In the Matter of:  

BRAKE ROTORS FROM CHINA  

Investigation No.:  

731-TA-744  

(Second Review)  

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )
BRAKE ROTORS FROM CHINA ) Investigation No.:
) 731-TA-744
) (Second Review)

Main Hearing Room 101
U.S. International Trade
Commission
500 E Street, S.W.
Washington, D.C.

Tuesday,
April 15, 2008

The hearing commenced, pursuant to notice, at
9:31 a.m., before the Commissioners of the United States
International Trade Commission, the Honorable DANIEL R.
PEARSON, Chairman, presiding.

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CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Number 731-TA-744 (Second Review) involving Brake Rotors from China.

The purpose of this 5-year review investigation is to determine whether revocation of the antidumping duty order covering brake rotors from China would be likely to lead to continuation or recurrence of material injury to an industry within the United States within a reasonably foreseeable time.

Lists of witnesses, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

I understand the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Finally, if you will be submitting documents that contain information you wish classified as business confidential, your requests should comply...
Let me also mention that Commissioner Okun is necessarily absent today.

Madam Secretary, are there any preliminary matters?

(Witnesses sworn en banc.)

MS. ABBOTT: Yes, Mr. Chairman. All witnesses have been sworn and the panel in support of revocation of the antidumping duty orders is seated.

Mr. Lyle Vander Schaaf will do the opening remarks in support of the revocation of orders.

CHAIRMAN PEARSON: Welcome, Mr. Vander Schaaf. Please proceed.

MR. VANDER SCHAAF: Thank you. For the record, my name is Lyle Vander Schaaf, from the law firm Bryan Cave. I am accompanied today by one of our foreign attorneys Felipe Berer. And we represent a group of respondents who have decided to participate in this sunset review. I think this is a very rare occurrence for the Commission; rarely does a Chinese respondent participate in sunset reviews, rarely does the Commission revoke orders against China. There are very, very few. And I think this deserves some recognition that the Chinese have decided in this case to participate because they see merit to the idea of
the Commission revoking this order. And I hope that
the Chinese will continue to avail themselves of the
U.S. law and the opportunities at the ITC, when cases
merit it, to participate in sunset reviews so that
these orders can be revoked.
And we appreciate the fact that the
Commission has decided to conduct this hearing. We
know that none of the -- the only domestic party that
supports the order chose not to file a prehearing
brief and chose not to appear here at the hearing. And
we thank you for deciding to continue the hearing to
give us the opportunity to present our views.
I think this merits some recognition, the
fact that Affinia is not here today. We believe that
if Affinia really did have an interest in continuing
the order they would have filed a prehearing brief and
they would have appeared here at the hearing. But it
also raises an issue that I wanted to mention to the
Commission about the procedures here.
Affinia did say that they are going to file
a posthearing brief. And I am a little troubled by
that fact. I would be very concerned if Affinia were
to place on the record new information and new
arguments that did not have the ability for us as
respondents to rebut because our posthearing brief
will be filed on the same day. We will not have the opportunity to challenge the information and data that they may present in their posthearing brief. And, more importantly, they are not putting themselves before the Commissioners to test their arguments, to question their data and question their information.

And we think that that is very important: that they did not subject themselves to even the slightest scrutiny by the agency to come here before you to defend themselves, presents an issue to me of unreliability and lack of persuasiveness of their arguments and data that they may present in their posthearing brief. and it raises sort of a due process concern for us that we don't get an opportunity to challenge that because after our posthearing brief we will have an opportunity to file final comments, and under the Commission's rules no new information can be supplied in final comments. So it raises a unique issue and a bit of a concern for us.

But we do believe aside from all of that that we have a very meritorious case. You will hear from our witnesses their view on Affinia's dedication to production in the United States, their dedication to the after-market brake rotor market here with

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production in the United States. And you will hear, as you've seen from our brief, we've addressed, you know, all the statutory factors that we think need to be addressed. We won't be repeating most of that here because a lot of it is confidential. But as we indicated in our prehearing brief, the foreign producers in China have very little capacity that is not utilized. They do not have plans to expand capacity. The foreign producers do not keep large inventories. There is no indication that inventories will increase in the future. There are not barriers to entry for brake rotors from China in other countries, so we don't have an issue of diversion of product to the United States from other countries. And there is very little, if any, evidence of an opportunity to product shift.

The issue was raised in the past of whether or not producers can shift from OEM brake rotors to after-market, but as the questionnaires from the foreign producers indicate, the foreign producers are not making OEM brake rotors. So there is really no opportunity or potential for product shifting.

With respect to pricing issues, much of our information and many of our arguments are confidential. But I think one thing is telling, and

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one of our witnesses will address that, you really do see Affinia in one market segment and the imports in another. We do not think that the evidence of underselling relates to products that are compared on an apples to apples basis.

And with respect to impact, despite Affinia's operations, we think that their operations in the U.S. for production of brake rotors has to be viewed in the context of their overall brake rotors operations. They clearly are importers; we know that from the record. Our witnesses will be able to tell you publicly what they know about their volume of imports. And we think that their U.S. operations for brake rotors for production have to be viewed in that context.

So that really concludes my opening statement. And I think if it's appropriate would you like us to go to our first witness or?

CHAIRMAN PEARSON: Without objection, please proceed with your first witness.

MR. VANDER SCHAAF: Okay. The witnesses are going to be testifying in the order in which they appear on the calendar. And our first witness is Steve Hughes. And after the witnesses in our respondents group conclude their testimony we will
MR. HUGHES: Good morning. My name is Steve Hughes. I am the Director of the Integrated Supply Chain at CWD, also known as Centric Parts, StopTech and Power Slot. Our company was founded in the year 2000 and our head officers are located in Carson, California. CWD has grown to become one of the largest distributors of after-market automotive brake rotors in the United States. Accordingly, we purchase, import and distribute after-market brake rotors to the U.S. after market. CWD's brake rotors and other brake parts are imported from sources all over the world, including China, Taiwan, Italy, Germany and Brazil, among others.

Through our Centric Parts, StopTech and Power Slot divisions the company services the standard automotive after market, the high performance after market and OES and OEM markets respectively. Our sales of after-market brake rotors are primarily directed to program distributors and chain brake repair companies. We also sell to companies like Bendix and Federal-Mogul.

With the introduction out of the way I would like to thank the Commission for allowing me to speak today. Our company and I greatly appreciate the
opportunity to present our company views. Further, we'd also like to say that we're grateful the Commission has allowed this hearing to proceed in light of the petitioner Affinia, the largest purchaser of brake rotors imported from China, electing not to participate.

Let me begin by saying that the domestic industry nowadays is vastly different than during the original investigation and the first sunset review because there have been a number of consolidations, mergers, sell-offs and closures among domestic producers. In fact, the market has undergone such significant changes that today it bears absolutely no resemblance to the industry that existed just a few years ago. This radial business change, in landscape that is, is evidenced by departures and changes of the original coalition members.

For example, it is quite revealing that Federal-Mogul has withdrawn its support of the order. Similarly, our own companies had to remain contemporary with the market and adjust its position on the order. Our CEO and founder Dino Crescentini previously owned the companies Auto Specialty and Kinetic Manufacturing. In fact, it was he and his partners that started the coalition that we are

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fighting today back in '95 that advocated the original AD order.

The fact that Federal-Mogul and our owner NCWD have changed sides is a good example of how different the current conditions of the U.S. market are when compared to what they were in the past. As a result, there is only one coalition member, Affinia, which is actively supporting continuance of the order, and its absence today calls that support into question.

Given the substantial change in the industry, I would also like to speak about recent developments in the production of after-market brake rotors and we'll also address the differences between the type of brake rotors purportedly produced in the United States and those from China. At the end I would also like to comment on some questions raised in the public record prepared and circulated by the Commission staff.

First, more recent developments in the production of after-market brake rotors include the following:

According to Federal-Mogul it has permanently ceased production of brake rotors in the United States in the year 2007. However, like other

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members of this panel, while we do not have specific knowledge whether Affinia is still producing after-market brake rotors in the United States or not, our information indicates that Affinia is in the process of shuttering its last U.S. plant and selling the equipment, which should be concluded before we think the end of 2008. Indeed, I know of people to whom Affinia has offered to sell its after-market brake rotors machinery upon closure.

Like the changes in the industry, there have also been substantial changes in the consumption of after-market brake rotors. Accordingly I would like to explain certain developments in recent years on the consumption of brake rotors in the market, including brake rotors becoming more disposable and changes in demand from premium to economy grade brake rotors.

Recently brake rotors have become more disposable and it has become easier and less costly to replace the brake rotors rather than to resurface them. This in turn has become an added profit center for the installer. In addition, brake rotors today are a lot thinner and have essentially become discardable, throw-away parts. As a result of the combination of these two situations the demand for after-market brake rotors has increased substantially.
And this trend is expected to continue into the foreseeable future.

The disposable nature of the brake rotor has propelled a significant shift in market demand in the United States from premium grade to economy grade brake rotors. U.S. producers Affinia and Federal-Mogul have historically focused their domestic production on the premium segment. However, Affinia's 2007 annual report indicates the company has shifted its focus to the economy grade rotor. Accordingly, this shift in the U.S. market was followed by a rising supply of economy rotors from China, Taiwan, Brazil and other countries.

To cope with this change in U.S. demand, Affinia and Federal-Mogul both decided to gradually move their production overseas and increase imports of economy grade brake rotors. This is reflected in import statistics since 2005, not to mention the number of closures and the restructuring plans announced by both companies.

By the end of 2007 it was our impression that Affinia was still producing low, very low quantities of premium grade after-market brake rotors in the U.S. for very specific end users. As stated earlier, from what I've heard and I believe they are
planning to eliminate virtually all of their production of premium grade automotive after-market brake rotors as early as 2008. In any event, one must understand the difference between economy grade and premium grade.

In the U.S. market, economy rotors sell over four times the volume of premium rotors. In addition, premium rotors cost at least 50 percent more than economy rotors to produce. The reason for the cost differential is that premium rotors take very sophisticated and expensive machinery and extra labor to manufacture and to produce. On the other hand, economy rotors are manufactured by a very unsophisticated process.

For this reason, for these reasons, there's very limited competition, if any, between premium and economy grade rotors. They are sold in different segments of the U.S. market with different prices and to different customers. While Affinia may still be producing premium grade brake rotors, the Chinese industry generally focuses on the high volume economy grade. Imports of premium products from China do not affect whatever production is left in the United States, in part because Affinia is the largest purchaser of premium rotors from China.

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Now please note, CWD buy all of our premium brake rotors from Italy, Taiwan and Brazil. We do not purchase premium brake rotors from China.

Now I would like to turn your attention to a few issues covered by the public staff report about which I would like to comment. The first issue is the misperception that the only remaining coalition member, Affinia, is being harmed by Chinese brake rotors. To the extent that there is any underselling in the U.S. market Affinia is the one behind it and benefiting from it rather than being victimized by it.

Evidence of this can be found in Tables 1-9 and 4-2 of the staff report. As set forth in the report, you can see in the unit value section that in 2005, 6 and 7, non-subject rotors from China actually undersold subject imports from China. If the Commission takes a closer look at these non-subject imports from China it will find that most of these imports were made by GRI Engineering and MAT Automotive. These two importers are affiliated with Affinia by virtue of a joint venture.

As previously stated, to the extent that there is any underselling in the U.S., Affinia is the one behind it. And this, this is the real reason that they want the order continued. They want the order

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continued so that they can gain a strategic market advantage and manipulate the industry through this order.

Further evidence of Affinia's benefit from this order can be found on page 5-14 of the staff report. Page 5-14 refers to U.S. produced brake rotors and margins and underselling. However, it must be noted that I do not believe Affinia makes products 1, 2, 3 and 4 in the U.S. In addition, I have reason to believe that Affinia reported premium prices for these products whereas our group reported economy prices. As a consequence, this table does not reflect the reality of the U.S. market at all. And quite frankly, it is impossible to sell at such different margins in the U.S. market, the U.S. brake rotors market. If CWD tried to sell at a rate 50 percent higher, as the coalition would suggest, we would be in business for about three months then we would be gone. Nobody would buy from us if we had that significant of a differential in price.

These consistent, huge differences in margins proves that Affinia caters to the premium market segment and imports cater to the economy market segment.

Another critical fact to point out is that
the raw materials market has been and currently is in huge upheaval in China. We have even seen an increase of over 80 percent in the cost of pig iron in China in the last 12 months, which makes up approximately 60 percent of the cost of a rotor. In the past 90 days it has become even more volatile. As a consequence, we have seen multiple price increases since the beginning of the year from all of our brake rotor vendors. Many of the vendors currently will not even accept a P.O. with prices. We will issue a P.O. and then they tell us issue it without prices and we will quote you based upon the current materials market.

As a result of this huge volatility in the Chinese market we have knowledge of now somewhere between 60 to 80 percent of the so-called smaller non-exporting manufacturers have gone out of business. Accordingly, the possibility of a mass influx of rotors from small producers and prices plummeting are non-existent and is inconsistent with reality.

Before closing I would like to make one last comment. It is noteworthy that Affinia has chosen not to file a pre-brief report nor send a company representative or legal representative to this hearing. We believe it is evidence of the lack of support and merit to their case. Our respondents
group as a whole has put in a tremendous amount of work on the questionnaires in preparation for this hearing and the entire case. The reason for this Herculean effort is that we want to ensure that this Commission has the facts necessary for it to make an accurate finding and for the Commission to understand that public policy intended by this order is no longer served.

And while we have read Affinia's reasoning for not attending, it does not excuse their absence. We have made special efforts at significant expense to participate today because the impact of this Commission's findings impact our very livelihood. Affinia is a multi-billion dollar corporation and has had significant foreknowledge on the date of the hearing. Quite frankly, I question whether they care about the order, whether they are assuming that you have already made up your minds in their favor, or if they have just more important things to do than be here in front of this Commission.

