

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: ) Investigation No.:  
LARGE RESIDENTIAL WASHERS ) TA-201-76 (REMEDY)

Pages: 1 - 283  
Place: Washington, D.C.  
Date: Thursday, October 19, 2017



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UNITED STATES OF AMERICA  
BEFORE THE  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation No.:  
LARGE RESIDENTIAL WASHERS ) TA-201-76 (REMEDY)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, October 19, 2017

The meeting commenced pursuant to notice at 9:36  
a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable Rhonda K.  
Schmidtlein, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Rhonda K. Schmidtlein (presiding)

5 Vice Chairman David S. Johanson

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

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12 Staff:

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18 Robert Casanova, Investigator

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22 David Boland, Accountant/Auditor

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24 Michael Anderson, Director, Office of Investigations

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3 The Honorable Henry McMaster, Governor of South Carolina

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5 Congressional Witness:

6 The Honorable Ralph Norman, U.S. Representative, 5th

7 District, South Carolina

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9 State Government Witness:

10 The Honorable Bob Rolfe, Commissioner, Tennessee Department

11 of Economic and Community Development

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15 Washington, DC

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17 Economic Affairs - Bureau of the Ministry of Foreign Affairs

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19 Embassy of Vietnam

20 Luong Kim THANH, Commercial Attache

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22 Taipei Economic and Cultural Representative Office

23 Washington, DC

24 Chien Chi Chao, Economic Officer

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4 Respondents (Daniel L. Porter, Curtis, Mallet-Prevost, Colt  
5 & Mosle LLP)

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13 Staber Industries, Inc.

14 Joseph Liotine, President, North America Region,

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16 Casey Tubman, General Manager for Laundry Products,

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6 Mark Lunn - Of Counsel

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10 on behalf of

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6 LG Electronics Vietnam Haiphong Co., Ltd.;

7 LG Electronics Thailand Co., Ltd., and Nanjing

8 LG-Panda Appliances Co., Ltd.

9 (collectively "LGE" or "LG")

10 John Riddle, Senior Vice President of USHome

11 Appliances, LGEUS

12 John Toohey, Director of Strategy, LGEUS

13 Dr. Rodney Ludema, Associate Professor, Georgetown

14 University

15 Daniel Klett, Economist, Capital Trade Inc.

16 Daniel L. Porter and James P. Durling - Of Counsel

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3 Washington, DC

4 on behalf of

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6 Inc.;

7 Samsung Digital Appliances Mexico; Samsung Electronics HCMC

8 Complex; Suzhou Samsung Electronics Co., Ltd., and Suzhou

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10 (collectively "Samsung")

11 Tony Fraley, Plant Manager of the Newberry, South

12 Carolina Facility, Samsung Electronics Home Appliances

13 America

14 John Herrington, Senior Vice President and General

15 Manager - Home Appliances, Samsung Electronics America, Inc.

16 John K. Veroneau, Shara L. Aranoff, J. David Park, Lynn

17 Fischer Fox and James M. Smith - Of Counsel

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19 Rebuttal/Closing Remarks:

20 Petitioners (Jack A. Levy, Cassidy Levy Kent (USA) LLP

21 Respondents (John K. Veroneau, Covington & Burling LLP)

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7	Respondents (Daniel L. Porter, Curtis, Mallet-Prevost,
8	Colt & Mosle LLP)
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11	Whirlpool Corporation
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13	Casey Tubman, General Manager for Laundry Products,
14	Whirlpool Corporation
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16	Earl Jones, Executive Counsel for Public Policy and
17	Industry Relations, GE Appliances
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19	Bill Staber, President, Staber Industries, Inc.
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21	Glen Fish, President, Revere Plastics Systems, LLC
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23	John K. Veroneau - Of Counsel
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25	Shara L. Aranoff - Of Counsel

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P R O C E E D I N G S

9:36 a.m.

MR. BISHOP: Will the room please come to order?

CHAIRMAN SCHMIDTLEIN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing in the remedy phase of Investigation No. TA-201-76 involving large residential washers. As you are aware, on October 5, 2017 the Commission determined that large residential washers are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the Domestic Industry.

Having reached an affirmative determination with respect to injury the Commission is now engaged in the remedy phase of the investigation. Pursuant to section 202E the Commission is required to recommend the action that would address the serious injury of the Domestic Industry and be most effective in facilitating the efforts of the Domestic Industry to make a positive adjustment to import competition. We are here today to hear from the parties and others regarding the potential remedy recommendations.

The Commission is potentially scheduled to vote on remedy on November 21, 2017 following the vote the Commission will submit a report to the President that contains the Commission's determination and views regarding serious injury as well as one or more remedy

1 recommendations. That report is due to be delivered to the  
2 President by December 4, 2017.

3 It is the President who will ultimately decide  
4 whether to impose the remedy and what that remedy will be.  
5 Schedule setting forth the presentation of this hearing,  
6 notices of investigation and transcript order forms are  
7 available at the public distribution table. All prepared  
8 testimony should be given to the Secretary. Please do not  
9 place testimony directly on the public distribution table.

10 All witnesses must be sworn in by the Secretary  
11 before presenting testimony. I understand that the parties  
12 are aware of the time allocations. Any questions regarding  
13 the time allocations should be directed to the Secretary.  
14 Speakers are reminded not to refer in their remarks or  
15 answers to questions of business proprietary information.  
16 Please speak clearly into the microphone and state your name  
17 for the record and for the benefit of the court reporter.

18 Finally, if you will be submitting documents that  
19 contain information you wish classified as business  
20 confidential your request should comply with Commission Rule  
21 201.6. Mr. Secretary, are there any preliminary matters?  
22

23 MR. BISHOP: Madam Chairman, I would note that  
24 all witnesses for today's hearing have been sworn in. I  
25 would also note that during our lunch break today Courtroom

1 A, which is designated currently as the overflow room will  
2 be closed off for the Respondents to have their lunch in.  
3 We invite any other public parties to enjoy your lunch in  
4 the main hearing room. The Petitioners will also be  
5 segregated into a different room. With that, Madam  
6 Chairman, I have no other preliminary matters.

7 CHAIRMAN SCHMIDTLEIN: Very well. Will you  
8 please announce our first witness?

9 MR. BISHOP: Our first witness is the Honorable  
10 Ralph Norman, United States Representative from the 5th  
11 District of South Carolina.

12 CHAIRMAN SCHMIDTLEIN: Welcome, Representative  
13 Norman.

14 STATEMENT OF REPRESENTATIVE RALPH NORMAN

15 REPRESENTATIVE NORMAN: Madam Chairman, fellow  
16 Commissioners thank you so much for having me today and let  
17 me say before I begin my prepared comments, Congress is off  
18 this week and recessed but when I got word that this was  
19 taking place I told people you know I'd drive halfway across  
20 the country to be at this hearing because it's that  
21 important.

22 Let me say that the residents of the small town  
23 that were hoping the plant which was an abandoned  
24 Caterpillar plant, they were hoping to have a thriving  
25 business there and Samsung brought hope, they brought jobs.

1 They put food on the table for the many residents.

2 Let me say this, you may not have heard about the  
3 VC summer project in my district where two reactors were  
4 shut down, the customers were left with a 1.5 billion dollar  
5 loss that they never had anything to do with. So needless  
6 to say the residents of Newberry are petrified of losing  
7 this industry that is already well underway with Clemson,  
8 with Carolina with opening this. So I just say that to  
9 stress the importance of what we are going here today and  
10 again I appreciate what you are doing.

11 My name is Ralph Norman. I have the distinct  
12 honor of representing the many good people of South  
13 Carolina's 5th Congressional District. This is my second  
14 time appearing before the Commission to represent the  
15 interests of my constituents and I feel that the interests  
16 in this matter are also aligned with the interests of all  
17 Americans. My districts include the County of Newberry. As  
18 I said before, this community suffered dearly when 325 jobs  
19 were lost with the closing of the Caterpillar plant and  
20 really most of the other businesses in town suffered losses  
21 related to that closing.

22 Earlier this summer a ray of hope broke through  
23 when Samsung announced plans to invest 384 million dollars  
24 to modernize and refurbish the facility to make it capable  
25 of manufacturing state-of-the-art washing machines and other

1 home appliances. There is a flurry of activity at this site  
2 as Samsung works to make it ready for installation of  
3 manufacturing equipment. The plant was scheduled to come  
4 online early next year and its opening will result in a  
5 minimum of a thousand jobs, more than double the jobs that  
6 previously existed when caterpillar ran the plant.

7           When opened, the plant will deliver a rising  
8 economic tide to many other working families in my  
9 congressional district. In the meantime though I am very  
10 concerned that the Commission's potential actions in this  
11 room could pose a risk not only to the new jobs in the  
12 community but the broader American economy.

13           In this day and age we need U.S. Trade policies  
14 that will welcome foreign investors and provide them with a  
15 consistent business environment that nurtures innovation,  
16 efficiency and ever-increasing productivity. I want to give  
17 companies like Samsung assurance that in South Carolina we  
18 are open for business and that we welcome investment in  
19 domestic manufacturing.

20           I have a deep respect for the work being done by  
21 the Commission and the important role you play in  
22 interpreting and enforcing a trade environment that is fair  
23 to everyone. I can say that until recently I had never  
24 heard of section 201 of the Trade Act of 1974. I know a law  
25 that my congressional predecessors wrote had the best of



1 intentions which was to safeguard our workers in critical  
2 industries against unforeseen rises in imports, which can  
3 also be misapplied in a way that creates domestic harm that  
4 far outweighs any harm that it was intended to fix.

5 This is my concern for testifying here today.  
6 While I'm extremely disappointed that the Commission found  
7 injury in the case, the Commission is now tasked with  
8 recommending a remedy. That remedy must not be excessive  
9 and frankly needs to demonstrate a sense of urgency and good  
10 common sense and critically the Commission must consider, we  
11 hope, the impact of any remedy on all members of the  
12 Domestic Industry including Samsung, its workers in my  
13 district and all of the business and workers that will  
14 supply and support the Samsung facility.

15 I would hope the remedy would be tailored to  
16 avoid causing harm more broadly. Let there be no doubt,  
17 Samsung's facility in Newberry fits your definition of  
18 Domestic Industry and with a massive presence in the United  
19 States spread across many states and growing every year,  
20 Samsung is a company invested in United States production  
21 and in U.S. jobs. Samsung's investment in  
22 South Carolina has made it an integral member of the  
23 Domestic Industry from production of large residential  
24 washers. In June, Commerce Secretary Wilber Ross called  
25 Samsung's investment in the 5th district "exactly the kind

1 of job creation and investment that the Administration is  
2 seeking for the American workers."

3 I respectfully urge you to reaffirm the  
4 Secretary's statement with the decision that allows all  
5 Domestic manufacturers to compete in an open market. Since  
6 the summer's announcement, Samsung has made significant  
7 progress and has spent millions of dollars already on its  
8 Newberry plant. Samsung has been hard at work getting the  
9 existing building ready to begin producing washers and other  
10 appliances by early next year.

11 They have a CEO, a plant manager and assembly  
12 workers and machine operators for its front-load washers.  
13 One hundred employees hired so far for a total of 500 by the  
14 end of this year. In addition, Samsung is continuing to  
15 participate in job fairs in every corner of the state. In  
16 months, Samsung has gone from being an idea on a chalk board  
17 to a tangible company putting South Carolinians to work.

18 I want to emphasize my earlier point, any remedy  
19 finding by the Commission we would hope would avoid harming  
20 members of the domestic manufacturing industry which  
21 includes this new South Carolina production facility. When  
22 production begins in Newberry in early 2018 current levels  
23 of washer imports will begin to fall significantly as they  
24 are replaced by this new domestic capacity.

25 The Domestic Industry is already improving as a

1 result of Samsung's massive investment and I'm excited to  
2 see the Newberry Plant grow as it begins production and  
3 ramps up. While production ramps up, Samsung will need to  
4 import some models of washing machines for the 1st 12 to 18  
5 months to ensure that it can supply the needs of its  
6 customers. This will ensure that Samsung remains a  
7 competitive member of the marketplace while they move their  
8 business into the United States.

9 Since the Commission is looking at restrictions  
10 that would start just as the Newberry Plant prepares to come  
11 online, I urge the Commission to carefully consider what  
12 impact restrictions would have on my district, the state of  
13 South Carolina and our large, domestic, residential washer  
14 machines and washing machine industry.

15 I am very concerned that customers will be  
16 severely hurt if unnecessary roadblocks prevent Samsung from  
17 offering consumers a full array of innovative products. If  
18 Samsung cannot import enough washers to meet the customers'  
19 needs in 2018 it may lose orders that would harm demand for  
20 models made in South Carolina.

21 Not only would this reduce consumer choice, it  
22 would also result in higher prices for consumers, higher  
23 prices and lower demand results in diminished employment at  
24 the manufactural level and broad, economic harm to the  
25 affected areas like Newberry County.

1           I'm also concerned that restrictive measures will  
2           have a negative impact on the new investment in U.S. large  
3           residential washing machine production. I ask you to  
4           consider what signals will be sent to other potential  
5           investors who might look at this case and decide that it is  
6           safer to invest in other places other than the United  
7           States.

8           More importantly, I'm concerned about what  
9           restrictive measures would mean for those newly hired  
10          workers in South Carolina. Normally the Commission would  
11          need to weigh these very real concerns against the benefit a  
12          safeguard remedy may bring to the Domestic Industry. In  
13          this case however the remedy Whirlpool seeks would do more  
14          harm than good to the United States washer production.

15          Whirlpool and the Chinese company Haier have  
16          presented adjustment plans but what neither plan recognizes  
17          is that Samsung is now joining the Domestic Industry. The  
18          Whirlpool and Haier remedy proposal also fails to note that  
19          Samsung has already started hiring employees and that they  
20          are already an important part of the manufacturing sector.  
21          Samsung employees are not abstract future promises. They  
22          are at work today and poorly tailored remedies would do  
23          great harm to them.

24          Whirlpool and Haier seek to place a 50 percent  
25          tariff on all large residential washer imports and a quota

1 based on prior import volume for parts. Their proposed  
2 remedy would disrupt the market and undercut Samsung's U.S.  
3 investment by choking off this ability to supply a full  
4 range of washers to consumers while it ramps up production.

5 The proposed remedy which is a drastic shift from  
6 what Whirlpool originally proposed before learning of  
7 Samsung's investment plans seems tailored to undermine  
8 Samsung's ability to successfully launch this United States  
9 investment. What message that sends to other companies  
10 seeking to invest in U.S. manufacturing, not to mention the  
11 American Consumer whose choices of innovative washing  
12 machines would be radically reduced if such a tariff were  
13 imposed.

14 The soon to be opened Newberry facility will  
15 result in nearly a thousand local jobs and 380 million over  
16 the next 5 years. This is good news for American  
17 Manufacturing. Domestic Production of washers will rise as  
18 Samsung takes its place among Whirlpool and Haier, another  
19 non-U.S. based company as a Domestic Producer. It's  
20 another piece of the puzzle for Samsung as an American  
21 manufacturing giant that has been creating jobs and  
22 innovating here for nearly four decades.

23 Samsung has invested billions of dollars into the  
24 United States market with more than 17 billion in its  
25 Austin, Texas semiconductor plant alone. It employs more

1 than 18,500 people across our great country. Samsung is a  
2 major producer of goods for U.S. consumers. We should  
3 welcome its investments in the U.S.

4 Samsung has come a long way in the 5th  
5 Congressional District to become a productive facility in  
6 the United States and the domestic large residential washing  
7 machine industry is growing stronger because of Samsung's  
8 investment. Blocking imports is serious business and should  
9 be done only in the rarest of circumstances and only for the  
10 soundest of reasons.

11 The circumstances surrounding this petition are  
12 neither rare nor extraordinary and the reasons it offers for  
13 blocking imports are not sound. Moreover, harm to the U.S.  
14 Consumer and the economy demonstrates the broad impact of  
15 the proposed remedy. For these reasons I respectfully urge  
16 the Commission to carefully consider these concerns and not  
17 impose trade restrictions that would harm domestic washing  
18 machine manufacturers or its consumers with fewer choices  
19 and higher prices.

20 In particular, please consider the workers back  
21 home in the 5th district. Many were impacted by the  
22 shuttering of the Caterpillar plant and this new facility is  
23 a symbol of hope and opportunity for this Country. This  
24 truly is a case where market adjustment is happening without  
25 government interference and we should welcome it as an

1 American Manufacturing success story.

2 In closing, let me say when Whirlpool bought  
3 Maytag they cited Samsung as competition which would stop  
4 them from having a monopoly. Now, at this point when  
5 Samsung has invested the dollars, have signed the  
6 agreements, have gotten the two Universities onboard, have  
7 reassured the people of jobs, of food on the table, of  
8 college education, I urge the Commission not to impose these  
9 tariffs after the fact.

10 I really thank you for allowing me to testify and  
11 thank you for what you do.

12 CHAIRMAN SCHMIDTLEIN: Thank you, Representative  
13 Norman.

14 MR. BISHOP: Our next witness is the Honorable  
15 Henry McMaster, Governor of South Carolina.

16 CHAIRMAN SCHMIDTLEIN: Welcome, Governor.

17 STATEMENT OF GOVERNOR HENRY MCMASTER

18 GOVERNOR MCMASTER: Thank you very much. Good  
19 morning Chairman Schmidtlein and members of the Commission.  
20 As you know, I'm Henry McMaster, Governor of South Carolina.  
21 I'm happy to be here and I would like to point out that in  
22 making a speech there are always really three speeches in  
23 one. There is the one you plan to give, the one you gave  
24 and the one you wish you had given. I kind of liked Ralph  
25 Norman's. I thought that was a real good speech and I agree

1 with everything he said.

2 I'll try to be brief. I think I've got about 5  
3 minutes of insight for you. I'm here because this is  
4 important. I'm here to urge you to vote against any trade  
5 restrictions on Samsung, on large residential imports that  
6 will hurt the workers and economic growth in my state and  
7 consumers, I believe, nationwide.

8 South Carolina is a long-term leader in  
9 attracting foreign investment and you may have seen a lot of  
10 that from announcements recently. We're doing well, we're  
11 moving up and making a lot of progress for all of our  
12 people. We are and were delighted that Samsung recently  
13 committed to opening up a 300 million dollar home appliance  
14 manufacturing plant in Newberry, South Carolina, a small  
15 college town just above the state capital of Columbia.

16 The county itself has about 38,000 people.  
17 Needless to say, the people in that area are delirious with  
18 the prospect of what is coming. That investment is a  
19 testament to hard work in economic development and the  
20 Samsung plant is one of the most important economic  
21 development projects in our state's modern history.

22 That is because we have a lot of manufacturing  
23 with Volvo, BMW, Mercedes, Boeing, a lot of tire companies,  
24 GT -- a lot of them but this is something new and something  
25 different and the collaborative efforts they have initiated



1 already with two of our three research universities, Clemson  
2 University which is in the upstate and the University of  
3 South Carolina, which is in the middle of the state. The  
4 possible internships and collaborations with the students  
5 and the faculty are off the scale exciting. We are very  
6 happy about this.

7           On top of that it couldn't have come at a better  
8 time because just a few months ago two of our big power  
9 companies, one state owned and the other publicly owned  
10 decided that they were going to stop work on two nuclear  
11 reactors that were being built in the middle of the state.  
12 It was a multi-billion dollar project and when they made  
13 that announcement five thousand people were laid off the  
14 next day.

15           So this influx of Samsung and what it promises  
16 when given amongst the backdrop of that in almost the same  
17 location was very, very good news. Later, after that  
18 announcement and after that collapse we launched something  
19 called "employ South Carolina" in August. It's a dynamic  
20 rapid response coalition of public and private organizations  
21 that provide people in search of jobs the opportunity to  
22 work with state agencies and workforce development groups  
23 that are focused on matching prospective employers with  
24 talented workers that fit their needs.

25           To do this, employ South Carolina has started

1 holding job fairs with cabinet agencies, local employers and  
2 all sorts of folks who have vacancies. What's this got to  
3 do with Samsung? Well, already as the newcomer on the block  
4 they were there. They were participating in those job fairs  
5 all over the state with us, with the state agencies and  
6 actually having some themselves. That's the kind of  
7 corporate citizen we like to have in South Carolina.

8 So far, Samsung has hired a hundred South  
9 Carolinians for its Newberry Home Appliance plant. They  
10 have committed to hiring three hundred more before the end  
11 of the year in order to begin production as Congressman  
12 Norman said in early 2018 and that's just the beginning of  
13 their commitment to us. The company plans to hire almost  
14 one thousand workers over the next two years.

15 To put that in perspective, Boeing now has about  
16 9 thousand, 8 or 9 thousand. BMW has about 8 or 9 thousand.  
17 We hope to keep up and surpass the growth that has taken  
18 place in Texas well I think they have Samsung there has  
19 about 10 thousand employees. We hope to surpass that as  
20 well. But the direct Samsung jobs are not the end of the  
21 story.

22 The production facility will have a multiplier  
23 effect on the economy, as they all do, producing upstream  
24 jobs with suppliers of parts such as injection molding and  
25 stamped metal and a transition period to new supply chains.

1 We are excited about the downstream jobs and logistics  
2 arising from this facility as well.

3 In fact, Samsung has already produced those kinds  
4 of results elsewhere in the United States including Texas  
5 and as I say we plan to surpass that growth. In Newberry,  
6 as Congressman Norman already said, Samsung has already  
7 invested tens of millions of dollars to rapidly overhaul a  
8 manufacturing plant that recently closed. That Caterpillar  
9 plant where they made tractors and bulldozers cost us more  
10 than 300 jobs right there in Newberry Country.

11 This facility had been one of the largest  
12 employers in the county and you can imagine the impact that  
13 that had in Newberry County and you can imagine the impact  
14 that this announcement has with tripling the previous  
15 footprint of Caterpillar. It's exciting to have Samsung see  
16 the potential in our people in Newberry County and in South  
17 Carolina.

18 Samsung's commitment to our state runs deeper  
19 than just the Newberry plant. Samsung also has a large call  
20 center operation in Simpsonville which is in the upper part  
21 of the state near Greenville.

22 MR. MCMASTER: -- South Carolina's partnership  
23 with Samsung is critical for us for many reasons. And  
24 Commerce Secretary Wilbur Ross got it right not long ago at  
25 this announcement, which he had attended here in Washington

1 at the Willard Hotel. I was there as well. He said the  
2 fact that one of the world's largest and most respected  
3 technology companies is choosing to invest in South Carolina  
4 speaks volumes about the innovation and excellence of our  
5 talented workforce and what they're capable of.

6 So that is why I'm here. The Commission's  
7 actions today could chill a community and manufacturing  
8 success story before it gets a chance to take off.  
9 Samsung's Newberry manufacturing plant is supposed to open  
10 by early 2018. That's not far off. South Carolinians want  
11 and need this facility to be successful. And this case, as  
12 you know, threatens that outcome.

13 I've practiced law for over 44 years in state  
14 and federal court, in the U.S. Supreme Court, four years as  
15 U.S. Attorney under President Reagan and eight years as  
16 Attorney General. I know that the Commission plays an  
17 important role in interpreting and enforcing a fair trade  
18 environment. And like President Trump, I am all for fair  
19 trade.

20 But I've never before been before this  
21 Commission. And I've never been conversant in the way that  
22 Section 201 of the Trade Act of 1974 is supposed to work and  
23 how it was designed, but it does not make a bit of sense for  
24 me, and I cannot believe, that Section 201 was intended to  
25 harm direct investment in our state's workforce or take away

1 healthy competition that incentivizes companies to innovate  
2 for the benefit of consumers. It's difficult for me to  
3 understand that, but apparently, that's the way these rules  
4 are written.

5 The Commission, I submit to you, should not  
6 impose the harsh remedies that have been suggested in this  
7 case. In my opinion, Samsung effectively is addressing any  
8 industry and domestic industry by shifting to South Carolina  
9 the vast bulk of its washing machine production in the U.S.  
10 market.

11 Indeed, Samsung is becoming the domestic  
12 industry, growing domestic employment, increasing domestic  
13 production, and healthy domestic competition. I ask the  
14 Commission to consider the impact of any remedy on all  
15 members of the domestic industry, including those companies  
16 like Samsung, that are working hard to expand domestic  
17 manufacturing in South Carolina.

18 I ask the Commission to closely examine any  
19 remedy to show there's no unintended harm to our domestic  
20 manufacturing base. And in turn, to the innovation and  
21 consumer choice.

22 When Newberry's plant production comes online in  
23 early 2018, washing machine imports will decrease as Samsung  
24 begins domestic production in Newberry. When production  
25 ramps up, Samsung will need to import some models of washing

1 machines for the first 12, 18 months to ensure that it can  
2 reliably supply the needs of its customers. For example,  
3 when customer land rises further for Samsung's new and  
4 unique flex watch dual washer system, Samsung would like to  
5 make that product in South Carolina, too.

6           However, through their remedy requests,  
7 Whirlpool and Haier are trying to kill the demand for flex  
8 wash and other innovative new products. Instead of simply  
9 trying to compete with them. Competition is always good.  
10 Sometimes the competitors don't like it, but the public  
11 does. Fine consumers do.

12           Whirlpool and Haier recommended an extreme  
13 remedy that will harm South Carolina's budding washing  
14 machine manufacturing industry at a critical stage. This  
15 proposed remedy of 50 percent tariff on all washer imports  
16 and equivalent on parts based on prior import volumes for  
17 those parts would prevent Samsung from helping our domestic  
18 industry blossom and grow.

19           Again, it seems clear to me that Section 201 was  
20 not created to stifle investment in innovation in our  
21 domestic manufacturing. Placing unnecessary restrictions on  
22 these imports to the detriment of consumers at exactly the  
23 time when Samsung is trying to transition to domestic  
24 washing machine manufacturing would have a devastating  
25 impact on Newberry County, South Carolina and our domestic

1 manufacturing industry as well. It would also end the  
2 collaborative efforts involved in the research projects, the  
3 internships and all of those exciting new innovative things  
4 for the students and faculty as I mentioned not only at  
5 Newberry College, but at the University of South Carolina  
6 and at Clemson University.

7 Samsung has made a commitment to investing in  
8 South Carolina in our domestic washing machine  
9 manufacturing. I hope the Commission will value Samsung's  
10 commitment to rebuilding our American manufacturing base,  
11 creating good paying manufacturing jobs that will provide  
12 American consumers with the choice to buy some great washing  
13 machines and produce much prosperity and happiness in South  
14 Carolina.

15 I know that Samsung's role in this great success  
16 story in South Carolina has only just begun. And if I may  
17 just in closing, I can tell you for a certainty that a lot  
18 of work went into seeing that this wonderful company has  
19 come to South Carolina. It means a lot to a lot of people.  
20 It means a lot to our reputation. It means a lot to the  
21 people that hope to work there. It means a lot especially  
22 to the researchers in those universities and those young  
23 people who have nothing like this in this area to  
24 participate in.

25 If this rule is interpreted and enforced the way

1       it appears to be eligible for such enforcement, I think it'd  
2       be a -- just a travesty. I don't -- I'm not familiar with  
3       the rules. I've never practiced here, but to have a company  
4       like this that is not accused of dumping or anything of that  
5       nature, but is a good competitor, that we want so much in  
6       South Carolina, as well as the rest of the country, it would  
7       be a crying shame to see this stop -- to see them impeded.  
8       We see nothing but good that can come from this competition  
9       and from the happiness in the jobs and the strong families  
10      that it would help build in our state.

11                   And I thank you all very much for your most kind  
12      attention. Thank you.

13                   CHAIRMAN SCHMIDTLEIN: Thank you very much,  
14      governor.

15                   MR. BISHOP: Our next witness is the Honorable  
16      Bob Rolfe Commissioner with the Tennessee Department of  
17      Economic and Community Development.

18                   CHAIRMAN SCHMIDTLEIN: Welcome, Commissioner  
19      Rolfe.

20                   STATEMENT OF REPRESENTATIVE BOB ROLFE

21                   MR. ROLFE: Thank you, Madam Chairman and  
22      distinguished Commissioners of the International Trade  
23      Commission. My name is Bobby Rolfe and I serve as the  
24      Commissioner of Economic and Community development for the  
25      state of Tennessee. I proudly serve at the pleasure of our



1 governor and my primary job is to recruit companies to  
2 locate in Tennessee. And yes, we actively recruit, not only  
3 across the nation, but globally.

4 For the record, I'm not appearing before the ITC  
5 to take sides on this trade issue or any other trade related  
6 issues. However, I am here to emphasize the importance of  
7 attracting capital investment to the state of Tennessee.

8 More importantly, I would not presume to know  
9 all the ITC remedies related to this case, as I am sure they  
10 are complex and numerous.

11 Here is what I do know. On February 29th of  
12 this year, our governor, Governor Bill Haslam and the senior  
13 executives of LG Electronics announced that LG had made the  
14 decision to invest \$250 million to build a new advanced  
15 washing machine manufacturing plant in Clarksville,  
16 Tennessee.

17 Early this summer, I was pleased to participate  
18 in the groundbreaking for this new facility.

19 (Videotape is played)

20 UNIDENTIFIED SPEAKER: 310 acres in  
21 Clarksville, Tennessee, \$250 million investment, a million  
22 square foot, the world's most advanced washing machine  
23 factory. The official groundbreaking for LG's new plant's  
24 manufacturing facility here in Clarksville.

25 UNIDENTIFIED SPEAKER: Anytime a private company

1 puts a quarter of a billion dollars of private capital to  
2 work in our state, it is a good day.

3 UNIDENTIFIED SPEAKER: And today, because of  
4 what this announcement means, 600 people in this community  
5 are going to have a good paying job.

6 UNIDENTIFIED SPEAKER: And we are thrilled that  
7 not only the production, but the innovation from those  
8 product is going to come right here in Clarksville,  
9 Tennessee.

10 UNIDENTIFIED SPEAKER: LG has been dedicated for  
11 fueling innovations, but also in supporting a growing  
12 economy and the job forces.

13 UNIDENTIFIED SPEAKER: There's nothing, nothing  
14 whatsoever better than Korean company coming to make  
15 investment in the United States.

16 UNIDENTIFIED SPEAKER: Foreign direct investment  
17 in America is a win, both for the company and for our  
18 nation.

19 UNIDENTIFIED SPEAKER: This is a momentous day  
20 and yes, life's good here in Clarksville, Tennessee. What  
21 this does, I think, is demonstrates the great partnership  
22 that we have --

23 UNIDENTIFIED SPEAKER: Montgomery County is  
24 looking forward to a long lasting and bright relationship  
25 with LG. Thank you all for selecting Montgomery County.

1 Life's certainly good in Montgomery County and LG is a part  
2 of it. Thank you.

3 (END VIDEO)

4 MR. ROLFE: Needless to say, we've worked hard  
5 in Tennessee to attract companies like LG. Last week, I  
6 returned from a recruiting trip with our governor to  
7 strengthen our ties with Asian businesses and to increase  
8 foreign direct investment in our state as our success our  
9 state depends on attracting private capital investment from  
10 international companies. And we're proud of our track  
11 record of leading the U.S. in the creation of FDI jobs in  
12 the two of the last three years.

13 We're equally proud of the successes in  
14 recruiting U.S. companies to locate and/or expand  
15 manufacturing facilities in Tennessee. Earlier this year, I  
16 had the privilege to visit the Whirlpool Corporation factory  
17 in Cleveland, Tennessee, where Whirlpool makes cooking  
18 appliances. I would like to add that Whirlpool, which also  
19 operates a call center in Knoxville, has been a terrific  
20 corporate citizen and has had a long term investment in  
21 Cleveland for decades.

22 We believe in fair competition for all and we  
23 would support free and fair trade in Tennessee. Again, I'm  
24 not here to favor one Tennessee manufacturer over another.  
25 Simply, I hope the ITC does not use trade laws to favor one

1 U.S. manufacturer over another.

2 Please consider that hindering Tennessee  
3 manufacturing in any way will hurt our workers and our  
4 economy. Retailers, factory workers and others, rely on  
5 products proudly made in Tennessee for their livelihood.

6 In closing, I respectfully request that you  
7 carefully consider how your decision will impact current and  
8 future investments for all companies to invest in Tennessee.  
9 We hope that the remedy will be shaken away that encourages  
10 long term and full scale U.S. manufacturing investment, as  
11 we are all about creating jobs in our great state. I thank  
12 you very much.

13 CHAIRMAN SCHMIDTLEIN: Thank you, Commissioner  
14 Rolfe.

15 MR. BISHOP: Madam Chairman, that concludes our  
16 government official witnesses. If I may please ask our  
17 embassy witnesses to please come forward.

18 CHAIRMAN SCHMIDTLEIN: Thank you.

19 MR. BISHOP: Our first embassy witness is  
20 Heesang Kim, director -- I'm sorry, deputy director general  
21 of the Bilateral Economic Affairs Bureau of the Ministry of  
22 Foreign Affairs with the Embassy of the Republic of Korea.

23 CHAIRMAN SCHMIDTLEIN: Welcome, Mr. Kim. You  
24 may begin when you're ready.

25 STATEMENT OF HEE-SANG KIM

1                   MR. KIM: Thank you, Madam Chairman, members of  
2 the Commission. It is a great honor for me to be here today  
3 to comment on this important issue of remedy on behalf of  
4 the Korean government.

5                   Before I begin, I want to emphasize one very  
6 simple fact. We are here to discuss safeguard measures, not  
7 anti-dumping measures. Concerns surrounding the so-called  
8 unfair trade or country hopping raised during the first  
9 hearing in September should be handled by anti-dumping  
10 measures, not safeguard measures.

11                   I believe the Commission will conduct all the  
12 investigation for this case in accordance with WTO safeguard  
13 agreement and relevant U.S. laws.

14                   Article 5.1 of the safeguard agreement clearly  
15 stipulate that a member shall apply safeguard measures only  
16 to the extent necessary to prevent by remedy serious injury  
17 and to facilitate adjustment. Considering the sound  
18 financial condition of the petitioners, imposing 50 percent  
19 tariffs on all imported items suggested by them cannot be a  
20 safeguard measure. No safeguard measures should be used to  
21 afford unfair protection to domestic industry as doing so  
22 would be a clear violation of this safeguard agreement.

23                   Article 2.4 -- 2.1 of the safeguard agreement  
24 mention that measure can be taken when there is a serious  
25 injury to the domestic industry that produces like or

1 directly competition product. Therefore, washer parts and  
2 some types of washing machines that the U.S. domestic  
3 industry is not manufacturing should be excluded from all  
4 safeguard measures.

5 The restriction import of washer parts will make  
6 repair services for Samsung and LG washer very difficult and  
7 thereby seriously infringe on consumer right. It could also  
8 impede and delay the operations of Samsung and LG's new  
9 production facilities in the United States.

10 In addition, in order to allow the U.S.  
11 consumers to enjoy using the washing machines with  
12 innovative and smart technology, the types of washers that  
13 are not manufactured in the United States should be excluded  
14 from all measures.

15 I'd like to take this opportunity to appreciate  
16 the Commission's unanimous finding that imports from FTA  
17 members countries including Korea caused no injury. Rather  
18 than provisions of the U.S. registration state the President  
19 shall or may exclude imports from FTA countries from being  
20 subject to remedy actions if the imports are not a  
21 substantial cause of serious injury.

22 It is also a longstanding practice of the U.S.  
23 that the President does not impose a remedy on imports from  
24 FTA member countries with negative injury determination.

25 Based on this longstanding practices and

1 regulation of the United States, we believe that imports  
2 from non injuring FTA countries including Korea should be  
3 excluded from the measures. As I mentioned at the first  
4 hearing, a safeguard measure remedy is different from other  
5 trade remedies in that it is imposed on fair trade.  
6 Reflecting this principle, Article 8.1 of the safeguard  
7 agreement indicate adequate means of trade compensation.  
8 And Article 8.2 allows even retaliations by exporting  
9 country under certain conditions.

10 Therefore, I believe that if any measure should  
11 be introduced as a remedy, its adverse effects on the  
12 current trade should be at a minimum. This is for the  
13 benefit of exporters, as well as U.S. consumers.

14 In this regard, I'd like to mention that if ATRQ  
15 should be introduced as a remedy, global TRQs with non  
16 injuring FTA countries excluded would be much better than  
17 the country-specific TRQs. It is more predictable and  
18 ensures stables supply to consumers.

19 For the base period of the TRQ, it should be the  
20 most recent year consistent with the Commission's practices  
21 in most safeguard cases. Thank you.

22 MR. BISHOP: May I ask if counselor  
23 Dwipayudhanto is in the room, please?

24 Madam Chairman, our next embassy witness is  
25 Thanh Luong Kim, commercial attach , with the Embassy of

1 Vietnam.

2 STATEMENT OF LUONG KIM THANH

3 MR. THANH: Good morning, my name is Luong Kim  
4 Thanh and I'm from the chief remedy authority of Vietnam.  
5 Thank you for allowing me to make a statement today and I'm  
6 truly honored to be here.

7 The chief remedy authority of Vietnam under the  
8 Ministry of industry and Trade of Viet Nam would like to  
9 present its complement to the United States International  
10 Trade Commission for the opportunity to submit comments  
11 concerning the safeguards investigation on the last  
12 residential washer.

13 We have been closely following this case since  
14 the outset and has have sent our submission on the 12  
15 September 2017. In addition to our previous comments, we  
16 would like to express the following issue.

17 First, the use of the safeguard measures. We  
18 would like to recall the preamble the WTO agreement on  
19 safeguard state that to enhance rather than to limit  
20 competition in the international markets. Most importantly  
21 the real objectives of the safeguard measure is to keep the  
22 domestic industry -- the possibility and adjust -- to accept  
23 an recent increase of the imports caused by unforeseen  
24 development, not to address the issue of anti-dumping  
25 nevertheless by the petitioner.



1                   First of all, we would like to emphasize that  
2                   the U.S. have never made anti-dumping fighting with respect  
3                   to the last residential washer produced in Vietnam. In  
4                   fact, there have been -- there have not even any allegation  
5                   of dumping against the last residential washer produced in  
6                   Vietnam. As a result at a minimum anti-dumping appeared to  
7                   be the petitioner to motivation. The Commission should like  
8                   to imposed any remedy on import from Vietnam since there  
9                   have been no anti-dumping fighting of any imports of the  
10                  washer from Vietnam.

11                  Second, the inherent WTO obligation. As  
12                  expressed in our recent submission, we request that the  
13                  investigation and decision by the U.S. strictly follow the  
14                  U.S. WTO obligation.

15                  According to the information provide by the  
16                  petitioner, we found that there's no information existing  
17                  that both "unforeseen developments" and "the effect of GATT  
18                  obligations" and no logical connection between the  
19                  unforeseen development and the increase in import as  
20                  required by the WTO agreement.

21                  Moreover, the increase in imports of LWRs is not  
22                  recent enough, sudden enough and sharp enough. In addition,  
23                  serious injury caused by the imports does not exist because  
24                  it later show the production so production capacity and with  
25                  the increase. In the event -- even in the event that ITC

1 finds that so injury to the domestic injury it is we think  
2 that they lack a substantial caution between the increased  
3 import and the injury and threat thereof.

4 Third the WTO agreement also requires that a  
5 meaningful and non confidential summary information that's  
6 submit in confidence need to be provided. However, the  
7 petitioner, it has not done so. We're of that view that the  
8 petitioner could have provide meaningful summary of each  
9 confidential basis, so that we can have a greater  
10 understanding of the situation of the domestic industry.

11 In conclusion, we would respectfully advise that  
12 we would like ITC to refrain from resorting to safeguard  
13 measures and any conclusion it may made is strictly  
14 consistent with the U.S. WTO obligation including the  
15 agreement on safeguard and 1994. Thank you.

16 MR. BISHOP: Our final Embassy witness is  
17 Chien Chi Chao, Economic Officer with the Taipei Economic  
18 and Cultural Representative Office.

19 STATEMENT OF CHIEN CHI CHAO

20 MR. CHIEN: Madam Chair, distinguished member  
21 of Commission, good morning. My name is Chien Chi Chao,  
22 Economic Officer of the Taipei Economic and Cultural  
23 Representative Office in United States. On behalf of the  
24 government of Taiwan, I thank you for the opportunity to  
25 appear here before you today to express Taiwan's views

1 concerning the current global safeguard investigation  
2 against imports of large residential washers or LRWS.

3 As argued in our prehearing injury brief, and  
4 in accordance with Article 9.1 of the WTO Safeguards  
5 Agreement, we believe the Commission should find that  
6 imports of RWS from Taiwan are de minimis, and should be  
7 excluded any provisional or definitive measures as a result  
8 of this investigation. As provided by the USITC Interactive  
9 Tariff and Trade Web data, the total trade volume of the  
10 investigated products from Taiwan accounted for only an  
11 average of 0.11 percent of total U.S. imports from 2012 to  
12 2016.

13 Indeed, during the entire investigation  
14 period, Taiwanese LRWS have not exceed three percent of  
15 total U.S. imports. Furthermore, collectively the  
16 developing country members lost share of LRWS imports not  
17 exceeding three percent also account for less than five  
18 percent of the total U.S. imports during 2012 and 2016  
19 period, far less than nine percent statutory threshold  
20 required under the Safeguards Agreement.

21 Based on the above information, Taiwan  
22 respectfully requests the Commission to honor the U.S.  
23 multilateral obligations and exclude Taiwan's LRWS imports  
24 from any measures imposed resulting from this investigation.  
25 I thank you.

