

# WORLD TRADE ORGANIZATION

G/SCM/Q2/USA/30  
17 March 2004

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Committee on Subsidies and  
Countervailing Measures

Original: English

## SUBSIDIES

UNITED STATES responses to Questions  
Posed by Canada<sup>1</sup> and the European Communities<sup>2</sup>  
Regarding the New and Full Notification of the United States<sup>3</sup>

The following communication, dated 15 March 2004, is being circulated at the request of the Permanent Delegation of the United States.

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<sup>1</sup> G/SCM/Q2/USA/28.

<sup>2</sup> G/SCM/Q2/USA/29.

<sup>3</sup> G/SCM/N/95/USA.

Replies to Questions Posed by Canada<sup>1</sup>  
Regarding the New and Full Notification of the United States<sup>2</sup>

**Q1. Regarding the Fisheries Finance Programme (FFP) set out on pages 32 & 33, the "Trade effects" section states that "FFP has been barred by NOAA policy and Congressional directives from financing any project that could be construed to lead to overcapitalization of any fishery."**

**What are the criteria for "overcapitalization of any fishery" in the FFP context? If such criteria are specifically set out in NOAA policy and Congressional directives, please provide references to the location of such criteria within those instruments.**

Reply

There is no FFP regulation that provides a definition of either "overcapitalization" or "overcapacity". Generally, the National Marine Fishery Service has defined overcapitalization to be the same as overcapacity which can be expressed in terms of the level of output a firm can produce. Overcapacity is the difference between the level of output at maximum economic yield and the level of output that could be produced by the fish harvesting industry. The FFP amendment to which the question refers simply barred in all national fisheries, regardless of their capacity condition, loans that would result in increasing harvesting capacity.

**Q2. The covering page of the notification indicates that information with respect to federal domestic agricultural support programmes for 2000 through 2002 is not yet available. Canada notes that information on many of these programmes, as well as actual spending figures through to 2002, is available on the website of the US Department of Agriculture.**

**Could the United States indicate if the US Department of Agriculture information is relevant and whether it should be included in the WTO notification?**

Reply

The Domestic Support notifications for 2000 and 2001 will be made available to WTO members shortly. As we responded to Canada's question in the Trade Policy Review process, the United States is in the process of preparing DS:2 notification to the Committee on Agriculture for programs under the 2002 Farm Act for which exemption will be claimed and will submit these notifications as soon as possible. The United States remains committed to the notification process and will work to fulfil its WTO obligations.

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<sup>1</sup> G/SCM/Q2/USA/28.

<sup>2</sup> G/SCM/N/95/USA.

Replies to Questions Posed by the European Communities<sup>1</sup>  
Regarding the New and Full Notification of the United States<sup>2</sup>

## **Federal Programs**

### *Aerospace and Aeronautics*

**Q1.** The notification makes mention of only one aerospace program, the Spacecraft Technology Development Program, specifying a total of US\$19.4 million in funds, but no aeronautics program. It is the understanding of the European Communities that, for example in US Fiscal Year 2002, the US Government provided at least US\$806 million in aeronautics-related program funding through NASA, and at least US\$473 million in institutional support funding for aeronautics-related programs, for total NASA aeronautics funding of at least US\$1,279 million during that 12-month period. The notification, however, omits any mention of these financial expenditures, which are focused, primarily or exclusively, on civilian ventures. Please explain the reason for this omission and provide a list of all applicable NASA subsidies and their contents for each calendar year covered by the notification. For each of these subsidies, was full participation open to both US and non-US companies?

In last year's exercise, the US answered to a similar question that "the relevant administering authorities have been contacted to determine if additional information needs to be provided." No answer has been provided to date.

#### Reply

We are working with the appropriate authorities and expect to provide an answer in the coming weeks.

**Q2.** The notification omits any mention of financial expenditures by the US Department of Defence that provides benefit to commercial entities (e.g., US producers of civilian aircraft). Please explain the reason for this omission and provide a list of all applicable DoD subsidies and their contents. In particular, please identify and discuss subsidies granted under DoD's Research, Development, Testing & Evaluation (RDT&E) and Independent Research & Development (IR&D) programs.

