

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: ) Investigation No.:  
LARGE RESIDENTIAL WASHERS: ) TA-204-013  
MONITORING DEVELOPMENTS IN THE )  
DOMESTIC INDUSTRY )

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Place: Washington, D.C.  
Date: Tuesday, June 25, 2019



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UNITED STATES OF AMERICA  
BEFORE THE  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation No.:  
LARGE RESIDENTIAL WASHERS: ) TA-204-013  
MONITORING DEVELOPMENTS IN THE)  
DOMESTIC INDUSTRY )

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Tuesday, June 25, 2019

The meeting commenced pursuant to notice at 9:30  
a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable David S.  
Johanson, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman David S. Johanson (presiding)

5 Commissioner Irving A. Williamson

6 Commissioner Meredith M. Broadbent

7 Commissioner Rhonda K. Schmidlein

8 Commissioner Jason E. Kearns

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12 Staff:

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18 Nathanael N. Comly, Investigator

19 Fernando Gracia, International Trade Analyst

20 Tana Von Kessler, International Economist

21 Karl van Schrietz, Attorney/Advisor

22 Douglas Corkran, Supervisory Investigators

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1 APPEARANCES:

2 Congressional Witnesses:

3 The Honorable Sherrod Brown, United States Senator, Ohio

4 The Honorable Rob Portman, United States Senator, Ohio

5

6 Embassy Witness:

7 Embassy of the Republic of Korea

8 Washington, DC

9 The Honorable Haekwan Chung, Director-General for Trade

10 Legal Affairs and Public Relations, Ministry of Trade,

11 Industry and Energy

12

13 Opening Remarks:

14 Panel 1 (Myles S. Getlan, Cassidy Levy Kent (USA) LLP)

15 Panel 2 (Daniel L. Porter, Curtis, Mallet-Prevost, Colt &

16 Mosle LLP)

17

18 Panel 1

19 Cassidy Levy Kent (USA) LLP

20 Adducci, Mastriani & Schaumberg LLP

21 Washington, DC

22 on behalf of

23 Whirlpool Corporation ("Whirlpool")

24 James F. Keppler, Vice President, Integrated Supply

25 Chain and Quality, Whirlpool

1 APPEARANCES (Continued):

2 Casey Tubman, General Manager, Laundry, North American  
3 Region, Whirlpool

4 Jack A. Levy, Myles S. Getlan, Mary Jane Alves and  
5 Deanna Tanner Okun - Of Counsel

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7 TRADEWINS LLC

8 Gilliland & McKinney International Counselors LLC

9 Washington, DC

10 on behalf of

11 Haier US Appliance Solutions d/b/a GE Appliances

12 John R. Magnus and Sheridan S. McKinney - Of Counsel

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15 Panel 2

16 Curtis, Mallet-Prevost, Colt & Mosle LLP

17 Washington, DC

18 on behalf of

19 LG Electronics USA, Inc.

20 LG Electronics, Inc.

21 (collectively, "LGE")

22 John Toohey, Director of Strategy, LGEUS

23 Theodore Myers, Innovation Team Leader, LGEUS-TN

24 Daniel Klett, Principal, Capital Trade, Inc.

25 Charles Anderson, Principal, Capital Trade, Inc.

1 APPEARANCES (Continued):

2 Daniel L. Porter, James P. Durling, Gina M. Colarusso  
3 and Kimberly A. Reynolds - Of Counsel

4

5 Closing Remarks:

6 Panel 1 (Jack A. Levy, Cassidy Levy Kent (USA) LLP)

7 Panel 2 (James P. Durling, Curtis, Mallet-Prevost, Colt &  
8 Mosle LLP)

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## I N D E X

1		
2		Page
3	The Honorable Sherrod Brown, United States	
4	Senator, Ohio	10
5		
6	The Honorable Haekwan Chung, Director-General for Trade	
7	Legal Affairs and Public Relations, Ministry of Trade,	
8	Industry and Energy	14
9		
10	The Honorable Rob Portman, United States	
11	Senator, Ohio	17
12		
13	Opening Remarks:	
14	Panel 1 (Myles S. Getlan, Cassidy Levy Kent (USA) LLP)	22
15	Panel 2 (Daniel L. Porter, Curtis, Mallet-Prevost, Colt &	
16	Mosle LLP)	26
17		
18	James F. Keppler, Vice President, Integrated Supply Chain	
19	and Quality, Whirlpool	30
20		
21	Casey Tubman, General Manager, Laundry, North American	
22	Region, Whirlpool	33
23		
24	James F. Keppler, Vice President, Integrated Supply Chain	
25	and Quality, Whirlpool (Continued)	41

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## I N D E X

	Page
John R. Magnus, TRADEWINS LLC	46
Sheridan S. McKinney, TRADEWINS LLC	48
John Toohey, Director of Strategy, LGEUS	128
Theodore Myers, Innovation Team Leader, LGEUS-TN	133
Daniel Klett, Principal, Capital Trade, Inc.	138
James P. Durling, Curtis, Mallet-Prevost, Colt & Mosle LLP	146
Charles Anderson, Principal, Capital Trade, Inc.	149
Gina M. Colarusso, Curtis, Mallet-Prevost, Colt & Mosle LLP	159
Closing Remarks:	
Panel 1 (Jack A. Levy, Cassidy Levy Kent (USA) LLP)	228
Panel 2 (James P. Durling, Curtis, Mallet-Prevost, Colt & Mosle LLP)	232

1 P R O C E E D I N G S

2 (9:40 a.m.)

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

4 CHAIRMAN JOHANSON: Good morning. On behalf of  
5 U.S. International Trade Commission I welcome you to this  
6 hearing on Investigation No. TA-204-013 concerning large  
7 residential washers monitoring developments in the Domestic  
8 Industry.

9 On January 23, 2018, the President, pursuant to  
10 Section 203 of the Trade Act of 1974, issued proclamation  
11 9694 imposing a tariff measure on imports of certain large  
12 residential washers and parts thereof in the form of  
13 tariff-rate quotas. The proclamation was published in the  
14 Federal Register on January 25, 2018. The measure took  
15 effect on February 7, 2018 for a period of three years and  
16 one day or through February 7, 2021.

17 The President imposed the measure following  
18 receipt of a report from the Commission in December 2017  
19 under Section 202 of the Trade Act that contained an  
20 affirmative recommendation, remedy recommendations and  
21 certain additional findings. Section 204-A1 of the trade  
22 act requires the Commission to developments with respect to  
23 the Domestic Industry including the progress and specific  
24 efforts made by workers and firms in the Domestic Industry  
25 to make a positive adjustment to import competition as long

1 as any action under Section 203 of the Trade Act remains in  
2 effect.

3 Whenever the initial period of such action  
4 exceeds three years, Section 204-A2 requires the Commission  
5 to submit a report on the results of the monitoring to the  
6 President and the Congress no later than the midpoint of the  
7 initial period of relief. In this case, by August 7, 2019.

8 Section 204-A3 requires the Commission to hold a  
9 hearing in the course of preparing such a report which is  
10 the purpose of today's hearing. Before we begin, let me  
11 note that only the Commission and the Staff will ask  
12 questions of the parties.

13 Schedule setting forth the presentation of this  
14 hearing, Notice of Investigation and Transcript order forms  
15 are available at the Public Distribution Table. All  
16 prepared testimony should be given to the Secretary. Please  
17 do not place testimony on the Public Distribution Table.

18 All witnesses must be sworn in by the secretary  
19 before presenting testimony. I understand that parties are  
20 aware of the time allocations. Any questions regarding the  
21 time allocations should be directed to the Secretary.  
22 Speakers are reminded not to refer in their remarks or  
23 answers to questions to business proprietary information.  
24 Please speak clearly into the microphones and state your  
25 names for the record for the benefit of the court reporter

1 and for those seated at the back of the room.

2 If you will be submitting documents that contain  
3 any information you wish classified as business confidential  
4 your request should comply with Commission Rule 201.6.

5 Before we begin, let me welcome workers from Whirlpool's  
6 Clyde, Ohio manufacturing facility. We appreciate having  
7 you hear today.

8 Mr. Secretary, are there any preliminary matters

9 MR. BISHOP: Mr. Chairman, I would note that all  
10 witnesses for today's hearing have been sworn in. There are  
11 no other preliminary matters.

12 CHAIRMAN JOHANSON: Very well. Will you please  
13 announce our Congressional Witness?

14 MR. BISHOP: Our first Congressional Witness is  
15 the Honorable Sherrod Brown, United States Senator from  
16 Ohio.

17 STATEMENT OF SENATOR SHERROD BROWN

18 SENATOR BROWN: Thank you, Mr. Chairman. It's an  
19 honor to be here on behalf of Clyde workers and Whirlpool  
20 workers in other communities in Ohio and on behalf of my  
21 whole state. I thank you for the opportunity to testify in  
22 this case regarding large residential washers. This is the  
23 fourth time I've come to the International Trade Commission  
24 to testify on behalf of whirlpool and its Ohio workers  
25 including workers from Clyde.

1           Each time I'm here I tell you how important  
2 Whirlpool is to the manufacturing sector. They have 9  
3 plants and 25,000 workers in the United States. I tell you  
4 how important the company is to Ohio, 10,000 workers in my  
5 state alone. I tell you how important the washing machine  
6 factory and its 3,000 jobs are to the community of Clyde.

7           Just a moment ago I met a number of workers from  
8 Clyde and Freemont and Bellevue and all over Northwest Ohio.  
9 Last time I was here I testified on behalf of the Domestic  
10 Industry in support of its Section 201 position. Whirlpool  
11 had no choice but to file its safeguard case because Samsung  
12 and LG have gone to great lengths to put American producers  
13 out of business and dominate the U.S. washer market.

14           Fortunately, the Commission agreed. You found  
15 the industry was seriously injured by surging imports and  
16 recommended that a safeguard be put in place. As a result  
17 the President imposed tariffs on washing machine imports and  
18 certain washing machine parts. I'm here to testify that  
19 tariffs have helped American companies to help them compete  
20 and help them keep jobs in Ohio.

21           U.S. companies have been able to expand  
22 production and invest in their facilities. Three thousand  
23 workers at Clyde who were at risk have been able to breathe  
24 a little easier. In fact, Whirlpool actually expanded in  
25 Clyde, hiring 200 more workers in that facility and Clyde

1 employees have seen their wages in total increase by 10  
2 percent since the safeguard took effect.

3 We've seen more than a thousand jobs added to  
4 Tennessee and South Carolina washer facilities. That's  
5 exactly what the safeguard was intended to do. There were  
6 some who criticized the tariffs because they say washer  
7 prices increased as a result. I want to address briefly  
8 some of those criticisms.

9 Samsung and LG have been dumping in the U.S.  
10 Market for so many years; their prices were artificially low  
11 because of their cheating. Although prices have risen  
12 recently, they're still lower than they were in 2015. We  
13 also know that low prices aren't helpful if you don't have a  
14 job. When we fail to defend American jobs against companies  
15 and countries that cheat, we end up with more unemployed  
16 workers who end up with lower wages.

17 The Section 201 safeguard exists to ensure that  
18 Domestic Producers can defend themselves against unfair  
19 trade practices. That's what happened in the washer  
20 industry but we don't breathe a sigh of relief just yet.  
21 Samsung and LG have a long history of cheating. If we  
22 remove the safeguard too early, if we remove it too early,  
23 these companies will go right back to their past bad  
24 behavior.

25 The relief that companies like Whirlpool who was

1 already undercut by stockpiles of Samsung and LG washers  
2 rushed into our market before our tariffs went into effect.  
3 The full three years of the safeguard are necessary to  
4 prevent additional stockpiling and to ensure American  
5 companies like Whirlpool are able to compete on a level  
6 playing field.

7 That's all companies like Whirlpool want, fair  
8 competition, and that's all workers want. That's the point  
9 of section 201. I urge the Commission to acknowledge the  
10 strong progress being made under the safeguard. I recommend  
11 the remedy remain in place for the full three years.

12 The workers behind me and the hundreds and  
13 hundreds of other Clyde workers deserve the opportunity to  
14 fully recover from Samsung's and LG's predatory behavior and  
15 to regain their competitive footing. Thank you, Mr.  
16 Chairman.

17 CHAIRMAN JOHANSON: Thank you, Senator Brown for  
18 appearing here today. Do any Commissioners have questions  
19 for the Senator? No Commissioners have questions. We  
20 appreciate you being here. Thank you.

21 SENATOR BROWN: Of course, thank you.

22 MR. BISHOP: Mr. Chairman, we will now hear from  
23 our Embassy Witness which is the Honorable Haekwan Chung,  
24 Director General for Trade, Legal Affairs and Public  
25 Relations from the Ministry of Trade, Industry and Energy

1 with the Embassy of the Republic of Korea.

2 STATEMENT OF THE HONORABLE HAEKWAN CHUNG

3 MR. CHUNG: Thank you, Chairman and Members of  
4 the Commission. Good morning. My name is Haekwan Chung and  
5 I am currently serving as Director General for International  
6 Trade Affairs in the Ministry of Trade, Industry and Energy  
7 for the Republic of Korea.

8 On behalf of the Korean Government I will present  
9 Korea's position on the current safeguard measures on large  
10 residential washers. Most notably, safeguard measures  
11 should be appraised only for such time necessary to prevent  
12 or remedy serious injury and facilitate adjustment.

13 As safeguard measures are extraordinary and  
14 exceptional measures, exceptional remedies which target fair  
15 trade, the imposition or continuation of safeguard measures  
16 should be considered with strict scrutiny and linked to a  
17 careful decision as set out in the WTO Agreement on  
18 safeguards.

19 Specifically, safeguard measures must only be  
20 applied to the extent that they are necessary. Article 7.1  
21 and 5.1 of the agreement on safeguards indicate that a  
22 member shall apprise safeguard measures only for such a  
23 period of time as maybe necessary to prevent or remedy  
24 serious injury and to facilitate adjustment.

25 In this regard, Korean Government believes that

1 the current safeguard measures on large residential washers  
2 are no longer necessary for the following reasons. First,  
3 the Domestic Industry has successfully restructured since  
4 the imposition of the measures as available facts show.  
5 Since the imposition of safeguard measures in February of  
6 2018 it has grown bigger and stronger. In fact, the current  
7 condition of the Domestic Industry is much better than that  
8 predicted by the Commission during the safeguard  
9 investigation.

10 Secondly, LG and Samsung have built and are  
11 operating washer manufacturing factories in the United  
12 States, respectfully in Clarksville County, Tennessee and  
13 Newberry County, South Carolina. Now factories had been  
14 planned before the safeguard measures and now are  
15 responsible for more than 15,000 new jobs.

16 The logistics of these factories and their  
17 ability to supply nearly all of Samsung and LG's U.S. demand  
18 means that there is no need of safeguards because the U.S.  
19 Industry has already completed a positive adjustment.

20 The Korean government respectfully requests that  
21 pursuant to this midterm review the Commission provide the  
22 President with the advice on termination or appropriate  
23 modifications to the safeguard measures in accordance with  
24 the relevant U.S. law.

25 At the same time, while Korea believes that the

1 safeguard measures are no longer necessary, should the  
2 Commission determine that termination is not yet  
3 appropriate, Korea should be excluded from the scope of the  
4 measures. The Commission has found twice that imports of  
5 washers from Korea has not harmed and will not harm U.S.  
6 producers, especially in the antidumping and CVD since  
7 March.

8 ITC has ruled that imports from washers from  
9 Korea are not causing and will not cause injury to the U.S.  
10 Domestic Industry. All levels demonstrate that the same  
11 conclusion of price in this mid-term review.

12 In concluding this statement, Korean governments  
13 would like to emphasize that the improved Korea/USA TA  
14 already reflects the rebalancing of trade and the reduction  
15 of trade imbalance between the two countries.

16 In light of the longstanding and strong  
17 partnership between the two countries and the spirit of the  
18 Korea/USA TA, the Korean Government strongly believes that  
19 the Commission dually and fully take into account the  
20 above-mentioned comments during its review process. Thank  
21 you.

22 CHAIRMAN JOHANSON: Thank you Director General  
23 Haekwan. Do any Commissioners have questions for Director  
24 General? No Commissioners do. We appreciate you being here  
25 today.

1 MR. CHUNG: Thank you.

2 MR. BISHOP: Mr. Chairman, our next congressional  
3 witness is the Honorable Bob Portman, United States Senator  
4 from Ohio.

5 STATEMENT OF THE HONORABLE ROB PORTMAN

6 SENATOR PORTMAN: Chairman Johanson, thank you  
7 very much. It's good to be here again. Members of the  
8 International Trade Commission, thank you for inviting me  
9 back. I am here to talk about the midterm review of the  
10 safeguard measure on large residential washers. I've  
11 managed to run into my colleague Senator Sherrod Brown on  
12 the way out, so I know you've already heard from him.

13 I don't know if we will be repetitive or not,  
14 but I think we're going to make some of the same points,  
15 because we feel so strongly about this issue. Whirlpool, as  
16 you know, employs over 3,000 people in one town in Ohio,  
17 Clyde, Ohio. Some of those workers are here today. I saw  
18 some blue shirts as I walked in. Once again, they got on a  
19 bus I think at 6:00 a.m. yesterday morning as I've been  
20 told, and made their way here.

21 The reason they came is they have a lot of  
22 pride in what they do. I know they also understand the  
23 stakes, and the stakes are huge for them, because they've  
24 got jobs there making America's best washing machines, and  
25 what they're asking for is the ability to keep doing that

1 and asking for a level playing field so they can.

2 The situation has been frustrating for a lot  
3 of us and, you know, there was appropriate action taken by  
4 the ITC with regard to dumping. Then the production moves  
5 to another country and then moves to another country, and  
6 finally the safeguard has been able to give them the ability  
7 to continue to compete. So that's what we're asking for  
8 today. As some of you know, I'm a former U.S. Trade  
9 Representative, had the pleasure of working with some of you  
10 including Commissioner Broadbent in that capacity.

11 I also happen to represent one of our nation's  
12 top manufacturing states and I know trade policy is  
13 complicated. It's very nuanced. It's sometimes very  
14 abstract, but what we decide here in this room has real  
15 consequences, as you all know, for the people I represent  
16 and for the families. It's a balance, and we have to try to  
17 get it right.

18 For nearly 70 years, this Whirlpool plant has  
19 been in existence in Clyde, Ohio, but more than that the  
20 plant has become an integral part of the community. The  
21 town's about 6,500 people and again Whirlpool employs over  
22 3,000 people. So you can imagine the importance of that  
23 company in that town. Despite the deep roots in Ohio and  
24 their successes over time, it looked pretty bleak about 18  
25 months ago.

1                   Again, I want to thank you all and thank this  
2 Commission for helping to be able to not just keep this  
3 plant going and making sure that it could be competitive,  
4 but looking to the future, ensuring that we can have a  
5 competitive industry in the United States. We had victories  
6 on the trade cases on dumped and subsidized washers from  
7 Korea and Mexico, but the foreign competitors evaded the  
8 trade remedies levied by the Commission by simply importing  
9 dumped washing machines from another country, in this case  
10 from China.

11                   When those anti-dumping duties were imposed on  
12 those unfairly traded washing machines from China,  
13 production moved again. So it's sort of a whack-a-mole  
14 issue, in this case to Thailand and Vietnam. All the while,  
15 these employees from Clyde, Ohio we talked about worked  
16 hard, played by the rules, continued to try to innovate and  
17 compete, but the country-hopping duty evasion was not  
18 sustainable. Again, that's why I applauded the  
19 Commission's Section 201 safeguard determination that  
20 increased imports were a substantial cause of serious injury  
21 to domestic industry.

22                   Thanks to your efforts and the President's  
23 decision to impose those tariff rate quotas on finished  
24 washing machines as well as parts, there's been a decline  
25 now in unfairly traded imports. These measures have been

1 critical to preserving those thousands of jobs in Clyde, and  
2 Whirlpool has taken advantage of this opportunity by doing  
3 what I've encouraged them to do and it's the right thing to  
4 do, which is to invest in new technology and new products  
5 and its workers.

6 This is not about protecting a domestic  
7 industry so that it doesn't have to be competitive. It's  
8 just the opposite. We want to give them to space to ensure  
9 that they are making these investments and becoming  
10 competitive. Since the safeguard went into effect,  
11 Whirlpool's capital expenditures have more than tripled, and  
12 labor-related expenditures are also increasing.

13 In addition, the safeguard has helped  
14 Whirlpool's competitors grow their operations here in  
15 America, which has employed more American workers. So when  
16 you look back at your work, I think it has accomplished some  
17 positive things. Unfortunately, some critics of the  
18 safeguard have ignored the good news on the ground in Clyde,  
19 Ohio, and instead have chosen to focus on the increased  
20 prices of washing machines.

21 In the face of such criticism, it's important  
22 to note that prior to the safeguard, prices of washing  
23 machines were low because manufacturers were selling them  
24 below market, at below market prices. That's not something  
25 any of us should want. So it's the very definition of

1 dumping, selling it below your cost.

2 Moreover, the prices of all home appliances,  
3 not only washing machines increased last year. So when you  
4 look broadly at what happened to appliances, it wasn't just  
5 washing machines. In fact, a recent study out of the  
6 University of Chicago, which has been repeatedly cited in  
7 anti-safeguard arguments, actually makes the case in my view  
8 for the current Section 201 action.

9 That notes that the 2016 anti-dumping duties  
10 on Chinese production had little effect on consumer prices  
11 because foreign competitors were able to relocate their  
12 operations. This would suggest that the safeguard was  
13 needed, precisely because prior trade remedy actions were  
14 unable to address the problem posed by these below market  
15 prices. So I think you can take that same study and use it  
16 to defend what you have done.

17 In closing, I'd like to make clear to the  
18 Commission that given the positive results the safeguard has  
19 demonstrated for the workers in Clyde, I believe the  
20 safeguards should remain in place for now. I ask this  
21 Commission to help ensure the remedy remains effective for  
22 American workers. Again, thanks very much for allowing me  
23 to come back and to spend time with you all, and I look  
24 forward to hearing the results of these deliberations today.

25 CHAIRMAN JOHANSON: Thank you Senator

1 Portman for appearing here today. Do any Commissioners have  
2 questions for the Senator?

3 (No response.)

4 CHAIRMAN JOHANSON: No Commissioners have  
5 questions. Thank you again.

6 SENATOR PORTMAN: Thank you all.

7 MR. BISHOP: Mr. Chairman, we will now turn to  
8 opening remarks. Opening remarks on behalf of Panel 1 will  
9 be given by Myles S. Getlan of Cassidy Levy Kent. Mr.  
10 Getlan, you have five minutes.

11 OPENING STATEMENT OF MYLES S. GETLAN

12 MR. GETLAN: Good morning, Mr. Chairman,  
13 Commissioners. My name is Myles Getlan of Cassidy Levy  
14 Kent, here representing Whirlpool Corporation. We  
15 appreciate the opportunity to discuss the positive  
16 developments in the domestic washer industry since the  
17 President imposed your recommended safeguard measure 16  
18 months ago.

19 As we will discuss today, the safeguard remedy  
20 is allowing Whirlpool, GE and the legacy domestic producers  
21 as a whole to recover from the serious injury they suffered  
22 and for them to begin implementing their respective  
23 adjustment plans. In reversing the trajectory of a  
24 seriously injured industry, the safeguard has been  
25 instrumental in securing and creating thousands of jobs.

1                   It's worth recalling the circumstances that  
2                   led to the President's decision to impose safeguard  
3                   measures, as it provides important context for assessing the  
4                   state of the industry post-safeguard. The safeguard imposed  
5                   by the President followed three unanimous determinations by  
6                   the Commission that Samsung and LG's washer imports injured  
7                   American washer manufacturers.

8                   The safeguard was necessary because Samsung  
9                   and LG repeatedly shifted their production platforms in  
10                  order to evade dumping duties and continue their predatory  
11                  behavior. In its safeguard determination, the Commission  
12                  found that years of pervasive import under-selling resulted  
13                  in operating losses and declining capital investments, which  
14                  according to the Commission imperiled the industry's  
15                  competitiveness and threatened the viability of Whirlpool,  
16                  GE and other domestic LRW producers.

17                  Based on these findings, the Commission  
18                  recommended a safeguard remedy that the President largely  
19                  adopted, a remedy that finally held out the promise of  
20                  bringing relief to a long-beleaguered industry. Sixteen  
21                  months later, we can say that the safeguard is helping the  
22                  legacy domestic producers to recover from their serious  
23                  injury.

24                  To be clear, while LG's and Samsung's new U.S.  
25                  facilities are important and welcome developments, assessing

1 the impact of the remedy must focus first and foremost on  
2 whether the remedy is helping the injured producers, the  
3 legacy domestic producers, to recover and adjust to import  
4 competition. We see the positive impact of the safeguard in  
5 diminished import volumes, and the market share recaptured  
6 by U.S. producers.

7 The remedy also has had the effect of  
8 moderating Samsung and LG's persistent underselling, which  
9 has allowed legacy producers to adjust prices to economic  
10 levels that reflect increasing costs. This in turn has led  
11 to significant improvement in the financial performance of  
12 the legacy domestic producers.

13 Whirlpool's washer business, for example, has  
14 been able to earn modest profits for the first time in  
15 years, and this improvement has allowed Whirlpool and GE to  
16 take important steps in implementing their adjustment plans.  
17 Mr. Keppler and Mr. Tubman of Whirlpool will explain how  
18 Whirlpool has invested tens of millions of dollars in  
19 developing and launching new frontload and topload washers,  
20 and enhancing their manufacturing operations and in  
21 improving worker training.

22 Given this progress, it's safe to say that the  
23 safeguard has helped secure thousands of direct and indirect  
24 jobs connected to Whirlpool's and GE's operations, and by  
25 hastening Samsung and LG's U.S. washer investments, the

1       safeguard has helped create thousands more jobs in and  
2       around South Carolina and Tennessee.

3                       But the picture is not all rosy. LG and  
4       Samsung stockpiling just prior to the imposition of the  
5       safeguard and their demonstrated ability to absorb much of  
6       the in quota tariff delayed and diluted the effectiveness of  
7       the safeguard measures. Moreover, aggregate demand for LRWs  
8       declined for the first time in years due to a trough in the  
9       replacement cycle and middling housing activity, and  
10      domestic producers are faced with increased costs.

11                      These head winds are reflected in the data  
12      that show the remedial effects of the safeguard fell short  
13      of what the Commission's economic model had predicted for  
14      2018. As a result, the legacy producer's recovery is still  
15      very much in process, and there is still much for Whirlpool  
16      and GE to do in implementing their adjustment plans.

17                      In this context, continued safeguard relief is  
18      essential for the legacy domestic producers, to fully adjust  
19      to import competition, and it will also continue to  
20      incentivize LG to walk the talk. That is, to rapidly  
21      completed its long-touted transition to U.S. production.

22                      In the end, when the safeguard is allowed to  
23      run its course, the result promises to be a clear win for  
24      everyone. Robust competition among four major healthy U.S.  
25      manufacturers, positioned to offer consumers innovative

1 products for years to come. We look forward to discussing  
2 these issues with you this morning. Thank you.

3 MR. BISHOP: Thank you, Mr. Getlan. Opening  
4 remarks on behalf of Panel 2 will be given by Daniel L.  
5 Porter of Curtis Mallet-Prevost, Colt and Mosie. Mr.  
6 Porter, you have five minutes.

7 OPENING STATEMENT OF DANIEL L. PORTER

8 MR. PORTER: Chairman, excuse me. Chairman  
9 Johanson, members of the Commission, it is good to see you  
10 again. We are here today because the Commission must report  
11 on the efforts undertaken by firms in the domestic industry  
12 to adjust to import competition. Now the statutory language  
13 actually refers to firms in the domestic industry. That is  
14 a direct quote. Contrary to Whirlpool's arguments, the  
15 statute does not refer only to efforts made by the  
16 Petitioners, nor to legacy producers. Rather, the  
17 statutory language directs the Commission to focus on all  
18 firms in the domestic industry.

19 That is very essence of this case. Much as  
20 Whirlpool and Haier GE would like to, the Commission cannot  
21 ignore that the U.S. industry has already successfully  
22 restructured since the imposition of the duties. The new LG  
23 and Samsung U.S. production factories have already  
24 dramatically expanded the domestic industry.

25 The U.S. washer domestic industry as a whole

1 is now better prepared to compete against imports because  
2 the two largest import sources have now become U.S.  
3 producers. U.S. washer producers will soon capture more  
4 than 90 percent of the U.S. market, and the new LG and  
5 Samsung U.S. factories give them every incentive to use  
6 those factories and not switch back to importing washers.

7 I ask you to refer to Attachments A and B.  
8 Attachment A provides the changes in key performance metrics  
9 for U.S. producers that are routinely analyzed in trade  
10 cases, and Attachment B places the data in context by  
11 comparing to other safeguard mid-term reviews. The  
12 improvements by the U.S. washer domestic industry are  
13 substantially better than those found in every other recent  
14 safeguard mid-term review.

15 Given these facts, LG respectfully submits  
16 that it is entirely appropriate for the Commission to  
17 recommend early termination of the safeguard duties.  
18 However, if the Commission decides not to recommend early  
19 termination of the measures, then at the very least the  
20 Commission should recommend changing the scope of the  
21 safeguard measures remedy to prevent the circumvention that  
22 has sprung up since the safeguard measures were imposed.

23 By excluding from the safeguard remedy belt  
24 drive washers, circumvention has occurred. These belt drive  
25 washers, mostly coming from China and Mexico, compete

1 directly and aggressively with the core of both Whirlpool  
2 and LG's U.S. production operations. If the Commission  
3 believes that the current safeguard remedies are still  
4 needed, then the Commission should recommend closing the  
5 loophole that allows circumvention of these very safeguard  
6 remedies.

7           The Commission should also consider two other  
8 companion recommendations. First, as noted by the Director  
9 General for the Korean Government's Trade Legal Affairs, the  
10 Commission should recommend to exclude washer imports from  
11 Korea from the remaining time of these safeguard remedy.  
12 Second, the Commission should increase the TRQ amount so as  
13 not to allow Chinese suppliers to capture all of the quota.

14           Actually, with respect to the TRQ level, we  
15 note that the current 1.2 million base quota appears to  
16 reflect an inadvertent calculation mistake, and that the  
17 base level quota should have been 1.7 million units.  
18 Commissioners, this mid-term review is more than a  
19 statutorily-mandated process, a box that must be checked. A  
20 recent economic study concluded that the current safeguard  
21 remedy is imposing on consumers a cost of approximately  
22 \$1.5 billion each year.

23           The Commission needs to carefully consider  
24 whether there really will be future benefits beyond those  
25 already achieved, that justify this enormous cost on

1 consumers and the economy. Thank you.

2 MR. BISHOP: Thank you, Mr. Porter. Would the  
3 members of Panel 1 please come forward and be seated. Also,  
4 I wanna just make sure everybody knows, this is a hearing on  
5 large residential washers. If you are to be attending the  
6 USTR hearing, that is in Courtroom B. Thank you.

7 CHAIRMAN JOHANSON: You all may proceed whenever  
8 you would like.

9 MR. LEVY: Good morning, Mr. Chairman,  
10 Commissioners. This is Jack Levy from Cassidy Levy Kent on  
11 behalf of Whirlpool Corporation. In just a moment, we're  
12 gonna start things off with our industry witnesses, but I  
13 just wanted to react to two points we just heard from Mr.  
14 Porter's opening remarks.

15 I think I counted no less than ten times the  
16 phrase "the Commission should recommend," "the Commission  
17 should recommend," "the Commission should recommend." And  
18 as I read the Statute, Section 204(A)2, charges the  
19 Commission with submitting a report on the results of its  
20 monitor activity. It does not charge you with making  
21 recommendations to the President absent a request for  
22 advice, pursuant to 204(A)4. And I would simply encourage  
23 you to remain grounded in the Statute throughout this  
24 proceeding.

25 Secondly, he argued quite strenuously the point

1 that the safeguard remedy can be terminated early because  
2 the domestic industry has, in his words, "already  
3 restructured." And he cites to Attachment A to show changes  
4 in performance, comparing 2017 to 2020. And I would simply  
5 point out the obvious, that the year 2020 has not already  
6 transpired. That is very much in the future.

7 And again, under the Statute, you are charged  
8 with monitoring developments in the industry. This is not  
9 an exercise in soothsaying and looking into the future, much  
10 less 2020. So with those comments, I would turn things over  
11 first to Mr. James Keppler of Whirlpool Corporation. Thank  
12 you.

13 STATEMENT OF JAMES F. KEPPLER

14 MR. KEPPLER: Good morning. My name is Jim  
15 Keppler. I am Vice President of Integrated Supply Chain and  
16 Quality for Whirlpool's North American region. Casey  
17 Tubman, who runs our washer business in the United States,  
18 joins me here today. I have over twenty-nine years of  
19 manufacturing experience, including eight years at  
20 Whirlpool. In my current role, I'm responsible for  
21 manufacturing logistics, planning and quality for  
22 Whirlpool's North American region, including the operations  
23 at our fourteen manufacturing plants in North America.

24 Before coming to Whirlpool, I served in various  
25 manufacturing leadership roles within the automotive

1 industry. Since this is my first time testifying before  
2 this Commission, I wanted to begin by expressing my sincere  
3 appreciation for your past determinations. Your work and  
4 the efforts of your staff have been critical to Whirlpool's  
5 washer business and have enabled recent upgrades to our U.S.  
6 washer manufacturing facility. Forty-three of my team  
7 members from Clyde have traveled to this hearing today to  
8 express their appreciation as well. And I would like to  
9 thank them for being here.

10 Whirlpool has over 25,000 U.S. employees with  
11 over 10,000 in the State of Ohio alone. We are  
12 headquartered in Benton Harbor, Michigan, and our 2.4  
13 million square foot washer facility is located in Clyde,  
14 Ohio. Since our founding over a hundred years ago, we have  
15 been the leading innovator of automatic clothes washers.

16 Before I turn things over to Casey, I would like  
17 to briefly review the circumstances that led to the  
18 safeguard remedy. Back in 2013, the Commission unanimously  
19 determined that dumped and subsidized imports from Korea and  
20 Mexico materially injured the domestic industry.  
21 Unfortunately, Samsung and LG were determined to continue  
22 dumping to grow their U.S. market share. So they quickly  
23 moved their washer plants from Korea and Mexico to China to  
24 avoid the orders.

25 The Commission made another unanimous injury

1 determination in 2017, finding that dumped Chinese washer  
2 imports were responsible for depressed prices, underutilized  
3 capacity and substantial operating losses. But once again,  
4 Samsung and LG dodged trade remedies by moving their washer  
5 production to Vietnam and Thailand. Whirlpool then  
6 petitioned for global safeguard relief in the hopes of  
7 putting an end to Samsung and LG's predatory behavior.

