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

AND ROADS & TRANSPORT ON THE TAX AND DUTY EXEMPTIONS FOR THE EXECUTION OF THE QUAY 2 EXTENSION WORKS AT TEMA PORT

1.0 INTRODUCTION

The above document was laid in the House on Wednesday, 25th June 2003 pursuant to Article 174(2) of the Constitution and referred to the Finance Committee for consideration and report.

The Committee met with the Minister for Finance and Economic Planning, Hon. Yaw Osafo Maafo, Hon. Agyeman Manu, Deputy Minister of Finance & Economic Planning, Minister of Ports, Harbours and Railways, Hon. Prof. C. Ameyaw Akumfi and a technical team from the Ministries of Finance and Economic Planning and Ports, Harbours, and Railways reports as follows:

2.0 BACKGROUND

As part of Government's port development policy of the Gateway Project, infrastructure developments within the ports were identified as being critical to the creation of the enabling environment for Ghana to become the shipping hub of the sub region.

The increasing size of modern containers and Ro-Ro vessels calling at the port required longer and deeper berths than what the two berths at the port could offer. This situation resulted in long waiting times for vessels and in other cases the port was confronted with the problem of accommodating two vessels (a container and a Ro-Ro vessel) at the two berths at a time.

The Port, as an ad-hoc measure resorted to the shifting of vessels to contain the problem and this has resulted to additional cost and destructive operations to the shipping lines and the port.

The Port Development Studies recommended among other things the dredging of the two deep berths at the Tema port, berths 1 and 2 to provide access to larger vessels, the extension of Quay 2 including the installation of container cranes to provide increased capacity and decrease turnaround time and to allow private sector participation in the operations of the port to secure future long term development of the Tema Port.

In implementing the recommendations made in the port development study report, the Authority divided the project into three phases.

The first phase comprising the dredging of berths 1 and 2 and its access channel from 8.5 metres to 11.5 metres was executed by Boskalis International B.V. of the Netherlands at a total cost of US\$21.4 million. The project completed in 2000, was financed partly with an Oret Grant of NLG9,275,000 (US\$4,550,000) from the Netherlands Government and the balance of (US\$16,850,000) from Ghana Ports and Harbours own resources.

Phase 2 comprising the Redevelopment and Extension of Quay 2 is estimated to cost about EUR26,319,252.53 which is to be completed within a period of 23 months including five months design period.

Phase 3 which is a long term Development of the Harbour is yet to be implemented

3.0 OBJECTIVES OF THE PROJECT

The objectives of the Quay 2 extension project are as follows:

- To increase the capacity of Tema Port to accommodate modern generation vessels for improved port efficiency.
- ❖ To reduce waiting time of container and Ro-Ro vessels
- * To make Tema Port competitive in the West African Sup-Region and to attract and sustain more trans shipment cargo.

3.1 PROJECT DESCRIPTION

Quay 2 is to be extended by 200 metres to provide a total berth length of 570 metres with 11.5 metres draft at the south and 240 metres berth length with 10-metre draft at the north end. The entire quay is to be redeveloped into a container terminal with the installation of container cranes with allowable space for break-bulk cargo operations.

3.2 TAX EXEMPTION PROVISIONS IN THE THREE AGREEMENTS

COMMERCIAL LOAN AGREEMENT

Clause 10 of the Commercial Loan Agreement deals with taxes. Clause 10.1 (i) of the Loan Agreement between HSBC and Ghana Ports and Harbours Authority signed on 31st May, 2002 states that "all payments to be made by the Borrower hereunder shall be made without any deduction or withholding whatsoever, it being expressly represented and warranted by the Borrower that no income tax or corporation tax levied or imposed by or in Ghana is applicable to payments" under the Loan Agreement. List of equipment to be procured attached as Appendix I.

Clauses 1.1.3.2 and 2.3 are made pursuant to the Loan Agreement.

Clause 1.1.3.2 of the special conditions of the Contract agreement which was signed on 15th May 2002, one of the conditions of effectiveness of the Contract Agreement is "the receipt by the Contractor of approvals from the relevant authorities of the Republic of Ghana that the Contractor is exempted from liability for Ghanaian taxes, duties and such like items as are described in these provisions"

Clause 1.1.3.2 "the approval of tax and duty exemptions is a prerequisite for the entry into force and legal effect of the Contract Agreement." It must also be stressed that the disbursement of the Grant and the Commercial Loan cannot be made until the Contract Agreement has become effective.