1 MR. BISHOP: Madam Chairman, that concludes  
2 Embassy witness testimony.

3 CHAIRMAN SCHMIDTLEIN: Thank you very much.  
4 I'd like to thank you all for being here today, to help us  
5 understand this case. Are there any questions for this  
6 panel?

7 (No response.)

8 CHAIRMAN SCHMIDTLEIN: There are no  
9 Commissioner questions, so I will dismiss you. Thank you.

10 MR. BISHOP: Madam Chairman, we will now move  
11 on to opening remarks. Opening remarks on behalf of those  
12 in support of remedies will be given by Jack A. Levy of  
13 Cassidy Levy Kent. Mr. Levy, you have five minutes.

14 STATEMENT OF JACK A. LEVY

15 MR. LEVY: Madam Chairman, Commissioners, good  
16 morning. It's good to see you today. We're here because  
17 two weeks ago, this Commission issued a unanimous  
18 affirmative injury determination in this safeguard  
19 proceeding. This marks the third time in less than five  
20 years that the Commission has determined that Samsung and LG  
21 injured domestic producers of large residential washers. In  
22 the first two cases, the resulting anti-dumping orders  
23 proved to be ineffective, because Samsung and LG bypassed  
24 U.S. trade remedies by moving production from country to  
25 country, from Korea and Mexico to China, and then from China

1 to Vietnam and Thailand.

2 Now whether you call it country-hopping or  
3 duty evasion or circumvention or just plain cheating, the  
4 effect has been the same. Surging imports from Vietnam and  
5 Thailand are today being priced even lower than Samsung and  
6 LG's dumped prices when they came from China, and as a  
7 result of these dumped and predatory imports, domestic  
8 producers have been seriously injured.

9 Domestic producers have sustained hundreds of  
10 millions of dollars in operating losses. They've also  
11 suffered depressed capacity utilization and  
12 under-employment, and they've been forced to cancel or  
13 curtail new investments that are necessary to support  
14 continued innovation and competitiveness. As reflected in  
15 your decision two weeks ago, this situation is not  
16 sustainable.

17 The safeguard remedy holds out the promise of  
18 an effective solution that can address the serious injury  
19 sustained by U.S. producers, and also position them to make  
20 positive adjustments and compete on a level playing field.  
21 You have before you the adjustment plans of Whirlpool and GE  
22 Appliances, their specific and concrete business plans.  
23 These companies are poised to reinvest hundreds of millions  
24 of dollars in new and innovative products and manufacturing  
25 facility improvements, and they stand ready to employ more

1 than 1,300 new plant workers, but only if they can receive  
2 an effective remedy that addresses the serious injury and  
3 returns them to profitability.

4           This safeguard case is also unique, because it  
5 has the potential to transform Samsung and LG into U.S.  
6 producers as well. Not because they're devoted to America  
7 or because they are irrevocably committed to investing in  
8 South Carolina and Tennessee, they're not, but because they  
9 are country-hoppers. They are masters of duty evasion and  
10 will do whatever it takes to avoid paying a 50 percent  
11 tariff, which is the remedy we are proposing here.

12           If the safeguard remedy is robust and if there  
13 are no loopholes that Samsung and LG can exploit, then  
14 Samsung and LG will have the economic incentive to follow  
15 through on their talk and on their preliminary steps, and  
16 country hop one more time here to America. If they do, we  
17 will all be winners, including consumers. All manufacturers  
18 will be competing on a level playing field. They will all  
19 be paying the same prices for steel and for resins. They  
20 will all be employing American workers at a fair wage, and  
21 they will all be complying with strong environmental and  
22 labor laws.

23           This is all very exciting. A safeguard case  
24 that remedies serious injury, that supports the positive  
25 adjustment of domestic producers, and one that has the added

1 bonus of converting injurious imports from Samsung and LG  
2 into U.S. manufactured product competing on a level playing  
3 field. But the key to all of this is that remedy needs to  
4 be robust. It needs to be effective, and we need to ensure  
5 there are no loopholes for Samsung and LG to exploit.

6 They have cheated domestic producers out of a  
7 remedy twice before, and this is our last chance to get it  
8 right. We look forward to engaging you in a conversation  
9 this morning, to explain our proposal for safeguard relief,  
10 and to explain the need for strong anti-circumvention  
11 measures, so that the purpose of the safeguard law can be  
12 fulfilled and Samsung and LG are prevented from frustrating  
13 and undermining the objective of the remedy. Thank you very  
14 much.

15 CHAIRMAN SCHMIDTLEIN: Thank you.

16 MR. BISHOP: Opening remarks on behalf of  
17 those in opposition to remedies will be given to Daniel L.  
18 Porter of Curtis Mallet-Prevost, Colt and Mosle. Mr.  
19 Porter, you have five minutes.

20 STATEMENT OF DANIEL L. PORTER

21 MR. PORTER: Madam Chair, members of the  
22 Commission, good morning. As you know well, during the  
23 remedy phase, you were tasked with coming up with an action  
24 plan to facilitate efforts by the domestic industry to make  
25 a positive adjustment to import competition. I am here to

1 tell you that your work is largely done. There already  
2 exists a bona fide action plan well underway to make the  
3 domestic industry larger and stronger.

4 That action plan consists of the LG and  
5 Samsung new U.S. washer production plants in Clarksville,  
6 Tennessee and Newbury, South Carolina. The new LG-Samsung  
7 washer factories are being built right now. As we speak,  
8 new buildings are going up. As we speak, new equipment is  
9 being purchased, and most importantly as we speak, hundreds  
10 of new American workers are being hired to produce large  
11 residential washers.

12 Therefore, the best possible remedy is already  
13 well underway, new U.S. factories by LG and Samsung. The  
14 new LG-Samsung factories will increase U.S. production by 25  
15 percent, increase U.S. producer market share by 33  
16 percentage points, and will increase U.S. production  
17 employees by 1,600 American workers. Perhaps most  
18 importantly, the LG-Samsung factories will largely replace  
19 allegedly injurious imports with new U.S. production.

20 There cannot be any better plan to make the  
21 domestic industry stronger. These unique facts show there  
22 is no need for any further remedy, and indeed import  
23 restrictions are more likely to cause harm to the very  
24 domestic industry the law asks you to help. The reason is  
25 straightforward. The import restrictions that Whirlpool



1 seeks would cause such a reduction in available supply of  
2 LG-Samsung washers that retailers would have no choice but  
3 to remove LG and Samsung from their retail floor space  
4 during 2018.

5                   However, once removed, the realities of the  
6 retail home appliance mean that it will take quite some time  
7 for LG and Samsung to get back on the retail floor once  
8 their production plants are up and running. This commercial  
9 reality means that instead of having U.S. production plants  
10 operating at maximum capacity once they're ready to go, the  
11 LG-Samsung factories will produce less, earn less revenue  
12 and have fewer employees.

13                   Or stated differently, import restrictions  
14 will cause harm to U.S. producers of large residential  
15 washers, the very domestic industry the Commission is  
16 supposed to help. You will hear about these new factories  
17 from Respondents' panel. But you will hear why Whirlpool's  
18 new remedy proposal utterly fails to achieve the balance  
19 between benefits and costs that U.S. law requires.

20                   The emphasis is on new remedy proposal.  
21 Whirlpool's petition explicitly proclaimed that the  
22 existence of LG-Samsung U.S. factories would be a clear win  
23 for the industry. Whirlpool's petition went out of its way  
24 to declare that Whirlpool only sought to prevent future  
25 additional import surges, which is why on page 42 of

1 Whirlpool's petition Whirlpool states that a proposed tariff  
2 rate quota that would in Whirlpool's own words permit a base  
3 level of LRWS imports to enter the United States without any  
4 safeguard tariffs.

5           Apparently, that was then, when Whirlpool  
6 didn't believe that LG and Samsung would actually build new  
7 U.S. factories. Whirlpool has now dramatically changed its  
8 remedy proposal to seek an extreme remedy. Whirlpool has  
9 proposed the maximum tariff allowed, even though tariffs  
10 higher than 35 percent have never before been imposed.

11           Whirlpool's extreme 50 percent tariff would  
12 dramatically curtail any import presence in the market.  
13 Whirlpool has now shown its true colors. Whirlpool's new  
14 remedy proposal demonstrates that Whirlpool could care less  
15 about making the U.S. domestic industry stronger for the  
16 future.

17           Rather, Whirlpool's 50 percent proposal is  
18 nothing short of raw, naked protectionism to allow Whirlpool  
19 to reap a cash windfall for a year or two. Madam Chair,  
20 Commissioners, U.S. safeguard proceedings are not about  
21 short-term cash windfalls to the Petitioner. We urge you to  
22 reject Whirlpool's new remedy proposal and consider the more  
23 balanced alternative that LG and Samsung have proposed to  
24 prevent any import surges and allow a true transition to a  
25 more competitive U.S.-based washer manufacturing industry.

1 Thank you.

2 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Porter.

3 MR. BISHOP: Would the panel in support of the  
4 remedies please come forward and be seated?

5 (Pause.)

6 MR. BISHOP: Madam Chairman, the panel in  
7 support of remedies has been seated. This panel has 60  
8 minutes for their direct testimony.

9 (Pause.)

10 MR. BISHOP: Madam Chairman, the panel in  
11 support of remedies have been seated. They're ready to take  
12 -- give their direct testimony. This panel has 60 minutes  
13 for their direct testimony.

14 CHAIRMAN SCHMIDTLEIN: All right. I'm back,  
15 so you may begin Mr. Levy.

16 MR. LEVY: Thank you Madam Chairman. Again,  
17 Jack Levy for the record. Fellow Commissioners, before we  
18 turn things over to industry witnesses, we wanted to provide  
19 a brief overview of our remedy proposal. But before even  
20 doing that, I just wanted to respond to a few of the remarks  
21 that we heard from the other side earlier this morning.

22 Interestingly, I heard not a single reference  
23 to serious injury sustained by the domestic industry. They  
24 seem to approach the remedy issue based upon a denial of the  
25 reality that there is serious injury that needs to be

1 remedied, and I suppose that's because to this day they  
2 consider that your decision of two weeks ago was flat wrong,  
3 and that in their view the domestic industry is not  
4 seriously injured.

5 But you of course have found serious injury  
6 and the statute requires you to fashion a remedy or  
7 recommend one that addresses the serious injury. So  
8 Respondents may choose to be in denial about this, but you  
9 the Commissioners obviously need to deal with reality.

10 On the issue of facilitating positive  
11 adjustment for U.S. producers, I think what we heard from  
12 Respondents is that now they're the U.S. producers. You  
13 know, Section 201 talks about the domestic industry  
14 producing an article. To date, they haven't produced a  
15 single washing machine in South Carolina or Tennessee.

16 But yet somehow they have already so quickly  
17 wrapped themselves in the veneer of the American flag, and  
18 kicked Whirlpool and GE Appliances and Staber Industries to  
19 the curb, and the remedy is now all about them and helping  
20 them to defend their market share as they work to transition  
21 production to the United States.

22 But what they seem to overlook is the question  
23 why they are investing suddenly in the United States. All  
24 of this has happened in recent months. You heard from  
25 Congressman Norman that just a few months ago this was an

1 idea on a chalkboard, and now there's a ray of hope. Why is  
2 there a ray of hope? Is it coincidence, or could it be that  
3 it's this very case and the promise of a safeguard remedy  
4 with teeth that cannot be circumvented?

5 I propose to you that it is precisely the  
6 prospect of a robust safeguard remedy that is the driving  
7 economic force behind that investment. Final point. We  
8 heard from Mr. Porter that there has been a change in the  
9 nature of the remedy that GE Appliances and Whirlpool are  
10 recommending to the Commission.

11 That is true, but we were very clear in the  
12 petition and you know, I think Mr. Porter just neglected to  
13 read page 43, but I'll read it for your benefit. We said  
14 that further details on recommendations for import relief  
15 will be developed and provided to the Commission during the  
16 course of the investigation, and Whirlpool reserves the  
17 right to amend its proposals for relief based on the  
18 development of the factual information in this  
19 investigation.

20 Well we've done that. We've reviewed a very  
21 robust administrative record developed by your staff, and  
22 now we've had the chance to do economic modeling using the  
23 Commission's own Compass model. Based on those learnings,  
24 we now have a much more sophisticated understanding of what  
25 is appropriate to address the serious injury and to

1 facilitate the positive adjustment of U.S. producers.

2 So with that background, let us turn to  
3 Exhibit 1, which is just a very brief overview of the remedy  
4 that we have proposed to the Commission. Again, we're  
5 guided by two principles here, the need to remedy the  
6 serious injury which you've now found to exist, and also the  
7 need to facilitate positive adjustment for domestic  
8 producers.

9 We have proposed a remedy in Year 1 of a  
10 tariff, a 50 percent ad valorem tariff, and as you can see  
11 with minimal phase-out over the three year period. This is  
12 a three-year remedy that we're proposing, not a four-year  
13 remedy, and as I'm about to explain, there's nothing raw or  
14 naked about it. First of all, we're proposing a tariff. As  
15 we understand it, reviewing the case law, the Commission has  
16 a general preference for tariffs because it is the least  
17 trade-distorting.

18 This is not a quota. This does not choke off  
19 imports. There can be as much import volume as Respondents  
20 may wish. All it accomplishes is it restores Samsung and LG  
21 import prices to non-injurious levels, and the magnitude of  
22 the rate that we are requesting is not excessive, and I  
23 think this is revealed by reference to the Compass model  
24 itself. So I would just simply call your attention to  
25 Confidential Exhibit 2 in the pink paper.

1                   I guess by way of introduction, the Compass  
2 modeling that we did is a straight up faithful application  
3 of the Commission's Compass model, using the midpoints of  
4 the elasticities estimated by the staff with one adjustment,  
5 which is conservative. We have accounted for the effect of  
6 increased production, improved capacity utilization and  
7 therefore reduction in per unit fixed cost for U.S.  
8 producers.

9                   So put another way, there is an additional  
10 dynamic that buoys the profitability of domestic producers  
11 when a tariff is put in place, and we wanted to recognize  
12 for that because we didn't want to overreach. What this  
13 models is that in a single year, you can see what a 50  
14 percent tariff portends in terms of the operating profit of  
15 the U.S. producers.

16                   I would call your attention in particular to  
17 line 32 and to the circled number, and that is the percent  
18 operating profit that a 50 percent tariff is estimated to  
19 produce. I would simply suggest to you that this is not an  
20 excessive or offensive result. The facts remains is that a  
21 50 percent tariff is necessary because the U.S. industry is  
22 in a deep, deep hole. It's bleeding. The operating losses  
23 are extreme, and therefore the magnitude of the tariff call  
24 -- you know, is warranted.

25                   The other point to make, and I think we heard

1 a little bit of concern about consumers, with regard to  
2 domestic producer prices, the ITC's Compass model estimates  
3 a very modest change in domestic producer prices. You could  
4 see that in the circled number on line 20. That's the  
5 percent change in U.S. producer prices to consumers. Again,  
6 I don't think that should offend anyone's sensibilities.  
7 It's trivial.

8 On the issue of duration, we have requested a  
9 remedy for only three years not four, because it is the  
10 considered judgment of those on the panel that that is all  
11 that's needed. Again, there's no overreach. But a phase  
12 down is needed. A minimal phase down is all that is called  
13 for. Why is that? Our modeling revealed that when you  
14 significantly reduce the tariff below the 50 percent rate,  
15 the remedial value of the tariff is diminished,  
16 significantly so, and there's very quickly a point at which  
17 you're better off with a quota and we don't want to go  
18 there.

19 So we paid due respect to the statute.  
20 There's a technical step-down year over year as the statute  
21 requires, but it is minimal. So you have technical  
22 compliance with the statute, but not unlike the shakes and  
23 shingles case, this is one of those cases where, you know, a  
24 static remedy over a three year period is what is  
25 appropriate.



1           In addition, the proposed remedy includes special  
2 anti-circumvention measures, a quota on certain covered  
3 parts to prevent kitting, which would undermine  
4 fundamentally the tariff on finished LRWs, as well as  
5 monitoring by CPB both in reference to the valuation of the  
6 imports, as well as concerns about illegal transshipment  
7 through third countries that are excluded.

8           So in a nutshell that's our remedy proposal.  
9 It's actually, you know, not that complicated. We suffered  
10 through the solar hearing a few weeks ago in the back, and  
11 we understand that other safeguard cases can be more  
12 complicated. I think that there's a certain elegance and  
13 simplicity in what we're proposing, and you know, we hope  
14 you'll appreciate that facet of the proposal.  
15 So you know, with that introduction, I think we're going to  
16 turn it over to our industry witnesses, and we'll begin  
17 with Joe Liotine, president for Whirlpool North America.

18   STATEMENT OF JOE LIOTINE

19           MR. LIOTINE: Good morning Madam Chairman,  
20 Commissioners. I'm Joe Liotine, president of Whirlpool's  
21 North American region. Thank you for the opportunity to  
22 appear before you again today. As an initial matter, I want  
23 to say on behalf of our washer business and its more than  
24 3,000 plant workers in Clyde, Ohio, a number of whom who  
25 have made the long trip to be here today, that we genuinely

1 appreciate your unanimous affirmative injury decision.

2 Obviously, we're not happy that washer imports  
3 from Samsung and LG have put us in this position, but we are  
4 grateful that your decision paves the way for safeguard  
5 measures that have potential to remedy the current  
6 situation. As reflected in your decision, we have been  
7 seriously injured, and are in urgent need of a robust and  
8 effective remedy, and effective is the key word.

9 Prior remedies against illegally dumped  
10 washers from Samsung and LG have not been effective, because  
11 these two companies manage to circumvent the U.S. trade  
12 laws. They deprived us of relief. So I am worried that in  
13 some way or another, Samsung and LG will find a new way to  
14 cheat, to cheat Whirlpool and the rest of the U.S. industry,  
15 violate the spirit of the Commission's decision and  
16 undermine the remedy in this case.

17 But assuming the safeguard remedy imposed in  
18 this case is robust and assuming that it is effective,  
19 Whirlpool is positioned to benefit immediately and  
20 significantly. First, we would expect to quickly ramp up  
21 production and sales, and increase our employment. It's  
22 realistic for us to add hundreds of workers in 2018 alone.

23 Second, as our production levels increase, our  
24 capacity utilization would also increase from its current  
25 depressed levels. This is critical, because with higher

1 capacity utilization, we will be able to significantly lower  
2 our per unit fixed cost. This will help us restore  
3 Whirlpool's washer business to profitability. Third, once  
4 we return to profitability, we will reinvest in the  
5 business.

6 On this last point, we submitted an adjustment  
7 plan that contains very specific plans that we will execute  
8 as soon as we can get line of sight to a return on  
9 investment. The details in the adjustment plan are  
10 proprietary, so I can't get into too many specifics at this  
11 public hearing. But I can say that we are talking about  
12 hundreds of millions of dollars in new investments, and  
13 significant new job opportunities.

14 We have provided an executive summary of our  
15 adjustment plan for your reference in Confidential Exhibit  
16 1. Let me just provide a high level summary for you this  
17 morning. Just our chairman Jeff Fettig committed at the  
18 last hearing, we will revisit and update the business case  
19 for each of the projects that were cancelled, curtailed or  
20 rejected since 2016 due to injurious imports from Samsung  
21 and LG.

22 This includes the AMAX project to build a  
23 jumbo frontload platform, completely new launch of our  
24 Advantage jumbo topload platform, and our new Atlantis  
25 topload lineup. All of these projects would be back on the

1 table. Also, in 2018, we would look to make significant  
2 investments in new platforms, designs and product  
3 innovations that would leapfrog anything currently in the  
4 market. Finally, while our Clyde plant is already state of  
5 the art, there is always room for improvement.

6 With an effective safeguard remedy, we hope to  
7 execute on a new factory master plan that would drive  
8 greater manufacturing and logistics efficiencies. These  
9 efficiencies will support our competitiveness long beyond  
10 the three year safeguard remedy period. I have read the  
11 other side's briefs, where they criticize our adjustment  
12 plan as being non-committal.

13 Let me just say that Whirlpool's adjustment  
14 plan is not some wish list prepared for this litigation.  
15 These are concrete things we are actually aiming to do.  
16 These are genuine business plans representing hundreds of  
17 millions of investment dollars and more than 1,300 new jobs  
18 at our plant. But it would be reckless for us to pre-commit  
19 to anything until after we see what the President's remedy  
20 looks like.

21 Once a remedy is imposed, we will quickly  
22 assess how much business conditions will improve and what  
23 investments will generate a return under those conditions.  
24 If the remedy has significant loopholes that Samsung and LG  
25 can exploit, then we're not going to throw away good money

1 after bad. Implementing our adjustment plan means more than  
2 just adding direct jobs at Clyde. It also means expanding  
3 our product development and engineering teams to ensure we  
4 continue designing and building the most innovative,  
5 efficient and safest washers in the industry.

6 It means purchasing huge additional volumes of  
7 raw materials and components that will require our suppliers  
8 to grow their operations and employment, suppliers like  
9 Revere, who is here today. Our plant will also generate  
10 other indirect employment, including jobs in our logistics  
11 and distribution networks across America.

12 In short, executing our adjustment plan will  
13 create thousands of jobs for the U.S. economy, and we stand  
14 ready to implement this plan as soon as we are assured of an  
15 effective remedy. While our adjustment plan stands on its  
16 own and promises the put Whirlpool on competitive footing,  
17 this safeguard case also promises to reshape the landscape  
18 of this industry in an important way.

19 As you know, Samsung and LG have announced  
20 plans to move their washer production again, this time to  
21 America. They're not producing here yet, but if they do  
22 Whirlpool will welcome these moves because they would level  
23 the playing field. But frankly based on their past  
24 behavior, we are very skeptical that Samsung and LG would  
25 follow through on their announcements without this

1       safeguard action.

2                       If the safeguard remedy is not robust enough,  
3       or if there are loopholes, we believe Samsung and LG will  
4       scale back and slow walk their investments in America. Let  
5       me close my remarks where I started, and tell you that I am  
6       deeply concerned about circumvention. Samsung and LG have  
7       twice robbed us of the intended benefit of anti-dumping  
8       orders. They did this through country-hopping and, in the  
9       most recent cases, through stockpiling product in the U.S.  
10      before duties were imposed.

11                      Samsung and LG have proven to be experts at  
12      duty evasion, and they also seem to act in concert. It's  
13      never just one company; it's always both. Just the other  
14      day we saw an article in the press that Samsung and LG  
15      convened a joint meeting with the Korean government to plot  
16      their collective response to this safeguard case.

17                      If Samsung and LG are allowed to effectively  
18      bypass a safeguard remedy here, Whirlpool will continue to  
19      be seriously injured. With this in mind, it is critical  
20      that you select a strong remedy, one that makes it hard for  
21      them to just absorb the duty, and one that puts the washer  
22      business back on track to profitability and reinvestment.

23                      Beyond this risk of duty absorption, we are  
24      also concerned that Samsung and LG will attempt to  
25      circumvent the remedy by setting up kitting operations that

1 rely on imported, in-scope products, tubs, drums and  
2 cabinets. These sub-assemblies are the core of a washer,  
3 and continued unfettered imports of these components will  
4 cause continued serious injury.

5 Casey Tubman will explain this concern in  
6 greater detail. But before I turn the presentation over to  
7 Casey, let me again reiterate my appreciation for your  
8 ruling two weeks ago. I was at Clyde last week and can tell  
9 you there is a real buzz at the plant. There is a renewed  
10 sense of hope that a meaningful remedy is close at hand, and  
11 that this time the remedy will be fashioned in a way that  
12 prevents Samsung and LG from cheating the system. Thank  
13 you.

14 STATEMENT OF CASEY TUBMAN

15 MR. TUBMAN: Madam Chairman, Commissioners, as  
16 you know my name is Casey Tubman, and I'm the general  
17 manager responsible for Whirlpool's North American washer  
18 business. It's good to see you again this morning.

19 It's been a long road in our effort to get an  
20 effective remedy against Samsung and LG's predatory  
21 behavior. I was involved in the first case in 2012, when  
22 Samsung and LG were dumping washers from Korea and Mexico.  
23 At that time, I never could have imagined that Samsung and  
24 LG would spend hundreds of millions of dollars to move their  
25 production facilities to China.

1                   Unfortunately, that's exactly what they did,  
2                   and in doing so, they effectively evaded your orders in that  
3                   first case, and that's why we had to bring a second case  
4                   covering washers from China. In the China case, we hoped  
5                   for a lasting remedy, but having learned our lesson from the  
6                   Korea and Mexico case, we weren't entirely surprised when  
7                   Samsung and LG moved production from China to Vietnam and  
8                   Thailand so they could continue their predatory behavior.

9                   Today, I am cautiously optimistic that we can  
10                  finally remedy Samsung and LG's assault on the U.S. washer  
11                  industry. The safeguard remedy that we have proposed  
12                  presents an opportunity to put an end to Samsung and LG's  
13                  country-hopping, and to get the relief we desperately need  
14                  and have been fighting for.

15                 I would like to express my enthusiasm for the  
16                 adjustment plan we submitted earlier this month. These  
17                 plans are well-developed and I am eager to implement them as  
18                 soon as we have line of sight to getting a return on our  
19                 investments. There is nothing that would make me happier  
20                 than to make these significant investments, to allow us to  
21                 build even more innovative products and to put even more  
22                 people to work in Clyde.

23                 As you know, our Clyde facility is already  
24                 state of the art, which is why other companies like auto  
25                 manufacturers often to come to Clyde to benchmark for



1 efficiency. That said, we know there is always room for  
2 improvement, and a part of our adjustment plan involves  
3 taking Clyde to an even higher level of efficiency, which  
4 will support our competitiveness many years into the future.

5 As Joel mentioned, the U.S. washer industry  
6 also needs an effective remedy to ensure that Samsung and LG  
7 cannot use imported tubs, baskets and cabinets to circumvent  
8 the tariff on finished washers and further injure us. If  
9 Samsung and LG can import these in-scope subassemblies, the  
10 promise of a level playing field will go unfulfilled.

11 They will continue to leverage the subsidized  
12 materials, cheap labor and weak regulations that exist  
13 overseas. Samsung and LG will be able to continue their  
14 predatory assault on our industry, and we will be cheated  
15 out of a remedy for the third time. I've brought a few  
16 parts covered by the scope in this case for you to see, and  
17 these are from a Samsung washer right over here. Make sure  
18 this is working.

19 Okay, so first of all, this is a cabinet  
20 assembly or sub-assembly as we talk about it. Again, you're  
21 talking about a large piece of sheet steel that needs to be  
22 cut. It needs to be formed, it then has to be bent, it has  
23 to be painted, welded or screwed together. So  
24 capital-intensive machines. You'll also notice it's about  
25 the size of the entire washer.

1                   So shipping this overseas would make no sense,  
2 unless you're trying to circumvent. The amount of empty air  
3 you're shipping just economically isn't right. Secondly,  
4 this is a frontload washer tub and basket subassemblies.  
5 Again, if you look at this and think of a frontload washer,  
6 it's the heart and soul of the washer. If I took this and  
7 that, I could very quickly have a washer assembled with a  
8 screwdriver. So again, I just want to make sure we're clear  
9 on what we're talking about when we talked about covered  
10 parts.

11                   When we talk about the tub, this is a large  
12 plastic, two large plastic parts, made in injection mold  
13 presses, high capital dollar investment. If you look at the  
14 basket assembly on the inside and I've got a topload one  
15 here, just as a comparison frontload versus topload, very  
16 similar. But you'll see. You've got again cut, stamped,  
17 formed, punched, welded, screwed together, again  
18 capital-intensive process to build this, something again you  
19 would want to do locally and not ship all the empty air  
20 space in.

21                   Again, this is from a top loader. Very  
22 similar to the frontload. I think the only thing I'll  
23 mention is again you might have a plastic part here instead  
24 of a metal part here, but again large subassemblies that  
25 we're talking about.

1 (Pause.)

2 MR. TUBMAN: Now in our experience, the  
3 process for making these covered parts all involve  
4 purchasing U.S.-made materials like steel and plastic resin,  
5 investment in capital equipment and the bulk of our plant  
6 labor. The reason why we are covering these parts is to  
7 prevent circumvention, plain and simple. It's not economic  
8 to source these parts far away from your manufacturing  
9 facility because of shipping costs.

10 You would be paying to ship lots of air and  
11 empty space. If Samsung and LG are looking to import these  
12 in-scope parts, the only reason would be to avoid paying a  
13 50 percent tariff on finished washers. You don't need to  
14 take my word for it. During the injury hearing, Samsung and  
15 LG tried to give you the impression that they needed these  
16 parts to service their washers.

17 But now in their remedy briefs, they admit  
18 they want to import cabinets, tubs and baskets to make their  
19 washers. Without a quota, Samsung and LG would be able to  
20 import these major components in unlimited volumes. That  
21 would allow them to set up kitting operations in the U.S.  
22 and undermine the remedy's effect.

23 I have no doubt that if these in-scope parts  
24 are excluded from the remedy, then Samsung and LG's U.S.  
25 facilities will consist of a warehouse and a simple assembly

1 line. That's it, nothing more. If in-scope parts are  
2 excluded from the remedy, Samsung and LG will be able to  
3 continue their predatory assault on our industry, and we  
4 will be cheated out of a remedy for a third time.

5 But if you impose a quota on in-scope parts,  
6 it will accelerate and deepen their investments in U.S.  
7 manufacturing. There will be more jobs in the U.S. and  
8 there will be competition on a level playing field, which is  
9 all that we want. We want the chance to compete in a fair  
10 fight. Thank you for the opportunity to appear before you  
11 this morning. I will now turn things over to Earl Jones of  
12 GE Appliances.

13 STATEMENT OF EARL JONES

14 MR. JONES: Okay. Good morning Madam Chair  
15 and Commissioners. I'm glad to be here with you. My name  
16 is Earl Jones, and I'm executive counsel with the -- for  
17 Regulatory Compliance and Public Policy. I've been employed  
18 with GE for 35 years, and moved to Haier when that  
19 appliances business was acquired by Haier in June of 2016.

20 The entire GE Appliances senior leadership  
21 team, from Peter Pape, the exec who heads our Laundry  
22 business. You heard from heard from him at the injury  
23 hearing, to our CEO and our entire C suite team and other  
24 senior leaders, have evaluated the proposed remedy in light  
25 of the businesses' long and short-term plans, and they're

1 unanimous in the view that the proposed remedy, coupled with  
2 a robust anti-circumvention program, will create the  
3 conditions necessary to return our business back to  
4 profitability.

5 GE Appliances agrees with the logic of the  
6 proposal set forth in our joint remedy brief with Whirlpool.  
7 A tariff on all in-scope products with minimal reductions  
8 over the three-year period is the only way to achieve the  
9 remedy goals that are necessary in this case. If the facts  
10 of this case were different, perhaps a different approach  
11 would be appropriate.

12 But the facts of this case compelled GE  
13 Appliances to the view that a 50 percent tariff, coupled  
14 with powerful and specific anti-circumvention measures, is  
15 the only way to facilitate a positive adjustment to the  
16 impact of the surge -- to the surge of imports that we have  
17 suffered.

18 Now a few comments regarding capping imports  
19 of subassemblies. The claim that investment in the LRW  
20 segment is only possible if complex subassemblies can enter  
21 in unlimited quantities, that a kitting business model is  
22 the only way to efficiently produce in the United States is  
23 ridiculous. This is obvious because GE Appliances,  
24 Whirlpool, other products do it today.

25 GE Appliances of course is more than just a

1 label or a brand on a washing machine. We're a company with  
2 65-year deep roots in Louisville, Kentucky, and over the  
3 years we've employed hundreds of thousands of employees from  
4 Kentucky, from Ohio, Tennessee. We provide an opportunity  
5 for those people to raise families, provide them with health  
6 care, educate their children. My family and I are just one  
7 of the -- part of that story.

8           So we understand the importance of jobs and  
9 we, along with the people of Tennessee and South Carolina,  
10 applaud their interest in jobs. We understand that, their  
11 need for jobs, and we believe by the way that in this  
12 particular case, the realization of those jobs will be far  
13 more assured by the successful conclusion of this safeguard  
14 case than without it. I found it interesting that the  
15 Samsung case, for example, the Samsung investment was  
16 announced on I think it was June 28th of this year, which  
17 was a date of course following the filing of this petition.

18           So one has to question whether or not that --  
19 those long, drawn-out negotiations with the state of South  
20 Carolina would have actually come to fruition but for the  
21 filing of this case. When we were acquired by Chindau  
22 Haier, which is also of course a producer of appliances and  
23 other goods, they did so looking for more than just a brand.

24           They also wanted to acquire a going concern, a  
25 manufacturing concern, one with people who knew how to

1 manufacture goods with technology, with the kind of know-how  
2 that's necessary to run a manufacturing operation. Also  
3 with the digital assets that were necessary in order to  
4 produce the products that they were interested in entering  
5 this market with.

6 We of course do purchase some components from  
7 abroad, most of which are no longer available for purchase  
8 in the United States. In closing, I'd like to make a simple  
9 declaration, Appliance Park. Its first 65 years are only a  
10 prelude to the next 65, which will begin with the resolution  
11 of this safeguard case. For surely this is the exact kind  
12 of situation that the law was designed to remedy, to allow  
13 long-established manufacturing concerns the breathing room  
14 to return to profitability for and of course the fact that  
15 we're looking for a very brief period of time is a clear  
16 indication that this is not the kind of thing that is  
17 designed to give us some unusual or extraordinary kind of  
18 relief.

19 It's just temporary relief that's appropriate  
20 to the circumstances. Your timely and thoughtful action can  
21 ensure that every reasonable effort is undertaken that will  
22 enable the U.S. LWR manufacturers to continue to profitable  
23 manufacture innovative, durable products long into the  
24 future. So thanks for your time and careful consideration,  
25 and I'd like to pass the mic on to Bill Staber.

1 STATEMENT OF BILL STABER

2 MR. STABER: Good morning, Madam Chairman and  
3 Commissioners. My name is Bill Staber and I am president of  
4 Staber Industries, which is a producer of large, residential  
5 washing machines in Grove Port, Ohio.

6 Staber has been a consistent supporter of these  
7 trade cases against Samsung and LG, but this is my first  
8 time testifying before the Commission. I'd like to tell you  
9 a little bit about our company and make a few comments  
10 regarding the safeguard remedy.

11 Staber is a family business. Our story began  
12 back in 1976, when my parents acquired the company that was  
13 involved in remanufacturing washer transmissions for GE,  
14 Whirlpool, Speed Queen, and Maytag. I joined up with my dad  
15 two years later when I left the Air Force Academy and have  
16 been involved in this business for my entire professional  
17 life. Staber is based in Grove Port, Ohio, which is in the  
18 central part of the state in Franklin County with a  
19 population of about 6,000 people.

20 As I'm sure you know, Ohio has been hard hit by  
21 unfair import competition over the years and this case is  
22 very important to creating a level playing field for U.S.  
23 manufacturers and workers. Staber's story as a modern  
24 washer producer began back in the 1990s when we designed our  
25 own machine with our own patented innovations. What we came



1 up with was the first truly horizontal axis washer that  
2 could agitate in both directions and it was top loading, so  
3 it tumbles like a front loader, but maintains the  
4 convenience of a top loader.

5 We are also the only washer in the world that  
6 uses a hexagonal basket that rotates inside stationary,  
7 octagonal outer tub. As the basket rotates, water is gently  
8 pushed through the holes of the basket and through the  
9 laundry. The shape between the inner basket and the outer  
10 tub is always changing; thus, creates a passive pumping  
11 action in the water to clean more effectively and  
12 efficiently.

13 To this day, Staber continues offer the only top  
14 loading, horizontal axis washer in the United States and we  
15 are also the only company that offers a true, stainless  
16 steel cabinet for sale in the United States. Staber is  
17 admittedly a small company. Our production capacity is a  
18 mere 15,000 units. When times were better, we employed  
19 nearly a hundred people and were filling two semi-tractors  
20 daily -- semi-trailers day.

21 Today, we have maybe 14 people allocated to  
22 washer production and our output is less than 1 percent of  
23 what it could be if the pricing environment improves. The  
24 reason our output is so small is that we are very  
25 discipline. We simply refuse to sell at a loss. And given

1       how Samsung and LE have crashed prices in the last several  
2       years, that means we rarely get to sell a washer.

3                       Even though we are small at Staber, we are  
4       highly efficient. That is why companies like Whirlpool hire  
5       us for OEM projects, such as the manufacturer of ADA  
6       compliant washer pedestals. At Staber, we are especially  
7       expert at bending metal and producing a wide range of  
8       electrical/mechanical devices, which is why we also  
9       manufacturer other products, including tennis ball machine  
10      and residential and industrial drying cabinets.

11                      In terms of our washer manufacturing process,  
12      what we do at Staber is no different than what any major  
13      washer manufacturer does under normal economic conditions.  
14      We buy raw materials, like coils of stainless steel and  
15      galvanized steel and form these raw materials into shapes,  
16      like cabinets and baskets. At Staber, we also make our tubs  
17      out of high quality stainless steel, whereas, most companies  
18      choose to make their tubs out of plastic. Once we have  
19      fabricated the cabinet and the basket and tub assemblies, we  
20      integrate other purchase components, such as the user  
21      interface and other molded plastic parts. If you are  
22      curious to know more about our production process, you can  
23      find a video online because we were featured in an episode  
24      of the TV series "How It's Made."

25                      The last thing I would want to say is that I

1 understand that Samsung and LE are complaining that the  
2 safeguard remedy will cover not only finished washers, but  
3 also imports of the three end scope parts; namely, the  
4 cabinets, the baskets, and the tubs. Frankly, based on  
5 everything that I know about the economics of washer  
6 production, the only reason I can imagine why a company  
7 would choose to outsource the production of these essential  
8 components would be to get around the trade remedies. What  
9 I mean to say is that if Samsung and LE can outsource the  
10 production of cabinets and the tub and basket assemblies  
11 from Asia using the same non-market inputs that fueled their  
12 predatory behavior, then this is a great strategy for  
13 circumventing the safeguard remedy; otherwise, it makes no  
14 sense to outsource.

15           Of course, if Samsung or LG are really  
16 interested in outsourcing these core components, then I  
17 would want them to know that there are dozens of companies  
18 across America just like Staber that would jump at the  
19 business opportunity. Samsung and LG should feel free to  
20 give me a call directly. We are open for business and I  
21 know a lot of folks in Ohio that could use a job.

22           Like I said at the beginning, Staber is a family  
23 business. Every one of our employees is part of our  
24 extended family. People like Sheila and Kevin and Joe and  
25 Everett and Sylvia have been with us for over 35 years. You

1 know owning a small business is not easy. There are way too  
2 many regulations to deal with, companies filing Chapter 11  
3 on you, people stealing your ideas, and unfair competition  
4 from all over the world. Often there is not enough time or  
5 money even to take your family on a vacation.

6 And finally, faith is a big part of who we are  
7 too. I believe that God put us on this earth to do good  
8 deeds. I believe in supporting a good, quality workplace  
9 and creating jobs that allow people to take care of their  
10 families. Staber is the little David battling Goliaths like  
11 Samsung and LG. My wife and I brought back a rock from the  
12 Valley of Eli in Israel where the battle of David and  
13 Goliath took place. I keep it on my desk as a reminder  
14 that anything is possible and that there is no challenge in  
15 business or life that cannot be overcome. That is what we  
16 do at Staber. And if the safeguard remedy in this case is  
17 effective, I believe our ability to continue down this path  
18 will grow stronger.

19 Thank you for the opportunity to address you  
20 this morning and I am happy to respond to any questions you  
21 might have. I know turn it over to Glen Fish from Revere.

22 STATEMENT OF GLEN FISH

23 MR. FISH: Good morning, Madam Chair and  
24 Commission. My name is Glen Fish and president of Revere  
25 Plastic Systems. Revere is a producer of plastic component

1 parts in both Whirlpool, GE appliances, our major customers.  
2 We also supply Staber. I'm here today to voice my support  
3 for these U.S. washer producers. I urge the Commission to  
4 recommend a robust and effective remedy to correct the  
5 serious injury suffered by the U.S. industry.

6 Revere is headquartered in Clyde, Ohio, where we  
7 also maintain our largest manufacturing operation. The  
8 facility is close to Whirlpool manufacturing facility, which  
9 allows us to easily supply one of our major customers with  
10 some of the components Mr. Tubman showed earlier.  
11 Similarly, our Jeffersonville, Indiana plant is close to the  
12 GE facility and we have a plant in Popular Bluff, Missouri  
13 and employ over a thousand Americans in all of our  
14 facilities.

15 As a part supplier, our success depends on the  
16 success of our customers, the original equipment  
17 manufacturers, such as Whirlpool and GE appliances. An  
18 effective remedy in this case will allow the domestic washer  
19 industry to adjust to the flood of imports and invest in new  
20 technology and production. In turn, as sales of domestic  
21 washers increase, my company's sales will increase and we'll  
22 be able to invest more in our operations and employee base.

23 We support the remedy recommended by the  
24 domestic industry that will ensure a healthy and competitive  
25 washer manufacturing base here in the United States.

1                   MR. LEVY: Madam Chairman, that concludes our  
2 panel presentation. We look forward to your questions.

