the toxin as well.

"Many former AXT employees developed cancer and other ailments. Employees were not given protective gear or trained in proper procedure for handling arsenide. At least one employee, after being forced to work without protection through her ninth month of pregnancy gave birth to a child with severe birth defects. After the 2000

⁴⁷ See Section VI-D below.

⁴⁸ See Section VI-A below.

investigation, AXT was issued forty-two citations by the State Division of Occupational Safety and Health (Cal-OSHA), which subsequently issued a fine to AXT. However, the company chose to fight the fines in court, and when AXT met with Cal-OSHA representatives in 2001, the company announced it would begin to transfer production to China. More than five hundred workers lost their jobs and remain uncompensated for health problems. As of July 21, 2004, the company was wrapping up business in Fremont. Now AXT will be able to expose workers to the same toxic chemicals without fear of OSHA investigations or media exposes.”

3. A worker’s story in Cedar Rapids, Iowa. On March 3, 2006, President Bush said, “People do lose jobs as a result of globalization....[L]et’s make sure people are educated so they can find – fill the jobs of the 21st century....People in American should, I hope, maintain their confidence about the future.”⁵⁰

Forty-six year old Pat O’Dell had a well-paying job at the Goss printing press factory in Cedar Rapids, Iowa, until the corporation moved its work to China. Here is the story of his struggle to “fill the jobs of the 21st century”:

“The hand-lettered sign on Pat Odell’s snow-covered lawn is testament to a man who’s trying to reinvent himself.⁵¹ Snow-shoveling, it reads. Light construction. Just call – cell phone or land line, it doesn’t matter. Just call. Up until two years ago, Odell had a good-paying job with full benefits making printing presses at the Goss factory in town. Then one day, Goss padlocked the gates of its factory and announced that its operations were moving to China.

“Now Odell’s shoveling snow at \$25 a pop, doing light construction work when he can and praying he doesn’t hurt himself because he no longer has any health insurance....[Odell is a member of Local 831 of the International Association of Machinists.] Layoffs and plant closings have trimmed membership [in the Local] from 2,800 in 2000 to 700 today. ...

⁴⁹ This account is taken verbatim from 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).

⁵⁰ Peter Wallsten, “Bush Tackles Outsourcing Issue,” Los Angeles Times (March 4, 2006).

⁵¹ This account is taken verbatim from Lori Aratani, “Campaign 2004/Trade,” Miami Herald (January 25, 2004) at p. L2.

“[F]ewer than half of those who’ve lost jobs have found new ones. Those who have work for less than half of what they made before, often with no medical or retirement benefits. ...[Odell] landed at Goss in 1985 on the advice of a cousin who worked there and told him it was a place that offered good pay and benefits. Odell, a man who appreciates muscle cars and a good fishing spot, figured he was set for life.

“Now unemployed, his savings drained and his retirement gone, he’s trying to find work. It bothers him that the jobs he’s eligible for pay only what he made when he started out more than 20 years ago, but he doesn’t have much of a choice.”

4. The death of child laborers in Hebei, China. *The following report recounts violations of child labor, minimum wage, maximum hours, and forced labor standards, and police violence against peaceful demonstrators. It tells of the death of five child laborers at a factory in Hebei province – eight months after the President asserted that he would undertake effective action to improve workers’ rights in China. The children were asphyxiated after they started a coal fire to keep warm in their unheated, unventilated factory in mid-winter. The children worked seven days a week, twelve hours per day. They were not paid for their work. Because their pay was withheld altogether, they could not quit. And when the parents of the dead children joined seventy other families protesting child labor, they were detained, deprived of food, and assaulted in a local “welfare” station, formerly called a “custody and repatriation center.”⁵² Chinese government officials prevented local reporters from covering the story, which was reported only in May, 2005, by Human Rights in China, a New York-based organization.*

“Christmas was just two days away and snow was falling when the five factory girls finished their shift.⁵³ They'd been working for 12 hours, it was already after 1 a.m....One of them ran out to grab a bucket and some burning coal. The room warmed slightly. They drifted off to sleep. The next morning, none of them woke up. They had been poisoned by the fumes. But their parents believe at least two of the girls died much

⁵² See China Labor Bulletin and Human Rights in China, “Cover-up of Child Labor Deaths in Hebei,” (March 2, 2005).

