

April 7, 2007

The Office of Congresswoman  
Juanita Millender-McDonald  
970 West 190<sup>th</sup> Street  
East Tower Suite 900  
Torrance, CA 90502

Re: Unfair Anti-Dumping Duties – Automotive Brake Rotors from the People Republic of China  
International Trade Commission: case number A744 – International Trade Administration: case number: A570-846

Dear Congresswoman Millender-McDonald,

We wish to solicit your support to help us in our efforts to revoke what is now an unnecessary and unfair import assessment to the automotive industry, which is costing all levels of the automotive industry but ultimately is being paid by the consumer.

In 1996 a group of manufacturers formed a group known as “The Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers” (The Coalition). The Coalition was formed by Kinetic Manufacturing, Dana Corporation, Raybestos, Federal Mogul and Waupaca Foundry to urge the International Trade Commission (ITC) and the Department of Commerce (DOC) to implement anti-dumping duties (ADD) to discourage importation of brake rotors and drums manufactured in China and as a result protect the US manufacturers.

When the ADD was originally approved by the DOC there was a US manufacturing base that the ADD was supposed to protect. However, due to the ill conceived and ill implementation of the ADD, and the collection of the assessments, the US brake rotor manufacturing industry is now all but extinct. In November of last year, Affinia (Raybestos) closed its’ McHenry, IL plant. And, in April 2007 they announced closure of their Ontario, Canada plant. Federal Mogul has been importing semi-finished brake rotors from China for years, which they ground to their specs in the US. As of March 2007 they announced the closure of their last U.S. brake rotor foundry and machine shop in St. Louis. Dana was long ago absorbed by Affinia, Kinetic is no longer in business and virtually 100% of the business at Waupaca Foundry is OEM. The OEM car manufacturers are exempt from this order. This means they can import from China with impunity.

The evidence is quite clear. There is no aftermarket brake rotor manufacturing industry left to protect. So, there is no supportive reason for ADD to go forward.

One would think that with the demise of the domestic industry that the DOC would automatically revoke the ADD order during the sunset review this year, seeing as there is no manufacturing base left to protect. However, there are parties within our industry, which for their own self interests, would like to see this order continue. This is unrealistic and should not be considered for several reasons:

- The ADD order was put in place to protect the domestic brake rotor **manufacturing** industry. Without an industry to protect, it would be a subversion of the very intent of the law to suggest that the ADD be continued. In fact, those people interested in the continuation of ADD would be using it to protect their own Chinese manufacturers who have either zero or very low ADD, not to protect domestic manufacturing. Basically, they want this order to continue so they have a strategic advantage against their competitors who must pay higher ADD rates. In effect, they want to use the order as a “Restraint of Trade” device.
- The continuation of the ADD would not benefit the importers, buyers, installers or the consumer. In fact, it only continues to add cost to the product, significant complications and significant additional financial risk to all companies involved. These costs are all passed on to the consumer.
- The DOC/ITA has admitted they do not have the manpower to effectively review and monitor each and every Chinese manufacturer. As such, they cannot effectively monitor the situation. The result is that they have to make very broad based assumptions that can have a profound effect. Example: For the last period of review, the ITA established an 8.9% “sample rate”. They now estimate the next period of review sample rate to be 3.43%. This is a 62% reduction within one year, with no substantive change in the industry. How can a company predict what the next sample rate might be?
- By the original intent of Title VII of the Tariff Act of 1930 the remaining members of The Coalition, due to their lack of domestic manufacturing, their importing massive volumes of brake rotors from the PRC themselves and in some cases their affiliation with PRC manufacturers, should no longer be considered “Domestic Industry”:

Subtitle D: General Provisions  
Section: 771. Definitions; Special Rules

(4) *Industry.*

*(A) In general. The term "industry" means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.*

*(B) Related parties.*

*(i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.*

*(ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if*

*(I) the producer directly or indirectly controls the exporter or importer,*

*(II) the exporter or importer directly or indirectly controls the producer,*

*(III) a third party directly or indirectly controls the producer and the exporter or importer, or*

*(IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a non-related producer.*

<http://ia.ita.doc.gov/apo/title7.htm>

Given the above facts and risks, we feel it is appropriate to ask for your support in revoking this order. The support we are asking from you is two parts;

- Please put legislation on the floor for a non-binding resolution for the revocation of the ADD order for brake rotors imported from the Peoples Republic of China.
- Please write to the ITC sunset review board telling them you support the revocation of ADD for Brake Rotors from the Peoples Republic of China.

In closing, when you consider your decision to support us, please consider that **Company Name** is a company with over **XXX** employees and annual sales volumes in excess of **\$xxx,xxx,xxx.xx**. Each and every one of our employees, their families, our customers, their families and ultimately the consumer are affected by this issue. In addition, there are dozens, if not hundreds of companies like ourselves that are affected in the very same way as we are by this situation. The anti dumping duty order for brake rotors from the Peoples Republic of China is no longer relevant. Please prevent those companies that are attempting to subvert this order from its' original intent to their advantage, from doing so. Please support an expedited revocation of this order.

Thank you very much for your time, attention and concern to our issue.

Sincerely,

Cc: **Senator Dianne Feinstein**  
**Senator Barbara Boxer**  
**Congresswoman Grace Napolitano**