

WORLD TRADE ORGANIZATION

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Committee on Subsidies
and Countervailing Measures

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SUBSIDIES

Requests Pursuant to Article 27.4 of the Agreement on Subsidies and Countervailing Measures

Replies by ST. LUCIA to Questions Posed by AUSTRALIA,¹ the EUROPEAN COMMUNITIES,² JAPAN³ and the UNITED STATES⁴

The following communication, dated 17 June 2002, has been received from the Permanent Mission of the St. Lucia.

Replies to Questions from Australia

Fiscal Incentives Act

1. What types of activities are undertaken by the different categories or groups of enterprises? What determines how enterprises are categorised?

Reply

Mainly manufacturing in the areas of brewing, distilling and agro-processing. There is also very limited activity in the garment industry and some handicraft. Enterprises are categorized by percentage paid to locals in wages and salaries, in relation to the amount realized from sales of an approved product.

Micro and Small Scale Business Enterprises Act

2. What are the criteria for receiving income tax relief under this programme? Is this benefit contingent on export performance?

Reply

The business must first be registered as a Micro and/or Small Scale business with the Small Enterprise Development Unit of the Ministry of Commerce.

¹ G/SCM/Q3/LCA/1.

² G/SCM/Q3/LCA/2.

³ G/SCM/Q3/LCA/3.

⁴ G/SCM/Q3/LCA/4.

Micro business is defined in the act as a small business enterprise:

- (a) in which not more than five persons are employed;
- (b) whose annual turnover does not exceed East Caribbean \$100,000.00
- (c) whose net assets do not exceed East Caribbean (EC) \$75,000.00; and
- (d) which is locally owned.

Small scale business enterprise means a small business enterprise:

- (a) in which not more than fifty persons are employed;
- (b) whose annual turnover does not exceed EC \$1,000,000.00;
- (c) whose net assets do not exceed EC \$500,000.00; and
- (d) which is locally owned.

Income tax relief is granted for the first five years of operations to a small scale business enterprise subject to the business submitting to proper management and accounting practices. This benefit is not contingent on export performance.

Replies to Questions from the European Communities

1. Please indicate when the programmes came into operation.

Reply

Prior to 1 September 2001: The Fiscal Incentives Act from 23 April 1974. The Micro and Small Scale Business Enterprises Act was assented to on 14 September 1998 and the Free Zone Act on 24 February 1999.

2. Please indicate whether the programmes provides for other forms of subsidies than exemption of import duties and internal taxes (e.g. grants, provision of goods or services).

Reply

No.

3. The notification refers to "insurance and export credit guarantee facilities provided by the Eastern Caribbean Central Bank" and the "export promotion support from the OECS Export Development Unit". Does St. Lucia consider these programmes to be covered by the requirements laid down in G/SCM/39, in particular that only programmes involving import duty and internal tax exemptions are covered? Please elaborate.

Reply

OECS export promotion support from the OECS Export Development Unit is funded through external donors. This does not qualify as a subsidy within the definitions of 3.1 (a) and (b). The

insurance and export credit guarantee facility is a lending product specifically designed to facilitate exporters. There are no special concessions granted and each application is assessed on the perception of risk and credit worthiness. While interest rates charged are sometimes below the overdraft borrowing rate, rates are within commercial prime rates prevailing at the time of the facility and is subject to change in keeping with market trends. Applicants do not enjoy any tax benefits.

- 4. Do the programmes provide for a condition to use domestic goods? If yes, please describe the relevant provision.**

Reply

No. While reference is made in our Fiscal Incentives Act No. 15 of 1974 to local value added, this must not be confused with the generally accepted definition of local content. In the case of local value added, this does not mean that there is a requirement that companies favour the use of domestic goods over imports. Instead it reflects the concern of the Government of Saint Lucia that employment be created and that the economy be diversified. Consequently, the provision is applied according to the number of local persons employed in a domestic enterprise and expressed as a percentage of sales, for purposes of relief.

- 5. Please indicate the rate of import duty or internal tax exemption as of 1 September 2001.**

Reply

The rate of import duty can rise to approximately 40 per cent *ad valorem*, while companies are assessed at about 33,1\3 per cent on taxable income.

- 6. Please describe changes to the programmes since 1 September 2001, if any. In particular, indicate any changes to the rate of exemption or the coverage of the programmes e.g. in terms of products, location etc.**

Reply

No changes have been made to date.

- 7. Please indicate for each programme how many companies have benefited from the programmes as of 1 September 2001.**

Reply

A total of 56 companies were benefiting from fiscal incentives as at 1 September 2001, of which 17 are exporters. Approximately 80 Micro and/or Small enterprises have benefited from the Micro and Small Scale Business Enterprises Act, none of which are exporters. Benefit has been mainly by way of training various disciplines.