⁵³ This narrative is taken from Ching-Ching Ni, “China’s Use of Child Labor Emerges from the Shadows,” Los Angeles Times (May 13, 2005).

more horrible deaths. They charge that the owner of the canvas-making factory was so impatient to cover up the fact that three of the unconscious workers were underage that he rushed the girls into caskets while some were still alive.

"‘You see the damage on the corner of the box, the bruises on the side of her head, and the vomit in her hair?’ said Jia Haimin, the mother of 14-year-old Wang Yajuan, pointing to pictures of her daughter lying in a cardboard casket stained with vomit and appearing to show evidence of a struggle. ‘Dead people can’t bang their heads against the box. Dead people can’t vomit. My child was still alive when they put her in there.’

“The case, made public months later by New York-based Human Rights in China, highlights this country’s often hidden problem of child labor. The Chinese government officially forbids children under 16 from working, but critics say it does little to enforce the law. Statistics are hard to come by, but in some estimates, as many as 10 million school-age children are doing their part to turn China into a low-cost manufacturing powerhouse. ...

"‘We know enough about the problem to know child labor is extremely widespread,’ said Robin Munro, research director at China Labor Bulletin, a Hong Kong-based labor rights organization. ‘The rural education system in many parts of the countryside is in a state of virtual collapse. There is a high dropout rate of children under 16....It is safe to assume most are engaged in some kind of work illegally.’

“Children, some as young as 4, roam China’s relatively prosperous coastal cities, begging on the streets or selling roses deep into the night, apparently victims of schemes that use youngsters as bait. Even infants are being rented out as maternal cover for women selling pirated porn movies on the streets.

“Things could get worse before they get better. Parts of southern China’s coastal areas are experiencing a sudden labor shortage. Low wages and poor conditions have left adults reluctant to take many of the jobs, and an increasing number would rather stay home on the farm than be exploited in the cities. That could drive up demand for underage workers. Already, children are victims of kidnappings and contract labor arrangements in which they are forced to work....

“[L]abor activists say a growing number of rural schools have contracted out entire classes of students to work in urban factories, supposedly to help defray part of their school costs. ‘They call it work study programs,’ Munro said. ‘Of course, it's child labor, because the school was earning money from it....’

“In principle, China is committed to ending child labor. According to the International Labor Organization, China has ratified two ILO conventions on labor practices. Convention 138 forbids minors under 15 from working. Convention 182 bans the worst forms of child labor, including prostitution and slave labor. But this is a country where making laws is much easier than implementing them. Youths desperate to help their families or simply tired of village life can easily lie about their age and use fake identity papers. Employers eager to hire them for their nimble hands and low cost often don't bother to check....

“Sun Jiangfen, the mother of another 14-year-old, Jia Wanyun, who died in December [said,] ‘In this village, every family has a child working in a factory. Some just 13’...Many rural girls drop out because their families can't afford to pay more than one tuition. At about \$300 a head, two children in school would be too much for her migrant construction worker father and farmer mother.

“The 14-year-old was promised about \$100 a year in wages, but she hadn't been paid a penny because she was still considered an apprentice, her mother said. The youngster had toiled 12 hours a day, seven days a week....

“‘She said she didn't want to stay there anymore. The work was too hard and the food was terrible,’ said Wang [Shuhai, the father of another girl who died], holding up a school photo of a fresh-faced little girl with a ponytail. ‘I told her to stay, because if you leave you wouldn't be paid. The child listened to me.’...

“‘Sure, there are still lingering doubts about how they died,’ Li [Wusi, a Beijing lawyer] said. ‘But what choices do their parents have? Farmers have very low status in Chinese society. Farmers' daughters are the lowest of the low.’”

