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Page: 1/6

Committee on Subsidies and Countervailing Measures

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SUBSIDIESNEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:1
OF THE GATT 1994 AND ARTICLE 25 OF THE AGREEMENT
ON SUBSIDIES AND COUNTERVAILING MEASURES

GUATEMALA

The following communication, dated 27 October 2020, is being circulated at the request of the delegation of **Guatemala**.

Pursuant to Article XVI:1 of the General Agreement on Tariffs and Trade (GATT) 1994 and Articles 25 and 27.4 of the Agreement on Subsidies and Countervailing Measures ("the SCM Agreement") and in accordance with the procedures laid down in the General Council Decision in document WT/L/691 of 31 July 2007 ("the Decision"), Guatemala hereby submits this notification for the period 1 July 2017 to 30 June 2019.

Furthermore, with regard to the notified programmes, Guatemala hereby notifies the Committee on Subsidies and Countervailing Measures ("the Committee") of the following:

Pursuant to paragraph 1(f) of the Decision, on 30 June 2010 Guatemala notified its action plan for the elimination of the export subsidies contained in the three programmes which come under Article 27.4 of the SCM Agreement. Guatemala has notified the Committee every year of the measures implemented under the action plan.

On 25 February 2016, the Congress of the Republic of Guatemala approved the Emergent Law on Job Protection (Decree No. 19-2016), published in the Official Gazette *Diario de Centro América* on 30 March 2016. The Decree entered into force on the day following its publication and amended the Law on the Promotion and Development of Exporting and Maquila Activities (Decree No. 29-89) and the Free Zones Law (Decree No. 65-89). Through these amendments, Guatemala is aiming to bring its subsidy programmes into line with the WTO Agreements. Attention is drawn in particular to the realignment of the programmes in question: all production sectors have been excluded from the scope of these programmes, with the exception of the textiles and clothing sector and enterprises providing services in the field of information and communications technology. Another change worth noting is the endeavour to encourage production rather than exports.

With these amendments, Guatemala is of the view that it has met its obligations under the Agreement on Subsidies and Countervailing Measures.

TABLE OF CONTENTS

	Page
I. Incentives for companies under special customs regimes	2
II. Incentives for managers and users of free zones	3
III. Incentives for commercial and industrial enterprises operating in the Industrial and Trade Free Zone (ZOLIC)	5

PROGRAMME

1. Description

- (a) Temporary relief from the payment of customs duties and import taxes, including value added tax (VAT), on raw materials, semi-processed products, intermediate products, materials, containers, packaging and labels, on the basis of the authorized lists contained in the decision on eligibility issued by the Ministry of the Economy, up to a maximum of one year from the date of acceptance of the relevant customs import declaration or the Central American single customs form.
- (b) Temporary relief from the payment of customs duties and import taxes, including VAT, on sample books, engineering samples, instructional material, patterns and models needed for the production process or for demonstration, research and educational purposes, up to a maximum of one year from the date of acceptance of the relevant customs import declaration or the Central American Single Customs Form.
- (c) Total exemption from customs duties and import taxes, including VAT, on the import of machinery, equipment, parts, components and accessories required for the production process, and duly identified in the decision on eligibility by the Ministry of the Economy.
- (d) Total exemption from tax on income obtained or derived exclusively from the activity authorized in the decision on eligibility. Such exemption shall be granted for a period of 10 years, from the date of notification of the decision on eligibility by the Ministry of the Economy. For the purposes of the application of the exemption, the taxpayers concerned shall maintain a cost accounting and perpetual inventory system or, failing that, a system of unit operating costs. Natural or legal persons domiciled abroad which have permanent subsidiaries, agencies or establishments operating in Guatemala and classified as producers under the temporary admission procedure or as service providers shall not be eligible for this exemption if their country of origin grants a tax credit for income tax paid in Guatemala.
- (e) Temporary relief from customs duties and import taxes, including VAT, on machinery, equipment, parts, components and accessories required for the production process and duly identified in the decision on eligibility by the Ministry of the Economy, up to a maximum of one year from the date of acceptance of the relevant customs import declaration or the Central American single customs form.
- (f) Full exemption from taxes, customs duties and other charges applicable to the import and consumption of fuel oil, butane gas, propane and bunker oil that are strictly necessary for the generation of electricity.
- (g) VAT shall not be applied to locally produced inputs acquired for incorporation in the final product or to services used solely in the activities of producers under the temporary admission procedure or those of service providers.

2. Period of notification

1 July 2017 to 30 June 2019.

3. Objective

To promote, encourage and develop activities in the national customs territory carried out by natural or legal persons domiciled in Guatemala and operating under its customs regimes, in compliance with Decree 29-89 of the Congress of the Republic.

4. Background and authority

Background:

Through the entry into force of this new legal framework, the Government of Guatemala is promoting, encouraging and developing job creation, investment and technology transfer in the national customs territory.

Authority:

Decree No. 29-89 of 23 May 1989 and its amendments, including Decree No. 19-2016.

5. Form of the subsidy

The subsidy takes the form of a tax exemption and is earmarked for domestic production activities in the textiles and clothing sector and for service providers in the field of information and communications technology.

6. To whom and how the subsidy is provided

To natural or legal persons domiciled in Guatemala and operating under its special customs regimes, in compliance with the law.

7. Subsidy per unit or, in cases where this is not possible, the total or annual amount budgeted for this subsidy

Subsidies are granted in accordance with the producers' or service providers' income; they cannot therefore be quantified given that they vary each fiscal year.

