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Committee on Subsidies and
Countervailing Measures

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SUBSIDIES

Updating Notifications Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement

CHILE

The following communication, dated 1 October 1999, has been received from the Permanent Mission of Chile.

The present document contains the updating notification of the subsidies maintained by Chile in 1999 in conformity with Article XVI.1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, in accordance with Secretariat document G/SCM/N/48.

Chile wishes to point out that, in keeping with Article 25.7 of the Agreement on Subsidies and Countervailing Measures, notification of a programme or measure does not prejudice either its legal status under the GATT 1994 or the Agreement, the effects under the Agreement or the nature of the programme or measure; indeed, notification of a programme or measure does not prejudice its actionable or non-actionable nature.

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¹ The Support Programme for the Management of Export Firms (PREMEX) was eliminated by Resolution No. 853 of 14 December 1998 of the Production Development Corporation.

PROGRAMME I

1. Title

Tax Credit for Investment in the Provinces of Arica and Parinacota (Region I).

2. Period

To June 1999.

3. Objectives

To reverse the declining economy of the provinces of Arica and Parinacota, making use both of their advantageous geographical position for trade purposes and their tourist attractions, strengthening entrepreneurship and consolidating Arica as an inter-ocean corridor.

4. Background and authority

Background: Arica and Parinacota, as outlying provinces, are at a disadvantage in relation to the development of the rest of the country.

Authority: Law No. 19,420, published in the Official Journal of 23 October 1995, and Law No. 19,478 amending it, published in the Official Journal of 24 October 1996.

5. Form of the subsidy

Tax credit in the form of a tax allowance.

6. To whom and how the subsidy is provided

Taxpayers with investment projects amounting to more than UTM 2,000 (equivalent to US\$103,953 at June 1999 rates) for projects in the province of Arica and more than UTM 1,000 (equivalent to US\$51,976 at June 1999 rates) for projects in the province of Parinacota.

They are eligible for a tax credit of 20 per cent of the value of certain non-convertible assets, namely, buildings, machinery and equipment, including immovable property intended exclusively for commercial exploitation for tourist purposes, directly tied in with the production of goods or the supply of services of the taxpayer's business or activity, purchased new or finished in the financial year.

Taxpayers are also eligible for the credit if they invest in the construction of buildings for use as offices or dwellings, whether or not they include business premises, car parks or shops, consisting of more than five units, in the places specified in the Law, with a built area of not less than 1,000 square metres, completed or built during the financial year.

The taxes are forgiven by deducting the credit from the first-category tax payable as from the trading year of the purchase or construction of the property.

7. Amount of the subsidy

In 1996, 14 investors applied for tax credit of Ch\$426 million for investments amounting to Ch\$2,803 million (investments made in 1995, for which credit was obtained in 1996).

In 1997, 20 investors applied for tax credit of Ch\$832 million for investments amounting to Ch\$7,858 in 1996.

In 1998, 27 investors applied for tax credit of Ch\$1,468 million. For 1998, the requirement to state the amount of the investment involved was removed from the application form.

8. Duration

This incentive became effective, retroactively, as from 1 January 1995. The period for eligibility for this benefit was extended to 31 December 1999 by Presidential Decree No. 1,046 of 28 July 1998.

The benefit will apply only in regard to assets incorporated in the investment project on any of the above-mentioned dates on which the benefit is still effective, although the credit may be recovered up to the year 2020.

9. Statistical data

No data available.

PROGRAMME II

1. Title

Exemption from First-Category Tax under the Income Tax Law on Earnings in the Financial Years of Management Companies and Users in the Free Zones in the Cities of Iquique (Region I) and Punta Arenas (Region XII).

2. Period

To June 1999.

3. Objectives

To stimulate the economic development of Region I and Region XII so as to form an attractive area for investment, economic activity, settlement, growth and sovereignty.

4. Background and authority

Background: These areas, because of their location and geographical features, are at a disadvantage in relation to the development of the rest of the country.

Authority: Decree Law No. 1055 of 1975 and Decree Law No. 1611 of 1976, which together with other legislation regulating the free-zone system, were recast in Ministry of Finance Decree No. 341, published in Official Journal No. 29,775 of 8 June 1977.

5. Form of the subsidy

In practice, the subsidy is a temporary financial benefit. It is not equal to the overall amount of the tax exemption.