In last year's exercise, the US answered to this question that: "The relevant administering authorities for these programmes have been contacted. An answer will be provided as soon as possible." To date, no answer has been received.

#### Reply

Appropriations under *Research, Development, Test, and Evaluation* of the Department of Defense's budget supported defense modernization through basic and applied research, fabrication of technology-demonstration devices, and development and testing of prototypes and full-scale preproduction hardware. This work is performed by contractors, government laboratories and facilities, universities and non-profit organizations. In fiscal year 2002, the budget included an initiative to emphasize four key areas: (1) Leap-ahead technologies for new weapons and intelligence systems; (2) Improvements to the laboratory and test range infrastructure; (3) Technologies aimed at

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<sup>1</sup> G/SCM/Q2/USA/29.

<sup>2</sup> G/SCM/N/95/USA.

reducing the costs of weapons and intelligence systems; and (4) Efforts that are focused on countering unconventional threats to the United States' national security. Funding was also included to conduct research, development and testing of missiles defenses. Given the nature and purpose of these expenses, and other Members' exclusion of similar expenses, the United States does not believe it was inappropriate for these expenses to be excluded from its notification.

**Q3. The US notification is described as a full subsidies notification for calendar year 2002. However, the notification omits any mention of tax-related subsidies provided to US firms. Please explain the reason for the omission of tax-related subsidies, including tax credits, export credits, and tax exemptions for investments or research, and provide a list of all such tax-related subsidies and their contents.**

Reply

Numerous tax programs were notified in our notification at both the federal and state level. A section is also included regarding the activities of the Export-Import Bank. We did not segregate these programs by product or sector because they are generally not granted to specific products or sectors (e.g., aerospace products).

*The Spacecraft Technology Development Programme:*

**Q4. Please indicate to what extent the program participants shared the full costs of the program, explain how assistance is provided to industry and how technology know-how transfer from NASA is taken into account?**

Reply

We are working with the appropriate authorities and expect to provide an answer in the coming weeks.

**Q5. Was participation open to both US and non-US companies?**

Reply

We are working with the appropriate authorities and expect to provide an answer in the coming weeks.

*Agriculture*

**Q6. Can the US please explain why the current notification does not mention all programs that are notified in the domestic support notification 1999, reviewed in the Committee on agriculture (e.g. crop insurance premium subsidies, water subsidies, grazing "non-fee", conservation and environmental payments)?**

Reply

All the programs listed are generally available or non-product specific programs.

**Q7. The EC note a very significant level of tax exemption linked to "capital gains treatment of certain agricultural income" (more than US\$1 billion; page 13-14). Could the US please inform how much of this amount was linked to the sale of unharvested crops sold together with farmland? Could the US also inform about the area concerned?**

Reply

The tax return data collected on asset sales, unfortunately, is not detailed enough to give a reliable estimate regarding the portion due to unharvested crops sold together with farmland. Also, please note that the provision is not limited to a particular geographic region of the United States.

**Q8. Export Enhancement Programed: How is the effect on non-subsidising exporters assessed? Does 'non-subsidising exporters' refer to countries, to US enterprises or to non-US enterprises? What safeguards are included to ensure that beneficiaries, in making a 'commercial sale' of the eligible commodity, do not under price below the world market price? If no disbursements were made in FY 2002, can it be concluded that the programed is now defunct?**

Reply

Under the Export Enhancement Program (EEP), the United States defines "non-subsidizing" exporters as countries. EEP helps products produced by US farmers meet competition from subsidizing countries, especially the European Union. Consistent with its export subsidy commitments under the Uruguay Round Agreement on Agriculture, the United States has established annual ceilings by commodity with respect to export quantities and budget outlays. We employed a rigorous review procedure to ensure that the export subsidies awarded on a daily basis did not undercut the prevailing world market price. To measure the impact on non-subsidizers, the United States annually reviews the import market shares for each targeted country prior to the activation. EEP was announced by USDA on May 15, 1985, and is operated under authority of the Agricultural Trade Act of 1978 as amended, the Uruguay Round Agreements Act, and the Federal Agriculture Improvement and Reform Act of 1996.