8           While these cases played out, several competitors  
9 shuttered their U.S. washer manufacturing plants, Bosch,  
10 Electrolux, and Fisher & Paykel. Like them, our U.S.  
11 production assets suffered massive losses due to imports. A  
12 viable washer business depends on a manufacturer's ability  
13 to introduce new platforms. Platforms are the architectures  
14 we use to produce multiple models with a variety of  
15 features. We design platforms to last for an extended  
16 period with various upgrades along the way. It's critical  
17 that platforms generate an adequate return to support these  
18 upgrades and fuel investment in the next generation of  
19 product innovations and features. As you know, as  
20 successive waves of low-priced imports caused Whirlpool's  
21 washer business to lose hundreds of millions of dollars and  
22 stifled our ability to reinvest.

23           In your safeguard determination, you found that  
24 the U.S. washer industry was seriously injured by imports.  
25 You questioned whether the domestic industry could remain

1 viable and whether it could continue to sustain such large  
2 operating losses without an effective safeguard remedy.  
3 Following your safeguard decision, the President decided to  
4 take action, and based on your report and recommendation, he  
5 imposed tariff rate quotas on imports of finished washers  
6 and covered parts, as summarized in Exhibit 1.

7 Today, about halfway into the relief period, I  
8 can tell you that the safeguard is working. We are now  
9 witnessing tangible improvements in our performance. I'll  
10 let Casey explain how the safeguard has helped our washer  
11 business, and then I'll provide some perspective regarding  
12 our manufacturing operations in Clyde, and the progress that  
13 we're making to implement our adjustment plan.

14 STATEMENT OF CASEY TUBMAN

15 MR. TUBMAN: Good morning. My name is Casey  
16 Tubman. I have been responsible for Whirlpool's U.S. washer  
17 business since 2015. I've been with Whirlpool for over  
18 twenty years, first as a washer engineer and later in  
19 product strategy, development and innovation. I've also  
20 worked on our sales and merchandising teams, engaging with  
21 our retail buyers on a daily basis.

22 I've long hoped to testify here with a more  
23 positive, more optimistic tone. Thanks to your various  
24 determinations and the President's action, I am finally able  
25 to do just that. The safeguard is playing a pivotal role in

1 changing the direction of Whirlpool's washer business. As I  
2 will explain, the safeguard is beginning to work and we are  
3 seeing some positive improvements in our financial outlook  
4 after suffering massive losses in recent years.

5 I was here in 2017 when Samsung and LG testified  
6 that imposing a 20% tariff would destroy the washer industry  
7 and prevent them from selling a single washer. Well, I can  
8 tell you, the washer industry is still here and Samsung and  
9 LG are still selling a lot of washers. The basic conditions  
10 of competition in this industry have not changed. LRW  
11 suppliers, including Samsung and LG, continue to compete for  
12 sales to retailers where we sell the vast majority of our  
13 washers.

14 Everyone battles on a daily basis and during  
15 annual line reviews for a limited number of retail floor  
16 spots. We still all want to get our models on retailers'  
17 floors in order to be able to sell meaningful volumes. This  
18 competition still includes a significant volume of washers  
19 imported by Samsung and LG. In fact, Samsung and LG's  
20 combined brand share really has not changed much. All  
21 suppliers still offer the same core features, a range of  
22 capacities, water heaters, steam cycles, glass lids, color  
23 finishes, etcetera.

24 And because we all make comparable washers, we  
25 compete on price. With retailers' flooring and pushing

1 sales of washers that earn them the highest margin or  
2 profit. Retailers continue to offer a full lineup of  
3 washers at different price points, including the value  
4 segment. You can still find plenty of opening price-point  
5 washers selling at retail below \$399. This should all  
6 sound very familiar to you.

7 Now, that said, other things have changed and  
8 changed for the better. With the safeguard in place for the  
9 last sixteen months, Whirlpool's washer business has become  
10 profitable again. How, you ask? Well, after years of  
11 predatory pricing by imports and significant declines in our  
12 prices, we finally came to a point where we could price our  
13 washers at economical levels. When costs began increasing  
14 in 2018, we were able to adjust our prices accordingly,  
15 something we had not been able to do since Samsung and LG  
16 began their assault on the U.S. industry several years ago.

17 Thanks to the safeguard, for the first time since  
18 2012, Whirlpool's washer business is now earning modest  
19 profits. But we have not yet fully recovered from all the  
20 losses caused by imports in recent years. Nor have we  
21 recouped the substantial investments in our recent and  
22 ongoing projects. In the past, low-priced imports depressed  
23 and suppressed our prices, causing substantial losses,  
24 forcing us to cut back on investments and R&D.

25 Now, with positive trends in our financial

1 performance, we have been able to reinvest in the washer  
2 business. We are launching new and innovative products and  
3 we are taking a number of other steps to enhance our washer  
4 manufacturing operations, steps that will help us be a  
5 viable competitor for years into the future.

6 As one example, in the fourth quarter of 2018,  
7 Whirlpool launched a new top-of-the-line front-load washer  
8 platform known as Yanis. We showed you a Yanis model during  
9 the February hearing and have brought it back again today.  
10 This was Whirlpool's first new front-load platform since the  
11 initial wave of imports from Korea and Mexico. As you know,  
12 dumped imports destroyed the economics of our prior  
13 front-load platform, but the safeguard has given Yanis a  
14 chance to compete.

15 Yanis represents a complete re-engineering of  
16 Whirlpool's front-load washers. It brings larger capacity,  
17 as well as key features including enhanced load-and-go  
18 dispensing and voice-activated Wi-Fi connected LCD displays.  
19 Our app includes a digital assistant to help you know how to  
20 treat stains and it enables you to remote-start your wash so  
21 that it will finish at a time that works with your schedule.  
22 The platform is designed to allow us to offer even larger  
23 capacities and more advancements in the future.

24 We are also in the process of updating our  
25 top-load platform. The details and timing are still

1       proprietary, but we provided information for you in our  
2       questionnaire response. Our questionnaire response and our  
3       brief also discuss additional investments that will sustain  
4       our product leadership. Updated platforms, expanded and  
5       upgraded product lineups, new features, all leading to  
6       increased sales opportunities. I invite you to study those  
7       details and include them in the proprietary version of your  
8       monitoring report.

9                 As you review these details, it is important to  
10       pause and realize these investments are just the start. We  
11       need to continue on our path to profitability so that we can  
12       justify further capital expenditures and R&D that are needed  
13       to ensure our long-term competitiveness.

14                Another positive effect of the safeguard is that  
15       Samsung and LG have started to invest in U.S. manufacturing.  
16       The promise of competition on a level playing field is  
17       something that we welcome. At the hearing in February,  
18       Samsung and LG talked about the investments they are making  
19       in their U.S. operations and the vertical integration of  
20       those plants.

21                I think it's important to remember why this  
22       happened. It's because of the safeguard. Your decision to  
23       recommend a remedy on covered parts, tubs, drums and  
24       cabinets, incentivized Samsung and LG to vertically  
25       integrate their plants.

1           Despite the positive progress we have made over  
2           the last sixteen months, several unanticipated developments  
3           limited the safeguard's benefit and delayed implementation  
4           of our adjustment plan. For example, if we turn to Exhibit  
5           2, you'll see that Samsung and LG imported substantial  
6           volumes of washers before the safeguard took effect. Just  
7           as they had circumvented the orders on imports from Korea,  
8           Mexico and China by hopping from one country to another,  
9           they decided to evade the safeguard duties as much as they  
10          could.

11           This exhibit shows that they increased imports in  
12          late '17 and early 2018 before the safeguard took effect.  
13          During the hearing this past February, they admitted that  
14          they intentionally built up inventories to avoid safeguard  
15          tariffs and supply disruptions. It took several months for  
16          Samsung and LG to work down these inventory stockpiles. All  
17          the while, they continued their predatory pricing behavior.  
18          Without question, their stockpiling actions delayed the  
19          effectiveness of the safeguard remedy by several months.

20           We were also surprised at how little impact the  
21          20% tariffs had on Samsung and LG. Even though they had  
22          stockpiled a huge volume of washers before the safeguard  
23          took effect, Samsung and LG completely filled the first  
24          year's quota on finished washers by October of 2018.  
25          Samsung and LG's actions in February and March of this year

1       were even more telling.

2                 If you refer to Exhibit 3, you can see that  
3       Samsung and LG raced to fill the second year's quota,  
4       importing all 1.2 million in-quota washers in just over two  
5       months' time. That tell me that this year's 18% in-quota  
6       tariff is not much of a burden for Samsung and LG to absorb,  
7       and that they will still sell these washers at low prices.

8                 Now, separate from Samsung and LG's actions, the  
9       industry encountered other headwinds that limited the  
10      safeguard's impact in 2018. First, we saw declining demand  
11      in 2018. Let's turn to Exhibit 4. As you have found  
12      previously, demand is principally driven by the need to  
13      replace washers. Housing trends such as home sales,  
14      renovations and new construction, play a lesser role in  
15      washer demand.

16                Historically, washers last about seven to ten  
17      years. Given this replacement cycle, there was an upward  
18      swing in washer purchases in 2014 through 2017, and these  
19      years also coincided with an improvement in the housing  
20      market. If you look at 2018, we were experiencing  
21      replacement demand that was tied to the ten-year  
22      anniversary of the Great Recession. And we all know too  
23      well what happened to the housing market in 2008.

24                In addition, as you can see from the exhibit,  
25      housing starts were moving sideways in 2018 and existing

1 home sales were declining. So it is not surprising to see  
2 that demand for washers fell in 2018, given a trough in the  
3 replacement cycle and trends in the housing sector.

4 In addition to a weak housing market, Whirlpool  
5 also faced higher costs in 2018 due to rising transportation  
6 and raw material costs. While the safeguard allowed us to  
7 partially adjust to these unexpected cost increases, they  
8 still impacted our performance.

9 While we are proud of the progress our business  
10 is making and recovering from years of serious injury, I  
11 have no doubt that our financial performance would've been  
12 much stronger in the last sixteen months if not for these  
13 headwinds. But as these headwinds clear, we have more  
14 investments planned. We have laid out the proprietary  
15 details in our questionnaire and in our brief. Our ability  
16 to execute these projects depends on continued improvement  
17 in the washer business, which is made possible by the level  
18 playing field that the safeguard is creating.

19 I will now turn it back to Jim to elaborate on  
20 the impact that these events have had on operations at  
21 Clyde, but before I do, I want to reiterate the importance  
22 of the safeguard to Whirlpool. The safeguard has enabled us  
23 to regain the competitive footing we lost in the face of  
24 dumped and predatory imports. The safeguard still has more  
25 work to do. We are excited about the opportunities still to

1       come. Thank you.

2                       STATEMENT OF JAMES KEPPLER (CONTINUED)

3                       MR. KEPPLER: Hello again. This is Jim  
4       Keppler. As Casey mentioned, I would like to discuss the  
5       impact of the safeguard on our operations at Clyde. The  
6       washer business has been Whirlpool's lifeblood for more than  
7       100 years, and we've manufactured washers in Northern Ohio  
8       for 67 years. Our Clyde facility is the largest, most  
9       efficient washer manufacturing facility in the world. I can  
10      produce a washer every four seconds.

11                      Since 2012, 100 percent of the large  
12      residential washers that we sell in the U.S. are made by our  
13      more than 3,200 workers at Clyde. Our washer business  
14      supports approximately 800 suppliers throughout the country,  
15      such as U.S. Steel, ArcelorMittal and Revere. On a daily  
16      basis, we combined over two million pounds of raw steel with  
17      other materials to manufacture our own cabinets, baskets and  
18      tubs, which we assemble with other parts and technology to  
19      make finished washers.

20                      I would like to present a short video about  
21      our Clyde plant. Through this video, we hope to give you a  
22      better sense of the significant actions we are taking at  
23      Clyde because of the safeguard and how, when it comes to  
24      washer production, we are second to none. Please queue up  
25      the video.

1 [VIDEO PLAYS.]

2 MR. KEPPLER: It's Jim Keppler continuing. As  
3 you just saw, we're making a number of steps to implement  
4 our adjustment plan, and we're committed to manufacturing in  
5 the United States, and we consistently manufacture quality,  
6 safe, reliable high-performing products that are second to  
7 none. Manufacturers from the automotive sector and other  
8 industries commonly benchmark our Clyde facility in order to  
9 gauge their own efficiency.

10 At Clyde, we're always looking for new ways to  
11 improve processes, eliminate inefficiencies and implement  
12 improvements across the whole supply chain, upstream and  
13 downstream. We continue to strengthen our Whirlpool  
14 production system utilizing a methodology referred to as  
15 world class manufacturing.

16 We always strive to improve our cost  
17 efficiency, maintain our best in class status, and  
18 continuously enhance our safety, quality and delivery  
19 performance. We use collaborative robots and other  
20 digitized manufacturing technologies to share information  
21 across systems, and methodically review our entire supply  
22 chain, and we target the most critical areas in order to  
23 find solutions for specific production lines and across  
24 projects.

25 During the safeguard investigation, we

1 presented an adjustment plan that contemplated increased  
2 production and employment, as well as revisiting investments  
3 that imports caused us to cancel, curtail or defer. Without  
4 a doubt, we're making significant new investments in our  
5 business. If you refer to Exhibit 5, you can see that our  
6 Clyde Cap X tripled in 2018 and then tripled again this  
7 year. We're positioning ourselves to compete by investing  
8 in future product innovations and plant modernization.

9 I hope the video helped to visually reinforce  
10 the point that we are making good use of the safeguard. The  
11 safeguard has saved or created thousands of direct and  
12 indirect American jobs. Casey mentioned some of the  
13 product-related innovations and expansions that we're making  
14 for our washer operations.

15 Let me add that we are also making substantial  
16 investments in our washer manufacturing facility, related to  
17 infrastructure, technology, automation and logistics. As  
18 the safeguard took effect, we carefully explored  
19 opportunities to begin executing our factory master plan,  
20 and we have already started to implement some of those  
21 plans.

22 Let me talk a little bit about what we've  
23 already done. The video mentioned our Drive Center of  
24 Excellence, which will further enhance our production  
25 efficiencies, support our high speed assembly lines. One of

1 my colleagues here today, Travis Snide, is part of the team  
2 that works on the Drive Center of Excellence. Travis, will  
3 you please stand? Travis, thanks for being here.

4 We are innovating additional collaborative  
5 robots to enhance worker safety, efficiency and quality, and  
6 our new overhead basket and storage delivery system is  
7 improving process flows and decreasing production time.  
8 We're also providing more worker training for a winning  
9 workplace. You saw our beautiful new on-site training  
10 academy. The academy allows us to further invest in our  
11 best in class workforce, to ensure that employees are better  
12 prepared, to reduce training time and to increase employee  
13 retention.

14 A number of the Clyde team members here today  
15 have been trained in our new world class manufacturing  
16 methodology in the academy. I would ask those team members  
17 to please be recognized. You may see stories about a  
18 widening skill gap in the U.S. workforce, but Whirlpool  
19 places a high priority on investing in its skilled workers,  
20 to keep manufacturing jobs here in the U.S.

21 For example, Whirlpool offers on site  
22 apprenticeships at multiple manufacturing locations,  
23 including its Clyde washer operations, to develop the skills  
24 required to support factory automation and other new  
25 technologies. All this to say that as we regain our

1 competitive footing, we are not leaving our workers behind.

2 Our progress on the adjustment plan also  
3 benefits more than 800 suppliers in Ohio, the Midwest and  
4 throughout the United States. We are investing in many of  
5 them too. And of course these exciting developments also  
6 benefit Whirlpool's workers and their families in our local  
7 community. But there is much more to be done. We've only  
8 taken the first steps towards fully implementing our factory  
9 master plan. We intend to make further investments with the  
10 economic benefits of the safeguard.

11 We have plans to deploy tens of millions of  
12 dollars for increased robotic collaboration, layout  
13 optimization, updated tooling and other productivity gains.  
14 We also have plans to invest in a more automated materials  
15 warehouse, which would drive significant logistic savings  
16 associated with the procurement of LRW inputs, including  
17 steel and resin.

18 Whirlpool will continue to invest as the  
19 safeguard creates a level, competitive playing field, and  
20 enables us to deliver financial results. Our leadership,  
21 including our CEO, remain committed to our factory master  
22 plan, because it promises to enhance our status as a world  
23 class producer and global innovator.

24 On behalf of Whirlpool and all of its workers,  
25 including those here today, and those back in Ohio, we want

1 to sincerely thank you for your efforts thus far to help  
2 save our industry. The safeguard is starting to work. The  
3 safeguard is enabling us to realize significant benefits and  
4 take substantial actions under our adjustment plan. Just 16  
5 months into the safeguard, we are beginning to turn the  
6 corner. Our washer business is on track to recover from the  
7 last decade of injury, and to regain our competitive  
8 footing. Thank you for your attention this morning, and I  
9 look forward to answering your questions.

10 STATEMENT OF JOHN MAGNUS

11 MR. MAGNUS: Good morning members of the  
12 Commission. John Magnus for GE Appliances, appearing today  
13 along with my colleague Sheridan McKinney. We will be  
14 splitting a short affirmative testimony, which I would like  
15 to start by apologizing for the lineup that you see before  
16 you, which does not include company witnesses. The timing  
17 of this hearing vis-a-vis business events has led to this  
18 deplorable outcome, and so you're getting the third string  
19 today.

20 The folks who would normally appear are at  
21 this moment either in the trenches making sure that the  
22 investments already committed to as part of the safeguard  
23 and adjustment plan work as they were intended, or cranking  
24 up new plans with management to increase investment beyond  
25 what you're going to hear today.

1                   There is a witness from Louisville here. It's  
2 the top loader that you see underneath the screen, a product  
3 whose development and production was enabled by the  
4 safeguard, and whose current upgrading is also an effort  
5 enabled by the safeguard remedy. You've seen  
6 representatives of the domestic LRW industry a few times  
7 recently. To use today's time productively, we thought  
8 that it might make sense to take a scorecard approach,  
9 recounting what we've said and promised in the past, and  
10 then reporting point by point on how it's turning out.

11                   I'll start with a brief word about the context  
12 of the mid-term review, and picking up on comments from Mr.  
13 Levy. The Commission's job here is to advise, sorry, to  
14 report on conditions in the recovering industry. The  
15 Commission may wind up including analysis on the likely  
16 effects of altering the remedy if it is asked to do so, and  
17 that has not happened.

18                   The standard for reducing or removing the  
19 remedy is set forth in the statute, and as a parent of  
20 teenagers, I think of this as the epic fail standard. The  
21 President may remove a remedy where the domestic industry is  
22 making adequate efforts to adjust positively to import  
23 competition, or where the remedy's effectiveness has been  
24 impaired by changed circumstances.

25                   Neither of those epic fail type circumstances

1 is present here. Positive adjustment, according to the  
2 statute, can mean either leaning into a business or away  
3 from it. That is, either improving competitiveness or else  
4 relocating resources to other more productive pursuits. We  
5 are pleased to be able to report today on positive  
6 adjustment of the former type, that is improved  
7 competitiveness.

8 Far from failing tragically, as would be  
9 needed for early termination, the remedy is working. It's  
10 on track to yield that rarest of happy outcomes, a true and  
11 unambiguous safeguard success story. We'll come back to  
12 that at the end of our testimony.

13 STATEMENT OF SHERIDAN S. MCKINNEY

14 MR. MCKINNEY: Good morning Commissioners and  
15 staff. My name is Sheridan McKinney, here on behalf of GE  
16 Appliances. So what have we said and where are we today?  
17 We told you that we, the domestic producers, were being  
18 seriously injured by relentless uneconomic pricing pressure  
19 and a scorched earth program of buying market share and  
20 floor spots. You agreed.

21 We told you that the imports injuring us were  
22 dumped and subsidized in a manner inconsistent with U.S.  
23 law, and the Commerce Department agreed. We have told you  
24 that if importers were given free rein to yet again ship  
25 production to a country not covered by some measure of

1 import discipline, they would and you agreed.

2 We told you that if some dent was made in the  
3 importers' ability to pursue such uneconomic behavior, we  
4 can win back floor spots and consumers would in turn choose  
5 more of our offerings. We did and American consumers did.  
6 We told you that, and I quote here from Vice President of  
7 Clothes Care Peter Pape's testimony that was delivered to  
8 you during the 201 investigation, "It is entirely possible  
9 to make innovative and attractive washers in the United  
10 States for sale and use in the United States."

11 Well, you agreed and Respondents must have  
12 agreed to, or they would not have invested in the U.S.-based  
13 washer production. Now we could have chosen to coast on our  
14 prior investments during this time and merely enjoyed the  
15 benefits of the remedy. Instead, we committed ourselves to  
16 reinvigorate efforts with respect to new product offerings  
17 and innovations in production processes.

18 Now let me recap for you here exactly what we  
19 did, along with a bit about what else we have in store. GE  
20 Appliances made three categories of promises. Number one,  
21 to offer new products and production capacity; number two,  
22 to bring to market new innovations; and number three, to  
23 make additional human capital investments.

24 Now in detail, GE Appliances promised to  
25 invest in expanding the range of LRW products and

1 strategically increase manufacturing capacity. Now we  
2 right-sized production by reallocating capacity from less  
3 profitable segments of the market, in favor of the more  
4 strategically valuable, high end segment of the market,  
5 which has only been open to us with the safeguard in place.

6 To achieve this, we invested \$30 million in a  
7 new production line, increasing top load capacity by 20  
8 percent, which is already online. In fact, this photo right  
9 here is of line nine. If you look about at the middle of  
10 the photo there, you will recognize our witness sitting here  
11 before you, and that was all enabled by the safeguard.

12 Now as a matter of fact, one of the reason you  
13 do not see a familiar face here today is that Mr. Mattingly  
14 is currently in Louisville overseeing installation of  
15 machinery and equipment to further increase manufacturing  
16 capacity, as well as prepare to launch an entirely new  
17 high-end product in October of this year.

18 Now the focus of these investments has been  
19 competing and winning in the high end of the market, which  
20 is the most profitable part of the market as you well know.  
21 Meanwhile, we bolstered our product offerings at the  
22 mid-range of the market by launching new feature  
23 configurations, which leads me to next promise.

24 GE Appliances promised to bring new features  
25 and innovations to market. There will be new first to

1 market features are slated to debut in the fourth quarter of  
2 this year, and more are planned. Michael Mattingly asked me  
3 to highlight something specific for you here. GE Appliances  
4 continues to be the only company that can perform upgrades  
5 to how your machine actually functions via the web. It  
6 works a little bit like getting a software upgrade.

7 Now this is from a company that does not have  
8 a cell phone or tablet line of business. So next promise.  
9 GE promised to invest in human capital. In 2018, we revived  
10 the GEA Today initiative to help workers invest in  
11 themselves by providing tuition reimbursement.

12 GE Appliances just made its final payment of  
13 \$1 million donation to the Jefferson Community and Technical  
14 College, to build a new facility where students are trained  
15 for GE Appliances' maintenance apprenticeship program. They  
16 also reinvigorated efforts at creating a manufacturing  
17 employment pipeline in the region in cooperation with  
18 Kentucky and Louisville Works Programs.

19 Now the safeguard is, as intended, providing  
20 breathing space for these important and difficult steps. GE  
21 Appliances is planning to expand U.S. employment by some  
22 2,000 workers across various business lines, and the  
23 safeguard measure has played an important role in that as  
24 well. In LRW specifically, we're on the cusp of adding an  
25 additional shift. This all about leaning into the business.

1                   Now if we have one message here today, it's  
2 very simple, stay the course. Like Whirlpool, we are  
3 executing our plan and making the positive adjustment the  
4 statute calls for. There are head winds, it's a term you've  
5 heard before today, and the pace of recovery is not ideal.  
6 But there is no doubt in which direction the arrows are  
7 pointing.

8                   This is true for us and also for the U.S.  
9 industry at large. If our government stays the course,  
10 there is a visible path from here to a world where the  
11 lion's share of LRWs purchased in this country will have  
12 been made in this country by a revitalized and large  
13 domestic industry. Now we wish we could say that the  
14 progress in that direction is inexorable, but it can be  
15 arrested and possibly reversed, and we believe that taking  
16 such a chance is simply not worth the risk. So thank you  
17 very much. We look forward to your questions.

18                   MR. LEVY: Mr. Chairman, that concludes our  
19 prepared remarks. We look forward to your questions.

20                   CHAIRMAN JOHANSON: Thank you all for  
21 appearing here today. We will begin Commissioner questions  
22 with Commissioner Broadbent.

23                   COMMISSIONER BROADBENT: Thank you, Mr.  
24 Chairman. I want to welcome the witnesses back today. If  
25 it's washing machines, we have a lot of familiar faces in

1 the room and it's good to see you all, Casey, Miles, Jack.  
2 We had loads of fun when we have washing machine hearings,  
3 so we appreciate you being here, and hopefully we'll get  
4 more entertaining.

5 A year and a half into the safeguard remedy,  
6 it's pretty clear to me that certain trends are moving in  
7 the domestic industry's favor. Your shipments of imports  
8 decreased in 2018 and again in the first quarter of 2019,  
9 and import prices increased over this period. The domestic  
10 industry's market share increased and it employed far more  
11 workers in 2018 and 2019 than prior to that point.

12 Although you can't see this in the headline  
13 numbers in the staff report, it's clear from looking deeper  
14 into the financial data that there have been improvements in  
15 the domestic industry's profitability, which was a key  
16 aspect of the injury found by the Commission during the  
17 safeguard investigation. Happily, the industry has been  
18 able to invest in itself, as you have described, which will  
19 be important for its long-term viability in a market that's  
20 driven by innovation, product changes and really tough  
21 global competition.

22 The industry's capacity has substantially  
23 increased, and is projected to increase further. My  
24 question would be do these trends signify that the domestic  
25 industry has made a positive adjustment to import

1 competition?

2 MR. LEVY: Commissioner Broadbent, let me try  
3 to provide at least an initial response. I think our  
4 prepared testimony is that, and obviously we focused on the  
5 legacy domestic producers because as the Commission noted in  
6 its findings and report to the President, under the statute  
7 you said, and maybe we can look at Exhibit 11, you said "We  
8 must recommend a remedy that addresses the serious injury  
9 suffered by the domestic industry subject to our injury  
10 determinations, consisting of Whirlpool, GE, Staber and  
11 Alliance, and that future domestic production by Samsung  
12 and LG alone would not address the serious injury suffered  
13 by these legacy domestic producers.

14 So speaking for Whirlpool Corporation, one of  
15 the principle legacy domestic producers, the answer is that  
16 the company is on a path to making positive adjustment to  
17 import competition. There have been visible improvements.  
18 The magnitude of the modest operating profits that Mr.  
19 Tubman spoke to are obviously a fraction of the operating  
20 losses that were incurred in the preceding years, and the  
21 company has yet to realize a return on the new investments  
22 that it is making, much less a return on the new investments  
23 that it is planning over the remainder of the safeguard  
24 period.

25 So I think it's fair to say that the safeguard

1 is beginning to work. There are very obvious indicia of  
2 improvement, at least for these legacy domestic producers.  
3 Our view is that completion of the safeguard remedy is  
4 necessary in order to realize the full promise of the  
5 relief. I don't know if Casey you want to speak more to the  
6 extent to which you feel completely remedied or --

7 MR. TUBMAN: Sure, sure. Excuse me, Casey  
8 Tubman. To Jack's point and I think some of the points we  
9 made, it's a good start. Sixteen months in, we feel like  
10 it's heading in the right direction. Again, you can see the  
11 numbers as you called out. At the same time, I would say  
12 it's where we are today and it's not where we may be in the  
13 future, and none of us can forecast the future.

14 But if I look at it from a standpoint of the  
15 amount of profit we've been able to make versus the  
16 investments we've made already and the investments we need  
17 to make, there's still time needed to recover, to be able to  
18 pay those in a way that the return on investment makes  
19 sense. So again, I think it's a good start, and we look  
20 forward to it continuing.

21 MR. LEVY: Commissioner Broadbent, if I could  
22 just chime in. Go ahead.

23 MR. GETLAN: Myles Getlan. Just if you're  
24 going to ask the question why not further along in making a  
25 positive adjustment, both Mr. Keppler and Mr. Tubman spoke

1 of the head winds that Whirlpool and the industry at large  
2 is facing. So we are only 16 months in, but even there the  
3 benefit of the safeguard is really deferred by some of that  
4 stockpiling behavior that again we spoke to and that you  
5 saw, the numbers associated with that, the declining demand  
6 in the last year, increasing costs.

7 There are other factors that have played into  
8 the progress of domestic producers such as Whirlpool, and  
9 their progress is not quite as advanced as they certainly  
10 would have hoped at this point. But it is positive  
11 progress.

12 COMMISSIONER BROADBENT: I had a question  
13 about demand. LG argues that on page 38 to 46 of its brief  
14 that demand declined during the period due to price  
15 increases, since the safeguard measure was implemented. The  
16 staff report at Chapter II-19 and 20 describes declines in  
17 housing starts and remodeling in 2018 and early 2019.

18 How much do external factors such as  
19 construction and replacement cycles impact demand versus  
20 demand being solely influenced by changes in price?

21 MR. KEPPLER: Hi. It's Jim Keppler on behalf  
22 of Whirlpool. As we stated in our testimony, we believe  
23 that the biggest driver of demand is the replacement  
24 activity and kind of where you're at in the replacement  
25 cycle. We do believe that the housing activity, whether

1       it's housing starts, remodeling, existing home sales, has an  
2       impact probably to a lesser extent.

3                       But the primary is really the replacement  
4       cycle. Whether it's pure replacements because the unit has  
5       stopped working and you're under distress, or whether you  
6       want to upgrade and you don't want to repair the unit.

7                       COMMISSIONER BROADBENT:   Okay. So customers  
8       don't have as much control over their purchasing needs. It  
9       sort of happens when their washing machine breaks down?

10                      MR. KEPPLER:   Again, it's Jim Keppler. I do  
11       believe that consumers have the choice in the replacement  
12       cycle on whether to invest in a repair or go buy a new unit.  
13       So in some cases you can prolong the replacement cycle, but  
14       I think the replacement cycle is still the biggest driver.

15                      MR. LEVY:   And Commissioner Broadbent, if I  
16       could kind of expand on this. You've obviously heard  
17       testimony in past proceedings that the primary demand  
18       drivers are indeed replacement and housing sector activity.  
19       Those were your own findings in the original safeguard  
20       investigation.

21                      Also, I think it's been widely understood that  
22       demand, aggregate demand for washers is quite inelastic. In  
23       your own economic models that you used in recommending a  
24       remedy to the President, you estimated an elasticity of  
25       demand of minus 0.3, which I take it to mean that for a one

1 percent increase in price, that aggregate demand would  
2 decrease by 0.3 percent.

3 I don't think we dispute the fact that there  
4 eis some relationship between price and aggregate demand,  
5 but it is a modest one. We think that fundamentally that  
6 you got it right in your assessment of the elasticity of  
7 demand.

8 COMMISSIONER BROADBENT: So just can you  
9 quantify that and make it a little more specific for me?  
10 How much do prices matter with regard to demand?

11 MR. LEVY: I think our view would be we're not  
12 expert economists, but we think that the Commission's  
13 estimate in its economic model for recommending remedy of an  
14 elasticity of demand is minus 0.3 is about right. It falls  
15 within the range that the staff has estimated across  
16 numerous prehearing and staff reports in other proceedings,  
17 inviting other parties to comment.

18 In those contexts, no party, not Samsung, not  
19 LG, not Whirlpool, not GE, has disputed those estimates. So  
20 we think that again, the Commission has it right and we're  
21 not disputing that there is some modest relationship between  
22 price and aggregate demand. However, LG's suggestion that a  
23 decision of a U.S. producer to set prices commensurate with  
24 costs that they could eke out an operating profit somehow is  
25 responsible for crashing aggregate demand is ludicrous. If

1 you can't set prices commensurate with your costs, there's  
2 no reason to be in business at all.

3 So we would take issue with the assertion that  
4 somehow pricing was excessive or in excess of what was  
5 appropriate.

6 COMMISSIONER BROADBENT: Okay. Mr. Keppler,  
7 to what extent has your ability to acquire steel been  
8 affected by the Section 232 tariffs and quotas on steel and  
9 aluminum? Do you import steel and aluminum, and if so what  
10 kind of steel and aluminum do you import? If you import  
11 under Section 232 quota, how well has this worked for U.S.  
12 operations?

13 MR. KEPPLER: It's Jim Keppler. We're, I  
14 think we're really proud of the fact that 90 percent of the  
15 inputs that go into our washing machines are actually come  
16 from domestic, are procured domestically, and that includes  
17 steel. We use very little aluminum in our products. The  
18 biggest input is steel, but most of that is procured here  
19 domestically.

20 COMMISSIONER BROADBENT: And how has your  
21 organization of your supply chain changed since the new  
22 tariffs have come into place?

23 MR. KEPPLER: There really has -- this is Jim  
24 Keppler again. There really has been little impact to our  
25 washer business. Again, with 90 percent being sourced here

1 in the U.S., and they're not subject to any tariffs, we  
2 really have not seen any issues there.

3 COMMISSIONER BROADBENT: Okay, thank you very  
4 much.

5 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

6 COMMISSIONER SCHMIDTLEIN: Okay, thank you  
7 very much. I'd like to also thank the witnesses for being  
8 here again. Welcome back to the Commission. Let me just  
9 start with sort of a basic question I think. Can you talk  
10 about what you think has had the biggest impact on the  
11 legacy producers? Has it been the tariff of the safeguard  
12 or the quota, or is it a combination?

13 MR. LEVY: Jack Levy for Whirlpool. I think  
14 it's clear that it's been the above quota tariff that has  
15 been most impactful with regard to finished washers. It is  
16 clear that you obviously had a large stockpile of duty-free  
17 washers that came into the market right before the safeguard  
18 was implemented. It's clear that Samsung and LG  
19 demonstrated an ability to absorb the 20 percent in quota  
20 tariff, and so we continue to witness import underselling in  
21 that environment.

22 But then in October of last year, once the  
23 quota, the quota volume was exhausted, there was very little  
24 by way of above quota importation. In that environment,  
25 Whirlpool began to witness sort of a rationalization in the

1 market in terms of its ability to set prices commensurate  
2 with costs. So the magnitude of the price suppression  
3 moderated, and there was a real improvement in terms of the  
4 relationship between price and cost and therefore gross  
5 margins and operating profit.

6 That's the answer with respect to I would say  
7 Whirlpool and perhaps the legacy domestic producers  
8 generally. I think the other point that's worth touching on  
9 was the point that Mr. Tubman alluded to, which I know that  
10 many members of the Commission have had the opportunity to  
11 visit the new facilities of Samsung and LG, and they've gone  
12 to great lengths to tout the extent of the vertical  
13 integration in those facilities.

14 I think it's perfectly clear that that  
15 vertical integration is important to a level playing field,  
16 where everyone is making their baskets and their tubs and  
17 their cabinets here in America with similar costs. That is  
18 the level playing field that we all want to compete on. The  
19 reason we think that that vertical integration took root was  
20 because of the tariff rate quota on covered parts, and that  
21 but for your recommendation of covering parts, we would be  
22 in a different world, and that too is a very important  
23 feature and benefit of the safeguard.

24 I was just looking the other day at an article  
25 about Trump trade policy. It happens to be Fox News, so we

1 know it's fair and balanced, and if you -- there's a passage  
2 there where they're interviewing or they're reporting on  
3 statements from both Samsung and another tribal, Hyundai  
4 Motors.

