IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

REPORT OF THE

FINANCE COMMITTEE

ON THE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF GHANA AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO DATED 17TH FEBRUARY 2017 FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

JUNE, 2017

1.0 INTRODUCTION

The **Convention between the Government of the Republic of Ghana and the Government of the Kingdom of Morocco dated 17th February 2017 for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income** was laid in Parliament on 15th May, 2018 by the Honourable Minister responsible for Monitoring and Evaluation, Dr. Anthony Akoto Osei on behalf of the Minister responsible for Finance.

The Convention was subsequently *referred* 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 Chief Director and other officials from the Ministry of Finance and the Ghana Revenue Authority attended upon and assisted the Committee in its deliberations on the Convention.

The Committee expresses its gratitude to the Chief Director and the officials from the Ministry of Finance and Ghana Revenue Authority (GRA) for attending upon the Committee.

2.0 REFERENCES

The Committee referred to the following documents *inter alia* during its deliberations on the Convention:

a. The 1992 Constitution of Ghana.

b. The Standing Orders of the Parliament of Ghana.

c. Income Tax Act, 2015 (Act 896)

d. Revenue Administration Act, 2016 (Act 915)

3.0 BACKGROUND

The Government of the Republic of Ghana and the Government of the Kingdom of Morocco in their desire to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have entered into the present Convention.

The Convention would come into force upon ratification by Parliament in accordance with the 1992 Constitution of the Republic of Ghana.

4.0 PURPOSE OF THE CONVENTION

The purpose of the Convention is to avoid the double payment of taxation on the same income in Ghana and in Morocco, as well as to prevent fiscal evasion.

5.0 CONTENT OF THE AGREEMENT

The Agreement contains 31 articles.

Article 1 provides that the Agreement covers persons who are residents of one or both of the Contracting States.

Article 2 provides for the taxes covered under the Agreement. Generally, the Agreement applies to taxes on income and capital gains imposed on behalf of a Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied. In particular, the Agreement applies to "the income tax" in Ghana and "the income tax" and "the corporation tax" in Morocco as well as other taxes of similar character.

The terms used in the Agreement are defined in article 3.

Article 4 clarifies who a "resident" is for the purpose of the Agreement. The term "resident of a Contracting State" is defined as "any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof"

The article further makes provision for determining the status of a person who by virtue of the definition above, is a resident of both Contracting States.

Article 5 is on "permanent establishment". It means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term includes

a. A place of management
b. A branch
c. An office
d. A factory
e. A workshop
f. A warehouse, in relation to a person providing storage facilities for others
g. A mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
h. An installation or structure used for the exploration of natural resources
i. A building site or construction, installation or assembly project, or supervisory activities in connection therewith, but only if such site, project or activity lasts more than 6 months.
j. The furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel engaged in the other Contracting State, provided that such activities continue for the same or connected project for a period or periods aggregating to more than 6 months within any 12 month period commencing or ending in the fiscal year concerned.

Under article 6, Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State, may be taxed in that other State.

Article 7 provides that the profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.

Article 8 determines how profits from shipping and air transport are to be taxed.

Article 9 distributes the taxing rights in respect of associated enterprises.

Per article 10, dividends paid by a company which is a resident of Contracting State to a resident of the other Contracting State may be taxed in that other State. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of the State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed

a. **5 percent** of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 percent of the capital of the company paying the dividends.
b. **10 percent** of the gross amount of the dividends in all other cases.

Article 11 apportions taxing rights with respect to interest arising in a Contracting State and paid to a resident of the other Contracting State.

Per Article 12, Royalties are to be taxed at a rate not exceeding **10 percent** of the gross amount of the royalties where the royalties arise in one Contracting State and the beneficial owner of the royalty is a resident of the other Contracting State.

Article 13 is on technical services fees. These fees arising in Contracting State and paid to a resident of the other Contracting State may be taxed in that other state. But where such fees are taxed in a Contracting State where they arise, the tax shall not exceed **10 percent** of the gross amount of the fees if the beneficial owner of the fees is a resident of the other Contracting State.

Article 14 makes provision for the taxing of capital gains derived by a resident of a Contracting State from the alienation of immovable and movable property.

Article 15 stipulates that an income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character is generally to be taxable only in that Contracting State unless the service provider has a fixed base in the other Contracting State or that his stay in the other Contracting State amounts to 183 days in any 12 month period commencing or ending in a fiscal year.

Article 16 is on Dependent Personal Services. It provides that salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State in which case it may be taxed in that other State.

Article 17 permits directors' fees and other similar payments derived by a resident of a Contracting State for being a member of the board of directors or a similar board of

In accordance with Order 161(1) of the Standing Orders of the House, the Committee recommends to the House to adopt this report and approve by resolution, the **Convention between the Government of the Republic of Ghana and the Government of the Kingdom of Morocco dated 17th February 2017 for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income** in accordance with Article 75(2)(b) of the Constitution and the Standing Orders of the House.

Respectfully Submitted.

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HON. DR. MARK ASSIBEY-YEBOAH	EVELYN BREFO-BOATENG (MS.)
(CHAIRMAN, FINANCE COMMITTEE)	(CLERK, FINANCE COMMITTEE)

11TH JUNE, 2018