**Q9. Dairy Export Incentive Programed: How is the effect on non-subsidising exporters assessed? Does 'non-subsidising exporters' refer to countries, to US enterprises or to non-US enterprises? How is it ensured that export sales under the programed are in addition to and do not displace commercial export sales?**

Reply

Under the Dairy Export Incentive Program (DEIP) we define "non-subsidizing" exporters as countries. In the past, the United States targeted only countries where a significant share of the import market was covered by subsidized dairy products from the EU. The United States limited the volume available under the DEIP depending on the EU's subsidized market share and employed a rigorous review procedure to ensure that the export subsidies awarded on a daily basis did not undercut the prevailing world market price. To measure the impact on non-subsidizers, the United States annually reviewed the import market shares for each targeted country prior to the activation of a new DEIP. EU subsidies have traditionally held the NDM import market for Mexico and thus displacement of non-subsidizing exports is not an issue.

**Q10. Treatment of Loans Forgiven Solvent Farmers as if Insolvent: Does this provision also apply to loans forgiven by the public authorities, including the tax authorities? Does the measure not have the same effect as increasing the amount of any loan forgiveness? If not, please explain why not.**

Reply

This provision applies to debt cancelled by public authorities, including tax authorities. However, even if the debt is cancelled and no current tax is due, cancelled debt excluded from income

reduces favourable tax attributes, such as net operating losses carried forward from previous years and the cost basis of property.

**Q11. Energy Conservation Programmes, Transportation sector: What proportion of the appropriations were granted to vehicle manufacturers? Is there any requirement for the research results to be made available publicly or to other companies?**

Reply

To be supplied.

**Q12. The document with the US replies (G/SCM/Q2/27/USA) to the additional questions posed by the EC (G/SCM/Q2/USA/26) on the previous notifications by the US (G/SCM/N/48/USA G/SCM/N/60/USA G/SCM/N/71/USA) included on page 3 a table titled "SUMMARY OF FISHERY DISASTER ASSISTANCE – (updated June 2002)". This information was provided in reply to question 6 by the EC on the "Fisheries Disaster Relief" programmes.**

The EC notes that the total sum of the "Federal amounts" listed in the aforementioned table under these programmes is US\$113.2M. The EC also notes that this table was not included in the latest "New and Full Notification" by the US (doc. G/SCM/N/95/USA). Given the significant total amount of the above-mentioned transfers, could the US provide an updated version of this information, including new programmes if any?

Reply

No additional assistance has been provided.

**Q13. Could the US clarify whether these purchases have been included or not in previous notifications? If yes, could the US provide details about the notification?**

Reply

The Agricultural Marketing Service purchases a variety of food products in support of the National School Lunch Program and other Federal food assistance programs. Products are purchased through competitive bids or negotiated contracts.

**Q14. Empowerment Zones, etc: Please clarify if the employment tax credit is for 20 per cent of the first US\$15,000 of qualifying wages for *each* employee. Does this apply to all employees, only to new employees or only to net increases in employees? Please explain which sectors are excluded from the programme? Please specify whether any large enterprises like steel producers have benefited from this programme.**

Reply

The credit applies at a rate of 20 percent on the first US\$15,000 of qualifying wages paid annually to qualified zone employees. To be a qualified zone employee, the employee must perform substantially all of the services for the employer within an empowerment zone, and the employee must reside within an empowerment zone during the time of employment. The credit is not restricted to new employees or to the net increase in employees.

Employees of the following places of employment do not qualify for the credit: private or commercial golf courses, country clubs, massage parlours, hot tub facilities, suntan facilities,

racetracks or other facilities used for gambling, liquor stores, and farming businesses with owned or leased assets greater than US\$500,000.

A certain portion of the credit does flow to large businesses. For 2001, almost 30 percent of the wage credit generated by corporations and partnerships went to entities with total assets of at least US\$100 million.