Indeed, the 1984 Income Tax Law incorporated first category tax (on companies) and second category tax (on natural persons). As such, the owners of an enterprise can discount the amount of

first category tax paid (15 per cent on the company's annual earnings) from the amount payable as second category tax (a graduated tax that represents a percentage of retained earnings²).

Because the companies concerned benefit from first category tax exemption, the management companies and users in free zones have nothing to discount from their second category tax and must therefore pay the full amount of this tax. The benefit of the exemption therefore amounts strictly to the financial cost not incurred for the period between the time when the first category tax became payable and the time (or times) when retained earnings are determined and the corresponding second tax becomes payable.

6. To whom and how the subsidy is provided

This incentive is for management companies and users (all legal persons) in the free zones of Iquique (Region I) and Punta Arenas (Region XII). They must meet the requirements established by the Ministry of Finance and by the Ministry of Economic Affairs, Development and Reconstruction, under contracts containing conditions freely agreed on with the interested party.

These benefits also apply to manufacturing companies which are already established or which set up in Arica.

Beneficiaries are exempt from the first-category tax under the Income Tax Law on earnings in their financial years.

7. Amount of the subsidy

There are no official calculations of low tax revenue.

8. Duration

This incentive took effect on 25 June 1975 under Decree Law No. 1055 (Iquique and Punta Arenas) and on 10 December 1976 under Decree Law No. 1611 (Arica). Both are of indefinite region.

9. Statistical data

No statistical calculation has been made to assess the trade effects of the subsidy.

PROGRAMME III³

1. Title

Fund for the Promotion and Development of Remote Areas.

2. Period

July 1997 to June 1998.

² The level of income considered for the second category tax includes income other than retained earnings, such as salaries, etc.

³ The Support Programme for the Management of Export Firms (PREMEX) was eliminated by Resolution No. 853 of 14 December 1998 of the Production Development corporation.

3. Objectives

To contribute to the development of the disadvantaged regions of Tarapacá, Aysén, Presidente Carlos Ibáñez del Campo, Magallanes and Antártica Chilena and the provinces of Chiloé and Palena, by providing assistance to small and medium-sized investors wishing to invest or reinvest in production in these remote regions.

4. Background and authority

Background: Being outlying regions and provinces, these areas are at a disadvantage in relation to the development of the of the rest of the country.

Authority: This fund was created by virtue of Articles 38 and 39 of Decree Law No. 3,529 of the Ministry of Finance, published in the Official Journal of 6 December 1980. Decree No. 15 of the Ministry of Finance, published in the Official Journal of 20 April 1981, lays down the terms and conditions of this fund.

5. Form of the subsidy

Direct transfer.

6. To whom and how the subsidy is provided

Funds may only be accorded for investments by small and medium-sized investors, producers of goods and services in the sectors of construction, machinery, equipment, special animal feed and small-scale fishing. The annual amount of individual investment or reinvestment must not exceed 80,000 Promotion Units (index adjusted for inflation). Funds accorded under this programme may not be accepted together with any other benefit granted by the Government of Chile for the same goods or services.

This fund makes a contribution of no more than 15 per cent of the cost of the investment or reinvestment in projects carried out between 1 December and 31 December 1981 and of no more than 20 per cent for investments carried out between 1 January 1982 and 31 December 1999.

7. Amount of the subsidy

The 1998 budget for this facility was 1,316,424 thousand pesos (roughly equivalent to US\$2.8 million, at December 1998 values).

8. Duration

This facility is only available until 31 December 1999.

9. Statistical data

No data available.

PROGRAMME IV

1. Title

Simplified System of Refunds for Minor Exports.

2. Period

To June 1999.

3. Objectives

To simplify the refunding of duties on imported inputs incorporated in minor exports, so as to avoid the administrative complexities that the overall system may involve for an emerging exporter.

4. Background and authority

Background: On the date of entry into force of the law establishing this programme, the drawback mechanism, in other words, the mechanism for effective recovery of customs duties paid on imports incorporated in export products, was difficult to use for small exporters starting out in the export business. This meant that they were less competitive on international markets. To overcome this problem, a mechanism was established as an alternative to the general drawback system and it provides for a simplified refund of levies affecting the cost of inputs used in minor exports.

Authority: Law No. 18,480, published in the Official Journal of 19 December 1985, and Supreme Decree No. 100 of the Ministry of Economic Affairs, Development and Reconstruction, published in the Official Journal of 5 May 1999, which contains the current schedule of products excluded from the scheme. Law No. 19,589, published in the Official Journal of 14 November 1998, amending Law No. 18,480.