5 It says "The admission of the Samsung official  
6 was that their South Carolina plant was going to be little  
7 more than an assembly plant, to avoid tariffs with the parts  
8 and components imported from low cost countries. The Trump  
9 policy changed that, forcing Samsung and LG to change their  
10 business model to include manufacturing parts in America  
11 using American workers. As a senior executive at Hyundai  
12 Motors told Reuters, 'You've got to find a way to adapt or  
13 circumvent somehow.'"

14 And so we would say with respect to the new  
15 entrants in the market, Samsung and LG, the coverage of  
16 parts, the tariff rate quota has proven to be very  
17 effective, and we're very grateful for that as well.

18 COMMISSIONER SCHMIDTLEIN: I'm not sure you can  
19 talk about it. If it's confidential, that's fine. But has  
20 the domestic legacy producers been able to increase their  
21 prices as a result of the tariff, then, at all?

22 MR. LEVY: I think we'd like to address that more  
23 fully posthearing, but I think part of your question goes to  
24 the degree of underselling that we're witnessing  
25 pre-safeguard versus post-safeguard. And I think the

1 general sense from Whirlpool at least is that the magnitude  
2 of the underselling has moderated, and that that has created  
3 an environment in which they can better set prices  
4 commensurate with their costs.

5 In terms of the precise timing of all of that and  
6 what you attribute to in-quota tariffs versus above-quota  
7 tariffs, I think we'd be positioned to do that posthearing.

8 COMMISSIONER SCHMIDTLEIN: Okay. Can you talk  
9 about whether the positive impact on the domestic producer,  
10 domestic legacy producers' financial performance is a result  
11 of prices, increase in prices, or is that really stemming  
12 from a market share change?

13 MR. LEVY: I think again we can provide a more  
14 fulsome response post-hearing. But just to give a little  
15 more perspective, you may recall during the safeguard  
16 proceeding there was a hope that Whirlpool articulated that  
17 with a robust safeguard and a world without stockpiling and  
18 substantial curtailment of injurious imports, that there  
19 would be a significant volume gain for Whirlpool and the  
20 legacy domestic producers generally. And that with that  
21 volume gain there would be higher capacity utilization, and  
22 therefore lower fixed unit costs. And that those lower  
23 fixed unit costs alone, even without an adjustment of price,  
24 could drive profitability.

25 What we saw in fact during 2018 was an

1 environment where there was massive stockpiling, where  
2 demand actually decreased in the aggregate, and, for at  
3 least Whirlpool, we could say that production is down.  
4 Sales are down. And so in that environment, the only lever  
5 you have left to get back into the black is to try to set  
6 prices at or above costs. And that's all that Whirlpool has  
7 been able to do in 2018. And without the safeguard, that  
8 too would have been impossible.

9 COMMISSIONER SCHMIDTLEIN: Again, this is  
10 probably for post-hearing, but can you forecast whether you  
11 think you'll be able to increase prices more than that in  
12 the future, given the forecast for demand and the fact that  
13 supposedly the stockpile has declined since it was  
14 originally created in late '18, right?

15 MR. LEVY: Sure.

16 COMMISSIONER SCHMIDTLEIN: Or late '17, I should  
17 say.

18 MR. LEVY: You know, it is correct that some of  
19 the unanticipated developments that were experienced in 2018  
20 were one-off developments like the stockpiling, while others  
21 continued to endure in 2019. So we'll do our best to speak  
22 to those issues posthearing, and appreciate the question.

23 COMMISSIONER SCHMIDTLEIN: What is the forecast  
24 for washer demand going forward?

25 MR. LEVY: So I don't know that we're in a

1 position to answer that today. I don't know, Casey, are  
2 you?

3 MR. TUBMAN The latest numbers--sorry, Casey  
4 Tubman--the latest numbers I've seen show that for the rest  
5 of this year we will see it basically leveling out to  
6 roughly flat for the year.

7 COMMISSIONER SCHMIDTLEIN: And for 2020?

8 MR. TUBMAN: 2020 and beyond, if we had a crystal  
9 ball it would be great. Different people would say  
10 different things, but I think that near flat, plus or minus  
11 one, would be a rough estimate.

12 COMMISSIONER SCHMIDTLEIN: Do you know what  
13 they're forecasting for housing starts?

14 MR. TUBMAN: That I cannot comment on. Sorry.

15 COMMISSIONER SCHMIDTLEIN: Okay.

16 MR. MAGNUS: Commissioner, John Magnus for GE  
17 Appliances. At the sunset hearing, the GE Appliances'  
18 witness offered a prediction that very much resembles what  
19 you just heard from Mr. Tubman; that as a result of--that  
20 the decline observed so far would level out and produce sort  
21 of--likely produce on a year-on-year basis, something flat  
22 for 2019.

23 MR. LEVY: And, Commissioner Schmidtlein, if you  
24 refer back to Exhibit 4--and this is not intended to be an  
25 exact science--but insofar as the replacement cycle is a

1 drive, insofar as housing activity are drivers, it would  
2 appear, based on this, that over the next year or two the  
3 replacement cycle may still very well be more drag than lift  
4 in terms of its contribution to demand, while housing sector  
5 activity might be more lift than drag.

6 Are those fair characterizations, Casey?

7 MR. TUBMAN: Casey Tubman. Yes.

8 COMMISSIONER SCHMIDTLEIN: Okay. Let me switch  
9 gears with one other issue that the Respondents have raised.  
10 This has been raised in prior cases. And that is the  
11 question of how we consider dryers. And here they're  
12 arguing that producers have been able to increase the price  
13 of dryers. And so the tariff has been passed through.

14 And I wonder if you could respond to that and,  
15 more specifically, how should the Commission consider dryers  
16 in this midpoint review.

17 MR. LEVY: Yes, Commissioner Schmidtlein, thank  
18 you for that question. We've heard a lot about dryers in  
19 recent proceedings and the extent to which they bear upon  
20 your determinations.

21 You'll recall of course in past Title 7  
22 proceedings, and even in the safeguard investigation, LG  
23 argued strenuously that in essence the domestic like product  
24 should include dryers, or at least as a condition of  
25 competition you should sort of poo-poo the magnitude of the

1 injury experienced by the domestic injury by reason of  
2 whatever was or wasn't happening on the dryer side of the  
3 business.

4 And each time you correctly found that you were  
5 charged with analyzing the impact of subject imports on the  
6 condition of the domestic industry being the washer  
7 business. Whirlpool repeatedly testified that it runs a  
8 washer business. Separate plant. Separate P&L. The  
9 financial performance of the washer business has to sustain  
10 itself, and investments in the washer business are  
11 justified or not based on the financial performance of the  
12 washer business.

13 Also worth recalling that insofar as your past  
14 findings of injury, and serious injury, were largely, not  
15 exclusively but largely a function or price-based injury,  
16 where imports were depressing U.S. producer prices.

17 Insofar as there is a relationship between washer  
18 prices and dryer prices, there's no question that depressed  
19 prices on washers also had the effect of reducing aggregate  
20 revenues for dryer business. But that was not something we  
21 came to you complaining about or asked you to consider.

22 Now in an environment where washer prices are  
23 adjusting commensurate with rising costs, it is the case  
24 that dryer prices are also increasing. Not surprisingly.  
25 There's a relationship there. It's not sort of one-for-one,

1 as LG would suggest, but there's a relationship.

2 And as a result, there's improvement in that  
3 sector to the extent those revenue increases exceed costs.  
4 But what we've seen in the last year or year-and-a-half, at  
5 least at Whirlpool, is that price increases have been  
6 cost-based and they're not unique to washers. They've  
7 applied to dishwashers, and cooking, and cleaning, and  
8 dryers and, yes, to washers. And I think if anything is  
9 unique and different about the current environment, it's the  
10 fact that Whirlpool can have a cost-based price increase for  
11 washers. The safeguard has made that possible, because the  
12 magnitude of the price suppression has been substantially  
13 addressed.

14 COMMISSIONER SCHMIDTLEIN: So what--my time has  
15 expired, but I guess the question is really, given that  
16 we're in this sort of unique proceeding, right, this is not  
17 a Title 7 case where we're making a determination. This is  
18 a midpoint review. The Commission produces a report. And  
19 given that there seems to be this collateral benefit  
20 accruing to the domestic producers, even if that's not  
21 something that's appropriate to take into account given  
22 that they don't justify their investments based on this  
23 different product, right, when we were voting on these  
24 cases, is that something the Commission should include in  
25 the report? In other words, what this collateral benefit is

1 that's a result of the fact that they're able to raise  
2 prices on washers?

3 And I guess the question is really like would we  
4 be prohibited from doing it under the statute? Would we be  
5 required? And then, should we do it, or should we not?

6 MR. LEVY: So we'll obviously take the  
7 opportunity to provide a complete answer post-hearing, but  
8 looking at a cost-based price adjustment on dryers would be  
9 qualitatively, in our view, no different than looking at  
10 Whirlpool's cost-based price adjustments on dishwashers, or  
11 cooking products, or refrigerators over the last  
12 year-and-a-half. They are other products produced by the  
13 company at different plants with different P&Ls that are not  
14 part of the domestic like product.

15 COMMISSIONER SCHMIDTLEIN: Yeah, but you're not  
16 arguing that you were able to raise prices on refrigerators  
17 because of the washer tariff, or are you?

18 MR. LEVY: No, we're saying that Whirlpool was  
19 able to have cost-based increases on all products over the  
20 last year-and-a-half. And what's unique and different is  
21 that the safeguard made it possible on washers, whereas  
22 otherwise in past years because of price suppression it was  
23 not possible. So we'll address this more fully, but do  
24 appreciate the question.

25 COMMISSIONER SCHMIDTLEIN: Okay. Alright, thank

1       you.    I'm sorry, my time is up.

2               CHAIRMAN JOHANSON:   Commission Kearns.

3               COMMISSIONER KEARNS:   Thank you.   Thank you to  
4       all the witnesses appearing today.

5               I think what I'm hearing you all say is that the  
6       safeguard is working but not as much as you would have  
7       expected.   Is that sort of the takeaway?

8               MR. LEVY:   I think the takeaway is that the  
9       safeguard is working; that the benefits were delayed and  
10      diluted in 2018.   But as we look forward, the improvements  
11      continue and it is working, but it's a work in process..

12              COMMISSIONER KEARNS:   Because I guess from  
13      reading--well, your testimony today seemed pretty positive  
14      in the opening.   But, you know, when you read your brief it  
15      seems to me that there is--it's a more complicated story.   I  
16      mean, I'm looking at the table you put together on page 8 of  
17      your brief.   And I mean just as a starting point, you know,  
18      if you look at what we estimated to be the level of imports  
19      for the first year of relief versus what actually happened,  
20      there's a pretty wide discrepancy there, right?

21              MR. LEVY:   Yeah, I think it's correct.   And, look  
22      at the time that the Commission did its economic analysis it  
23      was using best information available.   And those were, you  
24      know, intelligent perspectives on what 2018 might look like.

25              Our brief I think points out the developments

1 that transpired in the industry in 2018, nearly all of which  
2 were unanticipated or not foreseen at the time that you were  
3 doing your job back a year-and-a-half ago. So again those  
4 are developments like the pre-safeguard stockpiling, like  
5 falloff in demand where everyone thought demand would be  
6 flat or improving; developments like the extent to which  
7 Samsung and LG would be able to absorb the in-quota tariff.

8 Obviously the cost headwinds that have been  
9 discussed, whether it's transportation, or raw materials and  
10 the like. So there were important developments that were  
11 not foreseen or foreseeable at the time the Commission did  
12 its analysis.

13 And in your report it's appropriate to monitor  
14 and report out on these developments. It's simply to say  
15 that to date the safeguard has not been a panacea, but  
16 despite these challenges the improvements are real. And the  
17 progress is important. I mean certainly what you can hear  
18 from Whirlpool is that they're not sitting on their hands  
19 waiting for a perfect remedy. They're getting busy.  
20 They're making investments. They're investing in products.  
21 They're investing in plant efficiency. And they simply  
22 need this progress to continue and to not be arrested..

23 COMMISSIONER KEARNS: But if we were to look at--  
24 let's suppose that the operating income results for actual  
25 2018 for the industry as a whole, not just looking at legacy

1 producers--and I know that it's complicated because you've  
2 got some startups--but if those, if the U.S. industry's  
3 operating income for 2018 were to continue, or that were to  
4 be the operating income for the next two decades, would the  
5 industry be viable?

6 MR. LEVY: I think that looking at the financial  
7 performance of Samsung and LG in this time period is  
8 challenging for a number of reasons. One, because we think  
9 as a policy matter you should be focusing on remedying the  
10 serious injury to legacy domestic producers. So essentially  
11 their financial performance to date is of secondary  
12 importance.

13 But secondly, you know, I think we heard this in  
14 the sunset review, Samsung explained that at least their  
15 first year of ramp up they had a lot of challenges, and  
16 their financial performance was unrepresented. So I think  
17 companies that are ramping up you should not draw too many  
18 conclusions about their financial performance based on year  
19 one or year two..

20 COMMISSIONER KEARNS: Okay, so putting them aside  
21 for a second because they're start-ups, although I'm not  
22 sure if I completely agree with what you were saying about  
23 focus on--that the remedy should focus on the legacy  
24 producers. Maybe we can talk more about that later. But if  
25 we do just look at the legacy domestic producers, if actual

1 results for 2018 in terms of operating income were to  
2 continue, how strong of an industry would we have in five  
3 years or ten years?

4 MR. LEVY: I think the answer is that more needs  
5 to be done. In other words, the results in 2018 are not yet  
6 good enough. I think had we not had the stockpiling, had  
7 demand been more consistent with ITC projections, had we not  
8 had the cost headwinds, 2018 would have likely looked much  
9 closer to being what the Commission and what we would say is  
10 a healthy and viable and sustainable industry, but we're  
11 just not there yet.

12 So another way of putting it is, the 2018 was a  
13 half loaf. But insofar as some of these--.

14 COMMISSIONER KEARNS: Well maybe even less than a  
15 half-loaf, I would suggest, because it seems to me that, you  
16 know, the goal of this breathing space you get from the  
17 safeguard isn't to allow a temporary period where the  
18 industry's operating income can be getting by and be  
19 sustainable. It probably needs to be more than that in  
20 order for you to work on your plans to increase capital  
21 expenditures and so forth. Presumably you need to have--  
22 presumably "breathing space" means more than just barely  
23 adequate operating income.

24 MR. LEVY: Absolutely. And I think Whirlpool's  
25 position is not that they need to earn back or recoup all

1 the operating losses lost, the hundreds of millions of  
2 dollars of years past, but rather to earn enough operating  
3 income on a sustainable basis to justify these planned  
4 investments. And the Legacy domestic producers as a whole  
5 are not there yet based on 2018.

6 And I use the term half loaf just sort of very  
7 casually, but it's a partial loaf. And it's clear that more  
8 improvement is necessary and we are cautiously optimistic  
9 that 2019 and beyond put us on a path toward continued  
10 improvement. But we're not there yet. And it's far too  
11 early to declare victory as Mr. Porter would have you do.

12 COMMISSIONER KEARNS: Okay, thank you.

13 MR. GETLAN: If I may add, Commissioner Kearns.  
14 Myles Getlan. If you look to Attachment 1 of our brief as  
15 well, we have the complete analysis of Legacy domestic  
16 producer performance and for the hopefulness for things to  
17 continue to improve are reflected in part at least in Q1  
18 2019 data as compared to Q1 2018.

19 So financial performance continues to improve  
20 early 2019 at least. And so there is hope that we'll get  
21 this beyond half loaf, you know, certainly incomplete  
22 remedy. No one is saying that we're there. But the arrows  
23 are pointed in the right direction.

24 COMMISSIONER KEARNS: Right.

25 MR. GETLAN: To use the term that Mr. McKinney

1 used in his presentation.

2 COMMISSIONER KEARNS: Okay, thank you. And then  
3 I wanted to turn to demand and pricing. I think you all  
4 said this to some extent in the opening, but was even  
5 clearer I think from the testimony of the two senators. You  
6 know, I think they pointed out very clearly that, in looking  
7 at pricing now, one has to keep in mind the fact that,  
8 before the safeguard, prices were artificially low as a  
9 result of dumping and subsidization.

10 And so I guess, you know, my first question is,  
11 so do you agree -- I think we're gonna have a lot more  
12 questions about pricing -- but do you agree that prices have  
13 increased as a result of the safeguard?

14 MR. TUBMAN: Casey Tubman. I would say, yes, the  
15 prices have increased, but they've increased modestly and  
16 I--I don't know if can get an exhibit up, Number 8,  
17 maybe--so this is the CPI for washers and dryers and, as you  
18 can see here, there is a jump in '18, but as you'll also  
19 notice, it basically brings it back to the level of a  
20 hundred, based on a 1982 to 1984 price index.

21 What you'll also see is, all the years prior were  
22 declining and it is still much lower than what it was in the  
23 year '13, '14, even '12, and so on. So, while we did take  
24 an increase on the prices of our washers, it was to recoup  
25 cost increases we were seeing in freight and raw material.

1           COMMISSIONER KEARNS: Okay. And then I think I  
2 also hear you say earlier that, in response to Commissioner  
3 Broadbent's question that, in essence, when we try to  
4 determine, you know, how that price increase correlates to  
5 the impact on demand, you would say that our estimates from  
6 our determination of about -0.3 elasticity is about what you  
7 think is right, so we could calculate the effect on demand  
8 that way.

9           MR. TUBMAN: That's correct.

10          MR. LEVY: We certainly don't take issue with  
11 Commission's elasticity estimates. Obviously, to point out  
12 that the Commission has quarterly pricing data at the  
13 wholesale level for LRWs and that is the most robust and  
14 relevant data source for understanding price trends over  
15 time.

16          We'd refer you to that information in the  
17 prehearing report, which also makes the similar observation  
18 in the public version that prices are up post-safeguard, but  
19 not nearly at, you know, much higher levels than the years  
20 preceding the safeguard. So I think directionally, this  
21 image that you see here in Exhibit 8 is correct. This is  
22 the image. But there is a superior data source for your own  
23 internal analysis.

24          COMMISSIONER KEARNS: Okay. And so then just my  
25 one follow-on question with that. So we know that in the

1 past, the prices were distorted, artificially low because of  
2 unfairly-traded imports. Is that no longer the case? Are  
3 prices now not affected by unfairly-traded imports? Or  
4 would you say prices are still depressed because of  
5 unfairly-traded imports?

6 I noticed that you said a moment ago that the  
7 magnitude of underselling has moderated now underselling and  
8 dumping and subsidization are different things, but you  
9 know, are we now looking at fair market prices or not?

10 MR. LEVY: So, Commissioner Kearns, as you know,  
11 the safeguard statute does not concern itself with  
12 unfairly-traded imports per se. Although during the period  
13 of the original safeguard investigation, the lion's share of  
14 the imports reviewed had also been found to be unfairly  
15 traded, whether dumped or subsidized or both.

16 But the principal consideration was whether the  
17 imports were injurious. I think that we maintain that there  
18 continues to be a significant volume of injurious imports in  
19 the marketplace. The magnitude of that injury is much  
20 reduced by reason of the safeguard. But it is not a  
21 panacea, and I would simply refer back to Exhibit 3.

22 You know, we heard this morning from Mr. Porter  
23 the sense that, you know, the entire industry has been  
24 on-shored and that imports are a thing of the past. I mean,  
25 what we see is actually a surge in imports, loading up on

1 in-quota volumes year-to-date. And there continues to be a  
2 concern that these volumes will undersell U.S. producers in  
3 the marketplace. Whether or not those are dumped prices is  
4 sort of a question that we've not analyzed, but we continue  
5 to be concerned about underselling. Whirlpool has told us,  
6 sort of anecdotally, their sense, that the magnitude of the  
7 underselling, or in their words, kind of the "depth of the  
8 discounting" has moderated.

9 But to say that the problem has been addressed  
10 entirely, I think, is belied by the findings in your own  
11 prehearing report, which looks at the incidence of  
12 underselling pre-safeguard and the incidence of quarterly  
13 underselling post-safeguard and finds that underselling  
14 continues post-safeguard and we view that a problem. It  
15 should be much more mixed if this safeguard relief was as  
16 robust as it could have been.

17 COMMISSIONER KEARNS: Okay, thank you.

18 MR. MCKINNEY: Sheridan McKinney on behalf of GE  
19 Appliances. Just going off what Jack said, I believe if we  
20 actually had some of our witnesses here, one of the things  
21 they would make a point to say right now is that robust  
22 pricing, competition for floor spots continues, if somewhat  
23 moderated.

24 COMMISSIONER KEARNS: Okay, great. Thank you  
25 very much.

1                   CHAIRMAN JOHANSON: This series of questions  
2 might be best answered by Mr. Keppler and Mr. Tubman, but  
3 anyone else is, of course, welcome to respond as well.  
4 Could you please describe any changes to the low capacity of  
5 your washers during the post-relief period?

6                   MR. TUBMAN: Casey Tubman. Can I ask, maybe, to  
7 clarify it? When you say the low-capacity?

8                   CHAIRMAN JOHANSON: How have you changed your  
9 machines to contain different loads of laundry? Such as  
10 sizes of the machines?

11                  MR. TUBMAN: Oh, okay. Sorry. So we continue to  
12 grow the capacities of our washers over time. And I'll have  
13 to think, as far as launch timings and when things have come  
14 out, but I think probably our first example would be the  
15 Yanis that's sitting here today and the larger capacities  
16 that brings. So that brings now five cubic foot into the  
17 front-load space, and it ranges from four and a half to 4.5,  
18 so much bigger than the ones that we had previously.

19                  And again, I have to remember timing of launches.  
20 But we also brought in the top-load space our new advantage  
21 product. So for agitator-based washers, we grew the  
22 capacities now up to six cubic feet. So you can now get an  
23 agitator-washer actually as big as any front-loader on the  
24 market.

25                  CHAIRMAN JOHANSON: So these are innovations to

1 respond to the market?

2 MR. TUBMAN: Absolutely.

3 CHAIRMAN JOHANSON: Could you describe any models  
4 that you've discontinued? Or they're no longer being sold  
5 to your customers? Since the advent of the relief period?

6 MR. TUBMAN: Sure. Again, we discontinued the  
7 old front-load line, so the alpha platform that we talked  
8 about in the past to bring the new Yanis line, to replace  
9 it. We also had, I'll say, a few odd top-loaders here and  
10 there, but nothing substantial.

11 CHAIRMAN JOHANSON: Thanks. Are there any future  
12 plans to expand or reduce the size or capacity of your  
13 washers?

14 MR. TUBMAN: Yes, we have plans in place and you  
15 will see them in the future, assuming things continue the  
16 way they're going.

17 CHAIRMAN JOHANSON: Okay, thanks, Mr. Tubman.

18 MR. LEVY: Chairman Johanson, we'd be happy to  
19 give you more details in terms of the roadmap for increased  
20 capacities on specific platforms, but as you might imagine,  
21 the actual cadence and the magnitude of the increase is very  
22 sensitive company information.

23 CHAIRMAN JOHANSON: Certainly, I understand.  
24 Thanks. Mr. Magnus, did you want to add anything?

25 MR. MAGNUS: Just a quick addition. John Magnus

1 with GE Appliances. My understanding is that, one of the  
2 innovations or developments in the marketplace in the  
3 category you're asking about, is the arrival of larger  
4 capacities in lower price bands within the market. So, not  
5 necessarily machines that are bigger than ever existed  
6 before, but at decreasing price points and decreasing price  
7 bands, larger capacities, sort of as a feature migrating  
8 downward through the product lineup.

9 CHAIRMAN JOHANSON: Okay, thanks, Mr. Magnus.

10 MR. TUBMAN: Sorry, I might be able to --

11 CHAIRMAN JOHANSON: Yeah, certainly.

12 MR. TUBMAN: I might be able to add to help GE.  
13 They actually did launch a larger top-load washer into the  
14 industry. So there have been new capacities launched in  
15 terms of larger top-loaders. They moved 3.8 to a 4.2  
16 capacity and a 4.2 to a 4.5 cubic foot capacity. So again,  
17 there have been increases in capacity in the top-load space.

18 CHAIRMAN JOHANSON: Would either Whirlpool or GE  
19 like to talk any further on investments in new technologies  
20 or upgrades?

21 MR. TUBMAN: Because of the open courtroom, I'm  
22 gonna be careful on what we say. What I can say is, that we  
23 have new products planned that will be out soon. And we  
24 have new products planned for the future that continue to  
25 innovate in different spaces that the consumer is looking

1 for. And unfortunately, I'm not sure I wanna say much more  
2 than that at this point in time. Again, post-hearing, as  
3 Jack mentioned, we're happy to supply that information.

4 MR. LEVY: Mr. Chairman, in terms of what  
5 Whirlpool has done under the safeguard to date, that's  
6 summarized at Pages 17 to 18 of our prehearing brief, and at  
7 Pages 35 to 36 of the prehearing brief, you have things that  
8 are still in the planning or in the pipeline. So the  
9 details are there.

10 CHAIRMAN JOHANSON: Okay, thanks a lot for your  
11 responses.

12 MR. MCKINNEY: Just wanted to chime in. Happy to  
13 answer any detailed question that you'd have in the  
14 post-hearing. There's not much we can really say about  
15 coming innovations in the open room, as Casey said.

16 CHAIRMAN JOHANSON: Okay.

17 MR. MCKINNEY: Thank you.

18 CHAIRMAN JOHANSON: Certainly, Mr. McKinney. Has  
19 the recent revocation of the anti-dumping countervailing  
20 duty orders on LRWs from Korea had an impact with regard to  
21 imports from Korea?

22 MR. TUBMAN: Casey Tubman. I guess I'm not  
23 sure I can give an exact answer. What I would say is it's  
24 probably too soon to tell. The fact that we were watching  
25 the 1.2 million units come in that Samsung and LG were

1 bringing in, the amount that came in from Korea was a small  
2 amount versus that. So unfortunately, I'm not sure that we  
3 could comment clearly on it.

4 CHAIRMAN JOHANSON: Okay, thanks Mr. Tubman.  
5 In a recent opinion revoking the AD and CVD on Korea, we  
6 stated in our likely volume section that we find that  
7 imposition of the safeguard measure on February 7th, 2018  
8 covering imports of certain LRWs from all sources including  
9 Korea provides an additional incentive for LG and Samsung to  
10 ramp up their new plants quickly.

11 We also noted that the safeguard remedy was  
12 scheduled to continue to February 7th, 2021. Would our  
13 assumptions about the likely volume from Korea after  
14 revocation be upset if the safeguard remedy were  
15 substantially loosened or revoked?

16 MR. LEVY: That's an interesting -- if I  
17 understood you correctly Mr. Chairman, what you're saying is  
18 that one of the baseline assumption for your five year  
19 review determination vis-a-vis Korea was the assumption that  
20 the safeguard would go to term. If that's what you're  
21 saying, I think that the early termination of the safeguard  
22 obviously would be a material factor in understanding the  
23 likely volumes from countries not subject to Title VII  
24 remedies, whether that be Vietnam, Thailand or Korea.

25 So if I understood you correctly, I think that

1 view is that if the safeguard were revoked ahead of  
2 schedule, the domestic industry would be exposed and the  
3 incentive of Samsung and LG to accelerate and complete their  
4 U.S. investments may be affected.

5 CHAIRMAN JOHANSON: Yeah, thank you. Because  
6 of course the safeguard was considered by the Commission in  
7 that investigation. So if you want to discuss that at all  
8 in your post-hearing brief, feel free to do so.

9 MR. LEVY: Certainly.

10 MR. GETLAN: If I may Mr. Chairman.

11 CHAIRMAN JOHANSON: Yes.

12 MR. GETLAN: It's probably worth noting, when  
13 looking ahead to 2020, LG is here actually asking, we think  
14 inappropriately, but asking nonetheless for an expansion of  
15 the quota volumes, substantial expansion, I guess to 1.7  
16 million washers. So there's every intention to import  
17 significant volumes, and certainly Korea is a viable source.  
18 It wouldn't be exclusively from there.

19 But any early termination of the safeguard  
20 could reasonably -- you can reasonably expect an increase in  
21 volume because LG alone has basically indicated its  
22 intention to increase those volumes.

23 CHAIRMAN JOHANSON: Thanks Mr. Getlan, and  
24 then others. In Table I-4 of the staff report, we see that  
25 in March 2018, Commerce raised the anti-dumping duty deposit

1 rate on imports from Mexico by Electrolux from around three  
2 percent to 72 percent. I'll also note that Table III-2 of  
3 the staff report indicates that Electrolux appealed this  
4 quickly to the NAFTA Secretariat.

5 What has been the observed effect in this  
6 change in deposit rate, and does this affect the imports of  
7 belt drive washers?

8 MR. LEVY: Chairman Johanson, we have data  
9 which we can provide to you post-hearing showing the  
10 shipments of Electrolux washers to the United States  
11 following the imposition of cash deposits at the rates that  
12 you cited. Because we're dealing with a shipper from  
13 Mexico, there's actually robust company-specific shipment  
14 data available through the Pedimento data as you may be  
15 aware. So we'll provide that information.

16 But in a nutshell, I think the answer is that  
17 Electrolux has to date treated those as cash deposits on a  
18 going-forward basis, not as duties. And so their behavior  
19 in the marketplace is more continuity than change, and again  
20 we'd be happy to provide more information post-hearing.

21 CHAIRMAN JOHANSON: Thanks, Mr. Levy. My  
22 time's expired. Commissioner Williamson.

23 COMMISSIONER WILLIAMSON: Thank you very much  
24 Mr. Chairman. I too want to express appreciation for the  
25 witnesses coming today, their testimony. Continuing on with

1 that last question, what should we say in our monitoring  
2 report about the non-subject belt drive models. LG has  
3 talked about recommending inclusion, but as you said, we're  
4 doing a monitoring report. So what should we say?

5 MR. TUBMAN: Casey Tubman again. I guess from  
6 my standpoint, what I can say is they continue to compete  
7 with our washers, and would be -- we originally had excluded  
8 them. I was back in February, as you remember, and was  
9 asked about them and whether they competed, and again I  
10 would say they do at this point in time.

11 COMMISSIONER WILLIAMSON: Can we say anything  
12 about what their effect has been on -- what has been the  
13 impact on the effectiveness of the remedy that's in place  
14 now? You want to think about that.

15 MR. LEVY: I don't know that Mr. Tubman, you  
16 know, obviously has the same visibility on the data that we  
17 do in the BPI records, so we may be in a position to provide  
18 some commentary post-hearing. But in a nutshell, I think  
19 you know, Whirlpool's consistent view is that these products  
20 obviously compete in the market. Whirlpool opted to exclude  
21 these products from its original safeguard petition, and  
22 nothing about those points has changed to date.

23 MR MAGNUS: Commissioner, John Magnus for GE  
24 Appliances if I may.

25 COMMISSIONER WILLIAMSON: Yes. I was going to

1 get to GE by the silence on this, but go ahead.

2 MR MAGNUS: Well, if you would like to ask a  
3 specific one, but I'd be happy to -- okay. There's a few,  
4 you know, describing the competitive effects as you see them  
5 of the imports that are occurring in your monitoring report,  
6 I hope to take issue with that, right? There's a few things  
7 you're being asked to do that you can't possibly do.

8 You're being asked to recommend a change in  
9 sort of the product coverage of the safeguard measure, and  
10 to recommend that the President impose import relief on a  
11 category of products that there is no legal authority to  
12 impose import relief on, that were not the subject of a  
13 complaint.

14 So there are certain things, certain aspects  
15 of this that are very clear. But sure, if you wanted in  
16 your monitoring report to describe the effect of the  
17 non-subject imports, who could take issue with that? I  
18 think what you'll find is that what's happening with respect  
19 to those imports is not at all as alarming and dark and  
20 mysterious as LG would seek to portray, that when those  
21 products are imported, since there's no tariff to pay,  
22 there's no tariff to pass through, that's perfectly normal  
23 and that the price points when those products landed at  
24 retail are very much in line with what everyone else is  
25 charging for comparable products.

1                   COMMISSIONER WILLIAMSON: So does that imply  
2 they're not really having an adverse or any kind of  
3 measurable impact on the effectiveness of the revenue?

4                   MR MAGNUS: In our view, absolutely not.

5                   COMMISSIONER WILLIAMSON: Okay.

6                   MR MAGNUS: It does imply that they are not  
7 adversely affecting or undermining the remedy. To call it  
8 circumvention is just plain silly. No one complained about  
9 these products. They're out of scope. It is not  
10 circumvention to import out of scope products, any more than  
11 if you import out of scope paper clips or rubberbands.

12                  MR. McKINNEY: Sheridan McKinney on behalf of  
13 GE Appliances. Just one additional quick note. When it  
14 comes to the categories that these products compete in, I  
15 just would like to note that GE Appliances sits behind every  
16 one in this room, including some who are not in terms of  
17 market share where those products could be.

18                  COMMISSIONER WILLIAMSON: Okay, good. Thank  
19 you for those comments. I was wondering with kind of  
20 address what's happening on employment? I'm looking at the  
21 Attachment 1, and the variation doesn't seem necessarily to  
22 attract volume. So I was just wondering if you could go a  
23 little bit more into the impact of what's been happening  
24 with employment in the domestic industry following the  
25 imposition of the remedy? If you want to do it

1 post-hearing, you can.

2 MR. LEVY: Yeah. We'd be happy to provide a  
3 more detailed explanation post-hearing. But I think from  
4 Whirlpool's point of view, if I could just paint a high  
5 level picture with the Whirlpool data. Whirlpool went into  
6 2018 obviously anticipating an effective safeguard remedy,  
7 and made a good faith down payment on its commitment to grow  
8 employment and announced 200 plus new hires early in 2018.  
9 You see in their data significant growth in head count in  
10 2018.

11 As the year progressed, obviously what we all  
12 witnessed was essentially these unanticipated negative  
13 developments, these stockpiling, the decline in demand,  
14 things like this that were obviously a drag on Whirlpool's  
15 ability to grow production. Remember Whirlpool had hoped to  
16 essentially add a third shift and to increase output by as  
17 much as 50 percent.

18 Instead, their output was declining. So it  
19 was clear that Whirlpool's hopes about adding much more  
20 employment were dashed by these market developments. With  
21 that said, Whirlpool did not lay off any workers, right. To  
22 the extent there's any decrease in employment that follows,  
23 it's entirely by attrition. If you look at where employment  
24 is today at Whirlpool, in Q1, at the end of Q1 2019, it is  
25 still at a level that is 200 plus workers higher than where

1 it was pre-safeguard.

2 So I mean I think in a nutshell that gives you  
3 a sense of the flow. We certainly would have hoped for a  
4 safeguard remedy that would have conditioned the environment  
5 for a massive increase in production and therefore  
6 employment. But for a number of reasons that were  
7 unforeseen by the Commission and outside our control, that  
8 wasn't possible. I don't know if Jim, you want to jump in.

