**NATIONAL ASSEMBLY OF THE FIRST SESSION OF THE**

**TENTH PARLIAMENT OF GUYANA (2012-2013)**

**REPORT OF**

**THE SPECIAL SELECT COMMITTEE**

**ON THE ANTI - MONEY LAUNDERING AND COUNTERING**

**THE FINANCING OF TERRORISM (AMENDMENT) BILL 2013**

**(BILL NO. 12 OF 2013)**

**PRESENTED TO THE NATIONAL ASSEMBLY**

**BY**

**THE CHAIRPERSON OF THE COMMITTEE**

**ON**

**7th November, 2013**

**REPORT OF THE SPECIAL SELECT COMMITTEE OF**

**THE ANTI - MONEY LAUNDERING AND COUNTERINGTHE**

**FINANCING OF TERRORISM (AMENDMENT) BILL 2013**

**– BILL NO. 12 OF 2013**

**Publication**

1. AN ACT to amend the Anti- Money Laundering and Countering the Financing of Terrorism Act, Bill No. 12 of 2013. This Bill was published on 22nd April, 2013.

**Introduction, First and Second Readings**

1. The Bill was introduced in the National Assembly and read a first time on 22nd

 April, 2013. It was then debated and read a second time on 7th May, 2013.

**Committal to a Special Select Committee**

1. Following the second reading, the Bill was committed to a Special Select Committee, by the

 National Assembly, for consideration.

**Members of the Special Select Committee**

1. At a meeting held on the 7th May, 2013, the Committee of Selection nominated the following Members to comprise the Special Select Committee to consider the Anti- Money Laundering and Countering the Financing of Terrorism (Amendment) Bill 2013- Bill No. 12/2013.

**Members of the People’s Progressive Party/Civic (PPP/C) (4)**

Hon. Mohabir A. Nandlall, M.P.,

Attorney General and Minister of Legal Affairs

Hon. Clement J. Rohee, M.P.,

Minister of Home Affairs

Hon. Dr. Ashni Singh, M.P.,

Minister of Finance

Ms. Gail Teixeira, M.P.

Chief Whip

**Members of A Partnership for National Unity (APNU) (4)**

Mr. Basil Williams, M.P.,

Mrs. Deborah Backer, M.P.,

Deputy Speaker

Mr. Carl B. Greenidge, M.P.

Lt. Col. (Ret’d) Joseph Harmon, M.S.M., M.P.

**Member of the Alliance For Change (AFC) (1)**

Mr. Khemraj Ramjattan, M.P.

**Change in Membership**

1. On the 11th July, 2013 the Hon. Bishop Juan A. Edghill, M.S., J.P., M.P., was nominated by the Committee of Selection to replace Hon. Clement J. Rohee, M.P., Minister of Home Affairs who had resigned from the Committee on 4th July, 2013.

**First Meeting of the Committee-Election of Chairperson**

1. At its first meeting held on 8th May, 2013, the Committee elected Ms. Gail Teixeira, M.P., (Chief Whip) as Chairperson of the Special Select Committee.

**Other Meetings of the Committee**

1. The Committee met on 16 other occasions as follows:

Monday, 13th May, 2013

Thursday, 16thMay, 2013

Monday, 20thMay, 2013

Thursday, 23rdMay, 2013

Wednesday, 12th June, 2013

Wednesday, 3rd July, 2013

Wednesday, 9th July, 2013

Thursday, 11th July, 2013

Monday, 15th July, 2013

 Wednesday, 17th July, 2013

 Monday, 22nd July, 2013

 Wednesday, 24th July, 2013

 Monday 29th July, 2013

 Monday 5th August 2013

 Monday 14th October, 2013

 Tuesday 22nd October, 2013

***See Appendix I for the attendance record of the Committee.***

**Methodology**

1. At its 1st Meeting held on 8th May, 2013, the Committee agreed to the following:
* It would invite submissions on the Bill from the public to facilitate its work;
* Experts would be invited to assist the Committee with its work; and
* A copy of the Mutual Evaluation Report on Anti- Money Laundering and Combating the Financing of Terrorism (Guyana) 2011 would be circulated electronically to Members.
1. The Committee at a subsequent meeting, identified and agreed to solicit the views of the following stakeholders on the Bill: In this regard, letters were written to each of the following organizations and individuals:
* Bank of Guyana
* Director of Public Prosecutions
* Commissioner of Police
* Guyana Bar Association
* Private Sector Commission
* Guyana Securities Council
* Christopher Ram of Ram and McRae
* The Guyana Association of Bankers
* The Commissioner of Insurance
* Guyana Women`s Lawyers Association
* Guyana Association of Legal Practitioners

**Advertisements**

10. Advertisements were placed in the print media during the period 11th May- 15th May, 2013. Members of the public (individuals and organizations) were invited to submit written presentations of their views on the Bill to the Committee not later than Friday 17th May, 2013.

