

WORLD TRADE ORGANIZATION

RESTRICTED

G/SCM/N/3/ARG

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Committee on Subsidies and Countervailing Measures

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SUBSIDIES

NOTIFICATIONS PURSUANT TO ARTICLE XVI.1 OF GATT 1994 AND ARTICLE 25 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

ARGENTINA

The following communication, dated 26 February 1996, has been received from the Permanent Mission of Argentina.

I have the pleasure to transmit herewith the notification of the existence of the "refund" scheme for exports through Patagonian ports, as laid down by Law No. 23,018, in accordance with Article XVI.1 of GATT 1994 and Article 25.2 of the Agreement on Subsidies and Countervailing Measures.

It should be noted that Argentina deems itself included within the scope of Article 27.2 of the aforementioned Agreement as a developing country.

1. Title of the subsidy programme, if relevant, or brief description or identification of the subsidy

Refund scheme for Patagonian ports. Law No. 23,018.

2. Period covered by the notification

Law No. 23,018 entered into force on 22 December 1983, and is still in force.

3. Policy objective and/or purpose of the subsidy

Regional development of the Patagonian region of Argentina, which is located south of the Colorado River and comprises all the territory up to the southern province of Tierra del Fuego. This region is highly underpopulated, has a low per capita income and has not been developed from the industrial point of view. This programme aims at promoting new investments in local manufacturing with the objective of increasing the regional GDP.

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

Secretariat of Trade and Investment

National Customs Administration

Ministry of the Economy and Public Works

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

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 refund is a mechanism by which the customs authority makes a payment to exporters on the basis of the f.o.b. export value declared, and applying the percentages defined by law, for goods shipped from any Patagonian port. The procedure is defined in Resolution ANA 3304/87. It is valid only for products originating in the Patagonia region in their natural state or manufactured in the region.

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

The refund scheme started on 1 January 1984, and will be in force until the year 2007. (See attached data. *)

*Additional data on a product basis is available in the offices of the Rules Division (Susan Aspinall, Office 1028).

SUPPLEMENTARY REFUND FOR EXPORTS EFFECTED
SOUTH OF THE COLORADO RIVER

Law No. 23,018

7/12/83
O.G.: 13/12/83

Foreign trade - Supplementary refund for exports shipped through ports and
customs located in the area south of the Colorado River

Article 1

There shall be, in respect of goods which are shipped from, and for which the corresponding customs declaration of export for consumption is made in, via ports and customs located in the area south of the Colorado River, a supplementary refund for exports, provided that shipment is made in a merchant vessel with a foreign destination or in a merchant vessel engaged in cabotage for transshipment in any national port for a foreign destination.

The supplementary refund benefitting the export of goods which conforms with the provisions of this Law shall be as follows:

Ports	Reimbursement (%)
Puerto San Antonio Este	8
Puerto Madryn	8
Puerto Comodoro Rivadavia	9
Puerto Deseado	11
Puerto San Julián	11
Puerto Punta Quilla	12
Puerto Río Gallegos	12
Puerto Río Grande	12
Puerto Ushuaia	13

Where a good is exported from a port located in the area south of the Colorado River and not expressly mentioned in the previous enumeration, the refund granted shall be that which corresponds to export via the geographically closest port included in the preceding list.

Article 2

The supplementary refund provided for in the previous article shall be applied only on exports of goods originating in the region located south of the Colorado River which are exported in their natural state or manufactured in industrial establishments located in the said region. This also includes exports of manufactures produced in industrial establishments located in the aforementioned region using inputs not originating therein, provided that the said process results in a change of tariff heading in the Customs Export Tariff Nomenclature and Duties (NADE) and that the ensuing product, destined for export, is the consequence of an industrial process and not simply of an assembly procedure.

Article 3

The supplementary refund provided for in Article 1 shall be applied to exports of goods from the Province of Neuquén which are shipped through the ports specified in the said Article and comply with the requirements set out in the previous Article, even when the customs declaration for the shipment is made through inland customs located in the aforementioned Province, provided that the goods are loaded on a merchant vessel bound for a foreign destination or a merchant vessel engaged in cabotage and transhipped in any national port for a foreign destination.

