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The Parliament of the Commonwealth of Australia

# Review of the listing of seven terrorist organisations

Parliamentary Joint Committee on ASIO, ASIS and DSD

August 2005  
Canberra

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## Membership of the Committee

Chair            Hon David Jull MP

Members        Mr Stewart McArthur MP

                    Hon Duncan Kerr SC MP

                    Mr Anthony Byrne MP

                    Senator Alan Ferguson

                    Senator Sandy Macdonald  
(until 6 July 2005)

                    Senator the Hon Robert Ray

## Committee Secretariat

Secretary	Ms Margaret Swieringa
Research Officers	Ms Kate Tubridy (to 13 May 2005) Dr Cathryn Ollif (from 16 May 2005)
Executive Assistant	Mrs Donna Quintus-Bosz



# Terms of reference

This inquiry and report is conducted under the following powers:

*Criminal Code Act 1995*

## **102.1A Reviews by Parliamentary Joint Committee on ASIO, ASIS and DSD**

*Review of listing regulation*

- (1) If a regulation made after the commencement of this section specifies an organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1, the Parliamentary Joint Committee on ASIO, ASIS and DSD may:
  - (a) review the regulation as soon as possible after the making of the regulation; and
  - (b) report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period.

And

*Criminal Code Amendment Regulations 2005 (No 2)*

*Criminal Code Amendment Regulations 2005 (No 3)*

*Criminal Code Amendment Regulations 2005 (No 4)*

*Criminal Code Amendment Regulations 2005 (No 5)*

*Criminal Code Amendment Regulations 2005 (No 6)*

*Criminal Code Amendment Regulations 2005 (No 7)*

*Criminal Code Amendment Regulations 2005 (No 8)*

**Select Legislative Instruments 2005 Nos. 36, 57, 58, 59, 60, 61 and 62**

Dated 23 March 2005 and 7 April 2005







# List of recommendations

## The Listings

### Recommendation 1

The Committee does not recommend disallowance of the regulation.

### Recommendation 2

The Committee does not recommend disallowance of this regulation

### Recommendation 3

The Committee does not recommend disallowance of this regulation.

### Recommendation 4

The Committee does not recommend the disallowance of this regulation.

### Recommendation 5

The Committee does not recommend the disallowance of this regulation.

### Recommendation 6

The Committee does not recommend the disallowance of this regulation.

### Recommendation 7

The Committee does not recommend the disallowance of this regulation.





## Introduction

- 1.1 This review is conducted under section 102.1A of the *Criminal Code Act 1995* (the Criminal Code). Section 102.1A provides that the Parliamentary Joint Committee on ASIO, ASIS and DSD (the Committee) may review a regulation specifying an organisation as a terrorist organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code and report the Committee's comments to each house of the Parliament before the end of the applicable disallowance period. This is the third review undertaken under this power during the current Parliament.
- 1.2 The regulations under review have specified the following organisations as terrorist organisations for the purposes of section 102.1 of the Criminal Code:
- Ansar al-Islam;
  - Asbat al-Ansar;
  - Egyptian Islamic Jihad;
  - Islamic Army of Aden;
  - Jaish-e-Mohammad;
  - Lashkar-e Jhangvi; and
  - Islamic Movement of Uzbekistan;
- 1.3 These organisations were initially listed as terrorist organisations under the Criminal Code in 2003. Under subsection 102.1 (3) of the Criminal Code, the regulations cease to have effect on their second anniversary.

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- 1.4 The Attorney-General informed the Committee of the proposed re-listing of Ansar al-Islam by letter dated 17 March 2005. The Committee was advised of the re-listing of Asbat al-Ansar, Egyptian Islamic Jihad, Islamic Movement of Uzbekistan, Jaish-e-Mohammad and Lashkar-e Jhangvi by the Attorney-General's letters dated 23 March 2005. The Attorney-General wrote to the Chairman again on 31 March 2005 advising of the re-listing of the Islamic Army of Aden.
- 1.5 The Attorney-General issued media releases announcing the decisions to re-list the organisations on 23 March 2005 and 7 April 2005. The media releases provided open source details on the organisations.
- 1.6 The regulations were tabled in the House of Representatives on 24 May 2005. The disallowance period of 15 sitting days for the Committee's review of the listing began from the date of the tabling. Therefore, the Committee is required to report to the Parliament by 10 August 2005.
- 1.7 The Committee advertised the inquiry in *The Australian* on 11 April 2005. Notice of the inquiry was also placed on the Committee's website and two submissions were received from the general public.
- 1.8 Representatives of the Attorney-General's Department, ASIO and the Department of Foreign Affairs and Trade (DFAT) attended a private hearing on the listings on 2 May 2005 in Canberra.
- 1.9 In its first report, *Review of the listing of the Palestinian Islamic Jihad (PIJ)*, the Committee decided that it would test the validity of the listing of a terrorist organisation under the Criminal Code on both the procedures and the merits. Chapter 2 will examine the Government's procedures in listing the organisations and broader issues regarding the proscription power. Chapter 3 will consider the merits of the listings.

## **The Government's procedures**

- 1.10 In a letter sent to the Committee on 18 April 2005, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of listing the organisations:

### **Ansar al-Islam:**

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for listing the organisation.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of

Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of a terrorist act whether or not the terrorist act has occurred or will occur.

- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 7 March 2005 outlining the background, training activities, terrorist activities, and relevant statements of the organisation.
- AGD consulted with DFAT in order to identify issues of relevance with respect to the re-listing of Ansar al-Islam. DFAT provided a response by email dated 9 March 2005 expressing support for the re-listing of Ansar al-Islam.
- A submission was provided to the Attorney-General on 14 February 2005 including:
  - ⇒ copies of the Statements of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ responses from DFAT in relation to the proposed listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- The Attorney-General wrote to the Prime Minister on 17 March 2005 advising of his intention to re-list the organisation.
- The Leader of the Opposition was advised of the proposed re-listing by letter on 17 March 2005 and was offered a briefing in relation to the re-listing.
- The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 17 March 2005 advising of his decision to re-list the organisation.
- On 17 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising them of the decision to re-list the organisation. The following responses have been received:

⇒ 22 March 2005 from the Minister for Justice and Attorney-General of the Northern Territory advising that he had no opposition to the re-listing of the organisation.

⇒ 1 April 2005 from the Attorney-General of South Australia noting the information provided and advising that there were no objections to the proposal.

⇒ 1 April 2005 from the Attorney-General of Queensland advising that there was no objection to the proposed re-listing.

⇒ The Premier of Western Australia wrote to the Prime Minister on 30 March 2005 advising that there was no objection to the re-listing of the organisation and requesting that future requests in relation to re-listings adhere to the provisions of the *Inter-governmental Agreement on counter-terrorism Laws* (25 June 2004). A copy of this letter was also sent to the Attorney-General.

⇒ The Premier of NSW wrote to the Prime Minister on 1 April 2005 and sent a copy of this letter to the Attorney-General. The Premier did not object to the re-listing of the organisation as a terrorist organisation. The Premier requested that in accordance with the *Inter-governmental Agreement on Counter-Terrorism Laws*, he would appreciate all future matters concerning the listing of terrorist organisations being raised directly with the Premier.

- The Prime Minister responded to the Premier of NSW and to the Premier of Western Australia by letter dated 4 April 2005 advising that the process adopted by the Government is consistent with the terms of the Intergovernmental Agreement on Counter-terrorism Laws and that it is more practical administratively in the case of re-listings to continue the current practice whereby the Commonwealth Attorney-General liaises with his counterparts in the States and Territories.
- The Governor-General made the regulation on 23 March 2005.
- The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 23 March 2005 [FRLI Reference Number: F2005L00699]
- A press release was issued 23 March 2005 and the Attorney-General's Department National Security website was updated.

#### Asbat al-Ansar:

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 8 March 2005 outlining the

background, training activities, terrorist activities and relevant statements of the organisation.

- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 9 March 2005. No further detail was provided.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
- A submission was provided to the Attorney-General on 14 March 2005 including:
  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- On 17 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. The following responses were received:
  - ⇒ 22 March 2005 from the Minister for Justice and Attorney-General of the Northern Territory advising that he had no opposition to the re-listing of the organisation.
  - ⇒ 1 April 2005 from the Attorney-General of South Australia noting the information provided and advising that there were no objections to the proposal.



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- ⇒ 1 April 2005 from the Attorney-General of Queensland advising that there was no objection to the proposed re-listing.
  - ⇒ The Premier of Western Australia wrote to the Prime Minister on 30 March 2005 advising that there was no objection to the re-listing of the organisation and requesting that future requests in relation to re-listings adhere to the provisions of the *Inter-governmental Agreement on counter-terrorism Laws* (25 June 2004). A copy of this letter was also sent to the Attorney-General.
  - ⇒ The Premier of NSW wrote to the Prime Minister on 1 April 2005 and sent a copy of this letter to the Attorney-General. The Premier did not object to the re-listing of the organisation as a terrorist organisation. The Premier requested that in accordance with the *Inter-governmental Agreement on Counter-Terrorism Laws*, he would appreciate all future matters concerning the listing of terrorist organisations being raised directly with the Premier.
  - The Prime Minister responded to the Premier of NSW and to the Premier of Western Australia by letter dated 4 April 2005 advising that the process adopted by the Government is consistent with the terms of the *Intergovernmental Agreement on Counter-terrorism Laws* and that it is more practical administratively in the case of re-listings to continue the current practice whereby the Commonwealth Attorney-General liaises with his counterparts in the States and Territories.
  - The Attorney-General wrote to the Prime Minister on 23 March 2005 advising of his intention to re-list the organisation.
  - The Leader of the Opposition was advised of the proposed re-listing by letter dated 23 March 2005 and was offered a briefing in relation to the re-listing.
  - The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 23 March 2005 advising of this decision to re-list the organisation.
  - The Administrator made the regulation on 7 April 2005.
  - A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
  - The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00701].

### Egyptian Islamic Jihad:

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 10 March 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 14 March 2005. No further detail was provided.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
- A submission was provided to the Attorney-General on 14 March 2005 including:
  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- On 17 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. The following responses were received:
  - ⇒ 22 March 2005 from the Minister for Justice and Attorney-General of the Northern Territory advising that he had no opposition to the re-listing of the organisation.