3                   CHAIRMAN SCHMIDTLEIN: Alright, thank you very  
4 much. I'd like to thank all the witnesses for being here  
5 again today and we will begin questioning with Vice-Chairman  
6 Johanson.

7                   VICE CHAIRMAN JOHANSON: Thank you all for  
8 appearing here today and I know some of you have been here a  
9 number of times and we appreciate you fully informing us of  
10 what is happening with your industry.

11                   Here's my first question. What is the  
12 difference between first kidding, and second, Samsung and LG  
13 moving ahead with full-fledge production of large  
14 residential washers in the United States? How could the ITC  
15 devise a remedy that would prevent kidding and permit bona  
16 fide production by LG and Samsung in the United States?

17                   MR. LEVY: Let me take a first cut at it and  
18 then if Casey wants to add some color he certainly should.  
19 The scope of the investigation covers not only finished  
20 large, residential washers, but also three times of covered  
21 parts, right? We've got cabinets, tubs, and baskets.  
22 Sometimes they're referred to as drums. Those are the only  
23 three covered parts for purposes of this investigation.

24                   Domestic producers are asking you to focus on  
25 the need for, obviously, a 50 percent tariff on finished

1 LRWs, but the critical remedy in relation to the covered  
2 parts is the quota. That is to say that certain volume of  
3 these imports for service or repair that's one thing, but a  
4 surge in imports of these products serves only to circumvent  
5 the 50 percent tariff on finished LRWs. Essentially, what  
6 we're saying through the remedy is that if Samsung and LG  
7 want to -- well, let's just take them at their word. What  
8 they've both said, through their briefs, is that they are on  
9 track to eventually do what GE and Whirlpool and Staber all  
10 do, which is to self-produce these items.

11           They talk about bending metal and forming  
12 plastic. They are on track to do what any vertically  
13 integrated washer producer would do, but they go one step  
14 further and say, but we're going to have a ramp up period.  
15 And so during that period, we need the convenience of  
16 importing these covered parts, presumably, from Asia so that  
17 we could circumvent for a while until we've got our feet  
18 underneath us. And we respectfully submit that the  
19 safeguard law does not exist to indulge foreign producers in  
20 that way.

21           The purpose of the safeguard law is to ensure  
22 effective relief that addresses the serious injury and this  
23 kind of facilitation of circumvention undermines the  
24 fundamental purpose of the remedy. So you know when we talk  
25 about covering parts what we're really talking about is

1       whether or not the 50 percent tariff on LRWs will be  
2       effective or whether or not we're going to be carving out a  
3       loophole so that for a period of time while they purport to  
4       be ramping up they could effectively skirt the 50 percent  
5       tariff and bring in something that is just a few steps  
6       short of a washer.

7                   And maybe, Casey, can you elaborate on what  
8       production looks like when you're importing those in scope  
9       parts?

10                   MR. TUBMAN:  When you talk about these parts --  
11       these are -- again, I call them the heart and soul of the  
12       washer.  So if you're not actually manufacturing these  
13       locally, you're really not manufacturing washers.  You're  
14       basically assembling washers.  And if I think about this  
15       from a concern standpoint and they talk about they're  
16       worried about their ramp up.  A quota is going to give them  
17       a problem.  We made sure to look at it from a "We don't want  
18       to hurt the consumer" standpoint and make sure they can get  
19       service parts.  But if I'm under the impression that I would  
20       have to bring in or build my own subassemblies and not be  
21       able to import those in, if it was my job to be able to do  
22       that, I would just look for a local source.

23                   I think Bill mentioned he's open for business.  
24       I'm sure there's businesses in South Carolina and Tennessee  
25       that would like to make these parts locally for them.  We



1 mentioned Revere as well. They bring parts in locally  
2 because they're easily nestible. They're not shipping large  
3 pieces of air. And again, the only reason you would do that  
4 is if you weren't really going to be a manufacturer of  
5 washers. To be a manufacturer of washers, you produce those  
6 parts locally and you assemble them. And again, a lot more  
7 workers too, that's the other thing I would say.

8           When we talk about these parts, our support  
9 operations, that's a large number of our workers as well.  
10 So again, if we want to bring the jobs to the U.S., bring  
11 the subassemblies with it.

12           MR. LEVY: And just as another point of  
13 clarification, domestic producers are not trying to dictate  
14 to Samsung and LG how they produce washers in the United  
15 States. They've told you that they want to be vertically  
16 integrated and that that's what they're moving toward, but  
17 that's not our objective. Our objective is to ensure the  
18 effectiveness of the remedy, the 50 percent tariff on  
19 finished LRWs and if covered parts are not subject to this  
20 quota that remedy will be ineffective. It will be  
21 circumvented and the Commission will fail in recommending a  
22 remedy that addresses the serious injury and facilitates the  
23 positive adjustment for U.S. producers.

24           MR. GETLAM: And if I could just add one point,  
25 Commissioner Johanson your question suggested a concern that

1 the remedy, as proposed, could -- that the remedy as  
2 proposed could somehow undermine their proposed or planned  
3 investments in the U.S. and we view the proposed remedy as  
4 doing the opposite. The more robust and loophole-free the  
5 remedy they will accelerate and deepen their investments in  
6 U.S. production, U.S. manufacturing. They will have greater  
7 economic incentive to lock in those investments and to  
8 follow through on their commitment to develop vertically  
9 integrated washing machine production facilities.

10 MR. LEVY: And just to elaborate, Commissioner,  
11 the depth of the investment matters for Samsung and LG. If  
12 they have this loophole and they can bring in covered parts,  
13 they don't need to invest in the plastic presses or in the  
14 stamping machines and all the capital equipment that is  
15 required to make them, not to mention all the attended  
16 labor. And so if they are afforded this loophole, not only  
17 does it fundamentally undermine the remedy on finished LRWs,  
18 but they are not as deeply engrained in the fabric of U.S.  
19 manufacturing at the end of the safeguard period. It's  
20 much easier for them to up and cut and run after the end of  
21 the safeguard period and America becomes the next Vietnam,  
22 just a stopping post for Samsung and LG as they proceed to  
23 hop somewhere else. But if they are incentivized through a  
24 robust remedy to not only invest in South Carolina and  
25 Tennessee in some token way, but in a deep way that covers

1       these parts the incentive to pick up and cut and run at the  
2       end of three years will be dramatically reduced and that  
3       conditions the environment for a level playing field for  
4       well beyond the safeguard period.

5                        So you know I find it quite ironic that you know  
6       some of our friends in South Carolina are taking objection  
7       at the proposed coverage of these parts in the scope because  
8       we respectfully submit that it is going to stimulate and  
9       incentivize a level of investment that promises to be much  
10      more permanent and meaningful for the economic well being of  
11      South Carolina.  And if you do what we're proposing and if  
12      you not only impose a tariff -- a robust tariff on finished  
13      LRWs, but subject these parts to a quota, I suspect that you  
14      will be celebrated in the streets of South Carolina in the  
15      years to come because this case is what will have created  
16      those jobs.

17                      VICE CHAIRMAN JOHANSON:  Thank you, Mr. Levy.

18                      You have argued that absent your suggested  
19      remedy on parts LG and Samsung would establish only kidding  
20      operations in the United States.  In what ways would LG and  
21      Samsung's import of parts and their subsequent assembly in  
22      the United States differ from Whirlpool's own Free Trade  
23      Zone operations?

24                      MR. TUBMAN:  When we talk about imported parts  
25      for Whirlpool, we talk about a very small percentage of the

1 parts we bring in. And when we talk about those parts, what  
2 you might think of as things like fasteners. So I can put a  
3 thousand fasteners in a very small box and ship it in and  
4 that would make economic sense. If I talk about shipping a  
5 thousand cabinets in, I'm not going to fit them in a small  
6 box. I'm going to fix them in a boat and several boats, at  
7 that.

8 So again, from an economics -- we're not saying  
9 they can't import parts. We import parts. We import very  
10 few parts, but we do import parts. What we're saying is  
11 they can't import these covered parts, which are, again, the  
12 heart and soul of the washer.

13 MR. LEVY: And just to elaborate, it's our data,  
14 so I'll volunteer it for the record. If you look at the  
15 questionnaire responses, you'll see that the value of  
16 imports for Whirlpool, on average, is about 7 percent of the  
17 value of the washer. So just to put in perspective, that's  
18 the nature of the importation. But nobody's here dictating  
19 to others how much they do or don't import. The point,  
20 fundamentally, is that operations at GE Appliances or  
21 Whirlpool or Staber, for that matter, they are  
22 self-producing these cabinets, these tubs, these baskets.  
23 Making tubs requires very large capital-intensive plastic  
24 presses. Are you going to have them or are you not going to  
25 have them?

1           The same would be true of stamping metal, major  
2           investments in terms of these presses. If you have them, if  
3           you have sunk capital, you're much more likely to stay. And  
4           so, again, the more robust the remedy in relation to covered  
5           parts the deeper the investment that we can expect to see  
6           in South Carolina and Tennessee and the more costly it would  
7           be to uproot that investment.

8           MR. MAGNUS: The confidential record of the case  
9           also has information on imports of parts through the Foreign  
10          Trade Zone at Appliance Park and what those specific kinds  
11          of parts are and I can't review them here, but if you do  
12          decide to review them you'll see that they don't bare any  
13          resemblance to these covered parts.

14          VICE CHAIRMAN JOHANSON: Alright, thank you, Mr.  
15          Magnus and Mr. Levy and Tubman. My time's expired.

16          CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

17          COMMISSIONER WILLIAMSON: Thank you very much.  
18          I too want to express my appreciation to the witnesses for  
19          their testimony this morning.

20          And Mr. Magnus, you just answered my question  
21          because Mr. Jones had talked about bringing in things. So I  
22          curious what is it that GE imports in this area, but I guess  
23          I can go look at that record. Although, if there's any way  
24          to characterize it that would help the discussion.

25          MR. JONES: I would just add without getting

1       into the detail or in the record that a number of these  
2       things have to do with, first, look at the value of the part  
3       and with the high value items are generally not outsourced  
4       because you want to capture that because it basically allows  
5       you to -- it's critical to your productive, basically, and  
6       your profitability.

7                       Second, a number of the parts we're talking  
8       about are often not made in the United States any longer.  
9       Some kinds of parts are global in nature. They're used or  
10      manufactured for application in many kinds of products and  
11      those are more easily -- it makes more sense for a producer  
12      to manufacture them in large quantities for global  
13      production.

14                      The products that we're talking about here, the  
15      components here are specifically made for American-styled,  
16      U.S.-styled washers, so they're pretty unique in that  
17      regard. You're not going to be selling these products in  
18      large quantities around the globe and therefore they're not  
19      the kind of thing that would typically be imported, unless  
20      your objective was as we've indicated earlier, to basically  
21      evade the -- circumvent rather the remedy which we're  
22      seeking here.

23                      COMMISSIONER WILLIAMSON: Thank you. Those  
24      examples were very helpful. But both GE and Whirlpool have  
25      moved plants to other countries to do production. I was

1 just wondering, from your own experience, what would you say  
2 is reasonable when a company opens up a new plant in a  
3 country, as to subassemblies -- are they gonna make all the  
4 big subassemblies there? Do they want to phase some of that  
5 in? Over how much time?

6 MR. TUBMAN: In our experience, it would be one  
7 where you would want to -- sorry, Casey Tubman --

8 COMMISSIONER WILLIAMSON: Yeah.

9 MR. TUBMAN: -- in our experience, it would be,  
10 you would want to bring those subassemblies in from Day 1  
11 and plan for them, and again, Earl mentioned it about the  
12 value-add and the size of the parts. These are critical  
13 components to the washer. They're not something, again,  
14 that you would want to ship in from a long distance.

15 COMMISSIONER WILLIAMSON: Okay. Earl.

16 MR. JONES: Earl Jones. I'd add this. I can't  
17 imagine anybody building a factory with the objective of  
18 becoming a producer of those products. Starting with the,  
19 sort of on the, with the low-end, sort of ancillary  
20 components of that product, and then over time, then putting  
21 in the guts. It doesn't make any sense. You would put in  
22 the high-capital investment first, because you'd wanna  
23 capture those components first.

24 Obviously, these companies have this machinery  
25 available. They've had them in every location that they've

1 manufactured these products before. They've obviously moved  
2 them from one place to another before. Interesting question  
3 why they wouldn't simply move them to yet another location  
4 in the United States.

5 COMMISSIONER WILLIAMSON: That was gonna be my  
6 question, whether you knew about what they've done when  
7 they've gone from Korea to China to Vietnam, but I --

8 MR. JONES: Well, I can only tell you what we  
9 have done when we've found it necessary to do that. We have  
10 moved the equipment.

11 COMMISSIONER WILLIAMSON: Okay.

12 MR. JONES: And we've moved the equipment inside  
13 the United States, and it's not a significant difference  
14 between moving equipment from one location in Kentucky to  
15 one in Georgia than it would be from doing the same, from  
16 one across the sea, quite frankly.

17 MR. LIOTINE: Maybe one more comment. Joe  
18 Liotine from Whirlpool. We have a lot of experience with  
19 factories. We have factories all over North America and the  
20 world, and I can think of zero instances in which we would  
21 not move the main subassembly work when we either created a  
22 new factory or moved tools. And we just have never done  
23 that, and we've had many, many factories and many moves.

24 In addition, we sometimes would move or  
25 outsource secondary operations, because they're much more



1 simple, and they're easy to add on. But the layout of a  
2 factory, in order to make it efficient, starts with these  
3 big presses and tools and how the lines are constructed and  
4 how the processes are constructed.

5 You would never do that after the fact. You  
6 would create certain inefficiencies in terms of product  
7 flow, material flow, and ultimately, line runs, and so that  
8 just would not happen. So you would only do that if there  
9 were some other greater idea or need that you were trying to  
10 solve for. And in Whirlpool's experience, I can confidently  
11 say that's been zero events that we've ever done that.

12 COMMISSIONER WILLIAMSON: Thank you for those  
13 answers. I guess, Mr. Levy, could you maybe go into further  
14 why you shifted from the TRQ to the tariff remedy? I mean,  
15 you've talked about it, but I would like more details on  
16 that.

17 MR. LEVY: Certainly, Jack Levy.

18 COMMISSIONER WILLIAMSON: Especially since the  
19 respondents are advocating for the TRQ remedy.

20 MR. LEVY: Yeah, it's interesting. Although if  
21 you study carefully what respondents are saying, I think  
22 they're saying, as a threshold matter, that there is no  
23 serious injury, so in truth, no remedy is warranted. And  
24 any remedy is just going to frustrate the convenience of  
25 their transition to U.S. manufacturing on their own time

1 table.

2 The short answer is that we went into the  
3 investigation, not knowing what the factual record would  
4 look like with any precision, not having the APR data and  
5 not having had the luxury of doing economic modeling with  
6 COMPAS. Frankly, I was surprised with what the COMPAS model  
7 showed.

8 It showed that when you impose a tariff that is  
9 significantly less than 50%, the remedial benefit for the  
10 U.S. industry is inadequate. And so it should go without  
11 saying that if your goal is to have a 50% tariff and you  
12 say, "well, what about a TRQ?" or by definition, a TRQ is  
13 some dilution of that, because it contemplates a lesser  
14 tariff on some volume of imports.

15 And what the economic modeling in COMPAS  
16 revealed was that any significant decrease off of 50%  
17 materially eroded the remedial benefit of the safeguard  
18 measure. And so, frankly, the numbers and the Commission's  
19 own COMPAS model did the talking. And what we concluded was  
20 that 50% was the right number. One could've argued that  
21 even at 50% that there was a significant risk that Samsung  
22 and LG would just absorb the duty and continue with their  
23 behavior.

24 And that risk still exists. But the solution to  
25 that problem then would be a quota. And we did not wanna be

1 in the business of, in their words, "choking off imports."  
2 What we're trying to do is restore their pricing to  
3 noninjurious levels. And no one is going to deprive the  
4 U.S. market of a single washing machine as long as they're  
5 willing to charge a noninjurious price.

6 COMMISSIONER WILLIAMSON: One of the things that  
7 struck me--and I know this is all proprietary--but the  
8 change in domestic price levels. I don't know what you can  
9 say about that here, or at least for post-hearing. I was  
10 surprised by that number, and particularly when you look at  
11 it, compared to the market share shift.

12 MR. LEVY: Yeah, so you're not gonna get much  
13 out of industry witnesses on this question because they, as  
14 a matter of corporate policy, don't make forward-looking  
15 statements about price.

16 COMMISSIONER WILLIAMSON: Yeah, understood.

17 MR. LEVY: But we'll talk about it more in the  
18 post-hearing.

19 COMMISSIONER WILLIAMSON: Okay.

20 MR. LEVY: But, you know, it is clear that the  
21 COMPAS model predicts a very modest increase in U.S.  
22 producer prices, but nonetheless, an operating profit that's  
23 adequate. So what's going on there? What you see and  
24 what's really impressive to me is that there is a  
25 significant volume improvement for U.S. producers under the

1 model.

2 Capacity utilization goes from being abysmal to  
3 pretty good. And per unit fixed costs go down  
4 significantly. Let me just call your attention to the line  
5 in the spreadsheet. But unit fixed costs, I think it's Row  
6 36, you can look at the change. It's the second from last  
7 column.

8 COMMISSIONER WILLIAMSON: Yeah.

9 MR. LEVY: And it's a significant reduction in  
10 per unit cost. This change alone takes the domestic  
11 industry well on the way to economic health. And whether or  
12 to what extent a price change is required, I think is  
13 speculative at this point. But what's clear from the ITC's  
14 COMPAS model is that any U.S. producer price change should  
15 be modest, if anything.

16 COMMISSIONER WILLIAMSON: Okay. By the way,  
17 what timeframe is this over?

18 MR. LEVY: So the --

19 COMMISSIONER WILLIAMSON: I don't see that on  
20 here.

21 MR. LEVY: Yeah, so thank you for that question.  
22 The way the COMPAS model works, it's a one-year period. So,  
23 to the extent we have minimal phase-out, you could  
24 essentially take that result, and that's the result in Year  
25 1. Essentially the same in Year 2, essentially the same in

1 Year 3, and that's it.

2 COMMISSIONER WILLIAMSON: Okay. Any comments  
3 on--I mean because some of these numbers are  
4 significant--how that's gonna play out in the real world?  
5 And I know this is a forecast, but you see what I'm getting  
6 at? It's --

7 MR. LEVY: Well, I think the one comment I'll  
8 make is that, what the Commission observed, you know, at a  
9 high level, in the injury phase was a U.S. industry that was  
10 basically running two out of three shifts.

11 And you heard testimony from Whirlpool, yeah,  
12 they ramped up in late 2016 when Samsung and LG fell down  
13 and they had to step in and save the day. And they won  
14 those awards with their customers. The way they did that at  
15 Whirlpool was to essentially run that third shift with  
16 overtime labor. The name of the game here would be to run  
17 that third shift with fulltime labor.

18 And I don't think it's speculative to say that  
19 the U.S. industry hopes and expects to be able to run that  
20 third shift into maximized capacity utilization. So that is  
21 by far going to be the most impactful and immediate change  
22 if the safeguard is effective. That a third shift will be  
23 run as the norm in places like Whirlpool, and we assume GE  
24 Appliances. And that's how you get to 1,300+ jobs.

25 COMMISSIONER WILLIAMSON: Thank you for those

1 answers.

2 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

3 COMMISSIONER BROADBENT: Okay. Mr. Levy, I know  
4 you answered this question about four times, but I'm not  
5 sure I quite understand it. Just the change in your request  
6 for the remedy and what the pieces of information were that  
7 really put you over the edge to your new request?

8 MR. LEVY: So I don't think that we fully  
9 understood the magnitude of the operating losses of the U.S.  
10 industry as a whole. I don't think that we understood the  
11 magnitude of the tariff that would be required in order to  
12 pull the U.S. industry out of a hole to get them to a place  
13 of operating profitability, which would be required to  
14 justify new investments and to have line of sight to return  
15 on investment.

16 What you get during the course of an  
17 investigation is, you get very specific elasticities of  
18 demand, of supply, of substitution from the staff. You get  
19 to plug in data from all U.S. producers and you get to run a  
20 COMPAS model. And quite candidly, we did not do any  
21 economic modeling at the time that we filed the petition.

22 And so, this is now based on a consider judgment  
23 based on the economic data collected. And I think what it  
24 reveals is that a 50% tariff -- you know, I think if what  
25 you're experiencing is some measure of sticker shock, you

1 need only look at the economic modeling to say that the  
2 effect is not excessive.

3 The effect is actually quite reasonable. The  
4 magnitude of the operating profit under the model is pretty  
5 reasonable. The magnitude of the U.S. producer price  
6 increase, if any, is quite modest. So what you see, in a  
7 nutshell, is that a 50% tariff seems to be bang-on. And a  
8 TRQ is, by definition, a lesser duty because it contemplates  
9 a lower rate for some base volume.

10 And what this model seems to indicate is that a  
11 high rate of 50% is required in all three years in order to  
12 deliver that effective relief. Again, there was no appetite  
13 for a quota. We did not want to do anything to restrict  
14 imports. We wanted the least trade distortive measure  
15 possible, and that's why we elected for the tariff.

16 MR. GETLAN: Commission Broadbent --

17 COMMISSIONER BROADBENT: Mr. Getlan?

18 MR. GETLAN: Myles Getlan on behalf of  
19 Whirlpool. Just to add one point there. When we filed the  
20 petition, obviously the petition was filed on behalf of  
21 Whirlpool Corporation alone. We had the data for  
22 Whirlpool, but as Mr. Levy mentioned, we didn't have the  
23 proprietary data of the domestic industry as a whole.

24 Importantly, inclusion of the injury phase,  
25 outside counsel for Whirlpool and GE consulted on remedy

1 options, and together developed the proposal you see here,  
2 and that's why it's presented as a joint submission on  
3 behalf of both Whirlpool and GE Appliances. And that's a  
4 change from the petition.

5 COMMISSIONER BROADBENT: Okay. And then, what  
6 was behind recommending a three-year versus a four-year  
7 remedy?

8 MR. LEVY: Jack Levy for Whirlpool. You know,  
9 in the first instance, and we mean this sincerely, there's  
10 no desire to overreach. The view was that a three-year line  
11 of sight to operating profits would be significant and  
12 adequate to justify return on new investments. So the name  
13 of the game was getting to a place where Whirlpool could  
14 justify new investment decisions.

15 I mean we could've opted for a fourth year in  
16 the proposal with some step-down, but we didn't wanna go  
17 there. And maybe I'll ask Mr. Liotine to elaborate on that,  
18 because there's a certain relationship between three years  
19 in the remedy proposal and the way the business thinks about  
20 its investment decisions.

21 MR. LIOTINE: Joe Liotine, Whirlpool. We  
22 typically look at three-year business plans. Long-range  
23 plan for us is typically a three-year horizon. If you look  
24 at our adjustment plan, we believed we could execute those  
25 efforts in three years. And so it was as simple as, these



1 are the things that we knew and understood. We had, either  
2 some development on these ideas, either because we started  
3 and curtailed them, or because we had them waiting to be  
4 activated.

5           So it felt like, if we could execute these  
6 things, get to the position we wanted to be in, be  
7 sustainably more productive and that was the right horizon.  
8 It was not more complicated than that from a business  
9 standpoint because that's how we manage our business, for  
10 all of our business cases.

11           MR. LEVY: And Madam Commissioner, one other  
12 point. I think somewhere in their briefs, respondents take  
13 issue with the duration of the remedy period or would wish  
14 it be shorter. And I find that kind of ironic because they  
15 seemed to be telling us that in a year or two, they will be  
16 fully seated U.S. manufacturers, but yet, they take umbrage  
17 at the idea of a remedy in Year 3. So I think it'll  
18 interesting for them in the afternoon. It's sort of how  
19 they reconcile those two positions.

20           COMMISSIONER BROADBENT: Okay. And there've  
21 been other cases where we've had a significant tariff, the  
22 Commission's recommended a significant tariff, and you've  
23 just had sort of this minimal tariff phase down, so you're  
24 only doing one percentage a year, and then falling off a  
25 cliff pretty dramatically between Years 3 and 4.

1                   MR. LEVY: We'd be happy to give a more complete  
2 answer post-hearing, but the one that comes to mind is  
3 shakes and shingles, where in that case the Commission  
4 recommended essentially a static remedy for the duration.  
5 Now that preceded the amendments in the Uruguay round which  
6 required a step-down year over year.

7                   But sort of consistent with the analysis of  
8 shakes and shingles, we proposed essentially a flat remedy,  
9 but there is some measurable step-down in order to be in  
10 technical compliance with the amended statute.

11                   COMMISSIONER BROADBENT: Okay. Yes, Mr. Getlan?

12                   MR. GETLAN: Myles Getlan on behalf of  
13 Whirlpool. Just to add to that. Most recently, post URAA,  
14 I think even in the steel cases, certain other products  
15 there were tariff recommendations and at least in the early  
16 periods, the first few years of the remedy recommendation,  
17 there was pretty minimal phase-down, one or two percent per  
18 year, percentage points per year.

19                   And so we'll obviously detail that, as Mr. Levy  
20 said, in post-hearing, but I think you get more significant  
21 phase-down in the later years, but here, as we've discussed,  
22 we're only looking at a three-year period, so within that  
23 limited period of time, we're looking at minimal phase-down.

24                   COMMISSIONER BROADBENT: Right. But I guess my  
25 sense on the statute was we're supposed to be doing a

1 positive adjustment to the import competition. It's a  
2 pretty stark fall off the cliff at the end there, I think.

3 MR. GETLAN: Well, I think what Mr. Liotine was  
4 just describing is that this will be sufficient time to  
5 execute on their investments plans. They'll have line of  
6 sight to return on those investments. And those investments  
7 will position them well beyond the safeguard relief period.

8 COMMISSIONER BROADBENT: Well, they could come  
9 back, I guess, again.

10 MR. GETLAN: And we fully expect, as a result of  
11 the remedy, that the Samsung and LG will, if they keep to  
12 their word, they'll be fully integrated U.S. producers, and  
13 at that point in time, Whirlpool and the rest of the U.S.  
14 producers will be competing on a level playing field. And  
15 on that basis, I know Whirlpool is confident that they can  
16 win.

17 MR. JONES: Earl Jones here for GE Appliances.  
18 Just back on the question of the timing. I think we do a  
19 three-year lookout as well. I mean it's probably common in  
20 industry generally, not just this one. I think it's a good  
21 business-school practice. Just the sense of how far out  
22 anybody can look for planning purposes. But three years  
23 also makes sense for us.

24 COMMISSIONER BROADBENT: But a 50% change in  
25 price is gonna be very dramatic.

1                   MR. LEVY: So, Jack Levy for Whirlpool. Again,  
2                   what COMPAS shows is actually a very modest change for U.S.  
3                   producer prices. If you look at the POI, we see dramatic  
4                   price depression. And that price depression correlates with  
5                   the manifestation of the serious injury. So, you know, if  
6                   you look at the magnitude of the price declines under those  
7                   products throughout the POI, I think what you quickly  
8                   realize is that this recommended remedy is not at all  
9                   disproportionate.

10                   And ironically, and again, we're not asking for  
11                   a dumping remedy here, but you know, it's worth recalling  
12                   that, had Samsung and LG simply stayed put in China and been  
13                   held accountable for their dumping--and you voted a  
14                   unanimous affirmative in that case earlier this case--they  
15                   would this very day be paying on average about 50%  
16                   anti-dumping duty deposits. And that would be entirely a  
17                   function of their own unlawful trade practices.

18                   So again, we're not asking to somehow extend the  
19                   dumping remedy through the prism of the safeguard law, don't  
20                   get me wrong. But it simply -- it's an interesting irony  
21                   that that would have been the rate. And we have no doubt  
22                   that they would continue to compete in the U.S. market at  
23                   that rate, but at a fairly traded price.

24                   COMMISSIONER BROADBENT: Okay, one more question  
25                   for you, Mr. Levy. As a result of the COMPAS model, results

1 from a 50% tariff, the industry sees a substantial gain in  
2 U.S. shipments leaving to a market share level which is  
3 considerably higher than the prior years.

4 Given that the industry's market share did not  
5 change over the POI, wouldn't a remedy which results in  
6 substantial gain in the industry's market share be contrary  
7 to the requirement that the remedy only address the serious  
8 injury?

9 MR. LEVY: Well, I think the serious injury had  
10 many facets, one of course being operating losses. And  
11 there are different ways to solve for that. You could do a  
12 quota. A quota might result in a sharper increase in  
13 prices. And as a result, perhaps result in less share  
14 change. But the tariff is designed to be the least  
15 restricted approach.

16 And under that approach, what we see is, we  
17 think a very fair result that's proportionate and remedies  
18 the operating losses of the domestic industry. To be sure,  
19 the U.S. industry lost market share during the POI and will  
20 be able to return to a healthy level of capacity  
21 utilization. Will it be exactly what it was? Sort of  
22 status quo antebellum? Maybe not. This is just an  
23 economic model. But we think it's about right.

24 COMMISSIONER BROADBENT: Okay. Well, I guess  
25 the market share kind of sticks in my mind just because

1 Whirlpool controls so much of the market already with the  
2 acquisition of Maytag. We're talking about a huge market  
3 dominant position here for a few years.

4 MR. LEVY: Well, I mean respectfully, we'll  
5 address it more post-hearing, but I think we would dispute  
6 that characterization. I mean if Whirlpool had any kind of  
7 dominance, they would not have been clobbered in the market  
8 and be made to lose hundreds of millions of dollars in  
9 competition with Samsung and LG. Dominant players are able  
10 to make money and Whirlpool got clobbered during this POI.

11 COMMISSIONER BROADBENT: Okay, thank you. So I  
12 want to understand a little bit more about how Whirlpool  
13 makes its investment decisions. Mr. Liotine, you're  
14 probably the best one to answer this. So when I look at the  
15 adjustment plan that was filed on behalf of Whirlpool, it  
16 looks like there are two different categories.

17 There's one with regard to the unused production  
18 capacity, which the adjustment plan says appropriate  
19 safeguard relief will enable Whirlpool to promptly active  
20 its unusual production capacity. And then you have a series  
21 of potential investments that you might make, but all you  
22 can say at this point is that you will revisit the business  
23 case for each of those.

24 So can you explain -- and just so I'm clear, you  
25 don't have access to the results of the COMPAS model, right?

1 You don't know what that says?

2 MR. LIOTINE: -- Liotine, I do not know --

3 CHAIRMAN SCHMIDTLEIN: You don't know what the  
4 operating margin is that's produced by that compass model?

5 MR. LIOTINE: I do not.

6 CHAIRMAN SCHMIDTLEIN: You don't? Okay. So why  
7 are you able to say that you will promptly activate your  
8 unused production capacity, but you need all this additional  
9 time and that's a question I have for you is how much  
10 additional time do you need when you talk about your three  
11 year horizon? When will you make that decision? Why do you  
12 know you can go ahead and activate your unused production  
13 capacity and put some number of workers back to work right  
14 away?

15 MR. LIOTINE: Joseph Liotine, Whirlpool. Yeah,  
16 to be clear, I guess, all of our adjustment plans are  
17 predicated upon our remedy which is effective without  
18 loopholes. And so, when we say that, our production plan,  
19 we have confidence in our ability to fulfill that based on  
20 last year's Q4, where both Samsung and LG had operational  
21 disruptions, we were going to ask to fill that gap. We  
22 filled it very quickly. We filled it successfully. So we  
23 demonstrated the ability to ramp up quickly and use that  
24 capacity when the units were available. That's where the  
25 confidence comes from on the utilization topic.

1                   There are two other investment areas of our  
2                   adjustment plan --

3                   CHAIRMAN SCHMIDTLEIN: Well, let me just stop  
4                   you there. So but you're making some kind of assumption in  
5                   looking forward though, right? So there was a disruption in  
6                   the supply you were able to fill those additional sales  
7                   would ask. But moving forward, so is you're assumption with  
8                   regard to whether or not they'll be additional sales for  
9                   that unused capacity, that's based on a 50 percent ad  
10                  valorem tariff?

11                  MR. LIOTINE: Yeah, our assumption would be that  
12                  we would get those additional sales if Samsung and LG behave  
13                  not non-injurious with their pricing.

14                  CHAIRMAN SCHMIDTLEIN: So what model did you run  
15                  to reach that conclusion that it would be worth your while  
16                  to increase your unused capacity to increase your and use  
17                  your unused capacity?

18                  MR. LIOTINE: Well, we have --

19                  MR. BISHOP: John, pull your mike a little  
20                  closer for us, please.

21                  MR. LIOTINE: Sorry.

22                  MR. BISHOP: Thank you.

23                  MR. LIOTINE: We have typical analysis where we  
24                  look at, you know, promotional effectiveness and things like  
25                  that in terms of how we measure our business. We know the



1 size of the business. We know --

2 CHAIRMAN SCHMIDTLEIN: But you had to make some  
3 assumptions about the imports, right?

4 MR. LIOTINE: We made some assumption on if they  
5 changed their injurious levels of pricing, what that would  
6 mean in terms of an opportunity for us. Those would be the  
7 assumptions --

8 CHAIRMAN SCHMIDTLEIN: Right, okay. And that's  
9 how you -- and so, and you assumed so the President -- if  
10 our report goes December -- in early December, I think the  
11 President has 60 days, so there would be some sort of -- if  
12 he chooses to put in a remedy, there'd be some sort of  
13 remedy in place. You know, in February, you would expect  
14 you'd be promptly activating that unused capacity then, is  
15 that right?

16 MR. LIOTINE: Yeah, we are absolutely ready.  
17 Again, the unused capacity, our first step would be over  
18 time. I think that was referenced earlier. It doesn't  
19 require additional structural investment. It's just  
20 basically taking employees who already work in our facility  
21 and then giving them more hours. Then --

22 CHAIRMAN SCHMIDTLEIN: So you wouldn't actually  
23 be hiring new people?

24 MR. LIOTINE: Well, not the first day.

25 CHAIRMAN SCHMIDTLEIN: Okay.

1 MR. LIOTINE: Just because we wouldn't know  
2 enough. But you know, very quickly, we would then hire  
3 another shift to fill that more structurally. And then we  
4 would then assess based on the injurious price level changes  
5 how much could come to us in terms of opportunity. And then  
6 we would look at other investments as necessary. But those  
7 first two levels were successful and sufficient to absorb  
8 all the volume that came our way in Q4 of last year.

9 So that's a big enough tool. We basically have  
10 33 percent of unused capacity without additional needs that  
11 are structural or have a maturity. So we would be able to  
12 do that pretty quickly and we've demonstrated that  
13 successfully.

14 CHAIRMAN SCHMIDTLEIN: Okay. So how much time  
15 would you need in terms of getting a line of sight as I  
16 think what you've both said, into the return on investment  
17 for these additional potential investments that you will  
18 revisit? And I guess you know, the implicit part of that  
19 question is why can't you look at the assumptions that  
20 you're making with regard to what's going to happen to  
21 imports and give us more comfort than well, we'll take a  
22 look at it. I mean, essentially, that's what you'll say.  
23 Well, we'll take a look at it once we see what the import  
24 really is?

25 MR. LIOTINE: Yeah, Joe Liotine. I mean, we --

1 the last two cases, we acted very, very consistently and  
2 very materially in terms of investments that -- because we  
3 believe those ante-dumping cases would bring fruit. And  
4 they didn't. So I think our follow through is not really in  
5 question. We're ready to act. The --

6 CHAIRMAN SCHMIDTLEIN: So how much time will you  
7 need though? If there's a remedy put in place, what -- how  
8 long are you going to -- how much time do you need to get a  
9 line of sight?

10 MR. LIOTINE: I mean, we need very little time.  
11 It's really more about are there loopholes or circumvention  
12 that limits our ability to get the benefit? Otherwise,  
13 these plans are robust and in some cases, were already in  
14 place, you know, to some degree that we had to stop or  
15 curtail.

16 So it's really not about time for Whirlpool. I  
17 believe it's more about the effectiveness of the remedy. If  
18 it's effective, you know, we make decisions very quickly at  
19 Whirlpool as evidenced by the --

20 CHAIRMAN SCHMIDTLEIN: I mean, I have no idea  
21 what that means. What's very quickly?

22 MR. LIOTINE: I mean, it's days. It's literally  
23 a couple reviews --

24 CHAIRMAN SCHMIDTLEIN: Okay.

25 MR. LIOTINE: -- where Casey's team and the

1 merchant teams along with some senior leaders to make sure,  
2 you know, capital allocation and things like that. And then  
3 we move forward.

4                   Again these plans are very robust and baked.  
5 They're not as if they're new ideas. In some cases, we turn  
6 them off. They're already in process. So I think we're  
7 talking very short --

8                   CHAIRMAN SCHMIDTLEIN: So if that's --

9                   MR. LIOTINE: -- a very short period of time.

10                  CHAIRMAN SCHMIDTLEIN: So if that's true then,  
11 why do you need it three years of relief?

12                  MR. LIOTINE: Well, again, when we action a plan  
13 versus when we get it, some of these plans as I said over  
14 time and a line shift happened very quickly. Some of these  
15 other plans that are more structural, we're talking about  
16 automation in factories or in our supply chain, or bringing  
17 new innovation to a market, that has a development cycle  
18 from an engineering. So that's, you know, each of these  
19 ideas, each of these lines have slightly different maturity  
20 curves. The production elements of them are the quickest  
21 because they basically scale up, something we have today.  
22 The new innovations have a little bit longer maturity.

23                  CHAIRMAN SCHMIDTLEIN: And so, you have plans  
24 already drafted with regard to each of these potential  
25 investments that shows the maturity curve that would be

1 required?

2 MR. LIOTINE: Yeah, we could show a typical  
3 maturity curve for each of the kinds of investments. That's  
4 kind of why we put them in those three buckets in Exhibit 1,  
5 confidential Exhibit 1, because the production and  
6 manufacturing ones have a certain set of characteristics.  
7 The plans that we had started that we curtailed or ended  
8 have a different set of characteristics. And then the new  
9 innovation are robust ideas, but had not been yet started.  
10 So they probably have a third set of characteristics.

11 CHAIRMAN SCHMIDTLEIN: Okay. So could you  
12 submit those plans post-hearing? These are the plans to  
13 support this --

14 MR. LIOTINE: We could submit the  
15 characteristics of those plans post-hearing, absolutely.

16 CHAIRMAN SCHMIDTLEIN: That show the various  
17 time horizons? Okay.

18 So Mr. Levy, since they don't have that -- well,  
19 let me ask you this before I move on, Mr. Liotine, can you  
20 tell me what would be a minimum operating margin that you  
21 would need to see in order to make these investments?

22 MR. LIOTINE: We can certain provide that  
23 post-hearing. It's confidential information.

24 CHAIRMAN SCHMIDTLEIN: Okay. All right, I  
25 appreciate it. And so, Mr. Levy, you've, well, I should say

1       you've testified, you have made several statements this  
2       morning with regard to the rate of return that the compass  
3       model shows. And that that's an adequate rate of return.  
4       That's not an excessive rate of return. Since the industry  
5       witnesses don't have access to that, what do you base that  
6       on?

7                   MR. LEVY: I think we'll address that in our  
8       post hearing, because we obviously have knowledge of the  
9       company's prorate of return. We also have an understanding  
10      of what the compass model shows. But they don't. So we'd  
11      be able to connect those dots for you in a post-hearing  
12      submission.

13                   CHAIRMAN SCHMIDTLEIN: Well, I mean, so but is  
14      it that just your view that it's adequate? I mean, you're  
15      not in the industry? You represent the industry as a  
16      lawyer.

17                   MR. LEVY: It's our best judgment. And you  
18      know, we'd be happy to elaborate upon it. But you know  
19      there is an element of guess work here. It's forward  
20      looking. But the compass model is just one such tool. And  
21      it does not purport to be perfect. But --

22                   CHAIRMAN SCHMIDTLEIN: No, and I'm trying to get  
23      at is how do we look at what a reasonable rate of return is  
24      for, you know, the washing machine division?

25                   MR. LEVY: Yeah, I mean --

1                   CHAIRMAN SCHMIDTLEIN: Laundry appliances?

2                   MR. LEVY: I guess there are two questions,  
3 right? What would be windfall profitability for the  
4 domestic industry for lack of a better word. And I think  
5 the Commission may be in a better position to judge that.

6                   But a related question would be what level of  
7 operating profit over what period of time is necessary to  
8 people like Mr. Liotine to review and approve new  
9 investments? And so I think that what we'll be able to do  
10 is juxtapose those business assumptions with what we see in  
11 the compass model, but only the Commission could make, you  
12 know, a judgment about what level operating profit is  
13 adequate as compared with excessive.

14                  CHAIRMAN SCHMIDTLEIN: I agree, but I guess I  
15 was -- you're not able to disclose here what you base your  
16 statement on that this is adequate?

17                  MR. LEVY: No.

18                  CHAIRMAN SCHMIDTLEIN: Because that's business  
19 confidential?

20                  MR. LEVY: Again, I have line of sight as to  
21 what hurdle rates of return are for the industry.

22                  CHAIRMAN SCHMIDTLEIN: Based on your review of  
23 business confidential information?

24                  MR. LEVY: Based on my understanding of past  
25 projects that were considered and rejected.

1                   CHAIRMAN SCHMIDTLEIN: Okay. All right. My  
2 time is up. Vice chairman Johanson?

3                   VICE CHAIRMAN JOHANSON: Thank you, Chairman  
4 Schmidtlein.

5                   You all argue that the Commission should  
6 recommend the imposition of a quota on covered parts equal  
7 to the average quantity of imports that such parts during  
8 the 2014 to 2016 period. And this appears at page 19 of  
9 your brief. Given your recognition that such imports were  
10 typically used only for repair and service, why should the  
11 Commission recommend that imports of parts within such a  
12 quota also be subject to a 50 percent tariff?

