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Committee on Subsidies and Countervailing Measures

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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

FINAL TRANSPARENCY NOTIFICATION PURSUANT TO THE PROCEDURES IN
THE GENERAL COUNCIL DECISION IN DOCUMENT WT/L/691 ON THE
EXTENSIONS UNDER SCM 27.4 OF THE TRANSITION PERIOD
FOR THE ELIMINATION OF EXPORT SUBSIDIES

SAINT LUCIA

The following communication, dated 25 September 2019, is being circulated at the request of the delegation of St Lucia.

The Government of Saint Lucia, pursuant to Article XVI:1 of GATT and Article 25 of the Agreement on Subsidies and Countervailing Measures, submits its 'New and Full Notification' for the periods 2015-2016 and 2017-2018.

This notification is also being submitted for the purposes of final transparency in the context of the extensions granted to Saint Lucia under Article 27.4 of the Agreement on Subsidies and Countervailing Measures, pursuant to WT/L/691. It also serves to provide an update on the progress made towards compliance with the same obligation.

1 PROGRAMME UNDER THE FISCAL INCENTIVES ACT

1. Period covered by the notification

2015-2016 and 2017-2018.

2. Policy objective and/or purpose of the subsidy

- To stimulate export performance;
- To support investment and economic activity;
- To promote diversification in traditional and non-traditional products.

3. Background and authority for the subsidy

The Fiscal Incentives Act 15 of 1974 (*Fiscal Incentives Act Chapter or Cap. 15.16 of the 2008 Revised Laws of Saint Lucia*) was passed to give effect to an agreement on the harmonization of fiscal incentives to promote industrial development among CARICOM¹ Member States.

4. Form of Subsidy

- Income tax exemptions;
- Import duty exemptions on plant, machinery, spare parts and raw materials;
- Income tax exemptions on export profits and export allowance.

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

Fiscal incentives are provided to enterprises involved in manufacturing or processing, deep-sea fishing and shrimping where they form part of an integrated processing operation. Applications for incentives under this Act are approved by the Cabinet of Ministers. An approved enterprise may be granted a benefit if classified in one of the following categories:

- a) Group I Enterprise
- b) Group II Enterprise
- c) Group III enterprise
- d) Enclave Enterprises

The abovementioned categories are based on the level of local value-added expressed as a percentage of the unit sales value. However, it must be noted that local value-added refers to the sum of unit profit (sales price less production costs), depreciation and costs of labour as a percentage of the amount generated from sales of an approved good. Further, whereas reference is made, in the Fiscal Incentives Act Cap 15.16, to local value-added, this must not be confused with the generally accepted definition of local content. Instead it reflects the concern of the Government for increased levels of economic activity, competitiveness and employment creation. As a result of this basis, local value added is viewed from the perspective of the number of local persons employed in a domestic enterprise and expressed as a percentage of sales, for purposes of relief.

Notwithstanding, the laws governing these existing programmes are being reviewed with the view to eliminating all references to export allowance, local content and all other trade distorting factors not consistent with the provisions of the Agreement on Subsidies and Countervailing Measures (ASCM) that may be contained in the body of these existing laws. New procedures and amendments are currently being drafted with incentives programmes that are WTO compatible. Notwithstanding the provision for granting of Export Allowance in the existing Fiscal Incentives Act, there are NO beneficiaries under this programme.

6. Subsidy per unit, or in cases where this is not possible, the total 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

Given that the subsidies are largely in the form of revenue foregone as per sub-paragraph ii. of article 1 of the SCM Agreement, no *ex ante* allocation is made in the annual budget. Moreover, data on the total annual value of subsidies under the fiscal incentives programme is typically not collected. As a result data on the average or per unit subsidy is currently unavailable.

¹ The Caribbean Community (CARICOM) is a regional integration arrangement between 15 Caribbean Countries.