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- ⇒ 1 April 2005 from the Attorney-General of South Australia noting the information provided and advising that there were no objections to the proposal.
  - ⇒ 1 April 2005 from the Attorney-General of Queensland advising that there was no objection to the proposed re-listing.
  - ⇒ The Premier of Western Australia wrote to the Prime Minister on 30 March 2005 advising that there was no objection to the re-listing of the organisation and requesting that future requests in relation to re-listings adhere to the provisions of the *Inter-governmental Agreement on counter-terrorism Laws* (25 June 2004). A copy of this letter was also sent to the Attorney-General.
  - ⇒ The Premier of NSW wrote to the Prime Minister on 1 April 2005 and sent a copy of this letter to the Attorney-General. The Premier did not object to the re-listing of the organisation as a terrorist organisation. The Premier requested that in accordance with the *Inter-governmental Agreement on Counter-Terrorism Laws*, he would appreciate all future matters concerning the listing of terrorist organisations being raised directly with the Premier.
  - The Prime Minister responded to the Premier of NSW and to the Premier of Western Australia by letter dated 4 April 2005 advising that the process adopted by the Government is consistent with the terms of the *Intergovernmental Agreement on Counter-terrorism Laws* and that it is more practical administratively in the case of re-listings to continue the current practice whereby the Commonwealth Attorney-General liaises with his counterparts in the States and Territories.
  - The Attorney-General wrote to the Prime Minister on 23 March 2005 advising of his intention to re-list the organisation.
  - The Leader of the Opposition was advised of the proposed re-listing by letter dated 23 March 2005 and was offered a briefing in relation to the re-listing.
  - The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 23 March 2005 advising of this decision to re-list the organisation.
  - The Administrator made the regulation on 7 April 2005.
  - A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
  - The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00707].

### Islamic Movement of Uzbekistan:

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 8 March 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 9 March 2005. No further detail was provided.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
- A submission was provided to the Attorney-General on 14 March 2005 including:
  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- On 17 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. The following responses were received:
  - ⇒ 22 March 2005 from the Minister for Justice and Attorney-General of the Northern Territory advising that he had no opposition to the re-listing of the organisation.

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- ⇒ 1 April 2005 from the Attorney-General of South Australia noting the information provided and advising that there were no objections to the proposal.
  - ⇒ 1 April 2005 from the Attorney-General of Queensland advising that there was no objection to the proposed re-listing.
  - ⇒ The Premier of Western Australia wrote to the Prime Minister on 30 March 2005 advising that there was no objection to the re-listing of the organisation and requesting that future requests in relation to re-listings adhere to the provisions of the *Inter-governmental Agreement on counter-terrorism Laws* (25 June 2004). A copy of this letter was also sent to the Attorney-General.
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  - The Leader of the Opposition was advised of the proposed re-listing by letter dated 22 March 2005 and was offered a briefing in relation to the re-listing.
  - The Attorney-General wrote to the Prime Minister on 23 March 2005 advising of his intention to re-list the organisation.
  - The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 23 March 2005 advising of this decision to re-list the organisation.
  - The Administrator made the regulation on 7 April 2005.
  - A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
  - The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00702].

**Jaish-e-Mohammad:**

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 8 March 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 9 March 2005. No further detail was provided.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
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  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
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  - The Attorney-General wrote to the Prime Minister on 23 March 2005 advising of his intention to re-list the organisation.
  - The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 23 March 2005 advising of this decision to re-list the organisation.
  - The Administrator made the regulation on 7 April 2005.
  - A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
  - The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00703].

**Lashkar-e Jhangvi:**

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 8 March 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 9 March 2005. No further detail was provided.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 10 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
- A submission was provided to the Attorney-General on 14 March 2005 including:
  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- On 17 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. The following responses were received:
  - ⇒ 22 March 2005 from the Minister for Justice and Attorney-General of the Northern Territory advising that he had no opposition to the re-listing of the organisation.



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- ⇒ 1 April 2005 from the Attorney-General of South Australia noting the information provided and advising that there were no objections to the proposal.
  - ⇒ 1 April 2005 from the Attorney-General of Queensland advising that there was no objection to the proposed re-listing.
  - ⇒ The Premier of Western Australia wrote to the Prime Minister on 30 March 2005 advising that there was no objection to the re-listing of the organisation and requesting that future requests in relation to re-listings adhere to the provisions of the *Inter-governmental Agreement on counter-terrorism Laws* (25 June 2004). A copy of this letter was also sent to the Attorney-General.
  - ⇒ The Premier of NSW wrote to the Prime Minister on 1 April 2005 and sent a copy of this letter to the Attorney-General. The Premier did not object to the re-listing of the organisation as a terrorist organisation. The Premier requested that in accordance with the *Inter-governmental Agreement on Counter-Terrorism Laws*, he would appreciate all future matters concerning the listing of terrorist organisations being raised directly with the Premier.
  - The Prime Minister responded to the Premier of NSW and to the Premier of Western Australia by letter dated 4 April 2005 advising that the process adopted by the Government is consistent with the terms of the *Intergovernmental Agreement on Counter-terrorism Laws* and that it is more practical administratively in the case of re-listings to continue the current practice whereby the Commonwealth Attorney-General liaises with his counterparts in the States and Territories.
  - The Leader of the Opposition was advised of the proposed re-listing by letter dated 22 March 2005 and was offered a briefing in relation to the re-listing.
  - The Attorney-General wrote to the Prime Minister on 23 March 2005 advising of his intention to re-list the organisation.
  - The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 23 March 2005 advising of this decision to re-list the organisation.
  - The Administrator made the regulation on 7 April 2005.
  - A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
  - The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00706].

### Islamic Army of Aden:

- An unclassified Statement of Reasons was prepared by ASIO detailing the case for re-listing the organisation.
- The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 22 March 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 22 March 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing planning, assisting in or fostering the doing of a terrorist act, whether or not the terrorist act has occurred or will occur.
- AGD consulted DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the re-listing of the organisation by email on 23 March 2005. No further detail was provided.
- A submission was provided to the Attorney-General on 30 March 2005 including:
  - ⇒ copies of the Statement of Reasons from ASIO for the organisation;
  - ⇒ advice from the Chief General Counsel in relation to the organisation;
  - ⇒ the letter from the Director-General of Security;
  - ⇒ the response from DFAT in relation to the proposed re-listing, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur. The Attorney-General also signed a regulation in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
- On 31 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. These letters were sent by facsimile on 6 April 2005.
- The Attorney-General wrote to the Prime Minister on 31 March 2005 advising of his intention to re-list the organisation.

- The Leader of the Opposition was advised of the proposed re-listing by letter dated 31 March 2005 and was offered a briefing in relation to the re-listing.
- The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 31 March 2005 advising of this decision to re-list the organisation.
- The Administrator made the regulation on 7 April 2005.
- A press release was issued on 7 April 2005 and the Attorney-General's Department National Security website was updated.
- The Regulation was lodged with the Federal Register of Legislative Instruments (FRLI) on 8 April 2005 [FRLI Reference Number: F2005L00850].



## Procedural concerns

### Consultation with the States and Territories

- 2.1 Subclause 3.4(3) of the *Inter-Governmental Agreement on Counter-terrorism Laws* states that the Commonwealth will provide the States and Territories with the 'text of the proposed regulation and will use its best endeavours to give the other parties reasonable time to consider and to comment on the proposed regulation'.
- 2.2 The Committee is pleased that, for five of the organisations, the States and Territories were provided with approximately three weeks' notice to consider the listings.<sup>1</sup> However, the States and Territories were provided with less than one week to consider the re-listing of Ansar al-Islam. The Committee is particularly concerned about the amount of notice provided to the States and Territories for the re-listing of the Islamic Army of Aden. The Attorney-General's Department has advised that:
- On 31 March 2005 the Attorney-General wrote to the Attorneys-General of the States and Territories advising of the decision to re-list the organisation. These letters were sent by facsimile on 6 April 2005.
- 2.3 Given that the regulation was made on 7 April 2005, it would appear that the States and Territories were given just one days' notice of this listing. At the hearing, the Attorney-General's Department stated that:

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<sup>1</sup> The States and Territories were advised by letters dated 17 March 2005 of the proposed re-listing of Asbat al-Ansar, Egyptian Islamic Jihad, Islamic Movement of Uzbekistan, Jaish-e-Mohammad and Lashkar-e Jhangvi. The regulations were made on 7 April 2005.

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You will see with this listing that we have responded to some of your concerns about giving the States a little more notice...I think that we might have struck a period that is a little more satisfactory than it was before. We will endeavour to continue with that. On occasion there will be situations where, through problems outside our control, we might not be able to perform as well, but I can assure you that we will attempt to ensure that that continues to be addressed.<sup>2</sup>

- 2.4 The Committee appreciates that there may be difficulties in the process of listing organisations under the Criminal Code. However, it is disappointing that the States and Territories were provided with insufficient time to consider and comment on the listing of Ansar al-Islam and the Islamic Army of Aden. The Committee expects that future listings will give full effect to the *Inter-Governmental Agreement on Counter-terrorism Laws* and provide the States and Territories with a reasonable time to consider the listing.
- 2.5 Consultation on these re-listings occurred between the Attorneys-General rather than the Prime Minister and Premiers and Chief Ministers.
- 2.6 The Attorney-General's Department has advised the Committee that the Premiers of NSW and Western Australia requested that in accordance with the *Inter-Governmental Agreement on Counter-terrorism Laws*, future listings should be raised directly with the Premier. The Prime Minister responded by letter dated 4 April 2005 advising that the process adopted was consistent with the *Inter-Governmental Agreement on Counter-terrorism Laws* and that 'it is more practical administratively in the case of re-listings to continue the current practice whereby the Commonwealth Attorney-General liaises with his counterparts in the States and Territories.'
- 2.7 The *Inter-Governmental Agreement on Counter-terrorism Laws* states:
- Approval for regulations specifying terrorist organisations must be sought, and responses from other parties must be provided, through the Prime Minister and Premiers and Chief Ministers.<sup>3</sup>
- 2.8 It is not clear how consultation between the Attorneys-General is consistent with the agreement. At the hearing on 2 May 2005, officers from the Attorney-General's Department advised the Committee:
- The States and the Commonwealth have a different view about whether it has to be done at head of government level when you
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2 Transcript, private hearing 2 May 2005, p. 1.

3 Division 3, subclause 3.4(6).

are just talking about a re-listing....The federal government takes the view that the agreement is really only talking about fresh listings and the States are suggesting a wider interpretation. We are investigating that. Practically, we think there is some advantage in doing it at the Attorney-General level for re-listings. At the end of the day it is about consultation and probably the more important issue is making sure we consult them expeditiously.<sup>4</sup>

- 2.9 The Committee is not sure that it accepts the distinction made by the Attorney-General's Department between procedures for listings and re-listings. The Committee expects to be advised of the outcome from discussions on this issue with the States and Territories.

## Consultation with DFAT

- 2.10 The Attorney-General's Department has advised that the Department consulted with DFAT on the listing of each organisation. DFAT provided responses by emails dated 9, 14, and 23 March 2005.