13                   How would imposing a 50 percent tariff on  
14 imports of parts needed to repair and service existing large  
15 residential washers be consistent with the requirement that  
16 the cumulative impact of the Commission's remedy  
17 recommendation not exceed the amount necessary to prevent or  
18 remedy the serious injury which that requirement of course  
19 appears in the statute?

20                   MR. LEVY: Commissioner, thank you for that  
21 question. I think it's a very fair question. I think we've  
22 asked ourselves that question. Frankly, the way in which  
23 the proposal was fashioned was to look at what was in scope  
24 and to have a one-size fits all tariff of 50 percent. And  
25 then to reflect on the circumvention related issues arising



1 from the covered parts, where the quota was proposed.

2 When you look more carefully at it, I think one  
3 could very reasonably conclude that the imposition of the 50  
4 percent tariff on the covered parts is neither necessary nor  
5 sufficient to address the needs of the statute.

6 Or put another way, were the Commission to  
7 recommend a 50 percent tariff on covered LRW on finished  
8 LRWs, and only a quota, but not a tariff on covered parts,  
9 we would be at peace with that result.

10 The way in which our remedy was proposed and  
11 structured was frankly motivated by simplicity. But you  
12 know, if you were to focus on the treatment of covered  
13 parts, you know, removal of the 50 percent tariff is  
14 something that would be not unreasonable.

15 I mean, it's worth noting parenthetically that  
16 the volume at issue here is trivial. And so, a 50 percent  
17 tariff on that volume is also peanuts. And so, you know,  
18 the impact from a consumer point of view is essentially a  
19 rounding error.

20 But with that said, we have no issue with the  
21 removal of a 50 percent tariff from the remedy  
22 recommendation on covered parts. The essential remedy for  
23 covered parts is the quota.

24 VICE CHAIRMAN JOHANSON: Thank you, Mr. Levy.

25 And this is for both Whirlpool and Haier G.E.,

1 to your knowledge, at what point does an assembly of large  
2 residential washer parts become a large residential washer  
3 in the eyes of Customs and boarder protection? In other  
4 words, can one import an LRW that lacks a motor and  
5 therefore falls under covered parts on this investigation or  
6 be counted as an LRW?

7 MR. GETLAN: Miles Getlan on behalf of Whirlpool  
8 Corporation. I'll take a stab at that as that's a legal  
9 question on really how Customs and border protection would  
10 classify the item.

11 Certainly, articles that are short of a finished  
12 LRW can be treated or classified as a finished LRW I believe  
13 the test that Customs applies is whether the incomplete  
14 washer comprises the sort of the essential character of the  
15 washer. I don't believe Customs has actually opined on that  
16 before in a ruling. We could search and confirm that or  
17 provide further information in post-hearing, but what you  
18 heard Casey describe over there in reference to the covered  
19 parts is that we believe those parts are sort of the heart  
20 and soul of a washer. Whether Customs would agree with that  
21 from a legal perspective or classification perspective is  
22 uncertain.

23 Obviously, there could be an argument that you  
24 know they -- they are essentially an incomplete washer  
25 especially if imported together, but given the uncertainty

1       there, it would be critical to include those parts in a  
2       safeguard remedy.

3                   VICE CHAIRMAN JOHANSON: Thank you, Mr. Getlan.

4                   LG argues at pages 30 to 33 of its brief that it  
5       may lose as a result of the imposition of a remedy four  
6       spots at many retailers during 2018. They say that it is  
7       easy to imagine how difficult it is to regain a floor spot  
8       once it is lost to a competitor. I will note as an aside  
9       that this is -- that this argument sounds familiar and it's  
10      one that Whirlpool has been making to the Commission since  
11      2012. With that, I would like to hear whether Whirlpool and  
12      GE would view the loss of floor spots by imports as an  
13      opportunity to realize some of the goals presented in your  
14      adjustment plans?

15                  MR. TUBMAN: First off, of course, if they were  
16      to lose flooring, we would love to gain that flooring back.  
17      I think I can answer that one easily.

18                  When we talk about flooring and I think when you  
19      talk about it on a longer time frame, that was in reference  
20      to maybe a Kenmore specific where it's a three year  
21      contract. When we speak of other flooring, that's a -- and  
22      I think I've said this many times, we fight day-to-day at  
23      the wholesale level for our flooring and to maintain that  
24      flooring to keep it, or to gain it back if it's lost.

25                  The idea that retailers are only asking once a

1 year to change their floor, it's just not true. We are  
2 changing models on the floor on a regular basis. Others are  
3 changing their floor models on a regular basis. And so,  
4 again if you -- I'm give you an example. The local brand  
5 scarf, if you went there one day, you would see an  
6 assortment of washers. And if you went there a week later,  
7 you may see a different assortment because if somebody made  
8 them an offer that they couldn't refuse, they would put it  
9 on the floor.

10 So this idea of once flooring's lost, it's lost  
11 forever, it's just not the case. You can fight for your  
12 floor every day. We've done it for years. And we'll  
13 continue to do it into the future.

14 MR. LIOTINE: Joe Liotine, Whirlpool. I mean,  
15 in addition, the remedy we're asking for is a tariff. So  
16 that shouldn't be a consequence to losing flooring. They  
17 still have the availability to ship product in. We're not  
18 restricting that in any way.

19 I do find, you know, I know you referenced it,  
20 that you know, it's our argument in terms of flooring and  
21 the need for buyers to put it on. But you know, they're  
22 making both sides of all arguments when convenient. We  
23 would say it is difficult to keep floor spots on, but there  
24 is no static one year horizon. I don't think there's any  
25 example of that, retailers are constantly adjusting their

1 floor for holiday promotions, adding models, called in and  
2 outs and things like that. So I don't think the data or the  
3 support at retail would demonstrate that.

4 MR. LEVY: And Commissioner, if I could add, I  
5 take a little bit of umbrage at this argument from  
6 respondents. You know, for years in these dumping cases  
7 we've been telling you that imports and domestic producers  
8 have comparable products such that they compete for flooring  
9 on the basis of price. And for years, they've been telling  
10 you price, schmice, it's all about innovation and curb  
11 appeal and they think they're better. And consumers make  
12 decisions, not flooring.

13 Now they're telling you hold on a second. 50  
14 percent tariff? We're going to have to raise price. If we  
15 raise price, we're going to lose flooring. If we lose  
16 flooring, we're going to lose sales. We're going to lose  
17 market share.

18 And then if we wake up in two years and we find  
19 ourselves U.S. producers, we're going to have to buy our way  
20 back on to the floor with higher costs. We don't like that.  
21 Well, with all due respect, the whole purpose of the tariff  
22 is to restore their pricing to non-injurious levels. They  
23 don't get a right to bypass the remedy. The whole purpose  
24 of the remedy is to restore their prices to non-injurious  
25 levels. And if that means that U.S. producers win flooring

1 and win volume and improve capacity utilization, and improve  
2 their operating profits and reinvest, that's exactly what  
3 the safeguard law is all about. They don't get a right or a  
4 free pass to preserve their market share while they try to  
5 become U.S. producers. That's not the way the law is  
6 working.

7 MR. JONES: Yeah, Earl Jones, GE Appliances.  
8 Yeah, I would just add that the remedy we're seeking is not  
9 a ban. So there's nothing preventing them from continued to  
10 bring their products into the United States. They simply  
11 have to pay the tariff.

12 If the tariff then means that they have to raise  
13 their prices to their dealers, well, that means that they're  
14 maybe not being given the opportunity to correct maybe how  
15 they got the flooring to begin with through unlawful or  
16 rather at least injurious pricing.

17 So I don't see they can be heard to complain if  
18 they're now having to play by the same rules as everybody  
19 else. And as the point's already been made, indeed,  
20 flooring decisions, promotions, very dynamic. Go to any  
21 store during black Friday or now black December, black  
22 November, whenever the hell it is. It's black all the time  
23 in terms of sales. And so, you'll see that that in fact a  
24 bogus argument.

25 VICE CHAIRMAN JOHANSON: Thank you, Mr. Jones

1 and others. My time is expiring.

2 COMMISSIONER WILLIAMSON: Mr. Staber, you've  
3 talked about innovation in your company in the 90s. And I  
4 was wondering if the remedy's imposed, what would that do to  
5 your ability to say innovate now in this decade?

6 MR. STABER: Bill Staber from Staber Industries.  
7 We're always looking for new things that we can do. We just  
8 scrapped our -- we were using a plastic top lid. And we  
9 just changed that all over to a stainless top and lid. It  
10 would allow us to -- if the pricing levels would increase,  
11 obviously, we would be able to sell more washers. And it  
12 would allow for some automation in our facility. Currently,  
13 right now, our laser is getting out dated and we're going to  
14 be investing over a million dollars in a fully automated  
15 laser system. So I would look for more automation.

16 COMMISSIONER WILLIAMSON: Okay. By the way, I  
17 don't think I've ever seen one of your washers. What's sort  
18 of your market niche or?

19 MR. STABER: You can't find them. We never  
20 could play the big boy game and go into the Lowes and the  
21 Home Depots and the big box stores. So right now, they're  
22 all sold via the Internet. They're all shipped direct from  
23 the factory to the end user.

24 COMMISSIONER WILLIAMSON: Okay. Are kitchen  
25 design companies, what are your --

1 MR. STABER: The company.

2 COMMISSIONER WILLIAMSON: One of those vehicles  
3 by which you get into houses?

4 MR. STABER: Yeah, that's more so for  
5 residential drawing cabinet. But we're trying to get in on  
6 the front of a design of a home because you have to make  
7 space for that. So we are very actively involved in the  
8 designers and the architects, especially on the residential  
9 drawing cabinet.

10 COMMISSIONER WILLIAMSON: Okay, thank you.  
11 That's helpful. I just wanted context.

12 Going back to this question of the parts, if the  
13 Commission were to recommend a TRQ or quota remedy for  
14 covered parts would it be appropriate to permit some  
15 reasonable level of imports to permit LG and Samsung to ramp  
16 up production? Now I know you said these aren't the parts  
17 that you would want to import, but I was just curious on  
18 that.

19 MR. LEVY: Quota uncovered parts, it would be  
20 reasonable to allow a volume in duty-free that is calibrated  
21 to meet the repair and replacement needs of consumers.

22 The question is, is it reasonable to give them  
23 an additional volume to facilitate the ramp up of  
24 production. You know to me this is code for saying while  
25 we're still not established as a U.S. producer can we for a



1 little while circumvent the 50 percent tariff on finished  
2 LRWs and in the process deprive the existing U.S. producers  
3 of the relief intended under the safeguard law. Can we just  
4 for a while continue to undermine the remedial affect of the  
5 Order and can we just for a little longer frustrate the  
6 ability of existing U.S. producers to have positive  
7 adjustment in terms of new investment decisions. We  
8 respectfully submit that the answer is absolutely not.  
9 That's not what the law is for. It's a circumvention.

10 COMMISSIONER WILLIAMSON: Okay. In our 337  
11 exclusion orders, we usually have a certification provision  
12 and could a certification provision work for a repair or  
13 replacement parts in this investigation?

14 MR. LEVY: Possibly. I think that would be a  
15 question for the administration to consider is whether  
16 that's administrable for CBP. But what's different in this  
17 case is that to the extent Samsung and LG have facilities  
18 CBP can show up there and conduct audits and see how these  
19 products are being imported and used. And so in, principle,  
20 if CBP is willing to devote resources to enforcement, we  
21 think that's within the realm of possibility, but we would  
22 defer to the administration in terms of understanding what  
23 it has resources to do.

24 COMMISSIONER WILLIAMSON: Okay. So I guess  
25 CBP's resources are an issue sometimes.

1                   You've talked about when you were considering a  
2 TRQ, and I know you've gone away from that, but have you  
3 thought about a TRQ in which there was a tariff for the end  
4 quota amount, but at a lower level and then at a higher  
5 level for out of quota products and have you ever given any  
6 thought to that? And I would also ask the Respondents to  
7 address that too.

8                   MR. LEVY: I mean what I tried to convey at the  
9 onset that a tariff that is significantly lower than 50  
10 percent, at least according to Compass, doesn't seem to get  
11 the job done. And so if you were just to say inside the TRQ  
12 issue for a moment say, well, what about a tariff of 40  
13 percent and I think the Compass model would reveal that  
14 pretty soon the magnitude of the relief doesn't cut the  
15 mustard.

16                   So by the same token, if you were to have a TRQ  
17 that would say some base volume is 30 percent and the  
18 remainder is 50 percent, well, you know on a blended basis  
19 that's the functional equivalent of 40 percent, which we've  
20 just determined doesn't cut the mustard. So you know the  
21 way we think about TRQs, as we look at the data, is that it  
22 is, plain and simple, a dissolution of a 50 percent tariff,  
23 which is what we think is required given the facts on the  
24 record.

25                   COMMISSIONER WILLIAMSON: Okay, thank you. And

1 if you have further thoughts about that post-hearing --

2 MR. LEVY: Yes, be happy to. Thank you.

3 COMMISSIONER WILLIAMSON: -- it would be  
4 appropriate.

5 MR. LEVY: I guess the only other -- I'm sorry,  
6 Commissioner, to interrupt.

7 COMMISSIONER WILLIAMSON: Go ahead.

8 MR. LEVY: The only other point in relation to  
9 TRQs is that Respondents seems to be wanting a TRQ where the  
10 base volume is an addition based on a recent time period,  
11 essentially, trying to lock in injurious volume levels at  
12 some lower rate and so just as a matter of effectiveness it  
13 would seem to be a step in the wrong direction.

14 COMMISSIONER WILLIAMSON: Okay, thank you.

15 Mr. Fish, I didn't ask you this question. What  
16 about innovation in terms of the parts that you produce and  
17 how would the remedy affect the ability to innovate on that?

18 MR. FISH: I would say similar to what Whirlpool  
19 has described. As we would produce more components for  
20 washing machines, if the remedy were effective, it would  
21 provide more profits that we could then put into our R&D  
22 efforts, both from a product and process standpoint.

23 COMMISSIONER WILLIAMSON: Okay, thank you. And  
24 why don't you elaborate on ways that do it.

25 MR. FISH: Yes, so we oftentimes bring

1 productive initiatives to Whirlpool with the volumes and  
2 margins where they are today that impedes, at times, the  
3 ability to go spend and go invest in the type of R&D efforts  
4 or invest in equipment that can help us determine these new  
5 products or features that we can present to Whirlpool or any  
6 types of equipment or technologies that we can invest in,  
7 like software and 3D printers and things of that nature.

8 COMMISSIONER WILLIAMSON: Okay, thank you.

9 The Petitioners have indicated that they would  
10 like to enter the extra large or jumbo segment of the  
11 market. How large is this segment and its share of the  
12 total washer market -- particularly, as a total share of the  
13 washer market and what are the projections for its relative  
14 size in the future?

15 MR. TUBMAN: We're going to continue to super  
16 size and super size. I think of this as washers all  
17 together, right, and the fact that we have a full plan to  
18 sell of washers. GE has a full plan to sell of washers. LG  
19 and Samsung have full plans to sell of washers. Again,  
20 we've said before and you've voted on this to say they're  
21 comparable, right? They're substitutable. They're  
22 comparable. They may have unique innovations, but in the  
23 end they can be substituted. So if we think about the  
24 jumbos in this case, again, those could be used as a form of  
25 circumvention to then crash dollar on the plan to sell

1 across the board.

2 So as a current size, they're not the majority.  
3 I can't give you an exact number without actually looking it  
4 up, but what I could say is I think our concern would be  
5 excluding anything that's remotely close to an LRW would  
6 then basically allow for circumvention and using that as a  
7 tool to crash down the market.

8 COMMISSIONER WILLIAMSON: Okay. I keep hearing  
9 the Millennials want to stay in town and that usually mean  
10 small apartments. I've always been inner city, so I'm  
11 always thinking of a washer that's going to fit.

12 MR. TUBMAN: That for sure our customer is  
13 looking for smaller washers. There are lots of customers  
14 looking for larger washers. It truly is a space  
15 constraint-type atmosphere. If you aren't in that position,  
16 you do go looking for maybe a smaller washer, but that's a  
17 very, very small portion of the business today.

18 COMMISSIONER WILLIAMSON: Okay, thanks.

19 Since the injury hearing have there been any  
20 developments regarding the condition of Sears and the volume  
21 of sales of its washers? And I don't know if you can do  
22 this now or post-hearing.

23 MR. TUBMAN: I think we'd be happy to answer  
24 that post-hearing in a confidential brief.

25 COMMISSIONER WILLIAMSON: Sure, good. Thank

1       you.

2                       Should the Commission take into account the  
3       affects that a remedy might have on consumers; in  
4       particular, a reduction of consumer choice that might result  
5       from a large reduction in imports and what about the net  
6       welfare affect of this?

7                       MR. TUBMAN: I would say it this way. A  
8       consumer should be able to buy the same thing tomorrow that  
9       they buy today. We're not asking for a quota. We're not  
10      asking to ban anyone from bringing their machines to the  
11      U.S. All we're asking for is to bring them at a fair price.  
12      So again, from a selection standpoint, we don't see that  
13      changing.

14                      COMMISSIONER WILLIAMSON: Okay. Anything you  
15      have on this subject post-hearing, in terms of numbers and  
16      all, would be helpful; but my time has expired. So thank  
17      you.

18                      CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

19                      COMMISSIONER BROADBENT: Okay. For the  
20      economist, Mr. Boyce, if the Commission were to recommend a  
21      quota or TRQ instead of a tariff, would such a quantitative  
22      restriction be effective at increasing prices of imports,  
23      given that they're only two meaningful sources of imports  
24      and that these firms would likely compete aggressively with  
25      each other to fill the quota, even if the quota were

1 administered on a country-by-country basis?

2 MR. BOYCE: Generally speaking, economists do  
3 not favor quotas in contrast to tariffs because of the  
4 possibility of corruption, the possibility that whoever  
5 administered this, and in the case of Korean companies, LG  
6 and Samsung, they would probably be administered by the  
7 Korean government and one way or the other the rents coming  
8 from the quotas would be captured by the foreign  
9 governments rather than the U.S. government in the form of  
10 tariffs.

11 Your question about would the quotas serve to  
12 raise prices, yes. How that happened in terms of, say, a  
13 foreign government issuing export licenses that had to be  
14 paid for is one way that might be affected.

15 COMMISSIONER BROADBENT: Okay, but even if we  
16 had this sort of fierce competition between the two sources  
17 of imports?

18 MR. BOYCE: You're saying between LG and Samsung  
19 I don't see how that would change the normal situation with  
20 respect to quotas at all. Typically, you have multiple  
21 entities competing to fill the quota.

22 COMMISSIONER BROADBENT: Okay, thank you.

23 If the Commission -- this is for you again, Mr.  
24 Boyce. If the Commission decides to recommend a quota of  
25 any kind, whether in covered parts or all imports, do you

1 agree with Respondents that such a quota should be global as  
2 opposed to country-specific?

3 MR. LEVY: Madam Commissioner, if I could just  
4 jump in on that one, we'll address it more fully in  
5 post-hearing briefs, but I think what Respondents are saying  
6 is that countries like Vietnam and Thailand want to get  
7 credit for the injurious and dumped volumes from China and  
8 that's why they are desperate to get away from  
9 country-specific quota allocations and they want, instead,  
10 to have a global quota.

11 Again, we are not advocating for a quota because  
12 of all of the various distortions that a quota introduces  
13 into the mix, but I think that the nature of what they're  
14 advocating for it's pretty clear where they're coming from,  
15 right? That Thailand and Vietnam want credit for the  
16 injurious Chinese volumes. Essentially, Samsung and LG  
17 saying that they want to be able to preserve their right to  
18 continue shipping at those injurious levels no matter which  
19 country to which they might hop.

20 COMMISSIONER BROADBENT: Okay. This is for Mr.  
21 Liotine and Mr. Tubman and Mr. Jones.

22 On page 14 of the Petitioner's brief, you state  
23 that the creation of additional jobs at the Samsung and LG  
24 facilities in the United States would be a positive for the  
25 domestic industry. That makes sense, but is it a positive



1 for GE Appliances and Whirlpool to have two producers as  
2 domestic competitors instead of importers. Given your  
3 allegations that they've engaged in unfair trade, why would  
4 they not take an aggressive tact while producing within U.S.  
5 borders?

6 MR. LIOTINE: I guess our comments are meant to  
7 say that if they're in the same environment and context as  
8 we are, having to buy steel, in compliance and resins with  
9 the same prices that we have to buy, following the same  
10 labor laws that we follow and regulation and energy and  
11 everything else, we're confident and comfortable we can  
12 effectively compete. And so from that standpoint, it's a  
13 positive and we think that we should be able to compete very  
14 well in that regard.

15 COMMISSIONER BROADBENT: Mr. Tubman?

16 MR. TUBMAN: I guess the only thing I would add  
17 is for the last 100 years that's what we've been able to do.  
18 And again, without government subsidization or other  
19 incentives or cheap labor, other things like that that they  
20 would have to fight a fair fight at that point in time, we  
21 would expect.

22 COMMISSIONER BROADBENT: Okay, Mr. Jones?

23 MR. JONES: Yes, it's the same response. We've  
24 done that for years and there's no reason why we wouldn't  
25 continue to do so with these new entrances. And if they

1 were to -- you said they would continue their -- I can't  
2 recall the adjective you used, but it was something  
3 predatory or some other kind of adjective. Those might not  
4 be remediable in this forum, but they might be in others  
5 if, indeed, they pass other lines.

6 COMMISSIONER BROADBENT: Okay, thank you.

7 Mr. Levy, I'll give this one to you and maybe  
8 you can assign it. How much of the value of the remedy that  
9 you are proposing would go to the workers as opposed to the  
10 shareholders of Whirlpool?

11 MR. LEVY: I'm not sure how to answer that. I  
12 think we'll need to carefully consider that and give you  
13 kind of a thoughtful economic assessment post-hearing. It's  
14 an interesting question. I think it's clear that you know  
15 the number of workers to be added is in excess of 1300.  
16 You've heard testimony which in indirect jobs another 10,000  
17 plus is another estimate we've heard. We could also measure  
18 the operating profits for the company as a result of the  
19 measure according to the Compass model. So I think we could  
20 provide an accounting in terms of the welfare affects for  
21 workers and the welfare affects for producers and be able to  
22 line those up for you, so we'll endeavor to do that. I  
23 think it's a thoughtful question and I look forward to  
24 seeing the answer myself.

25 COMMISSIONER BROADBENT: Okay, fair enough.

1                   What all do you see in the remedy for trade  
2                   adjustment assistance? Have either of your companies,  
3                   either GE or Whirlpool had experience with TAA?

4                   MR. LEVY: To our knowledge, there have been no  
5                   TAA applications during the POI for Whirlpool or GEA or  
6                   Staber, for that matter. I think maybe one or two upstream  
7                   suppliers have had TAA applications, to our knowledge. I  
8                   could be wrong, but that's our understanding based on some  
9                   research. And that shouldn't be surprising because we're in  
10                  an environment where demand has grown year over year over  
11                  year throughout the POI and so domestic producers are  
12                  increasing shipments and maintaining or adding jobs  
13                  throughout the period, but losing share. And so this is not  
14                  an environment where the nature of the serious injury has  
15                  been job loss, but rather under employment and so Trade  
16                  Adjustment Assistance would not appear to be an appropriate  
17                  remedy in this case.

18                  MR. JONES: We agree with that. That, indeed,  
19                  is the case for us as well.

20                  MR. BISHOP: Bring your mike a little closer,  
21                  please.

22                  MR. JONES: Sorry. I said that, indeed, has  
23                  been the case for GE Appliances as well. There've been no  
24                  Trade Adjustment Assistance petitions filed within recent  
25                  memory for the washer business.

1                   COMMISSIONER BROADBENT:   Okay.

2                   Mr. Levy, for Whirlpool and then also for GE is  
3                   this question, Samsung provided a list of parts that it  
4                   plans to source from imports and from domestic content in  
5                   its new operation in Exhibit 15 of its post-hearing injury  
6                   brief. Samsung also gives an estimate of their domestic  
7                   value added on page 6 of their pre-hearing remedy brief. Do  
8                   Whirlpool and GE have lists of parts that they import  
9                   compared to those that they source domestically and do you  
10                  have estimates of domestic value added in your LRW  
11                  manufacturing operations?

12                  MR. LEVY: We've provided much of that  
13                  information in our questionnaire response insofar as  
14                  Whirlpool's imports are made through an FTZ and I think  
15                  there's been great interest in FTZs in this proceeding, so  
16                  we've provided the detail in terms of value and we've  
17                  provided a high-level characterization of the parts. We'd  
18                  be happy to provide a more detailed inventory in our  
19                  post-hearing submission.

20                  MR. MAGNUS: The staff collected information  
21                  about imports of components that were imported in a specific  
22                  way through the FTZ. They actually didn't ask about  
23                  components that were imported in the normal way and not run  
24                  through the FTZ, so the picture that you have in the data,  
25                  which are confidential data is, to that extent, not an

1 entirely complete one, but it is very, very largely complete  
2 because except during a very brief period for some strange  
3 reasons that we explained in a footnote, the components  
4 that could've come in, in the normal way were just run  
5 through the FTZ anyway, even if there was no particular  
6 commercial reason to structure it that way.

7           So the picture you have is essentially a  
8 complete picture of the component imports. The extent to  
9 which the production of large residential washers and  
10 Appliance Park relies on imported components and the nature  
11 of the components and the amount of money involved. It  
12 can't be discussed here, but I think you have a very  
13 complete picture of it that the staff collected in the  
14 confidential record.

15           COMMISSIONER BROADBENT: Okay. Well, if you  
16 could just review that so we have an estimate for the  
17 domestic value added in your manufacturing operations that  
18 would be helpful. Thank you.

19           CHAIRMAN SCHMIDTLEIN: Okay, so did I understand  
20 you, Mr. Levy, you said the questionnaire responses included  
21 a list of the parts that were imported by Whirlpool, but  
22 you're going to review that to ensure -- I haven't looked at  
23 the questionnaire responses in raw form, so I don't know if  
24 that's true.

25           MR. LEVY: I think the way the questionnaire

1 response -- the questionnaire was structured it was asking  
2 about imports through FTZs, which is how Whirlpool makes its  
3 imports at Clyde. So we've given quantity and value detail,  
4 if memory serves, for those imports. And I think in a  
5 footnote to the table we provide an illustrative list of the  
6 kinds of items that are being imported and that are embedded  
7 in that number which, I think on average, has been 7 percent  
8 of the value of a washer. And so we can provide a more  
9 robust inventory of parts and not just maybe whatever the  
10 half dozen illustrative lists to give you a kind of -- you  
11 know go deeper into the list in terms of an inventory of  
12 what's imported.

13 CHAIRMAN SCHMIDTLEIN: Okay, that would be  
14 helpful. Alright, thank you.

15 And so with regard to the scope here -- I know  
16 we've talked a lot about this, but I just want to make sure  
17 that I understand before we leave here this morning. In the  
18 scope, the way it's written, right, you've got it with these  
19 various parts that you've brought. And with regard to  
20 cabinets, it does break out say "or portions thereof." So  
21 my question is for your interpretation of the scope, if  
22 those particular subassemblies were broken down into their  
23 various parts, which here could include a side wrapper, a  
24 base, a drive hub, that kind of thing. Would those be  
25 covered if they were being imported, not assembled in this

1 way, but as the individual parts.

2 MR. LEVY: So I think with regard to cabinets I  
3 think you're correct, Madam Chairman, that the parts of a  
4 cabinet individually are intended to be covered. With  
5 regard to tub assemblies and basket assemblies, there are  
6 other things that need to be affixed in order for it to be  
7 covered and so it would be enough to bring in just a side  
8 wrapper, by way of illustration. It would be the  
9 combination of those criteria listed in the scope.

10 This is not something that we calibrated for  
11 this safeguard proceeding. It's the identical scope to the  
12 China case. It's nearly identical to the scope from the  
13 Korea/Mexico case, so this language was developed,  
14 essentially, in 2011 with an eye to circumvention and we  
15 thought it appropriate to just stick with what we had. So  
16 are there some potentials for loopholes here, we hope not,  
17 but only time will tell.

18 CHAIRMAN SCHMIDTLEIN: Okay. And I just had a  
19 couple other questions. One, I meant to ask about this  
20 earlier. You just referenced 1300 employees, which I know  
21 was a statement that Mr. Fetick made in the injury hearing.  
22 Where does that number come from?

23 MR. LIOTINE: That number comes from us looking  
24 at all the three components of the adjustment plan and the  
25 type of labor required to execute that plan at Clyde. So

1 some of it is you know adding a line share for capacity  
2 utilization. Some of it is new products as we launch them  
3 and lines that we would add for those. So it's a  
4 combination of all those things, assuming certain  
5 assumptions on volume certainly as part of the equation.

6 CHAIRMAN SCHMIDTLEIN: Okay. Can you provide  
7 the assumptions that you were using in the post-hearing?

8 MR. LIOTINE: I can provide that post-hearing.

9 CHAIRMAN SCHMIDTLEIN: So that 1300 number is  
10 assuming you did all the investments that are in your  
11 adjustment plan?

12 MR. LIOTINE: Yes. And obviously, it's ranges  
13 on some of these ideas because they're a forecast, but yes.

14 CHAIRMAN SCHMIDTLEIN: Okay.

15 MR. LEVY: And Madam Chairman, just to refer to  
16 confidential Exhibit 2, which is that executive summary of  
17 the Compass results.

18 CHAIRMAN SCHMIDTLEIN: right.

19 MR. LEVY: I think it's line 15 shows you what  
20 the change in PRWs is, according to the Compass model. It's  
21 not exactly the same as what Mr. Fetick testified to. No  
22 economic model is perfect, but directionally I think there's  
23 some similarities and I just wanted to call that to your  
24 attention.

25 CHAIRMAN SCHMIDTLEIN: Okay, thank you.



1                   My last question has to do with the flex wash  
2                   and the Respondents would like that to be excluded. And so  
3                   my question for you is since the scope does exclude extra  
4                   wide -- washers that have extra wide cabinets, right,  
5                   greater than 28 and 1/2 inches and my understanding of the  
6                   theory of that was it was because you do not manufacture  
7                   extra wide cabinets. So why do you oppose exclusion of the  
8                   flex wash since you don't currently manufacture that and it  
9                   was only recently brought online towards the end of the POI?

10                   MR. TUBMAN: Again, I'll say the same thing I  
11                   said before a little bit, but again, this is a 27-inch  
12                   washer similar to the other 27-inch washers up and down the  
13                   plan to sell. The concern we would have is this is a piece  
14                   that could be used to then crash down the plan to sell. So  
15                   again, if you could add the extra washer on the top and  
16                   bring that model in without a tariff on it, you could use  
17                   that model to replace the models that you have in the  
18                   market today and basically take your plan to sell and just  
19                   collapse it down.

20                   We today already see that discounted over 30  
21                   percent and so we would just expect them to keep discounting  
22                   it more and basically replace all their --

23                   CHAIRMAN SCHMIDTLEIN: But you don't think that  
24                   can happen with a cabinet that's an inch wider?

25                   MR. TUBMAN: An inch and a half, yes.

1                   CHAIRMAN SCHMIDTLEIN: Inch and a half, okay.

2                   MR. TUBMAN: The 28 and 1/2 is truly a 29 and 30  
3 in Samsung's case. And so as we talk about space  
4 constraints and what people can fit in their homes that does  
5 limit the amount of people that can fit that in the home and  
6 so that's I'll say probably a lesser concern. Is it a  
7 concern? Absolutely. I'm still concerned they could use  
8 that piece. We do know that there are consumers out there  
9 who cannot use that in their home and a significant number  
10 of them.

11                  MR. LIOTINE: Just to add to Casey's comments, I  
12 mean the way that flex wash is currently merchandised in a  
13 store today is literally in the middle and in between all  
14 these other products, so it's set up as a substitutable  
15 choice for consumers. And when you peel back what a flex  
16 wash is, it's really providing flexibility, so it's offered  
17 in lots of different ways from lots of different  
18 manufacturers in terms of features. Some offer a quick  
19 wash. Some offer color last technology where you can mix  
20 all kinds of colors. Some offer customized cycles for  
21 whatever the fabric is, so it's just providing flexibility.  
22 It's a feature that provides flexibility and nothing more.  
23 There's nothing unique in its overall dimensions, how it's  
24 merchandised or where it resides, and what consumers would  
25 possibly consider that product versus another.

1                   And so to Casey's point, that product is already  
2 greater than 30 percent discount consistently. And so we  
3 would absolutely feel the price compression of that product  
4 as it hits the other products on its left and to its right.  
5 And so it very much is part of the merchandising line and  
6 the consideration set for consumers and buyers.

7                   CHAIRMAN SCHMIDTLEIN: Okay. Thank you very  
8 much. I don't have any further questions. So Vice-Chairman  
9 Johanson?

10                  VICE CHAIRMAN JOHANSON: Thank you, Chairman  
11 Schmidtlein.

12                  On page 14 of your brief, you state that you're  
13 skeptical of LG and Samsung's commitment to U.S. production.  
14 How do you then respond to the milestones listed on page 10  
15 and 11 of LG's brief detailing construction progress?

16                  MR. LEVY: Jack Levy for Whirlpool. Some of the  
17 detail in their submissions is proprietary, so we'll give a  
18 complete response post-hearing. But I think it's clear that  
19 the seriousness of the commitment to U.S. investment in  
20 washers has corresponded quite a bit to the timing of this  
21 case.

22                  So just by way of illustration, what we see at  
23 LG's facility, at least as of a month ago, is a site that  
24 doesn't look all that different from the site that was  
25 prepared in Brazil, where hundreds of millions of dollars in

1 investment was committed, and nothing materialized.

2 Why? Because presumably market conditions  
3 changed. And economic incentives caused them to rethink  
4 their commitment. So on the left you have Brazil, on the  
5 right we have Tennessee. Will the image on the right turn  
6 into a fully functioning washing machine plant? Well, I  
7 think the answer will depend largely on the remedy in this  
8 case.

9 The ability of Samsung and LG to reverse course  
10 and to shift manufacturing locations is not speculative.  
11 It's proven by their behavior, first moving from Korea and  
12 Mexico to China, and then from China to Vietnam and  
13 Thailand, and now apparently from Vietnam and Thailand to  
14 Tennessee and South Carolina.

15 But we respectfully submit only if this remedy  
16 has teeth and doesn't have loopholes. Similarly, in the  
17 case of Samsung, if you look at the timing of their  
18 investments, this is what we can see in the press. You  
19 know, at the beginning of 2017, you know, sort of everyone  
20 is feeling the Trump effect, for lack of a better word, and  
21 at that time, in January, they're talking at a high level  
22 about considering the establishment of appliance factories.

23 Nothing has been confirmed yet. Fast forward to  
24 March. They're talking about moving oven ranges to the  
25 United States and 500 jobs. Then lo and behold, there's a

1 safeguard petition, and then we're talking 950 jobs and now  
2 we know it's a washer plant. So the fact is, these are  
3 companies that respond, and they respond nimbly to economic  
4 signals.

5           And so if the economic signal of a 50% tariff is  
6 removed, we think that it's highly unlikely that they will  
7 follow through completely. They will either slow-walk the  
8 seriousness of their commitment to U.S. manufacturing, or  
9 they'll substantially curtail it, and I think the jury is  
10 very much out as to whether, when and to what extent, they  
11 become U.S. manufacturers.

12           And if this Commission is sincerely interested  
13 in welcoming Samsung and LG to the community of U.S.  
14 manufacturing, there's no better way to ensure that they are  
15 committed, and committed quickly and deeply than to  
16 recommend a robust remedy without loopholes. Because then  
17 they will fully commit. They will vertically integrate, and  
18 they'll be here for the long-term, competing on a level  
19 playing field.

20           And I mean this sincerely. I can't think of  
21 another safeguard case that holds out this unique promise.  
22 It is really a special opportunity in the history of  
23 international economic relations. I think students will be  
24 writing about this case for decades to come, if we get it  
25 right.

1                   VICE CHAIRMAN JOHANSON: Thank you, Mr. Levy.  
2                   And I have just one more question. With respect to the  
3                   on-site monitoring by customs suggested on Page 21 of your  
4                   brief. If there were any potentially less intrusive ways of  
5                   accomplishing this goal, I would appreciate hearing your  
6                   suggestions. Most of us at the Commission do not have  
7                   enough familiarity with customers mandates to know whether  
8                   onsite inspections are either feasible or the most effective  
9                   method.

10                  MR. LEVY: Thank you. We'd be happy to do so in  
11                  the post-hearing.

12                  VICE CHAIRMAN JOHANSON: Mr. Levy, I look  
13                  forward to seeing that response and I would like to thank  
14                  all of you again for appearing here today.

15                  CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

16                  COMMISSIONER WILLIAMSON: Thank you. Just a few  
17                  more questions. Your arguments are based, at least in part,  
18                  on the anti-dumping rates from the China orders. Aren't the  
19                  underselling margins in the U.S. market a more appropriate  
20                  guidepost?

21                  MR. LEVY: Thank you, Commissioner. Our  
22                  recommendation for 50% tariff on finished LRWs is grounded  
23                  in the need to address the serious injury and to facilitate  
24                  positive adjustment. And what the economic modeling shows  
25                  is that the 50% tariff is required to get you there, in

1 terms of putting the domestic industry back in the black,  
2 and positioning it to approve new investments that will  
3 ensure their competitiveness, even beyond the safeguard  
4 period.

5 So in the first instance, the nature of the  
6 remedy is a function of economic effects, or modeled  
7 economic effects. The margin of underselling --

8 CHAIRMAN SCHMIDTLEIN: Also, that was the  
9 maximum you could get, too, wasn't it?

10 MR. LEVY: Yeah. And, you know, I think -- you  
11 know, one might ask, are you better off with a quota,  
12 because it mitigates the risk of duty absorption. But there  
13 was not an interest on the part of this domestic industry to  
14 stifle trade. We were looking for the least  
15 trade-distorting remedy as possible.

16 This is an industry where Samsung and LG have  
17 shown a capacity to sell below cost, a capacity to endure  
18 losses in order to buy market share. And the magnitude of  
19 underselling could have been much deeper had they needed it  
20 to be in order to buy market share. There will be some  
21 measure of duty absorption, even with a 50% tariff. You  
22 know, when you take a step back and you look at the scale of  
23 price depression over the POI, how prices have crashed so  
24 significantly, the magnitude of the margin of underselling  
25 hardly matters when U.S. producer prices have decreased,

1 substantially more than that margin of underselling.

2 And the name of the game is to restore the  
3 domestic industry to a position where they're not seriously  
4 injured. Now, one of the great gifts or potential from this  
5 safeguard measure is that much of that can be recouped  
6 through improved capacity utilization and reduced fixed unit  
7 costs. So this does not necessitate significant changes in  
8 prices for consumers. But at the end of the day, I think  
9 it's clear that a 50% tariff is what's required on this  
10 record.

11 COMMISSIONER WILLIAMSON: Okay. How do we take  
12 into account forecast for growth in future demand? One of  
13 the advantages of a tariff is that you really don't have to  
14 factor that in as much, but I was just wondering. To what  
15 extent is that factored into your calculations?

16 MR. LIOTINE: Joe Liotine, Whirlpool.  
17 Generally, we do have a favorable outlook on demand. We  
18 shared in the last hearing kind of the bubble that occurred  
19 ten years ago. The replacement cycle coming from that, plus  
20 the favorable outlook on housing also contributed to that.

21 We don't publicize a washer-specific number, but  
22 we have generally talked about major appliances in about a  
23 three to five percent range over the 2017 and '18 period at  
24 a minimum. And so we generally feel like that's gonna  
25 continue based on those fundamentals of the market.



1 COMMISSIONER WILLIAMSON: Okay.

2 MR. LEVY: Jack Levy for Whirlpool. I think  
3 it's pretty clear, in contrast to some other cases that the  
4 Commission has seen that, with a 50% tariff and given the  
5 depressed capacity utilization of the domestic industry,  
6 there should be zero concern about a supply shortage in the  
7 United States market.

8 COMMISSIONER WILLIAMSON: Okay. Thank you. You  
9 advocate that a remedy include monitoring of imports from  
10 excluded sixteen countries. Is there any precedent for this  
11 in prior safeguards? And how would you propose such  
12 monitoring work?

13 MR. LEVY: So we had focused on Canada and  
14 Mexico because the president shall exclude Canada and Mexico  
15 from any safeguard remedy. We think that one way for  
16 customers to monitor and enforce is to visit Samsung and  
17 LG's U.S. facilities, much as they would in a focused  
18 assessment of U.S. importers, review their books and records  
19 periodically to understand what's coming in and where it's  
20 coming from.

21 So that's fundamentally what we had in mind. In  
22 relation to the other FTA countries, we would simply say  
23 that we respect your decision that those countries taken  
24 individually, were not a substantial cause of serious injury  
25 during the POI.

