

UNITED STATES
INTERNATIONAL TRADE COMMISSION

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

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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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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On Behalf of the International Trade Commission:Commissioners:

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 SHARA L. ARANOFF, VICE CHAIRMAN
 CHARLOTTE R. LANE, COMMISSIONER
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Antidumping Duty Orders:

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Bryan Cave LLP
Washington, D.C.

On Behalf of:

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Longkou Kinzheng Machinery Co., Ltd.;
Longkou Haimeng Machinery Co., Ltd.;
Longkou TLC Machinery Co., Ltd.;
Laizhou Hongda Auto Replacement Parts Co., Ltd.;
World Known Precision Industry (Fuzhou) Co., Ltd.;
Shandong Huanri Group Co., Ltd.;
Shanxi Zhongding Auto Parts Co., Ltd.;
Laizhou Wally Automobile Co., Ltd.;
Laizhou City Luqi Machinery Co., Ltd.;
Yantai Winhere Auto-Part Manufacturing Co., Ltd.;
Qingdao Gren (Group) Co.;
CWD, LLC dba Centric Parts;
Gren Automotive, Inc.;
IAP West, Inc.;
Qualis Automotive LLC;
Zhongqiao USA International Corp. d/b/a Best Brakes;
and Ziway, Inc.

STEVE HUGHES, Director
Integrated Supply Chain, CWD LLC

MARVIN J. FUDALLA, President
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GREG WOO, Vice President, Performance Operations
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Antidumping Duty Orders: (Cont'd)

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Washington, D.C.

On Behalf of:

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DENNIS WAPPELHORST, Director,
Chassis, Brake and Fuel Operations,
Federal-Mogul

DUANE W. LAYTON, Of Counsel
SYDNEY H. MINTZER, Of Counsel

I N D E X

	PAGE
OPENING REMARKS IN SUPPORT OF REVOCATION OF ORDER BY LYLE B. VANDER SCHAAF, Bryan Cave	6
TESTIMONY OF STEVE HUGHES	11
TESTIMONY OF MARVIN J. FUDALLA	21
TESTIMONY OF GREG WOO	25
TESTIMONY OF JENNY ZHANG	30
TESTIMONY OF SYDNEY H. MINTZER	34
TESTIMONY OF DENNIS WAPPELHORST	36

P R O C E E D I N G S

(9:31 a.m.)

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

1 with Commission Rule 201.6.

2 Let me also mention that Commissioner Okun
3 is necessarily absent today.

4 Madam Secretary, are there any preliminary
5 matters?

6 (Witnesses sworn en banc.)

7 MS. ABBOTT: Yes, Mr. Chairman. All
8 witnesses have been sworn and the panel in support of
9 revocation of the antidumping duty orders is seated.
10 Mr. Lyle Vander Schaaf will do the opening remarks in
11 support of the revocation of orders.

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

14 MR. VANDER SCHAAF: Thank you. For the
15 record, my name is Lyle Vander Schaaf, from the law
16 firm Bryan Cave. I am accompanied today by one of our
17 foreign attorneys Felipe Berer. And we represent a
18 group of respondents who have decided to participate
19 in this sunset review. I think this is a very rare
20 occurrence for the Commission; rarely does a Chinese
21 respondent participate in sunset reviews, rarely does
22 the Commission revoke orders against China. There are
23 very, very few. And I think this deserves some
24 recognition that the Chinese have decided in this case
25 to participate because they see merit to the idea of

1 the Commission revoking this order. And I hope that
2 the Chinese will continue to avail themselves of the
3 U.S. law and the opportunities at the ITC, when cases
4 merit it, to participate in sunset reviews so that
5 these orders can be revoked.

6 And we appreciate the fact that the
7 Commission has decided to conduct this hearing. We
8 know that none of the -- the only domestic party that
9 supports the order chose not to file a prehearing
10 brief and chose not to appear here at the hearing. And
11 we thank you for deciding to continue the hearing to
12 give us the opportunity to present our views.

13 I think this merits some recognition, the
14 fact that Affinia is not here today. We believe that
15 if Affinia really did have an interest in continuing
16 the order they would have filed a prehearing brief and
17 they would have appeared here at the hearing. But it
18 also raises an issue that I wanted to mention to the
19 Commission about the procedures here.

20 Affinia did say that they are going to file
21 a posthearing brief. And I am a little troubled by
22 that fact. I would be very concerned if Affinia were
23 to place on the record new information and new
24 arguments that did not have the ability for us as
25 respondents to rebut because our posthearing brief

1 will be filed on the same day. We will not have the
2 opportunity to challenge the information and data that
3 they may present in their posthearing brief. And,
4 more importantly, they are not putting themselves
5 before the Commissioners to test their arguments, to
6 question their data and question their information.

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

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

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

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

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

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

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

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

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

21 MR. VANDER SCHAAF: Okay. The witnesses are
22 going to be testifying in the order in which they
23 appear on the calendar. And our first witness is
24 Steve Hughes. And after the witnesses in our
25 respondents group conclude their testimony we will

1 hear from Federal-Mogul.

2 MR. HUGHES: Good morning. My name is Steve
3 Hughes. I am the Director of the Integrated Supply
4 Chain at CWD, also known as Centric Parts, StopTech
5 and Power Slot. Our company was founded in the year
6 2000 and our head officers are located in Carson,
7 California. CWD has grown to become one of the
8 largest distributors of after-market automotive brake
9 rotors in the United States. Accordingly, we
10 purchase, import and distribute after-market brake
11 rotors to the U.S. after market. CWD's brake rotors
12 and other brake parts are imported from sources all
13 over the world, including China, Taiwan, Italy,
14 Germany and Brazil, among others.

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

23 With the introduction out of the way I would
24 like to thank the Commission for allowing me to speak
25 today. Our company and I greatly appreciate the

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1 opportunity to present our company views. Further,
2 we'd also like to say that we're grateful the
3 Commission has allowed this hearing to proceed in
4 light of the petitioner Affinia, the largest purchaser
5 of brake rotors imported from China, electing not to
6 participate.

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

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

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

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

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

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

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

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

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

17 Recently brake rotors have become more
18 disposable and it has become easier and less costly to
19 replace the brake rotors rather than to resurface
20 them. This in turn has become an added profit center
21 for the installer. In addition, brake rotors today
22 are a lot thinner and have essentially become
23 discardable, throw-away parts. As a result of the
24 combination of these two situations the demand for
25 after-market brake rotors has increased substantially.

1 And this trend is expected to continue into the
2 foreseeable future.

3 The disposable nature of the brake rotor has
4 propelled a significant shift in market demand in the
5 United States from premium grade to economy grade
6 brake rotors. U.S. producers Affinia and Federal-
7 Mogul have historically focused their domestic
8 production on the premium segment. However, Affinia's
9 2007 annual report indicates the company has shifted
10 its focus to the economy grade rotor. Accordingly,
11 this shift in the U.S. market was followed by a rising
12 supply of economy rotors from China, Taiwan, Brazil
13 and other countries.

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

21 By the end of 2007 it was our impression
22 that Affinia was still producing low, very low
23 quantities of premium grade after-market brake rotors
24 in the U.S. for very specific end users. As stated
25 earlier, from what I've heard and I believe they are

1 planning to eliminate virtually all of their
2 production of premium grade automotive after-market
3 brake rotors as early as 2008. In any event, one must
4 understand the difference between economy grade and
5 premium grade.

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

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

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

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

12 Evidence of this can be found in Tables 1-9
13 and 4-2 of the staff report. As set forth in the
14 report, you can see in the unit value section that in
15 2005, 6 and 7, non-subject rotors from China actually
16 undersold subject imports from China. If the
17 Commission takes a closer look at these non-subject
18 imports from China it will find that most of these
19 imports were made by GRI Engineering and MAT
20 Automotive. These two importers are affiliated with
21 Affinia by virtue of a joint venture.