- 2.11 DFAT does not appear to have provided substantive input on the re-listings. At the hearing, officers from DFAT advised that they took the following steps to evaluate the organisations:

In this case we went to the relevant geographic area in the department and sought their view. Independently, we also consulted our own records and our own information.<sup>5</sup>

- 2.12 In response to questions on notice regarding the amount of time spent, DFAT advised the Committee that 'the combined amount of time so spent by officers of the various areas of DFAT involved would not have exceeded a few person-hours per organisation.'<sup>6</sup>

- 2.13 The Committee asked whether an assessment had been conducted of the foreign policy implications of the re-listings and officers from DFAT advised:

On the foreign policy implications, in each of these cases there is no negative foreign policy implication in listing them. We have looked at that, and in each case we have assessed that the host government of these organisations would not be offended by our listing. If anything, they are more threatened than we are by these

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4 Transcript, private hearing 2 May 2005, p. 7.

5 Transcript, private hearing 2 May 2005, p. 11.

6 DFAT submission, No. 11, p.1.

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organisations, and our assessment is that it is foreign policy neutral to list them.<sup>7</sup>

- 2.14 As noted in the Committee's previous report, *Review of the listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (the al-Zarqawi network)*,<sup>8</sup> the Committee expects DFAT to provide more detailed advice to the Attorney-General's Department and to the Committee in future listings under the Criminal Code. In particular, the Committee has sought from the Department of Foreign Affairs and Trade information about the strategic circumstances in which the potentially proscribed organisations operate. In view of the fact that one of the criteria which ASIO uses in deciding to list an organisation is whether peace processes are in place, it would be useful to the Committee for DFAT to address these matters. For example, what are the circumstances which led to the conflict or terrorism in which the organisation is involved; to what extent might the violence be being directed towards localised struggles or form part of international terrorism; and what might be the impact of a listing, if any, on efforts to resolve a conflict.

## Community consultation

- 2.15 In its earlier report, *Review of the listing of six terrorist organisations*, the Committee recommended that:

a comprehensive information program, that takes account of relevant community groups, be conducted in relation to any listing of an organisation as a terrorist organisation.<sup>9</sup>

- 2.16 The letter from the Attorney-General's Department does not state whether any community consultation on the listings was conducted. At the hearing, the Attorney-General's Department advised that they are developing a response to the Committee's recommendation on community consultation.<sup>10</sup>
- 2.17 The Committee looks forward to the implementation of this recommendation for future listings under the Criminal Code.

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7 Transcript, private hearing 2 May 2005, p. 13.

8 Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (the al-Zarqawi network)*, May 2005, p. 6.

9 Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of six terrorist organisations*, March 2005, p. 20.

10 Transcript, private hearing 2 May 2005, p. 5.



## The listing provisions

2.18 The Committee will review the operation, effectiveness and implications of the listing provisions in section 102.1 of the Criminal Code in 2007.<sup>11</sup> However, both of the submissions from the public raised general concerns about the listing provisions which the Committee will note at this stage.

2.19 Mr Emerton again raised with the Committee concerns about the breadth of the definition of a terrorist act in section 100.1 of the Criminal Code. The sentences for offences under the Act are very heavy, comparable to those for manslaughter, rape or war crimes and the evidential burden is placed on the accused to establish his innocent state of mind. He also noted that only a tiny fraction of organisations which satisfy this definition are selected for proscription. Submissions from both Mr Patrick Emerton and the Federation of Community Legal Services (Vic) are concerned that the criteria put forward by ASIO for listing emphasise foreign policy rather than domestic considerations. These submissions both suggest that the banning of selected organisations may be simply an attempt to make a political point:

It is not the proper function of Australian law to make criminals of those whose opinions on matters of politics and foreign policy happen to differ from those of the government of the day<sup>12</sup>.

2.20 Another key concern of both submissions is that the listing power itself moves away from one of the fundamental principles of criminal law which assigns criminal responsibility to individuals 'based on their actions and intentions in causing harm to the community'.<sup>13</sup>

2.21 The submissions both argue that the banning of certain organisations is not serving Australian democratic principles because it places a:

greater restriction on the right to freedom of association than is necessary in a democratic society to maintain national security in light of the threat of ideological and political violence<sup>14</sup>.

2.22 Australia already has the power to prosecute any criminal activity of any member of a terrorist organisation. However, once an organisation has

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11 As required under subsection 102.1A(2) of the Criminal Code.

12 Submission No 8, Mr Patrick Emerton, p.5.

13 Submission No 10, Federation of Community Legal Centres (Vic) Inc, p. 3.

14 Submission No 10, Federation of Community Legal Centres (Vic) Inc., p. 4.

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been banned, virtually any sort of involvement with the organisation, by anyone, anywhere in the world, becomes a serious criminal offence<sup>15</sup>

2.23 Concern was also expressed that the exercise of the listing power is inconsistent with Australia's international obligations in relation to freedom of association under article 22 of the International Covenant on Civil and Political Rights.

2.24 The apparent increase in ASIO's powers was also raised as a matter of concern in both submissions. It was pointed out that there is presently no publicly available means of testing the reliability of the supporting information obtained and relied on by ASIO and it was suggested that, as ASIO's powers are increased with listing of organisations, ASIO may develop a vested interest in recommending listing:

It is important that these extraordinary powers not be allowed to corrupt the culture of ASIO as an organisation which is sympathetic to, and not hostile to, the values of democracy, nor to lead it into the mentality of being a secret police.<sup>16</sup>

2.25 Mr Emerton believed the Committee should test the proposed listings against criteria which establish whether there is a genuine need to prevent criminal conduct that is not already encompassed by the existing criminal law.<sup>17</sup> All the proscribed organisations are also listed under the Charter of

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15 *Criminal Code* sections 102.2-102.8. It should be noted that section 102.5 places an evidential burden on the accused to adduce evidence as to his or her innocent state of mind, if he or she is to escape conviction for engaging in training with a banned organisation

16 Submission No 8, Mr P Emerton, p.7.

17 The criteria, outlined in the Committee's last report are as follows:

- the nature of the political violence engaged in, planned by, assisted or fostered by the organisation;
- the nature of the political violence likely to be engaged in, planned by, assisted or fostered by the organisation in the future;
- the reasons why such political violence, and those who are connected to it via the organisation, ought to be singled out for criminalisation by Australia in ways that go beyond the ordinary criminal law;
- the likely impact, in Australia and on Australians, of the proscription of the organisation, including, but not limited to:
  - ⇒ an indication of the sorts of training Australians may have been providing to, or receiving from, the organisation;
  - ⇒ an indication of the amount and purpose of funds that Australians may have been providing to, or receiving from, the organisation;

the UN Act, and he noted that the material provided by the Government makes no case for going beyond this existing proscription to one under the Criminal Code. It is his view that if the Committee is not satisfied that these criteria are met and that the consequences are consistent with the civil and political rights of Australians, then the Committee ought to recommend disallowance.

- 2.26 The Committee appreciates the public submissions made on these listings and the suggested criteria have been very useful in the Committee's consideration of the listings to date.

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- ⇒ the way in which the concept of 'membership', and particularly 'informal membership', will be applied in the context of the organisation;
  - ⇒ the extent to which ASIO intends to take advantage of the proscription of an organisation to use its detention and questioning power to gather intelligence.



## The Listings

3.1 To be specified as a terrorist organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code, the Minister:

must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).<sup>1</sup>

3.2 At the hearing on 1 February 2005 for the *Review of the listing of six terrorist organisations*, the Director-General of ASIO advised the Committee of ASIO's evaluation process in selecting entities for proscription under the Criminal Code. Factors included:

- engagement in terrorism;
- ideology and links to other terrorist groups/networks;
- links to Australia;
- threat to Australian interests;
- proscription by the UN or like-minded countries; and
- engagement in peace/mediation processes.<sup>2</sup>

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1 Subsection 102.1(2) of Division 102, Subdivision A of the Criminal Code.

2 Confidential exhibit, ASIO, tabled 1 February 2005.

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## **Ansar al-Islam**

3.3 Ansar al-Islam was initially specified as a terrorist organisation under the Criminal Code on 27 March 2003. On 23 March 2005, a regulation was made re-listing Ansar al-Islam as a terrorist organisation for the purposes of section 102.1 of the Criminal Code. The regulation commenced on 27 March 2005.

3.4 The Attorney-General's statement of reasons is as follows:

### **Ansar al-Islam**

**(Also known as Partisans of Islam, Supporters of Islam, Devotees of Islam, Ansar al-Sunna, Jaish Ansar al-Sunna, Ansar al-Sunna Army, Army of Ansar al-Sunna.)**

**(Formerly known as Jund al-Islam, Soldiers of Islam.)**

The following information is based on publicly available details about Ansar al-Islam. These details have been corroborated by material from intelligence investigations into the activities of Ansar al-Islam and official reporting. ASIO assesses that the details set out below are accurate and reliable.

Ansar al-Islam (including the alias Ansar al-Sunna) has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, Canada and the United Kingdom.

### **Background**

Ansar al-Islam is a Sunni Islamist extremist group which supports a fundamentalist interpretation of Islam and promotes a militant jihadist ideology, as espoused by al-Qa'ida.

Formerly known as Jund al-Islam, the group was established following the merger of several smaller groups in the Kurdish-controlled region of northern Iraq in late 2001.

In March 2003, successful Coalition military operations against Ansar al-Islam strongholds forced many in the group to disperse to other locations, including Iran. But many members have since returned to Iraq and Ansar al-Islam's current operational network extends through northern and central Iraq.

In late 2003, members sought to create an umbrella organization for Islamist Sunni resistance in Iraq and as a result, the formation

of Jaish Ansar al-Sunna was declared in a statement issued on an Islamist website on 20 September 2003.

### **Objectives**

Ansar al-Islam supports the global militant jihadist ideology that is espoused by al-Qa'ida, including the re-establishment of the historical Islamic caliphate and the removal of governments of Muslim nations assessed by them to be apostate.

Ansar al-Islam's objectives within Iraq are to overthrow the Interim Iraqi Government, expel Coalition forces from the country and establish an Islamic state under Sharia law.

### **Leadership and membership**

The leadership of Ansar al-Islam is comprised of Kurdish and Arab identities and has included Abu Abdallah al-Shafi'i, Aso Hawleri (now detained) and Mullah Krekar (now dissociated from the group).

Ansar al-Islam's membership is made up of Kurds and Arabs. The current strength of the group in Iraq is not known, but losses incurred through Coalition military action in March 2003 may have been redressed by the recruitment of Iraqi and foreign jihadists since the end of Operation Iraqi Freedom. Reported estimates of between 250 and 750 operatives in Iraq are consistent with available information and smaller numbers of Ansar al-Islam members and supporters are present in Europe and the Middle East.

Ansar al-Islam is closely affiliated with al-Qa'ida, which has provided financial assistance and training. Ansar al-Islam has maintained close ties to the network of Abu Mus'ab al-Zarqawi and available information suggests that operatives associated with Ansar al-Islam and al-Zarqawi's network have worked together.