Article 4

Exports of the goods detailed in the attached list, which forms part of this Law, shall also qualify, until 31 December 1986, for the supplementary refund provided for in Article 1, regardless of the place of production or manufacture.

Article 5

The National Executive Power through the Ministry of the Economy, shall lay down the criteria which the provincial governments having jurisdiction in the region located south of the Colorado River, and the Government of the National Territory of Tierra del Fuego and the South Atlantic Islands, shall observe for the purpose of determining the percentage of components not originating in the region which merely undergo assembly contained in the goods for export, in order to qualify for the benefits provided for in this Law.

Article 6

The supplementary refund provided for in Article 1 of this Law shall be applied without regard to the tariff treatment of goods established in general terms by the rules in force.

The benefits set out in Article 6 of Decree No. 3,255 of 24 August 1971, extended by Article 1 of Decree No. 561 of 14 March 1983, shall apply to the present refund in respect of services (freight and insurance).

The benefit provided for in this Law shall not be available to exports of goods produced by enterprises benefitting from any kind of tariff incentive for exports under specific, special or zonal promotional schemes; this includes products which, owing to their being exported through ports south of latitude 40 , qualify for preferential tariff treatment as specified in the Customs Export Tariff Nomenclature and Duties.

Article 7

The relevant tariff treatment for the goods in question, in accordance with the general rules in force, shall be applied and assessed independently of the supplementary refund established by this Law.

Article 8

The National Customs Administration shall accept the certificates issued by the provincial governments with jurisdiction in the region mentioned in Article 1 and the Government of the National Territory of Tierra del Fuego and the South Atlantic Islands certifying that the goods in question comply with the requirements of origin specified in this Law.

Article 9

The supplementary refund for exports provided for in Article 1 shall be reduced, in respect of all the relevant ports, by 1 (one) percentage point as of 1 January 1984 and will be maintained at the ensuing levels for a period of 11 (eleven) years thereafter. With effect from 1 January 1995, the supplementary refund will be gradually reduced by 1 (one) percentage point a year until it is finally eliminated.

Article 10

Void.

SUPPLEMENTARY REFUND ON EXPORTS RELATING
TO THE AREA SOUTH OF THE COLORADO RIVER

Resolution (ANA) No. 3,304

14/12/87

This Resolution hereby approves the rules, conditions and requirements for the assessment
of the supplementary benefit provided for in Law No. 23,018

HAVING REGARD TO the submission made by the Argentine Wool Federation (FLA), and

CONSIDERING:

That the above-mentioned Federation requests that paragraph 5.3 of Annex VII of Resolution 2334/87 be extended so that, in the shipping permit document (Section AP 16), reference shall be made to the establishment producing the good which benefits from the refund provided for in Law No. 23,018.

That nothing impedes compliance with the request, pursuant to which and by virtue of the powers granted under Article 23(j) of Law No. 22,415;

The National Customs Administrator,

RESOLVES:

Article 1

To approve Annex A of this Resolution which will replace Annex VII of Resolution 2334/86 (BANA 184/86).

Article 2

To repeal Annex VII of Resolution No. 2334/86.

Article 3

Void.

ANNEX VII

RULES, CONDITIONS AND REQUIREMENTS FOR THE ASSESSMENT OF THE
SUPPLEMENTARY BENEFIT PROVIDED FOR IN LAW NO. 23,018

1. Scope

1.1 Products originating in the region located south of the Colorado River which are exported in their natural state.

1.2 Manufactures of products originating in the aforementioned region produced in industrial establishments located therein.

1.3 Manufactures with inputs not originating in the said region, produced in industrial establishments located therein, provided that the production process results in a change in the NADE tariff heading in respect of the ensuing final product, as the consequence of an industrial process and not merely an assembly procedure.

1.4 Goods from the Province of Neuquén which comply with the requirements set out in the preceding paragraphs and are shipped through the ports specified in this Annex, even when the customs declaration procedure is carried out through inland customs located in the aforementioned province, provided that the goods are loaded on a merchant vessel bound for a foreign destination or in a merchant vessel engaged in cabotage and transhipped in any national port for a foreign destination.

