Module 4. Safeguards, Countervailing Measures, Dumping and Anti-dumping, and Competition Policy under a Multilateral Framework

ECN 330

Analyzing Economic Integration and Multilateral Trade Liberalization

Glossary of abbreviations

- **AD** – anti-dumping duties
- **AMS** – aggregate measure of support
- **ΔCS** – change in consumer surplus
- **CSE** – consumer subsidy equivalent
- **CVD** – countervailing duty
- **CVM** – countervailing measures
- **DS** – domestic support
- **DSM** – dispute settlement mechanism
- **ΔD** – change in demand
- **DWL** – dead-weight loss
- **ED** – excess demand, import demand
- **ΔED** – change in excess demand
- **Eqlbm** – equilibrium
- **MA** – market access
- **MFN** – most favored nation
- **P** - price
- **P_D** – domestic price
- **P_W** – world price
- **PS** – producer surplus
- **ΔPS** – change in producer surplus
- **PSE** – producer subsidy equivalent
- **Q** - quantity
- **Q_D** – quantity demanded
- **Q_M** – quantity imported
- **Q_S** – quantity supplied
- **Q_T** – quantity traded
- **Q_X** – quantity exported
- **R+D** – research and development
- **SGs** – safeguards
- **SSGs** – special safeguards
- **VER** – voluntary export restraint

1. Safeguards and Special Safeguard Measures

	Goods	Services	Intellectual property	Trade disputes
Basic principles	GATT	GATS	TRIPS	DSM
Additional details	Agreements and Annexes			
Specific sectors or issues	Subsidies and countervailing measures; Safeguards	Telecom Financial Transportation		
Market access commitments	Schedule of Commitments			
Country-specific requirements	Limitations on market access, national treatment	Limitations on market access, national treatment		

Safeguards and Special Safeguards . . . continued

Motivate: sensitivities and settlement of trade disputes (SGs, CVMs and AD)

1.1 Safeguard mechanisms (SGs): industrial goods

- Definition and application
  - Emergency situations
  - Serious injury to domestic industry, actual or threat of
  - Requires compensation
- Prohibition of "grey area" measures (VERs, OMAs)
  - Voluntary export restraints
  - Orderly marketing agreements
  - Other bilateral measures/arrangements

Safeguards and Special Safeguards. . . continued

- Safeguards initiated and applied by member, 1995-2007

	DCs			EMEs			LDCs		
	Country	No. of SGs Init	No. of SGs App	Country	No. of SGs Init	No. of SGs App	Country	No. of SGs Init	No. of SGs App
Selected member	US	10	6	EU-12	31	19	India	15	8
	EU-15	4	3	Chile	11	7	Jordan	12	6
	Canada	3	0	Turkey	11	7	Phillip	7	5
	Australia	1	0	Argentin	6	3	Ecuador	7	3
	Japan	1	0	S. Korea	4	2	Venezue	6	0
Sub-total	5 members	19	9	16 members	67	41	18 members	72	29
Total	39 members *initiated* SG measures on 158 product lines and *applied* 79								

Source: WTO documentation

Safeguards and Special Safeguards. . . continued

- Safeguards applied by sector, 1995-2007

Safeguards applied	Number applied
Live animals and animal products	8
Vegetable products	7
Prepared food stuffs and beverages	11
Chemicals and products	17
Articles of stone, plaster, cement, ceramics	8
Base metals and articles	10
Machinery and mechanical appliances	5
Sub-total of these listed	66
Total of all SG measures applied	79

Safeguards and Special Safeguards. . . continued

1.2 Special safeguards: agriculture

- Definition and application
  - SSGs differ from safeguards in that:
    - Safeguards are triggered automatically
      - $[Q_M] > [Q_M]_{Target}$
      - $[P_D] < [P_D]_{Target}$
    - Serious injury not a necessary condition
  - SSGs applied only on products that were tariffied but not used with TRQs and where the right was negotiated
  - Current negotiations require agreement on the future of SSGs