### **Terrorist activities**

Since the end of Operation Iraqi Freedom, Ansar al-Islam's operational focus has broadened from attacks against secular Kurdish opponents in northern Iraq to include attacks against Coalition forces in Iraq as well as Iraqi and international interests perceived as collaborating with the Coalition. Ansar al-Islam has been involved in a number of terrorist attacks in Iraq including assassinations, vehicle bombings, suicide bombings, kidnappings and hostage-killing. Recent terrorist attacks for which

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responsibility has been claimed by, or reliably attributed to, Ansar al-Islam include:

- April 2002: attempted assassination of the Patriotic Union of Kurdistan's Regional Government Prime Minister Barham Saleh;
- February 2003: suicide bombing at a military checkpoint in northern Iraq, killing the operative and three others;
- February 2003: assassination of Kurdish politician General Shawkat Haji Mushir;
- 23 March 2003: suicide car bomb attack in northern Iraq killing Australian journalist Paul Moran and injuring 10 others;
- 1 February 2004: suicide bomb attacks against the offices of the Patriotic Union of Kurdistan and the Kurdish Democratic Party, killing at least 103 persons and injuring over 130;
- August 2004: kidnap and murder of 12 Nepalese hostages in Iraq; and
- 21 December 2004: suicide bomb attack in a mess tent at Coalition base in Mosul, killing at least 22 persons and injuring over 60.

### **Conclusion**

ASIO assesses that Ansar al-Islam is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is corroborated by information provided by reliable and credible intelligence sources.

In the course of pursuing its objectives of overthrowing the Interim Iraqi Government, expelling Coalition forces from Iraq, and establishing an Islamic state under Sharia law, Ansar al-Islam is known to have engaged in actions that are:

- aimed at advancing Ansar al-Islam's political and religious or ideological cause;
- done with the intention of coercing or influencing by intimidation the governments and people of numerous countries (including Australia);
- intended to cause or do serious damage to property, the death of persons and endangerment of life; and
- intended to cause, or have caused, serious risk to the safety of sections of the public in Iraq and other persons in areas in which it operates.

In view of the above information, Ansar al-Islam is assessed to be directly or indirectly preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be



done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the Government and people of Iraq. The actions or threatened actions which Ansar al-Islam are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

- 3.5 On the basis of the statement of reasons, Jane's and evidence given at the hearing, Ansar al-Islam has been measured against ASIO's stated evaluation process as follows:

### Engagement in terrorism

- 3.6 Ansar al-Islam continues to engage in terrorist acts. The statement of reasons reports that the group has been held responsible for numerous attacks in Iraq, including the suicide car bomb attack on 23 March 2003 in northern Iraq which killed Australian journalist Paul Moran and injured ten others.

### Ideology and links to other terrorist groups/networks

#### Ideology

- 3.7 The statement of reasons reports that Ansar al-Islam 'supports the global militant jihadist ideology that is espoused by al-Qa'ida'. The objectives of the organisation within Iraq are reportedly to:
- overthrow the Interim Iraqi Government, expel Coalition forces from the country and establish an Islamic state under Sharia law.
- 3.8 As noted in the Committee's previous report, *Review of the listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (the al-Zarqawi network)*,<sup>3</sup> the submission from Mr Emerton stressed that, in Australia, it is not generally a crime to hold a particular religious or political view.<sup>4</sup> Mr Emerton suggested that the point to consider is whether there is a connection between ideology and violence.
- 3.9 The statement of reasons notes a number of violent terrorist acts that the group has committed in pursuit of their objectives and ideology.

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3 Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (the al-Zarqawi network)*, May 2005, p. 16.

4 Submission No. 3, Mr Patrick Emerton, p.10.

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### Links to other terrorist groups/networks

3.10 The statement of reasons notes that:

Ansar al-Islam is closely affiliated with al-Qa'ida, which has provided financial assistance and training. Ansar al-Islam has maintained close ties to the network of Abu Mus'ab al-Zarqawi and available information suggests that operatives associated with Ansar al-Islam and al-Zarqawi's network have worked together.

3.11 It is evident that Ansar al-Islam has some links with al-Qa'ida and the al-Zarqawi network.

### Links to Australia

3.12 The Attorney-General's statement of reasons does not address whether there are any current or past connections between Ansar al-Islam and Australia, either through membership, support, training or financial donations.

3.13 At the hearing, the Committee sought further information on whether there are any Australian links with Ansar al-Islam. ASIO advised that there were some links to Australia.<sup>5</sup>

### Threat to Australian interests

3.14 The Attorney-General's media release dated 23 March 2005 on the listing of Ansar al-Islam stated:

The Government continues to send a strong message it will not tolerate any involvement in groups or activities that threaten the safety and security of Australians and Australian interests.

3.15 Jane's notes that the group has primarily fought against one of the two main Kurdish political factions – the Patriotic Union of Kurdistan (PUK).<sup>6</sup> The statement of reasons reports that since Operation Iraqi Freedom, Ansar al-Islam's activities have broadened from attacks against secular Kurdish opponents in northern Iraq to include attacks against Coalition forces, (of which Australia is one).

3.16 The group has been held responsible for the suicide car bomb attack on 23 March 2003 in northern Iraq which killed Australian journalist Paul Moran and injured 10 others. However, the submission from Mr Emerton notes:

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<sup>5</sup> Classified transcript, private hearing 2 May 2005, p. 14.

<sup>6</sup> Jane's Terrorism and Insurgency Centre, *Ansar al-Islam*, 18 January 2005, <http://jtic.janes.com>, p. 3.

All these attacks have taken place in Iraq, in the context first of the occupation of that country by invading forces, and then in the context of the continued presence of such forces in the country at the invitation of the interim Iraqi government. Even without a detailed knowledge of Iraqi criminal law, it is virtually certain that these attacks constitute grave criminal offences under that law. They may also constitute offences under international law relating to the rights and responsibilities of occupation authorities.<sup>7</sup>

- 3.17 At the hearing, officers from ASIO were not asked specifically about the sufficiency of criminal law within Iraq in dealing with possible terrorist attacks on Australian interests in that country. Questions were asked more generally about how, in the absence of Australian involvement with a particular organisation, proscription of it by the Australian Government will do anything to lessen its impact [on Australian interests] overseas.<sup>8</sup> As noted in the report on the Al Zaraqawi Network, the response was that legislation was there as a deterrent against [Australians] cooperating with these organisations.<sup>9</sup>

### Proscription by the UN or like-minded countries

- 3.18 The Attorney-General's statement of reasons, and media release, on Ansar al-Islam both stated that Ansar al-Islam has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, Canada and the United Kingdom.
- 3.19 The Committee notes that although Ansar al-Islam has been proscribed by Australia, the United Nations, the United States and Canada, it has not been proscribed under any of its aliases by the United Kingdom.
- 3.20 At the hearing on 2 May 2005, the Committee asked ASIO officers to why this was so. ASIO is not aware of the reasons the UK has not proscribed the organisation.

### Engagement in peace/mediation processes

- 3.21 Ansar al-Islam is not engaged in any peace or mediation processes.

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7 Submission No. 8, Mr Patrick Emerton, p.11.

8 Classified transcript, private hearing, 2 May 2005, p. 6.

9 Classified transcript, private hearing, 2 May 2005, p. 6.

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## Recommendation 1

**The Committee does not recommend disallowance of the regulation.**

### Asbat al-Ansar

3.22 Asbat al-Ansar was originally specified as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 11 April 2003. On 7 April 2005, a regulation was made re-listing the organisation as a terrorist organisation. The regulation commenced on 11 April 2005.

3.23 The Attorney-General's statement of reasons is as follows:

#### **Asbat al-Ansar**

#### **(Also known as Usbat al-Ansar, Osbat al-Ansar)**

The following information is based on publicly available details about Asbat al-Ansar (League of Partisans). These details have been corroborated by material from intelligence investigations into the activities of the Asbat al-Ansar and by official reporting. ASIO assesses that the details set out below are accurate and reliable.

Asbat al-Ansar has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, United Kingdom, and Canada.

#### **Background**

Asbat al-Ansar is a Lebanon-based Sunni Islamic extremist group that follows the same fundamentalist interpretation of Islam as al-Qa'ida, with which it is affiliated. Asbat al-Ansar was established in the early 1990s and is primarily based in the Ayn al-Hilwah Palestinian refugee camp near Sidon in southern Lebanon. The group has a smaller presence in the Nahr al-Bared refugee camp outside Tripoli and has been active in Sidon, Beirut and the Dinniyeh plateau, north Lebanon. To date, Asbat al-Ansar's area of operations has been limited to Lebanon.

Since the early 1990s Asbat al-Ansar has conducted numerous attacks against targets in Lebanon that it regards as 'un-Islamic'. These include elements of the Lebanese government, foreign nationals, foreign owned businesses, churches, bars, theatres and

casinos. The group has also been involved in numerous attacks on rival Palestinian and Islamic group members.

It is reported that Asbat al-Ansar is affiliated with the international al-Qa'ida network from which it has received funding, and the group has also reportedly received funding from the Abu Mus'ab al-Zarqawi network. The group also has links to other Sunni Islamic groups operating in Lebanon. These include the al-Dinniyah group, Takfir wal Hijra, Asbat al-Nur, and Jund al-Sham which in turn have links to Abu Mus'ab al-Zarqawi's network.

### **Objectives**

Asbat al-Ansar's objective is the establishment of a radical Sunni Islamic state in Lebanon. The group's goals include overthrowing the Lebanese government and preventing what they perceive as anti-Sunni Islamic influences in Lebanon.

### **Leadership and membership**

Asbat al-Ansar is led by Ahmed Abd al-Karim al-Saadi (also known as Abu Muhjin/ Abu Muhjen/ Abu Mahjen). Al-Saadi has been sentenced to death by Lebanese authorities for the 1995 murder of Sheikh Nizar al-Halabi, the former leader of the Islamic Charity Projects Association (also known as the Ahbash movement). Since Al-Saadi's disappearance in 1999 the group has been nominally led by his brother Abu Tariq.

Although the exact number is not known, Asbat al-Ansar has an estimated strength of between 100 and 200 active members, most of whom are Palestinian refugees. Training and recruitment are primarily conducted within the Ayn al-Hilwa refugee camp.

### **Terrorist activities**

Asbat al-Ansar has been involved in a number of terrorist attacks, including shootings, grenade attacks, and the use of improvised explosive devices against the Lebanese government, foreign nationals, rival Palestinian groups, nightclubs, theatres, liquor stores and Western fast food restaurants.

On the basis of available information we assess that the incidence of terrorist attacks by Asbat al-Ansar has declined. However, we assess that core members of Asbat al-Ansar remain active, maintain links to al-Qa'ida and Sunni extremist groups, including al-Zarqawi's network, and retain the intent to carry out terrorist activities.