1.5 The goods indicated below, regardless of their place of production or manufacture, no later than 31 December 1986:

NADE Heading	Denomination
53.01.01.00.00	Sheep's or lambs' wool, greasy of fleece washed
53.01.02.00.00	Other
53.02.02.02.00	Sheep's hair
53.02.02.03.01	Goat's hair, greasy
53.02.02.03.02	Goat's hair, greasy, shorn
53.02.02.03.03	Goat's hair, washed
53.03.00.00.00	Waste of wool and animal hair (fine or coarse), not pulled or garnetted
53.04.00.00.00	Pulled or garnetted wool and animal hair (fine or coarse)
53.05.00.00.00	Wool and animal hair (fine or coarse), carded or combed

2. Duration of the supplementary benefit

2.1 From 22 December 1983 to 31 December 1983, the levels established in paragraph 3, column 1.

2.2 As of 1 January 1984, the levels given in point 3, column 2, shall be applied for a period of 11 years, except for exports of the goods indicated in point 1.5, in respect of which the benefit shall expire on 31 December 1986.

3. Ports and benefit levels

Ports	Column 1 %	Column 2 %
San Antonio Este	8	7
Puerto Madryn	8	7
Puerto Com. Rivadavia	9	8
Puerto Deseado	11	10
Puerto San Julián	11	10
Puerto Punta Quilla	12	11
Puerto Río Gallegos	12	11
Puerto Río Grande	12	11
Puerto Ushuaia	13	12

3.1 As of 1 January 1995, the supplementary benefit will be reduced gradually by 1 percentage point a year until it is finally eliminated.

4. Incompatibilities

The benefit shall not be available to exports of goods produced by enterprises benefitting from any kind of tariff incentive for exports under specific, special or zonal promotional schemes; this also includes applications for benefit in respect of products which, owing to their being exported through ports south of latitude 40 , qualify for preferential tariff treatment as established in the NADE.

5. Certification of origin

5.1 The customs shall accept the final certificates issued by provincial governments with jurisdiction over the ports indicated in point 3, and by the Government of the National Territory of Tierra del Fuego, Antarctica and the South Atlantic Islands, as well as those issued on a provisional basis subject to verification of the goods at the time of shipping by officials of the body issuing the certificate.

5.2 All certificates of origin, in respect of the products specified in the different categories of point 1, shall contain the following information:

- For 1.1: Description and origin of the product;
- For 1.2 and 1.3: Description of the final product for export (nature, type and quality), quantity and weight, and an indication of the raw material or constituent elements from which it is made; the origin of the latter and the location of the industrial establishment processing it;
- For 1.5: Certification is not required.

5.3 The certificates of origin granted on a provisional basis, subject to verification by the issuing body when the goods are shipped, shall contain a clear reference to this effect, stating that the information regarding origin, as provided by the exporter, has the nature of a sworn statement.

5.4 The standard certificate model included as Annex VII(a) of this Resolution may be used by the provincial governments adopting it, but only in the case of final certification, adapting it where necessary to the requirements detailed in 5.2.

6. In respect of the exporting enterprises

6.1 They shall submit documentation, concerning export operations to the customs located south of the Colorado River, except for shipments through the ports of San Antonio Este and Punta Quilla, in the case of which documentation will be submitted to the customs of San Antonio Oeste and Santa Cruz, respectively.

6.2 Exports shall be effected only via those ports indicated in point 3, even when transit to, and transshipment in, another Argentine port is necessary prior to final shipment to a foreign destination. This requirement also applies to exports registered with the inland customs in the Province of Neuquén.

6.3 The certificates of origin mentioned in point 5 shall be submitted together with the respective shipping permit, the latter bearing the certificate number and its date of issue. Furthermore, in Section AP 16 of the shipping permit, the name of the industrial establishment producing the goods which benefit from this refund shall be provided.

6.4 Where the certificate of origin attached is provisional, exporting enterprises shall provide a statement to this effect at the bottom of Section AP 16, worded as follows: "Provisional certificate of origin No. ... Dated ... Subject to verification by the issuing body at the time of shipment".

6.5 Application for the supplementary benefit shall be made without regard to the tariff treatment applicable to the merchandise; the appropriate duties shall therefore be paid, and the supplementary benefit in question shall be assessed separately and in accordance with the rules set out in Annex II.