1                   But that doesn't answer the question that the  
2 president needs to address. He may now exclude them, but  
3 he's by no means required to, and so he needs to assess,  
4 from a policy perspective, whether excluding those countries  
5 would subject the domestic industry to risks of  
6 country-hopping and other things that have been witnessed in  
7 the past.

8                   So I think the jury's out as to how other FTA  
9 countries shall be treated by the president. And your  
10 decision in relation to those countries gives him the  
11 authority and discretion to determine how best to address  
12 them.

13                   COMMISSIONER WILLIAMSON: Okay. Thank you. Are  
14 the GE and Whirlpool factories unionized, by any chance?  
15 Are your factories unionized? The GE factory and the one in  
16 Clydesdale?

17                   MR. LIOTINE: Speaking for the Whirlpool washer  
18 factory, it's not unionized.

19                   COMMISSIONER WILLIAMSON: Okay.

20                   MR. JONES: The GE appliance factory -- Earl  
21 Jones here -- is unionized, yes.

22                   COMMISSIONER WILLIAMSON: Okay. Reason why I  
23 ask this is, LG, I think it's Page 27, 28 of their brief.  
24 Their footnote 46, and I can go into detail. But it talks  
25 about, I guess, executive compensation, it's talking

1 particularly about Whirlpool, stock buy-backs and some  
2 overseas acquisitions.

3           And so my question is, and this follows along  
4 the question Commissioner Broadbent asked about how the  
5 workers benefit -- what are the chances the workers are  
6 gonna benefit if these remedies go into effect? And also,  
7 in a sense, may expect in your adjustment plans will require  
8 some sacrifice, and I notice it didn't address, you know,  
9 some of the -- I know it's been a long time that U.S.  
10 corporations have often been accused of being too  
11 short-sighted in terms of their investments plans. So  
12 whenever you might wanna address this, now or post-hearing,  
13 particularly in light of that footnote.

14           MR. LIOTINE: Joe Liotine. Probably best  
15 positioned to address that post-hearing brief, in terms of  
16 how we compensate our employees and share and do our  
17 investments decisions. We're happy to do so.

18           MR. LEVY: Jack Levy for Whirlpool. You know,  
19 we're obviously talk about the relationship between the  
20 investments contemplated and the adjustment plan and the  
21 increased employment, which is obviously a direct benefit to  
22 American workers. We promised that and will provide it.

23           COMMISSIONER WILLIAMSON: I mean, I do know  
24 where the LG and the Samsung plant is located, so --

25           MR. LEVY: But I think more generally, and we

1 also heard this from Mr. Porter in the last hearing. He  
2 takes great umbrage at the fact that, you know, in other  
3 business units, Whirlpool knows how to make a profit and in  
4 contrast to those other business units, you know, where you  
5 don't have this kind of predatory behavior, they're winning.

6 And you know, frankly, that's what Whirlpool  
7 shareholders expect them to do. So, you know, I don't think  
8 they should be making apologies for their success and their  
9 competitiveness and their innovation in these other  
10 segments. The challenge is to get washers back on track and  
11 to level the playing field. And that's what this case is  
12 about.

13 COMMISSIONER WILLIAMSON: Okay, thank you.  
14 Anyone else wanna add anything to that? Well, thank you for  
15 those answers to those questions.

16 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

17 COMMISSIONER BROADBENT: Yeah, Mr. Levy, I just  
18 had one more request of you all. We've done a lot of work  
19 here at the Commission on the interrelationship of business  
20 services with manufacturing. And I wondered, as long as  
21 you're under the spotlight, if you could give us a sketch or  
22 a picture of the services' businesses that are embedded in  
23 Whirlpool's manufacturing production functions. Just so we  
24 have that for our record.

25 MR. LEVY: We will endeavor to give you a

1 complete recitation post-hearing, but maybe Joe or Casey  
2 just wanna give some color as to the various services in the  
3 industry that support the production of washers.

4 MR. LEVY: Internally, externally, both?

5 COMMISSIONER BROADBENT: Both, please.

6 MR. TUBMAN: Casey Tubman. So we talk about Mr.  
7 Fish who's here with us today. Obviously we have suppliers  
8 that supply components into our factory, and the jobs that  
9 those support, the material purchases and so on, that those  
10 support.

11 Internally, we have things from--I think I  
12 mentioned--you talk about cutting, forming, bending,  
13 welding, painting. There's a whole long list of the things  
14 that we do. Injection molding of plastics and things of  
15 that nature. And so for each of those, you then have a  
16 support operation and so you'll have electricians, you'll  
17 have plumbers, you'll have, you know, different folks that  
18 come in the factory and keep us running, I'll say.

19 And again, so I would say, we talk about the  
20 1,300 jobs created in Clyde, but I think that's a very small  
21 portion of what we're talking about when we talk about the  
22 10,000 jobs and the incomes that provides to families  
23 throughout the country.

24 MR. LEVY: And, Jack Levy. The only thing I'll  
25 add is, you know, we talk a lot about PRWs,

1 production-related workers in Clyde, and certainly they play  
2 an essential role in the production of washers.

3 I think there's some other folks within  
4 Whirlpool who often get overlooked, which are the very many  
5 engineers who are driving the innovation and the R&D and  
6 many of those are located in places like Michigan. And they  
7 play an essential role, and when you have the ability to  
8 reinvest in new products and innovation, you also have those  
9 kinds of jobs that are being added and support it.

10 So it's a rich tapestry in the U.S. economy and  
11 a lot of interdependence between upstream vendors, internal  
12 service providers, downstream providers, and we'll try to  
13 paint a more elaborate picture for your consideration in  
14 post-hearing, but we appreciate the question.

15 COMMISSIONER BROADBENT: Great. I appreciate  
16 that. Looking forward to that answer because it would be a  
17 great case to do for us. And with that, I want to thank the  
18 presentation today. I've learned an awful lot and  
19 appreciate you coming back, once again.

20 CHAIRMAN SCHMIDTLEIN: Okay. I think that  
21 concludes Commissioner questions. Do staff have any  
22 questions for this panel?

23 MR. ANDERSON: Madam Chairman, thank you. Staff  
24 has no questions.

25 CHAIRMAN SCHMIDTLEIN: Okay. Do respondents

1 have any questions for this panel?

2 MS. ARONOFF: No.

3 CHAIRMAN SCHMIDTLEIN: No? Okay. Thank you  
4 very much. So that brings us to the lunch hour. We will  
5 take a full hour. So we will reconvene at 2:05 this  
6 afternoon. Let me remind you that the hearing room is not  
7 secure, so please take your papers and confidential  
8 information with you. And we will stand in recess until  
9 2:05.

10 (Recess from 1:05 to 2:05)

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AFTERNOON SESSION

MR. BISHOP: Will the room please come to order?

CHAIRMAN SCHMIDTLEIN: Good afternoon, Mr. Secretary. Are there any preliminary matters?

MR. BISHOP: Madam Chairman, the panel in opposition to remedies have been seated. This panel has 60 minutes for their direct testimony.

CHAIRMAN SCHMIDTLEIN: Okay, thank you. You may begin when you're ready.

STATEMENT OF JOHN K. VERONEAU

MR. VERONEAU: Madam Chairman, John Veroneau, counsel for Samsung. Madam Chairman, Vice Chairman Johanson, Commissioner Broadbent, Commissioner Williamson. We appreciate the opportunity to present our responses to the petitioner's claims.

Before I turn it over to my colleague, Ms. Aranoff, I wanted to rebut and respond to a few points that Mr. Levy made with regard to Mr. Porter's opening statement to clarify a few things.

Mr. Porter, Mr. Levy suggested that perhaps we were in denial about the injury finding. I assure you we are not in denial about the injury finding. We are well aware of it. Injury is about the past. Remedy is about the future. It is our hope that Mr. Levy is not in denial about that.



1                   Secondly, Mr. Levy suggested that we were trying  
2                   to cheat him out of a trade remedy relief. Samsung and LG  
3                   are on the process of moving massive amounts of washer  
4                   production from overseas into the United States, creating  
5                   1600 jobs, producing millions of washers here. It is only  
6                   in an Alice in Wonderland world where that could be seen as  
7                   cheating and a bad thing. Thank you very much.

8                   STATEMENT OF SHARA L. ARANOFF

9                   MS. ARANOFF: Good afternoon. I'm Sharon  
10                  Aranoff from Covington appearing on behalf of Samsung. At  
11                  the remedy stage of a safeguard investigation, the  
12                  Commission's job is straightforward. Recommend the action  
13                  that would do the most to increase U.S. production and  
14                  employment.

15                  In this case, the Commission faces really an  
16                  unprecedented situation. The respondents Samsung and LG are  
17                  also members of the domestic industry in the remedy phase.  
18                  They've invested in new production facilities and will soon  
19                  be making washers in South Carolina and Tennessee.

20                  Do you remember how this case started? In the  
21                  petition, Whirlpool told you that the decision by Samsung  
22                  and LG to relocate washer production to the United States  
23                  would be a clear win for U.S. workers and the manufacturing  
24                  sector. They said these investments would support the  
25                  intent and purpose of the safeguard law enacted by Congress.

1                   Well, wish granted. The Commission should take  
2 Whirlpool at its word and declare a win for the domestic  
3 industry. There is no need to jeopardize that win by  
4 imposing a remedy that harms the new investments.

5                   Samsung and LG's new U.S. production facilities  
6 on their own will reduce imports, increase domestic  
7 production, and increase U.S. employment. Based on the  
8 Commission's own evaluations of past safeguard remedies, the  
9 domestic washer industry's positive adjustment will far  
10 exceed any recent safeguards in terms of new U.S. jobs and  
11 other improvements.

12                   And the cost to consumers and the economy will  
13 be zero. In the petition, Whirlpool also claimed to support  
14 narrowly tailored import measures. Specifically, Whirlpool  
15 sought a tariff rate quota that would permit a base level of  
16 washer imports while preventing import surges. Whirlpool  
17 also claimed to be open to potential exclusions of specialty  
18 products.

19                   Okay, fast forward to now. In a radical shift,  
20 Whirlpool wants you to impose the most restrictive remedy  
21 permitted by law, a punitive 50 percent tariff on washers  
22 with a rigid quota on covered parts. And Whirlpool now  
23 opposes an exclusion for Flex Wash, a specialty washer that  
24 Whirlpool admits is distinct from anything made in the  
25 United States.

1                   So what changed? Okay, Mr. Levy said they  
2                   couldn't run the compass model without the domestic industry  
3                   data from this investigation. And so they did no modeling  
4                   prior to writing the petition, but just a few weeks ago, in  
5                   front of the Commission in the prior hearing, Mr. Levy told  
6                   you that this case is exactly the same as the China dumping  
7                   case and none of the data have changed. And I don't think  
8                   those can be squared.

9                   The truth is the only new fact that was revealed  
10                  between May and October is that Samsung and LG made clear  
11                  they are joining the domestic industry. And Whirlpool wants  
12                  the Commission to punish Samsung and LG for doing exactly  
13                  what Congress intended in Section 201, increasing production  
14                  and jobs in the United States.

15                  Whirlpool's hypocrisy here is really stunning.  
16                  When Whirlpool moved its front load production from Germany  
17                  to Ohio, it took them several years with imports continuing  
18                  during that transition period, but Whirlpool wants to close  
19                  the door on Samsung and LG imports immediately.

20                  Whirlpool sources parts globally as they told  
21                  you today, but it wants to be able to police the supply  
22                  chains of Samsung and LG Whirlpool calls Samsung's Newberry  
23                  plant a screwdriver operation, but the labor intensity  
24                  numbers in the confidential slide show otherwise.

25                  Whirlpool rails against imports, but it is a

1 global producer of home appliances that imports huge volumes  
2 of various products into the U.S. And while Whirlpool wraps  
3 its Clyde plant in the flag, its CEO Mr. Fettig told the New  
4 York times that if the Clyde facility didn't already exist  
5 in Ohio, he would have probably put in Mexico.

6 And Whirlpool excluded products such as belt  
7 drive and extra wide washers, which are indistinguishable  
8 from standard LRWs, but opposes a remedy exclusion for Flex  
9 Wash, which is unlike anything made in the U.S.

10 This is not the usual global safeguard case  
11 pitting a range of U.S. producers against foreign producers  
12 from all around the globe. This case is about four  
13 companies. And all of them will soon have washer production  
14 facilities, both around the world and in the United States.

15 Whirlpool said it wants a level playing field.  
16 But after learning that Samsung and LG are coming to the  
17 U.S. market, apparently it had second thoughts. And  
18 incredibly, Whirlpool is now asking the Commission to  
19 recommend actions that would hamper the expansion of the  
20 domestic industry and not facilitate it.

21 As Samsung's witnesses will explain, a 50  
22 percent tariff will close the U.S. market to imports. This  
23 will not only hurt consumers. It will also hurt South  
24 Carolina workers.

25 Without imports, Samsung will lose sales and

1 floor space during the ramp up in South Carolina which will  
2 reduce demand for its made in the U.S. washers.

3 A harsh quota on parts could have similar  
4 effects, limiting repairs for U.S. consumers and denying  
5 Samsung the supply chain flexibility that it might need as  
6 new production lines are set up.

7 Meanwhile, as Mr. Klett will explain,  
8 Whirlpool's remedy would provide it and Haier GE with a huge  
9 and unjustifiable windfall and lock in an enormous market  
10 share while imposing even larger costs on consumers.

11 This remedy is completely at odds with the  
12 statute. Nothing in Section 201 authorizes remedies that  
13 harm the domestic industry or more importantly, that favor  
14 some U.S. producers over others. Nor is U.S. safeguard law  
15 designed to guarantee any individual company's profits.

16 The Commission's job is to facilitate the  
17 adjustment of the whole domestic industry, not of Whirlpool  
18 or Whirlpool and GE alone. Samsung had already invested  
19 millions of dollars in South Carolina and hired scores of  
20 U.S. workers. Every day, Samsung is making huge strides to  
21 begin washer production in Newberry in January.

22 Compare that to Whirlpool and Haier GE in their  
23 adjustment plans, neither of them commits to do anything  
24 beyond evaluating some possible investment projects.

25 Whirlpool claims that Samsung's investments are

1 speculative, but they're real and they're substantial.  
2 Employment is already increasing. And starting early next  
3 year, washer imports will fall and domestic production will  
4 rise. These trends will only accelerate in 2019 and 2020.  
5 In sum, no remedy is necessary and there's no meaningful  
6 benefit to imposing one.

7 The Commission doesn't need to recommend import  
8 restrictions to ensure that these investments proceed as  
9 planned. But if it decides to do so anyway, it must craft  
10 the restrictions consistent with the law's requirement that  
11 the recommended action be the most effective way to promote  
12 U.S. production and employment.

13 A punitive tariff would send exactly the wrong  
14 signal to foreign investors. So would a quota on parts,  
15 which would be an improper domestic content requirement  
16 that's nowhere in Section 201.

17 Instead, the Commission should use a reasonable  
18 tariff rate quota that gives Samsung the flexibility to  
19 import certain washers while production ramps up in South  
20 Carolina. And it should follow its consistent practice of  
21 not extending any remedy to parts.

22 Thank you for your attention. And I'll turn it  
23 to Mr. Fraley.

24 STATEMENT OF TONY FRALEY

25 MR. FRALEY: Good afternoon. My name is Tony

1 Fraley. I'm the plant manager for Samsung's Newberry, South  
2 Carolina appliance plant. I joined Samsung in August and  
3 I'm very excited to be part of launching this new plant.

4 I've dedicated my career to appliance  
5 manufacturing. Before joining Samsung, I worked at  
6 Electrolux for 19 years, most recently as senior director of  
7 operations and operational excellence. I like making  
8 consumer products. I love seeing the product come off the  
9 line, knowing we created it and ultimately thinking about  
10 the consumer who will buy it.

11 All the people I work with and that I've met and  
12 talked with in the community are excited about Samsung's  
13 appliance facility. Everybody working to build the plant is  
14 excited to help Samsung and help us be successful.

15 Whether it's local hotels, restaurants, grocery  
16 stores, when you tell people you're working at Samsung, they  
17 have a smile. I joined in August, but Samsung has been  
18 planning for a U.S. appliance production facility for  
19 several years. That helped us get a running start once the  
20 location was finalized. We've done a tremendous amount in a  
21 few short months. Essentially, the old Caterpillar plant  
22 that was an empty building with a slab of concrete when we  
23 started by January, we plan to be up and running first  
24 production line.

25 I heard this morning about this being a

1 screwdriver operation or a sit assembly plant. I can assure  
2 you, it's not. How do I know? I've been in many washer  
3 factories in the United States and elsewhere. And I've seen  
4 what goes into manufacturing washers. This plant will be no  
5 different.

6 We're very proud of this facility and we would  
7 welcome you and your staff to please come and visit in the  
8 next couple weeks. Seeing is believing.

9 Let me tell you a little bit about what we've  
10 done and what we'll be doing in the weeks and months coming.  
11 Starting with an existing facility has certainly helped us  
12 speed our process. But don't be fooled. We had to make  
13 significant investments to build out the facility for the  
14 kind of manufacturing we'll be doing.

15 We're reconfiguring to accommodate large  
16 injection molding equipment that will soon be installed. We  
17 plan to have several bays of injection molding machines  
18 producing key washer components, such as front and tub --  
19 back tubs, outer tubs, top covers, and other components.

20 Another important early step was preparing the  
21 facility to handle the heavy duty metal stamping presses.  
22 We're installing presses to bend and form metal for the  
23 wrapper, the cabinet, the drum, front, back, top, and other  
24 components. To make the building ready for those presses,  
25 we had to dig down more than 30 feet and some places to



1 install the foundation.

2           If you'd seen the facility just last week, you  
3 have seen massive pits in the ground. But now, it's really  
4 starting to look like a factory. Production equipment is  
5 being delivered and installed as we speak and we're  
6 recruiting and training workers.

7           In addition to production associates, I'm hiring  
8 tool and die makers, machine operators, technicians to  
9 program presses and robots, maintenance technicians,  
10 warehouse workers, forklift drivers, and of course a  
11 salaried support workforce.

12           One of the things I enjoy about manufacturing is  
13 working with and leading people. At Samsung, we invest in  
14 our people. We have a number of training initiatives under  
15 way. This includes sending people to Korea to be trained  
16 and bringing other experienced workers from across the  
17 company to train in South Carolina.

18           In addition, we're working with readySC and  
19 Piedmont Technical College for other core skills training.  
20 Soon, we'll start testing equipment and building washers.  
21 We'll be assembling and disassembling and assembling washers  
22 over and over again.

23           We've already hired hundreds of workers. We're  
24 onboarding groups of workers every two weeks. In January,  
25 we'll begin making parts right here in Newberry. We'll be

1 converting steel into the cabinet with the press lines of  
2 stamping equipment I mentioned. When you look inside a  
3 washing machine, you see a shiny still drum. That starts as  
4 a piece of steel and we'll produce that drum on site in  
5 Newberry.

6 A lot of other parts are injection molded,  
7 including the tub, which is why injection molding equipment  
8 is important. We'll be stamping and forming parts,  
9 injection molding parts, building subassemblies in Newberry.

10 It'll be really cool to watch resin pellets and  
11 raw steel come together inside the factory and go out the  
12 back door as one of our fantastic washing machines. I'm  
13 looking forward to seeing the first production roll off the  
14 line in January.

15 This facility's going to be state-of-the-art.  
16 When all is said and done, we're investing more than \$380  
17 million. When fully operational, it'll have two washer  
18 production lines, one for front load and one for top load  
19 machines.

20 Like Whirlpool, we'll import some components  
21 such as motors. A number of components will be imported  
22 initially, but then shift to domestic supply, either  
23 in-house production or third party suppliers.

24 We're committed to developing U.S. supply base.  
25 At this time, we're actively qualifying U.S. suppliers to

1 produce components like small injected molded items and  
2 stamped items. Before a supplier can be brought on, we need  
3 to be sure that they can produce quality parts, that they  
4 can produce the required quantity, and that they can provide  
5 them on schedule. This is a time consuming and thorough  
6 process, but through this process, we expect to develop an  
7 ecosystem of suppliers in South Carolina and nationwide. In  
8 fact, we anticipate that some suppliers may locate  
9 alongside our facility or nearby.

10 The combination of this new supply base with our  
11 local work force has a significant multiplier effect to the  
12 city of Newberry, as well as Newberry County, and  
13 ultimately, I think, the state of South Carolina.

14 We're working to launch this factory and create  
15 these jobs early next year, but the ramp up will not be  
16 immediate. It can't be. You can't just open a facility at  
17 full capacity. A huge facility like this needs to stored up  
18 -- start up in an orderly and deliberate fashion. We plan  
19 on bringing one production line up at a time. We'll need to  
20 gradually ramp up production. We'll start each line with  
21 one model and build up to producing multiple models.

22 We're invested in quality and safety and are  
23 committed to doing this right. By the end of 2018 when both  
24 lines are running, we anticipate having almost 1,000  
25 employees working on two shifts. Until we get up and

1 running, however, some washers will have to be produced  
2 abroad and imported to meet demand. As our production takes  
3 off, the volume will shift to U.S. production, but that  
4 won't happen immediately.

5 In addition, although we are installing  
6 production equipment, and we are committed to producing the  
7 major parts in house, there will be a transition period  
8 during which importing parts will be necessary to  
9 successfully launch this facility.

10 If the Commission imposes import restrictions  
11 now, they could really cut us off at the knees, particularly  
12 the draconian tariff that Whirlpool is requesting, a tariff  
13 that cuts off Samsung's imports will undermine our  
14 competitive position in the marketplace and will have a  
15 negative impact on our ramp up transition strategy for South  
16 Carolina.

17 I'm not a trade or marketing expert. I'm a  
18 manufacturing expert. But the way a see it, all these  
19 imports restrictions will do is cause a market disruption in  
20 the short-term and give Whirlpool and GE a way to undermine  
21 my South Carolina facility. And that's just taking jobs  
22 away from the workers that I would have hired in South  
23 Carolina.

24 I ask that you don't recommend imports  
25 restrictions that jeopardize South Carolina jobs. Please

1       come and see this factory. Give us a chance to get up and  
2       running and then let our U.S. production compete on a level  
3       playing field with other U.S. producers. Don't handicap us  
4       while we're starting this factory and getting it off the  
5       ground. Thank you.

6                               STATEMENT OF JOHN HERRINGTON

7                       MR. HERRINGTON: Commissioners, good afternoon.  
8       Thank you for the opportunity to testify today. I'm John  
9       Herrington, senior vice president of Home Appliances at  
10      Samsung. And I hope my testimony today will help you  
11      understand the dire impact of import restrictions on our new  
12      U.S. facility, our retail partners, and consumers.

13                      Whirlpool's petition welcomed Samsung to locate  
14      washer production in the U.S., saying it would be "a clear  
15      win for the U.S. manufacturing sector and would support the  
16      intent and purpose of the safeguard law." While we are here  
17      hard at work ready to manufacture washers in the United  
18      States.

19                      Samsung has been selling in the U.S. since 2006.  
20      It's only -- it was only a matter of time before a success  
21      here justified our investment in a local appliance  
22      manufacturing facility. Our plans to establish this  
23      facility have been in the works for some time.

24                      As my colleague Mr. Fraley has testified, we're  
25      making a huge investment in Newberry. And we really hope

1 you can visit.

2 Like Whirlpool, GE Haier and LG, we're a global  
3 company. We all make washers and other appliances at  
4 factories around the world. It's typical to locally  
5 manufacture and import products to serve the needs of a  
6 specific market. GE Haier and Whirlpool both serve the U.S.  
7 industry this way.

8 In 2010, Whirlpool was shifting its production  
9 of front loaders from Germany to the U.S. It took Whirlpool  
10 several years to fully transition.

11 While it was ramping up production, Whirlpool  
12 continued to import front load washers from Germany. We  
13 need the same ability to import as we transition the  
14 majority of our production to the U.S.

15 No one should doubt our commitment to creating  
16 jobs in the U.S. we've been marketing our products here for  
17 over 40 years and have more than 18,000 workers in the  
18 country. We know what it means to be an American  
19 manufacturer. We are an American manufacturer. And we are  
20 in it for the long run.

21 As Mr. Fraley described, we're building a great  
22 factory in South Carolina. I just visited earlier this  
23 month and can personally tell you it's going to be a state  
24 of the art plant, employing 1,000 people and eventually  
25 producing more than a million washers a year.

1                   We will source parts and material in the U.S.  
2                   and create the same kind of jobs that you heard about this  
3                   morning from Whirlpool's suppliers.

4                   Commerce Secretary Ross was able to participate  
5                   in the opening of the Newberry plant and noted that these  
6                   were just the kind of jobs the administration is trying to  
7                   create in the U.S. We've also enjoyed the strong support of  
8                   South Carolina Governor McMaster, who said our investment  
9                   will usher in an unprecedented period of economic growth and  
10                  prosperity in the state.

11                  I'm here today to ask you to please support our  
12                  South Carolina investment and not put the jobs we're  
13                  creating in South Carolina at risk. We intend to supply the  
14                  vast majority of our local market needs from our new South  
15                  Carolina factory, but we can't supply all of those needs  
16                  immediately in January.

17                  We will need to import washers so that we can  
18                  supply a full range of products to our retailers and  
19                  consumers during the ramp up period. If we're unable to  
20                  offer a full range of products to retailers and consumers,  
21                  we will lose floor space and sale, impacting the success of  
22                  our South Carolina operation.

23                  So the ultimate impact of the proposed tariff is  
24                  a lose-lose scenario for U.S. production, U.S. employment,  
25                  and U.S. consumers. Blocking imports would give Whirlpool

1 enormous market power and control. Prices would increase  
2 significantly and consumers would have less choice. Any  
3 tariff would halt the healthy growth we're seeing in the  
4 category.

5 This would have serious consequences for  
6 retailers who are benefiting from an expanding market and  
7 can slow job creation at our South Carolina facility.

8 The proposed tariff dramatically impacts the  
9 success of Flex Wash, a unique and innovative product that  
10 represents a whole new category of washers. Since nothing  
11 else like it is made in the U.S., Flex Wash should be  
12 excluded from the remedy. It's the only washer on the  
13 market that combines two independent wash baskets, powered  
14 by two different motors. It can run two distinct wash  
15 loads at the same time at different speeds with different  
16 temperatures. There is no other washer in the market like  
17 this.

18 For a variety of reasons, Samsung does not have  
19 immediate plans to produce Flexwash in the United States.  
20 If import restrictions are imposed, U.S. consumers would not  
21 have access to this new innovation, or the one behind it.  
22 Retailers seeking to offer consumers new ways of washing  
23 their clothes and handling the laundry chore in the house  
24 will be unable to do so, and again our South Carolina  
25 facility would be impacted by our inability to offer the



1 full line of Samsung products in the market.

2 In closing, as a member of the domestic  
3 industry, we hope to be treated equally. Give us a chance  
4 to succeed as a U.S. manufacturer. We are here. We are  
5 part of the U.S. industry, so no remedy is necessary. But  
6 if you must recommend a remedy, please recommend a fair TRQ  
7 that supports a reasonable transition to U.S. production.  
8 Thank you. I look forward to answering any questions you  
9 might have.

10 STATEMENT OF JOHN TOOHEY

11 MR. TOOHEY: Good afternoon, Commissioners.  
12 I'm John Toohey, Senior Director of Strategy for LG  
13 Electronics USA. This is my eighth year at LG, and during  
14 that time I've played an active role in developing LG's  
15 strategy for the U.S. home appliance market. Unfortunately,  
16 I was not able to participate in the last Commission hearing  
17 in September, but I heard about it and I reviewed the  
18 transcripts.

19 I learned that Whirlpool and its counsel  
20 allege that LG is not serious about building a U.S. washer  
21 production facility. So I have come to Washington to tell  
22 you and to show you that Whirlpool is dead wrong. At LG  
23 we've been discussing U.S. production for quite some time,  
24 and I've been personally involved since I joined the company  
25 in 2010.

1                   In fact, we started looking at U.S. production  
2 before any of the anti-dumping cases came along. A U.S.  
3 production affords us tremendous operational benefits,  
4 shortening our supply chain by several weeks and allowing us  
5 to be more responsive to the market. It took us a full six  
6 years to pick a site, but eventually we selected a 310 acre  
7 plot in Clarksville, Tennessee.

8                   We selected Clarksville due to its central  
9 location, which provides significant logistical advantages,  
10 its ideal business environment and its attractive labor pool  
11 which includes Fort Campbell. Notably, we publicly  
12 announced our decision to build a U.S. washer factory in  
13 February 2017, which preceded the filing of the current  
14 safeguard petition.

15                   We are starting in Clarksville by investing  
16 \$250 million to build a factory that will employ 600 people,  
17 to produce our state of the art topload and frontload  
18 washing machines. As a side note, the 310 acre site is  
19 large enough to accommodate potential expansion to other  
20 products in the future. You can see this on the rendering  
21 shown on the current slide.

22                   In addition to the building which is shown,  
23 which is the washer production facility, we have not only  
24 the three other green areas but also the land to the north  
25 up to the Kentucky border. Our Tennessee factory will be

1 state of the art, utilizing several cutting edge systems to  
2 streamline communication, manufacturing, maintenance and  
3 quality. For example, and in contrast to some of the  
4 statements you heard this morning, we will incorporate  
5 automatic inline processes to manufacture key subassemblies  
6 for tubs, drums and cabinets, the very parts that are on  
7 display in this room.

8           The plant will be flexible, enabling us to  
9 switch between models in only a few minutes, and it will be  
10 fast, with the speed to produce a finished washer very ten  
11 seconds on each line and enough capacity to supply nearly  
12 all of our U.S. and Canadian demand. Our goal is to be in  
13 mass production by early 2019, and we have made significant  
14 strides towards that goal since our announcement in  
15 February.

16           For example, in July with LG's financial  
17 commitment, site development began for the entire 310 acres,  
18 which involves grading work and other steps to make the site  
19 ready for construction. The picture on the current slide  
20 shows the status of the overall site prep as of this week.  
21 Everything brown has been moved by heavy equipment.

22           The pads for the main production building are  
23 already accepted as complete, and the pads for the ancillary  
24 buildings are scheduled for completion next week. In  
25 August, with heavy machinery as a backdrop, we held a formal

1 ground-breaking ceremony involving several dignitaries from  
2 the federal, state and local governments, LG and the  
3 government of Korea. The event was afforded broad media  
4 coverage.

5 On September 18th, 2017, we started actual  
6 construction of the production building by driving the first  
7 of approximately 1,600 micropilings, which are the  
8 foundation for the plant to stand on. To date,  
9 approximately 225 micropilings have been completed, and are  
10 working around the clock on a 24-7 basis.

11 Also, an on-site field office has been placed  
12 on the site to support the construction teams who will be  
13 working there over the next 15 to 18 months, and LG has also  
14 leased an office building near the site to house dedicated  
15 personnel, supporting the construction and preparing to  
16 support our operation.

17 In addition, we have completed negotiations  
18 for binding agreements with the state of Tennessee and the  
19 Montgomery County Industrial Development Board, that will  
20 commit LG US to spend \$250 million on the project and hire  
21 600 employees. As you can see from the information we  
22 provided in our prehearing brief, we've already approved  
23 over \$100 million of spending with our design and  
24 construction partner.

25 We have also mobilized local utilities. The

1 local electric utility has begun work on a new substation to  
2 support the plant. The substation is scheduled to be  
3 operational in May 2018, and the Clarksville Gas and Water  
4 has committed to extend gas and water lines to LG's new  
5 plant by February 2018. Lastly, we have also started hiring  
6 new American employees for the facility, some of whom are  
7 here with us today, including our human resources  
8 representative who will focus on filling hundreds more jobs  
9 in the very near future.

10 In closing, as it made plain by all of this  
11 activity that I reviewed, this LG factory is real. It is  
12 going to happen regardless of the outcome of this trade  
13 case, and it will happen quickly. Thank you for your time  
14 and attention.

15 STATEMENT OF JOHN RIDDLE

16 MR. RIDDLE: Good afternoon. My name is John  
17 Riddle and I'm the Senior Vice President of U.S. Appliances  
18 at LG. I have over 35 years of experience working in sales  
19 and marketing of home appliances, including washers and  
20 dryers. Madam Chair and members of the Commission, I hope  
21 you remember that I was here before you just a few weeks ago  
22 to talk about the competitive dynamics of the U.S. appliance  
23 industry and the laundry market.

24 I have returned to Washington today to address  
25 a different topic, but one that is very important. I want

1 to explain why imposing restrictions on LG's ability to  
2 import washers in 2018 will actually harm the ability of  
3 LG's new Tennessee production facility to maximize our  
4 production in 2019. I recognize that this concept seems  
5 counterintuitive. A U.S. producer should want to import --  
6 should want import restrictions.

7           However, this usual dynamic does not apply to  
8 a new U.S. producer whose U.S. production is designed to  
9 replace the very imports of merchandise destined for the  
10 retail appliance market. The reason is that in the retail  
11 appliance market, floor space is everything. If you lose  
12 that, you really have to start from scratch, and there is no  
13 question that should the President decide to impose the  
14 import restrictions desired by Whirlpool, we will not be  
15 able to guarantee supply to meet our historic demand, and  
16 therefore our retailer customers will have no choice but to  
17 remove our washer models from their floors.

18           I believe that you can understand that a  
19 retailer simply cannot display a washer model that it cannot  
20 offer to send to the consumer's house the very next day.  
21 Having our washer models removed will have two immediate  
22 severe consequences. First, having our washer models  
23 removed from retailers' floors will absolutely kill the  
24 sales of LG washers. A full 80 percent of all washer sales  
25 come from consumers choosing a model from a retailer's

1 floor.

2                   Second, once LG washers are removed from  
3 retailers' floors, it will take considerable time to get  
4 back in. This fact comes from the nature of the retail  
5 appliance market, the different way retailers buy and sell  
6 washing machines. Once this happens, it will be very  
7 difficult and time-consuming for LG Tennessee to regain the  
8 LG business in 2019. The reason is that changing from one  
9 model to another at retail is very expensive for both the  
10 vendor and the retailer.

11                   Such costs include liquidating existing  
12 inventory of the old model, administrative costs of exiting  
13 the supplier and setting up the new supplier in the  
14 retailer's point of sale system, cost of integrating the new  
15 supplier's models and the floor display, and gathering  
16 sufficient inventory, training of retail sales people on the  
17 selling of the new supplier's washers, and up to eight weeks  
18 of reduced sales productivity for the transition.

19                   The combination of the many costs involved  
20 with the loss of sales productivity and sales momentum makes  
21 changing from one supplier to another very undesirable for  
22 both retailers and vendors. Therefore, retailers seek to  
23 keep their floors as stable as possible, to maximize sales  
24 and profit.

25                   In fact, changing models is so disruptive for

1 the retailer that most retailers adopt a practice of having  
2 only one major reset per year. As you can see in this  
3 slide, in general retailers make decisions about which  
4 products to floor, for example to display in stores through  
5 a periodic process. This is the vendor's main chance to  
6 access the floor.

7 Typically, the process is conducted annually  
8 and takes about six to eight months. Vendors that want to  
9 access retail floors have to participate in this process.  
10 This morning, I heard Mr. Tubman attempt to refute the line  
11 review process used by retailers nationally, with an example  
12 of a small regional Bray and Scarff here in Washington.  
13 What I'm referencing in this particular instance is the 70  
14 percent of the washer market that is made up by national  
15 accounts.

16 The first key event in the line review process  
17 is in the presentation. Retailers invite all vendors to  
18 present their products and flooring proposals, and generally  
19 to make their case. Three or four months after these  
20 presentations, retailers announce their decision by awarding  
21 floor spots to vendors for specific models.

22 After decisions are announced, it typically  
23 takes another three to four months before physical products  
24 are actually placed on the retailers' floors. Then actual  
25 sales can begin to develop, aided by a host of other



1 activities like the associates' training, effective product  
2 displays and marketing.

3 In total the line review process typically  
4 takes about six to eight months, and usually begins in late  
5 first quarter or early second quarter. In addition,  
6 virtually all retailers impose a complete lock on their  
7 floors, with no changes allowed beginning in October through  
8 year-end so there is no disruption during the holiday  
9 season. All of these real-world retailer practices will  
10 have a significant adverse effect on LG's new Tennessee  
11 production facility.

12 Specifically, if we lose floor spots due to  
13 severe import restrictions, we will lose sales in 2018. In  
14 2019, we will be unable to run our Tennessee factory at full  
15 utilization, and that condition will persist until sales  
16 recover. In order to recover sales, we'll need to work to  
17 win back floor spots at retailers by participating in their  
18 periodic line review process.

19 During 2019 line reviews, retailers may have  
20 doubts about our supply reliability due to the new condition  
21 of our factory. Even if we win retailer floor spots during  
22 2019 line reviews, actual sales won't develop until the end  
23 of that year. 2020 line reviews may be our next best  
24 opportunity to regain significant lost floor spots, which  
25 means full utilization of the factory could be deferred

1 until 2021, almost two years late.

2 Loss of floor space because of the import  
3 restrictions will mean that there will not be demand for LG  
4 washers when LG's new Tennessee production facility becomes  
5 operational. Loss of demand means fewer washers produced by  
6 LG Tennessee. Fewer washers produced means less revenue,  
7 reduced profit and fewer employees for the time it takes to  
8 get LG Tennessee to become a key supplier to the major  
9 retailers. Thank you very much.

10 STATEMENT OF JAMES DURLING

11 MR. DURLING: Good afternoon. My name is  
12 James Durling, appearing today on behalf of LG Electronics.  
13 At the outset, I remind the Commission that it has never  
14 before recommended a remedy against a country not found to  
15 be part of the serious injury. There is no reason to  
16 abandon this practice now, and Whirlpool has provided none.  
17 Korean imports should not be part of any remedy in this  
18 case.

19 But at the same time, it is important to  
20 realize that excluding Korea from the remedy does not really  
21 mitigate the extreme effects of the Whirlpool proposed  
22 remedy. Much of the Korean capacity is dedicated to  
23 supplying the Korean market. Capacity in Korea available  
24 for the U.S. market is only a small fraction of the average  
25 volume of imports over the past three years.

1                   At most, Korean imports can serve only a small  
2 part of the U.S. market demand currently being supplied by  
3 imports, and even this projection assumes Commerce  
4 Department does not do something unpredictable to the  
5 dumping margin on LG washers from Korea. Thus, even with  
6 Korean imports excluded, the Whirlpool recommended remedy  
7 remains too extreme to be given serious consideration.  
8 Whirlpool has proposed the maximum tariff permitted under  
9 the law. Such a 50 percent tariff would create many  
10 problems.

11                   You have already heard from the industry  
12 representatives about the harm this remedy would impose on  
13 the new U.S. producers entering the market, and you will  
14 hear more about these problems from Mr. Klett shortly. But  
15 let me highlight a few points. One problem is that such a  
16 remedy would dramatically reduce imports in the market.

17                   Under the statute, Section 201 remedies should  
18 be about stopping import surges, and perhaps imposing a  
19 limited rollback in import volume. Section 201 remedies  
20 should not be about dramatically reducing imports or largely  
21 eliminating imports from the market. This dramatic  
22 reduction imposes high costs on the economy and thus fails  
23 the key statutory test that the remedy must provide greater  
24 benefits than costs.

25                   Another problem is that such an extreme remedy

1 would allow the domestic industry to become a rather cozy  
2 duopoly until the new LG and Samsung factories ramp up.  
3 Moreover, it would allow one of those two companies,  
4 Whirlpool, to capture a shockingly large percentage of the  
5 market for the next few years.

6 Whirlpool now wants to eliminate the very  
7 import competition that was key to the antitrust authority  
8 approval of the Whirlpool-Maytag merger a few years ago.  
9 Since Section 201 is about fair trade, the statute requires  
10 a balance of competing interests. Eliminating imports,  
11 rather than limiting import surges, does not strike that  
12 balance. Yet another problem is that such an extreme remedy  
13 would also discourage investment and innovation.

14 Notwithstanding Whirlpool's promises today,  
15 the historical evidence is that protected industries slow  
16 their rate of innovation. They don't drop older products  
17 and replace them with new, innovative products. They aren't  
18 forced to innovate to keep up with innovative competitors.  
19 Rather, protected industries tend to simply enjoy the  
20 short-term jump in profits that the protection allows.

21 Here again, the Whirlpool recommended remedy  
22 simply does not strike the proper balance. The current  
23 domestic industry will be better off if it must continue to  
24 compete innovative LG and Samsung products in the  
25 marketplace now. Whirlpool and GE will be better able to

1 compete with LG and Samsung in the future if they continue  
2 competing with them now. Allowing Whirlpool and GE to  
3 ignore competition for a year or two does not really help  
4 them at all.

5                   For all of these reasons, the Commission  
6 should recommend no remedy against Korean imports, and  
7 should reject the extreme Whirlpool remedy recommendation.  
8 As LG and Samsung have argued, the basic remedy is already  
9 in place. New U.S. factories will soon largely replace  
10 imports and expand the U.S. industry. The new factories are  
11 the better remedy to manage the transition to more effective  
12 competition with imports.

13                   19 U.S.C. 2252(e)(2)(D) specifically allows  
14 the Commission to recommend "one or more appropriate  
15 adjustment measures" as the remedy. The statute thus  
16 expressly allows the Commission to recommend something other  
17 than import restrictions, and allows the Commission to  
18 recommend and encourage what is already happening. The  
19 construction of new U.S. factories to replace imports.