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Terrorist attacks for which responsibility has been claimed by, or reliably attributed to, Asbat al-Ansar, have included:

- assassinations of Lebanese religious leaders and political figures and the bombing of several nightclubs, theatres and liquor stores in the mid-1990s;
- the 8 June 1999 attack on a courthouse in Sidon that killed four judges;
- the 8 September 1999 bombing of the Customs Department office in Sidon;
- the 3 January 2000 rocket-propelled grenade attack on the Russian embassy in Beirut;
- the bombing of a church in Sidon on 17 October 2001;
- the 2001 grenade attacks on Lebanese army posts in Sidon;
- murder of a US missionary in Sidon on 21 November 2002; and
- the 2002 and 2003 attacks on Western fast food restaurants around Lebanon.

### **Conclusion**

ASIO assesses that Asbat al-Ansar is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is corroborated by information provided by reliable and credible intelligence sources.

In the course of pursuing its objective of creating a radical Sunni Islamic state in Lebanon, Asbat al-Ansar is known to have engaged in actions that:

- are aimed at advancing Asbat al-Ansar's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life;
- are done with the intention of coercing or influencing by intimidation the government and people of Lebanon; and
- are intended to cause, or have caused, serious risk to the safety of sections of the public in Lebanon and other persons visiting areas in which it operates.

In view of the above information, Asbat al-Ansar is assessed to be directly or indirectly preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the Government and people of Lebanon. The actions or threatened

actions which Asbat al-Ansar are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

### Engagement in terrorism

- 3.24 A number of recent terrorist attacks have been attributed to Asbat al-Ansar. A series of attacks in Lebanon on public buildings, churches and fast food outlets are listed in the statement of reasons between 1999 and 2003.

### Ideology and links to other terrorist groups/networks

- 3.25 In the Attorney-General's statement of reasons, the objectives of Asbat al-Ansar are stated to be the establishment of a Sunni Islamic state. In addition, Jane's adds that 'the group opposes Christian, secular and Shi'a institutions, [and states] that it would use Lebanon as a launch pad to defeat and destroy Israel'<sup>10</sup> and that it also seeks to end Syrian hegemony in Lebanon. From the direction of the attacks listed above, there would appear to be a connection between the ideology and the violence perpetrated by the organisation.
- 3.26 The claim in the statement of reasons that Asbat al-Ansar is 'affiliated with the international al-Qai'da network from which it has received funding' is qualified by Jane's which assesses that 'it is suspected that it may have benefited from some of the charitable and financial networks associated with al-Qai'da, but there is no clear proof.'<sup>11</sup> However, Jane's also reports on various connections to and mutations of the group with various groups within Lebanon and Syria, including the al-Zarqawi network. The Syrian authorities also conducted a clampdown on the organisation in 1999.

### Links to Australia

- 3.27 There is no mention of links to Australia or Australians in the statement of reasons. At the hearing, ASIO advised that there were links to Australia from this group.<sup>12</sup> Some detail of the extent of those linkages was provided.<sup>13</sup>

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10 Jane's Terrorism and Insurgency Centre, *Asbat al-Ansar*, 18 February 2005, <http://jtic.janes.com>, p. 4.

11 Jane's Terrorism and Insurgency Centre, *Asbat al-Ansar*, 18 February 2005, <http://jtic.janes.com>, p. 4.

12 Classified transcript, private hearing 2 May 2005, p. 9.

13 Classified transcript, private hearing 2 May 2005, pp. 9-10.

## Threat to Australian interests

- 3.28 The statement of reasons makes no mention of threats to Australian interests. However, at the hearing ASIO provided the Committee with details of its threat assessment for Lebanon and Syria. The Committee notes that the Department of Foreign Affairs advises Australians in both places to exercise extreme caution in the first of these countries and high degrees of caution in the second as there remains the risk of terrorist attacks against Western interests.<sup>14</sup> Threats are specifically directed at Western interests, including Australia.<sup>15</sup>
- 3.29 Australian interests in the Lebanon are significant. There is an embassy in Beirut. Trade is moderate at \$31 million annually. There are over 300,000 people of Lebanese origin in Australia and there are 20,000 -25,000 Australian passport holders resident in Lebanon.

## Proscription by the UN or like-minded countries

- 3.30 Asbat al-Ansar has been listed as a terrorist organisation by both the UK, the US and Canada.

## Engagement in peace/mediation processes

- 3.31 No information was provided on this matter.

## Recommendation 2

**The Committee does not recommend disallowance of this regulation**

## Egyptian Islamic Jihad

- 3.32 The Egyptian Islamic Jihad was initially listed as a terrorist organisation under the Criminal Code on 11 April 2003. A regulation was made re-listing the organisation as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 7 April 2005. The regulation commenced on 11 April 2005.
- 3.33 The Attorney-General's statement of reasons is as follows:

14 Department of Foreign Affairs and Trade website: [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au)

15 Classified transcript, private hearing 2 May 2005, p. 9.



### **Egyptian Islamic Jihad**

**(Also known as: al-Jihad; Jihad Group; Islamic Jihad; Al-Jihad al-Islami; New Jihad Group; Qaeda al-Jihad; Talaa'al al-Fateh; Vanguard of Conquest; al-Takfir; World Justice Group; International Justice Group, Islamic Group)**

The following information is based on publicly available details about the Egyptian Islamic Jihad (EIJ). These details have been corroborated by material from intelligence investigations into the activities of the EIJ and by official reporting. ASIO assesses that the details set out below are accurate and reliable.

The EIJ has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, United Kingdom, Canada and Egypt.

#### **Background**

The EIJ emerged as a coalition of Sunni Islamic radical groups that split from the Muslim Brotherhood, an Egyptian Islamist political movement, in the late 1970s. The EIJ's goal was to replace the secular Egyptian government with an Islamic state.

Following the EIJ's assassination of Egyptian President Anwar Sadat in 1981, the Egyptian government cracked down on the group, severely restricting its capability within Egypt. In 1987 the EIJ leader Ayman al-Zawahiri moved the base of the EIJ's operations to Afghanistan.

During the 1990s members of the EIJ leadership, including Ayman al-Zawahiri, drew close to al-Qa'ida. On 23 February 1998 a statement was published declaring the founding of the International Islamic Front for Jihad on the Jews and Crusaders. This umbrella organisation drew together elements of the EIJ, al-Qa'ida and other militant groups. The statement was signed by al-Zawahiri as leader of the EIJ. In line with al-Qa'ida's publicly stated aims, elements of the EIJ have increasingly targeted US and Western interests since 1998. However, many EIJ members resisted this alignment on the basis that they wanted the EIJ to maintain its primary focus on attacking Egyptian interests.

ASIO assesses that the EIJ remains active and continues to exist as a separate organisation from al-Qa'ida, despite the membership being dispersed and elements of the EIJ being closely associated with al-Qa'ida.

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## **Objectives**

The EIJ aims to replace the Egyptian government with an Islamist state and to attack US, Egyptian and Israeli interests in Egypt and abroad. Since entering into an alliance with al-Qa'ida in 1998, al-Zawahiri's followers have also adopted the internationalist goals of al-Qa'ida.

## **Leadership and membership**

The spiritual leader of the EIJ is considered to be Sheikh Umar Abd al-Rahman who was imprisoned for his involvement in the 1993 World Trade Center bombing, the murder of an extremist rabbi and plots to attack other targets in New York.

As a result of al-Zawahiri's affiliation with al-Qa'ida, the EIJ now comprises two main militant factions: one led by al-Zawahiri, which remains closely allied with Usama bin Laden and al-Qa'ida; and a larger faction led by Tharwat Salah Shihata, which remains primarily focused on the EIJ's original goal of overthrowing the Egyptian Government. There is no evidence that this has led to the creation of two separate organisations. Both factions share the same core beliefs and remain in contact.

The EIJ originally relied upon the diversion of funds from Muslim charitable causes and clandestine fundraising by supporters. Following the closer alignment with al-Qa'ida, the EIJ relies on the charitable and commercial networks utilised by al-Qa'ida, as well as criminal activity.

The EIJ operates in widely-dispersed small independent cells, with leaders appointed for each cell. The overall membership of the EIJ is currently unknown; available information suggests that in Afghanistan and Pakistan there are approximately 200 core members. The EIJ's network of members and supporters can be found in Egypt, Afghanistan, Lebanon, Pakistan, Sudan, Iran, UK and Yemen. Members have been arrested in Albania, Azerbaijan, Bulgaria, Romania and the United Arab Emirates.

The EIJ has recruited individuals with skills in forgery, military operations and marksmanship. Many EIJ members have received training at camps that also provided training to al-Qa'ida recruits. EIJ members have received training in terrorist related skills including the manufacture, use and smuggling of explosives, and assassinations.

### **Terrorist activities**

Consistent with its primary goals, the EIJ initially conducted armed attacks against high-level Egyptian government personnel and Egyptian facilities. As the EIJ's goals became intertwined with those of al-Qa'ida and the EIJ became frustrated with its inability to overthrow the Egyptian government, the EIJ concentrated on attacks against Egyptian targets outside Egypt and US interests.

Effective security operations have severely restricted the EIJ's capabilities within Egypt. Consequently there have been no recent attacks in Egypt that are attributed to the EIJ. However, on the basis of available information ASIO assesses that EIJ operatives still exist in Egypt: in January 2003, the Egyptian Interior Minister stated that a number of ' sleeper cells ' still exist there.

Despite the lull in activities publicly attributed to the EIJ, ASIO assesses that the EIJ, and EIJ members active in the al-Qa'ida network, continue to prepare, plan for and foster acts of violence with a view to furthering its objectives. This assessment is supported by reliable information provided by other intelligence sources. Ayman al-Zawahiri remains a significant symbol and leader of global jihad and is still considered the leader of the EIJ faction based in Afghanistan and Pakistan. He is also widely considered to be second-in-command of al-Qa'ida and spiritual mentor to Usama bin Laden. On 21 May 2003 and 1 October 2004, al-Zawahiri issued public statements calling for and supporting attacks against Western interests, including Australia.

ASIO assesses that the EIJ will likely resume its campaign against the Egyptian Government if and when the opportunity arises. The close relationship between elements of the EIJ leadership and other groups within the al-Qa'ida network means the EIJ may draw upon significant material support in relation to its future activities.

Major terrorist attacks which have been reliably attributed to the EIJ or for which the EIJ has claimed responsibility have included:

- October 1981: assassination of Egyptian President Anwar Sadat;
- August 1993: attempted assassination of Egyptian Interior Minister Al-Alfi;
- November 1993: attempted assassination of Egyptian Prime Minister Ated Sedky;
- June 1995: attempted assassination of Egyptian President Mubarak in Addis Ababa, Ethiopia;

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- November 1995: assassination of an Egyptian diplomat in Geneva;
  - 19 November 1995: suicide truck-bomb attack against the Egyptian embassy in Pakistan, killing 17 people.

