



7 May 2018

(18-0000)

Page: 1/12

Committee on Subsidies and Countervailing Measures

Original: English

SUBSIDIES

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:I OF THE GATT 1994 AND ARTICLE 25 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

TRANSPARENCY NOTIFICATION CONCERNING THE EXTENSIONS PROVIDED FOR IN ARTICLE 27.4 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES OF THE TRANSITION PERIOD FOR THE ELIMINATION OF EXPORT SUBSIDIES, GRANTED PURSUANT TO THE PROCEDURES IN THE GENERAL COUNCIL DECISION WT/L/691

ANTIGUA AND BARBUDA

The following communication dated 25 April 2018 is being circulated at the request of the Delegation of Antigua and Barbuda.

I. 2014

Pursuant to the procedures contained in the General Council Decision in document WT/L/691, Antigua and Barbuda hereby submits the following notification for 2014 to enable the Committee to conduct its annual review of compliance of the standstill and transparency requirements as under the decision.

In accordance with the procedures contained in the General Council document G/SCM/6/Rev.1, concerning notification requirements of 2 (a), Antigua and Barbuda wishes to inform that no new legislation have been created since the repealing of the Fiscal Incentives Act CAP 172 of 1975 in 2012, which was done in advance of the 2015 deadline. With respect to the Free Trade and Processing Zone Act No. 12 of 1994, it is maintained and there continues to be no beneficiaries under this programme.

Please be informed, that not all elements of the notified programmes, including subsidies provided hereunder, 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.

PROGRAMME

Free Trade and Processing Zone Act No. 12 of 1994

1. Description of the programme

Free Trade and Processing 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 July 2013 - 30 June 2014

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 prescribed 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. To whom and how the subsidy is provided

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. Subsidy per unit

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. To date, the company never commenced operation.

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

(a) 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. To date, the company never commenced operation.

(b) Description of the domestic procedures necessary to eliminate export subsidies

Antigua and Barbuda wishes to inform that amendments in this area are ongoing and will be advanced by the 2015 deadline.

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.

II. 2015

Pursuant to the procedures contained in the General Council Decision in document WT/L/691, Antigua and Barbuda hereby submits the following notification for 2015 to enable the Committee to conduct its annual review of compliance of the standstill and transparency requirements as under the decision.

In accordance with the procedures contained in the General Council document G/SCM/6/Rev.1, concerning notification requirements of 2 (a), Antigua and Barbuda wishes to inform the passing of a new legislation entitled the Special Economic Zone Act, No.17 of 2015 published and officially gazette Vol.XXXV No. 65 dated 5 November, 2015.

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.

PROGRAMME

Special Economic Zone Act 2015

1. Description of the programme

Special Economic Zone Act is an Act to attract foreign and local private investments and technology in the areas of industrial, commercial and financial services entities.

2. Period covered by the notification

1 July 2014 - 30 June 2015

3. Policy objective and/ or purpose of the subsidy

To act as an economic development tool for the promotion of economic growth by using support measures to attract targeted foreign and domestic investments and technology.

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 through the establishment of certain industrial, commercial and financial services entities in Antigua and Barbuda facilitating public and private sector participation in a competitive and attractive environment for the promotion of economic development and the creation of jobs.

Authority

Special Economic Zone Act, No. 17 of 2015.

5. Form of Subsidy

The Special Economic Zones Act provides measures of support in the following ways:

- (1) The Minister may determine and implement support measures, including incentive schemes for businesses operating within Special Economic Zones;
- (2) The Minister may, with the concurrence of the Minister of any relevant government Ministry, design and administer support measures or other support programmes necessary, including

incentive schemes, to support the development and operation of different categories of Special Economic Zones.

A private entity, a public entity, or a public-private partnership, may apply to the Minister in the form and manner prescribed by regulation for a specified area to be designated as a Special Economic Zone:

- In its application, the applicant must demonstrate that the designation of the area as a Special Economic Zone will further the government's industrial development objectives and must specify the extent to which the designation seeks to— (a) achieve the provisions of section 5(2);
- be consistent with any applicable national policies and laws; and comply with prescribed criteria;
- The applicant must— (a) have sufficient access to financial resources and expertise for the development, operation, management and administration of a Special Economic Zone;
- submit to the Minister a comprehensive feasibility study;
- indicate the extent to which it owns or controls the area to be considered for designation as a Special Economic Zone; and
- in the case of a public-private partnership, indicate its ownership structure through the submission of a shareholders' agreement, indicating shareholding, percentages of shareholding, requirements for transfer of shares and requirements for the distribution of assets upon liquidation;
- The Advisory Board must— consider the application;
- recommend to the Minister whether or not the area is suited to be designated as a Special Economic Zone;
- The Advisory Board may request further information and documents from the applicant for the purposes of considering the application;
- The Minister may, after considering the recommendation of the Advisory Board and satisfying himself that the area indicated in the application is in compliance with the prescribed zone size and any other criteria specified in any regulations made under this Act, designate the area as a Special Economic Zone by a notice published in the Gazette, and issue to the applicant a Special Economic Zone licence; and
- A licence issued under this section shall include all the incentives and concessions granted to the license and other entities permitted to operate in the Special Economic Zone.