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

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

4 Further evidence of Affinia's benefit from
5 this order can be found on page 5-14 of the staff
6 report. Page 5-14 refers to U.S. produced brake
7 rotors and margins and underselling. However, it must
8 be noted that I do not believe Affinia makes products
9 1, 2, 3 and 4 in the U.S. In addition, I have reason
10 to believe that Affinia reported premium prices for
11 these products whereas our group reported economy
12 prices. As a consequence, this table does not reflect
13 the reality of the U.S. market at all. And quite
14 frankly, it is impossible to sell at such different
15 margins in the U.S. market, the U.S. brake rotors
16 market. If CWD tried to sell at a rate 50 percent
17 higher, as the coalition would suggest, we would be in
18 business for about three months then we would be gone.
19 Nobody would buy from us if we had that significant of
20 a differential in price.

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

25 Another critical fact to point out is that

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

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

20 Before closing I would like to make one last
21 comment. It is noteworthy that Affinia has chosen not
22 to file a pre-brief report nor send a company
23 representative or legal representative to this
24 hearing. We believe it is evidence of the lack of
25 support and merit to their case. Our respondents

1 group as a whole has put in a tremendous amount of
2 work on the questionnaires in preparation for this
3 hearing and the entire case. The reason for this
4 Herculean effort is that we want to ensure that this
5 Commission has the facts necessary for it to make an
6 accurate finding and for the Commission to understand
7 that public policy intended by this order is no longer
8 served.

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

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

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

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

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

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

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

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

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

18 Both Affinia and Federal-Mogul have stated
19 in press releases and in other public announcements
20 that they are conducting their so-called restructuring
21 plans by which they are transforming themselves into
22 global manufacturers and U.S. distributors of brake
23 rotors. They have moved their plants overseas,
24 especially to China, and have been in the past few
25 years gradually increasing imports of after-market

1 brake rotors from China and other sources. Affinia is
2 now the largest purchaser of imported rotors from
3 China.

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

14 Likewise, Affinia has announced a number of
15 closures in the U.S. and investments in joint ventures
16 in China. In '05 under accelerated restructuring plan
17 Affinia closed seven facilities in the United States.
18 In that year the production of after-market parts was
19 moved to a plant in Litchfield, Illinois. In May of
20 '07 Affinia announced a further step in its
21 transformation to a global manufacturer and U.S.
22 distributor: a joint venture to produce brake products
23 in China and India.

24 Therefore, at this point it is quite clear
25 that Affinia is producing an insignificant amount, if

1 any, of after-market brake rotors in the United
2 States. I was recently told that Affinia is still
3 producing in the U.S. very low quantities of after-
4 market brake rotors for specific end users, users such
5 as specialty after-market rotors, slow moving older
6 applications, and low volume new part numbers being
7 introduced for new model vehicles. As a matter of
8 fact, one needs to look no further than the recent
9 import stats to realize that Affinia has shifted its
10 focus to importation as opposed to production. A
11 simple analysis of import statistics evidences the
12 ever increasing imports made by Affinia and its
13 affiliated firms in the past two years and a lack of
14 commitment to its U.S. manufacturing operation, not to
15 mention the millions of dollars that Affinia has
16 already invested into China.

17 Should the Commission conclude by the end of
18 this review that there is still some lingering
19 production in the U.S. it is very important to
20 distinguish the domestic products from the Chinese
21 subject imports. While Affinia may be producing low
22 volume, premium grade after-market brake rotors like
23 the specialty rotors, the slow moving applications,
24 and the low volume part numbers I mentioned, Chinese
25 imports predominantly constitute high volume, economy

1 grade after-market rotors. In other words, even if
2 Affinia decided to maintain a minuscule production
3 capacity in the U.S. in 2009 and beyond, which I don't
4 believe is likely, there would be no competition
5 between the U.S. produced brake rotors and Chinese
6 imports, as the Chinese product import is mostly for
7 high volume applications.

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

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

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

22 MR. WOO: Good morning. My name is Greg
23 Woo. I am the Vice President of Performance
24 Operations at CWD, also known as Centric Parts. As
25 explained by Steve Hughes, CWD is amongst the largest

1 distributors of after-market brake rotors in the
2 United States. I was also previously employed by
3 Power Performance Group, whose brand name is Power
4 Slot, where I served as its president and chief
5 operating officer.

6 In October 2007, Power Performance Group was
7 acquired by CWD. Power Performance Group, or Power
8 Slot was one of among Affinia's largest performance
9 after-market customers and, in such capacity, relied
10 heavily on Affinia's U.S. production. Prior to my
11 employment with Power Performance Group, in 1996 and
12 1997 I was employed by ITT Automotive as its product
13 manager for AIMCO rotors, drums and friction
14 materials.

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

21 In 2005 Affinia proceeded to initiate a
22 comprehensive restructuring plan, or transformation
23 plan, as Affinia's CEO likes to put it, under which it
24 started to shut down several facilities in the U.S.
25 and shift production to low cost sources, especially

1 China. In that year Affinia announced its plans to
2 close the St. Catherines foundry. Their St.
3 Catherines foundry was responsible for casting most of
4 Affinia's after-market rotor applications.

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

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

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

15 At the same time, Affinia began to
16 dramatically increase its purchases and imports of
17 Chinese rotors. By then, Affinia's Waupaca machining
18 operation was handling mostly OEM rotor production and
19 a very small percentage of its high volume after-
20 market rotor application. By the end of 2006 Affinia
21 had closed the McHenry and Erie machining facilities
22 and approximately eight of the best machining cells
23 were moved to its Litchfield, Illinois facility. With
24 only eight rotor machining cells in Litchfield none of
25 their high volume after-market part numbers could be

1 produced there. Rather, Affinia had to purchase or
2 import those numbers.

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

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

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

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

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

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

18 In any event, as explained in more detail by
19 other members of this panel, Affinia is presently
20 producing very low quantities of after-market brake
21 rotors, if any, for very specific end users in the
22 United States. The notion that Affinia is on the
23 verge of eliminating its U.S. production is widespread
24 in the industry. It is actually not that astonishing
25 that Affinia has opted not to show up.

1 Thank you for your time and attention. And
2 I will be happy to address any questions you might
3 have in the Q&A session.

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

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

20 Since its establishment, Longkou Haimeng has
21 always been committed to exporting brake rotors to the
22 United States at fair price. Our prices are
23 calculated based on our costs. We do not sell below
24 cost and we do not practice dumping. Indeed, this has
25 been recognized throughout the years by the Department

1 of Commerce. Since the imposition of the order we
2 have participated in seven administrative reviewed and
3 one new shipper review.

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

6 In the second administrative review Commerce
7 assigned a *de minimis* margin of 0.1 percent to our
8 company.

9 In the fifth administrative review Commerce
10 assigned a *de minimis* margin of 0.05 percent to our
11 company.

12 In the sixth administrative review Commerce
13 assigned a *de minimis* margin of 0.01 percent to our
14 Commerce.

15 In the seventh administrative review
16 Commerce assigned a *de minimis* margin of 0.2 percent
17 to our company.

18 We have also participated in the 2004-2005
19 and 2005-2006 administrative review in which Commerce
20 assigned to our company dumping margins of 5.29
21 percent and 4.22 percent respectively. These margins
22 were the result of changes in Commerce's methodology.
23 Most recently, in February 2008, Commerce announced
24 the preliminary results of the 2006 to 2007
25 administrative review in which it assigned a *de*

1 *minimis* margin of 0.03 percent to our company.