9 MR. KEPPLER: Yeah, Jim Keppler. I would just  
10 add that, you know, the Clyde team has been very flexible  
11 and nimble as we've seen the demand fluctuations. In some  
12 cases we've had to take some unscheduled down time, down  
13 days. In other cases, we've made rate adjustments in the  
14 factory.

15 But we have fully anticipated having an  
16 additional shift coming out of the safeguard remedy back in  
17 February, and those plans are locked and loaded. They're on  
18 the shelf. When the demand is there, we're ready to  
19 execute.

20 COMMISSIONER WILLIAMSON: Okay, thank you.  
21 Take a look at your Exhibit 8 on prices, and I notice  
22 there's sort of a big drop or drop in I guess this is first  
23 quarter of '19. So I was just wondering what, what  
24 accounted for that. Also, LG cited several sources  
25 including AHM in Table III, to support conclusions that

1 prices were higher in the first quarter.

2 But then on the other hand, I see that on your  
3 table. But then LG argues that prices were higher in the  
4 first quarter of 2019 than in the first quarter of 2018. So  
5 I was wondering do you agree with that and why?

6 MR. LEVY: So I think we would take the view  
7 that the wholesale pricing data that you have on the record  
8 for washers, for LRWs is what's probative in this case.  
9 This was used as a very imperfect public version of what's  
10 going on, just to give you a visual image of the trends. In  
11 terms of the dip that's been seen year to date in 2019, I  
12 don't think we're in a position to narrate or explain what  
13 the Bureau of Labor Statistics is depicting there. I don't  
14 know that it's descriptive of what's happening with  
15 Whirlpool prices in Q1 of 2019. So obviously it has to do  
16 with other players in the marketplace.

17 COMMISSIONER WILLIAMSON: Okay, and related.  
18 LG also argues that extremely poor coverage for U.S.  
19 producers as a reason why the Commission should not put much  
20 weight on its product-specific pricing data, and do you  
21 agree that coverage is extremely poor and why or why not?

22 MR. LEVY: No. We think that the coverage is  
23 adequate, it's robust, it's -- it paints a picture that  
24 again is very consistent with what you're seeing from  
25 publicly available data, and I think the coverage of the

1 imports is outstanding, and the coverage of domestic  
2 producers is adequate to understand what's happening  
3 directionally with regard to price.

4 So we would encourage you to rely on that  
5 information as your best source to understand the new  
6 pricing environment. Then again the pricing products that  
7 you do have allows you to do a lot of before and after  
8 analysis, which is quite valuable. As we all know, and  
9 you've said in some prior determinations, looking at average  
10 unit values in this industry is imperfect, because of  
11 product mix issues. We're not dealing with a commodity that  
12 could be looked at on a per pound or per piece basis with  
13 great precision. So the pricing products become really your  
14 gold standard for understanding price trends on a  
15 model-specific basis.

16 COMMISSIONER WILLIAMSON: So do you agree -- I  
17 don't think I heard the answer to whether you agree, that  
18 the prices were higher in the first quarter of 2019 than in  
19 2018?

20 MR. LEVY: So I think speaking for Whirlpool,  
21 Casey can you jump in?

22 MR. TUBMAN: Casey Tubman. So from our  
23 standpoint, the data does not agree, the data that is shown  
24 there, that drop. We would not support that with our actual  
25 data, and I think as an industry looking at others'

1 competitive moves, we would not see data that supports that  
2 as well. So again, I think Jack mentioned that we're not  
3 sure where they actually get their information. I mean it  
4 sounds like, and I don't remember seeing it, but it sounds  
5 like LG maybe has some data from AHEM that is opposite as  
6 well. So I think take it with a grain of salt, that that's  
7 just a trend line of what we're seeing, where the past six  
8 years we've seen decline, and in the past year we've seen it  
9 come back up slightly.

10 MR. LEVY: Commissioner Williamson, just a  
11 couple of other points. So in general, I think it can be  
12 said that prices for LRWs increased in the market after the  
13 first quarter of 2018, and during the course of 2018 that  
14 increase began to take root. So certainly Whirlpool's  
15 experience would be that Q1 '19 would be higher than Q1 '18,  
16 and that reflects their cost-based price increase that they  
17 took closer to the middle of the year.

18 The other thing to note, I mean LG cites to  
19 the AHEM data as an example. You have these BLS data.  
20 Certainly what we can say, and it's our understanding is  
21 that at least certain producers when they report pricing  
22 information to these third parties, it is not unusual that  
23 they report gross pricing information, as distinct from  
24 prices that are net of all allocated allowances and rebates  
25 and discounts.

1                   And so these are very imperfect data sources  
2                   because you don't know how prices are being reported by  
3                   different companies, you don't know if it's consistent. So  
4                   we always take this information with a grain of salt. You  
5                   can have a nominal increase in the gross unit price, but  
6                   then give it back on the back end with allowances, prices  
7                   haven't changed and it could show a price increase.

8                   The reverse could similarly be true, where the  
9                   gross price remains, you know, essentially unchanged. But  
10                  you know, a difference in the allowances would reflect a  
11                  difference in the net price, but the AHEM or the BLS data  
12                  may not be able to track this meaningfully.

13                  So again, I think where you come back to it is  
14                  quarterly pricing data is your gold standard.

15                  COMMISSIONER WILLIAMSON: After seven, I don't  
16                  know how many years we've been doing Title VII cases on  
17                  washing machines, I know what you're talking about. Thank  
18                  you.

19                  CHAIRMAN JOHANSON: Commissioner Broadbent?

20                  COMMISSIONER BROADBENT: Yeah, thank you.  
21                  Yeah, I wanted to talk about the University of Chicago study  
22                  that they did with Aaron Flaaen of the Federal Reserve  
23                  Board. I know it's been mentioned. These folks, these  
24                  economists are estimating that safeguard tariffs raise the  
25                  median price of washing machines and clothes dryers by \$86

1 and \$92, respectively, and led to an annual cost to  
2 consumers of \$850,000 per job created. Do you agree with  
3 this assessment, and if not can you provide an estimate of  
4 the retail price increases for these products, as well as  
5 the average annual cost to consumers?

6 MR. LEVY: Yes Commissioner Broadbent. Thank  
7 you for that question. You know, I did read that study by  
8 those Chicago academics. I thought it was very striking to  
9 read. As I read it, I almost thought there was a mind meld  
10 between those academics and some of the arguments we've been  
11 hearing from LG in the past.

12 For example, they leverage a lot of the  
13 theories and data that had been put in front of this  
14 Commission in prior proceedings and that you rejected. For  
15 example, it leverages retail data rather than wholesale  
16 price data and so-called gap intelligence, where you found  
17 that that information was unpersuasive and not the basis for  
18 reliance. That study, they're doing a hedonic regression  
19 analysis, where they're looking at individual factors and  
20 the extent to which they're predictive to price changes.

21 One of their key variables, without which  
22 their model is kablooeey, one of their key variables is life  
23 cycle pricing, something that you considered and found to be  
24 an unpersuasive argument, and not descriptive of what really  
25 happens in the LRW industry. So a lot of the key

1 foundations. They also talk about dryers.

2 A lot of the key foundations of their  
3 analysis, essentially they're grounded in the same facts and  
4 assumptions and theories that you've considered and rejected  
5 after they were advanced by LG in this forum. With regard  
6 to the employment number, essentially you know, dollars per  
7 worker and what does it cost.

8 To do a calculation like that, you need a  
9 numerator and you need a denominator. So first what's the  
10 cost? So on the numerator side, they're looking at the  
11 increase in washer price, and they're not using CPI data.  
12 They're using their own self-serving inflated number that's  
13 higher, and then they're adding in the dryer number. So  
14 they're essentially doubling it. So they have an inflated  
15 numerator because they're including dryers in the cost.

16 And then on the denominator side, they're  
17 ignoring the direct jobs saved. This Commission found that  
18 the legacy domestic producers, that their very viability was  
19 threatened by the continued injurious imports. It's  
20 important to note that without the safeguard, we might be in  
21 a very different place in terms of employment today.

22 So they ignore completely the jobs that have  
23 been saved as a result of the safeguard. They also ignore  
24 indirect jobs that are being saved or created across the  
25 industry, because in their assessment, there shouldn't be

1 much. Why? Because they say Whirlpool uses a Foreign Trade  
2 Zone. Well there was testimony before this Commission that,  
3 you know, Whirlpool's Foreign Trade Zone is used for  
4 something to the tune of seven percent of total components  
5 imported by value.

6 So put another way, 93 percent of what  
7 Whirlpool is doing is tied to 800 plus vendors across the  
8 U.S. economy. But the Chicago boys chose to ignore these  
9 thousands and thousands of indirect jobs, and you've got  
10 government agencies that are finding significant multipliers  
11 in terms of the relationship between direct and indirect  
12 jobs, but the Chicago boys write all that off.

13 So when you do all of this math, what you find  
14 out is that their estimates are overstated by more than a  
15 factor of 20, and that the cost per job is actually  
16 something much closer to, and I won't say the number in  
17 public here, but it's a modest number, because it's  
18 exaggerated by more than a factor of 20. It's a number  
19 that's substantially lower than what states like New York  
20 would have been willing to pay for an Amazon job.

21 Or put another way, from a trade policy  
22 perspective, the cost per job does not shock the conscience.  
23 It actually looks about right. We'd be more than happy to  
24 provide a more specific and concrete analysis or rebuttal of  
25 that study. But it really read to us like a conclusion in

1 search of an analysis, and we'd look forward to the  
2 opportunity to rebut that analysis and to provide you with a  
3 more meaningful calculation that's grounded in the same data  
4 that you typically use in these proceedings. So thank you.

5 COMMISSIONER BROADBENT: I mean I think we're  
6 going to expect a cost per job. That's what we're doing  
7 here, trying to get some adjustment --

8 MR. LEVY: Certainly.

9 COMMISSIONER BROADBENT: I think we need to  
10 recognize what it is. You're fairly disparaging about the  
11 Chicago boys. Does that discredit them because they're from  
12 that University or --

13 MR. LEVY: They start with the proposition  
14 that any price increase is a bad one from a welfare point of  
15 view, when this Commission found that the existing prices,  
16 the baseline from which they started was one of serious  
17 injury that needed to be remedied. And so we take a little  
18 bit of umbrage, frankly, at the proposition that what's good  
19 for social welfare would have been a negative safeguard  
20 determination.

21 We think that the Commission got it right and  
22 the President got it right, and there's a need to restore  
23 pricing to economic levels that sustain U.S. manufacturing  
24 employment. So insofar as their analysis is tainted with  
25 maybe a little bit of ideology yeah, I guess you can call

1 that some disparagement.

2 COMMISSIONER BROADBENT: And you don't have  
3 ideology tainting any of your opinions.

4 MR. LEVY: I think that our position is  
5 grounded in the statute and law, and U.S. policy. So --

6 COMMISSIONER BROADBENT: Except you  
7 characterize stockpiling as circumvention.

8 MR. LEVY: Well, it certainly circumvents the  
9 purpose and so, you know, that's certainly undermining the  
10 remedial effect.

11 COMMISSIONER BROADBENT: But when we talk  
12 about the statute --

13 MR. LEVY: You know to be clear, there's  
14 nothing illegal about what Samsung and LG did on the eve of  
15 the safeguards implementation. But I think that had the  
16 President understood what they were up to, he might have  
17 very well opted for a more robust remedy. So there's an  
18 interrelationship between the two, and one might argue that  
19 we all got snookered at the 11th hour by Samsung and LG.

20 MR. MAGNUS: Commissioner if I may just jump  
21 in briefly, John Magnus for GE Appliances, University of  
22 Chicago Law School graduate, harboring no bias at all  
23 against economists in that great institution.

24 Since the Commission has done the very  
25 difficult work of analyzing competition at the wholesale

1 level in this industry several times, I would think that you  
2 would feel a little bit of pity for anybody who wants to try  
3 to be heard sort of speculating about what's happening at  
4 the wholesale level of trade, but has to do so on the basis  
5 of retail data. So that's not disparagement. It's just  
6 pity.

7 COMMISSIONER BROADBENT: Okay, good. Thanks  
8 for those answers. Could you provide an assessment on the  
9 retail price increases for these prices, as well as the  
10 average annual cost to consumers as you see it?

11 MR. LEVY: We will indeed attempt to provide  
12 available information. We would simply call your attention,  
13 however, to one exhibit, Exhibit 10, and because again I  
14 think what we see in the press is this concern that, you  
15 know, consumers are somehow being gouged, that  
16 price-constrained consumers will be unable to find  
17 affordable washers particularly at opening price points.

18 What Whirlpool did was to scrape certain  
19 retail price data that's available through Market Track is  
20 the relevant data source, and what you see here is that a  
21 wide assortment of brands at opening price points below 399,  
22 sometimes as low as 299 in the marketplace post-safeguard,  
23 not only from Whirlpool and GE, but also Samsung and LG. So  
24 we'll be happy to provide some more concrete data  
25 post-hearing.

1                   But I think sort of the picture that somehow  
2 this has been a -- the sky is falling for consumers is I  
3 think a gross distortion, and frankly not a fair  
4 characterization of how the safeguard's working.

5                   COMMISSIONER BROADBENT: Okay. Mr. Levy or  
6 GE, this is first large residential washer case that Samsung  
7 hasn't fully participated in. How do you interpret  
8 Samsung's greater neutrality in this case?

9                   MR. LEVY: We obviously took note -- Jack Levy  
10 for Whirlpool. We obviously took note of Samsung's absence.  
11 Samsung was a vocal participant in all prior proceedings,  
12 and now interestingly they have not filed a prehearing  
13 brief. They have chosen not to appear. One can only hope  
14 that Samsung is now chastened, that they are -- they were,  
15 if you will, sort of vicious predators in the LRW market and  
16 they are being domesticated as we speak.

17                   One can only hope that their commitment to  
18 U.S. manufacturing is as we speak becoming more firmly  
19 rooted, and in the current environment rather than opposing  
20 the continuation of the safeguard, they are resigned to  
21 investing in U.S. manufacturers and workers and competing on  
22 a level playing field. If our interpretation of their  
23 absence is accurate, then we think this is a most welcome  
24 development, and we would hope that LG will soon see the  
25 same light.

1                   COMMISSIONER BROADBENT: Okay. My time has  
2 expired.

3                   CHAIRMAN JOHANSON: Commissioner Schmidtlein.

4                   COMMISSIONER SCHMIDTLEIN: Okay. I just have  
5 a few questions to wrap up a couple of topics that I think  
6 have already been touched upon. One is the belt drive  
7 washers, and if I recall and understand correctly, I think  
8 Mr. Magnus you made the point that these weren't the subject  
9 of a complaint, so legally there isn't any basis or  
10 authority to modify the scope if the President were so  
11 inclined to do that.

12                   MR. MAGNUS: Yes Commissioner.

13                   COMMISSIONER SCHMIDTLEIN: Okay. So my  
14 question though I guess is more of a factual question, and  
15 that is do you agree that the importation of the belt driver  
16 washers is undermining the safeguard remedy?

17                   MR. MAGNUS: Thank you for the question, and I  
18 may have garbled what I said in response to a fairly similar  
19 question from Commissioner Williamson. No, we do not  
20 believe that belt drive imports are undermining anything.  
21 No evidence for that at all.

22                   COMMISSIONER SCHMIDTLEIN: Okay.

23                   MR. MAGNUS: And to call it circumventing, as  
24 LG does, is way beyond the pale.

25                   COMMISSIONER SCHMIDTLEIN: And what would

1 Whirlpool's position be, given that I think I heard Mr.  
2 Tubman say that these dryers or excuse me, these washers are  
3 competing with the domestic product?

4 MR. LEVY: So again, Whirlpool would stand by  
5 its comment that these washers can and do compete with the  
6 domestic like product. This Commission itself essentially,  
7 you know, bearing in mind that nearly all imports from  
8 Mexico to date are these CIM belt drive washers, the  
9 Commission very recently determined that revocation of a  
10 dumping order would likely result in the recurrence of  
11 injury by reason of those imports.

12 So I don't think there's any question that CIM  
13 belt driver washers compete, and the more significant the  
14 volume in the marketplace, the more likely the injurious  
15 effect. I don't think we'd be comfortable saying more at  
16 this time, but we obviously recognize that there was a  
17 decision that Whirlpool made to exclude these products from  
18 the petition, and Whirlpool has to live with that decision.

19 COMMISSIONER SCHMIDTLEIN: So are you  
20 suggesting you are going to respond more fully in the  
21 post-hearing?

22 MR. LEVY: We'll endeavor to provide a  
23 response --

24 COMMISSIONER SCHMIDTLEIN: But you don't feel  
25 comfortable at this time? Is there a future time --

1                   MR. LEVY: Well, I don't think you're going to  
2 get a different response, but we'll respond in longer  
3 sentences post-hearing.

4                   COMMISSIONER SCHMIDTLEIN: Okay, and maybe you  
5 could respond to the specific question of whether you think  
6 it's undermining the safeguard remedy.

7                   MR. LEVY: We will provide a response  
8 post-hearing, thank you.

9                   COMMISSIONER SCHMIDTLEIN: All right, thank  
10 you. Okay. Moving onto another topic that I think has been  
11 touched upon, which is the AUV data and the pricing product  
12 data. LG argues that we should look at the AUV data, that  
13 that is a better indicator and more probative of the trends  
14 than the pricing product data. Why shouldn't we -- why  
15 shouldn't we look at the AUV data in terms of analyzing what  
16 the impact has been?

17                   MR. LEVY: So this Commission has noted in its  
18 own prior determinations that in this industry, AUV data are  
19 imperfect because of product mix. I think we've often  
20 advocated as much and you've agreed with us. That continues  
21 to be the case. This is not to suggest that AUV data are  
22 without probative value, and we would certainly encourage  
23 you to consider the AUV data.

24                   But we think that the quarterly pricing data  
25 are most probative, because it sort of controls for product

1 mix issues. We think that the coverage of the pricing  
2 products is adequately robust for purposes of this  
3 monitoring review, and so we would encourage you to use that  
4 as your first point of reference. But we are certainly not  
5 running away from what the AUV data show.

6 COMMISSIONER SCHMIDTLEIN: Okay, all right. I  
7 think my last question, which has to do with I guess this is  
8 really the nature of the quota, you've made the point that  
9 the quota has been filed quickly within the first two months  
10 for 2019 I believe. Do you think the remedy -- has it made  
11 a difference that the remedy did not include any sort of  
12 quarterly allocation or country-specific allocation? Does  
13 that make a difference in how the safeguard has impacted the  
14 domestic legacy producers?

15 MR. LEVY: The short answer is yes. We  
16 obviously saw -- what you see right now in 2019 is, I  
17 think, what -- I think quota policymakers would call  
18 bunching, and there can be effects that result from that  
19 kind of bunching in terms of its impact on the market.

20 With regard to company-specific quota  
21 allegations, you may recall that we argued for as much in  
22 the original safeguard determination, wanting to have  
23 country-specific quota allocations commensurate with the  
24 historical shipments of these various countries during the  
25 Period of Investigation in the original safeguard

1 proceeding.

2                   The result of not having such allocations,  
3 either quarterly or monthly or country-specific, has been a  
4 gravitation of more volume to Thailand and Vietnam, which  
5 were countries which during the most recent period were not  
6 subject to the disciplines of Title VII controls, which you  
7 had at the time not only for Mexico and Korea, but also  
8 China. And so what we've seen is we've obviously seen an  
9 over-indexing for Vietnam and Thailand during this period,  
10 and we've not had the added protection, if you will, that  
11 results from Title VII relief.

12                   So I think that the absence of those  
13 additional strictures have obviously been an impediment in  
14 terms of the overall effectiveness of the safeguard.

15                   COMMISSIONER SCHMIDTLEIN: Okay, all right.  
16 Thank you. The last question, actually I have one more  
17 question, which is do you want to respond to LG's urging the  
18 Commission to clarify the 1.2 million base quota, given that  
19 they believe that that's a typo?

20                   MR. LEVY: Sure. We'd be delighted to provide  
21 again a complete response post-hearing. I think LG's thesis  
22 is that they can't figure out where the 1.2 million number  
23 came from, or that the Commission was perhaps inartful in  
24 narrating its origin. I think our position is wherever the  
25 1.2 million number came from, you know, to us it didn't much

1 matter if it was from a fortune cookie.

2 The fact is that the Commission did very  
3 robust economic modeling using various numbers, and the  
4 number that it landed on, the 1.2 million, coupled with  
5 certain in quota and above quota tariff numbers, was tied to  
6 certain expected economic results. So the Commission was  
7 not pulling a number out of a hat. They were using a number  
8 and the associated intended economic effects.

9 That was no accident. It's not just that the  
10 Commission picked 1.2 million. The Commission had  
11 expectations in terms of the resulting volume and price, and  
12 the volume of imports and the U.S. production and the  
13 resulting prices and the like under that model. So this  
14 number was by no means an accident. This was a carefully  
15 thought-through number.

16 When the President and USTR received your  
17 report and your economic analysis, what they were working  
18 from was your projections about what would happen under that  
19 remedy in 2018, based on those assumptions. So none of this  
20 was an accident. Certainly you knew what your economic  
21 analysis was. USTR and the President understood what you  
22 were projecting, and the President took all that into  
23 account, made some minor adjustments but largely accepted  
24 your recommendations.

25 I think none of that is an accident, much less

1 a clerical error.

2 COMMISSIONER SCHMIDTLEIN: Okay. Alright,  
3 thank you very much.

4 CHAIRMAN JOHANSON: Commissioner Kearns..

5 COMMISSIONER KEARNS: Thank you. If we could go  
6 back to Exhibit 8 from your slide presentation? I hear  
7 what you're saying, to sort of take this with a grain of  
8 salt; that you think we need to be looking at wholesale  
9 prices, et cetera. But I do think that this graph helps put  
10 in perspective the recent price increase. And I'm  
11 wondering, should we go back to our, for example our sunset  
12 record where we have product pricing data for many of the  
13 same products. I think they may not be identical in all  
14 cases, but I think they're pretty close. Should we go back  
15 at that to kind of help put in context these recent price  
16 increases?

17 MR. LEVY: Commissioner Kearns, you certainly  
18 have the authority to put such information on this  
19 administrative record. There have been other occasions  
20 where you've sort of cross-pollinated administrative  
21 records. We think that that information from that  
22 proceeding has additional probative value, and we would  
23 certainly have no objection to your leveraging that  
24 information in this proceeding should you view it as  
25 helpful..

1           COMMISSIONER KEARNS: But do you think it would  
2 be helpful in terms of the context, making the same point  
3 that you're trying to make here?

4           MR. LEVY: So we no longer have those APO data at  
5 our disposal, and I think even if we did we certainly  
6 couldn't use it in this proceeding right now. So we can  
7 only answer it in the abstract, which is, you know, we  
8 generally subscribe to the view that more data is better.  
9 We have nothing to hide from in terms of the contents of  
10 such information. We've always been very comfortable with  
11 the Commission's Quarterly Pricing Data in the original  
12 Korea-Mexico investigation, in the China investigation, and  
13 in this most recent sunset review, and now in the safeguard  
14 investigation. And so to the extent you want to draw on any  
15 of that information, we have nothing to hide from there..

16           COMMISSIONER KEARNS: Okay. And connected to  
17 that, you all--we were talking about AUVs awhile back. You  
18 know, obviously there's product mix issues, but you also  
19 said, you know, you're not trying to run away from those  
20 data, either.

21           Do you think it would be helpful to look at the  
22 AUV data from previous records, too? Or does the product  
23 mix issue I guess become sort of exacerbated over time as  
24 products change? Or any thoughts on that?

25           MR. LEVY: So product mix issues do change. I

1 mean one of the things that you do have on this record is  
2 sort of a breakdown between front-load and top-load,  
3 high-efficiency or E-star, versus non-E-star, agitator  
4 versus non-agitator. The Commission has saw fit to slice  
5 and dice the data. And to the extent you see an evolution  
6 in the relative share of these configurations, that should  
7 have an effect, essentially skew the data and the probative  
8 value of the AUVs.

9           So if you were to simply, you know, track the  
10 share of these different configurations, as I just narrated  
11 them over time, as those shares move around one would  
12 reasonably expect the AUVs to be more and more distortive.  
13 And even within a category, you can have obviously, if you  
14 will, product mix issues that skew the data. But certainly  
15 at a very high level that's something that you can observe  
16 and infer from information before you..

17           COMMISSIONER KEARNS: Okay. And any response to  
18 the other arguments Respondents have made with respect to  
19 the product pricing data, that the coverage is relatively  
20 small in terms of the domestic industry, or any other  
21 arguments about--I mean you're telling us the best data we  
22 have is product pricing. Respondents are telling us it  
23 isn't very good. Is it better than they say? Or do we just  
24 not have very good data on pricing?

25           MR. LEVY: Again, we think it's adequately

1 robust. And you've certainly relied on a lot less in other  
2 proceedings in other cases. So we think it's adequate to do  
3 your job..

4 COMMISSIONER KEARNS: Okay. Can you speak to--so  
5 the quota is allocated on an annual basis. And you've  
6 pointed out that that has resulted in a spike in 2019. Does  
7 the annual basis of the quota--how does that affect the U.S.  
8 industry? If it had been allocated on a quarterly basis,  
9 for example, would that have affected the U.S. industry? Or  
10 is this stuff just put in a warehouse and it doesn't really  
11 have an impact on the industry?

12 MR. LEVY: Casey, can you speak to the  
13 significance of the inventory overhang from, you know,  
14 year-to-date inventory stockpiling?

15 MR. TUBMAN: Casey Tubman. So I think as you  
16 look at the amount of imports that have come in, and how  
17 much was brought in in the two-month time period, looking--  
18 and again, you have the data to know what their annual sales  
19 are, and so on and so forth--but obviously that creates a  
20 very large hangover effect. Any time there's a hangover  
21 effect of inventory, people are incentivized to move through  
22 it. And so that can have an impact on market pricing that  
23 we see.

24 MR. LEVY: Commissioner Kearns, I think one also  
25 has to ask the question of, you know, when importers have

1 the luxury of bringing in these volumes, to what extent does  
2 that allow them to take the foot off the brake in terms of  
3 accelerating their U.S. investments and their U.S.  
4 production activities. You know, LG is asking for next  
5 February for the number to reset to 1.7 million, presumably  
6 so they can bring in even more volume and further delay the  
7 complete onshoring of their U.S. production

8 So, you know, from our perspective, you know,  
9 whether it's a spike in a part of the year, or it's an  
10 aggregate volume for the full calendar year, these volumes  
11 continue to be problematic. And the notion of increasing  
12 the volume to us is a real concern.

13 I think that LG had advocated in the alternative  
14 in the original safeguard investigation for a volume which I  
15 believe they said was, I want to say 1.5--1.4 or .5 million,  
16 something in that range, something less than 1.7 million.  
17 And the Commission considered that volume in its remedy  
18 recommendation to the President and said, are you kidding?  
19 That volume would be tantamount to no restriction at all.  
20 And so that's what they're asking for today: No restriction  
21 at all. That's what they want..

22 COMMISSIONER KEARNS: Okay, thank you. And, Mr.  
23 Tubman, if I hear you right, it's not so much that--what I'm  
24 hearing you say is, people don't like having washing  
25 machines in warehouses. So they're going to want to get it

1 out. So it's not so much that, you know, the overall volume  
2 is more than anyone would have expected, everyone would have  
3 expected to probably come in just under quota, but what  
4 you're saying is: Yeah, if you do it all in one big lump  
5 sum, then there's going to be a distortion in a sense in  
6 that immediately after the big spike there's going to be  
7 more sales shortly after that rather than sort of spread  
8 over the year.

9 MR. TUBMAN: Casey Tubman. It for sure allows  
10 for that. And, again, there's a carrying cost for an  
11 inventory that you hold. So you're incentivized to not hold  
12 it as long..

13 COMMISSIONER KEARNS: Okay, thank you. And can  
14 you all speak to the impact that the coverage of LG Sidekick  
15 has had on the remedy? Is that helpful to you? Is it--  
16 because, you know, LG obviously makes some arguments how it  
17 doesn't seem like it's really going to help anything; it's  
18 just kind of an add-on to LG products that are already  
19 covered by quota.

20 MR. TUBMAN: Casey Tubman. I would say it is  
21 something we compete with, and I believe that was a finding  
22 in an earlier hearing that you had had. And so again for us  
23 having it covered is helpful..

24 COMMISSIONER KEARNS: When you say compete  
25 against, you have a similar product?

1           MR. TUBMAN: Similar that it's a washing machine  
2 that washes clothes, yes.

3           MR. LEVY: Commissioner Kearns, if I could add to  
4 this, so if you refer to Exhibit 12, the Commission in the  
5 Safeguard Determination responded directly to LG's request  
6 to exclude the Sidekick washers. And the Commission was  
7 obviously unpersuaded, finding that it competes directly  
8 with existing products from U.S. producers.

9           But I would also call your attention to the  
10 proprietary version of Whirlpool's prehearing brief at page  
11 35 where in the last bullet Whirlpool details an adjustment  
12 plan, the viability and economics of which I think is  
13 directly connected to whether or not Sidekick is covered. I  
14 can't say more in public session, but let's just say that  
15 certain plans will be dashed were Sidekick not included  
16 within the safeguard..

17           COMMISSIONER KEARNS: Okay, thank you. And I  
18 guess the last question I would have--and maybe this is more  
19 for posthearing, just because you might want to take some  
20 time to think about it--but I'm happy to hear more, if you  
21 have thoughts on it now.

22           Going back to what Commissioner Schmidtlein said  
23 early on about dryers, I mean I guess what I'd like to know  
24 is to what extent there is a correlation in your mind  
25 between washing machine sales, washing machine prices, and

1 dryer prices.

2 I mean it seems to me that there is a correlation  
3 that isn't present with respect to other products. And it  
4 seems to me that if it were as simple to say that every time  
5 a company sells a washer, another \$20 just falls out of the  
6 sky, we would want to consider that. And in terms of like  
7 the viability of the U.S. industry, how relief might be  
8 working, and so forth, I'd want to know if \$20 falls out of  
9 the sky every time a company makes a sale of a washing  
10 machine.

11 So not domestic like product issue, but in terms  
12 of considering, you know, the viability of the industry, I  
13 think that would be helpful. And either, again, just now or  
14 posthearing would be helpful.

15 MR. LEVY: Certainly, and we'll provide all that  
16 posthearing. I think in past proceedings Samsung and LG  
17 have tried to paint this picture that, you know, for every  
18 washer sale there's a matching dryer sold with it as a pair,  
19 and that the two are priced identically, at least when it's  
20 an electric dryer. And I think we've made clear that, you  
21 know, on both points that's not at all the case.

22 At the same time, we don't deny that there's a  
23 relationship between the two products. And we'd be more  
24 than happy to detail, using Whirlpool's proprietary data,  
25 how that relationship plays out..

1 COMMISSIONER KEARNS: Okay, thank you.

2 MR. MAGNUS: A quick add-on--John Magnus from GE  
3 Appliances. Just to remind the Commission and the  
4 Commissioners who have asked about dryers, you know, the  
5 question isn't necessarily just, you know, does \$20 fall out  
6 of the sky, but where does it fall out of the sky?

7 Commissioner Schmidtlein, you mentioned, you  
8 know, some sort of a collateral benefit to domestic  
9 producers. Dryers aren't necessarily made in the United  
10 States. And in fact during this period that you're looking  
11 at, in GE's business model, dryers are not a domestically  
12 produced product. They're what GE calls a "source product."

13 And so it's not a distinct category of domestic  
14 production at all. So in that sense, you're looking at, you  
15 know, two entirely different approaches just with the two  
16 companies that are in front of you..

17 COMMISSIONER KEARNS: Okay, thank you.

18 CHAIRMAN JOHANSON: While the product-specific  
19 data are confidential, the average unit value for imports of  
20 covered LRWs was at its highest level in 2016, and at its  
21 lowest level in the first quarter of 2019.

22 What is the reason for this trend? And how do  
23 you define import average unit values impact the relief?

24 MR. LEVY: Again, we'll speak to the average unit  
25 value data posthearing. I think it needs to be unpacked and

1 understood through the prism of proprietary data, but  
2 obviously a product mix is an important consideration.

3 CHAIRMAN JOHANSON: Okay, thank you. On page 7  
4 of your brief, you argue that aggregate demand decreased in  
5 2018 and that this was unanticipated. This is also  
6 mentioned at page 26.

7 Given that our Safeguard Opinion projected price  
8 increases after the imposition of the remedy, would it have  
9 been unexpected that demand would be reduced by--at least  
10 somewhat by the higher prices?

11 MR. LEVY: Again, Chairman Johanson, I don't  
12 think that we would disagree with the Commission's own  
13 estimated elasticity of demand of minus zero point three.

14 CHAIRMAN JOHANSON: Okay. LG provided a per-unit  
15 estimate of the additional costs associated with 232 and 301  
16 tariffs in its questionnaire responses.

17 In your posthearing brief, could you please  
18 provide a similar estimate, if you're able to do so?

19 MR. LEVY: Yes. We'd be happy to do so.

20 CHAIRMAN JOHANSON: And continuing on that line  
21 of thought, how have the Section 232 tariffs affected your  
22 operations? Have you adjusted your supply chains to consume  
23 more domestically produced steel and aluminum?

24 MR. KEPPLER: Hi, it's Jim Keppler. As I stated  
25 previously, 90 percent of the inputs that go into our

1 washing machines are sourced here domestically and are not  
2 subject to tariffs. The pricing that we have taken in the  
3 marketplace is cost-based. I think the raw material costs  
4 get a lot of play, but what we haven't talked about is the  
5 inbound freight impact.

6 So we bring stuff in by ocean vessel, by rail, by  
7 over-the-road, and we have seen significant inbound freight  
8 cost increases as well, absent of any tariffs.

9 CHAIRMAN JOHANSON: With regard to any of the  
10 inputs that you have that you do import, have you sought  
11 exclusions from the Section 232 tariffs on steel and  
12 aluminum at Commerce?

13 MR. LEVY: This is Jack Levy with Whirlpool. I  
14 don't think that Whirlpool has requested any exclusions in  
15 connect with 232. I think there are some exclusions pending  
16 for certain components in connect with Section 301, and we  
17 can provide more detail on that post-hearing.

18 CHAIRMAN JOHANSON: Okay, that'd be useful. I  
19 look forward to seeing that, if you do indeed provide that.  
20 That concludes my questions. I appreciate you all being  
21 here today. Commissioner Williamson?

22 COMMISSIONER WILLIAMSON: Okay. Just a couple  
23 quick questions. And addressing the question of the dryers,  
24 can you also address the question of, where's the matching  
25 of the dryer and the washer price? Is that something the

1 retailer does? That's something the wholesaler does?  
2 Manufacturing? And who's sort of capturing the benefit of  
3 that?

4 MR. TUBMAN: So, as we compete at wholesale and  
5 go to have buyer discussions, you have washer pricing  
6 discussions, you have dryer pricing discussions. Those are,  
7 I think Jack mentioned it, others have thought that the  
8 electric is always the same price as the washer, that is not  
9 the case. We shared that in the China case, in the  
10 safeguard case. We shared that data to show that that was  
11 truly not the case. At retail, there are many retailers who  
12 then match the two and make them the same retail price for  
13 the consumer. But again, that's done separately of where we  
14 compete at wholesale.