11. The Committee, upon request by some of the stakeholders and Members of the Committee, agreed to further extend the deadline for submission on the Bill to 3rd June 2013.

12. The Guyana Bar Association, the Guyana Women’s Lawyers Association and the Guyana Association of Legal Practitioners were given a further extension to 12th July, 2013 to submit their views on the Bill.

***Copies of the advertisements and letters to the organizations and individual are attached at Appendix II***

**Response to Invitations**

13. The Committee received a total of six (6) written submissions from respondents as follows:

* Bank of Guyana
* Director of Public Prosecutions
* Guyana Women`s Lawyers Association
* The Institute of Chartered Accountants of Guyana
* Justice Institute Guyana
* Christopher Ram of Ram & McRae Chartered Accountants

**Late Submissions**

14. On the 7th August, 2013 and 21st October, 2013, the Committee received two (2) written submissions from the Guyana Bar Association and Prof. Clive Y. Thomas C.C.H, respectively. At its 17th Meeting the Committee examined the contents of the two submissions and agreed that the submissions did not offer any specific amendments to the Bill in keeping with Standing Orders 59 and would not be further considered as the extended deadline had elapsed.

**Hearing**

15. The Director of Public Prosecutions, Mrs. Shalimar Ali- Hack, was invited to appear before

 the Committee and made an oral presentation on her submission to the Committee on 3rd and 9th July, 2013 respectively, in keeping with the Committee`s methodology.

**Experts on the Committee:**

16. The Members of the Government proposed that the Deputy Chief Parliamentary Counsel, Mr. Charles Fung-a-Fatt, the Director of the Financial Intelligence Unit FIU), Mr. Paul Geer, and Ms Alicia Williams, Legal Adviser to the FIU be invited as experts to assist the Committee with its work. This proposal was accepted.

17. These experts provided excellent support to the Committee, especially with regard to bringing Guyana’s legislation into compliance with the CFATF and FATF recommendations.

**Correspondence**

18. The Committee received a copy of a letter dated 10th April 2013, to the His Excellency the

 President from the CFATF.

19. At the 6th Meeting held on 12th July, 2013, the Committee decided to seek clarification from CFATF with regard to the deadline for Guyana’s submission of its follow up report. The response of CFATF dated 13th June, 2013 and addressed to the Director of the Financial Intelligence Unit was circulated to Members of the Committee. The Committee noted that Guyana was required to report progress on or before **August 26, 2013.**

20. The Committee also was privy to a second letter dated 8thJuly, 2013 between the CFATF and the FIU with regard to the strategic AMLCFT deficiencies that were still outstanding by Guyana.

***Copies of the Correspondence are attached as Appendix III***

**Documentation:**

21. The Committee received the following documents submitted by Minister Dr. Ashni Singh to assist the Committee in familiarizing itself with the manner in which the CFATF and FATF operates as well as the Mutual Evaluation Reports and recommendations contained therein:

* Guyana‘s Pre-Plenary Fourth Follow–Up Report by CFATF to the Nicaragua Plenary scheduled for May 27- 31, 2013;
* Financial Action Task Force Reference – Third Round of AML/CFT Mutual Evaluation Report October , 2009;
* Matrix reflecting the progress made on all of the deficiencies since the Mutual Evaluation Report of July 2011;
* Action Plan for Core and Key Recommendations;
* Matrix tracing the amendments; and
* FATF New Recommendations.

***Copies of these documents are available in the Parliament office*.**

**Consideration of the Bill**

22. On 16th May, 2013,before the Committee commenced consideration of the Bill, the Hon. Dr. Ashni Singh, M.P., Minister of Finance, presented documentation ( see reference to paragraph 21 herein) on the genesis and background of the Bill and provided explanations on Guyana`s position with respect to compliance with the Caribbean Financial Action Task Force (CFATF) recommendations.

23. The Committee, thereafter, commenced consideration of the Anti- Money Laundering and Countering the Financing of Terrorism (Amendment) Bill 2013, Bill No. 12/2013, Clause by Clause in conjunction with the submissions received from stakeholders.

24. At its fourth meeting held on 20th May, 2013, Members of the main Opposition party informed the Committee that they were instructed by the Leader of the Opposition, Brigadier (Ret’d) David Granger, to discontinue further participation on the consideration of the Bill, pending a satisfactory explanation by His Excellency the President, as to the reason why the letter dated 10th April 2013,received from the Caribbean Financial Action Task Force (CFATF), was not submitted to Members of the Opposition.

25. The Co-Chairs of CFATF in that letter had encouraged the President to disseminate the letter to Members of the Government, the Leader and Members of the Opposition and all technical and public sector officials involved in the AMLCFT (Amendment) Bill 2013,Bill No. 12/2013. The Members of A Partnership for National Unity, however, noted that it was only made aware of the letter after it was circulated to Members prior to the third meeting of the Committee held on 16th May, 2013.

