

No. 51549

**United States of America
and
Cape Verde**

Agreement between the Government of the United States of America and the Government of the Republic of Cape Verde for reciprocal exemption of taxes on income from the international operation of a ship or ships or aircraft. Praia, 16 March 2005

Entry into force: *21 June 2005 by notification, in accordance with article V*

Authentic texts: *English and Portuguese*

Registration with the Secretariat of the United Nations: *United States of America, 25 November 2013*

**États-Unis d'Amérique
et
Cap-Vert**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République du Cap-Vert relatif à l'exemption réciproque des impôts sur le revenu provenant de l'exploitation internationale d'un ou de plusieurs navires ou aéronefs. Praia, 16 mars 2005

Entrée en vigueur : *21 juin 2005 par notification, conformément à l'article V*

Textes authentiques : *anglais et portugais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *États-Unis d'Amérique, 25 novembre 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF CAPE VERDE
FOR
RECIPROCAL EXEMPTION OF TAXES ON INCOME FROM THE
INTERNATIONAL OPERATION OF A SHIP OR SHIPS OR
AIRCRAFT**

The Government of the United States of America and the Government of the Republic of Cape Verde (hereinafter the "Contracting Parties"), desiring to conclude an Agreement for reciprocal exemption with respect to taxes levied on income from the international operation of a ship or ships or aircraft derived by shipping and air transport enterprises of the two countries, have agreed as follows:

Article I

TAXES COVERED

1. This Agreement shall apply to all taxes on income derived from the international operation of a ship or ships or aircraft imposed by each Contracting Party irrespective of the manner in which such taxes are levied.
2. There shall be regarded as taxes on income derived from the international operation of a ship or ships or aircraft all taxes imposed on the total of such income, or on elements of such income, including taxes on gains from the alienation of movable property.
3. The taxes that are the subject of this Agreement are:
 - a) In the case of the Republic of Cape Verde, any tax, as described in paragraphs 1 and 2 (hereinafter referred to as "Cape Verde tax"); and
 - b) In the case of the United States, Federal income taxes, as described in paragraphs 1 and 2, imposed by the Internal Revenue Code, including the taxes imposed by sections 884 and 887 (hereinafter referred to as "United States tax.")

Article II

DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - a) The term "tax" means "Cape Verde tax" or "United States tax", as the context requires;
 - b) The term "enterprise of a Contracting Party" means an enterprise carried on by the government of that State, a political subdivision or local authority thereof, or by individuals who are residents of that Contracting Party or corporations created under the laws of that Contracting Party;
 - c) The term "operation of a ship or ships or aircraft" means the transportation by sea or air, as the context requires, of persons, baggage, livestock, goods, merchandise or mail, including the sale of tickets and similar documents used for the purpose of such transport, and other directly related activities, carried on by the owner, lessor, or charterer of a ship or aircraft;
 - d) The term "international operation" or "international transport" means operation as defined in paragraph (c), except where the ship or aircraft is operated solely between places in the territory of a Contracting Party;
 - e) The term "income derived from the international operation of a ship or ships or aircraft" includes:
 - i) Income from the rental on a full (time or voyage) basis of a ship or ships or aircraft used in international transport;
 - ii) Income from the rental on a bareboat basis of a ship or ships or aircraft used in international transport;
 - iii) Income from the rental of containers and related equipment used in international transport that is incidental to income from the international operation of a ship or ships or aircraft;

- iv) Gains from the sale or other alienation of a ship or ships or aircraft used in international transport by an enterprise of a Contracting Party primarily engaged in the international operation of a ship or ships or aircraft;
- v) Income derived by an enterprise of a Contracting Party that is engaged in the international operation of a ship or ships or aircraft from its participation in a pool, an alliance, joint businesses, international operating agency, or other venture that is itself engaged in the international operation of a ship or ships or aircraft;

(f) The term "competent authority" means:

- i) In the case of Cape Verde, the Ministry of Finance; and
- ii) In the case of the United States, the Secretary of the Treasury or his delegate.

- 2. In the application of the provisions of this Agreement by a Contracting Party, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that Contracting Party relating to the taxes which are the subject of this Agreement.

Article III

SHIPPING AND AIR TRANSPORT

- 1. Income derived by an enterprise of a Contracting Party from the international operation of a ship or ships or aircraft shall be exempt from tax by the other Contracting Party.
- 2. For a corporation to claim the benefits of this agreement as an enterprise of a Contracting Party, it must satisfy any ownership or public trading requirements, as well as any filing requirements, of the other Contracting Party.

3. An enterprise of a Contracting Party engaged in the international operation of aircraft includes, but is not limited to, those airlines designated under any effective Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Cape Verde.

Article IV

CONSULTATIONS AND AMENDMENT

1. Consultation may be requested in writing at any time by either Contracting Party regarding the implementation of this Agreement. Such consultations shall commence within sixty (60) days of such written request.
2. The competent authorities of the Contracting Parties shall endeavor to resolve by mutual agreement any questions that may arise regarding the interpretation or application of this Agreement.
3. This Agreement may be amended by written agreement of the Contracting Parties.

Article V

ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing through diplomatic channels when their respective legal procedures for entry into force have been met with respect to this Agreement.
2. The Agreement shall enter into force as of the date of the latter of the notifications required under paragraph 1 of this article, and the provisions of this Agreement shall have effect with respect to all taxable years beginning on or after January 1, 2005.