

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
CERTAIN LARGE RESIDENTIAL WASHERS) 701-TA-488 AND 731-TA-1199-1200
FROM KOREA AND MEXICO) (REVIEW)

Pages: 1 - 298
Place: Washington, D.C.
Date: Thursday, February 21, 2019



Ace-Federal Reporters, Inc.
Stenotype Reporters
1625 I Street, NW
Suite 790
Washington, D.C. 20006
202-347-3700
Nationwide Coverage
www.acefederal.com

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

UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
CERTAIN LARGE RESIDENTIAL WASHERS) 701-TA-488 AND
FROM KOREA AND MEXICO) 731-TA-1199-1200
) (REVIEW)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, February 21, 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 Rhonda K. Schmidlein

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

8 Commissioner Jason E. Kearns

9

10

11

12 Staff:

13 William R. Bishop, Supervisory Hearings and Information

14 Officer

15 Tyrell Burch, Program Support Specialist

16 Sharon Bellamy, Records Management Specialist

17

18 Nathanael N. Comly, Investigator

19 Fernando Gracia, International Trade Analyst

20 Tana Von Kessler, International Economist

21 Emily Kim, Accountant/Auditor

22 Karl von Schrittz, Attorney/Advisor

23 Douglas Corkran, Supervisory Investigator

24

25

1 State Government Witnesses:

2 The Honorable Bill Reineke, Ohio House of Representatives,
3 88th District, Ohio

4 The Honorable Bob Rolfe, Commissioner, Tennessee Department
5 of Economic and Community Development

6 The Honorable Lydia Mihalik, Director, Ohio Development
7 Services Agency

8

9 Embassy Appearance:

10 Embassy of the Republic of Korea
11 Washington, DC

12 Yeo Han-Koo, Minister-Counselor

13

14 Opening Remarks:

15 In Support of Continuation of Orders (Myles S. Getlan,
16 Cassidy Levy Kent (USA) LLP)

17 In Opposition to Continuation of Orders (Michael T. Shor,
18 Arnold & Porter Kaye Scholer LLP)

19

20

21

22

23

24

25

1 In Support of the Continuation of Antidumping and
2 Countervailing Duty Orders:

3 Cassidy Levy Kent (USA) LLP
4 Washington, DC

5 on behalf of

6 Whirlpool Corporation

7 Joseph Liotine, President, North America Region,
8 Whirlpool Corporation

9 Casey Tubman, General Manager, North America Region,
10 Laundry Products, Whirlpool Corporation

11 Jack A. Levy, Myles S. Getlan and Mary Jane Alves - Of
12 Counsel

13

14 TRADEWINS LLC

15 Washington, DC

16 on behalf

17 Haier US Appliance Solutions d/ba/ GE Appliances ("GEA")

18 Michael Mattingly, Executive Direction, Clothes Care,
19 GEA

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

21

22

23

24

25

1 In Opposition to the Continuation of Antidumping and
2 Countervailing Duty Orders:

3 Curtis, Mallet-Prevost, Colt & Mosle LLP
4 Washington, DC

5 on behalf of

6 LG Electronics, Inc.

7 LG Electronics USA, Inc.

8 (collectively "LGE")

9 John Toohey, Director of Strategy, LGEUS

10 Andrew Kim, Director of Laundry Product Management,
11 LGEUS

12 Theodore Myers, Innovation Team Leader, LGETN

13 Richard Wingate, Vice President and General Counsel,
14 LGEUS

15 Daniel Klett, Principal, Capital Trade Inc.

16 Charles Anderson, Principal, Capital Trade Inc.

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

19

20

21

22

23

24

25

1 Arnold & Porter Kaye Scholer LLP
2 Washington, DC
3 on behalf of
4 Samsung Electronics Co., Ltd.
5 Samsung Electronics Digital Appliances Mexico (SEDAM)
6 Samsung Electronics America (SEA)
7 Samsung Electronics Home Appliance America (SEHA)
8 (collectively "Samsung")

9 Thomas Komaromi, General Counsel, SEHA

10 Michael T. Shor and J. David Park - Of Counsel

11

12 Rebuttal/Closing Remarks:

13 In Support of Continuation of Orders (Jack A. Levy, Cassidy
14 Levy Kent (USA) LLP)

15 In Opposition to Continuation of Orders (Michael T. Shor,
16 Arnold & Porter Kaye Scholer LLP; and Daniel L. Porter,
17 Curtis, Mallet-Prevost, Colt & Mosle LLP)

18

19

20

21

22

23

24

25

I N D E X

1		
2		Page
3	The Honorable Bill Reineke, Ohio House of Representatives,	
4	88th District, Ohio	11
5		
6	The Honorable Bob Rolfe, Commissioner, Tennessee Department	
7	of Economic and Community Development	17
8		
9	The Honorable Lydia Mihalik, Director, Ohio Development	
10	Services Agency	20
11		
12	Yeo Han-Koo, Minister-Counselor	23
13		
14	In Support of Continuation of Orders (Myles S. Getlan,	
15	Cassidy Levy Kent (USA) LLP)	26
16		
17	In Opposition to Continuation of Orders (Michael T. Shor,	
18	Arnold & Porter Kaye Scholer LLP)	29
19		
20	Joseph Liotine, President, North America Region, Whirlpool	
21	Corporation	34
22		
23	Casey Tubman, General Manager, North America Region,	
24	Laundry Products, Whirlpool Corporation	41
25		

I N D E X

1		
2		Page
3	Michael Mattingly, Executive Direction,	
4	Clothes Care, GEA	54
5		
6	Jack A. Levy, Cassidy Levy Kent (USA) LLP	59
7		
8	Theodore Myers, Innovation Team Leader, LGETN	155
9		
10	John Toohey, Director of Strategy, LGEUS	161
11		
12	Thomas Komaromi, General Counsel, SEHA	167
13		
14	Daniel Klett, Principal, Capital Trade Inc.	172
15		
16	Charles Anderson, Principal, Capital Trade Inc.	179
17		
18		
19		
20		
21		
22		
23		
24		
25		

I N D E X

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

Page

In Support of Continuation of Orders (Jack A. Levy, Cassidy Levy Kent (USA) LLP)	279
Sheridan S. McKinney, Tradewins LLC	288
In Opposition to Continuation of Orders (Michael T. Shor, Arnold & Porter Kaye Scholer LLP)	289
Daniel L. Porter, Curtis, Mallet-Prevost, Colt & Mosle LLP)	292

P R O C E E D I N G S

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

9:30 a.m.

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

CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-488 and 731-TA-1199 and 1200 Review involving Certain Large Residential Washers from Korea and Mexico.

The purpose of these investigations is to determine whether revocation of a countervailing duty order and antidumping duty order on certain large residential washers from Korea and Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

Schedule setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the allocation of time should be directed with the Secretary. Speakers are reminded not to refer in their remarks or

1 answers to questions to business proprietary information.
2 Please speak clearly into the microphones and state your
3 name for the record for the benefit of the court reporter.

4 If you will be submitting documents that contain
5 information you wish classified as business confidential
6 your requests should comply with Commission Rule 201.6. Mr.
7 Secretary, are there any preliminary matters?

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

11 CHAIRMAN JOHANSON: Will you please announce our
12 first State Government witness?

13 MR. BISHOP: Our first State Government witness
14 is the Honorable Bill Reineke, State Representative from the
15 Ohio House of representatives representing the 88th District
16 of Ohio.

17 STATEMENT OF REPRESENTATIVE BILL REINEKE

18 REPRESENTATIVE REINEKE: Good morning
19 Commissioners. My name is Bill Reineke State Representative
20 from the 88th house District of Ohio and I'm happy to be
21 here today to represent the citizens of Clyde, Ohio located
22 in Sandusky County.

23 My ask is simple, please keep the orders on
24 clothes washer imports from Korea and Mexico in effect for
25 at least another 5 years. While others will speak to the

1 technical aspects, I am here to implore on behalf of the
2 people of Northwest Ohio.

3 Whirlpool is a significant presence in my
4 district and not just as an employer but as an investor in
5 the community. Roughly three thousand constituents from
6 Clyde work for Whirlpool. They work extensively with the
7 Sandusky County United Way providing more than 70 percent of
8 the United Way total.

9 In 2017 Whirlpool's employees in Clyde donated
10 over 1200 dollars in Habitat builds and homes within the
11 county. Employees also volunteer with local boards, the
12 volunteer fire department and the local economic development
13 efforts. In 2017, the company made financial and product
14 donations to over 200 organizations.

15 When a company cannot make a return on its core
16 product we need to expect it to turn around and invest in
17 its people, its facilities and its communities. Whirlpool
18 is a leader in Sandusky County and in several other cities
19 in Ohio and we need them. We need their innovative passion.
20 This passion is fulfilled with being able to develop new
21 ideas, experiment with innovation and implement those
22 successful product lines.

23 Today, we are not asking for funding. We are
24 asking, pleading for a level playing field and as a state
25 legislator I have spearheaded efforts for workforce

1 development in Ohio. My area, the 88th District was hit
2 unusually hard in 2008 and 2009 with what we called the
3 Depression. I often comment that our opportunity to bounce
4 back lies with those very same factories that closed during
5 that period and so we are actively repurposing them today.

6 We often speak about what the jobs of tomorrow,
7 the jobs ten years out from now will look like and when we
8 asked Sandusky County kids if they would be interested in a
9 tech-track program as some of them might pursue, six percent
10 said they might consider it. Suddenly, when we redefined
11 the tech-track program as something including computers,
12 robotics, gaming and the like it went to 60 percent.

13 Whirlpool is very aware of this transformation
14 and workforce needs and they are a leader in career
15 transformation. This is where the future growth of Ohio and
16 specifically northwest Ohio and the United States is
17 concentrated. We need the work that Whirlpool does in Clyde
18 to continue again, all we ask today is for a level playing
19 field.

20 This manufacturing company is admired for its
21 reinvestment in its people, its out of the box approach to
22 reduced energy cost by reinventing in our new green
23 technologies and its extensive community outreach efforts.

24 Before the Korea-Mexico orders were in place, the
25 advantages that certain companies had importing products

1 cheaply forced facility closures and layoffs around the
2 country. As such fundamental part of the community,
3 Whirlpool and the employment opportunities it provides are
4 integral to the welfare of Sandusky County.

5 My constituents in Clyde rely on these jobs to
6 provide for their families and the renewal of these orders
7 will help ensure that Whirlpool can compete fairly. Again,
8 Whirlpool is a leader in community activities and as I
9 mentioned, an avid supporter of the United Way which brings
10 people and organizations together to tackle challenges such
11 as improving education, financial stability and health.

12 As a champion of my district and its conservative
13 population, their employees know how to work hard and make
14 Whirlpool proud and they make Clyde proud and they make me
15 proud. You would be very impressed with how Whirlpool
16 treats its employees and the local community as a part of
17 it.

18 Let's not forget the retail benefit that comes
19 from having Whirlpool in the community. We need a level
20 playing field. I appreciate the opportunity to speak on
21 behalf of Whirlpool and again, I just ask for a level
22 playing field. Thank you.

23 CHAIRMAN JOHANSON: Thank you, Representative
24 Reineke. Yes, Commissioner Broadbent?

25 COMMISSIONER BROADBENT: Thank you. Thanks for

1 coming. It means a lot to have you here with the
2 perspective. I'm just curious, is there availability of
3 trade adjustment assistance in your district? Is that a
4 successful program? Is it working?

5 REPRESENTATIVE REINEKE: We have tried to, excuse
6 me Commissioner Broadbent, Chairman. We have done many
7 different things in our area to reinvent workforce, if
8 that's what your referring to, from everything from our
9 school systems, trying to implement it at middle school
10 levels on up through the high schools and on to the college
11 level.

12 We do have a community college in our area that
13 has made relationships and collaborated with the local
14 schools to make us aware of this. One of the things I'm
15 really proud of and I think Sandusky County has been the
16 leader in the state, are what we call manufacturing
17 showcases where we brought kids in so they identify what
18 these opportunities are for the future. The technology
19 that we're looking forward to in the future, we don't know
20 what these jobs are going to look like so one of the skill
21 sets that we are trying to instill in our kids is having
22 critical thinking so that we can adapt to these different
23 jobs and I would say they were a leader in that. I would
24 say that Whirlpool has also been one of the primary
25 companies behind that because they're the largest employer.

1

2 COMMISSIONER BROADBENT: And those are basically
3 local programs and local support that you're deploying?

4 REPRESENTATIVE REINEKE: Yes, we've also done
5 some new things in Ohio for our workforce training program
6 that the Governor instilled. I was part of it over the last
7 two years where we've redefined what the in-demand jobs are
8 and then of course trying to line up what the education
9 would be for those to be filled.

10 We've done some things strategically through our
11 Jobs Ohio program to identify what areas of growth there are
12 and what sections of the state like manufacturing would be
13 big at or welding or whatever the case might be because we
14 have a situation Ohio called stagnant population growth.

15 As a state legislature it's hard to do budgets
16 with a declining population so we want people to stay in
17 this state. We want people to stay in our small cities and
18 we need these plants to reinvent themselves in our
19 communities.

20 COMMISSIONER BROADBENT: Great. Thank you very
21 much. You're on the front lines of a lot of problems we're
22 trying to deal with here but much more remotely. Thank you.

23 REPRESENTATIVE REINEKE: That's why it's so
24 important that we maintain this situation.

25 COMMISSIONER BROADBENT: Thanks for coming.

1 REPRESENTATIVE REINEKE: Thank you.

2 CHAIRMAN JOHANSON: Do we have any other
3 Commissioner questions? No other Commissioners do have
4 questions. Representative Reineke, thank you very much for
5 appearing here today.

6 REPRESENTATIVE REINEKE: Thank you for having me.

7 MR. BISHOP: Our next State Witness is the
8 Honorable Bob Rolfe, Commissioner with the Tennessee
9 Department of Economic and Community Development.

10 STATEMENT OF BOB ROLFE

11 MR. ROLFE: Mr. Chairman, Members of the
12 Commission, good morning. My name is Bob Rolfe and I
13 proudly work for the State of Tennessee as our Commissioner
14 of Economic and Community Development. Our primary job
15 every day is to recruit companies to Tennessee. Those jobs
16 are family wage jobs providing significant opportunities as
17 well as the investment of enormous private capital.

18 Please know I'm not appearing here today to take
19 sides on the trade issue or any other trade-related matters.
20 I'm not addressing all the legal intricacies of the case
21 before the Commission today. Instead, I'm here to emphasize
22 the importance of investment in Tennessee and a success
23 story behind the new LG Electronics washing machine factory
24 in Clarksville.

25 As the Commission knows, back in February of

1 2017, our Governor and the Senior Executives of LG
2 Electronics made a major announcement and that was to invest
3 250 million dollars to build a new advanced washing machine
4 plant in Montgomery County, Tennessee.

5 In August of 2017, I was privileged as well to
6 participate along with Commerce Secretary Ross, Members of
7 Congress and local officials in the ground breaking of that
8 construction of that facility. In the ensuing months, LG
9 built this million square foot plant from the ground up in
10 record speed.

11 What was initially a 250 million dollar
12 investment and has now grown to over 350 million dollars and
13 at full production will employ 600 Tennesseans. Currently,
14 the facility is ramping up at the moment and today about 450
15 employees are working there in Clarksville.

16 Today, Tennessee is now home to a brand new,
17 state-of-the-art washing machine factory that is
18 commercially producing washing machines. When I say
19 state-of-the-art I mean the factory is highly advanced with
20 the technology to produce finished washing machines every 5
21 seconds at full production. With this technology the
22 company will be able to switch between washing machine
23 models in a matter of a few minutes.

24 This smart, highly automated factory is
25 especially impressive and unique because the workers not

1 only assemble washers but also produce the washing machine
2 parts, making it the most highly integrated and
3 sophisticated manufacturing complex. There is also
4 something to be said about LG's investment. This is a
5 310-acre campus which leaves much room for expansion and
6 hopefully resulting in an additional major investment and
7 even more jobs for Tennessee workers.

8 We in Tennessee work hard to attract companies
9 like LG to make investments. They bring jobs and improve
10 the economic health of our communities across our state. In
11 fact, our successes as a state depends on attracting private
12 capital from existing international companies and we're
13 proud to lead the U.S. in the creation of foreign-direct
14 investment 2 of the last 3 years.

15 In closing, I would like to reiterate that LG has
16 followed through on its commitment to make a major
17 investment to build its washing machine factory in the
18 volunteer state, employing hundreds of Tennesseans. The
19 factory's economic impact on Tennessee and the U.S. goes
20 well beyond LG's huge capital investment and sizeable
21 payroll.

22 When you consider the others that rely on the
23 products that are proudly made in Tennessee for their
24 livelihood, LG supply chain, vendors, retail customer
25 service and servicers, not to mention the benefit to

1 millions of consumers, all who purchase these new U.S.-made
2 washing machines in the years to come.

3 I would be remiss if I did not also mention that
4 Tennessee ranks #1 in the Nation for employment
5 concentration in household appliance manufacturing. Today,
6 over ten thousand Tennesseans work in this sector. We are
7 proudly home to other washing machine and other appliance
8 manufacturers like Electrolux, GE and Whirlpool and now we
9 also welcome LG to our state.

10 We look forward to Tennessee's ongoing business
11 relationship with LG and these other companies and we
12 continue to hopefully expand the quality of the products
13 made in Tennessee. With that, I will be happy to answer any
14 questions you may have.

15 CHAIRMAN JOHANSON: Thank you, Commissioner
16 Rolfe. Do any Commissioners have questions for Commissioner
17 Rolfe?

18 (No response.)

19 CHAIRMAN JOHANSON: No Commissioners have
20 questions. We thank you for you appearing here today.

21 MR. ROLFE: Thank you. Appreciate it.

22 MR. BISHOP: Our next State Government witness is
23 The Honorable Lydia Mihalik, Director of the Ohio Department
24 of Services Agency.

25 STATEMENT OF DIRECTOR LYDIA MIHALIK

1 DIRECTOR MIHALIK: Good morning. My name is
2 Lydia Mihalik and I am the Director of the Ohio Development
3 Services Agency, our State's economic development agency.
4 And on behalf of Ohio Governor Mike DeWine and Lieutenant
5 Governor John Husted, I thank you for the opportunity to
6 submit this testimony.

7 Whirlpool Corporation and its production of
8 clothes washers is important to the Ohio economy. We join
9 Whirlpool in requesting the Commission continue the
10 antidumping and countervailing duties on large residential
11 washers from Korea and Mexico.

12 The Korea-Mexico Order imposed five years ago is
13 providing the intended effect of leveling the playing field.
14 This creates fair competition in the industry, and it
15 creates American jobs.

16 The Order has helped Ohio manufacturing to
17 recover from previous damage and invest in Ohio.
18 Manufacturers that have previously produced only outside
19 America have invested in product manufacturing and hired
20 workers in the United States.

21 I am here today to ask you to support the U.S.
22 Department of Commerce recommendation and maintain the
23 Order. This issue is important to the Ohio workforce.
24 Workers in Clyde, Findley, Greenville, Ottawa, and Marion,
25 Ohio depend on these Trade Orders to protect the opportunity

1 to innovate, to produce quality home products, and to
2 support their families.

3 These Ohio communities depend on the jobs,
4 quality products, and good corporate stewardship that's
5 demonstrated by companies like Whirlpool to maintain the
6 quality of life that you see in Ohio.

7 Whirlpool is investing in its world-class
8 products and facilities. In the last five years, Whirlpool
9 in partnership with the state has invested millions of
10 dollars to train its workers, to keep skills sharp, and
11 advance skills for the future.

12 Five years ago, you were hearing a much different
13 story. Whirlpool was suffering from the waves of illegal
14 imports that had a ripple effect. In manufacturing, what
15 happens to a large company is never isolated and suppliers
16 are not insulated. Dozens of Ohio companies and more than
17 200 direct suppliers nationally make up the supply chain for
18 Whirlpool.

19 Today as Whirlpool invests in facilities and adds
20 workers, their success is Ohio's success. Manufacturing
21 continues to be a driver of Ohio's GDP. And even as we
22 diversify into tech industries, there are still highly
23 educated, high quality makers among us who are providing
24 American consumers with the quality products that power
25 their homes and make life easier.

1 Ohio is committed to the success of our
2 home-grown companies like Whirlpool and Ohio supports a
3 level playing field. Thank you for your time and
4 consideration.

5 CHAIRMAN JOHANSON: Do any Commissioners have
6 questions for Director Mihalik?

7 (No response.)

8 CHAIRMAN JOHANSON: No Commissioners do. We
9 thank you for appearing here today.

10 DIRECTOR MIHALIK: Thank you very much.

11 MR. BISHOP: Mr. Chairman that concludes our
12 State Government witnesses. With that, we will move on to
13 our Embassy appearance. Our Embassy appearance is Yeo
14 Han-Koo, Minister Counselor with the Embassy of the Republic
15 of Korea in Washington, D.C.

16 STATEMENT OF HAN-KOO YEO

17 MINISTER YEO: Good morning, Mr. Chairman and
18 Commissioners. My name is Han-Koo Yeo, the Minister
19 Counselor for the Korean Embassy.

20 On behalf of the Korean Government, it is a great
21 honor for me to present today some comments on this very
22 important matter of the sunset review of the large
23 residential washers.

24 Article 11.3 of the Antidumping Agreement clearly
25 stipulates that antidumping orders must be terminated no

1 later than five years from its imposition, unless the
2 authorities determine that the removal of the Order would
3 likely lead to the continuation or recurrence of the dumping
4 and injury.

5 Based on the language of Article 11.3, the clear
6 intent of having a five-year review is to seriously consider
7 terminating the AD-CVD Order. We fully appreciate that the
8 review the Commission is undertaking here is in line with
9 its WTO obligation. And although we understand that, this
10 is only the first sunset review for the case, as we will
11 detail in a moment there have been very important factual
12 changes and substantial regulatory changes since the Order
13 was put in place.

14 We respectfully assert that these changes should
15 lead to the revocation of the AD-CVD Order on washers from
16 Korea due to the material significance these changes have on
17 the statutory factors the Commission is considering.

18 First, and importantly, the only Korean producers
19 of washers, LG and Samsung, have invested significantly in
20 their U.S. production facilities which will supply nearly
21 all of their U.S. demand.

22 All evidence demonstrates that the only imports
23 of washers from Korea to the U.S. will be the lower volume
24 higher priced machines which will not be produced in the
25 U.S. facilities.

1 Due to the enormous investment by the company and
2 the fact that they have both ready the commercial
3 production, there is no doubt that these factories are here
4 to stay, which means that in 2019 the U.S. industry will see
5 dramatic shifts in sourcing away from Korea.

6 With these factors in mind, imports from Korea
7 will decline and the U.S. domestic industry production
8 shipment market share will increase, because this will cause
9 the financial performance of the domestic industry to
10 improve. Any future adverse impact from the removal of the
11 Order is not likely.

12 Second, as the Commission well knows, there are
13 currently very restrictive Section 201 tariffs in place
14 through 2020. These restrictions have an in-quota rate of
15 18 percent for 2019, and 16 percent for 2020, and an
16 out-of-quota rate for 45 and 40 percent for 2019 and 2020.

17 Such restrictions will ensure that there is ample
18 protection for the U.S. industry.

19 Lastly, we would also like to comment on
20 cumulation. Due to the significant investment in the U.S.
21 by the only Korean producers, we respectfully urge the
22 Commission to exercise its declaration, this declaration
23 committed under the statute, and decline to cumulate subject
24 imports. Thank you.

25 CHAIRMAN JOHANSON: Do any Commissioners have

1 questions for Minister Yeo?

2 (No response.)

3 CHAIRMAN JOHANSON: No Commissioners have
4 questions. We appreciate you being here today. Thank you.

5 MR. BISHOP: Mr. Chairman, we will now move to
6 our opening remarks. Opening remarks on behalf of those in
7 support of continuation of the Orders will be given by Myles
8 S. Getlan of Cassidy Levy Kent.

9 Mr. Getlan, you have five minutes.

10 OPENING STATEMENT OF MYLES GETLAN

11 MR. GETLAN: Good morning. I'm Myles Getlan from
12 Cassidy Levy Kent, counsel for Petitioner Whirlpool
13 Corporation.

14 Domestic producers Whirlpool and GE Appliances
15 are appearing in support of continuing the Orders on large
16 residential washers from Korea and Mexico. We submit that
17 revocation of these Orders would likely result in the
18 continuation or recurrence of material injury in a
19 reasonably foreseeable time.

20 It is worth recalling that in the original
21 investigations three major U.S. producers--Bosch,
22 Electrolux, and Fisher & Paykel--shuttered their U.S. washer
23 plants.

24 The Commission found that subject imports from
25 Korea and Mexico were to blame. You found that subject

1 imports pervasively undersold U.S. produced washers,
2 resulting in lost sales, depressed and suppressed prices,
3 lost jobs, and operating losses.

4 The resulting Orders were effective at
5 disciplining Korean and Mexican imports, but domestic
6 producers continued to suffer injury, serious injury, in the
7 years that followed. Why?

8 Because Samsung and LG waged the most aggressive
9 predatory campaign of serial dumping in the history of the
10 U.S. Trade Remedy laws. In a drive to continue their
11 assault on American manufacturers and workers, Samsung and
12 LG moved their LRW production operations from Korea and
13 Mexico to China, and from China to Vietnam and Thailand, and
14 finally to America.

15 Whether you call it serial dumping, or country
16 hopping, or duty evasion, the Commission found in its 2017
17 Safeguard Decision that their behavior resulted in serious
18 injury to domestic producers.

19 Now, thanks to the imposition of AD-CVD Orders
20 and the Safeguard remedy, Whirlpool and GE Appliances are
21 beginning to recover, and Samsung and LG are following
22 through on significant new investments in American
23 manufacturing. And we applaud that. It is a great result
24 for American workers. And when they supply from U.S.
25 plants, it provides an opportunity for everyone to compete

1 on a level playing field.

2 So now Samsung and LG come before you cloaked in
3 red-white-and-blue, and what is their first order of
4 business as U.S. producers? To argue against Orders that
5 protect U.S. manufacturers and workers from unfair trade
6 practices.

7 Really? If what they tell you about their U.S.
8 plants and future import activity are true, why are Samsung
9 and LG expending so much effort in seeking revocation? All
10 of this strains credibility.

11 In recent months, thanks to the combined effect
12 of both the AD-CVD Orders and the Safeguard remedy,
13 Whirlpool and GE Appliances are finally beginning to get
14 their head above water, implementing their adjustments
15 plans, and charting a path to recovery. But the situation
16 is still fragile, and the industry remains vulnerable.

17 Demand declined in interim 2018. Costs are
18 rising. And the Safeguard Remedy will expire in less than
19 two years. In this environment of domestic industry
20 vulnerability, Samsung and LG are essentially saying: Trust
21 us. There's no need for these Orders. We will soon be
22 permanently and irrevocably U.S. producers.

23 Again, their track record makes all of this
24 impossible to swallow. Samsung and LG changed their
25 production and sourcing behavior with each and every trade

1 remedy decision.

2 If you revoke these Orders, are we to believe
3 they will not have an economic incentive to import
4 significant volumes from Korea, their home base with a rich
5 network of suppliers and government subsidies? Or, Mexico,
6 so close to the U.S. market and already fully equipped with
7 a network of suppliers?

8 Are we really to believe that these
9 multinationals are going to prioritize their U.S. facilities
10 and workers if they can beat Whirlpool and GE Appliances
11 through the resumption of low-priced imports from Korea and
12 Mexico?

13 Now is not the time to pull the rug out from
14 under the domestic producers and create a new loophole for
15 Samsung, LG, and Electrolux to exploit.

16 We look forward to presenting our case to you
17 this morning. Thank you.

18 MR. BISHOP: Thank you, Mr. Getlan. Opening
19 remarks on behalf of those in opposition to continuation of
20 the orders will be given by Michael T. Shor of Arnold and
21 Porter Kaye Scholer. Mr. Shor, you have five minutes.

22 OPENING STATEMENT OF MICHAEL SHOR

23 MR. SHOR: Good morning Chairman Johanson,
24 Commissioners and staff. I am Michael Shor with Arnold and
25 Porter, counsel to Samsung. This sunset review is a

1 forward-looking inquiry, not backward-looking. The
2 Commission must determine whether revoking the orders will
3 result in continuation or recurrence of injury in the
4 foreseeable future.

5 In performing that inquiry, the Commission must
6 consider three fundamental changes in the conditions of
7 competition since the original investigation. Each of these
8 changes supports revocation. First, Samsung and LG have
9 joined the domestic industry. They have made long-term
10 commitments to large scale production of LRWs in the United
11 States.

12 Whirlpool attempts to dismiss these investments
13 as embryonic or fleeing. However, Commissioner Schmidlein
14 and Williamson and Commission staff who visited Samsung's
15 South Carolina production facility last year should be
16 confident that this is not the case.

17 Samsung's facility, like LG's more recently
18 launched production facility in Tennessee, is a fully
19 integrated LRW manufacturing facility. As you will hear
20 from our witnesses, both companies have invested significant
21 sums in building modern facilities with substantial capacity
22 in the United States.

23 Both companies have made binding commitments to
24 state and local governments regarding investment and
25 employment levels at those facilities. Both companies'

1 interests are primarily domestic as each now produces or
2 will soon produce far more in the U.S. than they import from
3 subject countries.

4 In past cases, when faced with substantial new
5 U.S. domestic production and investments by Respondents, the
6 Commission has repeatedly concluded that the Respondents
7 will not import in a manner that undercuts their U.S.
8 production operations. Whirlpool and GE offer no cogent
9 reason why the Commission should view Samsung's and LG's
10 investments differently.

11 Second, global imports of LRWs, including those
12 from Korean and Mexico, are subject to significant global
13 safeguard restrictions. The Commission should not consider
14 the post-2021 period within the reasonably foreseeable time
15 frame of this sunset review, as it has no visibility into
16 that period.

17 Whirlpool also would have the Commission believe
18 that the safeguard does not offer adequate protection due to
19 differences in scope coverage. This is non-sensical.
20 Whirlpool chose the scope for the Section 201 investigation,
21 and as the Commission no doubt recalls, vigorously argued
22 that the products it had excluded from the Section 201 scope
23 were not a source of injury. I suggest you ask Whirlpool to
24 explain its blatantly contradictory positions with respect
25 to those products.

1 Third, by any measure, subject imports are not
2 significant in the context of the U.S. LRW market. The
3 volume of subject imports from both Mexico and Korea has
4 declined substantially over the POR. Subject producers have
5 cut capacity, cut production and dedicated remaining
6 capacity to supplying non-U.S. markets in Asia and Latin
7 America, which they have no intention to abandon.

8 Subject imports have been replaced by
9 non-subject imports, which in turn will increasingly be
10 replaced by Samsung and LG's domestic production. U.S.
11 production and market share will grow to unprecedented
12 levels. Whirlpool and GE will also continue to implement
13 their adjustment plans, making them better-placed to
14 compete with imports, both subject and non-subject.

15 Further, production facilities in Korea and
16 Mexico have limited capacity. Whether or not the orders are
17 revoked, Samsung and LG do not have sufficient capacity in
18 either country to support more than a fraction of the U.S.
19 market. In contrast, both LG and Samsung are expanding
20 capacity at their U.S. production facility. Finally, one
21 note about Mexico. Petitioners dedicate a substantial
22 portion of their pre-hearing brief to argue that imports of
23 belt-drive LRWs from ElectroLux Mexico will create a
24 recurrence of injury to the domestic industry.

25 However, Petitioners' own statements in other

1 proceedings undermine the credibility of these arguments to
2 say the least. In a Section 201 investigation, they
3 asserted that such low tech washers were not a source of
4 injury. More recently, Whirlpool argued before the
5 Department of Commerce that such washers should be excluded
6 from the scope of those orders as well.

7 Don't believe them when they try to tell you
8 today that they changed their position to accommodate
9 Samsung's views. The Whirlpool/GE brief attempts to ignore
10 all of these important conditions of competition. Their
11 brief asserts that conditions of competition mirror those in
12 the prior LRW proceedings.

13 This plainly is not so. Petitioners mirror is
14 facing backwards in the wrong direction. Thank you.

15 MR. BISHOP: Thank you, Mr. Shor. Would the
16 panel in support of the continuation of the anti-dumping and
17 countervailing duty orders please come forward and be
18 seated? Mr. Chairman, this panel has 60 minutes for their
19 direct testimony.

20 (Pause.)

21 MR. LEVY: Good morning, Commissioners. Jack
22 Levy from Cassidy Levy Kent on behalf of Petitioner
23 Whirlpool Corporation. We're going to begin this morning's
24 presentation with Joseph Liotine, president of North America
25 for Whirlpool Corporation.

1 STATEMENT OF JOSEPH LIOTINE

2 MR. LIOTINE: Good morning. My name is Joseph
3 Liotine, and I am president of Whirlpool's North American
4 region. I am joined here today by Casey Tubman, who runs
5 our U.S. washer business. I appreciate the opportunity to
6 testify this morning.

7 As you know, I have appeared at the Commission
8 before. On behalf of Whirlpool, I want to tell you how much
9 we appreciate the Commission's work and your past findings.
10 I am here today to urge you to continue the orders on LRW
11 imports from Korea and Mexico.

12 In my testimony this morning, I will explain why
13 these orders are so important, and why they need to be
14 maintained so that Whirlpool's washer business can fully
15 regain its competitive footing. First, let me take a moment
16 to reintroduce myself and describe Whirlpool. I've been
17 with the company for approximately 14 years. Early in my
18 career, I worked in our sales organization and then later in
19 our key account business.

20 I have also run our Marketing Departments, both
21 product and brand, and I now lead all of North America
22 region. Whirlpool has over 25,000 U.S. employees and over
23 10,000 in Ohio alone. Whirlpool has been headquartered in
24 southwest Michigan since our founding 108 years ago. From
25 our beginning, we have been a leading innovator of clothes

1 washers, first in the United States and now across the
2 globe.

3 We continue to produce the best washers with the
4 best employees at the largest and most efficient clothes
5 washer manufacturing facility in the world, located in
6 Clyde, Ohio. At 2.4 million square feet, Clyde can produce
7 a washer every four seconds. Our Clyde plant is where
8 Whirlpool builds 100 percent of its large residential
9 washers that we sell in the United States.

10 Every day, we take over two million pounds of
11 raw steel and other materials to manufacture our own
12 cabinets, baskets and tubs, which get combined with other
13 parts and technology to produce a finished washer. In
14 addition to over 3,000 workers at Clyde, our washer business
15 supports approximately 800 suppliers throughout the
16 country, such as U.S. Steel, Arcelor-Mittal and Revere.

17 For most of the last decade, our washer business
18 has been under assault by dumped and injurious imports from
19 three foreign competitors, LG, Samsung and Electrolux, which
20 has had to file three successive trade cases in an effort to
21 defend our washer business and workers. The first petition
22 involved washers imported from Korea and Mexico, the orders
23 being reviewed today.

24 We filed those petitions in late 2001 because we
25 were facing huge losses on major investments in new and

1 innovative washer platforms. The losses were being caused
2 by dumped and subsidized washer imports from Korea and
3 Mexico. In 2009, we had invested more than \$100 million
4 in a new platform for large capacity, high efficiency top
5 load washers.

6 Whirlpool invented the high efficiency top load
7 segment, and we were experiencing tremendous growth and good
8 margins justifying those investments. But shortly after
9 launch, because of increasing volumes of dumped imports, our
10 market share plummeted and our profits quickly turned to
11 millions in operating losses. We faced a similar situation
12 with frontload washers.

13 In 2010, we invested more than \$100 million to
14 build Alpha platform. When we introduced these best in
15 class, large capacity frontload washers, they received the
16 highest ratings in the industry. But from the moment we
17 launched, we suffered severe harm to our business.

18 In the short time between our investment
19 decision and product launch, dumped imports had crashed the
20 market prices. Retailers told us that they loved our
21 product, but they would not even put it on the floor or show
22 it to consumers if we didn't lower our prices. We lost
23 sales, our prices deteriorated and we never used more than
24 half of our Alpha capacity. As a result, we suffered tens
25 of millions of losses on our frontload investment.

1 As you found, dumped imports from Korea and
2 Mexico were to blame. In addition to our huge financial
3 losses, dumped washers from LG, Samsung and Electrolux
4 caused three other U.S. producers to shutter their plants.
5 After we filed petitions in 2011, we saw fewer washer
6 imports being dumped in the U.S. market.

7 As a result, our washer business briefly
8 returned to profitability in 2012. At the same time,
9 Whirlpool followed through on its commitment to repatriate
10 the rest of our frontload production. Since mid-2012,
11 Whirlpool has produced all of our large residential washers
12 sold in the United States at our Clyde, Ohio plants.

13 We also invested in a completely new top load
14 washer platform, which we called V-MAX. We then expanded
15 our lineup in 2015 to include our newest advantaged washers,
16 which continue to have industry-leading capacity. These
17 major investments and superb product offerings positioned
18 Whirlpool to compete and win with our retail customers.

19 Unfortunately, the relief from the Korea and
20 Mexico orders was short-lived. Samsung and LG were
21 determined to continue dumping to grow their U.S. market
22 share. Soon after the orders were imposed, Samsung and LG
23 moved their washer plants from Korea and Mexico to China.
24 Armed with Chinese-made washers not subject to duties,
25 Samsung and LG again used low prices to squeeze domestic

1 producers and gain market share.

2 Facing this second wave of dumped imports and
3 crashing prices, we were forced to scale back our VMAX
4 product launch. We also cancelled a major new frontload
5 washer platform, AMAX. We looked at the prices we would
6 need to charge for these high end washers to generate
7 positive returns. We decided there was simply no path to
8 realizing the returns necessary to justify the investment.

9 Whirlpool was forced to file another
10 anti-dumping petition in late 2015, to address these dumped
11 washers from China. In that case, you found that we were
12 materially injured in the form of depressed prices,
13 under-utilized capacity and substantial operating losses.

14 We hope that the Korea, Mexico and China orders
15 would curb Samsung, LG and Electrolux's predatory behavior,
16 and allow Whirlpool's washer business to return to
17 profitability, and in fact we did see some brief improvement
18 after preliminary duties were imposed on Chinese imports in
19 July 2016.

20 But before the final China order was imposed,
21 Samsung and LG went back to their country-hopping playbook
22 and once again shifted their production capacity, this time
23 to Vietnam and Thailand. With production unconstrained by
24 anti-dumping orders, Samsung and LG once again flooded the
25 U.S. market with another wave of low-priced washer imports.

1 Our washer business was facing huge operating
2 losses, and inability to earn a return on prior investments,
3 and a huge decline in new investments needed to fuel future
4 innovation and ensure long-term viability. Facing this
5 stark reality, we filed a global safeguard petition, our
6 third case in just over five years.

7 In late 2017, the Commission found that the U.S.
8 washer industry was seriously injured by low-priced washer
9 imports. Based on your report and recommendation, the
10 President took action in February of 2018 and imposed a
11 tariff rate quota. Even as the safeguard was being
12 implemented, Samsung and LG took actions to circumvent it.

13 While the safeguard remedy was being decided,
14 they quickly ratcheted up foreign production, including
15 additional production in Korea to increase imports into the
16 U.S. They used these imports to build massive stockpiles
17 before the tariff rate quota could go into effect. These
18 stockpiles diluted the benefit of the safeguard remedy until
19 late 2018.

20 This history of serial dumping and
21 country-hopping to avoid trade remedies is an important
22 context for why we are here today. While this six years of
23 trade litigation was playing out, our washer business
24 incurred massive operating losses, hundreds of millions of
25 dollars, with increasing losses each year. But the

1 combined trade remedies are finally providing relief.

2 We've been able to make new investments and take
3 a number of other steps to enhance our U.S. washer
4 operations, consistent with the adjustment plan that we
5 submitted to you during these safeguard investigation. For
6 the first time since 2012, Whirlpool's washer business
7 posted an operating profit.

8 As Casey will explain shortly, we also are
9 launching innovative new products including our brand new
10 frontload washer platform known as Yanis. This is our first
11 new frontload platform since Alpha, and these new washers
12 are top of the line. But the turnaround has just begun, and
13 we remain vulnerable.

14 Samsung, LG and Electrolux have a proven track
15 record of moving and adjustment their washer production to
16 evade trade duties. There is no reason to assume they would
17 behave differently now if the orders are revoked. Samsung
18 and LG's U.S. facilities are still in their infancy, and
19 both have stated that they intend to continue importing
20 washers.

21 Both of these producers have also demonstrated
22 the ability to quickly shift manufacturing or take advantage
23 of low cost production. There is no question in my mind if
24 given the opportunity, they will leverage advantages in
25 Korea and Mexico to resume their assault on the U.S. washer

1 market, and Electrolux, free from tariffs, would be poised
2 to do exactly the same with their Mexico production.

3 Whirlpool is finally poised to benefit from a
4 level playing field. We're doing all the right things, just
5 as we promised. We're hiring more workers, investing in new
6 products and positioning ourselves to compete. I ask you
7 not to revoke the Korea-Mexico orders. I ask you not to
8 jeopardize the forward progress we've been able to make in
9 the last year.

10 If you do, I fear that new investments like
11 Yanis will suffer the same fate as Alpha, that we will drown
12 again in operating losses, and that we will never be able to
13 get our head above water in the industry. I will now turn
14 our presentation over to Casey.

15 STATEMENT OF CASEY TUBMAN

16 MR. TUBMAN: Good morning. My name is Casey
17 Tubman. I am responsible for World Tools U.S. washer
18 business. I've been with Whirlpool for over 20 years. I
19 was first hired as a washer engineer and later transitioned
20 to product strategy, development, and innovation.

21 I then moved to the Sales and Merchandising side
22 of the business where I engaged with our retail buyers on a
23 daily basis. Since 2015, I've been responsible for
24 Whirlpool's U.S. washer business.