In conclusion I would like to remind this Commission that the initial landscape upon which this order was founded has changed dramatically. The initial coalition members either have withdrawn or have not even take the affirmative steps to provide an

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opposition. Customer and accordingly supplier desires have changed. The only thing being protected by the order is Affinia's import operation. Accordingly I'd conclude with when the reason for a rule ceases, so should the rule.

I would be happy to respond to your questions and provide information in the Q&A session. And thank you very much for your patience and attention.

MR. FUDALLA: Good morning. My name is Marvin Fudalla. I am President and CEO of Qualis Automotive LLC. Qualis is a U.S. purchaser of after-market brake rotors imported from China. Our company was founded in 1999 and our offices are located in Detroit, Michigan.

Qualis Automotive is the second largest purchaser and distributor of after-market brake rotors in the U.S. Additionally, we also supply other parts to the automotive after market. Most of our sales of after-market brake rotors is directed to retailers and warehouse distributors in the U.S. and who in turn they sell these to consumers and to what is termed as jobbers.

I came here today to speak of the current conditions of the domestic industry of after-market

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brake rotors and some trends we have lately been witnessing in the U.S. market. First of all, I appreciate the opportunity to provide my insights here today. In the mid-'90s I was president of AIMCO Products, Inc., which was a division of the entity now known as Affinia, so I have a good understanding of the industry and its current environment.

Let me begin by saying that in my view there is no need for the Commission to continue the order. There is not significant domestic manufacturing in the United States and whatever there is, it is certainly not affected by Chinese imports. As explained in more detail in our questionnaire responses, I honestly believe that there is no longer such a thing as a true U.S. producer of after-market brake rotors. Domestic producers have moved the manufacturing facilities to China and other countries.

Both Affinia and Federal-Mogul have stated in press releases and in other public announcements that they are conducting their so-called restructuring plans by which they are transforming themselves into global manufacturers and U.S. distributors of brake rotors. They have moved their plants overseas, especially to China, and have been in the past few years gradually increasing imports of after-market
brake rotors from China and other sources. Affinia is now the largest purchaser of imported rotors from China.

Federal-Mogul announced the permanent closure of its last U.S. brake rotor foundry and machine shop in St. Louis, Missouri, in March of '07. Federal-Mogul had been imported semi-finished brake rotors from China for two years which were finished in the United States. By the end of '07 it eliminated all of its after-market brake rotor manufacturing in the U.S. Therefore, it is understandable why Federal-Mogul is no longer a member of the coalition and is no longer supporting the antidumping order.

Likewise, Affinia has announced a number of closures in the U.S. and investments in joint ventures in China. In '05 under accelerated restructuring plan Affinia closed seven facilities in the United States. In that year the production of after-market parts was moved to a plant in Litchfield, Illinois. In May of '07 Affinia announced a further step in its transformation to a global manufacturer and U.S. distributor: a joint venture to produce brake products in China and India.

Therefore, at this point it is quite clear that Affinia is producing an insignificant amount, if
any, of after-market brake rotors in the United States. I was recently told that Affinia is still producing in the U.S. very low quantities of after-market brake rotors for specific end users, users such as specialty after-market rotors, slow moving older applications, and low volume new part numbers being introduced for new model vehicles. As a matter of fact, one needs to look no further than the recent import stats to realize that Affinia has shifted its focus to importation as opposed to production. A simple analysis of import statistics evidences the ever increasing imports made by Affinia and its affiliated firms in the past two years and a lack of commitment to its U.S. manufacturing operation, not to mention the millions of dollars that Affinia has already invested into China.

Should the Commission conclude by the end of this review that there is still some lingering production in the U.S. it is very important to distinguish the domestic products from the Chinese subject imports. While Affinia may be producing low volume, premium grade after-market brake rotors like the specialty rotors, the slow moving applications, and the low volume part numbers I mentioned, Chinese imports predominantly constitute high volume, economy
grade after-market rotors. In other words, even if Affinia decided to maintain a minuscule production capacity in the U.S. in 2009 and beyond, which I don't believe is likely, there would be no competition between the U.S. produced brake rotors and Chinese imports, as the Chinese product import is mostly for high volume applications.

In addition, any possible imports of premium products from China should not affect Affinia's operations in the U.S. To the extent premium grade after-market brake rotors are being imported into the United States, Affinia is actually the driving force behind such imports.

In summary, I believe it is important for the Commission to look into these questions and make sure that it does not extend the life of a trade relief that has become an unnecessary and unfair import assessment.

I will be happy to respond to your questions and provide further info in the Q&A session. Thank you.

MR. WOO: Good morning. My name is Greg Woo. I am the Vice President of Performance Operations at CWD, also known as Centric Parts. As explained by Steve Hughes, CWD is amongst the largest
distributors of after-market brake rotors in the United States. I was also previously employed by Power Performance Group, whose brand name is Power Slot, where I served as its president and chief operating officer.

In October 2007, Power Performance Group was acquired by CWD. Power Performance Group, or Power Slot was one of among Affinia's largest performance after-market customers and, in such capacity, relied heavily on Affinia's U.S. production. Prior to my employment with Power Performance Group, in 1996 and 1997 I was employed by ITT Automotive as its product manager for AIMCO rotors, drums and friction materials.

I am here today to speak about Affinia's situation. I will present my insights here based on firsthand knowledge and what I have heard from industry sources. Many have said, including Federal-Mogul, that questions remain as to whether a domestic industry still exists. I couldn't agree more.

In 2005 Affinia proceeded to initiate a comprehensive restructuring plan, or transformation plan, as Affinia's CEO likes to put it, under which it started to shut down several facilities in the U.S. and shift production to low cost sources, especially...
China. In that year Affinia announced its plans to close the St. Catherines foundry. Their St. Catherines foundry was responsible for casting most of Affinia's after-market rotor applications.

By early 2006, St. Catherines had closed and was offered for sale. No buyers were found for the facility.

In March 2006, Affinia publicly announced that it would close its McHenry, Illinois and Erie, Pennsylvania rotor and drum machining facilities.

And by the fall of 2006, Affinia had dramatically reduced the number of raw brake rotor castings it was purchasing from the ThyssenKrupp Waupaca foundry.

At the same time, Affinia began to dramatically increase its purchases and imports of Chinese rotors. By then, Affinia's Waupaca machining operation was handing mostly OEM rotor production and a very small percentage of its high volume after-market rotor application. By the end of 2006 Affinia had closed the McHenry and Erie machining facilities and approximately eight of the best machining cells were moved to its Litchfield, Illinois facility. With only eight rotor machining cells in Litchfield none of their high volume after-market part numbers could be
produced there. Rather, Affinia had to purchase or import those numbers.

In total, no more than 100 after-market brake rotor numbers were produced in Litchfield. And many of the applications they continued to make there were older vehicles with limited sales volume. For example, they would produce their last run of brake rotors for an older 1970's era vehicle at Litchfield.

By early 2007 Affinia was only machining rotors at Litchfield and Waupaca and no longer owned any foundries in the U.S. Waupaca Machining was only making a handful of high volume break rotor applications such as the Chevy Malibu, and the remaining work being done there was for OEMs. At that time they were also still having some rotors cast at the ThyssenKrupp Waupaca foundry and smaller foundries in Canada. Affinia had a limited number of OEM production contracts remaining in the U.S., such as the military version of the Hummer.

Notably, by the end of 2007, Affinia's three largest customers, NAPA, CSK and Carquest, had already accepted Affinia's shift to Chinese-supplied product.

Affinia initially planned to conclude its restructuring plan by 2007. Most recently, however, it has announced the restructuring plan will be

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finished by the end of 2009. Last year, nonetheless, Affinia offered to sell its Waupaca machining center to Power Slot. At the time, Affinia explained to Power Slot's owners that it still had some contracts to supply from that facility but there would be no cash flow after 12 to 24 months. Affinia went on to clarify that that transaction would have to be an asset purchase because there wouldn't be any cash flow or contracts with respect to that facility in the long term.

What that meant to us in an interpretation was that in valuing that business there was no long-term plan for it, thus we couldn't use a discounted cash flow based on future earnings or some earnings multiple of the current performance of that business, it would be valued in a liquidation method, simply the net asset value of the remaining equipment there.

In any event, as explained in more detail by other members of this panel, Affinia is presently producing very low quantities of after-market brake rotors, if any, for very specific end users in the United States. The notion that Affinia is on the verge of eliminating its U.S. production is widespread in the industry. It is actually not that astonishing that Affinia has opted not to show up.
Thank you for your time and attention. And I will be happy to address any questions you might have in the Q&A session.

MR. ZHANG: Good morning. My name is Jenny Zhang. I am the Sales Manager at Longkou Haimeng Machinery. Longkou Haimeng is a producer and exporter of after-market brake rotors in China. Our company was founded in 1997 and our facility is located in LongKou, Shandong Province. We are among the largest subject producers of after-market brake rotors in China. I would like to thank you for providing us the opportunity to present our views today.

I am here today to speak on behalf of Longkou Haimeng. I will also address today some recent trends involving the general conditions of the after-market brake rotor industry in China, including capacity, inventories, pricing and the supply demand trend, among other factors relevant to this investigation.

Since its establishment, Longkou Haimeng has always been committed to exporting brake rotors to the United States at fair price. Our prices are calculated based on our costs. We do not sell below cost and we do not practice dumping. Indeed, this has been recognized throughout the years by the Department
of Commerce. Since the imposition of the order we have participated in seven administrative reviewed and one new shipper review.

In the first new shipper review Commerce assigned a zero dumping margin to our company.

In the second administrative review Commerce assigned a \textit{de minimis} margin of 0.1 percent to our company.

In the fifth administrative review Commerce assigned a \textit{de minimis} margin of 0.05 percent to our company.

In the sixth administrative review Commerce assigned a \textit{de minimis} margin of 0.01 percent to our Commerce.

In the seventh administrative review Commerce assigned a \textit{de minimis} margin of 0.2 percent to our company.

We have also participated in the 2004-2005 and 2005-2006 administrative review in which Commerce assigned to our company dumping margins of 5.29 percent and 4.22 percent respectively. These margins were the result of changes in Commerce's methodology. Most recently, in February 2008, Commerce announced the preliminary results of the 2006 to 2007 administrative review in which it assigned a \textit{de}
minimis margin of 0.03 percent to our company.

In other words, for seven consecutive years from 1997 to 2004 all our experts of after-market brake rotors to the United States were subject to either zero or de minimis margins.

Longkou Haimeng is also convinced that a review in the appeals pending before the Court of International Trade and the revised dumping margins from 2004 to 2006 will either be zero or de minimis. The Chinese industry of after-market brake rotors is experiencing rising demand and rising prices worldwide, especially in Europe. Demand in markets like Europe, Asia and South America is now very strong. Chinese producers have increased their sales to these markets, including Holland, Denmark, Germany, South Korea, Malaysia, among various other countries. Nowadays these markets are more profitable to Chinese producers than the U.S. market.

Similarly, the home market in China is booming. We know that demand for brake rotors in China is rising due to the large increase in car sales every year. The Chinese market is still smaller than the U.S. market for after-market brake rotors, however, the specialists believe it is posed to become one of the world's largest automotive markets in the
near future. In the middle of increasing demand worldwide, including in the U.S. market, producers in China have been experience since the beginning of 2007 ever rising raw material costs in China. As a consequence, brake rotor prices in China have been increasing as well, although the industry has historically produced to order and maintained a low inventory.

In addition, the Chinese brake rotor industry does not face any barriers in countries other than the United States. As a consequence, Chinese producers are directing more and more of its exports to Europe, Asia and other markets. These conditions have led us to focus more attention to these markets, especially in Europe, and to reduce our focus somewhat to the U.S. market.

Most importantly, if the Commission decides to revoke the antidumping order any competition between imports from China and the domestic product would continue to be very limited. Even small Chinese producers that have never exported or have never been certified to export to the United States would not be capable of competing with the U.S. industry.

I would be happy to respond to your questions and provide further information in the Q&A.

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session. Thank you for your patience and attention.

MR. MINTZER: My name is Sydney Mintzer. I am from the law firm of Mayer Brown, here today representing Federal-Mogul Corporation.

CHAIRMAN PEARSON: Mr. Mintzer, just be close to your microphone. There, okay. Thanks.

MR. MINTZER: I am joined here today by Duane Layton, also of the law firm of Mayer Brown, as well as Dennis Wappelhorst of Federal-Mogul.

I would reiterate what was stated at the outset, which is that this sunset review certainly presents unusual circumstances. Federal-Mogul, as you know, has historically sat on the other side of this room. And in fact, we are not here today to renounce the positions taken in 1997 in support of the petition, or in 2002 in support of continuation of the order. We are here simply to tell the truth, which is that the U.S. after-market brake rotor industry no longer exists.

It would have been perhaps easier for Federal-Mogul to stay on the sidelines and allows this proceeding to play out. But instead, unlike Affinia, Federal-Mogul chose to come here today and answer your questions. Again, we are not here renouncing old positions. That being said, the purpose of this
sunset review is to look back at the last five years
in order to glean what the state of the U.S. industry
is likely to be over the next five years. And from
that perspective, Federal-Mogul can quite confidently
state that the U.S. industry no longer exists.

The U.S. industry over the last five years
gradually became increasingly dependent on imports of
after-market rotors. And when costs began escalating
and demand shifted towards lighter, thinner rotors,
Federal-Mogul simply became incapable of sustaining
U.S. production. The Chinese after-market rotor
industry did not cause production costs to increase or
cause vehicle weights to decline which led to the
increased demand for lighter, thinner economy rotors.
But by the time those market forces came into full
view the U.S. industry simply could not compete.

And just like Affinia, our production
facilities haven't been mothballed, they are not
temporarily shut down. Neither company is sitting
back waiting to see if market dynamics change in the
U.S. market. The facilities are gone. They have been
stripped, they have been sold. Affinia and Federal-
Mogul are importers and distributors of after-market
brake rotors. There is nothing in the foreseeable
future that is going to change that.
With that I would like to introduce Dennis Wappelhorst, head of U.S. brake rotor operations at Federal-Mogul.

