

TAXATION

Shipping and Aircraft

Agreement Between the UNITED STATES OF AMERICA and GHANA

Effectuated by Exchange of Notes
Dated at Accra April 24 and
November 12, 2001



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

GHANA

Taxation: Shipping and Aircraft

*Agreement effected by exchange of notes
Dated at Accra April 24 and
November 12, 2001;
Entered into force November 12, 2001.*

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 2001-055

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Ghana, and has the honor to propose that the two governments conclude an agreement to exempt from income tax, on a reciprocal basis, certain income derived from the international operation of a ship or ships and aircraft as follows:

The Government of the United States of America, in accordance with Sections 872(b) and 883(a) of the U.S. Internal Revenue Code of 1986, agrees to exempt from U.S. federal income tax gross income derived from the international operation of a ship or ships or aircraft by individuals who are residents of Ghana (other than U.S. citizens or residents) and corporations that are organized in Ghana, in each case, that are engaged in the international operation of a ship or ships or aircraft. This exemption shall be granted on the basis of equivalent exemptions granted by Ghana to individual residents of the United States and to corporations organized in the United States.

In the case of a Ghanaian corporation, the exemption shall apply only if the corporation meets the ownership or public trading requirements of U.S. law. For purposes of such ownership requirements, the Government of Ghana shall be treated as an individual resident of Ghana.

Gross income derived from the international operation of a ship or ships or aircraft includes:

- (i) Income from the rental on a full (time or voyage) basis of a ship or ships or aircraft used in international transport;
- (ii) Income from the rental on a bareboat basis of a ship or ships or aircraft used in international transport;
- (iii) Income from the rental of containers and related equipment used in international transport that is incidental to income from the international operation of a ship or ships or aircraft;
- (iv) Gains from the sale or other alienation of a ship or ships or aircraft used in international transport; and
- (v) Income derived by an individual or corporation otherwise engaged in the international operation of a ship or ships or aircraft from active participation in a pool, an alliance, joint venture, international operating agency, or other venture,

that is itself engaged in the international operation of a ship
or ships or aircraft.

The Embassy, on behalf of the Government of the United States of America, proposes that if the foregoing is acceptable to the Government of Ghana, this note and the Ministry's reply note shall constitute an agreement between the two Governments, which shall enter into force on the date of the Ministry's reply note and shall have effect with respect to taxable years beginning on or after January 1, 2001. It shall remain in force until terminated by either Government giving written notice to the other Government through diplomatic channels.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Government of Ghana the assurances of its highest consideration.

Enclosure:

1. Draft reply note

Embassy of the United States of America

Accra, April 24, 2001



SCR.TI/TA/USA



REPUBLIC OF GHANA
MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs of the Republic of Ghana presents its compliments to the Embassy of the United States of America and has the honour to acknowledge with thanks the receipt of Note No. 2001-005 of April 24, 2001 proposing an agreement to exempt from Ghanaian tax gross income derived from the international operation of a ship or ships or aircraft by individual residents of the United States and by corporations organized in the United States, in each case, that are engaged in the international operation of a ship or ships or aircraft. This exemption shall be granted on the basis of equivalent exemptions granted by the United States to individuals who are residents of Ghana (other than U.S. citizens or residents) and to corporations that are organized in Ghana.

The terms of the agreement are as follows:

The Government of Ghana agrees to exempt from Ghanaian tax gross income derived from the international operations of a ship or ships or aircraft by individuals who are residents of the United States and corporations that are organized in the United States, in each case, that are engaged in the international operation of a ship or ships or aircraft. This exemption is granted on the basis of equivalent exemptions granted by the United States under the terms of the Embassy's note of April 24, 2001.

Gross income derived from the international operation of a ship or ships or aircraft includes:

- Income from the rental on a full (time or voyage) basis of a ship or ships or aircraft used in international transport;
- Income from the rental on a bareboat basis of a ship or ships or aircraft used in international transport;
- Income from the rental of containers and related equipment used in international transport that is incidental to income from the international operation of a ship or ships or aircraft;
- Gains from the sale or other alienation of a ship or ships or aircraft used in international transport; and

- Income derived by an individual or corporation otherwise engaged in the international operation of a ship or ships or aircraft from active participation in a pool, an alliance, joint venture, international operating agency, or other venture, that is itself engaged in the international operation of a ship or ships or aircraft.

The Ministry of Foreign Affairs of the Republic of Ghana confirms that the Government of Ghana accepts the proposal contained in the Embassy's Note No. 2001-055 and that the Embassy's note and this note in reply constitute an agreement between the two Governments, which shall enter into force on the date of this note and shall have effect with respect to taxable years beginning on or after January 1, 2001. It shall remain in force until terminated by either Government giving written notice to the other Government through diplomatic channels.

The Ministry of Foreign Affairs of the Government of Ghana avails itself of this opportunity to renew to the Embassy of the United States the assurances of its highest consideration.

Accra, 12th November, 2001

THE EMBASSY OF THE
UNITED STATES OF AMERICA,
ACCRA.

