IN THE THIRD SESSION OF THE SIXTH PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

REPORT OF THE FINANCE COMMITTEE

ON THE

CONVENTION BETWEEN THE REPUBLIC OF GHANA AND KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS.

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REPORT OF THE FINANCE COMMITTEE ON THE CONVENTION BETWEEN THE REPUBLIC OF GHANA AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

1.0 INTRODUCTION

The Convention between the Republic of Ghana and the Kingdom of Denmark for the avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and capital Gains was presented to Parliament on behalf of the Minister for Finance by the Hon. Deputy Minister of Finance Mrs. Mona K. Quartey on Wednesday, 3rd June, 2015. The Rt. Hon. Speaker referred the Convention to the Finance Committee for consideration and report in accordance with Article 75(2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Committee was assisted in its deliberations by the Hon. Deputy Minister of Finance, Mr. Cassiel Ato Baah Forson and officials from the Ministry of Finance and Ghana Revenue Authority (GRA). The Committee is grateful to the Hon. Minister, Deputy Ministers and Officials from the Ministry of Finance, Attorney-General's Department and the GRA for the assistance.

2.0 REFERENCE

The Committee referred to the following additional documents during its deliberations:

- The 1992 Constitution of Ghana;
- The Standing Orders of the Parliament of Ghana;

3.0 BACKGROUND

Ghana as part of its diplomatic and international economic relations has signed eight Double Taxation Conventions/Agreements (DTAs) which are in force. There are also a number of negotiations for DTAs which are at various stages.

Double Taxation arises when the same taxpayer is taxed twice on the same income (called Juridical Double Taxation) or where more than one taxpayer is taxed on the same income (called Economic Double Taxation). DTAs are entered into in order to eliminate such situations where income from one of the treaty countries will be taxed twice. The threat of being taxed twice discourages investment since an investor stands to be taxed both in the Source country and in the Resident country. This is because double taxation leads to an increase in the cost of investment. The negotiations with the Kingdom of Denmark have been concluded and signed and accordingly the DTA need to be ratified by Parliament before it can come into effect.

4.0 PURPOSE OF THE BILL

The objectives of bilateral tax treaties therefore include the protection of taxpayers against double taxation with a view to improve the flow of international trade and investment and the transfer of technology. It also aims at preventing certain types of discrimination between foreign investors and local taxpayers and to provide a reasonable element of legal and fiscal certainty as a framework within which international operations can confidently be carried on.

5. 0 SUMMARY OF THE CONVENTION

The taxes which are the subject of the Convention are:

a) In the case of Ghana
   - i) Income tax
   - ii) The capital gains tax

b) In case of the Denmark
   - i) Income tax to the State
   - ii) Income tax to the municipalities

Some of the major features of the Convention include the following:

a) A building site, construction, installation or assembly project will constitute a permanent establishment for purposes of taxation after nine (9) months.

b) Taxes are to be withheld in the country of source at rate below, on the following income types payable to non-residents:

i) Dividends - 5% on the gross amount of dividends (if the non-resident is a company which holds directly at least 10% of the capital of the company paying the dividends).

15% on the gross amount dividends in all other cases

ii) Interest - Not exceeding 8% of the gross amount (if the interest is derived by a bank which is a resident of the other Contracting State)

Interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempted.

iii) Royalty and management fees - not more than 8% of the gross amount

6.0 OBSERVATIONS

Application of the Convention

The Committee noted that the Convention will apply to persons who are residents of one or both of the Contracting States. Further, the Convention shall also apply to an identical or substantially similar taxes, which are imposed by either Contracting State after the date of signature of the Convention.

It was further noted that the rates regarding dividends, interest and royalties and management fees will apply only where the beneficiary of these payments is a resident of the other

Contracting State and in all other cases, the taxes will be levied in accordance with the laws of the Contracting State in which the income arises.