25 I know that some of you have been at the

1 Commission since the initial Korea/Mexico investigations
2 because I was here to testify then as well. In those
3 proceedings, I spent a fair amount of time detailing the
4 conditions of competition for our industry. I will not
5 spend a lot of time on this topic today. I recognize the
6 Commission has examined our industry three times in a little
7 more than five years and each time you found that the
8 conditions of competition are fundamentally unchanged, but I
9 do want to highlight a few of the key points that help
10 explain why we would be vulnerable to further injury if the
11 Orders are revoked and Respondents are given an opportunity
12 to resume their dumping strategy.

13 First, we compete against other washer
14 manufacturers; namely, GE, LG, Samsung, Electrolux, for
15 sales at the wholesale level. As you know, the vast
16 majority of our sales are direct to retailers.

17 Second, we compete for retail floor spots.
18 There are a limited number of floor spots. And if a
19 manufacturer cannot get a model on the floor, it does not
20 sell any meaningful volume. You may recall hearing a few
21 times "You can't sell what you don't floor." And once we
22 win a floor spot, we have to fight to keep that floor spot
23 on a daily basis and also through annual line reviews.

24 Third, all of the washers offered by major
25 manufacturers are comparable. We all offer washers with the

1 same core features and since retailers typically display a
2 full lineup of washers at different price points, consumers
3 regularly cross-shop among washers with different features
4 and configurations.

5 What do I mean by this? If you look at Exhibit
6 1, this shows that all manufacturers offer the same basic
7 features in different combinations. They all offer energy
8 star models, have a range of capacities, water heaters,
9 steam cycles, glass lids, color finishes, et cetera. In
10 addition, on top of those core features, each manufacturer
11 offers a number of unique innovations.

12 At Whirlpool, we prioritize innovations that
13 wash clothes better or make washing clothes easier. If you
14 turn to Exhibit 2, you will see a number of our innovations,
15 such as the load and go bulk detergent dispensing system, a
16 built-in water faucet, dynamic venting technology, Wi-Fi
17 connected washers, remote connectivity with NEST, our
18 largest capacity agitator washer at 6-cubic feet and our
19 intuitive controls featuring what to wash and how to wash.
20 But again, every manufacturer has its own portfolio of
21 innovations.

22 Given this comparability among washers, price is
23 the most important purchasing factor. Retailers will floor
24 and push sales of those washer models that earn them the
25 highest margin or profit. Importantly, as you have found

1 before, low-priced imports impact prices down the product
2 line. When a richly-featured washer is discounted that put
3 downward pricing pressure on the entire product portfolio.
4 In order for the less featured model to remain competitive
5 it too must drop in price.

6 Again, none of this is new. The Commission has
7 previously found these to be the key factors that drive
8 competition. These are also the key conditions of
9 competition identified in the pre-hearing report. Nothing
10 has really changed.

11 With that said, I do want to highlight one other
12 important condition of competition and that is Samsung and
13 LG's country-hopping behavior in response to trade remedies.
14 They have repeatedly relocated their washer production
15 capacity to evade trade remedies. By now, the Commission
16 should be familiar with Samsung and LG's history of country
17 hopping and Joe detailed how that lead to the series of
18 trade cases.

19 These companies were so intent on being in the
20 U.S. market and buying market share with dumped imports that
21 they literally moved production from one country to another
22 to try to dodge trade duties. In other words, they looked
23 for any opportunity to produce washers in a lower-cost
24 environment.

25 When you decide how these companies would react

1 if the Orders are revoked look no further than their
2 behavior during the last seven years. In doing so, it is
3 obvious that they will take full advantage of their
4 facilities in Korea and Mexico. Unburdened by the
5 anti-dumping Orders on finished washers and unburdened by
6 the higher raw material costs facing U.S. producers. They
7 will produce and ship significant volumes at predatory
8 prices from Korea and Mexico to further injure Whirlpool, GE
9 and the U.S. industry as a whole.

10 As I have done in previous testimony, I would
11 like to highlight a few points while referring to several
12 washers that we have displayed here. First, I would call
13 your attention to the two frontload washers at the right end
14 of the row, which you have seen before. These models
15 perfectly illustrate the injury caused by washer imports from
16 Korea.

17 The first model is our Maytag 8200, the one that
18 says "best cleaning" on it. The other to the left of it is
19 the Kenmore Elite model produced by LG. In 2011, Whirlpool
20 submitted a bid to Sears to supply this frontload washer for
21 the Kenmore business. We did not win this business because
22 we were underbid by LG, who was producing its models in
23 Korea. It had nothing to do with the product itself because
24 we were all bidding based on the same Sears specifications.
25 In fact, this Maytag was a top rated washer. It was all

1 about price and LG undercutting us with dumped prices from
2 Korea. We lost more than \$250 million in sales for this
3 frontload washer. As the Commission found, dumped imports
4 caused Whirlpool to lose sales like this and destroy the
5 economics of Alpha.

6 Now, with effective trade remedies in place, we
7 were recently able to follow through and complete our
8 investment in Yanis. I'm excited to show you this product
9 and what this platform will do for our business. This
10 represents a complete reengineering of Whirlpool's frontload
11 washers. And of course, if they give me a microphone, I'm
12 going to use it.

13 So, I want to show you this. This is the Yanis,
14 as we call it. And as you can see from where you are, this
15 is our new color. It's called black shadow. It's actually
16 a black stainless look, but it's also in a matte finish and
17 so that took new technology to bring that matte finish.
18 It's called hydrographics, so, again, something new to the
19 industry that we're bringing.

20 Also, I want to show you this has a larger
21 load-and-go detergent dispensing system. So, we talk in the
22 past how the load-and-go detergent dispensing system allows
23 you to put your detergent in once and then it feeds the unit
24 as it needs it for a while, then you replenish it weeks to
25 months later. Before with the 8200 effect -- let's see if

1 it's here -- this was the size we offered before. So, it
2 would get you through several weeks of time. With this new
3 model, we offer you a little bit bigger cartridge. Now you
4 can not think about it for months.

5 And again, why is this important? Because it
6 may not be you doing the laundry at that point in time and
7 someone else may not know to put detergent in and how much
8 detergent, which detergent, so if this there and feeds it
9 automatically that allows them to care for the clothes the
10 way you want.

11 The other thing we've added right next to it,
12 the fabric softener. So, before we added detergent, okay,
13 with time; now, we add fabric softener and again, in a much
14 larger container. The other thing I'll call out here is --
15 and hopefully, you recognize this from a distance away, but
16 we tried to use the door to signify the much larger
17 capacity. This is a 5-cubic-foot washer now. As part of
18 that, we stretched the door to be the whole width of the
19 product. And as doing that, we also integrated the
20 controls.

21 So, you can see the integrated LCD display, but
22 not only are we integrating the display in the door and
23 putting those electronics on the unit, we also allow you to
24 control it through voice. So, it's a smart Wi-Fi connected
25 product if you have an Amazon, Alexa, or a Goggle home you

1 can just talk to it and tell it what to do with the machine.
2 Also, if you're an Apple watch person, you can control it
3 with your Apple watch. Again, an industry first and we
4 showcased that at the CES Show this year.

5 Of course, like most of us, we all have a phone,
6 so you can still control it through your phone and using the
7 App on the phone. And I'll call your attention to Exhibit
8 3(A). Basically, what this is, it's part of our App we've
9 just launched called the digital assistant. This is called
10 stain guide. So, think about stains that you might get in
11 your clothes. Ballpoint pens for some us, baby food for
12 others, and I give the example of baby food here.

13 Most of us have had to feed a baby at one time
14 or another and again for Gerber and others it's a great
15 thing because the food doesn't always get to the baby. It's
16 either on their clothes or it's on your clothes and so they
17 use up a little bit more.

18 But if you want to know how to treat that, we
19 then can tell you through the App what you need to do to get
20 ready to prepare the clothing. You can put it in the
21 machine. You can start it then or you can remotely start it
22 from your phone. But if you don't want it to sit -- let's
23 say you fed that baby in the morning and you're going off to
24 work for the next eight hours plus and you don't want it to
25 sit in the washer all day after it's been washed you can use

1 Exhibit 3(B).

2 Basically, this is to schedule a wash. So, in
3 the past it's always been a delay, right? You can say,
4 okay, delay it for four hours or five hours, but then you're
5 doing the calculation like how long is it going to take to
6 wash, when do I want to start it, you know you have to do
7 all that math. What we've changed it to now is if you're
8 know you're going to be at work till 5:00 and you get home
9 at 5:30, no problem. Plug in 5:30. It'll start the washer
10 when it needs to and it'll be ready for you when you walk in
11 the door.

12 The Apple will notify you when it's done and
13 even from the App you can do other things with it from
14 there, but again, it'll be ready for you when you come home.

15 Okay, I'm going to move on to the next ones
16 here. So, again, that was our Yanis platform, very proud to
17 bring it. Brand new technology, reengineered, top of the
18 line, I think, as Joe maybe called it, a very competitive if
19 not overly competitive product.

20 Let me tell you about my biggest fear. My
21 biggest fear sits in these two washer right here. This is
22 an LG washer built in Korea today. Well, this may be an
23 older model, but it's similar. There's an 8000 and a 9000,
24 which is the newer model. While it may not be apparent from
25 sitting farther away is that this is a 29-inch washer. Why

1 is it important that it's a 29-inch washer? This is
2 covered under the Order for Korea, so what it's not covered
3 by is the Safeguard Order.

4 While it's been under the Korea Order, we've
5 seen reasonable pricing on this. Our fear is that if the
6 Order is revoked this will then -- basically, it will allow
7 LG to use this product to dump products, bring them to the
8 U.S. in mass quantities, dump them, undercut Yanis, and
9 basically kill the business case that we had for Yanis.
10 Similar to what happened with Alpha back when the original
11 case was brought.

12 Now, let's talk about Mexico, so, again, the
13 fear coming out of Korea, fear coming out of Mexico. This
14 is an Electrolux washer built in Mexico. And again, what
15 you can't tell from looking at the outside of it is it has a
16 CIM motor with a belt drive in the back.

17 Okay, why is that important? Again, under the
18 Mexico Order, this is a covered product. Under the
19 Safeguard, this is not a covered product. And I know it was
20 brought up earlier about, okay, we're talking about CIM
21 motors, belt drives. Why do we have a difference of opinion
22 now versus before? And again, I'll talk to my part of it
23 and Jack others may speak to the legal piece of it.

24 We looked at this as a low-tech washer the last
25 time we were looking at it. And in the original case, we

1 actually looked at it as everybody had it. It was the heart
2 of the market. We produced them. Other people produced
3 them. And then direct drive came. And once direct came, it
4 had better vibration control. It had higher spin speeds and
5 other benefits that go with that. The belt drive and CIM
6 motor was not capable of that at that point in time.

7 Once the Order was put in place, these weren't
8 being imported in mass quantities. They didn't get
9 flooring. You didn't see them many places at all, so it was
10 kind of off the radar, not something we were paying
11 attention to. We were worried about Samsung and LG. About
12 middle of last year, beginning half of last year we started
13 to see these come up on floors again and it was one of those
14 where we were like, okay, not too much. Let's keep an eye
15 on it as we saw a few more show up on floors.

16 And as, actually, the proceedings came through
17 and others were saying, no, no, no, this is a very
18 competitive machine, so on and so forth, we had to go back
19 and actually dissect and look at this. And what we found is
20 Electrolux had found a way to reengineer through software
21 and algorithms how it controls the motor. And with the CIM
22 motor and belt drive it can achieve the higher spin speeds
23 now and the vibration control. And again, that's kind of a
24 mechanical thing, I'll say. What's important about that is
25 it leads to higher efficiency for the dryer and so it is

1 important coming out of the washer.

2 You spin them faster. You get more water out of
3 the clothes. They go into the dryer dry -- with less water
4 in them and so they'll dry faster and so you have an
5 efficiency story that goes with that. So, that's why --
6 again, if we look at it now, this does directly compete with
7 our products. And so, if these Orders were revoked for
8 Mexico, our expectation would be that Electrolux would start
9 bringing these products in mass amounts, dumping them, and
10 driving again all our business case around Yanis to be
11 negative.

12 So, I just showed you a couple of high-end
13 washer as examples, but the competitive threat from
14 low-priced imports is not limited to high-end washers we
15 displayed here. Consistent with your findings in the past
16 LRW cases, Samsung, LG, and Electrolux compete across the
17 entire product lineup.

18 As Joe explained, through the combination of
19 anti-dumping and countervailing duty Orders and a safeguard
20 measure, Whirlpool's washer business has been able to
21 reinvest in its operations and we have finally been able to
22 return to modest profitability. Our workers in Clyde, Ohio
23 build an extraordinary product. We have consistently
24 demonstrated our commitment to U.S. manufacturing, the
25 quality, safety, reliability, performance, and features of

1 our washers are second to none. On a level playing field,
2 we have shown that we can compete and win.

3 Despite all of the progress we have made, we are
4 still vulnerable after years of injury caused by waves of
5 low-priced imports, U.S. producers also face increasing cost
6 headwinds on significant inputs such as steel and electronic
7 components because of the Section 232 and 301 duties.

8 Imported washers don't have to bear any of these
9 costs. We previously faced a cost-price squeeze where
10 low-priced imports prevented us from responding to increased
11 costs. Respondents dumped washers in the face of rising
12 production costs before and they will do it again if you
13 revoke the orders.

14 Make no mistake. Samsung and LG have a track
15 record of shifting their production and supply based on
16 changes in duties. Let me give you just one recent example.
17 For several weeks we had been hearing reports from retailers
18 that ships of imported washers were circling the ports and
19 waiting to dock when the safeguard tariff reset to 18% on
20 February 7th, just in time to crash the market with
21 President's Day promotions.

22 So what happened? According to official
23 government data, there were more than 277,000 washers
24 imported by Samsung and LG in just twelve days. On an
25 annualized basis, that import quantity can satisfy almost

1 100% of the total U.S. demand.

2 The simple point is that duties matter. And
3 without the discipline of the orders, respondents will have
4 an economic incentive to once again target the U.S. market
5 with significant quantities of low-priced imports from Korea
6 and Mexico.

7 As we have stated in recent months, we were
8 finally realizing the benefits intended under the trade law.
9 We still need your support to continue the anti-dumping and
10 countervailing duty orders on imports from Korea and Mexico
11 so that we can fully regain our competitive footing. Thank
12 you for your time today. I will hand it over to Mike
13 Mattingly of GE Appliances.

14 STATEMENT OF MICHAEL MATTINGLY

15 MR. MATTINGLY: Hello, Commissioners and staff.
16 My name is Michael Mattingly and I'm the Executive Director
17 of Product Management for top-load laundry. It's a
18 mouthful, so let me explain what it means.

19 It means that I am responsible for the
20 profitability of top load washers I managed the line-up
21 today, along with developing and designing the products that
22 we need in the future. Developing our product strategy and
23 allocating the appropriate resources to support that. This
24 is my first time appearing before you as my boss, Peter Pate
25 sends his regrets that the rescheduling of this hearing

1 conflicted with other commitments.

2 While this is my first time appearing before you,
3 I understand the importance of these trade remedy cases to
4 GE Appliances. In fact, if I only manage to make one point
5 here today, I hope it's this. You did the right thing by
6 putting import relief in place on large residential washers
7 from Korea and Mexico five years ago. And for a variety of
8 reasons that my counterparts here at the table have already
9 laid out, you would be continuing a fine streak of being
10 right if you continue with that order.

11 A few comments I can build on from a GE
12 Appliances perspective and from my personal experience.
13 First and foremost, I want you to understand the pride that
14 the workers in Louisville, Kentucky have on the washers that
15 they make every day. I know. You've heard this before. My
16 counterparts have the same feelings towards their workers in
17 Ohio.

18 I'm going on twenty-five years now with GE
19 Appliances and I started in the plants. And I've run the
20 assembly lines and the operations. I was blessed with the
21 opportunity eight years ago to be a big part of bringing
22 production back to the United States. And our dedication to
23 this has remaining consistent since we started down that
24 path.

25 Understand this. The relief is working. I see

1 it daily in the energy and the excitement that my team has
2 in designing and manufacturing GE washers. How does that
3 show that the relief is working? That energy and excitement
4 is there because we are now on a path of competing on a
5 level playing field.

6 The desire and willingness to compete has always
7 been there. But it was frustrated competing in an
8 environment where unremedied dumping was a market strategy.
9 The import relief has created a level playing field that
10 allows our products to truly compete head-to-head. It's an
11 environment that allows our innovations to come to life
12 because the investments can and are being made to bet on
13 them. Those innovations can come to the market with a
14 chance to win, a chance to be proven.

15 Removing the import relief on Korean and Mexico
16 imports at this critical juncture will undermine all of
17 this. It no longer becomes a testament to the ingenuity of
18 our factory or our engineers, but a game of excessive
19 discounting that allows dumping and subsidized products to
20 flourish.

21 You know how this industry works. You sell what
22 you floor. Those floor spots are not growing, they are
23 contracting. That makes these floor spots more valuable
24 than ever and creates an even bigger incentive for LG and
25 Samsung to buy these floor spaces through dumping.

1 Memories are short, but history's a good teacher.
2 We know what happens in the market without import relief.
3 Nothing has changed. These foreign producers have the
4 knowledge, they have the will. And the conditions that
5 allow them to dump in the first place are still there. They
6 continue to maintain manufacturing capabilities in Korea and
7 Mexico.

8 And regardless of how much they are currently
9 relying on those, they have shown an impressive speed in
10 being able to shift production from one facility to another.
11 These orders are but one piece of a systematic approach to
12 curbing aggressive, unfair trade practices that was required
13 due to Samsung and LG's behavior. While it's one part, it's
14 an important part.

15 Without it, there is another loophole that can
16 and will be exploited. In fact, conditions may be more
17 favorable than ever for dumped and subsidized imports to
18 harm U.S. production. As tariff actions like the 232, 301
19 have created cost pressures on our platforms that are not
20 borne by washers manufactured outside of the U.S. and
21 imported in.

22 Even in the face of these cost pressures, we made
23 commitments related to the safeguard and we've kept them.
24 You have heard of the \$30 million investment we made in a
25 new washer line. You've heard about it, but now you are

1 seeing it. It's that product right there. That product
2 came to life based off of your good decisions. It made it
3 possible.

4 What you may not've heard is the \$200 million we
5 announced in October to invest in Louisville. With much of
6 it going into our washer plant. We have hired additional
7 workers at our Louisville facility and continue to invest in
8 innovative new products. All of these investments assume
9 normal market forces would prevail. But as we've seen, that
10 can only happen if these orders stay in effect.

11 Parties to this proceeding appear to want to make
12 issues of our change in ownership. I'd like to take a
13 moment to tell you want 20+ year GE Appliance veterans like
14 myself have to say about that. I've never been prouder to
15 work for this company.

16 While the ownership may've changed, the
17 leadership team, which I'm a part of, remains in Louisville,
18 Kentucky, with a singular focus on satisfying our customer.
19 The decisions are made in Louisville, Kentucky, and those
20 decisions have been to increase funding and investment like
21 the \$230 million that I just mentioned, and plans to expand
22 U.S. employment by as many as 2,000 jobs.

23 Not only are we the third largest industrial
24 employer in the state, GE Appliances has always meant much
25 more to the State of Kentucky than being a manufacturer.

1 Today we are a leader in workforce development, helping the
2 State of Kentucky close the skills gap on advanced
3 manufacturing. We work with the local school systems to
4 enhance the STEM curriculum driving improvements in
5 mathematics and science.

6 We have always been a leader in the community.
7 Over the last seventy-five years, our more than 100,000
8 employees have built a legacy of community involvement that
9 we add to every day. On behalf of our current 10,000 U.S.
10 employees, I ask that you keep these orders in place to
11 allow our recovery to firmly take root and set the stage for
12 continued growth. Thank you.

13 STATEMENT OF JACK LEVY

14 MR. LEVY: Jack Levy again from Cassidy Levy
15 Kent. I think that wraps up our industry witnesses, but if
16 you'll indulge me, I'd like to take a few minutes to close
17 with some lawyerly remarks. In particular, to speak to
18 issues of volume, price and likely impact if the AD/CVD
19 orders against Korea and Mexico are revoked.

20 So let's turn first to volume and I'm going to
21 advance to Exhibit 4. On the issue of volume, some of you
22 may recall from the safeguard proceeding that in September
23 of 2017, LG was talking about shipments from Korea. And LG
24 assured you -- they said no trends that suggest any imminent
25 threat from Korea exists. And why? They explained that the

1 AD/CVD restrictions served to limit any surge from Korea.

2 So why is this remark from LG in September of
3 2017 so interesting? Well, first, you'll note that less
4 than two months after they assured you there was no imminent
5 threat of surge, they tripled their shipments from Korea in
6 the month of November and December. Why? In a rush to
7 stockpile product in advance of imminent safeguard measures.

8 Okay? That was with AD/CVD orders in effect.
9 Just imagine the import surge when AD/CVD restrictions are
10 lifted against Korea.

11 On a related point is the issue of capacity. And
12 we heard it this morning from Mr. Shor that there isn't
13 enough capacity to facilitate a surge. But when you think
14 about the washer industry and you look at the track record
15 of LG and Samsung, I think Commissioner Johanson had it
16 right when he asked rhetorically in the safeguard injury
17 hearing, given how rapidly new capacity was built, first in
18 China and then in Thailand and Vietnam, how much can we
19 really rely on current capacity or capacity utilization?

20 And I think that point is substantiated by
21 language in the prehearing report of this proceeding where
22 -- and if you look at your pink paper you'll see the numbers
23 -- but there was a modest quantity of LRW capacity reported
24 for Vietnam from 2012 to 2015, but after both Samsung and LG
25 began producing in 2016 in the space of roughly six months,

1 Vietnamese producers had enormous capacity to produce units.
2 In the world of Samsung and LG, capacity is flexible and
3 nimble.

4 On a related point, Mr. Porter testified in the
5 safeguard proceeding, he said, "The anti-dumping, I think,
6 are very strong evidence that you're not gonna see an
7 increase, a dramatic increase in capacity from Korea." Mr.
8 Porter is linking the anti-dumping order to the level of
9 capacity that one would see in Korea. And I respectfully
10 submit that lifting the order would result in an adjustment
11 of those capacity levels.

12 And finally I would urge you all to look at the
13 reported capacity data with a cold eye. It says in the
14 prehearing report that staff adjusted the Korean capacity
15 data to equal production in 2017 in the interim periods
16 where production exceeded capacity. That means that Korean
17 respondents reported production levels--or put another
18 way--they reported capacity levels that were less than
19 their total production.

20 That can't be right. And frankly, I think that
21 staff was very generous at simply resetting capacity at
22 production levels, 100% capacity utilization. I
23 respectfully submit that maybe their submitted capacity
24 numbers are just a little too self-serving.

25 Turning to price. Mr. Shor said that your

1 analysis is necessarily forward-looking. And that's true in
2 part. But you must necessarily ground your analysis on
3 inferences drawn from the record, including your past
4 determinations, starting with, of course, the original
5 investigations where you found, among other things,
6 pervasive and significant underselling.

7 And when Samsung and LG moved to new export
8 platforms, whether they were shipping from China or Vietnam
9 and Thailand, you found in subsequent proceedings a
10 continuation of that aggressive and injurious underselling
11 behavior. To be sure, during the period of review, we've
12 seen more mixed underselling from Korea and Mexico. And
13 that is the desired effect of orders is to impose
14 discipline. But you also heard testimony about rising costs
15 in the United States. And the risks of a cost-price squeeze
16 by reason of dumped imports from Korea and Mexico, is
17 palpable if the orders are revoked.

18 Turning next to likely impact. Mr. Shor began to
19 make some hay about the so-called belt-drive washers from
20 Mexico, citing various Whirlpool actions in the past. I
21 hope we have a chance to talk about it during the Q&A so
22 that we can put all our cards on the table.

23 But I think the key point I want to stress right
24 now is that everyone agrees that these belt-drive washers
25 produced by Electrolux in Mexico are a direct competitive

1 threat to U.S. production. LG said it to the Commerce
2 Department last year. They said it would cause competitive
3 harm to U.S. LRW producers because they compete directly
4 with U.S.-produced subject LRWs. And Samsung said the same
5 thing, "that they compete alongside in-scope models, and
6 removal of them from the orders may negatively impact its
7 Samsung's U.S. operations." And Whirlpool ultimately
8 agreed, saying, based on current industry trends, these
9 washers pose a competitive threat. And I don't think
10 there's any question that GE Appliances takes the same
11 position.

12 But this is not just the position of the parties,
13 it's the position of the purchasers and their results are
14 summarized in your prehearing report, where most purchasers
15 have told you that belt-drive and direct-drive washers
16 compete with each other. And a substantial and meaningful
17 percentage of responding purchasers, including one very
18 prominent purchaser, which you'll see in your pink paper,
19 they agreed that they also have adverse price effects, that
20 is to say, the price of belt-driven front-load washers
21 affects the price of direct-drive front-load washers.

22 So I think there really is in substance complete
23 agreement that these Electrolux washers threaten injurious
24 impact if the orders are revoked.

25 As far as future predictions and likely impacts,

1 some of the assertions from respondents frankly strain
2 credibility. And I'd like to just call out a few for your
3 attention. In the USTR remedy hearing--you may not know
4 this--Samsung got up and testified that "any tariff at all
5 takes us out of play." And any tariff would be prohibitive
6 in their view. And LG for their part said there will not be
7 a single washer imported at the 50% level, but that they
8 could also say with pretty much certainty, Mr. Porter said,
9 with respect to 20%.

10 So what actually happened? Well, in the
11 eight-month period when there was importer volume at 20%,
12 all 1.2 million washers were imported by Samsung and LG at
13 this 20% rate, absorbed with no trouble at all. Apparently
14 there were a few washer imports at the 50% rate as well.
15 And as Mr. Tubman just testified, in the first twelve days
16 that the safeguard reset earlier in February, 277,000 units
17 were imported at the 18% safeguard rate. This is seen
18 visually here.

19 Simply said, the predictions of respondents about
20 their ability or their plans to import are belied by their
21 actual behavior over the last year. I think I next wanna
22 talk briefly about LG--I call it their 90% theory--and
23 you'll see it a lot in their brief. They basically say that
24 by the beginning of 2020, 90% of the U.S. market is gonna be
25 supplied by U.S. production. So any future imports are

1 gonna be trivial and non-injurious and unimportant.

2 But I think I would point out that LG's own
3 predictions are at odds with some of their other prior
4 statements, including the testimony of Mr. Riddle in 2017
5 where he testified to you that full utilization of their
6 factory could be deferred until 2021. So LG's own timeline,
7 they can't get it straight. But perhaps more
8 fundamentally, their 90% theory is predicated on voodoo math
9 and I think Exhibit 20 of their brief with a series of
10 assumptions that are fundamentally unreasonable.

11 First and foremost, they are predicting
12 essentially full capacity utilization. Now, I must say, I
13 applaud the fact that they're building a greenfield facility
14 in Tennessee, and I love the great state of Tennessee. But
15 this is not Field of Dreams. This is not "If you build it,
16 they will come." In the world of the washer industry, you
17 have to compete for sales. To assume full capacity
18 utilization, simply because there's production, is
19 unreasonable at heart.

20 I think one final example is Samsung. Samsung's
21 narrative about Mexico certainly has evolved. And let me
22 take you through the progression here. Back in 2012 when
23 the original investigation was pending, Samsung explained to
24 the Commerce Department, SCC has determined that it must
25 relocate this production to China in order to produce these

1 washers in the most efficient way. Okay?

2 Then in 2016, the Commission explored this a
3 little more in a colloquy between Samsung's Mr. Brindle and
4 your investigator, Chris Cassise. And I'll repeat that
5 colloquy for you here. Samsung says, "So, from an overall
6 global perspective, we continuously evaluated our operating
7 costs across a multitude of factors," right? So, "if we
8 look at consolidation of operations, a couple of key factors
9 in that decision for us, being able to consolidate washer
10 production from Korea and Mexico into one facility in
11 China."

12 And also at a later point being able to move that
13 dryer production from China to Mexico, supposedly netted
14 them operating improvements during the period. So they said
15 the key thing is that we didn't just move washers, right?
16 There's a consolidation of operations there.

17 "There's some inefficiencies that we experienced
18 in Mexico in our past period there, that allowed us to move
19 washers to China effectively." So Mr. Cassise seeks
20 clarification. "So you no longer producers any washers or
21 dryers in Mexico?" He answers "No. We still produce a lot
22 of dryers in Mexico. That facility is still open, and
23 dryers relocated from Korea and China to Mexico."

24 So frankly after that colloquy we had an
25 understanding that because of their consolidation thesis,

1 all the LRW production that Samsung had had in Mexico had
2 been moved to China, and then ultimately moved again to
3 Vietnam and Thailand, and then ultimately relocated to the
4 United States.

5 But we weren't aware of any production remaining
6 in Mexico. But what we learned when we read Samsung's brief
7 is that lo and behold, they still have some LRW production
8 in Mexico, and they say to you "Samsung no longer produces
9 any washers for the U.S. market in either Mexico or Korea,
10 and adds that they have no incentive to shift any of its
11 remaining washer capacity in Mexico to supplying the U.S.
12 market."

13 But yet, and this is the part that strains
14 credibility, they go on to say "But whatever you do, you
15 must revoke the orders against Mexico." Really? They just
16 said to the Commerce Department last year that the
17 Electrolux product threatens to negatively impact their U.S.
18 operations. They're telling you they have no ambitions to
19 import from Mexico, but you must revoke the order against
20 Mexico and you must subject them to the scourge of dumped
21 imports?

22 What kind of U.S. producers are these? Frankly,
23 I think their whole consolidation theory was a lot of
24 malarkey, and yes there is an element of your inquiry that
25 is forward-looking. But when you look at these

1 forward-looking predictions of Respondents, some of what
2 they're saying is no more believable than a carnival
3 soothsayer.

4 So I would encourage you to look at what they're
5 saying with a very cold eye, and we very much look forward
6 to all of your questions this morning. Thank you.

7 CHAIRMAN JOHANSON: Thank you all for appearing
8 here today. We will begin Commissioner questions with
9 Commissioner Broadbent.

10 COMMISSIONER BROADBENT: I want to thank the
11 witnesses for coming. It's good to see all you guys back
12 again. I think I'm learning a lot about washers, which I
13 really appreciate. Okay. Mr. Levy, on page 81 of your
14 pre-hearing brief, you discuss how an appreciable portion of
15 subject imports from Mexico have been the CIM belt
16 frontloader since 2012, and a large portion of imports from
17 Korea have been the extra-wide washers, and that these
18 imports are not subject to the safeguard tariffs.

19 Therefore, you assert that the AD and CVD orders
20 here provide the sole remedy on these washers. I can't, I
21 just am having trouble figuring out why Whirlpool initiated
22 the changed circumstances review at Commerce, asking to
23 revoke the orders with respect to the CIM belt frontloaders.

24 MR. LEVY: Commissioner Broadbent, thank you
25 very much for this question. I think it's an important

1 question because as it stands now, I think the record is
2 incomplete, and we appreciate the opportunity to provide a
3 complete explanation. So let us start at the beginning. In
4 the original Korea-Mexico investigations, Whirlpool
5 obviously covered these belt drive washers because as Casey
6 testified, these were mainstream washers competing in the
7 heart of the market.

8 Then you fast forward to the China petition, and
9 the focus of the China case was Samsung and LG's relocated
10 production. So in that context, we crafted a scope that was
11 narrowly focused on those products of concern. So at that
12 time, we decided to exclude certain washers, including these
13 belt drive washers at issue.

14 Samsung and LG didn't produce these washers, nor
15 did Whirlpool for that matter, and they were being shipped
16 from China in trivial volumes. Also importantly, Whirlpool
17 believed that the competitiveness of this design was waning,
18 and so a business decision was made to exclude them.

19 COMMISSIONER BROADBENT: What do you mean?

20 MR. LEVY: Well, there's more to the story, and
21 I think we owe you full disclosure. There was another
22 reason for the exclusion. At the time, these belt drive
23 washers were being produced by China's two national
24 champions, Haier and Medea. There was serious concern,
25 serious concern that if the scope covered their products, it

1 would expose China's recent China investment. Now this is a
2 very, very sensitive issue.

3 COMMISSIONER BROADBENT: Sorry. It would
4 expose?

5 MR. LEVY: Whirlpool's China investment. Very
6 sensitive issue that we were unable to discuss at the time
7 of the China investigation, I'm sure you'll understand, and
8 it's extremely sensitive still today. We can obviously tell
9 you more post-hearing, but that's probably the extent of
10 what we can say.

11 But if I could just kind of continue the
12 chronology. On the heels of the China case, just a few
13 months later, it's time to draft the safeguard petition, and
14 what we want to do quite simply was to be consistent. So we
15 adopted the same scope language as the China case,
16 simplified matters. We could kind of carry over your
17 findings about conditions of competition and everything
18 else, and that's where we were coming from.

19 But most recently, and I think this is what's
20 getting the most profile from Respondents, after the
21 safeguard proceedings and in anticipation of this sunset
22 review, Whirlpool attempted to exclude those models from the
23 Korea-Mexico orders through a changed circumstances review
24 at Commerce.

25 I think the language that was submitted to

1 Commerce, and I'll just quote it for your benefit, Whirlpool
2 explained to Commerce in May of 2018 "These changed
3 circumstances reviews are an effort to align the scope of
4 the orders on LRWs from Korea and Mexico with the scope of
5 the China LRWs anti-dumping order and the LRW safeguard
6 remedies.

7 But notably the reaction from Samsung, LG and GE
8 Appliances was strong opposition. Why? Because they
9 insisted that these belt drive washers from Mexico were a
10 direct competitive threat, and at bottom, and I think Casey
11 talked about this, Whirlpool agreed as a matter of
12 substance.

13 And so a decision was made to withdraw the
14 request in the changed circumstances review, and obviously
15 to maintain these products within the scope of the instant
16 orders. So again, everyone is in agreement that these belt
17 drive compete directly or are a competitive threat.
18 Purchasers are telling you this on your record, Samsung and
19 LG have insisted, GE takes this position and Whirlpool as
20 well has taken this position.

21 I don't know Casey if you could add more just
22 from an industry perspective on this point?

23 MR. TUBMAN: I think I would add probably is as
24 mentioned, these were the heart of the market. We were
25 producing them at the time when it all started. But

1 probably more importantly is we weren't seeing these come
2 into the U.S. and we've said it many times. They didn't
3 have flooring until last year. Jack talked about the time
4 period of it being May around when some of these decisions
5 were made.

6 Early last year, we weren't seeing these
7 flooding the marketplace let's say. And so at that point in
8 time, we were still thinking they were low tech washers. As
9 more news came out and as we started seeing these hit
10 floors, that's when we dug back in and said okay, have they
11 reverse engineered this, and basically that's what
12 Electrolux had done.

13 They took direct drive and reverse engineered it
14 into a CIM motor and a belt drive. So now, based on that,
15 they can achieve the higher spin speeds. They can handle
16 vibration control, which then adds to the efficiency factor
17 for the dryer as well. So when we said they were low tech,
18 when we believed they were low tech they were. More
19 recently, they've become high tech and pretty much
20 comparable to a direct drive.

21 MR. MATTINGLY: Michael Mattingly, GE
22 Appliances. From a GE Appliances perspective, we've always
23 considered belt drive as competitive with direct drive. In
24 fact, that Electrolux product over there is a serious
25 competitor in the marketplace and one that we compete with

1 on a daily basis.

2 COMMISSIONER BROADBENT: Okay. I'm still not
3 quite sure why you wanted to align the remedies.

4 MR. LEVY: We'd be happy to give you more
5 explanation post-hearing, but suffice it to say that we were
6 looking ahead to this sunset review hearing, and wanting to
7 avoid distracting arguments and accusations from
8 Respondents. We were trying to take the high road and not
9 fully appreciating the competitive threat of this product in
10 the marketplace.

11 And then lo and behold, it turned out that we
12 were totally naive, because there isn't anything that we can
13 propose or do that isn't met with vociferous opposition from
14 Samsung and LG. So they insisted in their capacity as new
15 U.S. producers dammit, these products had to be covered. So
16 we said you know what, you're right? Let's keep them
17 covered, because we care about that too.

18 We were trying to simplify life. It was a bad
19 litigation judgment, but we can explain more around the
20 sensitivity that I alluded to in our post-hearing
21 submission.

22 COMMISSIONER BROADBENT: Does Whirlpool have an
23 interest in importing these specific frontload washers?

24 MR. LEVY: I can answer that for Whirlpool.
25 Absolutely not. Whirlpool supplies 100 percent of the U.S.

1 market for LRWs from its Clyde manufacturing facility. It
2 has no plans to change that any time in the foreseeable
3 future.

4 COMMISSIONER BROADBENT: And was it a subject of
5 any sort of commercial transactions you did in Mexico,
6 selling a facility?

7 MR. LEVY: The China facility exists to serve
8 non-U.S. markets, primarily the Chinese market.

9 COMMISSIONER BROADBENT: In China?

10 MR. LEVY: Correct.

11 MR. TUBMAN: And I think -- Casey Tubman, sorry.
12 The question about the Mexico plant. It's still there, but
13 it does not produce frontload washers anymore. We brought
14 those back to the U.S. back in 2012 I think was the date.
15 This is when we repatriated 100 percent of our frontload
16 into Clyde, and now we produce them all there.

17 COMMISSIONER BROADBENT: And so you didn't sell
18 a facility in Mexico?

19 MR. TUBMAN: No, no. We still own that.

20 COMMISSIONER BROADBENT: Great, thanks. Could
21 you talk a little bit about the milestones that Whirlpool
22 and GE have been working towards, and adjustment plans under
23 the safeguard proceeding?

24 MR. LIOTINE: Joseph Liotine, Whirlpool. In
25 terms of the adjustment plan we submitted, we're right on

1 track in terms of executing those. We've made substantial
2 investments in the facility, made to infrastructure,
3 technology, automation. We've launched Yanis. Casey walked
4 you through that new product with a few more projects right
5 behind it coming as a consequence of having the orders in
6 place.

7 And then additionally, we hired quite a few
8 employees. The specifics are obviously submitted in our
9 brief. So we feel very good about that. Unfortunately,
10 it's early. I think we used the expression infancy or it's
11 immature, and it's still very vulnerable.

12 So without this protection and these
13 protections, that would be at risk and subject that what we
14 experienced in past launches that just didn't work or that
15 didn't have a return. And so, you know, they're still very
16 fragile at this time.

17 MR. MATTINGLY: Michael Mattingly, GE
18 Appliances. First off, I'm proud that we're delivering on
19 the commitments that we made for the safeguard adjustments,
20 and in my opening statement you heard about the 230 million.

21 So the 30 million in that product right there, and the
22 innovation that we're bringing to it.

23 So it's not just the investment but the
24 innovation. The innovation has SmartDispense in it, which
25 is a topload exclusive feature, along with other industry

1 firsts when it comes to topload. So the innovation and the
2 investments are being made. That 200 million that I talked
3 about in Louisville, the majority of that is going into the
4 washer plant.

5 So the investments are there. The investments
6 are there because we continue to foresee with these orders
7 in place and with the safeguards in place, an environment
8 that is free from illegal dumping, and it allows us to start
9 to get a return on that investment. That platform right
10 there has been in the market for about a year now, a little
11 over a year, and with that we're starting to see a return on
12 that investment but we're not paid back at this point in
13 time.

14 Only if these orders stay in place and the
15 safeguard allows that environment to have some economic
16 logic do we continue to see that.

17 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

18 COMMISSIONER SCHMIDTLEIN: Okay. I'd like to
19 thank all the witnesses for being here today again. Let me
20 just follow up with a question on this changed circumstance
21 issue. So you all have testified that you looked at what
22 they've done to the belt drive and concluded that now it
23 could achieve higher speeds, so in fact it was competing
24 with the direct drive, is that right?

25 MR. TUBMAN: Casey Tubman, that's correct.

1 COMMISSIONER SCHMIDTLEIN: And so remind me,
2 when did you file the request for the changed circumstance?

3 MR. TUBMAN: It was in early 2018 as I recall.
4 I'm looking at a reference to a submission in May. I'm not
5 sure if that was the -- that was not -- I don't know if that
6 was the initial request, but it was the first half of 2018.

7 COMMISSIONER SCHMIDTLEIN: Okay. So when did
8 Whirlpool come to this conclusion that in fact they had
9 reengineered it and it was different?

10 MR. TUBMAN: Casey Tubman. I'm not sure I can
11 give you an exact date. I would say back half as best I can
12 -- I mean I don't know that I could give you a specific
13 date.

14 COMMISSIONER SCHMIDTLEIN: Okay. It just seems
15 curious to me that you filed the withdrawal of that in
16 December, December 21st it looked like. That quote was from
17 your withdrawal at the Commerce Department, but you waited
18 until after the prelim determination and Commerce went
19 against you.

20 So is it just a coincidence that you filed this
21 thing early in the year, and then you look at the
22 technology, you reached this conclusion but lo and behold,
23 you wait until after you lose, at least as a preliminary
24 matter, to withdraw the request?

25 MR. LEVY: I think I'd like to provide a more

1 complete answer in the post-hearing submission because there
2 are some business proprietary explanations that can be
3 offered, but I think it's absolutely accurate and truthful
4 that it was in the second half of 2018 that Whirlpool was
5 made to refocus on the question of whether this product
6 represents a competitive threat and I think what you heard
7 from Casey was testimony that the flooring was increasing
8 for this product.

9 They were getting increased visibility on it and
10 they did an analysis in this time period, which was that the
11 software algorithms had been updated to achieve better spin
12 speeds and vibration control, notwithstanding the belt drive
13 technology and so I think Whirlpool came around to in
14 complete substantive agreement with Samsung, LG, General
15 Electric, and purchasers in this record.

16 COMMISSIONER SCHMIDTLEIN: Okay. It just seemed
17 curious to me because the prelim determination came out
18 right before Thanksgiving and so some point between
19 Thanksgiving and December 21, which was right before the
20 Christmas holiday taking off this year, you all came to the
21 conclusion, lo and behold, this is a competitor. I mean,
22 anyway, you can address it in the post-hearing brief.