## **STATE PROGRAMS**

### **Alabama**

#### *TRICO Steel Program*

**Q15. The last US notification mentioned tax incentives and other advantages totalling US\$35 million or higher for the TRICO Steel Company with 10 – 20 years duration. Can the US please explain if there were any subsidies made available to this company during the present notification period?**

#### Reply

No additional tax incentives were given in 2002.

### **Alaska**

#### *Commercial fishing revolving loan fund*

**Q16. What are the conditions of eligibility? Is there any check on the creditworthiness of the beneficiary? What is the size of the average loan given and what is the maximum loan amount?**

#### Reply

To be supplied.

### **Arkansas**

#### *Economic Development Act*

**Q17(a).For how long can the tax credit be used? Only in the year of the investment, over a number of years or indefinitely?**

#### Reply

The credit must be applied to the tax year in which it is earned. Any unused credit may be carried forward for nine (9) years or until exhausted, or until the expiration of the financial incentive agreement, whichever occurs first.

**Q17(b).Please clarify if the value of the credit is 50 to 100 per cent of the employer's state income tax liability, or of the total investment.**

Reply

The annual credit is based upon the total project investment; however, the amount of credit that may be claimed each year depends upon the average hourly wage of the new permanent employees as follows:

- If the average hourly wage of the new employees is between 125 percent and 149 percent of the lesser of the county or state average hourly wage, the company the credit is 50 percent of the company's state income tax liability.
- If the average hourly wage of the new employees is between 150 percent and 174 percent of the lesser of the county or state average hourly wage, the company the credit is 75 percent of the company's state income tax liability.
- If the average hourly wage of the new employees is 175 percent of the lesser of the county or state average hourly wage, the company the credit is 100 percent of the company's state income tax liability.
- If the average hourly wage of the new employees is less than 125 percent no credit is issued.

The tax credit of up to 100 percent is on the total amount of investment in the project.

**California**

*Enterprise Zones and LAMBRA zones*

**Q18. Is the hiring credit for all new employees or only for net increases in employees? Does the 15-year carryover of operating losses not have the same effect as a grant covering these losses at the time they are set against later profits? If not, please explain why not.**

Reply

The hiring credit applies for all new "qualified" employees.

Like any tax deduction, a loss carryover can offset taxable income, which would otherwise be taxed at a certain percentage. The benefit to the taxpayer would be the resulting tax savings, which will always be less than the amount of the carryover.

Also, please note that the NOL (net operating loss) is suspended through June of 2005 and that companies outside the zone are not entitled to claim credits or carry forward losses.

**California**

*Recycling Market development Zone Programme*

**Q19. What are the terms and conditions attached to the loans under this programme?**

Reply

The terms and conditions of the loans are as follows:



- Each eligible business or local government agency may borrow up to 75 percent of the cost of a project, for a maximum loan of US\$2 million.
- The term of the loan is not to exceed 10 years (15 years if secured by real estate) and amortization schedules are based on the average useful life of the asset being financed.
- Interest rates are fixed for the term of the loan, which are set by the Board semiannually, and below the market interest rate.

## **Colorado**

### *Enterprise Zones*

#### **Q20(a).Are there any limitations on sectors eligible for this programme?**

##### Reply

Qualified research must satisfy three criteria:

- It must be technological in nature.
- It must be useful in the development of a new or improved product or component of the business.
- It must utilize the process of experimentation.

#### **Q20(b).Is there any limit on the 3 per cent tax credit for R&D expenditures?**

##### Reply

The following types of expenses do not qualify: 1) land or improvement to land, 2) depreciable equipment, 3) management surveys, 4) costs incurred to adapt a product to a particular customer's needs, and 5) research funded by any government entity.

## **Connecticut**

### *Connecticut Growth Fund*

**Q21. On what basis does the authority determine working capital requirements? Given that the purpose is to make finance available to businesses unable to maintain conventional finance, is the program open to loss-making enterprises? On what terms are the loans given?**

##### Reply

To be supplied.

### *Electronic Data Processing etc*

**Q22. Please explain the reason for a sectoral programmed in this sector.**

Reply

To be supplied.