As a member of the al-Qa'ida coalition, the EIJ have been implicated in a number of significant terrorist attacks, including:

- 7 August 1998: bombings of the US embassies in Tanzania and Kenya killing over 200 people;
- 12 October 2000: suicide bomb attack against the USS Cole, Aden, Yemen; and
- 11 September 2001: attacks against the World Trade Center and the Pentagon.

### **Conclusion**

ASIO assesses that the EIJ continues to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. These assessments are based on information provided by reliable and credible intelligence sources.

In the course of pursuing its objectives of replacing the Egyptian government with an Islamist state and attacking US and Israeli interests, Egyptian Islamic Jihad is known to have engaged in actions that are:

- aimed at advancing the EIJ's political and religious causes;
- done with the intention of coercing or influencing by intimidation the governments and people of numerous countries (including Australia);
- intended to, or do, cause serious damage to property, the death of persons or endanger life; and
- intended to cause, or have caused, serious risk to the safety of sections of the public in Egypt and other persons visiting areas in which it operates.

In view of the above information, Egyptian Islamic Jihad is assessed to be directly or indirectly engaged in preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the government and people of Egypt, the United States and other countries. The actions or threatened actions which Egyptian Islamic Jihad are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

## Engagement in terrorism

- 3.34 The statement of reasons states that there has been a 'lull in activities publicly attributed to the EIJ' and, due to effective security operations in Egypt, there have been 'no recent attacks in Egypt'. However, ASIO assesses that EIJ operatives 'still exist in Egypt' and that 'EIJ members are active in the Al Qai'da network'.<sup>16</sup>
- 3.35 Jane's also argues that 'although the group's base and communications have been greatly disrupted, the EIJ's leader [Ayman al-Zawahiri] remains a potent symbol of resistance to thousands of sympathisers across the world and ... that numerous cells ... [are] believed to remain at large ... and capable of future terrorist activities'.<sup>17</sup>

## Ideology and links to other terrorist groups/networks

- 3.36 The ideology or objectives of the EIJ began as opposition to the secular government of Egypt, seeking its overthrow. As its members scattered throughout the Middle East under pressure from the Government, they formed links with Al Qai'da and adopted an international Islamic agenda: a Caliphate from Andalucia to Xinjiang.<sup>18</sup>
- 3.37 The Egyptian Islamic Jihad has become closely involved with the Al Qai'da network. This is asserted by the statement of reasons and confirmed by the Jane's assessment on the organisation in 2005. The connections with Al-Qai'da have extended the links of the EIJ to a variety of other radical Islamic organisations. Like Al Qai'da, it was headquartered in Afghanistan until the war began in November 2001. Now it is reported that its members, more than any of the other organisations in this group, are scattered through Central Asia, the Middle East, South East Asia and possibly the United Kingdom.<sup>19</sup>

## Links to Australia

- 3.38 The statement of reasons makes no mention of any links to Australia. At the hearing the members of the Committee asked whether there was any tangible evidence of connections in Australia with the EIJ. ASIO advised that links were likely to exist to the EIJ and through the EIJ to other networks which have been proscribed.<sup>20</sup>

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16 See statement of reasons above.

17 Jane's Terrorism and Insurgency Centre, *El-Gihad*, 18 February 2005, <http://jtic.janes.com>, p. 6

18 Jane's Terrorism and Insurgency Centre, *El-Gihad*, 18 February 2005, <http://jtic.janes.com>, p. 3.

19 Jane's Terrorism and Insurgency Centre, *El-Gihad*, 18 February 2005, <http://jtic.janes.com>, p. 5.

20 Classified transcript, private hearing, 2 May 2005, p. 9. See also paragraphs 3.34-3.37.

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## Threat to Australian interests

3.39 Similarly, ASIO advised that threats to Western, including Australian interests existed, in the area of operation of the EIJ and its network partners – the Gulf, Egypt, Iraq, Lebanon and Jordan.<sup>21</sup> In all these areas, the Department of Foreign Affairs and Trade advises Australians that they should exercise extreme caution. In particular, Australians in Saudi Arabia are advised to defer all non-essential travel and those in Saudi Arabia should consider departure.<sup>22</sup>

3.40 In all of the above areas, Patrick Emerton argues that, while the statement of reasons ‘does draw some connection between the activities of the Egyptian Islamic Jihad and Australia, there are still many questions to be asked [and] answered.’<sup>23</sup> He is concerned that ‘the case for proscription is not made and that proscription is not necessarily the appropriate way to protect whatever Australian interests are at stake.’<sup>24</sup> He also notes that many of the references in the statement are general and lacking in the detail that he believes should be provided, especially in relation to the impact of a listing on Australians who might be affected by the uncertainties regarding informal membership or association offences in the anti-terrorist legislation:

The government’s material also notes that the funding for the organisation is received through charitable networks. No indication is given, however, of whether any such networks are believed to exist in Australia, nor of the attitude or approach that the Australian government or ASIO will adopt to such charities.<sup>25</sup>

3.41 The Committee notes that across the broad area in which this organisation is said to operate - the Gulf, Egypt, Iraq, Lebanon and Jordan - there are considerable Australian interests, diplomatic missions, trade and commercial interests. However, it is from the Department of Foreign Affairs and Trade that the Committee would appreciate details of these interests, the likely impact on them of particular terrorist organisations and the political circumstances in which these organisations operate in particular countries. In particular, the Committee believes that DFAT could inform the Committee of any peace or mediation processes that might be in place or contemplated involving any of the organisations under examination.

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21 Classified transcript, private hearing 2 May 2005, p. 9

22 [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au)

23 Mr Patrick Emerton, Submission No 8, p. 19.

24 Mr Patrick Emerton, Submission No 8, p. 19

25 Mr Patrick Emerton, Submission No 8, p. 17.

### Proscription by the UN or like-minded countries

- 3.42 The EIJ is proscribed by the United Nations, the United States, the United Kingdom and Canada. It is also proscribed by Egypt.

### Engagement in peace/mediation processes

- 3.43 There was no information provided on this matter.

## Recommendation 3

**The Committee does not recommend disallowance of this regulation.**

## Islamic Army of Aden

- 3.44 The Islamic Army of Aden was initially specified as a terrorist organisation under the Criminal Code on 11 April 2003. On 7 April 2005, a regulation was made re-listing the organisation as a terrorist organisation. The regulation commenced on 11 April 2005.
- 3.45 The Attorney-General's statement of reasons is as follows:

### **The Islamic Army of Aden (IAA)**

**(Also known as: Aden Abyan Islamic Army (AAIA), Islamic Army of Aden Abayan)**

The following information is based on publicly available details about the Islamic Army of Aden (IAA). These details have been corroborated by material from intelligence investigations into the activities of the IAA and by official reporting. ASIO assesses that the details set out below are accurate and reliable.

The IAA has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United Kingdom and Canada.

### **Background**

The Yemen-based IAA was formed by a splinter group of the Yemeni Islamic Jihad in 1996. The IAA is a Sunni extremist group that first came to public prominence in May 1998 when it issued statements detailing its intention to overthrow the Yemeni government and implement Sharia law. However, the group is

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believed to have developed during the early 1990s and members of what was to become the IAA were implicated in a series of attacks against US interests with the aim of forcing the withdrawal of US bases in Yemen supporting US operations in Somalia.

The IAA is associated with al-Qa'ida, which has a presence in Yemen, and has made public statements in support of Usama bin Laden, al-Qa'ida and its terrorist activities.

The IAA predominantly operates in the southern governorates of Yemen – primarily Aden and Abyan. It uses bombings and kidnappings as a means of furthering its goals. In 1998, the IAA kidnapped 16 British, Australian and American tourists. Four tourists, including one Australian, were killed during a rescue attempt. The IAA also claimed responsibility for the suicide bomb attack against the USS Cole on 12 October 2000.

### **Objectives**

The IAA aims to overthrow the current Yemeni government and establish an Islamist form of government, to remove all Western influence from Yemen and to support al-Qa'ida's efforts regionally in the global jihad.

### **Leadership and membership**

The IAA's founder and former leader Zein al-Abidine al-Mihdar (aka Abu al-Hassan) was executed in 1999 for his role in the 1998 kidnapping of 16 Western tourists. Al-Mihdar and other founding members were veterans of the struggle in Afghanistan against the Soviets. The current leader is Khaled Abdennabi (aka Khalid 'Abd al-Nabi al-Yazidi).

The group is small, with an estimated 100 core members, which includes Yemenis and Saudis organised in cells. The group also has supporters among Yemeni tribes. The IAA employs kidnapping as a means of raising money through ransom and to apply pressure to the Yemeni government. This is also a traditional method for raising funds in Yemen by non-terrorist and tribal groups. Members of the IAA are also believed to reside in the United Kingdom, Sudan, Pakistan, Jordan and Eritrea.

### **Terrorist activities**

The IAA has been involved in a number of terrorist attacks against Yemeni government and Western targets. The attacks have employed a number of different methods, including bombing and kidnapping. Given the effectiveness and intensity of US supported



counter-terrorism efforts in Yemen, the IAA's ability to conduct terrorist attacks has been significantly diminished. However, the group retains the capability and intent to undertake terrorist acts.

Terrorist attacks and activities for which the IAA has claimed responsibility or for which responsibility has been reliably attributed to IAA have included:

- August 2002: three Yemenis belonging to the IAA were convicted of carrying out bombing attacks in the southern port of Aden on 1 January 2001;
- 17 October 2002: Islamist extremist and reported spiritual leader of the IAA Abu-Hamzah al-Masri announced that the IAA had joined al-Qa'ida;
- 21 June 2003: attack a military medical convoy, wounding 7 soldiers;
- June 2003: arrest of four alleged IAA members and seizure of a car packed with hand grenades, explosives and rocket-propelled grenades that had been used in the attack on a military medical convoy 21 June 2003;
- 25 June 2003: clash between IAA members and government troops at the group's hideout in Harat - captured IAA members revealed they were waiting for orders to carry out terrorist operations; and
- 1 October 2003: alleged IAA car bomb attack against the US, UK and German embassies in Sana'a was disrupted.

### **Conclusion**

ASIO assesses that the IAA is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is based on publicly available details about the Islamic Army of Aden (IAA), which have been corroborated by information provided by reliable and credible intelligence sources and by official reporting.

In the course of pursuing its objectives of overthrowing the Yemeni Government and replacing it with an Islamic state, removing all Western influence from Yemen, and supporting al-Qa'ida's efforts regionally in the global jihad, the IAA is known to have engaged in actions that:

- are aimed at advancing the IAA's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life;
- are done with the intention of coercing or influencing by intimidation the governments and people of numerous countries; and

- are intended to cause, or have caused, serious risk to the safety of sections of the public in Yemen and other persons visiting areas in which it operates.

