

WORLD TRADE ORGANIZATION

G/SCM/N/95/SLV
G/SCM/N/99/SLV
4 August 2003
(03-3859)

Committee on Subsidies and
Countervailing Measures

Original: Spanish

SUBSIDIES

New and Full Notification Pursuant to Article XVI:1 of the
GATT 1994 and Article 25 of the SCM Agreement

Extension Under SCM Article 27.4 of the Transition Period
for the Elimination of Export Subsidies Pursuant to
the Procedures in Document G/SCM/39

EL SALVADOR

The following communication, dated 27 June 2003, has been received from the Permanent Mission of El Salvador.

Attached please find El Salvador's new and full notification concerning the following programmes: "Export Processing Zones and Marketing Act, as Amended" and "Export Reactivation Law", pursuant to Article XVI:1 of the GATT 1994 and Article 25.1 of the SCM Agreement.

This notification is also submitted in fulfilment of El Salvador's transparency obligations with respect to these programmes as laid down in the Decision of the SCM Committee contained in documents G/SCM/65 and G/SCM/99 entitled "Extension under SCM Article 27.4 of the transition period for the elimination of export subsidies pursuant to the procedures in G/SCM/39" and "Extension under SCM Article 27.4 of the transition period under Article 27.2(b) for the elimination of export subsidies", respectively.

I. FREE ZONE AND INWARD-PROCESSING WAREHOUSE PROGRAMME

Pursuant to the Decision on Implementation-Related Issues and Concerns set forth in document WT/MIN/01/17, paragraph 10.6, the request for an extension of the transition period under the procedures laid down in document G/SCM/39 and the SCM Committee Decision contained in document G/SCM/65 concerning the free zone and inward-processing warehouse programme, El Salvador is pleased to submit its second notification relating to this programme, in accordance with Item 1(d) of document G/SCM/39 and further to its initial communication submitted to the WTO Committee on Subsidies and Countervailing Measures on 19 December 2001 and circulated as document G/SCM/N/74/SLV.¹

El Salvador hereby wishes to confirm that, pursuant to paragraph 4(a) of document G/SCM/39, the Free Zone and Inward-Processing Warehouse Programme satisfies the standstill requirements established therein.

1. Description of the subsidy

Incentives for firms operating in free-trade zones or in inward-processing warehouses.

2. Period covered by the notification

2002.

3. Policy objective and/or purpose of the subsidy

To promote increased greater job opportunities through investment incentives for firms engaging in exports of goods and services, with the aim of achieving sustainable economic growth.

4. Background and authority for the subsidy (including identification of the legislation under which it is granted)

A. BACKGROUND

The damage to the domestic infrastructure resulting from the armed conflict in El Salvador during the 1980s and early 1990s severely impacted production sectors, investment and export development. As a result of this situation, it was not possible to use the development programme described in this notification. Following the signing of the Peace Accords in 1992, however, El Salvador began to benefit from the programme, which facilitated job creation—a prerequisite for alleviating poverty and overcoming the constraints that created such serious difficulties for the general public during the 1980s.

The earthquakes that hit El Salvador in 2001 were responsible for heavy job losses, particularly for the economically disadvantaged segment of the population, thereby increasing the need for jobs. According to a report from ECLAC, total losses amounted to US\$1,603 million, i.e. 12 per cent of GDP and 55 per cent of exports in 2000. In the aftermath of the catastrophe, El Salvador is faced with the need to improve the welfare of its people, and especially those most severely affected by the earthquakes. In creating opportunities to maintain and raise employment

¹ El Salvador's initial notification pursuant to Article 27.4 of the Agreement on Subsidies and Countervailing Measures was circulated as document G/SCM/N/38/SLV/Suppl.1, G/SCM/N/48/SLV/Suppl.1, G/SCM/N/60/SLV/Suppl., G/SCM/N/38/SLV/Suppl.1.

levels—and by extension, the welfare of the Salvadoran people—the benefits deriving from the programme are therefore essential for the country's economic and social development.

By the end of 2002, the number of people directly employed by firms benefiting under the Law on Export Processing Zones and Marketing exceeded 84,000. As a result, numerous households can now enjoy a secure source of income, employment opportunities, access to social security, education, health and a pension plan, etc. Furthermore, the activities in question helped create 168,000 jobs as an indirect result of the programme, thus generating a total volume of 252,000 new jobs, accounting for 9.8 per cent of the labour force in El Salvador. It should be noted that approximately 90 per cent of the jobs created through this programme are held by women, a large percentage of whom are heads of household, thus giving these women the opportunity to improve the economic welfare of their families while giving them greater access to health, education and social security.

