

**IN THE SECOND SESSION OF THE THIRD PARLIAMENT
OF THE FOURTH REPUBLIC OF GHANA**

**REPORT OF THE JOINT COMMITTEE ON FINANCE,
CONSTITUTIONAL, LEGAL AND PARLIAMENTARY
AFFAIRS ON THE CONVENTION BETWEEN THE
REPUBLIC OF GHANA AND THE GOVERNMENT OF
BELGIUM ON THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

1.0 INTRODUCTION

The above Convention was laid in the House on Tuesday, 9th July 2002 and referred to the Joint Committee on Finance and Constitutional, Legal & Parliamentary Affairs for consideration and report. The Committee met to consider the Convention with the Minister for Finance, Hon. Yaw Osafo Maafo and a technical team from the Ministry of Finance and reports as follows:

2.0 BACKGROUND

The Convention has been negotiated and concluded to take into account the changes that have taken place in the legal environment relating to taxation since 1994, and to eliminate situations where income from one of the treaty countries will be taxed twice. The Convention applies to persons who are residents of one or both of the Contracting States.

The taxes, which are the subject of this Convention are in the case of Belgium:

- the individual income tax
- the corporate income tax
- the income tax on legal entities
- the income tax on non-residents
- the supplementary crisis contribution, including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax.

In the case of Ghana:

- the income tax
- the capital gains tax
- the petroleum income tax
- the minerals and mining tax

The Convention shall also apply to any identical or substantially similar taxes, which are imposed by either Contracting State after the date of signature of the Convention.

3.0 FEATURES OF THE CONVENTION

- 1 (a) a building site or construction project will constitute a permanent establishment for purposes of taxation after six months;

- (b) an assembly or installation project or a supervisory activity in connection with a building site, a construction, assembly or installation project will constitute a permanent establishment for purposes of taxation after six months.
- 2 (a) taxes are to be withheld in the country of source
- (b) in all other cases, dividends, especially to individual shareholders, will be paid in accordance with the laws of the Contracting State of the company paying the dividends. In Ghana, the withholding tax on dividends is 10% on the gross amount and it is a final tax. Payment of withholding tax on dividends will not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4.0 BENEFITS OF THE CONVENTION

The benefits of the Convention are as follows:

- it will give investors from Belgium a stable and predictable tax environment and thus encourage investment in Ghana;
- it will normally give capital importing countries a more favourable tax treatment to the income of a treaty partner than to a non-treaty partner;

- it will prevent a situation where revenue is transferred from one treaty partner to another, for example, by way of tax incentives; and
- it will eliminate situations where income from one of the treaty countries will be taxed twice.

5.0 OBSERVATIONS

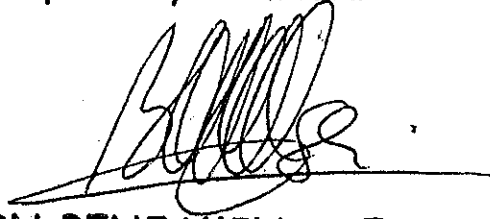
The Committee observed that one significant feature of the Convention is the successful negotiation of meaningful withholdings, which would tax the more substantial outflows such as Management and Technical Service Fees and dividends. In particular, capitalization of profits or bonus share issue has been included in the definition of "dividend" for purposes of taxation.

The Convention also covers the taxation of proceeds from shipping and air transport business in international traffic.

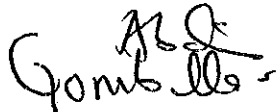
6.0 RECOMMENDATION

The House is hereby invited to consider, and ratify the Convention between the Government of the Kingdom of Belgium and the Government of the Republic of Ghana for the **Avoidance of Double Taxation and Prevention of Fiscal Evasion** with respect to **Taxes on Income** including **Capital Gains** in accordance with the Constitution and Standing Orders of the House.

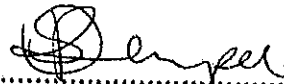
Respectfully submitted



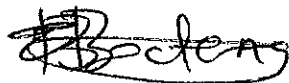
HON. BENJAMIN OSEI KUFFOUR
VICE CHAIRMAN
FINANCE COMMITTEE



ALHAJI IBRAHIM GOMBILLA
CLERK
FINANCE COMMITTEE



HON. KWAME OSEI PREMPEH
CHAIRMAN
(CONSTITUTIONAL, LEGAL
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EVELYN BREFO-BOATENG (Ms)
CLERK
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12TH JULY 2002