15 COMMISSIONER WILLIAMSON: Okay. So you would  
16 say this is primarily a retailer phenomenon?

17 MR. TUBMAN: That's correct.

18 COMMISSIONER WILLIAMSON: And they're the ones  
19 benefiting, I assume?

20 MR. TUBMAN: Again, I think, what I would answer  
21 is, we have had cost increases, and we have taken cost-based  
22 price increases to help cover that. So, again, for sure,  
23 there are retailers out there that have benefited.

24 COMMISSIONER WILLIAMSON: Okay. And they do it  
25 both for Whirlpool, LG and Samsung?

1           MR. TUBMAN: While I can't answer for others, I'm  
2           sure it is very similar.

3           COMMISSIONER WILLIAMSON: Okay, thank you. Just  
4           one quick question, 'cuz I'm fascinated -- I think the first  
5           time we've ever had a Vice President for Integrated Supply  
6           Chain testify. And you mentioned the question of the  
7           inbound freight costs. And I was just -- and you talk about  
8           being significant. Is that just for the ocean freight or is  
9           it rail? We haven't really -- it's been a while since we've  
10          heard about freight costs being a big factor in something.

11          MR. KEPPER: Again, it's Jim Keppler. So as we  
12          bring, you know, whether it's steel or components into our  
13          factory to build our washers, we use different modes of  
14          transportation and, really, across the board, you know, if  
15          it's over-the-road, we've seen, there's a pretty well-known  
16          driver shortage right now, that's capacity crunch that has  
17          driven rates up. There's been some ocean freight  
18          consolidation, which has driven prices up, so we probably,  
19          over the last twenty-four month period, have seen more  
20          inflation in the inbound freight space than maybe at any  
21          time during my, you know, twenty-nine year career. So it's  
22          substantial to us.

23          COMMISSIONER WILLIAMSON: Okay. Is failure to  
24          have an infrastructure program contributing to this in any  
25          way?

1 MR. KEPPLER: I'm sorry? Can you repeat that?

2 COMMISSIONER WILLIAMSON: Failure to have a  
3 national infrastructure development program contributing to  
4 this in any way?

5 MR. KEPPLER: Yeah, I don't know if my opinion on  
6 that is appropriate here, so I'm not gonna comment on that.

7 COMMISSIONER WILLIAMSON: We'll talk about it  
8 later than.

9 MR. KEPPLER: Okay.

10 COMMISSIONER WILLIAMSON: Okay. What about --  
11 you talked about all the suppliers in the U.S. that -- and I  
12 was wondering, are there other benefits that come from, you  
13 know, 'cuz I know in services we often talk about  
14 "headquarters" effects, and I was just curious whether or  
15 not, in terms of the fact that the domestic industry's doing  
16 better, what other additional benefits that might have?

17 MR. KEPPLER: Again, it's Jim Keppler. I think  
18 if you would talk to any of our suppliers here in the U.S.  
19 that support the Clyde operations, they're gonna tell you  
20 that they're seeing benefits as well. Prior to the fact  
21 that 90%, over 90% of the inputs into those washers are  
22 sourced here locally, many in the State of Ohio in small  
23 communities. So, yeah, I think there is--I think Jack  
24 alluded to it earlier--there's a multiplying effect with  
25 these indirect jobs that sometimes is underestimated in

1 these studies.

2 COMMISSIONER WILLIAMSON: Okay, thank you. I  
3 recently spent a weekend in Ohio driving around a lot, so I  
4 was curious about that. Anyway, I have no further  
5 questions, so thank you for the testimony.

6 CHAIRMAN JOHANSON: Commissioner Broadbent?

7 COMMISSIONER BROADBENT: Yeah, I just had a  
8 couple more. Mr. Tubman, are there any other major global  
9 producers of large residential washers that have made  
10 efforts to gain access to the U.S. market other than  
11 Whirlpool, Haier, LG, Samsung, Electrolux and Alliance?  
12 Those are the six I know of.

13 MR. TUBMAN: You're tasking my memory now of all  
14 the folks that are in the market. Off the top of my head, I  
15 think you named the major ones. Not to say that there  
16 couldn't be others or aren't others. But I think from a  
17 majority standpoint, you've covered them.

18 COMMISSIONER BROADBENT: Okay. Good. And then,  
19 just one other for Mr. Levy. Looking at the financial data,  
20 Mr. Levy, it is apparent that several producers have had  
21 specific financial idiosyncrasies that have skewed their  
22 financial trends over the period. Does this suggest that we  
23 should be assessing profitability of the industry on a  
24 firm-by-firm basis in addition to analyzing the industry as  
25 a whole?

1           MR. LEVY: So we'll do our best to speak to that  
2 post-hearing. The idiosyncrasies are specific individual  
3 companies, so thank you for the question.

4           COMMISSIONER BROADBENT: Say that again? What?

5           MR. LEVY: We'll address that post-hearing,  
6 Commissioner. Obviously, the idiosyncrasies are specific to  
7 the circumstances of individual companies and so we'll speak  
8 to each of those individually post-hearing.

9           COMMISSIONER BROADBENT: Right, but you're in  
10 agreement that we should be looking individually?

11          MR. LEVY: We're certainly of the view that you  
12 should be looking at the experience of the Legacy domestic  
13 producers as distinct from the new entrants. And that's  
14 something that the staff does in the prehearing report as  
15 well.

16          COMMISSIONER BROADBENT: Okay. Thank you. I  
17 wanna thank the witnesses for coming. Appreciate your  
18 contribution.

19          CHAIRMAN JOHANSON: Do any other Commissioners  
20 have questions? No other Commissioners have questions. Do  
21 staff have any questions for the panel?

22          MR. CORKRAN: Douglas Corkran, Office of  
23 Investigations. Staff have no questions.

24          CHAIRMAN JOHANSON: Do respondents have any  
25 questions for this panel? Respondents have no questions.

1 All right. We will now break for lunch. Let's come back at  
2 1:30, and I would like to remind everyone that the room is  
3 not secure, so if you have any business confidential  
4 information, be sure to take it with you. So we are  
5 recessed until 1:30.

6 (Whereupon a lunch recess was taken to reconvene  
7 this same day at 1:30 p.m.)

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1           Commissioners, word matters. To use this term  
2 repeatedly is defamatory and cannot be left unaddressed.  
3 Along the same line, the repeated statements that LG's  
4 washer imports from Thailand, Vietnam are sold in the U.S.  
5 market at dumped prices are also false. Injurious dumping  
6 also has a specific legal definition and neither the  
7 Commerce Department nor this Commission has ever concluded  
8 that LG's washer imports from Vietnam and Thailand were  
9 guilty of dumping. And now I ask my colleague, Jim Durling,  
10 to address the Federal Reserve of Chicago study.

11           MR. DURLING: Thank you. Jim Durling for the  
12 record. In the interest of full disclosure, although I did  
13 not graduate from the University of Chicago, my oldest  
14 daughter did a few years ago, so that is my affiliated  
15 connection. And I also would take some issue with the fact  
16 that there's a reference to the Chicago boys because in  
17 fact, there are many talented women economists at the  
18 University of Chicago as well.

19           More specifically, I do take issue with several  
20 points about the characterization of the Chicago study.  
21 First, it was not a two-person study, it was a three-person  
22 study. And the missing author was an economist at the  
23 Federal Reserve who contributed his insight to the study.

24           Second, the study did not rely on rejected  
25 theories. The study relied on product life cycles, things

1 when they're new and impressive on the market have a higher  
2 price than at the very end of their life cycle. That is not  
3 a disputed theory. Features matter. For consumer  
4 appliances, features matter. That is not a disputed or  
5 rejected theory.

6 But most fundamentally, other factors matter. I  
7 mean the whole essence of the Chicago study is to try and  
8 carefully and systematically look at the role of different  
9 factors and control for them, to isolate the one central  
10 question which was, "What was the impact of the tariffs on  
11 the prices of washing machines?" controlling for all of  
12 these other factors.

13 What the Chicago study and--or we'll call it the  
14 Chicago study--what the Chicago study had the benefit of, is  
15 they had more time than the Commission normally has to do  
16 its analysis. And they had access to a more robust set of  
17 statistical techniques than the Commission normally uses.  
18 But that's not a reason to reject it. That's a reason to  
19 embrace it as important probative evidence for this  
20 proceeding.

21 There was no mind-meld with LG. LG had  
22 absolutely nothing to do with the study. As was being  
23 prepared, we were as surprised as anyone else when it popped  
24 into the public arena and we started reading about it in  
25 various newspaper articles. The mind-meld was not with LG.

1 The mind-meld was with all prior academic study of consumer  
2 appliances, drawing on what those studies had learned about  
3 how to think about these products and drawing on kind of  
4 state-of-the-art econometric techniques for, how do you  
5 control for all the different things going on at the same  
6 time? That's what they were doing.

7 At the end of the day, when you're weighing the  
8 competing accounts of what's happening in the market, as  
9 between the views of interested parties and litigation  
10 before the Commission, versus a very well done, careful  
11 academic study with authors who care far more about their  
12 reputation, their professional reputation, with their  
13 colleagues than the outcome of any particular agency  
14 proceeding before the Commission, I think the Chicago study  
15 deserves to be given quite a bit of weight. We'll come back  
16 to at various points in our prepared testimony, but we  
17 wanted to get that defense of the study out at the  
18 beginning. And with that, John Toohey will kick off the  
19 prepared testimony.

20 STATEMENT OF JOHN TOOHEY

21 MR. TOOHEY: Mr. Commissioner, members of the  
22 Commission, it's good to see you again. I'm John Toohey,  
23 Senior Director of Strategy for LG Electronics, USA, and  
24 alumnus of the Graduate School of Business at the University  
25 of Chicago. This is my tenth year at LG, and during that

1 time I have played a role in developing LG's strategy for  
2 the U.S. Home Appliance market.

3 I will immediately jump to answering the question  
4 that you must be asking, "What the heck are we doing here?  
5 Now that LGEUS has a state-of-the-art U.S. LRW production  
6 factory in Clarksville, Tennessee, why do we still care  
7 about import trade proceedings?"

8 There are two reasons: First, Whirlpool's  
9 descriptions and characterizations of the current  
10 competitive dynamics of the U.S. washer market are just  
11 wrong and we feel an obligation to set the record straight.

12 Second, and importantly, although our new  
13 state-of-the-art U.S. production factory will be able to  
14 supply the overwhelming majority of the washers that we need  
15 to satisfy our customers' demands, they will not be able to  
16 produce all of them. Even after our U.S. factory is  
17 producing at 100% of capacity, which is expected to be  
18 achieved later this year, we will still need to import  
19 certain, higher-priced and higher-featured washers,  
20 primarily from Korea. Although the quantities of these  
21 imported washers will not be much at all, they remain an  
22 important part of our overall product portfolio.

23 A glance at Consumer Reports' recent listing of  
24 top washers, shows several of LG's higher-priced,  
25 higher-featured models received top marks. These models

1 will not be produced in Tennessee, but they play a critical  
2 strategic role in showcasing LG's full capabilities, and  
3 adding luster to our brand among consumers and retailers,  
4 luster that drives demand for our entire portfolio,  
5 including the bread and butter models that will be produced  
6 in Tennessee.

7 Any difficulty in confirming supply of these  
8 higher-priced, higher-featured models will negatively affect  
9 retailers' desire to offer them adequate floor spacing.  
10 Therefore, any difficulty in supplying these higher-priced,  
11 higher-featured washers can diminish our overall position in  
12 the market and might also act to affect our production in  
13 Clarksville.

14 And so, this is why we're here. We strongly  
15 believe there is no longer any need for import restrictions  
16 on washers. It is time to allow all U.S. producers to  
17 compete vigorously in the market without government  
18 interference.

19 The first issue I would like to address is market  
20 trends for washers and how pricing has been affecting  
21 demand. After reviewing the briefs and the Commission  
22 prehearing report, it seems that on many points the parties  
23 agree. On some other points, however, the parties disagree.

24 Everyone seems to agree that demand for washers  
25 was down in 2018. Our prehearing brief discussed the AHAM

1 data that we in the industry use to follow market trends.  
2 That data show that demand for both washers and dryers  
3 dropped in 2018, particularly compared to other appliances  
4 tracked by AHAM, which show some modest growth. The public  
5 prehearing report also notes that most parties reported  
6 declining demand for washers during the monitoring period.

7           Everyone also seems to agree that prices for  
8 washers were up in 2018. Again, our prehearing brief  
9 discussed the average unit values reported by AHAM. This  
10 AHAM data on wholesale prices is consistent with what we  
11 have seen of retail prices, and is generally consistent with  
12 LG's own experience with wholesale pricing. Here is where  
13 the parties begin to diverge. LG believes that the higher  
14 prices for washers and the lower demand are linked.

15           My experience in the business world has largely  
16 confirmed that truism from Econ 101 in college, when the  
17 price of a good goes up, the demand for that good goes down,  
18 all other factors held constant. That is why demand curves  
19 slope downward -- higher prices mean lower demand.  
20 Whirlpool seems to disagree that the increase in the price  
21 of washers contributed to the decrease in demand, arguing  
22 that demand went down for reasons other than the higher  
23 price. I think the LG version of what is happening in the  
24 market is more accurate. Let me explain why.

25           First, even if other factors also play some role,

1 higher prices definitely contribute to the reduction in  
2 demand.

3 Most of the market for washers is the replacement  
4 market. When a washer stops working, consumers face a  
5 choice of either repairing or replacing it. But here is the  
6 key dynamic -- when prices are high, when consumers  
7 experience "sticker shock", they are more likely to repair  
8 than replace that broken washer. Some consumers will accept  
9 a new washer with fewer features than their current unit,  
10 but most consumers would look to get a new washer with  
11 comparable or better features than the one they currently  
12 own.

13 However, if they don't like the price of the new  
14 comparably-featured washer, they might decide to repair the  
15 broken washer rather than buy a more-basic new washer. This  
16 dynamic is especially true if the consumer wants the washer  
17 to match the dryer. Buying a lower-priced white washer to  
18 put next to a color dryer would not be an attractive option  
19 to many consumers. One can dispute the amount of these  
20 effects, but the direction is clear. Higher prices hurt  
21 consumer demand for washers.

22 Second, Whirlpool's argument about price  
23 elasticities does not make sense to me.

24 Even if washer demand does not react to price  
25 changes as much as some other products, there is still some

1 effect. Moreover, the demand and price trends for washers  
2 actually match up pretty well. Most of the U.S. market is  
3 top-load washers. According to AHAM, the wholesale prices  
4 for top-loaders went up about 14%. The consumer price index  
5 for laundry, including both washers and dryers, was up about  
6 13%, so the wholesale and retail prices are telling the same  
7 story. If the price elasticity is the low end of the  
8 Commission range, -0.3%, that means a 13% increase in retail  
9 price will drive down consumer demand by 3.9%. This is  
10 quite consistent with the AHAM data that we saw earlier  
11 showing a 3.4% decline in washer demand.

12 Essentially, LG believes that Whirlpool's  
13 aggressive price strategy contributed to weakening demand.

14 That concludes my statement. Thank you for your  
15 time, and I look forward to answering your questions.

16 STATEMENT OF THEODORE MYERS

17 MR. MYERS: Good afternoon. My name's Ted Myers  
18 and I'm the Strategic Planning Manager for the Innovation  
19 Team in LG's Clarksville, Tennessee manufacturing facility.  
20 Chairman Johanson and members of the Commission, it's good  
21 to see you again.

22 I wanna begin by expressing LG's deep  
23 appreciation to Commissioner Kearns for leading a delegation  
24 to visit our Clarksville production factory last month. We  
25 were truly honored to have you there and we got to share

1 this phenomenal factory with you, so thank you very much,  
2 Commissioner Kearns.

3 Today I wanna provide a update on our  
4 Clarksville, Tennessee factory so that you have a clear  
5 understanding about the newest U.S. producer of large  
6 residential washers. I apologize in advance if some of my  
7 statements and slides appear similar to those I presented  
8 when I was here last February. However, I understand from  
9 counsel that, although you may remember what I said and  
10 presented last February, I need to reiterate the key points  
11 again so that they are part of the evidentiary record of  
12 this separate legal proceeding.

13 I want to start by dispelling an impression that  
14 Whirlpool tried to convey in its June 17th hearing brief.  
15 Whirlpool argues that continuation of the safeguard import  
16 restrictions is necessary in order to ensure that LG would  
17 complete its investment in our new Clarksville production  
18 factory and that, even when completed, our Clarksville  
19 production factory is a temporary endeavor.

20 Indeed, nothing could be further from the truth.  
21 Moreover, the impression that there's still a lot to do is  
22 factually incorrect. The slide on the screen provides key  
23 facts about LG's U.S. production factory. In particular,  
24 please note the following:

25 All of the \$360 million investment has already

1       been spent, every single dollar. All five buildings of our  
2       campus, including the main production and four supporting  
3       buildings, have already been built. All of the production  
4       machinery for all the different production operations has  
5       already been acquired and installed. And as of this month,  
6       all of the 600 new jobs have already been filled, and we  
7       plan on continue hiring.

8                   Commissioner Johanson and members of the  
9       Commission, we do not need any extra incentive to complete  
10      our production factory because it's already done. We  
11      started commercial production in November of 2018 and  
12      undertook our first shipment to our customers in January,  
13      2019. And we have steadily progressed in our ramp-up since  
14      then. And I'm happy to report that, as of the end of June,  
15      we will be very close to the production timetable adopted at  
16      the beginning of our fiscal year.

17                   Now, let's take a closer look at our U.S.  
18      production facility. I'd like to go into a little bit more  
19      detail to show you the type of manufacturing already being  
20      done in Clarksville. The metal fabrication presses and  
21      injection molding operations start with the most basic of  
22      raw material, steel coil and palletized polymers and then  
23      transform them into parts that come together to make a  
24      washer in other parts of the facility.

25                   Each injection molding station represents

1 millions of dollars of investment. As you can see, the  
2 factory layout for this area was specifically designed so  
3 that the hoppers are positioned for efficient delivery of  
4 the resin pellets to the injection mold machines.

5 I'd like to point out that both the press and  
6 injection areas required specific structural design such as  
7 pits, dampening technologies and special concrete  
8 reinforcement to accommodate the forces and facilities  
9 required by these areas, making them very difficult to be  
10 repurposed for any reason other than to make washing  
11 machines.

12 These pictures show only a fraction of the  
13 extensive sub-assembly operations at the Tennessee plant.  
14 For our Tennessee washer factory, LG decided to establish  
15 in-house fabrication of a number of parts that are typically  
16 purchased from outside suppliers at other LG plants in other  
17 parts of the world. In Tennessee, these and other parts are  
18 assembled into inner drums, drum tub assemblies, cabinet  
19 covers, control panels and cabinet bases.

20 Powder coating is used to finish metal components  
21 of the washers that will be visible to the customer. This  
22 painting process uses a powder that's applied  
23 electrostatically and then cured in a heated oven. It  
24 creates a rich outer coat that is more durable than  
25 conventional paint.

1           In addition to powder coating, we also have  
2 liquid painting capabilities. Liquid painting is used  
3 primarily for finishing our plastic injection parts. The  
4 equipment and facilities used in both power coat and liquid  
5 painting is unique within LG to our Clarksville facility.

6           The next slide shows the front-load washer main  
7 assembly line. While the following slide shows our top-load  
8 main assembly line. When we reach full production  
9 capability later this year, we will be able to produce 1.2  
10 million washers per year.

11           Finally, as shown in the next slide, I note that  
12 we are only one of two LG washing machine factories in the  
13 world that produces extruded polystyrene in support of  
14 providing our own packaging materials and processes. As LG  
15 Tennessee's innovation manager, I'm delighted that LG has  
16 finally realized its long-term goal of establishing a  
17 permanent production facility in the United States.

18           Why? Because of the synergies that are created  
19 when you produce close to market. It's a well-established  
20 fact in consumer goods industries that product development  
21 and innovation is improved when production is located close  
22 to the markets they serve. Our employees actually use the  
23 U.S.-designed products that they are helping to make.

24           We fully expect that they will come up with ideas  
25 on how to make our washing machines better and implement

1 those ideas much faster and perhaps better than would be the  
2 case if the washers were being produced in factories  
3 overseas.

4 We also will be able to respond to the market  
5 much more quickly. As you know, the market for consumer  
6 goods can be fickle at times. Several years ago, LG  
7 produced washers and dryers in the color red and that move  
8 turned out to be extremely popular with consumers. Having  
9 local production will allow us to adjust to changing  
10 consumer tastes and demands much more quickly.

11 I'd like to conclude my affirmative statement by  
12 reiterating what I said back in February. I personally have  
13 moved myself and my family to Clarksville from outside of  
14 Chicago this past year at great personal pain and sacrifice.  
15 Anyone who has asked two teenagers to uproot their lives and  
16 move hundreds of miles to a new town can understand that  
17 this was a difficult decision for me. I'd not have done it  
18 if I had expected the LG plant in Clarksville, Tennessee to  
19 be a temporary venture. I did this because I truly believe  
20 then and still believe now that LG is fully committed to the  
21 permanent success of our new U.S. factory. I welcome your  
22 questions following the conclusion of our panel  
23 presentation.

24 STATEMENT OF DANIEL KLETT

25 MR. KLETT: Good afternoon. I am Dan Klett with

1 Capital Trade, testifying on behalf of LG. I will discuss  
2 three issues: First, improvements in the observed and  
3 expected condition of the U.S. washer industry since the TRQ  
4 was imposed in 2018, as compared to the Commission Staff's  
5 economic modeling forecasts of the expected effects.  
6 Second, why the benefits to Whirlpool's dryer operations due  
7 to the price effects of the TRQ remedy are relevant for this  
8 midterm review. And third, apparent calculation errors in  
9 the Commission's original quota calculation of 1.2 million.

10 On the first issue, Whirlpool also provided a  
11 comparison between the ITC's economic modeling forecasts and  
12 observed changes. However, as shown my first slide, there  
13 are two key differences in our approaches. First, Whirlpool  
14 focuses on changes between 2017 and Year 1 of the remedy  
15 period, roughly corresponding to calendar 2018. Our focus  
16 is on changes between 2017 and Years 2 and 3, or 2019 and  
17 2020. Second, Whirlpool included changes in the  
18 performance of only the Legacy producers in Table 2 and  
19 Attachment 2 of its prehearing brief.

20 However, LG and Samsung now produce washers in  
21 their new U.S. facilities, are part of the U.S. industry,  
22 and structural changes in the U.S. industry associated with  
23 this new U.S. investment cannot be ignored. Moreover, this  
24 interim review is prospective in the sense that the  
25 Commission may make recommendations to modify the current

1 TRQ remedy. Past is not prologue in this midterm review.  
2 Therefore, in this context, credible and reliable  
3 information on industry adjustments that will continue in  
4 2019 and 2020 with the new LG and Samsung plants must be  
5 considered.

6 The next slide shows that imports covered by the  
7 TRQ fall in both absolute and relative terms from 2017  
8 through 2019 by more than forecast in the Commission's  
9 economic modeling forecast. The actual BPI data in this and  
10 the following slide are in Exhibits 5 and 6 of LG's  
11 prehearing brief. I note that Whirlpool incorrectly focuses  
12 on imports into the market rather than importers' U.S.  
13 shipments to the market. Of course, with the quota being  
14 global in nature rather than allocated, and tariffs jumping  
15 to 45% for any above-quota volume, it is obvious that  
16 exporters will accelerate their shipments to the U.S. market  
17 early in the quota period, to be metered into the U.S.  
18 market from inventory over the remaining quota period.  
19 There is nothing nefarious about this.

20 The fact remains that covered imports currently  
21 are restricted to 1.2 million at an 18% duty and at 45%  
22 above this volume. Total imports during January-March of  
23 2019 in Table III-19 of the Staff Report, and arranged for  
24 importation for the remainder of 2019 at Table III-24 total  
25 about 1.2 million. Question II-16 of the importer

1 questionnaire show minimal above-quota import volumes of  
2 covered washers. In fact, Table II-7 of the Staff Report  
3 shows the U.S. industry gaining market share in both 2018  
4 and in January-March, 2019, and covered imports losing  
5 share. U.S. producers would have gained a few more  
6 percentage points of share, but for the increase in  
7 non-covered front-load belt-drive imports.

8           The next slide shows the trade and financial  
9 metrics for the U.S. industry as a whole. For 2017 through  
10 2019, U.S. shipment volume increases by more than predicted  
11 by the Commission's economic modeling for Year 2. U.S.  
12 producers' shipment volume and market shares increase by  
13 more than predicted by the Commission's model. And U.S.  
14 producers' prices and profit margins increase by more than  
15 predicted by the Commission's model.

16           While the Commission collected data through only  
17 the first quarter of 2019, the 2019 predictions above use  
18 questionnaire data for production or shipment forecasts for  
19 2019 and 2020, by both Legacy and the U.S. producers.  
20 Pricing forecasts are based on average unit value changes  
21 from 2017 to the first quarter of 2019 collected from  
22 questionnaires.

23           As shown in the next slide, there is wide  
24 consensus from different sources on the overall price effect  
25 of the Escape Clause TRQ on LRW prices -- that is, an

1 increase of at least 10% at wholesale from 2017 to 2019, and  
2 generally larger increases at retail. And by the way, the  
3 reference, NBER is the same as the Chicago study. The three  
4 economists that were referenced earlier. The study was a  
5 working paper under the offices of the NBER. So it's the  
6 same study.

7 For the reasons that will be discussed by Mr.  
8 Anderson, the Commission cannot rely on its quarterly  
9 pricing data to evaluate price effects of the TRQ. And  
10 while the Commission's modeling did not forecast employment,  
11 Exhibit 5 in LG's prehearing brief shows a 41% increase in  
12 the number of U.S. production workers from 2017 to 2020,  
13 primarily associated with the new LG and Samsung plants.

14 These comparisons show that the U.S. industry's  
15 adjustment is exceeding that forecast by the Commission's  
16 economic modeling. I recognize that this is in large part  
17 the result of structural changes in the industry that will  
18 occur in 2019 with new U.S. production by LG and Samsung.  
19 The Commission's economic modeling relied on 2016 data as  
20 its base, which included only Legacy producers. But the  
21 issue is whether there have been structural changes in the  
22 U.S. industry that require continued import restrictions,  
23 not a subset of the U.S. industry. If structural changes  
24 have made the industry competitive with imports, regardless  
25 of why, then import restrictions are no longer necessary.

1           These comparisons for washers also significantly  
2           understate the financial benefit to Whirlpool of the Escape  
3           Clause TRQ, as they do not include the revenue and financial  
4           windfall associated with almost identical price increases  
5           for their matching dryer sales. There is no factual  
6           question that Whirlpool's prices for its dryers increased as  
7           a result of the TRQ on washers.

8           The next slide shows market-wide wholesale  
9           average price data from AHAM for washers and dryers. Prices  
10          increased by almost identical amounts relative from 2017  
11          through April, 2019, and have moved closely together over  
12          time, as reflected in a high correlation coefficient.

13          And I think this slide also rebuts two points  
14          made by petitioners this morning. One is that their price  
15          increases are purely cost-driven, the ability to pass  
16          through costs. You can see right after the TRQ was imposed,  
17          the prices spiked. So I think there is an exogenous price  
18          effect with TRQ and not just the ability of Whirlpool to  
19          pass through costs increases.

20          And second, I think there may have been a  
21          misimpression this morning, or perhaps a misperception that  
22          the benefits of higher dryer prices are just, with respect  
23          to retail prices, this AHAM AUVs, these are wholesale  
24          prices, so clearly the benefits went to prices at wholesale,  
25          including wholesale prices by U.S. producers.

1                   The next slide summarizes findings in a recent  
2 NBER study outside this proceeding based on a review of  
3 retail price data for washers and dryers. These  
4 relationships are relevant to the Commission's evaluation of  
5 how the Escape Clause TRQ has impacted the U.S. industry for  
6 at least two reasons: First, unlike the injury-phase  
7 investigation, this phase contemplates a consideration of  
8 changed circumstances in the industry more broadly  
9 associated with adjustment. The collateral benefit from  
10 increasing prices, revenues and profits from dryer sales  
11 clearly associated with the TRQ must be considered in this  
12 context.

13                   Second, Whirlpool asserts that LG and Samsung  
14 absorbed the 20% in-quota duty, and therefore that the TRQ  
15 "was of limited utility in restoring LRW prices to  
16 non-injurious levels." As shown in the next slide, the  
17 average wholesale market price for washers and dryers each  
18 increased by 10% to 11% and U.S. producers experienced about  
19 this same relative average price increase.

20                   As shown in the next slide, the NBER study found  
21 that it was plausible that firms split the benefits of the  
22 in-quota TRQ tariffs between price increases for washers and  
23 dryers. That is, the combined price increases for washers  
24 and dryers effectively represent a full-pass through of the  
25 tariff in terms of the total price and revenue impact for

1 U.S. producers.

2 My final comment relates to an important  
3 technical issue. All indications are that there was an  
4 inadvertent calculation mistake in establishing the TRQ  
5 amount during the original safeguard investigation. And so,  
6 LG asks that this inadvertent calculation mistake be  
7 corrected.

8 Specifically, I reviewed the methodology given by  
9 the Commission for how it determined the 1.2 million base  
10 quota, replicated in my last slide. That is the average of  
11 imports during 2012 to 2014, excluding Korea and Mexico, and  
12 increasing by U.S. apparent consumption growth. Applying  
13 this method to the data in referenced Tables II-1 and C-2, I  
14 arrive at a much higher based-quota level of 1.7 million. I  
15 have tried other variations, but could come nowhere near the  
16 1.2 million base quota. Moreover, because the Commission  
17 left out Korea and Mexico in its quota calculation, but the  
18 President included Korea and Mexico in the implemented TRQ,  
19 the base quota should be increased for this reason as well.

20 The stated purpose of the Commission's  
21 recommended remedy was in part to remedy the effect of the  
22 increase in subject LRW import volume with respect to its  
23 contribution to the substantial injury found by the  
24 Commission. This was based on an implicit finding that the  
25 average import volume during 2014 to 2016 was not injurious,

1 but that the increase in import volume since that period  
2 caused substantial injury to the domestic industry. To the  
3 extent the recommended quota associated with the TRQ remedy  
4 is lower than the average import volume during 2014 to 2016,  
5 the remedy is by definition overly restrictive. The  
6 Commission should recommend to the President that this  
7 inadvertent calculation mistake be corrected and that the  
8 TRQ amount be increased.

9 Thank you. I look forward to your questions.

10 STATEMENT OF JAMES DURLING

11 MR. DURLING: Good afternoon. I'm James  
12 Durling of the law firm of Curtis Mallet-Prevost, testifying  
13 today on behalf of LG. I will address the Korea exclusion  
14 arguments. The washer imports from Korea are fundamentally  
15 different than other import sources, and should not be  
16 included within any safeguard remedies. Indeed, the  
17 Commission has twice agreed with this basic point.

18 In the original safeguard proceedings, the  
19 Commission recommended that imports from Korea be excluded  
20 from any remedy, and more recently in the sunset review of  
21 washers from Korea and Mexico, the Commission agreed that  
22 future imports from Korea would not be injurious if the  
23 anti-dumping order against Korea were terminated.

24 We acknowledge that in each of these findings,  
25 the Commission took note of the existing regulatory

1 measures. The recommendation of the safeguard proceeding  
2 noted the existing anti-dumping order on Korea, and the  
3 determination of the sunset proceeding noted the existing  
4 safeguard restrictions. But in both of these findings, the  
5 Commission relied on numerous other facts.

6           The slide highlights some of the more  
7 important factors the Commission noted and relied upon in  
8 each of these proceedings. The Commission noted declining  
9 production capacity in Korea, declining shipments from  
10 Korea, the rising prices of imported washers from Korea and  
11 the importance of imports from other countries that were  
12 more injurious on the market. Beyond these traditional  
13 factors related to the price, volume and impact of imports,  
14 the Commission stressed in both its prior determinations the  
15 importance of the new LG and Samsung factories, and how  
16 these factories fundamentally changed the incentives facing  
17 LG and Samsung regarding any future shipments to the U.S.  
18 from Korea.

19           Samsung has no incentive to restart washer  
20 production in Korea that is ended, and LG, as you've heard,  
21 has no incentive to ship from Korea to disadvantage the new  
22 LG factory in Tennessee in any way. Contrary, LG's plan is  
23 to continue doing what it has been doing, focusing Korean  
24 production on smaller volume, higher-priced models,  
25 particularly newer generation models that are not yet needed

1 in larger volumes.

2 We documented this shift in Korean production  
3 in the recent sunset case, and submitted similar  
4 documentation in a prehearing brief in this mid-term review.  
5 We also documented the very limited overlap with legacy  
6 producers in those product segments where LG has been  
7 importing from Korea high-priced, large capacity models.

8 This overlap is particularly small in the  
9 topload segment, the market segment representing the bulk of  
10 the U.S. market. A vast majority of sales by U.S. legacy  
11 producers occur in those market segments that have little to  
12 no competitive interaction with these high-priced Korean  
13 imports. Given these prior findings and these facts, what  
14 should the Commission do about this issue in its mid-term  
15 report?

16 As you will hear after me or shortly in our  
17 presentation, we believe that the Commission has the  
18 authority to make recommendations in its mid-term review.  
19 But even if the Commission does not believe it has authority  
20 to make an explicit recommendation to the President, we  
21 believe that the report, pursuant to 19 U.S.C. 2254(a),  
22 should be structured to report on how the domestic industry  
23 is adapting to different types of import competition.

24 Not all import competition is the same. The  
25 statute refers to import competition, not just to imports,

1 and by doing so the statutory language acknowledges that not  
2 all imports are going to have the same competitive impact.  
3 Import competition from Korea has a very different  
4 character. That character should be reflected in the  
5 report, and not buried as part of a general discussion of  
6 all imports without any distinction.

7 By discussing this issue about the different  
8 nature of import competition from Korea as compared to other  
9 import sources, the Commission will better serve the  
10 President in his review of what steps and changes might be  
11 necessary as part of this mid-term review. Finally, I note  
12 the relationship among the various suggestions that LG is  
13 making. LG's suggestions fit together. The current remedy  
14 excludes belt drive washers that actually do compete in the  
15 key segments supplied by legacy producers.

16 You heard this morning the admission that  
17 these belt drive washers do in fact compete in the market.  
18 But paradoxically, the current remedy includes washers from  
19 Korea that do not compete in these key segments. LG thinks  
20 this treatment should be reversed. Include the belt drive  
21 washers that do compete and exclude the washers from Korea  
22 that do not compete.

23 You will now hear about these belt drive  
24 washers from the next witness. Thank you.

25 STATEMENT OF CHARLES ANDERSON

1                   MR. ANDERSON: Good afternoon. I'm Chuck  
2 Anderson with Capital Trade. In the interest of full  
3 disclosure, I did go to the University of Chicago for two  
4 years, but I transferred out. So I think I'm probably only  
5 partially infected. I'd like to first address what we  
6 believe is a major gap in the current 201 coverage, namely  
7 the exclusion of certain belt drive washers.