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

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

19 Similarly, the home market in China is
20 booming. We know that demand for brake rotors in
21 China is rising due to the large increase in car sales
22 every year. The Chinese market is still smaller than
23 the U.S. market for after-market brake rotors,
24 however, the specialists believe it is posed to become
25 one of the world's largest automotive markets in the

1 near future. In the middle of increasing demand
2 worldwide, including in the U.S. market, producers in
3 China have been experience since the beginning of 2007
4 ever rising raw material costs in China. As a
5 consequence, brake rotor prices in China have been
6 increasing as well, although the industry has
7 historically produced to order and maintained a low
8 inventory.

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

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

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

1 session. Thank you for your patience and attention.

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

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

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

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

20 It would have been perhaps easier for
21 Federal-Mogul to stay on the sidelines and allow this
22 proceeding to play out. But instead, unlike Affinia,
23 Federal-Mogul chose to come here today and answer your
24 questions. Again, we are not here renouncing old
25 positions. That being said, the purpose of this

1 sunset review is to look back at the last five years
2 in order to glean what the state of the U.S. industry
3 is likely to be over the next five years. And from
4 that perspective, Federal-Mogul can quite confidently
5 state that the U.S. industry no longer exists.

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

17 And just like Affinia, our production
18 facilities haven't been mothballed, they are not
19 temporarily shut down. Neither company is sitting
20 back waiting to see if market dynamics change in the
21 U.S. market. The facilities are gone. They have been
22 stripped, they have been sold. Affinia and Federal-
23 Mogul are importers and distributors of after-market
24 brake rotors. There is nothing in the foreseeable
25 future that is going to change that.

1 With that I would like to introduce Dennis
2 Wappelhorst, head of U.S. brake rotor operations at
3 Federal-Mogul.

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

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

24 First of all, costs have increased
25 dramatically for producers of brake rotors,

1 particularly in the United States. Energy and
2 commodity prices used as inputs in the production
3 process have become extremely higher. These
4 increasing costs made it extremely difficult to
5 profitably produce even our most expensive line of
6 brake rotors in the United States.

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

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

24 With rotors having become discarded parts,
25 the market for premium rotors has declined

1 dramatically because installers are unwilling to take
2 a chance and resurface an expensive rotor. They would
3 rather install a new rotor. This change in market
4 dynamic explains why the antidumping duty order has
5 been completely ineffective at stopping the flow of
6 imports subject to the order into the U.S. market.

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

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

15 Finally, I want to emphasize that Affinia is
16 the leader in the U.S. rotor market. That continues
17 to be the case even as they have shut down all of
18 their U.S. production. Affinia continues to be a
19 leader in the premium and economy segments. You can
20 see from the handout that was provided to you earlier
21 that Affinia has become totally reliant on imports
22 from China. As the document states, and I quote, "For
23 the past few years, taking our material and design
24 specifications and manufacturing processes to other
25 countries, principally China, has allowed us to

1 maintain our stringent quality standards while keeping
2 you competitive in the marketplace."

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

16 Thank you for your time.

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

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

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

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

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

13 We will begin our questioning this morning
14 with Commissioner Lane.

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

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

24 MR. VANDER SCHAAF: I think that the
25 Commission could reconsider and go to an expedited if

1 it wanted to, quite frankly, and draw a quick
2 decision.

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

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

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

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

1 because it came in just before the vote, and so forth.
2 And then it went up to the CIT and back down and up to
3 the CIT again.

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

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

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

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

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

3 And I can't read your handwriting.

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

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

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

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

1 from the domestic industry as a related party?

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

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

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

22 Here it raises a difficult issue. But the
23 way I look at the evidence because they are selling
24 products that really aren't going to be coming in from
25 China, whether it's going to be the premium grade or

1 whether it's going to be sort of the new material or
2 the older material, those are small volume things that
3 the Chinese will never ship. So I think even if you
4 go forward and consider them the domestic producer
5 because they're the only one out there, and because
6 there is precedent at least in original investigations
7 where the Commission has said, look, we can't kick out
8 a related producer if they're the only U.S. producer
9 because then we've got no industry, I think if the
10 Commission goes down that road there's certainly
11 enough evidence for the Commission to issue a negative
12 determination here. Because I just don't see how
13 Affinia is going to be injured, first of all by their
14 own imports of premium grade or, second, by the
15 economy grade which they don't produce in the U.S.

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

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

1 distinct dividing lines between OEM and after-market
2 brake drums and rotors?

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

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

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

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

22 MR. VANDER SCHAAF: Purchasers and the
23 distribution channels?

24 MR. FUDALLA: Well, clearly the OEM you're
25 shipping the product to GM, Ford and Chrysler or a

1 Toyota facility or a Honda facility located in the
2 United States where the distribution of after-market
3 rotors goes through large retailers and what's called
4 warehouse distributors, names that you would know such
5 as Pep Boys, Carquest, AutoZone, Firestone, those kind
6 of people. It's too totally different distribution
7 channels.

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

10 COMMISSIONER LANE: Yes.

11 MR. WAPPELHORST: At our St. Louis --

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

14 MR. WAPPELHORST: Dennis Wappelhorst,
15 Federal-Mogul.

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

25 And also, on the OEM product we 100 percent

1 balanced that produce before it went out. Now, on the
2 economy rotors nobody balances an economy rotor. And
3 only some of the premium product is balanced in the
4 marketplace.

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

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

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

15 Are there differences? Yes. Because the
16 tolerances, the surface finishes on the braking
17 surface. When we machine those braking surfaces we
18 are always much finer and a lot closer tolerance on
19 the braking surface for the premium as compared to the
20 economy. The castings we used were better as far as
21 from a balance standpoint on the premium, so you would
22 expect better life from that. Also, from the better
23 braking surface you would expect better life not only
24 from the rotor itself but from the friction pad that
25 rides on the part.

1 So there's more benefits to the premium part
2 than just the rotor life itself: the ride, the
3 steering. When you on hard braking you won't, you
4 shouldn't on the premium expect any what we call
5 shutter where you might encounter that on some of the
6 economy rotors because of the lesser balanced casting.
7 But also from the life of the friction pads on the
8 premium you should expect better life.

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

15 COMMISSIONER LANE: Okay. Thank you.

16 Thank you, Mr. Chairman.

17 CHAIRMAN PEARSON: Commissioner Williamson.

18 COMMISSIONER WILLIAMSON: Thank you, Mr.
19 Chairman. And I'd also like to express my
20 appreciation for the witnesses coming here today.

21 Maybe I could continue with this line of
22 questioning because the fundamental question I'm kind
23 of wondering, why do we consumers buy the cheaper
24 rotors if there's this difference in performance? Are
25 we all being fooled or? Yes.

1 MR. WAPPELHORST: The main reason for the
2 shift in the marketplace that several of the folks
3 have talked about, and that shift has been dramatic
4 since the mid-'90s is the quality of the Chinese
5 rotors has increased dramatically. As an example, we
6 purchased our first rotors from China I believe in
7 '93. They were so bad we didn't even sell them, we
8 took them to the foundry and melted them down for
9 scrap. But within two or three years from that their
10 quality had increased.

11 Now, at that time there was still a
12 perception in the buying public about a part that they
13 would buy that says "made in China." Over the years
14 the quality of the parts that come in from China has
15 increased dramatically to the point where both the
16 installer, the guys that works in the shop, that's
17 working on your car is going to hang that part because
18 he's confident now that the part will work right for
19 the customer and the customer won't come back next
20 week with a complaint saying this doesn't brake right,
21 it pulls to the whatever. He's confident that the job
22 will be done and done right with the economy rotor
23 from China because their quality has increased over
24 the years. And with that has been the customer
25 acceptance.

