

WORLD TRADE ORGANIZATION

G/SCM/N/114/ATG
30 June 2004

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Committee on Subsidies
and Countervailing Measures

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SUBSIDIES

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

Updating Notification

ANTIGUA AND BARBUDA

The following communication, dated 7 June 2004, is being circulated at the request of the Delegation of Antigua and Barbuda.

Pursuant to the procedures in G/SCM39, and to the decisions in G/SCM/50 and Add. 1, and G/SCM/51 and Add. 1, Antigua and Barbuda hereby presents an updating notification in respect of the programmes that have been granted an extension of the transition period under Article 27.4 of the Agreement on Subsidies and Countervailing Measures.

As required by the procedures and by the extension decisions, neither programme has been modified so as to make it more favourable in terms of scope, coverage or intensity of benefits than it was as of 1 September 2001.

In accordance with Article 25.7 of the SCM Agreement, this notification does not prejudice either the legal status of the notified programmes under GATT 1994 and the SCM Agreement, the effects under the SCM Agreement, or the nature of the Programme themselves.

In accordance with Article 25 of the Agreement on Subsidies and Countervailing Measures and Article XVI:I of the General Agreement on Tariffs and Trade (GATT) 1994, Antigua and Barbuda hereby presents an updating notification, in accordance with Secretariat document G/SCM/39, with respect to programmes identified in our initial documentation submitted (G/SCM/N/74/ATG).

Please be informed, that not all elements of the notified programmes, including subsidies provided thereunder, necessarily involve export subsidies.

Antigua and Barbuda wishes to reiterate that, in keeping with Article 25.7 of the Agreement on Subsidies and Countervailing Measures, this notification does not prejudice its legal status under the GATT 1994 or the said Agreement, its effects under the Agreement or the nature of the programme or measure; furthermore, notification of a programme or measure does not prejudice its actionable or non-actionable nature.

PROGRAMMES

Fiscal Incentives Act Cap 172 (December 1975)

Free Trade and Processing Zone Act No. 12 of 1994

Programme 1

1. Description of the programme

The Fiscal incentives Act is an Act to provide incentives to industry, mobilize and direct capital for new investment, and attract foreign private investment and capital.

2. Period covered by the notification.

Programme status as of June 2004.

3. Policy objective and/ or purpose of the subsidy

To attract private investors who will contribute to the desired expansion of national output, thereby promoting economic growth, development and increased employment in a diversified economy.

4. Background and authority for the subsidy

Background

The promotion of private investment is an integral part of the development plan of Antigua and Barbuda as we continue to diversify production and reduce our reliance on tourism. Economic expansion generates demand for foreign exchange. Given our narrow resource base Antigua and Barbuda continues to need resource inflows and one of the best ways to achieve this is through direct foreign investment.

The Fiscal Incentives Act was passed to give effect to an agreement on the harmonization of fiscal incentives to industry among CARICOM countries.

Authority

Fiscal Incentives Act Cap172, (December of 1975)

5. Form of Subsidy

The Fiscal Incentives Act provides relief from taxes in the following ways:

- Waiver from Customs Duty and Consumption Tax on plant, equipment, machinery, spare parts, raw materials or components thereof, for between ten (10) to fifteen (15) years, dependant on which group of enterprise. This is also subject to the satisfaction of the Comptroller of Customs and excise, that the above list is required for:
 - (a) Constructing, altering, reconstructing or extending the approved enterprise, that is, an enterprise declared by Order of the Minister responsible for industry; or

- (b) Equipping an enterprise for the purpose of manufacturing and approved product, that is, a product declared by Order of the Minister responsible for industry.
- Complete or partial exemption from the payment of income tax on profits on the profits arising from the sale of an approved product from the production day for a period not exceeding the time given to the Enterprise, that is 10 – 15 years.
 - Where shareholders or their nominees are not resident in Antigua and Barbuda, they shall be exempted from income tax on dividends, in respect of the amount of tax that exceeds the tax liability of the shareholder in his country of residence.
 - Where the export profits amount to ten (10) per cent or more of the entire profits of an enterprise, from the export of an approved product, relief shall be granted from income tax on the export profits. This relief is granted by way of tax credits.

8. To whom and how the subsidy is provided

Fiscal incentives are granted to private investors both foreign and local to facilitate the development of industries, in particular manufacturing, agro- processing, and agriculture, as it pertain to this notification.

An application is made to the Minister responsible for industry, by or on behalf of the enterprise, stating:

- The locality or proposed locality of the factory;
- The construction day;
- The production day;
- The approved product already being manufactured or intended to be manufactured; and
- All information relevant to determine the local value added.