MR. WAPPELHORST: Good morning. My name is Dennis Wappelhorst. I am the Director of Chassis, Brake and Fuel Operations at Federal-Mogul. In that capacity I am responsible for managing Federal-Mogul's U.S. brake operations. Prior to September of '07 I was also Operations Manager for Federal-Mogul's U.S. rotor production in St. Louis, Missouri. I had been acting in that capacity for 14 years.

For 27 years Federal-Mogul produced brake rotors in the U.S. market. We were proud members of the U.S. industry. We supported the antidumping duty petition in 1997, supported continuing of the antidumping order in 2002. However, by the fourth quarter of 2007 it simply became clear that we could not competitively produce rotors in the U.S. market. The reason for this turn of events is that the market has changed dramatically since 2002. Changes in our cost structure as well as changes in market demand made it impossible to produce rotors competitively in the U.S. market.

First of all, costs have increased dramatically for producers of brake rotors,
particularly in the United States. Energy and commodity prices used as inputs in the production process have become extremely higher. These increasing costs made it extremely difficult to profitably produce even our most expensive line of brake rotors in the United States.

Second, consumer demand has changed in the United States. Whereas there historically had been a significant market for both premium and economy rotors in the U.S. market, there has been a dramatic shift away from premium rotors and towards economy rotors over the past few years. Engineering advances and reductions in vehicle weight have increased demand for lighter, thinner rotors versus the heavier, thicker rotors.

In the past when a rotor needed to be resurface due to wear a mechanic would repair the existing rotor. However, today with thinner rotors they are essentially replaced instead of resurfaced. Thinner rotors are more difficult to resurface. It is much easier for a mechanic to make a mistake. Therefore, instead of trying to repair a thin rotor, mechanics are replacing them with new ones.

With rotors having become discarded parts, the market for premium rotors has declined
dramatically because installers are unwilling to take
a chance and resurface an expensive rotor. They would
rather install a new rotor. This change in market
dynamic explains why the antidumping duty order has
been completely ineffective at stopping the flow of
imports subject to the order into the U.S. market.

Over the last few years U.S. producers,
including Federal-Mogul, essentially stopped producing
economy rotors. And since those are what the market
demanded, they had to be supplied by imports.

Also, Chinese companies are not dumping.
The vast majority of companies reviewed by the
Department of Commerce have a zero antidumping duty
rate.

Finally, I want to emphasize that Affinia is
the leader in the U.S. rotor market. That continues
to be the case even as they have shut down all of
their U.S. production. Affinia continues to be a
leader in the premium and economy segments. You can
see from the handout that was provided to you earlier
that Affinia has become totally reliant on imports
from China. As the document states, and I quote, "For
the past few years, taking our material and design
specifications and manufacturing processes to other
countries, principally China, has allowed us to
maintain our stringent quality standards while keeping
you competitive in the marketplace."

What's more, this press release applies to
both premium and economy rotors. You can see
Affinia's reference to its two lines of rotors:
advanced technology and professional grade. The
advanced technology line of rotors is Affinia's
premium rotor grade while its professional grade line
of rotors is its economy rotor grade. Therefore, just
like Federal-Mogul, Affinia has transferred itself
from a U.S. rotor producer to a U.S. rotor importer.
The only thing that continuing the order will do is to
give one importer, Affinia, an advantage over other
importers. Continuation of the order will not protect
U.S. production.

Thank you for your time.

MR. VANDER SCHAAF: We don't have any
further testimony. I would like to, however, thank
Mr. Mintzer and his witness for appearing. As you
know, when this case started Federal-Mogul was on the
other side from us. And I do think it speaks volumes
that they are here and Affinia chose not to be
present.

I do not have any further comments. And I
think we can open it up for questioning. But I would

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just ask if Mr. Mintzer is also done with his presentation and comments?

MR. MINTZER: Yes, we are. Thank you.

CHAIRMAN PEARSON: Well, thank you. Let me express my appreciation to all members of this panel who have taken the time to travel to Washington and be here with us today. Though you missed the cherry blossoms by just a few days. Either if the weather had been cooler or if we had scheduled this hearing last week you could have killed two birds with one stone. I hope some other time you have a chance to come and see the cherry blossoms.

We will begin our questioning this morning with Commissioner Lane.

COMMISSIONER LANE: Good morning. As you have recognized, this is not a typical hearing inasmuch as there is no one in attendance on behalf of the domestic interested parties. So, Mr. Vander Schaaf, I guess this question is for you.

How would you advise the Commission to proceed regarding the absence of domestic interested parties? And what are the legal implications, if any, of this absence?

MR. VANDER SCHAAF: I think that the Commission could reconsider and go to an expedited if
it wanted to, quite frankly, and draw a quick
decision.

COMMISSIONER LANE: You mean we didn't have
to listen to all this testimony?

MR. VANDER SCHAAF: I should have said it at
the beginning of my presentation.

Well, from our perspective it raises in my
view a difficult issue in the sense it is, as Affinia
stated it would do when it would file its letter, that
it would file a posthearing brief. I certainly would
not want it to game the system. That's something from
a procedural standpoint. That is very troubling to
me.

But also, there is precedent. There is a
Suramerica decision out of the Federal Circuit which
was an original injury investigation by this
Commission involving, original injury investigation by
the Commission, where there were more than one
producer. One of the producers decided not to
participate, submitted a letter just -- and this was
before the rules were clear on when the record closes
at the ITC -- submitted a record essentially saying
that they didn't have a concern about imports and so
forth. And there were a lot of procedural issues.

The Commission decided not to accept the letter
because it came in just before the vote, and so forth.  
And then it went up to the CIT and back down and up to 
the CIT again.  

And eventually the Federal Circuit deemed 
the nonparticipation by this U.S. producer to be 
indicative of the lack of concern by the industry as a 
whole for the imports.  

I think a similar conclusion from a legal 
precedential standpoint can be drawn with respect to 
Affinia. They haven't presented a prehearing brief. 
They are not here to present argument. And that can 
be drawn as an inference about a lack of concern for 
the imports. If they truly believed that they should 
be concerned about imports and they raise arguments in 
their posthearing brief I think you have a credibility 
and reliability problem because they didn't present 
those in their prehearing brief or appear here before 
the agency.  

So from that legal standpoint I think you 
could probably make those inferences and draw those 
conclusions.  

But I should note that when I was at the 
guard's desk I did see that one of the -- a 
representative from the law firm representing the 
petitioners had signed in to be attending at the 

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hearing. So I think they're here in spirit and but
not participating.

And I can't read your handwriting.

Oh, and as a procedural matter, part of the
gaming issue, we all know that the Commission's
posthearing briefs are limited to 15 pages. If
questions are asked that can't be answered at the
hearing, parties are allowed to address those
separately from outside the 15-page limit. I am a
little concerned the Commissioner is going to bombard
Affinia with a lot of questions and allow them to go
past this 15-page limit in answering questions.

So we are hit with this difficult issue of
do we give Affinia a lot of questions allowing them
then to present argument for the first time, evidence
for the first time, and information for the first time
in their post-hearing brief? And I am almost of the
mind to ask the Commission not to ask them questions
because it then allows them to game the system.

So we are stuck in this weird situation
where because they didn't do a prehearing brief and
didn't come to the hearing I am of the mind to not
give them an opportunity now.

COMMISSIONER LANE: Let me ask a follow-up
question on this. Can the Commission exclude Affinia

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from the domestic industry as a related party?

MR. VANDER SCHAAF: I think the evidence is there. But I also know the Commission's precedent that if you've got one producer and you exclude them you've got nobody. And there is a mindset that would suggest you've got to have an industry if you are going to draw an injury determination.

You know, we participated in the Commerce Department's sunset review. There they have a specific regulation that says, you know, if there is only one producer that comes forward and they are a related party and they exclude them as a related producer they will deem that they got no responses from the domestic industry and they will terminate immediately. And we thought they should have done that and they didn't.

We challenged whether or not Affinia and Federal-Mogul could respond and be considered domestic producers on the DOC side. We argued that they were related parties, they imported and so forth, and so they should be excluded as producers.

Here it raises a difficult issue. But the way I look at the evidence because they are selling products that really aren't going to be coming in from China, whether it's going to be the premium grade or
whether it's going to be sort of the new material or
the older material, those are small volume things that
the Chinese will never ship. So I think even if you
go forward and consider them the domestic producer
because they're the only one out there, and because
there is precedent at least in original investigations
where the Commission has said, look, we can't kick out
a related producer if they're the only U.S. producer
because then we've got no industry, I think if the
Commission goes down that road there's certainly
enough evidence for the Commission to issue a negative
determination here. Because I just don't see how
Affinia is going to be injured, first of all by their
own imports of premium grade or, second, by the
economy grade which they don't produce in the U.S.

So you know, I've sort of resigned myself to
looking at the evidence on volume, price and impact,
and we don't see a likelihood of injury recurring.

COMMISSIONER LANE: Okay. In their
prehearing brief domestic interested parties contend
that there are clear dividing lines between OEM brake
drums and rotors and after-market brake drums and
rotors and that the Commission's definition of the
domestic like product should be limited to after-
market products. Based on your experience are there
distinct dividing lines between OEM and after-market brake drums and rotors?

MR. VANDER SCHAAF: I can say from my legal standpoint we do support the distinction in the like product between OEM and after market. And I think I can just defer to the witnesses about the differences in OEM and after market from channels of distribution and customers and so forth.

MR. HUGHES: Well, actually one of the primary differences between OEM and after market is the OEM holds much -- in the manufacturing of the product it holds much tighter tolerances than anything used in the after market. Nobody in the after market uses the exact OEM tolerances because it would raise the cost of the brake rotor substantially over what the market would bear.

MR. VANDER SCHAAF: And what about distribution channels, end users? Who are the purchasers?

MR. HUGHES: I'll let Marvin handle that one.

MR. VANDER SCHAAF: Purchasers and the distribution channels?

MR. FUDALLA: Well, clearly the OEM you're shipping the product to GM, Ford and Chrysler or a
Toyota facility or a Honda facility located in the United States where the distribution of after-market rotors goes through large retailers and what's called warehouse distributors, names that you would know such as Pep Boys, Carquest, AutoZone, Firestone, those kind of people. It's too totally different distribution channels.

MR. WAPPELHORST: Ma'am, can I address your question?

COMMISSIONER LANE: Yes.

MR. WAPPELHORST: At our St. Louis --

COMMISSIONER LANE: If you would identify yourself please for the court reporter?

MR. WAPPELHORST: Dennis Wappelhorst, Federal-Mogul.

At our operation in St. Louis we manufactured two different lines of drums and rotors, an OES line for Ford Motorcraft, and then our Wagner premium line for the after market. And to your question about differences, yes, there are considerable differences in, as was stated earlier, in the specifications and the tolerances that we held on the Ford product were considerably tighter than on the after-market side.

And also, on the OEM product we 100 percent
balanced that produce before it went out. Now, on the
economy rotors nobody balances an economy rotor. And
only some of the premium product is balanced in the
marketplace.

COMMISSIONER LANE: Okay, let me stick with
you for a minute. Is there a difference in the life
expectancy of economy rotors and premium rotors? And
what is that?

MR. WAPPELHORST: I don't know that I can
answer that specifically. Is there a life expectancy
different in the eyes of the consumer? No.

If you take your car into a shop you expect
the same life out of that replacement rotor whether
it's an economy rotor or a premium.

Are there differences? Yes. Because the
tolerances, the surface finishes on the braking
surface. When we machine those braking surfaces we
are always much finer and a lot closer tolerance on
the braking surface for the premium as compared to the
economy. The castings we used were better as far as
from a balance standpoint on the premium, so you would
expect better life from that. Also, from the better
braking surface you would expect better life not only
from the rotor itself but from the friction pad that
rides on the part.
So there's more benefits to the premium part than just the rotor life itself: the ride, the steering. When you on hard braking you won't, you shouldn't on the premium expect any what we call shutter where you might encounter that on some of the economy rotors because of the lesser balanced casting. But also from the life of the friction pads on the premium you should expect better life.

I can't tell you you should expect this many miles from this one and that many because there's so many variables as far as the condition of the vehicle that the replacement parts are put on, how you drive, number of potholes in your neighborhood and so on and so forth.

COMMISSIONER LANE: Okay. Thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. And I'd also like to express my appreciation for the witnesses coming here today. Maybe I could continue with this line of questioning because the fundamental question I'm kind of wondering, why do we consumers buy the cheaper rotors if there's this difference in performance? Are we all being fooled or? Yes.
MR. WAPPELHORST: The main reason for the shift in the marketplace that several of the folks have talked about, and that shift has been dramatic since the mid-'90s is the quality of the Chinese rotors has increased dramatically. As an example, we purchased our first rotors from China I believe in '93. They were so bad we didn't even sell them, we took them to the foundry and melted them down for scrap. But within two or three years from that their quality had increased.

Now, at that time there was still a perception in the buying public about a part that they would buy that says "made in China." Over the years the quality of the parts that come in from China has increased dramatically to the point where both the installer, the guys that works in the shop, that's working on your car is going to hang that part because he's confident now that the part will work right for the customer and the customer won't come back next week with a complaint saying this doesn't brake right, it pulls to the whatever. He's confident that the job will be done and done right with the economy rotor from China because their quality has increased over the years. And with that has been the customer acceptance.
Now, sure there's occasions when, you know, there is still a premium market out there. It's a small percentage of the market. You might have maybe your wife will drive the car around with the kids and the mechanic says you need new rotors and he says, well, I can put a premium rotor on there for 40 bucks or an economy one for 20, for that vehicle you are probably going to say, I want the premium rotor on that car because my wife's driving it.