Clause 2.3 of the Agreement states that the Contractor "shall be exempted from all customs duties, taxes and surcharges which may be levied in Ghana on all materials, supplies, consumables, plant and equipment imported into Ghana for the construction of the contract as well as those things imported for the personal and office use related to the Contract" with a proviso that "on arrival of such materials, plant and equipment the contractor shall submit to the appropriate authorities substantiating documents which may be required provided that all the equipment and/or materials not incorporated into or expended in the execution of the works shall be re-exported after completion of the works."

Clause 2.3 "the contractor is to be exempted from the payment of all taxes etc. on materials, plant, equipment and fuel purchased in Ghana and required for the Contract."

Additionally, the Contractor is to be exempted from "payment of any taxes on profits arising out of this Contract and also income tax,

payroll taxes and social securities on personnel who are not citizens or permanent residents of Ghana. Thus all custom duties, taxes and surcharges which may be levied in Ghana on all materials, supplies, consumables, plant and equipment imported into Ghana for the construction of the contract as well as those things imported for the personal and office use related to the contract with a proviso that on the arrival of such materials, plant and equipment the contractor would submit to the appropriate authorities substantiating documents which may be required provided that all the equipment and /or materials not incorporated into or expended in the execution of the works would be re-exported after completion of the works.

3.3 ESTIMATED TAX AND DUTY TO BE PAID

The total value of taxes and cluties including VAT on items to be imported and to be purchased locally is assessed as follows:

20	Imported Items		¢
(i)	Construction Equipment	pte	7,164,585,814
(ii)	Spare Parts and Consumables		1,302,146,279
(iii)	Goods and Materials		21,654,965,589
	Sub Total		30,121,697,682
Materials to be purchased Locally		-	10,886,686,825
тот	AL	ше	\$41,008,384,507

4.0 OBSERVATIONS AND RECOMMENDATIONS

The Committee observed that the Ghana Ports and Harbours Authority had signed an agreement with Interberten B.V. of Netherlands to execute Quay Extension Project at Tema Port and this project is excluded from the payment of any taxes on profit arising out of the contract and also income tax, payroll tax, social security and personnel who are not citizens or permanent residents of Ghana.

The Committee was informed that the project is to be extended by 200 meters to provide the berth length with 10-meter draft at the north end. The entire quay is to be redeveloped into a container terminal with the installation of container cranes with allowable space for break-bulk cargo operations.

The Committee further observed that Article 7 states that all taxes, duties and other levies of Ghana related to the activities and deliveries financed by the Grant, the Loan and Own contribution for the implementation of the Contract will be borne in full by the relevant authorities of Ghana and shall under no circumstance be disbursed out of the Grant, the Loan or Own contribution.

The Committee was informed that the agreement has a grant element and Article 1.2 states that "the Grant shall be used exclusively for the partial payment of the amounts to be disbursed to Interbeton B.V. pursuant to the Contract" and Article 6 states that "the Grant shall be used exclusively for the purpose of financing the activities of the Contract. The use of this Grant being exclusive to the Contract as well as limited to the agreed purposes as set forth in this Agreement, Ghana shall not assign or in any other way whatsoever transfer any of its rights under this Agreement to a third party".

The Committee was further informed that Cabinet on 22nd August 2002, was of the view that the Loan Agreement did not require Cabinet assent and that the Ministry of Roads & Transport Memorandum be reformulated to the Ministry of Finance & Economic Planning to deal with the tax element for consideration. In the interim GPHA notified the two Ministries that tax exemption was a prerequisite for the entry of the contract agreement and urged the Ministry of Finance to explore the possibilities of obtaining the tax exemption within the shortest possible time.

On 20th September 2002 Interbeton B.V was granted a **permit** by the Ministry of Finance and Economic Planning to clear some listed items whilst arrangements were made to obtain parliamentary approval for the **tax-exempt** status of the Grant Agreement and the Contract Agreement.

The permit granted to the contractor was subsequently issued by the Commissioner in line with his authority and prerogative as the Commissioner of CEPS under sections 330 and 336 of Customs, Excise and Preventive Service (CEPS) Law, PNDCL.330 and paragraph 86 of the Code of Instructions of the Customs, Excise and Preventive Service.

The Committee further noted that the Ministry of Finance did not grant any tax exemption but approved the clearance of some items by the contractor from the port only on permit

The Committee observed that the total cost of the Part I of the project to be partly funded with the ORET facility is EURO 26,319,252 and Part II which will be funded through a commercial loan to be provided by HSBC is estimated at EURO 20,874,318.