Safeguards and Special Safeguards. . . continued

- Rights to apply SSGs by Member country type

	Developed		Emerging Mkts		Developing	
	Country	No.	Country	No.	Country	No.
Selected members	SW-Liech	961	Mexico	293	Morocco	374
	Norway	581	Czech Rep	236	S. Africa	166
	EU-15	539	Romania	175	Namibia	166
	Iceland	462	Poland	144	Swaziland	166
	US	189	Slovakia	114	Botswana	161
Sub-totals	9 members	3,017	12 members	1,389	19 members	1,750
Total	39 members reserved right to use SSGs on 6,156 lines					

Source: www.wto.org, *Agricultural Negotiations: Backgrounder*

Safeguards and Special Safeguards. . . continued

- Potential and Actual Application of SSGs, 1995-01

Member / Product category	Number of SSGs negotiated					Sum of P-based SSG actions				
	Pol	EU	US	Jpn	Total	Pol	EU	US	Jpn	Total
Cereals	15	76	15	41	1,089	7	-	15	7	39
Meat + prods	19	192	12	32	1,356	96	16	2	-	121
Dairy	6	110	73	29	728	-	10	131	5	146
Fruit + vegeta	38	45	3	6	831	4	-	8	4	21
Total, all prods	144	539	189	121	6,156	126	65	256	18	501
						Sum of Q-based SSG actions				
Dairy						1	-	-	28	29
Meat + prods						1	-	6	41	52
Fruit + vegeta						1	147	-	-	148
Total, all prods						6	147	6	86	256

Source: www.wto.org, background paper by Secretariat, G/AG/NG/S/9/Rev.1

Safeguards and Special Safeguards. . . continued

- Interpretation of the application of SSGs
  - US: SSGs triggered from P not quantity imported, accounting for 51% of all P-based SSG actions. Why?

    1. P signals are more real in US agriculture
    2. ↓ P_{US} affects farm income to greater extent because income support by government is fixed (green box)
    3. ↓ P_{US} requires more counter-cyclical payments (amber box)

  - EU-15: SSGs triggered more from quantity imported, accounting for 57% of all Q-based SSG actions. Why?

    1. P signals within the EU are less determined by the market
    2. $P_{EU} = P_D = P_T$ by policy design; if ↑ Q_{Import} → ↓ P_{EU} then Y-support payments (blue box) must ↑.
    3. Must restrict import competition to support P because an internal surplus exists; export subsidies serve same purpose

2. Countervailing Measures

2.1. Countervailing measures (CVMs)

Motivate: reason for CVMs

- Policy to counteract the effect of subsidy (X or Q)
- Objective: to ensure "fair competition"

2.2. Conditions for application of CVM

- Subsidized imports must cause *injury*
- Must demonstrate the existence of a subsidy
- Domestic industry must produce a *like* product

Countervailing Measures, continued . . .

2.3. Establishing injury or serious prejudice

- Injury test

  Balance the need for a legitimate subsidy by one country with interests of nations affected by the subsidy
- Injury
  - Requires an ↑ volume of imports benefited from a subsidy
  - Causes ↓ P_D; reflected in price undercutting of domestic firms
- Serious prejudice
  - Discrimination against local product or producers
  - Subsidy value is > 5% in *ad valorem* terms

Countervailing Measures, continued . . .

2.4. WTO Procedures

- Choice of a CVD investigation or dispute settlement
- Subsidies and CVD issues were clarified
  - Subsidy distinctions have good economic meaning
  - Non-specific subsidies are non-actionable, e.g. measures with
    - an economy-wide impact: education, infrastructure, basic R+D
    - a non-economic rationale: regional disparities, environmental protection

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Countervailing Measures, continued . . .

2.5. Welfare implications

- CVM must address a subsidy's externality (negative spillover effect)
  - Offset the injurious effect
  - Encourage foreign gov't to change its policy
- Not all subsidies are the same in terms of spillover
  - Positive spillovers can be welfare-improving
  - CVD on welfare-improving spillovers does not make economic sense

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Countervailing Measures, continued . . .