In view of the above information, the IAA is assessed to be directly or indirectly preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the Government and people of Yemen. The actions or threatened actions which the IAA are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

## Engagement in terrorism

3.46 The statement of reasons attributes the kidnapping of 16 tourists in 1998 and the bombing of the *USS Cole* in 2000<sup>26</sup> to the Islamic Army of Aden. More recently, 'given the intensity of US supported counter terrorism efforts in Yemen, the IAA's ability to conduct terrorist attacks is greatly diminished'<sup>27</sup>. The statement lists two actual attacks, one in 2002 in the port of Aden<sup>28</sup> and the other in June 2003, on a medical convoy which wounded 7 soldiers. The rest of the list concerns two thwarted attacks and an arrest. The IAA are said to have about 100 core members. This record of activity is reflected in Jane's assessment that:

[T]he organisation's jingoistic rhetoric has often not translated into the same level of action. The IAA's small size has constrained its organisational and operational capacities. ... The Government's cooperation with US forces is likely to further restrict the organisation's capacities and ability to operate.<sup>29</sup>

3.47 It appears from the evidence before the Committee that the IAA has turned its attention inward to attacks on and opposition to the

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26 The United States indictment for this attack names Al Qai'da. Jane's Terrorism and Insurgency Centre, *Aden-Abyan Islamic Army (AAIA)*, 18 February 2005, <http://jtic.janes.com>, p. 3.

27 Statement of reasons. See above.

28 The statement actually uses the plural, 'attacks', but presumably it refers to the bombing of the *Limburg*, a French oil tanker. Jane's does not list any other attack in 2002.

29 Jane's Terrorism and Insurgency Centre, *Aden-Abyan Islamic Army (AAIA)*, 18 February 2005, <http://jtic.janes.com>, p. 6.

government of Yemen, although Jane's assesses that militants 'still represent a significant threat ... to Western interests in the country.'<sup>30</sup>

### Ideology and links to other terrorist groups/networks

- 3.48 Linkages between Yemeni militants and Osama bin Laden go back to bin Laden's own family ties with Yemen and with the recruitment of thousands of Yemenis to fight the Soviet Union in Afghanistan in the 1980's. With the end of the Soviet occupation and after the first Gulf War, radicalised militant groups turned their opposition to US presence in the region, in the Gulf, Saudi Arabia and in Somalia. In 2002, the IAA formally announced it had joined forces with Al-Qa'ida.<sup>31</sup>
- 3.49 Mr Emerton makes the point in his submission that the links to Al-Qa'ida do not advance the case for proscription of another organisation. He argues in his submission that:

Involvement of members of this organisation [the IAA] with Al-Qa'ida is already an offence under Australian law, in virtue of Al-Qa'ida's proscription under the Criminal Code.<sup>32</sup>

### Links to Australia

- 3.50 Linkages to Australia are less clear. There is no mention of Australia in the statement of reasons, although one of the kidnapped tourists killed in a botched rescue attempt in 1998 was an Australian. At the hearing some further links were suggested.

### Threat to Australian interests

- 3.51 The threat to Australian interests appears to be no higher than that there are threats made against Western interests within Yemen. However, the Department of Foreign Affairs has a travel warning for all non-essential travel to Yemen:

Australians should defer non-essential travel to Yemen. There are continuing reports that terrorists in Yemen are planning attacks

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30 Jane's Terrorism and Insurgency Centre, *Aden-Abyan Islamic Army (AAIA)*, 18 February 2005, <http://jtic.janes.com>, p. 6.

31 Statement of reasons and Jane's Terrorism and Insurgency Centre, *Aden-Abyan Islamic Army (AAIA)*, 18 February 2005, <http://jtic.janes.com>, p. 7

32 Mr Patrick Emerton, Submission No 8, p. 13.

against Western interests and the risk of terrorist attacks against Western interests remains.<sup>33</sup>

- 3.52 Australia does not have an embassy in Yemen, which is covered by the embassy in Saudi Arabia. Australia's trade and commercial interests also appear to be very small, with annual merchandise exports of \$93 million and imports of \$15 million.

### Proscription by the UN or like-minded countries

- 3.53 The IAA is proscribed by the United Nations, the United Kingdom and Canada.

### Engagement in peace/mediation processes

- 3.54 No information was supplied on this matter.
- 3.55 The linkages between Australia and this organisation are quite vague.

## Recommendation 4

**The Committee does not recommend the disallowance of this regulation.**

## Jaish-e-Mohammad

- 3.56 Jaish-e-Mohammad was originally specified as a terrorist organisation under the Criminal Code on 11 April 2003. On 7 April 2005, a regulation was made re-listing Jaish-e-Mohammad as a terrorist organisation for the purposes of section 102.1 of the Criminal Code. The regulation commenced on 11 April 2005.
- 3.57 The Attorney-General's statement of reasons is as follows:

### **Jaish-e-Mohammad**

**(Also known as Jaish-i-Mohammad, Jesh-e-Mohammadi, Jaish-e-Mohammad-e-Tanzeem, Tehrik-al-Furgan, Tehrik-al-Furqaan, Khuddam-ul-Islam, Army of Mohammad)**

The following information is based on publicly available details about Jaish-e-Mohammad (JeM). These details have been

33 Department of Foreign Affairs Website: <http://www.smartraveller.gov.au/zw-cgi/view/Advice/Yemen>

corroborated by material from intelligence investigations into the activities of JeM and by official reporting. ASIO assesses that the details set out below are accurate and reliable.

The JeM has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, United Kingdom, Canada, Pakistan and India.

### **Background**

JeM is a Sunni Islamist extremist organisation founded in December 1999. It is based in Pakistan, primarily in Peshawar and Muzaffarabad, and it operates mainly in Kashmir. It has, however, staged attacks outside Kashmir in other parts of India.

JeM primarily targets Indian security (military or police) personnel and bases although it has also attacked civilian targets such as the attack on the Indian Parliament building in New Delhi in 2002. In its attacks, JeM typically uses car bombs, grenades, ambushes or landmines. JeM was also involved in the abduction and murder of US journalist Daniel Pearl in January 2002. A member of JeM was later charged with his murder.

JeM draws heavily from Harakat-ul-Mujahideen (HUM, now known as Jamiat ul-Ansar-JuA). Many of its members as well as a range of property (including weapons), business and charitable interests were originally sourced from HUM. In addition to its alliances with other Jihadist groups, JeM is supported by a number of Islamic charitable foundations including the al-Rashid Trust (whose accounts were ordered to be frozen by the UN Security Council for suspected links to al-Qai'da).

### **Objectives**

JeM aims to unite Indian-controlled Kashmir with Pakistan and establish a radical Islamist state in Pakistan. It also aims to expel Shi'as, Christians, Hindus and Jews from Pakistan.

### **Leadership and membership**

JeM is led by Maulana Masood Azhar, who founded the group upon his release from prison in India. He remains the group's Amir and presides over a leadership council. In addition to its close association with HUM, JeM also maintains links to other militant Islamist groups, most notably Lashkar-e-Tayyiba (with whom it has conducted joint operations), Lashkar-e-Jhangvi (LeJ), al-Qai'da, and the Taliban.

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JeM has approximately seven hundred members, comprised mostly of Pakistanis and Kashmiris but also including some Arabs and Afghans. JeM organises recruitment drives through rallies and political demonstrations. It benefits from training programs that were first created by HUM and has run its own training facilities in Afghanistan, although these were disbanded in 2001. JeM may also have assisted al-Qa'ida in establishing training camps in Yemen and Somalia.

### **Terrorist activities**

JeM has been involved in a number of terrorist attacks, including kidnapping, car bomb and shooting attacks primarily against Indian military, police and civilian targets, as well as the abduction and murder of US journalist Daniel Pearl in 2002.

Recent terrorist attacks for which responsibility has been claimed by, or reliably attributed to, JeM have included:

- December 2003: attempted assassination of Pakistani President Musharraf by car bomb.
- 27 August 2003: exchange of fire between JeM members and Indian troops near Sanzwatri village in Pulwama district in which one militant was killed and one soldier was injured.
- 1 September 2004: bomb attack in a bazaar in Quetta in which 3 people were killed and 7 were injured.
- 25 October 2004: attack on the Divisional Commissioner for the Kashmir Valley.
- 13 November 2004: attack by JeM militants wearing army uniforms on a police picket in Nadimarg.

### **Conclusion**

ASIO assesses that JeM is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is corroborated by information provided by reliable and credible intelligence sources and by official reporting.

In the course of pursuing its objectives of creating a radical Islamist state in Pakistan and unite Indian-controlled Kashmir with Pakistan, the JeM is known to have engaged in actions that:

- are aimed at advancing the JeM's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life;

- are done with the intention of coercing or influencing by intimidation the governments and people of numerous countries; and
- are intended to cause, or have caused, serious risk to the safety of sections of the public in Pakistan and India and other persons visiting areas in which it operates.

In view of the above information, JeM is assessed to be directly or indirectly preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the Government and people of Pakistan. The actions or threatened actions which the JeM are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

### Engagement in terrorism

- 3.58 This organisation has conducted terrorist activities since 1999, largely in the area of India and Pakistan, particularly in Indian administered Kashmir. The statement of reasons lists activities in 2003 and 2004 involving bomb attacks and attempted assassinations. This information is reinforced by Jane's which describes the organisation as 'well trained, motivated and supported, and poses a major threat to Indian, Pakistani and Western targets in both those countries'.<sup>34</sup>

### Ideology and links to other terrorist groups/networks

- 3.59 JeM's activities are directed at the establishment of a radical Islamic state in Pakistan,<sup>35</sup> or more broadly,<sup>36</sup> the expulsion of non-Muslims from Pakistan. In pursuit of this objective, it is allied to a number of organisations which have similar aims. These include Al Qa'ida and the Taliban, Lashkar-e-Taibyya (LeT) and Lashkar-e-Jhangvi (LeJ), the Sipah-e-Sahaba Pakistan (SSP) and the Harakat-ul-Mujahideen (HuM). This last organisation lost much of its membership to the JeM after JeM was established in 1999.

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34 Jane's Terrorism and Insurgency Centre, *Jesh-e-Mohammadi (JeM)*, 18 February 2005, <http://jtic.janes.com>, p. 5.

35 The Statement of Reasons. See above.

36 Jane's Terrorism and Insurgency Centre, *Jesh-e-Mohammadi (JeM)*, 18 February 2005, <http://jtic.janes.com>, p. 2.

- 3.60 According to Jane's, JeM has benefited both in terms of training and arms from the support provided to HuM by the CIA and the Pakistani Intelligence Services (ISI) throughout the 1980s.