5. *From factory to factory in China.* *The following first person account, published on March 8, 2006, is by a worker who started in China's factories as an illegal child laborer making artificial Christmas trees in Guangzhou, then worked at*

factories making toys in Chenghai, electronic equipment and ceramics in Dongguan, and clothing in Muyin. Her work ended at a Shenzhen garment factory where her hand was mangled in a pressing machine that lacked a proper safety guard. Between jobs, she and other migrants lived in railway stations or on the street. Her story vividly conveys many of the routine abuses suffered in both foreign-invested and domestically owned workplaces – including factories’ simple failure to pay months of wages earned by workers; factories’ refusal to return “deposits” or bonds paid by workers; factories’ holding workers against their will in factory compounds; factories’ denial of a day’s rest for months at a time; workdays lasting from 8 am until 11 pm or later; wages ranging from 11 cents to 52 cents per hour, and averaging as little as 25 cents per hour even in skilled and technical jobs – before deductions that typically lower wages by 10 to 25 percent; sweltering, smoke-filled factories, where workers are fully exposed to toxins and dangerous machinery; and fetid, cement-block “dormitories.”

“I left home and started working at the age of 15. ...The reason I did so was to be able to help my family.⁵⁴ I have a lot of sisters and I am officially considered to be ‘outside the quota’ [because her parents violated China’s one-child policy].

“I came to Guangzhou through a professional recruiter for this industry. He charged 250 yuan [US\$30] as a middleman's fee or introduction fee. Being underage, I didn't have an identity card at the time, so he wanted another 50 yuan which he said was to be used to get me an ID card. Then, he said that I would need another certificate of some sort when I started working at the factory and he took another 50 yuan for that. In fact, he never applied for any kind of ID for me. He just took my money and left. This factory made handicrafts and gift items. It has foreign money behind it. In the summer we made flowers and in the winter we made [artificial Christmas] trees.

“We worked seven days a week. We only had three days off a year. We worked overtime every day until 10 pm in the evening. In the beginning I was assigned to the hardware department. The working conditions were terrible. Every day we worked on the stands for the Christmas trees. We polished the stands using a cloth dipped directly into thinner. After we wiped the stands, we sent them to the kilns to be fired. The workshop

⁵⁴ This narrative is from China Labor Bulletin, “The Nine Lives of a Chinese Woman Migrant Worker” (March 8, 2006).

where we worked was always filled with smoke. It was so smoky you couldn't see very far. When you entered the room, your eyes would burn and tear, and you'd have difficulty breathing.... I lived in the factory dormitory....There was no such thing as maternity leave or marriage leave. If you got pregnant, you could only quit and go home. There was no union in this factory. This was a pretty big plant and it had branches in other places, I never heard anything about unions in those places, either. Later...I worked as the statistician, and you could say the working conditions were a bit better. I worked at that plant for about eight to nine months. I left there because I really had no choice. At that time when I was working as a statistician, the pay for that position was 1.80 yuan [22 cents] an hour. But they decided to pay the statistician who was hired after me only 1.70 yuan an hour....

“When I left home again and went back to work, I went to Chenghai city in Guangdong province, but I couldn't find a job in a garment factory, so I took a job in a toy factory. This was a small factory set up by a local man. The factories there are really small. They were a kind of cottage industry carried out in someone's home and they normally only employed a few dozen people or fewer, sometimes less than 10 people working there. ...The first floor was where we worked, the second floor was the dormitory and the third floor was where the boss and his family lived....[T]here were a lot of mosquitoes. After working there a few days, one's face would be covered with mosquito bites. There were only two shower rooms and we had to go to the river to fetch water and we washed our clothes in the river. As for the work, we had to put the screws in with our hands, and our hands swelled up as a result and we got lots of blisters....