Exports from the in-bond assembly industry (*maquila*) amounted to US\$1,758 million, constituting El Salvador's principal export product to third markets.

246 firms benefited under the Law, of which 51 per cent were foreign companies and the rest were domestic companies.

B. LEGISLATION

The Law on Export Development, approved pursuant to Legislative Decree No. 81 of 5 September 1974, published in the Official Journal (No. 180, Vol. 244) of 27 September 1974; abolished pursuant to the Law on the Free-Trade Zone and Bonded Warehouse Regime, approved pursuant to Legislative Decree No. 461 of 15 March 1990, published in the Official Journal (No. 88, Vol. 307) of 18 April 1990; and abolished pursuant to the Law on Export Processing Zones and Marketing, approved pursuant to Legislative Decree No. 405 of 3 September 1998, published in the Official Journal (No. 176, Vol. 340) of 23 September 1998 and as amended by Legislative Decree No. 464 of 22 October 1998, published in the Official Journal (No. 215, Vol. 341) of 18 November 1998.

5. Form of the subsidy (i.e. grant, loan, tax concession, etc.)

Because El Salvador is a developing country, it lacks the resources necessary to provide direct assistance to investors wishing to embark upon domestic operations. As the purpose of this programme was to promote economic and social progress, El Salvador is using a mechanism based on foregone government revenue, which is to be offset by increased job creation for Salvadorans.

As for the form of the incentives, the latter are provided to:

Users establishing operations in free-trade zones or outside such zones in inward processing warehouses, entailing the following benefits and incentives:

- (a) Exemption from import duties on machinery, equipment, tools, spare parts and accessories, utensils and other items necessary for carrying out the activity benefiting from incentives.
- (b) Exemption from import duty on raw materials, parts, pieces, components or elements, semifinished products, intermediate products, packaging, labels, packing, samples and patterns required for carrying out the activities that benefit from incentives. Under the abovementioned treatment, it is also possible to import machinery,

apparatus, equipment, and any other items intended for repairs by the beneficiaries, including those exported products that are being reimported on a drawback basis;

- (c) Exemption from import duty on lubricants, catalysts, reagents, fuels, and any other substances or materials required for the firm's production activities;
- (d) Total exemption from income tax for the period during which the firm engages in operations in El Salvador, reckoned as from the tax year during which the beneficiary firm commences operations;
- (e) Total exemption from municipal taxes on the firm's assets and wealth for the period during which it conducts business in El Salvador, beginning from the time when the firm's operations get under way;
- (f) Total exemption from real estate transfer tax on purchases of real estate for use in the activities benefiting from the incentives.

6. To whom and how the subsidy is provided (whether to producers, to exporters, or others; through what mechanism; whether a fixed or fluctuating amount per unit; if the latter, how determined).

The benefits or incentives will accrue to those individuals or legal entities, whether domestic or foreign, that are the owners of firms which they develop, administer, or establish in free-trade zones or outside thereof, provided such firms are engaged in:

- (i) The production, assembly or "maquila", manufacturing, processing, transformation, or marketing of goods and services;
- (ii) the provision of services related to international trade, such as the collection, packaging or repackaging, re-export, cargo consolidation, distribution of merchandise, and other related or supplemental activities.

The subsidy is provided through exemption from duty, income tax and municipal taxes as specified in Item 5 above.

7. Subsidy per unit, or in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy (indicating, if possible, the average subsidy per unit for the preceding year). Where provision of per unit subsidy information (for the year covered by the notification, the previous year, or both) is not possible, a full explanation.

Given the nature and scope of the programme, no statistical data are available reflecting the amount of incentives per unit.

8. Duration of the subsidy and/or any other time-limits attached to it, including date of inception/commencement.

It will be in line with the international obligations undertaken by El Salvador, and in particular the SCM Agreement.

9. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such data is left to the judgement of the notifying Member. To the extent possible, relevant and/or determinable, however, it is desirable that such information include statistics of production, consumption, imports and exports of the subsidized product(s) or sector(s).

COMPARATIVE TABLE
(in Millions of Dollars)

SCHEME	2000	2001	2002
(a) World exports	7,782,600.0	7,510,600.0	7,837,800.0
(b) Salvadoran exports	2,950.5	2,864.0	2,992.0
(c) b / a	0.0379%	0.0381%	0.0382%
(d) Salvadoran net maquila exports	456.00	489.00	475.00
(e) d / a	0.0059%	0.0065%	0.0061%

Source: International Monetary Fund, Central Reserve Bank, Ministry of Economy.