6.6 Not less than 24 hours before the shipping of the goods, the provincial body issuing the certificate of origin must receive a copy of the shipping permit in which prior notification is given, indicating the day and time; the permit shall be checked by the aforementioned body and subsequently submitted to the customs office to be attached to copy No. 3 before final delivery of both documents to the relevant inspecting authority.

7. In respect of customs

7.1 Customs shall receive and process with the shipping permits coming under their jurisdiction together with the certificates of origin referred to in point 4, to which end they shall carry out the controls described in points 7.2 to 7.6 ff., even in the case of provisional certificates concerning goods subject to verification by officials of the issuing body at the time of shipping, in respect of which the provisions contained in points 7.6. and 7.7. shall also apply.

7.2 They shall check whether the documented goods correspond to the information contained in the certificate of origin in terms of quantity, weight, type and quality, and furthermore that all the rules in force are observed.

7.3 In the case where the final product for export is made from manufactures produced in the region with raw materials not originating therein, they shall check whether the NADE heading of the good is different from that of the raw material used.

7.4 They shall, where appropriate, require payment of duties and accord the benefit provided for in this law in accordance with Annex II of this Resolution, taking into account the fact that the benefit shall apply without regard to the general rules of tariff treatment for products, and adding where appropriate, freight and insurance, in accordance with the provisions of Decree 1555/86 and in conformity with the rules set forth in point 8.

The benefit shall not be available to exports of goods produced by enterprises which benefit from any kind of tariff incentive for exports under specific, special or zonal promotional schemes; this includes applications for benefit in respect of products which, owing to their being exported through ports south of latitude 40°, qualify for preferential tariff treatment as specified in the NADE.

7.5 Where goods are exported through ports located south of the Colorado River other than those expressly mentioned in point 3, the refund granted shall be that which corresponds to the port which is geographically closest.

7.6 Where provisional certificates are submitted, a check shall be made that Section AP 16 contains a statement clearly indicating "Provisional certificate of origin, subject to verification by the issuing body at the time of shipping".

7.7 For the customs inspection of goods whose documentation consists of a shipping permit together with a provisional certificate of origin, exporters shall submit in advance a copy "0" of the shipping permit, which serves as a shipping notification, mentioning the place, date and time of initiation of the operation, to be carried out by the official authorized by the Provincial Government to issue certificates of origin. On receipt, the copy "0" shall be attached to the aforementioned copy No. 3 for submission to the relevant inspecting authority. Should the aforementioned official not be present at the customs inspection on the day and time indicated, this fact shall be brought to the notice of the Customs Headquarters, which shall authorize the initiation of the procedure in the presence of its representative; the inspector and the authorizing customs official shall make a written statement of the failure to appear of the official of the body issuing the provisional certificate of origin.

When officially certifying the origin of the goods, the provincial official participating in the customs inspection procedure shall act in such a way as to avoid interfering in the work of the customs agents; where the origin is found not to conform with the origin of the good as provisionally accredited, an official statement shall duly be drawn up in respect of the false declaration, for the purposes of subsequent proceedings concerning the offence.

8. Rules for assessment of freight and insurance

8.1 In respect of the foregoing, the supplementary benefit shall be assessed where transportation is effected by an Argentine maritime enterprise or by a vessel leased or hired by Argentine shipowners and/or when the insurance is contracted with a national insurance company.

8.2 To that effect, and where appropriate, the relevant boxes shall be included in Section 18, subsection B, in order to obtain the basis for calculating the assessment of the benefit; the following documentation must be attached when submitting copies 8, 9 and 0 of the shipping licence for the purposes of assessment:

- (a) For freight certification: the freight invoice (authenticated copy) or certification from the transport agency for the amount of freight incurred, or bill of lading with the amount corresponding to the value of the freight certified by the transport agency. When the

goods are shipped by a vessel, under a foreign flag, leased or hired by the national shipowner, prior to processing the assessment the customs shall make a note in copies 8, 9 and 0 of the telex number through which the National Directorate of Shipping Activities made the relevant communication. In the case of transshipments in other ports or of vessels leased or hired by a national shipowner, the relevant confirmation shall be requested from the Customs Import and Export Technical Department (Export Rules Division).