5. Form of the subsidy

This simplified system does not in itself constitute a subsidy. The subsidy component would be in the amounts granted by the tax authorities to exporters in a simplified form, which do not strictly correspond to tariffs actually paid on inputs incorporated in exports, owing to the large and continual reduction of tariffs in Chile. Accordingly, a subsidy is created in the form of a direct transfer.

6. To whom and how the subsidy is provided

The beneficiaries are exporters of products under tariff headings involving small amounts and/or those who export them as inputs in other final products. This category covers products for which exports in the 1983-1984 biennium were not more than US\$2.5 million or US\$5 million in 1990.

The law establishes a simplified refund of 9 per cent, 5 per cent or 3 per cent on the f.o.b. exported value or on the net value of the inputs, as appropriate. The maximum export values for the various rates are updated each year.

The effective amounts for 1998 for tariff items defined as minor exports, are as follows:

9 per cent	-	US\$10,533,000
5 per cent	-	US\$15,799,500
3 per cent	-	US\$18,959,400

In addition, the law entitles the authorities to disqualify products in certain circumstances, for instance, when the products have not averaged an export increase over the past three calendar years that is equal to 1.5 times or more the average increase in the Gross Domestic Product.

Law No. 19,589, published in the Official Journal of 14 November 1998, provided for the gradual alignment of this instrument with the WTO Agreement on Subsidies and Countervailing Duties. The subsidy component of this instrument will be eliminated completely at the end of the year 2002.

Indeed, Law No. 19,589 progressively reduces the percentage of the refund from the current rates of 9.5 and 3 per cent to a single rate of 3 per cent. Besides, as of 1 January 2003, the 3 per cent simplified refund will be granted exclusively to exports that include at least 50 per cent of imported inputs (Article 5(e) 2(i) of Law No. 19,589). The result is that the refund will reflect the tariff paid on imported components (since the single simplified refund of 3 per cent will be less than or equal to the 6 per cent tariff paid on 50 per cent or more of imported inputs). Finally, the refund on inputs was eliminated on 1 January 1999.

7. Amount of the subsidy

There are no official calculations of the subsidy component of the simplified refund system. However, the total amount refunded in 1998 was US\$199 million, but a large part of that figure is for drawback within the strict meaning of the term.

In 1998, approximately 15.3 per cent of Chilean exports used this mechanism.

8. Duration

The law does not establish a time-limit. However, as the products reach the ceilings specified in the law, they exit the system. This is reflected in the schedule of exclusions issued by the Ministry of Economic Affairs, Development and Reconstruction by 31 March each year.

Additionally, Law No. 19,589, published in the Official Journal of 14 November 1998, stipulated the gradual alignment of this instrument with the WTO Agreement on Subsidies and Countervailing Duties, which means that its subsidy component will be eliminated as of 1 January 2003.

9. Statistical data

No data available.

PROGRAMME V

1. Title

System of Deferred Payment of Customs Duties, Tax Credit and Other Tax Benefits.

2. Period

To June 1999.

3. Objectives

The objective is to promote technological innovation by transfer incorporated in production investment, stimulating the purchase of capital goods, both imported and locally produced, especially in the case of export-oriented activities.

4. Background and authority

Background: Need to encourage technological modernization by investment in capital goods, strengthening the production infrastructure for goods and services for the foreign market.

Authority: Law No. 18,634, published in the Official Journal of 5 August 1987, and the Regulations thereto, Ministry of Finance Supreme Decree No. 1157, published in the Official Journal of 19 April 1990, and amendments thereto. Law No. 19,589, published in the Official Journal of 14 November 1998 amending Law No. 18,634.

5. Form of the subsidy

Deferred payment of tariffs or tax credits do not in themselves constitute subsidies.

A subsidy exists only if a debt is partly or wholly forgiven, when the capital goods have been intended for the production of export goods or services.

6. To whom and how the subsidy is provided

The beneficiaries are producers and exporters (direct and indirect) of goods and services obtained with capital goods which have been eligible for a deferred payment or for a tax credit.

"Capital goods" (machinery, vehicles, equipment and tools) eligible for the deferred payment or tax credit scheme is taken to mean those directly or indirectly intended for the production of goods or services or the marketing thereof, with an economic life of not less than three years, of a minimum value of US\$3,642.70 (adjustable each year). In the case of vehicles, the minimum value is US\$4,614.09.