6. To whom and how the subsidy is provided

Incentives to operate an entity in the Special Economic Zone are granted to private investors both foreign and local, public, or a public-private partnership orientation, to facilitate the development of industrial, commercial and financial services entities.

7. Subsidy per unit

No statistical information / data is available. YIDA International Investment Antigua Limited in 2015 is the first and only company to date that has been granted a license under the aforementioned Act through the Minister in exercise of the powers contained in Section 23, Sub Section (6) and (7) of the Special Economic Zone Act, 2015. YIDA is yet to commence construction.

8. Duration of Subsidy

Once a license has been granted it is valid for the life of the Special Economic Zone Act.

9. Statistical data on the impact of the Programme

As indicated earlier, no statistical information is available since the first entity granted a license under the act is yet to commence construction.

THE SPECIAL ECONOMIC ZONE ACT, 2015

ARRANGEMENT OF SECTIONS

Section

PART I DEFINITIONS, OBJECTS AND APPLICATION

1. Short title and commencement
2. Interpretation
3. Objects of Act
4. Application of Act

PART II PURPOSE, POLICY AND STRATEGY OF SPECIAL ECONOMIC ZONES

5. Purpose of Special Economic Zones
6. Special Economic Zones policy
7. Special Economic Zones strategy

PART III SPECIAL ECONOMIC ZONES ADVISORY BOARD

8. Establishment of Special Economic Zones Advisory Board
9. Terms of office of Advisory Board members
10. Disqualification from membership of Advisory Board
11. Vacation of office and filling of vacancies on Advisory Board
12. Functions of Advisory Board
13. Fiduciary duties of Advisory Board members
14. Code of good conduct and disclosure of interests by Advisory Board members
15. Meetings of Advisory Board
16. Resolution of Advisory Board without meeting
17. Committees of Advisory Board
18. Secretariat of Advisory Board
19. Expenditure, remuneration and allowances paid to members of Advisory Board and Committees

PART IV FINANCING AND SUPPORT MEASURES

20. Special Economic Zones Fund
21. Support measures
22. Implementation protocol

PART V DESIGNATION OF SPECIAL ECONOMIC ZONES

23. Application for designation
24. Designation of Special Economic Zones
25. Establishment of the Special Economic Zone Committee
26. Functions of Special Economic Zone Committee
27. Strategic plan for Special Economic Zone
28. Business and financial plan of Special Economic Zone
29. Reporting and financial statements of Special Economic Zone

PART VI SPECIAL ECONOMIC ZONE OPERATOR

- 30. Special Economic Zone Committee
- 31. Application for Special Economic Zone operator licence
- 32. Requirements for application for Special Economic Zone operator licence
- 33. Special Economic Zone operator permit
- 34. Assignment of rights and obligations of Special Economic Zone operator permit
- 35. Application to locate in Special Economic Zone

PART VII GENERAL PROVISIONS

- 36. Guidelines
- 37. Regulations

III. 2016

Pursuant to the procedures contained in the General Council Decision in document WT/L/691, Antigua and Barbuda hereby submits the following notification for 2016 to enable the Committee to conduct its annual review of compliance of the standstill and transparency requirements as under the decision.

In accordance with the procedures contained in the General Council document G/SCM/6/Rev.1, concerning notification requirements of 2 (a), Antigua and Barbuda wishes to inform the passing of a new legislation entitled the Special Economic Zone Act, No.17 of 2015 published and officially gazette Vol.XXXV No. 65 dated 5 November 2015.

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.

PROGRAMME

Special Economic Zone Act 2015

1. Description of the programme

Special Economic Zone Act is an Act to attract foreign and local private investments and technology in the areas of industrial, commercial and financial services entities.

2. Period covered by the notification

1 July 2015 - 30 June 2016

3. Policy objective and/ or purpose of the subsidy

To act as an economic development tool for the promotion of economic growth by using support measures to attract targeted foreign and domestic investments and technology.

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 through the establishment of certain industrial, commercial and financial services entities in Antigua and Barbuda facilitating public and private sector participation in a competitive and attractive environment for the promotion of economic development and the creation of jobs.

Authority

Special Economic Zone Act, No. 17 of 2015.