If on the other hand you have this car, you've got a hundred -- no, you have 150,000 miles on it and you say, well gee, I'm probably going to trade this in, you know, by next fall anyway, you're going to go ahead and put the economy rotors on there and they're going to work fine for you.

Have I answered your question?

COMMISSIONER WILLIAMSON: Yes. Thank you.

MR. WAPPELHORST: But it's mainly the shift is because of the quality has become better and the customer acceptance in the marketplace.

COMMISSIONER WILLIAMSON: Okay. So in other words, the new rotors, the cheaper rotors are sufficient, they do the job?

MR. WAPPELHORST: Yes, sir.

COMMISSIONER WILLIAMSON: Yes.

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Are there many manufacturers who manufacture both for the after market and for the OEM market? I think you mentioned that you milled some of that.

MR. WAPPELHORST: We did. We no longer do that. We still manufacture for Ford Motor Company for their Motorcraft line, the OES line. If you go into a Ford dealership and they replace a part that's what they use. But on all the after market it's all a purchased product for us now.

COMMISSIONER WILLIAMSON: OES, is that different from OEM?

MR. WAPPELHORST: Yes, sir. The OEM product would be what goes on the vehicle in the assembly plant. What we manufactured was OES, OE service, that was the replacement part in the Ford dealership.

COMMISSIONER WILLIAMSON: Okay.

MR. WAPPELHORST: Now, the specifications were the same because we got to work with the OEM engineers in Detroit and had to meet their specifications for the OES product.

COMMISSIONER WILLIAMSON: Okay, thank you.

To what extent, and I think we probably need to understand more about the product, I guess there is some, there is one company Waupaca who is making the casting. Generally where you make the finished, or do
the finished rotor, the casting, is that made in the same country? Because I guess we have different stages, we have the casting, we have the finished, I'm thinking a couple other stages. But maybe if someone could elaborate on this so we could get a picture of that?

MR. WAPPELHORST: At our operation we had a foundry where we produced our own castings and then did the machining right there. We also purchased castings from Waupaca. And we also purchased castings from China that we brought in to machine, depending upon, actually depending upon the volume of the part. For the high volume parts Waupaca had equipment that was very efficient at the high volume runs. At our foundry we made typically the middle to the back end of the line as far as the castings. With the freight costs the way they are it's not -- you normally would produce the casting and machine it and finish it somewhere close.

COMMISSIONER WILLIAMSON: Mr. Woo, do you want to add something?

MR. WOO: Yes, Mr. Williamson, thank you. I can also add to that question. I have a, you know, good knowledge of our previous company which was Auto Specialty Kinetic, one of the original petitioners and Heritage Reporting Corporation (202) 628-4888
one of the founding members of the coalition. Our Kinetic foundry was actually a foundry in San Jose, California, called AB&I. And we would produce the raw casting or cast the basic shaper of the rotor there but then transport the item, the raw casting down to Carson, California for finishing.

So the foundry and the machining operation can be completely independent of each other, even separate from ownership. In many cases it's, you know, quite possible to choose several foundries, you know, based on which foundry has the specific tooling or shape for that rotor and then you do all your machining in one central location.

So, for example, in the case of Affinia it would not be surprising to see them using two or three different foundries for the casting based on what tooling for what specific application was located at each foundry and then centralize the machining to some other point.

COMMISSIONER WILLIAMSON: Thank you.

I guess there is some question whether people who make the castings should be part of this industry or not. And I'm just wondering what your opinion is on that?

MR. WOO: Well, I think one of the beauties
of being a foundry is that you, you know, technically you
could cast anything you wanted relative to the, you
know, specialty of the equipment that you have there.
But there is an amount of flexibility that they have
with their operations that the brake rotor industry
specifically does not have. So we can't necessarily
shift our production out of rotors into, you know,
some other non-associated part.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. VANDER SCHAAF: We sort of demurred to
Affinia on this. We are not aware of Waupaca doing
machining. And talking to these guys I don't get the
sense that they perceive the foundry folks, the people
who make castings to be part of the industry. But I
would defer to Marv and Steve.

MR. HUGHES: I mean casting is very non-
specific. You can have an industry, you can have a
foundry that can cast anything from brake rotors to
teapots or to water pumps or to bearing hubs. There's
a whole range of things they can do in that factory.
So they are not -- a casting factory doesn't have to
be brake rotor specific at all.

I've visited several factories that do have
alternative products.

MR. WAPPELHORST: To that question, he's
right. I mean these, Waupaca is a huge casting company and they will do, they service a multitude of different industries. Brake drums and rotors were a big part of their business, and it still is a big part of their business for the OEM market but not for the after market anymore. So they'll cast for a multitude of different industries, rotors were just one of them, one of the industries they service.

COMMISSIONER WILLIAMSON: Okay, thank you.
I don't know whether, and I guess this is changing, but any idea, and maybe I can ask you for posthearing, how large is the premium market now? And what percentage in total production does it represent? And where is it headed?

MR. HUGHES: I can only speak to my own company but premium accounts for a significant portion of our business. As I said in our, in my opening statement, it's about four to one. We do large volumes of the economy, obviously, but the premium for us is actually growing because we're focusing on it's kind of a niche market for us. We find vehicles that the premium vehicles like Mercedes and BMW the owners tend to like to go to premium brake rotors. So that's still a significant and growing business for us.

As to the rest of the industry maybe Marv
could speak more to that.

COMMISSIONER WILLIAMSON: And premium also could include the disposable ones too I think?

MR. HUGHES: Oh, of course.

COMMISSIONER WILLIAMSON: Okay.

MR. HUGHES: Of course.

COMMISSIONER WILLIAMSON: By the way, do you dispose or do you recycle them?

MR. HUGHES: We recycle. We recycle significantly. And if we could recycle brake rotors, we've been trying to figure out how to do this on a logistical basis, we would do it because I mean we actually have a brake caliper remanufacturing plant and we recycle every single thing in that, including our waste from the cleaning, we find a way of recycling that too. So if we could capture these brake rotors it would be a great income for us. The problem is the logistics of collecting them all back is kind of problematic right now. We're still trying to wrap our minds around how we can do that.

COMMISSIONER WILLIAMSON: Okay, thank you.

No further questions now.

MR. WAPPELHORST: Sir?

COMMISSIONER WILLIAMSON: I'm sorry.

MR. WAPPELHORST: I'm sorry.
COMMISSIONER WILLIAMSON: The light's come on.

MR. WAPPELHORST: Just further to that, in our foundry probably about 80 percent of our melt was recycled material, either scrap drums and rotors or we would bring in scrap steel from our other factories around just so we could melt that. And then the rest of it, a certain percentage of pig, a certain percent of steel would go in the mix, so most of it's recycled. Certainly with --

COMMISSIONER WILLIAMSON: Thank you. I'm going to have to -- my time is over. But I thank you.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman. And I'd like to join my colleagues in welcoming the panel and thanking you for taking the time to come here today and to testify before us.

I want to start with an issue that was discussed both by the witness for Federal-Mogul and the witness for the respondent, and that is this question of whether Affinia is seeking to keep the order on in order to protect its own importing operations which benefit from the continuation of the order. And without referring to business proprietary information, and I'm hoping that you can do this
without referring to business proprietary information, can you explain how they are attempting to shield their own operations? I don't quite understand the connection there.

MR. HUGHES: First of all, Affinia has a joint venture with a company called MAT which is also GRI Engineering. That company is also part of the Shenyang Honbase and Laizhou Luyuan. These are what we refer to as permanent zero percent producers. They were given a free pass, if you will, for antidumping rates from the very beginning of the order. So what they've got is permanent zero percent.

Now, actually I envy their position. If I could do what they are doing right now I would too. Because with that zero percent producer supplying virtually all of your rotors you can now tell Commerce to investigate every other manufacturer out there for violations, which in fact they requested last year. Porter Wright submitted to Congress a request for investigation for every major manufacturer for violations, trying to get everybody else's rates increased.

So right now the sample rate is 4.22 percent that we have to pay as an antidumping duty rate from our manufacturers. So right away that means that
they've got a 4.22 percent advantage against us. And with their zero percent never going away, if they game the system, if you will, a little bit and start asking for Centric's producers to be investigated, you know, they could try and get our rates raised to 10 percent or something. There's always a little bit of a game that they can play. And they've got, if this order is continued they've got another five years to play this game.

COMMISSIONER PINKERT: Thank you. Does Federal-Mogul wish to add anything to that?

MR. MINTZER: I think he hit it right on the head. I don't know that there's anything more to add to that.

MR. LAYTON: Well, I would just say that up until now, you know, you've had a situation where the companies that the coalition sought to be reviewed by the Department of Commerce probably was tempered by some legitimate considerations for protecting the domestic industry from imports. But what you have seen now happen is that the domestic industry is not producing subject merchandise in the United States certainly to any great extent at all. There may be a tiny trickle left. But what they are seeking to do is
to protect their import operations.

And I will bet you anything what will happen in the next opportunity that Affinia has is they are going to go after Federal-Mogul's Chinese supplier. So that's mainly why Federal-Mogul is sitting here today so that they can't game the system. You just don't have an industry left here to protect and there is no purpose served here by this antidumping duty order other than to let Affinia manipulate the system over at the Department of Commerce if you extend this order for another five years.

COMMISSIONER PINKERT: Another point along these lines, Mr. Vander Schaaf, did you wish to add anything?

MR. VANDER SCHAAF: Not to cast any aspersions or anything but I've seen it before where a petitioner has sort of laid off certain suppliers from abroad who are subject to an antidumping duty and focus attention upon my clients, for example. And coincidentally, you know, human nature, at Commerce the petitioners are saying, oh, you need to verify every single supplier. Don't just verify the head officer, go to all these suppliers and verify ten entities that are affiliated with my client. And then with the other supplier, oh, one verification will do.
And everybody, you know, if you do these Commerce cases you know how costly they can be to have to defend all these verifications in China. And I've seen that with my eyes, not necessarily in this case. And it's not to cast aspersions on anybody but it's just human nature that when the petitioners are telling Congress to focus on a certain supplier Commerce staff tends to do that and they tend to dig a little deeper, the verifications take a little longer, they are much more detailed, and they go to more facilities and it's more costly for those entities than the party that the petitioner buys from. And then with them they sort of have a hands off approach and so you don't get as much as a delving and querying.

The investigation that Mr. Hughes mentioned wasn't just an admin. review. Outside the admin. review Commerce said we -- petitioners said, we think that this information is shady and questionable; you should do a separate investigation to see if this was accurate. So it was actually the request to launch another investigatory proceeding outside of an admin. review against a number of parties. So it's this kind of control that Affinia would have over the antidumping proceedings.
COMMISSIONER PINKERT: Just exploring for a moment the issue of what other interests Affinia might have at this point, might there be a possibility of obtaining Byrd Amendment distribution for entries that occurred before the expiration of the Byrd Amendment?

MR. VANDER SCHAAF: Well, there would be those as well. That's a good point. Byrd Amendment duties. But also you're seeing, I don't know how much the Commission sees of this as a topic at Commerce, you may have seen it when you were there, this proliferation of petitioners requesting significant volumes of reviews, numbers of reviews in wooden bedroom furniture, for example, and some of the other products, shrimp, out there. And then the petitioners will withdraw those requests. You have a certain amount of time to withdraw the request for an admin. review.

And there are settlements where the parties agree to some kind of settlement where something, some benefit that is bestowed upon the petitioner. And the petition who requested the review against all these parties will withdraw those requests for review so that the respondents don't have to pay lawyers to go through defending these reviews. And in exchange some type of compensation is provided to the petitioners.
And that is another means for giving Affinia control. I haven't seen any of those in the brake rotors order or market. So I don't want to say that could be an outcome, but it certainly is within the realm of possibility. But I haven't seen that happening in the brake rotors market, I've seen that in the shrimp, with respect to the shrimp order and the wooden bedroom furniture order and so forth.

COMMISSIONER PINKERT: Thank you. Now, turning to a comment that Mr. Layton made, and I think it also reflected something that Mr. Mintzer stated earlier, there was this suggestion that the domestic industry no longer exists. And I've got a multi-part question along these lines but I want to start with just a clarification of the claim.

Is the claim that the domestic industry no longer exists now or that it will no longer exist soon?

MR. MINTZER: Well, we're certainly in no position to dispute Affinia's claim that there is continuing to be a trickle of production. But the point is, you know, this proceeding is caught in a very transitory time in this industry. And you have Federal-Mogul leaving the industry during the fourth quarter of '07. You have Affinia clearly winding
down, selling, publicly noting their sale of various facilities. Even the ones that are open are for sale. That again you can look at their 10-K, it says that. So, you know, do they have production today? Yes. But we're trying to look at what is likely going to exist within the next few years. And everything they do reflects the behavior of an importer, it does not reflect the behavior of a U.S. producer. And even if you look at their 10-K they have to list all of their risks associated with their business in their 10-K. There's only one risk associated with this rotor business reflected in their 10-K, and that's the risk that Congress might increase antidumping duties on their imports from China. It does not state anything about the harm that Chinese producers are causing their U.S. rotor business. The only statement related to its rotor business reflects the risk that antidumping duties might increase on their own suppliers.

So I think that speaks volumes to where they are headed. And it speaks volumes to why they are not here because they would have to answer to that today.

MR. VANDER SCHAAF: Mr. Woo's testimony was that they were negotiating with Affinia to buy their assets, and that Affinia's representation to them at Heritage Reporting Corporation (202) 628-4888
The time last year was that they would only have going business for 12 to 24 months. So it would have closed that definitively down, sold it to the company he was with at the time which has now merged with CWD. So on a going-forward basis there is a very clear indication that they don't have an intention to continue to produce.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN PEARSON: There's been some discussion about the difference between premium rotors and economy rotors. Are there differences in metallurgy between the two or is it only a difference in machining?