8                   These exclusions didn't make any sense when  
9 the trade restraints were originally put in place, and they  
10 certainly don't make any sense now. Simply put, the  
11 decision to exclude certain belt drive washers has allowed  
12 imports from China and Mexico to undercut the effectiveness  
13 of the trade restraints. To fully grasp this point, let's  
14 review some of the basics of the competitive dynamics of  
15 large residential washers.

16                   At the highest level, the world of washers  
17 splits neatly into two types, top loaders and front loaders.  
18 While the popularity of front loaders has spiked a few years  
19 ago, they nevertheless remain an important part of the U.S.  
20 market. Producers competing for floor space must offer a  
21 complete product line, including a range of front load  
22 models of different features, capacity, appearances and  
23 price points.

24                   The core of the U.S. front load market is the  
25 4.5 cubic foot segment. All of the major players,

1 Whirlpool, Samsung, Haier GE, LG and Electrolux offer  
2 multiple models with this capacity. The 4.5 cubic foot  
3 segment is the volume leader. It's a step up from the entry  
4 level models that are smaller, and step down from the  
5 ultra-large and premium priced models of 4.8 cubic feet and  
6 higher.

7 E-Star closed current washer lists includes 54  
8 4.5 cubic foot models being offered today, and that's out of  
9 a total of 88 front load washers of 27 inches and above. So  
10 it's clear it's the dominant part of the front load market.  
11 In the original Chinese anti-dumping case, Whirlpool  
12 ostensibly excluded these belt drive front loaders on the  
13 grounds that the washers in the market being made with this  
14 technology were unattractive to consumers, and that the  
15 technology was dated. Of course we now know from the  
16 sunset review that there were other case-driven reasons for  
17 Whirlpool's exclusion.

18 But whatever the reason, the scope of the  
19 safeguard case simply mirrored that of the Chinese case,  
20 conveniently excluding Haier GE's belt drive front load  
21 imports from China, but also allowing Electrolux an  
22 opportunity to serve the U.S. market with its belt drive  
23 front loaders built in Mexico.

24 What has happened? As shown in my first  
25 slide, Chinese imports of these washers have skyrocketed,

1 and imports from Mexico have remained at commercially  
2 significant levels. Now that Haier owns GE, they can use  
3 their newly-acquired U.S. distribution network to maximize  
4 sales of their Chinese non-scoped imports.

5           Because of the prohibitive dumping duties on  
6 other LRWs from China, we believe that almost all of the  
7 imports in the trade data are Haier GE models of 4.5 cubic  
8 feet. As shown in the next slide, the only large front  
9 loaders being offered on the Haier GE U.S. appliance website  
10 currently are belt drive models.

11           We believe that Haier GE has made a corporate  
12 decision to produce little to no front loaders in the United  
13 States, and instead rely on China alone for virtually all of  
14 its front load offerings. For all practical purposes, since  
15 being acquired, GE has outsourced its U.S. frontload  
16 business to its Chinese owner. These GE models compete  
17 directly with the similarly-sized models of Whirlpool, LG  
18 and Samsung. For example, as shown in the third slide, the  
19 GE, LG and Whirlpool models look almost identical, offering  
20 similar buckets of features and selling at similar or the  
21 same price points.

22           They truly are interchangeable, even though  
23 the Whirlpool and LG models have direct drive and the GE  
24 models are belt-driven. A few years ago, as I recall, some  
25 or most producers and retailers would include drive type in

1 their printed and online specification sheets. Not so  
2 anymore. As shown in Slide 4 before you now, no one bothers  
3 to disclose drive type on their spec sheets, not Whirlpool  
4 or Haier, Samsung, LG or Electrolux, not Lowe's, not Home  
5 Depot, not Best Buy, not A.J. Madison or Sears.

6 When it comes to this market segment, LG,  
7 Samsung and Whirlpool have been hit with a double whammy  
8 under straight imports from China and Mexico. The latter  
9 are being produced by Electrolux at its factory in Juarez,  
10 Mexico. From Whirlpool's testimony as the recent sunset  
11 hearing, as well as this morning, and the briefs of Samsung  
12 and LG that are reprinted in Slides 5 and 6, the Commission  
13 has heard repeatedly that these imports compete directly  
14 with other producers' direct drive frontloaders.

15 Indeed, Slide 7 shows the remarkable  
16 similarities in design, features and price points between  
17 Electrolux's imports in their Whirlpool and LG equivalents.  
18 It appears that trade restraints motivated Electrolux to  
19 further develop belt drive technology. As Whirlpool  
20 testified in this room just a few months ago, Electrolux has  
21 managed to overcome the traditional belt drive  
22 disadvantages in noise, engine RPM and water efficiency. So  
23 technological obsolescence is no longer a reason to exclude  
24 these imports.

25 The next slide shows the magnitude of these

1 imports. This slide shows that non-scoped washers from  
2 China and Mexico have captured a very high portion of the  
3 total frontload market. No doubt they dominate the  
4 all-important 4.5 cubic foot segment. Without a solid  
5 presence in this segment, Whirlpool, after having invested  
6 millions in repatriating its frontload production to the  
7 United States, will have a difficult time sustaining its  
8 frontloads manufacturing operations.

9           Indeed, we believe that much of Whirlpool's  
10 claimed unused capacity in fact is their chronically  
11 underutilized frontload assembly line in Clyde. Going  
12 forward, these belt drive frontload imports represent a  
13 major threat to Whirlpool, as well as the nascent U.S.  
14 operations of Samsung and LG. If the Commission does not  
15 recommend the removal of all safeguard restraints, it  
16 should at least consider adjusting the scope to address the  
17 skyrocketing imports of these types of washers.

18           Now I'm going to switch gears completely and  
19 just say a few words about the quarterly pricing data. As a  
20 starting point, it's useful to review what these data  
21 normally are used for in trade remedy investigations. That  
22 is, to test for injury causation from imports through the  
23 analysis of their likely price effects in the market, as  
24 manifested in price declines, price suppression and lost  
25 sales and market share.

1                   In this proceeding for the U.S. LRW industry  
2                   as a whole, none of these price causation linkages exist.  
3                   Prices are up, profits are up, market share is up and would  
4                   be even higher but for the competition from non-covered  
5                   imports, namely those pesky belt drive front loaders from  
6                   Mexico and China. The results quite simply don't make  
7                   sense. I've worked on many Department of Commerce annual  
8                   reviews, as well as the original investigation involving  
9                   this product.

10                   I spent over 30 years doing dumping cases,  
11                   mainly on the Commerce front. I can safely say that I don't  
12                   know of any other product that has more complex and opaque  
13                   pricing. This stack of paper is one exhibit from one  
14                   Commerce Department anti-dumping verification covering the  
15                   rebates from one U.S. sales transaction. That's just one  
16                   sale, the rebates on one sale.

17                   Each and every sale can have as many as  
18                   several dozen price adjustment programs that apply to that  
19                   particular transaction. These incentive programs are  
20                   multi-layered with coverage as specific as one model or as  
21                   general as all appliances, with every possible product tier  
22                   and combination in between. They can change quarterly, they  
23                   can change monthly, they can change weekly or they can be  
24                   limited to specific seasonal campaigns like Black Friday or  
25                   Memorial Day.

1                   These rebates can go directly to the retail  
2 customer, their sales personnel, a buying group or the  
3 ultimate consumer, buyers like you and me in the form of  
4 mail-in rebates. Base pricing is also extremely complex.  
5 Prices do in fact change over the life cycle of a model,  
6 they could be adjusted upwards or downwards based on  
7 consumer acceptance or rejection of a particular feature,  
8 color or design.

9                   At any given time, there are multiple models  
10 being offered with inventory considerations also impacting  
11 pricing. All of this is a preference to what I think is an  
12 obvious point, that you simply cannot make meaningful  
13 conclusions on the impact of subject imports based on the  
14 quarterly pricing data. First, the Commission has only a  
15 few data points covering model baskets that were largely  
16 hand-woven by Whirlpool.

17                   On the one hand, as evident from Slide 9,  
18 these baskets can encompass a broad range of models. So  
19 there is a product mix issue even with the existing  
20 quarterly pricing data, a big product mix issue, and which  
21 you can see in Slide 10, can include a huge variety of  
22 features and combinations thereof.

23                   Notwithstanding how broad the product ranges  
24 are, the pricing data has limited coverage. The pricing  
25 product descriptions have been carefully engineered, leaving

1 huge chunks of the market such as top load agitators out of  
2 the analysis entirely. The wealth of alternative data  
3 available to the Commission calls into question the  
4 usability of the quarterly pricing comparisons.

5 The sources listed in Slide 11, the NBR  
6 Chicago study, the questionnaire responses and AHEM data all  
7 show that prices for scope washers have risen dramatically  
8 since the 201 restraints were imposed. Slide 12 is a  
9 reflection of the Whirlpool strategy, of responding to the  
10 President's decision to impose restraints by raising prices  
11 both on washers and dryers, but tellingly not on other  
12 appliances.

13 The apparent underselling derived from the  
14 limited pricing data is completely at odds with the repeated  
15 observations of large post-restraint price increases for  
16 washers in the U.S. market. One final piece of evidence  
17 that contradicts the apparent underselling is this? The  
18 overwhelming and repeated high ranking of LG washers by  
19 third parties such as Consumer Reports. When consumers like  
20 you and me decide which washer to buy and what we are  
21 willing to pay for it, we pay attention to these rankings.  
22 The results are buttressed by widespread awareness of LG and  
23 outgrowth of its perceived excellence in high tech markets  
24 such as cell phones and video displays.

25 LG and Samsung therefore can charge higher

1 retail prices for their products. I've worked with the LG  
2 U.S. personnel who are on the front line of selling washers,  
3 and I can tell you that they are well aware of their brand  
4 price advantages at the retail level of trade. They would  
5 be extremely foolish to forego that advantage by offering  
6 lower prices, allowing their retail customers to capture the  
7 brand premium.

8 To summarize, in assessing the impact of the  
9 201 duties on price, I would ask you to pay your closest  
10 attention to the more comprehensive aggregate data, and in  
11 assessing that impact don't forget to add in the portion of  
12 the price increase that the U.S. producers assign to their  
13 matching dryers. Even better, consider the NBER or Chicago  
14 study seriously. As Mr. Klett mentioned, it controls for a  
15 number of other factors that other data does not, including  
16 product life cycle, brand, features and consumer demand.

17 That independent study shows a complete  
18 pass-through of the tariffs. Thus, if in fact there is  
19 underselling post-imposition era, it could only be because  
20 of price gouging by legacy U.S. producers. The excellent  
21 aggregate data sources demonstrate conclusively that  
22 in-scope imports have not been suppressing or depressing  
23 prices. Quite the contrary.

24 When the combined washer/dryer price change is  
25 considered, it appears that the legacy U.S. producers have

1 chosen the path of quick profits over long-term market  
2 building, foregoing the addition of shifts, hiring of more  
3 workers or building factories, but instead opting for  
4 temporary profit maximization to the degree that consumer  
5 demand has been suppressed, importing from China, and  
6 finally funding stock buybacks and executive bonuses. That  
7 is not what the safeguard exception was intended for. Thank  
8 you, and I look forward to your questions.

9 STATEMENT OF GINA M. COLARUSSO

10 MS. COLARUSSO: Good afternoon. I'm Gina  
11 Colarusso with Curtis.

12 From this panel you have heard testimony  
13 regarding the current state of the domestic industry and the  
14 significant improvements made since the imposition of the  
15 safeguard measures on large residential washers.

16 Considering these facts, this panel is urging the  
17 Commission to advise the President about whether the  
18 safeguard measures are still necessary or to otherwise  
19 implement certain modifications. In anticipation of the  
20 Commission's question, I will address the statutory  
21 provisions that permit the Commission to provide  
22 recommendations and qualitative advice to the President in  
23 its mid-term report.

24 To be clear, it is not our position that that the  
25 Commission must provide recommendations to the President, or

1 that it is required to do so pursuant to its mid-term  
2 review, but rather it's our position that the Commission may  
3 and should exercise its discretion under the statute to do  
4 so.

5 Section 203(e) (2) of the Trade Act of 1974  
6 incorporates the United States' WTO obligation under Article  
7 5.1 of the Agreement on Safeguards which imposes a  
8 continuing obligation on member countries to apply safeguard  
9 measures only to extent necessary to prevent or remedy the  
10 serious injury.

11 Under Article 7.4 of the Safeguard Agreement,  
12 "(i)f the duration of the measure exceeds three years, the  
13 Member applying such measure shall review the situation not  
14 later than the mid-term of the measure and, if appropriate,  
15 withdraw it or increase the pace of liberalization."

16 Section 204 of the Trade Act incorporates Article 7.4 and  
17 provides the vehicle for carrying out the United States'  
18 continuing obligation through the monitoring of the  
19 safeguard measure.

20 In connection with this continuing obligation to  
21 monitor the measure, Section 204(b) of the Trade Act  
22 provides the President with the legal authority to reduce,  
23 modify, or terminate a measure that exceeds the amount  
24 necessary to prevent or remedy serious injury or allow for  
25 adjustment.

1           In accordance with this framework, the Commission  
2 must examine the safeguard measure in such a manner as to  
3 inform the President about these issues and provide the  
4 basis for his determination on whether to reduce, modify, or  
5 terminate the measure.

6           Thus, the Commission should examine not only the  
7 impact of the measures on the domestic industry in a purely  
8 descriptive sense, but should also provide additional  
9 normative information concerning whether continued relief is  
10 warranted. To do so, the Commission should provide more  
11 than just a recitation and summary of the factual  
12 information gathered during the mid-term investigation.

13           Indeed, the statute contemplates the Commission's  
14 discretion to provide its advice to the President in its  
15 mid-term report. This discretion is found in Section  
16 204(b) (1) (A) which provides that the President may reduce,  
17 modify, or terminate safeguard measures "after taking into  
18 account any report or advice submitted by the Commission  
19 under subsection (a) " The term "any" modifies both  
20 "report" and "advice". If any advice were to be limited to  
21 only that specifically requested under Section 204(a) (4),  
22 the statute would say so and not need to use the  
23 comprehensive adjective "any." The phrase "any report or  
24 advice" thus includes both any specific advice requested by  
25 the President and any advice the Commission might otherwise

1 provide in fulfilling its duties under the statute.

2           Moreover, the content of the "report" is not  
3 constrained by Section 204(a)(4). The report under Section  
4 204(a)(2) should contain whatever would be helpful to the  
5 President. That Section 204(a)(4) allows the Commission to  
6 follow up on any specific presidential requests does not  
7 constrain the content of the initial monitoring report.

8           That is precisely why Section 204(b)(1)(A)  
9 distinguishes the "report" from the "advice." The phrase  
10 "upon request of the President" in Section 204(a)(4) expands  
11 the potential range of Commission commentary about what  
12 should be done, and does not limit the scope of the initial  
13 monitoring report.

14           This interpretation of the Commission's  
15 discretion is supported by the legislative history. The  
16 mid-term report provision--i.e., Section 204--was created by  
17 The Omnibus Trade and Competitiveness Act of 1988.

18           A primary motivating force for this legislation  
19 as initially introduced by the Senate was to increase the  
20 Commission's role and encourage the President to receive and  
21 follow advice from the Commission. Specifically, when  
22 introducing its bill the Senate made clear its intention to  
23 enhance the Commission's monitoring role to ensure that  
24 actions taken under the statute accomplished their purpose.

25           Given the statute and this legislative history,

1 the Commission has recognized its discretion to provide the  
2 President with its best judgments about how best to proceed  
3 with safeguard relief.

4 The mid-term reports issues since enactment of  
5 the Uruguay Round Trade Agreements Act contain descriptions  
6 of the trends but also contain advice and qualitative  
7 assessments to the President, even though no formal  
8 presidential requests were made to the Commission under  
9 Section 204(a)(4),

10 LGE urges the Commission to exercise its  
11 discretion in this mid-term investigation and advise the  
12 President of certain appropriate modifications to the  
13 safeguard covering washers, as the evidentiary record  
14 demonstrates overwhelmingly that the overall objective of  
15 the safeguard measures has been achieved.

16 Thank you. That concludes my statement.

17 MR. PORTER: Mr. Chairman, that concludes panel  
18 two's affirmative presentation.

19 CHAIRMAN JOHANSON: Thanks to all of you for  
20 appearing here today. We will begin Commissioner questions  
21 with Commissioner Schmidtlein.

22 COMMISSIONER SCHMIDTLEIN: Okay, thank you very  
23 much. I would like to thank the witnesses for being here  
24 again today, as well.

25 Let me just start with a quick question to, I'm

1       sorry, let me find my witness list, Ms. Colarusso--am I  
2       pronouncing it correctly?

3                You just concluded your statement with the  
4       statement that the mid-term reports issued since the  
5       enactment of the Uruguay Round contained descriptions of the  
6       trends, but also contain advice to the President even though  
7       no formal request was made to the Commission.

8                Can you provide which reports those were, where  
9       the Commission provide advice to the President without  
10      having been requested to do so?

11              MS. COLARUSSO: Sure. Commissioner Schmidtlein,  
12      thank you for the question. In our LG's prehearing brief we  
13      outlined some examples of past mid-term reports in which the  
14      Commission has provided its qualitative analysis of the  
15      trends in the industry--

16              COMMISSIONER SCHMIDTLEIN: Did we make  
17      recommendations in those reports?

18              MS. COLARUSSO: There are--sorry, this is Gina  
19      Colarusso from Curtis. For example, in wheat gluten and  
20      also in steel wire rod, there are specific recommendations  
21      from one Commission, Commissioner Bragg, who provides  
22      specific modifications to the TRQ measures imposed in those  
23      cases.

24              COMMISSIONER SCHMIDTLEIN: I see.

25              MS. COLARUSSO: And I point out that the

1 recommendations from Commissioner Bragg in those examples  
2 were acted upon by the President pursuant to the mid-term  
3 report.

4 COMMISSIONER SCHMIDTLEIN: I see. Okay. So, but  
5 there weren't any--there haven't been any reports where the  
6 majority of the Commissioners have--where the overall report  
7 itself, and not just an individual Commissioner, contained  
8 advice or recommendations to the President when he hasn't  
9 requested that?

10 MS. COLARUSSO: Well those cases are unique in  
11 that Commission Bragg individually provides specific  
12 recommendations. All of the mid-term reports do provide  
13 some qualitative analysis, and we think that's important,  
14 rather just a, you know, just a recitation of the factual  
15 information. There is some qualitative analysis provided  
16 by the Commission in each one of those reports that we think  
17 was useful to the President in enacting certain  
18 modifications after the report.

19 COMMISSIONER SCHMIDTLEIN: Okay, okay, thank you.  
20 Okay, so my first question I have for this panel, and I  
21 think Mr. Toohey or Mr. Myers, probably one of you could  
22 probably answer this, is: Did LG increase your prices in  
23 response to the tariff, or the imports?

24 MR. TOOHEY: Yes.

25 COMMISSIONER SCHMIDTLEIN: So you've passed the

1 tariff through at the wholesale level?

2 MR. TOOHEY: Yes.

3 COMMISSIONER SCHMIDTLEIN: Okay. And can you  
4 tell us how much? Was it the full 20 percent, now 18  
5 percent?

6 MR. TOOHEY: I think it works out to be more or  
7 less the full amount. As I recall, some models at retail we  
8 increased the price by \$100, and in some models it was \$50,  
9 but, you know, depending on the sales mix we more or less  
10 attempted to pass the whole thing through.

11 COMMISSIONER SCHMIDTLEIN: Okay. So how do we  
12 untangle--it's sort of related--but this question about  
13 what's impacting demand? And I know in your testimony you  
14 said there were other factors, right? And you've heard the  
15 Petitioners talk about the decline in housing starts and  
16 remodeling. So how do we untangle what the impact is from  
17 the overall economic decline in those sectors?

18 MR. TOOHEY: May I ask to refer to page 3 of my  
19 exhibits? Obviously there are a lot of factors that affect  
20 aggregate demand for major appliances, without  
21 distinguishing between types of refrigerators, or in this  
22 instance dishwashers versus laundry. There's a replacement  
23 cycle that pertains to all of them, and housing is also  
24 another factor.

25 We have something like 120 million occupied

1 households in the country. The penetration rates of major  
2 appliances are very high, 95 percent in owner-occupied  
3 homes, for example. So roughly speaking you could say that  
4 there are 120 million washing machines in the country in  
5 occupied households, and they are aging out according to how  
6 old they are and when they were purchased.

7 If you think that 10 years is a good rough  
8 assumption, that 120 million installed washers will generate  
9 12 million units of replacement demand every year, or at  
10 least episodes where the installed washer breaks down and  
11 the homeowner then has to decide what to do.

12 Every year there's another, about 1.2 million,  
13 1.3 million homes constructed. That adds to the housing  
14 stock and increases the--it adds another say 10 percent to  
15 that replacement demand to get the total picture.

16 So I think that's why we say the replacement  
17 demand is the main piece. All appliances are kind of  
18 subject to that same dynamic of aging out and being  
19 replaced, so I think it's interesting to look at this chart  
20 to show that when you isolate the laundry appliances from  
21 the other types of appliances you still see in 2017 to 2018  
22 a modest growth in demand for the other appliances.

23 It has diminished from the demand, from the  
24 growth rates we saw in the period 2015 to 2017, and I would  
25 say that that diminishment of growth can be attributed to

1 things like the replacement cycle.

2 The question is, why did the laundry appliances  
3 shrink when all the other appliances grew? And that's--in  
4 my personal opinion, that can be chalked up to the price  
5 increase that was pushed through on laundry appliances but  
6 not to other categories specific to the safeguard.

7 COMMISSIONER SCHMIDTLEIN: So we heard this  
8 morning the Petitioners talk about that there were price  
9 increases across the board in other appliances because of  
10 raw material increases, so--

11 MR. TOOHEY: Yeah, so that may be another reason  
12 why we saw the diminished growth in the other appliances,  
13 but there were these additional price increases in the case  
14 of laundry appliances attributable to the safeguard.

15 COMMISSIONER SCHMIDTLEIN: Okay. Okay--

16 MR. KLETT: Commissioner Bragg [sic], this is Dan  
17 Klett. I think also in terms--

18 (Laughter.)

19 COMMISSIONER SCHMIDTLEIN: You're taking us back  
20 in time, aren't you?

21 MR. KLETT: I'm sorry.

22 (Laughter.)

23 MR. KLETT: Commissioner Schmidtlein--

24 COMMISSIONER SCHMIDTLEIN: I don't know what  
25 Commissioner Bragg looks like (laughing)--

1           MR. KLETT: No, I think the staff's elasticity  
2 also can help you disentangle the effects of price versus  
3 others. And I think Mr. Levy was mischaracterizing how one  
4 should interpret the staff's elasticity estimate.

5           Number one, although the model used -0.3, the  
6 staff range was actually -0.3 to -0.8. So it was the low  
7 end of the range.

8           Number two, I think Mr. Toohey indicated that in  
9 fact even at the low end of the range, the 0.3 demand  
10 elasticity actually fully explains the observed decrease in  
11 demand.

12           So I'm not saying that demand shifts due to  
13 replacement cycle, or housing starts didn't have an effect,  
14 but I think that this slide, plus your staff's aggregate  
15 demand elasticity, indicates that most of the observed  
16 decrease in apparent consumption was due to the increase in  
17 price.

18           COMMISSIONER SCHMIDTLEIN: Okay. Well I mean--

19           MR. TOOHEY: Also--

20           COMMISSIONER SCHMIDTLEIN: Go ahead.

21           MR. TOOHEY: --I would just add that, you know,  
22 the replacement cycle is not the whole picture. Because  
23 things like the employment situation, consumer sentiment,  
24 wage growth, those things are very strong right now and  
25 those can accelerate replacement cycles. So even though

1       there was a drop of new construction 10 years ago, you know,  
2       we're talking about that 1.2 million new homes on top of the  
3       120 million that already exist. So I don't think that  
4       that's enough of a factor to explain the whole drop.

5                COMMISSIONER SCHMIDTLEIN: Well you have to take  
6       into account remodeling, though, too, right? I mean it's  
7       not just new housing starts.

8                MR. TOOHEY: Right, which is very strongly tied  
9       to consumer sentiment and wages.

10               COMMISSIONER SCHMIDTLEIN: Right.

11               MR. TOOHEY: And home prices, which is fully  
12       recovered at this point, at least on average.

13               COMMISSIONER SCHMIDTLEIN: Right. Although there  
14       was also a decline I guess in that particular sector as well  
15       during this time.

16               MR. TOOHEY: Yes.

17               COMMISSIONER SCHMIDTLEIN: Okay.

18               MR. TOOHEY: Yeah, when the housing--

19               COMMISSIONER SCHMIDTLEIN: --starts were down,  
20       right.

21               MR. TOOHEY: It affected remodeling work as well  
22       as new-home construction.

23               COMMISSIONER SCHMIDTLEIN: Right. Okay. Okay,  
24       let me just shift gears real quick. We've taken up more  
25       time on this than I thought. So I want to understand the

1 plan for LG and your progress in getting to full capacity,  
2 right? So if I understood what Mr. Myers said in his  
3 testimony that you expect to get to one point--the capacity  
4 to produce 1.2 million units by the end of this year. Is  
5 that correct?

6 MR. MYERS: Yes, that's correct.

7 COMMISSIONER SCHMIDTLEIN: Okay. And so when you  
8 say the end of this year, literally you don't expect that  
9 you'll be at that before the end of 2019? Or given that  
10 you've already hired all 600 employees, you've already  
11 installed all the equipment, is it possible you're going to  
12 be producing at full capacity--

13 MR. MYERS: I'll elaborate a little bit more.  
14 This is Ted Myers again, LG. So currently as far as  
15 capacity and planned capacity, we are a little bit better  
16 than halfway to be able to make 1.2 million a year. Okay?  
17 And again that follows our plan for this year where we're  
18 ramping up slowly over the year. By the end of this year,  
19 yes, our plan is to reach the capacity to produce 1.2  
20 million per year.

21 COMMISSIONER SCHMIDTLEIN: And you expect that  
22 next year then LG will produce close to that in the U.S.?

23 MR. MYERS: Yes, we expect that.

24 COMMISSIONER SCHMIDTLEIN: Okay. And I'm not  
25 sure you can answer this question right now, but when I look

1 at the reported numbers that are in the staff report that  
2 show what the capacity is, which is obviously less than  
3 that, and then it shows what you actually produced I think  
4 in the first quarter? Maybe that's what's been reported. I  
5 could look it up. Substantially less than what the capacity  
6 being reported is? I don't know if you can explain that?

7 MR. PORTER: This is Dan Porter. We'll take a  
8 look at that. Quite honestly, I'm not sure Mr. Myers is  
9 that familiar with the LGUS Tennessee U.S. producer  
10 response. I can tell you that the data requested just first  
11 quarter '19 information, but I think there's another  
12 question that asks about projections for '19 and '20, and  
13 those projections in my understanding is consistent with  
14 what Ted just said. So I think it is consistent when you  
15 talk about annual projections on an annual basis. I can't  
16 remember which question it is, but there's a question that  
17 definitely asks for '19 and '20 projections.

18 COMMISSIONER SCHMIDTLEIN: Okay, and maybe it was  
19 just I'm confused about when you're reporting production  
20 capacity. Does that mean you have the capacity to produce  
21 that in the first quarter of '19?

22 MR. ANDERSON: This is Chuck Anderson, Capital  
23 Trade. I think that was nameplate capacity. That is  
24 physically, as you saw, the plant is there, the equipment is  
25 there, but ramp up is not just simply having the equipment

1       there and the plant there and the employees there. It also  
2       means getting the parts and components that you need on  
3       line, training the employees, getting the line speed up.  
4       All of that is a work in process through 2019.

5                 So the nameplate capacity is there.

6                 COMMISSIONER SCHMIDTLEIN: I see. Okay--

7                 MR. ANDERSON: --but it will require some time to  
8       essentially reach the stage at which the facility is  
9       producing at full nameplate capacity.

10                COMMISSIONER SCHMIDTLEIN: But you think by the  
11       beginning of '20 you will be actually producing?

12                MR. MYERS: That's the plan and expectation, yes.

13                COMMISSIONER SCHMIDTLEIN: That's the plan.

14       Okay. So I guess that begs a question in my mind--I know  
15       I'm over my time, but let me just wrap up with this.

16                Given that the Commission's report isn't due  
17       until sometime in August, I think, and even if we went ahead  
18       and made recommendations, even though the President hasn't  
19       requested those, right, then it goes to the President--I'm  
20       not sure, I don't know off the top of my head what his  
21       timeline is for making a decision, if he has a deadline--but  
22       you're going to be producing at close to this full capacity  
23       by the beginning of '20, and we're talking about basically  
24       the last quarter of 2019, and you've testified that you  
25       only need to import these small amounts which is consistent

1 with what we heard in the Korea-Mexico Sunset review, these  
2 small amounts of high-end appliances from Korea, why do you  
3 care so much about whether or not the safeguard remains in  
4 place?

5 MR. TOOHEY: This is John Toohy. I would put it  
6 down to operating flexibility. If everything goes right, if  
7 the plant achieves full capacity by the end of this year on  
8 schedule, you know, that would be the best case outcome for  
9 us from that regard. But, you know, we have no guarantee  
10 that that's the way it's actually going to work out, and I  
11 think we've inferred from what we've seen from Samsung and  
12 their import activity that, you know, things don't always go  
13 as fast as you hope when you have a factory ramping up.

14 COMMISSIONER SCHMIDTLEIN: Okay. Alright, thank  
15 you. My time has expired.

16 CHAIRMAN JOHANSON: Commissioner Kearns.

17 COMMISSIONER KEARNS: Great. Thank you all for  
18 appearing here today, and it's good to see many of you  
19 again. It was great to visit the factory, and I appreciate  
20 you having me and the staff.

21 I guess just picking up from where Commissioner  
22 Schmidtlein ended, and this is something we talked about  
23 when I toured. I mean on the one hand it is kind of amazing  
24 how quickly you all got your plant operational, and it is a  
25 very impressive operation.

1                   But I guess I am still struggling with  
2                   understanding how you all are going to get from where you  
3                   are now in terms of production to operating at full  
4                   capacity. And I guess if you can just make very clear what  
5                   the bottlenecks are, what the constraints are. I mean I  
6                   think we talked, and I think someone just mentioned it,  
7                   maybe Mr. Myers, or, no, maybe it was Mr. Toohey, the line  
8                   speed. And just helping us articulate the very specific  
9                   issues about how we get from where you are now, which is  
10                  again quite impressive, but how you get from there to where  
11                  you plan to go?

12                  MR. MYERS: Ted Myers for LG. So as we spoke  
13                  when you visited, the way we look at things really  
14                  simplistically is the 4-M method. So man, machine,  
15                  material, method. We look at those things to determine  
16                  where do we need to address challenges?

17                  And of those four things, really honestly right  
18                  now the biggest challenge is material. So both from our  
19                  local supply standpoint, from outside our factory, and an  
20                  internal supply standpoint inside the factory. The man, the  
21                  machine, and the methods piece of that pie, they are less of  
22                  a concern to us right now, but again the internal and the  
23                  external supply of materials to our lines is the major  
24                  challenge.

25                  Again, we have plans in place to address those,

1 and we're hoping--again, we're targeting by the end of the  
2 year that we're going to hit our max capacity. But again,  
3 like Mr. Toohey said, you know, there's things that we  
4 cannot plan on and we cannot estimate properly all the time.  
5 And that's again one of the reasons why we'd like  
6 flexibility.

7 COMMISSIONER KEARNS: Okay, great. Thanks. And  
8 I guess maybe posthearing, because I'm sure you don't want  
9 to get into this in too much detail, but exactly what you  
10 mean when you say the input, the material limitations, like  
11 where, you know, whether it's steel, or whatever it might  
12 be, you know, just explaining to us exactly why there might  
13 be a constraint. That would be helpful. Thank you.

14 I wanted to turn to the volume of imports that  
15 we've seen in 2018 and the beginning of 2019. And as  
16 Petitioners have pointed out, imports are quite a bit higher  
17 than we expected. And they point out to stockpiling before  
18 the safeguards enter into force, and then also for interim  
19 2019 just the way that the quota works and how there's a  
20 big, as you saw the graph, a big spike at the beginning of  
21 the new quota year.

22 So can you speak to that? I mean, to what  
23 extent--and as you may have heard me say this morning, it  
24 seems to me that that then carries over into looking at the  
25 industry's financials for 2018, whether we exclude the

1 startups or include them. It seems to me that for 2018 you  
2 are looking at, as you all have said, an industry that is  
3 better off than it was a few years ago. But I would say it  
4 doesn't look to me like, if 2018 were to carry forward, it  
5 seems to me that this industry wouldn't be in a great place.  
6 And it certainly doesn't look like it has the breathing room  
7 you would need in order to invest in capital and labor and  
8 so forth in order to become more competitive and to make the  
9 adjustments that you need.

10 So any responses to that?

11 MR. KLETT: Commissioner Kearns, this is Dan  
12 Klett. I'll first talk about the imports because, you know,  
13 slides I think 2 and 3 of Whirlpool's testimony goes to  
14 that.

15 Number one, I don't think it's at all unexpected  
16 that you see what you see. I mean, with respect to 2018,  
17 when LG and Samsung were facing unknown import restrictions,  
18 I mean Whirlpool was arguing for a 50 percent tariff across  
19 the board. That they reacted as any commercial entity would  
20 and tried to bring product in before that restriction, or  
21 potentially market-closing restriction went into place.  
22 They didn't know at the time what the President would  
23 recommend.

24 So that volume that came in at the end of 2017  
25 was due to that, and was due to having long-term

1 relationships in the market with customers and wanting to  
2 maintain those relationships.

3 Number two, when you look at slide number 3, what  
4 happened in 2019, again that shouldn't be unexpected. It's  
5 a global quota. And in an global quota that's not allocated  
6 you would expect Samsung and LG to bring in the product  
7 early in the quota period or else lose out.

8 But I think what's important for 2019 is to  
9 realize that when you look at Exhibit 3 it talks just about--  
10 --it's just imports into the market. Competition takes  
11 place when those imports are sold into the market. So LG  
12 and Samsung, when you look at your questionnaire data and  
13 projections, and also you look at total market demand, you  
14 can do the math. And shipments into the market, you know,  
15 are roughly in line with the 1.2 million quota.

16 It's just that they were brought in early and  
17 held in inventory due to the nature of the global quota and  
18 the incentives.

19 In terms of your question on 2018, I think a  
20 better measure for evaluating the industry going forward is  
21 maybe 2019 rather than 2018. I mean I know you only have  
22 one quarter of data, but 2019 I think better reflects the  
23 full beneficial impact of--

24 COMMISSIONER KEARNS: The first quarter of?

25 MR. KLETT: The first quarter of 2019 better

1 reflects the full impact of the quota. And you also have  
2 projections in your questionnaire data from all the U.S.  
3 producers about what they expect to be doing in full-year  
4 2019 and 2020.