20                   In the alternative, the suggestion by LG and  
21 Samsung better strikes the balance the Commission should be  
22 seeking in its remedy recommendation. A global tariff rate  
23 quota to prevent import surges, and allow the domestic  
24 industry to capture a larger share of the growing U.S.  
25 market would not adversely effect the transition to the new

1 LG and Samsung factories.

2 The LG and Samsung proposal addresses the  
3 entire domestic industry, and represents a forward-looking  
4 approach to adjustment. Thank you.

5 STATEMENT OF DANIEL KLETT

6 MR. KLETT: Good afternoon. I'm Dan Klett, an  
7 economist with Capital Trade, testifying on behalf of LG and  
8 Samsung. I will address two issues. First, the Whirlpool  
9 and GE recommended remedy of a 50 percent tariff is rife  
10 with flaws and overly-restrictive. Second, if the  
11 Commission decides to impose an additional remedy, it should  
12 be a tariff rate quota based on the most recent year, with  
13 an above quota rate of no more than 10.8 percent.

14 Slide 1 summarizes the problems with the  
15 remedy proposed by Whirlpool and GE. First, it is  
16 unrealistically restrictive. Second, Whirlpool failed to  
17 report the negative net welfare effects to the U.S. economy.  
18 Third, Whirlpool's analysis did not account for a variety of  
19 other issues, including higher prices for non-subject  
20 imports, the effects of existing anti-dumping duties and the  
21 necessarily higher prices for dryers. Accounting for these  
22 factors increases Whirlpool and GE profit and cash flow, and  
23 results in larger, negative economic welfare effects.

24 Fourth, the remedy proposed by Whirlpool and  
25 GE will result in a much more concentrated market, and the

1 decreased level of competition will result in higher prices  
2 not captured in the Compass model. I will address each of  
3 these in turn.

4 As shown in Slide 2, Whirlpool's Compass  
5 modeling predicts a reduction in non-Mexico imports to just  
6 under 1.3 million units as a result of the 50 percent  
7 tariff. This slide also shows total imports from Census  
8 since 2012. The import volume with the duty estimated by  
9 Compass will be 60,000 units lower than the lowest import  
10 volume since 2012, and in fact we know from the effect of  
11 the AD Order on imports from China, that a 50 percent duty  
12 will reduce imports to a volume lower than predicted by the  
13 Compass model.

14 The blue line is not an empirical estimate,  
15 but is illustrative of a possible more restrictive level of  
16 imports with the 50 percent tariff. Slide 3 is a quote from  
17 Whirlpool GE remedy brief purporting to show the overall  
18 impact on the U.S. economy. However, they report just one  
19 element of the total welfare effect, the positive additional  
20 tariff revenue.

21 I was able to replicate the Compass model  
22 output reported in Exhibit A of the Whirlpool GE brief, and  
23 this slide shows the additional welfare effects generated by  
24 that model, which Whirlpool did not report. There is a  
25 positive producer surplus, a negative consumer surplus,

1 positive tariff revenues and a total net welfare loss to the  
2 economy of 93 million. I will show later that the net  
3 welfare loss is actually much greater when properly  
4 calculated.

5 The Compass model effects from Whirlpool's  
6 proposed remedy is limited to subject imports. There also  
7 will be price increases for washer imports not subject to  
8 the tariff, including from Mexico and the excluded frontload  
9 imports reported in Table II-5 of the staff report.

10 The base period used by Whirlpool/GE for their  
11 estimates is the first quarter of 2017, which they annualize  
12 by multiplying by four. As shown in Slide 4, China has  
13 effectively been eliminated from the market after imposition  
14 of the AD order in December 2016.

15 Application of the Compass anti-dumping duty  
16 model with China, exiting the U.S. market shows a price  
17 increase of 4.1 percent for U.S. producers, and a volume  
18 increase of 22 percent for Whirlpool and GE. The actual --  
19 while a price increase for the overall economy will actually  
20 be greater with imports included.

21 The Commission has only first quarter 2017  
22 data available for the possible effects of the AD order on  
23 China, but I can tell you that average U.S. prices are up  
24 compared to the 2016 levels, based on your confidential  
25 data, and AUVs from AHAM who prices for topload washers by



1 far the largest element of U.S. production to be higher in  
2 the first nine months of 2017 as compared to 2016.  
3 Therefore, using first quarter 2017 as a baseline year does  
4 not capture the positive price effects associated with the  
5 anti-dumping duty order on imports from China.

6 We know from the injury phase that matching  
7 washer and dryer prices are identical at retail, and that  
8 because wholesale prices are based on discounts off map, but  
9 wholesale prices for dryers also will necessarily increase  
10 when washer prices increase. The price increase will be a  
11 windfall for Whirlpool and GE, dropping straight to the  
12 bottom line in terms of profits and cash flow. Conversely,  
13 this will be an additional cost to consumers and an  
14 additional element adding to the negative economy-wide  
15 welfare effects.

16 Because dryers last longer than washers, the  
17 attachment rate is roughly 80 percent. So the price  
18 increase is applied to 80 percent of the washer volume to  
19 capture the benefit to Whirlpool and GE and the additional  
20 cost to consumers. These effects are significant. The  
21 Whirlpool financial effect estimates in their briefs stops  
22 at operating profit. But for the ability to meet the remedy  
23 plan's stated needs, cash flow may be a more relevant  
24 measure.

25 Confidential Slide 5 shows our calculations of

1 the financial effects for Whirlpool and GE of the proposed  
2 remedy. Correcting for flaws in their method that I just  
3 described, including the cash flow generated from higher  
4 prices for dryers. Needless to say, the windfall to  
5 Whirlpool and GE is much larger than their brief admits, and  
6 the net welfare costs to the economy are much larger as you  
7 can see from the highlighted numbers.

8 I also want to say that the simulation that  
9 you are looking at assumes imports remain at roughly 1.5  
10 million, as predicted in the Compass model. As I showed in  
11 the prior slide, the experience of the AD order on China  
12 effect will be much -- that the 50 percent duty will have a  
13 much greater effect on reducing imports from total imports,  
14 the prior price increases, greater volumes for Whirlpool and  
15 GE, lower fixed cost and actually greater operating profit  
16 and cash flow effects than shown in the slide you are  
17 looking at.

18 The highly restrictive effect of the 50  
19 percent tariff is relevant for the actual effects on  
20 Whirlpool, GE and the U.S. economy, because the U.S. washer  
21 market has become more concentrated in the last five years.  
22 Bosch and Electrolux have exited the U.S. production, and  
23 imports from Germany and Mexico from these companies are way  
24 down as compared to 2012.

25 Haier acquired GE, so that GE and Haier brands

1 are now under the same corporate control. The U.S. washer  
2 market is now effectively dominated by Whirlpool, GE, LG and  
3 Samsung. As shown in Slide 6, the Department of Justice  
4 considers industry with a Herfindahl or HHI index above 2500  
5 to be highly concentrated, and the DOJ guidelines say that  
6 any increase of more than 200 points in such a market "are  
7 presumed likely to enhance market power."

8 As show in Slide 7, the unit -- the HHI for  
9 the U.S. washer sector was just above 2500 prior to the  
10 merger in 2016. Just after the merger, the index climbed  
11 steeply, but then gradually declined through 2016, in large  
12 part because of LG and Samsung's participation in the U.S.  
13 market. Even at that level, which was 2774, the market is  
14 already highly concentrated. The values predicted by  
15 Compass model with the 50 percent duty will lead to a  
16 further concentration of market power, with the HHI index  
17 climbing to 4666, an increase of almost 2000 points, roughly  
18 ten times as big as the increase ^^^^ as that presumed to  
19 increase market power, from DOJ guidelines.

20 The Compass model actually understates --  
21 overstates the continued role of imports. We know from the  
22 AD order that a duty of less than 50 percent eliminated  
23 China completely from the market. So the reality is that  
24 market concentration will likely be at an even higher level.  
25 There is no question that the remedy being proposed by

1 Whirlpool and GE will increase price over and above those  
2 predicted by the Compass model due to the increased market  
3 power of Whirlpool and GE.

4 I now want to turn to the effects of the  
5 remedy being recommended by LG and Samsung. The analysis  
6 conducted by Cap Trade in the prehearing brief was based on  
7 our expectation that the remedy that Whirlpool and GE would  
8 recommend would be the TRQ proposed in the petition. That  
9 analysis is still relevant. As discussed, the order on  
10 China has all but eliminated imports from China.

11 Compass model simulations in our analysis show  
12 the price and volume effects of eliminating China from the  
13 market to be significant. I recognize that imports from  
14 Thailand and Vietnam have increased since the end of 2016.  
15 For the following reasons the global quota of 2.7 million,  
16 other than for imports of Mexico and Korea, will provide the  
17 relief Whirlpool and GE required.

18 First, this is based on the most recent 12  
19 months through March 2017. Based on your data, U.S.  
20 apparent consumption grew at an annual rate of 8.4 percent  
21 from 2012 to 2016, and by 10.6 percent from 2014 to 2016.  
22 As shown in Slide 8, Whirlpool forecasts demand trends  
23 overall to remain positive through 2020, and effectively  
24 this TRQ will allow Whirlpool and GE to capture this market  
25 growth. Slide 9 is from AHEM data and also shows continued

1 growth in the washer market in 2017.

2 Second, Samsung will begin production in the  
3 U.S. in 2018, and necessarily will reduce its exports to the  
4 U.S. as U.S. production ramps up. LG will begin production  
5 in 2019. Both LG and Samsung provided in their  
6 questionnaire responses their capacity, production and  
7 export forecast through 2018, showing steep drops in  
8 production and exports to the United States through 2017,  
9 steep drops in foreign production and exports to the United  
10 States from 2017 to 2018.

11 If a TRQ is imposed and the additional duty  
12 should not be the weighted average dumping margin as  
13 proposed by Whirlpool in its petition, there is no  
14 relationship between the dumping margin and then the adverse  
15 effects found by the Commission. Rather, any additional  
16 duty for imports above the base quota in a TRQ should be  
17 more -- no more than 10.8 percent. This is the weighted  
18 average of underselling calculated from the pricing tables  
19 in your staff report.

20 Finally, I want to just make a comment on the  
21 fact that when asked why they went from a TRQ to a tariff,  
22 they said that a tariff would be less distortive because of  
23 restrictions based on a quota. There are -- I think they're  
24 wrong on that. A TRQ is really more akin to a tariff, not a  
25 quota and does not have the same distortive effects that a

1 pure quota would have. Thank you.

2 MR. VERONEAU: Madam Chairman, that concludes  
3 the presentation of the Respondents. Thank you.

4 CHAIRMAN SCHMIDTLEIN: Okay. Thank you all  
5 very much. I'd like to thank all of the witnesses for being  
6 here today for the Respondents panel, and we will start with  
7 Commissioner Williamson this afternoon.

8 COMMISSIONER WILLIAMSON: Okay, thank you  
9 Madam Chairman, and I too want to express my appreciation to  
10 all the witnesses for their testimony. Mr. Klett, you went  
11 through this very fast, and let's get to the bottom line.  
12 Were you recommending a TRQ with a 2.7 million quota? In  
13 other words, that the additional duty would kick in after  
14 2.7?

15 MR. KLETT: That's the Respondent's  
16 recommendation, yes sir.

17 COMMISSIONER WILLIAMSON: Okay, and what was  
18 -- why do you recommend that?

19 MR. KLETT: Well, that is the level at the  
20 most recent 12 months of the POR, basically second quarter  
21 2016 through first quarter 2017. That's the global import  
22 level minus Korea and Mexico, and that's the basis for that  
23 number and the above quota level of 10.8 percent is based on  
24 your underselling margins.

25 MR. PORTER: Commissioner Williamson, this is

1 Dan Porter. There's also a legal reason. If you go back  
2 and look at every time a TRQ was imposed in a safeguard, at  
3 least for the last we'll call more recent period, but going  
4 back probably 30 years, every single time the TRQ was based  
5 on the most recent period for which there was data.

6 So I mean that really was the starting point.  
7 What has the Commission done in the past, what has the  
8 President done in the past when imposing a TRQ, and they  
9 always set the in quota level on the most recent period, the  
10 most recent import volume recent period. So that's why we  
11 started there.

12 COMMISSIONER WILLIAMSON: Okay, and it may be  
13 proprietary, but have you made estimates of what impact  
14 that's going to have on say Whirlpool, GE and getting to the  
15 question of remedying the injury?

16 MR. KLETT: Right. I think with the Compass  
17 runs for the effect of that proposal, you have to also take  
18 into account market growth over time.

19 COMMISSIONER WILLIAMSON: Yeah, I asked that  
20 question this morning, yeah.

21 MR. KLETT: Yeah. A couple of the last slides  
22 I showed, and also from your own data showed significant  
23 market growth over time. So actually a quota level that  
24 would be restrictive to the extent that any growth would be  
25 captured by Whirlpool and GE, and we can provide you in the

1 post-hearing brief the, you know, the economic benefits to  
2 Whirlpool and GE of that recommended TRQ.

3 MR. VERONEAU: John Veroneau, counsel for  
4 Samsung. Commissioner Williamson, if I could add, this is I  
5 think a very important point, that the remedy that we  
6 believe the statute calls for is one that improves the  
7 domestic industry generally. That is, the remedy that will  
8 increase U.S. production and U.S. employment.

9 Samsung and LG have announced and are underway  
10 making into reality a massive shift of their washer  
11 production from outside the United States into the United  
12 States.

13 COMMISSIONER WILLIAMSON: Well I understand,  
14 and it would be nice if it had happened five years ago, but  
15 so I mean we understand the importance of that, and we don't  
16 want to undermine that.

17 MR. VERONEAU: My point Commissioner, if I  
18 could, is that that is -- that is the remedy. That is -- to  
19 the extent that the statute asks you as the Commissioners to  
20 project what will happen over the next few years in this  
21 domestic industry, the record we hope is clear and we look  
22 forward to opportunities to make it even clearer, that  
23 unlike frankly any other safeguard scenario ever considered  
24 by the Commission, what is before you is an opportunity for  
25 an unprecedented increase in employment and production in



1 the domestic industry.

2 And to the extent that a TRQ is necessary to  
3 "hold our feet to the fire," we are pleased to support that.

4 COMMISSIONER WILLIAMSON: Okay, but we are  
5 trying to figure out what's going to be the economic impact,  
6 if there is a TRQ with a tariff or --

7 MR. VERONEAU: Well Commissioner, the economic  
8 impact is 1,600 jobs that will be created in South Carolina  
9 and Tennessee. That is -- now you can -- you obviously are  
10 free to kick those tires to make sure that our numbers are  
11 accurate and that we -- these plans are in place.

12 But as you heard from Governor McMaster  
13 earlier today and heard from Samsung witnesses, this is a  
14 \$380 million investment that is real and is creating 1,000  
15 jobs over the next eight months. So that is -- that is the  
16 adjustment plan that these two companies have put forward.

17 COMMISSIONER WILLIAMSON: Understood, and as I  
18 said before, there was a lot of injury, there are a lot of  
19 dumping cases and the governor forgot about those when he  
20 was talking. So we do have that problem to deal with,  
21 what's the injury to the two existing domestic producers,  
22 and I realize there are going to be four and all that.

23 MR. PORTER: Commissioner Williamson, with due  
24 respect, this remedy, Section 201 is not a remedy for  
25 alleged or past unfair trade actions. In fact, the statute

1 assumes fair trading. So to the extent that there was  
2 unfair trading in the past, those were remedied and there  
3 have been no dumping or countervailing actions presented  
4 with regard to current production by Samsung -- I will only  
5 speak for Samsung -- with regard to the exports to the  
6 United States from Thailand and Vietnam.

7 So Section 201 calls for a remedy that  
8 improves and enhances the domestic industry, and we have an  
9 unprecedented situation where the Respondents themselves are  
10 the ones coming forward to present an unprecedented  
11 adjustment plan of moving a significant and we'll be pleased  
12 to provide additional information to you, the Commissioners,  
13 on a confidential basis, as to the extent of that. But  
14 there is a plan, as you heard from --

15 COMMISSIONER WILLIAMSON: I've understood  
16 that, and to me it's been amazing that it didn't happen a  
17 long time ago. So but I understand the importance of that.  
18 But let's get to the question. Are there legal grounds for  
19 the Commission to consider LG and Samsung as members of the  
20 domestic industry, if they have not produced any washers in  
21 the United States?

22 MR. VERONEAU: Commissioner, John Veroneau  
23 with Samsung. There is -- the statute calls for a remedy  
24 that will improve the domestic industry. So by definition a  
25 remedy is forward-looking. Samsung, again I will only speak

1 for Samsung, will unquestionably be a producer of washers  
2 during any period of remedy that is considered, that is  
3 recommended. So we have today hired 200 workers. You saw  
4 the testimony --

5 COMMISSIONER WILLIAMSON: But I'm sorry. I  
6 accept all of that. We don't need to go over it. We've  
7 heard it. We're not disagreeing with that. But I was just  
8 asking you -- so, but you're so -- but so in terms of the  
9 legal basis of any precedent for that, I guess you're saying  
10 there's not because in a sense this remedy has been  
11 unprecedented.

12 (Simultaneous speaking.)

13 MR. VERONEAU: I'm sorry. Let me be clear. I  
14 was saying that the remedy, the domestic industry is clear.  
15 We are producing. The statute says are we producing the  
16 same product as the Petitioner. We are.

17 COMMISSIONER WILLIAMSON: By the end of -- I  
18 guess the beginning of 2018, you will be.

19 MR. VERONEAU: In January 2018, we will be  
20 producing washers. That is the product at issue in this  
21 safeguard investigation. So as a matter of law, we will be  
22 part of the domestic industry.

23 COMMISSIONER WILLIAMSON: Okay. Okay, thank  
24 you.

25 MR. VERONEAU: Commissioner Williamson, Dan

1 Porter with Curtis. I was going to say you asked a very  
2 specific question, and we'll have to give a very specific.  
3 What is the legal basis? It's the statute, okay. The  
4 statute says what efforts are required to facilitate a  
5 positive adjustment to the domestic industry for the  
6 duration of the safeguard remedy, which is three years.

7 You've heard unequivocal testimony before you  
8 that both LG and Samsung will be up and running within a  
9 year. So they will become a U.S. producer, which needs to  
10 factor in what's going to happen to the U.S. industry. So  
11 it really is, it's the statutory language that is the legal  
12 basis for our proposal.

13 COMMISSIONER WILLIAMSON: Okay, thank you.  
14 The subject companies are receiving state and local  
15 assistance. Are you subject to any clawback provisions  
16 under which you would have to pay back assistance if you  
17 don't meet certain goals, and if so, please elaborate on  
18 these provisions and how they might fit into the  
19 Commission's remedy analysis.

20 MR. PORTER: Commissioner Williamson, we would  
21 provide on a confidential basis information with regard to  
22 agreements between Samsung and the government of South  
23 Carolina with regard to the commitment, which is significant  
24 as you heard from the governor, but we'll provide that  
25 information.

1                   MR. KLETT: Commissioner Williamson, again Dan  
2 Porter on behalf of Curtis. Same with LG. We can  
3 unequivocally state that there has been a binding agreement  
4 negotiated and signed by LG with the state of Tennessee, but  
5 quite bluntly there's not a single person at this table who  
6 has seen all of the details. So we'll get that to  
7 post-hearing.

8                   COMMISSIONER WILLIAMSON: Good, okay thank  
9 you. Okay. Based on -- I'm sorry. My time has expired, so  
10 I'll stop there. Thank you.

11                  CHAIRMAN SCHMIDTLEIN: Thanks. Commissioner  
12 Broadbent.

13                  COMMISSIONER BROADBENT: Okay. This is for  
14 Dr. Ludema or Dan Klett. Do you agree that the industry  
15 would see higher prices and higher operating income as a  
16 result of a tariff on imports?

17                  MR. KLETT: Commissioner Broadbent, this is  
18 Dan Klett. Yes. If a 50 percent tariff is imposed,  
19 necessarily U.S. producers' prices will go up, prices for  
20 non-subject, for all imports will go up, and there will be a  
21 windfall for the domestic industry.

22                  COMMISSIONER BROADBENT: Do you have an  
23 opinion on the price effects, what they would be under a  
24 quota or a TRQ?

25                  DR. LUDEMA: This is Rod Ludema. It really

1 depends on where you would set the quotas. If you were to  
2 set the quota at what is being recommended by the  
3 Respondents, the price effects would be smaller. If you  
4 were to set the quota at some much more restrictive level,  
5 you could see higher domestic prices. But it really depends  
6 entirely on where you set that quota.

7 COMMISSIONER BROADBENT: Right. Do you agree  
8 that a tariff is generally less disruptive than a quota,  
9 where demand is somewhat inelastic?

10 DR. LUDEMA: I do agree with that. I wouldn't  
11 agree with that in the case of a tariff rate quota though,  
12 because the tariff rate quota has the added flexibility on  
13 the out of quota imports.

14 MR. DURLING: Commissioner Broadbent, just  
15 this is Jim Durling for Curtis. Just the one other piece to  
16 keep in mind is whatever the remedy you're looking at, it's  
17 not just the direct price effect, but even if there's a  
18 small price effect but there is a quantity effect, that  
19 quantity effect produces an indirect price effect, because  
20 the quantity will basically lower the per unit fixed cost,  
21 which creates additional kind of net revenue translating  
22 into profits.

23 So it's important not just to look at the  
24 price effect, but the price effect and the improvement  
25 associated with the increased quantity, which lowers per

1 unit fixed cost. And in the remedy analysis you saw this  
2 morning, in fact without getting into the specific numbers,  
3 a significant portion of the benefit is associated with the  
4 quantity benefit of lower, fixed per unit fixed cost, which  
5 translates into profit. So it's critically important not to  
6 forget that part of the analysis.

7 COMMISSIONER BROADBENT: Okay. What would be  
8 the impact of a 49 or 50 percent on tariff on LG and  
9 Samsung's imports of washers?

10 MR. VERONEAU: Mr. Herrington, would you like  
11 to answer?

12 MR. HERRINGTON: It takes us out of the  
13 business, from an important perspective.

14 COMMISSIONER BROADBENT: So you'd be leaving  
15 the market?

16 MR. HERRINGTON: On the imports, yes. And  
17 what -- to elaborate a little bit further, as we talked in  
18 our testimony this morning or this afternoon, the ability to  
19 offer a full line is cut, so our importance to our retailers  
20 gets smaller and therefore the economics of the total  
21 laundry category go down for us.

22 COMMISSIONER BROADBENT: Okay. Does Samsung  
23 --

24 MR. RIDDLE: Commissioner, John Riddle at LG.  
25 It would kill our sales on washer product, as well as

1 dryers.

2 MR. PORTER: I'm sorry. Commissioner  
3 Broadbent, just one quick point. Again, you don't need to  
4 sort of say these answers are a guess. You have a real  
5 world experiment with respect to China, okay, and it turns  
6 out that the tariff rate being proposed by Petitioners now  
7 is virtually identical to the anti-dumping duties that  
8 Commerce imposed with respect to imports from China, and as  
9 the staff report shows, I think it was -- I think we said it  
10 was a 99.9 percent reduction. So you actually have a real  
11 world experiment about what happens when you impose a 50  
12 percent tariff.

13 MR. VERONEAU: Commissioner Broadbent, if I  
14 could add, given the attachment rate of dryers at a 60 to 80  
15 percent rate, I think it's important to understand that if a  
16 washer is knocked out of the market the dryer in at least 60  
17 to 80 percent of the time is going to be knocked as well,  
18 which creates an credible windfall for other companies and  
19 competitors who pick up those sales.

20 COMMISSIONER BROADBENT: Okay, let's look at the  
21 parts then. What would be the impact of 49 or 50 percent  
22 tariff on LG and Samsung's imports of covered parts for  
23 assembly into LRWs at their new U.S. production facilities?

24 MR. ARANOFF: I think just before jumping into  
25 the answer to that question it's important to remember Mr.



1 Fraley just testified to you that he's going to build all of  
2 those covered parts in the Newbury plant. The equipment is  
3 being installed this week -- first of it, anyway.

4 The issue with covered parts goes only to a  
5 short transition. Basically, what if something goes wrong  
6 in the startup and there's some short period of time where  
7 he can't produce every single one that he needs, so really  
8 covered parts is basically a non-issue.

9 COMMISSIONER BROADBENT: How long would that  
10 transition period be expected to be?

11 MS. ARANOFF: Well, I think he expects it to be  
12 zero. Mr. Fraley?

13 MR. FRALEY: No longer than March it's our  
14 expectation.

15 COMMISSIONER BROADBENT: Yes, that's pretty  
16 ambitious.

17 MR. VERONEAU: Commissioner Broadbent, if I  
18 could just add also, there is no question that Samsung  
19 intends to build all the parts that are exhibited here today  
20 in South Carolina. We are testifying to that today. We do  
21 believe we should have the flexibility for contingencies of  
22 hurricanes, production, et cetera.

23

24 And recall, as Ms. Aranoff testified, when  
25 Whirlpool moved its washer production from Germany to the

1 U.S. it took them three years. Thank you.

2 MR. TOOHEY: We have no intention of importing  
3 any of the covered parts.

4 COMMISSIONER BROADBENT: Okay.

5 MR. PARK: In terms of the tariff, it would have  
6 an impact on the replacement parts for washers already sold,  
7 so t here would be an impact and making it more expensive to  
8 repair washers that have already been sold.

9 COMMISSIONER BROADBENT: Okay.

10 For generally, Respondents, you argued that any  
11 tariff recommended by the Commission should be no higher  
12 than the alleged margin of underselling in this  
13 investigation. Explain how such a remedy recommendation  
14 would be consistent with the requirement that the Commission  
15 would address -- that our action would address to serious  
16 injury?

17 MS. ARANOFF: Commissioner Broadbent, the  
18 Commission's conventional approach when looking at TRQ has  
19 always been, as I think some of my colleagues have  
20 mentioned, to start by looking at what is the current volume  
21 market share of imports. And the idea is to prevent a  
22 future surge, to stop any increase in imports, and  
23 sometimes maybe a modest reduction for breathing room.

24 What Whirlpool has asked you to do in this case  
25 is the exact opposite of that. So in a normal safeguard

1 case where the Commission is looking at a volume of imports  
2 and no U.S. investment by any of the Respondents, the  
3 Commission is starting with current volume and looking at  
4 should we keep it there or maybe reduce it a little bit.  
5 What Whirlpool is asking you to do is the exact opposite.  
6 They're saying, okay, well you're investing in the U.S., so  
7 imports are already going to go way down. So now we think  
8 that your quota or your market access should start at zero  
9 and then we'll bargain for one or two parts for repair,  
10 maybe, off of zero. So it's completely opposite of what the  
11 Commission has done in every prior safeguard case.

12 MR. PORTER: Let me try to get a very direct  
13 answer to your question, which is the idea of injurious  
14 pricing. This is a fair trade case. We need to keep  
15 repeating that because Whirlpool keeps pretending that it's  
16 not. This is a fair trade case. In a fair trade case, by  
17 sort of definition of injurious pricing is underselling.  
18 What other aspect could injurious pricing be other than  
19 underselling? So the underselling, if you essentially put  
20 the tariff at the level of the underselling, you have  
21 essentially remedied the injurious pricing.

22 COMMISSIONER BROADBENT: Okay, for Samsung, were  
23 your LRWs produced in South Carolina be labeled "Made in the  
24 U.S.A." or assembled in the U.S.? I'm assuming "Made in the  
25 U.S.A."

1                   MR. VERONEAU: Commissioner Broadbent, they will  
2                   be -- as Mr. Fraley testified, all the covered parts will be  
3                   made we will, like Whirlpool and other U.S. manufacturers,  
4                   we will import some parts. But just as Whirlpool washers,  
5                   Maytag washers are not "Made in the U.S.A." or are not able  
6                   to make that representation on their product. They are  
7                   assembled in the U.S.A. We expect that the washers made in  
8                   Newbury will have that same badge, "Assembled in the United  
9                   States."

10                   COMMISSIONER BROADBENT: Okay.

11                   MR. TOOHEY: Same answer for us.

12                   MS. ARANOFF: Commissioner Broadbent, in order  
13                   to label something as "Made in the U.S.A." is actually  
14                   regulated by the Federal Trade Commission and they require  
15                   basically or virtually of the content to be U.S. in order to  
16                   label "Made in the U.S.A." That's why Whirlpool labels  
17                   theirs as assembled in the U.S.A. because they told you this  
18                   morning they use some imported content and Samsung's will be  
19                   just the same.

20                   COMMISSIONER BROADBENT: Okay, thank you very  
21                   much.

22                   CHAIRMAN SCHMIDTLEIN: Alright, thank you.

23                   So if I understand, your first line of argument  
24                   is that no remedy is necessary because LG and Samsung are  
25                   now part of the domestic industry; is that right?

1                   MR. PORTER: That's correct.

2                   CHAIRMAN SCHMIDTLEIN: Okay, so how should we  
3 take into account what that will do to Whirlpool and GE?  
4 Does that matter for purposes of our analysis of whether or  
5 not the injury is being remedied?

6                   MR. VERONEAU: Madam Chairman, the statute  
7 requires a remedy recommendation and ultimately a remedy  
8 that would advance the domestic industry. Typically, I  
9 think a fair characterization of that would be a remedy that  
10 would promote U.S. production and U.S. jobs, an increase in  
11 both production and jobs. Whirlpool -- excuse me. Samsung  
12 and LG have presented testimony today that they are  
13 literally moving the lion's share -- and we can be more  
14 specific on a confidential basis -- their washer production  
15 to the United States. So it is the remedy itself. It is a  
16 massive shift from the import side of the ledger to the  
17 domestic production.

18                   So our view is the statute calls for a remedy  
19 that will improve the domestic industry generally. It is  
20 not necessary or appropriate to craft a remedy that would  
21 best serve one member of the domestic industry.

22                   CHAIRMAN SCHMIDTLEIN: But isn't that what  
23 you're asking us to do? I mean for the industry -- the  
24 companies that were part of the industry that we found to be  
25 injured you're not asking us to craft a remedy that doesn't

1 consider that at all, but just considers these two  
2 companies, right, or is it your position that no remedy  
3 actually would benefit those two companies.

4 MR. PORTER: Madam Chair, we are not at all  
5 suggesting that you're not allowed to look at Whirlpool and  
6 GE, not at all. What we are saying is you need to look at  
7 the whole enchilada, if I may, okay, over three years.  
8 Okay. And you need to sort of look at that what's going to  
9 happen in year one, what's going to happen in year two,  
10 what's going to happen in year three with respect to  
11 different remedy option.

12 CHAIRMAN SCHMIDTLEIN: I know. And we're  
13 focused on the "no remedy" option right now. So I'm just  
14 trying to understand your position with regard to how we  
15 should take into account the industry that was found to be  
16 injured. From what I hear you arguing, you're not arguing  
17 that Samsung and LG were members of the domestic industry  
18 for purposes of injury. Correct?

19 MR. PORTER: Correct.

20 CHAIRMAN SCHMIDTLEIN: So six weeks ago, even  
21 though we've heard a lot of testimony today about how this  
22 is not an abstract idea. There are actually people being  
23 hired, I assume. Mr. Fraley, you were hired earlier than  
24 six weeks ago.

25 MR. FRALEY: Absolutely.

1                   CHAIRMAN SCHMIDTLEIN: Right. But despite that,  
2 you were not arguing in September that you were part of the  
3 domestic industry. So there was a different set of  
4 companies. The Commission has made a finding that LG and  
5 Samsung are a substantial cause of serious injury for them.  
6 And so my question is if we don't put in place a remedy  
7 because it will increase jobs that these companies are  
8 bringing how should we analyze and consider those companies  
9 that were part of the domestic industry at the time of  
10 injury. Well, just what's your position?

11                   MR. VERONEAU: Our position is we obviously  
12 cannot, under the statute, be members of the domestic washer  
13 industry until we make washers, which in the case of Samsung  
14 --

15                   CHAIRMAN SCHMIDTLEIN: I understand.

16                   MR. VERONEAU: -- will be in January.

17                   CHAIRMAN SCHMIDTLEIN: Right. So is it  
18 irrelevant that what happens to those companies if no remedy  
19 is put in place?

20                   MR. VERONEAU: Respectfully, I would submit, no.  
21 The statute calls for a remedy that would improve the  
22 domestic industry. It doesn't say you must craft a remedy  
23 recommendation that will help the Petitioners in that  
24 domestic industry.

25                   CHAIRMAN SCHMIDTLEIN: So if that's true, it

1 just calls for us to put in place a remedy that's going to  
2 help some part of the domestic industry. We could put in  
3 place a remedy that helps the industry that was found to be  
4 injured and that would still be compliant with the law in  
5 your view.

6 MR. PORTER: Our view is your -- the role that  
7 Congress has provided for the Commission is to recommend a  
8 remedy that is in the best interest of the domestic  
9 industry. And what we have here is unprecedented. In the  
10 case of, say, a New Zealand or Australian lamb it's  
11 obviously impossible for that Respondent to be part of the  
12 remedy. But today, in 2017, with global production you have  
13 a situation where Samsung and LG are becoming, as we speak,  
14 part of the domestic industry.

15 So what is critical is during the phase of the  
16 remedy phase -- during the remedy phase, who is in the  
17 domestic industry? It is not looking backwards who was in  
18 the domestic industry during the injury phase. The injury  
19 phase you have made your determination, but the statutory  
20 obligation is to craft a recommendation that best advances  
21 the domestic industry. You're not limited by the fact that  
22 the domestic industry members were those Petitioners at the  
23 time. This is forward looking and it is, as a matter of  
24 fact and therefore law, that we will -- Samsung and LG will  
25 be part of the domestic industry during the remedy phase.



1                   CHAIRMAN SCHMIDTLEIN: I understand. But what  
2 I'm trying to get at in the case of a no remedy are you all  
3 arguing that that actually benefits them or do you not have  
4 a position on what the affect would be?

5                   MS. ARANOFF: Actually, it does benefit them.  
6 They told you that. They told you that when Samsung and LG  
7 become domestic producers that would be a good thing for  
8 U.S. workers and for U.S. manufacturing. They said they  
9 wanted Samsung and LG on a level playing field with U.S.  
10 wages and U.S. workers and U.S. inputs and U.S.  
11 environmental laws.

12                   CHAIRMAN SCHMIDTLEIN: I understand, right, so  
13 how do you square that, though, with -- for instance, I've  
14 been looking at the C Table, which shows the imports over  
15 the last four or five years, which are generally at the  
16 level of your TRQ number and you can see the losses for the  
17 domestic industry every single year. So even though Samsung  
18 and LG would be -- is that irrelevant? That's my question.

19                   MS. ARANOFF: It's not irrelevant, but it's  
20 before the shift of the vast majority of Samsung and LG's  
21 production to the U.S., so those numbers are not the same as  
22 what you would see going forward. But also, importantly,  
23 remember that the remedy ^^\_

24                   CHAIRMAN SCHMIDTLEIN: But there would be a TRQ  
25 where the -- under your proposal, the TRQ would be a zero

1 rate or 2.7.

2 MS. ARANOFF: Well, we told you in our brief  
3 that the statute requires the remedy to be notched down each  
4 year, but actually in this case it's kind of ironic because  
5 really what'd you want to is the opposite, right? As  
6 Samsung and LG ramp up their production, you'd want to have  
7 a remedy that becomes more restrictive, not less restrictive  
8 over time. That's what would really hold their feet to the  
9 fire if that's what you were trying to do, but the statute  
10 doesn't let you do that.

11 CHAIRMAN SCHMIDTLEIN: So it's you all's  
12 position that no remedy helps Whirlpool and GE and Staber  
13 because Samsung and LG will be able to have more employees  
14 in the United States.

15 MR. PORTER: No.

16 MS. ARANOFF: Well, that's part of it, but also  
17 remember -- and this is the big contrast between the  
18 safeguard case and an anti-dumping case that the statute  
19 requires the Commission to balance the benefits to the  
20 domestic industry, however you define it, and also the  
21 potential harms, right, to consumers and to economic welfare  
22 and that's where there's also an important consideration  
23 here.

24 And I know the Commission often chaffs at  
25 anti-dumping cases because you can't care about it in

1 dumping cases, but here you actually need to and the no  
2 remedy option, as I think I pointed out in my testimony,  
3 that's the one that comes at no cost. No cost in terms of  
4 consumers or welfare, whereas, the type of remedy that  
5 Whirlpool is recommending -- you've seen the Compass  
6 numbers. There's a substantial negative welfare affect  
7 there.

8 MR. DURLING: Commissioner Schmidtlein, I just  
9 want to add two other aspects to it. First, there is a  
10 concrete remedy because if at 2.7 the imports will not be  
11 participating in any future growth, right? So all the  
12 future growth -- and it historically has been quite  
13 significant and Whirlpool itself projects that it'll be  
14 significant -- all the growth goes to them. So we're, at  
15 best, flat or maybe a haircut.

16 The other thing that you need to keep in mind is  
17 it's not a static look at what is the situation in January  
18 1918 -- 2018. It's what happens over the three-year period.  
19 And over the three-year period the imports will be  
20 eliminated. The single biggest contribution our remedy is  
21 making to the ultimate goal, which is more competitive with  
22 imports, is we are eliminating imports from the market over  
23 time. The difference is we're doing it over time as part of  
24 the ramp up and we're replacing it with U.S. production. I  
25 mean that is a remedy for them.

1                   It may not help Whirlpool, as a company, make  
2 money; but the purpose of 201 is not to provide compensation  
3 for past injury. It's about providing whatever adjustment  
4 will best facilitate the ability to compete with imports in  
5 the future. We're eliminating the imports in the future.

6                   CHAIRMAN SCHMIDTLEIN: And when you singled out  
7 Whirlpool, it wouldn't help any of the companies that were  
8 part of the DI during injury make money, right?

9                   MR. DURLING: Because the statute doesn't  
10 contemplate ^^^^

11                   CHAIRMAN SCHMIDTLEIN: That's all I'm getting  
12 at. So your position is that's irrelevant because LG and  
13 Samsung are putting jobs there.

14                   MR. DURLING: Our view is they're not entitled  
15 to a cash windfall because in the past they've been injured.  
16 That's not the purpose of 201. 201 is about facilitating  
17 adjustment, prospectively, and we think our remedy is  
18 actually much better than anything that -- this is not a  
19 world where there are other players out there who are still  
20 going to be importing who need to be restrained. You're  
21 talking to the universe of players. This is a concentrated  
22 industry. Everybody who is the industry is here.

23                   When these two companies move their production  
24 to the United States, imports will be largely eliminated  
25 from the market, other than maybe some replacement parts,

1 maybe transition stuff, but the decline over the full  
2 three-year period in imports into the U.S. market is going  
3 to be far more dramatic than anything the Commission has  
4 ever seen. We're talking about largely replacing imports  
5 with domestic production and that's what's unprecedented.  
6 And if our remedy arguments and recommendations seem a bit  
7 surprising that's because this is a rather unusual  
8 situation.

9 CHAIRMAN SCHMIDTLEIN: Mr. Porter, you've been  
10 wanting to talk. I'm going to have to let you talk, even  
11 though my time has expired.

12 MR. PORTER: Thank you. Thank you. I did want  
13 to make a point, okay, and we are not saying that the  
14 examination of Whirlpool and GE going forward -- not going  
15 backwards, but going forward is irrelevant, okay.

16 Whirlpool and GE are part of the domestic  
17 industry, absolutely. What the Commission needs to do,  
18 though, is to look at the different remedy options,  
19 including our proposed "no remedy," and saying if this  
20 happens what is the affect on U.S. producers? Obviously,  
21 our argument is if you do no remedy then you will increase  
22 production in South Carolina and Tennessee faster than if  
23 you imposed Whirlpool's remedy. That needs to be taken into  
24 account.

25 Yes, there are some benefits if you kick out

1 imports to Whirlpool and GE for a one-year period of time,  
2 but there's also tremendous harm to U.S. producers in  
3 Tennessee and South Carolina if you do that. And so your  
4 job, which obviously is very hard, is to figure out what is  
5 the best for the U.S. producers. And we submit it is best  
6 to allow Tennessee and South Carolina to come production as  
7 quickly as possible and as strong as possible.

8 CHAIRMAN SCHMIDTLEIN: Okay. Alright, thank  
9 you. Vice-Chairman Johanson.

10 VICE CHAIRMAN JOHANSON: Thank you Chairman  
11 Schmidtlein. And I would like to thank all of you for  
12 appearing here today.

13 And this is a follow up to a discussion that you  
14 all were having with Commissioner Schmidtlein and this is a  
15 legal question. I'd appreciate it if you could answer it  
16 now to the extent that you can and feel free to follow up in  
17 your post-hearing brief. Is it possible for a party not to  
18 be part of the domestic industry during the injury phase of  
19 a Section 201 investigation and then become a part of the  
20 domestic industry for the remedy phase of the same  
21 investigation?

22 MR. VERONEAU: John Veraneau for Samsung. Vice  
23 Chairman Johanson, absolutely, yes. The answer is yes. The  
24 statute calls on the Commission to recommend a remedy that  
25 is in the best interest of the domestic industry. It is by

1 its very nature, a forward looking endeavor.

2 So in the same way that projects that Whirlpool  
3 has put forward about 1,300 jobs. Put aside for a moment,  
4 the credibility of that number -- that is future domestic  
5 industry. Likewise, Samsung and LG are putting forward a  
6 similar projection.