23 MR. LEVY: Certainly.

24 COMMISSIONER SCHMIDTLEIN: Okay.

25 MR. MAGNUS: Quick comment.

1 COMMISSIONER SCHMIDTLEIN: Yes.

2 MR. MAGNUS: It wasn't much of a prelim. In
3 other words, the prelim was this doesn't appear to have
4 support from 85 percent of the industry, so there's no place
5 for it to go. It wasn't a substantive decision. It was a
6 nose-counting decision. It didn't have enough support.

7 MR. LEVEY: And I would just add it was unclear
8 to us at the time whether Commerce was going to rescind the
9 review or issue a negative preliminary determination because
10 it was apparent that Whirlpool's request did not meet the
11 requisite 85 percent coverage for the U.S. industry. So,
12 under those circumstances, I think Mr. Magnus's
13 characterization is accurate.

14 COMMISSIONER SCHMIDTLEIN: Okay, alright. Thank
15 you.

16 Let me move on to -- this really relates to
17 potential volume. And of course, the big issue in this case
18 is the domestic investments by LG and Samsung. So, my first
19 question is you all argue that, you know, they're really
20 asking us to trust them. In your view, exports or imports
21 from Korea and Mexico will resume if we lift the Order.

22 So, my question is, given that LG and Samsung
23 are exporting from other markets currently to the U.S.,
24 other markets that aren't under an ADCBD Order. Why would
25 we conclude that if we lift this Order they will shift

1 production to those two countries and not continue to export
2 from the non-subject countries that they're currently using?
3 And it's a substantial volume that's coming from those. At
4 least it was until the interim and still substantial even in
5 interim 2018.

6 MR. LEVY: Commissioner Schmidtlein, I think
7 that's a very pointed and fair question. We've thought
8 about that a lot and I think that a lot of the behavior of
9 Samsung and LG has been surprising to us over the years.
10 And ultimately, we discern their intent through their
11 behavior and not through what they say.

12 And if you look, historically, over the record
13 we have what we see is that the one thing that's consistent
14 with them is their designs on growing their position in the
15 U.S. market, growing market share at any cost and ideally
16 with the lowest cost platform at that. What we can see,
17 historically, is that, you know at the start of this
18 campaign their first choice for targeting the U.S. market
19 was Korea and Mexico. When duties were imposed, their
20 second choice was China. When duties were imposed, their
21 next choice was Vietnam and Thailand. And when duties were
22 imposed, their last resort was to produce in the United
23 States.

24 And so, we respectfully submit that, you know,
25 in the reasonably foreseeable future we're going to live in

1 a world without safeguard remedies. And if these Orders are
2 revoked, we have every reason to believe that they will go
3 back to their first choice of Korea and Mexico. And I think
4 you heard from Mr. Liotine why we think it's their first
5 choice. Korea is the home base for these tribal -- you know
6 they have very rich supplier networks. They have their R&D
7 and engineering concentrated there. I think LG has told us
8 that they intend to continue to launch new innovations and
9 products from that location and crash products like Yanis
10 right there.

11 And Mexico, similarly, has a rich supplier
12 network, is in the backyard of the United States, and both
13 of these countries are unburdened by increasing raw material
14 costs that we see in the United States due to various
15 factors, including the Section 232 and 301 remedies. So,
16 there's a lot to be said for why, not only producing outside
17 of the United States is an economic incentive, but also, to
18 go back to where they started where there is still capacity
19 and it was their first choice all along.

20 COMMISSIONER SCHMIDTLEIN: But wouldn't they
21 just be displacing then the non-subject imports from
22 Thailand and Vietnam? And if that's the case how does that
23 affect our injury analysis?

24 MR. LEVY: We don't have full visibility on what
25 they do or don't intend to do with their non-subject

1 platforms in Thailand and Vietnam, but it need not be
2 necessarily displacement. They can continue to grow in
3 addition to. I mean what Samsung and LG have shown, if
4 anything, is that their goal is to grow market share at any
5 cost and there is more market share to be taken from the
6 likes of Whirlpool and GE through additional shipments from
7 Korea and Mexico, ceteris paribus and so we are very
8 concerned.

9 I mean if we kind of look at the track record of
10 their behavior every time there's a change in duties they're
11 moving capacity and production and shipments. And it seems
12 to us reasonable to conclude that if duties are lifted from
13 Korea and Mexico they will immediately exploit that
14 loophole.

15 COMMISSIONER SCHMIDTLEIN: So, how do you
16 respond to their argument that the U.S. facilities are
17 different in that there's more manufacturing there, more
18 manufacturing of the sub-assemblies and so forth, which is
19 different than, I believe is their point, than China or
20 Vietnam and Thailand where those are more assembly
21 operations?

22 MR. LEVY: So, I think we'd like to provide a
23 complete response post-hearing, but let us be clear, we're
24 not trying to diminish the significance of their U.S.
25 investments. I think you heard from our witnesses we

1 applaud it. If they're supplying the U.S. market from U.S.
2 production that's a level playing field that we welcome and
3 these are substantial investments and there is vertical
4 integration there, as they report.

5 Our concern is not that they uproot it
6 completely and ship 100 percent of their needs from
7 overseas. I think that would be an untenable perspective,
8 but rather that they have a continued economic incentive to
9 import significant volumes from the subject countries and to
10 resume their behavior of underselling. I mean just think
11 about if --

12 COMMISSIONER SCHMIDTLEIN: Just let me interrupt
13 because my time is running out or almost run out.

14 So, do you think that they -- so, you all do
15 believe they will continue to manufacture large residential
16 washers here in the U.S.?

17 MR. LEVY: We believe that they will have an
18 economic incentive to produce at least some washers from
19 these U.S. production platforms. You know whether they
20 repurpose some of the overhead to make other things we don't
21 know, but the real question is how much will they supplement
22 or complement their product mix with imports from the
23 subject countries and we think that's a very real concern.
24 We need not speculate. LG has told us that they intend to
25 launch their innovations from Korea.

1 COMMISSIONER SCHMIDTLEIN: So, how could they
2 repurpose some of those facilities?

3 MR. LEVY: By way of illustration, Samsung found
4 it to be economically efficient to take their -- much of, if
5 not all, but much of their washer production in Mexico, send
6 it to China and take their dryer production in China and
7 bring it to Mexico and they called that efficiency. So, you
8 know, what's to stop them from making some dryers in the
9 United States under the same roof, as by way of
10 illustration.

11 COMMISSIONER SCHMIDTLEIN: Okay. I mean I guess
12 we can follow up with this more, but I mean I do have some
13 questions about the dryers don't need injection molds, I
14 don't think. I mean there are differences between those and
15 if these aren't assembly operations there is more raw
16 material manufacturer going there, then doesn't this make
17 this difference, but we can follow up in the next round.

18 CHAIRMAN JOHANSON: Commissioner Kearns.

19 COMMISSIONER KEARNS: Thank you. Thank you to
20 all the witnesses for being here today. It's very helpful.

21 Just to return back to the changed circumstances
22 review for a minute, can you just provide us with a little
23 bit more information then about what Whirlpool is making in
24 Mexico right now?

25 MR. TUBMAN: Yes, Casey Tubman. So, they

1 produce a smaller washer than our U.S. LRW for the Mexican
2 market as well as markets south of there.

3 COMMISSIONER KEARNS: Okay. And that's it in
4 terms of your production in Mexico or are there also dryers
5 or other appliances?

6 MR. LIOTINE: We produce a variety of products
7 in Mexico -- sorry, this is Joe Liotine -- refrigeration,
8 some cooking, not all in the same facility. We have
9 multiple campuses throughout the country, but in the
10 particular facility that's referenced is only washer for the
11 Central America market, principally, in the Caribbean,
12 different sizes, different configurations not sold in the
13 United States.

14 COMMISSIONER KEARNS: Okay, thank you. And this
15 will probably be for the post-hearing brief, but can you
16 also share with us whether you've considered making or
17 acquiring in Mexico in the last few years or into the future
18 if you had any plans about importing belt drive washing
19 machines or any other products that are covered by the
20 scope. Could you share those plans, even if plans may not
21 have gone to fruition? Anything you can tell us about what
22 your plans would be?

23 MR. LIOTINE: We have no plans to do anything in
24 that regard at all.

25 COMMISSIONER KEARNS: And have you in the past

1 few years?

2 MR. LIOTINE: I don't believe so.

3 COMMISSIONER KEARNS: Okay. And do you have any
4 plans to acquire any other assets in Mexico that would allow
5 you to do that for the U.S. market?

6 MR. LIOTINE: None, to my knowledge.

7 MR. LEVY: Commissioner Kearns, I see you're
8 fishing around, so I just want to be perfectly clear for the
9 record, Whirlpool has in no time during the period of review
10 nor does it at present have any plans nor has it every
11 considered any plans to import belt drive washers from any
12 source period, full stop.

13 COMMISSIONER KEARNS: Okay. Alright, thank you.

14 I think Commissioner Schmidtlein asked most of
15 the questions I was thinking about asking about Samsung and
16 LG's investments in the U.S. I might have to come back to
17 that later, but here's one maybe about the ability of LG's
18 subject imports to injure other domestic producers. You
19 argue that LG could import high-end models from Korea in a
20 manner that would not injure its U.S. operations, but would
21 injure other domestic producers; in particular, through
22 price compression that would affect low-end washers, but
23 wouldn't that affect LG's U.S. operations as well. And
24 given the range of products each manufacturer produces, how
25 could LG import in a manner that would injure its

1 competitors, but not its U.S. operations?

2 MR. LEVY: Let me provide just an illustration.
3 I know this is an argument that you see in lots of
4 proceedings that if you have a foreign producer with some
5 U.S. investment; therefore, there's sort of the assumption
6 that it has no interest in cannibalizing its own U.S.
7 production and therefore you need not worry about the
8 interest of other U.S. producers; essentially, that they're
9 shielded.

10 That is absolutely not the case in this climate
11 for a number of reasons. First of all, this is not a
12 commodity product like sugar or a chemical where everything
13 being brought in is the same stuff. So, it is perfectly
14 conceivable that Samsung or LG would have a product lineup
15 and there are gaps in that product lineup and they would
16 choose to fill those gaps with imported, dumped product that
17 would actually strengthen their overall offerings, but
18 compete directly with and injure other U.S. producers that
19 have the complete product lineup and are forced to compete
20 with the dumped product.

21 The other point that I'll make, and I think this
22 is important. And I think maybe to illustrate this point
23 I'll go to Slide 13 and I'm really just speaking to point 2
24 for a moment there. We've heard in the past a lot about
25 dryers in some of these past proceedings, Commissioner

1 Kearns, and in the context of hearing these dryer arguments
2 from Samsung one of the things that they asserted was, hey,
3 it's normal for companies to lose money on washers because
4 they make it up on dryers.

5 Now, Whirlpool maintained that that is
6 absolutely not its business model and the Commission agreed
7 in past proceedings, but the key point here is that's how
8 Samsung assesses its performance. So, their quote is "The
9 industry pricing model requires higher dryer profitability
10 to offset low or even lower negative washer profitability."
11 That is how Samsung assesses its performance. So, you can
12 imagine a world in which Samsung or LG because of their
13 business model are in the business of driving washer volume
14 and injuring their U.S. washer business. Why? Because
15 they're determined to make it up on dryers that they
16 produce in Mexico or Korea or elsewhere. That is in no way
17 a shield to the interest of Whirlpool or GE Appliances.

18 Whirlpool, who has told you, and the Commission
19 has agreed, they're running a washer business. They're not
20 in it to lose money. And GE Appliances they don't even make
21 dryers in the United States. You know they're in the
22 business of making washers in the United States, so I hope
23 that's responsive to your question.

24 COMMISSIONER KEARNS: It is. But going back to
25 your first part of your answer about sort of gaps in the

1 product lineup, can I accept that and still accept your
2 argument about price compression? I mean the sense I got is
3 all these products are related. That if, you know that the
4 high-end products are really affecting the prices for the
5 low-end products and so forth. So, how do I square those
6 two things?

7 MR. LEVY: No, I think you're right in the sense
8 that if Samsung were to bring in a model in the lineup and
9 crash prices with it, it would be injurious not only to
10 Whirlpool and GE Appliances, but to at least adjacent, if
11 not the entire part of their lineup. The question is are
12 they comfortable with that and we respectfully submit that
13 their past behavior has been bordering on uneconomic. And
14 under those circumstances, it gives us little comfort that
15 they've got our back when it comes to rational behavior in
16 pricing washers in the United States.

17 There has been no circumstance where we have seen
18 rational pricing that allows you to cover costs and make a
19 profit whenever they are free from the protection of
20 anti-dumping and countervailing duty or safeguard remedies.

21 COMMISSIONER KEARNS: Okay, thank you.

22 MR. MATTINGLY: Michael Mattingly, DA Appliances
23 and to add to what Jack is saying, when you step back, if
24 their behavior has shown their desire to buy market share
25 and floor spots through illegal dumping, they're open to any

1 avenues and have shown being open to any avenues in order to
2 achieve that result.

3 COMMISSIONER KEARNS: Okay, thank you. And
4 hopefully this isn't duplicative of some of the questions
5 that Commissioner Schmidtlein asked but it looks to us, from
6 what we've seen from the briefs at least, I didn't go on the
7 tour, but it looks like these are pretty substantial U.S.
8 Investments that Samsung and LG are making. These are not,
9 I forget the term that is used, but these are not just like
10 screwing things together at the end.

11 I guess my question is do you agree with that and
12 how would you compare these investments with the U.S. to the
13 investments that those companies have made in China and in
14 Thailand and in Vietnam?

15 MR. LEVY: Let me at least try to answer it in
16 part, we certainly agree that the Samsung investment appears
17 to be significant and lasting. How exactly it is deployed
18 remains to be seen but our concern is the volumes that will
19 be imported to compliment or supplement what they are
20 producing in the United States and as for LG obviously it is
21 more embryonic and we don't yet know but we have the same
22 level of concerns.

23 I think we have heard from Commissioner
24 Schmidtlein sort of this view that the level of vertical
25 integration in the United States is somehow unique and

1 unprecedented. I would, maybe Mr. Tubman can speak to that
2 but that isn't our perspective as it relates to at least
3 Korean production so I don't know if you want to --

4 MR. TUBMAN: Casey Tubman. Jack had mentioned
5 earlier about putting something on the record after the fact
6 so I did not want to interject at that point in time but
7 Commissioner Schmidtlein when you asked this question my
8 mind went back to "their home base is Korea", a completely
9 vertically integrated plant manufacturing supply chain,
10 government subsidy, all of those things that go into saying
11 that they should want to stay there and it was their first
12 location.

13 The only reason they moved was because there were
14 orders in place and they moved at that time. Same thing
15 with the U.S. Yes, they have made an investment. Yes, it's
16 a major investment. Great. How is it different than Korea
17 and I would maybe pose that question to them when they get
18 up here in front but if I look at their Korean operations
19 versus their U.S. operations you would probably want to have
20 somebody detail the differences.

21 COMMISSIONER KEARNS: But can you tell me how
22 their U.S. investments compare to the investments they made
23 in China, Vietnam and Thailand.

24 MR. TUBMAN: Casey Tubman again. Unfortunately I
25 don't know those numbers off of the top of my head and would

1 have to submit them after the fact but as I'm looking at
2 again history and where they started at their home base
3 that's how I compared it to the U.S. plant. They walked
4 away from it, majority as Jack said, they would probably
5 still supply a few things out of the U.S. but they more or
6 less walked away from the Korea plant and moved it at that
7 point in time.

8 MR. LEVY: I think the other point to add is that
9 this level of vertical integration that we are witnessing in
10 the United States, not only do we think it's similar to what
11 we see in Korea but importantly why does it now exist? It's
12 not an accident. It's because this Commission had the good
13 judgment to cover not only washers in the recommended
14 safeguard relief but parts and created an economic incentive
15 to have more deeper, more meaningful vertical integration in
16 the United States.

17 Every time there has been a duty event under the
18 trade remedy law there's been a change in behavior from
19 Samsung and LG and we are terrified that if duties are
20 lifted against Korea and Mexico that will be another duty
21 related event that will precipitate a change in behavior in
22 the form of increased shipments at injurious prices from the
23 Subject Countries.

24 COMMISSIONER KEARNS: Okay, thank you. But in
25 your posthearing brief if you can tell me more about,

1 compare more the investments not in Korea -- I'm interested
2 in that as well to the U.S., but more so China, Thailand and
3 Vietnam and how those investments compared to here because I
4 think in terms of country hopping it would be good to know
5 if a hop onto China looks a lot like a hop onto the U.S or
6 if they look different and so forth. I would appreciate
7 that.

8 MR. LEVY: Certainly.

9 COMMISSIONER KEARNS: Extra wide washers, do
10 either of your companies produce front-load washers wider
11 than 28 inches and if not, do you plan to?

12 MR. TUBMAN: Casey Tubman, from a Whirlpool
13 perspective, Joe mentioned it earlier, we had a project
14 called Amax, that was for a larger front-load washer and at
15 the time when we looked at the business case we couldn't
16 make it profitable at that point in time so we walked away
17 from it.

18 At this point we brought, on this platform that's
19 our investment and as Joel says it's early on to see if we
20 can get the return on that piece, but we also believe that
21 that piece is big enough and high tech enough I'll call it
22 and brings everything if not more than what a 29 inch today
23 coming out of Korea can bring.

24 COMMISSIONER KEARNS: So Yanis is a low 28 --

25 MR. TUBMAN: It's 27 inches.

1 COMMISSIONER KEARNS: 27 inches. And you can
2 basically -- it's still close enough to --

3 MR. TUBMAN: Correct, it can be head-to-head.

4 COMMISSIONER KEARNS: Okay, thank you. Just last
5 question related to this then, and I would like to hear from
6 GE as well about their plans but why didn't you include
7 extra wide in your safeguard remedy?

8 MR. LEVY: So again Jack Levy for Whirlpool. The
9 safeguard remedy simply replicated the China scope because
10 we did not want to, it was a few months after the China vote
11 and we did not want you know, more smoke in the room in
12 terms of confusion. We wanted the Commission to understand
13 the conditions of competition, the same as in the China
14 case.

15 Now, if you were to ask why did we exclude it
16 from the China case, that's a fair question, the answer was
17 very simple. Whirlpool had a plan to produce this Amax
18 platform to produce this product for the U.S. Market and
19 because of dumped imports whirlpool couldn't justify the
20 investment. This is something the Commission analyzed and
21 considered in past cases.

22 At the time, Samsung was producing such a washer
23 in China and we were concerned that Samsung would be able to
24 beat the attenuated competition drum and say "Aha -- we're
25 beating you because we have a product that you don't make

1 and this product is in a different world unto itself."

2 We wanted to again clear the decks, simplify
3 matters and minimize red herrings and litigations. So it
4 was a litigation judgment to exclude that product so that
5 the Commission could narrowly focus on the area where there
6 is a most direct head-to-head competition. It was always
7 whirlpool's commercial position that these products were
8 injurious but we didn't want to overreach and complicate the
9 causation analysis for the Commission in the China case.

10 COMMISSIONER KEARNS: Okay, thank you and I'm
11 sorry, just to clear up. Maybe because I'm way over my time
12 maybe I'll have GE answer this in the next round but just to
13 wrap up with you, Mr. Levy, did I hear from you then was
14 Amax when you were thinking about making that in China?

15 MR. LEVY: No, no, no. It was always to be
16 produced in the United States.

17 COMMISSIONER KEARNS: Okay.

18 MR. LEVY: And we were unable to justify it
19 because of dumped imports from China. Whirlpool revisited
20 the viability of the Amax investment in the context of its
21 adjustment plan and made a decision to, we'll say enhance
22 the competitiveness of Yanis instead. We can provide more
23 details on that posthearing.

24 COMMISSIONER KEARNS: Okay, thank you.

25 CHAIRMAN JOHANSON: Thanks to all of you for

1 appearing here today. With respect to cumulation, are there
2 any differences in how Subject Imports from Korea and Mexico
3 competed in the U.S. Market?

4 For example, Samsung's brief discusses statements
5 that were made during the Safeguard investigation by
6 Whirlpool and GE about the diminished threat that imports
7 from Mexico represented and about any threat posed by
8 imported washers importing the outer belt drive design. Are
9 either of these significant factors that can support a
10 conclusion that competition between Korea and Mexico would
11 differ in the U.S. Market?

12 MR. LEVY: Jack Levy for Whirlpool. The short
13 answer is no. In substance, and you see it up here, all
14 parties are in agreement that Electrolux's Belt drive
15 washers from Mexico are a direct competitive threat to the
16 domestic like product. LG has said it, Samsung has said it,
17 Whirlpool has said it, GE agrees and purchasers as shown in
18 the prehearing report, reflect this position.

19 So as a matter of substance there is no question
20 that the offerings from Mexico and the offerings from Korea
21 are directly competitive with the U.S. Product lineup. I
22 think the marquis argument that I heard from Respondents on
23 this issue of decumulation was this argument that Korea is
24 the U.S. Investor and Mexico is not and therefore you should
25 decumulate Korea to the exclusion of Mexico consistent with

1 your past precedent.

2 We can address your past precedent perhaps
3 posthearing but as a matter of fact, Samsung is producing in
4 both Mexico and Korea. So what are we talking about here?
5 Under your own precedent you'd be cumulating the two anyway.
6 So I think that the factual predicate for their marquis
7 argument for decumulation simply doesn't exist.

8 CHAIRMAN JOHANSON: Mr. Levy, continuing on that
9 line of thought, it is a fact that Electrolux has not
10 created a U.S. plant?

11 MR. LEVY: It is correct that Electrolux produced
12 in the United States during the Period of Investigation and
13 then essentially took the view that if you can't beat 'em,
14 join 'em and they moved to Mexico and waged a campaign of
15 dumping, so that much is true, that Electrolux produces in
16 Mexico and is not an investor in the United States as it
17 relates to large residential washers.

18 CHAIRMAN JOHANSON: Which is the case with LG and
19 Samsung now. They are now producing in the United States
20 and they have invested in the United States.

21 MR. LEVY: And they also have investments in Korea
22 and Mexico, that's correct.

23 CHAIRMAN JOHANSON: Okay, thanks Mr. Levy. Could
24 you please comment on any differences between the behavior
25 of imports from Mexico and Korea in 2017 in regards to

1 increases in shipments and increases in inventories? The
2 word stockpiling was used by the Domestic Industry parties.
3 You can see this at page 71 of your brief, to describe the
4 behavior during the Section 201 Investigation. Does that
5 word apply equally to both Subject Countries here?

6 MR. LEVY: I think we'd like to answer that
7 posthearing with some precision with reference to
8 proprietary data. I think there are differences in timing
9 between Korea and Mexico and we'd like to speak to that
10 posthearing.

11 CHAIRMAN JOHANSON: Okay, thanks Mr. Levy. What
12 is the impact of Section 201 measures on the likely volume
13 of Subject Imports?

14 MR. LEVY: Let me see, I think we have an exhibit
15 I'd like to speak to. Your asking about the safeguard
16 measure, correct?

17 CHAIRMAN JOHANSON: Right.

18 MR. LEVY: So I think we've made a number of
19 points surrounding this. I think the first point to stress
20 is that from our point of view the safeguard measure is a
21 temporary measure and it's scheduled to lapse in less than
22 two years in a reasonably foreseeable time.

23 We're concerned about, even while it's in
24 existence, we're concerned about the volume effect because
25 as has been discussed there are significant products like

1 the two that you see here, the LG product and the Electrolux
2 product that are not covered by the safeguard scope but are
3 nonetheless competitive with the likes of Yanis over there.

4 So from a volume effect point of view I think
5 there is a real concern. I don't know if this speaks to
6 your question but since we are on the subject of safeguards,
7 we have two other arguments for why the safeguard remedy is
8 sort of a panacea and why it does not eliminate the need for
9 borders.

10 One I think you explored already in the recent
11 solar sunset review, but our position is that a safeguard
12 tariff cannot possibly remedy injurious something. So if I
13 could just kind of give you one illustration that I have in
14 my head, you know, imagine that LG is bringing in a washer
15 with a customs value of 500 dollars. The safeguard tariff
16 right now would be 18 percent so that's a 90 dollar tariff
17 on that import.

18 Now, let's imagine that LG decides that they want
19 to buy flooring so they are going to crash prices and sell
20 that Korean product instead at an imported value of 300
21 dollars. At an 18 percent tariff they're paying 54 bucks so
22 their tariff just want down by 36 dollars. Only an
23 antidumping order can force them to pay the difference that
24 is the 200 dollar delta below fair value.

25 In this regard the legislative framework is quite

1 intelligent. Safeguard solves for one issue, the dumping
2 order solves for another. The other point is just an
3 empirical one. During 2018, or at least interim 2018 for
4 which you have data, we can observe that the safeguard
5 measures did not meaningfully curb Subject Imports volumes.

6 Subject Imports volumes were relatively flat in
7 interim 2018 relative to interim 2017, notwithstanding the
8 safeguard measures and so one can only imagine if the AD/CVD
9 orders are lifted and with the lifting of the safeguard
10 measures in the reasonably foreseeable future what kind of
11 surge we may witness from the Subject Countries.

12 CHAIRMAN JOHANSON: Thanks Mr. Levy. And
13 following up on safeguards, how does the Commission's
14 recommendation to exclude Korea and Mexico from the
15 safeguard remedies inform our analysis in the sunset
16 reviews? And this is raised by LG in their brief in pages
17 64-67 and by Samsung in its brief pages 18-21.

18 MR. LEVY: Thank you for that question. It is
19 the case that the scope of the safeguard measure is broader
20 than what the Commission recommended in so far as it covers
21 Mexico and Korea. It's worth remembering that Whirlpool
22 never even requested of this Commission that the safeguard
23 measure cover Mexico.

24 We again took the high road and said clearly,
25 under the safeguard statute we don't see a surge and we

1 don't expect a surge for as long as there are orders
2 covering Mexico so again we always viewed the ABCBD orders
3 as the foundational remedy and we thought that it was
4 sufficient and effective for dealing with imports from
5 Mexico.

6 With regard to Korea we didn't maintain that
7 Korea was a present cause of serious injury by reason of --
8 because, quite simply again the volume data didn't support
9 it. But we did argue threat and we continue to be deeply
10 concerned about the threat from Korea just as we are from
11 Mexico if the orders are revoked.

12 I think we can give you a little more of kind of
13 an erudite recitation post-hearing, but I did wanna remind
14 you of our past position in this regard.

15 CHAIRMAN JOHANSON: Thanks, Mr. Levy. One matter
16 that everyone agreed upon during the recent safeguard
17 proceedings was that lost floor space represented lost
18 sales. You discussed this at Pages 34 to 35 of your
19 prehearing brief. How has a battle for floor space
20 progressed over the period of review as trade remedies have
21 imposed additional costs on the importation of large
22 residential washers? Have domestic manufacturers made any
23 progress on this front?

24 MR. TUBMAN: During this time period, we actually
25 were able to grow our floor space during that interim period

1 in '18. I'm not sure how much more detail --

2 CHAIRMAN JOHANSON: Okay, Mr. Mattingly?

3 MR. MATTINGLY: Over the same period, we have
4 grown our floor space as well. Some of that's driven by the
5 investments that we made, the \$30 million investment that
6 we're showing right here. So we have grown our floor space
7 in large residential washers during this time period.

8 CHAIRMAN JOHANSON: This might be proprietary,
9 but when you say the floor space has grown for U.S.
10 manufacturers, has it grown at a certain amount? Has it
11 been significant?

12 MR. TUBMAN: I'm guessing we'll put this on the
13 proprietary record. I guess all floor space matters to us.
14 However you want to view it that way.

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

16 MR. MATTINGLY: Adding onto what Casey said,
17 adding floor space is significant in and of itself. So
18 grabbing that is a win. I can provide the details on what
19 those are from a proprietary perspective after this. But
20 I'd also like to remind you what I said in our opening
21 statement is that over this time period, floor spaces have
22 been contracting, not growing. So winning those floor
23 spaces, the significance of those increases as well.

24 CHAIRMAN JOHANSON: Mr. Mattingly, you state that
25 the floor space has contracted. Is that due to increases in

1 purchases over the internet? Is it due to Sears --

2 MR. MATTINGLY: The latter. If you look at
3 Lowe's and Home Depot and the number of new stores that
4 they've grown, or they've pretty much been stagnant, it's
5 the Sears decline and floor spaces that are now being, of
6 course, that volume shifts somewhere else. But the floor
7 spaces themselves are declining.

8 CHAIRMAN JOHANSON: Okay. Thank you for your
9 responses. The red light is on, so we'll now turn to
10 Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you. I do wanna
12 thank all the witnesses for coming today. On this question
13 of floor space, how did Electrolux get the floor space for
14 the CIM, the belt-drive? What have they done commercially
15 different that contributed just to their being more of a
16 concern for you than before?

17 MR. TUBMAN: I'll answer it as best I know, 'cuz
18 I don't know exactly what the discussions were with the
19 buyers that they had. But again, knowing that their product
20 is now enhanced, I think that would've helped them to have
21 some conversation whereas before they would've struggled
22 with that.

23 And also knowing that there were dumping orders
24 in place to where they couldn't continue to just offer a
25 lower price. So to get your foot in the door, you at least

1 have to show up with a product that's competitive and then
2 to stay in that office, you need to offer a price that
3 they're willing to accept.

4 COMMISSIONER WILLIAMSON: Okay. Mr. Mattingly?

5 MR. MATTINGLY: First off, I'd like to take you
6 to a floor space. When you walk into a Home Depot or a
7 Lowe's, the floor is not separated by belt-drive systems and
8 direct-drive systems. The technology gap is closed, but
9 there's certain things that a direct-drive may offer to a
10 consumer and a belt-drive system may be focusing on some
11 other feature for that consumer. So don't think of them as
12 not competitive. It's just what those products are going
13 after for that consumer.

14 COMMISSIONER WILLIAMSON: I spend a lot of time
15 looking at the floor space when I go to Home Depot nowadays.
16 Ever since you brought the first case on refrigerators.
17 Does the belt-drive have some advantages now that they
18 manage to get the speed up? Are there cost advantages or
19 anything like that? I realize that when you walk to the
20 floor, you can't tell one from the other, but --

21 MR. TUBMAN: Again, we would have to put
22 something on the proprietary record about our knowledge of
23 it and what our costs would be, not knowing Electrolux's
24 purchasing power and other things as to what that cost would
25 be versus a direct-drive. I think I would typically say

1 belt and CIM motor is probably not the same as a
2 direct-drive rotor and stator type and the electronics that
3 goes with it. But again, because they've re-engineered
4 those electronics, I would have to go back and study it, to
5 be honest.

6 COMMISSIONER WILLIAMSON: Okay. Because my
7 impression has always been that they weren't one of the mass
8 marketers --

9 MR. TUBMAN: They were. I mean, remember back
10 when the case was brought, we were all producing CIM motor
11 belt-drive, front-load washers. So they were the heart of
12 the market, they were the mass sales. It's just over time
13 as direct-drive and advanced electronics came in, that's
14 when they kind of fell behind. And now what we've seen is,
15 they've been able to catch back up.

16 COMMISSIONER WILLIAMSON: Okay, thank you.

17 MR. MATTINGLY: To add onto Casey here, we'd have
18 to provide the details of that proprietarily or
19 confidentially. But cost is a difference between
20 direct-drive and belt-drive for GE Appliances. That may not
21 be the case for everyone, but for us it is. And when you
22 look at the product and the competition, I'm gonna point to
23 some of these units over here, they are belt-drive and they
24 compete. Once again, it's a different thing that they
25 focus on with the consumer, and that technology gap has

1 closed.

2 COMMISSIONER WILLIAMSON: Okay. Thank you. Just
3 going back, the question of Sears came up. So I was
4 wondering, what is gonna happen to the Kenmore brand and how
5 should we take that into account? Or does anybody know
6 what's gonna happen to the Kenmore brand?

7 MR. LIOTINE: Obviously we don't have full
8 information here. What I would say is that they've been
9 shrinking for quite some time, both the stores, Sears as
10 well as Kenmore. We think that will continue. Based on
11 everything we see. There's no new news that would suggest
12 otherwise in terms of trends or data.

13 But for us, demand just goes somewhere else. So
14 consumers just don't need to buy washers based on
15 replacements and principally, and so that consumer then goes
16 to a different retailer and then in the consequence of
17 Kenmore, buys a different brand. Because that's only
18 available in the Sears stores.

19 So we've not seen any real gross impact. We've
20 seen a floor spot impact to the points made by Casey and
21 Michael. But overall, demand hasn't changed as a
22 consequence, and we don't expect it to, based on the number
23 of years we've been watching this.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. MATTINGLY: It would be speculation if we

1 talked about what we think's gonna happen with the Kenmore
2 brand. None of us know at this point in time. I would say
3 though, and I want to go back to a question that I think I
4 left unanswered from Commissioner, and that was whether or
5 not online sales are actually changing things as well. The
6 typical consumer goes online in order to research
7 appliances. But they still wanna go into a store to "kick
8 the tires".

9 The two main things that are driving the online
10 sales when they look at it is they wanna see the unit in
11 person and price. Both of those are still valuable when we
12 talk about this order in and of itself. Because the floor
13 spots' value is online, they go in, kick the tires, and then
14 they either buy it there or they go back and then buy it
15 online.

16 COMMISSIONER WILLIAMSON: Okay. Thank you for
17 those answers. When you refer to the effects of revocation
18 on the domestic industry in your prehearing brief, are you
19 including Samsung and LG in the domestic industry?

20 MR. LEVY: I think our brief describes in the
21 first instance what happened during the period of review.
22 During the period of review, Samsung was a U.S. producer.
23 We raised the question for the Commission as to whether or
24 not Samsung should be considered part of the domestic
25 industry for purposes of its analysis.

1 We don't take a position on that question, that's
2 for you to decide consistent with the statute. We simply
3 take the position that in any event, the fact that Samsung
4 is produced in the United States is a condition of
5 competition that you must account for. And insofar as LG is
6 now beginning to produce in the fourth quarter of last year,
7 that too is a condition of competition.

8 So I think that we don't walk away from that
9 reality, nor do we deny the likelihood that there will be
10 significant U.S. production of LRWs from Samsung and LG in
11 the reasonably foreseeable time. But that doesn't answer
12 the fundamental question which is, why are they insisting
13 that these orders be revoked?

14 And our position is, they are insisting that the
15 orders be revoked precisely because they want and need the
16 opportunity to further grow their presence in the U.S.
17 market from low-cost platforms from which they can dump.
18 That is to say Korea and Mexico.

19 COMMISSIONER WILLIAMSON: Okay. In order for the
20 subject imports to compete with domestically produced
21 washers across the entire washer lineup, including the value
22 segment, can you provide examples of subject imports that
23 target the value segment of the market?

24 MR. LEVY: We can endeavor to give you some
25 information post-hearing. One of the things that we

1 witnessed in past proceedings is that it is not unusual for
2 Samsung or LG to offer richly-featured washers that are
3 priced at or below U.S. producer offerings of value segment
4 products. So, you know, there's a question about whether
5 there's feature overlap and there's also question of whether
6 they're the low-price leader and we find that the latter is
7 almost invariably true. So we'll provide you with some
8 specifics post-hearing.

9 COMMISSIONER WILLIAMSON: And you said it's not
10 the feature overlap, it's the fact that the low-price --

11 MR. LEVY: There's both.

12 MR. GETLAN: Commissioner Williamson. Just to
13 supplement that. You might recall in the past safeguard
14 investigation, that Mr. Tubman was talking about what we
15 refer to the home-wrecker. Samsung had a very low-featured
16 value washer that competed directly in the space of domestic
17 producers. That was from -- nothing prevents Samsung or LG,
18 for that matter, from introducing a similar washer from
19 subject countries if the orders are revoked.

20 COMMISSIONER WILLIAMSON: Okay. Both Samsung and
21 LG have argued that their products specific pricing data
22 gathered in this review is not representative or reliable.
23 Do you agree? And if the Commission were to agree with
24 Samsung and LG, what other data should the Commission rely
25 on to draw conclusions about pricing effects?

1 MR. LEVY: I don't think there's a case where if
2 the pricing data are unfavorable, respondents don't take the
3 opportunity to criticize the work of the Commission and its
4 staff. What you have on this record is clear evidence of
5 pervasive underselling during the period of investigation
6 and you have probative data during the period of review
7 showing mixed underselling.

8 And we think that while the coverage may be not
9 as robust as respondents or even Whirlpool may prefer, it is
10 nonetheless probative and meaningful. And it is a product
11 of commentary from all parties on the draft questionnaires.
12 So we think that there's more than adequate evidence of
13 likely adverse price effects should the orders be revoked.

14 COMMISSIONER WILLIAMSON: But not robust
15 evidence?

16 MR. LEVY: Robust evidence. Again, starting with
17 the original investigation and then continuing through the
18 period of review.

19 COMMISSIONER WILLIAMSON: Okay.

20 MR. LEVY: And frankly, Commissioner, if you have
21 lingering concerns on this issue, I don't believe that the
22 full record from the safeguard investigation is on the
23 record of this proceeding, but you certainly would have the
24 ability to place that on the record of this proceeding and
25 thereby cover additional pricing products including imports

1 from Korea that are not yet covered on the record of this
2 proceeding.

3 So while we're more than satisfied and we think
4 that what you have is probative and adequate for purposes of
5 your analysis, there's other information that's low-hanging
6 fruit that would be of no burden to any parties should you
7 choose to place it on this record.

8 COMMISSIONER WILLIAMSON: Okay, thank you. Mr.
9 Mattingly, did you wanna add -- if not, it's okay, because
10 my time has expired. Thank you.

11 CHAIRMAN JOHANSON: Commissioner Broadbent.

12 COMMISSIONER BROADBENT: Thank you. Just wanna
13 go over one more thing that we had talked about earlier, Mr.
14 Tubman. I think what I heard Mr. Levy say was the reason
15 that you didn't include the extra-wide washers in the scope
16 of this safeguard investigation was to avoid an attenuated
17 competition argument, is that correct? I'm just trying to
18 understand why you didn't have for it covered under this
19 safeguard?

20 MR. LEVY: So, to be clear, I think what I
21 testified was that we excluded the 29" front-load from the
22 China investigation for the reasons that you identified.
23 The safeguard investigation scope was simply a "copy and
24 paste". I think actually that's what we testified to. I
25 can go to Exhibit 16.

1 There was a colloquy with Commissioner
2 Schmidtlein and we explained in September of 2017 the scope
3 for this safeguard investigation is identical to the scope
4 of the China investigation. The intent was simply to copy
5 and paste the scope from that case.

6 And then I remember Commissioner Schmidtlein, you
7 asked in a very pointed way as you often do, so you're not
8 arguing though that these out-of-scope washers don't compete
9 with the washers that are in the scope of the petition. And
10 I answered, no, we're not. So I think that, hopefully --

11 COMMISSIONER BROADBENT: But now you're arguing
12 they're a huge existential threat.

13 MR. LEVY: I take the position that these
14 products are directly competitive, and with respect to the
15 best-drive products, these products are not the low-tech
16 dinosaurs that they were in years past. There has been a
17 re-engineering of the software, such that they can achieve
18 higher spin speeds and better vibration control, and that
19 they are much more directly competitive with drive-drive
20 models than they were just a few years ago.

21 I mean I guess the short of it is, the technology
22 in this space is not static. You know, even concepts of
23 efficiency and EnergyStar and -- right, and there's
24 constantly requests by the U.S. government for U.S.
25 producers to sort of "up their game" in terms of things

1 like, you know, like energy and water efficiency.

2 The spin speeds directly relate to the amount of
3 water that you can get out of clothing before you put it in
4 the dryer. It's a key efficiency consideration. But as I
5 understand it in layman's terms, if you don't have good
6 vibration control, the whole thing gets out of balance.

7 And so apparently Electrolux has found the secret
8 sauce in the software algorithms where they can now achieve
9 these higher spin speeds. At least that's how it's been
10 explained to me.

11 COMMISSIONER BROADBENT: Okay. So I have a
12 confession to make. I have an Alliance SpeedQueen in my
13 basement, which is actually getting to be kind of a cult
14 favorite, right? I read these articles and there's a group
15 of people out there that love them. Is there any reversion
16 back to toploader washers in the market generally, Mr.
17 Tubman?

18 MR. TUBMAN: So sorry, Casey Tubman. So I think
19 we've seen a flow in the past years from frontload back to
20 topload, and we've actually seen it come into an equilibrium
21 point I'll call it, where if you do the math. We still see
22 cross-shopping, people moving back and forth. But if you do
23 the math of how many are going from frontload to topload on
24 a smaller base, frontload is less of the market. From
25 topload to frontload, which is a bigger base, they've come

1 to an equilibrium, and basically it sits at the 70-30
2 equilibrium right now and it has for several years.

3 COMMISSIONER BROADBENT: Okay, that's
4 interesting.

5 MR. TUBMAN: One other -- sorry, if I can add
6 one thing.

7 COMMISSIONER BROADBENT: Sure please.

8 MR. TUBMAN: One thing we have seen though is
9 that I think in proceedings before, we've talked about
10 agitators and people have tried to think of those as maybe
11 lower tech or lower end. But I think we showed it on one of
12 our innovation slides. We now have agitators over \$1,000,
13 and they're in our biggest and best products.

14 COMMISSIONER BROADBENT: Okay, that's helpful.
15 Why would you expect that Alliance isn't here contesting
16 revocation of the order, in the sense that I think they'd
17 probably compete pretty directly?

18 MR. LEVY: We've had no communication with
19 Alliance in connection with this proceeding. There have
20 been communications with them in the past, and our
21 understanding is that the lion's share of their business is
22 focused on commercial, not residential products. So they
23 simply see themselves as small players and perhaps chose to
24 just free ride on the activities of other U.S. producers.