1 Now, sure there's occasions when, you know,
2 there is still a premium market out there. It's a
3 small percentage of the market. You might have maybe
4 your wife will drive the car around with the kids and
5 the mechanic says you need new rotors and he says,
6 well, I can put a premium rotor on there for 40 bucks
7 or an economy one for 20, for that vehicle you are
8 probably going to say, I want the premium rotor on
9 that car because my wife's driving it.

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

16 Have I answered your question?

17 COMMISSIONER WILLIAMSON: Yes. Thank you.

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

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

24 MR. WAPPELHORST: Yes, sir.

25 COMMISSIONER WILLIAMSON: Yes.

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

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

10 COMMISSIONER WILLIAMSON: OES, is that
11 different from OEM?

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

16 COMMISSIONER WILLIAMSON: Okay.

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

21 COMMISSIONER WILLIAMSON: Okay, thank you.

22 To what extent, and I think we probably need
23 to understand more about the product, I guess there is
24 some, there is one company Waupaca who is making the
25 casting. Generally where you make the finished, or do

1 the finished rotor, the casting, is that made in the
2 same country? Because I guess we have different
3 stages, we have the casting, we have the finished, I'm
4 thinking a couple other stages. But maybe if someone
5 could elaborate on this so we could get a picture of
6 that?

7 MR. WAPPELHORST: At our operation we had a
8 foundry where we produced our own castings and then
9 did the machining right there. We also purchased
10 castings from Waupaca. And we also purchased castings
11 from China that we brought in to machine, depending
12 upon, actually depending upon the volume of the part.
13 For the high volume parts Waupaca had equipment that
14 was very efficient at the high volume runs. At our
15 foundry we made typically the middle to the back end
16 of the line as far as the castings.

17 With the freight costs the way they are it's
18 not -- you normally would produce the casting and
19 machine it and finish it somewhere close.

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

22 MR. WOO: Yes, Mr. Williamson, thank you. I
23 can also add to that question. I have a, you know,
24 good knowledge of our previous company which was Auto
25 Specialty Kinetic, one of the original petitioners and

1 one of the founding members of the coalition. Our
2 Kinetic foundry was actually a foundry in San Jose,
3 California, called AB&I. And we would produce the raw
4 casting or cast the basic shaper of the rotor there
5 but then transport the item, the raw casting down to
6 Carson, California for finishing.

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

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

20 COMMISSIONER WILLIAMSON: Thank you.

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

25 MR. WOO: Well, I think one of the beauties

1 of being a foundry is that you, you know, technically
2 could cast anything you wanted relative to the, you
3 know, specialty of the equipment that you have there.
4 But there is an amount of flexibility that they have
5 with their operations that the brake rotor industry
6 specifically does not have. So we can't necessarily
7 shift our production out of rotors into, you know,
8 some other non-associated part.

9 COMMISSIONER WILLIAMSON: Okay, thank you.

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

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

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

25 MR. WAPPELHORST: To that question, he's

1 right. I mean these, Waupaca is a huge casting
2 company and they will do, they service a multitude of
3 different industries. Brake drums and rotors were a
4 big part of their business, and it still is a big part
5 of their business for the OEM market but not for the
6 after market anymore. So they'll cast for a multitude
7 of different industries, rotors were just one of them,
8 one of the industries they service.

9 COMMISSIONER WILLIAMSON: Okay, thank you.

10 I don't know whether, and I guess this is
11 changing, but any idea, and maybe I can ask you for
12 posthearing, how large is the premium market now? And
13 what percentage in total production does it represent?
14 And where is it headed?

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

25 As to the rest of the industry maybe Marv

1 could speak more to that.

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

4 MR. HUGHES: Oh, of course.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. HUGHES: Of course.

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

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

21 COMMISSIONER WILLIAMSON: Okay, thank you.
22 No further questions now.

23 MR. WAPPELHORST: Sir?

24 COMMISSIONER WILLIAMSON: I'm sorry.

25 MR. WAPPELHORST: I'm sorry.

1 COMMISSIONER WILLIAMSON: The light's come
2 on.

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

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

13 CHAIRMAN PEARSON: Commissioner Pinkert.

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

18 I want to start with an issue that was
19 discussed both by the witness for Federal-Mogul and
20 the witness for the respondent, and that is this
21 question of whether Affinia is seeking to keep the
22 order on in order to protect its own importing
23 operations which benefit from the continuation of the
24 order. And without referring to business proprietary
25 information, and I'm hoping that you can do this

1 without referring to business proprietary information,
2 can you explain how they are attempting to shield
3 their own operations? I don't quite understand the
4 connection there.

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

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

23 So right now the sample rate is 4.22 percent
24 that we have to pay as an antidumping duty rate from
25 our manufacturers. So right away that means that

1 they've got a 4.22 percent advantage against us. And
2 with their zero percent never going away, if they game
3 the system, if you will, a little bit and start asking
4 for Centric's producers to be investigated, you know,
5 they could try and get our rates raised to 10 percent
6 or something. There's always a little bit of a game
7 that they can play. And they've got, if this order is
8 continued they've got another five years to play this
9 game.

10 COMMISSIONER PINKERT: Thank you.

11 Does Federal-Mogul wish to add anything to
12 that?

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

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

1 to protect their import operations.

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

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

15 MR. VANDER SCHAAF: Not to cast any
16 aspersions or anything but I've seen it before where a
17 petitioner has sort of laid off certain suppliers from
18 abroad who are subject to an antidumping duty and
19 focus attention upon my clients, for example. And
20 coincidentally, you know, human nature, at Commerce
21 the petitioners are saying, oh, you need to verify
22 every single supplier. Don't just verify the head
23 officer, go to all these suppliers and verify ten
24 entities that are affiliated with my client. And then
25 with the other supplier, oh, one verification will do.

1 And everybody, you know, if you do these
2 Commerce cases you know how costly they can be to have
3 to defend all these verifications in China. And I've
4 seen that with my eyes, not necessarily in this case.
5 And it's not to cast aspersions on anybody but it's
6 just human nature that when the petitioners are
7 telling Congress to focus on a certain supplier
8 Commerce staff tends to do that and they tend to dig a
9 little deeper, the verifications take a little longer,
10 they are much more detailed, and they go to more
11 facilities and it's more costly for those entities
12 than the party that the petitioner buys from. And
13 then with them they sort of have a hands off approach
14 and so you don't get as much as a delving and
15 querying.

16 The investigation that Mr. Hughes mentioned
17 wasn't just an admin. review. Outside the admin.
18 review Commerce said we -- petitioners said, we think
19 that this information is shady and questionable; you
20 should do a separate investigation to see if this was
21 accurate. So it was actually the request to launch
22 another investigatory proceeding outside of an admin.
23 review against a number of parties. So it's this kind
24 of control that Affinia would have over the
25 antidumping proceedings.

1 COMMISSIONER PINKERT: Just exploring for a
2 moment the issue of what other interests Affinia might
3 have at this point, might there be a possibility of
4 obtaining Byrd Amendment distribution for entries that
5 occurred before the expiration of the Byrd Amendment?

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

18 And there are settlements where the parties
19 agree to some kind of settlement where something, some
20 benefit that is bestowed upon the petitioner. And the
21 petition who requested the review against all these
22 parties will withdraw those requests for review so
23 that the respondents don't have to pay lawyers to go
24 through defending these reviews. And in exchange some
25 type of compensation is provided to the petitioners.

1 And that is another means for giving Affinia
2 control. I haven't seen any of those in the brake
3 rotors order or market. So I don't want to say that
4 could be an outcome, but it certainly is within the
5 realm of possibility. But I haven't seen that
6 happening in the brake rotors market, I've seen that
7 in the shrimp, with respect to the shrimp order and
8 the wooden bedroom furniture order and so forth.

