

## IN THE FIRST MEETING OF THE FOURTH SESSION OF THE FIFTH PARLIAMENT

### REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANTI-TERRORISM (AMENDMENT) BILL

#### 1.0 INTRODUCTION

- 1.1 The Anti-Terrorism (Amendment) Bill was presented and read the first time in Parliament on 21<sup>st</sup> of March 2012. The Rt. Hon Speaker subsequently referred the Bill to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to article 106(4) and (5) of the Constitution and Order 179 of the Standing Orders of the House.

#### 2.0 DELIBERATION

- 2.1 The Committee met on Thursday 22<sup>nd</sup> March 2012 to consider the amendment Bill. The Deputy Attorney-General and Minister for Justice, Hon. Ebo Barton-Odro and the technical team from the Attorney-General's Dept. were in attendance to assist in the deliberations. Mr. Samuel T.Essel, Chief Executive Officer, Financial Intelligence Center and Mr. Mortey Akpadzi from the Economic and Organised Crime Office were also in attendance at the invitation of the Committee. The Committee is therefore grateful to them for their attendance and input.

#### 3.0 REFERENCE DOCUMENTS

- 3.1 The Committee had recourse to the under-listed documents during the deliberations:
- a. The 1992 Constitution,
  - b. The Standing Orders of Parliament,
  - c. Anti-Terrorism Act, 2008 (Act 762)



- d. Anti-Money Laundering Act, 2008 (ACT 749)
- e. Economic and Organised Crime Office Act, 2010 (ACT 804)
- d. Anti-Terrorism (Amendment) Bill

#### 4.0 **BACKGROUND**

Ghana is a State Party to the United Nations International Convention for the Suppression of Financing of Terrorism, 1999. As a member of the Committee of Nations, Ghana is also required to comply with United Nations Security Council Resolutions 1267 (1999), 1373 (2001) and 1718(2006) as well as their related conventions and resolutions regarding the prevention and suppression of terrorism and terrorist financing.

Member states to these conventions and resolutions are mandated to enact legislations or other enforceable measures to implement the requirement spelt out in the conventions and resolutions.

Ghana enacted the Anti-Terrorism Act, 2008 (ACT 762) to detect and suppress terrorism and the financing of terrorism, terrorist and terrorist organisation, prevent the territory, resources and financial services of Ghana from being used to commit terrorist acts, to protect the rights of the citizens of Ghana to live in peace, freedom and security and provide for related matters.

Other legislations enacted such as the Anti-Money Laundering Act, 2008 (ACT 749) and the Economic and Organised Crime Office Act, 2010 (ACT 804) afford access for the exchange of information and intelligence with other jurisdictions on matters pertaining to money laundering, terrorist financing and other transnational organised criminal activities.

Requisite Regulations under Act 762 to ensure that accountable institutions report suspicious or unusual transactions to the Financial Intelligence Center are however yet to be enacted. Act 762 does not also provide adequate mechanisms to enable accountable institutions and other related parties to easily detect terrorist and terrorist assets, and their responsibilities under such circumstances.

The amendment Bill will enable the Attorney-General and Minister for Justice to issue Instructions in relation to the identification of terrorists and terrorists' assets to meet the requirements of the above mentioned Resolutions.

## 5.0 **OBJECT OF THE BILL**

5.1 The Bill seeks to amend the Anti-Terrorism Act, 2008 (Act 762) to empower the Attorney-General and Minister for Justice to issue Instructions for the effective implementation of the United Nations Security Council Resolution 1267 (1999), the United Nations Security Council Resolution 1373 (2001) and any successor resolutions related to the freezing or seizure of terrorist assets and for related matters.

## 6.0 **PROVISIONS OF THE BILL**

The bill consists of three clauses and a schedule which defines accountable institutions and the scope of operation.

## 7.0 **OBSERVATIONS**

The Committee took note of the fact that, upon the passage of the Anti-Terrorism Act, 2008 (ACT 762), the Financial Action Task Force (FATF) in rating Ghana's commitment to the Commonwealth Plan of Action on Terrorism, identified significant deficiencies in the monitoring mechanism put in place by the country for detection transnational organised crime. As it stands now Ghana's legal regime on criminal activities pertaining to anti-terrorism and money laundering are gravely inadequate as there are several gaps which such criminal take advantage of.

The Committee observed that, the Bill when passed would empower the Attorney-General and Minister for Justice to issue Instructions in relation to the identification of terrorists and terrorists' assets in furtherance of the requirements stated in the Resolutions. These instructions are issued pursuant to the United Nations Sanctions list which Ghana a member of the United Nations must comply.

The Committee further observed that, it has become necessary to pass the Anti – Terrorism (Amendment) Bill under a certificate of urgency because at the just ended FATF meeting which was held in February 2012, Ghana was identified as one of the few jurisdictions with weak Anti-Money Laundering measures. Ghana was also identified as being weak in countering the formation of terrorist activities in the country which resulted in the country being blacklisted as non-compliant with the Commonwealth Action Plan on Terrorism and United Nations Security Council Resolutions.

Further to these assessments FATF has advised to consider the risk in conducting business in Ghana.

### **Proposed Amendments**

Clause 1 – a mendment proposed – (3 7A) sub-clause (1 ) delete and inse rt the following:

**“37A.** (1) The Minister shall in pursuance of the United Nations Security Council Resolution 1267 (1999); The United Nations Security Council Resolution 1373 (2001) and the United Nations Security Council Resolution 1718 (2006) and any successor resolutions related to:

- (a) the detection, freezing or seizure of terrorist assets,
- (b) the financing of the proliferation of weapons of mass destruction, and
- (c) any other activity in furtherance of a terrorist act.”

Clause 2 – amendment proposed –under regulations (39) paragraph (d) line two after "aircraft" insert "or any means of transport"

Clause 3 – amendment proposed - sub-clause (d), line 6, delete "and"

Clause 3 – amendment proposed – sub-clause paragraph (d), insert a new sub-

Clause as follows"

“(e) “weapons of mass destruction” means a weapon that can cause death or significant harm to members of the public, to property or to the environment”.

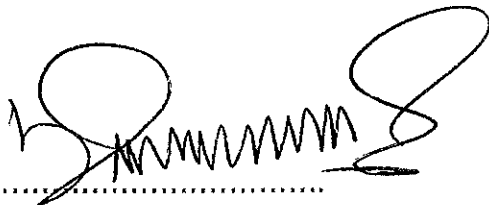
Long Title – amendment proposed - insert after “United Nations Security Council Resolution 1373 (2001) the following:

“The United Nations Security Council Resolution 1718 (2006)”

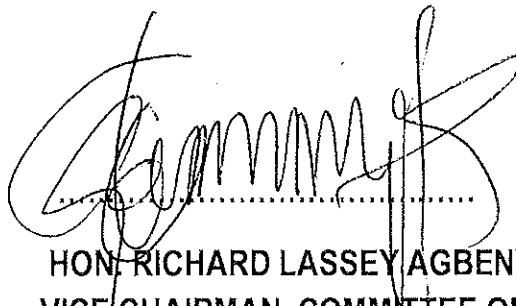
## 8.0 RECOMMENDATIONS AND CONCLUSION

The Committee has carefully examined the provisions of the Bill in the light of its object and purpose and is of the view that they are consistent with the Constitution and other relevant statutes and accordingly recommends its passage by the House subject to the above proposed amendments.

Respectfully submitted.



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