“Someone from my hometown introduced me and my two cousins (a younger female cousin and an older male cousin) to a job in a handicrafts factory. This factory was in the city of Chenghai and employed between 20 and 30 people. The factory was on the ground floor of a normal low rise building. A second story had been created above the factory and we slept there. Someone tall like me couldn't even stand up on that floor. In the summer, it was really hot there, and there was no air conditioner or even a fan. You simply couldn't sleep. They put up a simple partition to separate the men and women. ...There was only one toilet with a shower for everybody. We had to line up to use the shower when we finished work which was at about 11:30 pm every day. This

factory used the piece rate system, but I didn't understand how they calculated. Our wages never seemed to match the amount that we produced. We had to buy our own food. We worked 14 hours a day, seven days a week. We worked there for about a month and then decided that it wasn't worth it. We only earned between 400-500 yuan a month [11 cents per hour to 14 cents per hour] and after deducting what we spent on food, we basically hadn't saved much money. ...So the three of us, me and my two cousins, all decided we didn't want to work there. ...The boss kept our IDs and wages. We didn't want to go to the Labour Dept but there was nothing we could do. We went to the Labour Dept and the official there told us that this was the practice in this area: If we quit after just one month, quit after the first month that is, we wouldn't get any wages. ...In the end, we didn't get any pay. Adding it all up, we didn't earn any money that month and we were out-of-pocket for all the money we spent on food.

“Law and order in that place [Chenghai] was really bad. We took one of those unregistered mini-buses from Chenghai to Dongguan. We paid them a lot and then they dropped us off in the middle of nowhere. When we got to Dongguan, we spent the first few days living in the train station and then the bus station.... In the end, I didn't go to work in a garment factory. I got a job in an electronics factory that made VCDs...This factory employed more than 200 people, most of whom were women. The first impression you got from this factory is that it was exceptionally clean. All the workers wore uniforms, and the workshops also were very clean. I worked in packaging in this plant. We were paid by the hour, 2.00 yuan [24.2 cents] an hour and 2.50 yuan [30 cents] for each hour of overtime. We didn't work overtime on weekends. It took me awhile to discover what was wrong with this place: I had nothing to do all day. I only earned between 200 and 300 yuan a month...I worked in this factory for four to five months, then I left because I couldn't earn any money there. I had to forfeit a month's wages when I left [thereby reducing her real wages by twenty percent]. According to the company's rules, you must work a full year before quitting to get a full settlement of your wages. That's to say, you only have one chance every year to quit.

“After I quit that job, I went to work in a ceramics handicrafts factory. The minimum monthly wage in this plant was 480 yuan. The overtime pay in the first three months was 1.00 yuan [12.1 cents] an hour. After you have worked for three months, you

would get a pay rise. The amount of the rise depended on the department head's assessment. The workers were divided into three categories, A, B and C. 'A' group was the highest and got a (daily) increase of eight yuan a day. 'B' group earned 7.50 yuan and 'C' group 7.00 yuan. The department head's assessment was based on your performance. We didn't really understand how she assessed us....If one didn't take any days off during the month, you could get 100 yuan in a bonus in addition to your monthly pay [yielding a maximum of 40 cents per hour for the best paid workers and 38 cents per hour for the worst paid workers, assuming a workday of 8 hours].... We worked seven days a week. The best situation would be not working overtime on Sunday. If we had to work overtime, we worked five more hours, from 6 pm to 11:30 pm. We were supposed to start work at 8 am, but actually we had to meet at the athletic field for exercises and running at 7:30 am. ...Ours was a technical unit, a higher skill level was required. ...If you encountered unfair treatment, you'd just have to grin and bear it. Nobody goes to the Labour Bureau....

“After that, I went to work in a clothing factory in Beijing. The plant was called Jiushan Garment Factory. It was in Miyun County, a district of Greater Beijing. The owner of the plant was from Anhui province and there were about 100 people working there. We worked nine-hour shifts and overtime work in the evenings was optional, but we never got a day off. They calculated wages using the piece method there. The minimum wage was 380 a month and they didn't count hours worked overtime as overtime, so there was no separate overtime pay. The conditions in this plant were really terrible, worse than any plant in Dongguan. There was only one shower room and no one was assigned to do the cleaning, so it really stank....At that time, the factory was three months behind in paying wages. ...It was just at that time that the other workers were asking the boss for their back pay....The assistant plant manager...said that they had an order for some cotton garments that was quite urgent and if we could get this order out first, then she'd see if we could be paid right after that. We worked on that order for two days and they still didn't pay us....The boss later wrote us a note saying that he was having a financial crisis. He also said that he would pay us in the future within a specified period of time. But we heard some news about the boss, the meaning of which was that we would have a hard time getting our wages. So we got the feeling that it was really

hopeless to try to get our back pay from him. We tried again, asking the factory manager for our salary and he said that if we wanted to leave, we should leave now. He could say that because he knew that we hadn't been paid in a long time and that we had no money to leave. We didn't even have the bus fare to get to Beijing!