2.6. Effectiveness of a CVD

- Depends on the country's ability to influence prices
  - Small countries will not be able to do this
  - WTO allows small country to seek compensation
- CVDs are superior to AD
  - More targeted instrument
  - More likely to build a case of subsidy being "unfair competition" than finding evidence of dumping

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Countervailing Measures, continued . . .

2.7 CVMs Initiated and Applied, by Country,1995-2004

Exporter / Member	CVMs *initiated* against:					CVMs ***applied*** against:				
	Can	EC	SA	US	Total	Can	EC	SA	US	Total
Canada	-	0	0	8	8	-	0	0	3	3
EC-15	1	-	0	0	10	1	-	0	0	8
India	5	14	9	11	41	4	11	3	6	25
South Africa	0	1	-	2	6	0	0	-	2	4
US	2	0	0	-	3	0	0	0	-	1
Initiate against	CVMs initiated by					CVMs applied by				
Developing	10	23	11	26	78	5	14	4	13	52
Emerging mkts	2	17	0	18	43	2	6	0	11	21
Developed	4	2	0	26	55	1	2	0	21	35
Total	16	42	11	70	176	8	22	4	45	108

Source: www.wto.org Note: emerging mkts include EC-10 and middle-income Asia **US+EU: 62%**

Countervailing Measures, continued . . .

CVMs initiated and applied, by product, 1995-2004						
Product category	Total CVMs initiated, by category	CVM applied by:				
		Can	EC	SA	US	Total
Base metals + articles	71	7	7	2	32	56
Food/beverages/tobacco	23	1	0	0	2	12
Vegetable products	8	0	0	0	1	8
Plastics/rubber + articles	17	0	5	1	1	7
Totals	176	8	22	4	45	108

Base metals: 52%

Source: WTO, www.wto.org

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3. Dumping and Anti-dumping

Motivation: what is an "unfair trade practice"?

3.1. Definition of dumping

- ❶ Firm selling at below cost; or
- ❷ Firm selling in export market at a price lower than in home market (i.e., $P_W < P_D$)

What are our concerns with respect to a firm's behavior?

Price discrimination and/or predatory pricing

Does dumping suggest a firm is trading unfairly or does it reflect a normal business practice?

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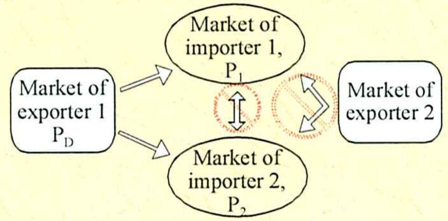
Dumping and Anti-Dumping, continued . . .

3.2 Dumping and "unfair" trade practices

- Price discrimination
  - Are there cases of price discrimination on the domestic mkt?
  - Is price discrimination by a foreigner different from a local?
  - How can international price discrimination occur?



Demand is separable; the market values time, space, and volume

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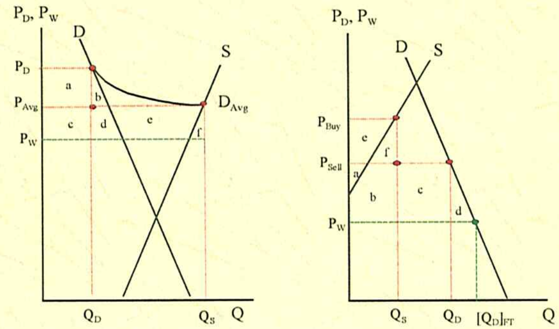
Dumping and Anti-Dumping, continued . . .

- P-discrimination: case of a state-trading enterprise

STE: monopoly exporter

STE: monopoly importer



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Dumping and Anti-dumping, continued . . .

- Predatory pricing: P < cost
  - What does P < MC mean?
  - What does P < AC mean?
  - Is such behavior "normal" business practice or "unfair" trade?

• Response to an unexpected change in a business cycle
- cheaper to sell at below cost than to store product
- sell now to avoid more mkting costs (inventory)
• Loss leader pricing strategy (e.g., cross-subsidization)

Both can be a response to competitive market conditions rather than a means of achieving long-run monopoly status while losing income in the short run.