MR. HUGHES: There can be both. It's really dependent upon the manufacturer. But clearly the premium rotors are typically, at least in CWD's case, are produced by manufacturers that have extensive equipment to manufacture high quality rotors and they do have metallurgy tests where they actually take a proof out of every single batch and they use a gas spectrometer to test the metallurgy.

CHAIRMAN PEARSON: Okay. And so?

MR. HUGHES: The economy does not typically, not that I've seen.

CHAIRMAN PEARSON: Okay. So a casting then
in theory could be made into either a premium rotor or an economy rotor but normally that would not be the case, you'd have separate metallurgy, separate castings for premium versus economy?

MR. HUGHES: In theory, yes, they can be. But typically the manufacturers that make at least our premium rotors are using an automated casting line, they are doing tests on metallurgy for every single rotor that's poured basically. So there's much more quality control on our premium rotors. In theory you could use the cheaper, unsophisticated line of production of premium rotors, but there's not as much control.

CHAIRMAN PEARSON: Mr. Wappelhorst?

MR. WAPPELHORST: For our premium versus entry level rotors, as Steve had said, for our entry level rotors we accept what they call a floor-molded casting where there is very little equipment and the molds just literally sit on the floor and two guys pour the stuff in. And on our premium they're all made on automated equipment. We accept a wider range of chemistry in the entry, a lower tensile strength on the casting, and we have a wider range of hardness that we accept on the entry level casting than we do on the premium.
CHAIRMAN PEARSON: Okay. And all of those were the issues that relate to the cost of the casting that you're buying?

MR. WAPPELHORST: Yes, sir, the cost. And then down the road then the serviceability of the part with the wider range of hardness and chemistry and the casting would be less serviceable.

CHAIRMAN PEARSON: Okay. So now if Waupaca is manufacturing castings for an OEM use would you purchase those same castings for OES use?

MR. WAPPELHORST: Yes, sir. Same chemistry of it, same, right off the same line.

CHAIRMAN PEARSON: Okay. And then it would be unlikely to purchase those same castings for either premium or economy after-market rotors?

MR. WAPPELHORST: I can't speak for the other guys but we purchased the same, from the same line from Waupaca for our premium but not for the entry.

CHAIRMAN PEARSON: Okay. Okay, so there is some overlap here but there also are some very distinct differences?

MR. WAPPELHORST: Yes, sir; absolutely.

CHAIRMAN PEARSON: One more question. Would I be correct to assume that a casting might be turned
into a rotor for several different models of vehicle, depending on how you do the machining and where you drill the holes?

MR. WAPPELHORST: Yes, sir, absolutely.

Some differences in machining. You can use the same casting and depending upon different bolt hole patterns -- if it fits a half ton truck, it might have a five-hole pattern. If it fits a one ton truck, same rotor but a six-hole pattern for the mounting bolts.

Also, some of the vehicles come with ABS on the braking, so those rotors would have an ABS sensor. A lot of them have an ABS sensor.

So we would take the same part, same casting, machine a bunch of them, press in an ABS ring for one part number, don’t press in the ABS ring, or sensor ring, for another part number.

CHAIRMAN PEARSON: Okay, and then, when a premium rotor is going to be refinished, the mechanic takes it off. Does he turn it on a lathe, or what’s involved in the resurfacing?

MR. WAPPELHORST: Yes, sir. It’s a small piece of equipment that sits in the shop, and they mount it in there and it comes in and cuts the braking surface.

CHAIRMAN PEARSON: So it’s a machine that’s
specially made for refinishing brake rotors?

MR. WAPPELHORST: Yes, sir. Yes, sir, for

turning a brake rotor.

CHAIRMAN PEARSON: Okay. Well, that’s

enough about the details of brake rotors to satisfy

me. Let me shift now to counsel. Are there any

previous cases that the Commission has dealt with in

which the possible lack of a domestic industry

influenced our determination, in a review?

MR. VANDER SCHAAF: Well, there have been

cases where the Commission has concluded that they

can’t exclude a party as a related party because they

are the only producer, but there is a case that I

haven’t had a chance to read thoroughly, Sebacic Acid,

where I realized, and it’s confidential but I read the

public opinion a while back, where it looked like the

domestic producer had ceased producing it at a certain

time period, and that seemed to have an effect on the

Commission’s determination.

In that case, the Commission did issue a

negative determination. It happened to be one of the

Chinese cases that I noticed where the Commission

issued, the few instances where the Commission issued

a negative determination, and there was a cessation,

it looked like, of production, but that’s me gleaning
from the public version. I wasn’t involved in that
case so I don’t know what the confidential information
showed, but it looked like there was a cessation of
production, and it said something, I remember the
quote was that the U.S. producer hadn’t produced since
-- star, star, star -- 1994, or something like that,
or 2004, and so it seemed to have an impact on the
Commission’s analysis, but that’s one case that I am
familiar with and then the other cases are the cases
where the Commission has decided not to exclude a
related party because -- although they might have met
the qualifications in terms of operations focused on
importation rather than production, it would have had
the effect to exclude the sole producer.

So they took that into account and decided
not to exclude the producer as a related party.

CHAIRMAN PEARSON: Okay, well, I am not an
attorney, as you know, and I am not even terribly
learned, especially when it comes to brake rotors, and
so -- I do recall, though, wrestling with issues not
entirely unlike, in this case, with Sebacic Acid, and
it would be a help to me if counsel could look at
these unusual cases where the Commission has had to
make a determination under challenging circumstances.

If I knew that there was some good guidance
for us in those cases, that would be a help to me.

     MR. VANDER SCHAAF: Okay.

     CHAIRMAN PEARSON: I simply don’t know
whether this case is sufficiently on point with
anything we’ve done before to provide us much help.
Then, another legal question. Are you recommending
that the Commission take an adverse inference against
Affinia?

     MR. VANDER SCHAAF: You know, I am very
familiar with the Commission’s positions on adverse
inferences. It’s very hard to convince the Commission
to draw an adverse inference. It’s not that difficult
at Commerce. It’s done more frequently there, but
it’s clear that the Commission’s approach has been not
to draw adverse inferences. It’s to take things into
account and consider things, the condition of
competition, and have it go to the weight of the
evidence.

     I think the Commission would have a right to
draw an adverse inference here. I think the
requirements are met, but I recognize the Commission’s
precedent. There have been many compelling examples
of the Commission having the right to draw adverse
inferences and not doing so, but I do believe that the
Commission would have the right, under the

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circumstances of this case and based on the requirements in the statute, to draw adverse inferences against Affinia.

CHAIRMAN PEARSON: And if we chose not to draw an adverse inference but rather just were to weigh the evidence, as you’ve mentioned, your view is that we would end up in roughly the same place?

MR. VANDER SCHAAF: Yes. A perfect example is this production issue. So many of our clients, you know, aren’t aware that Affinia makes anything here. Mr. Fudalla buys and sells to and from Affinia. He didn’t know until he started digging into this thing that Affinia still produced. Mr. Hughes said, they’re not producing, they’re not producing, we had to dig and dig.

That’s a big question, whether they continue to produce, whether they stopped producing yesterday or two weeks ago or a month ago or whether they’re still trickling something out. It’s clear that 2008 is completely different from 2007, and your questions for the institution of this case asked them to report on 2007, the questionnaires went through 2007, but it’s hard for us to even know whether they are still producing something.

They have indicated that they do and we’ve
got some information suggesting they could, but
whether they will be at the time of your vote is
difficult, and that’s one of the reasons why an
adverse inference would be appropriate, and it
wouldn’t necessarily have to be a total adverse
inference. I think you can draw an inference that
because they haven’t substantiated and come to the
hearing today, that they produce, they might not.

CHAIRMAN PEARSON: Okay. I may impinge just
a bit on the Vice Chairman’s time, but let me ask a
related question. We look at what will happen in a
reasonable foreseeable time. I don’t recall another
case in which we have had respondents come before us
and lay out an expectation that there will be no
domestic industry within a reasonably foreseeable
time. If you think that’s the situation here, help me
through that one as well, because I would want to
understand -- I mean, we tend to think of what happens
in a reasonably foreseeable time as demand in the
marketplace, something like that, and I don’t recall
grappling with the question of whether there is record
evidence that there is not going to be a domestic
industry in a reasonably foreseeable time, and in that
case, does that affect the determination we make today
if we believe that a domestic industry exists today?
MR. VANDER SCHAAF: Yes, I’ll have to look at that. I don’t know that there’s any precedent on that either, but we can certainly look at that and delve into that. I think that it would support termination. To the extent there is current production but there is an expectation that it will not be producing within the reasonably foreseeable time period, that it would give grounds for the Commission to issue a negative determination.

CHAIRMAN PEARSON: Okay, well, thank you very much, and thank you, Madame Vice Chairman, for your indulgence.

VICE CHAIRMAN ARANOFF: No problem, because I am going to pick up right where you left off, Mr. Chairman, and actually supply both the Chairman and counsel with the case that you need to look at, and it was actually, it followed Sebacic Acid, and it’s Synthetic Indigo from China. It was decided in early 2006, and in that case, the facts are more public than the ones in Sebacic Acid, so it should be easier to read, and it involved a domestic producer which was in liquidation and not producing anything and a bankruptcy trustee was representing it in the case, and the question before the Commission was, is there a domestic industry and is there likely to be one in the
reasonably foreseeable future, and you’ll see that the Commission split. Some of the Commissioners decided that there still was a domestic industry and then made their injury determination based on the existence of that industry, and two of the Commissioners, one of them being myself, determined that there was no domestic producer of the like product and that therefore, the Commission was obliged to consider the next most similar product, identified what that product was, got some small amount of information on the record about it and made a determination based on that other industry.

So the way I read your brief right now, you are basically arguing that there is no domestic industry or there is likely not to be a domestic industry, but you are still making your injury argument based on the industry that you told me isn’t going to exist, and I think you can’t do that. You have to pick one of those two ways.

MR. VANDER SCHAAF: Well, our position is that Affinia currently is the domestic industry, and that there is no likelihood that, within the reasonably foreseeable future, that they will be materially injured by imports. We think that, if you look at the factors for a related party, they should
be excluded, but we are mindful of the fact the Commission’s precedent is, if you’ve got one producer, you don’t exclude them on the related party basis, but we do believe their principal interests lie in importation and not production, and that’s one of the lynchpin considerations in deciding whether or not to exclude somebody as a related party, but we understand that, despite the fact that their interests are, you know, in importation, they are the only ones out there who produce the like product, and so we have not chosen to exclude them and then go to a most similar product.

If the Commission did decide to exclude them, I think they would have to go to a product that is most similar in characteristics and uses, but because Affinia is there, and because they are making the product that is subject to investigation, we do believe that Affinia is the domestic industry here, and Federal-Mogul until the time that they ceased producing in the five-year period of review.

VICE CHAIRMAN ARANOFF: Okay. I’ve got a reputation with my colleagues in the Synthetic Indigo case for being absolutely obsessive on this subject of like real fine legal niceties that not everybody saw the point in, but to me, if the facts on the record

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bear out that the domestic producer is more likely than not, you know, not going to be producing anything in the U.S. within the reasonably foreseeable future, then I have got to go to that next most similar industry, whether I get there that way or by excluding them as a related party, so what is the product next most similar to the subject imports? Would it be OES or OEM brake rotors? Would it be unfinished castings made by a U.S. foundry? What would it be?

MR. VANDER SCHAAF: These guys can probably provide you with more information on this, but I think it would be the producers of these performance rotors who sell to the racecar industry and some niche applications, who do not sell on the open market, but Power Slot, for example, was one of them, and they don’t have wide distribution. It’s my understanding they don’t focus on brake rotors.

They focus more on the racecar sector, and I’m not a big racecar guy. I don’t know about NASCAR, but apparently there is this minor league or something of racecar people -- I shouldn’t speak that way, but they have demands for certain products, and high performance brake rotors is one of them, and some of these producers make those products. They get their
castings from Waupaca, but I’m not aware of them
selling for commercial sale on the open market, but
that is one candidate that I think might exist, if the
Commission were inclined to go to a most similar in
characteristics and uses producer of something that is
not like the subject merchandise.

VICE CHAIRMAN ARANOFF: Go ahead in the
back.

MR. LAYTON: Yes, I’m intrigued by this and
we’ll certainly, with your leave, comment on this
issue in our posthearing submission, but I must say,
just as an initial reaction, I am a little troubled by
this, if I follow you. You are going to have an
original petition filed by the domestic industry that
produces the like product, so you are going to have a
standing determination made back in the original
investigation, and then a country is going to, in this
case the United States, continue that measure in a
sunset review based on a different like product?
Is that what I understand happened in
Indigo?

VICE CHAIRMAN ARANOFF: I mean, that’s
theoretically possible, but actually what happened in
Indigo is that both groups of Commissioners on both
theories reached negative determinations, and those
Commissioners who found the alternate like product reached that negative determination because they found no substitutability between the alternate product that they found and the original like product, and therefore, because there was such attenuated competition, they ended up at a negative determination.

Now, the facts in that case may be different than the facts here. I can’t prejudge that because I don’t know what the next most like product is, but in that case, you had to stretch pretty far to find another product that was made in the U.S. Here, there seems to be a number of things that will in fact stop a car, which are made in the United States, which gets you maybe closer than what happened in Synthetic Indigo, but the question that you raise about whether you can put an order on one product and then keep the order based on a finding about another product is one that the Commission struggled with in that case, and I commend you to read what we said and please feel free to brief the issue further, because I don’t think that was the final word.

MR. VANDER SCHAAF: Yes, and I do remember reading that case, but then, you know, I think there is enough record -- there was a lot of information put
on the record suggesting that Affinia still produces, and it wasn’t until we had talked to Mr. Woo that there were some clear signs that Affinia may be leaving, but I do also, just so the record is clear, I am not aware of the Chinese selling or being able to sell that performance-enhanced product, so you would have a limited level of competition, not only with the premium product, but with that performance grade product from China.

So we would make the same argument about no likelihood of injury to these other producers.