“In the end we decided that we would leave, even without our pay, and we'd decide what to do when we got to Beijing. Usually, the factory locked the main gate to the compound. ... There was one guy who was working on our side of the plant and he'd stolen the key to the gate. After the gate was open, the guard couldn't hold us back. And that was how we all got away. At that time, we were really pleased with ourselves. We thought we had won some kind of victory. In fact, there were those in our group who had lost four months of wages. They all said I was lucky, because I had only lost one month's wages. ... You asked me why we needed a permission slip to get out the main gate. All factories have this kind of requirement. To leave the factory compound, you need a permission slip. ... If you don't have a permission slip, you wouldn't be allowed to take your suitcases. So you see, it was really difficult to leave on your own.

“[T]hen I went to Shenzhen and started working in a factory called Hongcheng Garment Factory. This one was set up with Taiwan money. They made things for children. There were 600 people in that plant. The set-up was half assembly line and the other half was done by hand. I paid a deposit of 80 yuan when I started working at the plant. They said that it was to process my staff card, the factory license and some other documents. I was put on one of the industrial sewing machines, and it was really hard work. We worked overtime every day and the earliest we would get off would be around 11 pm. Sometimes we would work until two or three in the morning, and we would have to go to work the next day as usual. We started at 7:30 am until 12 noon. They said that we had half an hour break for lunch and a rest, but in fact as soon as we finished eating, we would go back to work. There was no rest break. The best day was Sunday when we only had to work overtime until 9:30 pm. Really, we were exhausted. Some even fainted, because they were so tired. There were some people who got their fingers caught in the needle of the sewing machine, because they were so tired.... No matter how much you needed to take a rest, if they wouldn't let you then you still had to come to work. We worked on the piece rate method, and there was no overtime pay. But the wages were

high. The minimum was about 800 yuan a month [22 cents per hour] and the maximum could be as much as 2,000 yuan [53 cents per hour]. But later they set the highest pay for staff at 1,800 yuan a month [48 cents per hour], because the section chiefs were getting 2,000 yuan. The salary was good at this factory, but their system of fines was also pretty strict. We punched a time clock and they would dock one yuan for every minute you were late. They were always fining someone. If there was any problem with the quality of the work on the garments and they were returned to the factory, then we would get fined. If you talked back to the section head, you'd get fined. If the floor was dirty, you'd be fined. The food in that factory was OK....but most people didn't get up for breakfast, because they were too tired. They just wanted to stay in bed. There were 20 people in one room and there weren't enough showers and toilets for everyone. In the evening, there was no hot water. The workers weren't given any labour contracts at this factory. No one brought that up when we started working here....There was no trade union in this factory and we never heard anything about laws on labour protection and we never had any training in labour protection. I worked there for two months and then I quit. I was just too exhausted. ...According to the regulations in this factory, you had to work for at least three months before you could quit. So when I wanted to quit, they wouldn't let me. ...There was nothing I could do. I just kept on working.

“After I quit that job, I went immediately to a garment factory in Longgang District in Shenzhen, a place called New Horse Garment Factory. This plant was making well known designer clothing. I don't know who originally set up the plant. I think it was Hong Kong investors. I worked there for one year. I was a thread inspector, that is, the one who checks that there are no loose threads showing on the exterior of the garment. The usual working hours were eight hour shifts with two hours of overtime on Mondays, Wednesdays and Fridays. If we worked overtime on the weekends, we would get double pay. This job paid by the hour, and I got 2.77 yuan [33 cents] per hour. The wages were paid one month in arrears. The minimum pay was 700 yuan a month. You got an extra 7.00 yuan (85 cents) for working the evening shift. After working for three months, the factory put you on the piece rate method. This factory also gave us medical insurance and work-related injury insurance... Every month you had to pay 60-70 yuan toward that. There were eight to 10 people in every room in the factory dormitory.