5 So I think that's a better measure of the current  
6 benefits of the TRQ going forward.

7 COMMISSIONER KEARNS: Okay.

8 MR. PORTER: Commissioner Kearns, just a quick  
9 follow up--this is Dan Porter. Again, you said you're  
10 looking at 2018, and you're looking at the data the staff  
11 compiled, and they did a very good job, but that's actually  
12 a snapshot in time that really ignores huge things going on,  
13 which is the full ramp-up of LG and Samsung.

14 As you were doing your question, Mr. Toohey  
15 leaned over and says "we're not getting any credit for our  
16 investment" if you just look at 2018. And so that's why, if  
17 I could, I could just refer back. In my opening I referred  
18 to an Attachment A which took all of the data from the staff  
19 report, and then added in LG and Samsung's production  
20 investment. And there you can see then a comparison of  
21 essentially what happens after the investment, to what  
22 happened before, which I think is a better examination than  
23 looking at '18 and just projecting forward.

24 COMMISSIONER KEARNS: So instead of just again  
25 '18 and projecting forward, you're suggesting what, exactly?

1                   MR. PORTER: What I'm suggesting is if you look  
2                   at the Attachment A that we did, what we did there is we  
3                   took the data, but then we included in the reported  
4                   projections of LG and Samsung for their production and sales  
5                   and shipments in '19 and '20. And you get a very different  
6                   picture--

7                   COMMISSIONER KEARNS: Okay.

8                   MR. PORTER: --at least with respect to  
9                   production, sales, and shipments, than you do just looking  
10                  at '18 going forward. That's my point.

11                  COMMISSIONER KEARNS: Right. Okay, thanks. I  
12                  mean we obviously are--

13                  MR. DURLING: Commissioner, sorry, Commissioner  
14                  Kearns, this is Jim Durling. I just wanted to say, the  
15                  other piece of information you have is, I would direct you  
16                  to Exhibit 6 of Whirlpool's prehearing brief where they  
17                  break down trends in market share by brand, which is  
18                  capturing Mr. Klett's point of what happens when you have an  
19                  import, but then what happens when it's actually shipped in  
20                  the market. And it's proprietary so we can't talk about it  
21                  in the public hearing, but I think this goes directly to  
22                  your question of whether the spike in imports has in some  
23                  way kind of undermined the opportunity being given to the  
24                  legacy brands. So I would direct you to that exhibit.

25                  COMMISSIONER KEARNS: Okay.

1           MR. ANDERSON: And if I could just jump in--I  
2 hate to do this, but I think we really need to put to bed  
3 this whole issue that somehow the spikes have caused injury  
4 to the legacy producers. And that is, if you turn to Klett  
5 6, okay? Let's look at the data. And these are price  
6 data. That one. So the stock building occurred late '17,  
7 early '18, and price increased right after that. At the  
8 risk, you know, of saying the obvious, washers are not  
9 perishable products, okay? The products came in for  
10 strategic inventory building purposes. Both retailers built  
11 inventory because they knew there was a hard quota, and they  
12 wanted to basically maintain LG-Samsung product on the floor  
13 while the U.S. plants ramped up, and the wholesalers  
14 basically built inventory.

15           It did not flood into the market. It did not  
16 depress prices. It did not depress volume. It's very  
17 clear. The same thing happens in early 2019. Prices  
18 increases just as the imports are coming in. There's no  
19 evidence whatsoever that the lumpy shipments of imports,  
20 which are caused entirely by the type of trade restraints  
21 that were put in place, which are lump sum no quarterly  
22 allocation, no country allocation, have really had a  
23 negative impact on the U.S. market as a whole.

24           The prices have gone up. The profits have gone  
25 up. It's just not the case. Because people have been

1 shipping in to build inventory and meting it out over time.

2 COMMISSIONER KEARNS: Now just to be clear, and I  
3 know the Petitioners don't like relying on these pricing--

4 MR. ANDERSON: But this is wholesale. This is  
5 not retail--

6 COMMISSIONER KEARNS: Okay, okay. So if we rely  
7 on this, though, you do see quite a price drop before the  
8 black solid line, right? And isn't that the stockpiling  
9 that they were referring to?

10 MR. ANDERSON: But look how quickly and rapidly  
11 it turns and goes way above whatever it fell.

12 COMMISSIONER KEARNS: Right. But I mean I guess,  
13 just real quick, I mean I take a lot of these points I'm  
14 hearing, Mr. Klett in particular, I would think we all  
15 should have expected that there would be stockpiling, for  
16 example.

17 Having said that, I mean I'm just looking at page  
18 8 of Petitioner's brief and, you know, the ITC estimate on  
19 shipments for 2018, and then the actual results, are pretty  
20 dramatically different even though we should have factored  
21 all those things in. Maybe we did, maybe we didn't, but it  
22 seems like those shipments are quite a bit higher than we  
23 thought that was needed for the safeguard remedy. And I  
24 take your point about how 2018 is, especially given all the  
25 investments you have made, probably isn't a very good

1 predictor of 2019-2020, et cetera. I take that point. But  
2 we do have to report on what's happened so far.

3 And it seems to me that one thing we know that's  
4 happened so far is imports in 2018 were a lot higher than we  
5 expected. Right? I mean, that's just still kind of  
6 undeniable, isn't it?

7 Despite everything you all said, which I don't  
8 disagree with anything I'm hearing, it seems like compared  
9 to what we intended to do with the safeguard we did less of  
10 what we intended to do, no?

11 MR. PORTER: Commissioner Kearns, just one quick  
12 note. If you go and look at the actual monthly import  
13 statistics, you will see literally if you put some of  
14 January and February into 2017, because the boat may have  
15 been late, your annual numbers change dramatically.

16 So, you know, the so-called expected stockpiling  
17 was going on at the end of 2017, which means if you look at  
18 monthly import statistics you'll see some pretty high  
19 January and February, and it was supposed to hit in 2017 but  
20 because of whatever it hit the import stats in '19. And  
21 that had some effect, as well.

22 COMMISSIONER KEARNS: So you're saying that this-  
23 -

24 MR. PORTER: It's a little bit of timing. I  
25 mean, you're looking at an annual number. I'm just saying

1       there was a nontrivial, you know, sort of hit in '18 that  
2       maybe should have been '17 going on there.

3               COMMISSIONER KEARNS: Okay. Alright, thank you.

4               MR. TOOHEY: This is John Toohey. I would just  
5       add that our sales went down meaningfully in 2018 relative  
6       to 2017. Whatever the import statistics are showing you, it  
7       didn't--it wasn't enough for us to maintain our current  
8       presence in the market year over year.

9               CHAIRMAN JOHANSON: Okay, again welcome to the  
10       Commission. It's good to see you all again, I guess. I've  
11       seen you all many times, but it does remain a very  
12       interesting subject with what we're going over, and we do  
13       appreciate you appearing here today to fill in the blanks  
14       for us.

15              Okay, I assume I know how you all are going to  
16       react, but I wanted to ask this anyway. Could you all  
17       please comment on the suggestion of Whirlpool that  
18       Commission analysis focus on legacy producers? This is  
19       something they raised at page 5 of their brief.

20              MR. PORTER: This is Dan Porter. Thank you,  
21       Chairman Johanson. Just to reiterate what I said in the  
22       opening, the statute is very clear that you look at all  
23       firms in the industry. That's the statutory language.

24              So I really don't see how you could do your job  
25       by focusing only on legacy producers. You would literally

1 not be following the statute.

2 CHAIRMAN JOHANSON: Thanks, Mr. Porter. You did  
3 answer how I thought you would, but still I thought it was  
4 interesting to delve into that a little bit more.

5 Have the 2019 TRQ limits been reached?

6 MR. TOOHEY: Yes.

7 CHAIRMAN JOHANSON: And do you all plan to  
8 continue importing this year?

9 MR. TOOHEY: No.

10 CHAIRMAN JOHANSON: You don't? Okay. Thanks.

11 And this is something which has been touched on  
12 before but I'm going to bring it up again. I don't know if  
13 this has been directly answered. Why did imports increase  
14 in interim 2019 compared to interim 2018?

15 MR. TOOHEY: Well I think I would just chalk it  
16 up to the dynamics of the situation we find ourselves in.  
17 There's a quota, and we're competing to consume it with  
18 another major manufacturer. And if we don't get there, we  
19 don't get our share of it before they do, then we have to  
20 wait another 12 months. And that can be extremely damaging  
21 to the investments we've made, and our brand, and with our  
22 customer relationships, and with consumers if we didn't have  
23 some way to maintain our presence in the market  
24 continuously for each 12-month period.

25 And we don't know how the factory ramp up is

1 going to come. So, you know, it's just, as I said before,  
2 we don't like uncertainty. We like flexibility. So, yeah,  
3 we made sure to get some product imported quickly. And I  
4 think Samsung did the same thing. And between the two of  
5 us, we filled the entire quota by the end of April.

6 MR. KLETT: Chairman Johanson, this is Dan Klett.  
7 I think the dynamics in the first quarter of 2018 and the  
8 first quarter of 2019 also were quite different.

9 In the first quarter of 2018, we were coming off  
10 right at the tail end of this proceeding. And so with the  
11 unknown of what would happen with restrictions, LG and  
12 Samsung brought in a lot of product into inventory at the  
13 end of 2017.

14 So there wasn't a need, given the inventory  
15 buildup then, to import more in the first quarter of 2019.  
16 The dynamics for the first quarter of 2019 are quite a bit  
17 different. And that is, that the TRQ was just opened in  
18 February of 2019. So you had imports increasing for the  
19 reasons I discussed earlier.

20 So I think the quarter--the first quarter of 2018  
21 to the first quarter of 2019 comparisons are really  
22 artificial because the dynamics between those two periods  
23 were quite different.

24 MR. PORTER: Yes, Chairman Johanson. I just want  
25 to echo sort of the same timing thing I as discussing with

1 Commissioner Kearns. I mean that's why we like to think of  
2 the analysis based on an annual either projection or actual.

3 It's an artificial quota when you have this, you  
4 know, kind of quota right in the middle. As Dan Klett said,  
5 back in the end of 2017 no one knew what the President was  
6 going to do. So there's a lot of product coming in 2017  
7 where the next year it came in, you know, in that quarter.

8 So just to look at these two quarters as  
9 meaningful, we just don't think that's correct.

10 CHAIRMAN JOHANSON: Am I correct that the market  
11 had softened in 2019?

12 MR. KLETT: Chairman Johanson, I think there was  
13 a question asked earlier today about demand trends in 2019  
14 and 2020, and AHAM, which I think everyone in this room uses  
15 to some extent, projects that washer demand in 2019 will be  
16 up by .05 percent over 2018. And I think 2020 is projected  
17 to be up by 1.5 or 1.7 percent over 2019.

18 So demand is not projected to decline, but it's  
19 fairly soft or, you know, not a big increase either.

20 CHAIRMAN JOHANSON: Okay--

21 MR. TOOHEY: And if you want year-to-date  
22 shipments, we can get that to you.

23 CHAIRMAN JOHANSON: Yes, that would be helpful,  
24 actually. If you wouldn't mind, that would be.

25 So imports increased in interim 2019. Could this

1 have undercut the remedial effect of the safeguard measure?

2 MR. TOOHEY: Well, I don't believe that it would,  
3 at least according to the mechanisms that were described by  
4 Petitioners earlier.

5 We did not accumulate inventory so that we could  
6 have a liquidation sale and push down prices. We  
7 accumulated inventory so that we could secure our ability to  
8 operate in the second half of the year. You know, we were  
9 trying to bridge this period of time until we can get the  
10 factory fully ramped up and keep the business going.

11 So even though it's not ideal for us and it's  
12 very costly, and it's very operationally sub-optimal, you  
13 have a lot of inventory, it's a cost that we find preferable  
14 to, you know, losing our ability to supply our customers.

15 MR. PORTER: Chairman Johanson?

16 CHAIRMAN JOHANSON: Yes?

17 MR. PORTER: I want to echo this point, because  
18 it's actually really important, okay? In a lot of prior  
19 cases, you look at sort of rapidly increasing imports. And  
20 then you expect Petitioners to say: And this led to  
21 decreasing prices for the merchandise sold in the market.

22 There is absolutely no evidence of that here.  
23 All they are pointing to is because of the artificial  
24 constraint of the safeguard you have this what appears to be  
25 a spiking of imports in the first quarter. But they have

1 not identified any evidence that LG just went out and sold  
2 this at fire sale prices. There's just no evidence of that.

3 In fact, you just heard Mr. Toohey saying it's  
4 absolutely not true. So, yes, you have increasing imports  
5 on an artificial constraint of first quarter versus first  
6 quarter, but in order to say that that's an injurious or  
7 undermining the safeguard, you need to have something else  
8 going on in the market, and they have not pointed to  
9 anything to that effect.

10 CHAIRMAN JOHANSON: With that in mind, there's  
11 still under-selling on the record. I point you to the  
12 confidential results at table 3-36.

13 MR. PORTER: Chairman Johanson, with respect to  
14 the under-selling, I'd like to reference Chuck Anderson's  
15 sort of long soliloquy that we believe that the  
16 under-selling that is reported in this report is not  
17 meaningful in the sense that it's too much noise going on in  
18 the accumulation of averaging of values to mean anything.

19 So, yes, there is a report. It's showing  
20 under-selling. But as the Commission has in past cases,  
21 they should say there's just too--that's not meaningful for  
22 your analysis. And we would urge the Commission to adopt  
23 that same approach.

24 CHAIRMAN JOHANSON: Okay--

25 MR. KLETT: And, Chairman Johanson, also on the

1 under-selling, again the under-selling has to be tied to  
2 some observed adverse effects for it to be meaningful. And  
3 in this case, I mean usually you have under-selling and  
4 decreasing prices, or under-selling and loss of market  
5 share, or under-selling and declining profitability.

6 I mean here you may have under-selling, but you  
7 don't have any causal tie-in to any of those factors in this  
8 case. I mean, prices are up. Market share is up. Profits  
9 are up.

10 CHAIRMAN JOHANSON: Thanks, Mr. Klett. I do  
11 remember Mr. Anderson's slide with the many different types  
12 of washers. So I do recall that.

13 This is a question I asked this morning of the  
14 Petitioners and I'm going to ask you all it as well. Has  
15 the recent revocation of the ACV CVD Orders on LRWs from  
16 Korea had an impact on imports from Korea?

17 MR. PORTER: This is Dan Porter. The answer is,  
18 no. And two reasons. First, LG has a plan. They're  
19 sticking to the plan. The plan is to make as many, or at  
20 least many bread-and-butter models as possible in Tennessee,  
21 and to bring in just the higher-priced, more feature models  
22 from Korea.

23 Second, it's very important to remember, LG had  
24 very, very low antidumping rates for the entire five years  
25 of the Order, one percent, zero, one-and-a-half percent. So

1 effectively the elimination of the AD--LG had no CVD.  
2 Elimination of the AD had no practical effect on LG. They  
3 still were able to continue their whatever they needed to do  
4 from Korea. So really the answer is, no.

5 CHAIRMAN JOHANSON: Alright, thanks for your  
6 responses. My time is up. Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you, Mr.  
8 Chairman. I also want to thank the witnesses for coming  
9 today.

10 I remember, I think it was in the 201, Mr.  
11 Porter, there was a chart showing what LG would be  
12 importing, and what it would not be importing when they were  
13 manufacturing in the new plant.

14 I was just wondering if you could update that  
15 chart. Has it changed any? And explain what is in  
16 existence for the picture now with present plans.

17 MR. PORTER: Yes. Dan Porter. Commissioner  
18 Williamson, I completely understand what you're asking. We  
19 put in, well I think in the remedy phase of this proceeding,  
20 in the sunset phase of this proceeding, we put very detailed  
21 sort of model by model, this is what will be produced in  
22 Tennessee, the plan, the projection. This is what will be  
23 imported from Korea. And so forth. I'd be happy to update.  
24 Obviously a few months have gone by, and we can provide an  
25 update on that, absolutely.

1                   COMMISSIONER WILLIAMSON: Okay. Good. Thank  
2 you. That would be helpful with any explanation of why there  
3 is a change, if it's a meaningful change.

4                   MR. PORTER: Yes, of course.

5                   COMMISSIONER WILLIAMSON: Thank you.

6                   Why at this point should the Commission be  
7 speculating about results 18 months in the future? I'm  
8 thinking about some of the charts showing what's going to  
9 happen in 2020. Isn't the Commission's job at this point to  
10 report on what has happened so far?

11                  MR. PORTER: This is Dan Porter. I'll start, but  
12 I'm sure my colleagues will want to supplement.

13                  Our position is, there is so much change going on  
14 in the U.S. production domestic industry going on now that  
15 you need to take that into account. And in a very sort of  
16 good back and forth that we're having with Commissioner  
17 Kearns, if you look at '18 and just said assume '18 forward,  
18 you would be literally ignoring the massive investment in  
19 terms of production and sales and everything by LG Tennessee  
20 and Samsung South Carolina.

21                  So you absolutely need to take into account. But  
22 because they are in ramp up, you can't just look at sort of,  
23 you know, first quarter 2019. So that's why we submit,  
24 because there's such change going on in the industry, you  
25 need to take into account these projections in order to

1 fully evaluate the effectiveness of the safeguard relief.

2 COMMISSIONER WILLIAMSON: Okay. In doing that,  
3 I'm thinking also about your Attachment A, now that you've  
4 explained it it makes better sense than when I first saw it  
5 this morning, what are you assuming about imports and their  
6 impact?

7 MR. PORTER: This is Dan Porter. Again, the  
8 Attachment A is using a combination of actual data plus  
9 projections by LG and Samsung. And in I believe Exhibits 5  
10 and 6--and I'll ask Dan Klett to elaborate more, we provided  
11 excruciating detail about how we got to that summary chart.  
12 And so, but it's using actual data from all producers,  
13 what's available, and then projections in terms of what LG  
14 is intending to produce in 2019 in Tennessee, and so forth.

15 MR. KLETT: Commissioner Williamson, this is Dan  
16 Klett. Just to elaborate on what Dan Porter said. I mean I  
17 think Mr. Levy this morning said that you can't rely on just  
18 some projections, that they're not reliable. But the 2019  
19 and 2020 projections, the volumes are based on questionnaire  
20 data where the Commission did ask U.S. producers to project  
21 what they would export, or what they would produce in the  
22 United States and ship.

23 And so that's one of the inputs. It's from the  
24 questionnaire data. The import estimates are based on, for  
25 covered imports, what LG is projecting they will import.

1 And I think that also was an attachment to the questionnaire  
2 data, to the questionnaire.

3 And non-covered imports, we were kind of assuming  
4 that what came in in 2018 would come in at the same level in  
5 2019 and 2020. But when you add all those up and you do  
6 your projection for 2018-2019, the U.S. apparent consumption  
7 compared to 2018 is actually fairly close to what AHAM  
8 projects will happen from 2018 to 2019.

9 So number one, I'm using data that's on the  
10 record primarily from questionnaires. And number two, when  
11 you sum all those data points up for 2019, you're getting an  
12 apparent consumption that's consistent with what a third  
13 party is saying will happen with total U.S. demand.

14 So it's not just, you know, pulling a number out  
15 of the air in terms of a projection. It's actually based on  
16 fairly solid input data.

17 COMMISSIONER WILLIAMSON: Okay, and that  
18 includes--what about the imports that aren't coming, you say  
19 aren't covered, the belt drives, the ones that are not  
20 covered by the quota? What do you expect about that?

21 MR. KLETT: Well, for purposes of our Exhibit 5  
22 projections, I just assumed that 2019 imports would be at  
23 the same level as they were in 2018. We included belt  
24 drives.

25 Belt drives were included in the U.S. apparent

1 consumption data, as they were in your Staff Report, you  
2 included belt drives in your U.S. apparent consumption  
3 table. And I included that in my projections as well, in  
4 terms of the total U.S. market.

5 COMMISSIONER WILLIAMSON: Okay. And the shares  
6 --

7 MR. KLETT: And the volume, I projected volume  
8 for 2019. I assumed it would be at the same level as in  
9 2018. I mean I didn't have any better way to know whether  
10 it would go up or down, so I just kept it at the same level.

11 MR. PORTER: Commissioner Williamson, all the  
12 data is provided, I believe in Exhibits 5 and 6. I mean  
13 it's all there.

14 COMMISSIONER WILLIAMSON: Okay, good.

15 MR. PORTER: Your team can go back and verify  
16 each and every number.

17 COMMISSIONER WILLIAMSON: Okay, thank you. Okay,  
18 we've talked a lot about the AHAM prices and I was  
19 wondering, are they net of discounts, transportation costs  
20 and all that? Given how all these factors, how complicated  
21 is doing pricing for this product?

22 MR. PORTER: Commissioner Williamson, it appears  
23 our panel cannot answer that question, but we will get the  
24 answer and get back to you.

25 COMMISSIONER WILLIAMSON: Post-hearing would be

1 fine.

2 MR. KLETT: Commissioner Williamson, I would like  
3 to -- actually, I do have a comment on that, and that is  
4 that I think Mr. Levy made the point this morning that one  
5 of the potential flaws of AHAM was that they didn't include  
6 discounts and rebates. But if you look at--it's one of my  
7 slides--it's Slide 7, if you look at Slide 7, the change in  
8 the AHAM price, I mean the average change in the AHAM price  
9 and the average change in U.S. producers' price, was  
10 relatively the same.

11 So that we know that the pricing data you  
12 collected, both U.S. producers and from all others, are on  
13 in that basis. So I think the point is that the, you know,  
14 whether AHAM is net of rebates and discounts or not, I think  
15 it's very appropriate for looking up price changes over  
16 time, and is consistent with your questionnaire data in  
17 terms of price changes over time.

18 COMMISSIONER WILLIAMSON: Okay, thank you. I  
19 wanna complement y'all for putting all this together and  
20 having everybody's statements, it's very helpful. I think I  
21 might say this, because each witness had their own set of  
22 slides, you might have to put some tabs in the future, so  
23 we can figure out, I'm in the right one. Also make sure  
24 that 7's a little bit clearer.

25 MR. PORTER: Sorry, Commissioner. We tried, if

1 you see in the slides, two little things, if you see a clip.

2 COMMISSIONER WILLIAMSON: Yeah, I know it was  
3 there, but I was thinking --

4 MR. PORTER: We tried to identify it.

5 COMMISSIONER WILLIAMSON: No, but I do really  
6 appreciate the putting the materials together like this. It  
7 is very, very helpful. Especially if you're coming in the  
8 afternoon, it's a little bit harder.

9 Okay. Did imports absorb the 20% tariff? And  
10 what evidence supports your answer?

11 MR. PORTER: Commissioner Williamson, this is Dan  
12 Porter. I believe John Toohey testified a little earlier  
13 that, at least from LG standpoint, they attempted to pass  
14 through all of the safeguard duties and I believe he said,  
15 and I'll turn over the microphone in a second, that he  
16 thinks on average they were successful in passing through  
17 the duties to their customers. John?

18 MR. TOOHEY: Yeah, that's right. That was our  
19 intention was to pass the duties through by raising the  
20 retail prices and the invoice prices by a proportional  
21 margin.

22 COMMISSIONER WILLIAMSON: Okay. I wanna say, was  
23 there much push-back on that? If it's proprietary, you can  
24 say post-hearing, I'm just --

25 MR. TOOHEY: Well, you know, I think the biggest

1 risk we perceive, because, you know, if I'm remembering the  
2 sequence of events right, we raised our prices immediately  
3 upon the decision, and there's always a risk, as the leader  
4 of a price increase, that the rest of the industry, the rest  
5 of the other manufacturers won't follow, and then you find  
6 yourself disadvantageously priced, but what we saw was, you  
7 know, a lot of other prices were increased after we did, and  
8 that helped us. So we didn't -- we got sheltered, if you  
9 will, by the fact that the other manufacturers also raised  
10 their prices. If we had been the only one, I think we  
11 would've suffered an even greater decrease in our sales.

12 COMMISSIONER WILLIAMSON: Okay. Thank you. I  
13 think you've already this, I'm not sure, but does  
14 front-loading imports at the beginning of the quota year  
15 affect pricing during the year? You sort of talked about  
16 that. I'm not sure you said what was the evidence with  
17 saying that it doesn't?

18 MR. PORTER: Commissioner Williamson, the  
19 evidence is petitioners have not identified any linkage  
20 between the artificial volume increase because of the quota  
21 and depressed prices. And to go back to the prices, Slide  
22 6, we keep coming back to this because this is very  
23 powerful. Again, this is wholesale prices and, you know,  
24 you typically, petitioners come in and, "Look at this  
25 dramatic increase," and you see prices going down. Mr.

1 Williamson, where are the prices going down? Okay, in 2018  
2 and 2019.

3 Okay? Look at the first quarter of 2019 for  
4 Chairman Johanson's question. There was this big increase  
5 compared to the first quarter of 2018. Okay, yes, there was  
6 an increase in imports. You'd expect, under petitioners  
7 theory, for prices to plummet. Not there. So, the point  
8 is, when you say, what evidence? It's the absence of  
9 evidence that proves our point.

10 MR. ANDERSON: Chuck Anderson with Capital Trade.  
11 More to the point, essentially what you normally expect is  
12 the imports come in and they hit the market. There's no  
13 evidence that is happening. That is, the imports are coming  
14 in, those are incoming imports, there is strategic inventory  
15 build-up at the wholesale level and at the retail level  
16 because they know that this has to last for the year.

17 There's no incentive whatsoever to basically  
18 literally dump that inventory onto the market and depress  
19 prices. Because LG and Samsung, who are bringing in that,  
20 know that it was to last for the rest of the year. So they  
21 will basically meter out that inventory as time goes by in  
22 order to maintain the presence in the retail channel that  
23 they so desperately need in order to fully utilize those  
24 U.S. plants that they're trying to ramp up.

25 COMMISSIONER WILLIAMSON: Okay, thank you. I'm

1       sorry. I went way over. I didn't know I -- but thank you  
2       for those answers.

3                   CHAIRMAN JOHANSON: Commissioner Broadbent?

4                   COMMISSIONER BROADBENT: Okay. Yeah, I'm just  
5       kinda regrouping in my mind here to figure out where we have  
6       a difference of opinion about the factual record in this  
7       investigation. Okay. Both sides agree that demand decline  
8       is in part because of replacement demand, as well as higher  
9       prices, although there is disagreement about the emphasis.

10                  Both sides agree that Samsung and LG are ramping  
11       up fully integrated production, although there is some  
12       disagreement about the long-term viability of these  
13       investments. Are there other points you would emphasize as  
14       differences you have with Whirlpool and GE's testimony, with  
15       respect to developments in this industry?

16                  MR. KLETT: Commissioner Broadbent, this is Dan  
17       Klett. I'll start and maybe others will have some ideas.  
18       On a factual basis, I think, one major disagreement is the  
19       reliance on quarterly pricing versus average unit values.  
20       And I wanna make one point on why average unit values I  
21       think are better, especially in the context of midterm  
22       review. And that is that, as compared to a trade case,  
23       we're looking at past industry when underselling is used to  
24       evaluate, you know, why U.S. prices went down, why profits  
25       went down, why market share went down.

1                   That's not what you're looking at here. Here  
2                   you're looking at what has been the effect of the TRQ on  
3                   prices in the domestic industry. And looking at the  
4                   domestic industry as a whole, I think you really do have to  
5                   look at their average price, especially in the context of  
6                   profitability when profits are determined by total average  
7                   unit value relative to total costs. I mean Mr. Levy said  
8                   this morning that prices were, you know, driven by cost.  
9                   And so you can't do that using quarterly data. You have to  
10                  look at the industry's total revenue and total average unit  
11                  values and total costs to make assessment.

12                  Number two, your economic modeling, which I think  
13                  the Commission placed a lot of reliance on, relied on  
14                  average unit values for the entire industry. It didn't rely  
15                  on an average of your quarterly pricing. So for purposes of  
16                  this midterm review, I think there's a big difference in  
17                  terms of the utility of quarterly pricing versus total  
18                  average unit values, given the purpose of the two  
19                  proceedings.

20                  MR. DURLING: Commission Broadbent, this is Jim  
21                  Durling. I would also add, I think it has become apparent  
22                  over the course of the proceedings, there's a pretty big  
23                  disagreement among the parties as to the probative weight be  
24                  given to the Chicago study, and I guess I'm struck by your  
25                  specific question to petitioners this morning. You asked

1 about, well, how much of these different factors matter?  
2 And they gave you a qualitative answer and then you  
3 specifically responded saying, "Well, can you quantify how  
4 much prices matter?"

5 That was an important question. I thought it was  
6 a good question. As I recall, petitioners took a pass in  
7 the morning, saying they would address it post-hearing. But  
8 with all due respect, the question of, how much did prices  
9 matter has already been the subject of the Chicago study  
10 that they literally tried to go in and say, "We're trying to  
11 find out, given everything else that's happening in the  
12 market, how much did the tariffs affect the price of  
13 washers?"

14 I mean, there's a slight disagreement whether it  
15 should be modeling, retail versus wholesale prices, they  
16 have more detail at the retail level, so they were using  
17 mostly retail prices, but as you've seen in a bunch of the  
18 comparisons we've done, in fact, retail prices and wholesale  
19 prices are tracking pretty closely.

20 But the key point, and what, I think is the real  
21 contribution of the Chicago study to the record of this  
22 case, is that it's one of those rare times where you  
23 actually have someone who has tried to go in and carefully  
24 control for all of the other factors, control for changing  
25 costs. And Mr. Levy kept stressing, "Oh, price is only

1 increased to cover costs."

2 Well, no, the Chicago study specifically looked  
3 at that, and they specifically controlled for, what were the  
4 changing costs and what prices would we expect to see, given  
5 changing costs, and what prices did we actually see. So the  
6 Chicago study quantifies kind of total pass-through.  
7 They're taking all these other things into account.  
8 Essentially they answer the question that you posed to the  
9 petitioner panel this morning.

10 COMMISSIONER BROADBENT: Okay, thank you. I  
11 asked this of the Petitioners, Mr. Toohey, are there any  
12 other major global producers of large residential washers  
13 that have made efforts to gain access to the U.S. market?  
14 The ones I have are Whirlpool, Higher, LG, Samsung,  
15 Electrolux and Alliance.

16 MR. TOOHEY: Not that I'm aware of.

17 COMMISSIONER BROADBENT: Okay, thank you. Mr.  
18 Myers, to what extent is your ability to acquire steel been  
19 affected by the Section 232 tariffs and quotas on steel and  
20 aluminum? Do you import steel and aluminum, and if so, what  
21 kind of steel and aluminum do you import?

22 MR. MYERS: Commissioner Broadbent, I'm actually  
23 not equipped to answer that question for you, so I'm going  
24 to defer to my colleague.

25 MR. PORTER: Commissioner Broadbent, this is Dan

1 Porter. That was a specific question in the U.S. producer  
2 questionnaire and it was fully answered, and some of the  
3 stuff is confidential, but basically went through and said  
4 with respect to steel, this is what I'm importing, this is  
5 what I'm importing -- subject to 232, not subject to 232,  
6 and the same with respect to aluminum and then we actually  
7 calculated affect on the cost in those answers.

8 So, in the LG U.S. Tennessee questionnaire  
9 response, I believe your question is answered in there.

10 COMMISSIONER BROADBENT: Okay, thank you. Mr.  
11 Porter, one thing I didn't quite hear you say -- I thought  
12 you said exporters from China are capturing the equivalent  
13 amount, what company is that?

14 MR. PORTER: No, I apologize if I was confusing  
15 what I was arguing is that if you will agree with the LG  
16 recommendation to include belt drive washers, which are  
17 essentially circumventing the safeguard, coming in without  
18 safeguard duties, if you were to include them in the scope,  
19 a containing request is to increase the quota amount,  
20 otherwise in this race to the first pass to both could read  
21 that the Chinese get all the quota share.

22 COMMISSIONER BROADBENT: Got it, okay. Mr.  
23 Anderson, why are retailers willing to accept a higher  
24 wholesale price for dryers given the lack of tariff on  
25 dryers? If you're Home Depot, aren't you sophisticated

1 enough to tell Whirlpool that you're not willing to accept a  
2 higher price for dryers when there's a new tariff on  
3 washers but not on dryers?

4 MR. ANDERSON: Commissioner Broadbent, I'm going  
5 to ask John Toohey to sort of jump in after me, but we were  
6 discussing that specific question after the testimony this  
7 morning where Mr. Levy and Mr. Tubman suggested that there  
8 is no linkage between dryer pricing and washer pricing at  
9 the wholesale level.

10 That is not LG's experience at all. In fact, the  
11 way that the wholesale price is arrived at in negotiations  
12 is you start with the map, the retail price, and you work  
13 backwards. And, I'll let Mr. Toohey explain in more detail,  
14 but it's our experience, and the data also shows it right  
15 here, is that the price in fact are linked. And so,  
16 therefore, to suggest that somehow that the retailers got a  
17 tariff premium because of the decision to pass through the  
18 price increases on washers only than the retailers hiking up  
19 the prices of dryers just doesn't correspond with LG's  
20 experience.

21 MR. TOOHEY: Yeah, John Toohey. I would add I  
22 think there's a consumer psychology dimension to it. It has  
23 been convention for a while for the washer and the matching  
24 dryer to be sold as a pair with a single price -- 699 each,  
25 799 each. The story gets a little complicated if you buy a

1 gas dryer because it's an extra hundred bucks, but basically  
2 that's the way these things have been marketed, and I think  
3 consumers are -- come to experience that, and they're used  
4 to that being the way the product is presented at retail.

5 And so, you know, to break that -- I think it's  
6 actually an incentive for the retailer to go ahead and raise  
7 the price of the matching dryer just to keep that psychology  
8 intact as --

9 COMMISSIONER BROADBENT: It's kind of a demented  
10 psychology, isn't it? I mean its kind of flawed, yes.

11 MR. TOOHEY: Well but the retailer, you know,  
12 keeps their share of the selling price. It's -- some of it  
13 drops to the retailer's bottom line too. It's really the  
14 consumer, you know, ends up paying the tab at the end of the  
15 day and it's not clear to us how focused the consumers are  
16 on the dynamics of the appliance market until the time comes  
17 when they're plunged into it because the washer stopped  
18 working.

19 MR. PORTER: Commissioner Broadbent, if I may,  
20 this is Dan Porter. As you know, we've been talking about  
21 washers for a while, so I don't know exactly which  
22 proceeding it was, but it was one earlier proceeding --  
23 there was a lot of discussion about washers and dryers and I  
24 believe it was Commissioner Schmidlein who said, "Can you go  
25 back and tell me this idea that they are linked at the

1 wholesale level?"

2           And it was a direct question and we went back,  
3 and LG compiled all this evidence showing that their  
4 customer, that it is the retail customer, required same  
5 pricing. Why? Because they required in the retail market  
6 to do same pricing, and they wanted to make it easy.

7           And so, we put all this evidence in that LG's  
8 customers required them to offer identical pricing,  
9 notwithstanding that there are differences in cost, and  
10 notwithstanding obviously, that there are differences in  
11 tariffs.

12           So, you had -- we gave this evidence and  
13 basically these are systems that are set up. And if you  
14 think about it, you know, yes, I take your point. Why  
15 didn't Home Depot say "Whoa, you know, your costs are only  
16 going up on washers?"