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

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

19 MR. MINTZER: Well, we're certainly in no
20 position to dispute Affinia's claim that there is
21 continuing to be a trickle of production. But the
22 point is, you know, this proceeding is caught in a
23 very transitory time in this industry. And you have
24 Federal-Mogul leaving the industry during the fourth
25 quarter of '07. You have Affinia clearly winding

1 down, selling, publicly noting their sale of various
2 facilities. Even the ones that are open are for sale.
3 That again you can look at their 10-K, it says that.

4 So, you know, do they have production today?
5 Yes. But we're trying to look at what is likely going
6 to exist within the next few years. And everything
7 they do reflects the behavior of an importer, it does
8 not reflect the behavior of a U.S. producer. And even
9 if you look at their 10-K they have to list all of
10 their risks associated with their business in their
11 10-K. There's only one risk associated with this
12 rotor business reflected in their 10-K, and that's the
13 risk that Congress might increase antidumping duties
14 on their imports from China. It does not state
15 anything about the harm that Chinese producers are
16 causing their U.S. rotor business. The only statement
17 related to its rotor business reflects the risk that
18 antidumping duties might increase on their own
19 suppliers.

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

23 MR. VANDER SCHAAF: Mr. Woo's testimony was
24 that they were negotiating with Affinia to buy their
25 assets, and that Affinia's representation to them at

1 that time last year was that they would only have
2 going business for 12 to 24 months. So it would have
3 closed that definitively down, sold it to the company
4 he was with at the time which has now merged with CWD.
5 So on a going-forward basis there is a very clear
6 indication that they don't have an intention to
7 continue to produce.

8 COMMISSIONER PINKERT: Thank you.

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

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

22 CHAIRMAN PEARSON: Okay. And so?

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

25 CHAIRMAN PEARSON: Okay. So a casting then

1 in theory could be made into either a premium rotor or
2 an economy rotor but normally that would not be the
3 case, you'd have separate metallurgy, separate
4 castings for premium versus economy?

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

14 CHAIRMAN PEARSON: Mr. Wappelhorst?

15 MR. WAPPELHORST: For our premium versus
16 entry level rotors, as Steve had said, for our entry
17 level rotors we accept what they call a floor-molded
18 casting where there is very little equipment and the
19 molds just literally sit on the floor and two guys
20 pour the stuff in. And on our premium they're all
21 made on automated equipment.

22 We accept a wider range of chemistry in the
23 entry, a lower tensile strength on the casting, and we
24 have a wider range of hardness that we accept on the
25 entry level casting than we do on the premium.

1 CHAIRMAN PEARSON: Okay. And all of those
2 were the issues that relate to the cost of the casting
3 that you're buying?

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

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

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

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

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

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

23 MR. WAPPELHORST: Yes, sir; absolutely.

24 CHAIRMAN PEARSON: One more question. Would
25 I be correct to assume that a casting might be turned

1 into a rotor for several different models of vehicle,
2 depending on how you do the machining and where you
3 drill the holes?

4 MR. WAPPELHORST: Yes, sir, absolutely.
5 Some differences in machining. You can use the same
6 casting and depending upon different bolt hole
7 patterns -- if it fits a half ton truck, it might have
8 a five-hole pattern. If it fits a one ton truck, same
9 rotor but a six-hole pattern for the mounting bolts.
10 Also, some of the vehicles come with ABS on the
11 braking, so those rotors would have an ABS sensor. A
12 lot of them have an ABS sensor.

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

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

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

25 CHAIRMAN PEARSON: So it's a machine that's

1 specially made for refinishing brake rotors?

2 MR. WAPPELHORST: Yes, sir. Yes, sir, for
3 turning a brake rotor.

4 CHAIRMAN PEARSON: Okay. Well, that's
5 enough about the details of brake rotors to satisfy
6 me. Let me shift now to counsel. Are there any
7 previous cases that the Commission has dealt with in
8 which the possible lack of a domestic industry
9 influenced our determination, in a review?

10 MR. VANDER SCHAAF: Well, there have been
11 cases where the Commission has concluded that they
12 can't exclude a party as a related party because they
13 are the only producer, but there is a case that I
14 haven't had a chance to read thoroughly, Sebacic Acid,
15 where I realized, and it's confidential but I read the
16 public opinion a while back, where it looked like the
17 domestic producer had ceased producing it at a certain
18 time period, and that seemed to have an effect on the
19 Commission's determination.

20 In that case, the Commission did issue a
21 negative determination. It happened to be one of the
22 Chinese cases that I noticed where the Commission
23 issued, the few instances where the Commission issued
24 a negative determination, and there was a cessation,
25 it looked like, of production, but that's me gleaning

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

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

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

25 If I knew that there was some good guidance

1 for us in those cases, that would be a help to me.

2 MR. VANDER SCHAAF: Okay.

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

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

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

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

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

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

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

25 They have indicated that they do and we've

1 got some information suggesting they could, but
2 whether they will be at the time of your vote is
3 difficult, and that's one of the reasons why an
4 adverse inference would be appropriate, and it
5 wouldn't necessarily have to be a total adverse
6 inference. I think you can draw an inference that
7 because they haven't substantiated and come to the
8 hearing today, that they produce, they might not.

9 CHAIRMAN PEARSON: Okay. I may impinge just
10 a bit on the Vice Chairman's time, but let me ask a
11 related question. We look at what will happen in a
12 reasonable foreseeable time. I don't recall another
13 case in which we have had respondents come before us
14 and lay out an expectation that there will be no
15 domestic industry within a reasonably foreseeable
16 time. If you think that's the situation here, help me
17 through that one as well, because I would want to
18 understand -- I mean, we tend to think of what happens
19 in a reasonably foreseeable time as demand in the
20 marketplace, something like that, and I don't recall
21 grappling with the question of whether there is record
22 evidence that there is not going to be a domestic
23 industry in a reasonably foreseeable time, and in that
24 case, does that affect the determination we make today
25 if we believe that a domestic industry exists today?

1 MR. VANDER SCHAAF: Yes, I'll have to look
2 at that. I don't know that there's any precedent on
3 that either, but we can certainly look at that and
4 delve into that. I think that it would support
5 termination. To the extent there is current
6 production but there is an expectation that it will
7 not be producing within the reasonably foreseeable
8 time period, that it would give grounds for the
9 Commission to issue a negative determination.

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

13 VICE CHAIRMAN ARANOFF: No problem, because
14 I am going to pick up right where you left off, Mr.
15 Chairman, and actually supply both the Chairman and
16 counsel with the case that you need to look at, and it
17 was actually, it followed Sebacic Acid, and it's
18 Synthetic Indigo from China. It was decided in early
19 2006, and in that case, the facts are more public than
20 the ones in Sebacic Acid, so it should be easier to
21 read, and it involved a domestic producer which was in
22 liquidation and not producing anything and a
23 bankruptcy trustee was representing it in the case,
24 and the question before the Commission was, is there a
25 domestic industry and is there likely to be one in the

1 reasonably foreseeable future, and you'll see that the
2 Commission split. Some of the Commissioners decided
3 that there still was a domestic industry and then made
4 their injury determination based on the existence of
5 that industry, and two of the Commissioners, one of
6 them being myself, determined that there was no
7 domestic producer of the like product and that
8 therefore, the Commission was obliged to consider the
9 next most similar product, identified what that
10 product was, got some small amount of information on
11 the record about it and made a determination based on
12 that other industry.

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

20 MR. VANDER SCHAAF: Well, our position is
21 that Affinia currently is the domestic industry, and
22 that there is no likelihood that, within the
23 reasonably foreseeable future, that they will be
24 materially injured by imports. We think that, if you
25 look at the factors for a related party, they should

1 be excluded, but we are mindful of the fact the
2 Commission's precedent is, if you've got one producer,
3 you don't exclude them on the related party basis, but
4 we do believe their principal interests lie in
5 importation and not production, and that's one of the
6 lynchpin considerations in deciding whether or not to
7 exclude somebody as a related party, but we understand
8 that, despite the fact that their interests are, you
9 know, in importation, they are the only ones out there
10 who produce the like product, and so we have not
11 chosen to exclude them and then go to a most similar
12 product.