5. Form of Subsidy

The Special Economic Zones Act provides measures of support in the following ways:

(1) The Minister may determine and implement support measures, including incentive schemes for businesses operating within Special Economic Zones;

(2) The Minister may, with the concurrence of the Minister of any relevant government Ministry, design and administer support measures or other support programmes necessary, including

incentive schemes, to support the development and operation of different categories of Special Economic Zones.

A private entity, a public entity, or a public-private partnership, may apply to the Minister in the form and manner prescribed by regulation for a specified area to be designated as a Special Economic Zone:

- In its application, the applicant must demonstrate that the designation of the area as a Special Economic Zone will further the government's industrial development objectives and must specify the extent to which the designation seeks to— (a) achieve the provisions of section 5(2);
- be consistent with any applicable national policies and laws; and comply with prescribed criteria;
- The applicant must— (a) have sufficient access to financial resources and expertise for the development, operation, management and administration of a Special Economic Zone;
- submit to the Minister a comprehensive feasibility study;
- indicate the extent to which it owns or controls the area to be considered for designation as a Special Economic Zone; and
- in the case of a public-private partnership, indicate its ownership structure through the submission of a shareholders' agreement, indicating shareholding, percentages of shareholding, requirements for transfer of shares and requirements for the distribution of assets upon liquidation;
- The Advisory Board must— consider the application;
- recommend to the Minister whether or not the area is suited to be designated as a Special Economic Zone;
- The Advisory Board may request further information and documents from the applicant for the purposes of considering the application;
- The Minister may, after considering the recommendation of the Advisory Board and satisfying himself that the area indicated in the application is in compliance with the prescribed zone size and any other criteria specified in any regulations made under this Act, designate the area as a Special Economic Zone by a notice published in the Gazette, and issue to the applicant a Special Economic Zone licence; and
- A licence issued under this section shall include all the incentives and concessions granted to the license and other entities permitted to operate in the Special Economic Zone.

6. To whom and how the subsidy is provided

Incentives to operate an entity in the Special Economic Zone are granted to private investors both foreign and local, public, or a public-private partnership orientation, to facilitate the development of industrial, commercial and financial services entities.

7. Subsidy per unit

No statistical information / data is available. YIDA International Investment Antigua Limited in 2015 is the first and only company to date that has been granted a license under the aforementioned Act through the Minister in exercise of the powers contained in Section 23, Sub Section (6) and (7) of the Special Economic Zone Act, 2015. YIDA is yet to commence construction.

8. Duration of Subsidy

Once a license has been granted it is valid for the life of the Special Economic Zone Act.

9. Statistical data on the impact of the Programme

As indicated earlier, no statistical information is available since the first entity granted a license under the act is yet to commence construction.

THE SPECIAL ECONOMIC ZONE ACT, 2015**ARRANGEMENT OF SECTIONS****Section****PART I DEFINITIONS, OBJECTS AND APPLICATION**

1. Short title and commencement
2. Interpretation
3. Objects of Act
4. Application of Act

PART II PURPOSE, POLICY AND STRATEGY OF SPECIAL ECONOMIC ZONES

5. Purpose of Special Economic Zones
6. Special Economic Zones policy
7. Special Economic Zones strategy

PART III SPECIAL ECONOMIC ZONES ADVISORY BOARD

8. Establishment of Special Economic Zones Advisory Board
9. Terms of office of Advisory Board members
10. Disqualification from membership of Advisory Board
11. Vacation of office and filling of vacancies on Advisory Board
12. Functions of Advisory Board
13. Fiduciary duties of Advisory Board members
14. Code of good conduct and disclosure of interests by Advisory Board members
15. Meetings of Advisory Board
16. Resolution of Advisory Board without meeting
17. Committees of Advisory Board
18. Secretariat of Advisory Board
19. Expenditure, remuneration and allowances paid to members of Advisory Board and Committees

PART IV FINANCING AND SUPPORT MEASURES

20. Special Economic Zones Fund
21. Support measures
22. Implementation protocol

PART V DESIGNATION OF SPECIAL ECONOMIC ZONES

23. Application for designation
24. Designation of Special Economic Zones
25. Establishment of the Special Economic Zone Committee
26. Functions of Special Economic Zone Committee
27. Strategic plan for Special Economic Zone
28. Business and financial plan of Special Economic Zone
29. Reporting and financial statements of Special Economic Zone

PART VI SPECIAL ECONOMIC ZONE OPERATOR

- 30. Special Economic Zone Committee
- 31. Application for Special Economic Zone operator licence
- 32. Requirements for application for Special Economic Zone operator licence
- 33. Special Economic Zone operator permit
- 34. Assignment of rights and obligations of Special Economic Zone operator permit
- 35. Application to locate in Special Economic Zone

PART VII GENERAL PROVISIONS

- 36. Guidelines
 - 37. Regulations
-