17           But because the systems are all set up for to  
18 have washer and dryer matched pricing. And again, I just  
19 want to note, one of the Commission's reports actually said  
20 that based on questionnaire data, it was 75 or 80% of  
21 matched pricing. So, again, this is something the  
22 Commission itself found.

23           MR. TOOHEY: I think there's another small point,  
24 but if you envision the sale brochure -- the weekly sale  
25 that shows up in your Sunday paper, from the appliance

1 store, you know, it's a very dense page with a lot of photos  
2 of the appliances. There isn't a lot of room there to put  
3 two different prices.

4 It's actually an efficiency if the washer and the  
5 dryer are priced the same, you can just put the number ones,  
6 and have more room for photography or sloganeering or  
7 whatever, to better make use of the limited ad real estate.

8 COMMISSIONER BROADBENT: Okay, thank you very  
9 much.

10 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

11 COMMISSIONER SCHMIDTLEIN: Okay, I just had a  
12 couple more questions. One, I wanted to get clarification  
13 on the projections for 2019 and 2020. And I think it was  
14 either Mr. Anderson or Mr. Klett, you referred to an  
15 attachment to the questionnaire response that included  
16 projections for 2019 and 2020, or did I misunderstand that?

17 MR. KLETT: Commissioner Schmidtlein, this is Dan  
18 Klett. The questionnaires -- the projections in the  
19 questionnaires were for production projections for 2019 and  
20 2020. Those were the projections that were in the  
21 questionnaires.

22 COMMISSIONER SCHMIDTLEIN: And was that for the  
23 foreign producer questionnaire?

24 MR. KLETT: No, that was --

25 COMMISSIONER SCHMIDTLEIN: The importer?

1                   MR. KLETT: That was just the U.S. producer  
2 questionnaires.

3                   COMMISSIONER SCHMIDTLEIN: Oh, the U.S. producer?

4                   MR. KLETT: Yes, for imports what I used in  
5 attachments 5 and 6 for projections were the internal  
6 projections that LG provided for its imports. So, we have  
7 you know, the split between domestic production and imports  
8 for LG. For Samsung I used, I think, some information we  
9 had also in its questionnaire, but I think some public  
10 information we could derive from the Sunset review for  
11 projections.

12                  COMMISSIONER SCHMDITLEIN: Okay.

13                  MR. KLETT: And then on the non-covered imports,  
14 I mean, pretty much the covered imports -- I mean pretty  
15 much the covered imports are just LG and Samsung. So, for  
16 the non-covered imports, I just used the 2018 and I assume  
17 they would be the same in 2019 and 2020.

18                  So, that was the basis of our projections for  
19 2019 and 2020.

20                  COMMISSIONER SCHMIDTLEIN: And so, the  
21 projections included LG's projections for Thailand and  
22 Vietnam?

23                  MR. KLETT: That's correct.

24                  COMMISSIONER SCHMIDTLEIN: Okay, so that's --  
25 that was my question. I could find the ones for Korea --

1 the projections for Korea, which were also included in the  
2 foreign producer questionnaire, but I had it specifically  
3 located here at the --

4 MR. KLETT: Yes, we had information from LG on  
5 their U.S. shipments from all sources, U.S., non-subject,  
6 Vietnam, Thailand and Korea.

7 COMMISSIONER SCHMIDTLEIN: Okay, and these were  
8 projections created by the company?

9 MR. KLETT: Yes.

10 COMMISSIONER SCHMIDTLEIN: Okay. And so, we're  
11 -- our, you know Mr. Toohey and Mr. Myers, which one of you  
12 would answer this, but you know we talked earlier about  
13 wanting flexibility and the fact that things don't always go  
14 as you intend. How much confidence do you have in those  
15 projections that Mr. Klett has based his analysis on?

16 MR. TOOHEY: It all depends on Ted. Yeah, that's  
17 hard to say. You know, I try to avoid prediction. But I  
18 can say that those forecasts came through a robust vigorous  
19 process with the best experts that we had internally to  
20 produce them. So, you know, I think that's the -- I don't  
21 think you could get a better forecast from anybody else  
22 today.

23 COMMISSIONER SCHMIDTLEIN: Okay. Well, that's  
24 helpful. Can you talk about what -- I know we've talked  
25 about in some of the other cases as you just mentioned Mr.

1 Porter, we've been here so many times, but can you talk  
2 about what you plan to do with the production facilities in  
3 Thailand and Vietnam once you shift that production  
4 completely to the United States that they're currently  
5 exporting here?

6 MR. PORTER: Commissioner Schmidtlein, this is  
7 Dan Porter. The very question was asked in I believe, the  
8 earlier proceeding.

9 COMMISSIONER SCHMIDTLEIN: Yes.

10 MR. PORTER: And as part of the answers to the  
11 Commissioner's question, I believe it was in sunset, LG  
12 provided for every single foreign plant, what had happened  
13 essentially since the decision to invest in United States.  
14 And we didn't provide it here. We will definitely provide  
15 that same information and update it as well.

16 COMMISSIONER SCHMIDTLEIN: Okay, that would be  
17 helpful, I think especially getting the update with that and  
18 you know, what steps you've taken to implement that plan for  
19 those production facilities.

20 MR. PORTER: Question understood, absolutely.

21 COMMISSIONER SCHMIDTLEIN: Okay, the last  
22 question I had is -- I don't know, it's sort of a question  
23 of interest I guess, but when you read your materials and  
24 you know, through the discussion today, you definitely get  
25 the sense that you think that the Legacy producers have done

1 something wrong by increasing their prices as a result of  
2 the tariffs.

3 And I guess my question is did that surprise you  
4 to see U.S. producers -- U.S. Legacy producers, I should say  
5 increasing -- let's put aside argument about how much  
6 they've increased and what the reason was. What it would  
7 cost for this, but would that have surprised you, or did  
8 that surprise you to see them increasing U.S. prices as a  
9 result of the tariff going on?

10 MR. PORTER: Commissioner, let me just answer one  
11 part of the question and I'll turn it over to John Toohey.  
12 We are not saying it was necessarily wrong for them to do  
13 it, okay. They were doing what they thought was in their  
14 interest. All we're sort of pointing out though, is that  
15 the safeguard created an opportunity and they could have  
16 done a bunch of different things, and they chose to raise  
17 prices so high that it affected demand.

18 That's where we quibble. We don't quibble about  
19 raising prices in general. We quibble about their statement  
20 that the drop in demand is somehow, you know, not related to  
21 the safeguard, that's really the only quibble. We're not  
22 quibbling about their decision to raise prices, okay? It's  
23 the relationship to the reduction in volume that is the  
24 dispute.

25 MR. TOOHEY: Yeah, I wouldn't say I was surprised

1 to see that they raised the prices. I was more surprised  
2 when they said that they weren't going to raise prices in  
3 our last proceeding.

4 COMMISSIONER SCHMIDTLEIN: Okay. Alright, well I  
5 have no further questions, so thank you very much.

6 CHAIRMAN JOHANSON: Commissioner Kearns?

7 COMMISSIONER KEARNS: That's a good segue for me.  
8 I'm trying to figure out how best to go about this. I mean  
9 it seems to me that we might be disagreeing over the extent  
10 of the price increase and the extent to the affect that had  
11 on demand. But I think both sides agree that prices went up  
12 because of the safeguard.

13 I think both sides would agree that demand will  
14 go down because prices go up. And I think none of this is a  
15 surprise of the Commission -- that's what we expected would  
16 happen. That's what we -- you know, that's why we put in  
17 place the safeguard.

18 So, I mean we might be disagreeing over the  
19 magnitude of the problem, or not, problem -- the magnitude  
20 of the price increase, the magnitude of the demand and  
21 decline. And I do have some questions for you to make sure  
22 I understand exactly where everyone is on those specific,  
23 but it just seems to me like yeah -- and to me, I got to  
24 say, you know, a lot of times I think when members of  
25 Congress come in, they're obviously not as well-informed as

1 the industry.

2 But I was really struck by how I think they  
3 really framed it -- the two Senators framed it pretty well  
4 this morning. But yeah, demand -- the prices were  
5 artificially low before the remedy went in place. Now  
6 they're higher and that's what we thought would happen.

7 Now, and then to me the question is well are  
8 prices dramatically higher than we would have expected or  
9 that the President would have expected when they went  
10 forward with relief. And if that's the case, that's  
11 something we want to include on our report.

12 If the prices didn't go up nearly enough, that'd  
13 be something we'd want to -- but it seems to me like we're  
14 basically in the ballpark. But I wanted to ask you guys  
15 some questions to make sure I understand kind of where there  
16 are agreements or disagreements, along the lines of what  
17 Commissioner Broadbent did a few minutes ago.

18 So, I think I heard you all say -- maybe Mr.  
19 Klett it was you. You do also agree that demand, decline  
20 for reasons other than price and safeguard, right?

21 MR. KLETT: Commissioner Kearns, this is Dan  
22 Klett. I mean I think whether demand declined or whether  
23 there was -- demand leveled off, I mean clearly kind of the  
24 underlying derived demand factors slowed down in 2018 and  
25 2019 than in prior years. So, there was a non-price factor

1 you know, with the drag on demand.

2 COMMISSIONER KEARNS: And you can't really  
3 quantify it. I mean, no one can really quantify it, right?  
4 Or can we?

5 MR. KLETT: Well, not precisely. But I think we  
6 can look at what happened with demand for washers versus  
7 what happened with demand for other appliances to give you a  
8 reference point for maybe the relative effect of demand  
9 versus other factors.

10 And you also have information on the you know,  
11 construction spending, remodeling, you know that shows the  
12 slowdown.

13 COMMISSIONER KEARNS: Okay, good, thank you. Mr.  
14 Toohey, yeah?

15 MR. TOOHEY: Yeah, I would just say what we saw  
16 with respect to non-laundry appliances was a decline in the  
17 growth rate. Not a decline in the absolute quantity of  
18 units shipped.

19 MR. PORTER: Commissioner Kearns, quick, this  
20 chart is -- I'm sorry, this chart is -- excuse me, Dan  
21 Porter. This chart is really important because as Mr.  
22 Toohey testified earlier, all of those other factors that  
23 Petitioners talked about -- construction, you know,  
24 replacement cycle, possibly affect and so forth, they all  
25 apply to other appliances and yet you have a very dramatic

1 difference here. And so, --

2 COMMISSIONER KEARNS: And I guess I hear you and  
3 I think this is interesting. But I mean, some things we can  
4 learn from this I think are -- first of all, there is a  
5 pretty significant discrepancy if we look just at 2015 to  
6 2017, you know, other appliances are -- it looks like 2  
7 percentage points below.

8 Or, in other words, only one two-thirds of the  
9 growth we saw in dryers for example. I mean there is a bit  
10 of discrepancy there. There's one thing I see here besides  
11 what you're telling me to see. But then the other thing I  
12 see is even for other appliances -- right, as I guess Mr.  
13 Toohey just put it, the growth rate went down, but overall  
14 something happened to other appliances here and more than  
15 anything else something happened -- well maybe more than  
16 anything else, something happened to dryers.

17 And I know there's a correlation between dryers  
18 and washers, but anyway, there are some other things going  
19 on here besides just the safeguard, right?

20 MR. PORTER: Commissioner Kearns, absolutely, but  
21 again, there's no reason to think that the magnitude --  
22 right, so you have other things going on affecting other  
23 appliances. Sure, you have the reduction in the growth  
24 rate, but you still have an increase why washers are  
25 different. Quite honestly, the only thing different is the

1 tariff, and therefore there's the connection. But we think  
2 this chart proves our point and they have not presented  
3 anything else except identifying other factors sure, but  
4 this chart proves our point that the tariff had the effect  
5 of reducing demand for washers.

6 COMMISSIONER KEARNS: Right, but again we have to  
7 be careful. There's no question that that's the case. I  
8 don't hear the --

9 MR. PORTER: Petitioners do not admit that.

10 COMMISSOINER KEARNS: No, they do, they do. They  
11 admit that the safeguard -- I believe they would say, led to  
12 price increases. I might be wrong, and I hope they'll  
13 correct me if I am in post-hearing, and they admit that if  
14 prices increase, demand will go down, it will ask us to be a  
15 negative .3.

16 So, I don't think there's any discriminate there.  
17 Now, they do say look at the product pricing data and that's  
18 a whole other issue. And we were just talking about to what  
19 extent the product pricing data actually shows an increase  
20 at all. I'm not sure.

21 But they said they're not running away from the  
22 AUV's either, and the AUV's show a price increase and a  
23 value increase at least. So, I'm not sure that there really  
24 is any disagreement. On the overall concept it's a  
25 difference in managing. But let me go to the next question.

1           So, I also noticed in the Chicago report -- and I  
2 read it just a few minutes ago, the abstract a few minutes  
3 ago. I mean one of the conclusions of that report was that  
4 the absent the countervailing duty order on China at least,  
5 and maybe on Korea, I'm not sure -- but on China, had no  
6 impact on prices. So, do you agree with that?

7           I mean in essence, if you read the abstract, it  
8 sort of says, basically there's a whack a mole issue where  
9 the prices didn't actually change because the manufacturers  
10 went from one country to the other to the next and had no  
11 impact until safeguard was put in place.

12           MR. PORTER: Commissioner Kearns, obviously I  
13 cannot disagree with the facts. I do want to emphasize a  
14 very important point -- all imports from Thailand and  
15 Vietnam are fairly traded.

16           COMMISSIONER KEARNS: Yeah, I didn't ask about  
17 that, but all I'm saying is like well port says price, and  
18 you have not shied away of having debates over pricing up  
19 until now. I mean the report that you all cite says  
20 basically that the China order had no impact on pricing in  
21 the United States market.

22           MR. PORTER: I don't think we will dispute that.

23           COMMISSIONER KEARNS: Okay, because that's  
24 interesting, because that goes back to well, what were  
25 prices before and then we got to evaluate as the Senators

1 did, let's keep in mind what we thought about pricing before  
2 the order went in place.

3 The last question I had is making sure I  
4 understand what impact you think a price increase has on  
5 demand. And I think Mr. Klett, what I heard you say is --  
6 you point out, while the Petitioners keep talking about a  
7 negative .3% or a negative .3 elasticity estimate, really  
8 the staff report was negative .3 to negative .8 and I do  
9 have to make clear because this wasn't clear to me until I  
10 asked my aid that the Commission found a negative .3.

11 We didn't negative .3 to negative .8, we found a  
12 negative .3. The staff had suggested negative .3 to negative  
13 .8, right?

14 MR. KLETT: Commissioner Kearns, the Commission  
15 used the negative .3 in its economic modeling.

16 COMMISSIONER KEARNS: Okay.

17 MR. KLETT: I mean, I have not -- I'm not sure  
18 why it used that versus you know, if that was a mid-point of  
19 the range or whatever, but it is true the Commission used  
20 the negative .3.

21 COMMISSIONER KEARNS: Okay, but then what I heard  
22 you say is -- I mean it sounded like you were suggesting,  
23 you thought negative .3 to negative .8 was closer to being  
24 on the mark. But can you just tell me what you -- I mean  
25 what do you think the elasticity estimate should be?

1           MR. KLETT: Well, you can do some calculations.  
2           I mean basically, we have some AHAM data, we have from your  
3           staff report. We can look at the change in the apparent  
4           consumption -- the relative change in apparent consumption  
5           from period to period versus the change in relative price  
6           and kind of calculate what the implied demand in elasticity  
7           is.

8           COMMISSIONER KEARNS: But again, there are other  
9           factors at play with the decline.

10          MR. KLETT: There are, so I say it's kind of an  
11          implied elasticity of aggregate demand. And based on doing  
12          those calculations, I calculated you know, maybe .6 using  
13          one set of data, using AHAM data on consumption and pricing.  
14          I think I calculated .9.

15          So, but the point is that -- that

16          COMMISSIONER KEARNS: And just to be clear, and  
17          you would agree though, that really if there are other  
18          factors at play besides the increase in price, you would  
19          want to then reduce that estimate accordingly?

20          MR. KLETT: Well, it could be reduced. It could  
21          be increased. I mean there are other factors in play, so  
22          that you know, controlling for those other factors it's --  
23          you can't say priori whether it would cause an increase or a  
24          decrease in kind of that simple calculation.

25          COMMISSIONER KEARNS: Although we have talked so

1 far about other reasons why we think demand has gone down.  
2 We haven't talked about any other countervailing.

3 MR. KLETT: Yes, that's a fair point. So, you  
4 know accounting for the other factors, you know, maybe the  
5 U.S. demand would be lower than that range based on just  
6 that simple calculation, that's true.

7 COMMISSIONER KEARNS: Okay. Okay, anybody else  
8 have any comments -- okay, great. I think that helps me get  
9 my mind around this. I mean I do think there are  
10 differences in magnitude on each one of these things that  
11 we're talking about, but that helps me understand sort of  
12 where the differences are, so thank you.

13 CHAIRMAN JOHANSON: When the Commissioner filed  
14 the Section 201 report in December of 2017, we could not  
15 have accounted for the Section 232 duties on steel that  
16 would not be implemented until March 2018. Therefore, when  
17 you compare the predictions of our model run in 2017 with  
18 the market results observed in 2019, isn't it the case that  
19 a larger price increase for washers would be necessary for  
20 the Legacy U.S. producers to realize the benefit given the  
21 higher prices for steel inputs than we expected? Yes, Mr.  
22 Porter?

23 MR. PORTER: Yes, Chairman Johanson I'll answer  
24 just a very important factual point and then I'll have Mr.  
25 Klett talk about the modeling.

1           This issue came up quite a bit in the sunset --  
2           that is the affect of the 232 on washing machine production.  
3           And we can again, put in what -- the same sort of answers to  
4           the questions that the Commission asked there. And if you  
5           go back and look at the answers, you'll see that the  
6           relative sort of -- if you will, increase as a reflection of  
7           total washing machine cost and a reflection of total washing  
8           machine price, of the 232 is actually quite small, okay.

9           I can't get into the specifics, but the specifics  
10          are in the U.S. producer questionnaire response, at least  
11          that we put in, and the Commission asked a whole bunch of  
12          questions during the sunset, and we put in additional data  
13          showing that when you really look at it -- I mean 25% sounds  
14          like a lot, but we look at how much steel is actually used  
15          in the washing machine and how much aluminum, you literally  
16          calculate it all out -- the number isn't all that great.

17          So, that would not account for the tremendous  
18          price increase in and of itself.

19          MR. DURLING: And Commissioner Johanson this is  
20          Jim Durling. We'll submit as part of our post-hearing  
21          brief, an article that appeared in the New York Times just a  
22          few -- like a week or so ago, which was quite interesting.  
23          It was looking at how the 232's have affected the steel  
24          industry.

25          And what the article described is that somewhat

1 counterintuitively, broader economic forces have taken over  
2 and so the base price of steel has actually gone down. So,  
3 whether there's been an increase in the cost to buyers of  
4 steel like Whirlpool, it's both the underlying base price of  
5 the steel and the 232 tariffs on top of that.

6 And the article was speculating how sort of  
7 notwithstanding the effort of trade policy instruments to  
8 shape the market, the market has its own dynamic and it was  
9 quite striking. So, we'll put that on the record for you,  
10 and I'll pass it to Mr. Klett.

11 MR. KLETT: Chairman Johanson, I actually don't  
12 have anything to add to Dan and Jim's statement --  
13 testimony.

14 CHAIRMAN JOHANSON: Okay, thank you. And I'm  
15 going to continue on this line just a little bit. Just for  
16 the record of this investigation, I know it's been discussed  
17 before, but in other investigations, but where does LG  
18 source the raw material that it uses -- or most of the raw  
19 material that it uses?

20 MR. PORTER: I assume you mean LG Tennessee?

21 CHAIRMAN JOHANSON: In the U.S. market, yes.

22 MR. MYERS: Yeah, Chairman Johanson, we'd like to  
23 submit that in our post-hearing brief.

24 CHAIRMAN JOHANSON: Okay, I understand. That's  
25 not a problem at all. But I will ask you this, have the

1 Section 232 tariffs affected your operations?

2 MR. MYERS: I believe, this is Ted Myers again,  
3 LG, with Commissioner Kearns, during your visit we had a lot  
4 of conversations about the other raw material tariff impacts  
5 that we were getting. And it does, I mean we really want to  
6 enable local supply, but that's affected both by cost and by  
7 quality and so, anyhow, that's a balance that we have to  
8 keep, so yes, we do have to import materials, and yes, those  
9 tariffs do affect us.

10 MR. PORTER: If, Commissioner Johanson -- excuse  
11 me, Chairman Johanson, this question was asked explicitly in  
12 the U.S. producer questionnaire response. LG actually, I  
13 believe, put in -- LG Tennessee put in sort of a fulsome  
14 response.

15 And basically, without getting into too much  
16 detail, they went in and looked at what their own experience  
17 was. So, for example, are they able to import from Korea  
18 under quota, which is not subject to the 232, because they  
19 already have a pre-existing relationship with the Korean  
20 steel supplier.

21 Were they able to get an exclusion from the 232,  
22 either steel, aluminum and so forth? And again, we can  
23 supplement that but there's some information in the LG  
24 Tennessee questionnaire response on this very question.

25 CHAIRMAN JOHANSON: Okay, thanks. Have you all

1 set exclusions from the Section 232 tariffs?

2 MR. PORTER: Again, we will put all of that in  
3 the post-hearing.

4 CHAIRMAN JOHANSON: Okay, that is not a problem  
5 at all. Okay, that conclusions my questions. I appreciate  
6 you all being here. Commissioner Williamson -- no  
7 questions, Commissioner Broadbent?

8 COMMISSIONER BROADBENT: Yeah, I don't think I've  
9 got anymore, yeah, I think I'm done, thank you.

10 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

11 COMMISSIONER SCHMIDTLEIN: I just have one  
12 question, but I think I can probably guess your answer.  
13 When I look at the pricing data, and I know you have  
14 problems with the pricing data in the staff report. You  
15 see, for most of the U.S. prices -- or, for the product for  
16 the U.S. prices for that product. In the first quarter of  
17 '19 prices dropped -- the price goes down. Do you have any  
18 idea why that's showing up like that, or is it just because  
19 it's a coverage issue?

20 MR. PORTER: Commissioner Schmidtlein, I think  
21 it's two answers. One -- coverage, but I also -- we  
22 addressed this very point in the footnote on page 40 of our  
23 brief, and I can't get too much but let's just say  
24 intra-industry competition.

25 COMMISSIONER SCHMIDTLEIN: Ah, okay.

1                   MR. PORTER: You look at the footnote on page 40  
2 towards the bottom, we addressed this very question.

3                   COMMISSIONER SCHMIDTLEIN: Okay, alright thank  
4 you, I have no further questions.

5                   CHAIRMAN JOHANSON: Commissioner Kearns?

6                   COMMISSIONER KEARNS: Just one quick question.  
7 So, the quota is allocated on an annual basis and I had some  
8 questions for Petitioners about that this morning. Has that  
9 caused any problems in the market for you all?

10                   In other words, would you know, compared to a  
11 quarterly quota, is an annual quota sort of more like  
12 unnecessarily costly to achieve the same basic result?

13                   MR. TOOHEY: Yeah, I wish I had my slides and VP  
14 here to comment more expertly on this, but I believe that  
15 the more we can smooth things out and match our supply to  
16 the timing of our sales, the better our forecasting is, the  
17 better our operation works in general.

18                   When we had you know, a two month period where we  
19 have a big spike in inventory, you know, we have to make  
20 arrangements for managing the logistics and the storage and  
21 I think it is less attractive to us than something -- a  
22 remedy that would have smoothed it out.

23                   COMMISSIONER KEARNS: Thank you, I have no  
24 further questions.

25                   CHAIRMAN JOHANSON: Commissioner Broadbent?

1                   COMMISSIONER BROADBENT: Yeah, I just had asked  
2 my other -- the question I asked the first panel. This is  
3 the first washer case without Samsung fully participating.  
4 Does their more neutral stance in this case suggest a  
5 divergence of economic interests in LG?

6                   MR. PORTER: This is Dan Porter. Commissioner  
7 Broadbent, LG has no idea why Samsung made the decision that  
8 they did. All I can say is I called up counsel for Samsung.  
9 I said let's talk about briefs, let's talk about the hearing  
10 and counsel said, we're not participating. And I said is  
11 there anything else to add? They said no. That was the end  
12 of the conversation. So, neither we as counsel, or LG, know  
13 why Samsung made the decision, we just know they made the  
14 decision.

15                   COMMISSIONER BROADBENT: So, you had to write all  
16 the briefs yourself?

17                   MR. PORTER: Well let's just say we heavily  
18 participate in brief writing, no matter whether they're  
19 there or not, so yeah, we wrote all our briefs ourselves.

20                   COMMISSIONER BROADBENT: Mr. Porter, one more  
21 question. Looking at the financial data, it appears that  
22 several producers have had specific financial idiosyncrasies  
23 that have skewed their financial trends over the period.  
24 Does this suggest that we should be assessing profitability  
25 of the industry on a firm by firm basis in addition to

1 analyzing the industry as a whole?

2 MR. PORTER: My answer would be yes. Obviously,  
3 you very much have idiosyncrasies with two of the four U.S.  
4 producers being in a ramp-up mode, that obviously you can't  
5 get a lot of meaning out of their particular financial  
6 because it reflects ramp-up, yeah.

7 COMMISSIONER BROADBENT: Alright, I'm ready to  
8 fold here today.

9 CHAIRMAN JOHANSON: Okay, do any of the other  
10 Commissioners have questions? No Commissioners? We  
11 appreciate you all being here. This panel is dismissed, and  
12 we can now prepare for the Petitioners and then Respondent's  
13 rebuttal and closing. I'd like to note that Panel 1 has a  
14 total of 5 minutes for their closing, and Panel 2 has a  
15 total of 5 minutes as well.

16 Oh, my apologies. Does staff have any questions  
17 for this panel?

18 MR. CORKRAN: Douglas Corkran, Office of  
19 Investigations. Thank you Chairman Johanson, staff has no  
20 additional questions.

21 CHAIRMAN JOHANSON: Alright, thank you.

22 MR. BISHOP: Closing remarks on behalf of Panel 1  
23 will be given by Jack A. Levy of Cassidy, Levy, Kent. Mr.  
24 Levy, you have 5 minutes.

25 CLOSING STATEMENT OF JACK A. LEVY

1                   MR. LEVY: Good afternoon, it's been another long  
2 day. Why are we here again? If you look at the top right  
3 of the exhibit, under the statute you're charged with  
4 submitting a report on the results of your monitoring  
5 activities with respect to developments in the domestic  
6 industry including efforts to make positive adjustment to  
7 import competition.

8                   We're under Section 204-A2, so you're providing a  
9 report -- that report surely may contain analysis but let us  
10 not conflate analysis on the one hand with advice on the  
11 other. It sounds as if LG is advocating for activity under  
12 204-A4, where you shall provide advice on probable economic  
13 affects.

14                   That is, by its definition, more futuristic in  
15 nature and there has been no requests from the President, so  
16 that is where we are. We are under 204-A2, and that by the  
17 way, contrasts sharply with the predecessor statute. I  
18 think you know your role well.

19                   It's interesting that no party is disputing that  
20 the Legacy domestic producers are making important progress.  
21 They're on a positive trajectory. Everyone agrees there was  
22 a price increase. Everyone agrees that profitability is  
23 improving. No one disputes that the Legacy domestic  
24 producers are making meaningful progress in implementing  
25 their adjustment plans.

1           And no one disputes there were significant  
2 headwinds in 2018, whether it be the stockpiling, or the  
3 demand/decline, or the cost increases. None of this is  
4 under dispute which is quite stunning.

5           There are a few items of dispute however -- LG  
6 again, hangs it hat on future projections, about what's  
7 going to happen in 2019 and 2020. And they want you to take  
8 those prognostications at face value. I would remind you  
9 that the ITC questionnaire does not ask information about  
10 2019 or 2020 sales, or profitability, or any such data.

11           And it is your job to report on progress to date,  
12 not future prognostications. We also disagree as to whether  
13 somehow Whirlpool crashed demand through its modest price  
14 adjustments consistent with cost. And I would -- and they  
15 think that their clincher is to point out and compare AHAM  
16 demand trends for laundry products with non-laundry  
17 products.

18           And I would simply call your attention to other  
19 AHAM data on the same issue, starting with Exhibit 6. And  
20 here, if you simply look at a different period across the  
21 quarters -- across the interim periods, there you see  
22 directionally that demand is down in non-laundry categories  
23 as well.

24           And if you turn to Exhibit 7, what you see is  
25 that over time there is not a perfect correlation in demand

1 between laundry and non-laundry products. You know, a good  
2 economist could slice and dice these data in a self-serving  
3 way, but reference to AHAM data prove far too much.

4 And with regard to AUV's, I said we're not  
5 running away from AUV's, but the important way to understand  
6 AUV's is in reference to unit cogs. That solves for product  
7 mix issues. It tells you what's happening at the gross  
8 margin level, and so if you want to look at AUV's, by all  
9 means do, but look at it by reference to unit cogs, and then  
10 you will see truth.

11 And finally, LG really loves that Chicago study,  
12 but their hedonic regression analysis is useless. It is a  
13 useless predictor of price affects without reference to the  
14 product lifecycle variable. And what you said about product  
15 lifecycle in the safeguard investigation was that there's no  
16 business reason to believe that that holds.

17 You cited that 22 of 29 purchasers reported the  
18 difference states of LRW's model lifecycle does not affect  
19 the model's price. In order to adhere to the findings of  
20 this Chicago study, you have to reject your prior findings  
21 regarding the meaning of product lifecycle theory in this  
22 industry.

23 You know at the end of the day this has been a  
24 challenging 2018. The promise of the safeguard was only  
25 partially realized, but we are on a positive trajectory.

1 Whirlpool and the other Legacy domestic producers deserve  
2 their fair shake at recovering from the serious injury that  
3 they've endured.

4 Let's stay the course. Let's provide a good  
5 report to the President, so he can understand developments  
6 in this industry. And you should be proud of the work that  
7 you did in recommending a remedy to the President, and the  
8 results that we are realizing today. This is truly a win  
9 thus far, for the domestic industry. Thank you very much.

10 MR. BISHOP: Thank you Mr. Levy. Closing remarks  
11 on behalf of panel 2 will be given by James P. Durling of  
12 Curtis, Mallet-Prevost, Colt & Mosle. Mr. Durling, you have  
13 5 minutes.

14 CLOSING STATEMENT OF JAMES P. DURLING

15 MR. DURLING: Oh, sorry. Thank you for indulging  
16 us during another long day. First, the statute. The  
17 statute clearly allows the Commission to report on facts,  
18 and the statute clearly allows the Commission to analyze  
19 those facts. The dispute seems to be whether the Commission  
20 has the legal authority to go beyond the analysis and make a  
21 specific recommendation.

22 It's clear that some individual Commissioners  
23 have felt that they've had that discretion of the past, and  
24 we've given you the statutory arguments why we think you do  
25 have that discretion under the statute.

1           But whether you crystalize your analysis into the  
2 form of a recommendation, or you simply analyze and  
3 qualitatively assess what's going on. The important point  
4 is to write a report that's useful to the President.

5           This has been a somewhat unusual hearing because  
6 it's one of those rare cases where you have two U.S.  
7 producers offering you different views of the market. On  
8 the one hand you have LG, the upstart washer producer with a  
9 great brand reputation -- a brand new factory, arguing that  
10 further relief is not necessary. And on the other hand, you  
11 have Whirlpool -- the more established U.S. producer, the  
12 market share leader, the price leader saying oh, leave the  
13 revenue in place, no changes are necessary.

14           You're the referee, and when weighing these  
15 competing views of the market, the core question is would  
16 continuing the relief at the planned levels help or hurt the  
17 industry going forward?

18           A good starting point in this analysis is to see  
19 what have the producers done to date in response to the  
20 remedy. Starting with Whirlpool, Whirlpool seems to have  
21 pretty much used the temporary relieve from imports to  
22 conduct business as usual.

23           Yes, it has implemented its so-called adjustment  
24 plan, but that plan for the most part, was investing in a  
25 few new washer models and features. They haven't added new

1 lines. They haven't added new shifts -- they've made  
2 relatively modest changes.

3 More tellingly, the other major Legacy U.S.  
4 producer, Higher GE, has not even done that much. In the  
5 original remedy phase, the company provided almost no  
6 specifics about its adjustment plan, and it has not supplied  
7 much more in its pre-hearing brief.

8 The fact is that GE has largely starved its  
9 appliance business of funds for investments and upgrades for  
10 years, while it had its appliance business on the sales  
11 block. Consequently, now GE's laundry business is heavily  
12 weighted toward low value, top load agitator models -- your  
13 mom and pop washing machines.

14 But now that it's been purchased by a Chinese  
15 appliance producer High Air, it seems more content to use  
16 the GE brand and its newly acquired U.S. distribution  
17 network to push Chinese produced top load washers -- that's  
18 why we focused so much of our attention on the importance,  
19 going forward, if you keep the remedy in place, the  
20 importance of notifying the President that he has a problem  
21 with Chinese imports undermining the efficacy of the remedy  
22 that he's imposed.

23 Make that clear to him and let him decide what he  
24 wants to do with that. And make no mistake, he has the  
25 statutory authority to do that. Petitioners' panel this

1 morning testified that oh, well, this isn't a circumvention  
2 case. With all due respect, our brief cited the specific  
3 statutory provision that gives the President the authority  
4 to modify the remedy if he finds that subsequent  
5 developments are circumventing and undermining the  
6 effectiveness of the remedy.

7 He has express statutory authority to make these  
8 changes if he deems them necessary. I would also note that  
9 you heard this morning that the stockpiling somehow delayed  
10 the relief, and somehow because the relief was delayed for  
11 six months, that's another reason that it needs to continue.

12 But I recall the graph showing when the prices  
13 increased, notwithstanding any increase in the inventory  
14 levels, by LG and Samsung, wholesale prices in the U.S.  
15 jumped almost immediately. There was no delay in the form  
16 of remedy that's actually been playing out which is the  
17 dramatically higher prices.

18 As we said in the recent sunset review, the real  
19 drivers of the vastly improved condition of the domestic  
20 industry have been LG and Samsung. They've built new  
21 factories. They've added new shifts of workers. Their  
22 investments dwarf those of the Legacy producers.

23 So, their views on the level and focus of future  
24 trade restrictions and how it will affect the newly  
25 constituted U.S. industry on a going forward basis, should

1 be given significant weight in this proceeding. Thank you.

2 MR. BISHOP: Thank you Mr. Durling. Mr.

3 Chairman, that concludes closing remarks.

4 CHAIRMAN JOHANSON: I'd like to thank you all for

5 appearing here today. I will now make the closing

6 statement. Post-hearing briefs and all other statements

7 concerning matters to be addressed in the Commission report

8 to the President are due by July 2nd, 2019. With that this

9 hearing is adjourned.

10 (Whereupon, the hearing concluded at 4:09 p.m.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Large Residential Washers: Monitoring Developments in the Domestic Industry

INVESTIGATION NO.: TA-204-013

HEARING DATE: 6-25-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

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