26. Following a formal apology from Excellency President Ramotar to the Leader of the Opposition via letter dated 20th May, 2013, and circulated to Members of the Committee, the Committee at its fifth meeting held on 23rd May, 2013, resumed consideration of the Bill.

27. At the 12th Meeting held on 22nd July, 2013, Members of the Opposition again withdrew from participating in further deliberations of the Committee. Members of the Opposition at that meeting expressed concerns over a statement allegedly made by His Excellency President Ramotar, which referred to Members of the Opposition as “**terrorists”.** The Opposition claimed that this statement was published in the Saturday Edition of the Stabroek News dated 20th July 2013.

28. The Government Members denied that the President had made any such accusation and pointed out that the extract from the Saturday Edition of the Stabroek News dated 20th July, 2013 stated:

*“that the Opposition’s rejection of the bill and motion dealing with the Amaila Falls Hydroelectricity Project is an act of Terrorism against the development of Guyana”.*

29. Nevertheless, a motion was put and carried by a majority vote, requesting that the Committee call upon His Excellency the President, to retract the statement, failing which the Opposition Members would not attend meetings of the Committee. The Opposition Members left the meeting.

30. The Committee met on 29th July, 2013 and continued to consider the Bill clause and clause. The meeting concluded consideration of the Bill and decided to ask the Clerk of the Committee to prepare the draft report and the Matrix of Amendments to the Bill for the next meeting scheduled for August 2, 2013. The Chairperson postponed and rescheduled the meeting to August 5, 2013 to allow members to have more time to peruse the draft report and draft Matrix of amendments to the Bill.

31. The Committee met on Monday 5th August, 2013 with the purpose of concluding examination of the draft report and draft Matrix of amendments to the AMLCFT (Amendment) Bill No. 12/2013, however, the opposition Members moved a motion to adjourn the meetings of the Committee to October 2013 and this was passed by the majority.

32. On 14th October, 2013, the Committee recommenced its work after the recess period; clarification and justification were sought on several amendments made to the AMLCFT (Amendment) Bill No. 12/2013 by Members of the opposition. In addition, the Chairperson requested Members to peruse the two (2) late written submissions from the Guyana Bar Association and Prof. Clive Y. Thomas C.C.H, respectively.

33. The Meeting scheduled for Monday 21st October, 2013 was postponed by the Chairperson on a request by Members of the A.P.N.U. sighting their unavailability to attend that meeting. There was no indication that the A.F.C. member would attend.

34. Consequently, a meeting of the Committee was held on Tuesday 22nd October, 2013. The Chairperson reported on the reasons for the postponement at the meeting and stated that she had asked two Members of the main opposition party of a new date for the meeting and she was told that they were thinking of Monday 28th October, 2013. The Chairperson advised the Committee that she had rejected this date due to the urgency of the Committee meeting and concluding its work. She also reminded Members that there would no meeting of the parliamentary committees during the week of the October 28th as the Parliament Office would be engaged in hosting the CPA Regional Conference of Presiding Officers and Clerks.

35. At this meeting Members of the main opposition were not in attendance. The Committee proceeded to go through the draft Report on the Anti- Money Laundering and Countering the Financing of Terrorism(Amendment) Bill 2013, Bill No. 12 of 2013, and the Matrix of Amendments to the Bill and decided that the Bill was now ready for presentation to the National Assembly.

36. The Chairperson thanked the Members of the Committee and staff in efficiently bringing the

 review of this bill to its conclusion.

37. The Report is accordingly hereby submitted.

**Consideration of the Bill Clause by Clause:**

38. The following Clauses were accepted as presented:

 1 and 10.

39. Clause 13 was deleted and Clauses were renumbered consequentially.

40. The following Clauses were amended:

 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17 and 18.

It should be noted that several Clauses were completely rewritten by the Committee in order to bring the Bill No. 12/2013 in compliance with the CFATF recommendations.

41. The details of the amendments made to the Bill by the Committee are reflected in the Matrix attached at ***Appendix IV.***

**Minutes**

42. The Minutes of Proceedings of the Committee are at ***Appendix V.***

**Verbatim Record**

43. The Verbatim Records of Proceedings of the Committee have been prepared and will be available at the Parliament Office.

…………………………………….

Ms. Gail Teixeira, M.P.,

Chairperson of the

Special Select Committee on the

 Anti- Money Laundering and Countering the Financing of Terrorism

(Amendment) Bill 2013 Bill No. 12 /2013.

*Committee Division*

*Parliament Office*

*Public Buildings*

*Brickdam, Stabroek*

*Georgetown*

*30th October, 2013*