25 COMMISSIONER BROADBENT: Okay. Can you all

1 discuss how the 2018 changes to EPA Energy Star
2 classifications affected your business? Which suppliers
3 have had the leg up in supplying Energy Star qualified
4 washers after the 2018 changes were made?

5 MR. TUBMAN: Sorry, Casey Tubman. I actually
6 don't have information on this off the top of my head that
7 you're asking about. Maybe I misunderstand. Can you repeat
8 it one more time, just so I'm sure?

9 COMMISSIONER BROADBENT: Well, just what was
10 happening in the market after you got -- I guess you got new
11 Energy Star regulations in 2018, and how are you all
12 competing with respect to those regulations? Who's kind of
13 better positioned to meet those requirements?

14 MR. TUBMAN: So I think we'll answer this one
15 off later, because I think they were waived.

16 COMMISSIONER BROADBENT: Oh, is that right?

17 MR. TUBMAN: Yeah. So I need to go back and
18 confirm, but that's my -- that's where my head's at.

19 COMMISSIONER BROADBENT: Okay, and then in our
20 staff report, I think it's Table III-9 and III-18, the
21 domestic industry is continuing to concentration on
22 non-Energy Star residential washers over the full period of
23 review, and I was just trying to understand why that was the
24 case. Maybe you don't agree it's the case. I just --

25 MR. TUBMAN: I would -- Casey Tubman. I would

1 disagree that that is the case. We've focus on Energy Star
2 just as much as anyone else. Whether we have the exact same
3 number of SKUs, I honestly can't comment. But it is just as
4 big a deal to us as anyone else.

5 COMMISSIONER BROADBENT: Okay, great. Mr. Levy,
6 I noticed that you used the word "embryonic" to describe
7 what was going on at the Samsung facility, with the
8 investment that was there. Any sense of why you would have
9 chosen a word like that? I just read our staff report on
10 what's going on down there, and it just seems to be in
11 contrast to what their investment is.

12 MR. LEVY: Yeah, thank you Commissioner
13 Broadbent. I understand that several of you and your staff
14 had an opportunity to visit the Samsung facility in October.
15 We weren't made aware of that trip until a few days ago, I
16 think literally within the last week.

17 COMMISSIONER BROADBENT: So if we hadn't seen
18 it, you would have been able to call it embryonic?

19 MR. LEVY: Well, so the point is I was making a
20 statement based on what we saw in terms of their reported
21 production and shipments during interim 2018, which was all
22 that we had in front of us. I did not have a liberty of a
23 tour of the Samsung facility, nor a memo describing what you
24 saw.

25 COMMISSIONER BROADBENT: So from your vantage

1 point, you can't get a sense of what they're doing down
2 there?

3 MR. LEVY: Well, I think we're much smarter now,
4 having read the brief and the attachments to the brief, and
5 having read what's been added to the record. When we are --
6 when we are operating with incomplete information, sometimes
7 we're wrong.

8 And this is clearly one of those circumstances.
9 So what we're saying to you today, based on all the
10 information in front of us, is that there's no question that
11 this is a significant deep investment, thanks in large part
12 to your votes. The question now before you is not whether
13 they're going to, you know, completely uproot and cut and
14 run from U.S. LRW production.

15 I don't think that is a serious argument that we
16 can now maintain. The question is whether they have a
17 continuing economic incentive to import significant volumes
18 at injurious prices. They insist that they have no such
19 incentive, and they say that out of one side of their mouth,
20 and out of the other side of their mouth they say "But you
21 must revoke the orders because we need the right to bring in
22 dumped product duty free."

23 I think that is what sticks in our craw, and
24 that is what threatens the ability of Whirlpool and GE
25 Appliances to realize the promise of the safeguard remedy,

1 and fully implement their adjustment plans.

2 COMMISSIONER BROADBENT: Do you have any
3 evidence that it's more advantageous from Samsung and LG to
4 shift additional exports back to Korea and Mexico, rather
5 than where they've reestablished their supply sources?

6 MR. LEVY: We have incomplete information, but
7 we will work with what we have and present it to you. I
8 think that the information on the record is that look,
9 there's little that we can say on the public record. But
10 what we can say from the public record is that clearly
11 Respondents are trying to apologize for the financial
12 performance of Samsung in interim 2018, saying that
13 obviously a part of it is a function of start-up costs.

14 Be that as it may, it seems that everyone will
15 agree that their performance thus far is less than stellar,
16 and I think be that as it may, there's no question that
17 costs for U.S. producers are substantial and rising, and
18 they are a function of the fact that there are Section 232
19 duties in effect, there are Section 301 duties in effect --

20 COMMISSIONER BROADBENT: Right, but I'm talking
21 about switching, switching back from Thailand and Vietnam to
22 Mexico and Korea?

23 MR. LEVY: So we'll provide more information on
24 that post-hearing. But our sense is that the vertical
25 integration in Korea is very deep, deeper than -- excuse me,

1 Vietnam and Thailand, and potentially deeper than the United
2 States. We'll do our best to juxtapose the information that
3 we have, and to provide you with a picture there.

4 But the notion that what you're seeing in the
5 United States is qualitative deeper in terms of vertical
6 integration compared to Vietnam and Thailand, I think we
7 would accept that. But the notion that it's qualitatively
8 deeper than what they have in their home base in Korea, I
9 think we would dispute that.

10 COMMISSIONER BROADBENT: But it just seems like,
11 you know, cost of production in Thailand and Vietnam has got
12 to be cheaper than in Korea?

13 MR. LEVY: I think we'll comment on that
14 post-hearing, but also bear in mind that Commerce has made
15 findings about likely rates of subsidization in Korea.

16 COMMISSIONER BROADBENT: Okay. Thank you very
17 much.

18 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

19 COMMISSIONER SCHMIDTLEIN: Okay. A few more
20 pointed questions, although I thought that embryonic
21 question was pretty pointed, no? Okay. So in the testimony
22 you all mention price compression, and in your brief as
23 well, and I wonder, you could do this post-hearing, if you
24 could give us some examples of that, or at least explain
25 what you would advocate we point to in the record to base

1 our finding, that future imports from Korea or Mexico would
2 result on price compression that would have a price effect?

3 MR. LEVY: Sure. We'd be happy to do that.

4 Thank you.

5 COMMISSIONER SCHMIDTLEIN: Okay. All right.

6 Second question has to do with the vulnerability analysis
7 that the Commission will do, and the question is how should
8 we consider Samsung and LG's domestic production?

9 MR. LEVY: Well, I think I alluded to this
10 earlier. We're not taking any position as to whether you
11 consider them a part of the domestic industry, given their
12 pervasive dependence on imports during the Period of Review.
13 That's a decision for you to make.

14 But obviously you need to consider their
15 domestic production as a condition of competition, and
16 ground your analysis in the record evidence that you have
17 before you. We'll try to add some more color post-hearing,
18 but I think that it is far too soon to say that yes, there's
19 investment. The competitiveness of those investments, the
20 jury is out.

21 The scale and scope of those investments in
22 relation to imports, I think the jury is out. But what we
23 think is there continues to be an economic incentive to
24 import, including from the subject countries. We'll try to
25 give you more detail and support for that in our

1 post-hearing submission.

2 COMMISSIONER SCHMIDTLEIN: Is the vulnerability
3 analysis based on what's current or what's expected to be?

4 MR. LEVY: So when we talk about vulnerability,
5 we're talking about the current state of play, and what --
6 and frankly the state of play in this reasonably foreseeable
7 time. In this environment --

8 COMMISSIONER SCHMIDTLEIN: It is future-looking
9 to a certain extent.

10 MR. LEVY: Well, within a reasonable foreseeable
11 period. So for example, within a reasonably foreseeable
12 time, we know the safeguard remedy is going to lapse. It's
13 less than two years. This Commission has found two years to
14 be a reasonably foreseeable time.

15 That speaks to the fragility or the
16 vulnerability of the industry in the post-safeguard world.
17 We know that in the present tense, we have increasing costs,
18 whether it's freight costs or raw materials, things like
19 Section 232 and Section 301 contributing to that.

20 We're not saying that that's a cause of injury.
21 We're saying it's a condition of competition. So the
22 question is will U.S. producers be able to bear those costs
23 and pass them on as needed, or will they encounter a
24 cost-price squeeze by reason of dumped imports? What we see
25 from Samsung and LG and what we saw from Electrolux during

1 the Period of Investigation was if nothing else, pervasive
2 underselling.

3 In the absence of trade remedies, pervasive
4 underselling is what they do. And so the simple point is in
5 the absence of those disciplines, this is an industry that
6 is vulnerable. What that really means is it's more
7 susceptible to injurious effect than under other
8 circumstances.

9 One more element of vulnerability that bears
10 repeating. Demand was falling in interim 2018.

11 COMMISSIONER SCHMIDTLEIN: Right.

12 MR. LEVY: And the future forecast for demand is
13 certainly lackluster. That too speaks to the vulnerability
14 of the industry in the present tense.

15 COMMISSIONER SCHMIDTLEIN: Okay. Again, in the
16 post-hearing, I would invite you to address that, including
17 the fact that yes, the safeguard is going to lapse in less
18 than two years. But part of or the point of the safeguard
19 was to give the domestic industry an opportunity to adjust.

20 So presumably, right, theoretically when the
21 safeguard lapsed, the industry should have adjusted based on
22 its own plan, right?

23 MR. LEVY: I think that --

24 COMMISSIONER SCHMIDTLEIN: So I understand that
25 -- it seems like it would be hard for the Commission to say

1 well now, you know, we're going to remove the safeguard,
2 therefore they must be vulnerable again would suggest that
3 safeguard was a total failure.

4 MR. LEVY: I think -- no, not at all. I think
5 our simple point, and I'll speak to this post-hearing, is
6 that whenever the safeguard remedy lapses, it doesn't mean
7 that the U.S. industry is therefore impervious to the
8 injurious effect of dumping from the subject countries, and
9 that's our point.

10 COMMISSIONER SCHMIDTLEIN: Right, no. But
11 that's, that's sort of a separate consideration from this
12 analysis of whether or not the domestic industry is
13 vulnerable. So the state of the domestic industry. So I
14 would just invite you to address that in the post-hearing.

15 MR. LEVY: Thank you.

16 COMMISSIONER SCHMIDTLEIN: And then the last
17 question I had, you alluded to this, is the two year period
18 for the reasonably foreseeable future. Is that a hard and
19 fast rule in your view, it's two years? Are there cases
20 where the Commission has considered a longer period of time
21 that you're aware of?

22 MR. LEVY: I think I'll let my partner speak to
23 that.

24 MS. ALVES: Commissioner Schmidtlein, it's Mary
25 Jane Alves on behalf of Cassidy Levy Kent and Whirlpool. We

1 can certainly take a look and see if there are instances
2 where the Commission has looked at longer periods of time.

3 Again, our point here is simply that a very
4 important condition of competition is about the change, and
5 that is the lapse of the safeguard within the reasonably
6 foreseeable future of two years.

7 We cite an example in our brief of one of many
8 cases where the Commission has found reasonably foreseeable
9 future is two years, and it was in the one of the
10 flat-rolled cases. The Commission does look at industries
11 on a case-by-case basis. So there, you know, there may be
12 other cases involving other products where the Commission
13 has looked at a longer period of time.

14 But it is certainly -- there is evidence on this
15 record and on the prior records where the industry is also
16 looking at forecasting for three years in advance. So there
17 was a lot of discussion during the safeguard proceedings
18 that reasonably foreseeable extended beyond the three year
19 period.

20 When we were looking at the reasonably
21 foreseeable future, the most important event that is
22 occurring in that time frame is the expiration of the
23 safeguard.

24 COMMISSIONER SCHMIDTLEIN: Okay. Again, I would
25 invite you to address that in the post-hearing. Okay. I

1 don't have any further questions -- oh one other, one
2 question, I'm sorry, before my time's up.

3 This point that LG makes about their
4 anti-dumping margins, and that the Commerce Department has
5 provided an up to figure, you're aware of this? Does this
6 impact the Commission's analysis at all in your view?

7 MR. LEVY: The short answer is no. We
8 understand that the Commerce Department is adopting this new
9 language as a matter of policy going forward for its own
10 institutional reasons. I don't think this is the last time
11 you'll see this language in connection with a sunset review,
12 and we'll speak to what assumptions that you should apply
13 with regard to the likely margins of dumping and
14 subsidization should the orders be revoked.

15 I think what's telling is that LG is essentially
16 asking you to second guess the findings of the Commerce
17 Department, and I would say that it would be imprudent for
18 the Commission to go about the business of second-guessing
19 the Commerce Department in this space.

20 But we'll speak to that more post-hearing, and
21 thank you for the question.

22 COMMISSIONER SCHMIDTLEIN: Okay. Alright,
23 thank you. I have no further questions.

24 CHAIRMAN JOHANSON: Commissioner Kearns.

25 COMMISSIONER KEARNS: Thank you. I wanted to

1 just turn back to the question I was asking about extra wide
2 washer. I know, Mr. Mattingly, I didn't give you an
3 opportunity to answer those questions.

4 Do you produce front load, extra wide washer and
5 have you had any plans to do so?

6 MR. MATTINGLY: We do not currently produce
7 extra wide washer. I would like to say that on the top load
8 product manager, and I'm not familiar with all the details
9 for the next foreseeable future on our frontload, but I'd be
10 happy to provide that confidentially after on any plans
11 around that space.

12 COMMISSIONER KEARNS: That'd be great. Thank
13 you.

14 Okay. And so, going to the safeguard measure
15 and the duration of it, I guess two questions. One, are you
16 planning to advocate to the USGR that the safeguard measure
17 be extended beyond the currently scheduled end date?

18 MR. LEVY: We have no plans at this time. We
19 noticed that yesterday the Commission issued a notice
20 concerning the schedule for the interim review. We look
21 forward to participating fully in that proceed, but as
22 things stand our expectation is that the safeguard will
23 lapse in less than two years.

24 COMMISSIONER KEARNS: Okay, thank you. And then
25 I guess the question, both for Petitioners and Respondents,

1 about how to consider the reasonable, foreseeable future.
2 I've read your briefs where you all argue that essentially
3 you know by the time we make a decision the safeguard will
4 have less than two years and that that's reasonable,
5 foreseeable future. But I guess kind along the lines of
6 what Commissioner Schmidtlein was asking I'd like more
7 information about how we've handled that issue in the past.

8 And in particular, I mean it seem to me like
9 normally we wouldn't want to try to think beyond a couple of
10 years. In part, because it's just hard to predict the
11 future of what might happen, you know, with this
12 circumstance or that circumstance for a longer period of
13 time, but with the safeguard it seems to me like it's a
14 little bit different too. I mean that is sort of much more
15 certainty that we know when the safeguard will end and so
16 would a longer period even than two years make sense when
17 you have sort of a date certain when you're pretty confident
18 when things will change.

19 So, if you could sort of post-hearing address
20 those issues, I'd appreciate it.

21 MR. LEVY: Certainly. And thank you,
22 Commissioner Kearns. And I neglected to point this out and
23 I appreciate you didn't have the pleasure in participating
24 in the safeguard proceeding as a Commissioner, but unlike
25 the Petitioners in Seoul were, we did not seek to request a

1 maximum duration of relief of sort of four years initially.
2 We only requested three years and importantly, three years;
3 thus, obviating the need for interim review. It was USTR
4 that made it three years and a day and imposed this
5 administrative burden on this Commission and so my sincere
6 apologies that you have to go through the throws of this
7 interim review later this year, but it was not our doing. I
8 promise.

9 COMMISSIONER KEARNS: Oh, that's very
10 interesting. Thank you. I'm going to have to think about
11 that some more.

12 So, my next question I guess is a bit of a red
13 herring maybe, and again, I don't expect you to have the
14 answer to this at your fingertips, but I'm curious.

15 Obviously, we know that the Government of Korea
16 has subsidized washer production in Korea. Do we know
17 whether or not the Government of Korea has provided any
18 subsidies for the investments that Samsung and LG have made
19 either in the United States or in China, Thailand, or
20 Vietnam? And again, I don't expect you to have much
21 information that now, but it would be interesting to know.

22 MR. LEVY: Thank you.

23 COMMISSIONER KEARNS: And related to that,
24 Samsung and LG have told us about some of the tax incentives
25 they've had to invest in the U.S. through U.S. government

1 entities. And if you could in your post-hearing brief tell
2 us about the subsidies or any other tax incentives that you
3 have received -- either you all have received for your
4 investments in the U.S. that'd be helpful as well.

5 MR. LEVY: Certainly.

6 COMMISSIONER KEARNS: Thank you.

7 So, dryers, I'm a little bit reluctant to ask
8 this question because I get the sense that everyone else has
9 talked at length about this issue and people are going to
10 roll their eyes when the new guy wants to know a little bit
11 more about this. And again, this could be post-hearing
12 brief, but can you help me understand that issue a little
13 bit better? It is something that I believe LG is still
14 wanting us to consider and it does seem to me that even
15 though that's not the same product, obviously, if there is
16 evidence that when you sell a washer, regardless of how you
17 get it, through a dryer or a fairy or however else, if you
18 get an extra \$100 on every sale that's not accounted for
19 through the pure sale of the washer we would want to
20 consider that.

21 It may not affect our data that much. You know
22 maybe the U.S. industry is still not enjoying great profits
23 and so forth, but it seems to me like that would be
24 something we would want to consider just as we would
25 consider any other kind of you know bonus or any kind of

1 other you know monetary gain that a company gets when it
2 sells a washer. So, maybe post-hearing, but if you can
3 right now any thoughts you have on that would be helpful.

4 MR. LEVY: Thank you, Commissioner Kearns, happy
5 to speak more to it post-hearing. Just a little bit of
6 historical context for your benefit. In the original
7 investigation of Korea and Mexico, nobody mentioned a word
8 about dryers. Certainly, Respondents never maintained that
9 dryers were part of the domestic-like product. I think we
10 heard the argument for the first time in the China case, if
11 memory serves.

12 I remember the Commission asking Mr. Shor why
13 are you making this argument for the first time now and he
14 said easy answer. Samsung has smarter lawyers now. But you
15 know Mr. Shor may very well be smarter than many, but the
16 Commission rejected the argument that dryers were part of
17 the same domestic-like product as washer and proceeded to
18 perform its analysis accordingly and reached a comparable
19 result, albeit, under a slightly different legal standard in
20 the safeguard proceedings.

21 I think what Respondents are saying here, for
22 purposes of this sunset review, notably, they are not
23 arguing that dryers are part of the domestic-like product.
24 I think it's really important to understand that. So, I
25 think when viewed in a most sympathetic light what they're

1 simply maintaining is that, well, if U.S. producers are
2 somehow managing to sell more washer and if that can be
3 associated to an attendant increase in dryer sales through
4 some shipment ratio or another perhaps there's an additional
5 lift or benefit for the dryer business. And I suppose the
6 same could be true if you were selling detergent or
7 something else.

8 We'll try to speak to that more post-hearing,
9 but I think that what we'd like to do post-hearing is call
10 your attention to the volume data and the extent to which
11 there's a material change in shipment volumes for U.S.
12 industry thus far in interim 2018. I think that there's a
13 lot more that they try to make out of it than there is in
14 truth.

15 The only other point to make is that Whirlpool,
16 for its part, makes dryers in the United States, GE does
17 not, and runs a profitable and successful dryer business
18 just like it runs a successful and profitable dishwasher
19 business. The one business unit that has been harmed in
20 recent years has been the washer business. It was briefly
21 profitable during the post-petition affect of the original
22 Orders against Korea and Mexico and then through a series of
23 country hopping lost, I believe, hundreds of millions of
24 dollars in the years that followed. And it is not until
25 interim 2018 that they're back on their feet and making

1 modest profits in washers.

2 And so, this is a case about washers and the
3 sustainability of their investment in washers and we'd be
4 happy to add more color post-hearing.

5 COMMISSIONER KEARNS: I'd appreciate that and I
6 agree. I would not look at this as a domestic-like product
7 issue, but again, as I said, if there's some sort of
8 additional financial benefit that a company gets by selling
9 a washer, however it may be, dryer or else, that'd be
10 interesting. Thank you.

11 MR. MATTINGLY: I'll just add to that because
12 Jack alluded to GE Appliances is not a domestic manufacturer
13 of dryers. We source those dryers.

14 COMMISSIONER KEARNS: Okay.

15 MR. MATTINGLY: And as we look through all of
16 our product lines each product line must get a return on
17 that investment. Everyone is measured on washer
18 profitability, so each program that we do is measured on
19 that program, not as a lump sum.

20 COMMISSIONER KEARNS: Okay, thank you.

21 MR. LEVY: And Commissioner Kearns, just to
22 contrast, that's how Whirlpool and GE think about their
23 washer business. That's not how Samsung and LG think about
24 their washer business. They see it as a tool to drive
25 profitable dryer sales. They are in the business of growing

1 the washer business, even at a loss, in order to make for
2 profitable dryer sales, which is part of the reason why it's
3 cold comfort to think that their U.S. production is somehow
4 going to shield them from the injurious affect of imports
5 because if all they care about is driving more washer sales,
6 even at a loss, to benefit their foreign dryer plants how is
7 that helping the U.S. washer business of Whirlpool and GE?

8 COMMISSIONER KEARNS: Right. Okay, thank you
9 very much. My time's up.

10 CHAIRMAN JOHANSON: Mr. Tubman, I have been
11 working on these investigations for a while, unlike
12 Commissioner Kearns, so I have something that -- something
13 that you mentioned a minute ago caught my attention. You
14 stated the agitators are used in more high-end products. I
15 was wondering why that is happening because I thought that
16 that was technology of the past.

17 MR. TUBMAN: So, basically, we've always had
18 agitators. We've always offered them. As we saw the market
19 bring on top-load AG, which we started a long time ago, that
20 was a new innovation, so we were charging more for it. We
21 were keeping it in the higher end of the line.

22 What we found over time is we still had
23 customers telling us I can sell -- when I say "customers"
24 meaning retailers -- I can sell more agitators with higher
25 features and get more money and so on and so forth. And so,

1 over time, we continued to bring more models of agitators
2 even up the line in the higher end.

3 And I know Jack showing it here in Exhibit 2 we
4 did take our what we call the advantage product, but the
5 large product that we have -- the largest product we have
6 and we put an agitator in that. So again, there's a
7 customer out there that is tied to that agitator. They want
8 an agitator because they've always had an agitator and so we
9 just provided that benefit for them.

10 MR. MATTINGLY: I'd like to add to that.
11 Commissioner Broadbent mentioned that she had a Speed Queen
12 and where a Speed Queen is positioned is higher in a price
13 point perspective than many of these washers that are over
14 here. When it comes to a consumer they have a preconceived
15 perception of what's going to do the best from a wash
16 performance and that's what they move towards. And
17 regardless of whether or not I, you, think an impeller is
18 newer technology, they know what does the laundry from them
19 and that's what they want to purchase.

20 CHAIRMAN JOHANSON: Thanks a lot to both of you.

21 And another follow up to the last few hearings
22 we've had. It was my impression that front loaders were
23 having problems being sold due to mold issues; has that
24 largely been resolved?

25 MR. TUBMAN: I'm going to answer what I can.

1 And given my lawyers are in the room, they'll probably help
2 me here. There were issues in the past across the industry
3 of what people considered mold or bio-film, as we called it,
4 a long time ago and I can't give you an exact year, but it's
5 been more than a handful, Whirlpool Corporation added
6 ventilation into their frontload washers. We also advised
7 customers to leave their doors open and so on and so forth.
8 So, there's been technologies -- we talk about the dynamic
9 venting technology. That's one of the technologies that we
10 brought to help with that.

11 CHAIRMAN JOHANSON: Okay, thanks. Mr.
12 Mattingly, do you have anything to add?

13 MR. MATTINGLY: I would say that as Casey talked
14 earlier about frontload people who come back to top load the
15 number one reason why they do come back has been smell. I
16 think there's ways in the industry or how consumers use
17 their frontload that has helped alleviate that, but that's
18 still the number one reason.

19 CHAIRMAN JOHANSON: Okay, thanks a lot. I
20 appreciate it.

21 And Mr. Mattingly, I'm going to turn back to you
22 because we were discussing Sears a few minutes ago.
23 Domestic industry parties' brief at pages 35 to 36 discusses
24 the importance of OEM contracts and specifically Sears in
25 the market. How has the Sears bankruptcy announcement

1 impacted the large residential washer market and how will it
2 affect the market in the foreseeable future? I know we've
3 spoken about lost floor space, but in what other ways has
4 this impacted your sales.

5 MR. MATTINGLY: First, we do not OEM for Kenmore
6 in our washer line, so that lost of Kenmore volume does not
7 impact GE Appliances.

8 Secondly, if you look at demand, I don't think
9 demand id changing based off of Sears. Consumers the
10 reasons why they change out a product is because, in most
11 cases, their original product broke. They're just going to
12 another location at this point in time in order to buy that
13 product. So, when you look at the Sears bankruptcy, it
14 really comes down to the consumers moving somewhere else.
15 And since we don't OEM, it doesn't impact us from a Kenmore
16 brand perspective.

17 CHAIRMAN JOHANSON: Okay, thank you. I
18 appreciate it.

19 You all argue that the tariffs imposed on
20 imports from China pursuant to Section 301 have increased
21 Whirlpool's cost of product. When I say you all, I mean
22 Whirlpool in this case. And you argue this on pages 44 to
23 45 of your brief. In your post-conference brief could you
24 please identify the specific components subject to such
25 tariffs and the applicable tariff rates?

1 MR. LEVY: Certainly, we'll do that
2 post-hearing. I mean, obviously, the 232 duties are
3 self-explanatory and we could speak to steel components.

4 With regard to Section 301, while Whirlpool does
5 import specific components into its Clyde FTZ for the
6 production of LRWs, it's also important to note that there
7 are many other products that are sourced domestically, but
8 the price of such components goes up because the import
9 competition has been curbed by Section 301. So, it's just
10 important to understand that even if you're not importing a
11 product subject to Section 301 the domestic price may
12 nonetheless be higher from a U.S. supplier because market
13 conditions have changed and we'll do our best to provide as
14 much clarity on that point as possible.

15 CHAIRMAN JOHANSON: Okay, thanks Mr. Levy. On
16 page 39 of the domestic brief, you state that competition at
17 the high end of the product lineup also has pronounced
18 implications for the overall financial health of LRW
19 manufacturers. Producers typically earn higher profits on
20 higher end models, and such profits are necessary to support
21 reinvestment in the entire business.

22 After this AD-CVD orders, were there any
23 additional capital expenditures and R&D expenses spent on
24 high end products?

25 MR. TUBMAN: Casey Tubman. I would say we

1 continued to invest in our products year after year, and
2 between cases and during cases we've continued that
3 investment, and I guess to answer your specific question,
4 they also target the high end of the product line.

5 CHAIRMAN JOHANSON: Okay, thanks. If you could
6 explain that a bit in your post-conference brief as to
7 exactly how that was spent in the high end market.

8 MR. MATTINGLY: Michael Mattingly, GE
9 Appliances. I'd like to point back to the unit that we have
10 over here. The \$30 million that we invested was in the high
11 end of the topload market.

12 CHAIRMAN JOHANSON: Okay. Thanks, Mr.
13 Mattingly. All right. That concludes my questions. I
14 appreciate you all being here today.

15 COMMISSIONER WILLIAMSON: Thank you. I have a
16 number of questions. I'm going to be jumping around. These
17 next four or five are all at -- this is best answered
18 post-hearing, given the confidential nature of some of this
19 modeling, and also the complexity of the questions. Let's
20 see. Please address Samsung's comparison of the domestic
21 industry with both remedies and with just the 201 remedy.
22 This is found at pages 44 and 45 of Samsung's brief.

23 That's the first question. The second one,
24 please address Samsung's comparison of the domestic industry
25 with new entrants with revocation of these orders at pages

1 -- and this is on pages 46 and 48 of their brief. Please
2 comment on LG's estimates for four year operating returns
3 discussed at page 63 of their prehearing brief and Exhibit
4 16.

5 Please comment on LG's estimates of changes in
6 domestic industry capacity, production, shipments and
7 employment, which is found at page 59 of the brief. Please
8 comment on LG's estimates of washer market shares in future
9 years, and this is found at page 34 to their brief. So if
10 you could, you know, take a look at those and give your
11 comments post-hearing I would appreciate it.

12 MR. LEVY: Certainly, thank you.

13 COMMISSIONER WILLIAMSON: Commissioner
14 Schmidtlein had raised a question when Commerce -- now I
15 guess you're talking about up to and non-industry specific
16 rates, and I think she asked you to comment on that
17 post-hearing. When you do that, can you also address the
18 situation of where a firm initially received a much lower
19 individual rate, and has consistently received much lower
20 rates in its administrative reviews. So take that
21 particular situation into account.

22 Also I was wondering, why did demand fall in
23 2018, and what do you expect going forward?

24 MR. LIOTINE: Joseph Liotine, Whirlpool. You
25 know, demand is principally driven by two things.

1 Replacements and then housing, and if you look at I think
2 it's Exhibit 12, we kind of highlight the history of demand,
3 there's a couple of circles there. You know, circle number
4 one in approximately 2005. That was, would be the peak of
5 the build, 2004-2005.

6 And then you saw in circle number three, kind of
7 that same kind of peak about seven to ten years later. So
8 historically a product lasts seven to ten years, and so when
9 we sell a lot, they need to get replaced seven to ten years
10 later. So we saw that upward swing through, you know, '17,
11 '16, '15, '14.

12 In 2018, we began to see, to look at point two,
13 which is approximately 2007-2008. In the far right of
14 circle three, a bit of a decline. Then we're anniversarying
15 the decline from seven to ten years ago. So that was one,
16 and from a housing standpoint, housing went sideways in
17 2018. We did not see the same amount of permits, growth,
18 remodels, all those things, and so that also contributed to
19 it.

20 So we're obviously watching that pretty closely.
21 I think principally those are the two factors that have been
22 the case for decades, and likely the case in recent times.

23 COMMISSIONER WILLIAMSON: So is that -- so you
24 might say there's going to be softness in the next two
25 years?

1 MR. TUBMAN: And we can maybe file anything
2 post-petition what we think for the future. But I would say
3 this data has pretty high correlations and has historically
4 been true.

5 MR. MATTINGLY: Michael Mattingly, GE
6 Appliances. I'd like to add to what Joe was saying, you
7 know. Like I said earlier, the majority of a washer
8 purchase is because the previous one went out. So that ten
9 year cycle is coming up on us, because the other main reason
10 is because someone gets a new house and wants to put a new
11 one in.

12 So those are the replacement cycles that we're
13 talking about at this point. But going forward, we saw the
14 contraction in 2018. Our estimate has the industry down one
15 percent going into 2019. That's our estimates.

16 COMMISSIONER WILLIAMSON: Okay, and thinking
17 about the reasonably foreseeable future, what about the
18 possibility that the 232 and 301 duties might go away some
19 time soon? How should we factor that in? Or may not go
20 away. How should we factor those duties in?

21 MR. LEVY: So Joe, maybe you could speak to the
22 extent to which safeguard measures do or don't have any
23 impact on aggregate demand.

24 COMMISSIONER WILLIAMSON: I said 232.

25 MR. LEVY: 232.

1 COMMISSIONER WILLIAMSON: Yeah.

2 MR. LEVY: Could you repeat the question then?
3 Maybe I didn't understand you probably.

4 COMMISSIONER WILLIAMSON: I was looking at the
5 reasonably foreseeable future, there could be some change in
6 the 232 duties and in the 301 duties, and I just wanted to
7 get your comments on that.

8 MR. LEVY: Okay. We'll have to look into our
9 crystal ball and give you some comments post-hearing on
10 that.

11 COMMISSIONER WILLIAMSON: Okay, fine. Thank
12 you.

13 MR. MATTINGLY: Michael Mattingly, GE
14 Appliances.

15 COMMISSIONER WILLIAMSON: Sure.

16 MR. MATTINGLY: We've given up trying to
17 forecast whether or not the 232 or 301 are going to
18 disappear. But is it relates to this and how you look at
19 it, I think I said it in my opening statement, and that is
20 232 and 301 are costs that are borne by U.S. production, not
21 by -- there's two people who don't have to pay the 232 and
22 301 tariffs. That's production coming out of Korea and
23 Mexico.

24 COMMISSIONER WILLIAMSON: Okay, thank you. I
25 think it was LG was talking about their, the extent of what

1 they do in their new factory that they may not do elsewhere,
2 and so I wanted to come back to this question of a tendency
3 in manufacturing because of the cost of shipping and moving
4 stuff around, to try to do more in the region in which they
5 are based, and how we should take that into account in
6 estimating, shall we say, LG and Samsung's commitment to
7 the factories they've opened in the U.S.

8 And that if you've got a very -- and one reason
9 you might have a very integrated facility is just because,
10 you know, it costs money to move stuff around the world, and
11 also there's a tendency to want to maybe concentrate more in
12 the region that you're in.

13 MR. LEVY: We're happy to speak more to that
14 post-hearing, but certainly proximity to the U.S. market is
15 something that Mexico also represents. Certainly in the
16 case of Electrolux, it's sort of neither here nor there
17 because they're solely Mexican producers.

18 COMMISSIONER WILLIAMSON: Okay, thank you. And
19 just one last question. You talked a lot about the
20 adjustment plans and I think you talked mostly in terms of
21 the capital investment that you've made. Is there anything
22 else in the adjustment plans that we should take note of and
23 how that's going?

24 MR. LIOTINE: Joe Liotine, Whirlpool. Yeah,
25 we're happy to provide additional details. But generally

1 speaking, it's not just capital. We invested engineering
2 resources, capital and infrastructure resources, training
3 resources, hiring people. So I would say it's all the way
4 across all the big buckets of investment. We're happy to
5 detail that post-hearing.

6 COMMISSIONER WILLIAMSON: Okay, thank you.
7 Good.

8 MR. MATTINGLY: Michael Mattingly, GE
9 Appliances. I'd like to move that response to post-hearing,
10 because I think some of the things that are in the plan are
11 proprietary, and I'm not familiar with all the details
12 behind it.

13 COMMISSIONER WILLIAMSON: Okay. Thank you very
14 much for those answers, and I have no further questions.

15 CHAIRMAN JOHANSON: Commissioner Broadbent.

16 COMMISSIONER BROADBENT: Thank you. Yeah. I
17 was interested to hear kind of the -- just the thinking
18 about maybe the possibility of extending the reasonably
19 foreseeable future, you know, beyond the two years and it's
20 just an interesting concept I guess. If the Commission uses
21 its expectation that the safeguard duration to, you know,
22 try to use the extension of -- excuse me -- safeguard
23 expires and we decide to start the reasonably foreseeable
24 future after the safeguard terminates. I wasn't quite sure
25 what you all are considering.

1 But given how fast things change in this market,
2 how can we even have -- even be thinking about a reasonably
3 foreseeable future that would, you know, go beyond the two
4 years that we usually use? Sorry for that. It's not a
5 great question, not well formulated. But I'm just, it was
6 an interesting idea.

7 MS. ALVES: Commissioner Broadbent, this was in
8 response to a question from Commissioner Schmidtlein, about
9 whether or not the reasonably foreseeable future might
10 extend further beyond two years. It's certainly something
11 that we can explore. Oh I'm sorry, Mary Jane Alves for
12 Cassidy Levy Kent.

13 It's certainly something we can take a look at,
14 whether or not the Commission has gone beyond two years for
15 the reasonably foreseeable future. But our point remains,
16 that certainly within what the Commission ordinarily looks
17 at, at the next two years, there is a definite expiration of
18 the safeguard. The safeguard itself says that it's going to
19 expire at midnight on the 7th.

20 COMMISSIONER BROADBENT: So you would more argue
21 that if we had a safeguard that was alleviating injury, it's
22 going to expire within the two years, and that would argue
23 that injury would reoccur.

24 MS. ALVES: No. Our argument is that you have
25 to look at the safeguard differently than the orders. Each

1 of them is needed. They're part of a fuller package.
2 They're each bringing something to the table, and so it's
3 necessary to have both in place for a number of reasons, the
4 various reasons we've articulated already this morning.

5 Because there's differences in scope in terms of
6 the duties and the impact of having the anti-dumping duty
7 orders in place, for example, as just mentioned.

8 COMMISSIONER BROADBENT: Got it. Thank you for
9 clarifying that.

10 MR. LEVY: And Commissioner Broadbent, just to
11 reiterate.

12 COMMISSIONER BROADBENT: Sure.

13 MR. LEVY: I think it's always been the view of
14 domestic producers that the anti-dumping and countervailing
15 duty orders were the foundational fundamental remedy for
16 dealing with Korea and Mexico. The safeguard measure was
17 always understood to be not only temporary but secondary in
18 importance in dealing with those countries.

19 COMMISSIONER BROADBENT: Is it your sense that
20 the dumping orders will stay in place, should stay in place
21 longer than another five years?

22 MR. LEVY: We think that in five years, this
23 Commission will no longer need to speculate about the nature
24 of Samsung and LG's U.S. production. You will have several
25 years of data upon which to extrapolate, and it may very

1 well prove to be superfluous. But at this point in time, we
2 think it's likely, based on all available information and
3 past behavior, that imports from the subject countries will
4 enter in significant quantities and injurious prices.

5 So this is not, just to be clear, a situation
6 where domestic producers think they have a right to maintain
7 AD-CVD orders in perpetuity. That is not our position. I
8 seem to remember a pointed question from you, Commissioner
9 Broadbent in the original investigation to you posed to
10 Whirlpool's CEO, something along the lines of, you know, can
11 we expect to see a lot more of you people? Are you going to
12 be frequent flyers under the anti-dumping law?

13 COMMISSIONER BROADBENT: I didn't say that.

14 MR. LEVY: And I think -- and I think the
15 answer, quite sincerely from Jeff Fettig was no, we're
16 focusing singularly on large residential washers and the
17 injury that's being perpetrated, and the follow-on cases
18 were only necessitated by their country-hopping behavior.
19 So we have no ambitions to continue orders in perpetuity,
20 where there's no longer a likelihood that they'll be
21 significant volumes at injurious prices.

22 COMMISSIONER BROADBENT: Okay, thanks. I know
23 we're getting to the lunch hour here. I had two questions
24 related to the effects of the Section 232 and the 301
25 tariffs, which I think I can just give you for the record

1 and you can answer, just so it's helpful for us as we're
2 thinking about those effects, and then --

3 There was an interesting article in the New York
4 Times January 2019 about his analysis, the reporter's
5 analysis of how the safeguard TRQs led to a decrease in
6 demand for washers, without any real benefit to the domestic
7 producers. I wonder if you all could just respond to that,
8 that would be helpful.

9 And one more, I think. Nope, I think that
10 concludes my questions, and I appreciate the time.

11 CHAIRMAN JOHANSON: Commissioner Kearns.

12 COMMISSIONER KEARNS: Yeah, sorry. I know we're
13 getting close to lunch hour. I'll try to keep this brief.
14 The first question, I know you all have suggested we should
15 consider excluding Samsung and LG as related parties and
16 that you recognize we have the discretion. Isn't it -- and
17 I believe you're focused on the fact that they have large
18 start-up costs, and that that's skewing the data to some
19 extent.

20 It seems to me that Samsung and LG don't
21 disagree with that, and they've kind of, as I recall, made
22 the same points. But it seems to me that we exclude
23 companies from the U.S. industry if because of their related
24 party situation, that's what's in some ways skewing the
25 data. That doesn't seem to be what's skewing the data here.

1 In other words, if any other company had decided
2 to start up operations maybe from scratch instead of a
3 company from another country, we wouldn't be excluding that.
4 We would be taking it into account and maybe considering the
5 fact of the start-up costs, that we would want to be careful
6 with the data.

7 But can you speak to whether or not -- doesn't
8 -- wouldn't we only want to exclude a company from the
9 industry if its related party status is what's skewing the
10 data?

11 MR. LEVY: Jack Levy for Whirlpool. First of
12 all, let me reiterate. We take no position on this legal
13 issue. This is not our issue. So I think this is for us
14 more of an academic question, because I think we're all in
15 agreement that these are conditions of competition that you
16 need to account for.

17 I think, and perhaps Mary Jane can speak to this
18 more authoritatively, but you know in my limited experience
19 before the Commission, there has been, I would say, a
20 variety of competing doctrines that individual Commissioners
21 have embraced for applying the related parties provision.
22 The Commission doesn't approach this provision as a
23 monolith.

24 So I think for some Commissioners, for example,
25 it may be enough that you have related parties, where the

1 interest in importation predominate, and eclipse any
2 interest in U.S. production, separate and apart from whether
3 the performance of the U.S. producer would "skew the data."
4 Yet other Commissioners have turned to additional factors.

5 I would not presume to advise how you,
6 Commissioner Kearns, may conceptualize this provision of the
7 statute. Again, it's not our issue. But I don't know, Mary
8 Jane, if you want to add additional color.

9 MS. ALVES: I agree. This is an issue that
10 various Commissioners have looked at in different ways over
11 the years and Mr. Levy is correct, that there are some
12 Commissioners who have not looked to the financial
13 performance of the given producer in order to ascertain
14 whether or not their importing activity benefited them or
15 not.

16 Another important factor that other Commissioners
17 have looked at is whether or not the interests of the
18 individual domestic producers are primarily in domestic
19 production or in importation. Also, as a predicate to
20 determining whether or not a particular producer is part of
21 the domestic industry, the Commission has looked to the
22 issue of whether or not, in fact, a particular domestic
23 producer is in, in fact, producing the domestic like
24 product.

25 And based on the public statements that LG has

1 made during the period of review, LG was not producing
2 during the period for which the Commission collected data.
3 So they were not producing. But again, this is not an issue
4 where we have taken a particular position. We realize that
5 it's a consideration. We're looking more in terms of what
6 the impact is on the conditions of competition going
7 forward.

8 COMMISSIONER KEARNS: Okay, thank you. What are
9 the differences between the washers you produce in the U.S.
10 and for export markets?

11 MR. TUBMAN: We produce models for the export
12 market that are still exporting out of the U.S. to other
13 countries that are similar to what we make for the U.S.
14 industry. It's a very small portion of our business.