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Dumping and Anti-dumping, continued . . .

3.3 Motivations for dumping

Type of dumping	Objectives of the exporting firm
Sporadic or random	No deliberate intention to dump
Price discrimination	Maximize profits given import demand differences
Cyclical	Cover at least variable costs and maintain capacity during periods of slack demand
Defensive	Minimize losses due to excess capacity or to deter entry by competitors
Scale economies	Price below cost initially with expectation of recouping investment outlays (fixed costs) over time as sales expand
Market-creating	To establish a new product as the market leader – revenue, not profit maximization
Head-on	To attack a dominant supplier in an export market
Predatory	To establish a monopoly on an export market

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Dumping and Anti-dumping, continued . . .

3.4. Establishing injury or threat of injury

- Injury determination based on
  - Volume of dumped imports
  - Effect on domestic prices and effect on producers of like products
- A *significant* increase in imports (in absolute terms or relative to production or consumption) is a necessary condition
  - "Significant" is not defined
  - Determined during dispute settlement process

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Dumping and Anti-dumping, continued . . .

- Illustrative list of injury indicators
  - Actual/potential ↓ in sales, profits, cash flow
  - Factors affecting P, Q, market share
  - Effect on L, wages or ability to raise K
  - Productivity, return on investment, utilization of capacity
  - Magnitude of the dumping margin
- Consideration of other factors causing injury
  - Q and P of imports not sold at dumped prices
  - ↓ D or Δ C patterns
  - Developments in technology
  - Trade restrictive practices of – and competition between – foreign and domestic producers
  - Export performance and productivity of domestic industry

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Dumping and Anti-dumping, continued . . .

3.5. Problems with the AD agreement

- Procedural problems
  - Injury determination may be manipulated by firms
  - Consumers and users not necessarily included in AD cases
  - Investigation authorities granted too much discretion
- Methodological problems/limitations
  - Overestimate dumping margins
  - Elements of AD are technical and complex
  - Reflect compromises during Tokyo and Uruguay Rounds

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Dumping and Anti-dumping, continued . . .

- Theoretical imprecision
  - AD is fundamentally flawed - panel investigations cannot fix the problem
  - Dumping is a normal business practice not "unfair" trade
  - "AD constitutes straightforward protectionism packaged to look like something different", Hoekman & Kostecki
  - By insinuating dumping is unfair implies AD is a fair and an appropriate step to correct a problem
- AD cases are often withdrawn in exchange for a deal
  - Exporters either ↓ exports and/or ↑ P
  - Same effect as a VER
    - Positive: settles a trade dispute
    - Negative: conditions of deal are not transparent; collusive arrangements

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Dumping and Anti-dumping, continued . . .

3.6 Dumping cases in the WTO

- Cases by US/EU against Japan
  - Japanese firms dump through cross-subsidization
    - High prices in Japan
    - Closed internal markets
    - Lax competition policy (mergers, collusion)
    - Consumers in home market finance dumping on US/EU market
  - AD cannot correct for market segmentation or MA restrictions in Japan
  - AD measures are a poor instrument to pressure an exporting country to enforce competition policy
- Case against the Canadian wheat board

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Dumping and Anti-Dumping, continued . . .

3.7 Application of AD measures

AD measure initiated by member, 1995-2004

Exporter / Importer	Number of AD actions ***initiated*** against:					
	Brazil	China	EC-15	India	US	Total
Argentina	34	40	1	5	10	193
Australia	2	20	0	4	7	174
Brazil	-	15	3	3	31	119
China	0	-	5	2	19	110
EC-15	3	56	-	27	9	318
India	7	81	36	-	22	412
S. Africa	6	0	0	20	8	191
US	9	0	0	18	-	358
Total	83	434	57	115	158	2,743

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Dumping and Anti-Dumping, continued . . .