If the Minister is satisfied that it is in the public interest to grant such enterprise incentives, he may by Order published in the Gazette declare the enterprise to be an approved enterprise with effect from the date specified in the Order.

The relief from taxes, or “tax holiday period”, is granted on import duties, income tax and export profits, depending on the group in which the enterprise is categorized.

There are five groups of enterprises and the tax holiday applicable is as follows:

- Group I Enterprise, one in which the local value added is at least fifty per cent (50%) of the amount realized from the sale of an approved product; up to 15 years relief;
- Group II Enterprise, one in which the local value added is between 25 per cent and 50 per cent, up to 12 years;
- Group III Enterprise, one in which the local value added is between 10 per cent and 25 per cent, up to 10 years;
- Enclave Enterprise, one in which production is exclusively for export; up to 15 years; and
- Highly capital intensive industry, one in which the capital investment is not less than US\$25 million, up to 15 years.

Note: the definition of local value added is the amount realized from the sales of the product over a continuous period of twelve (12) months, minus the following:

1. Cost of imported raw materials, components, parts of components, fuels, and services;
2. Wages and salaries paid to nationals of Caricom Member States;
3. Profit and dividends distributed to foreign nationals;
4. Interest, management charges and other income payment to non-residents (including companies); and
5. Depreciation of imports of plant, machinery and equipment.

The local value added is weighted by the wages or salaries paid to nationals of a Member State of Caricom expressed as percentage of the total sales of the approved product and calculated in accordance with the formula:

$$\frac{V (100 + W)}{100}$$

V represents the local value added expressed as a percentage of the total sales of the approved product; and

W represents the wages and salaries paid to nationals of a Member State expressed as a percentage of the total sales of the approved product.

The Fiscal Incentives Act provides non-fiscal incentives to companies with a rebate for a portion of their income tax based on their export profits as a percentage of total profits. All Enterprises are (Group I, II, II, Enclave, Highly Capitalized Enterprises) are eligible for the rebate. However, eligibility does not occur until the tax holiday period is over. Rebate is only good for an additional 5 years. Schedule is as shown in the Table below:

Rebate on Income Tax based on export Profits

Export Profits as a Percentage of tax on of total Profits	Rebate of Income tax as Percentage of Tax on Export Profits
10 - 20	25
21 - 40	35
41 - 60	45
61 - 100	50

7. Subsidy per unit

As of 1 September 2003, approximately 32 firms are registered under the Fiscal Incentive Act. Below are the breakdown of the Sectors/Firms and Sales:

Sectors	Firms/Companies	Sales (US\$)
Beverages	2	11,810,461
Condiments	3	160,000
Detergent	2	1,500,000
Garments	6	1,200,000
Light Industries	2	8,097,464
Other	17	2,100,000

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

This programme was set up in 1975. This subsidy programme is applicable for ten (10) years.

9. Statistical data on the impact of the programme

Merchandise Imports/Exports (US\$ Millions)*

	1999	2000	2001	2002*	2003*	2004*
Export	15.94	16.52	17.27	17.62	18.36	19.35
Imports	354.34	342.09	317.29	324.71	350.51	369.55

Source: Ministry of Finance, Economic Policy Unit

*These are estimations/projections

Note: These are the actual trade data for Antigua and Barbuda, and not trade affected by this programme.

Programme 2

1. Description of the programme

Free Trade and Process Zone Act is an Act to attract foreign and local private investment and capital for various Manufacturing and Service entities.

2. Period covered by the notification.

1 June 2004

3. Policy objective and/ or purpose of the subsidy

To attract private investors who will contribute to the growth and development of the informatics and telecommunications related services. In addition, to attract investment in Pharmaceutical and other light manufacturing industries.

4. Background and authority for the subsidy

Background

The promotion of private investment is an integral part of the development plan of Antigua and Barbuda as we continue to diversify production and reduce our reliance on tourism and promote establishment of certain manufacturing and services entities in Antigua and Barbuda.

Authority

Free Trade and Processing Zone Act Cap No. of 1994.

5. Form of Subsidy

The Free Trade and processing Zone Act provides relief from taxes in the following ways:

- (a) Exemption from the payment of Custom Duty, Consumption and other taxes on the importation of machinery, equipment, spare parts, and construction materials and other items needed to construct and operate facilities within the FTPZ;
- (b) Exemption from the payment of Custom Duty, Consumption and other taxes on the importation of raw materials and other goods to be incorporated in the products produced or assembled within the FTPZ;
- (c) Exemption from the payment of income and other taxes of any kind other than Social Security, Medical Benefits and the Education Levy on the earnings accruing to any person by virtue of accruing to any persons by virtue of carrying on his/her employment in any industrial or commercial activity within the FTPZ;
- (d) Exemption from the payment of export taxes or levies on the exportation from the FTPZ to any place outside of Antigua and Barbuda of any goods, or articles produced or manufactured in the FTPZ;
- (e) Exemption from the payment of taxes of any kind on the repatriation of profits earned in the Zone; and
- (f) Exemption from the payment of taxes or levies imposed by the Government in respect of any Industrial or Commercial activity being carried out within the FTPZ.

