

No. 11866

**UNITED STATES OF AMERICA
and
REPUBLIC OF CHINA**

**Exchange of notes constituting an agreement with a view to granting, on a reciprocal basis, relief from double taxation on earnings derived from the operation of ships and aircraft.
Taipei, 8 and 26 February 1972**

Authentic texts : English and Chinese.

Registered by the United States of America on 11 July 1972.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DE CHINE**

Échange de notes constituant un accord tendant à éviter, sur une base de réciprocité, la double imposition des gains provenant de l'exploitation de navires ou d'aéronefs. Taïpeh, 8 et 26 février 1972

Textes authentiques : anglais et chinois.

Enregistré par les États-Unis d'Amérique le 11 juillet 1972.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
THE REPUBLIC OF CHINA WITH A VIEW TO GRANT-
ING, ON A RECIPROCAL BASIS, RELIEF FROM DOUBLE
TAXATION ON EARNINGS DERIVED FROM THE OPER-
ATION OF SHIPS AND AIRCRAFT

I

The American Ambassador to the Chinese Minister of Foreign Affairs

No. 1

Taipei, February 8, 1972

Excellency :

I have the honor to refer to recent conversations between representatives of the Government of the United States of America and representatives of the Government of the Republic of China relating to the possibility of concluding an agreement between the two Governments with a view to granting, on a reciprocal basis, relief from double taxation on earnings derived from the operation of ships and aircraft. The Government of the United States of America agrees as follows :

1. The Government of the United States of America, in accordance with sections 872(b) and 883(a) of its Internal Revenue Code of 1954, shall, on the basis of equivalent exemptions granted by the Government of the Republic of China to citizens of the United States of America and to corporations organized in the United States of America, exclude from gross income and exempt from income tax all earnings derived

(a) by a corporation organized in the Republic of China, or

(b) by an individual who is

(i) a citizen of the Republic of China and

(ii) a nonresident alien as to the United States of America,
from the operation of a ship or ships documented, and from the operation of aircraft registered, under the laws of the Republic of China.

2. For the purpose of this agreement :

(a) The expressions “ operation of a ship or ships ” and “ operation of aircraft ” mean the business or enterprise, carried on by owners or charterers of a ship or ships, or of aircraft, as the case may be, of

(i) transporting persons, including the embarking and debarking of passengers,
or

¹ Came into force on 26 February 1972, the date of the note in reply, in accordance with the provisions of the said notes.

- (ii) transporting articles, mails, and other cargo, including the loading and unloading thereof, or
 - (iii) both (i) and (ii)
 - (b) the term “ earnings ” means income derived from the activities described in subparagraph (a) hereof, including the sale of tickets in the United States of America.
3. The exclusions and exemptions provided for in paragraph (1)
- (a) shall be accorded even though the corporation was resident in the United States of America by reason of engaging in trade or business therein at any time within the taxable year and even though the citizen was engaged in trade or business within the United States of America at any time within the taxable year, regardless of the activities constituting such trade or business;
 - (b) shall be applicable with respect to taxable years beginning on or after the first day of January 1971.

4. Either of the two Governments may terminate this agreement by giving to the other Government six months' prior notice of termination in writing and, in such event, the agreement shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

The Government of the United States of America will consider this note, together with your note of reply confirming that the Government of the Republic of China agrees to terms corresponding to those outlined above, as constituting the agreement between the two Governments, entering into force on the date of your reply note.

Accept, Excellency, the renewed assurances of my highest consideration.

[Signed]

WALTER P. MCCONAUGHY

His Excellency Chou Shu-k'ai,
Minister of Foreign Affairs
Taipei

[TRANSLATION¹ — TRADUCTION²]

MINISTRY OF FOREIGN AFFAIRS

TAIPEI

No. Wai (61) T'iao-1-03823

February 26, 1972

Mr. Ambassador :

I have the honor to acknowledge the receipt of Your Excellency's note dated February 8, 1972, in which reference is made to recent conversations between representatives of the Government of the Republic of China and representatives of the Government of the United States of America relating to the possibility of concluding an agreement between the two Governments with a view to granting, on a reciprocal basis, relief from double taxation on earnings derived from the operation of ships and aircraft. It is noted that the Government of the United States of America agrees to certain terms as outlined in that note. Reciprocally, the Government of the Republic of China agrees as follows :

1. The Government of the Republic of China shall, on the basis of the exemption granted by the Government of the United States of America in accordance with its agreement outlined in the above-mentioned note, exclude from gross income and exempt from income tax all earnings derived :

(a) by a corporation organized in the United States of America, or

(b) by an individual who is

(i) a citizen of the United States of America and

(ii) a nonresident alien as to the Republic of China,
from the operation of a ship or ships documented, and from the operation of aircraft registered, under the laws of the United States of America.

2. For the purposes of this agreement :

(a) The expressions " operation of a ship or ships " and " operation of aircraft " mean the business or enterprise, carried on by owners or charterers of a ship or ships, or of aircraft, as the case may be, of

(i) transporting persons, including the embarking and debarking of passengers,
or

(ii) transporting articles, mails and other cargo, including the loading and unloading thereof, or

(iii) both (i) and (ii).

(b) The term " earnings " means income derived from the activities described in subparagraph (a) hereof, including the sale of tickets in the Republic of China.

3. The exclusions and exemptions provided for in paragraph (1)

(a) shall be accorded even though the corporation was resident in the Republic of China by reason of engaging in trade or business therein at any time within the taxable year and even though the citizen was engaged in trade or business within

¹ Translation supplied by the Government of the United States of America.

² Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.

the Republic of China at any time within the taxable year, regardless of the activities constituting such trade or business;

(b) shall be applicable with respect to taxable years beginning on or after the first day of January 1971.

4. Either of the two Governments may terminate this agreement by giving to the other Government six months' prior notice of termination in writing and, in such event, the agreement shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

The Government of the Republic of China considers that your note above-mentioned, together with this note in reply, constitute the agreement between the two Governments, entering into force on the date of this note.

Accept, Excellency, the renewed assurances of my highest consideration.

CHOU SHU-K'AI

His Excellency Walter P. McConaughy,
Ambassador Extraordinary and Plenipotentiary
of the United States of America
Taipei