15 COMMISSIONER KEARNS: But the models are very
16 similar? The product range is similar?

17 MR. TUBMAN: The product -- Maybe I can explain
18 this differently. What typically happens is, if another
19 region of ours needs to fill their product line, if they
20 have a gap and we have something that would fit in that gap
21 that's already being produced by us, they then come to us to
22 want to buy that. So it's -- we don't see full lineups to
23 them or mass quantities. It's filler, I guess the best way
24 to explain it.

25 MR. LEVY: Yeah -- Commissioner Kearns, my

1 understanding in the case of Whirlpool is that their exports
2 are overwhelmingly for the Canadian market and to a lesser
3 extent, Mexico. And so the North American market is
4 certainly a consumer of large residential washers.

5 When you leave North America, the lion's share of
6 washers are smaller in capacity and even smaller in width,
7 so-called compact washers. And Whirlpool is not supplying
8 those markets from Clyde, right. They're producing another
9 jurisdiction for those regions.

10 And Casey spoke sort of the exception to the rule
11 where, you know, you might be, you know, you want one
12 super-premium offering in your product lineup in, say,
13 Brazil, and Whirlpool might have an offering there, but the
14 volumes are trivial in terms of the Clyde operation.

15 MR. MATTINGLY: For us, we export to Canada and
16 to other U.S. territories. I have no product in my lineup
17 that is specifically for an export market. It's an existing
18 product that's made for the U.S. market that then is sent to
19 Canada or U.S. territories.

20 COMMISSIONER KEARNS: Thank you.

21 MR. TUBMAN: I just wanna correct, as Jack
22 mentioned, that I was not thinking of Canada when you
23 mentioned the export. For Canada, we do produce the lineup
24 for them, because they don't have manufacturing plants
25 there. They use our Ohio plant to provide those. But

1 again, the quantity is much smaller than our U.S. business.

2 COMMISSIONER KEARNS: Okay, thank you. And then
3 I think I have two other questions that I think if you could
4 just address post-hearing, that would be helpful.

5 One, on the safeguard effects, we've talked I
6 think a lot more -- we've been more focusing, I think, on
7 the volume side of things, but if you can tell us what
8 effect you think the safeguard has had on prices, that'd be
9 helpful. If prices are increasing, has this led to a
10 decline in demand? Or a switch by end-users to
11 less-featured washers at a lower point, for example?

12 And then, on the 232 and 301 measures, if you can
13 give us some specific examples of how those measures have
14 affected your costs, that would be helpful. And also, have
15 you applied for any exemptions from those measures as well?
16 And that's all the questions I have. Thank you.

17 CHAIRMAN JOHANSON: Commissioner Williamson? Do
18 any other Commissioners have questions? Okay, no other
19 Commissioners have questions. Do staff have any questions?

20 MR. CORKRAN: Staff has no additional questions.

21 CHAIRMAN JOHANSON: Thank you. Do those in
22 opposition have any questions?

23 MR. SHOR: No questions, Mr. Chairman.

24 CHAIRMAN JOHANSON: All right. Thank you. Then
25 we will now break for lunch. Let's come back at five until

1 2:00, or 1:55 p.m. And I would like to remind staff and
2 parties not to leave confidential business information in
3 the room as it is not secure. So we'll see you back here at
4 1:55.

5 (Whereupon a lunch recess was taken to reconvene
6 this same day at 1:55 p.m.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 A F T E R N O O N S E S S I O N

2 CHAIRMAN JOHANSON: Mr. Secretary, are there any
3 preliminary matters?

4 MR. BISHOP: Mr. Chairman, I would note that the
5 panel in opposition to the continuation of anti-dumping and
6 countervailing duty orders have been seated. This panel
7 has 60 minutes for their direct testimony. With that, you
8 may begin when you're ready.

9 STATEMENT OF TED MYERS

10 MR. MYERS: Good afternoon. My name is Ted
11 Myers, and I'm the strategic planning manager for the
12 Innovation Team in LG's Clarksville, Tennessee manufacturing
13 facility. As Chairman Johanson, I think it worth mentioning
14 that I'm also an Eagle Scout. With me today are my LG U.S.
15 colleagues, John Toohey, Rick Wingate and Andrew Kim from
16 our North American headquarters in New Jersey.

17 This is the new million square foot large scale
18 washer production factory in Clarksville, Tennessee.
19 Initial production started last October, and there are
20 already 467 employees growing to 600 by early 2020. Because
21 of scheduling complications caused by the government
22 shutdown, the Commission was unable to tour our Clarksville
23 production facility, and so we decided to bring our new
24 U.S. factory to you.

25 [VIDEO PLAYS.]

1 MR. MYERS: As they say, pictures are worth a
2 thousand words. You just saw what we believe is the most
3 highly automated integrated washing machine production
4 facility in the world. Over \$350 million have been invested
5 in structures, cutting edge robotics, materials and handling
6 equipment, injection molding machines, extruder polystyrene
7 packaging and painting facilities.

8 All these heavy investments are dedicated to one
9 end, namely to produce the highest quality and most modern
10 residential washing machines in the world, washing machines
11 that meet the standards for quality and innovation that the
12 LG brand represents.

13 Now I ask you, does this look like the type of
14 facility that, as Whirlpool and Higher G would want you to
15 believe, was erected as only a temporary stopgap measure
16 until current trade restraints were removed, and then
17 abandoned or sold off or moved to another country? The
18 answer to that question is an obvious, unequivocal no.

19 The greenfield design, the level of investment,
20 including unprecedented in-house components manufacturing,
21 represents nothing other than a permanent commitment by LG
22 to produce residential washing machines in America by
23 American workers for American consumers.

24 The huge investment in this large scale U.S.
25 production facility cannot be easily repurposed. It is

1 built to make washers only of the types that are popular in
2 just the U.S. market. Moreover, the cost of walking away
3 from this U.S. production would be extremely high.

4 We have signed agreements with local government
5 that impose substantial penalties on LG if investment and
6 employment targets are not met. Our LG U.S. general
7 counsel, Rick Wingate, is here to address any questions you
8 may have about LG's contractual commitments to the state of
9 Tennessee. Finally, our team has provided you a detailed
10 breakdown of the tremendous costs that would be incurred for
11 shifting production from our new U.S. factory site back to
12 Korea.

13 There's no question that LG would face
14 significant penalties and costs from walking away from full
15 utilization of our new U.S. washer production factory. Now
16 let's look more closely to our new U.S. production factory.
17 We commenced production at the end of last year and expect
18 to reach full capacity by early 2020.

19 I would like to drill down a bit further to show
20 you the type of manufacturing already being done in
21 Clarksville. The metal fabrication and injection molding
22 operations start with the most basic of raw materials, steel
23 coil and pelletized polymers, and transform them into parts
24 that come together to make a washer in other parts of the
25 facility.

1 Each injection molding station represents
2 millions of dollars of investment. The factory layout for
3 this area was specifically designed so that the hoppers are
4 positioned for efficient delivery of the resin pellets to
5 the injection mold machines. This depicts just a fraction
6 of the extensive subassembly operations at the Tennessee
7 plant.

8 For our Tennessee washer factory, LG decided to
9 establish in-house fabrication of a number of parts that are
10 typically purchased from outside suppliers at LG plants in
11 other parts of the world. In Tennessee, these and other
12 parts are assembled into inner drums, drum tub assemblies,
13 cabinet covers, control panels and cabinet bases.

14 Powder coating is used to finish metal
15 components of the washers that will be visible to the
16 customer. The painting process uses a powder that is
17 applied electrostatically and then cured in a heating oven.
18 It creates a rich outer coat that is more durable than
19 conventional paint.

20 In addition to powder coating, we also have
21 liquid painting capability used primarily for finishing our
22 plastic injection parts. It should be noted that the
23 equipment and facilities used in both powder coat and liquid
24 painting is unique within LG to our Clarksville facility.

25 The next two slides show the factories frontload

1 washer main assembly line, followed by the topload main
2 assembly line. When we reach full production capacity, we
3 will be able to produce 1.2 million washers per year.
4 Finally, we are one of only two LG washing machine factories
5 in the world that produce extruded polystyrene used as part
6 of our packaging materials and processes.

7 As LG Tennessee's Innovation Manager, I am
8 delighted that LG has finally realized its long-term goal of
9 establishing a permanent production facility in the United
10 States. Why? Because of the synergies that are created
11 when you produce close to market.

12 It's a well-established fact in consumer goods
13 industries that product development and innovation has
14 improved when production is located close to the markets
15 they serve. Our employees actually use the U.S. design
16 products that they are helping to make.

17 We fully expect that they will come up with
18 ideas on how to make our washing machines better, and
19 implement those ideas much faster and perhaps better than
20 would be the case if the washers were being produced in
21 Korea. We will also be able to respond to the market much
22 more quickly.

23 As you know, the market for consumer goods can
24 be fickle at times. Several years ago, LG created washers
25 and dryers in the color red, and that move turned out to be

1 extremely popular with consumers. Having local production
2 will allow us to adjust to changing consumer tastes and
3 demands much more quickly.

4 To maximize the employment productivity and
5 profitability of our new U.S. plant, we must still rely on
6 some production in Korea. Specifically, LG concentrates a
7 lot of its R&D and prototype production at facilities in
8 Korea that are specially designed for this type of
9 production.

10 These special machines are expensive and must be
11 introduced in the market in very small volumes. As you saw
12 in the video, the U.S. plant is not optimized for that type
13 of production. The heavy investment in robotics and
14 automation is for large volume and extended model runs.
15 Having an efficient means of testing U.S. consumer
16 acceptance of the newest and most innovative models will
17 speed up transfer of production of those models to
18 Clarksville.

19 I'd like to conclude my affirmative statement by
20 saying that I personally have moved myself and my family to
21 Clarksville, not without personal pain and sacrifice to work
22 at LG. Anyone who has asked two teenagers to uproot their
23 lives and move hundreds of miles to a new town can
24 understand that this was a difficult decision for me and my
25 family.

1 I would not have done this if I expected the LG
2 plant in Clarksville, Tennessee to be a temporary venture.
3 I did this because I truly believe then, and still believe
4 now, that LG is fully committed to the permanent success of
5 their new U.S. factory. I welcome your questions following
6 our panel presentation.

7 STATEMENT OF JOHN TOOHEY

8 MR. TOOHEY: Good afternoon. I'm John Toohey,
9 Senior Director of Strategy for LG Electronics USA. This is
10 my ninth year at LG, and during that time I've been heavily
11 involved with developing LG's strategy for the U.S. home
12 appliance market, including plans for U.S. manufacturing.

13 You just heard in some detail about the most
14 recent part of that strategy, the new Tennessee factory. I
15 would now like to put that development into some broader
16 context. At LG, we've been discussing U.S. production for
17 quite some time, and I've been personally involved in those
18 discussions since I joined LG in 2010.

19 In fact, we started looking at U.S. production
20 before any of the anti-dumping cases came along. The new
21 factory, excuse me, is a logical progression of LG's
22 development in the U.S. market. We always consider building
23 local production when the market demand for LG products
24 reaches a scale that justifies the investment. That's why
25 we were already discussing U.S. production back in 2010.

1 We at LG are very excited about the new factory,
2 and have been ramping up production for several months to
3 meet U.S. market needs. As Ted has just explained, a U.S.
4 production site affords us tremendous operational benefits,
5 shortening our supply chain by several weeks, and allowing
6 us to be more responsive to the growing demand for LG
7 products in the market.

8 Looking forward, the new factory fundamentally
9 changes LG's approach to supplying the U.S. market. At the
10 risk of stating the obvious, the new factory will be our
11 primary means of supplying the U.S. market. I say "primary
12 means," because we will need to continue to supply some
13 models from production in Korea.

14 Whirlpool has seriously mischaracterized our
15 plans and mistakenly described the likely effects. I'm glad
16 to have this opportunity to set the record straight. At the
17 outset, let me address briefly the claim of so-called
18 country-hopping. With all due respect, it is just absurd for
19 Whirlpool to argue that LG is going to abandon its new
20 Tennessee factory if the anti-dumping order on Korea is
21 terminated.

22 Having just invested more than \$350 million in a
23 state-of-the-art factory to manufacture washing machines,
24 there simply is no imaginable scenario under which LG would
25 not use that investment as the centerpiece for supplying the

1 U.S. market. This would be true regardless of trade
2 restrictions, and using the factory makes particular sense
3 given the other trade restrictions in place and continuing
4 risk of future trade restrictions.

5 Now let me address the volume of future imports.
6 Whirlpool says that LG Tennessee is not going to produce a
7 full range of products, but that statement is misleading at
8 best. As LG has made clear in its prehearing brief, when
9 the new factory is fully operational, it will supply more
10 than 90 percent of LG's U.S. shipments.

11 That represents a very complete range of
12 frontload and topload washer models. We provided the
13 Commission in Exhibit 9 of our prehearing brief a detailed
14 breakdown of what we actually imported from Korea in 2018,
15 and how those imports will change in 2019 and 2020 as the
16 factory ramps up.

17 As you can see by 2020, the volume of imports
18 from Korea will fall to about one-third of 2018 levels, and
19 represent a single digit percentage of our annual sales.
20 Those remaining imported units will be premium higher
21 capacity and higher priced models that have very limited
22 competitive overlap with Whirlpool and GE washers.

23 The volume of these remaining imports is so
24 small and the segment so different that Whirlpool and GE
25 have again relied primarily on their theory of price

1 compression. Whirlpool and GE complain about both price
2 effects and adverse effects on profitability.

3 I know this issue has come up in some prior
4 Commission proceedings, but those other cases involved
5 different circumstances and different facts. Let me address
6 this specific case. Price compression as a theory begins to
7 break down when the volume of imports shrinks and the price
8 gaps become larger.

9 Logically, the price compression effect should
10 be strongest among models and price points that are closer
11 to each other. Imports of large volumes of many models at a
12 wide range of price points therefore may be expected to have
13 an effect on the prices of less featured models.

14 Conversely, small quantities of very high priced
15 models would be less likely to exert a significant
16 compression effect on the prices of lower priced models. So
17 in this case, it should be safe to say that the declining
18 volume of imports from Korea at increasingly high average
19 prices should have less and less effect on the prices of
20 lower priced models.

21 Moreover, the Commission's survey of purchasers
22 confirms that this case is different. I have read the
23 public version of the Commission's prehearing report. The
24 Commission asked about two categories of alleged product
25 impact. One question asked generally whether the

1 availability and/or price of highly featured washers affects
2 the sales of less featured washers, and 72 percent of
3 purchasers not surprisingly said there was some effect.

4 Of course, the sale of one model will affect the
5 volume of other models. People typically don't buy more
6 than one washer at a time, and they try to get the most for
7 their money. But the Commission also asked more specific
8 questions about downward pressure on prices, the heart of
9 the price compression theory.

10 The survey results were noteworthy in two key
11 respects. First, although as I mentioned 72 percent of
12 purchasers reported volume effects, many fewer reported
13 price effects. Specifically, only 17 percent of purchasers
14 reported that price reductions on highly featured washers
15 from Korea always or usually exert some downward pressure on
16 prices of less featured U.S.-made washers.

17 These survey results suggest there is very
18 limited price compression coming from Korea imports.
19 Second, these survey results contrast sharply with prior
20 Commission findings. The same question was posed in the
21 recent Commission investigation of China.

22 In that case, about 50 percent of the washers of
23 the purchasers reported that there was always or usually
24 some downward pressure on prices from Chinese imports. This
25 dropped from 50 percent reporting price effects from Chinese

1 imports to only 17 percent reporting price effects from
2 Korean reports is rather large.

3 Why? In the China case, purchasers were
4 reporting on the effects of a much larger volume of imports
5 spanning a much wider range of prices, including many more
6 lower-priced models. Given the high volume and wide price
7 range of the models imported from China, some degree of
8 price compression made sense.

9 But in the current case, the limited volume of
10 imports from Korea concentrated in a small number of very
11 high-priced models is much less likely to exert significant
12 price compression. That is precisely what your purchaser
13 survey responses are telling you.

14 I would like to note another key difference
15 between prior cases and the current case, the existence of
16 the Tennessee factory. LG has no incentive to discount the
17 prices of our most innovative models being imported from
18 Korea, which will represent less than ten percent of our
19 sales if such discounting would just drive down prices for
20 our U.S.-based production, which will represent more than 90
21 percent of our sales. To do so would make no sense at all.

22 Moreover, to the extent that price compression
23 exists, we would expect the LG Tennessee factory would be
24 more affected than any other U.S. factory by imports of LG
25 washers from Korea. Why? Because washers are branded

1 products, and brands matter. While brand preference
2 insulates a manufacturer from competitor's offerings, it
3 cannot insulate a manufacturer from competition from its own
4 imports.

5 In addition, the LG brand is very strong in the
6 U.S. market, as evidenced by the latest ratings from
7 Consumer Reports. As you can see on the screen, LG
8 frontload washers occupy eight of the top ten spots, and LG
9 topload washers occupy all ten of the top ten spots.

10 Importantly, these ratings are based not only on
11 features, but also on predicted reliability and owner
12 satisfaction. This is clear evidence of significant brand
13 equity, and why would LG risk squandering our hard-won brand
14 equity by compressing our own prices? Thank you, and I look
15 forward to your questions.

16 STATEMENT OF THOMAS KOMAROMI

17 MR. KOMAROMI: Good afternoon. My name is
18 Thomas Komaromi. I'm general counsel to Samsung Electronics
19 Home Appliances America; otherwise, known as SEHA. I met
20 some of you when you toured our factory in October and am
21 very pleased to have the opportunity to be here today.

22 SEHA is just the latest in the long history of
23 Samsung investments in the United States. In fact, last
24 year Samsung celebrated 40 years of investing in American
25 jobs. The 800 workers at Samsung's Newberry facility join a

1 family of 20,000 members of the Samsung family across 46
2 states. Samsung has invested tens of billions of dollars in
3 facilities in the United States and made a long-term
4 commitment to the communities where it invests.

5 SEHA is the latest example of this commitment.
6 Our SEHA employees come from Newberry and the surrounding
7 counties and we are deepening our ties to Newberry and South
8 Carolina every day. As you saw when you visited the
9 facility, Samsung transformed an empty shell of a building
10 into an integrated, modern washing machine production
11 facility. We undertook massive transformation of the site
12 to accommodate the heavy-duty metal presses, digging down
13 more than 30 feet and installing new footers to stabilize
14 the presses.

15 In addition to the transformation of the
16 existing building, we also expanded the facility. We added
17 a mezzanine and we also added an entirely new building
18 dedicated to the production of EPS packaging material. We
19 installed numerous state-of-the-art metal presses and
20 injection molding machines. And as you saw, we have further
21 expanded SEHA's footprint with our Phase 2 construction
22 which includes a new building housing more than a dozen
23 additional injection molding machines.

24 We began producing front-load washers in January
25 of 2018 on our front-load assembly line. Top load

1 production began in March on our second assembly line. We
2 have now been producing washers in Newberry for over a year.
3 Our investment in South Carolina now far exceeds the
4 original commitments made to the State of South Carolina and
5 has surpassed the projections we made during the Section 201
6 hearing.

7 Our employment is also on track to meet all
8 commitments. SEHA offers pay that is competitive in
9 Newberry, in South Carolina, and also offers a very generous
10 above average benefits package. We have 800 workers at the
11 SEHA facility and that number will continue to grow as we
12 bring the additional injection molding production online and
13 continue to increase our LRW production.

14 Now, I understand that during the Section 201
15 investigation there was some concern about whether Samsung's
16 Newberry facility would be a screwdriver operation or a
17 full-fledged production operation producing all of the key
18 parts of a washing machine. I hope that the plant tour we
19 gave you in October put these concerns to rest.

20 As you saw, SEHA produces the key washer parts
21 in house in Newberry, South Carolina. For example, we
22 produce the cover tops and tubs, using our injection molding
23 equipment and all of the steel drums, baskets, and cabinet
24 parts are produced by our metal presses. And we produce
25 more than just the so-called covered parts enumerated in the

1 scope of the various trade remedy orders.

2 In addition to all of the packaging material
3 that you saw produced at our newly constructed EPS facility,
4 SEHA also produces many more washer parts in house,
5 including control panels, doors, and tub diaphragms, just to
6 name a few. Indeed, at SEHA we do more in house production
7 of parts than we are doing at our other appliance
8 facilities. And despite all this, there is no question we
9 are still in start-up mode. Our production targets for 2018
10 were not met as we worked out kinks in both parts production
11 and operation of the assembly line.

12 In house parts production has required
13 additional training and adjustment. And the cutting edge
14 manufacturing technology deployed at SEHA has taken more
15 time than anticipated to fully utilize. Despite being in
16 start-up mode, in 2019 our Newberry County facility plans to
17 produce the majority of Samsung washers sold in the United
18 States. We are committed to producing washers in the United
19 States and we are in Newberry, South Carolina to stay.

20 As it does in every community where it invests,
21 Samsung is very involved in the community. For example,
22 SEHA hosts our community's annual Veterans Day Luncheon and
23 provides scholarships to local American Legion Chapters. We
24 sponsor local events, foundations, and make donations to the
25 local Veterans Affairs Office. We make donations to the

1 Harvest Help Food Bank and various local schools and
2 organizations.

3 Our employees volunteer at numerous events, such
4 as the Veterans Day Parade, Newberry Shriners toy drive and
5 Harvest Hope Food Bank meal preparation and these are just
6 to name a few of many examples of our commitment to our
7 community and that commitment continues to grow. SEHA has
8 also invested in local education at our high schools,
9 technical schools, and universities, providing training
10 programs and introducing opportunities in manufacturing.

11 For example, we recently formed a consortium
12 with Clemson University and the University of South Carolina
13 and we've already begun meaningful research projects to
14 study manufacturing and product development techniques. We
15 will continue to foster these relationships and increase our
16 presence in the community.

17 Now, it should go without saying that SEHA is
18 here to stay regardless of what happens to the anti-dumping
19 and countervailing duty Orders. As it does around the
20 world, Samsung established SEHA to be close to its
21 customers. Samsung's newest LRW platforms for the U.S. are
22 specifically designed to be produced on the state-of-the-art
23 equipment installed in Newberry, South Carolina. Those new
24 models for the U.S. market will not be produced in any other
25 facility.

1 Thank you again for the opportunity to appear.
2 I really look forward to answering your questions today.

3 STATEMENT OF DANIEL KLETT

4 MR. KLETT: Good afternoon. My name is Dan
5 Klett. I'm an economist with Capital Trade testifying on
6 behalf of LG and Samsung.

7 My testimony will focus on how the Commission
8 should consider the escape restrictions in the form of a
9 tariff rate quota or TRQ as a key condition of competition
10 that will affect the likely future volume and the value of
11 imports from subject countries with revocation of the AD and
12 CVD Orders.

13 The first slide compares the import restrictions
14 imposed by the escape clause TRQ with the AC/CVD Order
15 restriction on LRW imports from Korea and Mexico. Through
16 February 6, 2020, in quota LRW imports from all countries,
17 including Korea and Mexico, will be subject to an 18 percent
18 tariff and through February 7, 2021, a 17 percent tariff as
19 depicted in the yellow bars.

20 Above quota rates are much higher, as shown in
21 the orange bars. The calculated investigation rates for LG
22 and Samsung were 13 percent and 9 percent, respectfully, the
23 blue bars. LG continues to export some high-priced models
24 from Korea to the United States. Its review margins have
25 never exceeded 2 percent and is just 0.0 percent in the most

1 recent completed administrative review that was announced
2 this morning.

3 LG received a negative determination in the CVD
4 investigations and Samsung just 1.85 percent CVD margin.
5 Higher margins in later reviews for Samsung were solely the
6 result of adverse facts available, not based on Samsung
7 data, but its decision to not participate in these reviews,
8 given the cessation of exporting LRWs to the United States
9 from Korea and Mexico. Electrolux received higher AD
10 margins in the investigation, but prior to an AFA rate in
11 the most recent review had received rates in administrative
12 reviews that were never higher than 6.2 percent. Any import
13 volume above the base quota of 1.2 million units will be
14 subject to even higher tariffs, 45 percent in 2019 and 40
15 percent in 2010.

16 The next slide shows total in quota imports of
17 1.2 million, which include imports from non-subject
18 countries as well are estimated to account for just 17
19 percent of U.S. apparent consumption in 2019, even if the
20 quota is filled with U.S. producers share at 83 percent.

21 To put this in perspective, based on AHAM and
22 Census data, total import market share was 31 percent in
23 2012 during the original investigation with U.S. producers
24 have a 69 percent share. The escape clause TRQ will ensure
25 U.S. producers of a market share of being 15 points higher

1 than during the original investigation.

2 The next slide shows that for all practical
3 purposes imports ceased after October 2018 when the quota
4 was filled.

5 Any residual imports likely reflect non-covered front-load
6 belt drive models from Mexico and China and extra wide
7 front-load washers from Korea. If the AD Orders are
8 revoked, the TRQ will continue to have these restrictive
9 effects because the AV/CVD rates are lower than the in quota
10 tariff rates.

11 In its relief recommendations in the escape
12 cause investigation, the Commission relied, in part, on its
13 staff estimates of the effects of the recommended TRQ on the
14 domestic industry, using a partial equilibrium model, most
15 likely compass.

16 The compass model can also be used for this
17 sunset review to estimate the impact of revoking the Orders,
18 taking into account the escape clause TRQ being in place at
19 the same time. The analytic logic is straightforward. This
20 slide shows that the first simulation of the analysis
21 includes both the AD/CVD Orders and the escape clause
22 restrictions. The second simulation includes only the TRQ
23 restrictions. The different in impact effects between
24 these two simulations is the impact on the domestic industry
25 of revoking the AD/CVD Orders.

1 The estimated effect is dependent on the inputs
2 into the compass model, including domestic and import
3 volumes and values, the likely AD and CVD duties to be
4 revoked, and the elasticity estimates.

5 The next slide summarizes these inputs. And an
6 exhibit to both LG and Samsung's pre-hearing briefs includes
7 the CAP Trade Report with complete analysis. The next slide
8 summarizes the results of our analysis for 2019 and 2020.
9 For the Legacy producers, Whirlpool, GE, and Alliance,
10 revocation of the Orders is estimated to reduce their sales
11 volume by 0.2 percent; price by 0.03 percent; and revenue by
12 0.2 percent. These could not be considered material adverse
13 effects. The estimates effects for 2020 are somewhat lower.

14 Whirlpool and Haier GE attempt to downplay the
15 economic impact of the existing escape clause TRQ for this
16 sunset review for the following reasons.

17 First, they claim that a significant volume of
18 LRWs covered by the Orders are not covered by the TRQ;
19 specifically, the front-load belt drive washers from Mexico
20 and extra wide front-load washers from Korea produced by LG.
21 Regarding the extra front-load washers from Korea, in 2018
22 these accounted for less than 1 percent of the total U.S.
23 LRW market. Exhibit 9 to LG's pre-hearing brief has LG's
24 import projections for these models for 2019 and 2020.

25 This slide show that these include 522-cubic

1 foot non-white, front-load washers, such as models WM8100
2 HVA and WM9000 HVA. The current retail prices for these
3 models are \$1,000 and \$1,615, respectively, on sale at the
4 AJ Madison website. The first confidential slide that you
5 should have before you compares net wholesale prices for
6 these models from LG as to compared to average unit values
7 for the Legacy producers' shipments for front-load and
8 top-load LRWs and you can see the significant difference in
9 price at wholesale.

10 I reject the position of Whirlpool and GE that
11 sales of these models at higher prices can put downward
12 pressure on prices throughout the market. Their so-called
13 price compression theory for the reasons given by Mr.
14 Toohey.

15 Second, they assert that safeguard measures did
16 not curtail subject import volume in the first nine months of
17 2018, that importers absorbed the in quota tariffs. The TRQ
18 did not take effect until February 7, 2018 and there was,
19 understandably, an increase in import inventory build prior
20 to that time in anticipation of the escape clause import
21 restrictions. Therefore, import shipment volume into the
22 U.S. market exceeded the TRQ import quota levels; however,
23 this effect cannot exist in 2019 and 2020 and that is what
24 is relevant for this sunset review.

25 Moreover, there is no support for the contention

1 that importers absorbed the tariffs. The next slide shows
2 the consumer price index for laundry equipment surged by
3 over 15 percent after the TRQ was imposed with prices about
4 13 percent higher in January 2019, using February 2018 as a
5 base.

6 Earlier, Commissioner Kearns asked a question on
7 dryers. The next slide shows the Whirlpool and Haier GE's
8 wholesale prices and revenues for their dryer sales also
9 benefited from the TRQ on washers. There was almost a
10 one-to-one increase in the average price for dryers
11 corresponding to the LRW price increase. For these
12 complementary goods, one cannot ignore the benefits of the
13 higher prices and profits for dryers as a commercial reality
14 benefit to Whirlpool and Haier GE.

15 Third, Whirlpool and GE asserted the safeguard
16 measures are inherently incapable of protecting against
17 injurious of dumping of up to 82 percent for Korea and 72
18 percent for Mexico. These high margins are not legitimate
19 predictors of future dumping levels absent the Orders.
20 Commerce did not provide company-specific respective AD
21 margins in its sunset determination.

22 The next slide shows that the 82 percent margin
23 for Korea is an Adverse Facts Available rate applied to
24 Samsung, which was the highest margin alleged in the
25 petition and not calculated from actual sales by Samsung.

1 The 72 percent margin for Mexico also was an AFA rate. The
2 next slides show actual calculated AD rates. For Samsung,
3 only the investigation AD margin of 9.2 percent is a
4 calculated rate.

5 Practically, only LG continued to supply the
6 U.S. market from Korea during the POI. LG received a 13
7 percent margin in the investigation and rates of less than 2
8 percent in all subsequent administrative reviews.

9 Mr. Levy said that we are contending that you --
10 I think he said second guessed the Commerce Department. We
11 are not doing so. To me, "up to" means you can accept rates
12 below those margins and I submit what is more probably are
13 the actual calculated rates rather than the AFA rates on
14 which Commerce gave its "up to" countrywide and
15 non-countrywide and non-company specific margins.

16 Fourth, they assert that the AD Orders provide a
17 foundational offset to address unfair trade practices,
18 whereas Section 201 relief is a distinct, temporary measure
19 that can coexist with escape clause relief. This may be
20 true, but it doesn't address the question of how the escape
21 clause relief should be taken into account when considering
22 the impact of revoking the Orders.

23 Whirlpool and GE cannot legitimately claim that
24 the escape clause TRQ has no relevance to the likely future
25 impact of revocation of the AD and CVD Orders.

1 Finally, Whirlpool asserts that the escape
2 clause relief will expire on February 7, 2021 before a
3 reasonably foreseeable period which they define as two years
4 from the Commission's vote date in this proceeding. Look at
5 the next slide. The Commission's vote for this sunset
6 review is for March 29, 2019, so two years from that date is
7 March 29, 2021.

8 Whirlpool's position is that there can be
9 material injury because there is TRQ protection gap of less
10 than two months, two years hence. This is not a credible
11 position. Thank you.

12 STATEMENT OF CHARLES ANDERSON

13 MR. ANDERSON: Good afternoon. It's Chuck
14 Anderson of Capital Trade. I think I'm the last presenter.
15 So I'm gonna take a shot at trying to basically do an
16 overview of this case. By now, a little after 2:30 in the
17 afternoon, it's become pretty clear that this is not your
18 typical Sunset Review proceeding.

19 That is, it's not the classic battle between U.S.
20 producers and importer/exporters, but between two segments
21 of the U.S. industry: On the one hand, two large and
22 politically savvy legacy producers, and on the other, two
23 up-and-coming U.S. manufacturers with highly-rated products,
24 valued brand names, and brand-new plants.

25 In the not too distant future, close to 100% of

1 the floor space will be filled with U.S. produced products.
2 From all the arguments and the information put forward by
3 these two sides, the Commission must decide on a course of
4 action that will provide the maximum benefit for the U.S.
5 industry as a whole.

6 In making that determination, the Commission
7 should consider where growth in investment and employment in
8 the foreseeable future is likely to come from. As is shown
9 in Proprietary Table 2 before you, by 2020, LG and Samsung
10 will have spent multiple hundreds of millions of dollars in
11 new plant and equipment. Their U.S. employment will have
12 gone from zero in 2017 to 1,600 in 2020. Total production
13 will reach 2.7 million units.

14 By contrast, when asked to provide their
15 adjustment plans as part of the recent Section 201
16 proceeding, Whirlpool and Haier/GE made no concrete
17 commitments for new capacity or investment, other than
18 normal life-cycle business-as-usual investment.

19 Compared to LG and Samsung, Whirlpool and
20 Haier/GE's recent increases in capital spending, employment
21 and production volume have been modest. Within the entire
22 U.S. industry, LG and Samsung are the engines of future
23 growth. Therefore, their views on imports and the
24 likelihood of future injury to the U.S. industry needs to be
25 considered carefully.

1 LG has explained in detail why it will import
2 only extremely limited volumes from Korea to support its new
3 U.S. manufacturing operations. Today's global reality is
4 that all mass market global consumer products producers rely
5 on some international trade to support their operations.

6 Indeed, as shown in the next public slide, the
7 dollar value of washer imports coming in from Korea and
8 Mexico are about the same as the dollar value of washer
9 parts that Whirlpool imports from China, through its FTZ
10 each year, and only slightly less than what we believe is
11 the dollar value of finished front-loader belt-drive washers
12 imported from China by GE/Haier.

13 The legacy producers' only real argument for
14 continuance of these orders is that the establishment of
15 U.S. production by LG and Samsung is a temporary shift that
16 can--and is likely to be--abandoned if the orders are
17 revoked. That argument is based on an historical
18 extrapolation; i.e., past shifts in country of production
19 supposedly portend future shifts.

20 But is that argument based on a solid economic
21 theory? Why, for example, would LG want to shift production
22 back to a high-wage country like Korea? There needs to be
23 something more than mere assertion -- the Commission must
24 consider whether there are incentives or economic forces at
25 play that make it likely that production will shift back to

1 the subject countries.

2 Besides the substantial commercial advantages of
3 local production described by Ted Myers, John Toohey and Tom
4 Komaromi, there is an extremely important factor favoring a
5 permanent U.S. manufacturing presence, and that is
6 Whirlpool's aggressive use of the trade laws to restrain
7 imports. In all, Whirlpool has filed eight different trade
8 actions. It would be commercial folly for LG and Samsung to
9 ignore Whirlpool's past use of the trade laws, walk away
10 from their U.S. manufacturing operations or even to begin to
11 shift substantial production back to the subject countries.
12 Whirlpool could just simply file new cases.

13 The fact is, the LG and Samsung washing machine
14 production complexes are here to stay, and most likely will
15 grow over time. And they will have a large, beneficial
16 impact on the U.S. industry as a whole. Going forward,
17 these plants fundamentally change the direction of the U.S.
18 industry's performance for the foreseeable future.

19 The Business Proprietary Table 3 before you
20 demonstrates unequivocally that following revocation of the
21 AD/CVD orders, there will not be any declines in output,
22 sales or market share for the U.S. LRW industry. Indeed,
23 just the opposite. Even if the orders are revoked, the
24 domestic industry will dramatically expand production,
25 employment, shipments, sales and market share. Once

1 start-up costs have been incurred, financial profitability
2 will improve. Import volumes from Korea and Mexico are
3 likely to decline even further.

4 To conclude, this is not an industry in distress.
5 It is an industry with a bright future, more than strong
6 enough to survive without legacy protection on imports from
7 Korea and Mexico. Thank you.

8 MR. PORTER: Mr. Chairman, that concludes
9 respondents affirmative presentation.

10 CHAIRMAN JOHANSON: I'd like to begin by thanking
11 all of you for appearing here today. We will begin
12 Commissioner questions with Commissioner Schmidtlein.

13 COMMISSIONER SCHMIDTLEIN: Okay. Thank you very
14 much. I'd like to also thank the witnesses for being here
15 and also for hosting me last October during the Samsung site
16 visit. It was very interesting. So let me get started
17 with, I guess, this question about your plans with regard to
18 the U.S. facilities and also where you will supplement to
19 meet demand here in the United States.

20 And I guess you can go back and forth between
21 Samsung and LG. So if I understand correct, Samsung plans
22 to source the vast majority of its meet the demand from the
23 U.S. facility for the vast majority of that demand. And for
24 the demand that they can't meet from the U.S. facility,
25 where will you source that product?

1 MR. KOMAROMI: Commissioner Schmidtlein, thank
2 you very much. We have the majority of our products that
3 will be sold on the U.S. market by the end of this year will
4 be produced in Newberry, South Carolina. Now, 2018 did not
5 end up as we expected. We had some growing pains. We're
6 still in the start-up mode.

7 With respect to bringing in parts from other
8 parts of the globe, I'd be happy to submit that in the
9 post-hearing submission. I don't have the exact countries.

10 COMMISSIONER SCHMIDTLEIN: So it could be China,
11 it could be Thailand, it could be Vietnam? Could be other
12 countries?

13 MR. KOMAROMI: Well, it's certainly, I can tell
14 you that it will not be -- we will not be importing from
15 Korea or Mexico. We have no plans to do that.

16 MR. PARK: Samsung only produces the washers for
17 the United States. Outside of the United States, in
18 Thailand and Vietnam.

19 COMMISSIONER SCHMIDTLEIN: Okay.

20 MR. PARK: So, currently, the plan is to
21 supplement any production that it can't produce here in the
22 United States, from Thailand and Vietnam, but ultimately
23 phase that production out as the production in the United
24 States grows.

25 COMMISSIONER SCHMIDTLEIN: Beyond what you

1 estimate in 2019?

2 MR. PARK: That's correct. Well, 2019 will be
3 the majority of products. And then ultimately, the goal for
4 Samsung is to produce essentially everything here in the
5 United States. But, in terms of your question about where
6 -- as long as some products are being imported where they
7 will be imported from currently, it's Thailand and Vietnam.

8 COMMISSIONER SCHMIDTLEIN: Okay. Because, I
9 mean, and correct if I'm wrong. But the estimate for your
10 production for 2019 still leaves a fairly large chunk that's
11 going to be coming from somewhere else. The estimate of
12 what you'll produce in the U.S. for Samsung, right?

13 MR. PARK: That's correct.

14 COMMISSIONER SCHMIDTLEIN: But you expect that
15 that's going to change then in 2020?

16 MR. PARK: That's correct.

17 COMMISSIONER SCHMIDTLEIN: And so you won't have
18 to use the Vietnam, did you say Vietnam and Thailand, or
19 just Vietnam?

20 MR. PARK: There's production facilities in both
21 Vietnam and Thailand.

22 COMMISSIONER SCHMIDTLEIN: That you're currently
23 sourcing from?

24 MR. PARK: That's correct.

25 COMMISSIONER SCHMIDTLEIN: Okay. So what will

1 happen to those facilities in 2020? For Samsung?

2 MR. PARK: Our understanding is that for Samsung,
3 they will be shifted to other products for other regions in
4 Southeast Asia and Asia.

5 COMMISSIONER SCHMIDTLEIN: So what kinds of
6 products? Can you say?

7 MR. PARK: That will --

8 COMMISSIONER SCHMIDTLEIN: Washers? Or different
9 appliances?

10 MR. PARK: Our understanding is that there will
11 be washers, that they'll still be producing washers.

12 COMMISSIONER SCHMIDTLEIN: But just not the exact
13 kind of washer that's made for this market?

14 MR. PARK: That's our understanding in terms of
15 the types of washers, the sizes and capacity similar to what
16 you heard this morning are different for different markets.

17 COMMISSIONER SCHMIDTLEIN: Right.

18 MR. PARK: And so, yes, they would be shifted to
19 production for other markets.

20 COMMISSIONER SCHMIDTLEIN: And so how hard is to
21 make that change? Can you give us an idea of --

22 MR. KOMAROMI: With respect to other countries in
23 the world, there are different sizes and different
24 specifications. And it would take a retooling of the
25 factory to change the lines in order to produce those

1 different washing machines for the different consumers in
2 various nations.

3 I'm very excited to say that we have a new line
4 that just came out early this year, different from the line
5 that you saw during your tour in October. And this new line
6 is only gonna be produced in Newberry, South Carolina, and
7 it is being produced for the American consumer. So, for
8 example, the size is different. There's other
9 specifications that are different. But in Newberry, South
10 Carolina, we are building products for the U.S. consumer,
11 and we are the only ones in the world who are creating this
12 specific top-load and front-load washing machine line.

13 COMMISSIONER SCHMIDTLEIN: Okay. Can you also
14 talk about what happened to the lines that were in Mexico
15 and Korea when you shifted production to China from those
16 two countries, right?

17 MR. PARK: Yes. So going back to Mexico and it's
18 important to go back to when the case against Mexico was
19 filed, there were three primary producers out of Mexico.
20 There was Electrolux, Whirlpool and Samsung. And at the
21 time the investigation was going on, both Whirlpool and
22 Samsung had made decisions to consolidate production.

23 Whirlpool consolidated its production in Clyde,
24 Ohio, and then shifted that facility as you heard this
25 morning to other products including washers for Mexico and

1 the South American market. Samsung did the same. Samsung
2 decided to consolidate its production in China. It then
3 shifted the production facility in Mexico to dryers and also
4 other size washers, smaller-capacity washers, for Mexico and
5 South America, very similar to what Whirlpool had done.

6 For Korea, Korea was producing washers for
7 various markets, including the Korean market. In terms of
8 the Korean market, for Samsung, they have ultimately taken
9 out a line in Korea. So they are still producing washers
10 for the Korean market, but they only have one production
11 line in South Korea left. It is not their primary washer
12 production facility anymore.

13 COMMISSIONER SCHMIDTLEIN: And so what happened
14 to that equipment? Do you sell it? Or do you repurpose it
15 for something else?

