

EMBARGOED UNTIL 11 AM, TUESDAY, MARCH 16, 2004

**Executive Summary
AFL-CIO Section 301 Petition Against China**

Introduction

This Petition is filed by the AFL-CIO and the Industrial Union Council of the AFL-CIO under Section 301 of the Trade Act of 1974 on behalf of the 13 million members of the AFL-CIO, including nearly 6 million manufacturing workers.

The Petition charges that China's brutal repression of internationally recognized workers' rights constitutes an unfair trade practice under Section 301(d) of the Trade Act, and that such repression "burdens or restricts U.S. commerce." It is the first time in the history of Section 301 that a petition has invoked the violation of workers' rights as an unfair trade practice, although it is quite common for corporations to use Section 301 to challenge other unfair trade practices, such as violation of intellectual property rights.

The United States Trade Representative and the President of the United States have 45 days to decide whether or not to accept the petition.

The Petition thoroughly documents the Chinese government's egregious and systematic violation of workers' rights – especially the right to form a union and bargain collectively. The Chinese government also abuses forced labor and fails to enforce its own labor standards with respect to minimum wage, overtime pay, and health and safety. The Petition demonstrates how such exploitation costs hundreds of thousands of U.S. manufacturing jobs and puts downward pressure on U.S. wages. The U.S. Trade Representative and the President may refuse to investigate only if they find that (1) China does not persistently deny workers' rights, or (2) China's denial of workers' rights imposes no burden on U.S. workers.

If the U.S. Trade Representative decides to investigate, it has one year to complete the investigation and decide how to rectify these abuses.

Summary of Findings

The Petition establishes the three elements required by Section 301.

1. China Persistently Denies the Workers' Rights covered by Section 301. There is overwhelming evidence that China denies the workers' rights enumerated in Section 301. The petition amasses evidence from academics, the State Department, the International Labor Organization (ILO), labor unions, and human rights groups. The evidence clearly shows that:

(a) China Denies Freedom of Association and Rights of Collective Bargaining. China prohibits strikes, and relentlessly represses attempts to organize unions that are independent of the All-China Federation of Trade Unions (ACFTU). The ACFTU is

controlled by the Chinese government and the Communist Party. It is officially and legally subservient to the policies of the Party leadership and to local officials who profit from export enterprises. Workers who attempt to strike or organize independent unions have been arrested, imprisoned, beaten, and tortured.

(b) *China Encourages Forced Labor.* Most of the workers in China's export sector are temporary migrants from the countryside. They work under bonded labor, a form of forced labor. China enforces a system of internal passports that deprives migrant workers of the most fundamental civil, legal, and political rights when they work temporarily in factory towns and cities. Upon arrival to the factories from their rural villages, migrant workers become heavily indebted in order to pay large "deposits" and other fees to their employers. They lose the deposit if they quit without the employer's consent. They are thereby turned into bonded laborers.

(c) *China Does Not Enforce Its Own Laws with respect to Wages, Hours, and Occupational Safety and Health.* Most manufacturers in China pay their workers much less than the minimum wage standards set by the central and provincial governments and fail to implement workplace safety and health laws. The government does not enforce wage and hour standards, or safety and health laws.

2. *China's Denial of Workers' Rights Imposes a "Burden" on U.S. Commerce.* The Petition shows that China's denial of workers' rights gives a cost advantage to China-based producers. If China enforced workers' rights, costs of manufacturing would rise between 10 percent and 77 percent. The Petition uses four alternative methodologies to show that China's unfair cost advantage displaces approximately 727,000 jobs in the United States.

(a) *Firm-Level Data.* Only one study has attempted to create a database of firms that have moved their production from the U.S. to China. That study, commissioned by the U.S.-China Security Review Commission, concludes that between 70,000 and 100,000 jobs were moved each year in the 1990s. It concludes that 770,000 jobs were moved to China between 1992 and 2001. Since 2001, the U.S. trade deficit with China has grown by almost 50 percent.

(b) *Product and Sector Data.* The President's 2003 Economic Report argues that the volume of China's exports to the United States is too small to account for the large job losses in U.S. manufacturing since 2001. The Petition rebuts the President's argument. We show that in two sectors alone – computers and electronics, and apparel and textile – imports from China were large enough to displace more than 300,000 jobs.

(c) *International Trade Commission Model.* The Petition presents estimates of the decrease in wages and production costs in China resulting from violations of workers' rights. It then presents economic analysis by the Economic Policy Institute, showing the impact of this unfair cost advantage on U.S. jobs. EPI economists use the model created by the U.S. International Trade Commission to arrive at estimated losses ranging up to 727,000 jobs, under varying assumptions. This is the most rigorous methodology of the four presented by the Petition.

(d) ***Bilateral Exchange Model.*** This Section offers a “check” on the ITC model, using macroeconomic studies that calculate the amount by which U.S. production and jobs will change, if import prices change by a given amount. This method concludes that China’s violation of workers’ rights causes job losses ranging up to 1.29 million jobs in the US. This indicates that the result generated by the ITC model – finding up to 727,000 jobs lost -- is a reasonable, conservative estimate.

3. *The USTR and the President Should Take Immediate Action*

As explained above, the USTR can impose trade sanctions or take any other action within the President’s power to induce China to cease its violation of worker rights.

The Petition demands that the USTR and the President take three actions:

(a) ***Trade Remedies.*** The USTR must immediately impose trade remedies commensurate with the cost advantage caused by China’s denial of workers’ rights.

(b) ***Binding Agreement.*** While the trade remedies are in effect, the USTR should negotiate a binding agreement with China. The agreement should say that the United States will reduce the trade remedies incrementally, if China meets specific and verifiable benchmarks of enforcement of workers’ rights. If China backslides from specified benchmarks, the trade remedies will increase.

(c) ***No New Trade Agreements Unless the WTO Requires Members to Enforce Workers’ Rights.*** The President should direct the USTR to enter into no new WTO-related trade agreements, until the WTO requires each of its members to comply with the core labor rights of the ILO. Core labor rights must be given international protections that are equivalent to the protections afforded commercial rights under the WTO. Labor rights must be enforced against all countries, not just China, to end the international race to the bottom.

Section 301 - Background

Section 301 of the Trade Act of 1974 (as amended) authorizes the President to impose trade sanctions and take any other action within his constitutional powers against countries that impose “burdens” on U.S. commerce by (a) violating trade agreements or (b) engaging in other “unreasonable trade practices.”

Section 301 explicitly identifies several “unreasonable trade practices.” One “unreasonable trade practice” is a country’s persistent failure to enforce any of the following “internationally recognized worker rights”:

- (1) Workers’ freedom of association
- (2) Rights of organizing and collective bargaining
- (3) Freedom from forced or compulsory labor
- (4) Freedom from child labor

(5) Standards of minimum wages, maximum hours, and occupational safety and health

Congress enacted the workers' rights provisions of Section 301 in order to ensure that U.S. workers do not face unfair competition from workers overseas whose basic rights are violated, to rectify those violations, and to prevent U.S. corporations from moving jobs offshore to exploit those workers.