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OF GUYANA

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FRIDAY 31ST MARCH, 2017
GUYANA

Seal No. 76 of 2017

COMMISSION OF INQUIRY

A Commission has been constituted for the purpose:

“To inquire into the circumstances surrounding the entry into, the interception, detention and subsequent release of an unnamed private maritime vessel in the sea space of the territory of Guyana on or between the 11th -14th of February, 2017 and to report the findings and recommendations to His Excellency Brigadier David Granger, President of the Co-operative Republic of Guyana”

By the President of the Co-operative Republic of Guyana.

WHEREAS it is provided by Section 2 of the Commission of Inquiry Act, Cap. 19:03 of the Laws of Guyana, that the President may issue a Commission appointing one or more Commissioners and authorizing such Commissioner or Commissioners to inquire into any matter in which an Inquiry would, in the opinion of the President be, for the Public Interest.

AND WHEREAS, it is the opinion of the President that such an inquiry to inquire into the circumstances surrounding the entry into, the interception, detention and subsequent release of an unnamed private maritime vessel in the sea space of the territory of Guyana on or between the 11th - 14th February, 2017 would be for Public Interest.
NOW THEREFORE, acting under the provisions of the Commission of Inquiry Act, Cap.19:03 and by virtue and in exercise of all powers enabling me in that behalf, I do hereby issue this Commission and appoint the following Commissioners:

(1) Brigadier (Ret’d) Bruce Lovell as Chairman
(2) Assistant Commissioner of Police (Ret’d) Winston Cosbert as Member
(3) Christine Bailey as Member

“To inquire into the circumstances surrounding the entry into, the interception, detention and subsequent release of an unnamed private maritime vessel in the sea space of the territory of Guyana on or between the 11th - 14th of February 2017, to report the findings and recommendations to His Excellency Brigadier David Granger, President of the Co-operative Republic of Guyana.”

Terms of Reference

(B) The inquiry will examine and make recommendations as follows:

The inquiry will investigate and report on the following:

(1) The circumstances under which the Customs Anti-Narcotics Unit received information, including the exact date and time of the receipt of such information, that an unnamed private maritime vessel entered into, was intercepted, detained and searched in the sea space of the territory of Guyana on or between the 11th - 4th of February 2017;
(2) The circumstances and authority under which the aforesaid vessel while detained on Guyana’s shore was released;
(3) The instructions issued to the Guyana Defence Force Coast Guard, the Customs Anti Narcotics Unit and the role of any foreign law enforcement agencies in the conduct of the operation to intercept, detain and search the said vessel;
(4) Whether the operation to intercept, detain and search the said vessel was approved by any superior authority in Guyana;
(5) Whether there was timely passage of information to the President of the Cooperative Republic of Guyana, Minister of Public Security or Minister of State, and whether such passage of information was adequate;
(6) Whether any law(s) of Guyana was/were breached during the operation to intercept, detain and search the aforesaid vessel;
(7) The ownership of the vessel, its capacity, capabilities and the identities of all persons who were on board at the time of the operation;
(8) Whether the Customs Anti Narcotics Unit had the authority to order the release of the vessel and whether such an order was lawful and/or justifiable in the circumstance;
(9) Whether the Customs Anti Narcotics Unit and the law enforcement agencies of the State of Guyana acted in a manner consistent with their security responsibilities;
(10) Whether there was any narcotic and/or prohibited substance on the vessel immediately before it was intercepted and whether any narcotic and/or prohibited substance was removed before it was intercepted;

(11) Whether any tests were conducted on the vessel, if so when, by whom, and in what manner and to recommend appropriate action(s) to be taken in light of the laws of Guyana governing the handling of such substances;

(12) Whether changes are recommended to be made in relation to the reporting, investigation and prosecution of offences committed at sea and what measures, if any are required, for the prevention of the recurrence of similar incidents in the future;

(13) Whether changes are recommended to be made to the organization, administration, operations, staffing and management of the Customs Anti Narcotics Unit;

(14) The blameworthiness of any person(s) who might have acted in a manner contrary to the Laws of Guyana and recommend what disciplinary action(s) if any is to be taken against any official of the State of Guyana who was deemed to have been culpable of any act;

(15) And on any other matter which in the opinion of the Commission is relevant to the fulfillment of its mandate.

(B) Rules of Procedure

(16) The Commission must interview all persons, examine available documents and consider the views of all stakeholders deemed relevant in the opinion of the Commission;

(17) The Commission shall render the final report, findings and recommendations to His Excellency, The President, Brigadier David Arthur Granger on or before the 12th day of April, 2017 or any later date as may be determined by His Excellency;

(18) The Commission shall conduct the inquiry continually at the Conference Room of the Department of Public Service, Ministry of the Presidency, 164 Waterloo Street, and at such other places as may be determined in Guyana as the Commission may determine;

(19) The Commission shall conduct this inquiry in public, with reservation nevertheless to the Commissioners to exclude any person/persons if the Commission deems fit for the due conduct of the Inquiry or the preservation of Order;

(20) The Commission may make such rules for their own guidance, conduct and management of the proceedings before them and the times and places for such proceedings as they may from time to time think fit;

(21) The Commission shall have the powers of the High Court to summon witnesses; to examine witnesses under oath; and to call for the production of books and documents;

(22) The Commission may authorize any person giving evidence or any person who appears to them to have an interest in the subject of the proceedings before them to be represented at such proceedings or in any part thereof;

(23) The Commission shall commence work on the 30th day of March, 2017 and shall take appropriate steps to ensure that its work is completed and report submitted within the aforesaid time;
(24) The Minister of State shall appoint a Secretary to the Commission, and may appoint Officers of the Commission as may be determined for the purpose of assisting the Commission in the discharge of its duties;

(25) Subject to the above, the Commission shall establish and regulate its own procedures for the conduct of the Inquiry and shall be governed by the aforesaid provisions of the Constitution of Guyana, the Commission of Inquiry Act, Chapter 19:03, the High Court Act, Chapter 3:01 and any other Laws enabling.

Given under my hand and the Seal of Guyana at the Ministry of the Presidency, Georgetown, Guyana, this……day of March, Two Thousand and Seventeen, in the Forty-Eighth Year of the Republic.

By the President’s Command,

[Signature]

Minister of State