*Enterprise Zones*

**Q23(a). Are there sectoral limitations on this programed?**

Reply

This program is geared toward manufacturing and certain service sector businesses as well as research and development related to manufacturing and non-retail distributors of manufactured products. Eligible facilities include newly constructed facilities, older facilities idle for at least one year prior to being acquired through lease or purchase, and facilities that are substantially renovated or expanded. Eligible companies must be within an industry classified under standard industrial codes 2000-3999, which covers a very broad array of economic sectors.

**Q23(b). Is there any maximum level of benefit under the 50 per cent tax credit? What has been the total revenue forgone under this programed?**

Reply

To be supplied.

**Q23(c). Have any enterprises from the steel sector benefited?**

Reply

To be supplied.

*Manufacturing Assistance Act*

**Q24. What are the terms of the loans? Is there any maximum amount? Are any sectors excluded? Have enterprises in any of the following sectors benefited: steel?**

Reply

To be supplied.

*Manufacturing Credit*

**Q25. Are these credits additional to those available under other programmes?**

Reply

To be supplied.

**Florida**

*Capital Investment Tax Programme*

**Q26(a). This programed appears to give higher (indeed possibly total) tax exemption for large projects than for smaller ones. What is the justification for this?**

Reply

The program is intended to encourage very large projects in certain sectors that are anticipated to have a regional impact by building those industries and attracting other businesses to the region.

**Q26(b).How many large projects (i.e., over US\$100m) have benefited from this programme?**

Reply

Four projects with over US\$100 million invested have been approved since January 2000; however, not all have been in position to take advantage of the credit as of this date.

**Q26(c). For how long has the tax exemption been granted in these cases?**

Reply

It is a credit against the corporate tax liability arising out of the project for up to five percent of the value of the investment, every year for 20 years .

*High Impact Business Performance Incentive*

**Q27. What is the average level of grant under this programme?**

Reply

US\$5.9 million

*Qualified Target Industry Tax refund*

**Q28. Does "primary/fabricated metals" include the steel sector?**

Reply

This tax refund is available to all manufacturing facilities (in which metal manufacturing facilities are included); finance & insurance services; wholesale trade; information industries; professional, scientific & technical services; management services as well as administrative & support services.

*Semiconductor, Defence or Space Technology*

**Q29. Please specify the rate of sales tax which would otherwise apply were it not exempted under this programme.**

Reply

The sales tax rate varies by county, ranging from a minimum of six percent to as high as 7.5 per cent.

## **Georgia**

### *Head Quarters tax credit*

**Q30. Please explain the sentence: "The company must elect not to take the job or investment tax credit."**

#### Reply

A company which elects to take the Headquarters Tax Credit is not eligible to receive the job tax credit or the investment tax credit.

### *Sales tax exemption*

**Q31. Please specify the rate of sales tax which would otherwise apply were it not exempted under this programmed.**

#### Reply

The state wide sales tax is four percent. This applies to purchases (other than real estate) delivered or stored in Georgia to be used or consumed in the business (not for resale).

Communities have the option of imposing a one, two, or three percent additional sales tax for funding special purposes/special projects called SPLOST (Special Purpose Local Option Sales Tax). For example, to provide for rapid transit in metro Atlanta, one percent has been added to the sales tax in Fulton and DeKalb counties.

## **Idaho**

### *Sales Tax Production Exemption*

**Q32. Please specify the rate of sales and use taxes which would otherwise apply were it not exempted under this programme.**

#### Reply

The rate of sales and use taxes which would otherwise apply were it not exempted under this program is six percent.

## **Indiana**

### *DeKalb and Spencer Counties*

**Q33. Please explain the justification for subsidies of US\$160m for the creation of new steel-making capacity.**

#### Reply

These state programs were enacted prior to the steel crisis that began in late 1998 and early 1999 as a result of the Asian financial crisis. It would be speculative to conclude that these subsidies resulted in any net increase in steelmaking capacity in the United States. However, as the EU is aware, the United States strongly supports strengthening multilateral disciplines on subsidies that increase or sustain excess, inefficient steelmaking capacity.