7. Duration of the subsidy and/or any other limits attached to it, including date of inception/commencement
- Group I Enterprise – A period, continuous or interrupted, not extending fifteen (15) years after the effective commencement date.
 - Group II Enterprise – A period, continuous or interrupted, not extending twelve (12) years after the effective commencement date.
 - Group III Enterprise – A period, continuous or interrupted, not extending ten (10) years after the effective commencement date.
 - Enclave Enterprise – A period, continuous or interrupted, not extending fifteen (15) years after the effective commencement date.
8. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such statistics is left to the judgment of the notifying member. To the extent possible and relevant such information including statistics of production consumption, importers and exports of the subsidize product(s) or sector(s)

There is currently no system in place for collection of the necessary data in the format which would facilitate an assessment of the trade effects of this programme. Moreover, there are no provisions in the annual budget for either actual or estimated revenue foregone.

9. Undertakings to eliminate export contingent subsidies

The Government of Saint Lucia, pursuant to its objective to fulfill its obligations with respect to Article 27.4 of the SCM Agreement, has embarked on a process of reviewing the Fiscal Incentives Act, Cap. 15.16 with a view to amending, repealing and or replacing all non-conforming provisions within the text of the legislation (such as export allowance and local content) which served as criteria or performance requirements to qualify for any export contingent subsidy or benefit from the Government.

More specifically, this objective is being implemented through a "**Business Taxation Simplification and Reform Project**" being undertaken with technical assistance from the International Financial Corporation (IFC) of the World Bank. The scope of work of the project includes reform of Saint Lucia's Fiscal Incentives Regime and associated legislation including the Fiscal Incentives Act, to achieve a number of best practice objectives such as reduced complexity, increased transparency as well as compliance with Saint Lucia's international obligations such as with regards to the WTO Agreements and by extension the SCM Agreement.

Notably the Tax incentives reform project is being executed using a collaborative approach between the World Bank and an Inter-Ministerial Team/Working Group made up of representatives from the Ministry responsible for administering the fiscal incentives regime and for international trade namely the Ministry of Commerce, International Trade, Enterprise Development, Investment and Consumer Affairs.

In addition a Memorandum to Cabinet of Ministers seeking approval for this plan of action has been recently prepared.

2 PROGRAMME UNDER THE MICRO AND SMALL SCALE BUSINESS ENTERPRISES ACT

1. Period covered by the notification

2015-2016 and 2017-2018.

2. Policy objective and/or purpose of the subsidy

- To provide a legislative base for micro and small scale business enterprises;
- To make provision for developmental support and financial relief with respect to micro and small scale business enterprises.

3. Background and authority for the subsidy

The Government of Saint Lucia found it necessary to encourage and support investment flows in this sub-sector, in order to promote economic activity particularly in the area of self-employment and also to contribute to the alleviation of poverty. The authority for the subsidy is the Micro and Small Scale Business Enterprise Act No. 19 of 1998 (*Micro and Small Scale Business Enterprise Act, Chapter or Cap. 13.19 of the 2006 Revised Laws of Saint Lucia*).

4. Form of Subsidy

These take the form of relief given to enterprises that are designated or declared as a "micro" or "small scale business enterprise". This relief may be provided from the Fiscal Incentives Act. Bona fide and declared enterprises may also benefit from exemption from import duty and exemptions from income tax on export profits. Income tax relief is given in accordance with section 68 of the Income Tax Act of 1989.

5. To whom and how the subsidy is provided [whether to producers, to exporters, or others through what mechanisms; whether a fixed or fluctuating amount per unit; if the latter, how determine]

Subsidies are provided to micro and small scale business enterprises as described in the Act. Relief would be granted in a similar manner as under the Fiscal Incentives Act, Cap. 15.16. Notwithstanding the provision for granting of 'export allowance' in the Fiscal Incentives Act, Cap 15.16, there are NO beneficiaries under this programme.

6. Subsidy per unit, in cases where this is not possible, the total 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

As with other legislation underpinning the fiscal incentive regime, subsidies are in the form of revenue foregone. Accordingly, there is no *ex ante* allocation made in the annual budget to facilitate financial contribution or direct transfer of funds to eligible beneficiaries. As a result, data on the total annual value of subsidies under this incentive programme is typically not collected. Hence, data on the average or per unit subsidy is currently unavailable.

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

Access to the benefits provided under the *Micro and Small Scale Business Enterprise Act* is based on the eligibility criteria detailed in the Act in conjunction with the terms detailed under the Fiscal Incentives Cap. 15.16.

8. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such statistics is left to the judgment of the notifying member. To the extent possible and relevant such information including statistics of production consumption, importers and exports of the subsidize product(s) or sector(s)

There is currently no system in place for collection of the data in the format which would facilitate an assessment of the trade effects of this programme. Moreover, there are no provisions in the annual budget for either actual or estimated revenue foregone.

9. Undertakings to eliminate export contingent subsidies

As with other pieces of legislation under the Fiscal Incentive Regime, Saint Lucia is seeking to amend the Micro and Small Scale Business Enterprises Act Cap. 13.19. of 2006 to ensure full compliance with the provisions of Article 27.4 of SCM Agreement with respect to removing any export contingent subsidies.

However, it must be noted that the word 'export' does not exist in any part of the existing Micro and Small Scale Business Enterprises Act. Indeed the scale of operation of micro and small business is

such that the vast majority of persons benefiting from the advisory and technical support services provided by Government of Saint Lucia do not export their products.

Notwithstanding, the Government of Saint Lucia remains committed to repeal any provision in the Act that make reference to export-related performance as an criteria to access and benefit from the incentive regime provided under the Micro and Small Scale Business Enterprise Act, Cap. 13.19.

3 PROGRAMME UNDER THE FREE ZONE ACT

1. Period covered by the notification

2015-2016 and 2017-2018.

2. Policy objective and/or purpose of the subsidy

- To foster commerce, trade and investment with other countries;
- To promote economic growth and development.

3. Background and authority for the subsidy

The Free Zone Act 10 of 1999(*Free Zone Act, Chapter or Cap 15.17 of the 2006 Revised Laws of Saint Lucia*) was enacted as a result of the desire of the Government to stimulate growth in trade and to increase employment levels through the creation of new ventures. However, the Free Zone Area became operational in July 2000.

4. Form of Subsidy

- Exemption from import duty, taxes, and other charges on plant, machinery and equipment, raw materials and goods to be sold or exported within the Free Zone Area.
- Special Income Tax Concessions
- Tax credits in accordance with the number of nationals employed on a continuous basis.
- Exemption from income tax during the first 5 years of operations.
- Total net losses over the 5-year tax holiday may be carried forward and deducted against profits in the 3 years following the tax holiday.
- Proceeds from sale of stock or other partial or complete ownership are also exempted from income tax.

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

Subsidies are provided to businesses established within a designated Free Zone Area through government revenue foregone (import duty and tax concessions).

6. Subsidy per unit, in cases where this is not possible, the total 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

As with the other legislation underpinning the fiscal incentive regime, subsidies are in the form of revenue foregone (as per sub-paragraph ii. of Article 1 of the SCM Agreement). Accordingly, there is no *ex ante* allocation made in the annual budget to facilitate financial contribution or direct transfer of funds to firms operating within the Free Zone Areas. As a result, data on the total annual value of subsidies under this fiscal incentive programme is currently not collected or reported. Hence data on the average or per unit subsidy is likewise currently unavailable.

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

- Income Tax – 5 years from date of establishment within the Free Zone Area.

- Income Tax Credits - Indefinite. Access to such credits is subject to qualifying criteria prescribed in the Act
 - Import duty and associated charges – For the duration of tenancy.
8. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such statistics is left to the judgment of the notifying member. To the extent possible and relevant such information including statistics of production consumption, importers and exports of the subsidize product(s) or sector(s)

There is currently no system in place which collects firm-level or aggregated data in a format which would facilitate an assessment of the trade effects of this programme. Moreover, there are no provisions in the annual budget for either actual or estimated revenue foregone.

9. Undertakings to eliminate export contingent subsidies

As with other pieces of legislation under the Fiscal Incentive Regime, Saint Lucia is seeking to amend its Free Zone Act Cap. 15.17 of the Revised Laws of 2006) to ensure full compliance with the provisions of Article 27.4 of SCM Agreement with respect to removing any export performance requirements as an eligibility criteria for benefiting from this programme. As a result the Free Zone Act is included in the scope of work to review the Fiscal Incentives regime so as to repeal and replace any non-conforming provisions of the Free Zone Act, Cap. 15.17.