In order to obtain a licence to operate in the FTPZ, an application must be submitted on the subscribed Form to the Commissioner. The Commissioner will submit this application to the Commission for examination and approval.

The decision to grant a licence is based on a number of considerations:

- 1. The level of investment;
- 2. Employment generation capacity of the project;
- 3. Foreign exchange generation of the project;
- 4. Technological adaptability and transfer possibilities; and
- 5. Environmental impact.

The Licence fee ranges between US\$10,000 and US\$20,000 and is not dependant on the size of the project.

6. Incentives to operate an entity in the Free Trade and Processing Zone are granted to private investors both foreign and local to facilitate the development of industries, in particular certain manufacturing and services entities.

7. No statistical information is available since the first entity was not granted a licence to manufacture in the FTPZ until the last quarter of 2001. Presently, the factory is still under construction and the company does not plan to be in operation until the first quarter of 2005.

8. Duration of Subsidy

The programme was set up in 1994. However, the first licence granted to a manufacturing entity to operate in the FTPZ was not issued until the last quarter of 2001.

9. Statistical data on the impact of the Programme

Merchandise Imports/Exports (US\$ Millions) *

	1999	2000	2001	2002*	2003*	2004*
Export	15.94	16.52	17.27	17.62	18.36	19.35
Imports	354.34	342.09	317.29	324.71	350.51	369.55

Source: Ministry of Finance, Economic Policy Unit

*These are estimations/projections

Note: **These are the actual trade data for Antigua and Barbuda, and not trade affected by this programme.**

As noted above, the first licence granted to a manufacturing entity to operate in the Free Trade and Processing Zone was not issued until the last quarter of 2001. Presently, construction of a factory is ongoing and the company should be operational by the first quarter of 2005.

CHAPTER 172

THE FISCAL INCENTIVES ACT

Arrangement of Sections Section

1. Short title.

PART I

PRELIMINARY

2. Interpretation.
3. Computation of local value added.
4. Determination of value of content.
5. Non-resident.
6. Declaration of approved product.
7. Declaration of approved enterprise.
8. Applications for approval.
9. Objections to proposals to approve a product or enterprise.
10. Cabinet and Minister to have absolute discretion in respect of approval.
11. Classification of enterprises.
12. Benefits for enterprise engaged in highly capital intensive industry.

PART II

PROVISION RELATING TO INCOME TAX

13. Exemption from income tax.
14. Depreciation allowance.
15. Deduction for capital expenditure.
16. Set-off.
17. Losses carried forward for purpose of set-off.
18. Export allowance may be granted:
19. Dividends.
20. Interest.

PART III

PROVISIONS RELATING TO CUSTOMS DUTY

21. Licence to import.
22. Record and inspection of articles.
23. Restriction on disposal of articles.

PART IV

MISCELLANEOUS

24. Delay of construction or manufacture.
25. Revocation of order.

26. Restriction on use of factory.
27. Appraisal of performance of enterprise.
28. Transfer of status of approved enterprise.
29. Regulations.
30. Publication in *Gazette*.
31. Savings.

THE FREE TRADE AND PROCESSING ZONE

AREA ACT, 1994

ARRANGEMENT OF SECTIONS

Section

1. Short title.
 2. Interpretation.
 3. Establishment of Commission.
 4. Seal and procedure for sealing documents.
 5. Acquisition of land for free trade and processing zone.
 6. Declaration of a free trade and processing zone.
 7. Functions and powers of the Commission.
 8. Composition and administration of the Commission.
 9. Meetings and procedures of the Commission.
 10. Appointment and duties of Commissioner.
 11. Procedure for application and grant of licence.
 12. Licences.
 13. Commission not to approve unlawful activity.
 14. Incentives to licensed industries.
 15. Conditions for employment in free trade and processing zone.
 16. Licensee to comply with the Act or Regulation etc.
 17. Environmental protection.
 18. Movement of goods in and out of free trade and processing zone.
 19. Establishment of customs post in free trade and processing zone.
 20. Commission to charge royalties.
 21. Investments.
 22. Reserve fund.
 23. Accounts and audit.
 24. Law and legal proceedings.
 25. Preservation of secrecy and nondisclosure of information to unauthorized person.
 26. Annual Report.
 27. Regulation.
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