16 MR. PARK: My understanding is that it can get
17 repurposed.

18 COMMISSIONER SCHMIDTLEIN: And did it? Do you
19 know?

20 MR. PARK: That's something we can follow up in
21 the post-hearing brief. I'm not sure specifically.

22 COMMISSIONER SCHMIDTLEIN: Okay. And so in
23 Mexico, in terms of how -- I wanna get a sense of, like, how
24 easy was this? Do you know? How much time did it take for
25 you to repurpose the Mexican facility to make dryers and

1 then smaller washers, I guess?

2 MR. PARK: That's something that we'll address in
3 the post-hearing. I'm not sure about the exact amount of
4 time that it took.

5 COMMISSIONER SCHMIDTLEIN: Okay. That would be
6 helpful. In addition to how much it cost.

7 MR. PARK: Absolutely.

8 COMMISSIONER SCHMIDTLEIN: Okay. So Samsung, can
9 you answer the same questions in terms of where you intend
10 to source from --

11 MR. PORTER: LG.

12 COMMISSIONER SCHMIDTLEIN: I'm sorry, LG, right.

13 MR. PORTER: LG. I will start, and of course, be
14 assisted by John Toohey and others, perhaps Andrew and Rick.
15 At present, LG only imports from Thailand and Vietnam. They
16 haven't produced any washers -- I apologize -- and Korea.
17 Outside Korea. Korea, Thailand and Vietnam. They have not
18 produced any washers in Mexico, I think since either right
19 before and right around the case which was 2012.

20 So there's been no production by LG washing
21 machines in Korea. And of course, they're not exporting
22 anything from China. And they've not thought to -- clearly
23 they have not thought to do any of these reviews to get the
24 margin down from China. So it's just focused on Korea,
25 Thailand and Vietnam, but as Mr. Toohey said, they

1 anticipate very soon to be able to supply 90% of their U.S.
2 sales from LG Tennessee.

3 COMMISSIONER SCHMIDTLEIN: And the other 10%
4 would come from Korea?

5 MR. PORTER: No. The other 10% would be a mix
6 from Korea LG and Thailand. And that would be reduced as
7 the factory --

8 COMMISSIONER SCHMIDTLEIN: Okay.

9 MR. PORTER: I just wanna make a very important
10 point. Of course, hearing from company officials and stuff
11 is evidence, but LG went and put on the record their
12 model-by-model, where each one is gonna come from and at
13 what quantity. If you look at it, I think Exhibit 9, you
14 can see model-by-model produced in the United States or
15 imported, and totals at the beginning. So they not only
16 are sort of stating their impressions here, they're putting
17 contemporary business information on the record. I'd like
18 to point that out.

19 COMMISSIONER SCHMIDTLEIN: Okay. And was LG
20 sourcing from Mexico previously? For the U.S. market?

21 MR. PORTER: I believe the answer is yes prior to
22 2012, but I would need to double-check. I'm pretty sure
23 since 2012, the answer's been no. Maybe it's 2013. But
24 essentially since 2012, 2013, there have no been no inputs
25 of washers from Mexico.

1 MR. KIM: We have history of importing some
2 Mexico produced models, but very minimal quantity, which we
3 do not right now. And to your other question, so because we
4 are at the very initial stage of running the Tennessee
5 factory, our end goal is to produce or provide more than 90%
6 of the U.S. demand, but it would need some time. So before
7 that time comes, we would still need to import from other
8 countries. Other countries meaning Vietnam, Thailand and
9 Korea.

10 And even if we achieve more than 90% provided
11 from the Tennessee factory, we would still need to provide
12 some models from Korea and that is because those
13 Korean-produced models requires more advanced technologies
14 and different platform, like the extra-wide platforms. So
15 those still would need to come from Korea.

16 COMMISSIONER SCHMIDTLEIN: Okay. So what
17 happened to the facility in Mexico? It was repurposed to do
18 something else when you stopped producing from there?

19 MR. KIM: So, we can have the details in the
20 post-hearing, but a -- currently, because of, I mean, we
21 operate the multiple products and locations around the
22 world. And we continuously review how to most efficiently
23 and effectively run our global manufacturing facilities.
24 And we've, you know, found that that is based on market
25 trend, the product trend and the profit and many variables.

1 And we have decided that because of the demand and then the
2 variables, we have to stop the production of the washers in
3 Mexico.

4 MR. PORTER: Commissioner Schmidtlein. Just
5 thirty seconds or less. We will provide in our
6 post-conference to answer your specific question, what
7 happened to the equipment and the space in Mexico back in,
8 whenever it was stopped, 2012, 2013?

9 COMMISSIONER SCHMIDTLEIN: Right, you can see --

10 MR. PORTER: Right. In addition, you'll note
11 from the LG foreign producer questionnaire response, LG
12 closed three production lines in Korea, okay?

13 COMMISSIONER SCHMIDTLEIN: Yes.

14 MR. PORTER: So we will also tell you very
15 detailed specificity what happened to the equipment and also
16 what is being done in that space now. And it is other
17 products.

18 COMMISSIONER SCHMIDTLEIN: Right. And then I
19 guess the last question will be, what's going to happen to
20 the facilities in Vietnam and Thailand? Because it seems as
21 though both of you are saying, "We're going to reduce our
22 sources" --

23 MR. PORTER: Right.

24 COMMISSIONER SCHMIDTLEIN: -- "sourcing from
25 those facilities," so what will happen to those facilities?

1 MR. PORTER: Again, we'll provide more
2 information in detail in post-hearing, but Mr. Toohey just
3 told me that he anticipates that we dedicated to local
4 markets.

5 MR. TOOHEY: Yeah, those are both growing markets
6 for laundry appliances. My understanding is we'll use those
7 facilities to primarily supply those domestic markets in
8 Thailand and Vietnam.

9 COMMISSIONER SCHMIDTLEIN: But they'll have to be
10 retooled to do that?

11 MR. TOOHEY: Yes, right, product is different.

12 COMMISSIONER SCHMIDTLEIN: Okay, all right.
13 Thank you.

14 CHAIRMAN JOHANSON: Commissioner Kearns.

15 COMMISSIONER KEARNS: I think I'm thinking all on
16 the same signs as Commissioner Schmidtlein here. Just to
17 follow up, so to make sure I understand. So Samsung has
18 stated that if things go according to plan, this year a
19 majority of product will be made in the U.S., and I think
20 what you're saying to Commissioner Schmidtlein is, and the
21 remainder will come from, entirely from Vietnam and
22 Thailand, is that right?

23 MR. PARK: Yes, that's correct.

24 COMMISSIONER KEARNS: Okay. And then LG, I know,
25 stepped behind in terms of production in the U.S., and you

1 all are saying a portion will be coming this year from
2 Korea, a portion from Vietnam and a portion from Thailand,
3 right?

4 MR. PORTER: That's correct.

5 COMMISSIONER KEARNS: Okay. And can you estimate
6 about how much from each of those three sources?

7 MR. PORTER: Yes, thank you Commissioner. If you
8 look at, I believe it's Exhibit 9, it is the information
9 with respect to Korea and we can obviously break out the
10 others between Thailand and Vietnam, but we've provided
11 model by model, what's going to be imported in 2019 and
12 2020.

13 MR. KLETT: Commissioner Kearns, that level of
14 detail was provided for Korea, Thailand and Vietnam so
15 basically on a model-by-model, country-specific basis, LG
16 provided that information in terms of its sourcing for the
17 U.S. market.

18 COMMISSIONER KEARNS: Okay. And why wouldn't, if
19 the order is revoked, why wouldn't some of those imports
20 from Vietnam and Thailand, why wouldn't you all consider
21 moving those and sourcing them out of Korea?

22 MR. PORTER: Commissioner Kearns, I'll start.
23 I'm sure many others wanna answer this question. The answer
24 is because production is specific, you know, with respect to
25 the size capacity and the features and there is not the

1 ability to make the sizes and features that are coming from
2 other locations in Korea. If you look at the LG foreign
3 producer questionnaire response, there is no excess capacity
4 in Korea. So when you say, why would you -- it physically
5 can't be done.

6 COMMISSIONER KEARNS: Okay.

7 MR. PORTER: And so the --

8 COMMISSIONER KEARNS: Thank you.

9 MR. SHOR: If I could jump in for Samsung --

10 COMMISSIONER KEARNS: Sure.

11 MR. SHOR: -- this is Mike Shor. I think this
12 question gets at the heart of the case. It's, you know the
13 petitioners this morning kept talking about their home base
14 theory. Why wouldn't you just move back to your home base?
15 And the reason--for Samsung, at least--there is currently no
16 production of LRWs for the U.S. market in Korea. Not one
17 unit at all.

18 COMMISSIONER KEARNS: Okay.

19 MR. SHOR: That's all coming from established
20 facilities in Thailand and Vietnam and there's no reason to
21 shift it back. If the tariff is zero, if the anti-dumping
22 duties are zero in one country, having the duties on Korea
23 reduced to zero, it doesn't change the economics of that at
24 all --

25 COMMISSIONER KEARNS: Okay, okay.

1 MR. SHOR: -- zero duties. And we heard
2 discussions, and what I really heard this morning from Mr.
3 Levy was theories devoid of evidence. We heard descriptions
4 about -- they have a--I think he called it a rich--rich
5 supplier network in Korea.

6 Well, there's no supplier network in
7 Korea producing LRWs. That supplier network all exists in
8 Vietnam and Thailand. So there's --

9 COMMISSIONER KEARNS: Okay.

10 MR. SHOR: -- there's no reason to develop a new
11 network when you already have one facing zero duties.

12 COMMISSIONER KEARNS: Okay.

13 MR. DURLING: Commissioner Kearns, just to follow
14 up on the home-based theory. Mr. Shor just addressed the
15 issue of supplier networks and the analogy you heard this
16 morning was misleading. The analogy is not that Korea is
17 like the U.S. and that everything is vertically integrated.
18 The supplier networks are more similar between Korea and the
19 other countries in Southeast Asia.

20 But the more important point to focus on is the
21 second part of their home-based theory was all the
22 subsidies. Well, it's easy to make the allegation of
23 subsidies, but let's remember the original Commerce
24 Department investigation found that there were zero
25 subsidies for LG, so there is no legal finding of Korean

1 government subsidies to LG, and the original Commerce
2 finding with regard to Samsung was a very, very small
3 subsidy to begin with, and that subsidy's in fact, been
4 declared largely illegal in subsequent litigation over that
5 subsidy. So we have zero subsidy and a very low subsidy,
6 which in fact, was improperly calculated.

7 COMMISSIONER KEARNS: Okay.

8 MR. DURLING: So the best evidence before you
9 today is that there are no subsidies in Korea.

10 COMMISSIONER KEARNS: Okay, thank you.

11 MR. PARK: Just one last point. My apologies.
12 Just to follow up on that home-based theory which is again,
13 a theory that is not grounded in reality. Again, Whirlpool
14 admits that Ohio is its home base. And yet you heard today
15 in testimony that they don't really use their home base for
16 exports.

17 They have facilities around the world and they
18 supply those markets using those local facilities, and here
19 it's a fraction or, again, the percentages were low, maybe
20 Canada, but again, the fact that you have a home-base
21 somewhere doesn't mean that you supply the world from that
22 home base.

23 COMMISSIONER KEARNS: Okay. So the pictures you
24 showed of the factory, I guess this is LG, but I think the
25 same question relates to Samsung. I saw a lot of big

1 machines that are used to make these products. Where did
2 those machines come from?

3 MR. MYERS: The machinery that we get comes from
4 a variety of sources. Again, and I believe we would want to
5 provide this in some detail in post-hearing brief from where
6 exactly they came from, but they're sourced from many
7 different countries and different companies.

8 COMMISSIONER KEARNS: Did you, when you lowered
9 your capacity in Korea and expanded your capacity in the
10 U.S., is it because you took these machines from Korea and
11 moved them to the U.S. or no?

12 MR. MYERS: No. None of the equipment and
13 machinery and everything that we have in the U.S. was
14 repurposed from Korea, none of it.

15 COMMISSIONER KEARNS: Okay. And from any of your
16 other sources? China, Thailand or Vietnam or Mexico?

17 MR. MYERS: Not that I'm aware of.

18 COMMISSIONER KEARNS: You're not? Yeah. Okay.

19 MR. PORTER: I believe, we'll triple-check this,
20 but I believe 100% of the equipment machinery in Tennessee
21 is brand-new.

22 COMMISSIONER KEARNS: Okay. So what happened
23 with all of the -- I guess this is, I think, more for
24 Samsung -- but what happened -- what capacity has been
25 reduced in Korea? What happened to that? I mean I know

1 someone said it's been repurposed to other markets. But
2 overall capacity has gone down for large residential
3 washers. So what happened to those machines?

4 MR. PARK: We'll provide the specific details for
5 that. We understand they were repurposed for different
6 products, but again, that machinery was not brought to the
7 United States.

8 COMMISSIONER KEARNS: Okay.

9 MR. PARK: It's not in their South Carolina --

10 COMMISSIONER KEARNS: Okay, you get to my overall
11 question --

12 MR. PARK: Yes.

13 COMMISSIONER KEARNS: What I'm trying to figure
14 out is how, how easy it is to move things from one country
15 to the other? I mean, you look at the factory, it's, you
16 know, pretty impressive. It's obviously a big footprint in
17 the U.S., but you know, to what extent can all those
18 machines just kinda be moved here or there fairly easily?
19 That's what I, in post-hearing would be helpful to know.

20 MR. SHOR: I think those who took the tour of the
21 Samsung factory in South Carolina understand this. Those
22 are all new machines. They're not moved from country to
23 country. They have to be, particularly some of the presses,
24 they have to be sunk in twenty feet of concrete so the
25 machine doesn't vibrate. So they're not moved around. When

1 we talk about repurposing, if you retool a stamping machine
2 to produce a smaller washer for the Korean market, that's
3 what we're talking about. We're not talking about moving
4 machinery.

5 COMMISSIONER KEARNS: Okay. Yeah, the more you
6 can provide post-hearing, that would be helpful on those,
7 you know, real specifics about how that works --

8 MR. PORTER: Commissioner Kearns, just ten
9 seconds. We'll of course get into sort of what machines,
10 why they cannot be moved and same thing with LG, because
11 your machines that were built for -- but I do wanna posit,
12 sure, we'll answer the question. But why would LG or
13 Samsung do that? Even if it physically could be done?
14 There needs to be some economic justification why they would
15 do it.

16 COMMISSIONER KEARNS: Well, if I can ask it back.
17 Why did they invest in the U.S.? Is it not because of the
18 orders?

19 MR. PORTER: Well, for LG, we have no CVD and our
20 anti-dumping has been zero for five years. No, it wasn't
21 because of the orders. It was because --

22 COMMISSIONER KEARNS: It had something to do with
23 the relief you've had under 201 and Title 7?

24 MR. PORTER: Again, it has nothing to do with the
25 AD/CVD orders because LG is shipping from Korea under the

1 AD/CVD orders.

2 COMMISSIONER KEARNS: Does it have anything to do
3 with the 201?

4 MR. PORTER: Did it have anything to do with the
5 201? As John Toohy was here in the safeguard, testified
6 the decision, in fact, the announcement of the new factory,
7 the formal announcement was made before the petition was
8 filed in the safeguard, so the answer is no. It did not
9 have anything to do with the safeguard.

10 COMMISSIONER KEARNS: So it's just a coincident
11 with the Title 7 cases going back and then the --

12 MR. PORTER: Again, this is all on the record.
13 Go back and look. The announcement of the new facility in
14 Tennessee was before the petition was filed.

15 COMMISSIONER KEARNS: Right. But after the Title
16 7?

17 MR. PORTER: Well, yeah, the Title 7 was back in
18 2013.

19 COMMISSIONER KEARNS: Right.

20 MR. PORTER: But again, the announcement was made
21 sometime in early 2017, but again, LG had no problem living
22 under the AD/CVD. So that could not possibly have been a
23 reason to invest \$350 million in the United States.

24 COMMISSIONER KEARNS: Okay, you say you have no
25 problem living under it, although the fact that the zero

1 margin's not necessarily the same thing as not having
2 problem living under it. But if you have no problem living
3 under the order, then what's the harm in us keeping the
4 order in place for five more years?

5 MR. PORTER: Commissioner Kearns, with all due
6 respect, that is not a fair question. You're basically
7 saying if we didn't show up, then you would revoke the
8 order.

9 COMMISSIONER KEARNS: No, I'm not saying that.

10 MR. PORTER: We are participating in the
11 Commission proceeding and --

12 COMMISSIONER KEARNS: I'm not saying that. And I
13 don't like when people say that. I don't say that. A lot
14 of times people come in here and they say, "You have to
15 understand, we need to supplement our U.S. production with
16 this type of product versus that type of product," and those
17 answers make perfect sense, and a lot of times we have
18 revoked on that basis. But I'm trying to understand from
19 you if that's the argument or what?

20 MR. SHOR: If I could, for Samsung, we have no
21 intention of, if the order is revoked, removing, bringing in
22 any product from Korea or any product from -- it all comes
23 today and will continue until we ramp in the United States
24 from Vietnam and Thailand. Reason Samsung is here is
25 because it's a global manufacturer, we believe in free

1 trade.

2 We think trade barriers hurt consumers and other
3 participants in the market everywhere, and it's our right to
4 be here. You know that. And this is the point that Mr.
5 Levy was making. There's a difficulty in every Sunset
6 Review for the respondents because the petitioners argue,
7 well, the fact that they're here means they should lose.

8 COMMISSIONER KEARNS: I understand.

9 MR. SHOR: Just the fact that Electrolux is not
10 here means that Mexico should be excluded? No. Mr. Levy
11 doesn't suggest that. You might ask him why. So it's an
12 unfair question in -- . We're here because we believe in
13 free --

14 COMMISSIONER KEARNS: Well, if I can just push
15 back on that. Again, you have a right to be here. I want
16 you to be here. I don't take the view that if you're here,
17 that means we have to keep the order in place. That's
18 silly. But there are different ways and different cases
19 that the question has been answered. And a lot of times it
20 has to do with, well, we need to source this particular
21 product, this particular make of the product and so forth to
22 fill out -- there's a lot of different arguments that can
23 be made. So, just to be clear, I'm not suggesting that
24 categorically, if you're here, then we continue the order.
25 And I think that's clear from our --

1 MR. SHOR: I appreciate that. You know, for
2 Samsung, the issue is, and I think the fundamental question
3 before the Commission is, is there any evidence on the
4 record to suggest a reason why Samsung would move, shift
5 production from Vietnam and Thailand back to Korea and
6 Mexico? And I haven't heard any reason why they would do
7 that. The supplier network exists in those countries. The
8 factories exist in those networks. There are no
9 anti-dumping duties from those countries.

10 COMMISSIONER KEARNS: Okay.

11 MR. SHOR: No reason to shift.

12 COMMISSIONER KEARNS: I hear you and I'm gonna
13 think about that. But isn't the response, too, was there
14 any reason to shift production from Korea to China, from
15 China to Vietnam and Thailand, and from Thailand and Vietnam
16 to the U.S.?

17 MR. SHOR: Well, there were reasons. There
18 were--

19 COMMISSIONER KEARNS: Those are big investments,
20 starting in the investment in Korea.

21 MR. SHOR: There were duties in place on Korea,
22 and then there duties in place on --

23 COMMISSIONER KEARNS: Right. So you moved, you
24 moved away from the duties.

25 MR. SHOR: But now, there's no duties. There are

1 no duties in --

2 COMMISSIONER KEARNS: Well, we're trying to
3 decide if there's gonna be duties to some extent, right?

4 MR. SHOR: Right, but there are no duties from
5 Thailand and Mexico.

6 COMMISSIONER KEARNS: Right.

7 MR. SHOR: So if you have higher duties --

8 COMMISSIONER KEARNS: Other than 201, yeah.

9 MR. SHOR: -- low-duty country, but if you're a
10 zero-duty country, no reason to move back to another
11 zero-duty --

12 COMMISSIONER KEARNS: Other than the 201, right.

13 MR. SHOR: 201 faced in both countries.

14 COMMISSIONER KEARNS: Okay. Thank you.

15 MR. ANDERSON: Commissioner Kearns, just -- I
16 just wanna step back for a moment because we tried to convey
17 this in our direct testimony and perhaps it wasn't clear.
18 But it's always been LG's intention to shift production to
19 the United States once it reached a particular scale of
20 production and had a certain market presence. That's not
21 that unusual.

22 You've seen it happen in the auto industry. You
23 see this happen in global consumer goods industries because
24 they wanna be close to market. There are very clear
25 advantages to being close to market. Did the trade actions

1 affect some timing? Perhaps.

2 But now that the plan is here, are these
3 comparative advantages, you can see right here on the slide,
4 and these comparative advantages are not ours. They're
5 basically Whirlpool's own descriptions of what those
6 comparative advantages are. We have eliminated
7 transportations costs as Commissioner Williamson has
8 pointed out.

9 Whirlpool mentioned that they were going to save
10 on transportation when they moved from Mexico to the United
11 States. They repeat traded for the same exact economic
12 reasons we are shifting productions to the United States.
13 It gives us quicker responsiveness to changes in demand. In
14 fact, Mr. Toohey was telling me that a big selling point
15 with their new plant is they can go to the retailers and
16 say, "Look, we can now adjust to your weekly and monthly
17 demand changes, as opposed to placing orders three months in
18 advance." So that's a very big comparative advantage.

19 And there's also this heightened synergies
20 between sales and development. So that, you know, the
21 workers and the employees can give feedback. And finally,
22 this gives LG and Samsung an ability to also appeal to those
23 who prefer their products be U.S.-made or U.S.-assembled.

24 So there are -- now that the plant's a reality,
25 what you really need to look at is, is there economic

1 incentives that keeps that production there. What those
2 incentives or disincentives in terms of moving from Thailand
3 to Vietnam, the disincentives are real, there's no reason to
4 move that back if the order is eliminated, because there are
5 larger economic forces. There are different wage rates in
6 those countries, entirely different set of circumstances,
7 and different market growths. There's much higher growth,
8 local markets in Vietnam and in Thailand than there is in
9 Korea.

10 COMMISSIONER KEARNS: Okay, thank you. I've gone
11 well over my time. And I appreciate the other
12 Commissioners' patience on this. Thank you.

13 MR. WINGATE: Richard Wingate on LG, if I could
14 comment just briefly on the history as well. For all the
15 reasons Mr. Anderson just said, LG began looking for a
16 washing machine facility in 2011. It took us a long time to
17 finally make the decision with shifting factories, but all
18 of those reasons that we recently say were the reasons we
19 first began looking, had nothing to do with duties.

20 CHAIRMAN JOHANSON: All right. Thank you all
21 again for appearing here today. During the morning panel,
22 counsel for Whirlpool responded to questions about the
23 changed circumstance review at Commerce by presenting a
24 chart that appeared to indicate that LG and Samsung opposed
25 Whirlpool's request. This is a little puzzling as you are

1 here today to urge revocation of the underlying
2 anti-dumping duty order.

3 If your companies did not support liberalization
4 of the Mexico AD order, I'm a little curious as to why
5 you're now urging revocation of this same order.

6 MR. SHOR: Our position in the changed
7 circumstance review was, if Whirlpool no longer wanted the
8 order, they should have revoked the order, not just changed
9 the scope of the order.

10 CHAIRMAN JOHANSON: But wouldn't that not have
11 benefited you all?

12 MR. PARK: Commissioner, this is David Park on
13 behalf of Samsung as well. Just to step back a little bit
14 on what we said. Yes, in our submission, we actually
15 questioned why Whirlpool was doing this and Whirlpool had
16 provided no background and we thought it was arbitrary, and
17 our support was for the elimination of order in its
18 entirety, not simply a portion of the order.

19 And just by way of background, there was a number
20 of questions about it this morning. We'd like to address it
21 as well. I think Mr. Tubman had suggested that the
22 Electrolux model, the direct-drive model was some
23 revolutionary model that made Whirlpool rethink its entire
24 thinking about whether or not direct-drive should be part of
25 this lineup.

1 A few points on that. Number one, that model was
2 introduced in April of 2018, and if you look up the reviews
3 of it, the reviews say it's very similar to the prior
4 generation model. When you look at it in terms of the
5 context of when this changed circumstances review was filed,
6 the changed circumstances review was filed in March, 2018.

7 That model was introduced in April of 2018 and
8 then Whirlpool filed its substantive arguments in favor of
9 eliminating that from the scope in May, 2018. And then
10 Whirlpool didn't ultimately withdraw its request until
11 December. So, again, a product that's revolutionized and
12 changed the way they think about a product, they waited
13 eight months for them to pull the CCR request.

14 We think there's a different reason which is why
15 some of the responses are a little bit confused. Electrolux
16 had been participating in the Mexico administrative reviews
17 and due to a counsel error, they missed a filing, and they
18 received a total adverse facts available rate of 72.41%
19 which was announced on March 13th, 2018. Within ten days,
20 Whirlpool files a CCR request that would eliminate all of
21 Electrolux's products from the order, essentially giving
22 them a free ride.

23 And the rumors at that time was that there were
24 discussions between Whirlpool and Electrolux about somehow
25 letting Electrolux off the hook. There was a lot of

1 uncertainty at the time that was filed. We wanted
2 additional clarity. We noted that they had provided no
3 context for it. We know this is rumor.

4 But to be honest, when the China case was filed,
5 there were rumors that because of the Chinese government,
6 Whirlpool had tailored its scope to exclude certain
7 products, to allow certain Chinese producers out of the
8 scope. Whirlpool denied it at the time and said, no,
9 that's, there's other commercial reasons for it. You heard
10 Mr. Levy say here today, in fact, it was the Chinese
11 government, that's why we eliminated the scope.

12 We encourage you to ask Whirlpool and Electrolux
13 about whether they had any discussions between the two of
14 them about a settlement to get Electrolux out of the case.
15 We also encourage you to not allow them to stand behind any
16 agreements of confidentiality. But the timing within ten
17 days to allow Electrolux off the hook for all parties that
18 are involved in these cases was very curious and we wanted
19 more information. Thank you.

20 CHAIRMAN JOHANSON: Okay, thank you, Mr. Shor and
21 Mr. Park. I still remain a little confused, because part of
22 the order would've gone away. And I know ideally you'd get
23 rid of the entire order.

24 MR. SHOR: It's only for products that none of us
25 produce.

1 CHAIRMAN JOHANSON: Okay. I understand.

2 MR. PORTER: I do wanna emphasize that point,
3 okay? LG does not produce anything in Mexico. And LG has
4 never produced a belt-drive washer. So for LG, this was
5 completely a litigation strategy. And if Whirlpool is doing
6 this partly because of the reasons Mr. Park said, but also
7 partly because the way the Commission does its analysis, if
8 something is included in this scope, then you ask about it
9 for imports all around the world.

10 If something is not included in the scope,
11 there's less attention to it. And, obviously, what
12 Whirlpool wanted to do was to hide the fact that there's a
13 whole lot of belt-drive washers which are part of the scope,
14 coming in from China to GE. And they wanted to hide that
15 fact by doing this sort of litigation maneuver. We oppose
16 that and we actually stated that in our response to the
17 Commerce Department.

18 MR. PARK: Just one final point on that. Again,
19 you heard this morning that Whirlpool's decision to withdraw
20 its CCR request was motivated by this revelation that
21 Electrolux can produce this product that for direct drive
22 just changes the market, but in fact, it was GE that
23 objected in the CCR, which made it impossible, ultimately,
24 for Whirlpool to succeed on the CCR. And after the Commerce
25 Department confirmed that in the preliminary results in

1 November of 2018, then in December of 2018 Whirlpool
2 withdrew its request.

3 So again, when we look at it, it's not Mr.
4 Tubman saw this product in April, revolutionized it, let
5 their lawyer still argue for the exclusion of it from the
6 Order, waited eight months, just a random period of time for
7 them to withdraw their CCR request. We think there is a
8 series of events that took place, including GE's objection
9 to this, which shot down and was confirmed as part of the
10 prelim in November 2018; ultimately, leading Whirlpool in
11 December 2018 to withdraw its CCR request.

12 MR. SHOR: Just to emphasize one point because
13 it wasn't touched on at all this morning and it came up a
14 little quickly just now. All the talk this morning was
15 about belt drive machines from Electrolux from Mexico. The
16 largest imports of belt drive machines in late 2008 (sic)
17 were from China by GE. The China case also includes an odd
18 exclusion for belt drive machines. That was done because GE
19 and Haier were about to conclude the sale of GE's appliance
20 division to Haier at the time that case was filed. So,
21 Whirlpool has always manipulated the scope in these various
22 cases to take care of, you know, other parties and to get
23 the domestic industry in line.

24 So, the Commission should not lose sight of the
25 fact Samsung and LG do not produce any belt drive machines.

1 GE imports them from China and Electrolux imports them from
2 Mexico.

3 CHAIRMAN JOHANSON: Okay, thank you for your
4 responses.

5 And sticking with Mexico just for a minute,
6 which models did Samsung make in Mexico during the original
7 period of investigation and could those models be made again
8 if the Order were revoked on Mexico?

9 MR. PARK: We'd have to go back. Those models
10 are obsolete and they no longer produce those in Mexico.
11 Again, the Mexico facility is now similar to Whirlpool's
12 Mexico facility. It has been retooled to service the
13 Mexican/South American markets, but we can get back to you
14 in terms of the specific models that had been sold back in
15 2012 and before.

16 CHAIRMAN JOHANSON: Okay, thank you.

17 Now, I'm going to switch to something a bit
18 different -- actually, quite a bit different. Could you all
19 please respond to the domestic industry's party argument
20 that the Commission should exclude Samsung from the domestic
21 industry as a related party because it's more interested in
22 importing large residential washers than in producing them
23 in the United States?

24 MR. SHOR: First, I just want to be clear of
25 what I heard this morning. That's not their argument. They

1 specifically take no position on that issue, but they've
2 just presented it.

3 Samsung believe it should not be excluded from
4 the domestic industry in large part because you know this is
5 not a backward looking investigation. It's a forward
6 looking investigation. At some point in 2009 (sic), our
7 interest will be primarily as a domestic producer, not as
8 imports, so we think that's important. And as I think
9 Commissioner Kearns mentioned this morning, the Commission
10 tends only to exclude domestic parties when they believe
11 that there's some distortion caused by their role as being a
12 domestic interested party. Samsung's interest as an
13 importer is not in any way distorting any of its domestic
14 production activities.

15 CHAIRMAN JOHANSON: Okay, thank you, Mr. Shor.

16 You know the yellow light's on, so I'm going to
17 end there. Commissioner Williamson.

18 COMMISSIONER WILLIAMSON: Thank you, Mr.
19 Chairman. I do want to thank the witnesses for coming
20 today.

21 On this question of the -- when you decided to
22 invest in the U.S. and all of that and I know LG does the
23 reference to six years ago and the question that comes to
24 mind what took you all so long to get here, given the
25 tendency of major global, sophisticate companies, which you

1 are, to want to, you know, locate in big markets that are
2 important to them? I'm sure there was plenty of land around
3 the U.S. you could've found.

4 MR. TOOHEY: Well, I joined the company in 2010
5 and one of the projects I worked on at that time was a
6 review of the feasibility of U.S. manufacturing as compared
7 to other alternative locations, most of which were Asia.
8 And you know the factors that we were looking at was what do
9 we believe was going to happen to labor costs in Asia over
10 the five to ten year timeframe. What did we think was going
11 to happen to transportation costs?

12 And when we put all our beliefs into a coherent
13 model, the U.S. actually emerged as the low-cost site. The
14 other factor I left out is the scale of our business because
15 there is a need to run a factory at an efficient scale, so
16 it depends on market share as well, so what did we believe
17 about the growth of our market share within the U.S. market.
18 So, we put all that together and at that time in 2010 you
19 know we were looking at 2016-ish as a time when the U.S.
20 would be the low-cost location.

21 Now, in between then and now a lot of other
22 things happened. You know our beliefs about labor costs and
23 freight costs and so forth were replaced with new beliefs
24 and so you know none of this stuff is deterministic, but
25 that is the kind of thinking. And so when the trade cases

1 came along, it layered into the model. It layered into the
2 thinking and I'd say tilted the balance or changed the
3 timing in some respects, but the other thing that affected
4 timing was the thoroughness and exhaustiveness of our
5 search. You know it's a needle in a haystack operation to
6 come to a region as large as the U.S. and try to decide
7 where is the best place to put a facility like this.

8 You know you have 3,000 miles of territory to
9 cover. Populations are growing at different rates in
10 different parts of the country. Housing is performing in
11 different ways in different parts of the country. And so,
12 it's a complicated task and there was a lot of diligence
13 involved in coming to even just a short list of where would
14 make the most sense.

15 MR. PARK: Just also to kind of step back a
16 little bit, Samsung entered this market, the U.S. market, in
17 terms of washers I think it was in 2005 or 2006. It is not
18 an incredible amount of time, so within about 10 years to
19 make a decision to invest in a facility here is not, we
20 think, out of the question. And Samsung, similar to LG, has
21 spent years looking at a location before the 201
22 proceedings.

23 In terms of the other facilities in China and
24 Thailand, for example, these are facilities that were
25 existing for many, many years, but to build a new facility

1 is a decision that takes a long time. So again, it's not as
2 if we were selling washers for 30 years and it took us this
3 long. It's about 10 or 11 years before actually making --
4 making the decision was within 10 years, but actually
5 building a facility and having it running, starting in
6 January 2018 for Samsung we think is relatively quick
7 turnaround for an investment decision of this size.

8 MR. KOMAROMI: I'll just add to what David Park
9 was saying. You know this is the first manufacturing
10 facility built in the United States by Samsung in about 20
11 years. It's a big decision. We've got to have the demand.
12 We have to have the market share. It has to make sense and
13 you know it's time. We want to be close to the American
14 worker. We want to be close to the American consumer and we
15 want to be close to the American innovator and we're here
16 and we're glad and we're here to stay.

17 COMMISSIONER WILLIAMSON: Yes, okay. You still
18 haven't convinced me why you didn't do it a whole lot
19 sooner, but that's not worth discussion; but thank you.

20 The 201 remedies are set to expire in early
21 February 2021. Is that within a reasonable, foreseeable
22 timeframe and why or why not?

23 MR. SHOR: The reasonable, foreseeable time
24 period depends on the industry and how much visibility you
25 have into the future. I suggest on this record you really

1 have no basis to look beyond 2021. As the slide was put up,
2 you've gathered data for 2019 and 2020. You haven't really
3 gathered any data for 2021. I don't think you can take the
4 termination of the 201 Orders as part of the reasonably
5 foreseeable time. I think that's within the two-year
6 timeframe. And to just say, well, it's going to expire two
7 months before that two-year period ends would not be
8 reasonable. You just don't have any data to conclude what
9 else would be different in those last two months of 2021.
10 You gathered data for 2019 and 2020.

11 COMMISSIONER WILLIAMSON: Even though there's
12 been testimony this morning about anticipation and how much
13 imports were set to come in when the 201 tariffs drop down?

14 MR. SHOR: As was also raised this morning, yes,
15 you know that the 201 duties are set to -- the tariffs are
16 set to expire, but you don't know what the state of the
17 domestic industry is going to be at that point. You don't
18 know how successful their adjustment plans are going to be.
19 There's just too much uncertainty to look at that pinpoint
20 event and say we're going to take this event into account,
21 but not anything else in that timeframe. You just don't
22 have visibility that far out.

23 MR. PORTER: So, there's a data issue, right?
24 The Commission has data -- at least some data through 2020.
25 No data beyond that, but also there was a sort of historical

1 practice. The Commission has basically said when we look
2 into the future we like to do about two years. I mean
3 that's just the Commission practice.

4 The third thing I think is also very important
5 with respect to today's politics we don't know what's going
6 to happen with the 201 relief. It could be extended for a
7 year. And for the Commission to guess that it's not going
8 to be extended when it could be sort of 50/50 either way I
9 think is too much uncertainty to have that come into play,
10 so I don't think it's reasonable to say, well, we're going
11 to extent to 2021 because we want to capture a time period
12 when there's no safeguard. We don't know there's going to
13 be a safeguard in 2021.

14 COMMISSIONER WILLIAMSON: Okay, thank you. I
15 may come back to that.

16 Okay, you said that you can -- Mr. Toohey,
17 talking about the Tennessee facility you can switch between
18 models. You can switch models in a few minutes at this
19 facility. I was wondering is this true at other locations?
20 Are you as flexible there?

21 MR. TOOHEY: Yes, my understanding is this one
22 is special in that way. It's more automated, more flexible
23 in terms of switching from one model to another in a shorter
24 period of time.

25 MR. PORTER: If I just may, this particular

1 Tennessee factory was built explicitly for washers. All the
2 other facilities had existed before sort of increases from
3 the facility to the United States, so that's why it's
4 different.

5 COMMISSIONER WILLIAMSON: Okay. Okay, for both
6 Samsung and LG, do you plan to produce out-of-scope, smaller
7 washers at your U.S. production facilities and if it's
8 proprietary you can do it post-hearing.

9 MR. TOOHEY: You're talking about the
10 one-cubic-foot pedal washers, if so, the answer is no?

11 COMMISSIONER WILLIAMSON: I was just thinking
12 about anything that was out of scope.

13 MR. TOOHEY: I don't think so.

14 MR. KIM: So, currently, as we explained, we're
15 at a very initial stage of running the Tennessee factory and
16 our utmost target is to ramp up as soon as possible and as
17 much as possible, which is why we are mostly focused on the
18 regular 27-inch washer. And at the time of -- if we meet
19 the target of producing the maximum capacity maybe that will
20 be the time when we could review to produce more
21 out-of-scope models, but as of now we're solely focused on
22 producing the regular type of washers.

23 COMMISSIONER WILLIAMSON: Okay.

24 MR. PORTER: Commissioner, we provided data to
25 answer your question in Exhibit 9.

1 COMMISSIONER WILLIAMSON: Okay, good. Thank
2 you.

3 MR. PARK: On behalf of Samsung, we'll address.
4 Samsung doesn't have a lot of production of out-of-scope
5 products, so that's something that we'll address in our
6 post-hearing.

7 COMMISSIONER WILLIAMSON: Okay, well, my time
8 has expired, so I'll come back to the next question later.
9 Thank you.

10 CHAIRMAN JOHANSON: Commissioner Broadbent.

11 COMMISSIONER BROADBENT: Thank you.

12 Let's see, for LG, can you explain if the
13 products you plan to import from Korea will compete with the
14 Yanis washers that Whirlpool has started producing?

15 MR. KIM: So, as I explained, the products we
16 will be bringing in from Korea will be the extra wide
17 platforms, so which range from the 5.2 cubic feet to 5.8
18 cubic feet and at the price point it might compete with was
19 showed in the morning, their most high end, the front-load
20 washers. But in terms of the segment of the market is only
21 around 2 percent of the volume of this market. So, to
22 shortly answer your question it might compete, but because
23 it is a very small segment of the market what Whirlpool
24 mentioned as a threat will probably not be there.

25 And also, you had heard about some features in

1 the new innovations so-called from Whirlpool today and most
2 of those innovations and features actually the LG introduced
3 to this market and also the LG also is providing all those
4 features at the same time. So, I think what Whirlpool is
5 concerned about you know where the product is coming from,
6 but actually LG's superiority in terms of product. And as
7 you saw in the previous presentation from Mr. Toohey,
8 consumer reports shows that the LG, the products are
9 dominating the consumer reports, not only because we're
10 providing the innovations and the good features, but we are
11 the number one in terms of brand reliability for a very long
12 time and the product quality is what we take as the highest
13 priority in terms of providing the products.

14 MR. DURLING: Commissioner Broadbent, I would
15 just like to add to that. The additional consideration is
16 the phenomenon that Mr. Toohey was testifying. That, yes,
17 if LG were to lower the price of its top-end washers there
18 might be some competitive consequence, but in deciding
19 whether to do that LG would have to also take into account
20 the effect on its own sales. And as he explained, the
21 affect on its own sales within the same brand is likely to
22 be more significant and that goes to the question of
23 whether something is likely.

24 Is it theoretically possible that that could
25 happen? Sure. But is it likely to happen, and for the

1 reasons that Mr. Toohy explained, it's not likely to happen
2 because there's a natural disincentive for LG to do that.

3 MR. PARK: Again, Samsung has no plans to import
4 any washers from Mexico or Korea. So, for Samsung they have
5 no plans to bring in anything that would compete.

6 COMMISSIONER BROADBENT: Okay. I mean how do
7 the LG products compare to the Yanis product, though? Are
8 there more features on the LG product?

9 MR. KIM: So, the Yanis product I believe you're
10 referring to the high-end front-load.

11 COMMISSIONER BROADBENT: Right.

12 MR. KIM: So, first of all, the capacity-wise of
13 the Yanis product I heard is 5.0 cubic feet. The extra wide
14 products that are coming in from Korea ranges from 5.2 cubic
15 feet to 5.8 cubic feet. And also we do have what you call
16 the turbo wash technology, which cuts down the washing time
17 significantly as well as well as we do have our direct drive
18 motor which we produce by our own factory as well as the AI,
19 the artificial intelligence features and the smart thank you
20 features, which is done by the Wi-Fi abilities, so there are
21 a lot of other different things that we can go on and on,
22 but those are the primary things.

23 MR. PORTER: Commissioner Broadbent, the extra
24 wide is out-of-scope. It is not covered by AD/CVD, so the
25 termination, no termination will have no affect on the extra

1 wide.

2 COMMISSIONER BROADBENT: Okay, thank you.

3 For Samsung, can you address Mr. Levy's argument
4 that Samsung repurpose production in Mexico from washers to
5 dryers? Did Samsung have an injection molding equipment or
6 other washer-specific equipment in Mexico that it had to
7 destroy, sell, or ship to other destinations when it made
8 its shift to washers?

9 MR. SHOR: We'll have to address that in our
10 post-hearing brief.

11 MR. PARK: We'll address the specifics in our
12 post-hearing brief, but as we noted today, part of the shift
13 was to dryers as well as washer -- smaller capacity washers
14 for the Mexican and South American market, but we'll address
15 the specifics of what happened to the equipment in our
16 post-hearing.