Exchange of Information

Exchange of Information provisions are now the recent tools States employ to mitigate tax risk and tax evasion across borders. The Committee therefore noted with delight that Article 29 of the convention makes provisions for Contracting States to exchange information as is necessary for carrying out taxation under the Convention or domestic laws. The provisions will facilitate international co-operation among the tax authorities to improve their ability to tackle tax evasion and avoidance and ensure full implementation of their national tax laws, while respecting the fundamental rights of taxpayers. It provides for all possible forms of administrative co-operation between States in the assessment and collection of taxes.

Justification for government action

The Hon. Deputy Minister of Finance informed the Committee that the Convention, like any other double taxation agreement, are desirable and helpful and was certain that Ghana stands to benefit if it ratifies the Agreement. The under-listed were mentioned by the Hon Deputy Minister as some of the reasons for which Ghana needs to ratify the Agreement:

a) It will give investors a stable and predictable tax environment, thus encouraging investment in Ghana,
b) It will prevent a situation where revenue is transferred from one treaty partner to another, for example, by the issuance of tax incentives.
c) It will eliminate situations where income from one of the treaty countries will be taxed twice.
d) It will facilitate cross-border trade and investment between Ghana and Denmark by eliminating tax impediments to these cross-border flows
e) It increase Ghana's Exchange of Information network, which allows Ghana to exchange information with Denmark in order to mitigate tax evasion across borders and also for tax purpose.
f) It will increase Ghana's Tax treaty network thereby meeting one of the recommendations made by the Assessors during Ghana's Phase One Peer Review.

Trade/ Investment Relations with Denmark

The Committee was informed that information from the Ghana Investment Promotion Centre indicates that as at March 2014, Denmark direct investments in the country amounted to over $57,620, 000.00 million. Further, there has been a number of trading activities in the form of exports and imports between the two countries. It was indicated further that Ghana exports raw materials such as cocoa beans and other agricultural products and also imports from Denmark farm machinery and chocolates. The following were given as the trade values between the two countries for 2012 to 2014 financial years:

	2012	**2013**	**2014**
	GH¢	**GH¢**	**GH¢**
Imports from Denmark	133,068,947.10	195,697,609.88	144,955,959.39
Exports to Denmark	29,227,509.88	21,804,231.64	24,615,991.89

The Hon Deputy Minister was optimistic that the ratification of the DTA will further provide an incentive for additional investments and increased trading activities between the two countries.

Development Assistance from Denmark

The Committee was informed that the key areas of the Danish Development assistance to Ghana centred on sustainable human development, sustainable economic growth, macroeconomics, institutional reforms and sustainable livelihood as well as conflict prevention and the support to these key areas are carried through 5 sector programmes. The areas were given as water and sanitation, transport, private sector development, good governance and human rights. The following were cited as some of the specific Danish government support to Ghana:

- ➢ Implementation of the Ghana Shared Growth and Development Agenda (2010-2014) - an amount of $53 million was provided as a general budget support;
- ➢ Health sector Support Programme IV (2008-2012) - an amount of $63 million was provided as health sector budget support for HIV/AIDS;

- Local Service delivery and governance Programmes (2009-2013) – an amount of $89 million was provided to support water supply, sanitation rural feeder roads and the Audit Service;
- Good Governance and Human Rights Programme II –(2009-2013) – an amount of $10 million was provided to support independent governance institutions, civil society and the media; and
- Private Sector Development II (2010-2014) – an amount of $60 million was provided to improve the private sector, establish a Skilled Development Fund, support agriculture and provide funds for the rural areas.

7.0 CONCLUSION AND RECOMMENDATION

The Committee thoroughly examined the agreement and accordingly recommends to the House to adopt its report and ratify by resolution, the Convention for the avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and on Capital Gains between the Government of the Republic of Ghana and the Kingdom of Denmark in accordance with Article 75 (2) (a) of the 1992 Constitution of Republic of Ghana.

Respectfully submitted.

HON. JAMES KLUTSE AVEDZI
(CHAIRMAN, FINANCE COMMITTEE)

ROSEMARY ARTHUR SARKODIE (MRS)
(CLERK, FINANCE COMMITTEE)

July, 2015