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

Unlimited, during the period that the decision on eligibility remains in effect, except in the case of exemption from income tax; exemption from import taxes on machinery, equipment, parts, components and accessories; and exemption from taxes on the import for consumption of fuel oil, butane gas, propane and bunker oil strictly necessary for the generation of electricity, which is granted for a period of 10 years from the date of notification of the decision on eligibility and may not be renewed.

The 10-year period may be cancelled at any time for failure to comply with the social security obligations and other obligations pursuant upon the eligibility decision.

9. Statistical data

No such statistical information is available.

PROGRAMME

1. Description

- (a) Exemption from tax, customs duties and charges that apply to the import into the free zone of machinery, equipment, tools, raw materials, inputs, semi-processed products, containers,

packaging, components and any merchandise used for the production of goods and the provision of services.

- (b) Total exemption from tax on income derived exclusively from the activities of users producing industrial goods or users of services for a period of 10 years from the date of notification of the decision on their eligibility by the Ministry of the Economy. Users producing industrial goods or service users domiciled abroad which operate in Guatemala shall not be eligible for this exemption if their country of origin grants a tax credit for income tax payable in Guatemala.

This exemption shall not apply to service users which sell or provide services to the national customs territory.

- (c) Transfers of goods within and between free zones shall not be subject to VAT.
- (d) Revenue stamps and special stamped paper for protocols shall be fully exempt from tax when employed for the purchase, exchange or transfer of real estate used exclusively in the activities of users producing industrial goods or users of services.
- (e) VAT shall not be applied to locally produced inputs acquired for incorporation in the final product or to services used solely in the activities of users producing industrial goods or those of users of services.

2. Period of notification

1 July 2017 to 30 June 2019.

3. Objective

To encourage the establishment of free zones in Guatemala in order to boost the country's development through the activities carried out in such zones, with the aim of creating employment and promoting technology transfer.

4. Background and authority

Background:

Through the entry into force of this new legal framework, the Government of Guatemala is seeking to promote appropriate conditions for encouraging investment of national and foreign capital, thereby creating jobs and promoting technology transfer.

Authority:

Decree No. 65-89 of 14 November 1989 and its amendments, including Decree No. 19-2016.

5. Form of the subsidy

The subsidy takes the form of a tax exemption.

6. To whom and how the subsidy is provided

The beneficiaries are the managers and users of free zones. The term "user" means a natural or legal person authorized by the Ministry of the Economy to operate in the free zone subject to satisfaction of the requirements of the Commercial Code and the Free Zones Law and its implementing regulations. Users may be: (i) producers of industrial goods, when engaged in the production, transformation, assembly, mounting and processing of goods, with the aim of vesting them with characteristics, uses or functions other than those of their original materials or components or the materials or components consumed, or in technological research and development; or (ii) service providers, when engaged in the provision of services which include commercial activities relating to international trade.

7. Subsidy per unit or, in cases where this is not possible, the total or annual amount budgeted for this subsidy

Subsidies are granted in accordance with the producers' or service providers' income; they cannot therefore be quantified given that they vary each fiscal year.

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

Unlimited, during the period that the decision on eligibility remains in effect, except in the case of exemption from income tax and exemption from import taxes on machinery, equipment and tools, which is granted for a period of 10 years from the date of notification of the decision on eligibility and may not be renewed.

The 10-year period may be cancelled at any time for failure to comply with the social security obligations and other obligations pursuant upon the eligibility decision.

9. Statistical data

No such statistical information is available.

PROGRAMME

1. Description

- (a) The Industrial and Trade Free Zone (ZOLIC) operates in an area located within the perimeter established in the plan regulating the port of Santo Tomás de Castilla in the Department of Izabal.
- (b) Users which are established and operating in the ZOLIC enjoy exemption from the following: (i) full exemption from income tax for 10 years, calculated as of the date on which the enterprise starts up operations in the ZOLIC; (ii) VAT, customs duties and other charges applicable to merchandise imports entering the ZOLIC; (iii) VAT on taxable actions and procedures carried out in the ZOLIC; and (iv) stamp duty on documents containing deeds or contracts relating to goods or business in the ZOLIC.
- (c) Users are also exempt from the payment of import duties, VAT, taxes and other fiscal charges levied in relation to the entry into and stay in the ZOLIC of all goods and other articles or negotiable instruments, raw materials, inputs, materials, semi-processed products, intermediate products, packaging and containers, and also machinery, equipment, spare parts, accessories and other goods intended for industrial or commercial production activities or the provision of services.

2. Period of notification

1 July 2017 to 30 June 2019.

3. Objective

The objective of the ZOLIC is to promote the economic and social development of the Department of Izabal, the only department in Guatemala with access to the Atlantic Ocean.

4. Background and authority

Background:

To encourage investment as a means of promoting the country's economic development.

Authority:

Decree No. 22-73 of the Congress of the Republic of 21 March 1973 and its amendments.

5. Form of the subsidy

The subsidy takes the form of a tax exemption. Beneficiaries must be established and operating in the Santo Tomás de Castilla Free Zone, situated in the Department of Izabal.

6. To whom and how the subsidy is provided

The beneficiaries of these incentives are commercial and/or industrial enterprises operating under this special regime.

7. Subsidy per unit or, in cases where this is not possible, the total or annual amount budgeted for this subsidy

Subsidies are granted in accordance with the beneficiaries' income; they cannot therefore be quantified given that they vary each fiscal year.

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

Unlimited, except in the case of exemption from income tax, which shall be granted for a maximum of 10 years.

9. Statistical data

No such statistical information is available.