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

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

1 bear out that the domestic producer is more likely
2 than not, you know, not going to be producing anything
3 in the U.S. within the reasonably foreseeable future,
4 then I have got to go to that next most similar
5 industry, whether I get there that way or by excluding
6 them as a related party, so what is the product next
7 most similar to the subject imports?

8 Would it be OES or OEM brake rotors? Would
9 it be unfinished castings made by a U.S. foundry?
10 What would it be?

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

19 They focus more on the racecar sector, and
20 I'm not a big racecar guy. I don't know about NASCAR,
21 but apparently there is this minor league or something
22 of racecar people -- I shouldn't speak that way, but
23 they have demands for certain products, and high
24 performance brake rotors is one of them, and some of
25 these producers make those products. They get their

1 castings from Waupaca, but I'm not aware of them
2 selling for commercial sale on the open market, but
3 that is one candidate that I think might exist, if the
4 Commission were inclined to go to a most similar in
5 characteristics and uses producer of something that is
6 not like the subject merchandise.

7 VICE CHAIRMAN ARANOFF: Go ahead in the
8 back.

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

20 Is that what I understand happened in
21 Indigo?

22 VICE CHAIRMAN ARANOFF: I mean, that's
23 theoretically possible, but actually what happened in
24 Indigo is that both groups of Commissioners on both
25 theories reached negative determinations, and those

1 Commissioners who found the alternate like product
2 reached that negative determination because they found
3 no substitutability between the alternate product that
4 they found and the original like product, and
5 therefore, because there was such attenuated
6 competition, they ended up at a negative
7 determination.

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

23 MR. VANDER SCHAAF: Yes, and I do remember
24 reading that case, but then, you know, I think there
25 is enough record -- there was a lot of information put

1 on the record suggesting that Affinia still produces,
2 and it wasn't until we had talked to Mr. Woo that
3 there were some clear signs that Affinia may be
4 leaving, but I do also, just so the record is clear, I
5 am not aware of the Chinese selling or being able to
6 sell that performance-enhanced product, so you would
7 have a limited level of competition, not only with the
8 premium product, but with that performance grade
9 product from China.

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

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

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

25 MR. VANDER SCHAAF: We'll definitely address

1 those in the posthearing.

2 VICE CHAIRMAN ARANOFF: Thank you, thank
3 you. Now, I just want to clarify, originally, my
4 understanding is that Affinia had four U.S. production
5 facilities that they were using to produce brake
6 rotors, and I think we have information in the record,
7 public information that one of them is closed, and
8 someone testified today that a second one was closed.
9 Are there still two operating facilities?

10 Is that all of your understanding?

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

14 MR. FUDALLA: It's Litchfield, Illinois.

15 VICE CHAIRMAN ARANOFF: That's still
16 operating?

17 MR. FUDALLA: Correct, yes.

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

24 MR. WOO: On page 2 of my testimony, we are
25 documenting the closure of, it's McHenry and Erie,

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

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

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

22 VICE CHAIRMAN ARANOFF: Okay. Thank you
23 very much.

24 Thank you, Mr. Chairman.

25 CHAIRMAN PEARSON: Commissioner Lane.

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

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

22 MR. FUDALLA: I can answer that. Let me
23 try. Ms. Lane, I think mostly an installer in most
24 cases would quote you two prices. They would quote
25 you a premium rotor and they would quote you an

1 economy rotor, and they essentially then give you the
2 choice of what you want to put in your vehicle.

3 That's how it tends to work.

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

6 MR. FUDALLA: Amongst the economy rotors?

7 COMMISSIONER LANE: Yes.

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

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

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

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

24 COMMISSIONER LANE: Okay.

25 MR. MINTZER: I would add, also, in Federal-

1 Mogul's questionnaire response, in our importer
2 questionnaire response, we provided some import data
3 reflecting Chinese-origin premium rotors, and you can
4 look at the average unit values of those compared to
5 domestically produced premium rotors, versus Chinese-
6 origin economy rotors, and I think you can see the
7 difference there. Even the Chinese-origin premium
8 rotors are more expensive.

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

15 MR. VANDER SCHAAF: We're not seeing any
16 impact, to be honest with you. I mean, one of the
17 reasons for the huge volume of imports is that Affinia
18 is behind it, according to the testimony these guys
19 have seen, and Mr. Hughes has mined a lot of PIERS
20 data to find out who is bringing it in. In many
21 cases, it's not Affinia, it's GRI and MAT, but his
22 conclusion is that that has to be sold to Affinia, and
23 so we're not really seeing an impact for the order
24 because the producers from China have all been getting
25 zeroes, and you see a consistent pattern with the

1 foreign producers requesting a new shipper review,
2 getting a zero dumping margin for their deposit rate,
3 and then in successive admin reviews, getting zero
4 dumping margins, and I can't testify to the
5 circumstances at the time the order was put in place,
6 but it's pretty clear to me now, based on Ms. Zhang's
7 testimony, that the foreign producers priced their
8 product according to cost, and you know, if you sat in
9 the meeting I did yesterday with these guys
10 complaining about price increases coming at them from
11 China, I think you'd conclude the same thing, that the
12 Chinese, although, you know, we had this non-market
13 economy thing that Commerce does, they are very cost-
14 conscious, and they are all going to be sending off
15 price increases.

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

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

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

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

13 MR. VANDER SCHAAF: We will. Thank you.

14 COMMISSIONER LANE: Okay, and that's all I
15 have, Mr. Chairman.

16 CHAIRMAN PEARSON: Commissioner Williamson.

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

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

1 terms of what we are comparing, what the data shows.

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

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

13 MR. HUGHES: Yes.

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

21 MR. MINTZER: Of course, we'll address that.

22 COMMISSIONER WILLIAMSON: Thank you. In
23 thinking about the demand for aftermarket brake
24 rotors, will the rising fuel costs affect the demand
25 in the future in the U.S.?

1 MR. FUDALLA: Actually, we've been looking
2 at this. I was asked the same question by the equity
3 group that owns us, because they are a little
4 concerned about what inflation means to our business,
5 and what we discern is that because of rising fuel
6 prices, et cetera, there's probably going to be less
7 miles driven, and then with less miles driven, that
8 will have an impact of sorts to the amount of
9 replacement that's done on the vehicle, because
10 obviously, if you replace a rotor every 25 or 30,000
11 miles, you won't hit that number as quickly if you
12 don't drive as many miles, so that's probably the
13 biggest impact.

14 COMMISSIONER WILLIAMSON: Thank you. Are
15 there any other major factors out there in terms of --
16 I'm sorry, Mr. Wappelhorst?

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

1 opportunities we have -- and the miles driven continue
2 to go up.

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

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

11 MR. FUDALLA: I think it's a blip. It's a
12 higher gas price, less miles driven, blip. I think,
13 like everything else, you adapt to the environment
14 that you are in, so that's how we are looking at it.
15 Where we traditionally might have had a 3 to 4 percent
16 growth rate every year, maybe we'll, in the next 12 to
17 18 months, have maybe a 1 to 2 percent growth rate
18 because of this.

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

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

1 are for the business in total to continue to grow.