AD measures applied by member, 1995-2005

Exporter / by Importer	China	EC-15	EC	India	Korea	Russia	US	Total
	Number of AD measures ***applied*** against:							
Argentina	33	0	13	2	9	2	5	139
Brazil	12	2	14	3	1	2	7	63
Canada	11	0	15	3	4	3	10	84
China	-	3	7	2	14	4	9	62
EC-15	33	-	-	16	11	12	3	200
India	63	26	25	-	23	13	14	309
S. Africa	14	0	33	10	14	2	5	113
US	50	0	32	10	11	8	-	229
Total 52% →	317	39	192	62	123	77	88	1,729

69%

Source: www.wto.org Note: EC-15 is measure against all 15; EC is measure against one EU-15 member

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AD Measures Applied by Member, by product, 1995-2005

Product category	Argent	China	EC-15	EC, 15	EC, 10	India	South Africa	US	Total
	No. of measures applied by importers, by product								
Chemical products	5	31	38	-	-	142	18	29	345
Plastics/rubber and articles	9	16	15	-	-	48	20	10	205
Textiles and articles	8	1	21	-	-	39	10	5	126
Base metals and articles	51	5	70	-	-	29	30	139	572
Machinery and appliances	28	3	27	-	-	22	5	7	131
Sub-totals 61% →	139	62	200	-	-	309	113	229	1,729
	No. measures applied against exporters, by product								
Chemical products	1	83	22	33	10	12	4	33	345
Plastics/rubber and articles	0	18	9	18	4	13	0	16	205
Textiles and articles	0	19	0	11	3	8	0	2	126
Base metals and articles	5	75	2	53	29	22	27	6	572
Sub-totals 46% →	10	317	39	192	59	59	34	88	1,729

80%

72%

Note: EC-15 is measure by/against all; EC, 15 and EC, 10 is measure against individual member

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Dumping and Anti-dumping, continued . . .

- Summary of the application of CVMs
  - CVMs used to a much lesser extent (108 of 178 applications)
  - High profile cases, but do not usually involve application of measure
  - Requires country to reform domestic regulations of policies
- Summary of the application of AD
  - AD used much more readily (1,729 of 2,743 applications)
  - Most measures applied against China (18%)
  - Many deals struck as VERs

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4. Competition Policy under a Multilateral System

4.1 Basic issues

- Gov't behavior through policy
- Gov't behavior through state-owned enterprises
- Firm behavior

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Competition Policy, continued . . .

4.2 Problems with measuring unfair trade

- What should competition authorities be concerned with?
  - **Price fixing**
  - **Use or abuse of market power**
- How can we measure this?
  - **Price behavior, pricing practices – statistical correlation**
  - **Concentration ratio**

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Competition Policy, continued . . .

- What are the shortcomings or limitations of these factors?
  - **Price and concentration ratio are not always correlated**
  - **Definition of the market is not always clear**
- How should state-trading enterprises be treated?
  - Privatization
  - Separation of domestic monopoly from trading activities
  - How do the basic principles apply in context of an STE?

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Competition Policy, continued . . .

4.3 Examples of the shortcomings

- Case 1. Problem with using concentration ratio as a predictor of price fixing or abuse of market power
  - **Coke and Pepsi account for 75% of the US market for soft drinks but they are fierce competitors on price and margins are low.**
- Case 2. Problem with defining the product mkt
  - **What precisely is the soft drink market (e.g., carbonated drinks, fruit juices, flavored water, etc.)? What is a *like* product?**

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Competition Policy, continued . . .

- Case 3. Problem with defining the geographical mkt
  - **BA and AA have long considered an alliance. Competition authorities have blocked formal financial ties because a combined entity would be too large. On which mkt? Transatlantic air travel or US-UK travel?**
- Case 4. National regs conflict with int'al competition
  - **An important issue in pricing is the segmentation of the industry; national laws prevent foreign ownership in national carriers (EU competition law changed this, but still applies in US). A partial "open skies agreement" was recently approved, but full open skies is some time away. So, air travel pricing is still inefficient and structure sub-optimal.**

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Competition Policy, continued . . .

