Committee on Subsidies and Countervailing Measures

Original: English

SUBSIDIES

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:1 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

DOMINICA

The following communication, dated 23 April 2018, is being circulated at the request of the Delegation of Dominica.

The attached, as per paragraph 1(c) and 2(a) of the General Council Decision of 27 July 2007 and the format for extension as stated in paragraph 2(a) of WT/L/691, is the updating notification in respect of programmes for which an extension of the transition period was granted for 2007.

The legislation underlying the notified programmes has not changed and was submitted previously dated 25 February 2002.

It should be noted that not all elements of the notified programmes/relevant legislation, including subsidies provided there under, necessarily involve export subsidies.

1. <u>Title of the subsidy programme, if relevant, or brief description or identification of the subsidy</u>

The Fiscal Incentives Programme is directed at encouraging investment in industry through tax holidays, import duty and consumption tax waivers and exemptions of withholding taxes.

2. <u>Period covered by the notification</u>

Programme status as at 30 June 2017
Statistical information – January 1996 - June 2015

3. <u>Policy objective and/or purpose of the subsidy</u>

The objective of the programme is to promote, encourage and develop industry in Dominica for increased employment, exports, and economic growth.

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

Background

For the past several decades the Government of Dominica considers it a priority to create the necessary conditions for encouraging investment of national and foreign capital. This has been and continues to be a critical part of the economic diversification thrust. The aim is to achieve a transition and reorientation of the economy away from dependence on one agricultural crop and preferential access to market.

Authority

The Fiscal Incentives Act No. 42 of 1974 as amended by Act No. 11 of 1983.

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

The Fiscal Incentives Act provides for the granting of tax concessions during a period called the tax holiday period as follows:

- Exemption from the payment of customs duties on plant, equipment, machinery, spare parts, raw materials, or components thereof for;
    - Constructing, altering, reconstructing or extending the enterprise; or
    - Equipping such enterprise for the purpose of manufacturing a product.
- Exemption from the payment of income tax.

The Act also provides for exemptions from the payment of income tax on export profits by way of tax credits.

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.)

Exemption from customs duties during a tax holiday period is granted to any enterprise for which there is at least 10 per cent local value added of the amount realized from sales. The length of the tax holiday period is determined as follows:

- Group 1 enterprises, in which local value added is 50 per cent of more of sales: up to 15 years;
- Group 2 enterprises, in which local value added is between 25-50 per cent of sales: up to 12 years;
- Group 3 enterprises, in which local value added is between 10-25 per cent of sales: up to 10 years;
- Enclave[1] enterprises: up to 15 years;
- Capital-extensive enterprises, in which there is investment of not less than US$10 million: up to 15 years.

Exemption from income tax on export profits are granted for up to five years to any enterprise if the following applies:

- Export profits amount to 10 per cent or more of the entire profits of the enterprise;
- Export profits accrue from an approved product;

[1] Being an enterprise producing exclusively for export to countries other than CARICOM Members.

- The enterprise is not already benefiting from exemptions during a tax holiday period as indicated above; and

- The enterprise engaged in a non-traditional industry exporting a product not traditionally exported from Dominica.

The percentage of the tax credit is in accordance with the table below.

Amount of export profits expressed as a percentage of the entire profits	**Maximum percentage of tax relief**
10% or more but less than 21%	25%
21% or more but less than 41%	35%
41% or more but less than 61%	45%
61% or more	50%

Export profits is determined by the formula (E x P)/S where "E" represents proceeds from export sales, "P" represents profits made by the enterprise and "S" represents the proceeds of all sales.

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 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.

Between 1995 and 2007, only one manufacturing enterprise received income tax credits on export profits. In 1995, EC$564.547 worth of tax credits were granted, in 1996 EC$634.583, in 1997 EC$444.000, in 1998 EC$711.704, in 1999 EC$567.922, in 2000 EC$431.659, in 2001 EC$60.948, in 2002 EC$159.986, in 2003 EC$213.108, in 2004 EC$274.000, in 2005 EC$813.000, EC$ 1,605,866 in 2006 and EC$ 701,886 in 2007, in 2008 no income tax credits on export profits were received, in 2009 Export Credits amounted to EC$ 327,768, in 2011 – 2012 Export Credits amounted to EC$ 1,606,910, in 2012 – 2013 **perceived** Export Credits amounted to EC$ 1,788,542; in 2013-2014 **perceived** Export Credits amounted to EC$ 1,141,502 (preliminary). As of January 2015, Export Credits are no longer granted by Dominica.

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

Administratively, tax credits on export profits are no longer granted by Dominica. The incentives discontinued as of January 2015. Under Section 109 of the Income Tax Act, the Dominica Coconut Product was granted a forty percent (40%) tax relief on total profit by way of tax credits for five (5) years starting 12 January 2012 and ending on 12 January 2017.

9. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such statistics 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):

   a. For the three most recent years for which statistics are available;

For a previous representative year, which, where possible and meaningful, should be the latest year preceding the introduction of the subsidy or preceding the last major changed in the subsidy.

Year	Tax Credits Granted on Exports EC$'000	Production EC$'000	Export of Subsidized Products EC$'000	Imports of Subsidized Products EC$'000	Total Exports EC$'000	Total imports EC$'000
1996	635	N/A	53,847	4,224	138,537	358,683
1997	444	N/A	53,327	4,100	141,258	363,292
1998	833	59,184	72,494	1,337	167,453	356,992
1999	568	41,684	64,164	3,313	150,448	373,215
2000	432	36,818	61,789	2,907	144,673	400,952
2001	61	33,399	55,589	1,865	118,026	355,022
2002	160	32,125	48,934	1,623	115,192	314,048
2003	213	17,771	28,336	271	108,002	345,449
2004	274	39,468	50,233	3,667	111,749	392,031
2005	813	40,408	26,929	641	112,859	447,761
2006	1606*	40,217	53,036	*991	111,976	450,619
2007	702	41,961	26,653	*1,473	*95,826	*528,634
2008	0	35,707	N/A	*2,353	102,958	*666,952
2009	328	27,795	*27,581*	2,250	86,326	607,780
2010	N.A	N.A	N.A	452,259	14,634	*157,173
2011	1,607	30,434	30,706	1,314	69,195	592,160
2012	1,789	36,515	37,205	1, 228	*78,707	525,982
2013	1,141**	35,224	30,063	*2,265,606	*81,183,460	*618,287,128
2014	N/A	33,503,599	33,860,275	2,510,484	**77, 305,978	645, 499,802
2015	N/A	N/A	N/A	N/A	N/A	N/A

* Revised figure.
** Preliminary estimates.

DOMINICA'S ACTION PLAN IN ACCORDANCE WITH THE DECISION OF THE GENERAL COUNCIL (WT/L/691)

A. Description of Programme – Fiscal Incentives Act No 42 of 1974

The Fiscal Incentives Programme is directed at encouraging investment in industry through tax holidays, import duty and consumption tax waivers and exemptions of withholding taxes.

B. Description of domestic procedures necessary to eliminate export subsidies:

The Fiscal Incentives Act is in the process of being reviewed and amended to remove the export contingent content within its ambit. These amendments will allow for the emergence of a new Investment Policy proposing alternative regimes for subsidies/assistance.

C. Description of actions that have been, or are in the process of being undertaken:

In July 2008, as a follow up to the findings of the 2007 TPR, the OECS Member States with assistance from the Commonwealth Secretariat undertook to outline a plan of action for implementing the decision on the extension of Article 27.4 programmes.

In 2008 - 2009, with the assistance of TradeCom, the OECS contracted the services of a trade attorney and legislative drafter to assist MS with the implementation of WTO, CSME and EPA commitments. This included the review of legislation pertaining to fiscal incentive programmes including those notified to the WTO. As of June 2009, the consultant prepared model legislation and drafting guidelines that have been shared with drafters and trade officials for their comment. The proposed legislation is intended to streamline the administration of incentive programmes, provide equal treatment of local and foreign investors, increase transparency and establish a monitoring mechanism for assessing the application and effectiveness of incentive schemes.

Contingent on instructions from the Honourable Minister for Trade a fruitful consultation was held with the Managing Director of the single beneficiary Colgate Palmolive formally Dominica Coconut Products (DCP). He was formally informed of Dominica's obligation to phase out all export and local content contingent subsidies by 2015. The Government representatives from the Division of Trade held discussions with the Corporate Finance Team of the beneficiary company all in an effort to introduce a revised and conclusive alternative WTO compatible programme to mitigate the effects of the phasing out of the relevant subsidy programme.

Under Section 109 of the Income Tax Act, the Dominica Coconut Product was granted a forty percent (40%) tax relief on total profit by way of tax credits for five (5) years starting 12 January 2012 and ending on 12 January 2017.

The company Dominica Coconut Products (Colgate Palmolive) is no longer a functional entity in Dominica; no other company is therefore benefitting from tax reliefs on total profits since the tenure granted to the company expired on the 12th day of January, 2017.

D. Description of future actions:

In order to address the legislative issues of these tax breaks (Export Contingent Subsidies), the Government of Dominica, in an effort to review the Fiscal Incentives Act No. 42 of 1974 as amended by No. 11 of 1983, has mandated the creation of a sub-committee to deal with the review of the existing Act. This process is still ongoing. The Invest Dominica Authority (IDA), which implements the provisions of the Fiscal Incentives Act, has indicated that the completion of the Review is a priority item of the Authority for the Fiscal Year 2018/2019.

The idea is to ensure that the content of the reviewed legislation is compatible with the WTO rules and disciplines; we anticipate that the Review will be completed within the next Eight (8) month (all things remaining constant).