7 I would submit that it's a far more reliable  
8 projection but it's a projection that's forward looking. So  
9 unavoidably, when you're considering a remedy, you are  
10 considering a remedy that will improve the domestic industry  
11 on a going forward basis.

12 So for that reason, the mere fact that a member  
13 of the domestic industry wasn't part of the industry during  
14 the investigation is irrelevant because the statutory test  
15 and task before this Commission is to recommend a remedy  
16 that best serves the best interests of the domestic  
17 industry, "domestic industry".

18 It doesn't say serve the best interest of the  
19 Petitioners. This is not a private right of action, this is  
20 a public interest law that is designed to improve the  
21 domestic industry going forward and there has never been an  
22 opportunity for the domestic industry to be so enhanced by  
23 former importers than Samsung and LG are in the process of  
24 doing right now, of shifting their production from outside  
25 of the United States to here in the United States.

1                   MS. ARANOFF: Vice Chairman Johanson, you asked  
2                   this as a legal question and so I want to acknowledge in  
3                   following on on what Mr. Veroneau has said. If you look at  
4                   the Commission's cases -- to cases in defining domestic  
5                   industry -- take a look at the heavyweight motorcycle's case  
6                   where they lay out a whole bunch of different tests about  
7                   what you have to satisfy to be considered part of the  
8                   domestic industry.

9                   And Samsung and LG -- you're going to meet every  
10                  one of those once they start producing washers in the U.S.  
11                  Now, your question is can you be a domestic producer in the  
12                  remedy phase and not in the injury phase and the answer is  
13                  your case law won't tell you that.

14                  And the reason your case law won't tell you that  
15                  is because it has never happened before in any safeguard  
16                  case that all of the Respondents are shifting their  
17                  production into the U.S. at the time that your remedy is  
18                  beginning to take effect.

19                  So that -- I mean as a legal matter, that's a  
20                  question of first impression for you. But if your question  
21                  is well what is the test for domestic industry and do  
22                  Samsung and LG meet the test, take a look at motorcycle's in  
23                  some of your older cases and I think you'll see that the  
24                  level of investment here and the level of U.S. production is  
25                  far and away within what the Commission has considered to



1 meet the test for being a domestic producer.

2 VICE CHAIRMAN JOHANSON: Okay, following on your  
3 response there. On page 3 of Samsung's Brief you all state  
4 that under Section 2.01 workers in South Carolina and  
5 Tennessee deserve just as much consideration as workers in  
6 Ohio.

7 A similar argument appears at page 11. The first  
8 question I'll ask is exactly where in the statute is that  
9 mandated? If you want to discuss the motorcycle's case in  
10 your response, my second question will be to ask about the  
11 importance of the fact that Honda and Kawasaki had been well  
12 established domestic producers for years prior to the period  
13 of investigation, and this could be seen at page A9 of the  
14 motorcycle's publication that you all cite.

15 How does this contrast to the facts here where LG  
16 and Samsung have yet to establish production during the  
17 period -- have yet to establish production?

18 MR. VERONEAU: John Veroneau from Samsung. The  
19 statute requires the crafting of a remedy that would benefit  
20 the "domestic industry". So the question is during that  
21 period of remedy -- during that period of remedy, who  
22 qualifies as a member of that domestic industry?

23 And our submission today is quite clear --  
24 Samsung, LG, Whirlpool, Hire GE, are members -- Staber, are  
25 members of the domestic industry, all of them during the

1 period of remedy. And the period of remedy is what is  
2 relevant here.

3 VICE CHAIRMAN JOHANSON: But we're talking about  
4 --

5 MR. VERONEAU: If I could just add Commissioner,  
6 there's no question that we meet all the tests as Ms.  
7 Aranoff mentioned -- that we are producing washers as the --  
8 as Mr. Fraley testified -- we are producing all the covered  
9 parts which according to testimony from Whirlpool this  
10 morning, represents the "heart and soul" of a washing  
11 machine factory.

12 So there's no question as a legal matter that we  
13 -- once we make that first washer, we are members of the  
14 domestic industry. The question -- and your question  
15 Commissioner, but you're not today -- we would submit it's  
16 not relevant whether we are today on October 17th, 19th --  
17 I've lost track of the days, whether we are a washer maker  
18 today.

19 The question is during the period of remedy are  
20 we a domestic -- a member of the domestic washer industry  
21 without question?

22 VICE CHAIRMAN JOHANSON: Also, it's -- looking  
23 back at the motorcycle cases, where I believe the cases that  
24 you all referenced were all licensed domestic industry  
25 during the injury phase and not the remedy phase -- I think

1 that's the case.

2 MS. ARANOFF: No, I mean you're right about that  
3 Commissioner because like I said there has been no prior  
4 case in which there was this type of change in the  
5 composition of the domestic industry between the injury  
6 phase and the remedy phase so that is in some sense a  
7 question of first impression.

8 We think the answer to it is pretty self-evident  
9 as Mr. Veroneau was saying that anyone who was doing the  
10 things that it takes to be a domestic producer is a domestic  
11 producer at that time. The remedy is not intended to be  
12 static. The remedy is intended to facilitate adjustment and  
13 it's intended to be forward looking.

14 It's intended to result in and reflect future  
15 changes in the market. But let's just assume that you don't  
16 accept any of that and you say no the domestic industry  
17 definition is static on some certain date that happened  
18 before the injury vote.

19 Well even under that definition Samsung and LG  
20 have told you that they're going to benefit from -- sorry  
21 Whirlpool and GE have told you that they are going to  
22 benefit when Samsung and LG become domestic producers.

23 And so the question is how do you facilitate that  
24 maximal benefit to them? They said that maximum benefit  
25 comes from Samsung and LG moving as much of their production

1 to the U.S. as possible so you want to be able to make that  
2 happen as quickly as possible and not impose a remedy that's  
3 going to slow it down, hold it up, burden it with extra  
4 costs -- all of which fall on consumers.

5 VICE CHAIRMAN JOHANSON: Okay thanks for your  
6 responses. This is just difficult because we are talking  
7 about LG and Samsung as being potential members of the  
8 domestic industry but they're really potential future  
9 members of the domestic industry because production has not  
10 begun yet.

11 MR. VERONEAU: Commissioner Johanson I would just  
12 re-emphasize what is relevant is who is a member of the  
13 domestic industry during the period of remedy? The remedy  
14 by its very nature is forward looking so it's irrelevant  
15 that today as we sit here, we do not qualify as members of  
16 the domestic industry.

17 We absolutely qualify as members of the domestic  
18 industry during the period of remedy which is the  
19 statutorily relevant period here.

20 VICE CHAIRMAN JOHANSON: Yes, Mr. Porter?

21 MR. PORTER: Yes, Commissioner Johanson this is  
22 Dan Porter with Curtis. Again, you're looking forward in  
23 time. You're looking at everyone forward in time. So for  
24 an example, okay, the law suggests as we know from solar --  
25 it doesn't require. The law suggests Petitioners put in an

1 adjustment plan.

2 We have that here, okay? Unlike the solar case  
3 here Petitioners did put an adjustment plan and so you need  
4 to look at that and say okay, what's going to happen under  
5 different things that the President is going to do with  
6 respect to their adjustment plan?

7 You know do we think it's going to happen? We  
8 need to look -- what's the evidence it's going to happen?  
9 So you are sort of doing a looking forward what is going to  
10 happen with Whirlpool and GE and you do the same thing with  
11 LG and Samsung.

12 And I would submit that there is a lot -- I mean  
13 a lot more evidence that what LG and Samsung says is going  
14 to happen will actually happen than what Whirlpool and GE  
15 said might happen. And you heard today -- depending on the  
16 outcome of the case.

17 You heard the opposite from LG and Samsung.  
18 Regardless of the outcome of the case these new facilities  
19 are going to be built. So you obviously need to sort of  
20 evaluate all of that but for everyone you are looking  
21 forward and validating what they're going to do.

22 VICE CHAIRMAN JOHANSON: Okay, thank's for your  
23 responses. My time is expired but I will keep pondering  
24 this issue.

25 CHAIRMAN SCHMIDTLEIN: Okay, Commissioner

1 Williamson?

2 COMMISSIONER WILLIAMSON: Thank you. I actually  
3 want to go on to some other things but before I ask that I  
4 think looking at the market shares the domestic -- the  
5 present members of the domestic industry have a pretty large  
6 market share relative to the imports.

7 Okay, even if you accept our arguments, if two  
8 years down the road the present members are still losing  
9 money -- losing money or suffering, are you telling us that  
10 the domestic industry will be fine because you all are  
11 making so much profit that the industry as a whole is  
12 profitable?

13 I mean that's sort of what -- that's where your  
14 argument is leading me to conclude?

15 MR. PORTER: Commissioner, this is Dan Porter of  
16 Curtis. Two years down the road you will have close to zero  
17 imports so however the domestic industry is doing, it's  
18 going to have nothing to do with imports.

19 COMMISSIONER WILLIAMSON: But that's two years  
20 out?

21 MR. PORTER: It is --

22 COMMISSIONER WILLIAMSON: Because he is not to be  
23 producing at least for a year or 15 months, so it's going to  
24 take a while to ramp up.

25 MR. PORTER: The one thing I said the facilities

1 will be built okay, and at least by early 2019 --

2 COMMISSIONER WILLIAMSON: No, okay, you don't  
3 have to repeat --

4 MR. PORTER: But you said about two years out  
5 what I'm saying is you heard today if you put a 50% tariff  
6 on, that will stop, you know, will stop all imports and it  
7 will harm domestic production.

8 COMMISSIONER WILLIAMSON: I have questions about  
9 that but I'll come back to that. But I guess the question  
10 is even if you look at six months out, a year out, two years  
11 out --

12 MS. ARANOFF: Commissioner Williamson -- I don't  
13 know if this helps you --

14 COMMISSIONER WILLIAMSON: Yes.

15 MS. ARANOFF: But what Whirlpool and GE were  
16 telling you this morning was they want to compete on a level  
17 playing field and that they felt that if Samsung and LG were  
18 sincere and actually went through with their U.S.  
19 investments and produced their washers in the U.S. and  
20 bought their inputs in the U.S. and hired their workers in  
21 the U.S. that that would be a level playing field.

22 And at that point they were ready to compete and  
23 they thought their products could compete.

24 COMMISSIONER WILLIAMSON: And they would make  
25 some other adjustments.

1                   MS. ARANOFF: So the answer to your question I  
2 think is that if two years from now when they are competing  
3 with entirely domestic production from Samsung and LG, if  
4 they're not making money then the market has decided,  
5 consumers have decided on a level playing field, whose  
6 products they want to buy and it has nothing to do with  
7 imports and it has nothing to do with unfair trade  
8 practices. At that point it's about competition on the  
9 products.

10                   COMMISSIONER WILLIAMSON: I'm with you and noted  
11 that, and sort of said that but I guess the question what  
12 happens between now and then in terms of how imports affect  
13 their ability to compete? And I guess that's the question  
14 that we're kind of wrestling with.

15                   But let me go to just a couple of other  
16 questions. Based on your current plans what share of  
17 imports will each of your U.S. production facilities replace  
18 in 2018-2019 and 2020? And if you want to do that  
19 post-hearing you can.

20                   MR. VERONEAU: Samsung would prefer to provide  
21 those numbers confidentially but as Mr. Herrington testified  
22 the business model that has been under consideration for  
23 years and is now being implemented quickly is to move the  
24 vast majority of washer production into the U.S.

25                   And, you know, while Samsung certainly wants the



1 flexibility that other domestic washer makers have to import  
2 niche products, et cetera, as an economic matter their  
3 commitment is to supply the U.S. market from South Carolina.

4 COMMISSIONER WILLIAMSON: Understood. Go ahead,  
5 Mr. Toohey?

6 MR. TOOHEY: As I mentioned earlier our Tennessee  
7 facility will have the capacity to serve virtually all of  
8 our U.S. and Canadian demand -- so that's our goal in the  
9 steady state.

10 The path to get there 2018-2019 -- we'll provide  
11 details in the post-hearing submission.

12 COMMISSIONER WILLIAMSON: Okay, thank you. For a  
13 product exported to the U.S. what is the value added in your  
14 plants in Thailand and Vietnam? And do these figures  
15 provide some indication of your likely value added in your  
16 forth-coming U.S. plants?

17 MR. VERONEAU: Commissioner Williamson I think  
18 the answer -- and I would defer it to Mr. Herrington if you  
19 would like to add, but I think your answer requires some  
20 business confidential information. We will be pleased to  
21 respond to your question subsequent to the hearing.

22 MS. ARANOFF: Commissioner Williamson, Sharon  
23 Aranoff from Samsung just with respect to your question, and  
24 we can provide that information if you're interested in it  
25 but just to re-direct you a little bit.

1           There's no domestic content test in the U.S.  
2           Safeguard Law. The issue in terms of the industry that's in  
3           front of the Commission is the washer industry, the washer  
4           is an assembled product with assembled sub-assemblies, with  
5           you know, parts that come from all over the place.

6           So respectfully comparing percents of domestic  
7           content is not necessarily the right thing to be looking at  
8           under the statute but I think it's fair to say that the U.S.  
9           content that will be in Samsung's U.S. washers will far  
10          exceed the U.S. content in Samsung's Vietnamese washers.

11          COMMISSIONER WILLIAMSON: Okay. I think it's  
12          getting to -- I guess that question how much value added  
13          comes from assembled in the U.S.

14          MS. ARANOFF: Pardon me, we did actually put the  
15          value added -- the U.S. value added for U.S. washers in our  
16          pre-hearing brief. It's actually on page 6 of Samsung's  
17          confidential pre-hearing brief.

18          COMMISSIONER WILLIAMSON: Good thank you, Mr.  
19          Porter?

20          MR. PORTER: This is Dan Porter. Commissioner  
21          Williamson I just want to make sure I understand the  
22          question. First, like Samsung LG put in their post-hearing  
23          injury brief the parts that they intended to import and the  
24          value added in the United States.

25          So the U.S. part of your question has already

1       been answered. We ca obviously give it to you again, but  
2       that's on the record. What I want to know from you is when  
3       you say Vietnam, are you asking the Vietnam content of the  
4       washer?

5                   I just want to make sure that we get the right  
6       information to you. You said compared to Vietnam -- so are  
7       you looking for the Vietnam content of the washer exported  
8       from Vietnam, is that your question?

9                   COMMISSIONER WILLIAMSON: Yes.

10                  MR. PORTER: Okay, we will provide that  
11       post-hearing.

12                  COMMISSIONER WILLIAMSON: Okay, thank you. Okay,  
13       this is also probably for post-hearing. Since the injury  
14       hearing have there been any developments regarding the  
15       conditions of Sear's -- the conditions of Sear's in the  
16       volume of its sales of washers, you know I've asked that of  
17       the Petitioners this morning.

18                  MR. PORTER: I think we'll just do all of that  
19       post-hearing.

20                  COMMISSIONER WILLIAMSON: That's fine, good. If  
21       the Commission were to ask to recommend a tariff remedy,  
22       what level would be appropriate to the remedy of serious  
23       injury, particularly with respect to the record on prices  
24       and underselling? I don't know if you have addressed that  
25       before?

1                   MR. VERONEAU: John Veroneau for Samsung.  
2           Commissioner Williamson, as we identified in our brief we  
3           believe Samsung and LG are the remedy. We are the ones that  
4           are creating this unprecedented shift of overseas production  
5           of imports and making them domestic production.

6                   So to the extent that a TRQ would hold our feet  
7           to the fire, then that is seen as quite appropriate. But a  
8           remedy that would go beyond assuring the success of a remedy  
9           plan that is in place and would actually undermine that  
10          seems to us unjustifiable under the statute.

11                  MR. PORTER: Commissioner Williamson, Dan Porter.  
12          My understanding of your question is -- assume that the  
13          Commission just says we prefer a tariff.

14                  COMMISSIONER WILLIAMSON: Yes.

15                  MR. PORTER: And so your question is essentially,  
16          you know, if we believe if you will the kind of quantity  
17          allowed under TRQ in this, what tariff would accomplish that  
18          same objective? I think that's your question, is that  
19          correct?

20                  COMMISSIONER WILLIAMSON: That's fair.

21                  MR. PORTER: We can definitely do that  
22          post-hearing.

23                  COMMISSIONER WILLIAMSON: Okay, thank you. Okay  
24          you argued that if we recommend a TRQ the over-quota tariff  
25          should be based on average underselling over the POI. Would

1 that be sufficient to remedy the serious injury we found?

2 I know you have another remedy for it but what  
3 about this --

4 MR. KLETT: Commissioner Williamson?

5 COMMISSIONER WILLIAMSON: Yes.

6 MR. KLETT: This is Dan Klett. I mean in your  
7 injury analyses there are always two elements of injury.  
8 There's a volume effect and a price effect and I think at  
9 TRQ the quantity level, you know, kind of deals with the  
10 volume effect and the tariff about the baseline quota in a  
11 TRQ deals with the price effect.

12 And I think as somebody else said earlier, you  
13 know, the underselling and I think the underselling is your  
14 measure of adverse price effects during the injury phase so  
15 I think it is appropriate.

16 And by the way, that's a weighted average for all  
17 pricing products. If you look at the individual pricing  
18 products I think the largest margin of underselling for any  
19 individual pricing product was like 14.9% so it's well below  
20 the 50% that they're recommending.

21 COMMISSIONER WILLIAMSON: Okay, thank you for  
22 those answers.

23 COMMISSIONER BROADBENT: Great, Ms. Aranoff I  
24 appreciate the argument you are making about the Safe Guard  
25 provision and I don't discount all the benefits that LG and

1 Samsung are going to make to these areas where they are  
2 investing.

3 But I'm just trying to put myself back in  
4 1994-1995 -- I guess maybe that was when the last time the  
5 Safe Guard escape clause statute was looked at. And it  
6 seems to me this flat pattern of sort of unfair trade proven  
7 against exports of these companies from Korea and Mexico  
8 dumping and subsidies and moving to China with the dumping  
9 determination -- that all have corrected so we are now  
10 looking at fairly traded prices.

11 But then the operations that took place in  
12 Thailand and Vietnam all coming in and just tough, tough  
13 competition against our home-grown domestic industry -- and  
14 to kind of talk to those gentlemen that wrote the statute so  
15 long ago and said well, LG and Samsung we are the remedy  
16 here for this problem.

17 And I guess what I'm trying to see in the statute  
18 and I honestly don't think it's there but anything that  
19 would envision that the Safe Guard statute was really there  
20 to leverage foreign-owned companies to invest in the U.S. --  
21 I think we all understand now those benefits, but I'm not  
22 sure there's anything in the statute of the legislative  
23 history that tells us that that should be the outcome here.

24 MR. VERONEAU: John Veroneau with Samsung.  
25 Commissioner Broadbent, I would look at it from the

1 perspective of the Safe Guard, formerly initially known as  
2 you know as the escape clause, was designed to provide  
3 temporary relief to a domestic industry that was under some  
4 duress because of rising liberalization.

5 And while those circumstances of rising  
6 liberalization -- there haven't been recent liberalizations,  
7 that I think is the spirit in which this safeguard and now  
8 provided in Section 2.01 was developed.

9 So I don't think it's so much a question of does  
10 the law sort of facilitate an on-shoring so much -- it's  
11 more that we have a unique fact pattern here where the  
12 statute, while it may not have envisioned the fact pattern  
13 here, certainly clearly states that the purpose of the  
14 remedy is to enhance the domestic industry.

15 And these two companies, Samsung and LG will be  
16 making washers and therefore during the remedy phase, and  
17 therefore as a matter of law and fact, are members of the  
18 domestic industry.

19 So I would liken it to a tenant building. If a  
20 statute required you to look after the best interests of the  
21 apartment building, it wouldn't -- it would be less  
22 important about the tenants in that building, it would be  
23 about -- and as in by name. I mean I'm talking about if  
24 you're charge was to look after the welfare of the tenants  
25 in the building, the tenants might come and go -- their

1 names might change, but your statutory obligation is to  
2 protect and advance the welfare of the tenants of that  
3 building.

4 That is what the statute calls for. It doesn't  
5 matter and I agree it is a factual anomaly and I'm sure in  
6 1988, very few members of Congress could have anticipated  
7 that you would actually have a phenomenon at this point in  
8 time where significant operations would be moving from  
9 overseas to the United States although that was just then  
10 happening in the auto industry where as you well know,  
11 Commissioner Broadbent, you know companies that started in  
12 Japan are now very prominent manufacturers here in the  
13 United States.

14 And that is exactly what is happening here with  
15 these companies who have both built up a U.S. market base it  
16 now justifies as economically justifies U.S. production. So  
17 I think I would urge looking at your statutory obligation as  
18 what remedy will facilitate the development and the  
19 enhancement of this domestic industry?

20 It's less about the names behind that domestic  
21 industry. It's the -- the statute calls for what best  
22 serves the domestic industry in a generic way.

23 COMMISSIONER BROADBENT: Okay, but nothing in the  
24 statute we can point to that would reassure us?

25 MR. PORTER: Well, Commissioner Broadbent, there



1 is something in the statute.

2 COMMISSIONER BROADBENT: Nothing I see, but --

3 MR. PORTER: There is. I spent, because of the  
4 two cases -- I've spent a long time looking at the statutory  
5 provisions. If you look at it and you look at what the  
6 President is supposed to take into account, which obviously  
7 influences what the Commission is to recommend, and you look  
8 at the different things, it really does support what Mr.  
9 Veroneau is saying.

10 You know, and to sum up what can be done to make  
11 the industry stronger and better to face import competition?  
12 And they go through some specific things all getting at  
13 this. And so I think that the very statutory language gives  
14 support for the idea of taking into account if the U.S.  
15 industry is going to increase production -- okay, increase  
16 market share, increase the number of workers -- I think that  
17 this very statutory provision supports the examination of  
18 that in the future.

19 COMMISSIONER BROADBENT: Okay, thank you. The  
20 Petitioners expressed concerns about kidding operations for  
21 your planned factories in the United States. Do you  
22 companies use kidding in their manufacturing facilities in  
23 Vietnam and Thailand? What is your entire Vietnamese  
24 domestic content in your imports from Thailand and Vietnam?

25 MR. VERONEAU: John Veroneau from Samsung.

1 Commissioner Broadbent, we would be pleased to provide you  
2 information about the operations in Thailand and Vietnam.  
3 I'm not entirely sure of the relevance in this proceeding,  
4 but as Mr. Fraley testified earlier Samsung will produce in  
5 South Carolina all of the parts that are on exhibit here  
6 today -- the very parts that Whirlpool described as the  
7 heart and soul of the washing machine factory.

8 COMMISSIONER BROADBENT: But you were doing  
9 something different in Thailand and Vietnam?

10 MR. VERONEAU: I'm not sure, Mr. Herrington --

11 MR. HERRINGTON: We can get you the details but  
12 you know, let us get you the answers. They are not kidding  
13 operations I can assure you that. These are, I believe,  
14 Tony 400 ton presses --

15 COMMISSIONER BROADBENT: Right.

16 MR. HERRINGTON: That are being delivered --

17 COMMISSIONER BROADBENT: Yeah, no I appreciate  
18 that here I'm just trying to figure out how we would compare  
19 it to other ways you can manufacture washers.

20 MR. HERRINGTON: We'll provide that detail for  
21 you.

22 COMMISSIONER BROADBENT: Okay.

23 MR. PORTER: Commissioner Broadbent can I answer  
24 for LG? The nice thing with technology is we've just got  
25 confirmation absolutely no kidding in Thailand or Vietnam

1 for LG.

2 COMMISSIONER BROADBENT: Wait I didn't  
3 understand?

4 MR. PORTER: There's no -- the so called kidding,  
5 there was no kidding in LG Thailand or LG Vietnam and the  
6 same goes for LG Tennessee.

7 COMMISSIONER BROADBENT: Okay.

8 MR. VERONEAU: Commissioner Broadbent, that is my  
9 understanding of the Samsung operations in Thailand, Vietnam  
10 as well but we will confirm that with you subsequent to the  
11 hearing.

12 COMMISSIONER BROADBENT: Great, thank you. Yes?  
13 Yes, Mr. Park?

14 MR. PARK: Commissioner Broadbent, thank you very  
15 much. Sorry to respond a little bit late but just through  
16 technology -- going back to your earlier question.

17 COMMISSIONER BROADBENT: Yes and I apologize for  
18 our aging technology.

19 MR. PARK: To answer your first question there is  
20 statutory authority for you to consider a domestic industry  
21 that's different. And we'll go to the statute. First,  
22 obviously, the actual name of the statute is Action to  
23 Facilitate Positive Adjustment to Import Competition which  
24 is 19 U.S.C. 2251.

25 But under that provision specifically -- just to

1 read to you it says, "The domestic industry may be  
2 considered to have made a positive adjustment to import  
3 competition even though the industry is not of the same size  
4 and composition as the industry at the time that the  
5 investigation was initiated."

6 So there is very specific statutory authority for  
7 the consideration of a remedy to apply to a domestic  
8 industry that's different in composition.

9 COMMISSIONER BROADBENT: But yeah, that's what I  
10 was thinking. That was in my mind although that's a pretty  
11 tough statement when you kind of look at the domestic  
12 Petitioner and so we have a lot to balance here and I know  
13 you guys all have a lot of interest in this as well.

14 Mr. Herrington I had one question about why you  
15 don't plan to produce the flex wash ROW's in the U.S.?

16 MR. HERRINGTON: Yes, Commissioner, we had longer  
17 term intend to produce flex wash in the U.S.

18 MR. BISHOP: Can you put your mic a little closer  
19 please, thank you.

20 MR. HERRINGTON: As Mr. Fraley's bringing the  
21 plant up to speed there's only so much we can do which is  
22 one of the reasons why we're looking for ramp up  
23 consideration in parts and timing for imports.

24 So flex wash, because of its uniqueness, requires  
25 a different manufacturing line.

1 COMMISSIONER BROADBENT: Right.

2 MR. HERRINGTON: And what we intend to do is  
3 start off production with our most high volume and popular  
4 models and front load and top load first so that's the  
5 reason for the sequencing.

6 COMMISSIONER BROADBENT: Got it, thank you very  
7 much for all of your answers there.

8 CHAIRMAN SCHMIDTLEIN: So just  
9 following up a little bit more on this notion about which of  
10 the domestic industry we should be prioritizing.

11 When you all were talking about the possibility  
12 of losing floor space if you are not able to import while  
13 you're ramping up, were you talking about losing floor space  
14 to Whirlpool or GE or Staber I assume?

15 MR. RIDDLE: Commissioner, John Riddle with LG --  
16 absolutely.

17 CHAIRMAN SCHMIDTLEIN: Okay. I mean I assume  
18 those are the only other --

19 MR. HERRINGTON: I've been in home appliances for  
20 30 years and this is the first time I've heard of Staber so  
21 I am not familiar with their products at retail. But -- as  
22 we mentioned before flex wash is a specific example on 7,000  
23 retail outlets across the country and a 50% tariff would  
24 preclude us from importing that product.

25 So that floor space would go somewhere.

1                   CHAIRMAN SCHMDITLEIN:  Where would it go?

2                   MR. HERRINGTON:  That would depend on the  
3                   retailer but it likely wouldn't go to us because pretty much  
4                   everything else we have is out there.

5                   CHAIRMAN SCHMIDTLEIN:  Would it go to a different  
6                   appliance, are you saying?

7                   MR. HERRINGTON:  Yes.

8                   CHAIRMAN SCHMIDTLEIN:  Oh, different -- not a  
9                   washer?

10                  MR. HERRINGTON:  Oh, no, I think it would go to a  
11                  different washer, yes, yes.

12                  CHAIRMAN SCHMDITLEIN:  A different -- okay, but  
13                  presumably not imported?

14                  MR. HERRINGTON:  Presumably under a 50% tariff  
15                  scenario.

16                  CHAIRMAN SCHMIDTLEIN:  Right, okay, so does that  
17                  matter for us then in terms of one domestic producer losing  
18                  floor space to a different domestic producer?

19                  MR. HERRINGTON:  I think what matters is in terms  
20                  of the ramp up and the success of South Carolina and the  
21                  notion of having a full line of products to sell.  If we're  
22                  limited to a much narrower line it impacts as we're trying  
23                  to describe in our testimony, just the ramp up of the entire  
24                  washer category for us, domestically.

25                  CHAIRMAN SCHMIDTLEIN:  It's really sort of a

1 liberal question.

2 MR. RIDDLE: John Riddle, again with LG. I  
3 totally agree with what John Harrington just said. Just  
4 adding to that -- there's an issue when you talk to a  
5 flooring product, the laundry spots are going to remain the  
6 same in my view for national retailers.

7 It's not going to change to another product. But  
8 also there is a consequence of timing because of the line  
9 review process that all national retailers have in some form  
10 or another and the length of time and the particular event,  
11 the way it is staged because it can't be staged disruptively  
12 around the high retail points of the year for a retailer --  
13 it creates a second and third sort of phase of time once we  
14 lose the floor spot.

15 So even when we regain the capability from a  
16 production standpoint and get away for perhaps prohibitive  
17 tariffs on us, it would be some time before we could get  
18 back on the floor.

19 CHAIRMAN SCHMDITLEIN: I understand. It's really  
20 sort of a legal question because -- the point is if one  
21 domestic is losing to another domestic and as Mr. Veroneau  
22 was just saying, the names of the tenants don't really --  
23 shouldn't really matter to the Commission so why would it  
24 matter to us if one domestic is losing to another domestic?

25 MS. ARANOFF: It could be an import.

1           MR. PORTER: Just one second. It's -- what we  
2 would say is what you need to evaluate is you take 2018 okay  
3 and you analyze the gain that Whirlpool and GE get from  
4 kicking out imports. What you heard today and it was  
5 essentially documented and explained that kicking out  
6 imports will harm the U.S. producers in 2019 and 2020.

7           So you need to take all of that into account,  
8 whether the harm to U.S. producers in 2019-2020 outweigh  
9 what we think is the short-term gain to Whirlpool and GE in  
10 2018. We're not saying its irrelevant Commissioner.

11           We're not saying that at all. But we are saying  
12 you have to also take into account the harm to LG Tennessee  
13 and Samsung, South Carolina in 2019 and 2020 from kicking  
14 out imports in 2018.

15           CHAIRMAN SCHMIDTLEIN: Okay.

16           MS. ARANOFF: Madam Chairman, if you will.  
17 You're assuming right that if a sale is lost by Samsung or  
18 LG it would go to another domestic producer but remember  
19 there are excluded products that are imported, the extra  
20 wides, the best drives, anything that's smaller than an LRW  
21 that might be made in China or Europe, those are all things  
22 those sales could go to too.

23           CHAIRMAN SCHMIDTLEIN: But presumably, those were  
24 never part of the like product so they are not competing  
25 with large residential washers, right? I mean based on the



1 Commission's analysis?

2 MR. KLETT: Commissioner, this is Dan Klett. I  
3 mean they weren't excluded but they were excluded because I  
4 think for technical internal reasons and we looked at the  
5 models for the excluded products and even though they were  
6 not part of the like product they do compete in the market.

7 I mean we had some samples in the injury phase of  
8 a front load Electrolux I think that was excluded because it  
9 had a belt drive but it functionally was the same, looked  
10 the same, it competes in the market.

11 So I don't think they excluded products -- I  
12 don't think, because it was excluded for technical like  
13 product reasons I don't think you can say they don't compete  
14 in the market.

15 CHAIRMAN SCHMIDTLEIN: Okay. All right, so let's  
16 shift gears a little bit. Mr. Klett actually I wanted to  
17 explore your analysis and specifically -- well let's start  
18 with Exhibit 2. I assume you've reviewed Exhibit 2 from the  
19 Petitioners where they ran a compass model?

20 MR. KLETT: Yes, I've reviewed Petitioner's  
21 compass model and their inputs and their outputs and their  
22 results.

23 CHAIRMAN SCHMIDTLEIN: Okay and I know you've  
24 presented this confidential page where you talk about the  
25 welfare effects of the tariff and so forth -- is it the 50%

1 tariff?

2 MR. KLETT: That's correct.

3 CHAIRMAN SCHMIDTLEIN: So before we get to that,  
4 do you disagree with the inputs in terms of how this  
5 particular run of the model was done?

6 MR. KLETT: No, I mean the inputs were I think  
7 market share elasticities, things of that nature. The only  
8 thing I disagreed with in terms of the inputs is that  
9 there's one input where you do take into account existing  
10 duties and they did not input the duties associated with the  
11 anti-dumping duties.

12 That's -- as far as I can recall now that's the  
13 only input that I disagree with per se.

14 CHAIRMAN SCHMIDTLEIN: Okay, by the way given  
15 that you're sort of an expert witness here -- do you have a  
16 view as to what a reasonable rate of return would be for  
17 washing machine segment in this industry?

18 MR. KLETT: No, I haven't looked at that. I mean  
19 reasonable rates of return I think vary industry by  
20 industry.

21 CHAIRMAN SCHMIDTLEIN: They do, right.

22 MR. KLETT: They do and I haven't looked at that  
23 for washers.

24 CHAIRMAN SCHMIDTLEIN: Okay. Just I guess a few  
25 answers ago you've now talked about the possibility of --

1 not the possibility but well you correct me, your suggestion  
2 that if we were going to impose a tariff that you would use  
3 the weighted average underselling margin that was compiled  
4 from the information in the staff report.

5 MR. KLETT: That's correct.

6 CHAIRMAN SCHMIDTLEIN: And is that because you  
7 would expect the prices of the imports to go up by that  
8 much?

9 MR. KLETT: No, I think it's -- the prices of  
10 imports wouldn't necessarily go up by that amount because  
11 the effect of a tariff on prices are a function of the  
12 various elasticities, you know, input into the model.

13 But I think that -- if the purpose is to remedy  
14 injury, then I think that's an appropriate measure of the  
15 injurious price effect that you found and --

16 CHAIRMAN SCHMIDTLEIN: But if the prices aren't  
17 going to go up that much then how would that level the  
18 playing field?

19 MR. KLETT: I think it would remedy the, you  
20 know, the average price effects that you found based on the  
21 delta between U.S. producers prices and imported prices.

22 CHAIRMAN SCHMIDTLEIN: But you just said that  
23 imposing a tariff of that would not translate into the price  
24 increase equal to that, so how would it remedy that?

25 MR. PORTER: Madam Chair, can I make a comment

1 please?

2 CHAIRMAN SCHMIDTLEIN: Who's -- yes, okay.

3 MR. PORTER: This is Dan Porter from Curtis.

4 This is a Safe Guard case. Okay, by law you are required to  
5 assume all imports are fairly traded. There is no concept  
6 of leveling the playing field okay?

7 CHAIRMAN SCHMIDTLEIN: Well but in this case we  
8 are talking about using price effects in order to determine  
9 whether or not there was causation. So if it was through  
10 lower prices, underselling and so forth that injury was  
11 caused, then it doesn't seem that illogical to me to ask the  
12 question of if you were to do something to adjust the prices  
13 -- that would therefore remedy the cause of the injury,  
14 right?

15 So that's where we're coming from. It's not a  
16 question of imposing a dumping margin because we think these  
17 are unfairly traded. It's about getting at what's causing  
18 the injury.

19 MR. PORTER: Yes.

20 CHAIRMAN SCHMIDTLEIN: And in a price effects  
21 case that's what you would look at.

22 MR. DURLING: But Commissioner Schmidtlein,  
23 obviously we're -- this is Jim Durling from Curtis, we are  
24 limited here because we can't discuss the BPI. We get your  
25 question, we can look at that calibration and then do that

1 post-hearing.

2 But in the meantime I would just focus your  
3 attention on two points. The first is under your line of  
4 reasoning if you look at what their remedy proposes as an  
5 adjustment to the import price, it is far, far, far in  
6 excess of what is necessary to under your logic, level the  
7 playing field.

8 The other point I would make is that when you are  
9 talking about leveling the playing field, there are two ways  
10 that you can sort of level the playing field. One is to  
11 have a higher price, the other is to have a lower cost  
12 because both have the same effect on the operating profit of  
13 the industry.

14 And so when you are trying to do this  
15 calibration, it's equally important to take into effect the  
16 quantity benefit that if you increase quantity significantly  
17 and you're lowering the per unit cost, whether the benefit  
18 comes in the form of a lower per unit cost because of higher  
19 output or in the form of a higher price, it's the same  
20 dollar to the bottom line.

21 So you don't need to raise prices by you know the  
22 10.8% to have leveled the playing field. There are two  
23 different ways that you can come at it and we're happy to  
24 look at that in more detail post hearing.

25 CHAIRMAN SCHMIDTLEIN: Okay, okay. My time has

1 expired. Vice Chairman Johanson?

2 VICE CHAIRMAN JOHANSON: Thank you Chairman  
3 Schmidtlein. In LG's brief at pages 33-34 you state that if  
4 LG loses floor spots it will be difficult to regain them  
5 when its U.S. production is up and running.

6 Yet your brief also contains statements that some  
7 U.S. producers will not supply adequate amounts of product  
8 to retailers. Don't these statements contradict each other?  
9 If U.S. producers are not selling an adequate amount after  
10 remedy, won't LG and Samsung be able to recapture sales?

11 MR. PORTER: Commissioner Johanson this is Dan  
12 Porter from Curtis. You're really talking about two  
13 different things. The comment about sort of harm to  
14 retailers -- and again we've been talking quite honestly a  
15 lot about harm and benefit to U.S. producers but as you know  
16 well, the statute explicitly instructs the President to take  
17 into effect the cost benefit and any costs to consumers --  
18 the explicit statutory provision.

19 And the idea is what we were trying to say is  
20 retailers are going to be harmed because notwithstanding the  
21 claim that there is sufficient production capacity by  
22 Whirlpool and GE to supply every single washing machine in  
23 the real world, given the different mix of products, the  
24 retailers that we talked to said that's not going to happen.

25 That there are going to be in fact, shortages --

1 and I ask you to look at, I think it's Exhibits 3 and 4 or 4  
2 and 5 in our brief where we have customer declarations  
3 commenting on that very fact.

4 VICE CHAIRMAN JOHANSON: Thank you Mr. Porter.  
5 And I'm seeking clarification with this question. Do both  
6 LG and Samsung plan to produce all or most covered parts  
7 required by the U.S. operations in the United States or  
8 source them domestically and if so when?

9 I believe Samsung addressed this but if you could  
10 just kindly expand upon that because this is an important  
11 issue and also I would like LG to discuss this as well.

12 MR. FRALEY: Tony Fraley. We do plan to make all  
13 of the covered parts in South Carolina.

14 VICE CHAIRMAN JOHANSON: Do you know how long it  
15 would take to ramp up production of the covered parts? And  
16 would it be possible to do so during a potential period of  
17 remedy of about three years?

18 MR. FRALEY: Yes, we think that it would be  
19 around June.

20 VICE CHAIRMAN JOHANSON: Okay for the covered  
21 parts as well?

22 MR. FRALEY: For, for us to have ramp up period  
23 and some opportunity for our unexpected issues.

24 VICE CHAIRMAN JOHANSON: Okay, do you have any  
25 idea if it would be possible to produce the covered parts

1       that you do plan to produce all within the three years of  
2       the period -- of the potential period of remedy of three  
3       years?

4               MR. FRALEY:  Yes.

5               VICE CHAIRMAN JOHANSON:  Okay thank you.

6               MS. ARANOFF:  I just don't want Mr. Fraley to  
7       leave you with a misimpression.  He told you that he was  
8       going to start up a front load line in January and a top  
9       load line by the end of the first quarter and that he is  
10      going to start with one model and then build to multiple  
11      models on each of those lines.

12              So he's going to be making his covered parts when  
13      he starts each line but the volume will go up as he  
14      transitions to higher production on those lines.  I think  
15      that's what he's trying to tell you when he tells you it is  
16      going to take until June.  Am I correct about that?

17              MR. FRALEY:  That is what I meant, yes.

18              VICE CHAIRMAN JOHANSON:  Okay, thank you Mr.  
19      Fraley.

20              MR. PORTER:  Commissioner, this is Dan Porter of  
21      Curtis.  This question was asked during the injury hearing  
22      and in response to the Commission question in our  
23      post-hearing injury brief we detailed which parts would be  
24      made by LG Tennessee, which some parts might be imported and  
25      so forth.



1                   And as you can see from that detailed exhibit,  
2                   100% of the so-called covered parts are going to be made in  
3                   the United States by LG Tennessee. What I cannot answer now  
4                   is precisely when that will start.

5                   I know all that we have is they expect to be full  
6                   production in early 2019. What I don't have is what I call  
7                   sort of a week by week estimate about when different parts  
8                   will be made, but 100% of covered parts will be made by LG  
9                   Tennessee.

10                   VICE CHAIRMAN JOHANSON: My thanks to both  
11                   parties.

12                   On page 20 of the Petitioners' brief, they  
13                   present a figure for the suggested quota on parts to be used  
14                   for repair and service. Would this quantity be enough for  
15                   the asserted purposes of repair and service? And if you  
16                   believe this quota needs to be substantially larger for  
17                   those limited purposes, is there a way that Petitioners  
18                   could be reassured perhaps through inclusion of language in  
19                   the quota definition that would allow importers to certify  
20                   to Customs that the parts are strictly for use in repair  
21                   and service.