II. EXPORT REACTIVATION PROGRAMME

1. Description of the subsidy

Drawback of 6 per cent on the f.o.b. value of exports, payable to Salvadoran or foreign natural or legal persons that own firms exporting or marketing Salvadoran goods and services outside the Central American region.

2. Period covered by the notification

From 1 July 2001 to 31 December 2002.

3. Policy objective and/or purpose of the subsidy

To stimulate exports of Salvadoran goods and services outside the Central American region, with a view to diversifying domestic production for the foreign market and to achieving employment-generating sustainable economic growth, along with the transfer of technology and investments.

4. Background and authority for the subsidy

Background

The damage to the domestic infrastructure resulting from the armed conflict in El Salvador during the 1980s and early 1990s severely impacted production sectors, investment and export development. Following the signing of the Peace Accords, it was necessary for El Salvador to launch the aforementioned scheme under a policy geared towards promoting investments and exports and offsetting the costs generated by the conflict.

The earthquakes that hit El Salvador in 2001 have increased the need for jobs. According to ECLAC, total losses amounted to US\$1,603 million, i.e. 12 per cent of GDP and 55 per cent of exports in 2000. In the aftermath of the catastrophe, El Salvador was faced with the need to improve the welfare of its people, and especially those most severely affected by the quakes. In creating

opportunities to maintain and raise employment levels, the benefits deriving from the drawback scheme are therefore essential for the country's economic and social development.

Legislation

Export Reactivation Law

Legislative Decree No. 460 of 15 March 1990, published in the Official Journal (No. 88, Vol. 307) of 18 April 1990, as amended by Legislative Decree No. 749 of 19 April 1991, published in the Official Journal (No. 95, Vol. 311) of 27 May 1991; Legislative Decree No. 181 of 18 December 1997, published in the Official Journal (No. 239, Vol. 337) of 22 December 1997, and Legislative Decree No. 534 of 13 January 1999, published in the Official Journal (No. 21, Vol. 342) of 1 February 1999.

Regulations of the Export Reactivation Law

Executive Decree No. 68 of 27 November 1990, published in the Official Journal (No. 269, Vol. 309) of 27 November 1990, as amended by Executive Decree No. 43 of 29 April 1993, published in the Official Journal (No. 19, Vol. 319) of 26 May 1993.

5. Form of the subsidy (i.e. grant, loan, tax concession, etc.)

Drawback of 6 per cent on the f.o.b. value of exports.

6. To whom and how the subsidy is provided (whether to producers, to exporters, or others; through what mechanism; whether a fixed or fluctuating amount per unit; if the latter, how determined).

This incentive benefits Salvadoran or foreign natural or legal persons that own firms which export or market Salvadoran goods and services outside the Central American region and which comply with the requirements laid down in the Export Reactivation Law and its Regulations.

7. Subsidy per unit, or in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy (indicating, if possible, the average subsidy per unit). Where provision of per unit subsidy information (for the year covered by the notification, the previous year, or both) is not possible, a full explanation.

Total Amounts Refunded Under the 6 Per Cent Drawback Scheme
(In Millions of US Dollars)

January-December 2000	January-December 2001	January-December 2002
13.8	13.4	16.6

Total Exports Eligible/Not Eligible under the 6 Per Cent Drawback Scheme
(In Millions of US Dollars)

EXPORTS	January-December 2000	January-December 2001	January-December 2002
Eligible	231.4	223.2	277.3
Not eligible	2,719.1	2,640.8	2,714.7
Total	2,950.5	2,864.0	2,992.0

8. Duration of the subsidy and/or any other time-limits attached to it, including date of inception/commencement.

Indefinite. It will be adjusted to the international obligations undertaken by El Salvador, and in particular to the WTO Subsidies Agreement.

9. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such data is left to the judgement of the notifying Member. To the extent possible, relevant and/or determinable, however, it is desirable that such information include statistics of production, consumption, imports and exports of the subsidized product(s) or sector(s).

COMPARATIVE TABLE
(In Millions of US Dollars)

SCHEME	2000	2001	2002
(a) World exports	7,782,600.0	7,510,600.0	7,837,800.0
(b) Salvadoran exports	2,950.50	2,864.0	2,992.0
(c) b / a	0.0379%	0.0381%	0.0382%
(d) Salvadoran exports eligible for 6% drawback	231.4	223.2	277.3
(e) d / a	0.0029%	0.0029%	0.0035%

Source: International Monetary Fund, Central Reserve Bank, Ministry of Economy.