

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE U.S. TRADE REPRESENTATIVE

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TRADE POLICY STAFF COMMITTEE HEARING
ON PRESIDENTIAL ACTION UNDER
SECTION 201 - LARGE RESIDENTIAL WASHERS

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January 3, 2018
9:30 a.m.

Office of the U.S. Trade Representative
Annex Building, Rooms 1 and 2
1724 F. Street, N.W.
Washington, D.C. 20508

COMMITTEE MEMBERS:

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P R O C E E D I N G S

(9:30 a.m.)

MR. MARTYN: Good morning and welcome.

First, I'll ask can everyone hear me? That's good.

Okay. If during the course of this proceeding anyone in the back has trouble listening to us or hearing what we're saying, please just stand up and wave or make whatever noise you need to make until you get our attention, because sometimes the acoustics in this room are not great and occasionally the microphone system ceases working.

So my name is Will Martyn. I'm with the U.S. Trade Representatives' Office of General Counsel. I will be chairing this hearing.

The purpose of today's hearing is to receive public testimony relating to what action within the authority of the President would be appropriate and feasible to facilitate efforts by domestic producers of large residential washers to make a positive adjustment to import competition and provide greater economic benefits than costs.

Before we begin the hearing, I will briefly

1 summarize the background of this matter, provide
2 some procedural and administrative instructions, and
3 introduce the other agency representatives
4 participating in the hearing today.

5 On June 5, 2017, the ITC instituted
6 Investigation No. TA-201076 under Section 202 of the
7 Trade Act of 1974, 19 U.S.C. Section 2252, as a
8 result of a petition filed on May 31, 2017, and
9 amended on June 5, 2017, by Whirlpool. The ITC's
10 Notice of Institution identifies the scope of the
11 products covered by this investigation to include
12 large residential washers, or LRWs, and covered
13 parts.

14 On October 5, 2017, after receiving
15 submissions from interested parties and holding a
16 public hearing that provided an opportunity to
17 present opposing views and supporting evidence, the
18 ITC determined that increased imports of residential
19 washers into the United States are a substantial
20 cause of serious injury to the domestic industry.
21 The ITC held a public hearing on October 19, 2017,
22 regarding the question of remedy, and interested

1 parties received an opportunity to file submissions
2 on this issue.

3 On November 21st, after the remedy hearing
4 and consideration of the submissions, including
5 post-hearing submissions, the ITC voted on remedy
6 recommendations. And on December 4, 2017, the ITC
7 submitted a report to the President with its
8 recommendation on actions to address the serious
9 injury to the domestic industry and to facilitate
10 the efforts of the domestic industry to make a
11 positive adjustment to import competition.

12 On November 30, 2017, the Office of the
13 United States Trade Representative issued a *Federal*
14 *Register* notice seeking comments from interested
15 parties on whether a remedy in response to the
16 serious injury caused by increased imports is
17 appropriate and in the public interest. The notice
18 requested interested parties to address the
19 appropriateness of any other proposed action and how
20 it would be in the public interest; the short and
21 long-term effects the proposed action is likely to
22 have on the domestic residential washers industry,

1 other domestic industries, and downstream consumers;
2 and the short and long-term effects that not taking
3 the proposed action is likely to have on the
4 domestic residential washers industry, its workers,
5 and on other domestic industries and communities.
6 The TPSC will carefully consider the testimony from
7 this public hearing and all comments received in
8 preparing a recommendation to the President as to
9 what action the President should take under Section
10 203 of the Trade Act.

11 We have four panels of witnesses scheduled
12 to testify today. We will have a brief break
13 between panels to let the witnesses situate
14 themselves, and we will break for about 10 minutes
15 at the end of the question-and-answer session for
16 Panel 3. Panel 1 is allotted 10 minutes of
17 testimony. Panel 2 is allotted 10 minutes of
18 testimony. The TPSC may or may not have brief
19 questions following these presentations. Panels 3
20 and 4 are allotted 30 minutes of affirmative
21 testimony each. For Panel 3, 10 minutes of its
22 allotted time for affirmative testimony will be

1 reserved as rebuttal time to follow the conclusion
2 of Panel 4's question-and-answer session.

3 After the testimony from each panel of
4 witnesses, agency representatives will have an
5 opportunity to ask questions. All questions will be
6 from agency representatives. There will be no
7 questions accepted from the floor. Questions and
8 answers following Panels 3 and 4 will end after 60
9 minutes, respectively.

10 We have a very busy schedule today and a
11 substantial number of witnesses. We will
12 accordingly be very strict with all time limits and
13 ask that you assist us by winding up your testimony
14 or answers to questions immediately when time
15 expires. Mr. Mroczka and Ms. Schwartz will be
16 keeping time today. Please wind up your testimony
17 when either one indicates that there is 1 minute
18 left and conclude when they indicate your time is
19 up.

20 All public submissions for this hearing
21 are available for public review on the
22 regulations.gov website under docket number

1 USTR-2017-0023. A written transcript of this
2 hearing will be posted in the same location as soon
3 as possible after the conclusion of this hearing.

4 If you have any questions about the
5 facilities, the guards at the front desk can direct
6 you. Video recording and photographs of the
7 proceedings are not permitted.

8 We are pleased to have international trade
9 and economic experts from a range of U.S. government
10 agencies. If you could please introduce yourselves,
11 starting at my far left with Mr. Stephens?

12 MR. STEPHENS: Andrew Stephens at the U.S.
13 Department of Agriculture.

14 MR. CYMBALSKY: John Cymbalsky at the U.S.
15 Department of Energy.

16 MR. STURM: Logan Sturm, Treasury.

17 MS. AYLWARD: Kara Aylward, Department of
18 State.

19 MS. LABAT: Terry Labat, U.S. Department
20 of Commerce.

21 MS. PETTIS: Maureen Pettis, Department of
22 Labor.

1 MR. ADJEMIAN: Michael Adjemian, Council
2 of Economic Advisors.

3 MR. MARTYN: Thank you very much. And we
4 will now begin with presentations from Governor
5 McMaster and Congressman Norman.

6 All right, well, first let me apologize
7 for the obstacle course, but I see you have worked
8 your way through it so I think we will begin with
9 the Governor and then turn to Congressman Norman.

10 GOVERNOR McMASTER: We've been through
11 obstacle courses before, no problem.

12 Bill, thank you very much for inviting us.
13 We're happy to be here. I think I'll be well within
14 my time limits, but those time limits have required
15 representative -- State Representative Rick Martin
16 to submit his comments, and they are full and
17 they're good, and thanks to -- he would say, if he
18 was testifying, thanks to Samsung, it's a new day in
19 Newberry, South Carolina.

20 You may know that our two reactors being
21 built, nuclear reactors by Westinghouse went
22 bankrupt. That's not far from this location, and we

1 lost 5,000 workers there. And when Caterpillar
2 pulled out of the building that Samsung is now in,
3 they took 400 workers. They left 400 workers out of
4 jobs. So we are very happy to have Samsung here and
5 they are great, great partners.

6 I note that President Trump himself
7 actually began Samsung's recruitment about a year
8 ago by encouraging them to build a factory in the
9 United States. He tweeted that out. And Samsung's
10 progress to-date serves as a testament to the
11 President's commitment to prioritize American
12 manufacturing. In fact, they are moving so quickly,
13 we think they're breaking all sorts of speed records
14 in getting a plant up and going. That's one reason
15 they bought the abandoned Caterpillar plant.

16 I strongly support President Trump's
17 America First trade policies and I'm convinced that
18 Whirlpool's proposed tariff would have the opposite
19 effect; that is, they would hinder and not help
20 American manufacturing. I'd like to point out that
21 this is not a case of a foreign company just selling
22 its product -- certainly not dumping, but not

1 selling its products in the U.S., but it's a case of
2 a foreign company accepting an invitation, moving at
3 Mach speed in making a huge investment in the United
4 States to manufacture its products here. And all
5 these washing machines sold in the U.S. will be made
6 in the U.S. eventually. That's their plan.

7 Because I know you've heard concerns about
8 Samsung's investment in South Carolina, I'd like to
9 tell you a little bit more about it. On June 28,
10 2017, a Wednesday, Samsung and the State of South
11 Carolina announced Samsung's commitment to build a
12 state-of-the-art appliance manufacturing facility in
13 Newberry, South Carolina. That announcement
14 followed many months of discussions between Samsung
15 and the State of South Carolina, as well as
16 President Trump's invitation. We held two press
17 conferences that day, the first in Washington and
18 the second in Newberry. Secretary Wilbur Ross and
19 Senator Lindsey Graham joined us at the first one in
20 Washington, D.C., at the Willard Hotel.

21 Samsung's commitment is substantial. And
22 through written agreements, written agreements with

1 our Department of Commerce, they have agreed to
2 invest \$380 million in this manufacturing facility
3 between June of 2017 and June of 2022. Substantial
4 amounts of that investment have already been made in
5 acquisition of the old Caterpillar plant, as I
6 mentioned, and in expansion and massive refurbishing
7 of that building for washer production, the
8 acquisition of manufacturing equipment, and other
9 improvements to the property.

10 I've been to the place and looked at it.
11 It is huge. There were people crawling all over the
12 place. They are bringing in huge machinery. The
13 stampers that they use to stamp out the machines
14 come from abroad and the parts are assembled when
15 they get here. These are the machines that produce
16 the washing machines. And they fill 52 of those
17 container units that you see on ships coming into
18 the U.S. That's how big they are. It takes 30 feet
19 of newly poured concrete, which is what Samsung is
20 doing, to hold those machines up. This is not a
21 screwdriver outfit. This is a big, heavy duty
22 manufacturing plant, which I have seen myself. And

1 by the way, it is spotless.

2 Samsung made that binding commitment to
3 employ at least 954 workers at this new factory by
4 2022, although they will likely reach that goal
5 before the end of 2018. Already 500 workers have
6 been hired. These are substantial, well-paying,
7 highly skilled jobs such as machine operators,
8 assembly workers, engineers, and equipment
9 maintenance specialists. This is more jobs than the
10 400 that Newberry lost when Caterpillar closed in
11 2016. More than 90 percent of these workers are
12 from the Newberry or surrounding areas.

13 In fact, we're having to work -- they're
14 hiring so fast, we're having to work to get our
15 technical colleges and the high schools working
16 together to ramp up to provide the kind of workers
17 to keep it going. It's a great situation to be in
18 South Carolina. We've got employers looking for
19 employees instead of the other way around, and this
20 is a big help to us.

21 But this positive impact is far beyond the
22 direct hires at the facility. In the last 6 months,

1 to buildout of the factory employed nearly 800
2 workers in skilled construction trades. As the
3 factory moves into the next phase of producing
4 washers for commercial shipment, the surrounding
5 region can easily expect that many additional jobs
6 will be created in various supports to the factory
7 in the form of logistics, transportation services,
8 and others. The ribbon cutting for the commencement
9 of commercial production is scheduled for next
10 Friday, January the 12th. That's when they'll roll
11 out their first washing machine for sale. As I say,
12 we've never seen anyone move this fast.

13 The factory is already starting to
14 transform Newberry. Newberry, as you may know, is a
15 small college town just north of the state capital
16 of Columbia. The town and surrounding county have a
17 population of about 38,000 people. The jobs
18 promised by Samsung are important. South Carolina
19 was selected for the new state-of-the-art facility
20 because it offers a highly trained workforce, a
21 strategic location for logistics, and a proven track
22 record of welcoming foreign investments.

1 South Carolina today is emerging as a
2 center of manufacturing excellence for premium
3 brands such as Volvo, BMW, Mercedes, Boeing, GT
4 Tire, Michelin, and Bridgestone, Firestone, and a
5 lot of others. And I have to tell you it's been a
6 long time coming, but it is coming and we want to
7 keep it coming. This investment by Samsung will
8 push us -- help us achieve our goals. We don't want
9 to let them down and I know they're not going to let
10 us down.

11 The 5 -- excuse me -- the 1,000 new
12 Samsung jobs will have an important multiplier
13 effect as well. This Newberry facility will lead to
14 additional job creation in upstream industries, as
15 you know, producing parts for washer production, as
16 well as significant downstream employment in
17 packaging and logistics. In addition to these 1,000
18 jobs right there in Newberry, Samsung and the State
19 of South Carolina have just launched something new
20 and different that indicates the commitment of
21 Samsung to South Carolina and the United States.
22 They have launched a collaborative effort between

1 Samsung and two of South Carolina's three major
2 research universities.

3 Now keep in mind we are joining together
4 the high schools, the technical colleges, these
5 industries, and now these major research
6 universities. Clemson University and the University
7 of South Carolina are the two that are
8 participating. And recently, USC President Harris
9 Pastides and Clemson President Jim Clements, and I
10 and others participated in the plant tour that I
11 mentioned earlier, and announced at the press
12 conference that this new collaboration is coming.

13 The newly created Palmetto Consortium for
14 Home Appliance Innovation is the name of it. It
15 will create a robust research and development
16 program designed to catalyze innovation, foster
17 public/private collaboration, and nurture the next
18 generation of advanced manufacturing professionals
19 in South Carolina. This consortium will bring the
20 promise of internships and collaborations and jobs
21 with students and the faculty.

22 We have another example there with ICAR,

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1 which is the International Center for Automotive
2 Research, which is joining PhD candidates, PhD
3 professors, researchers, PhD candidates, as I said,
4 master's candidates, undergraduates, and high school
5 students and technical college students right there.

6 This is good news about investment and job
7 creation in South Carolina. Samsung's decision to
8 invest in U.S. manufacturing is about South Carolina
9 and the United States and President Trump creating
10 the kind of investment and business climate that
11 attracts manufacturing jobs and investment.

12 As I mentioned earlier, Commerce Secretary
13 Wilbur Ross attended the announcement on June 28th
14 for the Newberry facility in Washington, as did
15 Senator Lindsey Graham and I. At that announcement,
16 Secretary Ross praised and was quoted as saying
17 Samsung is one of the world's largest and most
18 respected technology companies, and noted that its
19 decision to invest in South Carolina speaks volumes
20 about the innovation and excellence in South
21 Carolina and what our talented workforce is capable
22 of. Of course, the same thing can happen in other

1 places as well. This is success. It is undeniable
2 that Samsung is rapidly becoming an established
3 member of the U.S. washing machine manufacturing
4 industry.

5 While the law may allow some remedy, that
6 remedy should not undermine the success of
7 manufacturing investment in South Carolina.

8 MR. MARTYN: Excuse me, Governor McMaster,
9 I'm sorry, you've gone --

10 GOVERNOR McMASTER: I'm over?

11 MR. MARTYN: You're a bit beyond your time
12 and we have a very packed schedule.

13 GOVERNOR McMASTER: Okay.

14 MR. MARTYN: So I'm sorry to have to ask
15 you to -- if you have one or two sentences to wind
16 up.

17 GOVERNOR McMASTER: I do. We are very
18 happy that Ford, GM, and others did not raise the
19 issues that Whirlpool is asserting today when Volvo,
20 BMW, Mercedes came to South Carolina, as well as GT
21 Tire, Honda, Michelin, and all of those others. We
22 ask for a reasonable solution of a no tariff. The

1 Republicans have -- on the International Trade
2 Commission have suggested no tariff for the first
3 1.2 or 1.3 billion with a small tariff after that.
4 We think that that will allow this manufacturing to
5 grow without being stymied. A larger tariff in the
6 ramp-up phase will likely diminish our prospects in
7 South Carolina, will hurt our ability to recruit
8 industry, and it will hurt the working people in
9 South Carolina.

10 So we ask you not to impose -- not to
11 recommend to the President that he impose an
12 unnecessary tariff which will kill the very kind of
13 investment that we've been seeking that is at the
14 national and the local level, and instead, if you
15 recommend something, let it be reasonable such as
16 what the Republicans have suggested. And we thank
17 you.

18 MR. MARTYN: Thank you, Governor McMaster.
19 Congressman Norman?

20 CONGRESSMAN NORMAN: Mr. Chairman, members
21 of the committee, I want to thank you for taking the
22 time and --

1 MR. MARTYN: Could you turn on your
2 microphone, please?

3 CONGRESSMAN NORMAN: Thank you for taking
4 the time to have the Governor and myself up. This
5 is very important, very important to our state.
6 It's very important to the people. But all they
7 want to -- this company just wants to compete. And
8 I'll just say before my prepared remarks, this hit
9 them out of the blue. We were -- the Governor and I
10 were talking with the president, and South Carolina
11 went after their high-quality product because of
12 what they bring to the state and to the country.
13 And it was the president of Samsung who said we just
14 want to compete. We just want to make -- we want to
15 call South Carolina our home. And to be hit with
16 this after the fact that they made an investment is
17 just not fair and it's not something that I think is
18 inviting as we go after other companies.

19 So I appreciate what you do, and let me
20 just -- of course, Governor McMaster said it great,
21 I'll reemphasize some of the things, but we're here
22 because we believe in what they're doing. We want

1 to stand up for our constituents and we want to make
2 sure this company is able to make the highest
3 quality washer and dryers in the country, which they
4 are committed to do.

5 I represent the Fifth District with
6 Newberry being a vital part of it. The interests in
7 this matter are closely aligned with the best
8 interest of all Americans. Back in 2006, as
9 Governor McMaster said, Caterpillar opened a large
10 manufacturing facility in Newberry. It was actually
11 built to produce electric power generation equipment
12 and would soon employ hundreds of people from all
13 over the state. Caterpillar was a major employer in
14 Newberry until the spring of 2016, when the company
15 announced it would close the plant as part of the
16 cost reduction and restructuring effort.

17 While that was a necessary move for
18 Caterpillar, it represented a devastating blow to
19 Newberry. It wasn't just the 325 families who were
20 impacted by these layoffs. Restaurants, retail
21 establishments, service providers, doctors, lawyers
22 were all affected by the decision of Caterpillar.

1 As your committee knows all too well, the ripple
2 effects of job losses run deep. It's not a solitary
3 incident. Fortunately for this amazing community,
4 Samsung quickly realized the value in opening a
5 manufacturing operation in Newberry, more than just
6 the plant that has been vacated by Caterpillar.
7 What they saw was the potential in Newberry's labor
8 force, hard-working men and women who could run the
9 facility.

10 Back in June, only 7 months ago, Samsung
11 announced plans to invest over \$380 million in the
12 Newberry plant and produce state-of-the-art washing
13 machines and other home appliances. As the Governor
14 said, the ribbon cutting is in 9 days. We will all
15 be there. We will come back from whatever we're
16 doing in Washington to attend this momentous event.

17 I don't need to tell you ladies and
18 gentlemen this is a big deal for Newberry and the
19 whole State of South Carolina. It is a significant
20 step in the right direction for domestic
21 manufacturing. In fact, Commerce Secretary Wilbur
22 Ross called Samsung's investment in South Carolina's

1 Fifth Congressional District, quote, "exactly the
2 kind of job creation and investment that the Trump
3 administration is seeking for American workers."

4 With that in mind, I come before you today
5 to voice my strong opposition to the proposed
6 tariffs on Samsung's imports and, once again,
7 respectfully request that President Trump reject
8 these sanctions. And, again, it's after the fact
9 that they made the commitment and investment in
10 Newberry. My congressional predecessors wrote the
11 safeguard laws which had great intentions. They
12 wanted to provide workers and industries with
13 temporary protection against unforeseen rises in
14 imports. However, the law was also drafted to
15 ensure that consumer taxes in the form of tariffs
16 were not imposed unless absolutely necessary and
17 then only after thoughtful analysis.

18 Samsung has already hired over 500
19 employees for its Newberry plant. A few weeks ago
20 it was announced the partnership with the state's
21 major universities, as the Governor just said, would
22 research the best practices in manufacturing

1 techniques. The company estimates that more than
2 1,000 people will be employed at this facility
3 within the next 24 months. With these efforts and
4 countless more, Samsung is clearly establishing
5 itself as a United States domestic washing machine
6 manufacturer. These appliances will be produced in
7 Newberry with American workers and sold right here
8 in the United States, to the United States
9 consumers. By definition, this makes Samsung part
10 of our domestic industry.

11 Congress was careful to write the law to
12 ensure that any remedy imposed was not excessive and
13 requires the President to consider its impact on all
14 members of the domestic industry. Samsung now is
15 without question part of that group. As a member of
16 this domestic industry, it must receive fair
17 treatment under this law. I feel it would be
18 contrary to the congressional intent to do
19 otherwise.

20 Imposing tariffs on Samsung's imports just
21 as the Newberry plant prepares to come online will
22 severely undermine the company's success. No

1 manufacturing operation on this scale is capable of
2 meeting its projected capacity right out of the
3 gate. It takes months, sometimes years for
4 production to fully ramp up. Over the next 12 to 18
5 months, Samsung obviously must continue to import
6 some models of washing machines to just meet the
7 demand. Because of the number of washing machines
8 Samsung must import is inversely proportional to the
9 number of units it produces domestically, imports
10 will decrease with each passing month as the
11 Newberry plant becomes fully operational.
12 Therefore, to impose a tariff on Samsung at this
13 late stage during this transition would be damaging
14 on all fronts.

15 I'll just close and say that, as the
16 president of Samsung said, this hit him out of the
17 blue, this hit him when he has invested a lot of
18 dollars, a lot of time, a lot of payroll, and to now
19 at this point come back is just simply not fair.
20 It's not fair to the customers who are going to only
21 pay higher rates if this tariff -- if any tariff is
22 passed, and it's not fair to a company that just

1 wants to compete.

2 Thank you so much for your time and we
3 appreciate the opportunity.

4 MR. MARTYN: Thank you, Congressman
5 Norton, Government McMaster, and with that I think
6 we're finished with Panel 1. I would like to ask
7 Panel 2 to come forward.

8 All right, please begin.

9 MR. KIM: Thank you, good morning. I am
10 Heesang Kim, Deputy Director-General for Bilateral
11 Economic Affairs of the Korean Ministry of Foreign
12 Affairs. It is a great honor for me to present
13 today some comments on this very important matter
14 regarding the safeguard investigation of large
15 residential washers.

16 I say this is a very important matter
17 because the issue we are now facing is not simply
18 whether or not to apply safeguard measures on the
19 import of washers. The issue is whether we will
20 allow unjustified imposition of safeguard measures
21 under the pressure from domestic industry. Once it
22 is allowed here in the United States, we will soon

1 see a series of corresponding unjustified safeguard
2 measures by other countries against foreign products
3 including those from the United States. Given such,
4 I'd like to request the TPSC consider all possible
5 impacts and the implications of this safeguard
6 investigation before determining its recommendation
7 to the President.

8 In this regard, the Korean government
9 would like to remind the TPSC of the recommendation
10 proposed by Vice Chairman Johanson and Commissioner
11 Broadbent. As they proposed, the Korean government
12 is of the view that tariff rate applied to in-quota
13 imports should be zero. Imposition of additional
14 tariff on in-quota imports will significantly limit
15 the market access of foreign products more than
16 necessary to address the domestic injury, which is
17 inconsistent with Article 5.1 of the Safeguard
18 Agreement and relevant U.S. laws.

19 Furthermore, the Korean government
20 supports the unanimous recommendation by the ITC
21 that TRQ should be allocated on a global basis since
22 global basis TRQ enables a more stable and reliable

1 supply to the U.S. consumers and thus alleviates
2 negative effects of safeguard measures.

3 With regard to the product exclusions, the
4 Korean government believes that the scope of
5 safeguard measures should be limited to the like or
6 directly competitive products that the domestic
7 industry produces. Thus, certain products and
8 washer parts that the domestic industry does not
9 produce should be excluded from safeguard measures.

10 Last but not least, we believe the TPSC
11 should affirm the recommendation of the ITC that
12 imports from Korea should be excluded from the
13 imposition of any safeguard measures. Though ITC
14 has found that there is no serious injury and threat
15 thereof caused by imports from Korea, the ITC also
16 rejected petitioner's wrong argument that excluding
17 Korea imports will cause a loophole that is likely
18 to result in country hopping and circumvention.

19 We support this decision because such
20 claims are groundless. Firstly, by law, country
21 hopping or circumvention cannot be a justification
22 for triggering a safeguard measure. It should be

1 handled in the context of antidumping measures.
2 Secondly, there is simply no significant excess
3 capacity in Korea to be shipped to the United
4 States.

5 In addition, as was pointed by the ITC,
6 the fact that Samsung and LG will soon be operating
7 their facilities in the United States means that
8 they will have much less need to increase imports
9 from Korea. Therefore, it will be hard to explain
10 to Korean people as well as the American consumers
11 why the President imposed a safeguard measure
12 against Korean imports contrary to the
13 recommendation of the ITC, contrary to the KORUS FTA
14 and U.S. past practices, and contrary to the
15 specific facts of this case.

16 In conclusion, the Korean government
17 request that the TPSC take into serious
18 consideration the negative impacts of safeguard
19 measures on the U.S. domestic industry, as well as
20 on the international trade, and proceed with this
21 investigation in a fair and objective manner.

22 Thank you.

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1 MR. MARTYN: Thank you, Mr. Kim.

2 All right. We will now turn to questions.
3 Before we start questions, and this will apply to
4 all the panels, I would like to ask all of you not
5 to extrapolate from the questions we ask any views
6 as to what we may be thinking. These questions are
7 designed to address the issues that are faced by the
8 committee. We still have a lot to think about and
9 so these questions are designed to get -- elicit
10 information and not to suggest where we may be
11 coming from or what our views are as to any of the
12 matters that are before us. And so with that, I
13 will ask if any of my colleagues have questions for
14 Mr. Kim.

15 MS. AYLWARD: You argue in your comments
16 and submission that country hopping should be
17 addressed through trade remedy proceedings. In your
18 view, has country hopping contributed to the import
19 surge? If not, please elaborate and explain the
20 basis for that view.

21 MR. KIM: Thank you for the question.
22 Firstly, let me clarify one thing. What we argue in

1 our submission is that the issue of so-called
2 country hopping should be handled in the context of
3 antidumping regulation, not the safeguard one.
4 Those two regulations are totally different ones.

5 Turning back to your question, in my
6 opinion, the increase in imports of large
7 residential washers in the U.S. market has occurred
8 because, number one, the growing U.S. market and,
9 number two, the success of the innovative LG and
10 Samsung products with American consumers.
11 Therefore, this increase in imports is irrelevant to
12 the issue of so-called country hopping. And if you
13 allow, I will ask our legal counsel to add some.

14 MR. DURLING: This is Jim Durling from
15 Curtis. I would just also add that the issue of
16 country hopping is particularly inappropriate with
17 regard to imports from Korea because Korea is the
18 home country of Samsung and LG. Korea is a country
19 that has a very small market share. Korea does not
20 have much available capacity. You have that
21 information in the ITC record that you've been
22 provided so you actually have specific information

1 on how much capacity is conceivably available in
2 Korea. And most importantly, Korea is currently
3 subject to antidumping and countervailing duties.
4 Those rates are prohibitive for Samsung, more than
5 100 percent. As a practical matter, Samsung cannot
6 export from Korea with 100 percent duties.

7 LG has smaller duties. But if you go to
8 the ITC record, you will see that much of LG
9 capacity is, as you would expect, dedicated to
10 producing for the Korean market. Even if every
11 single available unit for export were redirected to
12 the United States, that would still be a relatively
13 small portion of the U.S. market and would not
14 justify the imposition of any remedy against Korea.

15 MS. AYLWARD: To the best of your
16 knowledge and information, has there been a sharp
17 uptick in imports from Korea in the last 2 months of
18 2017?

19 MR. KIM: Yeah, please.

20 MR. DURLING: This is Jim Durling from
21 Curtis. We do not think there has been a sharp
22 uptick. If you look at it on a percentage basis, it

1 may seem like a large percentage just because the
2 imports from Korea had been substantially reduced
3 from the beginning of the period. If you look at
4 all 5 years for which you have data, if you compare
5 the level of imports from Korea at the beginning of
6 the period, you'll see very sharp decline as the
7 companies were globalizing production and producing
8 in other countries. There is an increase relative
9 to the low level reached during this period, but as
10 a percentage of the market, there still has not been
11 a significant increase in the imports from Korea.

12 MR. MARTYN: Korea has asked that the
13 President exclude Korean imports from application of
14 any safeguard measure. In the view of the
15 government of Korea, would an exclusion at this time
16 by the President on the basis of the information
17 that is available be consistent with U.S.
18 obligations under the GATT 1994 and the Agreement on
19 Safeguards?

20 MR. KIM: Yes. Since the ITC already
21 decided there is no injury or threat thereof,
22 according to the principle of parallelism

1 established by the previous WTO cases, I think it is
2 consistent with Article 2.2 to exclude from -- of
3 the safeguard agreement to exclude from the
4 safeguard measures the export from FTA partner,
5 which it was found without serious injury or threat
6 thereof.

7 MR. MARTYN: Thank you. All right. That
8 concludes our questioning --

9 MR. ADJEMIAN: I have a question.

10 MR. MARTYN: Oh, excuse me. My colleague
11 from CEA has a question.

12 MR. ADJEMIAN: Thanks. So in your
13 testimony, you described the remedy on washers
14 themselves. Do you have a view of the suggested
15 remedy from ITC on covered parts as well?

16 MR. KIM: Yes. I already mentioned in my
17 statement we believe the safeguard measure should be
18 taken against the like or directly competitive
19 products which the domestic industry produce. So
20 some products model and also the parts is not the --
21 we believe it should not be subject to the safeguard
22 measures.

1 MR. DURLING: This is Jim Durling from
2 Curtis. I would just like to add both companies
3 have made quite clear that they will be producing
4 covered parts at the factories in the United States.
5 So imports of covered parts, were they to occur,
6 would be either for very specific purposes,
7 replacement parts; it could be some temporary --
8 like one of the pressing machines goes down for a
9 while. And so a remedy on covered parts can only
10 impose harm on the soon-to-be U.S. producers and a
11 remedy on parts would not in any way assist the
12 current U.S. producers.

13 So there is -- from our perspective, there's no
14 benefit and only harm to the emerging new U.S.
15 producers who may during the transition period have
16 more need. Rather than try and guess what level of
17 parts need to be covered by a remedy, in our view
18 it's the much better policy decision simply to
19 recognize that given that the companies are making
20 massive multimillion dollar investments in equipment
21 to make the parts in the United States, it doesn't
22 make sense for them to, on a wide basis, import the

1 very parts that they just purchased equipment to
2 manufacture those parts in the United States. There
3 is a more than adequate economic incentive for them
4 to follow through on their plans to produce covered
5 parts in the United States and the remedy has much
6 greater potential to cause mischief than to do any
7 benefit for the industry.

8 MR. MARTYN: All right. I think now our
9 questioning is concluded. Thank you very much,
10 gentlemen. We'll now move to Panel 3.

11 All right, please feel free to begin when
12 you are ready. I will remind you that Ms. Schwartz
13 is keeping time and she will be doing the indication
14 at the far end of the table, so please keep an eye
15 out for her cues.

16 MR. LEVY: Good morning. My name is Jack
17 Levy with the law firm Cassidy Levy Kent appearing
18 on behalf of Whirlpool Corporation.

19 As you know, Whirlpool petitioned for
20 safeguard relief because Samsung and LG left them
21 with no choice. Despite multiple findings that
22 Samsung and LG were illegally dumping their washers,

1 these two chaebol repeatedly did an end-run around
2 the U.S. antidumping law and deprived American
3 manufacturers and workers of the ability to compete
4 on a level playing field. Now President Trump is
5 presented with the opportunity to fashion a remedy
6 that is strong and effective, and also guards
7 against circumvention by two companies that are now
8 infamous for their track record of cheating and
9 injuring U.S. producers and workers.

10 Consistent with the goals set out in the
11 safeguard statute, domestic producers are
12 recommending a remedy with three key features.
13 First, a 50 percent tariff on all imports of
14 finished LRWs. According to the economic model that
15 Whirlpool and GE Appliances presented to the ITC,
16 this tariff will not block imports as some have
17 wrongly asserted. Imports will indeed continue, but
18 the tariff will help ensure that Samsung and LG's
19 import prices are restored to non-predatory levels.
20 As a result, it will create economic conditions for
21 domestic producers to increase production and sales,
22 improve their capacity utilization from two to three

1 shifts, and dramatically improve their fixed unit
2 costs. Importantly, the 50 percent tariff needs to
3 apply to all imports because this will return
4 domestic producers like Whirlpool back to a healthy
5 level of profitability and support the business case
6 for execution of their adjustment plans.

7 The second feature of our remedy proposal
8 is that there be no country loopholes. To be sure,
9 the President has the discretion to exclude FTA
10 countries like Korea from the remedy, but for the
11 reasons discussed in our comments, such exclusion
12 would be an invitation for LG, in particular, to
13 severely undermine the effectiveness of the
14 President's remedy.

15 The third and final feature of our remedy
16 proposal is that in-scope parts, namely cabinets,
17 baskets, and tubs, be subject to a quota. The quota
18 volumes suggested by the ITC ensure that consumers
19 have adequate supply for their repair and servicing
20 needs. But without a hard cap quota, Samsung and LG
21 will have a strong economic incentive to bypass the
22 tariff on finished LRWs and instead set up

1 screwdriver or kitting operations for at least some
2 of their models. With that brief introduction, I'll
3 now turn things over to our industry witnesses
4 beginning with Joe Liotine, President for Whirlpool
5 North America.

6 MR. LIOTINE: Good morning. My name is
7 Joe Liotine. I've been with Whirlpool since 2004;
8 currently serve as President of Whirlpool's North
9 American Region. Whirlpool has over 25,000 U.S.
10 employees with over 10,000 in Ohio alone and
11 thousands more at our Michigan headquarters. The
12 washer business has been the lifeblood of our
13 company for more than 100 years. We make the best
14 washers with the best employees at the largest, most
15 efficient washing machine facility in the world
16 located in Clyde, Ohio. And until recently we used
17 to make a profit selling washers.

18 Unfortunately, that changed when Samsung
19 and LG destroyed the economics of the U.S. washer
20 industry by flooding the market with dumped
21 products. The predatory strategy is why three U.S.
22 washer manufacturers have already shuttered their

1 plants. That predatory strategy is why the U.S.
2 washer industry is so severely injured and why we
3 were left with no choice but to petition for a
4 safeguard relief.

5 Whirlpool did not pack up and stop making
6 washers in the United States. Instead, we chose to
7 fight, fight for our washer business and fight for
8 our thousands of American workers who depend on our
9 washer business. We have been in this fight since
10 2011. Whirlpool has filed and won two prior trade
11 cases to stop Samsung and LG from dumping washers
12 from Korea, Mexico, and China. We expected these
13 cases would create a level playing field that would
14 allow Whirlpool's washer business to return to
15 profitability. We made a significant investment
16 based on that expectation.

17 Unfortunately, the promise of those cases
18 went unfulfilled. Samsung and LG each moved
19 production across five countries in 5 years to evade
20 the antidumping duties so they could continue their
21 assault on U.S. producers and workers. Samsung and
22 LG are now importing washers from Vietnam and

1 Thailand at prices that are even lower than what we
2 saw out of Korea, Mexico, and China.

3 The ITC has now found on three separate
4 occasions that through their predatory strategy,
5 Samsung and LG are injuring U.S. manufacturers and
6 workers. What does that mean for Whirlpool? For
7 the past several years, we have been faced with a
8 lose-lose proposition: Meet Samsung and LG's below-
9 cost prices to make sales or lose significant sales
10 volumes. Either way, our washer business is losing
11 money. We have lost hundreds of millions of dollars
12 over the last 5 years because of Samsung and LG's
13 predatory behavior. It's an unsustainable situation
14 that puts at risk the 3,000 existing American jobs
15 at our washer facility in Clyde, Ohio.

16 Our ability to reinvest and grow American
17 jobs is also being threatened. By our count,
18 Whirlpool would have been in a position to employ at
19 least 1,300 more American jobs if it not for the
20 injury caused by imports from Samsung and LG. We
21 filed our safeguard petition because the domestic
22 industry needs a global remedy that Samsung and LG

1 cannot circumvent. Our proposed remedy creates a
2 promising path forward for the domestic industry
3 that will allow domestic producers to recover from
4 the injury caused by Samsung and LG's predatory
5 pricing, and enable us to retain our competitive
6 footing.

7 In the short-term, Whirlpool's proposed
8 remedy would result in increased domestic production
9 leading to more American jobs right away. It's
10 realistic for us to quickly add a third production
11 shift and hundreds of jobs in 2018. That increased
12 production will lower our per-unit fixed costs,
13 helping our washer business return to profitability.
14 With profitability restored, we will revisit
15 projects that were recently canceled or curtailed
16 because of Samsung and LG's injurious behavior. We
17 will also launch new product platforms and product
18 innovations to drive future competitiveness.

19 Finally, we will also invest in our Clyde
20 facility, enhancing manufacturing efficiency and
21 logistics. While Clyde is already highly efficient,
22 these facility investments will ensure our continued

1 ability to compete over the long term. All told,
2 our adjustment plan should translate into more than
3 1,300 direct jobs at Clyde, plus more than 10,000
4 indirect jobs with upstream and downstream vendors.
5 Our adjustment plan is real and we are committed to
6 it. Whirlpool stands ready to execute these plans
7 and create jobs if the President implements our
8 proposed remedy.

9 In addition to allowing Whirlpool to
10 regain its competitive footing, our proposed remedy
11 also promises to reshape the landscape of the U.S.
12 washer industry. It will help ensure that Samsung
13 and LG become full-fledged, permanent American
14 washer manufacturers. This case has already
15 impacted the scope of Samsung and LG's American
16 manufacturing plants. Samsung only committed to
17 making washers in the U.S. after the safeguard
18 action was initiated. Similarly, Samsung and LG
19 both increased their planned production and
20 employment plans after this case was filed and as
21 the prospect of a strong remedy has become more
22 likely.

1 But let's be clear, both Samsung and LG
2 will continue to import a significant number of
3 washers for at least a couple of years. They also
4 admit that even when their new U.S. facilities are
5 fully up and running, they would prefer to import
6 certain washer models. Samsung and LG should not
7 get a free pass to continue to import washers that
8 injure American workers. A strong remedy will cause
9 Samsung and LG to accelerate their investments and
10 to bring all of their U.S. washer production to
11 South Carolina and Tennessee.

12 Samsung and LG would have you believe that
13 duty-free imports are needed for their U.S.
14 production plans. Those are scare tactics. In
15 fact, the opposite is true. The stronger the
16 remedy, the greater the economic incentive Samsung
17 and LG will have to accelerate, expand, and deepen
18 their commitment to U.S. manufacturing and jobs.
19 That means more American jobs sooner. But if the
20 remedy is watered down, all those benefits go away.
21 Samsung and LG will not have economic incentive to
22 increase their U.S. investments and the playing

1 field will not be leveled. There is no room to
2 split the difference here. Only a strong remedy
3 will create a win for America.

4 The final point I want to make relates to
5 circumvention. Samsung and LG have a track record
6 of bypassing U.S. trade remedies and cheating
7 American companies and workers out of relief.
8 Unfortunately, Samsung and LG are at it again. They
9 have increased their washer imports significantly
10 over the last couple of months. This isn't a
11 seasonal trend. This isn't increased demand. This
12 is circumvention. Samsung and LG are trying to
13 stockpile imported washers in the U.S. before the
14 President can implement a remedy.

15 Because Samsung and LG have proven they
16 will go at great lengths to evade trade remedies, we
17 urge the President to act quickly and to close two
18 potential loopholes. First, the President should
19 not exempt FTA or developing countries. LG is
20 already using Korea to stockpile washers in
21 anticipation of the President's remedy. Because
22 LG's Korean imports are currently subject to a

1 dumping rate of effectively zero, LG will
2 undoubtedly shift production there if Korean imports
3 are not covered. For this reason, the President
4 needs to include Korea in its remedy.

5 Second, the President should impose a
6 quota on in-scope parts. This is necessary to
7 prevent Samsung and LG from running screwdriver
8 assembly operations that use imported tubs, drums,
9 and cabinets, and effectively circumventing the
10 tariff on finished washers. A quota on in-scope
11 parts will not impact consumers because the proposed
12 quota is well above the amount of parts Samsung and
13 LG need to repair existing washers in the field. A
14 quota on in-scope parts simply means a more
15 effective remedy and a deeper commitment to
16 vertically integrated manufacturing in South
17 Carolina and Tennessee.

18 Thank you for your time and work on this
19 matter. With your advice, we trust the President
20 will take a strong and decisive decision. And when
21 the President acts, I can assure you that Whirlpool
22 stands ready to step up. We will execute our

1 adjustment plan and generate thousands of new
2 American jobs. We will regain our competitive
3 footing and do our part to ensure a healthy domestic
4 washer industry for years to come. I will now turn
5 over our panel to Peter Pepe of GE Appliances.

6 MR. PEPE: Hello, everyone. I'm Peter
7 Pepe. I'm the Vice President of Clothes Care, GE
8 Appliances, where I've worked since 1997. Before
9 taking my current position, I held various
10 manufacturing and sourcing positions within GE.

11 GE Appliances employs 6,000 workers at our
12 headquarters in Louisville, Kentucky, and our washer
13 business will make great use of robust import
14 relief. GE Appliances has well over 60 years of
15 experience in manufacturing and selling washing
16 machines. We know the washing machine business. We
17 know how to compete and succeed, as we have done in
18 the past. It is absolutely possible to make
19 innovative and attractive washers in the United
20 States at economically sustainable prices,
21 sustainable for consumers and sustainable for
22 producers. We know this because we have done it.

1 The respondents know this, too -- it's
2 possible, too, or they wouldn't be investing in the
3 United States. What we're asking for is temporary
4 relief, for the cut-rate pricing has destroyed the
5 economics of an already low-margin business.

6 I want to emphasize that this story can
7 have a happy ending. This is an industry that can
8 once again thrive in the United States. The record
9 before you shows that the appliance -- that GE
10 Appliances has been betting on production of large
11 residential washers in Kentucky and making constant
12 efforts to improve our efficiency and keep our
13 competitive edge sharp. These efforts have been
14 undercut as a result of Samsung and LG's successful
15 evasion of America trade laws and trade remedies.
16 However, robust import relief in this case will give
17 us the breathing space that we need and we will do
18 our part to use it wisely. You'll be glad that you
19 partnered with us in this effort.

20 As the record also reflects, surging
21 imports forced GE Appliances to use substantially
22 less of our capacity than we would like, and in some

1 cases to shut down production and product lines
2 altogether. In addition to running additional
3 shifts on existing production lines, a few other
4 adjustments we look forward to making if the relief
5 is robust include updating and expanding our product
6 offerings, investing in human capital, and
7 implementing new innovations and business processes.

8 We realize that a 50 percent tariff on
9 washers sounds high and that a hard-cap quota on
10 parts is harsh. But here are some other things that
11 are also harsh: Having three domestic manufacturers
12 decide that they just can't produce in the United
13 States under economic conditions pressed by these
14 respondents, having thousands of hours of line
15 shutdowns and production idling, and having to say
16 no to hiring hundreds of workers, if not thousands,
17 during challenging economic times because you simply
18 can't keep them busy.

19 GE Appliances is grateful for this chance
20 to partner with the administration. Together, we
21 can undo the past harm to the United States large
22 residential washer manufacturing base and set the

1 domestic industry, hopefully one that includes two
2 new producers in Tennessee and South Carolina, back
3 on a path to a brighter future for American workers
4 and consumers. Thank you for your time and I will
5 pass the baton to Mr. Fish from Revere Plastics.

6 MR. FISH: Good morning. My name is Glen
7 Fish and I am President of Revere Plastic Systems.
8 Revere is a producer of plastic component parts and
9 Whirlpool and GE Appliances are major customers. We
10 support these U.S. washer producers and their
11 proposed remedy to address the serious injury that
12 they have suffered.

13 Revere has facilities in Ohio, Indiana,
14 and Missouri, and we employ more than 1,000 American
15 workers. As a parts supplier, our success depends
16 on the success of our customers such as Whirlpool
17 and GE Appliances. An effective remedy in this case
18 will allow the domestic washer industry to recover
19 from their injury and increase production. As sales
20 of domestic washers increase, my company sales will
21 increase and we will be able to invest more in our
22 operations and employee base. Thank you for your

1 time.

2 MR. McKINNEY: My name is Sheridan
3 McKinney, counsel to GE Appliances. Just a few
4 remarks to close the presentation and then we look
5 forward to your questions.

6 Safeguard cases normally require
7 uncomfortable tradeoffs. This one does not. It is
8 indeed a very easy case. As you go through the
9 remainder of this hearing, please keep in mind the
10 commentary received from other stakeholders,
11 including the nearly 3,000 employees at Whirlpool's
12 Clyde washer factory who actually signed a petition;
13 the upstream vendors that promise to add more than
14 10,000 jobs to the economy with an effective
15 safeguard measure, companies like U.S. Steel,
16 Arcelor, Dekko, Green Bay Packaging, Mansfield
17 Engineered Components, TH Plastics, Wabash Plastics,
18 and so on, and retailers like Bray & Scarff, P.C.
19 Richards, and Mr. Bilas of Nationwide Marketing
20 Group, who all confirm that the parade of horrors
21 predicted by Samsung and LG is just nonsense.

22 Please see through to the essence of what

1 Samsung and LG are asking you for, a free pass to
2 continue injuring GE Appliances and Whirlpool by
3 making duty-free imports; that's duty-free imports
4 via TRQ, via country exclusions, via product
5 exclusions, and that is in addition to the duty-free
6 imports they've already stockpiled.

7 Now there are three questions we hope
8 you'll be asking yourselves. First, do you believe
9 that any relevant U.S. interest is served by the
10 continued decimation of an already shrunken
11 industry? The sector has evolved significantly in
12 recent years mostly through market exit by firms
13 that could not withstand the onslaught of imports
14 sold at evermore uneconomic prices. GE Appliances
15 is now one of the last survivors. Under the
16 approaches promoted by respondents, the devastation
17 would continue and claim more American victims. Now
18 with a robust safeguard remedy, the misery can
19 finally end.

20 Second, do you credit Samsung and LG's
21 claims that they soon will be producing LRWs in the
22 United States? GE Appliances certainly does. But

1 we find it hard to understand such intense
2 opposition from firms soon to be benefiting from the
3 proposed remedy. Normally a fledgling domestic
4 producer would welcome a period of import relief.

5 Third, can you even imagine carefully
6 tailoring a safeguard measure to preserve market
7 share and flooring that respondents secured through
8 injurious dumping in the first place?

9 If you keep these themes and fundamental
10 purpose of the safeguard law affixed in your minds,
11 the appropriate remedy design will be clear: tariffs
12 on all finished LRW imports with a hard-cap quota on
13 subassemblies and no country exclusions. You have a
14 robust record before you and it shows that a strong
15 remedy will create jobs while fostering both
16 recovery and fair competition among domestic
17 producers.

18 Thank you. We look forward to your
19 questions.

20 MR. MARTYN: Thank you very much.

21 All right. I would like to begin with a
22 general question and that is, beyond the ITC report

1 assembled by the commission staff, what other
2 reliable sources of data on the washer industry are
3 publicly available?

4 MR. LEVY: Jack Levy for Whirlpool
5 Corporation. I think one resource that's important
6 to highlight is AHAM, the Association of Home
7 Appliance Manufacturers, where all the major
8 manufacturers contribute to AHAM on a monthly basis
9 their wholesale volumes. And that proprietary
10 information is aggregated and then reported out.
11 It's generally regarded by industry as reliable. It
12 reports out information for both front load and top
13 load washers. But importantly, the scope of the
14 products covered in the AHAM reporting is not
15 coterminous with the scope of the products covered
16 in this Notice of Institution from the ITC.

17 And so while it is a reliable source of
18 information, it is an inferior source in contrast to
19 the information collected and reported out by the
20 International Trade Commission for purposes of
21 analysis in this case. I would note parenthetically
22 that the AHAM data show a demand for washers

1 decreasing in the fourth quarter of 2017, at the
2 same time that we see massive imports and
3 stockpiling behaviors. So the notion that such
4 imports are a response to some demand signal in the
5 United States is belied by those AHAM data.

6 There are other sources of data that are
7 sometimes referred to in the industry, but we don't
8 regard them as reliable for purposes of this case.

9 I don't know if you want to add anything,
10 Joe?

11 MR. LIOTINE: No. I think that's right.
12 AHAM is the source that most industry experts use
13 for analysis quantitatively. That's the only really
14 published source. It's technically not public, but
15 it's available to members only. But that's the one
16 source.

17 MR. PEPE: And GE Appliances agrees.

18 MR. MARTYN: All right, thank you.

19 All right, we'll begin our questions with
20 questions on the efforts by the domestic industry to
21 make a positive adjustment to import competition. I
22 would like to begin by asking Whirlpool and GE, you

1 referred at several points to adjustment plans that
2 you submitted to the ITC. Is it your view that
3 these are adjustment plans for purposes of Section
4 202(a)(4) of the Trade Act of 1974?

5 MR. LEVY: Jack Levy for Whirlpool. The
6 short answer is yes. I think the ITC cited these
7 adjustment plans with approval. I think the only
8 parties that are critical of the content of the
9 adjustment plans would be Samsung and LG, to the
10 best of our knowledge.

11 MR. McKINNEY: From the GE perspective,
12 while only petitioner was required to submit an
13 adjustment plan, GE Appliances provided something
14 substantially similar on the record as well. The
15 expectation was that we would be sharpening this
16 view through discussions and collaboration with the
17 administration. Our client sees this undertaking as
18 a partnership overall.

19 MR. MARTYN: All right. I would note that
20 Section 202(a)(4) specifies that a petitioner may
21 submit an adjustment plan to the commission and to
22 the United States Trade Representative. Did either

1 of you submit your adjustment plans to USTR?

2 MR. MAGNUS: Insofar as it's part of the
3 record of the ITC investigation and discussed in the
4 report that the ITC forwarded to you, we reckon that
5 it has been so delivered. But I don't think we
6 submitted it directly.

7 MR. LEVY: Same response. We understand
8 the entirety of the administrative record of the
9 commission to be accessible to the USTR and the
10 TPSC.

11 MR. MARTYN: Thank you.

12 All right. Do we have any additional
13 questions on adjustment plans from my colleagues?

14 MS. LABAT: You've mentioned that the
15 remedies will allow domestic producers to quickly
16 ramp up sales, production capacity and utilization,
17 and return to profitability, and that 3 years would
18 be enough to implement adjustment investments.
19 Could you clarify how long you expect it would take
20 to see a return on investment and how you would
21 ensure that such investments and their returns would
22 be sustainable when competition is restored over the

1 3-year period, especially when previous tariff
2 actions have not been satisfactory from your
3 perspective?

4 MR. LIOTINE: Joe Liotine, Whirlpool.
5 Yeah, the previous trade actions -- I'll address
6 that part of your comment first. They weren't
7 successful because they weren't effective. LG and
8 Samsung ended up moving, prior to any relief
9 occurring, country to country. So we really didn't
10 see an economic benefit or even a change in
11 injurious prices.

12 In terms of our adjustment plan, I believe
13 there's three big buckets related to curtailed
14 projects that we would then put back on, or canceled
15 projects. We would also talk about kind of
16 production and bringing on a third shift and getting
17 increased capacity right away. And then generally
18 speaking, manufacturing improvements to get
19 efficiencies and other infrastructure for the future
20 kind of up and running with these investments. Each
21 of these, if have a good return, if have an ROI on
22 them, we would invest in them right away.

1 The variety of increased capacity, that
2 happens fairly quickly. We can add a shift in,
3 let's say, weeks. We can add additional capacity to
4 an existing line in, let's say, months. So we'll
5 see those kinds of returns fairly quickly. The more
6 longer term would be things related to big new
7 launches of platforms or new products that we don't
8 already have started. Many of these projects were
9 underway that we curtailed or canceled, so much of
10 that work is done. But not in every case, so some
11 of those might be a little bit of a longer tail.

12 So the way to think about it would be the
13 line shift type initiatives would have a return in
14 weeks; some of the more midway efforts that we
15 started and stopped or curtailed, probably months;
16 and then maybe something that's all new to the
17 market, new platforms, new technical development,
18 that could be more like 6, 9, 12 months before we
19 saw an investment, maybe even as much as 18 if it
20 was something very, very big and different. That
21 would be kind of the horizons.

22 MS. LABAT: A couple of follow-up

1 questions. Do you think you have the manpower
2 available right now that's trained and ready to go
3 for these additional --

4 MR. LIOTINE: Yeah, from a manpower
5 standpoint. A good example would be in 2/4 of 2016,
6 both LG and Samsung experienced big disruption in
7 their operations for various reasons. They moved to
8 Vietnam and Thailand, and that had some disruption.
9 In addition, Samsung had the largest top load recall
10 in the history of washers and they also had
11 disruption.

12 We were able to quickly ramp up through
13 both overtime and other means, shifts and additional
14 workers, and absorb all of that volume such that we
15 actually won Supplier of the Year from Lowes that
16 upcoming next year, because we absorbed it very well
17 and we were able to deliver everything the customers
18 needed in a good amount of time with an appropriate
19 amount of lead time. And so, we feel absolutely
20 that we have the ability to do that.

21 On top of that, we have the structural
22 capacity to absorb it, not just the labor but the

1 structural capacity from an infrastructure
2 standpoint to do it as well. So we feel like we're
3 very well positioned to do that.

4 MS. LABAT: And on the innovation arm, you
5 mentioned the 3, 6, 9 months, further out, a lot of
6 that has to be conceived now or are there ideas out
7 there that you just haven't stopped but you're
8 actually starting to think about developing? I
9 mean --

10 MR. LIOTINE: Yeah. So in terms of our
11 adjustment plan, we did kind of bucketize some of
12 those details a little bit more specific and
13 proprietary. But there were specific projects that
14 we actually curtailed or cancelled that were
15 underway, under development in some cases for up to
16 a year or more, and so they are much more mature.
17 There's other cases where there's new ideas that we
18 couldn't generate a return so we just didn't pursue,
19 but we'd like to if we thought we could generate an
20 economic return. So those might be a little longer.
21 So we actually would have both varieties.

22 MS. LABAT: Okay.

1 MR. PEPE: This is Peter Pepe from GE
2 Appliances, very similar processes from that
3 standpoint, processes didn't work because of country
4 hopping and avoiding of prior trade remedies. And
5 if you look from a time frame standpoint, 3 years is
6 about the time to look for a payback from a major
7 investment to get a return. So from a 3-year
8 standpoint on significant returns, that would be a
9 reasonable period of time.

10 And much like what Joe has just talked
11 about at Whirlpool are multiple stages. We have the
12 capability to increase capacity tomorrow in the
13 short term, but at the same time we do plan on, if
14 there are robust remedies in place, how do we make
15 structural changes from a long-term standpoint,
16 increasing that capacity and bringing new products
17 to the marketplace. And what that does is also --
18 it's not just products to the marketplace, but it's
19 improving our plant efficiency and new methods of
20 manufacturing so we stay efficient and continue to
21 be competitive well beyond that 3-year period. It's
22 not just about the 3-year period. It's about

1 continuing to be competitive well into the future
2 with those products.

3 And much like what occurred in the
4 industry when Samsung had their recall, GEA was able
5 to respond with people and serve the market at that
6 point in time. We were able to flex our lines and
7 flex our capacity to do that.

8 And on the innovation front, we have
9 projects that we can implement in 6 months. We have
10 projects that we're looking at that are 2 years
11 away. Obviously, at that stage of the game they're
12 proprietary and can be discussed offline. But we
13 look at it in that sequence of products and are
14 always planning for those future things.

15 MR. LIOTINE: Maybe if I could just one
16 more add-on point to the comment Peter made. The
17 last bucket of our adjustment plan really does talk
18 about the structural investments, industrial IOT,
19 big data, kind of automation, process change. And
20 so those really are sustaining. They take us from
21 where we are today and into the future. They don't
22 just necessarily migrate with an innovation or a

1 feature or a launch. They're meant to carry the
2 entire business forward in a much more efficient,
3 progressive way. And so those are the kinds of
4 things that frankly our teams are very excited about
5 doing and demonstrating, and training individuals to
6 be ready for the industrial kind of IOT that's kind
7 of upon us.

8 MR. PEPE: And I think we have workforces
9 that are looking forward to that. We want to employ
10 more workers and we want to be able to make those
11 investments to be able to do that.

12 MS. LABAT: And to follow up my question
13 to Mr. Liotine, from GE's point of view, you feel
14 that you have the workers pretty much ready to go
15 for long term, you know, after 3 years. So we are
16 looking at sustainability, too, obviously.

17 MR. PEPE: Well, for a long term -- if you
18 talk about hourly workers, you know, people that we
19 will need 3 years from today that we don't have, but
20 we have a pool to be able to train, we have folks in
21 the Louisville area that are trainable. We have
22 work that we have done with local universities from

1 that standpoint and we have training centers on-
2 site, and we can attract talent if you look at it
3 from a long-term basis. In a short-term basis, we
4 have the flexibility to get that human capital in
5 range, but we want to be able to train more people
6 as we can increase employment. Does that help?

7 MS. LABAT: Yes, thank you.

8 MR. MAGNUS: One quick follow-up on this
9 issue of a cliff after 3 years. Not clear that if
10 the remedy is robust that there is a cliff after 3
11 years. You have companies in front of you on the
12 next panel who are telling you that they no longer
13 intend to serve the U.S. market by exporting to it.
14 So not clear that when import relief comes off
15 you'll have any kind of an expectation of a
16 significant resumption of imports at some radically
17 different level. So you will have created a new
18 situation where companies producing in the United
19 States subject to all the same economic drivers are
20 competing with each other, and so that doesn't
21 necessarily look like a cliff after 3 years.

22 MR. ADJEMIAN: Hi. In its comments,

1 Samsung says that it aims to achieve a U.S. value
2 added amount of 70 percent for its washers produced
3 in South Carolina. What is your company's U.S.
4 value added for washers and can you provide us with
5 documentation?

6 MR. LIOTINE: For Whirlpool, we've
7 submitted documentation that supports we're at 93
8 percent value added. Those records have been
9 submitted and we can make sure they're available.

10 MR. MARTYN: Was that at the ITC or as
11 part of --

12 MR. LIOTINE: ITC.

13 MR. MARTYN: Okay.

14 MR. LIOTINE: Yes, as part of the ITC
15 record, yes.

16 MR. MARTYN: If after this you could get
17 us the citation and we can get that information
18 direction from the commission. Thank you.

19 MR. PEPE: You know for GEA, it is 80-plus
20 percent. And what we have submitted before, there
21 are various aspects of it that are proprietary and
22 we'll follow up with additional data.

1 MR. MARTYN: All right. And, okay, I
2 think that we better look at the data rather than
3 ask more questions because I realize that's a
4 sensitive topic.

5 How long do you believe it would take to
6 establish an LRW assembly facility on a greenfield
7 site and would that estimate be different for a
8 brownfield site?

9 MR. LIOTINE: Maybe I'll start. Joe
10 Liotine, Whirlpool. I think that's a fairly complex
11 nuanced question. A lot of factors would go into it
12 for both a brownfield and a greenfield, questions
13 such as would you be launching the same product in
14 both markets or would you launch new products?
15 Would you be bringing tools and equipment from other
16 facilities or would you be procuring new tools and
17 new equipment? Would you be -- you know, how much
18 integration in terms of automation are you planning,
19 same as previous or not? So I think that would be a
20 very difficult question to answer.

21 Just kind of at a general level, certainly
22 the brownfield has some advantages in terms of just

1 infrastructure building. That would be a little bit
2 more speedy than a complete greenfield, depending on
3 the complexity of the brownfield site. You know,
4 was it open or was it nuanced in terms of its
5 layout?

6 So I think what I can say though is what
7 we've seen in the past, these other country moves
8 that we've witnessed here in the last couple of
9 years is they've done it very quickly, within
10 months. I'm not privy to what all the strategies
11 were and what all the content had been for LG and
12 Samsung in terms of bringing tools or procuring more
13 tools, but it was more in the variety of months than
14 it would be years.

15 MR. PEPE: This is Peter Pepe from GE
16 Appliances. With all those nuances, if you just say
17 that you're going to have a kitting operation into
18 an existing plant, that will be very short term,
19 that'll be quick. You can bring in simple assembly
20 lines. You don't need a lot of extra skilled labor
21 and that can be very quick. But if you're going to
22 truly invest in a building, in stamping presses, and

1 developing suppliers in the local area, and all the
2 tooling and all the associated workers that go with
3 that, I would tell you that my experience is that
4 that's an 18-month to 30-month process for a new
5 platform that you're going to bring in. Now Joe
6 mentioned a whole bunch of nuances and they're all
7 true. But if you're truly going to invest locally
8 and partner with local suppliers and local labor, I
9 would say it's in that time frame.

10 MR. MARTYN: All right. A question for
11 both manufacturers. Do the washers that you
12 manufacture in U.S. facilities, are they sold
13 labeled as made in the USA?

14 MR. PEPE: Because of some of the
15 components that are not available in the United
16 States, and specifically I'll just throw out
17 something like electronic controls, because of that
18 content of some of those parts, our products don't
19 meet the strict criteria of made in the USA.

20 MR. LEVY: Jack Levy for Whirlpool. We'd
21 concur. Our understanding is that essentially 100
22 percent of the content needs to be U.S. in order to

1 make the made in the U.S. claim. So as a practical
2 matter, you have companies like Whirlpool where
3 depending upon the model 93-plus percent is U.S.
4 content, the best they can claim is assembled in the
5 United States.

6 MR. JONES: Earl Jones here, GE
7 Appliances. We had extensive discussions with the
8 FTC on this question and, as Mr. Levy says, their
9 idea is 100 percent. But in discussions with them,
10 we reached agreement that we would label our
11 products as made in the U.S. with the 70 to 90
12 percent U.S. content and that was sufficient for
13 their purposes.

14 MR. MARTYN: So are you using that label
15 or is it --

16 MR. JONES: We are.

17 MR. MARTYN: Okay. And what was the
18 percentage? Say it again.

19 MR. JONES: 70 to 90, depending upon the
20 product, and that's across all the products
21 produced, all appliances manufactured.

22 MR. LEVY: And to be clear, Whirlpool uses

1 the label assembled in America.

2 MR. MARTYN: I can't resist, really, I did
3 a little bit of ex parte research and at least as
4 Maytag it's assembled in the USA.

5 Any more questions on this topic?

6 MS. PETTIS: Hi, Maureen Pettis from
7 Labor. Our Chair has enumerated many types of
8 reliefs that can be provided by the Section 201
9 statute and one of them is trade adjustment
10 assistance, and in the remedy hearing you indicated
11 that you were not asking for trade adjustment
12 assistance as a remedy. What role, if any, do you
13 think trade adjustment assistance could play in any
14 remedy that this committee and the President
15 recommends?

16 MR. LEVY: Jack Levy for Whirlpool
17 Corporation. What we've witnessed in the U.S. LRW
18 industry in recent years and certainly through the
19 period of investigation has been a period of
20 sequential growth year over year in terms of
21 aggregate demand. And it is generally the case in
22 that environment that all suppliers of LRWs have

1 been increasing production. The issue for the
2 domestic industry has been that they have
3 nonetheless suffered severely depressed capacity
4 utilization, market share losses, and the like. But
5 in an environment where production in the aggregate
6 for the domestic industry has increased, not
7 surprisingly, employment has been steady and/or
8 growing depending upon the year at issue.

9 And so this has not been a case where one
10 of the significant features of serious injury is
11 unemployment, but rather underemployment to the tune
12 of thousands of jobs. So where the serious injury
13 from a labor point of view is one of
14 underemployment, it's not clear to us how trade
15 adjustment assistance would feature in a proposed
16 remedy.

17 MS. PETTIS: Okay. Thank you.

18 MR. JONES: Earl Jones at GE Appliances.
19 Just one further note with respecting our
20 operations. At Appliance Park, it's multi-product
21 manufacturing. So any idling that would have
22 occurred in the home laundry plant would have been

1 able to be shifted to the other production areas
2 that, as you indicated, might have been experiencing
3 growth. So there were no -- no one was in effect
4 laid off or surplused on account of the ability to
5 move between operations.

6 MR. MARTYN: All right, thank you.

7 We'd like, I think -- one more question.

8 MS. AYLWARD: Thank you. You've noted
9 increased imports in 2017. In your estimation, what
10 is the percentage of this increase, the time frame
11 that you reference for comparison, and what is the
12 source of that data?

13 MR. LIOTINE: I think we've shared
14 Exhibit 1, which illustrates the imports over the
15 last quarter or two, and you'll see on that
16 document, you'll see on the far right, sharp
17 increases in imports. You'll see that listed by
18 country. And then you'll also see there has really
19 not been a comparison period anywhere near that
20 level. The percents, if you look year over year,
21 are about -- I think it's 100 percent. And then if
22 you look quarter over quarter, I think it was 50,

1 something like that. I'm going from memory as the
2 figures.

3 MR. LEVY: Yeah, my understanding is if
4 you compare Q4 of 2017 aggregate imports to Q4 of
5 2016, imports are up nearly 100 percent. We're
6 estimating December based on ocean port arrivals,
7 piers data. But the government may very well have
8 more definitive, official statistics at its
9 disposal. If you look at Q4 2017 in relation to Q3
10 of 2017, the increase is a little less pronounced.
11 It's to the tune of more like 75 percent.

12 Now when you ask how is Q4 looking in 2017
13 from an aggregate demand point of view by reference
14 to AHAM, Joe, you may remember the numbers better
15 than I, but I believe that no matter whether you
16 look at sequential quarter over quarter or year over
17 year, you're looking at a decrease in aggregate
18 demand something in the range of negative 5 percent,
19 is that about right?

20 MR. LIOTINE: Yeah, minus 5 year over year
21 and then sequentially minus 4. So in both respects
22 it's shrinking.

1 MR. LEVY: So, again, the key takeaway is
2 that whatever is going on in terms of the surge
3 imports around the time of the ITC's injury vote, it
4 has nothing to do with increase in aggregate demand.

5 MR. MARTYN: Thank you.

6 We'll now move on to questions about the
7 appropriate and feasible action within the power of
8 the President. And I'd like to begin by asking at
9 what tariff rate you think duties would become
10 prohibitive?

11 MR. LEVY: The short answer is something
12 larger than 50 percent. Just by a little bit of
13 background here, it's an unusual Kabuki dance when
14 you're talking about economic modeling before the
15 ITC because many of the inputs are subject to a
16 protective order. And you're pulling all of that
17 information. And in our case, our economic model
18 was the most recently available ITC COMPAS model
19 simulating the effect of a tariff in the safeguard
20 context. And we took the midpoints of the
21 elasticities for substitution, supply and demand,
22 everything down the middle, and we basically pumped

1 in all those inputs and looked at the outputs of the
2 ITC's model, and asked ourselves what do you get?

3 We no longer have access to the APO
4 record, although you do. And you certainly could
5 ask to see that. It's attached to our October 12th
6 brief to the commission at Exhibit A and we would
7 encourage you to refer to that economic analysis.
8 But what that analysis revealed at a high level was
9 that there continued to be a very significant and
10 robust volume of imports but at non-predatory price
11 levels, and that the resulting condition of the
12 domestic industry was just adequate to support
13 reinvestment and execution of the adjustment plans.

14 But these were not obscene operating
15 profits at all. And, frankly, if the model had
16 produced something that was not adequate to support
17 execution of the adjustment plan, I think that the
18 administration would be left with no choice but to
19 consider a more draconian quota-based remedy,
20 because under the statute 50 percent is the maximum
21 tariff allowed. But importantly, we think a tariff
22 is the least trade-distorting measure that can be

1 considered and it's one of the reasons why we're
2 very comfortable proposing a 50 percent tariff on
3 finished LRWs. I hope that's responsive to your
4 question.

5 MR. MARTYN: Yeah, I think it certainly
6 gives me your perspective. Is there anything that
7 your colleagues who represent GE would like to add
8 to that?

9 MR. MAGNUS: Just that when you think
10 about where a tariff might or could become
11 prohibitive, and certainly agree that that number in
12 this case is well over 50 percent, these particular
13 companies have demonstrated their willingness to
14 spend, buy market share in the United States and
15 defend it once so bought, hundreds of millions of
16 dollars to country hop. Whatever flexibility your
17 remedy, the administration's remedy gives them to
18 absorb tariffs and pay to keep their share, they'll
19 take advantage of it. So you have to think about
20 their demonstrated priorities and competences in
21 that regard when you think about where a tariff
22 becomes prohibitive, and in this case the statute

1 doesn't allow you to get to where it would become
2 prohibitive with respect to these particular
3 respondents.

4 MR. LEVY: And just to elaborate on that,
5 just to kind of emphasize the lengths to which
6 Samsung and LG have already gone in the past in
7 terms of incurring costs to increase their foothold
8 in the U.S. market, we need only remember that a
9 year ago to this day roughly, the U.S. Commerce
10 Department published an antidumping order against
11 LRWs from China. Now the rates in that case were as
12 high as 57 percent, I think on average about 50
13 percent interestingly enough. But Samsung and LG
14 never paid a penny of those cash deposits because by
15 the time the prelim was published, they had chosen
16 instead to spend hundreds of millions of dollars to
17 set up manufacturing in Thailand and Vietnam. Those
18 plants have hardly been amortized because here they
19 are on their way to the United States.

20 But the point here is that there is a
21 willingness to spend hundreds of millions of dollars
22 to do what is required to continue to grow a

1 presence in the U.S. market. And so given that
2 track record, one of the features of a tariff remedy
3 will be at least in part an ability of Samsung and
4 LG to so-call absorb the tariff. So there is no
5 reason to believe or to think under any reasonable
6 economic model that there will be some
7 dollar-to-dollar pass-through of any tariff cost
8 borne by Samsung and LG as importers.

9 MR. MARTYN: Would not one possible
10 interpretation of what you just laid out be that
11 57 percent tariff would be prohibitive?

12 MR. LEVY: I think that that would be the
13 wrong interpretation. I think if you look at their
14 track record, the calculus that was made in 2016
15 apparently was that if they were going to be in a
16 position to continue their market share growth at
17 the expense of domestic producers, the discipline of
18 an antidumping order was not going to make that
19 possible, that they would have to instead compete on
20 a level playing field. And rather than resign
21 themselves to fair competition, they made a decision
22 to spend hundreds of millions of dollars to move

1 production yet again in the space of 5 years to two
2 new countries. Why? Because then they can continue
3 to sell at predatory prices with impunity.

4 And to be sure, there has been no finding
5 of dumping vis-à-vis imports from Vietnam and
6 Thailand, although the ITC record shows that a great
7 many of those prices are lower than the prices ever
8 seen from China or Korea or Mexico. So the point is
9 that the injurious pricing continues and that is
10 what they are intent on doing. So they certainly
11 have the ability to maintain production and sales
12 out of China, but they would not have been able to
13 continue their assault on U.S. producers and workers
14 from that platform.

15 MR. MARTYN: I think I heard you make a
16 statement as to how tariffs at the 50 percent level
17 would affect profitability for domestic producers.
18 Now does that take into account added economies of
19 scale that would be recognized from increasing
20 production or are you looking at a simple revenue
21 effect of adding the amount of the price increase to
22 the revenue that's currently made and looking at how

1 -- and looking at that as against current costs?

2 MR. LEVY: Thank you, Mr. Martyn. It's a
3 very important question. When I described the
4 economic model summarized in Exhibit A of our
5 October 12th submission to the commission, we indeed
6 used the ITC's sort of off-the-shelf COMPAS model
7 for safeguard tariffs. But our economist, Dr. Boyce
8 from Econometrica, made one additional enhancement
9 which was conservative and frankly appropriate,
10 which was to account for the reduction in fixed unit
11 cost associated with the increased production and
12 reduced -- and increased capacity utilization. And
13 so the economies of scale, if you will, that you
14 referred to, that benefit is captured already in the
15 50 percent model that was put before the commission.

16 You also made reference to return on
17 investment. There is a fundamental connection
18 between the robustness of the remedy and the effect
19 it has on the operating profit of domestic producers
20 and then whether or not that supports the economics
21 of reinvestment and the execution of the adjustment
22 plans. We would refer you to our proprietary

1 submission of October 26th before the ITC, where at
2 question 8 -- I believe it's pages Roman II-15
3 through Roman II-19. But in that section, using the
4 then available APO data, we draw a link between the
5 effect of a 50 percent tariff on the projected
6 operating income of the domestic industry, and then
7 we further draw a link between that operating income
8 level and whether it is adequate to support
9 reinvestment.

10 We heard testimony before the ITC and you
11 heard it again today that both GE Appliances and
12 Whirlpool generally expect a 3-year return. And so
13 the economic data summarized in that submission of
14 October 26th essentially show that a 50 percent
15 tariff in economic terms equates with, roughly
16 speaking, a 3-year return. And so it is not an
17 excessive remedy at all. It is just adequate.

18 MR. MAGNUS: One quick follow-up point on
19 that, if I may. Precisely because of what you asked
20 about in your question, the model that Mr. Levy is
21 referring to shows improvement in the fortunes of
22 the -- and the financial performance of the domestic

1 industry with a very surprisingly modest price
2 effect. That's what the COMPAS output shows. And
3 this is why you heard Mr. McKinney in his remarks a
4 few moments ago talking about how this is the rare,
5 easy case, that this case does not present
6 uncomfortable tradeoffs like safeguard cases often
7 do. And the recovery that the domestic industry can
8 anticipate comes very substantially through greater
9 capacity utilization and not through something
10 painful with respect to prices at the wholesale
11 level of trade.

12 MR. LEVY: And I would just echo that
13 point. Again, when you go back to the October 12th
14 COMPAS modeling which accounts for economies of
15 scale, as you say, the result is quite stunning
16 because what the ITC's COMPAS model with that
17 adjustment shows, again as Mr. Magnus was saying, is
18 that there is a very modest change in domestic
19 producer prices under the model. Nearly all of the
20 improvement in terms of financial performance of the
21 U.S. industry comes in reduction of fixed unit cost.
22 It's quite dramatic. And if you think about it from

1 a consumer welfare or a retailer welfare point of
2 view, that is a very attractive result.

3 MR. ADJEMIAN: But aren't you missing half
4 the market? I mean, so what you're saying is that
5 the price for domestic washers won't rise very much.
6 But if we look at the ITC's model, the price of
7 imported washers rises by a substantial amount.
8 Whenever you have a tariff or it's a tax and it
9 transfers wealth inefficiently from consumers to
10 producers, and I think that's important to point
11 out. So when you say that there is no tradeoff, I'm
12 not sure if that's really true from the standpoint
13 of an economist. In fact, you have deadweight loss.

14 So if you were to calculate the net effect
15 on the economy, it's actually negative. Isn't that
16 true? How is that a win?

17 MR. LEVY: I would respectfully submit
18 that it's a big win. I spoke in my remarks to
19 domestic producer volumes and prices. You're
20 speaking to what would happen in terms of import
21 prices under the economic model. You are exactly
22 right that under the economic model a 50 percent

1 tariff would translate into a significant increase
2 in import prices. Why? Because that's the whole
3 point of the safeguard remedy in this case is to
4 return Samsung and LG import prices to
5 non-predatory, non-injurious levels.

6 Now on this issue of competitive effects
7 and sort of economic theory, the ITC actually
8 examined this very closely. And then I would just
9 kind of point out to you two of their findings.
10 First, they said that in the absence of robust
11 safeguard reliefs, Whirlpool and GE would not be in
12 a position to restore their capital investment and
13 R&D spending to the level necessary for their
14 domestic production facilities to remain competitive
15 in the short-term, much less over the long-term. So
16 they saw real damage to the competitive environment
17 in the absence of this remedy.

18 And they went on to say, however, that
19 with an effective remedy that significantly raises
20 import prices, they found -- and this is their
21 language -- that it will likely strengthen
22 competition and innovation in the U.S. market for

1 LRWs. Through implementation of their respective
2 adjustment plans, Whirlpool and GE will be able to
3 maintain the competitiveness of their LRWs in the
4 U.S. market and enhance the productivity of their
5 domestic LRW production facilities, securing the
6 long-term viability of the facilities. The renewed
7 competitiveness of Whirlpool and GE will heighten
8 their competition with LG and Samsung in the U.S.
9 market, spurring innovation and greater consumer
10 selection.

11 So respectfully, we think that there is a
12 fundamentally uneconomic, predatory, injurious
13 condition that needs to be addressed through the
14 safeguard remedy, and it is necessary to have that
15 remedy in order to restore two major domestic
16 producers to a competitive footing and doing so will
17 actually inure to the benefit of consumers. That
18 would be our analysis.

19 MR. GETLAN: Can I just add one thing?

20 MR. ADJEMIAN: Sure, yeah.

21 MR. GETLAN: This is Myles Getlan on
22 behalf of Whirlpool. I think it's important to

1 emphasize that the injury, the serious injury in
2 this case was the result of surging volumes of
3 low-priced imports. The commission focused on those
4 low prices. These were declining prices. The fact
5 is it's indisputable that most of the volume of
6 imports at issue in this case were found to have
7 been illegally dumped, okay? And the prices of
8 those imports in the last year from Thailand and
9 Vietnam mostly were prices that were lower than the
10 dumped imports from Korea, Mexico, and China.

11 The commission over and over again
12 emphasized that it was the declining import prices
13 that fueled the surge of imports and seriously
14 injured the domestic industry. The commission said
15 that the only -- I quote, the only explanation for
16 the domestic industry's declining prices and
17 increasing cost of goods sold to net sales ratio,
18 basically evidence of price suppression, is a
19 significant increase in low-priced imports of LRWs
20 during the period of investigation.

21 To see import prices rising as a result of
22 a safeguard remedy is exactly the reason we're here.

1 This is how Whirlpool and GE Appliances have been
2 injured. And correcting for that -- we haven't been
3 able to get that correction through dumping cases.
4 We tried, but have failed because of Samsung and
5 LG's behavior. We are here finally to be able to
6 get a remedy that corrects for that, those predatory
7 prices, and that behavior.

8 MR. MARTYN: If I may, does COMPAS assume
9 perfect competition?

10 MR. LEVY: The short answer is I do not
11 know. And I would refer you to the ITC economists.
12 As far as the ITC's own economic model that they've
13 developed for TRQs, I will tell you that while the
14 output was reported and the input was reported, what
15 happens in the middle is to us still opaque. And so
16 we're not in a position to speak to what happens
17 behind the curtain.

18 MR. MARTYN: All right. My colleague
19 informs me that the model which you apply does in
20 fact assume perfect competition.

21 MR. ADJEMIAN: The ITC's model.

22 MR. MARTYN: The ITC's model. And that's

1 what you guys use, which was COMPAS, right?

2 MR. LEVY: Right. But it does account for
3 differences in elasticities, right, of substitution
4 and demand and supply and the like.

5 MR. MARTYN: But would you say that this
6 is a market that is characterized by perfect
7 competition?

8 MR. LEVY: I think that if what you're
9 talking about is fair competition, the answer is
10 absolutely not. It's a market that's been grossly
11 distorted by injurious behavior. But there is
12 head-to-head competition on the basis of price. And
13 the ITC record found that more than any other factor
14 price is what drives purchasing decisions, and that
15 there was a high degree of substitutability between
16 offerings from all suppliers, domestic and foreign.
17 So while this is not a commodity product, you have
18 an industry with a very high degree of
19 substitutability and a tremendous amount of
20 purchasing being done on the basis of price.

21 MR. McKINNEY: If the question is related
22 to the feature equality between the different

1 brands, the ITC already made a finding on that.
2 They said essentially we're competing on price and
3 that's what it's come down to.

4 MR. LEVY: And with regard to the
5 so-called non-price factors, they found
6 comparability between all producers on those fronts.
7 And so as a result, while there are other non-price
8 factors that were relevant, the heart of competition
9 boiled down to price because all suppliers are
10 fundamentally comparable with regard to these other
11 considerations.

12 MR. MARTYN: All right, I think we
13 understand your views here. Mr. Adjemian has one
14 more question.

15 MR. ADJEMIAN: One more question. I think
16 it's curious that we talk about competition. Isn't
17 it true that without Samsung and LG, if tariffs are
18 indeed raised and consumers are artificially
19 directed to purchase one washer or another because
20 of the import restrictions, isn't the market, the
21 domestic market more highly concentrated? And
22 should we consider that in our analysis?

1 MR. MAGNUS: I would have to quibble with
2 the premise of that question, sir. It is possible
3 for a safeguard proceeding to have the intended
4 effect of reducing import competition and have no
5 overall reducing effect on competition. How is that
6 possible? It's possible if the exporters decide on
7 their own that they no longer wish to serve this
8 market by exporting to it and decide to produce
9 here. There can be a reduction of import
10 competition and no reduction at all in competition
11 to supply these machines to consumers and to the
12 retail trade in the United States. That's what
13 you're looking at here.

14 Okay. If these companies had decided to
15 dig in and try to continue to serve this market by
16 exporting to it, then all of these questions about
17 the deadweight loss and artificially redirecting
18 consumers to some kind of differently branded
19 product would make sense. But in this case and on
20 these facts it doesn't make any sense. They are
21 going to remain in this market. They are going to
22 continue to succeed in this market. The competition

1 between and among these four companies, and there's
2 also Electrolux to think about, will remain robust.

3 And so the idea that by steering -- by
4 reducing the sharpest predatory edge of import
5 competition that you are somehow also reducing the
6 overall amount of competition in this marketplace,
7 that's something that may often be relevant in
8 safeguard cases and isn't relevant in this one.

9 MR. LEVY: The other point that I would
10 make and it's just more of a historical fact, in the
11 original antidumping investigation involving imports
12 from Korea and Mexico which was concluded in
13 February of 2013 -- so the investigation was
14 occurring during the course of 2012, Samsung and LG
15 busy moving to China, they were looking at activity
16 during obviously a preceding 3-year period of
17 investigation. And what the ITC observed during
18 that period is not one, not two, but three U.S.
19 producers of LRWs were made to quit U.S.
20 manufacturing during that period: Bosch, Fisher &
21 Paykel, and Electrolux. The CEO of Bosch testified
22 before the commission that Samsung and LG dumping

1 was the reason why that North Carolina facility had
2 to be closed.

3 Another competitor in the U.S. market,
4 Miele, produced in Europe, widely circulated through
5 the industry a letter saying we give up. At these
6 uneconomic, below cost prices, we simply cannot
7 compete. We cannot continue to participate in the
8 LRW market.

9 So the perceived concentration in terms of
10 the number of players left standing has been
11 substantially eroded as the result of this predatory
12 behavior of Samsung and LG. And so the purpose of
13 this safeguard case is to say enough is enough, and
14 once and for all to try to condition the environment
15 for a level playing field where there can be fair
16 competition with Samsung and LG. Let them come to
17 South Carolina and Tennessee. Let them pay what
18 Whirlpool and GEA pay for steel. Let them pay what
19 Whirlpool and GEA pay for resin. Let them be
20 subject to the same labor and environmental
21 constraints. And in this way we'll have fair
22 competition on a level playing field and it really

1 will be a win for America.

2 MR. MCKINNEY: One last thing, if I could.
3 You have 5 years of record before you. In all of
4 that illustrates to what great lengths the
5 respondents are willing to go through to essentially
6 buy market share. And the idea that on the eve of
7 them making these investments that they're talking
8 at great lengths about, that they're just going to
9 abandon the market somehow is just -- it's just not
10 credible. Thank you.

11 MR. MARTYN: All right. Returning to the
12 question of what tariff level would be prohibitive
13 or how to evaluate whether a tariff, a particular
14 tariff level is prohibitive, you made reference to
15 the results of modeling. And you made reference to
16 the historical experience of imports moving from a
17 country after antidumping and countervailing duties
18 were imposed. Is there other -- are there other
19 types of evidence that we should look at in
20 evaluating whether particular proposed tariff levels
21 are prohibitive?

22 MR. LEVY: I don't think we have anything

1 to add beyond the content of our comments to the
2 USTR and the TPSC.

3 MR. MARTYN: All right, thank you.

4 Turning to the question of a quota for
5 covered parts, now first question is what in your
6 view are the likely benefits and costs if we are
7 wrong and for some reason the quota you propose is
8 too low? Like one example that occurred to me is
9 let us say that Samsung has a recall on washer
10 baskets that affects 200,000 installed models in the
11 United States.

12 MR. LEVY: So the quota volumes identified
13 by the commission, 50,000 in year 1, 70,000 in
14 year 2, 90,000 in year 3, are by the commission's
15 own accounting adequate to account for all service
16 and repair needs for consumers. That we assume
17 includes reference to a historical period where
18 there was product recall, point one.

19 And in addition, it includes a very
20 significant buffer which again by the commission's
21 own account is calibrated to give Samsung some kind
22 of a cushion. Mr. Veroneau spent a great deal of

1 time before the commission talking about hurricanes.
2 We just witnessed a few in the south and obviously
3 hurricanes were on his mind. And he said, well,
4 what happens if a hurricane blows through and just
5 decimates South Carolina, what would happen then?
6 And considering that point, the commission engrossed
7 these quota levels, and that's how you get to 50-,
8 70-, and 90,000.

9 We respectfully submit that it's more than
10 adequate. And if there is a need to ramp up
11 production of a particular in-scope part, domestic
12 producers have that capacity to supply. And that
13 might be in-house. It might be with other domestic
14 suppliers. So we don't see this as a significant
15 risk. We see it as extremely speculative.

16 What is not speculative, however, is that
17 very early on in the safeguard proceeding Samsung
18 and LG and their allies were hemming and hawing
19 about any kind of a trade restraint on covered
20 parts. And over the course of the proceeding they
21 have certainly dialed it back, and now they're
22 telling you that they absolutely are going to be

1 vertically integrated and produce all of this
2 in-house.

3 What has clearly happened over the course
4 of this proceeding is that as the prospect of a
5 remedy has come more and more into focus, I think
6 they've realized the need to be vertically
7 integrated. And what needs to happen now is that
8 the President needs to hold their feet to the fire.
9 I think it's perfectly clear that were it not for
10 our prayer for this remedy on in-scope parts, the
11 real risk would be that for at least some models
12 they would be operating light assembly, screwdriver
13 operations or kitting, which would be another
14 end-run around the intended remedy here, the
15 intended remedy on finished LRWs, and not once but
16 twice frankly the domestic industry and its workers
17 have been hoodwinked by Samsung and LG.

18 The trade remedy law has been ineffective.
19 With this remedy, the President needs to get it
20 right and to close all the loopholes. This is a
21 tremendous potential loophole. And that should be
22 the number one risk on the minds of the

1 administration, not these hypothetical risks about a
2 once in a lifetime hurricane.

3 MR. McKINNEY: Just to add to that, the
4 ITC's proposed TRQ level is roughly, as we
5 understand it, five times the volume level from the
6 average recent years. We're not really -- we're not
7 here asking you to cut it close. GE Appliances has
8 no interest at all in encumbering anyone's repair
9 business, replacement warranty. We don't want to
10 put consumers in jeopardy at all.

11 MR. MARTYN: All right. If we were to
12 have a different perspective as to the risks to
13 current owners of installed washers, what would be
14 your view of a quota with a short supply provision
15 built in?

16 MR. LEVY: If what you mean by a short
17 supply provision is some certification that
18 additional volumes are needed for service and repair
19 of existing units in the field with consumers, as
20 compared with the internal consumption of such
21 imports for the production of new LRWs, I think as a
22 matter of substance that does not trouble us. We

1 would simply raise questions about the
2 administrability of such a mechanism and we would
3 need to ensure that there would not be any
4 circumvention of such a provision.

5 This is an industry that has been riddled
6 with years of circumvention in one form or another
7 by Samsung and LG. And so we would simply urge the
8 administration to consider this issue with a very
9 cold eye in light of that track record. The
10 statute, of course, contrary to what we heard from
11 the honorable gentleman from Korea, the statute
12 specifically charges the President with considering
13 circumvention risks in fashioning a safeguard
14 remedy. And circumvention risks obviously are very
15 prominent in this case.

16 MR. MAGNUS: You wind up likely needing
17 some kind of end user certificate in order to handle
18 something like this at the border to ensure that any
19 additional units whose import is authorized will in
20 fact be used for repair and service within the
21 installed base. And that I imagine is a
22 complication that you would just as soon not have to

1 build into a safeguard measure to be announced by
2 the President in this case.

3 MR. MARTYN: This is a question for
4 Whirlpool. You indicated in your submissions that
5 trade remedies would result in 10,000 more American
6 jobs in places like Ohio, Iowa, Illinois, and
7 Wisconsin. We were wondering if you had -- could
8 give us any insight into the methodology you used to
9 reach that conclusion and what data you used?

10 MR. LIOTINE: Yeah, that estimate
11 pertained to the 1,300 direct jobs we talked about
12 at Clyde, specifically. But then as referenced in
13 many of the testimonies earlier today, there's many
14 raw material jobs, steel and resins, that would be a
15 consequence of incremental volume. We obviously
16 have lots of parts, lid assemblies, injection
17 molding. Actually, Mr. Fish is here and can kind of
18 speak to those implications probably better than I
19 can.

20 In addition, engineering upstream at
21 Whirlpool's headquarters in Michigan where we do all
22 of our laundry engineering, design, customer service

1 which we also handle all in Michigan, if you run
2 that through our supply chain logistics, delivery,
3 sales people, all those would also be a part of it.
4 And then also referenced earlier I think by some of
5 the government representatives, the network effect
6 on a community where we're oftentimes the biggest
7 employer in terms of schools, restaurants, other
8 employment is really very pronounced. We used some
9 general rules to kind of articulate all those
10 different buckets.

11 MR. MARTYN: I think that's a sort of
12 qualitative description. But you folks -- which all
13 sounded logical, but you folks reduced this to a
14 number, and I was wondering if you'd give me some
15 insight into how you changed the -- how you reduced
16 those sound accurate conclusions into that 10,000
17 job number?

18 MR. LEVY: And I think that that
19 multiplier is a rule of thumb that Whirlpool has
20 used over the years in reference to major
21 appliances. To be sure, there are going to be
22 different multipliers depending upon the precise

1 product segment. For example, if one upstream
2 vendor is more automated than another, you're going
3 to have a different multiplier effect in terms of
4 employment with upstream vendors. We can try to
5 provide you with a little more detail post-hearing,
6 if that's of interest. But I think maybe GEA can
7 also speak to its experience in terms of what
8 multipliers it's seen either internally or from past
9 administrations.

10 I'll simply observe that the Bureau of
11 Economic Analysis has other multipliers that it
12 considers for the appliance sector generally, not in
13 reference to labor per se, but in terms of economic
14 output and so-called spillover effects. And so we
15 would also refer the administration to those
16 resources. I think what's clear is that you're
17 going to get different estimates from different
18 sources. But no matter what source you consult,
19 both qualitatively and quantitatively it's clear
20 that it's many multiples more than the direct jobs
21 at Clyde that promise to be created as a result of
22 execution of these adjustment plans.

1 MR. MARTYN: Does GEA have anything to
2 add?

3 MR. JONES: Well, Earl Jones here, GE
4 Appliances. My recollection is during the previous
5 administration that the factor used when the
6 stimulus bill was being proposed in Congress was the
7 ratio of 6 to 1. So we can track that down or try
8 to track that down. I guess our assumption would be
9 that in the current economic climate with the growth
10 we're experiencing today that we expect that to be a
11 better number than 6 to 1. But certainly 6 to 1 was
12 the number used in 2009.

13 MR. FISH: And this is Glen Fish. I
14 represent one of those upstream suppliers, one of
15 the many suppliers that both of these firms utilize,
16 so we definitely would see a great impact if their
17 sales were to continue to increase.

18 MR. MARTYN: All right. I will specify we
19 are not asking you folks to submit new data, but if
20 you have data that's on the ITC record to point to
21 or information that is in the public sphere, we
22 would welcome hearing about that.

1 We are almost at the end of our time so I
2 will ask my colleagues if there are any -- if they
3 have any more questions. Yes, Mr. Stephens?

4 MR. STEPHENS: I actually did read with
5 great interest your -- Dr. Boyce's October 11th
6 model. And I sat down and compared it to table 5,
7 which models a TRQ of 1.2 million units, on page 129
8 of the ITC confidential report. And I was struck by
9 -- and I went through line by line and obviously I
10 can't discuss the numbers specifically, but I was
11 struck by comparing those numbers. With those
12 numbers in mind, could you discuss -- let me find
13 it. Are any of the remedies recommended by the ITC
14 commissioners likely to result in a positive net
15 revenue stream for domestic producers?

16 MR. LEVY: Thank you for that question. I
17 think if you juxtapose our COMPAS model and what the
18 ITC included in its report, and you look at the
19 inputs, what you'll see in reference to the inputs
20 is that I believe they are all the same with one
21 notable exception. I think it's the elasticity of
22 supply, where we were down the middle and the

1 commission chose one of the outer bounds. But with
2 that difference, they were the same.

3 We obviously are making an adjustment for
4 differences, changes and improvement in fixed unit
5 cost as a result of sort of the economies of scale.
6 It's not clear to me whether the ITC is doing so in
7 their TRQ model. I just cannot tell. It's opaque.
8 And I don't know what else is different in their
9 machinery. What is clear is that if you look at the
10 ITC's recommendation, for example, the
11 recommendation of Chairman Schmidtlein and
12 Commissioner Williamson where for the everything
13 about 1.2 million, it's obviously 50 percent, but
14 for the first 1.2 million units, they are simulating
15 a 20 percent tariff and what benefit does that have.
16 It's not clear to me that they've been able to --
17 how they've been able to quantify that benefit.
18 They talk about it qualitatively.

19 But what's clear is that the net result
20 that's modeled by the commission, and again the
21 proprietary data no longer at our disposal, but if
22 you parse the public language of the report, it's

1 clear that you have a domestic industry that goes
2 from significant operating losses and those
3 significant operating losses are entirely erased
4 under their model, but you're left with -- you know,
5 again reading between the lines, a scintilla or a
6 modicum of operating profit. That is beneficial.
7 That certainly would support a scale-up in
8 production and the addition of some jobs.

9 But would it support full and complete
10 execution of adjustment plans consistent with the
11 return on investment expectations of these
12 businesses? On that point, we submit the answer is
13 no. It would fall short. And if you don't have
14 full execution of the adjustment plans, you don't
15 realize the promise of maximum job creation and you
16 don't realize the promise of putting these two U.S.
17 producers on a competitive footing that endures
18 beyond the 3-year safeguard period.

19 So the fundamental difference between what
20 the ITC is recommending and what Whirlpool and GEA
21 are recommending with respect to finished LRWs goes
22 to the adequacy of the operating profit to support a

1 return on investment and execution of adjustment
2 plans. And we respectfully submit, you know, the
3 ITC got a lot right in its report, but when it comes
4 to execution of adjustment plans, these business
5 leaders know better than anyone what it takes to
6 authorize the deployment of capital, particularly
7 after spending hundreds of millions of dollars on
8 projects for which they got zero return. Why?
9 Because Samsung and LG did an end-run around the
10 U.S. trade remedy law not once, but twice. So I
11 think that -- I think that's an astute observation
12 and I appreciate the question.

13 MR. MARTYN: We are very fortunate to have
14 more time than we did with respect to the solar
15 hearing. And so in that spirit, I have -- two of my
16 colleagues have additional questions. I will ask
17 the responses to be brief. And I will assure our
18 friends on the other side of this issue that we will
19 add some stoppage time to their questions if we find
20 that that's necessary.

21 MR. CYMBALSKY: Okay, we're in stoppage
22 time now. All right.

1 Mr. Levy, I was surprised to hear you say
2 that these products compete strictly on price and
3 not features, at least that's what you said the ITC
4 concluded. Home appliances, generally the way
5 consumers interact with them I would think would
6 have a feature differentiation behind them. So is
7 it your position that the domestic products have the
8 same features that imports have and vice versa such
9 that only price is what's differentiating these in
10 the marketplace?

11 MR. LEVY: I appreciate the question. So
12 just to clarify, LRWs are not a commodity. This is
13 not sugar. This is not silicomanganese. These are
14 highly differentiated consumer goods with a wide
15 range of features. There are core features that the
16 ITC has recognized, things like heater, steam,
17 capacity, glass lid, front load versus top load,
18 etcetera, etcetera. There is a whole host of
19 combinations of features, each of which comprise
20 essentially a unique model.

21 What the commission properly did was it
22 identified buckets of products that had similar

1 features and found those to be in head-to-head
2 competition on the basis of price. It also analyzed
3 other so-called non-price factors and considered the
4 extent to which such factors might also play into
5 purchase decisions of retailers because competition
6 occurs primarily at the wholesale level. And in
7 that environment, what the commission observed was
8 with regard to such non-price factors, be it brand
9 or innovation or what have you, it found that all
10 suppliers were fundamentally comparable.

11 So with respect to the core features,
12 everyone's got the same core features. With respect
13 to non-price factors, everyone's comparable in the
14 eyes of the commission. And as a result,
15 competition boils down almost entirely during the
16 period of investigation to price.

17 Samsung and LG, and Samsung now in
18 particular, would highlight particular models and
19 say we have this bell or whistle -- FlexWash is the
20 one that comes to mind -- and says you should
21 exclude that because the domestics don't make it and
22 they don't compete. And I'd respectfully submit

1 that what they're trying to do is re-litigate the
2 case. They're trotting out the same tired arguments
3 that they made to the commission and the commission
4 rejected.

5 On the issue of FlexWash, what the
6 commission found, and I'll quote, "We further find
7 that domestically produced LRWs are directly
8 competitive with imported FlexWash." The commission
9 has made findings of direct competition between
10 these products. And we respectfully submit that
11 they all compete with one another and on the basis
12 of price.

13 And I don't know, Joe, if you want to give
14 more of a business color on this question?

15 MR. LIOTINE: Sure. I mean to that point,
16 when you think about features, we all offer
17 different features. Many of these could be around
18 flexibility. In the example of FlexWash, well,
19 there's lots of ways to achieve flexibility. If you
20 go to an actual retail store, you'll see all those
21 products, FlexWash included, lined up right next to
22 each other in a row: GE, Whirlpool, Samsung, LG,

1 whoever it might be. So there is no differentiation
2 in terms of the product offering.

3 In addition, they actually compete price
4 to price and/or if one cascades or put pressure on
5 the pricing, it pushes the pressure down on all of
6 them. So they're literally right next to each other
7 in every place you go. If there was a unique
8 differentiated product, it wouldn't be organized
9 that way, wouldn't be sold that way, wouldn't be
10 bought that way, merchandized that way. If that
11 model comes in or comes out, it can be replaced by a
12 model without FlexWash. So there is really no
13 differentiation there.

14 We have things like bulk dispensing. Plug
15 it in once, automatically dispenses detergent for a
16 month. That's very -- you know, they don't have
17 things like that. So each of us have our things.
18 It's not a unique product in any way. It's just one
19 way to go to market that's maybe enticing to one
20 consumer versus another.

21 MR. PEPE: In respect of time, the same.

22 MR. JONES: Well, I just might add to

1 that, Mr. Cymbalsky, that I think you're focusing at
2 the consumer level. I think what we're focusing on
3 here is at the wholesale level, and that I think is
4 what the ITC focused on as well. There the question
5 is the pricing at the wholesale level; what is it
6 that the dealer is looking at in making its buying
7 decisions? And in that sense there is great
8 comparability of these products. It's admittedly
9 different from what we've experienced dealing with
10 DOE and product configurations and setting standards
11 of one kind or another, but in this arena it's
12 completely different.

13 MR. LEVY: And to the extent --

14 MR. MARTYN: Please.

15 MR. LEVY: -- the question is one --

16 MR. MARTYN: I think we understand.

17 Mr. Adjemian?

18 MR. ADJEMIAN: Thanks so much for taking
19 the time to answer our questions here today. I just
20 think it's important to point out that if you look
21 at the ITC model, whether you think about an
22 across-the-board tariff or you think about the TRQ

1 that they write about in their report, they actually
2 estimate that it's going to have the same price
3 effect. So in your testimony you state that your
4 suggested remedy would better facilitate your
5 adjustment plans, however. So do you disagree with
6 the ITC's modeling effort that finds that the price
7 effects would be the same or is there some other
8 beneficial mechanism from your perspective that your
9 preferred remedy would have? And if so, could you
10 describe that or at least provide some follow-up
11 comments to help us work through that?

12 MR. LEVY: So we don't necessarily
13 understand what's inside the machinery of the
14 commission's latest model. We've asked to see the
15 programming and it's not been provided to us. We
16 observe that there are differences in inputs between
17 what we submitted and what the commission is using
18 particularly with respect to I think the elasticity
19 of supply. But it should be completely intuitive
20 that a tariff of 50 percent on all LRWs is
21 qualitatively different than a tariff of 50 percent
22 only on units above and beyond 1.2 million. And

1 whether the first 1.2 million is entering at 20
2 percent or some other percent rate, it is
3 necessarily a dilution of the robustness of the
4 remedy and should, *ceteris paribus*, be less
5 effective in terms of returning import prices to
6 non-predatory levels.

7 What else is going on with their machinery
8 in terms of moving parts, we're powerless to
9 critique it because we just don't see behind the
10 curtain. But certainly you're in a position to
11 engage with the ITC economists and develop a more
12 nuanced understanding of what's going on there.

13 MR. ADJEMIAN: It's just a simple static
14 model. So I think in any case it would always have
15 the same price effect. So what you're saying is
16 maybe think about things in a richer way, rather
17 than thinking about like a two period? I can talk
18 about the USTR economists or ITC economists about
19 that. But I was just curious if there is some other
20 beneficial mechanism that you believe an across-the-
21 board tariff provides?

22 MR. LEVY: Well, I mean we look at it

1 really simple and I'm not an economist so I
2 apologize for being a simpleton on this, but when we
3 run the model and we run a 50 percent tariff, we
4 find a resulting operating profit for the domestic
5 industry and a return on investment that just barely
6 satisfies the 3-year return that the U.S. industry
7 says they need to execute the adjustment plan. It
8 should be completely intuitive that, ceteris
9 paribus, any dilution of that 50 percent tariff on
10 all washers will be something less than what is just
11 barely adequate.

12 Now maybe you can come up with different
13 mechanics to the model and say, well, this model is
14 different from that model. We're powerless to
15 understand those differences and so we would defer
16 to the experts and the administration in
17 understanding those nuances.

18 MR. MARTYN: All right. Thank you,
19 gentlemen. We will now have a -- since we're
20 running late, I will shorten this to a 5-minute
21 break to change tables. And we will start promptly.
22 Thank you very much.

1 (Off the record at 11:45 a.m.)

2 (On the record at 11:53 a.m.)

3 MR. MARTYN: All right. We are beginning
4 with Panel 4. And Sears will have the first
5 presentation. I understand you've asked for 4
6 minutes for testimony?

7 MS. SMITH: Yes, that's correct. Well,
8 4½.

9 MR. MCGUGAN: 4½.

10 MR. MARTYN: Okay. All right. And we
11 will have -- will you be sitting nearby if questions
12 come at the end of the whole presentation?

13 MS. SMITH: Certainly.

14 MR. MARTYN: Great. So please begin.

15 MR. MCGUGAN: Thank you for the
16 opportunity to testify before you today. I'm Chris
17 McGugan, Vice President and General Manager of
18 Innovation & Kenmore, where I lead operations, brand
19 management, sourcing, and the sales of the Kenmore
20 brand.

21 Sears is more than just a retailer. Sears
22 is an American institution and part of a community

1 that includes innovators, service providers, and
2 consumers. I'm proud to be a member of the Sears
3 family. I remember as a child pouring over the
4 Sears catalogue entranced by the variety of products
5 sold and today I have the privilege of growing the
6 Kenmore brand.

7 When my colleagues and I heard of
8 Whirlpool's proposed actions in this proceeding, we
9 were quite shocked. The draconian tariffs proposed
10 in this case are a real threat to the iconic Kenmore
11 brand. They also threaten our employees and local
12 communities throughout the country. It's obvious
13 that the commission ignored the impact on the
14 American public and retailers who will ultimately
15 pay these high tariffs, threatening retail jobs and
16 the availability of innovative products.

17 We urge the administration to consider
18 that the success of washer manufacturers is directly
19 dependent upon retailers in that they only succeed
20 if retailers succeed. Any action taken must
21 consider this. An example happens to be the long-
22 standing relationship with Whirlpool and Sears

1 spanning nearly 100 years of mutual success. The
2 Upton Machine Company, which became Whirlpool, sold
3 its first washers to Sears in 1916 and Sears' first
4 motor-driven washers were the beginning of today's
5 modern industry.

6 Sears is unique in that not only is it a
7 retailer, but also an appliance brand with Kenmore.
8 As such, innovation is core to our ability to
9 differentiate Kenmore products in the market. The
10 washer industry is in the process of transformation
11 and I'm proud to say that Kenmore is on the
12 forefront of that revolution.

13 For the last 100 years, Sears has prided
14 itself on providing customers with innovation,
15 technology, and satisfaction. Our success depends
16 upon the availability of a variety of cutting-edge
17 brands and model offerings. This diversity drives
18 consumers into our stores.

19 Sears is a household name because we
20 provide our customers a reliable assortment of
21 brands and innovation, especially with respect to
22 household appliances. With our retail locations and

1 140,000 employees spread throughout all 50 states,
2 Sears is famous for meeting the needs of all
3 Americans. It's important to consider consumers and
4 their needs, as no consumer is the same. Today's
5 tech savvy consumer may choose to control their
6 washing machine with their smartphone. And families
7 with growing families want higher capacity products
8 that clean two loads of laundry at once. But our
9 ability to offer the variety of products that meet
10 those diverse needs is key to our success.

11 Historically, Whirlpool and GE dominated
12 domestic washer manufacturing. And today, the
13 domestic appliance market is growing and we're
14 excited to have Samsung and LG move production to
15 the United States. But the administration must not
16 adopt measures that would impede that action. The
17 proposed actions hurt both retailers and these new
18 U.S. manufacturers. Sears needs flexibility in its
19 manufacturing base in order for the Kenmore brand to
20 ensure the broad range of products that we bring to
21 market today. Our stores sell not only washers but
22 also other appliances and products, and without this

1 diversity of products we don't drive consumers into
2 our stores.

3 Excessive tariffs would provide Whirlpool
4 with a very unfair market advantage. Over a decade
5 ago, in support of the Whirlpool/Maytag merger,
6 Whirlpool convinced the government that the
7 competition created by Samsung and LG was a benefit
8 for the American consumer. The recommended
9 restrictions will eliminate this competition,
10 unfairly concentrating Whirlpool's control over the
11 industry at the expense of the American consumers
12 and retailers. Americans win when they have
13 choices, the availability of a broad range of
14 reliable products. Americans lose, however, when a
15 duopoly of only two companies, Whirlpool and GE, are
16 allowed to control consumers' choices, effectively
17 eliminating choice in the market.

18 The proposed restrictions will also have a
19 devastating impact on the established ecosystem for
20 home appliances. This ecosystem includes
21 manufacturers, retailers, builders, our employees,
22 and our customers. All members of the ecosystem

1 depend upon others for its success. For example,
2 washer manufacturers rely on retailers for floor
3 space to advertise and sell those products. If the
4 recommended measures are imposed, there is a very
5 real likelihood that Samsung and LG would lose floor
6 space, which is difficult and takes time for them to
7 regain.

8 As mentioned, retailers such as Sears rely
9 upon maintaining a diversity of brands and products
10 to drive store traffic and sales. The impact,
11 however, is much broader. The proposed restrictions
12 present a real threat to the installers and other
13 service providers employed by Sears to support our
14 appliance business. This administration must not
15 take action that would create a duopoly for
16 Whirlpool and GE while threatening the hundreds of
17 thousands of jobs and the communities that depend
18 upon them.

19 Sears urges the administration to put
20 Americans first. Do not impose trade restrictions
21 that will have dramatic, negative impacts on
22 American retailers, consumers, and local communities

1 for years to come. Thank you again for the
2 opportunity to testify before you today.

3 MR. MARTYN: Thank you.

4 All right. We will now move on to Samsung
5 and LG, and hope our friends from Sears will stay
6 nearby because we do have some questions directed
7 toward you. All right, please begin.

8 MR. PORTER: Thank you. Members of the
9 committee, I am Dan Porter, counsel for LG
10 Electronics. You are tasked with coming up with an
11 action plan to facilitate efforts by the domestic
12 industry to adjust to import competition. Actually,
13 this work is largely done. There already exists a
14 bona fide action plan well underway to make the
15 domestic industry larger, stronger, and better able
16 to compete with imports. That action plan consists
17 of the LG and Samsung new U.S. washer production
18 factories in Clarksville, Tennessee, and Newberry,
19 South Carolina, perhaps complemented by the ITC
20 remedy recommendation.

21 The new LG/Samsung factories are being
22 built right now. The new buildings are going up.

1 New equipment is being purchased and installed and
2 hundreds of new American workers are being hired.
3 Therefore, the best possible action plan is already
4 well underway: New U.S. factories by LG and
5 Samsung. With or without the safeguard measures,
6 the new LG/Samsung factories will increase U.S.
7 production by 25 percent. With or without the
8 safeguard measures, U.S. production will account for
9 90 percent of the market in 2019. And with or
10 without the safeguard measures, U.S. washer
11 manufacturing employees will increase by 1600
12 American workers. And perhaps most importantly,
13 with or without the safeguard measures, the
14 LG/Samsung factories will largely replace allegedly
15 injurious imports with new U.S. production.

16 Whirlpool's remedy proposal seeks a
17 windfall for Whirlpool, not adjustment to import
18 competition. The ITC remedy recommendation more
19 fully addresses the serious injury found. In
20 seeking punitive tariff, Whirlpool's sole objective
21 is to disrupt a smooth transition to the LG/Samsung
22 U.S. factories. Disrupting the transition to this

1 new U.S. production is not an appropriate remedy for
2 the domestic industry. And with that, I will turn
3 the microphone over to John Toohey.

4 MR. TOOHEY: Good afternoon. I'm John
5 Toohey, Senior Director of Strategy for LG
6 Electronics USA. This is my eighth year at LG and
7 during that time I've played a role in developing LG
8 strategy for the U.S. home appliance market. In its
9 papers submitted to USTR, Whirlpool argues that
10 without punitive import restrictions, LG would walk
11 away from its plans to build its washer factory in
12 Tennessee, so I've come to Washington to tell you
13 and show you that Whirlpool is dead wrong.

14 At LG, we've been discussing U.S.
15 production for quite some time and I've been
16 personally involved since I joined the company in
17 2010. In fact, we started looking at U.S.
18 production before any of the antidumping cases came
19 along. The U.S. production site affords us
20 tremendous operational benefits, shortening our
21 supply chain by several weeks, and allowing us to be
22 more responsive to the growing demand for LG

1 products in the U.S. market.

2 It took us a full 6 years to pick a site,
3 but eventually we selected a 310-acre plot in
4 Clarksville, Tennessee. We publicly announced our
5 decision to build a U.S. washer factory in February
6 2017, which preceded the filing of the current
7 safeguard petition. We're starting in Clarksville
8 by investing \$250 million to build a factory that
9 will employ 600 people to produce our state-of-the-
10 art top load and front load washing machines. The
11 310-acre site is large enough to accommodate
12 potential expansion to other products in the future.
13 You can see this on the rendering shown in the
14 handout on page 1. We have not only the three green
15 areas, but also the land to the north up to the
16 Kentucky border.

17 Our Tennessee factory will be state of the
18 art, utilizing several cutting-edge systems to
19 streamline communication, manufacturing,
20 maintenance, and quality. For example, we'll
21 incorporate automatic inline processes to
22 manufacture subassemblies for tubs, drums, and

1 cabinets. The plant will be flexible, enabling us
2 to switch between models in only a few minutes. And
3 it will be fast, with the speed to produce a
4 finished washer every 10 seconds from each line and
5 enough capacity to supply nearly all of our U.S. and
6 Canadian demand.

7 Our current timetable is to be in mass
8 production during the fourth quarter of this year
9 and we have made significant strides towards that
10 since our announcement in February. For example, we
11 completed negotiations for binding agreements with
12 the State of Tennessee and the Montgomery County
13 Industrial Development Board to commit LGEUS to
14 spend \$250 million on this project and hire 600
15 employees. We've also mobilized local utilities.
16 The local electric utility has begun work on a new
17 substation to support the plant and Clarksville Gas
18 and Water has committed to extend gas and water
19 lines to our new pad. And construction of the
20 factory has already started. As you can see on
21 page 3, steel beams were just delivered last week.
22 By the way, these steel beams, as well as all other

1 steel for construction were purchased from U.S.
2 steel mills.

3 As made plain by all of this activity,
4 this LG factory is real. It is going to happen
5 regardless of the outcome of this trade case and it
6 will happen quickly. Thank you for your attention.
7 I look forward to your questions.

8 MR. RIDDLE: Good afternoon. My name is
9 John Riddle and I'm the Senior Vice President of US
10 Home Appliances at LG. I have over 35 years of
11 experience in the home appliance industry. I've
12 come to Washington to explain why imposing
13 restrictions on LG's ability to import washers in
14 2018 will actually harm the ability of LG's new
15 Tennessee production facility to maximize its
16 production in 2019.

17 I recognize that this concept seems
18 counterintuitive. A U.S. producer should want
19 import restrictions. However, this usual dynamic
20 does not apply to a new U.S. producer whose U.S.
21 production is designed to replace the very imports
22 destined for the retail appliance market. The

1 reason is that in the retail appliance market, floor
2 space is everything. If you lose that, you really
3 have to start from scratch. And there is no
4 question that should the President decide to impose
5 import restrictions desired by Whirlpool, LG will
6 not be able to guarantee supply to meet our historic
7 demand and therefore our retailers will have no
8 choice but to remove our washer models from their
9 floors.

10 I believe that you can understand that a
11 retailer simply cannot display a washer model that
12 it cannot offer to deliver to the consumer's home
13 the very next day. And having our washers removed
14 will have two immediate severe consequences. First,
15 having our washers removed from retailer floors will
16 absolutely kill the sales of LG washers. A full
17 80 percent of all washer sales come from consumers
18 choosing a particular model from a retailer's floor.
19 Second, once LG washers have lost their floor
20 placement, it will take considerable time for LG
21 Tennessee to get back on the floor. The reason is
22 that changing from one supplier to another at retail

1 is very expensive for both the vendor and the
2 retailer. In fact, changing models is so disruptive
3 for the retailer that most retailers adopt a
4 practice of having only one major reset per year.

5 As you can see on page 4, retailers make
6 decisions about which products to floor, to display
7 in their stores through a periodic process. This is
8 the vendor's main chance to access the floor.
9 Typically the process is conducted annually and
10 takes about 6 to 8 months. Vendors that want to
11 access retail floors have to participate in this
12 process.

13 In our submission, we gave you
14 confirmation from each of the national retailers
15 that they use this process. These real-world
16 retailer practices will have a significant adverse
17 effect on LG's new production facility. Loss of
18 floor space because of the import restrictions will
19 mean that there will not be demand for LG washers
20 when LG's new Tennessee production facility becomes
21 operational.

22 Loss of demand means fewer washers

1 produced by LG Tennessee. Fewer washers produced
2 means less revenue, reduced profit, and fewer
3 employees for the time it takes to get LG Tennessee
4 to again become a key supplier to those major
5 retailers. Meanwhile, American consumers will be
6 subjected to higher prices and are effectively
7 robbed of choice within the market.

8 Thank you for your attention. I look
9 forward to your questions.

10 COMMISSIONER ROLFE: Good afternoon. My
11 name is Bob Rolfe. I serve as our Commissioner of
12 Economic and Community Development for the State of
13 Tennessee. I have the pleasure of serving at the
14 pleasure of our government. My primary job is to
15 recruit, to recruit good companies to locate in
16 Tennessee. For the record, I am not appearing today
17 to take sides on this trade issue or any other
18 trade-related issues; rather, to emphasize the
19 importance of investment in our state.

20 On February 29th of last year, Governor
21 Bill Haslam and the senior executives of LG
22 Electronics announced that LG had made the decision

1 to invest \$250 million to build a new advanced
2 washing machine factory in Clarksville, Tennessee.
3 We've worked hard in Tennessee to attract companies
4 like LG. Our success as a state depends on
5 attracting private investment capital from
6 international companies and we are proud of our
7 track record of leading the U.S. in the creation of
8 foreign direct investment jobs in 2 of the last 3
9 years.

10 Now how do we do that? Well, one of the
11 reasons and how we do that is we provide incentives
12 for such investments. We also require contractual
13 provisions in these incentives that allow us to
14 recover incentive dollars if the company does not
15 follow through with its commitments. We have those
16 same such provisions in place for the LG investment
17 in Clarksville.

18 Please consider that hindering Tennessee
19 manufacturing in any way will hurt our workers and
20 our economy. Retailers, factory workers, and others
21 rely on our products proudly made in Tennessee for
22 their livelihood. During this transition to replace

1 imported LG washers with Tennessee-made LG washers,
2 the government, we hope, will facilitate the
3 transition and not impose restrictions. I
4 respectfully request that you carefully consider how
5 your recommendations to the President will impact
6 current and future investments for all companies who
7 invest in our state. We are all about creating jobs
8 for Tennesseans. Thank you.

9 MAYOR DURRETT: Good afternoon. My name
10 is Jim Durrett, Mayor of Montgomery County,
11 Tennessee, the new home of LG's washer manufacturing
12 facility. I hope you can understand the pride we
13 had when LG Electronics announced in February 2017
14 their plans to build the world's most advanced
15 washer manufacturing facility. When you look at
16 Montgomery County, you begin to understand why LG
17 chose our community. Montgomery County is a great
18 place to live, work, and play. We're the proud home
19 of Fort Campbell, home to the 101st Airborne
20 Division, 5th Special Forces Group, and 160th
21 Special Operations Aviation Unit, and Austin Peay
22 State University, all of which create a workforce

1 for LG.

2 Now that the construction of LG's factory
3 is well underway, I have several concerns about the
4 safeguard case before you today. Just as we
5 competed to attract LG's manufacturing facility, we
6 welcome the opportunity to compete with other
7 domestic manufacturers in the large residential
8 washer market. My concern is that trade laws are
9 being used to create a competitive advantage for one
10 state over another. Restricting imports during the
11 transition hurts the LG facility, it hurts Tennessee
12 and it hurts Montgomery County.

13 Fierce free-market competition will make
14 all competitors better at what they do. Free-market
15 competition will produce better choices and better
16 value for customers or consumers. We should not
17 allow trade laws to interfere with this healthy
18 competition or the transition by LG from imports to
19 domestically produced washers. We're excited about
20 the economic opportunities LG brings to our region.
21 In fact, during Secretary of Commerce Ross's
22 comments on August 24th at the LG groundbreaking, he

1 stated this is exactly the kind of job creation and
2 investment that the Trump Administration is seeking
3 for American workers. He went on to say that jobs
4 are a top priority for President Trump and America,
5 and even more business-friendly under his
6 administration.

7 Our community had nothing to do with trade
8 cases in the past. We understand a safeguard case
9 like this is not about unfair trade; rather, this
10 case is just about volume of imports. Looking to
11 the near future, most large residential washers sold
12 in the U.S. will be made in Tennessee, South
13 Carolina, Ohio, and Kentucky, not in countries
14 outside the United States. State and federal
15 governments should embrace that opportunity as
16 exactly the kind of healthy domestic manufacturing
17 we want, just as our community has embraced LG.

18 Thank you.

19 MR. MARTYN: And I'm sorry, but the time
20 for this panel is finished. We have been enforcing
21 the time limits strictly and I'm sorry about that.
22 But certainly, Mayor McMillan, you are welcome to

1 respond to questions and should they raise some of
2 the issues you were going to testify on, we will
3 certainly hear them at that point.

4 (Pause.)

5 MR. MARTYN: Please feel free to begin
6 when you are ready.

7 MR. FRALEY: Good morning. My name is
8 Tony Fraley. I'm the plant manager for Samsung's
9 Newberry, South Carolina appliance factory.

10 This \$380 million investment in South
11 Carolina is Samsung's most efficient and modern
12 appliance plant anywhere in the world. We've done a
13 tremendous amount in a few short months.
14 Essentially, the plant was an empty building with a
15 slab of concrete when we started. For the last 6
16 months, hundreds of construction workers have
17 transformed the site by adding 151,000 square feet.
18 We will install two manufacturing and assembly lines
19 with 20 stamping presses and 30 injection molding
20 machines to produce all major washer parts. The
21 ribbon cutting will be next Friday, January 12,
22 2018.

1 We've already hired 504 employees. Ninety
2 percent of them are local hires from Newberry and
3 surrounding counties. This is not a screwdriver
4 operation. I've been in a lot of washer factories
5 in the United States and elsewhere, and this is a
6 fully integrated operation. We have already
7 installed four injection molding machines and two of
8 those are producing key washer parts such as front
9 and back tubs, outer tubs, top covers, other parts.
10 By March, 11 machines will be installed, with more
11 following every month until we reach full capacity.

12 We have installed heavy-duty metal
13 stamping equipment. Those presses are now up and
14 running, bending and forming metal for washer
15 cabinets, drums, fronts, backs, tops, and other
16 parts. For most of the past month we've been doing
17 test and training runs on all of the equipment.
18 It's very important that we ensure the first
19 commercial washers that roll off the line meet all
20 of Samsung's high-quality standards.

21 The entire manufacturing process for
22 washers will occur right there in Newberry. We are

1 converting blanks of steel into washer cabinets with
2 the stamping equipment. When you look inside a
3 washing machine, you see a shiny drum inside. That
4 starts as a piece of steel. We produce that drum
5 on-site in Newberry. A lot of the other parts you
6 can't see are injection molded parts and we make
7 many of those on-site as well. We are starting with
8 pellets of resin and blanks of steel, and it's all
9 coming together inside the factory to go out the
10 door as fantastic washing machines.

11 Today we are ready to start producing
12 front load washers for commercial sale. In a couple
13 of months, we'll finish the testing and training on
14 the top load manufacturing equipment. The top load
15 manufacturing -- the top load washing machines will
16 be produced by Q2 of 2018. By the end of 2018, when
17 both lines are running, we plan to have 1,000
18 employees working on 2 shifts of each line.

19 But the transition will not be immediate.
20 You can't just cold open a factory at full capacity
21 of a million washers a year. That's four washers a
22 minute. A huge facility like this needs time to

1 come online. We are bringing one line up at a time.
2 We'll start producing with one shift to work out any
3 bugs and quality check all of our processes. By the
4 end of 2018, we expect to be running normal rate,
5 two shifts per line. We will produce all the
6 covered parts in our factory. We have been
7 qualifying suppliers to produce some parts in the
8 U.S. and eventually we expect some suppliers to
9 locate alongside our factory or nearby.

10 Our factory will generate a network of
11 additional suppliers and expand the local economy.
12 It's already had a significant impact on the local
13 community. It's important for you to understand
14 that we are moving as fast as we can to launch this
15 factory. Duties or quotas will not speed up the
16 process. Until we get up and running, some washers
17 will have to be produced abroad and imported to meet
18 demand. A tariff that cuts off Samsung's imports
19 will undermine our ramp-up plan and strategy for
20 South Carolina.

21 Give us a chance to get up and running,
22 and let our U.S. production compete on a level

1 playing field with other U.S. producers. Don't
2 handicap our facility while it's getting off the
3 ground. South Carolina jobs are at stake.

4 MR. HERRINGTON: Good afternoon. Thanks
5 for the opportunity to testify today. I'm John
6 Herrington, Senior Vice President of Home Appliances
7 at Samsung. And I hope my testimony today will help
8 you understand the dire impacts that tariffs would
9 have on our Newberry, South Carolina factory, our
10 retailers, and our consumers.

11 For over 40 years, Samsung has had a
12 significant presence in the United States, investing
13 billions of dollars that today provide for over
14 20,000 jobs in the U.S. We know what it means to be
15 an American manufacturer. We are an American
16 manufacturer and we are in it for the long run.

17 In 2006, we saw an opportunity to expand
18 into home appliances. Fortunately, U.S. consumers
19 embraced our innovative approach and our innovative
20 products. As our customer base grew, it was only a
21 matter of time before U.S. production of home
22 appliances would make good business sense. So

1 earlier this year we finalized plans to establish
2 home appliance production in Newberry.

3 As my colleague Tony Fraley testified,
4 this is a fully integrated manufacturing facility,
5 not a screwdriver operation that it's been
6 characterized as, and it will employ nearly 1,000
7 workers and produce over 1 million washing machines
8 this year -- next year, I should say, '18.

9 Because we're moving washer production to
10 Newberry, we do not object to the TRQ unanimously
11 recommended by the ITC, even though this action
12 would cut imports in half. While we intend to
13 supply the vast majority of washers for the U.S.
14 market from Newberry, we cannot do this overnight.
15 In fact, it took Whirlpool 3 years to move its front
16 load production from Europe to the United States.
17 As we ramp up in Newberry, we will need to import
18 some washers to supply a full range of products to
19 our retailers and consumers, and you've heard the
20 importance of that from the Sears testimony. If we
21 are unable to offer a full range of products to
22 retailers and consumers during our ramp-up, we will

1 lose floor space and sales, impacting the success of
2 the South Carolina operation.

3 So the ultimate impact of any tariffs
4 would be a lose-lose scenario for U.S. production,
5 U.S. employment, and U.S. consumers. As Sears as
6 testified, blocking imports through tariffs would
7 also give Whirlpool enormous market power and
8 control leading to higher prices and less choice for
9 consumers. During the adjustment period, Samsung
10 will be a member of the domestic industry and should
11 be treated equally. Any tariffs would unavoidably
12 help one domestic industry member over another.

13 Because we are committed to supplying the
14 U.S. market from Newberry, no remedy is necessary.
15 If a remedy is selected to lock in our commitment,
16 it should be a TRQ like one that was unanimously
17 recommended by the ITC that would, in the ITC's own
18 words, facilitate transition from importer to
19 domestic producer over the course of the remedy
20 period. Thank you.

21 MR. VERONEAU: Good afternoon. I am John
22 Veroneau with Samsung. In its original petition

1 Whirlpool made two wishes: one, that the ITC would
2 recommend a TRQ remedy; and secondly, that Samsung
3 and/or LG would move their washer production to the
4 United States. Both wishes were granted. Whirlpool
5 then made a third wish, the ITC to impose a tariff
6 remedy. The ITC did not grant that wish. Whirlpool
7 is here before you to urge you to recommend to the
8 President that he impose a tariff remedy. We are
9 here today to urge you, like the ITC, to reject this
10 request.

11 The purpose of Section 201 remedy, as the
12 Chairman noted at the outset of this hearing, is to,
13 quote, "facilitate efforts by the domestic industry
14 to make a positive adjustment to import competition"
15 which, quote, "occurs when the domestic industry is
16 able to compete successfully with imports after
17 remedies terminate." The law further makes clear
18 that the domestic industry need not be, quote, "the
19 same size and composition as the industry at the
20 time the investigation was initiated."

21 As a domestic industry member today, and a
22 member of the -- as a domestic industry member

1 during the adjustment period, Samsung's U.S.
2 production must count towards any assessment of
3 positive adjustment. A TRQ such as the one
4 unanimously recommended by the ITC is supportable
5 under the law, but a safeguard tariff would offend
6 two key principle limitations in the statute.

7 First, remedies must be no more trade
8 restrictive than necessary. The ITC, at page 77,
9 concluded that, quote, "the separate TRQs on
10 finished washers and covered parts that we are
11 recommending will address the serious injury to the
12 domestic industry and be most effective in
13 facilitating the efforts of the domestic industry to
14 make a positive adjustment to import competition."

15 Conversely, the ITC found that Whirlpool's
16 tariff proposal, quote, "would exceed the amount
17 necessary to prevent or remedy the serious injury
18 and would unduly restrict competition in the U.S.
19 market." Any remedy that goes beyond locking in
20 without impairing Samsung and LG's conversion of
21 imports to domestic good would be more trade
22 restrictive than necessary.

1 The second limitation, a remedy must,
2 quote, "provide greater economic and social benefits
3 than costs." As in other regulatory contexts, the
4 cost-benefit analysis of the safeguard measure
5 cannot be done in a vacuum. It must be done against
6 a factual baseline. The baseline here is the fact
7 that due to Samsung and LG's on-shoring, the
8 domestic industry will soon account for more than
9 90 percent of the U.S. market and easily meet the
10 statutory goal of, quote, "competing successfully
11 with imports after remedies terminate."

12 As the ITC reported at page 78, quote, "by
13 following through on their commitments to commence
14 production of LRWs at new U.S. plants, LG and
15 Samsung will further increase the U.S. domestic
16 industry's capacity, production, sales, market
17 share, and employment over the course of the remedy
18 period." The ITC further concluded that, quote,
19 "our recommended action will have few adverse
20 effects on retailers and consumers in the short
21 term."

22 Conversely, the ITC rejected Whirlpool's

1 tariff proposal because it would, quote, "impose an
2 undue burden on consumers and retailers." Any
3 remedy that goes beyond locking in without impairing
4 Samsung and LG's conversion of imports to domestic
5 goods would impose new costs without providing new
6 benefits.

7 Finally, as you know, safeguards are very
8 rare, rarely granted, and typically when they are,
9 it is by taking recent levels of imports, perhaps
10 giving them a haircut, but that is a typical
11 safeguard respond. The ITC recommended a TRQ that
12 will cut imports in half. Samsung and LG agreed and
13 made this proposal to the ITC. Why? Because they
14 are willing to move their entire production to the
15 United States. That is underway. As Mr. Fraley
16 testified, washers today are rolling off the
17 assembly line in Newberry.

18 Like the ITC, you should recommend to the
19 President and to your principals that a safeguard
20 remedy is simply not supportable under the law.
21 Imposing tariffs frankly would invite other
22 countries to misuse their safeguards because a

1 tariff in these circumstances, given the on-shoring
2 decisions, is simply not supportable.

3 Thank you very much.

4 MR. MARTYN: All right. I would like to
5 begin by asking, as we did of the Whirlpool and GE
6 representatives, whether beyond the ITC staff report
7 there are publicly reliable, other sources of data
8 on the washer industry that are publicly available.
9 And in particular if you would respond with respect
10 to the AHAM data that they cited.

11 MR. PORTER: Dan Klett will answer.

12 MR. KLETT: Mr. Martyn, this is Dan Klett.
13 The Association of Home Appliance Manufacturing
14 which Mr. Levy testified to is one such source that
15 provides market-wide data. Another reliable source
16 are census statistics for imports. There are
17 specific HS items that are for washers, so that's a
18 reliable source for imports. If you take AHAM data,
19 subtract import data, that gets you U.S. producer
20 data. So essentially those two sources give you key
21 inputs into modeling. And in Exhibit A-11 of my
22 remedy report, I did some -- I provided modeling

1 using the COMPAS model using these public sources of
2 data because the ITC's data are confidential.

3 One other source that is reliable is
4 TraQline. TraQline data has brand-specific
5 information on things such as market share, sales by
6 income distribution, things of that nature. So
7 those are the three sources of public data that I
8 think are reliable and which I used in my modeling
9 simulations in my report.

10 MR. MARTYN: Are the census data
11 coextensive with the product covered by the ITC
12 investigation?

13 MR. KLETT: Yes, they are. And, in fact,
14 what we did to validate the reliability of the
15 census data, we looked at -- I mean, the commission
16 said that LG and Samsung account for the vast
17 majority of imports. So I compared from proprietary
18 LG and Samsung import data, their data against
19 census, and they're very close. So I think -- you
20 know, they're not spot on with respect to the unit,
21 but in terms of reliability I think they're a very
22 good proxy for import data.

1 MR. MARTYN: All right. Thank you very
2 much. We will now move on to address -- have
3 questions addressed to efforts by the domestic
4 industry to make a positive adjustment to import
5 competition. And I'll begin by asking my colleagues
6 if they have questions, please.

7 MS. LABAT: This is for Samsung. You
8 mentioned that 18 months is more than sufficient for
9 domestic production to expand and for imports to
10 decline. Could you please clarify how you came to
11 this conclusion?

12 MR. VERONEAU: Yes. John Veroneau for
13 Samsung. We used that figure in our pre-hearing
14 brief. It's frankly been overtaken by events. We
15 are now proposing and supported to the ITC a 3-year
16 safeguard. But our view was, based on the plans
17 that Samsung has, was that within the 18 months we
18 would be fully up and running in the U.S. so a
19 safeguard beyond that wasn't necessary. That was
20 simply our point in referencing 18 months. But we
21 now -- we're no longer calling for an 18-month
22 safeguard. We're calling for a 3-year safeguard TRQ

1 as unanimously supported by the ITC.

2 MS. LABAT: Could you maybe elaborate a
3 little bit, though, on how you not necessarily
4 reached the 3-month, but how -- the 3-years or the
5 18 months, but how you're looking at what it would
6 take to reach that level of production?

7 MR. VERONEAU: Well -- and Mr. Herrington
8 may wish to add, but the testimony here today was
9 that Samsung is moving its entire production to the
10 U.S. There may be some niche products that after
11 they're fully up and running here, but over the next
12 2 years they are going to be fully operational here
13 in Newberry. There is a ramp-up period, but they
14 are making all of their -- virtually all of their
15 washers for the U.S. market right here in Newberry.

16 MS. LABAT: Just one quick follow-up on
17 that. What are the differences or are there
18 differences between the Newberry and the Clarksville
19 facilities versus the facilities you have in
20 Thailand, Vietnam, and China?

21 MR. FRALEY: Tony Fraley with Samsung.
22 The assembly process and the equipment that's

1 installed in both plants are very similar. They are
2 both fully integrated operations. Neither one is a
3 screwdriver operation, from the factories that I
4 visited myself.

5 MR. TOOHEY: This is John Toohey for LG.
6 Our Clarksville facility will be more automated,
7 more state of the art than the other 10 washer
8 production facilities we have around the world.

9 MS. LABAT: This is to anyone who cares to
10 respond to it. This is about the anticipatory
11 exports that we have heard about in the testimony
12 from various witnesses today. Is there any evidence
13 that would indicate that these imports are being
14 sold or put into inventory? And also, if it's the
15 latter, if they're being put in inventory, would
16 larger inventories undercut, from your point of
17 view, the effectiveness of the TRQ?

18 MR. VERONEAU: Mr. Herrington, do you want
19 to respond to the factual question?

20 MR. HERRINGTON: John Herrington from
21 Samsung. In the case of our business, we are
22 bringing in an additional 3 weeks of supply of

1 inventory this year to cover the increased demand
2 we've had out of Q4 and the ramp-up of the factory
3 in Newberry. So I wouldn't call that stockpiling.
4 I would call that a very slight prudent business
5 decision to ensure the smooth transition to the
6 factory and to meet demand in the market.

7 MR. RIDDLE: John Riddle with LG.
8 Largely, the same. We did have some supply chain
9 issues in '17, therefore, we had a very low Q1 in
10 2017 inventory levels, so import data will show
11 increase in that way. Also, we had larger growth.
12 The industry itself had growth, but we had larger
13 growth with some major retailers as well.

14 But I think from a transition standpoint,
15 we're going to a greenfield operation so our
16 transition time is going to be longer. Also
17 obviously some questions around what's ahead of us
18 from the standpoint of this particular safeguard
19 case, as well and trying to make sure that we can
20 live up to our obligations of retailers and consumer
21 orders.

22 MR. MARTYN: So if I might follow up on

1 that. First, it sounds to me like what you're
2 saying is that you are in fact bringing in now
3 washers that you expect to sell in the coming
4 months; is that correct? Or were bringing in, in
5 the October/November/December period?

6 MR. RIDDLE: More in the November/December
7 time frame. But, yes, we did bring in extra
8 inventory going into the new year.

9 MR. MARTYN: And is that also true with
10 respect to Samsung?

11 MR. RIDDLE: Yes. As I said, it's typical
12 for us to bring in inventory obviously in
13 November/December for Q1. There is additional
14 inventory that we're bringing in to cover demand of
15 Q4 and to make sure that the transition to the new
16 factory is smooth.

17 MR. MARTYN: Now our friends in the
18 domestic industry say that in fact Q4 -- AHAM data
19 show that Q4 sales are down over last year. Is that
20 consistent with what you folks are seeing?

21 MR. VERONEAU: Mr. Chairman, could I just
22 make one note. We, too, are members of the domestic

1 industry. I know your point of who is asking, but
2 just for that clarification.

3 MR. MARTYN: Absolutely, and I am sorry
4 for that oversight.

5 MR. HERRINGTON: John Herrington with
6 Samsung. Our business is up in Q4, so we didn't see
7 that for our business. AHAM data is shipment data
8 and we replenish based on sell-through data, so
9 retail sell-through, and our business was quite
10 strong in Q4.

11 MR. RIDDLE: We would be identical at LG
12 as well.

13 MR. MARTYN: And do you have any internal
14 data that indicate whether the trend that we saw in
15 September to October of last year was continued into
16 November and December? I'd note particularly, I
17 think that October was the largest month for imports
18 in the last 5 years.

19 MR. PORTER: This is Dan Porter with
20 Curtis. Of course LG has data of what they are
21 bringing in. Looking at the data, as Mr. Riddle
22 indicated, you will see if you look at total 2017

1 compared to total 2016, there will be an increase.
2 The data is the data. Obviously you can't quibble
3 with that. It's the question is the reasons behind
4 the data. And more importantly, to the very issue
5 that's before the committee is with respect to
6 bringing in a little bit extra, but from LG's
7 standpoint it's far, far short of what is needed to
8 get to where they want to be with respect to the
9 transition to the LG Tennessee facility. Yeah, a
10 little bit more was brought in, but they need all
11 the way till the end of the year till their
12 commercial production is fully ramped up. And so
13 there is a large number of months and a lot of
14 quantity that would be essentially eliminated by a
15 50 percent tariff.

16 MR. MARTYN: All right. Thank you.

17 MS. LANGBURD: This is a question to both
18 LG and Samsung. When was the last time that your
19 companies have established new washer production
20 facilities and brought them to production? How long
21 did that take about and have you closed the washer
22 plant after it was brought online by any chance?

1 And where are your existing washer production
2 facilities located, if you could elaborate on that?

3 MR. HERRINGTON: This is John Herrington
4 with Samsung. It's been a -- our recent --
5 obviously Newberry is our most recent new plant,
6 which is, as we mentioned earlier, there's a ribbon-
7 cutting next week. We're very, very excited about
8 that. It's been quite a long time before that.

9 We have production facilities in South
10 Carolina, Korea, Mexico, China, Vietnam, Thailand,
11 Poland, Russia, and India. In a case where we've
12 moved production, we tend to repurpose that facility
13 for the local market that it serves.

14 Did I answer your question? I think there
15 was many questions in there. I don't think I got to
16 those.

17 MS. LANGBURD: Yeah. Were there any
18 closures ever --

19 MR. HERRINGTON: No, there has not been a
20 closure.

21 MR. TOOHEY: This is John Toohey with LG.
22 We have 10 washer production facilities right now

1 outside the U.S. The Tennessee facility will be our
2 11th. They are located in Korea, Indonesia, Egypt,
3 China, Brazil, Thailand, India, Russia, Poland, and
4 Vietnam. The most recent opening was the Vietnam
5 facility in 2013. From the purchase of the land
6 until the beginning of production was about 23
7 months' time. And we have a closed a facility which
8 was in Monterrey, Mexico. That was a washer line
9 that ran for about 2 years and I think we closed in
10 April 2016. I would note, and this is a question
11 that probably will come up, in all of these
12 locations the local content is about 75 percent and
13 we expect Tennessee to be similar, or value-add.

14 MR. MARTYN: Would there be any public
15 data that would confirm what you're telling me about
16 that? I know it's unlikely, but if it were
17 possible, that would be helpful for us.

18 MR. PORTER: Since you have access to the
19 full ITC record, you can find it there. This very
20 similar question was asked by the commissioners
21 during the hearing, and I'll get you the exact cite,
22 but it's either in the LG post-injury hearing brief

1 or the post-revenue brief. But in response to a
2 question by a commissioner, LG provided, first,
3 details on their facilities in Thailand and Vietnam
4 with respect to local content; and second, in
5 response to a different question, LG provided
6 essentially a bill of materials indicating which
7 would be sourced in the United States for their LG
8 Tennessee plant and which would be imported, and
9 that's how the 75 percent. So there's some backup
10 data already on the ITC record.

11 MR. MARTYN: Now that we have moved on to
12 talk about the value-add, a question for both LG and
13 Samsung. Will the washers produced in your U.S.
14 plants be labeled made in USA or assembled in USA,
15 or how will -- how else might they be labeled?

16 MR. FRALEY: Tony Fraley with Samsung.
17 For Samsung, it will be assembled in USA, just like
18 Whirlpool, same.

19 MR. PORTER: LG answers the same, just
20 like Whirlpool and GE, will say assembled using U.S.
21 and foreign components.

22 MR. MARTYN: I would say I think actually

1 GE indicated they had some, at least some models
2 that were made in the USA. So I just wanted to see
3 if that would be the case with either of you all?

4 MR. PORTER: Okay. I guess the answer is
5 the labeling that will be done will be assembled
6 with U.S. and foreign components. I guess I was a
7 bit confused because the so-called U.S. local
8 content cited by the gentleman from GE was 70 to
9 90 percent and that's certainly well within the
10 range of LG.

11 MR. VERONEAU: If made in the USA label is
12 available under the regulation, that is the
13 aspiration of Samsung. It's just that they
14 obviously want to be conservative at this point so
15 they are labeling the washers rolling off today as
16 assembled in the U.S.

17 MR. MARTYN: All right. As there are no
18 more questions on adjustment, we will move on to
19 discuss appropriate and feasible action within the
20 power of the President. As we were asking Whirlpool
21 and GE this morning, we are very interested in
22 understanding how we would evaluate whether or not a

1 particular tariff level is prohibitive. We heard
2 some analyses, some economic analysis and some
3 evidence that the Whirlpool and GE folks put
4 forward. So I would first ask you all what you
5 consider to be a prohibitive -- what tariff level
6 would be prohibitive of imports?

7 MR. KLETT: Mr. Martyn, this is Dan Klett.
8 I'll take the first shot at that. I'll start with
9 the 50 percent because there was a lot of discussion
10 this morning about whether that was prohibitive or
11 not. And 50 percent will definitely be prohibitive
12 and in fact will be essentially a zero quota.

13 Mr. Levy said that his modeling showed
14 that a 50 percent tariff would still allow -- or cut
15 imports by 50 percent, still allowing 50 percent
16 into the market. Those of your familiar with
17 partial equilibrium modeling, the model he used is a
18 static linear partial equilibrium model. Now those
19 models are useful for trade analyses, but one
20 feature of models such of that is that they're more
21 reliable for smaller changes. When you get to very
22 large changes, the models become less reliable.

1 Fifty percent is a very significant effect. I'll
2 also note that that's not the latest model
3 available. I used a model that the ITC used for its
4 remedy simulations.

5 I think the gentleman from the Department
6 of Agriculture said that when he compared the TRQ
7 with the tariff model that they had very similar
8 volume effects, roughly cutting volume by 50
9 percent. So I would say that given what our
10 business people tell us, and I think also the
11 concern the commission had with the effects of a 50
12 percent tariff, that it's much more prudent if
13 you're going to cut -- if the goal is to cut imports
14 by 50 percent, to do it using the TRQ mechanism
15 rather than a 50 percent tariff that a model
16 predicts is going to cut imports by 50 percent, when
17 in fact our business people know that that tariff
18 level will essentially eliminate them from the
19 market.

20 The other information, as we know from the
21 antidumping duty order on imports from China, that a
22 47.5 percent duty essentially eliminated imports

1 from China from the market.

2 MR. HERRINGTON: This is John Herrington
3 with Samsung. Any tariff at all takes us out of
4 play on the affected models. This is a
5 hypercompetitive marketplace. And whether it's our
6 very, very innovative FlexWash washer that washes
7 two loads at one time and effectively has two
8 washers built in one, that's a \$1400 washing
9 machine. With that type of a tariff, it takes it
10 out of reach for most consumers. Or whether it's a
11 more middle line product, any significant increase
12 in tariff will lose -- will cause a reduction in
13 floor space. And we talked about that today, about
14 that impact.

15 In effect, the reason that that affects
16 Newberry is that the line and the brand becomes less
17 relevant to the retailers, which we've talked about
18 today as well. And when that happens, it has a
19 downward spiral effect on the total brand. So any
20 tariff takes us out of play.

21 And Chris, I don't know if you want to, as
22 a retailer, comment at all?

1 MR. MCGUGAN: Yeah, thanks, John. Chris
2 McGugan with Sears.

3 As a retailer, consumers walk into an
4 outlet looking for diversity of product and they
5 often make decisions on feature and price
6 simultaneous. And so having a diverse mix of
7 products is incredibly important for us. It draws
8 consumers into our store. The smaller the
9 assortment, the smaller the number of consumers
10 actually come through our doors to actually check
11 things out.

12 And to your point, if it's a \$1400 washer
13 that becomes a \$2,000 washer, it prices it out of
14 the market for the consumers to even consider in the
15 decision making that they go through when looking at
16 various products in those market segments. And we,
17 as a retailer, carry price points all throughout a
18 price horizon and feature horizon to meet those
19 consumers that are across the market. And so Sears,
20 as an appliance retailer, and as Daniel mentioned,
21 you can back into the markets out there, but we
22 serve greater than 20 percent of the total washer

1 sales in America today. The impact would be
2 substantial.

3 MR. VERONEAU: Could I just add that as
4 the colleague -- your colleague from CEA earlier
5 this morning mentioned that any tariff is a cost.
6 And so the legal point that I would like to insert
7 here is if you talk about a tariff, we can -- the
8 economists can disagree about the cost, but it is
9 clearly an additional cost. And then you have to
10 ask the question, well, what is the additional
11 benefit that offsets that cost? And that's an empty
12 subset here.

13 The ITC report is clear that the
14 successful -- the success of this domestic industry,
15 its adjustment, its ability to be with imports is
16 going to happen. And to the extent that it's locked
17 in or needs to be locked in, in the views of some, a
18 TRQ achieves that. So there's no additional benefit
19 from a tariff, but there's clearly additional cost
20 to it.

21 MR. DURLING: Jim Durling for Curtis.
22 Just one other point about the modeling. Mr. Klett

1 explained the difference between what he was doing,
2 what the ITC was doing, and what Whirlpool was
3 doing. Just to clarify, Whirlpool pulled an older
4 version of COMPAS that was using linear
5 specifications. So the problem of partial
6 equilibrium modeling being good at small changes but
7 not very good at big changes becomes exacerbated
8 when you use a linear model.

9 They could have chosen a non-linear model,
10 which is what the ITC did, which is what Mr. Klett
11 did, which is what Professor Rod Ludema did in the
12 modeling we had done in connection with the Korea
13 exclusion. We submitted those as part of the
14 attachment to our brief. All the other economists
15 doing analysis correctly chose non-linear models to
16 try and correct for the distortion inherent in
17 linear models, especially for big changes.
18 Whirlpool's economist is the only one that chose to
19 use linear models.

20 MR. MARTYN: Thank you. That's helpful.
21 I'm going to say, though, I don't think I heard an
22 answer to the question. I think I heard that

1 tariffs will affect sales, which I think we all
2 agree on. And I think I heard that the model shows
3 tariff will affect sales, which I think we all agree
4 on. But what I didn't hear is what would be a
5 prohibitive tariff? And I've heard different
6 answers to that. I don't think, with regard to
7 Mr. Herrington, that you would say a 1 percent
8 tariff would knock you out of the market.

9 I mean, there's a place where we're
10 looking at an exchange of supply and demand, right,
11 that would show us that's a curve. And but it seems
12 that there is also argument that at some place that
13 supply versus demand tradeoff becomes a cliff. And
14 we're trying to get a sense of whether that is true
15 at all in this market and, if so, where that cliff
16 is. And maybe you could help me -- maybe that
17 explanation will help you.

18 MR. HERRINGTON: This is a business of
19 very, very tight margins. And any impact -- and
20 negotiations exist at a quarter or a half a point
21 gross margin between manufacturers and retailers, so
22 any tariff affects the profitability of a line as

1 it's perceived by the retailer, which affects
2 whether or not you earn a floor spot or not. So any
3 tariff is prohibitive in our view because it would
4 be a direct hit either to consumer higher retail
5 prices, lower margins, which would affect the
6 perception of our brand by retailers, and a
7 reduction in the profitability of the line.

8 MR. MARTYN: I'm sorry. So just to be
9 clear, if I'm understanding what you say, your view
10 is that if the President were to impose a 1 percent
11 across-the-board tariff, there would be zero
12 imports?

13 MR. HERRINGTON: Yeah, I don't know if I
14 would say there would be zero imports. I would say
15 that there's no -- as I think John Veroneau pointed
16 out, there's no value-add in that. It's just taking
17 profit out of the chain for everybody and
18 potentially raising prices for consumers, likely
19 raising prices for consumers. So the 50 percent
20 reduction as proposed in the TRQ effectively
21 dramatically reduces imports from the get-go. And
22 so we feel that that's a much more positive way to

1 encourage investment in the U.S.

2 MR. PORTER: Mr. Martyn, if I may, we
3 understand your question. The difficulty, though,
4 quite honestly, you identified yourself, and that is
5 we need to talk about quantities. If you're talking
6 about what duty rate would be prohibitive, assuming
7 that is 1.2 million in -- without duties, that's one
8 question. If you're assuming we're not going to
9 have any quantity restrictions, which you sort of
10 were asking as a hypothetical, that's obviously very
11 different.

12 I can tell you that LG obviously looked at
13 the different scenarios. They very much will tell
14 you, and I'm a lawyer but I'll have the business
15 guys confirm, there will not be a single washer
16 imported at 50 percent tariffs. They can say that
17 with absolute certainty. They can also say that
18 with pretty much certainty with respect to 20
19 percent. Obviously when you get down lower, the
20 question is, what context are you talking about?
21 Are you going to exclude Korea? So that is one
22 dimension. Where are you going to set the tariff

1 rate quota?

2 And LG has done these simulations, but
3 they haven't gone exactly and said, well, here it
4 is. They've sort of done 50. They've done 20. And
5 they've analyzed it. But we can't say here today
6 what that magic number is that is prohibitive versus
7 not, given that all these other things are
8 uncertain.

9 MR. MARTYN: Well, I think -- just before
10 you go further, I think I had -- I'd hoped I worded
11 the question to be clear, that we were talking about
12 just a flat tariff rate, first unit, okay, all units
13 pay this tariff rate. I think that's an easier
14 analytical question. And you're right, we would add
15 complexities if we decided to build into that some
16 pare back, right, some TRQ at zero rate or excluding
17 countries. But I think that for our evaluation
18 purposes, it's useful to look at how just a tariff,
19 full stop, would affect sales.

20 And I'm hearing lots -- I'm hearing lots
21 of different things from lots of different people.
22 I hear the folks at Whirlpool and GE tell me that 50

1 percent isn't going to be a problem because you guys
2 are invested in the U.S. market and you'll pay that
3 price to stay in. I hear from you folks now that
4 very, very low amounts are in fact prohibitive.

5 And I am going to assume for purposes -- I
6 think we all assume that all of you are telling us
7 what you believe to be the truth and it is up to us
8 to sift through that. We have two very different
9 truths here and I'm trying to find tools we can use
10 to reconcile those.

11 MR. PORTER: If I may, let's look at
12 historical experience because you identified that
13 earlier, okay? And I think if you look at some of
14 the historical experience, you'll at least get a
15 little bit of better sense of whether it's really
16 true what Whirlpool and GE say that, notwithstanding
17 their own admission -- the GE person said low
18 margins, low margin business, their own admission
19 about margins, whether LG and Samsung would really
20 absorb a 50 percent tariff.

21 So let's look at first you have the
22 experience of the AD/CVD case against Korea, okay?

1 Samsung received 13 percent AD margin and like 1 or
2 2 percent CVD. Samsung chose not to go forward and
3 pay that. Why? Because they couldn't, at least --
4 I'll let Samsung speak, but they didn't feel that
5 they could pass that through and make it
6 sustainable.

7 Okay. Let's look at the China case.
8 China case, as counsel for Whirlpool said, was
9 around 50 percent. Not a single washing machine
10 from China has been imported since the preliminary
11 duties have been imposed.

12 So you actually have historical experience
13 in which you sort of have what is prohibitive and
14 when companies are deciding not to import and pay
15 the duties. I think that is at least additional
16 context for your answer.

17 MR. VERONEAU: If I could just add, I
18 suspect if there were a proposal on the table for a
19 national excise tax on washers, I'm reasonably
20 certain that Whirlpool would oppose that 5 percent
21 tax and argue that it would hurt sales.

22 So I'm not an economist. I don't sit here

1 pretending to know exactly where the line is between
2 .1 percent and a higher number. But I would just
3 urge you as you divine or try to divine where the
4 lines cross, that you also use the prism of what
5 additional benefit towards the purpose of the
6 statute are achieved, as opposed to the purposes
7 that are already achieved through a TRQ that is --
8 provides benefits to the petitioners with -- and
9 certainly helps advance the domestic industry, but
10 does not have the cost to consumers that a tariff,
11 frankly even a 1 percent tariff is some cost to
12 someone. Thank you.

13 MR. PORTER: Sorry, just to correct. I
14 apologize to my friend at Samsung. In the original
15 investigation, it was LG that got 13 percent and it
16 was Samsung who got 9 percent. So I wanted to make
17 sure that I got that on the record.

18 But just quickly as a follow-up as well,
19 again the antidumping case for LG going forward for
20 the 5 years, LG decided to continue to ship from
21 Korea. Their antidumping margin dropped
22 considerably, yet you saw dramatically lower

1 volumes. Again, that's just additional evidence
2 about the effect on duties and where the line is.

3 MR. MCGUGAN: If I could just add one
4 point to this again. As I mentioned in my
5 testimony, Sears is unique in that we're both a
6 retailer and a brand. And many of the companies
7 represented here at this panel and in previous
8 panels manufacture for me. And if part of my supply
9 -- part of my ability to create a diverse product
10 portfolio is just like any other company who uses
11 contract manufacturers as I do is to be able to
12 adequately source product from various places and to
13 be competitive in the market. If I can't build an
14 assortment across a variety of contract
15 manufacturers on a level playing field from a cost
16 perspective, I can't be competitive as a brand. And
17 so imposing a 50 percent tariff coming in on imports
18 highly limits my ability to be flexible. Thank you.

19 MR. PORTER: I apologize, Mr. Martyn, if
20 we might -- if you have any questions for the local
21 Tennessee government officials, they need to leave.
22 So if we could maybe do those now and then -- I

1 apologize for that, but just want to --

2 MR. MARTYN: We have a few questions. The
3 first I would like to direct to Mayor McMillan. I
4 would like to ask if she would be willing to tell us
5 what she was going to tell us when I had to cut her
6 short.

7 MAYOR McMILLAN: Well, thank you so much
8 for the opportunity to speak belatedly about my
9 topic. As I said before, I'm Kim McMillan. I'm the
10 Mayor of Clarksville, Tennessee. I have to tell all
11 of you that throughout my time in public service,
12 which first started as an elected state
13 representative and majority leader in the Tennessee
14 General Assembly, and then now exists as a two-term
15 mayor of the City of Clarksville, which is the fifth
16 largest city in the State of Tennessee, I have seen
17 firsthand how trade policy can influence ordinary
18 citizens' lives. And that's what I'm here to talk
19 to you about, not the legalities of this particular
20 case but ordinary citizens.

21 As mayor, I witnessed a newly completed
22 \$1.2 billion plant close because of global trade

1 disputes in Clarksville. I witnessed 500
2 constituents lose their jobs in my city due to
3 nothing of their making. That is why I'm so
4 concerned with this safeguard case.

5 LG and the City of Clarksville worked
6 hand-in-hand to make sure that we built the world's
7 most advanced washing machine plant in Tennessee.
8 This process took over 6 years and Tennessee vied
9 with eight other states to be able to do this. In
10 Clarksville, we encourage foreign investment and do
11 everything we can to promote our business-friendly
12 environment. Construction on the new facility is
13 moving very quickly and when the plant is completed,
14 LG washing machines will be Tennessee-made products.
15 That is something that we're extremely proud of.

16 We believe that we as a government should
17 not do anything that discourages domestic
18 manufacturing in America. We should let consumers
19 decide very soon whether they want to buy a washing
20 machine built in Tennessee, built in South Carolina,
21 built in Ohio, or built in Kentucky. That's what
22 the free market is all about. So I would

1 respectfully ask you to recommend to the Trump
2 Administration not to impose any measures that will
3 interfere with the expedited implementation of LG's
4 investment in Tennessee.

5 Switching from imports to domestically
6 produced washers cannot happen overnight. During
7 this transition, restrictions on LG imports can be
8 counterproductive. LG needs to preserve its
9 customer base during the transition where there are
10 so many retailers ready to take the
11 Tennessee-produced washers. Just remember these are
12 good manufacturing jobs. These are good American
13 jobs. These are good Tennessee jobs. These are
14 good Clarksville jobs. Thank you very much.

15 MR. MARTYN: Thank you, Mayor McMillan.

16 Now I have one question for our friends
17 from the Tennessee state, local, and municipal
18 authorities, and that is I have -- we have read
19 through the agreements that you folks signed with
20 LG. I know that critical parts of those are
21 business proprietary information. I will not
22 reference those here. But there is a particular

1 number of jobs that has a trigger element in those
2 agreements and I was wondering how that number of
3 jobs was determined, if you are able to tell me
4 that?

5 COMMISSIONER ROLFE: Yes, sir. This is
6 Bob Rolfe with the State Economic Development
7 Authority, Mr. Chairman. The short answer is that
8 was the number of jobs that was provided to the
9 state as part of their recruiting effort. And with
10 the number of jobs that are at our state when it
11 comes to economic incentives, we look at the capex,
12 we look at the number of jobs, we look at the
13 quality of the jobs, and we look at where those jobs
14 are located. And so we have what I will not call
15 you is a terribly sophisticated algorithm, but that
16 that helps us develop what we call our state
17 incentive packages.

18 And so as part of that, we rely on the
19 data for the capex. We rely on the data for the
20 number of jobs. That information was provided by
21 LG.

22 MR. MARTYN: And when did LG provide that

1 information to you?

2 COMMISSIONER ROLFE: That would have been
3 in 2016.

4 MR. TOOHEY: I believe it was June 2016
5 when I reached out with the project details.

6 MR. MARTYN: All right. As a final
7 question, what is LG's expected employment in the
8 plant in Tennessee at this time?

9 MR. TOOHEY: Expected employment is 600.
10 Currently, we have about 15 people, direct LG
11 employees. There are 50 to 100 contractors on the
12 site. We'll increase direct LG employment to about
13 115 by halfway through 2018, and then we'll get
14 close to 600 by the end of the year.

15 MR. MARTYN: All right. Thank you very
16 much.

17 Do any of my colleagues have questions for
18 the Tennessee authorities?

19 All right. Thank you very much for coming
20 and trying to help us with this very challenging
21 question.

22 MR. PORTER: And, Mr. Chairman, LG very

1 much appreciates the very gracious accommodation.
2 Thank you very much. And we'll promise to be extra
3 quick going on here.

4 MS. LABAT: This is a question for Samsung
5 and LG. How did you calculate the quota limit for
6 covered parts that you have requested? Do Samsung
7 and LG intend to have a U.S. supply chain to produce
8 in-scope parts? And if so, how long would it take
9 to establish such a supply chain?

10 MR. FRALEY: Tony Fraley with Samsung. In
11 our factory, we plan to produce all the covered
12 parts. It's already our plan so there is no need
13 for anything other than -- no other parts because
14 we're going to make all the covered parts our self.
15 What we would be interested in is making sure that
16 we are able to have parts for replacement parts.

17 MS. LABAT: So what are your thoughts
18 about that? Importing them, supply chain United
19 States?

20 MR. FRALEY: So normally whenever we have
21 replacement parts, those come from the factory where
22 that washing machine was produced.

1 MR. VERONEAU: Just for further
2 background, when Samsung was considering whether to
3 make an aggressive proposal to the ITC in the
4 post-hearing as far as recommending a TRQ that would
5 cut imports in half, we also moved off of our
6 position which had been that there's no
7 justification for a remedy regarding parts.

8 As you may know, that has never been done
9 before. But as a practical matter since, as
10 Mr. Fraley has testified, we intend to make all the
11 covered parts in Newberry, our only concern was to
12 have parts available for importation to the extent
13 necessary for replacement, repairs, or for
14 contingencies such as the infamous hurricanes.

15 MR. TOOHEY: LG is not going to import any
16 of the covered parts. We're going to produce all of
17 them in-house.

18 MR. MCGUGAN: If I could just add one
19 point to that? Chris from Sears. Given I operate
20 not only a retail business and a brand business, I
21 also operate a repair business, and so it's
22 important that we don't have a lack of supply for

1 our own manufactured parts by these companies and
2 access to those is important to us for our repair
3 businesses as well.

4 (Asides.)

5 MR. MARTYN: All right. Do we have any
6 more questions from my colleagues on the issue of
7 the appropriate and feasible action in the power of
8 the President?

9 All right. If not, then we'll move on to
10 economic and social benefits and costs. I think I
11 will begin. Mr. Klett's report mentions that
12 consumer harm would be more than three times as
13 large as the producer benefit. Have you estimated
14 distribution implications across income groups as
15 well?

16 MR. KLETT: Mr. Martyn, my report did not
17 estimate distributional effects. However, having
18 looked at that question, I went back and looked at
19 TraQline data, which does actually have sales by
20 brand, by income group. And what is shows is that
21 the Samsung and the LG models are sold across all
22 income spectrum baskets, slightly higher in terms of

1 higher income than the other brands but for the most
2 part pretty much the same, so that any additional
3 prices on imports would affect all income groupings.

4 MR. RIDDLE: I might just add that from a
5 demographic standpoint LG brand washers are much
6 stronger with Millennials and GenX, so it's a
7 younger consumer base. That is a higher profile for
8 us.

9 MR. MARTYN: LG's submission states that
10 Samsung and LG have committed \$500 million in U.S.
11 plant worker training and equipment, and 1500
12 permanent jobs to the U.S. industry. Could you
13 clarify how these projections would change under the
14 proposed remedies? And please explain the
15 methodology you used to calculate those estimates.

16 MR. PORTER: Mr. Martyn, this is Dan
17 Porter with Curtis. Again, in the ITC record -- I
18 can't remember again which brief it was, but LG
19 provided essentially for LG Tennessee what their
20 production, sales, I think it was also profitability
21 with respect to the certain -- I think the quota
22 level that LG provided, and then what would happen

1 if Whirlpool's proposed remedy. And so that
2 question was asked by the ITC and LG responded in a
3 confidential -- I believe it was an exhibit that
4 showed the difference effect on LG Tennessee under
5 the different proposals -- under the two proposals,
6 that is, the LG one and the Whirlpool 50 percent
7 tariff.

8 MR. VERONEAU: And for Samsung,
9 Mr. Herrington, I think, will speak to the nexus
10 between the impact of, say, tariff -- import-
11 limiting tariffs on the Newberry plans. But the
12 plans are, as Mr. Fraley testified, 1,000 workers
13 with 500-plus already hired.

14 MR. HERRINGTON: Yeah, we touched on this
15 before. We talked about FlexWash, which is a
16 product that we intend to continue to make overseas
17 and import. A tariff would essentially price that
18 out of the marketplace, as well as other models that
19 we may need to have in the short-run as we ramp up
20 our production. So the limitation of floor space
21 makes us less important to retailers and costs us
22 overall business, which impacts South Carolina.

1 MR. MARTYN: All right. Have you done any
2 -- we noted in the morning that Whirlpool had
3 provided an estimate of the additional number of
4 American jobs that included indirect jobs. Have
5 either of you done similar estimates with respect to
6 the LG or Samsung plants?

7 MR. PORTER: Dan Porter with Curtis. My
8 understanding, we asked that very question of LG.
9 They have not yet done that.

10 MR. VERONEAU: Samsung has not done that
11 analysis, either. I would just say that it would
12 make sense that in an industry such as the laundry
13 segment, a multiplier in one state would probably be
14 quite similar to a multiplier in another state. So
15 I'm not sure what the methodology that was used by
16 Whirlpool to generate the number of 10,000 jobs, but
17 if that is a supportable number based on a
18 supportable multiplier, I would imagine that
19 multiplier applies in South Carolina as equally as
20 it does in Ohio.

21 MS. LABAT: This is to LG, and it's a
22 little bit outside of just washers. Regarding your

1 Exhibit CT-7 in your submission, you mention that
2 your consumer surplus-loss estimate is based on an
3 assumption that higher prices lead to less being
4 consumed. Would you be able to clarify whether
5 consumers would reduce consumption of washers or
6 other products in order to be able to afford new
7 washer prices?

8 MR. KLETT: This is Dan Klett. Because
9 Exhibit CT-7 is Capital Trade 7.

10 MS. LABAT: Oh, sorry.

11 MR. KLETT: But basically the ITC
12 estimated an elasticity of demand that was negative.
13 I mean, essentially demand is downward -- demand
14 curve is downward sloping, which means that if you
15 increase prices, consumption will go down for
16 washers. It was in the .3 to .6 range, which means
17 that for every 1 percent increase in price, they
18 would project a .3 to .6 percent decrease in market
19 demand.

20 Now there is a replacement market and
21 there is also discretionary spending. The
22 replacement market is people, their washers break or

1 a new house is built, you need a washer. That
2 demand is going to be less elastic. In other words,
3 you've got -- if you need a washer, you've got to
4 buy a washer regardless of price. Now you might
5 make certain concessions on do you buy a more
6 expensive versus the least expensive model, but
7 you'll still buy a washer.

8 There is discretionary spending, which is
9 a smaller part of the market, and that's the market
10 where a price increase may -- a purchaser may decide
11 to not purchase a washer, or if they pay a higher
12 price for a washer, maybe defer spending on some
13 other products. But for the most part, increases in
14 price will lead to some decreases in consumption of
15 washers.

16 MS. LABAT: But have you done any studies
17 or looked at what deferment of other purchases might
18 be, what other industries or other products?

19 MR. KLETT: In terms of people decide to
20 not buy a washer and then purchase another product?

21 MS. LABAT: Right.

22 MR. KLETT: No, I have not. In terms of

1 what the alternative purchases might be, I have not
2 done that. Maybe somebody in the industry has, but
3 I have not.

4 MS. LANGBURD: Mr. Klett and a few others
5 have talked about the macro level impact of the
6 proposed remedies particularly on consumers. I'm
7 wondering if either of the companies or anyone on
8 the panel right now has done an analysis of the
9 distributional implications across, for example,
10 geographies or income groups?

11 MR. KLETT: This is Dan Klett. Because we
12 used a partial equilibrium model rather than a
13 general equilibrium model, we did not do some of
14 those upstream and downstream effects. I did look
15 at income distribution, as referred to by
16 Mr. Martyn, and from TraQline data, we do have some
17 data on -- we do have information on how shipments
18 are distributed across income groups. And it's
19 distributed across all income groups and I can give
20 you the actual distribution if you wish.

21 In terms of geography, the ITC did collect
22 in its questionnaires how shipments were distributed

1 geographically. I think it's Table 5-1 in their
2 staff report. So if you want to get some sense of
3 geographic distribution, I think that's -- the
4 details are in the confidential version of the ITC
5 report.

6 MR. HERRINGTON: John Herrington with
7 Samsung. Four retailers do 75 percent of the U.S.
8 appliance business. And we talked about floor
9 space, so any significant impact to pricing that
10 would lose -- would cause a loss of floor space
11 would typically be felt throughout the country
12 because it just wouldn't be floored and wouldn't be
13 available.

14 MR. VERONEAU: And could I just add, and
15 Dan Klett correct me if I'm wrong, but I don't
16 believe this is part of your analysis, but I think
17 it's relevant to you all as policy makers and those
18 making recommendations. In the ITC record, it is
19 indisputable that the attachment rate, namely when
20 someone buys a washer, they also buy a dryer. The
21 attachment rate, especially for the high-end
22 products that Samsung and LG make, the attachment

1 rate is 70 to 90 percent. That's part of the ITC
2 record.

3 So if you put a -- and they are priced the
4 same in the market. So if you put a tariff on a
5 washer, it will also increase the price of the dryer
6 and create not only additional cost to the consumer,
7 but a windfall to the producer who makes that washer
8 because they are also, at least in 70 to 90 percent
9 of the time, are going to get the benefit of a dryer
10 sale as well.

11 MR. PORTER: Sorry, one quick. It's not
12 just about price, okay? Since the attachment rate
13 is 75 percent, if you -- if the washer can't be
14 imported, the dryer won't be sold. So essentially,
15 and one of the things, and quite honestly we're a
16 little frustrated with is that we believe the ITC
17 was a little bit myopic in thinking about the issue
18 of sort of benefit to Whirlpool and GE, when you
19 have this very hardcore fact that 75 percent of
20 washers are sold with dryers and they're sold
21 together, as they say, at the same price. So if the
22 LG washer is going to be kicked out of the market,

1 that means also an LG dryer is kicked out of the
2 market, which means if you think about replacements
3 being replaced by both a Whirlpool washer and a
4 dryer. So, in essence, by not looking at dryers,
5 you're really missing quite a big effect at
6 Whirlpool that's not being captured by the ITC's
7 model.

8 MR. KLETT: Sorry, just circling back to
9 the original question, we actually considered the
10 possibility of doing general equilibrium modeling.
11 We looked at GTAP, but there were two problems.
12 First, GTAP didn't have sufficient product
13 specificity. And, second, GTAP also was not
14 calibrated for the most recent period. So when
15 weighing the tradeoff between general and partial
16 equilibrium, the ability to do partial equilibrium
17 for large residential washers for the specific
18 period of investigation, we were stuck with partial
19 equilibrium with all the limitations inherent in
20 that. But we did consider GTAP, it just wouldn't
21 work for this case.

22 MR. VERONEAU: And if I could just add one

1 final point. In fairness to the ITC, as their
2 report showed, they felt constrained by the law that
3 they operate under from looking at dryer data
4 because of like product rules. You or the President
5 obviously doesn't have that restriction and
6 consideration of attachment rates and impact on
7 consumers, windfalls to producers, and harm to other
8 producers is well within the statutory discretion
9 and authority of the President. In fact, we would
10 argue it's a requirement that all costs and social
11 benefits be considered, including this very real
12 phenomenon where 70 to 90 percent of the time when
13 you buy a washer, you're buying the same matching
14 dryer.

15 MR. MCGUGAN: Mr. Chairman, if I could
16 just add to this point. I concur with this
17 attachment as well, but it's even more prolific in
18 the front load laundry space, more so than top load,
19 where we see that attachment of washer and dryer
20 pairing going out. So it's at the higher end of
21 that spectrum on the 70 to 90, whereas on top load
22 we don't see that same direct attachment rate. So

1 it is much more pronounced in the front load laundry
2 segment, so just something to note.

3 MS. PETTIS: How does the remedy
4 recommended by the ITC influence your plan to
5 invest, build, and expand in the U.S.?

6 MR. PORTER: The short answer is there is
7 nothing that the President can do that is, accepting
8 the ITC's remedy or not, that will change LG's
9 decision to go forward with the LG Tennessee
10 factory. That's probably the most important point.

11 The second point is that, I think along
12 with Samsung, LG fully embraces the ITC remedy
13 recommendation of a TRQ, 1.2 million, with no in-
14 quota tariff. So we now have a situation, I think
15 perhaps unlike some other cases, in which the
16 foreign exporters have fully embraced the ITC remedy
17 recommendation.

18 MR. VERONEAU: And for Samsung, I would
19 similarly say that we, too -- Samsung has made a
20 commitment to Newberry and the jobs that we provided
21 there, they're here to stay. They've been here for
22 40 years with 20,000 workers in the U.S. already, so

1 they're here. But I think the impact, as
2 Mr. Herrington was saying, if tariffs are imposed
3 they hurt the brand; and therefore, ultimately hurt
4 Mr. Fraley's job of hiring people, because if the
5 brand is hurt and flooring space is lost, then that
6 impact is not simply on the imported product during
7 the ramp-up, it's on the domestic product as well.

8 MS. PETTIS: I guess just to clarify
9 because I -- you kind of answered what I was going
10 to ask, but would the remedy recommended by
11 Whirlpool rather than the ITC change or influence
12 your plan to invest, build, and expand in the United
13 States? And how is that effect the same or, if not,
14 what's the difference? I guess that would be my
15 question --

16 MR. PORTER: Again, on behalf of LG, in
17 response to Mr. Martyn's question, LG has provided
18 to the ITC what's going to happen in Tennessee under
19 kind of -- it was their -- their original proposal
20 was so close to the ITC's proposal it's effectively
21 the same. So they said what's going to happen in
22 the ITC proposal, the ramp-up, jobs and production,

1 and so forth in Tennessee, and what will happen
2 under a 50 percent proposal.

3 And as Mr. Riddle has testified, and if
4 you look at Mr. Riddle's declaration in the
5 submission to the committee, it basically says if
6 the 50 percent is imposed, if Whirlpool's remedy
7 recommendation is proposed, they're being kicked out
8 of retailers and it will take a good year to get
9 back in. So the short answer to your question is
10 that while the investment is going to go forward and
11 the factory is going to be built, in terms of 100
12 percent production and servicing the entire U.S.
13 market, that will be delayed to allow time for LG to
14 get back into retailers that they were kicked out.

15 MR. MCGUGAN: If I could just add some
16 clarity on that for folks' understanding. We don't
17 reset stores every often, because as you can imagine
18 with thousands of store outlets it's very expensive
19 -- labor, transportation, logistics, and thousands
20 of units that have to go out on those floors. So
21 the gentlemen who are making comments about losing a
22 floor spot, this is very real and it is a very time-

1 consuming and expensive process to go through
2 changing out those items in our stores. So this
3 floor space issue is a very, very big deal.

4 MR. CYMBALSKY: I guess I'll re-ask my
5 question from this morning since we have a retailer
6 at the table. So do your customers notice the
7 difference between domestic and imported product?
8 And if so, are there features that only exist in
9 domestic product that don't exist in foreign, and
10 vice versa?

11 MR. MCGUGAN: Thank you for the question.
12 Again, Chris McGugan from Sears. I think that the
13 answer may be a little more nuanced than just
14 imported or domestic product. I think that if we
15 look at the data that Mr. Klett referenced relative
16 to the socioeconomics specifics or in this case the
17 demographics who were looking at these particular
18 products, in many cases when you look at how LG and
19 Samsung entered the appliance market, they both
20 started as electronics resellers and retailers.

21 And so you have a connotation that comes
22 with that of an understanding of a higher technology

1 understanding for those consumers. And so many of
2 the consumers start with a brand presence in mind
3 when they're going to look for a particular product.
4 So they may first have a brand preference which then
5 takes them down into a feature segment to see what
6 is there first. So that's just a piece of backdrop.

7 So then the direct answer to your question
8 is I do see a difference today and I have seen a
9 difference. And our choices from a manufacturing
10 perspective, when I go and specify as a CM to build
11 a product, I have seen a difference in products from
12 the domestic manufacturing facilities. In many
13 cases, we saw over the last 5, 6-year time horizon
14 the import providers being ahead technology-wise
15 from what we were seeing in our domestic market.
16 And as a result, and we've made it in our statements
17 previously to the ITC, we made choices on those
18 particular decisions to import -- to use an import
19 provider versus domestic supplier due to some of
20 those feature differentiations.

21 MR. PORTER: I know we're out of time.
22 Just 10 seconds to point something in the record, if

1 I may. If you -- just to pick up, brand preference
2 is hugely important in this market. And there was
3 -- we have an economist to do an entire report on
4 it. His name is Professor Orley Ashenfelter. I
5 would strongly urge you to get his report that was
6 submitted to the ITC and look at that. He went
7 through, analyzed the importance of brand and how
8 different companies, essentially their success or
9 lack of success was actually based on brand
10 recognition and brand preference.

11 MR. MARTYN: All right. Thank you very
12 much, gentlemen. With that we are finished with
13 this panel. We have provided 10 minutes for Panel 3
14 to come back and comment on any new things that they
15 have heard in Panel 4's statements. And I will
16 recollect that this is for comment on new things
17 that you have heard and not for purposes of
18 summation. Now with that, I would ask does Panel 3
19 seek to make use of that time or do you feel like
20 you've already told us all that you need to say?

21 MR. LEVY: We'll make use of it.

22 MR. MARTYN: Okay.

1 (Pause.)

2 MR. MARTYN: Please, go ahead.

3 MR. LEVY: Jack Levy for Whirlpool
4 Corporation. I just wanted to use at least some of
5 the 10 minutes to respond to some of the points we
6 heard in Panel 4.

7 To some extent what we heard was an effort
8 to re-litigate the ITC's finding of serious injury.
9 And some of the underlying findings about
10 comparability of products, the basis upon which
11 products compete, price versus non-price factors,
12 those issues have all been thoroughly analyzed by an
13 independent quasi-judicial agency. It's a unanimous
14 affirmative determination and I would simply refer
15 you to that administrative record.

16 The fact remains is that after driving
17 three U.S. producers out of manufacturing -- Bosch,
18 F&P, and Electrolux -- Whirlpool and GE Appliances
19 are the last two major producers left standing. And
20 the ITC found serious injury in the form of massive
21 operating losses, hundreds and hundreds of million
22 dollars of operating losses, depressed capacity

1 utilization, and importantly, severe price
2 depression. The price levels that we see in the
3 market right now are anything but healthy. They are
4 the result of predatory pricing behavior, injurious
5 pricing. The lion's share of it was found to be
6 illegally dumped. And now the volumes from Thailand
7 and Vietnam are even lower than those predatory
8 injurious levels.

9 The legislative purpose of the safeguard
10 law is to remedy serious injury to the domestic
11 industry and facilitate the orderly adjustment to
12 competitive conditions. And the legislative history
13 further goes on to say that the remedy should be
14 commensurate with the injury found by the
15 commission, adverse price effects. Adverse price
16 effects to whom? To Whirlpool and GE Appliances.

17 Samsung and LG essentially are proposing a
18 do nothing remedy for the President. And they hold
19 themselves out as U.S. producers today. But as the
20 ITC found and I'll quote, future domestic production
21 -- future domestic production planned by LG and
22 Samsung would not address the serious injury

1 suffered by the domestic industry during the period
2 of investigation. So a safeguard remedy is
3 essential to fulfill the legislative purpose of the
4 law.

5 Now we heard today and they also said so
6 in their brief that both LG and Samsung are 100
7 percent committed to building these plants in South
8 Carolina and Tennessee regardless of the outcome of
9 this case. So let's take them at face value. When
10 the music stops, one way or another we're going to
11 have four U.S. producers at the end of the safeguard
12 period, remedy period competing. The issue is what
13 should be the remedy during these next 3 years? And
14 I would ask you to be very discerning and to
15 discriminate between the interests of Samsung and LG
16 as foreign producers and as importers on the one
17 hand, and their interests as future domestic
18 producers.

19 And I respectfully submit that what you
20 heard today you did not hear from future domestic
21 producers. You heard from foreign producers and
22 from importers who are saying to you in various

1 forms and fashions we are 100 percent committed to
2 transitioning to the United States. And, yes, the
3 ITC has found that we seriously injured the domestic
4 industry, but give us a free pass for a little bit
5 longer. We need more duty-free imports so that we
6 can continue to seriously injure the domestic
7 industry just for a little bit longer. We need a
8 smooth transition. We need to prop up our brand.
9 Give us duty-free imports in the form of a TRQ.
10 Give us duty-free imports in the form of country
11 exclusions, in the form of product exclusions. Give
12 us duty-free imports in the form of stockpiling.
13 We've already taken that decision away from the
14 President. Now we have a significant volume that is
15 not going to be subject to a safeguard remedy no
16 matter what the President intends.

17 If the idea behind a TRQ is that you have
18 some base volume that's exempt from duty, Samsung
19 and LG have already exercised self-help through
20 their aggressive stockpiling behavior. You know, I
21 just opened the *Wall Street Journal* this morning and
22 there was an article about this. The experts there

1 estimated that that could be as much as 6 months of
2 supply that they've already bought themselves.

3 So we respectfully submit that Samsung and
4 LG are simply wanting more time to continue to
5 seriously injure the domestic industry. And then
6 they tell you it's somehow going to inure to their
7 benefit in South Carolina and Tennessee. But as the
8 chairman of the ITC said during a recent hearing,
9 the purpose of the safeguard law is not to pick
10 winners and losers among the domestic industry.

11 Whether the winners are in Clyde or in
12 Kentucky or in South Carolina or Tennessee is not
13 your concern. Your concern is to remedy the serious
14 injury and to put the domestic industry on a
15 competitive footing going forward. And the remedy
16 that we've proposed accomplishes just that.

17 We've heard a lot of talk about how nearly
18 any tariff remedy would block imports. The economic
19 modeling even of the commission says otherwise. And
20 just to be clear, our economic model was the most
21 recent available for a pure tariff remedy under the
22 safeguard model.

1 And these arguments about flooring, how
2 was this flooring won? This flooring was won
3 through illegal dumping and predatory pricing
4 behavior. Sears is worried about what happens to
5 Kenmore. The Kenmore account was lost to LG because
6 of dumping. This has already been analyzed by the
7 commission. Domestic producers have a right to
8 compete on a level playing field.

9 You know, there are some easy cases in
10 safeguard and there's some hard ones. I think
11 Sheridan said this is indeed an easy one. The
12 President has in this case an opportunity to make
13 things right and to score a big win for America.
14 Through his leadership, President Trump can put a
15 stop to Samsung and LG's cheating. He can deliver
16 an effective remedy for the domestic industry. He
17 can generate thousands of new jobs across America's
18 heartland. He can create a level playing field
19 where U.S. manufacturers and workers can compete
20 fairly. And he can foment conditions of competition
21 that will surely benefit consumers over the long
22 term.

1 This Panel 1 started off with a statement
2 from the South Carolina governor, and how a new day
3 is dawning in Newberry, and thanked Samsung.
4 Respectfully, he should be thanking Whirlpool and he
5 should be thanking GE Appliances and he should be
6 thanking President Trump, because it is the economic
7 incentive created by the promise of a strong and
8 effective remedy that is going to hold their feet to
9 the fire. As the ITC said in its own words, in the
10 absence of safeguard relief, Samsung and LG would
11 have less economic incentive to follow through fully
12 on their planned investments, particularly in light
13 of their substantial recent investments in LRW
14 production for the U.S. market -- where? In
15 Thailand and in Vietnam. They still have brand new
16 plants there.

17 Samsung and LG are not U.S. producers yet.
18 But I can promise you this, if the safeguard action
19 is strong and if it is free of loopholes, then
20 Samsung and LG will have the economic incentive to
21 accelerate, to complete, to deepen their future
22 commitment to manufacturing jobs in South Carolina

1 and Tennessee. And without question, President
2 Trump will deserve all the credit for that, for
3 transforming foreign predators into U.S. job
4 creators and into companies that have now been
5 chastened and are now forced to compete on a fair
6 and level playing field. Now that is exactly what a
7 winning trade policy is all about.

8 Do you want to say anything in the final
9 minute?

10 MR. McKINNEY: Actually, I think Jack
11 covered most of my scribblings here. I would
12 encourage you that -- at certain points throughout
13 the other side had a tendency to want to bring
14 forward issues and sort of re-litigate things that
15 have already been discussed at length at the ITC in
16 this proceeding, also in prior proceedings. Please
17 peruse the record. Questions about product
18 differentiation, flooring -- flooring it is
19 critically important, that's all discussed in the
20 ITC reports. Thank you.

21 MR. MARTYN: Thank you, gentlemen. And
22 with that we are finished. Thank you, and hope you

1 enjoy the rest of your day.

2 (Whereupon, at 1:42 p.m., the meeting was
3 adjourned.)

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C E R T I F I C A T E

This is to certify that the attached proceedings in the matter of:

TRADE POLICY STAFF COMMITTEE HEARING
ON PRESIDENTIAL ACTION UNDER
SECTION 201 - LARGE RESIDENTIAL WASHERS

January 3, 2018

Washington, D.C. 20508

were held as herein appears, and that this is the original transcription thereof for the files of the Office of the United States Trade Representative.



Tom Bowman
Official Reporter