22                   MR. VERONEAU: Commissioner Johanson, we would  
23                   be pleased to provide on a confidential basis our response  
24                   to that question, but I just want to be clear. As Mr.  
25                   Fraleay testified, we intend -- Samsung intends to make all

1 of these covered parts in South Carolina for the reasons  
2 that Whirlpool testified itself today. It would be  
3 uneconomical to ship those products as parts, given their  
4 size, across oceans. So there is no question that Samsung  
5 will produce all those parts in South Carolina because it  
6 makes economic sense.

7 So when we make a request for no restrictions,  
8 it's not because we're being cagey or squirrely here. It's  
9 more that we just want some flexibility and would like the  
10 same flexibility that other manufacturers have to address  
11 contingencies, given hurricanes, et cetera.

12 VICE CHAIRMAN JOHANSON: Thanks, Mr. Veroneau  
13 and I look forward to reading anything that you write on  
14 that in the post-hearing brief.

15 Samsung argues that import restrictions on LRWs  
16 and covered parts may also have the perverse affect of  
17 potentially lowering U.S. production by Samsung and LG, and  
18 this is in your brief at page 9. Similarly, LG argues that  
19 Whirlpool's proposed remedy will actually cause significant  
20 harm to a substantial U.S. producer, LGTM, which I assume is  
21 LG Tennessee, and this is in LG's brief at page 30. But why  
22 wouldn't such restrictions encourage Samsung and LG to  
23 produce covered parts and a wider range of LRW models  
24 domestically, as domestic producers argue, on an accelerated  
25 timetable?

1                   MR. PORTER: The answer is very simple, at least  
2 for LG Tennessee is moving as fast as they possibly can.  
3 You saw 24/7 drilling is going on for the foundation. They  
4 are moving absolutely as fast as they can to get their  
5 full-fledged factories up and running by early 2019 and  
6 they're going as fast as they can and I guess that's all we  
7 can say. I mean there's nothing that's going to make them  
8 go faster and what we were talking about is when they're up  
9 and running in early 2019, if you have kicked out all LG  
10 product in 2018, it's going to harm production in 2019. So  
11 whether you do 50 percent or 100 percent, it's not aligned  
12 here. You cannot make the factory go any faster. It's  
13 going as fast as it possibly can.

14                   MR. VERONEAU: Commissioner Johanson, if I could  
15 add, this is an important point. I want to make sure  
16 there's an understanding between the linkage between --  
17 again, speaking for Samsung, the production of washers in  
18 South Carolina versus imports that would -- like flex wash,  
19 which would continue.

20                   As Mr. Herrington testified, the vast majority  
21 of Samsung washers intended for the U.S. market will be made  
22 in South Carolina and we are pleased to provide further  
23 detail on a confidential basis. It makes economic sense to  
24 do that, but I would analogize it to BMW. BMW, as you may  
25 know, produces SUVs in South Carolina. The success of BMW

1 as an auto maker is a function of their ability to supply  
2 different types of models to different customers. So the  
3 success of BMW, generally, affects the success of their  
4 South Carolina BMW SUV plant.

5 So if flex wash or other Samsung products are  
6 restricted in a way that, frankly, doesn't advance the  
7 statutory goal here of advancing the U.S. industry, it  
8 undermines their ability to be a successful manufacturer  
9 providing a range of products. So absolutely, Samsung  
10 intends to supply the vast majority from South Carolina, but  
11 to penalize it because it doesn't provide every single  
12 washer seems perverse in light of the goals of the statute.

13 VICE CHAIRMAN JOHANSON: Yes, Mr. Porter -- and  
14 my time's expired, so if you could be very quick.

15 MR. PORTER: Very quickly.

16 VICE CHAIRMAN JOHANSON: Thanks.

17 MR. PORTER: I just want to make it clear that  
18 from LG's standpoint, LG does not consider themselves like  
19 BMW. They will produce virtually the entire -- all models  
20 to meet both U.S. and Canadian demand. So it's not going to  
21 be a situation where they're focusing on SUVs and bringing  
22 in the sedans. LG will make virtually all models in LG  
23 Tennessee when it's up and running.

24 CHAIRMAN SCHMIDTLEIN: Yes, Mr. Park?

25 MR. PARK: Thank you, Commissioner.

1                   Just to add one other point just in terms of  
2 holding the feet to the fire, that standard hasn't been  
3 applied to any other producer and we'd ask the same  
4 question. After Haier acquired the GE facility, did they  
5 stop shipping washer products -- washers from China, and the  
6 answer is no. And we mentioned earlier, Shara Aranoff  
7 mentioned earlier as well, that when Whirlpool was shifting  
8 its front load production from Germany to Clyde it took them  
9 three years. So it's not something that happens overnight,  
10 but it's something that is happening.

11                   VICE CHAIRMAN JOHANSON: Well, thanks to all of  
12 you for your responses. My time is expired.

13                   CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

14                   COMMISSIONER WILLIAMSON: Okay, thank you.

15                   This morning the Petitioners described what how  
16 they say washing machine manufacturers usually open up or  
17 start a new plant or move from one country to another and it  
18 often involves the machinery that may have been used in one  
19 country being moved to another. And I was just wondering do  
20 you all agree with that in terms of how people usually move  
21 into a new market or open up a new factory in a new country.

22                   MR. FRALEY: The machinery you see on screen is  
23 new machinery.

24                   MS. ARANOFF: Commissioner Williamson, there's  
25 no box of screwdrivers. There's nothing that's moving to

1 Samsung's new plant from any of Samsung's other facilities.  
2 This is all brand new equipment.

3 COMMISSIONER WILLIAMSON: Okay.

4 MR. FRALEY: This and all the other equipment  
5 are brand new.

6 COMMISSIONER WILLIAMSON: Okay, thank you.

7 MR. TOOHEY: To my knowledge, the same is true  
8 for LG. We will be purchasing all new equipment for the  
9 Tennessee plant.

10 COMMISSIONER WILLIAMSON: Okay, good. Okay,  
11 thank you. I started to ask you whether or not that was  
12 true when you went to Vietnam or Thailand, but it's really  
13 not relevant for here.

14 MR. VERONEAU: I'm sorry, Commissioner  
15 Williamson, just to be clear, the Samsung operations in  
16 Thailand and Vietnam were existing, preexisting home  
17 appliance manufacturing plants and their production for the  
18 U.S. market obviously increased, but I just want to be clear  
19 that those facilities preexisted their sourcing the U.S.  
20 market.

21 COMMISSIONER WILLIAMSON: And they didn't need  
22 to bring in new machinery to do what they did?

23 MR. VERONEAU: I would be glad to get you that  
24 information. I don't know that information. If the  
25 production of the facility increased to serve the U.S.

1 market, they may well have had to supplement.

2 COMMISSIONER WILLIAMSON: Okay. I was just  
3 wondering because they did ramp up so quickly and that's why  
4 I was just curious.

5 Commissioner Johanson was asking you a series of  
6 questions about parts. I'm going to repeat some of them  
7 because I think I was going to ask them a slightly different  
8 way to make sure I've gotten all the information.

9 Okay, you argue that you might need to import  
10 some parts as part of the startup and if we were to  
11 recommend a quota for such parts what volume would be  
12 appropriate in your view, and I don't know whether you need  
13 to do that post-hearing or not.

14 MR. VERONEAU: We'd be pleased to provide that  
15 to you on a confidential basis. I would say that the  
16 proposal that has been put forward by the Petitioners to  
17 limit any parts to only repairs seems unduly restrictive in  
18 light of their own experience in transitioning their washer  
19 facility from Germany to the United States, which seemed to  
20 occur over several years.

21 COMMISSIONER WILLIAMSON: Understood. I was  
22 just curious what are your needs -- what do you anticipate  
23 your needs might be. And you've already said you're going  
24 to produce the covered parts in the United States, so the  
25 question is how long do you expect to need to import them if

1       you need to import any and what share of your plants  
2       requirements for these parts do you expect to need to import  
3       in 2018, 2019 and '20? I know what the goal is and the  
4       overall intention, but I guess post-hearing if you want to  
5       indicate -- you've got to be safe because you've already  
6       mentioned that there are unanticipated things happen and  
7       things like that and you've got to prepared for that and so  
8       I guess I was just wondering how many parts do you have to  
9       import in order to be --

10               MR. FRALEY: So we're asking for flexibility.  
11       Just normal flexibility, but we'd like to provide that in a  
12       later brief.

13               COMMISSIONER WILLIAMSON: Good, that's fine.  
14       Thank you. That's the clarification I need.

15               Okay, with respect to covered parts, would a  
16       quota determined by recent import levels be sufficient to  
17       reserve repair and replacement needs or is the amount needed  
18       for repair and replacement likely to increase over time?

19               MR. VERONEAU: The number of parts that have  
20       been imported obviously reflect for repairs since Samsung is  
21       moving its washer production to South Carolina, then some  
22       additional head room for parts for that purpose and for  
23       contingencies. Again, to be very clear, it is the full  
24       intention because, among other reasons, it makes economic  
25       sense that all covered parts will be made, but would be



1 pleased to provide on a confidential basis the numbers that  
2 we think we would need to provide the flexibility that we  
3 think is necessary just for the contingencies. But as Mr.  
4 Fraley testified, we do intend starting the first of the  
5 year to be producing the parts on exhibit today in South  
6 Carolina.

7 COMMISSIONER WILLIAMSON: Okay. I don't know  
8 whether those same parts that you're using in the new  
9 machines would you use to repair some of the ones that  
10 you've imported in prior years in this long history and  
11 that's why the question was whether or not what you've  
12 imported of these parts in the most recent period is that an  
13 indication of what you would need for that purpose going  
14 forward, assuming that they're not all fungible.

15 MR. VERONEAU: We would like to provide that on  
16 a confidential basis.

17 COMMISSIONER WILLIAMSON: Okay, thank you. And  
18 I guess the same for LG?

19 MR. PORTER: Same for LG. Again, I keep  
20 repeating, LG Tennessee intends to self-produce all covered  
21 parts.

22 COMMISSIONER WILLIAMSON: Understood.

23 MR. PORTER: For the older models with respect  
24 to that just normal warranty repair is needed, we'll provide  
25 in the post-hearing the expected need there.

1                   COMMISSIONER WILLIAMSON: And I'll ask the same  
2 question I asked this morning that since in 337,  
3 exclusionary provisions would those work for repair and  
4 replacement parts in this investigation? And if you want to  
5 think about that, you can.

6                   MR. VERONEAU: I'm sorry, Commissioner  
7 Williamson, could you repeat that question?

8                   COMMISSIONER WILLIAMSON: Whether or not --

9                   MR. PORTER: Commissioner, we understand your  
10 question. I need to think about that. I don't see why not,  
11 but I like to talk to kind of the people who need to this on  
12 a day-to-day basis, so we'll get back to you on that.

13                   COMMISSIONER WILLIAMSON: That's fair enough.  
14 Actually, that's all the questions I have for right now, so  
15 thank you.

16                   CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

17                   COMMISSIONER BROADBENT: Thanks. I just had a  
18 couple of things for post-hearing. The statute requires the  
19 Commission to recommend that the action that would address  
20 the serious injury or threat thereof to the domestic  
21 industry to effective in facilitating the efforts of the  
22 domestic industry to make positive adjustment to import  
23 competition and I'd like to see in writing -- I know we've  
24 talked about this a lot today, but when looking at the  
25 action that would address this serious injury to the

1 domestic industry what does the term "address" mean? Does  
2 that mean that the action needs to fully correct the injury  
3 that the Commission found or does it allow for a degree of  
4 flexibility?

5 And then my other question had to do with  
6 Samsung and LG's statements about their future production  
7 that have been made in the briefs and then in your  
8 statements today do these count as commitments under 19  
9 U.S.C. 225, A6?

10 So those are my questions for the post-hearing  
11 and I appreciate everybody's contribution today. I learned  
12 a lot. Appreciate your time. Thank you.

13 CHAIRMAN SCHMIDTLEIN: Okay, thank you.

14 I just had one final question, I think, and  
15 maybe this is -- I don't know if it's for the industry  
16 witnesses or maybe Mr. Klett. In the injury phase, LG and  
17 Samsung spent a lot of time arguing that purchases of  
18 imports were based on the innovative features, brand  
19 deterioration of the Whirlpool, Maytag brand and that these  
20 decisions were not based on price. Correct me if my  
21 summary is wrong, but I've been looking back through the  
22 brief that was filed -- the joint brief you know a couple  
23 months ago and there's a lot of argument in there about  
24 that. So is that still your position that LG and Samsung  
25 are sold based primarily on their features and other factors

1 than price?

2 MR. KLETT: Commissioner Schmidtlein, I think  
3 the market dynamics that we discussed back then continued  
4 today and you know we're not saying that price is not a  
5 factor. I mean price is always a factor. I think what  
6 we're saying is that their success in the market and their  
7 growth in market share is due to the other non-price factors  
8 that you just discussed as well as some of the problems that  
9 Whirlpool had in terms of the brand deterioration over time.

10 CHAIRMAN SCHMIDTLEIN: Okay, so have you looked  
11 -- is there a price increase -- you know at what point does  
12 a price increase begin to affect your sales then? If your  
13 product is not being sold on price -- of course, I  
14 understand price is always a factor for consumers. You  
15 agree with that. At what price increase would you start to  
16 see an impact on your sales? I mean, Mr. Herrington, if you  
17 have a view.

18 MR. HERRINGTON: That's a great question because  
19 it depends on -- you know there's different price sensitive  
20 byproduct. In general, Samsung laundry products are sold  
21 14 percent on an average basis above the market. Our  
22 unaided awareness has grown faster than any other brand and  
23 we're investing more in marketing than any other brand, so  
24 we'd like to believe very strongly that all of those  
25 marketing levers are driving our growth than the higher

1 average selling price.

2 With regard to what level of price increase, on  
3 an entry-level washer a small price increase has a dramatic  
4 volume affect. On a more expensive washer, it's not as  
5 dramatic, so it's difficult to answer that, unless we looked  
6 at it on a by-model basis.

7 CHAIRMAN SCHMIDTLEIN: Okay.

8 MR. HERRINGTON: Madam Chair, we would agree  
9 with that. It really does sort of change at different price  
10 points, but also from LG's standpoint it's also a cost  
11 issue. You put a duty on and there's going to be some  
12 ability to pass that through. There may be some ability to  
13 pass that through and that will change, depending on the  
14 price points. And if you can't pass that through, it  
15 becomes a cost. And the question is does either LG or  
16 Samsung want to continue absorbing that cost and perhaps  
17 losing money for each washer and my guess is the answer is  
18 no to that and that's why we can unequivocally tell you at  
19 50 percent they're going to sell zero washers.

20 CHAIRMAN SCHMIDTLEIN: Right, I understand your  
21 position on that. It would be helpful in the post-hearing  
22 -- I'm sure you run price sensitivity analysis for your  
23 various models. If you could provide those on a  
24 confidential basis to us that would, I think, certainly be  
25 interesting to see.

1                   MR. PORTER: LG will be happy to d that. Thank  
2     you.

3                   CHAIRMAN SCHMIDTLEIN: Okay, Samsung as well.  
4     Okay, thank you. I have no further questions.

5                   Vice-Chairman Johanson?

6                   VICE CHAIRMAN JOHANSON: Thanks, Chairman  
7     Schmidtlein.

8                   I have a question for Mr. Riddle of LG. In your  
9     testimony, you spoke of a potential loss of floor space due  
10    to an inability to import washers and the adverse impact of  
11    that on your new Tennessee facility. If Korea is excluded  
12    from any remedy, what about the possibility that LG might  
13    import from Korea?

14                  VICE CHAIRMAN JOHANSON: Would the volume of  
15    such imports under the discipline of other trade remedies be  
16    able to mitigate any impact of a Section 201 remedy?

17                  Mr. PORTER: Commissioner Johanson, it's a  
18    little better for me to answer, and the reason is, is that  
19    Jim and I are in charge of assisting LG in their current  
20    dumping case. And as my colleague, Jim Durling, mentioned a  
21    little while ago, there are really real-world constraints on  
22    LG Korea to be able to shift dramatically increased  
23    quantities.

24                  One constraint is just raw capacity. They don't  
25    have that much. So the answer is yes, there'll be a little

1 bit, probably be able to increase, but there're very, very  
2 real constraints with respect to the current anti-dumping  
3 regime imposed by the Commerce Department. That limits sort  
4 of what can be done on pricing and in sales in the U.S.  
5 market with respect to washers from Korea.

6 VICE CHAIRMAN JOHANSON: Thanks, Mr. Porter.  
7 And I have just one more question. And if this is  
8 proprietary, please feel free to answer it your post-hearing  
9 brief. On Pages 35 to 37 of the ITC Staff Report, there is  
10 a discussion of Whirlpool's foreign trade zone that was  
11 established in 2013. Have LG or Samsung moved to establish  
12 their own FTZs in Tennessee and South Carolina?

13 MR. VERONEAU: John Veroneau for Samsung.  
14 Commissioner Johanson, we would like to provide an answer to  
15 that question confidentially.

16 VICE CHAIRMAN JOHANSON: Okay, I understand your  
17 response. That concludes my questions for today. I greatly  
18 appreciate all of you for appearing here today.

19 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent,  
20 do you have any questions?

21 COMMISSIONER BROADBENT: I'm all done.

22 CHAIRMAN SCHMIDTLEIN: All right. Thank you  
23 very much. That completes the Commissioner questions. Do  
24 staff have any questions for this panel?

25 MR. ANDERSON: Thank you, Chairman Schmidtlein.

1 And the team has no questions.

2 CHAIRMAN SCHMIDTLEIN: All right. Do  
3 petitioners have any questions for this panel?

4 MR. GETLAN: No, we do not.

5 CHAIRMAN SCHMIDTLEIN: No? Okay. Very well.  
6 All right. Again, I'd like to thank the witnesses on the  
7 respondents' panel and I will dismiss you at this time.

8 (Respondents' panel leaves the room.)

9 CHAIRMAN SCHMIDTLEIN: All right, we will now  
10 move to closing statements. The petitioners have eighteen  
11 minutes from direct plus five minutes for closing for a  
12 total of twenty-three minutes. The respondents have seven  
13 minutes from direct plus five for closing for a total of  
14 twelve minutes. And we will begin with petitioners.

15 MR. BISHOP: Rebuttal and closing remarks on  
16 behalf of those in support of remedies will be given by Jack  
17 A. Levy of Cassidy Levy Kent. Mr. Levy, you have  
18 twenty-three minutes.

19 CLOSING REMARKS BY JACK A. LEVY

20 MR. LEVY: Good afternoon, Jack Levy for  
21 petitioner. It's been another long day here at the  
22 Commission, so I hope not to take up all of our allotted  
23 time. I wanted to thank again the Commission for its  
24 unanimous affirmative injury vote two weeks ago.

25 We're gratified, but at the same time, we're



1 also very cautious and concerned that somehow your remedy  
2 recommendation will be circumvented by Samsung and LG, so we  
3 encourage you as always to consider these issues with a very  
4 cold eye. And thank you in advance for your hard work.

5 I think where I'd like to start is, you know,  
6 respondents opened their panel with a statement from Mr.  
7 Veroneau, and I think he stressed that Samsung and LG were  
8 by no means denying the issue of serious injury. And then  
9 he basically said, okay, and over to you, Ms. Aranoff. Ms.  
10 Aranoff proceeded to project a slide and I believe it's  
11 Samsung Exhibit 3.

12 And at that slide, they excerpted a relevant  
13 provision of the statute on remedy. And the excerpt they  
14 projected was "The Commission shall also recommend the  
15 action that would . . . be most effective in facilitating  
16 the efforts of the domestic industry to make a positive  
17 adjustment to import competition."

18 Now, what did they skip over with the ". . ."?  
19 Well, I'll read it to you from the safeguard legislation.  
20 The ". . ." that they omitted was "would address the serious  
21 injury to the domestic industry." Well, I submit to you  
22 that they are very much in denial as to this prong. The  
23 domestic industry, as defined in the statute, talks about  
24 the domestic industry producing an article like, or directly  
25 competitive with the imported article.

1                   Who's producing here? Whirlpool's producing.  
2                   GE Appliances is producing. Staber's producing. I'll tell  
3                   you who's not producing under the statute. Samsung is not  
4                   producing. LG is not producing. So we have a statutory  
5                   factor, the need to address the serious injury. And  
6                   respondents would seem to gloss over this.

7                   But it's important. In fact, it's critical.  
8                   And when asked pointedly, "How do you deal with that?" the  
9                   answer is, "Samsung and LG are the cure to your problems,  
10                  because trust us, they're moving to America." And then they  
11                  provide you with some economic analysis from Dan Klett and  
12                  his COMPAS model that purports to show in effect that no  
13                  import remedy is warranted. And I'm not an economist,  
14                  although I did stay at a Holiday Inn Express last night.

15                  So let me just make one comment as you're  
16                  reading through Mr. Klett's analyses, both pre-hearing and  
17                  post-hearing. Because there's one big, fat fiction, and I  
18                  want you to focus on it. The one big, fat fiction in his  
19                  economic analysis is that he does two steps, Step 1 and Step  
20                  2. And what's his Step 1?

21                  His Step 1 is to run a COMPAS model based on the  
22                  China dumping case, which of course, asks, but for the  
23                  Chinese dumping, where would the U.S. industry be? And that  
24                  model says, "Wow, well look, but for the Chinese dumping,  
25                  the U.S. industry would be making money, selling more, doing

1 great, not injured," and he uses that as his baseline and  
2 says, "That's where the U.S. industry is as a starting  
3 matter."

4 Now how much more icing do you need on the cake?  
5 Not much, he says. But the fiction is that there actually  
6 producers in Samsung and LG selling from China into the  
7 United States, subject to the discipline of an anti-dumping  
8 order. They never paid a nickel in anti-dumping duties  
9 because before cash deposits took effect, they picked up and  
10 moved shop to Vietnam and Thailand.

11 So the effect of the anti-dumping order against  
12 China was zero from a legal point of view. There was not  
13 remedial effect. But yet he assumes a big windfall and it  
14 is nothing but a big, fat fiction. Now, more generally on  
15 the issue of who's a U.S. producer, I gave you a statutory  
16 analysis that says they're not U.S. producers within the  
17 meaning of the statute.

18 But there's a more general question about when  
19 they will ever become one. And I think you Commissioners  
20 are faced with something of a chicken and an egg problem.  
21 Because if there is no remedy, they may never fulfill their  
22 promises. You know, you've seen cases now where Samsung  
23 says, "Hello, we're Samsung, a Mexican producer." Few years  
24 later, "Hello, we're Samsung, now we're Chinese producer."  
25 Up, head-fake, "We're Samsung, we're Vietnamese producers."

1 And now, they're saying, "No-no-no, we're Samsung, trust us.  
2 We are imminently U.S. producers."

3 And I would submit to you that without a robust  
4 and effective remedy free of loopholes, the extent to which  
5 they fulfill that promise is very much in doubt. And so you  
6 need to err on the side of a robust remedy, because  
7 otherwise, what they're talking about will never come to  
8 fruition. Their track record tells you so.

9 The issue of covered parts received a tremendous  
10 amount of attention in the pre-hearing briefs of respondents  
11 in the Congressional letters of the allies of respondents.  
12 And now I think we heard today that it's a nonissue, in the  
13 words of Ms. Aranoff. Mr. Fraley said, "We're not gonna be  
14 doing kitting, we're gonna be self-producing all the parts  
15 you see there." LG says the same thing, "We're gonna  
16 self-produce all of that." Well, if that's right, what's  
17 your bitch? We wanna quota. You can bring in replacement  
18 parts. Where's the problem?

19 We are very concerned about circumvention.  
20 What's their concern? And the answer I think we heard today  
21 from Mr. Veroneau was hurricanes. "Oh, my, there could be  
22 hurricanes. We need flexibility to source these parts from  
23 Asia." So you need to weigh the credibility of that  
24 explanation against this track record of evasion and  
25 circumvention from Samsung and LG. And I would implore you

1 to please err on the side of caution. Don't create another  
2 loophole that Samsung and LG can drive a  
3 semi-tractor/trailer through.

4 We've also heard about requests to exclude  
5 certain products, like the FlexWash. You heard testimony  
6 from Mr. Liotine that this is just one product in a line-up  
7 of twenty-seven inch washers, each touting their own  
8 distinctions or innovations. There are models to the left  
9 and models to the right, and consumers are cross-shopping  
10 across all of them.

11 You found in your China determination that there  
12 is such a thing in this market as price compression. If you  
13 crash prices on one model, it has a domino effect and it  
14 crashes prices across the entire line-up. Your staff has  
15 corroborated that dynamic on the record of this  
16 investigation.

17 The danger of carving out a product, whichever  
18 product, it is a recipe for price compression and  
19 frustrating and undermining the remedial purpose of any  
20 tariff on finished LRWs. So please -- no loopholes here.  
21 This U.S. industry has bled enough.

22 We heard mention of Korea. And Mr. Porter said,  
23 "Oh, there are real constraints on Korea." Well, I'd say  
24 that they're only -- we heard testimony in the last hearing  
25 that Korea could very well represent up to 50% of global

1 imports. Sworn testimony on the record from the prior case.  
2 And I would say the only real constraint on Korea is that  
3 they have to sell at a fair price.

4 Now, with regard to lost flooring, Mr. Riddle,  
5 and I was in the back, so I couldn't see if his nose was  
6 growing, but Mr. Riddle testified that "Floor space is  
7 everything, it's all about price, and trust us, there aren't  
8 that many line reviews. Everyone's got them, and once we're  
9 locked out, our ability to get back on the floor is  
10 limited."

11 And I think there's an issue of fact and a  
12 policy issue. The issue of fact, and I'm looking at notes  
13 that Mr. Tubman handed to me, is that there's only one  
14 retailer in the industry that does line reviews, Lowe's.  
15 They do it twice a year. Home Depot has done it once in  
16 history. Sears doesn't do line reviews. BestBuy doesn't do  
17 line reviews, and it's just one tool for getting on the  
18 floor.

19 Case in point. Outside the context of a Lowe's  
20 line review, Whirlpool just won floor space. They won it in  
21 September and they're gonna be on the floor in November. So  
22 this characterization from Mr. Riddle just doesn't ring  
23 true. And it's at odds with the sworn testimony of Mr.  
24 Tubman.

25 Now, more generally, you have to ask, what is LG

1 and Samsung so afraid of? They're afraid of the prospect  
2 that if they're subject to a 50% tariff on finished LRWs,  
3 they'll have to raise price. And if they raise price,  
4 what's gonna happen? They're gonna lose flooring to U.S.  
5 producers. U.S. producers that have been seriously injured,  
6 they need to pick up volume.

7 That shouldn't be a problem. That's something  
8 that you should celebrate. That's part of the remedial  
9 purpose of the statute. It's not a competitive issue for  
10 purposes of this decision. And then we've heard a lot about  
11 consumers.

12 First point I'd like to make, and I think it's  
13 quite stunning. Did you notice that there isn't one  
14 retailer or purchaser that showed up at this hearing to  
15 express concern about ability to supply or the ability to  
16 offer excellent product? Or prices are gonna skyrocket. We  
17 see nobody. The silence is deafening. And why is that?  
18 Because we've proposed a tariff that does not cut off  
19 imports. All it does is work to restore imports to a  
20 reasonable economic price.

21 In fact, the COMPAS model shows that U.S.  
22 producer prices would increase very modestly. And I think  
23 -- can we pull up the legislative history on this issue of  
24 consumers? Because I think this is quite telling. This is  
25 again the Senate Finance Committee report on the statute.

1                   With regard to the effective relief on  
2 consumers, the Committee feels that the goal of the  
3 employment act should be paramount. Unemployed persons are  
4 not happy consumers. The executive should not confuse the  
5 effect on consumers with the effect on importers or foreign  
6 producers. They are not the same.

7                   If the choice is between one, allowing an  
8 industry to collapse and thereby creating greater  
9 unemployment, larger federal and state unemployment  
10 compensation payments, reduced tax revenues, and all the  
11 other costs to the economy associated with high  
12 unemployment.

13                   Or two, temporarily protecting that industry  
14 from excessive imports at some marginal cost to the  
15 consumer, then the committee feels that the president should  
16 adopt the latter course and protect the industry and the  
17 jobs associated with that industry.

18                   And I would respectfully submit that the remedy  
19 that we're proposing here fulfills that purpose. We have  
20 requested a tariff. A tariff does not choke off imports.  
21 The COMPAS model that you have before you actually shows a  
22 significant continued presence of imports. Those imports  
23 can continue to compete, but to compete at an economic  
24 price.

25                   The tariff simply restores import prices to



1 noninjurious levels. And let us be clear. The margin of  
2 underselling is not a surrogate for telling us what  
3 noninjurious price levels are. The magnitude of price  
4 depression on this record is much greater than the average  
5 margin of underselling. Underselling tells us about  
6 causation. Price depression is a manifestation of the  
7 serious injury. And in fact, we've seen products that have  
8 been discounted more than 50% on this record.

9 Now the 50% tariff on finished LRWs is important  
10 in the first instance to address the serious injury to  
11 domestic producers. Samsung and LG are not such domestic  
12 producers. And there is a need for relief and for  
13 adjustment, and it is a three-year need and we've spelled  
14 that out clearly in our proposal.

15 Separate and apart from that, there's the need  
16 to facilitate positive adjustment, to be able to support the  
17 ability of U.S. producers to reinvest, not only for the  
18 present tense, but to position them to be competitive well  
19 into the future, beyond the three-year period.

20 If the remedy is effective, if there are no  
21 loopholes for covered parts or for other arbitrary product  
22 exclusions, then you will succeed in finally addressing the  
23 serious injury to the domestic industry, and facilitation  
24 positive adjustment for U.S. producers.

25 Now, what about Samsung and LG and their

1 investment in America? Well, that's a bonus. It's not the  
2 starting point. It's not the essence of the remedy. But  
3 it's a bonus that we welcome. It will, if you propose a 50%  
4 tariff on finished LRWs and a quota on covered parts, no  
5 loopholes, it will be a win for those American  
6 manufacturers who are participating in the economy today.

7 It will be a win for U.S. workers, a win for  
8 Ohio and Kentucky and other states upstream that are  
9 supplying these industries. And in due course, it will be a  
10 win for Tennessee and South Carolina. And I think if you  
11 get it right, if it's a robust remedy that cannot be  
12 circumvented by Samsung and LG, what will happen?

13 They will continue to import until they are  
14 ready to produce in the United States. Which, by the way,  
15 is what Whirlpool did when they transitioned from Germany.  
16 They characterized it as some lingering three-year  
17 transition. The way it really went down was they produced  
18 in Germany until they didn't. And then they stopped, and  
19 then with entirely new equipment, they were up and running  
20 in Clyde, Ohio, producing newer, better machines.

21 And so let them import, let them pay a 50%  
22 tariff on finished LRWs. Don't let them circumvent. Don't  
23 give them some cushion to ramp up because all that is, is a  
24 form of circumvention that undermines the remedial effect of  
25 a 50% tariff on finished LRWs. And when all is said and

1 done, if you go and visit these plants as they've invited  
2 you to, you will be celebrated, because the robust remedy  
3 will have had the intended effect of bringing jobs to  
4 American for them, but most importantly, remedying the  
5 serious injury to the existing U.S. producers. And  
6 conditioning the environment to facilitate their positive  
7 adjustment.

8                   So we thank you very much for your time and  
9 attention. It has been a long and painful road for these  
10 U.S. producers. You'll remember in the first case that  
11 certain U.S. producers were driven to oblivion. For those  
12 of you who were around then, you heard testimony from the  
13 likes of Bosch's CEO, that was producing an innovative  
14 product, and they testified that Samsung and LG drove them  
15 out of existence.

16                   And what happened? Companies like Whirlpool and  
17 GE were the last major producers left standing and they  
18 chose to fight. They chose to reinvest. What's happened?  
19 Have they been rewarded for that decision? No, they've been  
20 bleeding hundreds of millions of dollars in accumulated  
21 losses. The time has come to give them a chance to catch  
22 their breath, to get their head above water and to go back  
23 to the business of reinvesting in America.

24                   Reinvesting in new and innovative products,  
25 reinvesting and employing more workers. And ensuring that

1 they are on a competitive footing for many, many years to  
2 come. So, thank you again for your time and attention. And  
3 with that, we'll close our remarks.

4 CHAIRMAN SCHMIDTLEIN: All right. Thank you,  
5 Mr. Levy.

6 MR. BISHOP: Closing remarks and rebuttal on  
7 behalf of those in opposition to remedies will be given by  
8 John K. Veroneau of Covington and Burling. Mr. Veroneau,  
9 you have 12 minutes.

10 CLOSING REMARKS BY JOHN K. VERONEAU

11 MR. VERONEAU: Madam Chairman, other  
12 Commissioners, Commission staff, thank you for another long  
13 day. Before I present my comments in the affirmative, let  
14 me respond to a few comments offered by Mr. Levy. First of  
15 all, we are sorry to disappoint him. He clearly had hoped  
16 that the Samsung operation in South Carolina was a  
17 screwdriver operation, and that we would not be making any  
18 of the beautiful parts that he brought today.

19 As you heard from Mr. Fraley, we'll make all  
20 covered parts in South Carolina for many reasons, including  
21 the ones offered by Whirlpool witness himself, that it would  
22 be uneconomical to not produce those parts in South  
23 Carolina.

24 Secondly, in reference to another comment Mr.  
25 Levy made, he said there was a deafening silence from the

1       retailers. There's one reason for that. Their statements  
2       are on pieces of paper. I would urge each of you to pay  
3       careful attention to declarations and other statements by  
4       retailers. I believe you will find them to be compelling.

5               Thirdly, hurricanes. I assume that in the  
6       three years in which GE, excuse me, Whirlpool took to move  
7       their washer operation from Germany to the U.S., there were  
8       some hurricanes. So I was giving Mr. Levy the benefit of  
9       the doubt, that one of the reasons for the transition period  
10      that they took may have been weather-related.

11              Fourth, Mr. Levy discussed non-injurious  
12      prices. As a matter of trade law, because they are not  
13      imports, all prices of domestic washers are non-injurious as  
14      a matter of law. Fifth and finally with regard to my  
15      commentary on Mr. Levy's statements, as you may know, since  
16      you have not seen me before, I do not practice in the area  
17      of Title VII.

18              Every so often during this proceeding today, I  
19      have had a shock of horror that somehow I've placed myself  
20      as counsel in a Title VII proceeding, of which I am woefully  
21      unqualified. This is not a Title VII proceeding. This is  
22      not an unfair trade practice proceeding. This is not about  
23      the past. This is about the future.

24              The statutory obligation that Congress gave to  
25      you was in the case where you found injury, you are to

1 recommend to the President remedies that will, and I will  
2 read because the statute, the words in the statute are very  
3 important, a remedy that shall take appropriate and feasible  
4 action to facilitate efforts by the domestic industry to  
5 make a positive adjustment to import competition and provide  
6 greater economic and social benefits than costs.

7           If you'll indulge me, I'll read further. For  
8 purposes of this part, a positive adjustment to import  
9 competition occurs when the domestic industry -- notice it  
10 does not say the Petitioners -- the domestic industry is  
11 able to compete successfully with imports after actions  
12 taken with regard to the investigation.

13           The next section of this subsection goes on to  
14 say the domestic industry may be considered to have made a  
15 positive adjustment to import competition even though the  
16 industry is not the same size and composition as the  
17 industry at the time of the investigation. That is the  
18 legal -- that is the answer to the legal question that we  
19 have been discussing today.

20           It is irrelevant that Samsung and Whirlpool,  
21 excuse me, Samsung and LG were not part of the domestic  
22 industry during the Period of Investigation. It is a new  
23 day. Mr. Levy is stuck in the past. It is time to move on.  
24 The task before you provided by Congress is to recommend a  
25 remedy to the President that will achieve the purposes that

1 I just read from the statute, which in the vernacular means  
2 will increase production in the U.S. and increase jobs in  
3 the U.S.

4 The situation we have here as a factual matter  
5 is unprecedented. The two main competitors to the current  
6 domestic industry members are on-shoring. This is not a  
7 strange step. This is occurring in industry after industry  
8 because it makes economic sense. So the statute does not  
9 penalize any member of the domestic industry, because it  
10 wasn't part of that domestic industry at the time of the  
11 investigation.

12 And I would add to that the Commission's own  
13 actions, namely fulfilling its statutory obligation to  
14 conduct evaluations of safeguards to determine their  
15 effectiveness, in the course of fulfilling the statutory  
16 obligation the Commission holds members of that industry at  
17 the time, without regard to whether they were members of the  
18 domestic industry during the investigation phase.

19 That is yet another supporting piece of  
20 evidence of the Commission's own behavior, that it is  
21 statutorily wrong to exclude a domestic industry member  
22 solely because they were not a member during the  
23 investigation.

24 There is an opportunity here for a  
25 historically successful safeguard remedy. Earlier in our

1 presentation, we put up a slide showing the results of the  
2 evaluation from the Commission's studies of prior safeguard  
3 remedies. Through no fault of this institution of course,  
4 the success of those safeguards has not been impressive.

5 In four of the five, U.S. employment has  
6 actually declined. So what we have here is again if you  
7 define the domestic industry as the statute must define it,  
8 it is on the verge of a historic turnaround, where Samsung  
9 and LG are shifting imports at a massive rates to the U.S.  
10 So to the extent that there is injury due to imports, the  
11 problem is solving itself. To the extent that you as  
12 Commissioners wish to make a recommendation that would "hold  
13 our feet" to the fire or lock in events that are already  
14 underway, to make sure that we do in fact follow through on  
15 our plan to become members of the domestic industry, frankly  
16 we have no quarrel with that.

17 We have no quarrel with that because both  
18 companies have made this decision for economic reasons. But  
19 I would urge as you consider options for remedies, I would  
20 urge you to consider the conventional approach that this  
21 Commission typically takes when considering safeguard  
22 remedies to recommend. As Ms. Aranoff testified, the  
23 conventional approach is to look at recent import levels,  
24 stabilize them, perhaps apply a haircut.

25 But that is a conventional approach that this



1 Commission takes when considering levels, appropriate levels  
2 of a TRQ. Given the unavoidable or I should say given the  
3 decision by Samsung and LG that is irreversible to shift  
4 their production from overseas to the United States, it  
5 would seem odd that you would depart from a conventional  
6 approach to assigning and affixing a remedy recommendation.

7 Mr. Levy would like you to do the opposite of  
8 a conventional approach. He would like you to, instead of  
9 taking last year's levels and stabilizing them in the face  
10 of rising imports, he would like you to start from the  
11 bottom, put us on trial, put Samsung and LG on trial, that  
12 we have to justify every nut and bolt and Flexwash that we  
13 want to bring into this country.

14 That is not an appropriate approach to take in  
15 this proceeding. So we would respectfully urge that your  
16 recommendation be to take the conventional approach that you  
17 would take in these circumstances, look at recent levels of  
18 imports. They have been rising. Stabilize them, apply a  
19 reasonable hair cut, take the opportunity to recommend a  
20 remedy that will facilitate the investment that Samsung and  
21 LG are making in jobs in America. It will be an opportunity  
22 for this safeguard, frankly unlikely most safeguards, to  
23 have historic success.

24 There has been some doubt cast on are we  
25 serious. Again, on behalf of Samsung, we would urge,

1 welcome, plea with you to visit Newbury, South Carolina.  
2 It's an impressive operation and it will dispel any notion  
3 that we are not serious about this investment. \$380  
4 million. That is not a fly by night operation.

5  
6 Mr. Levy, even though initially he said a  
7 decision by Samsung and Whirlpool would be a real win, has  
8 reneged on that, as you know, and has proposed a remedy that  
9 can only be described as a slush fund for his client. I  
10 don't begrudge Mr. Levy for being a zealous advocate for his  
11 client. But because --

12 CHAIRMAN SCHMIDTLEIN: Mr. Veroneau, I'm  
13 sorry to interrupt, but you're about a minute beyond the  
14 time --

15 MR. VERONEAU: Okay, I apologize. I should  
16 end it right there. Could I have the indulgence of 30  
17 seconds?

18 CHAIRMAN SCHMIDTLEIN: Certainly.

19 MR. VERONEAU: Thank you very much, Madam  
20 Chairman. But that is his job to be a zealous advocate.  
21 But respectfully the job that Congress gave to you as  
22 Commissioners was to fulfill the public interest of the  
23 domestic industry, not the private interest of one member of  
24 the domestic industry. Thank you very much. I apologize  
25 for overstaying my welcome. Thank you.

1                   CHAIRMAN SCHMIDTLEIN:    No, not at all, thank  
2     you.  All right.  This brings us to the end of the hearing.  
3     Again on behalf of the Commissioners, thank you to all the  
4     witnesses for your time today and for traveling to the  
5     Commission to help us understand this case.  Let me remind  
6     you that post-hearing briefs, statements responsive to  
7     questions and requests of the Commission, corrections to the  
8     transcript must be filed by October 26, 2017.

9

10                   The Commission is tentatively scheduled to  
11     vote on the remedy phase of this investigation on November  
12     21st, 2017.  With those reminders and seeing that there is  
13     no other business before the Commission, this hearing is  
14     adjourned.

15                   (Whereupon, at 5:21 p.m., the hearing was  
16     adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Large Residential Washers

INVESTIGATION NO.: TA-201-76

HEARING DATE: 10-19-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Remedy

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: 10-19-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the  
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Duane Rice  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

SIGNED: Larry Flowers  
Signature of Court Reporter

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