The Law contemplates three instruments. The first two are not subsidies nor are they specific programmes. Although they need not be notified, they are described hereunder only for the purposes of explaining the third instrument:

- (i) The law establishes that the payment of customs duties on imports of capital goods may be deferred up to a maximum period of seven years, payable in three instalments. The debt is subject to a (market) interest rate established by the Central Bank of Chile.
- (ii) Purchasers of Chilean-manufactured capital goods are entitled to a tax credit equivalent to 73 per cent of the current customs duty, on the net invoice value of the goods. This debt to the tax authorities is subject to a (market) interest rate established by the Central Bank of Chile and the beneficiary must repay authorities within a maximum period of seven years.
- (iii) The subsidy arises where the tax authorities partly or wholly forgive amounts due for deferred payments of import duties on capital goods or credits granted in the case of Chilean-manufactured capital goods. This occurs when the exporter has used the capital goods to produce exports and the debt is written off at 2.5 times the export percentage of total sales on expiry of the period of the first instalment (100 per cent if 40 per cent or more have been exported). For the two remaining instalments, it is written off at 1.66 times the export percentage of total sales (100 per cent if 60 per cent or more have been exported). The period taken into account for the reduction is the two years prior to expiry of each of the instalments.

Land vehicles are not eligible for debt forgiveness, unless they are used for the international transport of goods.

Article 6 of Law No. 19,589 provided for the elimination of this subsidy (debt reduction) as of the entry into force of the Law (14 November 1998).

Nevertheless, the first transitional article of Law No. 19,589 retains the possibility of debt reductions (the eligible cases) for companies that requested the deferred payment of tariffs or tax credits before 14 November 1998 (the principle of non-retroactivity of the law).

This same transitional provision establishes a special regime for those companies taking advantage of deferred payment of tariffs or tax credit between 14 November 1998 and 31 December 2002. Under that regime, only instalment with expiry dates up to 31 December 2005 are eligible for debt reduction. The same provision lays down special methods of payment.

7. Amount of the subsidy

The debt reduction for deferred payment of tariffs was US\$122.2 million in 1998, while the reduction for tax credits amounted to US\$12.7 million during the same period.

8. Duration

The subsidy (debt reduction for exporters) has been gradually eliminated by means of Law No. 19,589, published in the Official Journal of 14 November 1998. Reductions will be granted only on those instalments with expiry dates prior to 31 December 2005 for debts contracted before 1 January 2003.

9. Statistical data

No data available.

PROGRAMME VI

1. Title

Motor Vehicle Statute.

2. Period

To June 1998.

3. Objectives

To turn the automobile sector into a dynamic export sector, based on efficiency, thereby doing away with the special support it receives at the present time.

4. Background and authority

Background: To provide a safer transition to the normal regime in other sectors of the economy.

Authority: Law No. 18,483, which entered into force on 28 December 1985. Law No. 19,589 published in the Official Journal of 14 November 1998 amending Law No. 18,483.

5. Form of the subsidy

Tax credits, in the form of tax rebates, ended on 31 December 1998, by virtue of the law itself. Customs exemption, in the form of a tax allowance.

6. To whom and how the subsidy is provided

End processors that assemble motor vehicles and are entered as such in the appropriate Register and also use minimum percentages of local content established in the law itself.

Tax credit for local content and tax credit to promote exports ended on 31 December 1998.

The only benefit currently available is customs exemption. Under a programme approved by the Motor Vehicle Commission, when end processors export local components, CKD and SKD imports will be totally or partially exempt from the payment of an *ad valorem* duty at the general rate of customs duties payable on foreign goods being imported into the country.⁴ This benefit is granted up to an amount equivalent to local component exports over a period of 12 months.

In all, assembly firms cannot under these arrangements obtain benefits higher than 35 per cent of the customs value of the finished vehicle.

7. Amount of the subsidy

The amount of the tax credits and the countertrade trade in 1998 was US\$10.5 million. However, part of the amount of the customs exemption is not in itself a subsidy because it involves drawback.

8. Duration

This incentive came into effect on 28 December 1985 and will last until 31 December 1998 in the case of tax credits, with no time-limit in the case of the customs exemption.

9. Statistical data

No data available.

⁴ This percentage is set at 10 per cent for 1999 and will be reduced by one percentage point per year to 6 per cent in the year 2003. The *ad valorem* duty stood at 11 per cent at the end of 1998 (equivalent to the customs tariff) and was modified along with the programmed tariff reduction provided for in Law 19,589, published in the Official Journal of 14 November 1998.