“Later, I was transferred to the pressing department....That [pressing] machine had a shield or guard, but a screw was loose and the shield often fell off....On March 25, 2004, I was working the night shift and the shield fell off several times, so I stopped using it. At about 3 am, the accident happened. My hand was caught by the iron roller. Someone who was there at the time saw what happened and thought that the machine had jammed and turned off the machine. But my hand was still inside and I couldn't get it out....When the electrician released the pressure of the machine, then I got my hand out. The skin on my hand was already badly burnt...I went to the hospital by myself. Nobody went with me.... I was afraid at that time that this hand would be crippled or deformed later, so it was really a terrible time and I felt like jumping out of the window....

“While I was in between each of the nine jobs, I was effectively living on the street. We knew that the railway station would not kick us out, and that we could close our eyes for a while and rest there. ...The Labour Bureau did nothing to help us or protect us. All the Labour Bureau thinks about is moving along any worker that comes into its offices. They are not paid well either, so the less they have to do, the better they like it. If they are not pressured to take up a case, they won't and that is one less case for them to handle. And of course there is the relationship between the factory owners and the people in the Labour Bureau. The owners will invite the Labour Bureau people for dinners and so on.”

6. *Workers in Wisconsin and Dongguan, making the same appliance.* “The willowy teen might as well have marched as part of an army - a soldier among the estimated 150 million migrant workers who have left China's vast impoverished rural interior in the last two decades searching for entry-level pay.⁵⁵ This huge unrooted labor force - equal to more than half the population of the United States - has been absorbed easily by China's manufacturing juggernaut. And by all accounts, there is room for many more like Zhao Rong.

“From America's manufacturing heartland to Japan's rust belt and Mexico's *maquiladora* workshops, industrial laborers - and the companies that employ them - will

⁵⁵ This account is from John Schmid and Rick Romell, “China’s Economic Boom Hits Home,” Milwaukee Journal Sentinel (December 27, 2003).

feel ‘tremendous pressure in the next 10 to 15 years’ from the force of China's ascendancy, Dong Tao, Asian economist for Credit Suisse First Boston, testified this fall before a U.S. congressional panel. China's seemingly recession-proof economy, according to Beijing's government and experts at the World Bank, is on course to add another 20 million low-paying, entry-level factory jobs every year, year after year, at least through 2020....

“But the bigger workings of China Inc. don't concern Zhao Rong. ...Starting at 8:30 a.m., she works in a crowded concrete complex of 600 workers that clangs at capacity. Not counting breaks to eat, she puts in 10-hour days, six days a week, helping build kitchen appliances sold in U.S. stores under the Nesco brand.

“She makes 27 cents an hour.

“Halfway around the world in Wisconsin, in the Lake Michigan shoreline city of Algoma, sits another Nesco factory. This one is silent.

“Don Heider walks through dusty shafts of light in the plant. He ran it for a while, and he designed some of its tooling before that. The rambling structure covers 88,000 square feet, and Heider can discuss its features in detail. Here's where the furnace was. That's the old enameling booth. Over this way, the machine shop. Down that ramp is the fabrication area, where huge presses, some nearly two stories tall, shaped sheets of steel into pans for the electric cooking pot known as the Nesco Roaster.

“It was a busy place. Now, it's empty except for a handful of workers cutting scrap with torches. Heider was once the plant manager; his responsibility in these last days was to close and secure the factory. ‘You feel numb,’ he said.

“Wes Drumm didn't want to do it. He didn't want to take production to China. Folks don't come much more rooted in Wisconsin than Drumm, who runs The Metal Ware Corp., maker of the Nesco Roaster and other appliances. A century and a half ago, his great-grandfather settled in Manitowoc, and that's where Drumm remains today. ‘Wisconsin's my state - period,’ he says.