The Funding arrangements are as follows:

Part I with ORET Support	EURO		
ORET GRANT (35%) - Grant	9,211,738		
HSBC LOAN - Loan	11,344,505		
GPHA - Own Contribution	5,763,009		
TOTAL	26,319,252		

Part II with Commercial Loan

HSBC 20,874,318

The Committee noted that this project when completed would allow larger vessels access to the harbour and would reduce the long waiting times of vessels thereby reducing the loss of revenue as a result of this. It would also provide the harbour with container cranes that would increase the ports capacity and reduce turnover time. The Committee further noted that the project would also allow private participation in the operations of the Tema port to secure a long-term development for it.

The Committee therefore recommends that the contract should be exempted from tax and duties for a smooth and successful execution of the project and in order to avoid any increases in the cost of the work.

5.0 CONCLUSION

In view of the above, the Committee recommends to the House the adoption of its report and the approval by Resolution, the exemption from payment of duties and taxes amounting to \$41,008,384,507 on

the quay 2 extension works at the Tema Port in accordance with Article 174(2) of the Constitution.

Respectfully submitted.

HENTLEUGENE ATTA AGEYPONG

CHAIRMAN

FINANCE COMMITTEE

HON. SAMUEL JOHNFIAH

VICE CHAIRMAN

COMMITTEE ON ROADS & TRANSPORT

alhaji íbrahim gombilla

CLERK

FINANCE COMMITTEE

ABIGAIL ABA ANSO (MS)

CLERK

COMMITTEE ROADS & TRANSPORT

16TH JULY 2003

List of Goods, Materials and Equipment for Exemption from all taxes, custom duties and other levies of the Government of Ghana

Project: Quay 2 extension works Tema Port

Date:

Jun-02

Sea- and Airfreight

 I
 list of equipment
 €16,974,000

 II
 list of spare/wear parts and consumables for equipment
 €2,430,000

 III
 list of goods and materials
 €7,135,000

Local Purchase

l list of goods and materials €8,590,000

Costs are excluding freight and insurance

Project: Quay 2 extension works Tema port

Date: Jun-02

List of Construction Equipment (imported)

Item Qty	Description	Total costs
1	6 car (break)	
2	6 crew cab 4 x 2	
3	6 crew cab 4 x 4	
4	5 stationwagon 4x4	
5	4 personnel bus, 54 persons	
6	2 personnel bus, 15 persons	
	Total passenger cars	€889,000
7	C. Airman Arrish	
7	6 tipper truck	
8	6 truck horse for trailer	
9	2 bulk cement trailer	
10	2 (semi) lowbed trailer	
11	4 aggregate trailer	
12	6 concrete mixer truck + skid	
13	3 yard trailer	
14	3 tractor 4x2	C4 DEE 000
	Total transport equipment	€1,955,000
15	4 wheel loader / integrated tool carrier	
16	1 wheel excavator	
17	2 track excavator	
18	'2 bull dozer	
19	1 grader	
20	1 vibratory roller	
21	6 vibrating (compaction) plate	
22	2 backhoe	
22	Total earthwork and compaction equipment	€2,075,000
,		• •
. 23	3 mobile crane	
. 24	4 crawler crane	
25 1 lot	crane mat	
26	1 tower crane	
27	2 grabs / clamshell	
28	3 block lifting device	
29	3 Heavy load carrier (crane) for precast yard incl. rails and accessories	
30	2 forklift	
	Total lifting equipment	€5,653,000
31	2 tug boat	
32	4 barge ¹	
33	winches (mounted on barge)	
34 1 lot	anchor and buoys	
35	1 ass. vessel / barge	
36	1 survey tower	
37	1 screeding frame (incl. accessorie)	
38	2 tremie pipe	
39 1 lot	diving equipment and diving gear	
40	3 man boat	

Item	Qty		Description		Total costs
41			outboard engine		
42		1	floating and fixed ramp		
				Total marine equipment	€4,170,000
43		1	concrete batching plant incl. ac	cessories	
44		12	poker vibrator incl. hoses and c	ables	
45		12	engines for poker vibrator		
46		1	water cooler for concrete plant		
47		1	concrete pump		
48		1	grout pump		
49		4	mobile concrete mixer		
50		4	concrete bucket and skid		
				Total concrete (placing) equipment	€490,000
51		5	pump	×	
52		1	dredging pump		
53		5	diesel welder		
54		4	light		
55		4	compressor		
56			generator		
57		4	(hot water) cleaner		
58		1	bar cutter		8
59			bar bender	28	
60			hydraulic demolition hammer		
61			road brush		
	1 lot		carpenter shop equipment		
63			piling hammer		
64			pile drilling equipment		
65			construction/building elevator		
66		1	weightbridge	T- (1 1)	C000 F00
				Total other equipment	€989,500
67	1 lot		laboratory equipment		
	1 lot		concrete testing equipment		
	1 lot		survey equipment		
70	1 lot		GPS and (laser) survey equipm	ent .	
.71	1 lot		electrical/ mechanical testing ec		
•			•	Total testing and survey equipment	€115,000
72		1	concrete paving block machine		
72 73			concrete paving block machine block bandage machine		
74			block placing equipment		
74		4	block placing equipment	Total concrete paving blocks equipment	€637,500
				Total tollerete paying blocks equipment	0007,000