- (b) For insurance certification: the invoices and relevant policy (authenticated copies), with the amount corresponding to the value of the insurance noted clearly, as issued by the insurance company with whom the contract has been concluded.
- (c) When the invoices referred to in (a) and (b) are issued in Argentine australs, the amounts shall be converted into the currency given in the shipping permit at the selling rate corresponding to the date of issue.
- (d) The shipping permit number shall be entered in the documentation mentioned in (a) and (b).
- (e) In all cases, the customs broker involved shall endorse the authenticity of the documents mentioned in (a) and (b).

8.3 The participating departments shall confirm that the above procedures have been carried out, verify that the total value of the freight and/or insurance paid is divided equally between all the items shipped as referred to in the shipping permit, whether or not they are entitled to the benefit, and attach the documentation mentioned in (a) and (b) to copy 0 of the shipping permit; they shall then carry out the procedure described in points 2.1, 7.1 and ff. of Annex VII, where appropriate, in respect of copies 8, 9 and 0.

8.4 The benefit referred to in point 8.1, also covers export freight transported in vessels flying the flag of the LAIA member States who have concluded an intergovernmental agreement with Argentina, as listed in Annex VII(b).

Note: The original Annex VII was approved by Resolution 2334/86. This is the first amendment approved by Resolution 3304/87.

SUPPLEMENTARY REFUND FOR EXPORTS EFFECTED
SOUTH OF THE COLORADO RIVER

Decree No. 1,006

14/5/93

Stipulating that the National Customs Administration shall pay exporters the benefits arising as a result of Law No. 23,018 and Law No. 19,640.

HAVING regard to Law No. 23,018 and Law No. 19,640 and amendments thereto, and

CONSIDERING:

That it is necessary to adapt the procedures of the regime implemented under Law No. 23,018 and Law No. 19,640, and amendments thereto, in line with Decree No. 235 of 17 February 1993.

That in this respect it has been deemed necessary to broaden the scope of the said Decree in order that the National Customs Administration, subsequent to the relevant checks, may pay exporters the benefits provided for in Law No. 23,018 and Law No. 19,640 and amendments thereto.

That the proposed regime shall be governed by the provisions of Law No. 22,415 and Article 86(2) of the National Constitution.

Wherefore, the President of the Argentine Republic,

DECREES:

Article 1

The National Customs Administration shall pay exporters the benefits arising as a result of Law No. 23,018 and Law No. 19,640, after controlling the assessments. The values shall be determined using the rate of exchange for the conversion of foreign currency into national legal tender, at the closing buyers' rate of the Central Bank of Argentina on the day prior to actual payment. The special measures established for control purposes in the aforementioned laws shall be taken.

Article 2

The National Customs Administration shall pay the benefits to be granted to exporters under the terms of Article 2 of Decree No. 235/93 and its Regulations.

Article 3

The amendment provided for herein shall come into force 5 (five) days following its publication in the Official Gazette, and shall apply to all those benefits which accrued with effect from 26 September 1992 and which await payment on the date this rule comes into force.

The National Customs Administration shall establish the respective Regulations and means necessary for proper and timely performance, establishing a flexible system which minimizes payment delays for the exporting sector.

Article 4

Void.

TOTALS - ADDITIONAL REFUND FOR PATAGONIAN PORTS - IN PESOS

Period 1 January 1992 to 30 June 1994

Customs	Refund in pesos
14. Comodoro Rivadavia	898,224.16
15. Deseado-Puerto	28,770,449.11
47. Madryn, Puerto	47,497,607.97
48. Rio Gallegos	731.19
49. Rio Grande	16,635.58
61. Santa Cruz	444,377.22
67. Ushuaia	15,843,550.63
80. San Antonio Oeste	17,144,182.73
TOTAL	110,615,758.59

TOTALS - GENERAL REIMBURSEMENT FOR PATAGONIAN PORTS - IN PESOS

Period 1 January 1992 to 30 June 1994

Customs	Reimbursement in pesos
14. Comodoro Rivadavia	799,360.36
15. Deseado-Puerto	16,748,455.73
47. Madryn, Puerto	36,627,735.77
48. Rio Gallegos	2,685.13
49. Rio Grande	2,419.99
61. Santa Cruz	200,571.45
67. Ushuaia	8,066,474.48
80. San Antonio Oeste	20,935,285.40
TOTAL	83,382,988.31