“But China is his manufacturing base. That's where the roaster is made now. These days, four China-based factories work under contract for him to make appliances. Metal Ware is a speck of dust in the global economy, but the winds that blew that speck to China are the same forces - frighteningly powerful forces, in Drumm's view - that are

sending the U.S. trade deficit soaring, decimating jobs across the Midwest and slashing prices at places such as Wal-Mart.

“The effects are widespread, from furniture companies heading overseas to tool-makers being driven out of business to suppliers of all sorts being forced to cut prices and jobs amid growing global competition. China isn't content to dominate DVD players, hiking boots, textiles and TV sets. Beijing is nurturing its stable of next-generation industries to mass-produce software, semiconductors and automobiles. Metal Ware, a small Wisconsin business, is a microcosm of how that national effort is playing out on two sides of the world.

“In a modestly furnished conference room at Metal Ware's headquarters in Two Rivers, Drumm, 75, perches on the edge of his chair, fidgets often, and talks about ‘the hollow pit’ that he gets in his stomach when he thinks of how abruptly his company's fortunes changed. As recently as 1999, Drumm had two factories in Wisconsin humming two and three shifts a day. He plowed profits back into the company that his father and other businessmen acquired in 1931.

“His signature product was as all-American as Thanksgiving Day - the roaster - the humble appliance of Drumm's Depression-era boyhood. He spent two decades building a thriving coast-to-coast market for the kettle-like appliance. It's a ‘Midwest product,’ Drumm said, that took off in the '30s with rural electrification and sold well for decades. Metal Ware acquired the Nesco name and tooling in 1981, and in the following 15 years, sales multiplied more than fivefold. Drumm responded with new machinery and assembly lines at the flagship Two Rivers plant. And he spent \$400,000 at the Algoma plant to install a computerized control for guns that sprayed the roaster pans with enamel at glass-melting temperatures. Algoma workers used the equipment for a year and a half.

“Precisely because Metal Ware was successful, competitors in China saw an opportunity; Drumm began to see perfect Nesco replicas at half the price. It started at the International Housewares Show in Chicago in 1998. Usually these trade fairs were a good time to build business contacts; in years past, Drumm rubbed elbows with Wal-Mart founder Sam Walton. This time was different. Drumm was tipped off that a Korean exhibitor was offering a cheaper product very similar to his prized Metal Ware roaster.

Drumm checked it out. It wasn't just similar; it was a perfect duplicate. In fact, recalled former Metal Ware executive Jim Polzin, who then ran the Algoma factory, the Korean knockoff even mirrored minor defects that were showing up in the Wisconsin pans because the dies in Algoma were being run almost continuously to meet demand. But the Nesco Roaster wasn't covered by patents, and the Korean firm wasn't violating any trademark laws. Drumm was angry, but he cut a deal with his upstart competitor. The two would join forces. The Korean company would continue manufacturing roasters and Metal Ware would sell them, as well as its own Wisconsin-made roasters, at less than the original price. Within a year, however, sales were plunging in the face of brand-new competition from still cheaper Chinese models.

“Facing business failure, Drumm felt he had no choice but to scrap the Korean arrangement and abdicate roaster production. Polzin was dispatched to China for six weeks, hunting for factories capable of making the roaster. He visited about 15 plants. Getting in was no problem; everyone wanted the business....In 2001, all roaster production went to China. ...

“Metal Ware employed 250 at its peak in 2000. Today, Drumm keeps on about 90, a little more than half in management and the rest in the Two Rivers factory. The Algoma factory is shut, and most of the Two Rivers shop stands idle. In the end, Metal Ware made 2,324,238 Nesco Roasters in Wisconsin. The once-slumping sales of the roaster, however, are soaring - up 150% in unit volume since 1999. But there's a catch. Revenue is up only 5%.

“The reason: Thanks to low-cost Chinese manufacturing and relentless market competition, prices have plunged. A non-stick roaster that four years ago sold for about \$80 now sells for just under \$40.

“‘And the politician says that's great for the consumer,’ Drumm said. But if the consumer doesn't have a job, ‘How can he buy it?’”