VICE CHAIRMAN ARANOFF: Well, I invite you, and obviously since I’ve asked the question, you’re free of the page limit, so go to it, to look at the like product factors with respect to what you think possible choices for the next most similar product would be, and how, if at all, that would change the likelihood of injury arguments that you have made in your prehearing brief.

It would be very helpful to me to have as many facts on the record as I can about what other products are and how they may be the same or different in terms of the way they might compete with the kind of products that are in the scope.

MR. VANDER SCHAAF: We’ll definitely address
VICE CHAIRMAN ARANOFF: Thank you, thank you. Now, I just want to clarify, originally, my understanding is that Affinia had four U.S. production facilities that they were using to produce brake rotors, and I think we have information in the record, public information that one of them is closed, and someone testified today that a second one was closed. Are there still two operating facilities?

Is that all of your understanding?

MR. MINTZER: I believe there is only one, and I can’t recall which one it is, but I believe the record reflects that only one --

MR. FUDALLA: It’s Litchfield, Illinois.

VICE CHAIRMAN ARANOFF: That’s still operating?

MR. FUDALLA: Correct, yes.

VICE CHAIRMAN ARANOFF: Okay, and now there was -- well, if you could walk through with me, anyone who knows, I know the McHenry facility, we have pretty clear record of what happened to that one, but the other two, what happened to them? Do we know what happened to them in terms of --

MR. WOO: On page 2 of my testimony, we are documenting the closure of, it’s McHenry and Erie,
Pennsylvania rotor and drum machine facilities in March of 2006, information given to us by a former Affinia product management employee. Then Waupaca was in a wind-down mode. That would have been the third machining operation, and we are documenting on page 3 of my testimony that it’s been offered for sale, and that Affinia clearly had offered it for sale, specifically to our company, with a termination date of business there established within a 12-month window, and so that would leave now just Litchfield as its sole operating facility that has the capability to machine rotors, but not necessarily being utilized for that specific purpose right now.

VICE CHAIRMAN ARANOFF: Okay, but your understanding is that the Waupaca facility has not been sold or dismantled?

MR. WOO: Correct, yes, until we would receive some press release from a, you know, public source, no one within Affinia, nor Affinia directly to us, has indicated that they have ceased manufacturing completely at that facility.

VICE CHAIRMAN ARANOFF: Okay. Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane.
COMMISSIONER LANE: I am intrigued by this hearing because it’s a product that I find a whole lot more interesting than a lot of the products that we’ve had in the past, and unlike some of you, I like cars. Now, I don’t know a whole lot about them, but I know what I like, what they look like, and I want them to run properly, and this idea of brake rotors is sort of interesting because in the past, when I was living in West Virginia, I went through brakes pretty quickly, and that was because I guess I am not a good driver or I like to drive fast and I brake on curves, and I was always sort of appalled at the price I had to pay, and now I am looking at what these things cost, and I am trying to figure out, why was I paying so much to replace brake rotors, pads, calipers, and all of that?

If I am a consumer and go get new brake rotors, if I don’t know the difference between premium and economy, and Chinese and domestic, am I going to be quoted, you know, the highest price they think I am willing to pay, without regard to what the actual product is that goes into my car?

MR. FUDALLA: I can answer that. Let me try. Ms. Lane, I think mostly an installer in most cases would quote you two prices. They would quote you a premium rotor and they would quote you an
economy rotor, and they essentially then give you the choice of what you want to put in your vehicle. That’s how it tends to work.

COMMISSIONER LANE: Well, are there different grades in the economy rotor product?

MR. FUDALLA: Amongst the economy rotors?

COMMISSIONER LANE: Yes.

MR. FUDALLA: No, I’d say pretty well right now what gets sold to the installers and the consumers through retail shops is essentially, you could paint them all with the same brush, essentially.

COMMISSIONER LANE: And I think there is, and I recognize it’s business proprietary, but there is a really big difference between the average unit value of the Chinese product and the domestically produced product.

COMMISSIONER LANE: Mr. Hughes, am I incorrect in that?

MR. HUGHES: Well, we contend, as I pointed out in my testimony, that there is -- the price level that they are showing is for premium, and what we have actually shown is economy, and there is a substantial cost difference between those two.

COMMISSIONER LANE: Okay.

MR. MINTZER: I would add, also, in Federal-
Mogul’s questionnaire response, in our importer questionnaire response, we provided some import data reflecting Chinese-origin premium rotors, and you can look at the average unit values of those compared to domestically produced premium rotors, versus Chinese-origin economy rotors, and I think you can see the difference there. Even the Chinese-origin premium rotors are more expensive.

COMMISSIONER LANE: Okay, now I’ll go to a more typical question. Our data show that the volume and market share of subject imports from China have increased substantially over the period of review. What impact, if any, has the antidumping order had on the volumes and prices of subject imports from China?

MR. VANDER SCHAAF: We’re not seeing any impact, to be honest with you. I mean, one of the reasons for the huge volume of imports is that Affinia is behind it, according to the testimony these guys have seen, and Mr. Hughes has mined a lot of PIERS data to find out who is bringing it in. In many cases, it’s not Affinia, it’s GRI and MAT, but his conclusion is that that has to be sold to Affinia, and so we’re not really seeing an impact for the order because the producers from China have all been getting zeroes, and you see a consistent pattern with the
foreign producers requesting a new shipper review,
getting a zero dumping margin for their deposit rate,
and then in successive admin reviews, getting zero
dumping margins, and I can’t testify to the
circumstances at the time the order was put in place,
but it’s pretty clear to me now, based on Ms. Zhang’s
testimony, that the foreign producers priced their
product according to cost, and you know, if you sat in
the meeting I did yesterday with these guys
complaining about price increases coming at them from
China, I think you’d conclude the same thing, that the
Chinese, although, you know, we had this non-market
economy thing that Commerce does, they are very cost-
conscious, and they are all going to be sending off
price increases.

This document that Affinia circulated that
was put on the record today by Federal-Mogul shows an
18 percent increase and a 25 percent increase, for
advanced technology, 18 percent, and Raybestos
professional grade increase of 25 percent. I asked
Mr. Hughes if this was import or domestic production,
and he said it was imports. So I think this is
another example, this new document from Affinia, of
how the order is really not, it’s sort of a relic of
the past for this industry and market.

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COMMISSIONER LANE: Okay. Mr. Vander Schaaf, I think you said that you were going to address in your posthearing brief whether or not the Commission should use adverse inferences. Is that correct?

MR. VANDER SCHAAF: I can do that, sure. I don’t know if I committed, but I certainly will.

COMMISSIONER LANE: Okay, yes. That is my request. I mean, it would seem to me that if the Commission were ever to do that, the facts in this case might be the best we have seen in some time, so I would ask you to brief that please.

MR. VANDER SCHAAF: We will. Thank you.

COMMISSIONER LANE: Okay, and that’s all I have, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you, Mr. Chairman.

Mr. Hughes, Commissioner Lane has also raised this question about the differences in the prices. You raised questions about our data in terms of reflecting, well, you’ve said apples and oranges, comparing, and also, I don’t know whether you’ve provided to the staff price lists or more details on this so that we do get this information correct, in
terms of what we are comparing, what the data shows.

MR. HUGHES: In our questionnaires, we supplied all of that, the pricing, average costs that we are paying for the product, and again, that is all based upon economy product. We also purchase premium product, and we can supply, in postcomments, we can supply that information for you, what our cost is on premium.

COMMISSIONER WILLIAMSON: Okay. I think it would be helpful if both these were supplied to Federal-Mogul too to be able to make sure that we are comparing apples to apples.

MR. HUGHES: Yes.

COMMISSIONER WILLIAMSON: Also for Mr. Mintzer in posthearing, on Table 3-7, there are some differences between Affinia and Federal-Mogul regarding production units, labor costs, and I wondered if you in posthearing could maybe explain those differences, and if we have then another question of not comparing the right things.

MR. MINTZER: Of course, we’ll address that.

COMMISSIONER WILLIAMSON: Thank you. In thinking about the demand for aftermarket brake rotors, will the rising fuel costs affect the demand in the future in the U.S.?
MR. FUDALLA: Actually, we’ve been looking at this. I was asked the same question by the equity group that owns us, because they are a little concerned about what inflation means to our business, and what we discern is that because of rising fuel prices, et cetera, there’s probably going to be less miles driven, and then with less miles driven, that will have an impact of sorts to the amount of replacement that’s done on the vehicle, because obviously, if you replace a rotor every 25 or 30,000 miles, you won’t hit that number as quickly if you don’t drive as many miles, so that’s probably the biggest impact.

COMMISSIONER WILLIAMSON: Thank you. Are there any other major factors out there in terms of -- I’m sorry, Mr. Wapnelhorst?

MR. WAPPELHORST: Yes, sir, on that question, we track three things: the size of the fleet, the total car park in North America, the age of the fleet, and then as Marv said, the miles driven. For our business, for the aftermarket business, historically, all three of those have grown every year, the size of the fleet, age of the fleet -- age of the fleet is important to us because the more older cars are on the road, the more replacement
opportunities we have -- and the miles driven continue to go up.

Now, as you say, with the recent increases in gas, will that miles driven go down? Probably so. We haven’t seen that yet, but that could be a factor, yes, sir.

COMMISSIONER WILLIAMSON: So does that imply -- what are you thinking for future demand? Are we going to see -- are you saying it’s going to be increased need for aftermarket rotors?

MR. FUDALLA: I think it’s a blip. It’s a higher gas price, less miles driven, blip. I think, like everything else, you adapt to the environment that you are in, so that’s how we are looking at it. Where we traditionally might have had a 3 to 4 percent growth rate every year, maybe we’ll, in the next 12 to 18 months, have maybe a 1 to 2 percent growth rate because of this.

That’s kind of how we are looking at it, but then it’ll resume back to the normal 3 to 4 once, as I call it, adaptation to the environment occurs.

MR. WAPPELHORST: So we expect our business to continue to grow based on the size of the fleet, age of the fleet, and whatever happens to the miles driven may affect it a little bit, but our forecasts
are for the business in total to continue to grow.

COMMISSIONER WILLIAMSON: Thank you for those answers.

Ms. Zhang, it’s been pointed out that I guess, I think the Chinese exporters have been primarily concentrated in the U.S. market. You’ve testified about the growing improved opportunities in Europe and elsewhere in the world, but I am just sort of wondering, why has there been so much concentration on the U.S. market? I mean, brake rotors are used all over the world, and so I wonder why up to now it’s only been the U.S. market that you primarily focused on.

MS. ZHANG: Because the prices in the other markets are higher, and we earn more profits on that.

COMMISSIONER WILLIAMSON: Okay, I think I see.

Mr. Hughes, do you want to add something?

MR. HUGHES: Yes, let me add. First of all, they have concentrated on the U.S., not solely, but a major concentration is because of our fleet size. I mean, the volume that we consume here. That’s not to say that they haven’t been looking in other areas. They certainly sell into Europe substantially. I mean, I have seen in various factories in China, and I
have done site inspections on about 15 or 20 of the manufacturers in China, I have seen in several of the manufacturing plants over there products that were destined for Italy, for their biggest rotor manufacturer in Italy. I see rotors that are destined for Europe for a TRW.

So that has also been part of their market, but the U.S. has overwhelmingly the largest volume in the world for vehicles, and for steady replacement of the rotors. In other countries, in third world countries, you’d tend to find them wearing the brake rotors down to about the thickness of a razorblade before they replace them, and then half the time they might replace them with used rotors, I don’t know, but definitely, the consumption rate here in the States is much higher typically.

COMMISSIONER WILLIAMSON: Having been in some of those countries and knowing the accident rates, I've seen it before.

MR. HUGHES: Yes.

COMMISSIONER WILLIAMSON: I’m sorry, go ahead.

MR. WAPPELHORST: Just a quick comment on that. You know, in North America, what we call the independent aftermarket is a big business. You know
yourself when you buy a car, as soon as the car is out
of warrantee, you’re not going to take it back to the
dealer. You’re going to take it to your local shop to
have it worked on. Well, that, to my understanding,
that’s not the case in Europe.

The independent aftermarket for replacement
parts is not as well developed in Europe, so the
Europeans will typically go back to the dealer forever
and ever and ever and there’s not as many independent
repair shops as there are here, so as far as an
aftermarket replacement business, this is huge
compared to anywhere else in the world, so that’s part
of the reason why they targeted North America first.

COMMISSIONER WILLIAMSON: Okay. Thank you.
That was very helpful, and I have firsthand experience
of that too.

MR. HUGHES: If I may add one more point,
that is changing though, because we are seeing more
repairs being done, or a shift away from dealerships
in Europe. We are seeing this more and more often
now. We have actually been approached to possibly set
up distribution over in Europe, which we have shied
away from, but again, where I hadn’t seen it before, I
am now seeing a lot of rotors that are being
manufactured for companies in Europe, in virtually
every one of the manufacturers in China.

COMMISSIONER WILLIAMSON: Thank you. That
does help clarify that.

I have no further questions at this time,
Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr.
Chairman.

I’d like to begin by taking issue with
something the Chairman said earlier. The Chairman is
learned, and it says so in the statute. It’s one of
the requirements.

CHAIRMAN PEARSON: I’m obviously going to
have to read the statute and become more learned in
it.

COMMISSIONER PINKERT: In any event, I’d
like to ask either of the parties, or any of the
parties who are here today to respond to a question
about the cash deposit rates that have been determined
at the Commerce Department. Would you say that the
low or zero cash deposit rates have been a factor in
accounting for the decline of the industry in the
United States, insofar as they have been insufficient
to affect the volume and the pricing of the subject
imports?
MR. VANDER SCHAAF: We don’t think that, obviously, but you know, one of the things we’ve seen is, as Affinia has made these decisions that Mr. Woo talked about and that Mr. Fudalla talked about, moving their operations abroad and so forth, they have been doing it at a time where there is an order in place, and the importers have been having zero or de minimis margins, so our position is they can’t claim that it has been unfair pricing that is forcing them offshore.