2 COMMISSIONER WILLIAMSON: Thank you for
3 those answers.

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

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

16 COMMISSIONER WILLIAMSON: Okay, I think I
17 see.

18 Mr. Hughes, do you want to add something?

19 MR. HUGHES: Yes, let me add. First of all,
20 they have concentrated on the U.S., not solely, but a
21 major concentration is because of our fleet size. I
22 mean, the volume that we consume here. That's not to
23 say that they haven't been looking in other areas.
24 They certainly sell into Europe substantially. I
25 mean, I have seen in various factories in China, and I

1 have done site inspections on about 15 or 20 of the
2 manufacturers in China, I have seen in several of the
3 manufacturing plants over there products that were
4 destined for Italy, for their biggest rotor
5 manufacturer in Italy. I see rotors that are destined
6 for Europe for a TRW.

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

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

20 MR. HUGHES: Yes.

21 COMMISSIONER WILLIAMSON: I'm sorry, go
22 ahead.

23 MR. WAPPELHORST: Just a quick comment on
24 that. You know, in North America, what we call the
25 independent aftermarket is a big business. You know

1 yourself when you buy a car, as soon as the car is out
2 of warrantee, you're not going to take it back to the
3 dealer. You're going to take it to your local shop to
4 have it worked on. Well, that, to my understanding,
5 that's not the case in Europe.

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

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

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

1 every one of the manufacturers in China.

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

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

6 CHAIRMAN PEARSON: Commissioner Pinkert.

7 COMMISSIONER PINKERT: Thank you, Mr.
8 Chairman.

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

13 CHAIRMAN PEARSON: I'm obviously going to
14 have to read the statute and become more learned in
15 it.

16 COMMISSIONER PINKERT: In any event, I'd
17 like to ask either of the parties, or any of the
18 parties who are here today to respond to a question
19 about the cash deposit rates that have been determined
20 at the Commerce Department. Would you say that the
21 low or zero cash deposit rates have been a factor in
22 accounting for the decline of the industry in the
23 United States, insofar as they have been insufficient
24 to affect the volume and the pricing of the subject
25 imports?

1 MR. VANDER SCHAAF: We don't think that,
2 obviously, but you know, one of the things we've seen
3 is, as Affinia has made these decisions that Mr. Woo
4 talked about and that Mr. Fudalla talked about, moving
5 their operations abroad and so forth, they have been
6 doing it at a time where there is an order in place,
7 and the importers have been having zero or de minimis
8 margins, so our position is they can't claim that it
9 has been unfair pricing that is forcing them offshore.

10 They are making these rational business
11 decisions at a time when the competition of which they
12 complained is fair competition. It's not unfair
13 pricing, so we do not think that the Commerce
14 Department's margins are too low. I think they'd fire
15 me if I told you that they were. Our clients,
16 obviously, are some of the producers in China who are
17 subject to those antidumping duty rates, and it's been
18 my experience with respect to, you know, China, the
19 Department of Commerce's approach to nonmarket
20 economies, when you look at the multi-country
21 investigations when China is involved, you see from
22 our pricing data in the ITC proceedings, you know,
23 similar pricing from all countries in the U.S., and
24 yet you see the Chinese antidumping margin, because
25 it's a nonmarket economy rate and it's a different

1 procedure by Commerce, you invariably see the Chinese
2 getting hit with much higher dumping margins than
3 producers in the market economy countries, even though
4 their pricing in the U.S. is comparable.

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

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

19 MR. VANDER SCHAAF: I don't think so. I
20 have to admit, I really think that Affinia has -- I
21 don't know if I see it as decline. I think they have
22 made business decisions the way Federal-Mogul made
23 business decisions, and you know, Affinia is, as these
24 guys have testified, they see them in the market as
25 being one of the biggest sellers of imported product,

1 so I can't -- I don't see any of Affinia's activity or
2 operations or their decline to be a result of too low
3 margins.

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

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

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

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

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

15 MR. HUGHES: We consider the brake industry
16 somewhat recession-proof. I mean, it'll, like what
17 Marv was saying earlier, it may drop a couple of
18 points over the coming year or so, but people need to
19 maintain the safety of their cars. The family man is
20 going to say, okay, the pads are wearing out in the
21 minivan, we've got to replace those. Typically, he's
22 going to make the decision to make the proper repair.

23 So I do not believe we are going to get hit
24 very hard in the recession. It'll just be, as Marvin
25 said, a blip on the radar, at least in my opinion.

1 COMMISSIONER PINKERT: Federal-Mogul?

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

11 In other words, if the OE guys are down 20
12 percent in a downturn in the economy, we might be down
13 5 points, to put it in some kind of perspective. Does
14 that answer the question?

15 COMMISSIONER PINKERT: Yes, thank you.

16 My final question is for the lawyers, and I
17 would encourage you to either answer this one here or
18 answer it in the posthearing, or some combination of
19 those two. You argued that continuing the order will
20 have no beneficial impact on the domestic industry,
21 because so far, it has had no impact on the volume or
22 pricing of subject merchandise. Is a determination
23 that the order has been ineffective to date a
24 sufficient basis under the statute for a negative
25 determination in this review, given the forward-

1 looking nature of the analysis that we are supposed to
2 conduct?

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

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

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

21 I can see, under Commission precedent, why
22 that factor alone would not drive a negative
23 determination. If the Commission is required to look
24 at volume price and impact, and the statute lays out
25 looking at inventories and looking at capacity

1 utilization, and the likelihood of expanded capacity
2 barriers to entry, or things of this nature, I think
3 when you look at those factors, it supports a negative
4 determination.

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

8 COMMISSIONER PINKERT: Mr. Mintzer or Mr.
9 Layton?

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

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

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

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

24 Is it determinative? Is there some sort of
25 inference or a rebuttal presumption? Probably not.

1 But I think when you look at the totality of the
2 facts, you quickly come to the conclusion, in this
3 case, that if you revoke this order, it is highly
4 unlikely that material injury, or threat of material
5 injury, will occur for all the reasons that we have
6 been discussing: the difference between premium and
7 economy, and all the totality of the facts.

8 COMMISSIONER PINKERT: Thank you.

9 Mr. Chairman?

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

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

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

19 MR. WAPPELHORST: Yes, sir.

20 COMMISSIONER PINKERT: Thank you. The
21 reason for asking is just because if we're in a
22 situation where we find that there is no domestic
23 injury producing rotors, then we need to look for the
24 next most similar industry. I just want to make sure
25 that it's not drums.

1 I don't have any idea whether we have
2 information on the record that would allow us to make
3 such a determination. But if counsel would give some
4 attention that question, that would be helpful.

5 MR. VANDER SCHAAF: We will.

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

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

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

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

24 CHAIRMAN PEARSON: Okay. Well, I could
25 envision those being really high-tech brake orders out

1 of a plant in San Jose. Thank you for that.

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

4 Vice Chairman Aranoff?

5 VICE CHAIRMAN ARANOFF: Thanks, Mr.
6 Chairman.

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

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

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

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

20 Were they referring specifically to that
21 facility?

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

24 VICE CHAIRMAN ARANOFF: Okay.

25 Mr. Mintzer?

1 MR. MINTZER: Yes, the 10K filing reflects
2 an intent to sell the Waupaca facility.

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

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

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

15 VICE CHAIRMAN ARANOFF: Okay, I appreciate
16 that clarification.

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

23 MR. WAPPELHORST: No, I haven't.

24 VICE CHAIRMAN ARANOFF: Okay.

25 I wanted to follow up on one of the

1 questions that one of my colleagues was raising. I
2 think it was Commissioner Williamson earlier on had
3 asked the question about whether foundries should be
4 considered part of the domestic industry? And you
5 all gave your general sense that because they can
6 produce any kind of casting, perhaps they shouldn't.

7 But I wanted to ask counsel in the
8 posthearing brief to look at it in terms of this six-
9 factor test that we usually look at for sufficient
10 production-related activity, and specifically to note
11 that in both the first review of this order, and in
12 the 421, while part of the foundry was considered part
13 of the domestic industry by the Commission, it wasn't
14 really argued. It kind of happened by default, but
15 they were part of the coalition.