Total

€ 16,974,000

ATPENDIX I

Quay 2 extension works, Tema port

Project: Quay 2 extension works Tema port

Date: Jun-02

II List of spare/wear parts and consumables for equipment

item	Qty	Description	Total Price
1		spare-, wearparts for cars	€80,000
2		spare-, wearparts for 4WD cars	€40,000
3		spare-, wearparts for pick-ups	€110,000
4		spare-, wearparts for earthmoving equipment	€170,000
5		spare-, wearparts for Caterpillar equipment	€235,000
6		spare-, wearparts for haulage equipment	€175,000
7		spare-, wearparts for compaction equipment	€80,000
8		spare-, wearparts for lifting equipment	€250,000
9		spare-, wearparts for floating equipment	€130,000
10		spare-, wearparts for welding equipment	€35,000
11		spare-, wearparts for generators	€55,000
12		spare-, wearparts for compressors	€35,000
13		spare-, wearparts for pumps	€35,000
14		spare-, wearparts for paving equipment	-€50,000
15		spare-, wearparts for paving block machine	€80,000
16		spare-, wearparts for concrete batch plant	€85,000
17		spare-, wearparts for concreting equipment	€45,000
18		spare-, wearparts for laboratory equipment	€15,000
19		spare-, wearparts for concrete testing equipment	€15,000
20		spare-, wearparts for survey equipment	€35,000
21		spare-, wearparts for diving equipment and divers gear	€50,000
22		spare-, wearparts for handtools	€50,000
23		spare-, wearparts for concrete placing equipment	€20,000
24		spare-, wearparts for trailers (tippers,cement etc.)	€85,000
25		spare-, wearparts for winches	€70,000
26		spare-, wearparts for lights	€25,000
27		spare-, wearparts for outboard engine	€20,000
28		tyres and tubes for equipment, vehicles and cars	€145,000
29		filters	€80,000
- 30		electrical spare parts and consumables	€75,000
31		others	€55,000

€2,430,000

Project: Quay 2 extension works Tema port

Date: Jun-02

III List of goods and materials

Item Qty Description **Total Price** Construction and Handtools €180,000 spades and shovels other handtools for agriculture handsaws sawblades and sawing machines files, rasps and similar tools (cutting) pliers metal cutters and similar tools pipe cutters, bold croppers, perforating punches (non) adjustable hand operated spanners drilling, threading, tapping handtools hammers, various types planes, chisels, gouches screw drivers blow lamps vices and clamps drilling and boring tools milling tools tuning tools fixing materials general store materials grinding and cutting discs lathe machines jack hammers metal spray machines drilling machines, various types spares for above others

2 €110,000 Timber and plywood coated plywood marine plywood uncoated marine plywood special construction timber others €15,000 3 Fencing wiremesh barbed wire poles others Infrastructural Materials €40,000 4 signs for roads, traffic, direction etc. roadmarking and lining materials others

Paint and Coatings materials €40,000

5

Quay 2 extension works, Tema port

paint cleaners thinners solvents primers brushes sandpaper others

6 Lubricants

€65,000

oil grease

7 Fire Fighting Equipment

€120,000

fire extinguishers fire blankets fire hydrants hose reels hoses others

8 Protective Personal Equipment and Workclothing

€125,000

anoraks man made fibres

overalls t-shirts gloves

safety boots rubber boots

helmets and hard hats masks, goggles, earplugs

safety materials

life vests others

9 **Electrical Equipment and Spares**

€250,000

lead acid accumulators electric drills electric saws fuses automatic circuit breakers

apparatus for protecting electrical circuits

distribution boards lighting fixtures relays and switches electrical cables winding wire of copper

co-axial cable

ignition wiring sets for vehicles

electric conductors spares for above

others

10 Camp Supplies

€75,000

kitchen and laundry equipment tv, radio, video sets, satellite disks etc. airconditioning units

Quay 2 extension works, Tema port

furniture bedding electrical lamps and lighting lamp holders recreation materials household goods cleaning items sanitary materials water treatment equipment and materials spares for above camp supplies personal and baby care personal effects others