They are making these rational business decisions at a time when the competition of which they complained is fair competition. It’s not unfair pricing, so we do not think that the Commerce Department’s margins are too low. I think they’d fire me if I told you that they were. Our clients, obviously, are some of the producers in China who are subject to those antidumping duty rates, and it’s been my experience with respect to, you know, China, the Department of Commerce’s approach to nonmarket economies, when you look at the multi-country investigations when China is involved, you see from our pricing data in the ITC proceedings, you know, similar pricing from all countries in the U.S., and yet you see the Chinese antidumping margin, because it’s a nonmarket economy rate and it’s a different
procedure by Commerce, you invariably see the Chinese
getting hit with much higher dumping margins than
producers in the market economy countries, even though
their pricing in the U.S. is comparable.

So I think if anything, for nonmarket
economies, it’s been my experience, we advise our
clients, you are probably going to get hit with a
higher margin irrespective of pricing issues, because
of the nonmarket economy approach that Commerce
follows. That has been my experience, so I would not
say that the dumping margins have been mistakenly low
or something to that effect, not reflecting market
reality and fair pricing and so forth.

COMMISSIONER PINKERT: I wasn’t referring to
whether the margins were accurately determined, so
much as the question of whether the low margins have
accounted, or at least account in part, for the
decline of the industry.

MR. VANDER SCHAAF: I don’t think so. I
have to admit, I really think that Affinia has -- I
don’t know if I see it as decline. I think they have
made business decisions the way Federal-Mogul made
business decisions, and you know, Affinia is, as these
guys have testified, they see them in the market as
being one of the biggest sellers of imported product,
so I can’t -- I don’t see any of Affinia’s activity or
operations or their decline to be a result of too low
margins.

MR. MINTZER: I think we’d note, you know,
there has been Chinese product in the market for a
long time, so the question is, over the last five
years, particularly over the last few years, why have
you seen essentially the industry decline
dramatically, and we speak in our brief and we have
testified today about changes in consumer preferences
in the U.S. market that have really driven Federal-
Mogul, and presumably Affinia as well, to ramp down
U.S. production, and that goes to the production of
and the demand for thinner, lighter rotors over
heavier rotors, and the fact is costs in the United
States have simply increased and made Federal-Mogul
and presumably Affinia incapable of producing
competitively in the U.S. market.

COMMISSIONER PINKERT: Let me go back to
something that Mr. Hughes testified to earlier, and
that concerns the nonsubject imports. Is it your
testimony that the nonsubject imports have had a
harmful impact on the domestic industry?

MR. HUGHES: Inasmuch as Affinia is the one
that’s the primary benefactor of these lower prices,

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no, it has not. It’s given them an advantage against
the rest of us, is what it’s done, and Affinia has
held very high margins in their pricing, so it’s just
given them a larger profit margin in which to enjoy
that we don’t get. It’s not harmed the manufacturer.
It’s harmed the industry.

COMMISSIONER PINKERT: Thank you. Now,
turning to the arguments about demand in the
reasonably foreseeable future, the Chinese
Respondents, I believe, argue that demand will
continue to increase in the reasonably foreseeable
future. My question for you is whether a looming
recession or a possible recession would have any
impact on that projection.

MR. HUGHES: We consider the brake industry
somewhat recession-proof. I mean, it’ll, like what
Marv was saying earlier, it may drop a couple of
points over the coming year or so, but people need to
maintain the safety of their cars. The family man is
going to say, okay, the pads are wearing out in the
minivan, we’ve got to replace those. Typically, he’s
going to make the decision to make the proper repair.
So I do not believe we are going to get hit
very hard in the recession. It’ll just be, as Marvin
said, a blip on the radar, at least in my opinion.
COMMISSIONER PINKERT: Federal-Mogul?

MR. WAPPELHORST: Pretty much, our experience in these downturns is what Steve had talked about. Sure, if there’s a downturn and there’s a recession, is our business, will it go down? Sure, a little bit, but again, these are wear items that have to be replaced, so typically a downturn, and I don’t know how to put that it percentages, would affect us, but not near to the amount that the economy would expect.

In other words, if the OE guys are down 20 percent in a downturn in the economy, we might be down 5 points, to put it in some kind of perspective. Does that answer the question?

COMMISSIONER PINKERT: Yes, thank you.

My final question is for the lawyers, and I would encourage you to either answer this one here or answer it in the posthearing, or some combination of those two. You argued that continuing the order will have no beneficial impact on the domestic industry, because so far, it has had no impact on the volume or pricing of subject merchandise. Is a determination that the order has been ineffective to date a sufficient basis under the statute for a negative determination in this review, given the forward-
looking nature of the analysis that we are supposed to conduct?

MR. VANDER SCHAAF: I think it’s a consideration the Commission should take into account. But I don’t think that it alone should be the basis for a negative determination; and I don’t think that it is the only basis here.

There may be, I guess you could think of this scenario: It may be a situation where an order has had no effect, but it might have an effect in the future. I don’t see that as being the case here.

I think we have a number of pieces of evidence that suggest revocation of the order is not going to be likely to cause a recurrence of injury. But I think that that standing alone -- I mean the Commission set in precedent an original investigation that imposing an order will do no good; or where a producer can’t satisfy all demand, then market is not a basis for not imposing an affirmative injury determination.

I can see, under Commission precedent, why that factor alone would not drive a negative determination. If the Commission is required to look at volume price and impact, and the statute lays out looking at inventories and looking at capacity
utilization, and the likelihood of expanded capacity
barriers to entry, or things of this nature, I think
when you look at those factors, it supports a negative
determination.

But I think that isolating that one factor
alone, I think the Commission would run into trouble
with that.

COMMISSIONER PINKERT: Mr. Mintzer or Mr. Layton?

MR. LAYTON: Yes, if I may in the time left.

You and I have some experience with similar
questions at the Department of Commerce, where you
have three years of no dumping.

Is that determinative of what the Agency
should do when asked to revoke the order under a
changed-circumstances review? The answer is: No.

The Department of Commerce reserves the
right to look at the totality of facts and decide
whether or not to keep the order around. I suspect
that this agency wants to do when faced with a
circumstance like this where yes, you have companies
excluded in the original investigation, companies in
reviews that are found not to be dumping.

Is it determinative? Is there some sort of
inference or a rebuttal presumption? Probably not.
But I think when you look at the totality of the facts, you quickly come to the conclusion, in this case, that if you revoke this order, it is highly unlikely that material injury, or threat of material injury, will occur for all the reasons that we have been discussing: the difference between premium and economy, and all the totality of the facts.

COMMISSIONER PINKERT: Thank you.

Mr. Chairman?

CHAIRMAN PEARSON: Are brake drums produced in the United States, Mr. Wappelhorst?

MR. WAPPELHORST: Yes, sir. But most of the vehicles, passenger cars, light trucks, SUVs, most of them are four-wheel disk now. We produce, at our location, both drums and rotors. I believe drums were about five percent of our volume.

CHAIRMAN PEARSON: Okay. Are drums also produced from castings?

MR. WAPPELHORST: Yes, sir.

COMMISSIONER PINKERT: Thank you. The reason for asking is just because if we're in a situation where we find that there is no domestic injury producing rotors, then we need to look for the next most similar industry. I just want to make sure that it's not drums.
I don't have any idea whether we have information on the record that would allow us to make such a determination. But if counsel would give some attention that question, that would be helpful.

MR. VANDER SCHAAF: We will.

CHAIRMAN PEARSON: Then I just can't resist, Mr. Woo, clarifying: You had indicated earlier that there is a foundry in San Jose, California that has some involvement with this business.

I don't think of San Jose as a place where iron casting is common. So just to clarify, does this foundry actually cast iron, or was it casting silicon?

MR. WAPPELHORST: At the time of the original investigation, which was in the late 1990s, the auto specialties' kinetic manufacturing partnership, so to speak, was truly with a foundry in northern California.

Whether the dividing line was technically in San Jose or an adjoining city, I can't tell you exactly that they considered their local municipality there. But it was definitely in an area of northern California that not typically known for industrial production there.

CHAIRMAN PEARSON: Okay. Well, I could envision those being really high-tech brake orders out
of a plant in San Jose. Thank you for that.

I think that I have no more questions at this point.

Vice Chairman Aranoff?

VICE CHAIRMAN ARANOFF: Thanks, Mr. Chairman.

Mr. Hughes, in your testimony at the beginning of the morning, you said you knew of people to whom Affinia had offered to sell its after-market brake rotor production machinery, and Mr. Woo had talked about the one facility.

But are you aware of offers that they have made to sell the facility that all of you identified as still operating?

MR. HUGHES: The Litchfield facility, I've not heard any rumors or comments to that fact, no.

VICE CHAIRMAN ARANOFF: Okay. There were references made to the 10K filing from Affinia, suggesting that these things that were for sale.

Were they referring specifically to that facility?

MR. HUGHES: I'm not privy to the 10K file, so I couldn't speak to that.

VICE CHAIRMAN ARANOFF: Okay.

Mr. Mintzer?
MR. MINTZER: Yes, the 10K filing reflects an intent to sell the Waupaca facility.

VICE CHAIRMAN ARANOFF: Okay. So, as far as we know, there is nothing on the record right now that indicates an intent specifically to sell the Litchfield facility?

MR. WAPPELHORST: Ma'am, that Litchfield facility is primarily a brake hydraulics plant, wheel cylinders, master cylinders.

To my understanding, the only reason they moved those cells in was they had plenty of open space there because the brake hydraulics' business has gone through the same downward spiral that the rotor business has.

VICE CHAIRMAN ARANOFF: Okay, I appreciate that clarification.

So perhaps I should redirect my question not to whether or not the facility is for sale, but to whether the brake rotor production equipment, at the facility, has been offered for sale? And it doesn't sound like anyone has specifically heard anything about that.

MR. WAPPELHORST: No, I haven't.

VICE CHAIRMAN ARANOFF: Okay.

I wanted to follow up on one of the Heritage Reporting Corporation (202) 628-4888
questions that one of my colleagues was raising. I think it was Commissioner Williamson earlier on had asked the question about whether foundries should be considered part of the domestic industry? And you all gave your general sense that because they can produce any kind of casting, perhaps they shouldn't. But I wanted to ask counsel in the posthearing brief to look at it in terms of this six-factor test that we usually look at for sufficient production-related activity, and specifically to note that in both the first review of this order, and in the 421, while part of the foundry was considered part of the domestic industry by the Commission, it wasn't really argued. It kind of happened by default, but they were part of the coalition.

So, in some sense, it's a question of first impression for us; and, in some, it's not.

MR. VANDER SCHAAF: We'll address that in the posthearing, is that what you want?

VICE CHAIRMAN ARANOFF: Yes.

MR. VANDER SCHAAF: Yes, we will definitely do that.

VICE CHAIRMAN ARANOFF: Thank you.

I also wanted to follow-up a little bit on this issue of the domestic producers that produce
specialized brake rotors, for example, for racing applications.

Does anyone here understand exactly what sort of production operations these kinds of producers perform? Are they starting from a casting, or are they starting from a finished regular rotor, and then doing something to it to make it a specialized product, Mr. Woo?

MR. WOO: It's possible to do both. Because the racing market is highly customized, essentially making applications that aren't typically a replacement part directly for your average passenger vehicle, the extensive machining operations that the typical manufacturer in the racing- and performance industry would have, could either take a raw casting and machine it into a finished rotor.

Or they could just do finishing, which is to take a rotor that is semi-finished and add some value added appearance factor to it, such as a slot or a drilled hole. That would be primarily like a cooling upgrade, but it would still have some performance benefit to the vehicle, and thus be sold in a completely different channel.

VICE CHAIRMAN ARANOFF: I guess that goes Heritage Reporting Corporation (202) 628-4888
back to the same question then, which is: Whether these kinds of producers perform sufficient domestic activities to be considered part of the domestic industry that's producing brake rotors?

MR. WOO: As it relates specifically, though, to the tariff, I think the manufacturers of which I was previously an owner in one, we consider this not to be our market.

The premium versus after market replacement market that we're addressing here today, we feel that, as a previous performance after-market manufacturer, is completely separate from the market that we address, which is racing and performance.

So anything that happens relative to Chinese imports, virtually does not affect our business. They exist in completely separate orbits.

VICE CHAIRMAN ARANOFF: Okay.

If anyone wants to look at that further in the posthearing, I'd appreciate it. Because I think we need to kind of circle back and make sure, before we tell ourselves that Affinia really is the only domestic producer, that there aren't other people that are producing products that are like the products that are in the scope.

Walter Hughes, did you want to add
something?

MR. HUGHES: Yes, if I may. What Kirk did not mention is that the Stop Tech Division of our company is actually a high-performance and racing-brake manufacturer.

What we do is: We bring in finished castings, if you will, from Taiwan and from Italy, a very, very high grade, a very high specialized metallurgy, if you will, in a finished ring. What we do is add the value added holes or slots depending upon the customer's request.

Then we have an aluminum head as an adapter that we have to machine that basically doubles the cost of the rotor assembly. So we are already in that industry ourselves. It's very high performance.

It's used in racing. We're quite well known in racing circles around the world. It's also used in very high performance upgrades for the street.

VENTURE CHAIRMAN ARANOFF: Okay.

Let me switch gears for a moment. This question will necessarily have to be for the posthearing because it deals with confidential data.

In Table 3-4 in the Staff Report, at, I think it's, 311, there is a chart showing the unit value of domestic producers' U.S. shipments on a
For posthearing, I'd like you to please take a look at this, and explain to me how these company-by-company data are consistent with the argument that I've heard today that Affinia's U.S. sales are premium rotors? I can't say more than that because of the confidentiality. But if you have trouble answering the question, please get back to staff and we'll provide more detail to you.

MR. VANDER SCHAAF: We'll do so.