There are at present four (4) companies operating within the new Free Zone area in Vieux Fort, but they are not engaged in manufacturing or export trade. There are also eight (8) companies outside of the Free Zone area, but which have Free Zone status under the previous Act. These are engaged principally in electronic assembling, garments and novelties. Items are assembled locally and re-exported. Unfortunately, we have no data which we can make available at this point in time.

8. Please elaborate on when and how St. Lucia intends to phase out the programmes.

Reply

There are currently no plans in place to phase out these programmes which are essential for the attraction of investment and the survival of the manufacturing sector. We intend to continue to implement the existing programmes in keeping with our WTO obligations, including provisions governing the phase-out of such programmes. However, this will have to be conducted over an extended period given the smallness and extreme fragility of our economy and manufacturing sector.

Replies to Questions from Japan

Fiscal Incentives Act

1. This Act seems to include a requirement for local value added. Could Saint Lucia please explain its conformity with Article 3.1(b) of the ASCM?

Reply

While reference is made in our Fiscal Incentives Act No. 15 of 1974 to local value added, this must not be confused with the generally accepted definition of local content. In the case of local value added, this does not mean that there is a requirement that companies favour the use of domestic goods over imports. Instead it reflects the concern of the Government of Saint Lucia that employment be created and that the economy be diversified. Consequently, the provision is applied according to the number of local persons employed in a domestic enterprise and expressed as a percentage of sales, for purposes of relief. Since local value added refers to local labour and not goods, in our opinion this is not a prohibited subsidy under Article 3.1(b) of the ASCM.

Replies to Questions from the United States

Fiscal Incentives Act No. 15 of 1974

Micro and Small Scale Business Enterprises Act

Free Zone Act

1. Because the benefits under these programmes can be for extended periods of time, please explain how St. Lucia would modify these programmes so that subsidies do not extend beyond any extension period provided.

Reply

There are currently no plans in place to phase out these programmes which are essential for the attraction of investment and the survival of the manufacturing sector. We intend to continue to implement the existing programmes in keeping with our WTO obligations, including provisions governing the phase-out of such programmes. However, this will have to be conducted over an extended period given the smallness and extreme fragility of our economy and manufacturing sector.

2. Please provide the customs duty and internal tax rates companies would normally pay absent these programmes.

Reply

The rate of import duties can rise to approximately 40 per cent on imported items outside of CARICOM, companies are generally assessed at about 33,1/3 per cent of net taxable income.

3. Please provide additional explanation regarding the Special Income Tax Concessions and tax credits in accordance with the number of nationals employed on a continuous basis under the Free Zone Act. How are these incentives determined and provided?

Reply

A Free Zone business, operating within a Free Zone area is given tax credits in accordance with the number of nationals employed on a continuous basis, at the following rates:

10 to 30 citizens of St. Lucia employed	–	0.1% of taxable income is allowed.
31 to 50	–	0.5% “
51 citizens and over	–	2% “

Inland Revenue cross checks employment information from the payroll with data supplied to the Free Zone Management Authority by Free Zone businesses to authenticate. Tax credits are deducted from income tax due and payable.

4. Could St. Lucia please explain whether any subsidies under these programmes are contingent upon the use of domestic goods? In particular, in light of the local value-added requirements of the Fiscal Incentive Act, please comment on whether this aspect of the programme constitutes a prohibited subsidy under Article 3.1(b) of the Agreement on Subsidies and Countervailing Measures.

Reply

St. Lucia has no programme of subsidies contingent upon the use of local goods. Since local value added refers to local labour and not goods, in our opinion this is not a prohibited subsidy under Article 3.1(b) of the ASCM. While reference is made in our Fiscal Incentives Act No. 15 of 1974 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 of Saint Lucia that employment be created and that the economy be diversified. Consequently, the provision is applied according to the number of local persons employed in a domestic enterprise and expressed as a percentage of sales, for purposes of relief.

5. Are the benefits provided under the Micro and Small Scale Business Enterprises Act contingent upon export performance?

Reply

No.

6. Could St. Lucia please explain whether it maintains any statistical information on the number of companies located in Free Zones, the industries represented by these companies, and the value and volume of exports from the Free Zone? If so, please provide that information.

Reply

There are at present 4 companies operating within the new Free Zone area in Vieux Fort, but they are not engaged in manufacturing or export trade. There are also 8 companies outside of the Free Zone area, but which have Free Zone status under the previous act. These are engaged principally in electronic assembling, garments and novelties. Items are assembled locally and re-exported. We have no data to date.