- Case 5. Problem with using dumping or cross-subsidization to determine an unfair trade practice
  - **Bundling. Selling 2 or more goods/services as a package at one price. Difficult to establish the price of each component in the package.**
- Is cross-subsidization a problem in the first place?
  - **Does selling a computer at a loss to sell more software or future upgrades or maintenance services at a profit constitute unfair trade?**
  - **Does selling air travel ticket at below cost as a means of selling hotel rooms, tourist services and food service at a profit imply unfair trade?**

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Competition Policy, continued . . .

4.4 Different regulatory approaches

- US: focus on consumer protection
  - Will approve mergers of dominant firms that can make industry more efficient
  - Acceptance that price competition can be greater even with fewer players
  - Bundling is considered a standard business practice
- EU: focus on L-T firm dominance rather than S-T ↓ P
  - Concern is with L-T competition
  - Strict on mergers of customers and suppliers (vertical integration)
  - Cautious about L-T effects of bundling on price and market power

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Competition Policy, continued . . .

4.5 Competition policy in the WTO: issues to consider

- How would the basic principles be applied?
- Common competition rules across qualitatively different countries exposes inconsistencies between competition and MA
  - Competition in LDCs is inconsistent high MA protection
  - Competition is inconsistent with STEs or SOEs
- Common competition policy would result in national sovereignty issues and multilateral overreach
  - How would unfair competition and use of a subsidy by resolved?
  - How would unfair competition and dumping by resolved?
- If the two largest trading partners cannot agree on regulatory approach how is a multilateral arrangement and/or the DSM supposed to work?

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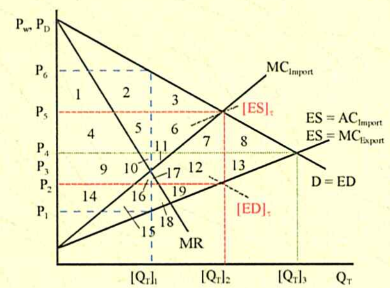
5. Imperfect Competition: Monopoly and STEs

5.1 Price discrimination and STEs already discussed

5.2 Inter-play between monopoly and trade policy

- Case of a large export monopoly and large importer



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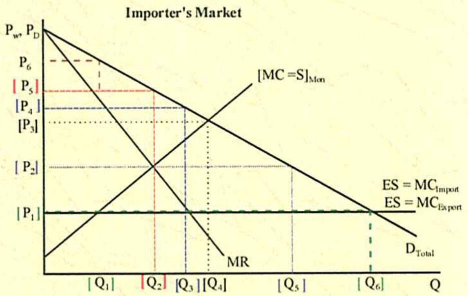
Imperfect Competition: Monopoly and STEs

- Tariffs under the case of a small importing country with a monopoly
  - Interpret meanings of different eqlbm at the different prices



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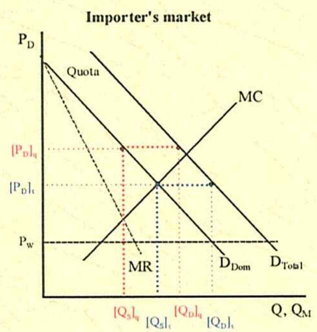
Imperfect Competition: Monopoly and STEs

5.3 Tariffs and quotas under monopoly: non-equivalence

- For some given level of imports, quota volume



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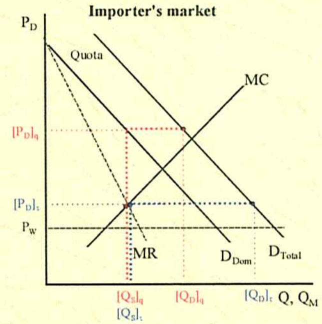
Imperfect Competition: Monopoly and STEs

- For some given level of production



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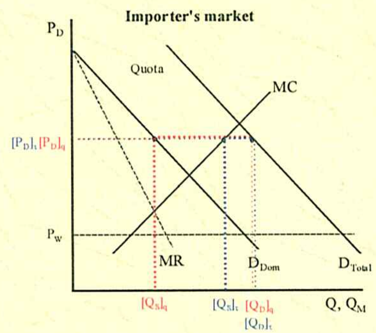
Imperfect Competition: Monopoly and STEs

- For some given price



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