17 COMMISSIONER BROADBENT: Okay.

18 MR. DURLING: Commissioner Broadbent, we just
19 want to follow up on the comment just to clarify. The extra
20 wide is outside of the scope of the Section 201 proceeding.
21 It is within the scope of the anti-dumping proceeding.

22 COMMISSIONER BROADBENT: Okay, so I don't feel
23 so dumb.

24 MR. PORTER: My mistake. I apologize,
25 Commissioner.

1 MR. DURLING: I wanted to correct the record.

2 But the other --

3 MR. PORTER: There are too many duties on
4 washing machines.

5 MR. DURLING: But the other facts on the records
6 -- what facts you currently have on the record the available
7 evidence is that at the high-end, front-load comparison the
8 LG price is actually much higher than Whirlpool and that's
9 basically proprietary slide number 1, which did the
10 comparison based on the available information in this
11 record, okay, so this isn't an -- comparison to Yanis, but
12 this is a comparison to what's the available information.

13 The reason the information is more limited is
14 that, historically, the domestic industry has not requested
15 as pricing products the high-end products. And we submit
16 that the reason they've consciously focused on different
17 pricing products is it is their belief that if you collect
18 the data on high-end versus high-end you would actually see
19 that there's no underselling by the Korean brands by LG and
20 Samsung, that the underselling is actually by the domestic
21 brands. So, the fact that they've never included these as
22 pricing products is itself evidence on the record that this
23 isn't something where the so-called pervasive underselling
24 is likely to have occurred.

25 And then, finally, I would note that having

1 lived under the discipline of the anti-dumping Order for the
2 past five years and having a plausible business incentive
3 not to try and recreate that nightmare in the future, LG has
4 been demonstrating its ability to sell and compete
5 successfully with Korean-made washers at price levels that
6 do not involve any dumping. And so, again, the question is
7 looking into the future what is likely to happen and were
8 the Commission to lift the anti-dumping duty on Korea is it
9 likely that LG would then immediately turn to behavior that
10 would give Whirlpool the incentive and the ability to file
11 and put those duties back in place? I submit I just don't
12 think that is likely. It is theoretically possible? Sure.
13 Anything is theoretically possible. I just don't submit the
14 evidence you have on this record makes that likely.

15 COMMISSIONER BROADBENT: Mr. Park, I have to ask
16 what does an Artificial Intelligence enabled washing machine
17 do.

18 MR. KIM: Probably the question was for me.

19 COMMISSIONER BROADBENT: Excuse me. I'm sorry.

20 MR. KIM: So, I mean it's probably a little
21 complicated to explain within the limited amount of time,
22 but basically, the end goal of the artificial intelligence
23 is for the washers to do the washing for you. So, rather
24 than currently you need to think about what you need to wash
25 and how long you need to wash and the temperatures and then

1 the soil level you need to think about it and you need to
2 set it by yourself. At the end goal, the artificial
3 intelligence technology is that the washers do those jobs
4 for you.

5 COMMISSIONER BROADBENT: And the Whirlpool
6 washer doesn't do that?

7 MR. KIM: I mean different manufacturer has a
8 different level of application of those smart and artificial
9 intelligence technologies, but I mean we pride ourselves
10 that we are the forefront of the smart technologies. And
11 actually, I forgot to mention one more thing about
12 difference between Whirlpool and LG and one is the twin wash
13 that some of you probably remember from the previous
14 hearings, a smaller washer that can go under the main
15 washer and can do two separate loads --

16 COMMISSIONER BROADBENT: Right.

17 MR. KIM: -- at the same time. And as I
18 mentioned, it's not just about having features or the prices
19 that the American consumer consider when they make the
20 purchase decision because it is a purchase decision you need
21 to make every 10 years, so they really look for product
22 reliability, the recommendations, and then the customers'
23 satisfaction. And as you saw, the LG has the highest brand
24 reliability and the product reliability satisfaction.

25 COMMISSIONER BROADBENT: Right. Thank you very

1 much.

2 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

3 COMMISSIONER SCHMIDTLEIN: I just have a
4 question following up on Commissioner Kearns' line of
5 questioning with you, Mr. Shor; about I guess Samsung's
6 position in this case. Because it did strike me listening
7 to you all say that you have no intention to import even one
8 unit from Korea or Mexico and you've invested millions and
9 millions and millions of dollars in South Carolina to
10 establish U.S. production and that's where you intend to
11 source the vast majority of product for the U.S. market.

12 So, if that's the case and given that you
13 compete with LG, right, they're a competitor. I mean you're
14 both Korean companies, but you are competing, right?
15 There's arm's length competition here. Why isn't Samsung
16 supporting the petition, right? If you've got a competitor,
17 you've got millions and millions of dollars here in the
18 United States. You don't plan to bring any units in from
19 these two other countries. You've got a competitor saying
20 that they are going to bring some in and not only do you not
21 support the petition to help that return on investment that
22 you're wanting to achieve in South Carolina, but you oppose
23 it. And I was trying to remember -- I don't know, maybe one
24 of you in the room, we had a case recently and I cannot
25 remember the product where we had a Respondent switch sides.

1 So, in the prelim they opposed the petition. There was a
2 change, right, were they decided they were no longer going
3 to import. They were going to -- and they had U.S.
4 operations. They were going to focus on the U.S. operation
5 and in the final they came in and they had switched sides,
6 so that made for a really fun hearing because they had all
7 kinds of statements in the prelim, staff conference, so
8 forth. So, it does happen. It happens when companies
9 refocus their production.

10 MR. SHOR: That's a very good question. I can
11 tell you that Samsung went through a lot of thinking on what
12 their position in this case would be. I think one thing
13 you've might've looked at is the number of witnesses on the
14 Samsung side of the table and the number of witnesses on the
15 LG side of the table.

16 COMMISSIONER SCHMIDTLEIN: Well, I noticed your
17 brief wasn't quite as long, which I appreciated.

18 MR. SHOR: But at the end of the day, Samsung is
19 a global company and it believes its long-term interest is
20 removing trade barriers everywhere in the world.

21 COMMISSIONER SCHMIDTLEIN: I'm sure that Samsung
22 -- I mean Korea there's been cases brought in Korea under
23 the AD/CVD laws that benefits Samsung? No?

24 MR. PARK: We are not aware of any cases on home
25 appliances by Samsung in Korea.

1 COMMISSIONER SCHMIDTLEIN: No, no, no, not home
2 appliances, but if you're talking about a general philosophy
3 that you're just here because you want to reduce barriers I
4 mean Samsung's benefit, really, even though you've invested
5 millions and millions and millions of dollars in the United
6 States market.

7 MR. PARK: So, just to reiterate that point. It
8 was a difficult decision for Samsung to make. Samsung did
9 not take its decision on which position to take and how to
10 participate in this proceeding lightly. This was a
11 discussion that took place over a course of time and Samsung
12 ultimately made the decision. Again, not just LG, but
13 Electrolux, to be honest, we compete with both imports from
14 Korea and Mexico, but they made the decision. And again,
15 this is, I think, the first proceeding on washers where
16 there is no Samsung product displayed because there's
17 nothing from Korea or Mexico.

18 But at the end of the day, Samsung's position --
19 the position that they decided to take for purposes of this
20 proceeding, even though they have truly no plans to import,
21 was that to aid the Commission in making this determination
22 they wanted to participate and they also wanted to state a
23 position that they are not in favor of continuing these
24 Orders.

25 MR. PORTER: Commissioner Schmidtlein, if I may,

1 I'd just note that LG's position on cumulation is more in
2 line with your thinking.

3 COMMISSIONER SCHMIDTLEIN: Well, I wondered
4 about that. That's a good segue to that question. If we
5 did decumulate because you didn't say -- I mean do you think
6 we would go -- you would like us to go negative on
7 Korea/affirmative on Mexico if we decumulate it. And if
8 there's not going to be a different outcome, then you would
9 still like us to decumulate, go negative on both.

10 MR. PORTER: No. I think our brief is very
11 clear. We're arguing for no cumulation. But of course, as
12 we all lawyers do, should the Commission not agree with us
13 on that threshold issue, we have a very last section, as the
14 brief does, that even accumulated there should be
15 termination of the AD/CVD. So, it's the classic -- it's a
16 very standard lawyer argument.

17 COMMISSIONER SCHMIDTLEIN: If we did decumulate
18 -- if we considered them separately, what is your position
19 on Mexico?

20 MR. PORTER: LG has no intention -- LG doesn't
21 care about Mexico. All LG wants is the termination of the
22 anti-dumping Order on Korea. That's LG's position.

23 COMMISSIONER SCHMIDTLEIN: Alright, that's
24 helpful.

25 MR. SHOR: And Samsung's position was a little

1 different on that. Samsung's position is that if you
2 decumulate the case for a negative termination on Mexico is
3 even stronger than for Korea.

4 COMMISSIONER SCHMIDTLEIN: And can you elaborate
5 on that, just refresh my recollection why?

6 MR. SHOR: Yes. Because the only washers coming
7 in from Mexico are the belt drive models that Whirlpool has
8 said in other proceedings they don't compete with and that
9 GE brings in from China and that we don't produce at all.

10 COMMISSIONER SCHMIDTLEIN: Mm-hmm, okay. Okay,
11 alright, well, that's helpful. That clarification is
12 helpful.

13 Alright, I want to switch gears and ask about
14 the price compression argument, right, that Mr. Toohey you
15 spoke to in your testimony. And then, Mr. Klett, I don't
16 have your statement right in front of me, but I believe I
17 heard you say that you agree with that. And since you're
18 the expert witness here, right, can you talk a little bit
19 about why you think this case is different than the other
20 two cases where the Commission has found that there would
21 be price compression or there was price compression?

22 MR. KLETT: Commissioner Schmidtlein, this is
23 Dan Klett. Mr. Toohey made the point to try to
24 differentiate past cases from this case. And I think that
25 the two key points for why price compression is unlikely in

1 this case is that, number one, imports from Korea are much
2 lower than they were in the original investigation and also
3 imports from China in the China case.

4 And as Mr. Toohey said, you know price effects
5 are not just price. They're also related to volume. I mean
6 the larger the volume you have the greater the price effects
7 -- you know price compression or underselling or whatever.

8 The second point is that Whirlpool's position on
9 price compression is that you have a \$1,000 machine and
10 let's say you have a \$400 machines and if you have a \$50
11 price reduction in your \$1,000 machine that's going to
12 cascade all the way down to your lowest end washers.

13 Now, what's coming in from Korea is really
14 concentrated at the top end of the market. You don't have
15 the full range of products that could maybe help that price
16 compression cascading effect go through, so you have a gap.
17 And I think your purchaser questionnaires also provide some
18 support for the lack of price compression in this case that
19 did not exist in earlier cases.

20 As Mr. Toohey said, many more purchasers said,
21 as a conceptual matter, that higher-priced front-load and
22 top-load did not or very rarely always are -- usually
23 resulted in lower prices for less featured models. And in
24 fact, some purchasers said that for in order for price
25 compression to occur there had to be a fairly limited price

1 delta between the models. In other words, a \$1,000 machine
2 compared to a \$950 machine you could have some price
3 compression effects at that level, but when you're comparing
4 prices that are much wider that price compression mechanism
5 just does not work, Commissioner, and I think that's the
6 case we have here.

7 MR. DURLING: Let me just follow up on that kind
8 of explanation about the theory with some comments about
9 what is the evidentiary record here versus the prior cases.
10 And just a quick history, the issue first came up in Korea
11 washers, the final decision in 2013. And if you look at
12 page V-XIV of that decision you will see that there was no
13 purchaser survey data. The finding about price compression
14 in that case was based entirely on testimonial evidence from
15 witnesses about a different period of time and a different
16 set of circumstances.

17 Fast forward to China washers, final decision
18 2017, the Commission expanded its inquiry and asked specific
19 questions about price compression. Those findings are
20 summarized on page IV-IV of that decision and that was the
21 specific reference that we pointed you to in Mr. Toohey's
22 testimony and it's the contrast between the purchaser
23 testimony in China washers and the purchaser testimony in
24 this case involving Korea. So, different points in time,
25 different countries, different ranges of products, but most

1 importantly, different answers by the purchasers.

2 COMMISSIONER SCHMIDTLEIN: Okay, I see my time
3 is up.

4 MR. SHOR: If I could follow up on that because
5 there's a whole other dimension here that I think we're on
6 the risk of overlooking. The reason the record in this case
7 is different is, as the Commission has found in most other
8 cases where the former Respondents have set up domestic
9 production operations in the United States is there's no
10 longer any incentive to bring in low-priced products because
11 that will ripple through your own product line of your
12 domestic production.

13 So, there's no longer any incentive to bring in
14 a lower-priced product at any point in the value chain
15 because it will affect your own domestic production.

16 Now, Mr. Levy was quite clever this morning. He
17 says, well, you shouldn't do that in this case because
18 Samsung admits that they make their money on their dryers
19 and not their washers, but to the extent that theory doesn't
20 make any sense either because to the extent -- and this is
21 true for us. We do price our washers and dryers to be the
22 same, so if we're lowering the prices of our washers that
23 also lowers the prices of our dryers. So, his alternative
24 explanation in this case just doesn't wash at all, to use a
25 bad metaphor.

1 COMMISSIONER SCHMIDTLEIN: Alright, well, I
2 guess -- I mean one question I have in response to that, and
3 I'll be quick here, is I understand and I've looked at those
4 cases, right, where the Commission has looked at when a
5 foreign producer invest in the United States and a lot of
6 times that means that the incentive goes away and so forth.
7 The question is here what should the Commission make of the
8 fact that Samsung and LG have shifted their production from
9 country to country in the past, right?

10 So, in none of those cases that I'm aware of,
11 were we looking at foreign producers that had been -- had
12 shown that they had the ability to pick up and move what
13 would seem to be substantial manufacturing operations around
14 the same time that you know a duty is going into place. So,
15 I mean that's the essence of their argument is that you need
16 to look at this case differently because the behavior in the
17 past has been different. So, you can address that in the
18 post-hearing of what your view is of how the Commission --

19 MR. SHOR: Sure.

20 COMMISSIONER SCHMIDTLEIN: And that's why I was
21 trying to get at in the first round of questions, what
22 happened with those facilities? You know what is the
23 difference between what you had in those countries and what
24 you have in the United States? How easy would it be to
25 repurpose the plants in the United States, which of course

1 goes to the question which I haven't asked yet, which is do
2 the commitments to the States include a commitment to
3 produce washers or is it just a commitment to employ a
4 certain number of people in those states and the states
5 don't care what they're doing as long as they've got jobs
6 that you know at a certain level.

7 So, that's --

8 MR. SHOR: All very good questions.

9 COMMISSIONER SCHMIDTLEIN: And I invite you to
10 address that in the post-hearing, if you'd like.

11 MR. SHOR: I'll touch on it briefly. We can't
12 address the contents of the agreements because those are
13 confidential.

14 COMMISSIONER SCHMIDTLEIN: Right.

15 MR. SHOR: But I just want to be clear on one
16 thing. The country-hopping issue was never picking up
17 production equipment and moving it to another country. That
18 never happened. There were new equipment installed in
19 existing facilities in China and in Vietnam and Thailand.
20 And in all the cases, as Mr. Park mentioned, those
21 facilities were then refocused to produce smaller washer and
22 the equipment was retooled to serve the local market. We
23 don't have that option in the U.S. any more. We're in the
24 U.S. It can't be repurposed to serve the U.S. market. Its
25 only purpose is to serve the U.S. market. There's no

1 possibility of repurposing it to export. That would not
2 make any sense.

3 COMMISSIONER SCHMIDTLEIN: Right.

4 MR. SHOR: That's the critical difference.

5 MR. PORTER: I'm sorry, Commissioner, because
6 this issue is so important, if I just may.

7 COMMISSIONER SCHMIDTLEIN: Right.

8 MR. PORTER: A couple of very important facts,
9 okay. First, with respect to LG, with every other market --
10 China, Thailand, and Vietnam -- there was existing
11 facilities and existing washer production capability, okay.
12 It may not have been going to the United States, but it was
13 already existing there. Why is that important? That's
14 important because it has to get to the size of the
15 investment to expand existing washing capability, then
16 building a brand new, spanking Greenfield operation and we
17 have put information in our brief noting the difference
18 between the size of the investment in the United States and
19 what was needed to transform existing facilities in other
20 countries. And obviously, the size of the investment in the
21 United States is much, much larger and that is a very
22 important fact that's different than what happened in the
23 past.

24 No question that your questions are very valid
25 in the sense of we're looking at this behavior. The real

1 question is there any reason to think the behavior will
2 continue and the answer is no because the circumstances are
3 so different.

4 COMMISSIONER SCHMIDTLEIN: Yes, okay. I
5 appreciate it. Thank you.

6 CHAIRMAN JOHANSON: Commissioner Kearns.

7 COMMISSIONER KEARNS: I guess a question for LG.
8 We were just talking about the high-end product that you
9 expect that you will continue to export from Korea to the
10 U.S. And my apologies if I missed this in something you
11 said before or in the record, but do Whirlpool and GE make
12 competitive products to those that you're importing?

13 MR. KIM: So, I mean it depends on how you look
14 at it, but if you're referring to the price point that is
15 playing at, then our range is higher than that of Whirlpool
16 or GE.

17 MR. PORTER: Commissioner, actually, this is
18 something we can do for post-hearing. It's actually it's
19 nice because every model has known features, including most
20 importantly, the size, right? So, what we can do is to say
21 here are Whirlpool's models -- current models that are
22 so-called extra wide, that is, or outside the scope of the
23 safeguard, but still inside subject. Here are LG's. Here
24 are Samsung, so forth. So, we can easily give you a
25 comparison and we can show sort of the price points to make

1 Andrew's point that LG's prices are significantly above
2 Whirlpool's; mainly, because their machines are bigger.

3 COMMISSIONER KEARNS: That'd be great. And if
4 you can do it in kind of a realistic manner because I think
5 -- you know I don't want to just see sort of like price over
6 here and size here and features here. Like you know it's
7 kind of all mixed together, I guess, but I take the point
8 that it would be good to know, for a starting point, if the
9 price point of the product coming out of Korea is
10 significantly different from the price of these other -- .

11 MR. PORTER: Just to be clear, with respect to
12 prices, all we can do is public retail prices. There is no
13 information on the record -- correct me if I'm wrong -- with
14 respect to Whirlpool's extra wide kind of wholesale prices.
15 There's just not. We can compare everything on the same
16 basis and we can say here's the model. Here's the features.
17 Here's the size. Here's the price. And we can just go down
18 and do the models that meet the so-called extra wide
19 definition.

20 COMMISSIONER KEARNS: Okay. I'm sorry. You're
21 focused on extra wide. You're only going to be exporting
22 extra wide from -- that's not right, right?

23 MR. PORTER: No, I thought that was your
24 question.

25 COMMISSIONER KEARNS: No, it's not.

1 MR. PORTER: Okay, I apologize.

2 COMMISSIONER KEARNS: I just want to know. You
3 all have been clear that you do intend to still export some
4 products from Korea. It's high-end product. And my
5 question is do any of those products that you intend to
6 export compete directly with any Whirlpool or I should say
7 more broadly any U.S. made product in the foreseeable
8 future.

9 MR. PORTER: Do you happen to have our brief? I
10 apologize.

11 COMMISSIONER KEARNS: Yes.

12 MR. PORTER: If you look at Exhibit 9.

13 COMMISSIONER KEARNS: I don't have the exhibits.

14 MR. PORTER: When you get the chance, get to
15 Exhibit 9. We have listed every single model and I'm just
16 looking, so there are quite a few individual models. I mean
17 we can do this and we're going to try to do it in a
18 comprehensive fashion, but do every single model and figure
19 out what it competes with Whirlpool would be a little bit
20 unwieldy, but what we'll try to do is put it into sort of
21 various kind of segment, categories that correspond to the
22 market and then answer your question that way.

23 COMMISSIONER KEARNS: Okay, thank you. And I
24 guess it would be the same question for Petitioners too,
25 just understanding how much of that overlap.

1 MR. DURLING: And Commissioner Kearns, just to
2 help make sure you have the most complete context, features,
3 prices, that all makes sense, but we will also do our best
4 to give you a sense of the relative scale of each, right?
5 Because one of the key points we've already made in our
6 brief at a more broad level, but we'll make it more granular
7 for you post-hearing is, yes, there are isolated models, but
8 based on currently available information it is a minuscule
9 share of their current sales.

10 COMMISSIONER KEARNS: Yes, that would be
11 helpful.

12 MR. DURLING: So, the point is not does
13 Whirlpool have a model that exist of which they're selling
14 20 or 30 units and somehow if there's a problem on that
15 very, very small, highly specialized segment that that's
16 somehow going to be a catastrophe for them. We'll try and
17 give you a sense of the relative importance of the different
18 segments to the overall market because what, more generally,
19 I think we're kind of a little bit of -- we naturally focus
20 on the core issue, which what's going to be coming in from
21 Korea. But it's important at the end of the day to step
22 back and say, okay, fine, this is what's happening in Korea.
23 But you need to put that in the context of the overall
24 market.

25 COMMISSIONER KEARNS: Absolutely. And that kind

1 of is a good segue to my next question because then the
2 question is, well, what about this price compression? And
3 we've already talked a little bit about that. In other
4 words, even if it's a small segment, at the top end how much
5 does that cascade down and I hear what you all are saying
6 about how --

7 MR. DURLING: Commissioner, I do have to make
8 this point. When you say price compression, there seems to
9 be an underlying assumption that the LG model is going to be
10 lower than the Whirlpool model and I have to tell you I'm
11 not so sure that underlying consumption is accurate.

12 COMMISSIONER KEARNS: I hear you. Let me just
13 get to my question, though, but I hear you and that's what
14 we're going to do with Part 1, right? You're going to show
15 me that actually LG's product is priced higher.

16 But we were just talking a few minutes ago about
17 the price compression theory in some sense and the point I
18 heard you all making is the extent to which you can have
19 price compression starting from the very top and cascade all
20 the way to the very bottom it's pretty unlikely. It's too
21 remote.

22 So, I guess my question is like what's the best
23 scenario where you would see price compression? Is it a
24 situation where -- you know I guess kind of implied in that
25 is would it be sort of a mid-range product to where if you

1 have a really low priced mid-ranged product I guess it could
2 cascade both up and down. You know because it seems like
3 you all do admit that price compression, at least
4 theoretically, is a possibility. It's just unlikely to
5 occur in this particular instance with LG.

6 MR. KLETT: I think there's an assumption that
7 adverse price affects can only occur through this price
8 compression effect. That is that higher priced products
9 push down lower priced products.

10 First, that goes against the normal Commissioner
11 paradigm that lower priced products pull down higher priced
12 products and that why you look at your underselling. So, I
13 think it's just as likely that a Whirlpool price that's \$50
14 below an LG or Samsung or an LG or Samsung price if that
15 price were to come down that would have an effect on the
16 higher priced product as well.

17 So, we'll address your question about price
18 compression and its commercial significance and where it may
19 occur, but I just wanted to make the point that it's kind of
20 a unique theory that Whirlpool has posited that goes against
21 your normal paradigm of price effects in the market.

22 COMMISSIONER KEARNS: Okay, but I mean earlier
23 you all had seemed to say you're not gonna have price
24 compression in this case because this is at the very high
25 end and it's not gonna cascade down.

1 MR. ANDERSON: It's really two functions. It's
2 very high-end, but also limited quantities, okay? If you
3 have a --

4 COMMISSIONER KEARNS: But all now I'm asking is
5 for a follow on -- is, okay, if it's not gonna happen there,
6 where would price compression make more sense? Just to
7 understand how it would --

8 MR. ANDERSON: Right.

9 COMMISSIONER KEARNS: -- work better.

10 MR. ANDERSON: And just to give you some
11 anecdotal evidence, because I'm sure you get the Sunday
12 paper and you see the ads for Home Depot and for Lowe's and
13 stuff, and you always see a 399 washer and a 499 and a 599
14 washer. There's a very large share of U.S. legacy
15 production in those price point ranges, a very large share.

16 COMMISSIONER KEARNS: Yeah.

17 MR. ANDERSON: And the reason that the domestic
18 industry always has to rely very heavily on the whole price
19 compression theory is because Samsung and LG imports don't
20 compete in that market. So the only way they can get injury
21 to essentially the core of their business is to come up with
22 this actually counterintuitive theory that it is the
23 higher-priced products pushing down the lower-priced
24 products. And not the lower-priced products dragging down
25 the higher-priced products.

1 COMMISSIONER KEARNS: Okay.

2 MR. ANDERSON: So it's a function of, not only
3 the, you know, how far do you have to go -- can a 1599 that
4 goes to 1549, can that affect a 399? No, I don't think so.
5 The 399's in the paper every week. No matter what. You see
6 it. It did not go to 349. It's still at 399. So I think
7 there's obviously a point where the gap becomes too big or
8 the volumes are simply too small that you don't get the
9 transmission effects, that are needed for this theory to be
10 true.

11 COMMISSIONER KEARNS: Okay. I guess, real quick,
12 just to kind of fill out a question that Commissioner
13 Schmidtlein had asked, I think she was getting at a number
14 that we would like you, I guess, post-hearing, to establish
15 how certain it is that that the investments you've made in
16 the United States are gonna go forward.

17 And I think she had mentioned, for example, are
18 you required under your contracts to produce washers, for
19 example? If you can do anything else to kind of bolster
20 that case. And I know there's things in your brief where
21 you've already talked about this. For example -- so I mean
22 you've talked about the callback provisions in your
23 agreement. I was just making sure it's not proprietary, and
24 it's not. You know, if you can explain those in some
25 greater detail how those work, what their time period is,

1 for example.

2 Anything else you can do to sort of -- because
3 you know, I remember my business graduate student roommate
4 telling me, well, some costs don't matter, you know, you
5 just, you know, in the business model, you just, you move
6 forward. Doesn't matter that you just sunk \$300 million
7 into something. Like, tomorrow if it makes better sense to
8 move forward, then you do.

9 So anything you can give us, give us more
10 confidence that going forward, because of callback
11 provisions or whatever else, to make us think -- or again,
12 like I was saying earlier, that this equipment is set in
13 stone, set in concrete or not. You know, anything you can
14 do to help us understand how these facilities aren't going
15 anyplace I think would be helpful.

16 MR. PORTER: We will definitely do that. Thank
17 you.

18 COMMISSIONER KEARNS: Okay, thank you. My time's
19 up.

20 CHAIRMAN JOHANSON: I'm reluctant to ask this
21 question because we've already covered it somewhat, but I'm
22 gonna do it anyway. So, I'm reluctant, but it's too bad.
23 I'd like to expand on my question from the first round about
24 the recent changed circumstances.

25 My takeaway from your answers was that you

1 opposed Whirlpool's changed circumstances request based on
2 fairness considerations or based on litigation strategy and
3 that you actually preferred even more liberalization? For
4 example, a complete revocation. And if you read the quotes
5 from LG and Samsung in the chart that Mr. Levy presented, LG
6 and Samsung are on the record opposing changed circumstances
7 because the belt-drive washers competed with U.S. production
8 and that such a partial revocation would both cause
9 competitive harm to, and negatively impact U.S. production.

10 If LG and Samsung believe that a partial
11 revocation would have a negative impact, would not this also
12 be true with considering a full revocation?

13 MR. PORTER: I'm gonna start and I'm sure Mike
14 Shor will add. It has absolutely zero effect on the AD
15 order for Korea. There are no belt-drive washers coming
16 from Korea. So whether belt-drives are in or out does not
17 matter for Korea. And LG only cares about the AD order from
18 Korea.

19 CHAIRMAN JOHANSON: Okay, then, maybe Samsung?

20 MR. PARK: We'll be happy in post-hearing to
21 provide some additional quotes from the fuller submission
22 that we may, talking about the uncertainty of what it was
23 that Whirlpool was asking for. But we'll be happy to
24 elaborate in our post-hearing in terms of the effects and
25 why we posited this position.

1 CHAIRMAN JOHANSON: Okay, thank you, Mr. Park.
2 On Page 10 of the domestic interested party's brief, they
3 argued that there is an established history of import
4 underselling and that if the orders were revoked, subject
5 imports are likely to undersell the domestic like product at
6 significant margins. What factors can you cite that make
7 underselling less likely than in the past?

8 MR. KLETT: Chairman Johanson, this is Dan Klett.
9 I think Mr. Levy said in the morning that our position that
10 underselling in the past cannot be predictive of likely
11 future underselling if the orders were revoked, that we were
12 criticizing your staff. And that's not the case at all.

13 I mean, if you look back at the original
14 investigation, there were eleven pricing products for which
15 you collected data five years ago. The market has evolved.
16 The models are different from what you collected back then.
17 In fact, of the six pricing products for which you collected
18 data in your Sunset Review, there's only one that
19 corresponds with the eleven pricing products you collected
20 back five years ago.

21 So the data in the investigation are just not
22 representative of the types of washers being sold in the
23 market now and even less likely of the types of washers
24 being sold in the future. So that's why we said the
25 underselling margins in the investigation really provide

1 very little predictive value for what's likely to occur
2 going forward.

3 Number two, the competitive situations has just
4 changed significantly between then and now. I mean Samsung
5 and LG have both significantly reduced their capacity. They
6 have U.S. manufacturing facilities and the point made by Mr.
7 Shor that why would they have an incentive to undersell into
8 the U.S. market and essentially cannibalize their own
9 pricing and revenue and profits for the U.S. operations.

10 And so I think the data cannot be predictive
11 because of changes in the market and the motivations are
12 just completely different. So I don't think that the past
13 underselling you found in earlier investigations or reviews,
14 at or all predictive of what's likely to occur going
15 forward.

16 MR. PORTER: Just to add on, Commissioner
17 Johanson. I think that's the most important point. It's
18 the very different product mix between sort of China, the
19 original investigation, China safeguard and going forward,
20 okay? As repeatedly said, the only thing that's coming in
21 in '19 and '20 are small volume-type priced products.

22 Now we can go back and look, my guess is the
23 underselling, you didn't have a lot of underselling with
24 small volume, high-priced products in the past. So that's
25 why we don't think it's fair to say the fact there might've

1 been some underselling, assuming that there was any of LG's
2 \$500 model doesn't mean there's gonna be underselling of
3 LG's \$1,000 model. It just, you can't make that assumption.

4 MR. SHOR: Two quick points for Samsung. First,
5 there's no reason for Samsung to bring in any products from
6 Korea or Mexico at all, whatsoever, and second, there's no
7 reason, if we were to bring in products from those
8 countries, that we would do so at prices that would undercut
9 our own U.S. domestic production.

10 CHAIRMAN JOHANSON: Thanks, Mr. Shor and Mr.
11 Porter and Mr. Klett. In going back to the original
12 investigation, in your briefs, we do not see a comparison
13 between the subject and domestic producers based on quality,
14 an argument that was made in the past in these
15 investigations. Is quality no longer significant factor
16 when differentiating between large residential washers
17 manufactured in the United States and those in subject
18 countries?

19 MR. KLETT: Chairman Johanson, this is Dan Klett.
20 I think, I guess it depends how you define quality, but
21 there has been a lot of debate in the past cases about whose
22 quality is better, who are the innovation leaders --

23 CHAIRMAN JOHANSON: I remember those well. Yes.

24 MR. KLETT: -- and I think this is still a highly
25 differentiated product. And without going into detail on

1 quality per se, I think there is one question in your
2 purchaser questionnaires were, they were asked to name, who
3 are the innovation leaders in the market, which is maybe
4 one, you know, aspect of quality.

5 And by a margin of, I think, 2 to 1, LG and
6 Samsung were rated as being the innovation leaders over
7 Whirlpool and an even wider margin over GE. So at least
8 with respect to innovation being kind of a quality factor, a
9 nonprice factor, you know, LG and Samsung are by fact ahead
10 of Whirlpool and GE from your purchaser questionnaires.

11 Mr. Kim had a slide from Consumer Reports, which
12 I think goes to that issue as well, where LG is rated very
13 high by Consumer Reports. And for a variety of factors,
14 including reliability. So it's a highly differentiated
15 product and I think on balance, LG and Samsung are rated
16 higher than Whirlpool and GE for certain nonprice or quality
17 factors.

18 MR. SHOR: At the risk of repeating myself, the
19 reason we didn't get into product differentiation factors
20 and quality differences, the only reason to get into those
21 issues is if there's any product that's going to come in to
22 begin with. Samsung is not gonna import any products from
23 Korea, not gonna import any products from Mexico, so there's
24 no issue of product differentiation or quality differences.
25 There's just not gonna be anything.

1 CHAIRMAN JOHANSON: Okay, thank you all for your
2 responses. I was wondering, why did imports from Korea and
3 inventories held by importers increase in 2017?

4 MR. KLETT: Chairman Johanson, this is Dan Klett
5 again. I think there was a natural reaction, there was the
6 escape clause petition was filed earlier in 2017 and with
7 the prospect of fairly -- I mean Whirlpool was proposing a
8 50% tariff across the board on washers. And given the
9 prospect of prohibitive duties, it would essentially
10 eliminate imports and, given LG's commitment and Samsung's
11 commitment to the U.S. market, it was natural that there
12 would've been some increase in imports, you know, given that
13 prospect.

14 MR. PORTER: Yes, Commissioner Johanson, that's
15 exactly correct. I mean you heard Mr. Toohey was here
16 during the safeguard. You heard John Riddle and they
17 basically said, "We are investing in the United States,
18 we're going to build washing machines in the United States
19 for the U.S. market, and that's gonna take time, but we
20 don't wanna be kicked out of retail until that's done." So
21 of course, you're about to look at a 50% tariff, you're
22 gonna try as much as possible to avoid that tariff. And by
23 the way, there's nothing illegal about that.

24 CHAIRMAN JOHANSON: Okay, thanks for those
25 responses. In Samsung's brief at Page 5 through 8, you all

1 note that Samsung is now producing LRWs at its facility in
2 South Carolina, noting the kinds of machines that it has at
3 the facility. Does Samsung currently import any parts that
4 go into the assembly of large residential washers? And if
5 so, does Samsung have any plans to change this in the
6 future?

7 MR. SHOR: Just as Whirlpool exists in an FTZ so
8 it can import parts, we certainly import parts. We don't
9 import any covered parts, we bring in steel and certain
10 other products, but yes, like Whirlpool and GE, we import
11 parts.

12 MR. KOMAROMI: One of our priorities this year is
13 our localization project, to find local suppliers in the
14 United States and, indeed, we're working with suppliers in
15 other countries to relocate, not only to the United States,
16 but South Carolina. It's very important for our supply
17 chain to be right next door to our facility.

18 So we're looking at steel companies. We haven't
19 been able to find steel companies that have the
20 specifications and the quantity yet. But we are getting
21 there. And it is a priority this year, localization will be
22 one of the driving forces to our increased production and
23 the efficiency going forward.

24 CHAIRMAN JOHANSON: Okay, thanks for your
25 responses. My time is expired. Commissioner Williamson.

1 COMMISSIONER WILLIAMSON: Thank you. I wanted to
2 get back to the question of what will be, going forward,
3 what do you expect to be importing since -- I think it's
4 pretty clear that, you know, what your sales were and what
5 your production's gonna be in the next few years is not --
6 and I think you've already said you were gonna be importing.

7 LG's made it clear I think that they wanted to
8 import the certain luxury or top-in products coming from
9 Korea. What about -- are there be imports any place else
10 and how would you characterize those? And then the same
11 question for Samsung.

12 MR. PORTER: Again, LG has provided its
13 mile-by-mile forecast for what's to be imported--

14 COMMISSIONER WILLIAMSON: And can you maybe
15 characterize it more, briefly?

16 MR. TOOHEY: Anything--this is John Toohey--I
17 would characterize it like this: Anything that we can make
18 in Tennessee, we'll make in Tennessee. But we can't make
19 everything in Tennessee, like the sidekicks, like the
20 29-inch washers, and some of the other luxury models that we
21 make in Korea.

22 COMMISSIONER WILLIAMSON: Would there be imports
23 possibly coming from other countries, other than Korea?

24 MR. TOOHEY: I don't have--

25 COMMISSIONER WILLIAMSON: You could do it

1 posthearing.

2 MR. TOOHEY: Some single-digit percentage, I
3 think we laid out, could be coming from Thailand or Vietnam.

4 COMMISSIONER WILLIAMSON: Of models that you
5 wouldn't make here--

6 MR. TOOHEY: Um-hmm.

7 COMMISSIONER WILLIAMSON: But again it's the
8 upscale features?

9 MR. TOOHEY: Yeah, and maybe very short
10 production runs. You know, the Tennessee factory is built
11 for efficiency in scale, long runs of high-volume models.

12 COMMISSIONER WILLIAMSON: That's helpful.

13 MR. PORTER: Just to be clear, I want to make
14 sure, this is over time, right? So the LG Tennessee factory
15 is starting. It hasn't reached full production yet. So
16 until it reaches full production, it's going to have to
17 import those models that the retailers want.

18 As soon as it gets to be able to do those models,
19 those imports will fall off. So there will be literally a
20 one-to-one substitution as it gets to full production. When
21 we're talking about the high--which is essentially at the
22 end of 2019, okay? After that, it will just be the very
23 kind of smaller quantity, specialized products that they're
24 not making in Tennessee.

25 But I do want to say, through '19 there's going

1 to be kind of--

2 COMMISSIONER WILLIAMSON: I understand that these
3 things don't happen overnight. You all are pretty quick,
4 but it's not that fast.

5 What about for Samsung? You've talked about
6 Thailand and Vietnam still bringing in products from there,
7 but how would you characterize that product?

8 MR. KOMAROMI: Thomas Komaromi from Samsung. One
9 model that is not made at SEHA is the Flex-Wash. Currently
10 we have no plans to move the Flex-Wash. The Flex-Wash unit
11 has a topload and a frontload feature. It's a very
12 high-end, top-of-the-line model, one of the highest priced
13 models.

14 We have no plans to move that Flex-Wash
15 production to SEHA because that Flex-Wash requires assembly
16 on a unique line. That unique line includes both the
17 topload and the frontload production.

18 COMMISSIONER WILLIAMSON: Okay.

19 MR. PARK: David Park on behalf of Samsung. Just
20 to follow up on what Tom was saying, again no plans to
21 import anything from Korea or Mexico. And really, as Tom
22 was saying, probably the most difficult product to move is
23 the Flex-Wash because it is single unit that has both
24 frontload and topload, and therefore that has a dedicated
25 line. That's difficult. But, again, that line does not

1 exist in either Mexico or Korea.

2 COMMISSIONER WILLIAMSON: But it does exist
3 someplace in Asia.

4 MR. PARK: That's right, yes.

5 COMMISSIONER WILLIAMSON: Other than Korea.

6 MR. PARK: Yeah, it's in Vietnam. So that will
7 continue to be coming in from Vietnam until they can figure
8 out what to do at SEHA with respect to that product.

9 COMMISSIONER WILLIAMSON: Okay, well thank you.
10 That's helpful.

11 You had complaints about the pricing product
12 coverage in this review as not being representative. I was
13 wondering, had you suggested other pricing products that we
14 should look at for this review?

15 MR. PORTER: Yes, we did.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. KLETT: Yes, Commissioner Williamson, we did.
18 And not all of them were accepted.

19 COMMISSIONER WILLIAMSON: Okay, but some were?

20 MR. KLETT: I'd have to go back. I think some
21 were, some elements were, but I'd have to go back and
22 revisit that.

23 COMMISSIONER WILLIAMSON: Okay, maybe--

24 MR. ANDERSON: Sorry, Commissioner Williamson?

25 COMMISSIONER WILLIAMSON: Yes?

1 MR. ANDERSON: I think most importantly--and
2 we've made this request several times--I'm historically a
3 Commerce guy, okay? So we really get into the weeds on
4 pricing, seriously, sale by sale--

5 COMMISSIONER WILLIAMSON: I hear you.

6 MR. ANDERSON: And when I look at what we're
7 trying to use for pricing product in comparisons in this
8 washing case, having done--spent weeks, if not months, doing
9 washer annual reviews, verifications, response preparations,
10 I mean frankly it's very, very difficult to get at really
11 price competition at the level of aggregation that you are.

12 We had put in a request asking for something
13 that's very simple, that every producer maintains, that they
14 would have had to calculate to get their quarterly pricing
15 products, and that's a very simple request, which is pricing
16 by product, by model. Pricing by model would allow you to
17 do a lot more very specific comparisons than the quarterly
18 pricing products. That is, just ask everybody for all of
19 their models and all of their prices.

20 But that definitely was resisted when requested.

21 COMMISSIONER WILLIAMSON: Okay, well the reason
22 for asking this is that, you know, we did say that we did
23 find underselling in the original investigation. And the
24 question is why wasn't that representative of after
25 revocation? And is there anything about the data that was

1 collected that goes to this question?

2 And there was a question this morning about
3 looking at the safeguard data, and so I would offer for you
4 to comment.

5 MR. ANDERSON: I think that part of the problem
6 is you are trying to keep as close as possible to the
7 product groupings from the original investigation, but this
8 is a market where the product evolves all of the time.

9 So the products that were sold five years ago are
10 very different from the products that are being sold today,
11 especially when you look at the volume. And things over
12 time have tended to creep up in terms of capacity. There
13 were display types in the original investigation that don't
14 even exist today, for all practical purposes. So that's why
15 it's really difficult to do comparisons of pricing product
16 data over time in this industry.

17 MR. DURLING: And, Commissioner Williamson, so
18 sorry--

19 COMMISSIONER WILLIAMSON: Yes?

20 MR. DURLING: This is Jim Durling. We think
21 there's better data out there. I agree with Mr. Anderson's
22 suggestion that to get to quarterly average pricing product
23 data you have to have a spreadsheet to aggregate it. And
24 all we're saying is: give the backup that you used to
25 calculate the quarterly average. But if for systemic

1 reasons the Commission is not willing to do that, the
2 record as it stands now, as Whirlpool's Slide, Exhibit 6,
3 shows, originally the Commission found pervasive and
4 significant underselling. And Whirlpool's own most
5 favorable characterization of the current review period, if
6 you look at Exhibit 6, is it's mixed.