**Iowa**

*Ipsco*

**Q34. Please explain the justification for subsidies of US\$73m for the creation of new steel-making capacity**

Reply

The state program was enacted prior to the steel crisis that began in late 1998 and early 1999 as a result of the Asian financial crisis. It would be speculative to conclude that these subsidies resulted in any net increase in steelmaking capacity in the United States. However, as the EU is aware, the United States strongly supports strengthening multilateral disciplines on subsidies that increase or sustain excess, inefficient steelmaking capacity.

**Kentucky**

*KIDA/KREDA*

**Q35. Is there any limit on the size of enterprise or project that can benefit under these programmes? What are the largest projects to benefit to date?**

Reply

Both KIDA and KREDA have limitations as to the minimum size of a project. To qualify for these incentives, a project must create at least 15 new jobs and have a minimum investment of US\$100,000. An automobile company made the largest investment and a food company created the largest number of jobs.

**Michigan**

*Job creation tax credits*

**Q36. Please specify the number and size of projects that have benefited under this programmed, and the sectors involved.**

Reply

Since the inception of the program in April 1995, the Michigan Economic Growth Authority has provided job creation tax credits to 190 companies. The projects have ranged in size from under US\$1 million to US\$1 billion. Jobs created or retained as a result of the credit range from 25 to 3300. The investment and job creation/retention numbers are those from the application materials (provided by the companies). The actual amount of investment and jobs created/retained will vary from those proposed in the application.

The sectors receiving credits are varied. There is no legal stipulation regarding type of industry that is eligible. Generally, projects are for manufacturing, research and development, office operations, and headquarters activities. Specific areas include information technology, food processing, warehousing/distribution, and engineering.

## Mississippi

### *State Port Income Tax Credit*

**Q37. Is this tax credit only applicable for charges related to export cargo?**

#### Reply

The purpose of this tax credit is to promote the increased use of ports and related facilities in the state – particularly by those taxpayers which would not otherwise use such ports and related facilities without the benefit of the tax credit – and increase the number of port related jobs and other economic development benefits associated with the increased use of such ports and related facilities.

## New Mexico

### *Property Tax Abatement*

**Q38. Please specify the range of ad valorem tax rates which are exempted by this programmed.**

#### Reply

Property is normally assessed at the rate of 33.3 percent.

## Ohio

### *Steel Development Initiative*

**Q39. Please specify how it is determined that a job has been ‘retained’. Does it imply that the job would have been lost in the absence of the subsidy? Are loss making enterprises eligible?**

#### Reply

This is a determination that is made by the program administrator. The eligibility requirements for this programme state that steel makers, processors, and foundries (SIC 3300-3400) are eligible for assistance.

## Utah

### *Corporate Loan Programmed*

**Q40. Does this programmed consist of loans or grants? What are the maximum amounts involved, how many companies benefited from this programmed?**

#### Reply

The Corporate Loan Program is a legacy programme from the original Industrial Assistance Fund (IAF) loan program established in 1991. Historically, the program provided loans. A major policy change occurred in 2001 when the Industrial Assistance Fund stopped making loans and began to exclusively provide post-performance grants. This program is now simply known as the Industrial Assistance Fund Corporate Program and provides only grant funding subsequent to successful performance by the grantee.

Historically, the IAF Corporate Loan Program was capped at US\$10 million. Four companies received loans prior to the policy change in 2001. The largest single corporate loan was US\$4.4 million. Three companies have received grants since 2001. The largest single post-performance grant was US\$2.1 million.

## **Washington**

### *Ships and Vessels under Construction*

**Q41. What are the average amounts of tax exemptions granted? Does the tax exemption concern the property tax of the shipyard as such or the vessel?**

#### Reply

This is a property tax exemption for vessels under construction that are 1,000 tons or more. The law dates back to 1959. However, there has been very little construction of large vessels in Washington state in recent years. The Washington State Office of Fiscal Management estimated that the amount of revenue foregone in CY 2003 was US\$8,000 at the state level, and US\$23,000 at the local level.

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