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

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

20 VICE CHAIRMAN ARANOFF: Yes.

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

23 VICE CHAIRMAN ARANOFF: Thank you.

24 I also wanted to follow-up a little bit on
25 this issue of the domestic producers that produce

1 specialized brake rotors, for example, for racing
2 applications.

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

9 MR. WOO: It's possible to do both.

10 Because the racing market is highly
11 customized, essentially making applications that
12 aren't typically a replacement part directly for your
13 average passenger vehicle, the extensive machining
14 operations that the typical manufacturer in the
15 racing- and performance industry would have, could
16 either take a raw casting and machine it into a
17 finished rotor.

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

25 VICE CHAIRMAN ARANOFF: I guess that goes

1 back to the same question then, which is: Whether
2 these kinds of producers perform sufficient domestic
3 activities to be considered part of the domestic
4 industry that's producing brake rotors?

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

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

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

17 VICE CHAIRMAN ARANOFF: Okay.

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

25 Walter Hughes, did you want to add

1 something?

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

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

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

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

19 VICE CHAIRMAN ARANOFF: Okay.

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

23 In Table 3-4 in the Staff Report, at, I
24 think it's, 311, there is a chart showing the unit
25 value of domestic producers' U.S. shipments on a

1 company-by-company basis.

2 For posthearing, I'd like you to please take
3 a look at this, and explain to me how these company-
4 by-company data are consistent with the argument that
5 I've heard today that Affinia's U.S. sales are premium
6 rotors?

7 I can't say more than that because of the
8 confidentiality. But if you have trouble answering
9 the question, please get back to staff and we'll
10 provide more detail to you.

11 MR. VANDER SCHAAF: We'll do so.

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

16 VICE CHAIRMAN ARANOFF: Okay, thanks.

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

22 One of the arguments that's been made is
23 that prices are currently higher in Europe. But we've
24 also heard that the market for after-market rotors in
25 Europe is small and hasn't taken off the way it has in

1 the U.S.

2 Is there any information that you can
3 provide us, for the record, that would give price
4 forecasts of prices in the U.S. relative to Europe,
5 and demand in the U.S. relative to Europe for the
6 foreseeable future?

7 MR. HUGHES: I think we're going to have to
8 inquire among our different clients and so forth.

9 It doesn't look like people at the table
10 have it, but we'll have to dig around to see if we can
11 find something like that among our different clients
12 in the group.

13 VICE CHAIRMAN ARANOFF: That would be
14 helpful.

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

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

24 Can anyone explain to me why there can be
25 whole volumes of subject than non-subject imports from

1 China, even though the non-subject imports likely
2 represent Chinese producers that are excluded from the
3 order?

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

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

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

19 MALE VOICE: You said subject.

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

22 If our monthly capacity needs are 150 or 200
23 containers, typically we go to a new manufacturer.
24 When we talk to them, the first thing out of their
25 mouths is: We can afford you 20 containers.

1 This was a massive problem for the entire
2 industry last year, was getting capacity.

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

5 Thank you, Mr. Chairman.

6 CHAIRMAN PEARSON: Commissioner Williamson?

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

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

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

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

23 But I believe that's altered, so it's almost
24 all finished rotors that are coming in from my
25 knowledge.

1 MR. WAPPELHORST: Our imports are 100
2 percent finished complete rotors.

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

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

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

18 COMMISSIONER WILLIAMSON: So, no castings
19 either?

20 MR. VANDER SCHAAF: That's correct.

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

25 MR. WAPPELHORST: No, not that I'm aware of,

1 sir?

2 COMMISSIONER WILLIAMSON: Okay. I just
3 wanted to make sure that we've covered it.

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

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

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

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

24 MR. WAPPELHORST: No, sir. As Steven said
25 earlier, you know, going back to when we first made

1 the petition in the late 1990s, our business was 80
2 percent premium and 20 percent entry.

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

9 COMMISSIONER WILLIAMSON: Okay, thank you.
10 I just didn't fully understand that when we finished
11 talking.

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

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

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

25 Then, as far as the low-volume older

1 applications, Federal-Mogul was the last guy in that
2 area because they were able to manufacture in North
3 America. Since they've stopped manufacturing in
4 North America, I think Affinia is probably the last
5 one left that can do those older-vehicle applications.

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

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

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

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

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

1 introduced into the marketplace.

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

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

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

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

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

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. FUDALLA: It's just alone sixty days on

1 the water to get production parts over here, so just
2 back off from there. It's probably a four-to-five-
3 month process of drawings, parts, accepting drawings,
4 rejecting drawings, etc.

5 COMMISSIONER WILLIAMSON: Okay. Thank you,
6 Guy.

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

9 CHAIRMAN PEARSON: Okay.
10 Commissioner Pinkert?

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

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

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

24 CHAIRMAN PEARSON: Madame Vice Chairman?

25 VICE CHAIRMAN ARANOFF: Thank you, Mr.

1 Chairman, a couple more questions.

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

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

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

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

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

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

25 VICE CHAIRMAN ARANOFF: Okay. And the

1 machinery that you moved to an affiliate in China is
2 being used to produce product that's supplying the
3 U.S. market?

4 MR. WAPPELHORST: Yes, to Ford.

5 VICE CHAIRMAN ARANOFF: Okay, thank you.

6 One question on pricing that I've been
7 meaning to get to: You've all argued that the premium
8 rotors are sold for significantly higher prices than
9 economy rotors, but are two prices related?

10 If there is a large decline in the price of
11 an economy rotor, would that bring down the price of a
12 premium rotor? Do they move in tandem, or are they
13 responding to completely separate forces?

14 MR. WAPPELHORST: Well, the only reason for
15 a decline in pricing right now is if we had some
16 stability and shrinkage on the raw-materials market,
17 which, quite frankly, I don't see happening for years.

18 I think the raw-materials market is going to
19 be increasing over the next few years, only because of
20 the demand for building infrastructures in various
21 countries, China, India, Vietnam, etc. Those are the
22 only reasons that I can see a tandem movement in
23 pricing, if you will.

24 The process of manufacturing an economy
25 rotor is very simple. Like Federal-Mogul was saying

1 before, it's pouring the floor the process of
2 manufacturing. A typical premium motor is a very
3 expensive automated line, and that's always going to
4 require a much higher price.

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

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

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

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

19 VICE CHAIRMAN ARANOFF: Okay. I appreciate
20 that answer.

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

24 CHAIRMAN PEARSON: Are there any further
25 questions from the dais?

1 (No response.)

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

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

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

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

13 A comment in the back?

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

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

23 Normally, it wouldn't be an issue at
24 posthearing submissions. You know, fifteen pages,
25 answer the questions, no limits answering the

1 questions, and all that.

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

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

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

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

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

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

24 MR. VANDER SCHAAF: I was just going to
25 mention what was just identified as sort of a closing

1 statement. I think I can jut take a minute maybe just
2 to sum up, if that's appropriate.

3 CHAIRMAN PEARSON: Very well. Everyone can
4 remain seated.

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

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

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

18 And basic questions of like product in
19 domestic industry coming up not only at this stage of
20 the proceeding, but after a second Sunset review, is a
21 bit odd to us. We think it behooves the notion that
22 we present, which is: We think it's appropriate to
23 revoke this order, that there are not circumstances
24 that demonstrate that a return of material injury is
25 likely if this order is continued.

1 And these extremely unusual basic questions
2 coming up at this stage, in our view, represent how I
3 guess ridiculous it is that we have to debate whether
4 this order should even be revoked.

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

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

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

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

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

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

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
1220 L Street, N.W. - Suite 600
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).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter