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Dumping in the Flat Panel Display Industry: The Case of Planar Systems

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Dumping in the Flat Panel Display Industry: The Case of Planar Systems

Quinn O'Rourke
Honors Thesis
April 11, 1997
International Relations
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<th>Abbreviation</th>
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<tr>
<td>ADMA</td>
<td>Advanced Display Manufacturers of America</td>
</tr>
<tr>
<td>AMEL</td>
<td>Active Matrix Electroluminescence</td>
</tr>
<tr>
<td>CRT</td>
<td>Cathode Ray Tube</td>
</tr>
<tr>
<td>DARPA</td>
<td>Defense Advanced Research Projects Agency</td>
</tr>
<tr>
<td>EL</td>
<td>Electroluminescence</td>
</tr>
<tr>
<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<td>HDTV</td>
<td>High Definition Television</td>
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<tr>
<td>HIC</td>
<td>High Information Content</td>
</tr>
<tr>
<td>ITC</td>
<td>International Trade Commission</td>
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<tr>
<td>LCD</td>
<td>Liquid Crystal Display</td>
</tr>
<tr>
<td>MCC</td>
<td>Microelectronics and Computer Technology Corp.</td>
</tr>
<tr>
<td>OIS</td>
<td>Optical Imaging Systems</td>
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Preface

My interest in the trade relationship between Japan and the United States can be attributed to a few important factors. One of these pertains to my interest in the Japanese language and culture and how it differs from America’s. I received the opportunity to travel to Japan in 1991, and I noticed two major differences that still stand out in my mind. One difference is the contrast in educational systems. I attended a high school as an exchange student, and I was able to observe the longer school weeks, the frequency and intensity of exams, an emphasis on math, science, and computers, and the dedication towards learning the English language. Another difference I recognized relates to the issue of culture. Specifically, I am intrigued by the differences associated with communication. Many Americans, including myself, prefer a direct, straightforward approach in communicating ideas, comments, or criticisms. However, the Japanese tend to communicate by using a more general and ambiguous approach.

My further interest in Japanese-American relations is related to the loss of U.S. economic power in contrast to the simultaneous increase in Japanese economic power. One cause of this decline may revolve around the allocation of financial resources. The United States spends billions of dollars on defense and less amounts of money on education and research and development in comparison to Japan. Japan is an investment-minded country which focuses on enhancing the human and technical resources that are necessary for a brighter economic future. The United States is a consumption-minded country, but it is not deficient in human and technical skills. However, there has been a growing recognition that investments to advance technical skill will be a valuable economic component in the future. As a result, businesses and political leaders have promoted a dramatic increase in the investment of human capital.
I wanted to examine a specific aspect of the U.S.-Japanese trade relationship that has been cited by some as a source of tension. I chose to examine the unfair trading practice of dumping. Dumping involves selling goods at a price that is below the cost of production. To narrow my topic even further, I decided to examine dumping that was occurring within the flat panel display industry. Flat panel displays are the computer screens that are used in laptop computers, avionics equipment, telecommunications, and military equipment. For a specific case study, I chose to investigate a firm from Beaverton, Oregon that eventually took their dumping claim before the U.S. Department of Commerce and the International Trade Commission.

Before I wrote this paper, I had little prior knowledge of what dumping was, and I had never even heard of Planar Systems. I am very glad I had the opportunity to research this topic. I learned a lot about this issue and its role in the International arena. This project required a large amount of time, effort, and energy, but it was worth it.

Acknowledgments

The first person I would like to thank for his time, patience, and knowledge is my thesis director, Dr. Erik Pratt. I would also like to thank my readers, Dr. Philip Wittman, Mrs. Marie Vanisko, and Dr. Mark Smillie. Their insight was very useful and much appreciated. I would like to thank my friends Todd Fleckenstein and Jeremy Barlow, my parents John and Sandra O'Rourke, and my brother Kevin. Their encouragement and emotional support kept me going when I got discouraged.

I would especially like to thank the individual from Planar Systems who agreed to a two-and-a-half-hour interview. This interview was very helpful and interesting. Without the firsthand knowledge of someone directly involved with the case, a lot of my research would have remained ambiguous and confusing. This interview assisted me in clarifying issues of uncertainty and revealed new insight on the issue of dumping, the Planar Case,
and its significance in the global arena. Once again I would like to thank everyone who helped make this thesis possible. While working on this thesis, I found the research and writing process to be interesting and enjoyable. I hope people who get the opportunity to read this thesis feel the same way.
Chapter 1: Dumping and Past Case Studies
The Cold War Era (1945-1991) demanded vast amounts of financial, human, and technological resources. The Cold War Era has been over for five years. However, its end has spawned about new developments that demand the attention of policymakers. For example, regional conflicts such as the one in the former Yugoslavia and a dramatic increase in terrorism over the past decade have created new problems in the realm of foreign affairs. One problem in particular that has caused apprehension among U.S. policymakers is the trade relationship with Japan. Japan has been regarded by some as the new enemy in the post Cold War era. A poll conducted by Newsweek in October of 1989 reflected this sentiment when it revealed that 52% of the American people interviewed felt that Japan was a bigger threat to the security of the United States than the Soviet Union.1 Clyde Prestowitz Jr., a Japanese-American foreign policy expert, notes that Japan and America have traded places.2 Prestowitz stresses that the trade deficit with Japan is increasing, and Japan’s technology is advancing at a rapid pace.3 He also observes that U.S. dependence on Japanese technology is growing.4 The late 1980s and early 1990s can be described as the time when Japan’s economic supremacy was given more importance in American Foreign Policy. Fear, prejudice, and distrust characterized the sentiment of economic nationalists during this time period. And still today, trade with Japan is a concern among policymakers and tensions are intense.

So why should we be concerned with the condition of U.S.-Japanese trade relations? One reason is that many Americans are vitally concerned with their future economic welfare. Economic prosperity is dependent on economic security. For instance, economic nationalists believe that America’s economic security is threatened if it is overly dependent on critical foreign components such as semiconductors, fiberoptics, and

3 Ibid., p. 2.
4 Ibid., p. 2.
computers. If America is too dependent on the Japanese for technologies that are essential in consumer and military production, Japanese companies have the potential to price gouge and manipulate the availability of key technologies. American jobs are threatened if Japanese goods are given a preference over American goods. For instance, if an American good loses market share to a Japanese good, the Japanese company could possibly gain at the expense of the American company. The American has to make cuts to compensate, and many times, downsizing is the result. This issue has especially been pertinent in the electronics industry.

The Strategic Significance of the Electronics Industry

The electronics industry is a rapidly changing industry requiring a substantial amount of capital, financial, and human resources. That is, it is considered to be a strategic industry. It is a valuable component of the American economy which produces cutting edge technology for appliances, entertainment, education, and military purposes. Technological improvements are the most dynamic and crucial element within the industry. New developments are being uncovered at a phenomenal pace. Pat Choate, author of The High Flex Society: Shaping America's Economic Future, emphasizes the significance of high tech industries such as aircraft, telecommunications, and the electronics industry. Choate reports that in 1986 alone, high tech industries provided 6.4% of all U.S. jobs, they employed approximately 25% of scientific workers, and accounted for 43% of the total value of U.S. manufactured exports. Some would view the U. S. electronics industry as being highly competitive, highly innovative, and extremely dynamic in today's global economy, but at the very least, it has the potential to be very successful in the global marketplace. It is an essential component of the U.S. economy and is necessary for a prosperous economic future.

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A branch of the electronics industry that relates to the case study presented in this thesis is high-definition television (HDTV). High definition television is a cutting edge innovation that produces pictures with the sharpness of 35mm film and the sound quality of a compact disc. In fact, HDTV is speculated to replace existing television in the near future. Choate acknowledges that HDTV will most likely replace America's existing 160 million sets. HDTV is an exciting new technological advance, one that could create a multi-billion dollar market in the years to come. The future of the American electronics industry is very bright in terms of its potential for rapid innovation and consumer demand. However, a real and substantial threat to the industry is the illegal practice of dumping.

**Dumping**

Dumping is a trade practice which has been used by the United States, Japan, and other countries. Under U.S. law, dumping is an illegal practice which involves selling goods below cost. Dumping is often cited as a predatory method used to gain or monopolize market share. Officially, dumping occurs and is recognized by GATT, inter alia, when "...the price of the product exported from one country to another... is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country..." Basically, this means that if a product that enters another country is considerably below the price of a domestic good that is comparable to the entering good, then dumping is possibly occurring. Dumping can be a means to undermine or cheat the competition without creating a monopoly, or it is sometimes used to create a monopoly.

Robert J. Carbaugh identifies three types of dumping: sporadic, persistent, and predatory. Sporadic dumping refers to the action a firm takes when it disposes of excess

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6 Ibid., p. 77.
inventories on foreign markets by selling abroad at lower prices. Persistent dumping occurs when a producer consistently sells goods abroad at lower prices than in its domestic market. Predatory dumping occurs when a firm sells goods abroad at a lower price with the intention of destroying an existing or potential source of alternative supply. The aim of this method is to drive foreign competition out of business. These three forms of dumping are viewed by Allen as difficult to identify and even more difficult to prohibit.

Two situations that illustrated this notion relate to the dumping that occurred in the U.S. television industry in the 1970s and the U.S. semiconductor industry in the 1980s.

**Dumping in the Television Industry**

Within the electronics industry, there have been two well documented cases of dumping. One specific case involved televisions. David Schwartzman notes that in December of 1970, National Union Electric Corporation (NUE) filed suit under Sections 1 and 2 of the Sherman Act. The suit alleged that Matsushita Electric Industrial Company Ltd., Hitachi Ltd., Toshiba Corporation, Sony Corporation, Sanyo Electric Co. Ltd., Sharp Corporation, and Mitsubishi Electric Corporation had all conspired to restrain competition in the U.S. market for televisions and consumer electronic products. Zenith Radio Corporation joined the suit in 1974 and when it reached the Supreme Court in 1984, the case became known as *Matsushita et al. v. Zenith Radio et. al.* The case took twelve years to resolve. The Supreme Court ruled in favor of the defendant. The reasoning behind the decision pertained to the idea that the plaintiffs did not present sufficient evidence of dumping. The court felt that predatory methods designed to gain a monopoly were not
absolute and obvious. The Court's decision allowed the dumping to continue. By 1990, Zenith was the only remaining American television manufacturer. Companies such as Sylvania, Motorola, RCA, GE, and Magnavox had either gone bankrupt or had been acquired by foreign competitors.

**Dumping in the Semiconductor Industry**

Another highly publicized dumping case within the electronics industry pertains to semiconductors. Clyde Prestowitz Jr. acknowledges that this problem began in 1981 when semiconductor prices dropped by 80% that year. Prestowitz cited an article from the September 15, 1981 edition of the Nihon Keizai which reported that, "The current market . . . price does not necessarily reflect the true situation." Prestowitz also cited an article from the December 14, 1981 edition of Business Week which reported that, "Industry analysts question whether any of today's players, including the Japanese, can be turning a profit." Along with this dumping came complaints from representatives of the semiconductor industry. These company representatives asked the departments of Commerce, State, and Treasury, along with the U.S. Trade Representative, and members of Congress for an immediate end to the dumping. Further demands included reciprocal market access in Japan and the cessation of the copying of new chip designs by Japanese manufacturers. Pat Choate reported that in 1984 and 1985, Japanese manufacturers were flooding the U.S. market with semiconductors. As a result, the case was presented before the International Trade Commission (ITC). In 1986, the ITC ruled that Japanese companies were guilty of acquiring 75% of the U.S. market by selling semiconductors at prices considered to be below cost. For example, semiconductor chips were $18 in 1984

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19 Ibid., p. 178.
20 Choate, P. *Agents of Influence*, p. 78.
21 Ibid., p. 78.
22 Prestowitz, p. 148.
23 Ibid., p. 148.
24 Ibid., p. 149.
25 Choate, P. *The high flex society*, p. 80.
26 Ibid., p. 80.
27 Ibid., p. 80.
and $2 in 1985. During this time period, Hitachi had sent a memorandum to its distributors which instructed them to:

Quote 10% below competition. If they requote . . . Bid 10% under again. The bidding stops when Hitachi wins . . . Win with the 10% rule . . . Find AMD and Intel sockets . . . Quote 10% below their price . . . If they requote, go 10% again. Don’t quit until you win . . . 25% DISTI profit margin guaranteed.

This behavior by Hitachi as well as other Japanese manufacturers caused American manufacturers to lose an estimated $900 million. In addition to this, the American economy lost thousands of jobs. The Japanese and Americans attempted to negotiate a mutually beneficial settlement, and they eventually did. However, the dumping continued. On January 27, 1987, the U.S. gave Japan sixty days to stop the dumping. The Japanese did not comply, so on March 27, the President announced sanctions amounting to tariffs of up to 300% on various Japanese products such as laptop computers and home power tools.

These two important cases, as well as other occurrences have raised many important issues regarding dumping and the course of action used to prevent it. For instance, is anti-dumping litigation an effective means of eliminating this practice? Is it worthwhile to prosecute anti-dumping cases before the International Trade Commission or, are there other more effective paths that can be pursued? Is dumping an effective business strategy in a rapidly changing industry? These questions address relevant issues that relate to the overall condition of the U.S. electronics industry and the trade relationship between the United States and Japan.

It is difficult to assess how significant the damage is when analyzing the electronics industry and U.S.-Japanese trade relations as a whole, but it is an issue worth investigating.

28 Ibid., p. 80.
29 Ibid., p. 81.
30 Ibid., p. 81.
31 Ibid., p. 81.
32 Prestowitz, p. 173.
33 Ibid., p. 173.
34 Ibid., p. 174.
In hopes of answering these questions and others, this paper will focus on a specific case where dumping occurred. I intend to investigate the dumping case involving Planar Systems of Beaverton, Oregon. Planar Systems is one of ten American companies that manufactures flat panel displays. Flat panel displays are the thin advanced screens which have many uses in laptop computers, avionics equipment, military equipment, and medical equipment. In the late 1980s and early 1990s, Planar Systems was sustaining a net loss and barely surviving in the highly competitive flat panel display industry. Planar attributed this damage to Japanese firms such as Sharp and Toshiba which were selling the displays below cost. In 1990 and 1991, Planar Systems, along with five other American companies, presented this controversial case before the International Trade Commission.

The purpose of this paper is to present the Planar case from an historical and analytical perspective. In addition, I intend to assess the utility or value of using U.S. anti-dumping law as a means of eliminating the practice of selling goods below cost. It is important to note that the direct overall impact on U.S.-Japanese trade relations will be difficult to evaluate based on this one case, but it should provide us with some insight and understanding on this important aspect of U.S.-Japanese trade relations.

To this end, I will examine dumping in the context of some prominent economic perspectives. I will then examine the history of anti-dumping legislation and some views on its effectiveness. I will also provide background information on the case in the form of a historical narrative. After this, I will make an assessment as to the value of pursuing these cases through the ITC. To achieve this, I will rely heavily on sources such as the San Jose Mercury News, which is recognized as one of the leading newspapers when it comes to covering the U.S. electronics industry. I will also use the ITC court documents and my revealing interview with a Planar executive. From these sources, I plan to look for various perspectives pertaining to the case. For example, is the Planar case viewed as a significant case in U.S.-Japanese trade relations? Were Planar’s efforts futile since some computer companies moved their operations abroad? Was the litigation process useful in conveying
the importance of the flat panel display industry to the government and the public? Is government subsidization a better answer to settling dumping disputes as opposed to litigation? Does Planar Systems still perceive dumping as a relevant issue in today's flat panel display industry? These questions and others will be examined in detail throughout the course of this paper.
Chapter 2: Five Perspectives of Economic Thought
Perspectives on Dumping in International Trade

There are different views on dumping and why it occurs internationally. For example, one view held by M.F. Marion is that Japanese dumping is not a result of a conspiracy formed to eliminate competition. Instead, Japanese dumping often results from export promotion through import protection. Marion also notes that this process occurred within the computer industry and the semiconductor industry. However, this is just one view. Opinions will differ depending on which economic school of thought is examining the issue. Although more views may exist, for the purpose of this chapter, I will focus on five perspectives of economic thought regarding international trade: fixed trade, strategic trade, managed trade, fair trade, and free trade.

Fixed Trade

Advocates of fixed trade believe that the state should be the main focus when economic policies are initiated. Proponents of fixed trade advocate imposing penalties on foreign goods coming into the U.S. in order to protect American jobs and companies. Fixed trade is often subject to criticism due to the notion that government protection saves some jobs in the protected firm, but the costs to the economy in the long run are higher if the forces of free trade are manipulated by government. However, despite the criticism, more and more advocates of fixed trade are emphasizing the goal of maximum local trade within diversified, sustainable local economies and minimum long-distance trade. They feel that the global economy is a protectionist scheme used by Multi-National Corporations and banks to expand their own power, unfettered by the inconvenient checks of

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2 Ibid., p. 261.
3 Ibid., p. 261.
4 Sudo, P. (1996, May 3). Is free trade fair trade; here are the facts behind the angry debate over jobs and trade. *Scholastic Update*, p. 27.
democracy. This brand of thinking centers more on the preservation of communities, economies, and livelihoods. In order to reach this goal, there has been more of a focus on establishing the following: import and export controls, local control of capital, controls on Multi-National Corporations, new competition policy, trade and aid for self-reliance, introduction of resource taxes, and the re-empowerment of government. These policies are some of the policies that proponents of fixed trade advocate. Within this perspective there are different levels of this sentiment, but the information listed above generally sums up this perspective.

The San Jose Mercury News investigated various facets of the fixed trade perspective within the U.S.-Japanese trade relationship. One point of view analyzed the practice of intertwining business and government. Ken Hagerty observes that in the global arena, many companies compete against U.S. high-tech firms with the backing and subsidization of their governments. Individual U.S. companies are unable to withstand government subsidized competition, or gain access into markets that are protected by foreign governments. Hagerty notes that U.S. government intervention is necessary if companies are to succeed abroad. The government has the ability to eliminate obstacles which exist abroad and domestically. Limited foreign market access as well as domestic tax policy, environmental and occupational health regulations, intellectual property protection, and government procurement issues can all have negative implications on American businesses. Hagerty's view is that the U.S. government should work with, not against, domestic companies.

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7 Ibid., p. 29.
8 Ibid., p. 29.
9 Ibid., p. 30.
11 Ibid., p. 3E.
12 Ibid., p. 3E.
13 Ibid., p. 3E.
14 Ibid., p. 3E.
Strategic Trade

Proponents of strategic trade believe in government protection of industries that are vital to a country's position as a present as well as a future economic power. Examples of industries considered to be vital to the welfare of the American economy include semiconductors, steel, fiberoptics, autos, telecommunications, computers, and flat panel displays. Strategic trade seems to be appealing because it agrees with the principals of free trade, but acknowledges that if the United States economy is to succeed, then these critical industries must be influenced by the "helping-hand" of government. A specific example of this concept is government subsidization of an industry which allows it to develop its productive capacity and become competitive in the global marketplace. In regard to the issue of dumping, many advocates of this perspective believe in subsidizing a strategic industry so that it is able to dump goods in foreign markets. If this were the case, then many advocates of this view would see dumping as a positive tool that can be used to protect strategic industries. However, if dumping is occurring in the proponent's own market, then the view on dumping changes quickly. Advocates would deem this dumping as an unfair trading practice and call for the protection of the affected strategic industries.

One popular perspective is enunciated by Carla Hills, the former chief trade negotiator for the Bush Administration. Hills' proposal is that government energy should be directed toward opening Japan's market. Hills was a proponent of protecting strategic industries due to their strong influence in maintaining national and economic security. It is important to note that Hills considered the flat panel display industry to be a strategic industry.

Within the literature that was reviewed, Clyde Prestowitz conveyed specific insight pertaining to strategic trade. He observed that industries such as semiconductors, satellites,
fiber optics, computers, aircraft, flat-panel displays, airlines, banks, and agriculture are vital for American economic prosperity. Prestowitz also recognized that economic protection in these key industries is necessary if these industries are expected to be the backbone of the American economy.

Another relevant perspective worth mentioning relates to the globalization of technology. The San Jose Mercury News reported that America's competitive edge now depends on its ability to develop new technologies faster and more efficiently than its foreign rivals. However, the spread of technological expertise worldwide could erase America's edge. The article reflects the sentiment of Clyde Prestowitz Jr. who argues that the globalization of technology could, and still should be controlled. The article discussed the idea that access to markets and technology, is not equal around the world. Prestowitz observes that it is easier for a Japanese company to purchase an American company rather than the opposite scenario. Prestowitz and others who favor this view argue that American companies and the government should focus on acquiring more foreign technology in addition to developing useful applications for it for the long run.

Another view presented in this article sees globalization as inevitable and that the U.S. should attempt to take advantage of the phenomenon. The proponents of this idea focused on enhanced domestic education, modernization of U.S. factories, and the creation of an advanced telecommunications network. The difference between these two views pertains to the methodologies that are prescribed. Both have the same idea, but the means to achieving the ends are different.

20 Ibid., p. 515.
22 Ibid., p. 1E.
23 Ibid., p. 1E.
24 Ibid., p. 1E.
25 Ibid., p. 1E.
26 Ibid., p. 1E.
27 Ibid., p. 1E.
28 Ibid., p. 1E.
Managed Trade

Managed trade refers to the concept that government steps in to assist industries that are experiencing significant economic disruption from international trade. This principle implies that government will intervene as long as necessary, but once the disruption has been alleviated, then government will allow the "invisible-hand" to influence the firm. This perspective can run into trouble because the word "disruption" is ambiguous. Some legislators may perceive significant layoffs as a "disruption" while others may want to intervene if an appreciated dollar is hurting American export opportunities.

For some insight on economics from the managed trade perspective, it is useful to examine the San Jose Mercury News interview of Richard Gephardt, the former House Majority Leader, and Michael Boskin, a former professor of economics at Stanford University, in March of 1991. Gephardt recognized that in contrast to America, the Japanese have a strong link between the private and public sectors. He also noted that the problem with America's economic system is that it contains, "...disparate entrepreneurial groups and split-up operations, in addition to much more open trading practices than Japan and other countries." In regard to the role government should play, Gephardt expressed the sentiment that increased cooperation between the private and public sector should be advocated. Finally, Gephardt conveyed the notion that illegal dumping cases should continue to be prosecuted. Although Gephardt's sentiment reflects some of the concepts of the managed trade school, he does express some ideas that are associated with the fair trade school.

30 Ibid., p. 1E.
31 Ibid., p. 1E.
32 Ibid., p. 1E.
33 Ibid., p. 1E.
Fair Trade

Fair trade is the idea that if unfair trading practices are occurring, then necessary action should be taken to “level the playing-field.” Proponents of this concept believe that responding to market-distorting measures such as subsidies and trade barriers is a way to maintain opportunities for free trade. The problem with this concept is that by “leveling the playing-field,” retaliation can result, and in the end, the playing field becomes smaller for all the players involved. Fair trade creates a tough dilemma, but it is hard to ignore the notion when unfair practices like dumping are occurring globally.

Michael Boskin recognizes that trade laws are needed for level competition with Japan. Boskin was a proponent of increased savings and investment as well as a greater focus on education. He felt that it was the obligation of government not to replace the marketplace, but to provide an environment that will allow businesses to excel and grow economically. Finally, Boskin stressed the concept of increased federal spending on research and development. Boskin could be viewed as a fair trade advocate due to his emphasis on the use of trade laws to level the playing field. However, his focus on the need for government to help businesses grow competitively could place him in the managed trade school.

Another important perspective pertains to the negative connotations associated with the concept of fair trade. Bill Emmott recognizes that fair trade is a burden to proponents of free trade who believe that unilateral free trade is healthy for an economy, even if other countries do not possess open markets. Proponents of fair trade are in favor of countering unfair trading methods by returning the same behavior. For example, if the Japanese are obstructing American exports to Japan, then fair traders believe America...
should respond by using similar methods. Emmott also recognizes that by doing this, America hurts itself by raising input prices and sanctioning inefficiency. Protectionism can have detrimental effects when it raises the prices of imports such as semiconductors, which are crucial components used in a finished product.

There are some advocates of fair trade who believe that if unfair trade did not exist in the global marketplace, then the United States would have a stronger economy. The theory of fair trade is legitimate, but it should be recognized that unfair trading practices are only one of the factors that have hindered America's economy. Pat Choate offers an interesting perspective regarding the decline of the American economy. He notes that this decline can be attributed to various causes which include:

- Mismanagement of the nation's fiscal and monetary policies.
- High taxes.
- An overvalued dollar.
- Lagging productivity growth.
- Expensive capital.
- Excessive regulation.
- Scant cooperation between labor, management, and government.
- The predatory trade practices of other nations.
- The short-term focus of American management.
- Unrealistic wage demands by labor unions.
- The incompetence of business, unions, government, and workers.

This perspective focuses on the notion that unfair trading practices are a contributing factor to the demise of U.S. economy. However, it reveals other components that can be linked to a sagging American economy. Dumping and other unfair trading practices play a minor role according to this perspective. In regard to fair trade, Choate recognizes that a conflict between free trade and fair trade exists. He realizes that:

... fair trade requires equal access and equal access leads to free trade. But because the free and fair trade advocates are unable to devise a joint strategy, the United States is powerless to provide global trade leadership or to offer Americans the benefits of either free or fair trade.

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40 Ibid., p. 269.
41 Ibid., p. 269.
43 Ibid., p. 4.
44 Ibid., p. 57.
Free Trade

“Free trade occurs when people are able to import and export goods without government interference. Free trade is often called a laissez-faire policy, which is French for ‘let people do what they choose.’”45 Advocates of free trade believe that free trade allows for the lowest prices and most efficient allocation of land, capital, labor, and other resources. Proponents of this ideology rely on the forces of supply and demand and discourage any government involvement. This perspective focuses on the mutual economic benefits that all receive if free trade exists.

One aspect of free trade relates to the overall effects of unfair imports. Morkre and Kelly recognize that dumped products have negative implications on domestic producers.46 They also observed that dumped products can benefit consumers and downstream producers due to the lower prices that result.47 Many free trade advocates acknowledge this observation and disregard the negative implications of dumping because they feel that everyone will benefit economically in the long run. Morkre and Kelly note that when evaluating the effects of unfair imports, determinants such as subsidies, imperfect substitutes, and the difference between fair and unfair prices, are taken into consideration.48 This view examines the attributes that determine the magnitude of injury which is caused by unfair imports.49

45 Sudo, p. 28.
47 Ibid., p. 35.
48 Ibid., p. 35.
49 Ibid., p. 32.
Table 2.1 below summarizes some of the attributes associated with each school and its view on dumping.\textsuperscript{50} The first section addresses the main idea or concept associated with each school of thought. The second section provides general characteristics of each perspective along with specific examples. The third section is used to illustrate how dumping is viewed by each perspective. Following the table are two additional perspectives that are not directly associated with the five main perspectives, but are worth mentioning.

\begin{table}[h]
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\begin{tabular}{|l|l|l|l|l|}
\hline
\textbf{Main Focus} & \textbf{Fixed Trade} & \textbf{Strategic Trade} & \textbf{Managed Trade} & \textbf{Fair Trade} & \textbf{Free Trade} \\
\hline
• Focus on relative gain & • Economic Protection in strategic industries (the nation must excel in if they seek economic supremacy) & • Agree with Free Trade, but the government must manage disruption associated with economic change & • Focus on a level playing field & • Focus on market mechanisms & • Emphasis on mutual gain \\
\hline
\end{tabular}
\caption{Table 2.1}
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\textsuperscript{50} Interview with Dr. Erik Pratt (1997, February 25). This table was constructed with Dr. Pratt's helpful insight.
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<td><strong>Fixed Trade</strong></td>
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<td><strong>General Information and Examples</strong></td>
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<tr>
<td>- State is the be-all end all</td>
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<tr>
<td>- The goal is to assure National Security and prosperity</td>
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<td>- Fear of overreliance on foreign countries</td>
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<td>- Strong ties between public and private sectors (Neo-Mercantilist)</td>
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<td>- Examples: Semi-Conductors, Flat-Panel Displays, Autos, Steel, Petro-chemicals</td>
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<tr>
<td>- Temporary government intervention used to smooth out economic transitions</td>
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<td>- A desire for access to protected markets</td>
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<td>- Cooperation is the long-run impact on state behavior</td>
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<tr>
<td>- Does advocate Free Trade</td>
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<td>- Less concern for strategic industries</td>
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<tr>
<td>- Utilizes the theory of comparative advantage</td>
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<td>- ex. Law of Supply and Demand</td>
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<td>Perspective on Dumping</td>
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<td>------------------------</td>
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<tr>
<td>• Dumping is a way to gain market share for the nation's exporters at the expense of other nations</td>
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<tr>
<td>• Protectionist measures may have to be used to fend off dumping in order to protect strategic industries</td>
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<tr>
<td>• Government only steps in if a large disruption occurred; ex. If a lot of jobs are at stake due to dumping</td>
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<tr>
<td>• Dumping is viewed as an unfair trade practice that distorts Free Trade Equilibrium through the workings of the free market</td>
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<tr>
<td>• Dumping may occur, but market domination is prevented in the long run</td>
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**A Japanese Perspective**

From a Japanese perspective, Ishihara believes that America, not Japan's trading practices are to be blamed for America's economic problems. He recognizes that America's problem relates to its lack of industrial strength. He further notes that the United States has repeatedly accused the Japanese of unfair trading practices. However, Ishihara refers to the Young Report to point out that a more open Japanese market will result in more efficient Japanese manufacturers. Not all of America's allegations are clearly misguided, but if Japan's methods are a problem, they are definitely not the entire problem.

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52 Ibid., p. 4.
53 Ibid., p. 146.
54 Ibid., p. 146.
55 Ibid., p. 146.
Managed Capitalism: The Keiretsu

An additional perspective that possibly explains why dumping occurs is explained by M.F. Marion, who notes that the Japanese keiretsu system, not hostility, causes Japan to engage in dumping.56 Prestowitz defines keiretsu as an economic group that came into existence as a result of alliances formed by major banks and trading companies.57 The keiretsu also includes companies of many other important industries such as steel, petrochemicals, and high technology.58 Prestowitz realizes that, "these alliances were linked by cross-shareholdings, common banking affiliations, and the use of the same trading company to procure raw materials and to distribute products."59 The keiretsu economic system allows for the segregation of the Japanese market from other competing markets and results in a competitive advantage which is attributable to "export promotion by import protection."60 This system aids in protecting the home market. As a result, these Japanese companies are able to sell goods below cost in foreign markets. The keiretsu system helps group Japanese companies from different sectors of the economy into long, cohesive relationships. As a result, these relationships establish economic security for all of the members, even in times of economic difficulty.61 This system is similar to managed trade, but it involves different industries of the private sector providing guidance for companies in other industries that are affected by an economic downswing such as a recession or inflation.

This section presented various perspectives relating to U.S.-Japanese trade relations and the practice of dumping. There are various theories as to why dumping occurs. However, how should dumping issues be resolved? One possible solution to the unfair trade practice may involves the use of anti-dumping legislation. Anti-dumping legislation is used by many companies around the world to solve unfair trading disputes. These

56 Ibid., p. 144.
57 Prestowitz, p. 294.
58 Ibid., p. 294.
59 Ibid., p. 294.
60 Marion, p. 144.
61 Prestowitz, p. 303.
companies present their cases before courts in hopes that the ruling body will find an accused company guilty of dumping based on its violations of existing anti-dumping legislation. However, does it work? More specifically, how effective has anti-dumping legislation been in discouraging this unfair practice? This question will be dealt with throughout the chapters that follow.
Chapter 3: Anti-Dumping Legislation: Criteria for Evaluation
History of Anti-Dumping Legislation

Before the passage of the Tariff Act of 1930, one of the most significant pieces of trade legislation still used today, Congress had previously passed anti-dumping laws in 1916 and 1921 to protect American business.\(^1\) The Tariff Act of 1930 is also known as the Smoot-Hawley Tariff. The Tariff was passed during the Great Depression to raise revenue for the U.S. government. It was also designed to shield the American economy from foreign competition. However, it sparked a series of retaliatory tariffs by countries worldwide and plunged the U.S. as well as the world into a more severe economic depression. This tariff was an example of protectionism at its worst. Instead of protecting its domestic industries, the United States created a vicious cycle that plunged the world into poverty. Some historians even cite the tariff as one of the contributing factors that led to World War II. Although the intention of protective tariffs like the Smoot-Hawley Tariff is to discourage the consumption of the targeted import and level the playing field, they are controversial due to the higher costs and retaliation they inevitably engender.\(^2\)

Aside from the goals noted above, the Smoot-Hawley Tariff was passed because it was viewed as a device that could create fair trade globally. One of the unfair trading practices that the tariff was designed to eliminate is dumping, the practice of selling goods below cost.

Since the 1930s, there has not been much success in curtailing the unfair trading practice of dumping.\(^3\) For instance, between 1955 and 1968, only 12 out of 371 anti-dumping cases presented before the ITC resulted in findings of dumping.\(^4\) Dumping was easy to identify, difficult to prove, and nearly impossible to enforce under the legislation.

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\(^3\) Ibid., p. 49.
that existed. Many critics in Congress agreed reform was necessary. As a result, Congress passed the Trade Act of 1974 which dealt with the nature of anti-dumping duties as well as other issues.

During the late 1970s and early 1980s, countries worldwide passed anti-dumping legislation which resulted in a dramatic increase in accusations of illegal dumping. The International Lawyer notes that during this time period, Article VI of GATT and the 1979 GATT Antidumping code were used frequently to clarify the term "like product" and to identify below cost sales of imported goods.

Anti-Dumping laws were subjected to more use in the 1980s and into the 1990s, and this increased use resulted in an increase in the number of dumping cases that were heard before the Commerce Department and the International Trade Commission. One of the more significant of these laws was the 1988 Omnibus Trade Act. The Department of State Bulletin reported that the central message of the act was, "the United States wishes not only to maintain freer trade to the extent it now exists but also to extend freer trade, to open more markets, and to increase the predictability of international rules for businesses." In regard to anti-dumping and countervailing Duty Laws, the 1988 Omnibus Trade Act enhanced the authority of the U.S. Department of Commerce to, "... prevent circumvention of anti-dumping and countervailing orders through: (1) Only minor alteration of affected merchandise; or (2) Limited further assembly in the United States or third countries." The 1988 Omnibus Trade Act was designed to complement the international system, not hinder it with extreme protectionist measures. The 1988

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4 Ibid., p. 49.
5 Ibid., p. 49.
6 Ibid., p. 50.
8 Ibid. p. 1095.
Omnibus Trade Act has been effective since its aim is to open markets and liberalize trade to a certain extent.  

**Evaluation of Anti-Dumping Legislation**

One important belief regarding anti-dumping legislation and its effectiveness is the concept of injury. In order for duties to be imposed on below cost imports, the International Trade Commission must determine if injury such as lost revenues, lost sales, or decreased employment, was inflicted upon the domestic industry making the accusations. Morkre and Kelly of the U.S. Federal Trade Commission conducted a report for the Bureau of Economics. In this report, they analyzed information of 179 out of 221 anti-dumping or countervailing duty cases during the time period of 1980-1988. Out of these 179 cases, only 53 suffered a loss in domestic industry revenue of approximately 5% that can be attributed to unfair imports. Only 21 cases involved a loss of approximately 10%. These figures indicate that few cases actually prove domestic injury. This does not necessarily mean injury to domestic industries did not occur, just that it is very difficult to identify and even more difficult to prove. If injury was less ambiguous and easier to pinpoint, then perhaps anti-dumping legislation would be more effective.

Pat Choate also summarizes the difficulty in applying anti-dumping and anti-subsidy legislation. Choate recognizes that anti-dumping and anti-subsidy laws can be very effective in decreasing the unfair trade practice. However, these measures only

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12 Morkre and Kelly, p. 9.
13 Ibid., p. 9.
14 Ibid., p. 9.
work if they are applied in a timely manner. In practice, these laws are used only as a last resort since they are extremely time consuming, costly, and difficult to enforce.

Another problem in applying these laws is the influence of the Japan lobby. Japanese political and economic clout was exposed in a profile of Planar Systems on a Frontline special, and is summarized in Choate's book, Agents of Influence. Choate outlines this view when he says:

The Japan lobby is literally able to dominate politically in virtually any issue it chooses to take on . . . . Since 1972, one-half of our (U.S.) trade negotiators have become foreign agents after they left office. What we find today is that most of these officials are literally planning on becoming foreign agents when they go into the position. Their public position is a way for them to develop a client list.

This is an interesting and enlightening viewpoint that illustrates how Japan gains access to American political and economic systems to accumulate and retain economic power.

On October 19, 1996, I had the unique opportunity to interview a Planar executive who was directly involved with the dumping case. The interview lasted roughly two hours, and provided me with crucial information and interesting insight on the case. One valuable piece of information I learned from the interview was the executive's perspective on settling dumping disputes. The executive pointed out three possible methods that can be pursued to settle disputes, with a focus on the flat-panel display case. One way is through joint ventures. Joint ventures help ensure a level playing field since they help place foreign production in the United States. Another method that can be sought is to use backroom negotiations to ask for access to the Japanese market. A third strategy

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16 Ibid., p. 27.  
17 Ibid., p. 27.  
18 Ibid., p. 27.  
20 Interview with a Planar executive. (1996, October 19).  
21 Ibid.  
22 Ibid.  
23 Ibid.
called for negotiating a settlement with computer companies with Planar asking for a guaranteed share.\textsuperscript{24} Out of these possibilities, Planar Systems did not choose any of them. Instead, Planar decided to take the case to court and test it against existing anti-dumping legislation. The critical question is was the strategy successful?

The executive's evaluation of anti-dumping legislation was concise and detailed. The executive noted that anti-dumping legislation is useful and relevant since it is very consistent with what conditions exist in the global arena.\textsuperscript{25} In a world where more and more companies are using protectionist measures to achieve economic goals, the United States sometimes feels the negative implications of this zero sum game. The executive conveyed the sentiment that the United States' problem is lack of initiative pertaining to advocating and creating anti-dumping legislation.\textsuperscript{26} The executive notes that the EU is more assertive while the U.S. maintains the status quo due to factors such as political pressure.\textsuperscript{27} The executive expressed the sentiment that the main problem with anti-dumping legislation is its lack of enforcement.\textsuperscript{28} A law is virtually useless if it is broken and the violators are left unpunished.

With these characteristics in mind, we discussed the idea of whether or not anti-dumping legislation is worthwhile in a dynamic industry like the flat panel display industry. The executive felt that the ITC court case was worthwhile for two reasons.\textsuperscript{29} The first reason pertains to the importance of the flat panel display industry as a strategic industry. The court case sent a strong message to the U.S. government and the American public.\textsuperscript{30} The case revealed the actual significance of the industry and its role in the
future.  The second reason the case was worthwhile relates to pricing practices. The case helped create some pricing discipline in the flat panel display market. Dumping still occurred, but the case and the resulting rulings helped improve the situation somewhat. I will discuss the Planar Case in further detail in the next chapter, and will elaborate on the rest of my interview in the final chapter.

This section presented various assessments of anti-dumping legislation. There are many who believe that anti-dumping legislation is the best means to establish a level playing field. How can the effectiveness of anti-dumping legislation be measured? The answer to this question depends on what rulings result from the litigation process. Many companies take cases to court in an attempt to use anti-dumping legislation to prosecute firms that are partaking in the practice. However, depending on what the courts decide, anti-dumping legislation can aid in creating a stable or an unsteady economic environment. For example, one answer pertains to the institution of tariffs. Tariffs can help create pricing stability and in turn, allow for more competition. However, tariffs can also provoke worldwide retaliation, and that can reduce the welfare of all nations involved. Another way to measure effectiveness is by examining the option of instituting import quotas. Do import quotas limit dumping, or create problems associated with protectionism? A third way to measure dumping relates to the notion of protecting strategic industries such as the electronics industry. How beneficial is anti-dumping legislation in limiting the amount of imports so strategic industries have the ability to grow? The criteria listed above can serve as a measuring stick for the effectiveness of anti-dumping legislation. The Planar litigation provides a specific case to apply this criteria.

31 Ibid.
32 Ibid.
33 Ibid.
Chapter 4: ITC Case No. 731-TA-469
Involving Planar Systems
Planar Systems is the largest of ten American companies that produces flat panel displays. Flat panel displays are the screens most commonly found in laptop computers, but are found in other items such as calculators, digital watches, home appliances, and hand-held video games.¹

Planar was incorporated in 1983 by a senior management team from Tektronix solid state research and development group.² Planar specializes in manufacturing high performance Electroluminescent (EL) screens and taut shadow mask Cathode Ray Tube (CRT) displays.³ In 1991, Planar merged with the Finlux Display Electronics Division of Helsinki, Finland.⁴ The merger proved to be significant within the fast-growing flat panel display industry since it created a strong world-wide competitor by uniting two regional operations that were developing flat panel display screens efficiently and with the latest technology.⁵

Planar Systems is structured into three branches. The first branch is Planar International which is located in Espoo, Finland and has about 230 employees.⁶ This facility manufactures EL displays (monochrome and multi-color) and performs full research, development, marketing, and sales functions.⁷ Planar America performs the same duties as Planar International, but it serves regional markets within the United States. It is located in Beaverton, Oregon and employs approximately 230 workers.⁸ The third branch is Planar Advance. It is also located in Beaverton, Oregon but only employs about 70 workers. Planar Advance specializes in developing advanced color cathode ray tubes, the screens commonly found in televisions, and flat panel displays for the defense

³ Ibid., p.1.
⁴ Ibid., p.2.
⁵ Ibid., p.2.
⁶ Ibid., p.8.
⁷ Ibid., p.8.
⁸ Ibid., p.8.
industry. In addition to this, Planar Advance also attends to the development and manufacturing, and sale of value-added display systems.

Planar’s Technology Profile

Electroluminescence (EL)

Electroluminescence (EL) is Planar’s most common type of screen. EL’s characteristics include clear image quality, long life, wide viewing angle, high contrast, fast image response, compactness, light weight, low power, and low emissions. Its greatest attribute may be its ability to be immune from electro-magnetic fields.

Electroluminescence is an important advancement in the medical industry. This type of screen is used in various types of medical equipment and provides useful advantages such as the ability for the doctor to move around a patient without losing the visibility of the monitored information. Another valuable characteristic of the EL screen in medical equipment is its low power capability which allows for the delivery of a high quality image in the intense and hectic environment of emergency care transportation. As a result, the chance of this equipment losing power during a crucial situation is reduced even further.

Electroluminescent screens are also used in instrumentation equipment because of their compact size, the industrial market utilizes them because of their long life and environmental sturdiness, and they are used in transportation equipment because they are rugged and able to be read in a wide range of ambient light environments.

Taut Shadow Mask Color CRT

CRT screens are used predominately in the defense industry. They are used in military aircraft cockpits to display high resolution maps as well as strategic operational information. The advantages of using this technology are summarized by the Planar

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9 Ibid., p. 8.
10 Ibid., p. 8.
11 Ibid., p. 4.
12 Ibid., p. 4.
13 Ibid., p. 4.
14 Ibid., p. 4.
15 Ibid., p. 6.
Corporate Backgrounder which says, “Distinct advantages to the taut shadow mask color technology include incomparable color purity in the extremely high-ambient light environment of fighter aircraft; excellent thermal stability; crisp, sunlight cockpit readability; and rugged construction capable of meeting the most demanding vibration profile.”

Other Technologies:

Planar Advance also manufactures Liquid Crystal Color Shutter CRTs which seems to be the wave of the future. Their uses include oscilloscopes, virtual-reality helmets, and avionic cockpits. Their advantages include improved contrast, color uniformity, high resolution, and color purity that is invulnerable to magnetic field corruption.

Another technology that Planar Systems has experimented with Active Matrix EL (AMEL) displays. These displays are small and lightweight and have various uses such as virtual reality. Although these displays are still in the research and development phase, the future potential of these displays could be lucrative and groundbreaking.

When I visited Planar America, I had the opportunity to see some of their latest technologies. The graphics on some of their screens were incredible. One creation that particularly caught my eye was the headmounted display, which was as powerful as one seen on a laptop computer, but was only the size of a dime.

The Flat Panel Display Industry: An Industry Materially Harmed

Although Planar Systems seemed to be surviving financially in the late 1980s and into the 1990s, I was unable to come up with Planar’s income statement and balance sheet data prior to 1991. However, in 1991, Planar’s income statement revealed a net loss of

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16 Ibid., p. 6.
17 Ibid., p. 7.
18 Ibid., p. 6.
$415,000.\textsuperscript{19} In addition to this, Planar’s merger with Finlux, which improved its economic situation, did not occur until 1991.

As for the flat panel display industry as a whole, U.S. market share began diminishing in the late 1980’s. The flat panel display industry is considered to be a branch of the much larger United States electronics industry. The \textit{San Jose Mercury News} reported the findings of a study conducted by the United States Commerce Department which indicated that the $200 billion U.S. electronic industry is losing its edge in the global market.\textsuperscript{20} The report’s findings reveal that America was still the overall electronics leader, but items such as memory chips and flat panel displays have lost shares in the world market over the last several years.\textsuperscript{21} Japan and South Korea were the two main competitors that threatened and still threaten this valuable and strategic industry. The study was significant in two ways. First, it provided new information on the condition of the electronic industry as a whole and specifically the flat panel display industry. Secondly, it sparked debate as to what role the United States should play in helping industries gain market share abroad.\textsuperscript{22}

By the beginning of the 1990’s, Japanese flat panel display manufacturers had a firm control of the U.S. market. For instance, Valerie Rice of the \textit{San Jose Mercury News} reported that in 1989, American display manufacturers had only a 2.9% share of the U.S. market while Japanese manufacturers control over 90%.\textsuperscript{23} There was also another significant reason why Planar and the five other firms which comprised the adhoc groups known as the Advanced Display Manufacturers of America (ADMA) became concerned. Planar, the largest company in the ADMA, was having difficulty attracting potential investors. Valerie Rice notes that most of the Japanese manufacturers of flat panel displays

\textsuperscript{21} Ibid., p. 12C.
\textsuperscript{22} Ibid., p. 12C.
are subsidiaries of large computer companies and as a result, they have the financial resources which are necessary to invest in new technologies.24 On the other end of the spectrum, Rice reports that American companies, with sales of $20 million or less, are not profitable enough to make long term investments.25 A Planar executive noted that AT&T among other companies considered entering the flat panel display industry but later backed out due to the fact that it was difficult to realize a substantial profit.26

There is one factor that links Planar’s complaint of lost market share and lost opportunities for investment together. In comparison with Japanese manufacturers who build displays that are similar to American manufacturers, Planar’s prices are much higher. For example, Planar’s chief competitor, Sharp, manufactures ELs that are similar, but 15% less expensive.27 This can be attributed to lower, and in Planar’s opinion, unfair pricing practices. Planar systems and the other members of the ADMA were losing market share and investments in markets such as consumer electronics and computers. This was attributed to the fact that flat panel displays produced by Japanese firms were selling at prices 10% to 66% lower than prices on comparable displays made in America.28 Price is an important factor in a consumer’s decision to purchase. As a result, Planar loses potential sales, investment opportunities, and in the end market share.

The Advanced Display Manufacturers of America petitioned the International Trade Commission (ITC) and the U.S. Department of Commerce to begin an investigation because the ADMA perceived that Japanese companies were dumping flat panel displays. In the minds of the ADMA, this predatory trade practice was resulting in unfair prices and financially damaging its members. As a result, the Department of Commerce was to determine if dumping was occurring and the ITC was to determine if the American companies were being injured. These investigations began on July 18, 1990.

24 Ibid., p. 1C.
25 Ibid., p. 1C.
26 Interview with a Planar executive (1996, October 19).
27 Ibid.
28 Rice, p. 1c.
Legal Action: The Preliminary Hearing


Although there were no real significant findings in the preliminary investigation in terms of new groundbreaking evidence, one of the main purposes of the investigation was to define flat panel displays. A great deal of time and care was spent on defining the various types of flat panel display technologies as one like product. A section of the investigation contained statistical information obtained during the investigation. This information pertained to topics such as alleged material injury and material retardation to an industry in the United States. Another topic addressed was the consideration of the question of threat of material injury. Subtopics under these two issues include pertinent data regarding U.S. producers shipments and inventories, U.S. import data, and pricing data.

The documents I researched regarding this case did not have the key data relating to these crucial issues. More surprisingly, Planar Systems does not even possess this data due to government restrictions. In spite of this setback, it is important to clarify the meaning of material injury. A Planar financial executive pointed out that material injury

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30 Ibid., p. 103.
31 Ibid., p. 3.
32 Ibid., p. 3.
refers to financial misfortunes, such as loss of sales, loss of investment opportunities, the layoff of employees, the inability to grow, and the loss of joint sales partners due to the lack of financial return that results from competing with foreign manufacturers. The executive referred to a specific example where Compaq had written Planar a letter stating the Planar’s EL was superior in quality and performance to Fujitsu and Matsushita, but Planar’s prices were higher. This example illustrates a lost sale opportunity and therefore an instance that demonstrates material injury to Planar Systems.

The first finding of the preliminary hearing regarded the definition of a flat panel display. As defined by the ITC:

High information content (HIC) flat panel displays are electronic devices that are designed to display text or graphics when integrated into such end-user systems as laptop and portable computers. The subject displays are large area, mat addressed displays, no greater than 4 inches in depth, with a picture element ("pixel") count of 120,000 or greater. Displays include, but are not limited to, liquid crystal, plasma, and electroluminescence. HIC flat panel displays may be monochromatic, limited color, or full color.

The significance of defining HIC in such specific detail was to erase confusion that existed on both sides. However, the greatest confusion awaited in the classification of the four main screens as a like product or four separate products. The ITC describes the four types of display technologies as:

(1) passive matrix liquid crystal display (LCD), in which liquid crystals act as optical shutters and allow the passage of light when a small voltage is applied; (2) Active Matrix LCD, similar to but far more complex than the passive form and containing a transistor at each pixel; (3) plasma display, in which voltage causes pixels of a gas to emit light; (4) electroluminescent (EL) display, in which voltage causes pixels in a solid EL material to emit light.

The issue of whether the four kinds of screens are like products or not was argued exhaustively by both sides. The term “like-product” is defined as “a product which is like, or in absence of like, most similar in characteristics and uses with, the article subject to an
The petitioners argued that the four technologies were one product that should have a single tariff applied in order to make prices more competitive. The respondents believed that the four technologies were separate and thus required four separate tariffs. The ITC evaluated criteria such as physical characteristics, and uses interchangeability of products, channels of distribution, production processes, customer or producer perceptions of the product, use of common manufacturing facilities and production employees, and price. From this criteria, the commission found some differences such as end uses and price, but the ITC ruled that the like product comprised of all HIC flat panel displays and dedicated subassemblies despite the state of differences.

For clarification, subassemblies are "... dedicated for use in specific type of display." This determination was significant in its influence on the results of the preliminary hearing and its role in the final hearing.

It is also important to note that the Tariff Act of 1930 was the main document used for conducting the investigation brought about by Planar's dumping accusations. There are some specific sections of this act which apply directly to the Planar case. One important section is 733 (a) of the act which was used by the International Trade Commission (ITC):

... to determine whether an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Another section of the act used for reference by the ITC was section 771 (7) F (i). This section listed the factors the ITC should have deemed relevant when they considered the amount of injury sustained by the U.S. flat panel display industry. Some of the main

36 Ibid., p. 5.
37 Ibid., p. 3.
38 Ibid., p. 4.
39 Ibid., p. 5.
41 Ibid., p. 42.
42 Ibid., p. 42.
factors contained in this section include: increases in production capacity, penetration in a U.S. market, an increase in inventories, the potential for product shifting, and the probability that the price of the imports will have a suppressing effect on the domestic prices of the good.43

The Results

The ITC’s preliminary determination was completed on September 12, 1990.44 It ruled in favor of the petitioner, deciding that one industry consisted of all of the four flat panel display technologies.45 The Commerce Department made its determination on February 21, 1991.46 The San Jose Mercury News reported on February 15, 1991 that Japanese companies were selling flat panel display screens for 2.3% below cost.47 The same source also observed that U.S. manufacturers of flat panel displays claimed that the Japanese companies were selling displays between 70% and 300% below cost.48 Although Commerce’s estimate was lower than expected, on February 21, 1991, it ruled that flat panel displays were considered to be a like product.49 These rulings allowed for the continuation of the investigation and a final hearing to be held.

An unexpected result that occurred revolves around the relationship between the flat panel display industry and the computer industry. The flat panel display manufacturers viewed the rulings as a step in the right direction. They saw the rulings as a means to the proper ends, a level playing field. On the other hand, the computer industry viewed the rulings as a setback. Tariffs mean higher prices which can result in lost sales. Rice notes that flat panel displays account for 30% of the price of a laptop and may cost $400 or more.50

43 Ibid., p. 43.
44 Ibid., p. 43.
46 Ibid., p. 1.
47 Rice, V., p. 1C.
48 Ibid., p. 1C.
49 Chronology of dumping case, p. 1.
50 Rice, p. 1C.
The rulings by the ITC and the Department of Commerce set the tone for a new debate about the role of the U.S. government in trade, and the notion that computer companies such as Compaq, Apple, and IBM would or might move operations overseas to avoid the levies. Kevin Kearns of the San Jose Mercury News acknowledged that the American computer industry is too reliant on Japanese manufacturers and that this behavior could result in a future with higher prices and a withholding of the most advanced technology. This perspective comes up again in the later phases of the case also, but it is a relevant and interesting aspect of the preliminary results.51

Legislation: The Final Hearing

The final hearings were a lot like the preliminary hearings. The ITC and Commerce Department heard arguments concerning the issue of like product. However, there was one significant situation that occurred in the final hearing, but not in the preliminary hearing. It proved to shape the nature of the final determination by both ruling bodies, and it intensified the debate concerning government intervention in economic affairs. The final hearings seemed to be headed in the favorable direction of Planar Systems and it partners. The ITC ruled that the like product consisted of all HIC flat panel displays and display glass.52 The ITC cited characteristics such as the fact that, “all display types consist of a display glass panel on the front backed with a matrix of electrodes and a panel of electronics,” as its reasoning behind the decision.53 The ITC also noted that all flat panel displays “are less than four inches thick, contain at least 120,000 pixels, and can display at least 25 by 80 characters of text when integrated into end users systems such as computers and other equipment.”54 Based on this evidence, the ITC ruled in favor of the petitioners, but then an unexpected twist in the proceedings arrived out of nowhere.

53 Ibid., p. 7.
54 Ibid., p. 7.
Two days before the final hearings began, the Department of Commerce reversed its decision regarding the like product issue. Instead of one industry, now there were four separate industries. The details are uncertain as to why this happened, but the Department of Commerce decided that the Active Matrix liquid crystal displays, passive matrix liquid crystal displays, electroluminescence (ELs) and plasma were four separate industries. As a result, only two out of the four technologies were considered for an imposition of duty due to the fact that Planar and the five other petitioning companies only produced ELs and Active Matrix LCDs. It is important to note that OIS was the lone American company producing Active Matrix liquid crystal displays.

During the time period leading up to the decision by the ITC and Commerce, there was a reversal on the ruling that had determined the price underatement of 2.3%. It was re-evaluated by Commerce that the price underatement was actually 4.6%. The San Jose Mercury News reported that investigators from Commerce determined that Sharp had vastly understated the costs of producing the display screens. The potential for stiffer duties imposed against Sharp had become a reality. The Mercury News also reported that this made Sharp nervous since U.S. imports of flat panel displays totals approximately $100 million annually. This also had even larger implications because there is also speculation that flat panel displays will be used in the future for the multi-billion dollar market of high-definition television.

The Results

On July 16, 1991, the Commerce Department decided to institute tariffs on individual displays instead of on one like product. This meant that Active Matrix LCDs received a 63% duty and ELs received a 7% duty. Plasma and passive matrix LCDs did
not receive an instituted levy due to the lack of domestic producers. Planar Systems also noted that the exclusion of the passive matrix levy allowed for a large amount of non-levied displays to be imported at a time to computer manufacturers. The levy certainly helped provide protection for the tiny American display industry against the large amounts of Active Matrix LCD imports.

A few months later on September 5, 1991, the International Trade Commission, who disagreed with Commerce, was supposed to make a final determination on Active Matrix LCDs and ELs. However, they decided to reject the Commerce perspective and analyze the flat panel display industry as a whole. On August, 16, 1991, the San Jose Mercury News reported the institution of the 63% and 7% levies. Some critics saw the tariffs as a victory for fair trade in the U.S., while others viewed the tariffs as a complete and total disaster. In their minds, this gave the computer companies an excuse to move operations abroad, and accelerating the economic decline of essential industries.


The 7% tariff imposed on EL displays was viewed with optimism at Planar. Planar saw the levy as a step in the right direction. However, Planar Systems was unhappy with the Commerce Department’s decision to separate the flat panel display technologies into four separate groups. Planar was a proponent of the concept that the flat panel displays were a like product, and thus deserved one universal tariff. A Planar executive used an interesting analogy to describe Commerce’s decision. He noted that it would be like separating a VCR with slow motion from a VCR that does not have it. The VCR’s are used for the same purpose, but have slightly different features. This is similar to what

63 Ibid., p. 1.
64 Ibid., p. 1.
65 Ibid., p. 1.
66 Ibid., p. 1.
67 Ibid., p. 1.
69 Ibid., p. 10D.
70 Interview with a Planar executive.
71 Ibid.
happened in this ruling. The flat panel displays were deemed as separate technologies, but in reality the four technologies competed against one another.72 Another example would be medical monitors, which have an LCD version and an EL version.73 The significance of this decision was that only two tariffs were applied to two separate technologies (Active Matrix LCDs and ELs) because these technologies were the only ones represented by the petitioners. Still, Planar was reasonably happy with the tariffs because they meant higher prices for its Japanese competitors.

The overall reaction of the industry reflected the attitude of Planar Systems. The ten small American manufactures viewed the ruling as a way of creating a level playing field. The tariffs meant a smaller gap between prices of American flat panel displays and Japanese flat panel displays.74 However, not everyone reacted as favorably as the American flat panel display manufacturers.

When the 63% tariffs on Active Matrix LCDs and the 7% tariffs on ELs were imposed, this meant higher costs for computer companies. Flat panel displays account for 30% of the cost of a laptop. Rory J. O’Connor of the San Jose Mercury News reported that after the tariffs were imposed, American computer companies were faced with a three-pronged dilemma which included: absorbing a substantial increase in costs; raising prices; or moving operations abroad to avoid the levies.75 O’Connor argues that in the extremely competitive market for laptop computers, the only logical choice would be for American computer manufacturers to move their operations abroad.76 This would avoid the tariff but result in the loss of American jobs. Computer companies argued that their reason for purchasing flat panel displays from Japanese manufacturers related not to price, but to lack of technology or manufacturing capacity. They disputed the notion that American manufacturers had the technological capability and other means necessary to meet their

72 Ibid.
73 Ibid.
74 Ibid.
76 Ibid., p. IF.
demands. Planar's evidence that disputes this claim includes the letter from Compaq that I mentioned earlier regarding Planar's superior technology and quality.\(^77\) Despite the debate on why American computer companies were threatening to move abroad, the threats to do so continued.

On November 2, 1991, the San Jose Mercury News reported that Apple Computer appealed to the U.S. Court of International Trade to overturn the duties.\(^78\) Reasons for the appeal centered around higher costs and lower sales.\(^79\) The newspaper also reported that Tandy Corp. was considering its own appeal.\(^80\)

International Business Machines Corporation (IBM) also entered the fray. On November 8, 1991, the San Jose Mercury News reported that IBM threatened to assemble more portable computers in Japan in order to avoid the 63% duty on Active Matrix LCDs.\(^81\) The Mercury News also noted that IBM's warning was also "...likely to heat up a dispute that has revealed how futile protectionism can be in the borderless world of high technology, which is dominated more and more by multinational corporate alliances."\(^82\) The San Jose Mercury News further noted that IBM along with Apple Computer, Tandy Corp., and Compaq filed complaints asking the Court of International Trade to reverse the tariff decision.\(^83\)

IBM was not the only company sparking controversy. Toshiba had moved its U.S.-based production of laptops with active-matrix screens back to Japan.\(^84\) NEC was another company that considered moving abroad.\(^85\)

\(^{77}\) Interview with a Planar executive.
\(^{79}\) Ibid., p. 12F.
\(^{80}\) Ibid., p. 12F.
\(^{82}\) Ibid., p. 9D.
\(^{83}\) Ibid., p. 9D.
\(^{84}\) Ibid., p. 9D.
\(^{85}\) Ibid., p. 9D.
It is evident that the rulings by the ITC and the Commerce Department created some feelings of satisfaction, but new problems had arisen. While the controversy had intensified during the time period following the rulings, questions regarding the conditions of Planar Systems and the flat panel display industry developed.

An Industry Revitalized

Planar’s condition after the imposition of the 7% EL tariff and the 63% Active Matrix-LCD tariff looked brighter, and in reality, it was. A Planar executive observed that although Planar did not and still does not produce active-matrix LCDs, the EL tariff was significant.\(^8^6\) The 7% tariff narrowed Sharp’s 15% pricing gap to 8%.\(^8^7\) This made Sharp’s price higher and Planar’s prices more competitive. The executive noted that Planar was able to attract more clients with attributes such as response time, customer satisfaction, and higher technological quality.\(^8^8\) A specific example used by the executive relates to supporting customers.\(^8^9\) Planar upgrades their models of EL displays, but unlike their Japanese competitors (mainly Sharp), they do not force the customer to upgrade.\(^9^0\) If the customer wants a brand of EL that was technologically advanced five years ago but obsolete in today’s world, Planar will manufacture it no questions asked.\(^9^1\) Planar still faced lower prices from its competitors, but it beat the prices with service and product quality. They also found niches in other markets such as avionics, medical industry, transportation, and the defense industry. Planar sustained a loss in 1991, but in 1992, net income was at $2.203 million and in 1993 it was $6.038 million.\(^9^2\) With the help of the ITC ruling, Planar was growing and establishing itself as a solid competitor in a competitive market. However, what about the rest of the American flat panel display industry?

\(^{8^6}\) Interview with a Planar executive.
\(^{8^7}\) Ibid.
\(^{8^8}\) Ibid.
\(^{8^9}\) Ibid.
\(^{9^0}\) Ibid.
\(^{9^1}\) Ibid.
\(^{9^2}\) Planar annual report, p. 1.
A Planar executive noted that from 1991 to 1993, Planar was the only American flat panel display manufacturer making a profit. Still, significant steps had been taken to move the struggling flat panel display industry in the right direction. On November 17, 1992, the San Jose Mercury News reported that more than a dozen U.S. companies, headlined by AT&T and Xerox Corp., had planned to propose a partnership with the Defense Department’s Defense Advanced Research Projects Agency (DARPA). The purpose of this partnership was to enhance American competitiveness in hopes of gaining an edge in producing flat panel displays.

In another San Jose Mercury News article, the Microelectronics and Computer Technology Corp. (MCC) disclosed a five-year, nine-member consortium to develop flat panel displays that are different from the ones envisioned by DARPA. The MCC project would help develop flat displays (an industry speculated to be worth $40 billion by the next decade) for computers, military, and home markets.

A third significant event within the flat panel display industry concerned a discovery by the Xerox Corporation of a new display technology. The screen, as described in the May 20, 1993 edition of the San Jose Mercury News:

... provides liquid-crystal images that are nearly twice as detailed as any flat-panel display yet produced and 20 times as sharp as the typical monochrome desktop computer screen. Because they integrate computer chips into the glass of the screen, they have applications not only in laptop computers, but also in high-definition televisions, aircraft, games, and medicine.

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93 Interview with a Planar executive.
94 U. S. to return to advanced displays. Several firms plan to propose a partnership with the defense department. (1992, November 17). San Jose Mercury News, p. 1D.
95 Ibid., p. 1D.
97 Ibid., p. Id.
99 Ibid., p. 1A.
The San Jose Mercury News also reported that Xerox, AT&T, and Standish Industries were seeking federal subsidies to build a $300 million center to manufacture them commercially. This discovery sparked optimism among people within the display industry and the federal government that U.S. competitiveness could be restored.

Perhaps the most significant event that may have taken place from 1991-1993 was the recognition of the American display industry's prominent role in the present and the future. Roland Haitz, a research and development manager at Hewlett-Packard Co., addressed this issue when he said, "It's one of the most important issues facing the U.S. computer industry."

The time period of 1991-1993 saw a growing concern among American firms regarding dependency on foreign competitors. More importantly, measures were taken to change this present dependency.

**Revocation**

In late 1992, Guardian Glass, a manufacturer of various types of screens and windshields purchased OIS. A Planar executive explained that Guardian Glass had market share in Japan. Although it is difficult to research and prove, this acquisition implies that OIS could have been purchased for other reasons than for an expansion of business operations. On December 11, 1992, OIS sent a letter to the Commerce Department. In the letter, OIS conveyed to Commerce that it was no longer interested in the Active Matrix LCD tariff and asked for a revocation. This is where the significance of Commerce's ruling on the four separate technologies came to the forefront. Since OIS was the only American producer of Active Matrix LCDs, the 63% tariff in theory could be dropped. In defense of the revocation, proponents argued that since no American

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100 Ibid., p. 1A.
101 Ibid., p. 1A.
102 Gomes, L. (1992, December 7). Computer's screen may gain star status. Flat panels used in laptops are rapidly taking on a position of central technological importance. San Jose Mercury News, p. IE.
103 Ibid.
104 Chronology of dumping case, p. 1.
105 Ibid.
106 Ibid.
manufacturers produced Active Matrix LCDs, why have a tariff? If all flat panel display technologies were considered to be one like product, this would not have been an issue since domestic producers manufactured other types of displays. Nevertheless, American display manufacturers were faced with a new obstacle. Now it would be much more difficult for domestic producers to maintain the tariff.

On December 31, 1992, the San Jose Mercury News reported that the U.S. Court of International Trade required the ITC to reassess the case. The court claimed that by viewing the flat panel display industry as a whole, the ITC misread the law. Instead, the court felt that the ITC should have classified the EL and Active Matrix LCDs as separate technologies.

About two-and-half months later, on March 8, 1993, the ITC made a new determination. The court ruled that the Active Matrix LCD "industry" was injured and that the EL "industry" was unharmed. This ruling resulted in no immediate revocation of EL duties since the ITC's decision was subject to appeal from a higher court. However, the issue involving Active Matrix LCDs was still unresolved.

On June 23, 1993, the San Jose Mercury News reported that the Commerce Department had revoked the Active Matrix LCD tariff. The computer companies viewed the action as a victory, while domestic display manufacturers, including Planar Systems, viewed the ruling in other terms. The American display manufactures felt that Commerce was bowing to pressure exerted by the computer companies. Companies such as Apple Computer Inc., IBM Corp., and Compaq Computer Corp. had been lobbying strenuously for the revocation due to higher costs and lost sales. In other words,

109 Computer makers win round in fight over screens, p. 1E.
110 Chronology of dumping case, p. 1.
111 Ibid.
112 Ibid.
114 Interview with a Planar executive.
115 Ibid.
the cost of producing computers as well as the sale price had increased. The revocation resulted in both positive and negative sentiment, and marked the beginning of a new era in the flat panel display industry.

**Post-1993: An Industry Under Siege**

Since the revocation of the 63% tariff on Active Matrix LCDs, the flat panel display industry as a whole has not fared very well. In fact, Planar Systems and 3-5 Systems, a display manufacturer located in Arizona, were the only companies actually earning a profit since the tariff’s revocation.\(^{116}\) During this time period, a new competitor had entered the flat panel display market. South Korea began manufacturing flat panel displays, but more significantly, they were dumping flat panel displays.\(^{117}\) Due to this dumping, South Korean manufacturers began to secure market share in hopes of controlling 20% of the market by 1998.\(^{118}\)

However, despite these setbacks, the American government allocated more resources with the intention of creating an efficient and competitive flat panel display industry. For example, on July 22, 1993 the Defense Department’s Advanced Research Projects Agency (DARPA) announced a $20 million grant to aid a consortium of ten U.S. companies in the research and development of flat panel displays.\(^{119}\) At this time, AT&T was negotiating a major flat-panel joint venture, possibly with the electronics firm Matsushita, in hopes of building displays in America.\(^{120}\)

Most significant was action taken by the U.S. government. On April 27, 1994, an article in the *San Jose Mercury News* reported that the White House approved a proposal to allow expenditures of up to $1 billion in an effort to assist American display manufacturers in competing with their Japanese counterparts.\(^{121}\) The report also indicated

\(^{116}\) Ibid.

\(^{117}\) Ibid.

\(^{118}\) Gomes, L. (1993, July 22). Signs of life in U. S. flat panel industry. AT&T considers a major U. S. facility; the government will give firms research grants. *San Jose Mercury News*, p. 1E.

\(^{119}\) Ibid., p. 1E.


\(^{121}\) Ibid., p. 1A.
that the Clinton Administration supported the proposal since it reflected the idea of moving away from foreign dependency on key strategic components.\textsuperscript{122} The next day, the \textit{San Jose Mercury News} reported that the Clinton Administration had released a report which concluded that flat panel displays are a pivotal technology and as a result, the U.S. government should increase its efforts to help ensure its domestic development.\textsuperscript{123} Finally, on April 29, 1994, the \textit{San Jose Mercury News} announced that the Clinton Administration had promised approximately $300 million over the next five years to create a domestic flat panel display industry.\textsuperscript{124} This initiative contained four main components which were: 

1. Support flat panel display research and development; 
2. Build national expertise in high volume process technology; 
3. Encourage U.S. industry investment in flat panel display production through focused R\&D incentives; 
4. Foster market development.

This initiative made U.S. flat panel displays more competitive in terms of price. This gave the industry a needed boost, but more importantly to this study, how did it affect Planar Systems?

The Condition of Planar Systems

Planar Systems economic condition continued to improve after the revocation of the Active Matrix LCD tariff. Planar’s net income data for 1993-1995 was $6.038 million, $7.462 million, and $10.537 million respectively.\textsuperscript{126} Planar was able to obtain profits every year during this period by developing flat panel displays for markets where Japanese displays were non-existent.\textsuperscript{127}

Planar Systems approached the Clinton Administration’s flat panel display initiative with optimism, and outlined four direct benefits that they would receive from the

\textsuperscript{123} Gomes, L. (1994, April 29). White House promises another $300 million for flat panels. \textit{San Jose Mercury News}, p. 1E.
\textsuperscript{124} National flat panel display initiative. (1994, April 29). Department of Defense briefing. In possession of author. Received from Planar Systems.
\textsuperscript{125} Planar annual report, p.1.
\textsuperscript{126} Interview with a Planar executive.
\textsuperscript{127} National flat panel display initiative.
government's project. The first two benefits perceived by Planar were that the initiative recognized the growing importance of flat panel displays and that it would provide R&D funding for the future. The third benefit was that the initiative opened the way for a "possible EL 'manufacturing test bed.'" The final benefit focused on market development with emphasis on access to government procurements, export promotion, and reduced tariffs. Planar seemed to embrace the government's "helping hand" and was growing in the process. Still, some issues remained unsettled.

New Issues

The most significant issue that has occurred from 1993 to the present is continued dumping by Japanese flat panel displays and the addition of South Korean dumping. For instance, Hosiden, a Japanese display manufacturer for Apple Computer, will lose $100 million this year due to dumping. As for the dumping in the Active Matrix LCD industry, there seems to be no end in sight. In order for a tariff to be re-imposed, Planar or another American display manufacturer would have to manufacture Active Matrix LCDs. This is a costly and detrimental option. There had been a proposal within Planar Systems to invest $20 million toward producing Active Matrix LCDs, but the proposal was rejected due to the huge financial loss that would result.

In addition to Active Matrix LCDs, another important concern focused on the 7% EL tariff. On August 12, 1994, the Court of International Trade required the Commerce Department to "revoke the EL dumping order, stop administrative review, and refund cash deposits posted by Sharp." Almost two years later, on June 2, 1996, the Court of Appeals for the Federal Circuit overturned the Court of International Trade's rejection of

128 Ibid.
129 Ibid.
130 Ibid.
131 Interview with a Planar executive.
132 Ibid.
133 Ibid.
134 Ibid.
135 Chronology of dumping case. (1996, October).
136 Ibid.
the ITC ruling. This ruling was appealed, but in August of 1996, the Commerce Department reinstated the 7% EL tariff. This in turn required cash deposits for imports of EL displays from Japan and administrative reviews of past imports.

Planar Systems has been able to survive and grow in a dynamic industry characterized by intense competition and questionable pricing practices. However, the rest of the American display manufacturers still remain. How effective was the legal action that was taken? What else needs to happen? For a first hand view on these issues and others in the flat panel display industry, I was able to interview an executive from Planar Systems. The next chapter contains some of their comments from the interviews. In addition to these interviews, my final analysis on dumping, anti-dumping legislation, and the Planar Case will be included.

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137 Ibid.
138 Ibid.
139 Ibid.
Chapter 5: A First-Hand View from Planar Systems and Final Analysis
Planar Systems sustained a net loss of $415,000 in 1991. The duties were imposed in the middle of 1991, and by 1992, Planar Systems was earning a profit. Although this cannot be entirely attributed to anti-dumping litigation and the ruling which resulted from it, the duty did play a substantial role. Planar Systems not only survived, but grew financially. While dumping prevented American companies such as AT&T and Motorola from entering the flat panel display industry, Planar was able to establish itself as a chief competitor.

How did this happen? The main reason for Planar’s success can be attributed to its ability to develop a niche in other markets. Planar Systems currently develops displays for equipment in industries such as transportation, medical, industrial, defense, communications, and avionics. Planar Systems will not mass produce displays for consumer electronics or computers because the company is unable to compete with the lower Japanese prices.

As I mentioned at the end of chapter 2, tariffs and the protection of strategic industries are two results of anti-dumping legislation that can in turn, be used to evaluate its effectiveness. The 7% EL tariff has alleviated some of the damage for Planar Systems but continued dumping has still constricted Planar’s ability to expand. Planar Systems has managed to survive, but the American flat panel display industry is still fragile and small in comparison to its Japanese competitors. Planar Systems is moving in the right direction, but questions still remain. An account from a Planar official revealed an insider’s perspective on the significance of dumping in the flat panel display industry, the Planar case, and the challenges Planar Systems it will most likely face in the future.

**Assessing the Litigation: The View from Planar**

On October 19, 1996, I had the opportunity to interview a Planar executive. In my interview, one important topic that was discussed in-depth was the relevance of the

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2 Interview with a Planar executive (1996, October 19).
3 Ibid.
4 Ibid.
dumping issue in today's flat panel display industry. The executive noted that Planar Systems rejected a proposed $20 million investment to build color EL screens, due to continuing unfair pricing.\(^5\) If dumping were not still an issue, Planar Systems would currently be producing the color EL screens.\(^6\) Based on all of my research, it is my assessment that dumping is an ongoing problem in the flat panel display industry. If United States display manufacturers expect their displays to compete in the markets for computers, consumer electronics, and High Definition Television, then the U.S. government must find a solution to the dumping problem. I believe the best way to resolve the issue is continued government subsidization of the flat panel display industry. Litigation is a costly and time consuming process, and dumping still occurs during this time period. In addition to this, it is very difficult to prove that dumping is actually occurring and even more difficult to enforce the ITC's ruling. Since dumping is still an issue, it is in the best interest of the Clinton Administration to protect this strategic industry which is a vital component to ensuring American economic prosperity in the future. Litigation does work, but subsidization seems to have more of an immediate effect.

The Planar case took roughly a year alone, and the EL appeals ended this past August. The case was long, expensive, and tiring. Were Planar's actions worth all the time, effort, and money? The executive thought so. If Planar would have allowed the status quo to exist, then they would most likely be out of business and the industry would not be receiving $300 million worth of aid from the U.S. government.\(^7\) It is my evaluation that Planar's efforts were costly, but they do set the stage for a possible solution to this problem in the future. Planar's efforts helped illustrate the importance of this critical industry. The Clinton Administration is subsidizing the industry, however, some problems still remain. Republicans in Congress want to reduce the amount of money that is to be allocated to the industry. Another problem is that Planar's prices are still 8%

\(^5\) Interview with a Planar executive.
\(^6\) Ibid.
\(^7\) Ibid.
higher than its chief competitor, Sharp Electronics and dumping is still occurring without resistance in the other three display industries. So Planar Systems and other American display manufacturers still have a lot of work ahead of them, but they are moving in the right direction.

However, if Planar had the chance to do it over, the executive recognized two specific situations that would have been handled differently. First, all of the types of display technologies would have been represented by the petitioners. During the actual case, the petitioning companies only produced Active Matrix LCDs and ELs. As a result, tariffs were only applied to those two technologies due to Commerce's decision to separate the industries. The other issue that would have been handled differently involves the OIS incident. If the petitioning companies would have committed for the long haul, the revocation of the 63% Active Matrix LCD tariff would not have occurred. I believe that the whole outcome of the case would have been a lot different if all four of the technologies were represented. I read through all of the testimony given at the preliminary and final hearings, and I was not convinced that there was significant evidence to justify that the four types of display technologies should have been classified into four separate industries. It would be like separating a VCR with slow motion and a VCR without slow motion into two separate industries. They are still VCRs that contain slightly different features, but still perform the basic functions that give them the VCR distinction. I also believe that the OIS incident was detrimental to Planar's efforts. I cannot prove this, but it is my personal theory that there were some political as well as economical motives behind the Guardian Glass takeover of OIS.

Another issue discussed in the interview pertained to the significance of Planar's dumping case. The executive expressed the view that this case serves as a paradigm for
dumping issues relating to critical components.\textsuperscript{12} However, the executive also noted that most recent dumping cases, including Kodak versus Fuji film, are not as complex and complicated as the Planar case.\textsuperscript{13} As a result, the Planar case may not be the best reference for these cases, but it is recognized by most executives as a crucial case within the electronics industry.\textsuperscript{14} In fact, the executive acknowledges that the case is considered to be almost or equally important as the semiconductor dumping case of the 1980s.\textsuperscript{15} In all of the literature I reviewed, this case was never mentioned. However, High Definition Televisions are speculated to replace present-day television sets. This case is especially significant if this notion becomes a reality. The Japanese display manufacturers that control a little over 90\% of the U.S. market for flat panel displays could have a stronghold on the market for HDTVs if American companies still cannot compete due to unfair pricing practices. I still believe that Planar’s case, regardless of the events that take place in the future is very significant because it involves an industry that is crucial to the U.S. economy.

In terms of the strategic significance of the Planar case, the issue of U.S. reliance on Japanese imports was discussed. The executive referred to two relevant perspectives that relate to this issue. The first pertains to American defense. If America is too reliant on Japanese imports that are vital components for weapons and aircraft used within the defense industry, then the Japanese companies have the ability to manipulate prices or withhold the technology.\textsuperscript{16} Another interesting perspective was referred to as the economic war perspective.\textsuperscript{17} If American companies are too dependent on Japan for imports, then Japanese companies can dictate what American companies receive.\textsuperscript{18} For example, if American computer companies such as IBM, Compaq, or Apple, are

\textsuperscript{12} Ibid.  
\textsuperscript{13} Ibid.  
\textsuperscript{14} Ibid.  
\textsuperscript{15} Ibid.  
\textsuperscript{16} Ibid.  
\textsuperscript{17} Ibid.  
\textsuperscript{18} Ibid.
dependent on Japanese companies for critical components, then Japanese companies such as Hosiden have the capability to allocate a lower grade of technology and withhold the most advanced developments.\textsuperscript{19} It is my belief that these two perspectives are relevant grounds for subsidizing the flat panel display industry. If American companies are too reliant on Japanese companies, or companies from any foreign country, for critical components, then American companies could be subject to obsolete components and American consumers could be subject to monopolistic pricing.

A final perspective I learned from the interview is whether or not dumping really has an effect in a dynamic industry such as flat panel displays. If a technology was developed that rendered flat panel displays obsolete, then dumping would appear to serve little or no purpose. The Planar executive noted that it takes 7 to 10 years to fully develop a technological breakthrough.\textsuperscript{20} As a result, the industry knows what to expect. However, one technological breakthrough that could be the wave of the future is the headmounted display.\textsuperscript{21} The display is about the size of a dime and contains the same resolution, contrast, and other capabilities as a normal-sized display.\textsuperscript{22} It is my assessment that dumping has a significant effect on the flat panel display industry. The industry is dynamic, but for the most part, enough lag time exists to ensure that companies can dump effectively, and switch to a more advanced technology. However, there is the potential for new technologies to be discovered monthly. As a result, there is a chance for the development of new technologies that can make dumping ineffective.

**Conclusion**

This research paper investigated product dumping, its significance in the electronics industry, and its overall influence on U.S.-Japanese trade relations. Based on my research, I believe anti-dumping legislation at times can be an effective mechanism that can halt or

\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid.
\textsuperscript{22} Ibid.
lessen the practice of dumping and its effects. However, anti-dumping legislation's strength is often hindered by lobbying, difficulty in identifying injury, vested interests in the status quo, and/or insufficient timing. Anti-Dumping legislation can create a level playing field with the imposition of tariffs, but other problems can arise. For instance, tariffs result in higher prices. As a result, the domestic companies that utilize the good for production purposes see their costs increase. As I illustrated in chapter four with the example of the computer industry, companies will go to great lengths to avoid duties. Sometimes it may mean an appeal to a higher court or a company may move its operations abroad to avoid the duties.

Based on my analysis of economic perspectives, anti-dumping litigation, and the Planar case, I discovered that I am in favor of the theories associated with the theory of free trade. However, the reality of the global economy has me an advocate of the strategic trade perspective. I believe that the protection of key American industries is vital to securing America's position as a global superpower. The methodology that should be used to protect America's critical industries like the flat panel display industry is government subsidization. Government subsidization does not prompt the extreme retaliatory measures that tariffs like Smoot-Hawley can sometimes produce. The Clinton Administration's $300 million contribution will assist American display manufacturers in developing the needed capital, production facilities, and efficient labor that is needed to mass produce competitively priced flat panel displays. As I have mentioned throughout this paper, flat panel displays are used for laptop computers, military equipment, and High Definition Television. The importance of flat panel displays is immense. Government subsidization of this industry can help transform it from a struggling industry into a solid competitor with the ability to challenge the Japanese companies which currently control over 90% of the U.S. market. I prefer subsidization programs over anti-dumping litigation, but it was noted in the Planar Case that it sometimes takes the litigation process to illustrate a legitimate reason for government intervention.
For anti-dumping litigation to have utility, the negative implications must be more than offset by positive attributes. If the latter occurs, American jobs are lost. One positive attribute of anti-dumping litigation is that it can create some pricing stability. As noted in this case, such litigation may also convey the importance of a particular industry to the government and the public resulting in other means for overcoming unfair competition. If a company's only other option is to sit back and allow for the continuation of the status quo, then anti-dumping legislation is a desirable option. My assessment of anti-dumping litigation is mixed. I think it is costly and time consuming. It is difficult to prove that dumping is actually occurring. Politics can influence the decision of Commerce and the International Trade Commission and the ruling does not guarantee that future dumping will not occur. However, I think anti-dumping litigation is necessary because it involves the process of proving that goods are actually being sold below cost. If dumping is proved in the courts, then it serves as a more convincing reason for the government to subsidize an industry. Nevertheless, based on this case study it would be unfair to generalize that anti-dumping litigation is a necessary step in illustrating the importance of an industry to the government.

This case helped convey the importance of the flat panel display industry, but it also demonstrated some of the negative side effects that anti-dumping litigation can create. One side effect in particular that I am referring to is the reaction of the computer industry when the 63% and 7% tariffs were imposed. I would have never expected to see American companies like Compaq or IBM threaten to move their operations abroad to avoid the duties on flat panel displays. Another side effect is the cost and time that is involved in the litigation process. The case took over a year and the cost of litigation was in the millions. All of this time and effort in some respects helped Planar, but dumping is still occurring in ELs and the other three display industries. Perhaps this case also provided us with a little information on the political influence that changed the entire outcome of the case. It is almost impossible to prove that politics was the sole cause of the Department of
Commerce's decision to separate the four display technologies into separate industries, but it may have been a factor. My opinion is that the Japan lobby and the computer industry lobby had a great affect on Commerce's decision. This may help explain why the Department of Commerce reversed its like product decision and separated the four display technologies into four separate industries.

This case did not solve the problem of dumping within the flat panel display industry, but it conveyed the significance of this issue to the United States government and the country of Japan. The Clinton Administration's $300 million subsidization of the industry is significant. This is especially important if the U.S. flat panel display industry expects to compete with Japanese display manufacturers when High Definition Television begins to replace present day television sets. I also believe that the U.S. government's subsidization of the flat panel display industry may help American companies become less dependent on Japanese companies for this critical component. I think this subsidization may eventually create an opportunity for American display manufacturers to compete in all four display industries.

Because dumping is still an important issue within the flat panel display industry and in the global marketplace, there are questions that will need to be examined in the future. For instance, how will dumping affect the flat panel display industry in the future? Will government's "helping hand" be needed to sustain the industry? Will the subsidization of the industry allow for the development of competitive American firms in each of the four separate flat panel display industries? Also of interest for further study is, how significant a role did political influence play in this case? Was it solely responsible for the Commerce Department's decision to separate the four flat panel display industries into four separate technologies? Another pertinent question relates to the future of Planar Systems. Will Planar Systems continue to compete efficiently in the EL market and eventually create a niche in the Active Matrix LCD market? These questions have not yet been answered, but it will be interesting to see what the future holds.
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