I'm looking at the public version here, but I think we can figure it out when we look at the confidential version of the Staff Report. If we have questions, we'll ask the staff.

VICE CHAIRMAN ARANOFF: Okay, thanks.

There's argument in the brief, and we've heard argument today as well, about the fact that Europe may, at present, be a better market, or a growth market, for the Chinese product as compared to the U.S. market.

One of the arguments that's been made is that prices are currently higher in Europe. But we've also heard that the market for after-market rotors in Europe is small and hasn't taken off the way it has in...
Is there any information that you can provide us, for the record, that would give price forecasts of prices in the U.S. relative to Europe, and demand in the U.S. relative to Europe for the foreseeable future?

MR. HUGHES: I think we're going to have to inquire among our different clients and so forth. It doesn't look like people at the table have it, but we'll have to dig around to see if we can find something like that among our different clients in the group.

VICE CHAIRMAN ARANOFF: That would be helpful.

One of the things that the Commission often looks at in reviews: when we're looking at arguments based on price differentials between the U.S. market and third-country markets is: Not just is the price higher or lower today, but is there likely to be sustained price differential, and how would that be likely to affect incentives for an exporter?

That's what I'm basically getting at here. So anything that you can add would be helpful.

Can anyone explain to me why there can be whole volumes of subject than non-subject imports from Heritage Reporting Corporation
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China, even though the non-subject imports likely represent Chinese producers that are excluded from the order?

MR. VANDER SCHAAF: I don't think it's getting into too much BPI, but I think you do have capacity issues for the subject producers. I don't know if you can talk to that publicly.

MR. HUGHES: I can just say that not one manufacturer can typically handle any one company's volume on their own. We've had to spread out to several different manufacturers, and I'm sure that Affinia's volume is pretty much taken up by -- they're supplying almost a majority of their volume to Shenyang Honbase or MAT if you will.

But we have to spread it around. We can't get to the subject producers typically. We can't do any real volume with them because it's taken up by Affinia.

MALE VOICE: You said subject.

MR. HUGHES: Sorry, non-subject. So we have to spread it around.

If our monthly capacity needs are 150 or 200 containers, typically we go to a new manufacturer. When we talk to them, the first thing out of their mouths is: We can afford you 20 containers.
This was a massive problem for the entire industry last year, was getting capacity.

VICE CHAIRMAN ARANOFF: Okay, thank you very much for that answer.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. I just have a couple of questions to finish up here.

I was wondering if the Respondents can address the extent to which importing, say castings, things that are not processed to finishers, unfinished rotors and semi-finished rotors and finished rotors, I think those are the four different categories that might be traded.

But I was wondering to what extent are you importing in those different categories?

MR. HUGHES: I would say that a vast majority of the industry is importing finished rotors. We know that, from our own knowledge and from Federal-Mogul's comments that they were importing semi-finished rotors for a few years.

But I believe that's altered, so it's almost all finished rotors that are coming in from my knowledge.
MR. WAPPELHORST:  Our imports are 100 percent finished complete rotors.

COMMISSIONER WILLIAMSON:  Does that mean the semi-finished and say unfinished rotors, that train is no longer there basically?

MR. WAPPELHORST:  That's correct, yes, sir. We did that up until last summer, which was the last finished casting that we brought in and finished ourselves.

MR. VANDER SCHAAF:  And I can report too, I think I can say it publicly. We were asked by staff to poll our clients and ask them what they were shipping and what people were importing. And none of the foreign producers, if I'm correct, Felipe, had reported any exports of anything other than a finished rotor among our Respondent's group of the producers in China. They all shipped only finished rotors.

COMMISSIONER WILLIAMSON:  So, no castings either?

MR. VANDER SCHAAF:  That's correct.

COMMISSIONER WILLIAMSON:  Okay. We know about Waupaca. Are there any other U.S. companies that are making castings for the OEM market at this point that you know of, the after market, I'm sorry?

MR. WAPPELHORST:  No, not that I'm aware of,
COMMISSIONER WILLIAMSON: Okay. I just wanted to make sure that we've covered it.

Mr. Wappelhorst, you had mentioned that Federal-Mogul basically can no longer produce OEM after-market rotors in the U.S. I wasn't fully clear why it couldn't continue. Is it health-care costs, labor costs? What was it that made it not feasible to continue?

MR. WAPPELHORST: I think we talked earlier. It's been brought up about the different price levels of the economy versus the premium rotor.

The marketplace can only accept a certain price gap for that premium product. So we were in a situation where our cost continued to rise: steel, energy, labor, and, of course, benefits. But we weren't able to pass those cost increases along to the marketplace, these price increases for the premiums, because of the entry-level product that was coming in, and the price gap in the market.

COMMISSIONER WILLIAMSON: In other words, there was just no chance of competing in the economy at the economy level.

MR. WAPPELHORST: No, sir. As Steven said earlier, you know, going back to when we first made
the petition in the late 1990s, our business was 80 percent premium and 20 percent entry.

As Steve said: It has flipped the other way now, four-to-one entry to premium. Actually, our premium is a percent of what we give for most of our customers. Their sales are less than 20 percent of premium. We just weren't able to pass those cost increases due to the marketplace.

COMMISSIONER WILLIAMSON: Okay, thank you.

I just didn't fully understand that when we finished talking.

I have just one last question. Mr. Fundalla, you had talked about -- that Affinia was basically doing very low quantities of after-market brake rotors for specific end users, and you talked about especially after-market, slower-moving older applications and new part numbers.

So I was wondering whether there is anybody else in this market producing for that segment?

MR. FUDALLA: I think there are a couple of companies that are in the performance- or specialty rotor business. I don't play in that arena, so I really don't know some of the names of the players. Maybe Greg knows better than me.

Then, as far as the low-volume older
applications, Federal-Mogul was the last guy in that area because they were able to manufacture in North America. Since they've stopped manufacturing in North America, I think Affinia is probably the last one left that can do those older-vehicle applications.

COMMISSIONER WILLIAMSON: Is that almost like on an order basis, a customer pre-order basis?

MR. FUDALLA: When you say older applications, you can go back to say a 1970 Oldsmobile Supreme. How many of those rotors are required in one year? You could go three or four years and not ever have an order for them; and then, all of a sudden, bang, you have an order.

I would think Affinia has a constant inventory of those. It might keep ten units, ten rotors of every vehicle application going back to 1970 or 1965 in the eventuality that there is going to be a requirement now and again.

COMMISSIONER WILLIAMSON: What about his new parts number? Is that for two years after a model comes out that you might --

MR. FUDALLA: Actually, less than that. We're now being asked by our customers, the traditional after-market people, they would like us to have rotors available six months after a vehicle is
introduced into the marketplace.

Affinia has a great advantage there in having that North American production facility because they can control that quickly.

The way you get new part numbers introduced in this business if you take an OEM rotor and you reverse engineer it. Then you do the drawings; then you do the tolling; and then you run a part off the tolling; and then you test it to the drawings and make sure that all the specifications are okay.

Traditionally, what we have to do is: We utilize China to do that. Just with the time difference, as far as getting stuff over there and back and that, I think Affinia, in that arena, has a huge advantage.

COMMISSIONER WILLIAMSON: What kind of lead times are we talking about. Say, to have to do that you're going to China --

MR. FUDALLA: For me cradle-to-grave, I'd say is six months from the beginning of taking the rotor and sending it over there, and then getting the final production pieces coming in from China, it would be six- to seven months.

COMMISSIONER WILLIAMSON: Okay.

MR. FUDALLA: It's just alone sixty days on
the water to get production parts over here, so just
back off from there. It's probably a four-to-five-
month process of drawings, parts, accepting drawings,
rejecting drawings, etc.

COMMISSIONER WILLIAMSON: Okay. Thank you,
Guy.

Mr. Chairman, I have no further questions,
and I want to thank the witnesses for their testimony.

CHAIRMAN PEARSON: Okay.

Commissioner Pinkert?

COMMISSIONER PINKERT: I, too, would like to thank the witnesses for their testimony.

And I would like you to address, in the posthearing, how your arguments about likely import volumes square with the data on page 4-16 of the Staff Report where it shows: (1) a significant decline in Chinese producers commercial shipments to their home market in 2007; (2) a consistent increase in exports to the United States over the period of review; and (3) a decline in shipments to the EU and all third-country markets in 2007?

With that, I thank you once again, and thank you, Mr. Chairman.

CHAIRMAN PEARSON: Madame Vice Chairman?

VICE CHAIRMAN ARANOFF: Thank you, Mr.
Chairman, a couple more questions.

Mr. Wappelhorst, of course, we know your company no longer produces after-market brake rotors in the U.S., but what has happened to the production equipment that you were using to produce those products?

MR. WAPPELHORST: In that facility, we transferred about half of the machining equipment to our factory in China to make the Ford Motor Craft rotors.

The rest of the foundry equipment and the machining equipment for the after-market parts, was all sold at auction in early December. It has all been taken out by the people who bought it during the auction; and the facility is empty and up for sale right now.

VICE CHAIRMAN ARANOFF: Do you know where the auction equipment went?

MR. WAPPELHORST: Quite honestly, most of the machining equipment was sold for scrap.

The foundry equipment, we had several new furnaces for melting the cast iron to make the molten cast iron, those went to Mexico. I really don't know where the rest of it went.

VICE CHAIRMAN ARANOFF: Okay. And the
The process of manufacturing an economy rotor is very simple. Like Federal-Mogul was saying...
before, it's pouring the floor the process of
manufacturing. A typical premium motor is a very
expensive automated line, and that's always going to
require a much higher price.

Plus, the machining portion of the premium
rotor also is much more refined in the balancing at
significant costs.

The only movement, then, if you will then,
that we would see is typically because of material
costs.

VICE CHAIRMAN ARANOFF: When you say the
only movement, you mean movement in the absolute price
or in the relative price? Because it's the relative
price that I'm really asking about.

MR. WAPPELHORST: Relative pricing between
the economy and the premium, you would only see
movement, and they're typically, from my personal
opinion, caused by raw-material costs.

VICE CHAIRMAN ARANOFF: Okay. I appreciate
that answer.

With that, I think I have no further
questions. And I want to say thank you to all the
witnesses for traveling to be with us this morning.

CHAIRMAN PEARSON: Are there any further
questions from the dais?
(No response.)

CHAIRMAN PEARSON: Do members of the staff have questions for this panel?

MR. DEYMAN: George Deyman, Office of Investigations, the staff has no questions.

CHAIRMAN PEARSON: Well, let me also offer my thanks to all of you for being with us. It has been a very interesting morning.

I can now say, in all honesty, that in respect to Commissioner Pinkert's comment that I am now more learned on brake rotors than I was when we started.

A comment in the back?

MR. LAYTON: This is Duane Layton with Mayer Brown. This hearing is unusual in my experience, that, as we noted, counsel for Petitioners is not here.

I've been thinking throughout this hearing about the comments that Lyle made and the equities here. I just wanted to say that I think it would be appropriate for the Commission to give guidance in the scope of the prehearing submissions.

Normally, it wouldn't be an issue at posthearing submissions. You know, fifteen pages, answer the questions, no limits answering the
questions, and all that.

But, here, I think it would be entirely
appropriate and called for, for the chair to instruct
that while Affinia can submit 15 pages to respond to
anything discussed here. I mean it is factually not
present and, therefore, I think that, as a matter of
law, it's legally not present.

Therefore, none of the questions could have
been asked of it; therefore, it cannot submit any
answers to questions.

I think it's an unusual situation, which
calls for -- and I apologize for taking up a little
bit of your time. But I think if you don't give this
guidance, and maybe you'll choose not to, they are
going to drive a Mack truck through this and answer
every question as long as they feel like it.

CHAIRMAN PEARSON: Thank you, Mr. Layton. I
will take that suggestion under advisement.

Since there is no party to which you could
offer rebuttal, the time remaining is five minutes for
closing, so go ahead. We can dismiss the panel.

Mr. Vander Schaaf and Mr. Mintzer, how do
you wish to handle the five minutes.

MR. VANDER SCHAAF: I was just going to
mention what was just identified as sort of a closing
statement. I think I can just take a minute maybe just to sum up, if that's appropriate.

CHAIRMAN PEARSON: Very well. Everyone can remain seated.

MR. VANDER SCHAAF: You know there is this question of -- and parties often do take the opportunity to answer questions, whether they're submitted to the Respondent's or the Petitioners' panel, and I do believe the instruction would be appropriate.

And that if Affinia were to take the opportunity to respond to all these questions, it would be inappropriate.

This is a very weird situation to have a basic question posed to me that I can't answer which is: Do they still produce, and what is their outlook for producing?

And basic questions of like product in domestic industry coming up not only at this stage of the proceeding, but after a second Sunset review, is a bit odd to us. We think it behooves the notion that we present, which is: We think it's appropriate to revoke this order, that there are not circumstances that demonstrate that a return of material injury is likely if this order is continued.
And these extremely unusual basic questions coming up at this stage, in our view, represent how I guess ridiculous it is that we have to debate whether this order should even be revoked.

We've presented the arguments and the evidence in our prehearing brief will answer your questions in the posthearing brief. But I think the testimony that we've provided today demonstrates that there are very good reasons why this order should not continue and why injury is not likely to continue, or recur. That's all I have. I don't know if Mr. Mintzer has anything to say in closing.

MR. MINTZER: No, I think we're set.

CHAIRMAN PEARSON: Excellent. Well, thank you all very much.

My closing statement: In accordance with Title VII of the Tariff Act of 1930, posthearing briefs, statements responsive to statements and requests to the Commission, and corrections to the transcript must be filed by April 24, 2008.

The closing of the record and final release of data to parties, May 19, and final comments on May 21. This hearing is adjourned.

(Whereupon, at 12:09 p.m., the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Brake Rotors from China

INVESTIGATION NOS.: 731-TA-744

HEARING DATE: April 15, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: April 15, 2008

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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Signature of Court Reporter