7 So you have a current record that shows mixed
8 underselling, and historically when faced with mixed
9 underselling the Commission often ends up relying on other
10 parts of the evidentiary record to draw a conclusion.

11 You've gone from pervasive to mixed. And I
12 submit that's a significant change in the record in this
13 case.

14 COMMISSIONER WILLIAMSON: And what do we look for
15 to--

16 MR. SHOR: This is Mike Shor for Samsung, if I
17 could. I don't think we should lose sight of the fact that
18 the conditions of competition now are dramatically
19 different. So to make three quick points:

20 First, the products on which you found pervasive
21 underselling no longer exist.

22 Two, the current record of products do exist, so
23 a mixed record of underselling and overselling.

24 Three, the incentive for underselling that
25 existed before no longer exists because Samsung and LG have

1 production in the United States. They're not going to
2 undersell their own products.

3 COMMISSIONER WILLIAMSON: Everybody fights for
4 market share and floor space.

5 MR. SHOR: But now with themselves.

6 COMMISSIONER WILLIAMSON: But that's one thing
7 that hasn't changed, floor space.

8 MR. SHOR: But it's domestic production.

9 MR. PORTER: Correct. And LG is going to fight
10 for market space and floor space with Tennessee-made
11 products. That is not underselling.

12 COMMISSIONER WILLIAMSON: That's my concern.

13 MR. DURLING: Commissioner Williamson, Jim
14 Durling again. Let me underscore the point about--these
15 companies don't cooperate. I've been doing this for a long
16 time. This is basically kind of a Korean version of
17 Hatfield and McCoy. They are incredibly fierce
18 competitors. And I have no doubt that going forward the
19 real story here is going to be fierce competition between LG
20 and Samsung to not only fill up their current factories, but
21 in LG's case it's going to be figuring--they bought over 300
22 acres of land in Tennessee. They're using 25 percent of
23 it.

24 Earlier today Mr. Levy talked about, oh, we're
25 very, very scared about what may be coming in from Korea.

1 Honestly, he shouldn't be concerned about what's coming in
2 from Korea. He should be concerned about what LG is going
3 to do with the other 250 acres of land it purchased in
4 Tennessee.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. DURLING: It's not about Korea. It's about
7 the U.S. and building a platform in the U.S. to compete long
8 term, yes, to be a fierce competitor, but to win market
9 share with U.S.-based washers that aren't subject to the
10 trade restrictions.

11 COMMISSIONER WILLIAMSON: That's outside of our
12 scope, and my time has expired. I'll say thank you.

13 MR. SHOR: Just one quick point for Samsung, and
14 again I'm repeating myself. In order to have underselling,
15 you have to have production in Mexico or in Korea. Samsung
16 has no production of LRWs in Mexico, and in Korea we're not
17 going to bring anything into the United States from those
18 countries. There's not going to be any risk of underselling
19 because there's no product.

20 COMMISSIONER WILLIAMSON: Okay, thank you for
21 those answers.

22 CHAIRMAN JOHANSON: Commissioner Broadbent?

23 COMMISSIONER BROADBENT: Thank you.

24 Both for LG and Samsung, can you discuss whether
25 your Korean and Mexican operations have a cost advantage or

1 some other advantage relative to your Thai and Vietnamese
2 operations in their ability to serve the U.S. market?
3 Please address Mr. Levy's argument from this morning that
4 Korea and Mexico are Samsung and LG's first choice locations
5 for exporting to the United States.

6 MR. SHOR: Yeah, that's the home-base theory
7 again that I thought I addressed. It's a theory. There's
8 no evidence to support it.

9 COMMISSIONER BROADBENT: I'm looking for evidence
10 that it's not correct.

11 MR. SHOR: The evidence that it's not correct is
12 that our U.S. facility is our most modern, most integrated,
13 has the latest equipment. As you invest along the line, you
14 don't build lesser quality factories, you build higher
15 quality factories.

16 I think you made the point to Mr. Levy this
17 morning, it is certainly not the case that Vietnam and
18 Thailand are higher cost operations than in Korea. They are
19 lower cost--

20 COMMISSIONER BROADBENT: That's what I'm getting
21 at. Can you compare Vietnam and Thailand to Korea and
22 Mexico?

23 MR. SHOR: I mean it's hard to compare because we
24 don't have LRW production in Korea, so I can't give you--

25 COMMISSIONER BROADBENT: But I think LG--

1 MR. PORTER: LG can give you a comparison of
2 cost, but I do agree with Mr. Shor that, quite honestly, I
3 know you're just asking for data, but I do believe the
4 burden is on Petitioners to describe why. Why would LG and
5 Samsung shift production from low-cost Thailand and Vietnam
6 to Korea? And you say what's the evidence it's not going
7 to happen? First, the U.S. facilities are the biggest.
8 Second, there is no capacity in Korea with respect to LG.
9 Look at the foreign producer questionnaire response.
10 There's no excess capacity.

11 So how is that going to happen? How are sales
12 that are now being done from Thailand and Vietnam to the
13 United States, how is it going to go back to Korea if
14 there's no capacity for them to produce? So that is the
15 evidence--

16 COMMISSIONER BROADBENT: Well they moved from
17 Korea to Thailand, and capacity was created there. So why
18 would they not move back?

19 MR. PORTER: Okay, because creating capacity in
20 Korea is much different than expanding capacity in Thailand
21 and Vietnam.

22 COMMISSIONER BROADBENT: Well that's what I'm
23 asking.

24 MR. PORTER: We can give you information about
25 that.

1 COMMISSIONER BROADBENT: Right.

2 MR. SHOR: Thank you, Commissioner, I apologize.
3 This is Mike Shor. I misspoke. Samsung does have LRW
4 production capacity in Korea. It's just not for the U.S.
5 market. So we will get you what data we can on the relative
6 costs between Korea and Thailand and Vietnam.

7 COMMISSIONER BROADBENT: Okay, that would be
8 helpful.

9 In your posthearing briefs can you describe how
10 do your investments in the United State compare to those
11 made in other operations in Korea, Mexico, and China,
12 Thailand, and Vietnam? So this is more of what you were
13 getting to earlier. Please describe these investments in
14 terms of size and in terms of scope and the types of
15 manufacturing processes used, the degree of vertical
16 integration with supply chains, and the types of washers
17 produced in these locations?

18 So we just really need to see kind of overall how
19 all the different production compares.

20 Okay, I think that's the last of my questions,
21 actually. So I want to thank the witnesses for coming.
22 It's very helpful.

23 CHAIRMAN JOHANSON: Commissioner Kearns?

24 COMMISSIONER KEARNS: Thank you--

25 COMMISSIONER SCHMIDTLEIN: I don't have any

1 questions.

2 CHAIRMAN JOHANSON: Oh, I apologize. You don't
3 have any questions? Okay, my apologies.

4 COMMISSIONER KEARNS: Read her mind. This
5 question is for LG about sort of the timing of your ramping
6 up operations here in the U.S.

7 So as I understand it--and my apologies if I'm
8 forgetting something--but I understand you're saying that
9 sort of long term, once the plant is up and running here 100
10 percent, that'll be about 90 percent of your total
11 production and about 10 percent will be coming from, I think
12 you said from all other sources not just Korea. Is that
13 right?

14 MR. TOOHEY: Yeah, John Toohey, that's correct.

15 COMMISSIONER KEARNS: So I guess my question is:
16 What's your time frame? Like Samsung explained to us that
17 if things go according to schedule, this year a majority of
18 production will be here in the U.S. So can you kind of
19 spell out for us how things ramp up?

20 MR. TOOHEY: By the end of 2019, the beginning of
21 2020, we expect to be at full capacity at Tennessee. So
22 that will be that 90 percent.

23 COMMISSIONER KEARNS: Okay. Okay, and where are
24 you now?

25 MR. TOOHEY: I'll have to get back to you. In

1 terms of employment, we have about over 450. We'll get to
2 600 by the end of the year. But in terms of production, the
3 percentage of achievement is somewhat lower. We'll share
4 that with you in the postbrief.

5 COMMISSIONER KEARNS: That would be great. Thank
6 you.

7 And this question is for both Samsung and LG.
8 What is your projection for when your U.S. operations will
9 become profitable? Do you have any internal documents
10 assessing this issue? Can you please provide them
11 posthearing?

12 MR. PORTER: Yes, we can do that posthearing.

13 COMMISSIONER KEARNS: Okay.

14 MR. KOMAROMI: Yes, we'd be happy to submit that
15 posthearing.

16 COMMISSIONER KEARNS: Thank you. And this
17 relates to a broader question I had. I'm forgetting now
18 which of the witnesses stated this, but we were looking at a
19 proprietary table that showed, you know, obviously a pretty
20 dramatic increase in U.S. production capacity, production
21 shipments, et cetera. And the comment was made, this is not
22 an industry in distress.

23 I mean I take the point about the projections,
24 and those are indicators that things will be going better.
25 Of course those aren't all the indicators. And I mean it's

1 hard for me right now from what I know of this record to say
2 that right now the U.S. industry is not in, I don't know if
3 "distress" is the right word, but this doesn't seem to be an
4 industry that is incredibly lucrative, at full capacity
5 utilization, et cetera, et cetera.

6 So I guess if you could help me flesh out what
7 you mean. I mean, do you think this is a healthy industry
8 today? I know you're going to be investing more in the
9 future and we're going to have more production in the
10 future, but that's why I'm asking about your profit
11 expectations and so forth, and capacity utilization
12 expectations for that matter. Like tell me more about how
13 great this industry is doing right now.

14 MR. PORTER: I'm going to start, and I am
15 absolutely sure my colleagues will want to add.
16 Traditionally, the Commission has analyzed this issue, which
17 of course is the core of every case, and they've looked at
18 changes over time, right? I mean you can't just look at
19 one year. It's basically how are things moving?

20 And that's what we try to do here. Things are
21 moving in the right direction. But these are factors the
22 Commission looks at in every case. Is capacity expanding?
23 Yes, with all the new investment. Is production expanding?
24 Yes. Will market share expand? Yes. Output, workers,
25 all of the things the Commission looks at in every case over

1 time those are improving, and that's all we're saying here.

2 COMMISSIONER KEARNS: Again, though, like I said,
3 those are not all the factors we look at. Is that right?
4 So where's profits? Where is capacity utilization, et
5 cetera?

6 MR. PORTER: Commissioner Kearns, you're
7 absolutely correct. But this is all for which we had data,
8 okay? We don't have the other two producers' profitability
9 expectations for the future,

10 COMMISSIONER KEARNS: So again, if I could see
11 your profit expectations--

12 MR. PORTER: We're happy to give you ours, and if
13 you could ask the same question for them then you will have
14 that profitability part. But profitability is one part.
15 There's also output, and workers, and everything else. And
16 also, quite honestly, the idea that the industry is growing
17 and expanding through investment is a very important
18 consideration the Commission has looked to in the past about
19 whether industry is healthy or not.

20 COMMISSIONER KEARNS: Right. And I would want to
21 know what the other producers thing about that, as well. So
22 thanks.

23 MR. ANDERSON: Commissioner Kearns, just to
24 follow-up on that. The real data for which we don't have
25 any visibility is the financial profitability data of the

1 legacy producers. You'll be coming up with a tool one
2 midterm and that certainly would be an interesting thing to
3 ask.

4 I do note that this morning they said they had
5 turned the corner and were profitable, so we could take that
6 statement and make certain assumptions and add that with our
7 proforma financials and try to do our best to come up with
8 some projections based upon that approach.

9 COMMISSIONER KEARNS: Great, thank you. Turning
10 to accumulation -- I wondered if you all could respond to
11 the argument, I heard this morning that it seems that the
12 basis of the argument about cumulation is that the Korean
13 firms are invested in the U.S. and that that distinguishes
14 them from Mexico.

15 And then they point out that in fact though,
16 you've got, you know, Samsung in Mexico, so if you all could
17 respond to that about cumulation, I guess this is LG.

18 MR. PORTER: Yeah, it's LG's argument. No, there
19 were -- we made several, went through the analysis that the
20 Commission has done in past cases. One was this idea of
21 investment and we believe that the Korean producer has
22 invested. We have not seen any investment in the United
23 States by Electrolux yet. Samsung's also in Mexico.

24 But more importantly, it's the absence of
25 competitive overlap. I can't -- a little bit confidential

1 but let's just say the whole belt drive discussion today is
2 entirely a Mexico issue. Why? Because there are no belt
3 drives coming from Korea and there never were belt drives
4 coming from Korea.

5 So, if you have a certain percentage of imports
6 from Mexico that are belt drives and zero from Korea, then
7 you have an absence of competitive overlap -- it's one of
8 the foundations for cumulation.

9 COMMISSIONER KEARNS: Now did -- I mean Samsung,
10 did they produce only belt drives in Mexico when they were
11 exporting to the U.S.?

12 MR. PARK: No, Samsung did not produce belt
13 drives in Mexico.

14 COMMISSIONER KEARNS: So, you produced direct
15 drives I guess that's what it's called right?

16 MR. PARK: Yes, the non? Yes, they're direct
17 drives.

18 COMMISSIONER KEARNS: And still do that --
19 produce that now?

20 MR. PARK: Yes, not for the U.S. market.

21 COMMISSIONER KEARNS: Not for the U.S. market
22 right, okay, thank you.

23 MR. PORTER: I would ask you to look at the
24 relative volumes of belt drives compared to others
25 vis- -vis, Mexico.

1 COMMISSIONER KEARNS: Okay, thank you. Turning
2 to dryers, suppose I agree that we should in some sense,
3 take into account dryer sales. What would that mean? What
4 would we -- what would we conclude?

5 MR. SHOR: Let me take a crack at this. So, what
6 we would -- our position is the relative pricing of the
7 complementary product nature and complementary pricing of
8 washers and dryers is a condition of competition you should
9 consider in evaluating the profitability of the domestic
10 industry in particular.

11 We would suggest that you ask the domestic
12 producers for, during the period of investigation, their
13 profitability data on washers and dryers. You have washers,
14 you have dryers -- you can add it together and you can look
15 at the relative profitability of the laundry industry as a
16 whole.

17 You know, I notice from the titles of people,
18 Casey Tubman, who spoke at length today, he's not a general
19 manager for washers, he's a general manager for laundry and
20 his bonus, I'm sure, is tied to laundry profitability, not
21 washer profitability -- so that's my only suggestion about
22 that.

23 COMMISSIONER KEARNS: Okay, okay, thank you.
24 Just a couple question -- these might just be for
25 post-hearing, but how have the 232 and the 301 measures

1 affected your costs here in the United States?

2 MR. KOMAROMI: So, Thomas Komaromi for Samsung,
3 so as I mentioned we've attempted to source steel from U.S.
4 producers, but we've been told that they're unable to
5 produce steel to our specs and meet our quantity needs at
6 this time.

7 Now with respect to the 232, the tariffs have
8 made the sourcing of domestic steel more difficult as less
9 supply is available.

10 COMMISSONER KEARNS: For foreign steel too,
11 right?

12 MR. KOMAROMI: Yes.

13 COMMISSIONER KEARNS: So, I mean how big of an
14 impact has that had on your plans here in the U.S.?

15 MR. KOMAROMI: I think we could try to quantify
16 that. I don't have the -- yeah it wouldn't impact the
17 profitability certainly.

18 COMMISSIONER KEARNS: Okay.

19 MR. KLETT: Commissioner Kearns, this is Dan
20 Klett. I think also Mr. Levy made the point this morning
21 that the 301 and 232 duties would increase costs for Samsung
22 and LG in the U.S. market and that would actually be an
23 incentive for them to import from Korea rather than expand
24 U.S. production, but what he's not saying is that you have
25 18% duties on imports from LRW's from Korea.

1 And, if you do the math, I would think an 18%
2 duty on a 500 or \$1,000 washing machine is going to add much
3 more to the cost of importing than any increase in cost due
4 to the 301 or 232 duties on components. So, you can't just
5 look at that one factor.

6 COMMISSIONER KEARNS: Okay, thank you, my time's
7 up.

8 CHAIRMAN JOHANSON: I have just one question
9 left. On page 220 of the staff report, all of the eight
10 countries that followed the United States in the list of
11 destination countries of exports from Mexico, are all
12 western hemisphere countries.

13 And all the Canada are Latin American countries
14 -- the AUV's of exports from Mexico to the seven Latin
15 American countries are consistently half of the AUV of
16 Mexico's exports to the United States. Do you believe the
17 Mexican producers could easily shift these exports of low
18 AUV -- of low AUV exports from Latin America to the U.S.
19 market as alleged on page 63 of the domestic industry's
20 brief?

21 MR. KLETT: Chairman Johanson, this is Dan Klett.
22 I think AUV comparisons for purposes of kind of incentives
23 in this case doesn't really work. I mean I know in other
24 cases where the average unit value for sales to the U.S. is
25 higher than average unit value of sales to other markets.

1 There's a presumption that there would be an
2 incentive to divert exports from those lower-priced markets
3 to the United States. But this is not a commodity product
4 and the washers being sold to these other markets are
5 potentially so much different than the washers being sold to
6 the United States that those AUV deltas don't -- can't tell
7 you a whole lot about relative, you know, incentives based
8 on net back to the plant on an apples-to-apples basis.

9 CHAIRMAN JOHANSON: Okay, thank you Mr. Klett,
10 anyone else? No, okay, that concludes my questions.
11 Commissioner Williamson, do any of the other Commissioners
12 have questions?

13 COMMISSIONER KEARNS: I've got just two quick
14 ones here. First, the safeguard measure effects -- can you
15 say anything about what effect you think this safeguard has
16 had on prices in the U.S. specifically? We've talked a lot
17 about volumes, but we haven't talked about prices?

18 MR. TOOHEY: Mr. Kearns, John Toohey.

19 COMMISSIONER KEARNS: Mr. Klett -- oh, go ahead.

20 MR. TOOHEY: Yeah, I can say that LG -- we
21 increased our prices on washers and dryers immediately when
22 the safeguard measure went into effect.

23 COMMISSIONER KEARNS: On all washers and dryers
24 or just U.S.-made or you do have some production in the
25 U.S.-made right now right, yeah?

1 MR. TOOHEY: Well we didn't at the time.

2 COMMISSIONER KEARNS: Okay.

3 MR. TOOHEY: That the price increase was made
4 effective. I think it was last -- I forget, sometime first
5 quarter last year, whenever the final decision was announced
6 we instituted a price increase of anywhere from 50 to \$100
7 at retail for each washer and each dryer.

8 COMMISSIONER KEARNS: Okay.

9 MR. TOOHEY: And then my understanding is most of
10 the industry followed with their own price increases.

11 MR. KOMAROMI: Thomas Komaromi for Samsung. This
12 is another example where we can demonstrate that barriers
13 are not good for consumers or innovation. Consumers lost
14 out in the end. Prices went up and Samsung followed -- we
15 increased our prices.

16 MR. SHOR: And, it's Mike Shor for Samsung. I
17 just want to note that across the board, not just Samsung,
18 LG but also Whirlpool, you saw on our slide this morning.
19 There was a two on duty on washers and they increased their
20 prices of dryers too. How can they explain that if they're
21 not priced together?

22 COMMISSIONER KEARNS: Dryers are your pet issue,
23 I can tell yeah. Okay, last question I just --

24 MR. SHOR: I lost a lot of socks in them, so I'm
25 --

1 COMMISSIONER KEARNS: This is really more for
2 Whirlpool and GE. Mr. Park had suggested that it would be
3 helpful to get a response from Whirlpool in particular, but
4 I think GE as well about these changed circumstances. Some
5 of the rumors I think Mr. Park put it about Electrolux and
6 also what might have been going on with the China case as
7 well. And I would find that helpful as well.

8 I had asked, not just about your plans to produce
9 in Mexico, but also your plans to acquire anything in Mexico
10 -- I was thinking of Electrolux, but I guess to be even more
11 comprehensive, any other sort of arrangements or potential
12 arrangements that you might have had or thought about or you
13 know, deals you might have had with Electrolux to help
14 explain what was going on there, that would be helpful as
15 well, and that's all I have thanks.

16 CHAIRMAN JOHANSON: Alright, do any of the
17 Commissioners -- other Commissioners have questions? No
18 Commissioners have questions. Do staff have any question
19 for this panel?

20 MR. CORKRAN: Douglas Corkran, Office of
21 Investigation, staff has no additional questions.

22 CHAIRMAN JOHANSON: Do supporters of the Petition
23 have any questions for this panel?

24 MR. LEVY: No additional questions Mr. Chairman.

25 CHAIRMAN JOHANSON: Alright then, this panel is

1 dismissed but first let me note something that Petitioners
2 have 10 minutes of direct, 5 minutes of closing for a total
3 of 15 minutes. Respondents have 18 minutes of direct, 5
4 minutes of closing for a total of 23 minutes, and again this
5 panel is dismissed. We will now have supporters of the
6 Petition provide their closing remarks.

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

9 CLOSING STATEMENT OF JACK A. LEVY

10 MR. LEVY: Thank you Mr. Chairman. I think I'd
11 like to begin with a comment from Commissioner Schmidlein
12 during the afternoon panel. I think it is exactly right to
13 note that this is not your average sunset review.

14 We have an extraordinary record -- an
15 extraordinary track record of behavior from two of the
16 Respondents, Samsung and LG and it would be folly to turn a
17 blind eye to that track record. It is a track record of
18 reaction every time there is a duty event in the
19 marketplace.

20 Every time there's a duty event they change their
21 behavior, and they would have you to believe that this time
22 around they wouldn't change a thing. So, just to reprise,
23 they started off targeting the U.S. market from Korea and
24 Mexico -- these were their first choices in terms of export
25 platforms for targeting the U.S. market.

1 When duties were imposed, they rushed to China.
2 And before the ink was even dry on the China order, they had
3 quickly moved all of that production to Vietnam and
4 Thailand. Months later, there was a safeguard proceeding,
5 and lo and behold, their last choice now is to produce in
6 America.

7 We do not quarrel with their plans for U.S.
8 production. We welcome it, we applaud it, we want to see
9 more of it because it provides us an opportunity to compete
10 on a level playing field. But what we are concerned with is
11 if the ADCVD orders are revoked against Korea and Mexico,
12 what does that portend in terms of likely significant
13 volumes from the subject countries at injurious prices?

14 And what impact will that have on U.S. producers?
15 And we respectfully submit that if the orders are revoked,
16 something will change and their behavior yet again, will be
17 one of predatory assault.

18 Let me take you back in time to the original
19 investigation and address perhaps one scope issue. I think
20 we heard an argument -- Mr. Kim seemed to concede on one
21 side of his mouth that yeah, his 29-inch product probably
22 competes at the high end with domestic producers like
23 Whirlpool.

24 But then I think we all heard other arguments
25 that, oh it's such a premium product that it's really not

1 going to hurt anybody. And I think they went on to say that
2 they're higher-priced than Whirlpool anyway, so who's to be
3 harmed?

4 This is the exact same argument that you heard in
5 the original investigation in 2012. They were producing the
6 same 29-inch product in the original investigation and what
7 did they argue? I'll quote, they said, "LG is focused on
8 the premium segment of the market through product innovation
9 and design leadership, LG has successfully sold our washers
10 at a higher average selling price than Whirlpool." Of
11 course, they're looking at retail prices.

12 But be that as it may, you considered those
13 arguments then and what did you say? You said we reject the
14 argument. Those imports affected all segments of the
15 domestic industry and you found pervasive underselling.
16 Nothing has changed about the competitive relationship
17 between subject imports and the domestic-like product since
18 the original investigation.

19 Now, there's been a lot of hay made this
20 afternoon about the change circumstances review, and we look
21 forward to providing a complete response to the various
22 questions post-hearing. But at bottom, when we're talking
23 about these belt drive washers from Mexico, the relevant
24 legal question for this Commission is whether these products
25 threaten injury to the U.S. industry should the orders be

1 revoked.

2 And LG and Samsung spoke explicitly to this point
3 before the Commerce Department. Commissioner Johanson, I
4 think you were taken aback by that language, and I'll just
5 quote some of it back to you. They said that partial
6 revocation as to these Electrolux washers, "Would cause
7 competitive harm to U.S. LRW producers, LG and Samsung,
8 because it would remove from the discipline of the order
9 belt drive washers that compete directly with U.S.-produced
10 subject LRW's."

11 Samsung similarly said that these washers,
12 "Compete alongside in scope models," and "Removal of them
13 from the scope of the orders may negatively impact it's U.S.
14 production operations." Your purchasers echo the same point
15 as summarized in the pre-hearing report, including one very
16 prominent purchaser who I can't name because it's
17 proprietary, but I think their identity is compelling.

18 So, at bottom what you have is you have subject
19 imports -- whether they're 27-inch direct drive, 29-inch
20 direct drive, 27-inch belt drive -- all of these products
21 are interchangeable, and they compete head-to-head and
22 purchasers have told you as much on the record of this
23 proceeding.

24 Now on the issue of cumulation -- just quickly
25 again. Mr. Porter's marquee argument is decumulate Korea

1 from Mexico because Korea -- and only Korea is affiliated
2 with U.S. investment. That's just factually wrong because
3 Samsung and Mr. Shor got a little confused and I think once
4 or twice he said that Samsung doesn't make LRW's in Korea
5 and Mexico and then he stood corrected.

6 So, there's no dispute -- Samsung makes LRW's in
7 Korea and Mexico, not currently for sale in the U.S. market
8 but they make LRW's in Korea and Mexico. And our concern is
9 that if you revoke the orders, they will turn that
10 production and that capacity directly at the U.S. market.

11 Now if I can, let me take you forward in time two
12 years. In two years, it's reasonably foreseeable that there
13 will be no safeguard remedy in effect, which right away
14 makes Mr. Klett's economic analysis moot, because everything
15 he does is predicated on a world with safeguard duties.

16 So, let's fast-forward to this reasonably
17 foreseeable point in time. The safeguard remedy is removed,
18 and the ADCVD orders against Korea and Mexico have been
19 revoked. I think the key question is would Samsung and LG,
20 notwithstanding at least partial utilization of their U.S.
21 facilities, have an incentive to ship significant quantities
22 from Korea and Mexico to the United States?

23 And I think one question is should we believe
24 them when they say that their only interest would be in
25 supplementing volumes from Vietnam and Thailand, except for

1 LG that they're just going to have modest quantities for
2 their really innovative products that they're going to
3 launch?

4 And we would remind you of comments from Samsung
5 in the past where they extol the virtues of consolidation.
6 Why isn't it reasonable in fact likely, that the LG's of the
7 world would not only double down with their existing
8 production and capacity in Korea, but that they would
9 consolidate their Asian production for sale of LRW's into
10 the United States.

11 And now I said before, Korea's the mother ship.
12 It's home base. It's no accident that the Korean Embassy
13 testified today. And there's no question that Commerce has
14 found that at least for Samsung, there's a likelihood of
15 subsidization -- up to 21% should the orders be revoked.

16 The fact is that Korea is a country with a rich
17 network of suppliers and a higher level of vertical
18 integration than Vietnam and Thailand, so Korea was one of
19 their first choices for targeting the U.S. market -- first
20 before China, first before Vietnam and Thailand, and we
21 think it's highly likely if the orders are revoked that
22 there will be an interest in leveraging that platform, not
23 only for LG, but also for Samsung.

24 And as to Mexico, what can we say? Well, what we
25 can say is that Electrolux has demonstrated a continued

1 interest in selling in the U.S. market and beginning
2 mid-last year they seemed to be getting real traction,
3 flooring their models.

4 And everyone is in agreement that this product is
5 a direct competitive threat to products like Yanis, which
6 you saw here today. And Samsung for its part well, they
7 produce LRW's there, they have capacity there. They've sold
8 into the United States from there during the period of
9 investigation and so the question they ask again is why
10 would they have an economic incentive?

11 And we would simply say because it was your first
12 choice along with Korea and in the absence of duties, every
13 time you have a chance you react. Even the threat of a
14 safeguard remedy caused Respondent's to ramp up shipments
15 from Korea notwithstanding the orders and that wasn't even a
16 duty -- that was a rumor of a duty.

17 So, we have every reason to believe that the
18 likely effect of revocation will be one that precipitates a
19 reaction. You know, in truth we hope and pray that there
20 will be more and more production from the United States, but
21 this notion that they can do no harm with their imports
22 because they'll just cannibalize their U.S. operations sort
23 of ignores their track record.

24 You know, Samsung and LG have yet to show us that
25 they changed their stripes. You know, Commissioner

1 Williamson, I think you correctly noted that everybody
2 fights for market share and floor space. It is a vicious
3 dynamic of competition.

4 And what Samsung and LG have shown you, year upon
5 year as you closely examine in the safeguard proceeding, is
6 that priority one is market share growth. Market share
7 grown to the exclusion of profits on washers.

8 Why are we to believe that they will somehow
9 abandon that agenda simply because the orders are revoked?
10 Put another way, if they can supplement their U.S.
11 production with lower cost production from Korea and/or
12 Mexico, why wouldn't they? It's just more capacity, more
13 volume, more share growth and if there's some associated
14 harm in the short-term to the profitability of their U.S.
15 washer business, so what?

16 They don't seem to be concerned about making
17 profits above all else and there's certainly nothing on the
18 record to suggest that profitability is the only objective
19 that these companies have. They have a track record of
20 predatory behavior and they are drunk with ambition to grow
21 their market share.

22 You know, I guess I'll say in conclusion you
23 know, they come to you with a sense that their investments
24 are a product of goodwill and devotion to American
25 manufacturing. And let's not give them too much credit

1 because more than their goodwill, it was your good judgment
2 that brought them here.

3 It was your good judgment to impose anti-dumping
4 and countervailing duty orders, not once, not twice but
5 frankly, trade remedies in the form of safeguard frankly
6 remedies thrice. And because of that, they were forced to
7 finally do what they had only been talking about for years
8 upon years.

9 And because you had the good judgment to cover
10 parts, the level of vertical integration here even exceeds
11 their commitments to the states. You should feel wonderful
12 about the quality of your judgment in these cases and the
13 competitive effects.

14 We are on the precipice of a moment in time when
15 this America will be a hot bed of innovation and competition
16 with more production and more product offerings coming from
17 U.S. soil than ever before.

18 We're very close, but if you revoke these orders
19 now, you will be creating a whole new loop-hole and just
20 daring Samsung and LG to go back to their proven ways and we
21 respectfully submit that it is quite likely indeed, very
22 probable, that they will exploit Korea and Mexico as export
23 platforms to import in significant quantities at an injuries
24 prices.

25 And let there be no mistake, every time you've

1 examined their prices you found pervasive underselling. Up
2 and down the product line and that's exactly what we're
3 afraid of. Don't give them a loop-hole, don't pull the rug
4 out from under U.S. manufacturers when we are on the
5 precipice of accomplishing something wonderful in terms of
6 competition on a level playing field.

7 So, with that I think I'll conclude and my
8 colleague, Sheridan McKinney may have a few final comments,
9 but thank you so much.

10 CLOSING STATEMENT OF SHERIDAN S. MCKINNEY

11 MR. MCKINNEY: Sheridan McKinney for GE
12 appliances. I'm almost out of time so I'm going to make
13 this very quick. I would like to recall the retrospective
14 nature of an administrative review.

15 It looks at the sales and the prices that
16 actually occurred. You get a 0% rate, great. The order is
17 working, no harm, no foul, no dumping. But let's do a
18 little math here -- let's have a look at recent
19 administrative review results from an actual Mexican
20 producer.

21 So, recently we had a 72% rate from one of the
22 Mexican producers, right? So, if you subtract from that the
23 number 18 which represents the 201-duty rate. That leaves
24 us with 54% of unremedied dumping -- that's not a de minimis
25 rate.

1 The point is the safeguard cannot actually remedy
2 dumping, thank you.

3 MR. BURCH: Closing rebuttal remarks on behalf of
4 in opposition to continuation of orders will be given by
5 Daniel L. Porter of Curtis, Mallet-Prevost, Colt & Mosle.
6 Mr. Porter, you have 23 minutes.

7 CLOSING STATEMENT OF MICHAEL T. SHOR

8 MR. SHOR: This is Mike Shor for Samsung. No one
9 ever accused Mr. Levy of lacking in hyperbole or
10 exaggeration. We took a tour of the embryonic factory and
11 see if that's an embryo. I don't want to be there when the
12 adult is grown up.

13 On the one hand he welcomes U.S. production
14 operations by LG and Samsung, and then proceeds to entirely
15 ignore it in his analysis. Let's explore first the home
16 base theory. I haven't heard the term home base since I was
17 a kid playing tag. Home base was where you stood and you
18 couldn't become "it" if you were tagged, but it's more into
19 this theory that where you start is always where you want to
20 end up and I don't think that's the way the world works.

21 I started up in New York and I don't want to go
22 back to New York. Mr. Levy tells you that we have every
23 reason to believe that Samsung and LG will want to return to
24 where they started increased production in Korea and Mexico
25 and turn that production to the U.S.

1 He says they have every reason and then he gives
2 you no reasons. He has not articulated one bit of evidence
3 or one bit of economic rationale why having moved production
4 to cheaper-cost countries and Thailand and Mexico where
5 there are existing operations. The factories are
6 operational, where there is no excess capacity in Mexico or
7 Korea. Why they would turn that around -- turn those
8 factories off, move them to another country, back to Korea,
9 back to Mexico, to take advantage of zero duties when they
10 already have zero duties -- no economic rationale.

11 So, every reason to believe is really no reason
12 to believe. We heard also about the belt drive models.
13 This is kind of the tail wagging the dog in this case
14 because until this proceeding Whirlpool professed no
15 interest in belt drive models, no interest in their pricing,
16 no interest in them as a source of injury.

17 But I urge you to consider one factor when you
18 look at the belt drive models, and that is something that
19 Mr. Levy and GE never talked about today. GE imports from
20 China more belt drive models than Electrolux imports from
21 Mexico at lower prices. How does that square with their
22 theory of injury from belt drive models?

23 The final point I'd make on the -- what I'll call
24 the turnaround argument which is that Samsung and LG have
25 production operations of LRW's in Mexico and in Korea, and

1 that if you remove the order, they would turn it around and
2 face it toward the United States.

3 One thing Mr. Levy does not mention is that
4 Whirlpool also have LRW production operations in Mexico.
5 Are they going to turn it around and put it in the United
6 States if they remove duties? Remember, Whirlpool, as a
7 Respondent in the original investigation, they were a
8 producer in Mexico, they moved that production to the
9 United States, just as Samsung and LG has moved production
10 into the United States, why won't Whirlpool turn around it's
11 production?

12 It's the same reason that Samsung and LG won't.
13 There is no reason once you've made the huge investment. I
14 mean let's be realistic in what we're talking about -- the
15 investment that Samsung and LG have made in U.S. production
16 operations for washers alone comes to close to 1 billion
17 dollars.

18 What incentive -- what economic incentive is
19 there to take smaller production, smaller, less-efficient
20 production operations in Mexico and Korea than is not now
21 focused on all on producing for the U.S. market and turn it
22 around and use those investments to produce washers that
23 they would sell at lower prices than the washers that they
24 produce in the United States for what economic purpose?

25 The theory that they articulate just makes no

1 economic sense, thank you.

2 CLOSING STATEMENT OF DANIEL L. PORTER

3 MR. PORTER: Thank you Chairman Johanson, members
4 of the Commission. I will definitely be -- try to be as
5 brief as possible. And just a couple of rebuttal points.
6 Today, most or a good part of Petitioner's supposed
7 affirmative presentation was simply putting up quotes,
8 including quotes from counsel -- me in particular, that
9 supposedly contradicted the positions that we're taking
10 today.

11 So, I thought I'd return the favor to Mr. Levy
12 and show you a quote that he stated to you in the safeguard
13 case when you were looking at imports from Korea by itself.
14 And he said, "I don't think there's a dispute that Korea
15 stand-alone is a substantial cause of serious injury to the
16 Mexican industry, it wouldn't be credible for us to assert
17 as much."

18 Now, it is true that Mr. Levy and Whirlpool
19 changed their position when the case went to the political
20 phase. But I find it interesting when he was here knowing
21 you really want to base your determination on evidence and
22 facts, he -- this is what his view was about imports from
23 Korea.

24 The next rebuttal point I want to make is about
25 cumulation. Mr. Levy, just a couple of minutes ago, said

1 that our only argument about cumulation was this investment
2 theory. No, we have multiple arguments about cumulation.
3 Please, we have an entire section in our brief about
4 cumulation, we referred to that and in particular, it's what
5 I mentioned earlier -- the lack of overlap of competition.

6 All of this belt drive imports we've spent so
7 much has nothing to do with Korea. It has a lot to do with
8 Mexico. That distinction is reason enough to look at Korea
9 separately in the sunset analysis.

10 Now, for our closing statement I want to return
11 to how we started. Why are we here today? We are here
12 today to assist the Commission make its best assessment of
13 what will happen in the future to the domestic LRW injury
14 should the ADCVD orders be terminated.

15 As we noted, this is fundamentally a
16 forward-looking inquiry, not backward looking. Over the
17 course of today's hearing you were presented with competing
18 views on what assessment this Commission should make as it
19 does its best to predict the future.

20 There really is no significant dispute about the
21 facts. No party is seriously claiming that any of the
22 information and data set forth in the staff report, or any
23 of the questionnaire responses are wrong -- rather, the
24 entire dispute is about what inferences about the future the
25 Commission should make given these largely undisputed facts.

1 And the very core of this dispute is what
2 inferences should the Commission adopt in light of the
3 undisputed fact that as of today the very targets of these
4 ADCVD cases have built new, state of the art, large-scale
5 integrated washer production factories here in the United
6 States that will replace nearly all the imports that these
7 companies previously brought in.

8 In essence, what inferences about volume, price
9 and impact of future imports should the Commission make in
10 light of these new U.S. washer factories? I have no desire
11 to rehash all the testimony and visuals presented today.
12 Rather, I would like to end with two other points.

13 The first point is that the Commission has
14 previously addressed the very same core issue that is the
15 core of this dispute. There have not been just one, two or
16 three, but there have been five past sunset cases in which
17 the Commission was asked to adopt inferences about future
18 imports in light of new U.S. investment and production
19 factories by the very targets of the ADCVD cases.

20 Indeed, we have an entire section in the LG
21 pre-hearing brief devoted to these cases, and I believe it's
22 worth highlighting this past Commission experience with this
23 issue. In these cases, the Commission made very clear that
24 not only -- that it not only considered U.S. production
25 factories by foreign exporters to be very relevant for its

1 sunset analysis, but also what inferences about future
2 imports should be adopted.

3 In each of these multiple past cases, the
4 Commission explicitly noted that the existence of new U.S.
5 investment and production factories by the foreign producer
6 exporters was a key factor that made it less likely that
7 future imports, excuse me -- that made it likely that future
8 imports would be constrained and made it unlikely that
9 future importers would adopt aggressive pricing practices.

10 And therefore, in each of these past cases, the
11 Commission rendered a negative sunset determination. Now, I
12 am not at all suggesting that these past cases somehow are
13 binding on the Commission's decision for this case.

14 However, we do believe that the Commission's
15 practice is useful for the Commission's analysis in this
16 case.

17 My last comment -- excuse me, my last comment is
18 simply to note that another U.S. government trade agency,
19 specifically USTR, has actually already undertaken the
20 virtual identical analysis that the Commission must do in
21 this case. As shown on the next slide in March 2018, USTR
22 undertook the very analysis of the volume of washer imports
23 that could be expected from Korea assuming the termination
24 of the ADCVD orders.

25 USTR was unequivocal "The United States has

1 demonstrated with evidence that it is highly unlikely,
2 actually it is virtually inconceivable, that Samsung LG
3 would resume production of LRW's in Korea for export to the
4 U.S. market if the WTO inconsistent aspects of the U.S. AD
5 and CVD measures on LRW's from Korea were renewed."

6 Indeed, the evidence demonstrates that even in
7 the absence of U.S. anti-dumping and CVD duty measures,
8 Samsung and LG would still produce LRW's for the U.S. market
9 at their newly constructed factories which are located in
10 the United States.

11 Again, we are not suggesting, and the Commission
12 is legally required to adopt the same conclusion as USTR.
13 But we do believe it is instructive for the Commission's
14 analysis that after examining the evidence, USTR has
15 categorically rejected the very core of Whirlpool's
16 argument.

17 Moreover, we note that the U.S. statements refer
18 to evidence which was exclusively comments by LG and Samsung
19 previously submitted to the Commission during the safeguard
20 proceedings. That evidence was sufficient to convince the
21 Commission to recommend that the Section 2 restrictions not
22 cover Korea. That there was no need for a double remedy.

23 The evidence was considered highly probative by
24 USTR in this WTO litigation. That evidence has been
25 significantly strengthened in this proceeding by more

1 advanced ramp-up of the U.S. production and further
2 statements by LG and Samsung.

3 Both the prior evidence and the new evidence in
4 this sunset review, provides a compelling basis for the
5 Commission to terminate the ADCVD order against Korea.
6 Thank you, we ask the Commission to render a negative sunset
7 determination.

8 CHAIRMAN JOHANSON: Thank you all again for being
9 here today. I will now make the closing statement.
10 Post-hearing briefs, statements responsive to questions and
11 requests of the Commission and corrections to the staff
12 report, must be filed by March 1st, 2019.

13 Closing of the record and final release of data
14 to parties occurs on March 22nd, 2019 and final comments are
15 due on March 26, 2019 and with that this hearing is
16 adjourned.

17 (Whereupon, the hearing was adjourned at 5:20 p.m.)
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Certain Large Residential Washers from Korea and Mexico

INVESTIGATION NOS.: 701-TA-488 and 731-TA-1199-1200

HEARING DATE: 2-21-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Review

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

DATE: 2-21-19

SIGNED: Mark A. Jagan
Signature of the Contractor or the
Authorized Contractor's Representative

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

SIGNED: Duane Rice
Signature of Proofreader

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

SIGNED: Gaynell Catherine
Signature of Court Reporter

Ace-Federal Reporters, Inc.
202-347-3700