11 Office materials

€175,000

office furniture computers and accessories stationary (tele)communication systems walkie talkies (handheld radio's) laboratory equipment office stationary and consumables typewriters, printers, photo copiers cartridges, ink ribbons public relation materials calendars, diaries, desk diaries survey equipment calculators spares for above office materials cameras and films others

12

geotextile

thiomastic sealant chamfers for concrete €1,836,000

Materials for Construction steel beams, plates, pipes, angle irons, strips etc. for construction bags for sand etc. big bags Cement (HFBS) de-bond tape steel rebars and meshes tie rods, plates, washers and (wing) nuts (retrievable) cones flex cells formwork and steel moulds formwork oil binding wire (tie wire) hesian and curing blankets curing compound concrete additives polythene PVC foil PVC pipes incl. glue shade tents and sheds welding rods and consumables

Quay 2 extension works, Tema port

timber spacers
wires and ropes
lifting gear, wires, webs
shackles
BFSC cement
grout and repair mortars
bonding agents
crane racks and lifting baskets
underwater leveling frame
sheet piling incl. anchor materials
coaltar paint
valves and hose couplings
other

13 Materials for Installation or Supply

bollards 30 ton

bollards 60 ton

bollards 80 ton

fenders

crane rails and mastix

ladders

light stands

pipe ducts

cast iron pipes

transformers

electrical cables

fibre optical cables

Vessel Traffic control System (incl. hardware, software, LAN,

aerials, Radar, radio system, etc.)

office furniture, lockers etc.

sanitary ware like toilets, waterheaters, showers, taps etc.

ceiling systems

kitchen units

doors and iron mongery

windows

distribution boards

lighting fixtures

airconditioning system

roofing sheeting

permanent elevators, ladders

electrical power cables

communication cables

tiles

carpets

vinyl tiles

holding down bolts, washers and nuts

geotextile

other

€4,104,000

€7,135,000

Project: Quay 2 extension works Tema port

Date: Jun-02

IV	List of	goods and	materials	various	companies	(Ghana)
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Item (Qty Description bulk and bagged cement	Total Price €2,200,000
2	quarry materials	€2,350,000
3	precast concrete pipes / pavement blocks	€400,000
4	concrete additives	€55,000
5	rebar, binding wire etc.	€635,000
6	timber for concrete formwork and construction	€50,000
7	PVC pipes	€50,000
8	roadlining materials	€25,000
9	office equipment and materials	€150,000
10	explosives	€25,000
11	materials for construction	€650,000
12	roofing sheets	€50,000
13	miscellaneous	€350,000
14	fuel and lubricants	€1,600,000
		€8,590,000

MPPCNDIX II

In case of reply the umber and date of this etter should be quoted

Our Ref.MOF/CEPS/015

Your Ref. No......



P. O. BOX M40 ACCRA

20TH September, 2002

REPUBLIC OF GHANA

RE: TAX EXEMPTION FROM PAYMENT OF IMPORT DUTY AND VAT

We refer to an application with reference number DG/P2/1222 dated 16th July, 2002 for exemption from payment of VAT and import duty in respect of the importation of goods and services under Section 7 of the Grant Agreement between the Government of Ghana and the Netherlands Government as well as income tax relief for expatriate staff under Clause 2.3 of the Contract Agreement between Ghana Ports and Harbours Authority and Interbeton BV.

I am directed by the Hon. Minister of Finance to inform you that approval has been granted Interbeton BV to clear the items as listed in the attachment on permit whilst the Ministry of Roads and Transport arrange to obtain Parliamentary approval for the tax exempt status of the Grant Agreement and the Contract Agreement. The Ministry of Roads and Transport would be required to pay the relevant duties and taxes from the Ministry's budget should the tax exempt application fail to receive Parliamentary approval.

R. K. POKÚ KYEI
SPECIAL ASSISTANT II
for: MINISTER OF FINANCE

THE COMMISSIONER
CEPS, HEAD OFFICE, ACCRA

THE COMMISSIONER VAT SERVICE, ACCRA

THE COMMISSIONER
IRS, HEAD OFFICE, ACCRA

CC':

THE HON. MINISTER
MINISTRY OF FINANCE, ACCRA

MR. J. OSEI-ASAMOAH CHIEF DIRECTOR, MINISTRY OF ROADS & TRANSPORT, ACCRA

THE DIRECTOR-GENERAL G.P.H.A., TEMA

MR. JOHN H. G. SCHOLTE, ACCRA REPRESENTATIVE VINTERBETON BV, ACCRA