It has been reported that HuM produced some of the best trained fighters of the Afghanistan war. The training program concentrated on firearms, explosives and guerrilla warfare, and so impressed CIA agents operating in Afghanistan at the time that the group was singled out to receive superior equipment including Stinger missiles, used to down Soviet aircraft. (In 1992 the CIA asked for their equipment to be returned and offered to pay for it, but the group refused.)<sup>37</sup>

### Links to Australia

- 3.61 No links to Australia are detailed in the statement of reasons. At the hearing, the Committee was told that there were no obvious, direct links between JeM and Australians. However, it was thought that the clear enmeshment of this group with others operating in the region meant that connections were a distinct possibility.<sup>38</sup>

### Threat to Australian interests

- 3.62 Australia has a High Commission in Pakistan and a total trade with Pakistan of \$660 million annually, making Pakistan our 37<sup>th</sup> largest trading partner. ASIO provided the Committee with details of its threat assessment for Pakistan. The DFAT travel advisory for Pakistan warns of the threat of terrorism, stating that Australians should defer all non-essential travel to Pakistan and should exercise extreme caution if they are obliged to travel there. Security at the Australian High Commission in Islamabad has been strengthened as a precautionary measure and the Government has, since 5 May 2004, authorised the voluntary departure of the dependants of the Australian High Commission staff in Islamabad.<sup>39</sup>
- 3.63 However, in respect of this organisation, Mr Emerton reiterated the point that he did not believe that proscription addressed such a threat.

To the extent that this organisation is committed to attacks upon civilians, it is committing what are already serious offences under the laws of India and Pakistan. It is not clear why the prevention

37 Jane's Terrorism and Insurgency Centre, *Jesh-e-Mohammadi (JeM)*, 18 February 2005, <http://jtic.janes.com>, p. 4.

38 Transcript, private hearing 2 May 2005, p. 11.

39 [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au)



and prosecution of these criminal activities requires taking the extraordinary step of banning the organisation in Australia.

...

[T]he receipt of funding from Al Qai'da is already an offence under Australian law, in virtue of Al Qai'da's proscription under the *Criminal Code*. The material presented does not explain why the further step of proscribing Jaish-e-Mohammad is necessary to the investigation and prosecution of these links.<sup>40</sup>

### Proscription by the UN or like-minded countries

- 3.64 The Statement of Reason states that JeM is proscribed by the UN, the United Kingdom and Canada. JeM is also proscribed by Pakistan and India. At the hearing, ASIO informed the Committee that they had sought clarification on the position of the United States. JeM is not on the United States' foreign terrorist organisations list. It is, however, on the terrorist exclusion list, a list similar to the Australian Movement List, but applying to organisations rather than to individuals. They are also on the US financing of terrorism list.
- 3.65 The Committee would note that, in Australia, all the organisations that have been proscribed to date are also on the Consolidated List which the Department of Foreign Affairs manages. This implements obligations under the Charter of the UN Act in Australia. Effectively, this makes it illegal to finance any of these terrorist groups and requires Australia to monitor the individuals, including JeM members, into or out of Australia.

### Engagement in peace/mediation processes

- 3.66 No information was received on this matter. However, the Committee notes that there has been some rapprochement between India and Pakistan on the question of Kashmir. This is a government to government exchange and does not involve this organisation, which is banned in both countries.

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40 Mr Patrick Emerton, Submission No. 8, p.15.

## Recommendation 5

**The Committee does not recommend the disallowance of this regulation.**

## Lashkar-e Jhangvi

- 3.67 Lashkar-e Jhangvi was initially specified as a terrorist organisation under the Criminal Code on 11 April 2003. A regulation was made re-listing the organisation as a terrorist organisation on 7 April 2005. The regulation commenced on 11 April 2005.
- 3.68 The Attorney-General's statement of reasons is as follows:

### **Lashkar-e Jhangvi (LeJ)**

**(Also known as: Lashkar-i-Jhangvi, Lashkar-e-Jhangvie, Lashkar-e-Jhangvi, Lashkare Jhangvi, Lashkar-e-Jhangwi, Lashkar-i-Jhangwi, Jhangvi Army, Lashkar-e Jhangvi, Lashkar Jhangvi, Lashkar-e-Jhanvi, Lashkar-i-Jangvi, Lashkar e Jhangvi, Lashkar Jangvi, Laskar e Jahangvi).**

The following information is based on publicly available details about Lashkar-e Jhangvi (LeJ). These details have been corroborated by material from intelligence investigations into the activities of the LeJ and official reporting. ASIO assesses that the details set out below are accurate and reliable.

The LeJ has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, Canada and Pakistan.

### **Background**

Lashkar-e Jhangvi (LeJ) is a Sunni Islamic terrorist group based in Pakistan. The group was formed in 1996 as a more militant splinter group of the radical sectarian organisation, the Sipah-e-Sahaba Pakistan (SSP) and follows the Deobandi tradition of Sunni Islam. Under the leadership of Riaz Basra, the LeJ quickly distinguished itself as the most violent sectarian force in Pakistan.

LeJ is based primarily in the Punjab and Baluchistan regions of Pakistan, and the port city of Karachi. It is responsible for

numerous targeted killings and massacres. The group has targeted for assassination, not only opposing Shi'a activists, but prominent Shi'a officials, professionals and businessmen. It has assassinated Iranian nationals in Pakistan and was involved, along with the JeM, in the abduction and murder of US journalist Daniel Pearl in January 2002. It has also instigated attacks, including small-arms attacks and suicide bombings, on Shi'a mosques and processions, and Christian churches resulting in the random killing of hundreds of people.

Members of the LeJ also maintained a presence in Afghanistan until they were forced into the tribal areas of Pakistan following the fall of the Taliban.

### **Objectives**

The LeJ's ultimate objective is the establishment of a truly Islamic – as they would define it – theocratic state in Pakistan, through the use of violence. Part of a broader Sunni extremist movement, LeJ's membership harbours an intense hatred of all foreign, or non-Islamic influences. The group is also fervently anti-Shi'a and aim to have them declared a non-Muslim minority.

### **Leadership and membership**

Muhammad Ajmal (aka Akram Lahori) is reportedly the present leader of the LeJ. Ajmal succeeded Riaz Basra following Basra's death in May, 2002 as a result of a shootout with Pakistani police. Ajmal is himself in custody following his arrest in June 2002 for his alleged involvement in 38 cases of sectarian killings. It is not clear if Ajmal continues to head the group while in detention.

LeJ is estimated to have 300 active members. Pakistani government security crackdowns since late-2001 have had some success, but the group continues to recruit new members to replace those arrested or killed in such encounters. Over half of Pakistan's madrassas (religious schools) are Deobandi run and they provide a fertile pool of manpower susceptible to LeJ recruitment. The LeJ maintains a multi-cellular structure, made up of loosely co-ordinated regional sub-units further divided into several small cells that operate independently of one another.

The present status of LeJ training facilities is not known. LeJ training camps in Afghanistan were destroyed by the United States and their training facilities in Pakistan have been disrupted by local police. Being part of a broader Deobandi movement,

however, the LeJ can rely on the assistance of other militant Deobandi groups including its parent the SSP, the Jamiat ul-Ansar (JuA - also known as Harakat ul-Mujahideen or HuM), Jaish-e-Mohammad (JeM), and Harakat ul-Jihad al-Islami (HuJI).

The LeJ also receives assistance from the sectarian political organisation Jamiat-ul-Ulema-e-Islam (JUI). It receives financial support from middle-class urban Sunnis keen to challenge the influence of the Shi'a landed elite. The LeJ has an extremely close relationship with the Taliban and confirmed links with al-Qa'ida. Pakistani government investigations confirmed al-Qa'ida had provided LeJ with training, including the skills necessary for undertaking suicide bomb attacks.

### **Terrorist activities**

The LeJ has been involved in a number of terrorist attacks, including targeted assassinations, small-arms attacks and suicide bombings against Shi'a, Christian, Western and government targets.

Recent terrorist attacks for which responsibility has been claimed by, or reliably attributed to the LeJ, have included:

- 4 July 2003: suicide bombing of a mosque in Quetta in which 53 Shi'as were killed;
- March 2004: attack on a Shi'a procession in Quetta which killed 46 people;
- 7 May 2004: suicide bombing of the Haderi mosque in Karachi in which 23 Shi'a were killed;
- 3 June 2004: suicide bombing of the Ali Raza Shi'a mosque in Karachi which killed 21 persons;
- June 2004: murder of 12 Shi'ite police cadets in Baluchistan;
- 11 September 2004: murder of a Shi'ite university teacher in Baluchistan; and
- 25 December 2004: murder of two Pakistani aid workers during an attack on the office of the Aga Khan Foundation in Chitral.

### **Conclusion**

ASIO assesses that the LeJ is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is corroborated by information provided by reliable and credible intelligence sources and official reporting.

In the course of pursuing its objective of overthrowing the Pakistan Government and replacing it with a theocratic Sunni-Islamic state the LeJ is known to have engaged in actions that:

- are aimed at advancing the LeJ's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life;
- are done with the intention of coercing or influencing by intimidation the governments and people of numerous countries; and
- are intended to cause, or have caused, serious risk to the safety of sections of the public in Pakistan and other persons visiting areas in which it operates.

In view of the above information, the LeJ is assessed to be directly or indirectly preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation the Government and people of Pakistan. The actions or threatened actions which the LeJ are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

### Engagement in terrorism

- 3.69 The list in the statement of reasons of recent activities attributed to this organisation is significant. It includes suicide bombings and murders which have killed large numbers of people, all criminal activity subject to the Pakistani criminal law. It appears to be largely sectarian violence directed at the Shi'ite communities in Pakistan.
- 3.70 The history of these groups is complex. Jane's notes that LeJ had once operated as a political party which contested elections and had a member who held office as a government minister.<sup>41</sup> Jane's also notes that the violence associated with the anti Shi'ite militant groups in Pakistan was encouraged by a variety of forces throughout the 80's and 90's: the Saudi Arabians, encouraged by the US, provided money to Sunni mosques, post 1979, to counter Iranian influence among the Pakistani minority Shi'ites; General Zia al-Haq encouraged Sunni militant parties as a balance to the

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41 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Jhangvi (LeJ)*, 18 February 2005, <http://jtic.janes.com>, p. 1.

rising demands for democratic reform and to curb the popularity of Benazir Bhutto, herself from a Shi'a landowning family.<sup>42</sup>

- 3.71 Finally, in his submission on these listings, Mr Emerton notes the support for the LeJ of 'middle class urban Sunnis keen to challenge the influence of the Shi'a landed elite'<sup>43</sup>. He argues:

This suggests that there may be domestic Pakistani political and economic considerations involved in the activities of this organisation, and raises the question of whether Australia should be intervening in the politics of a foreign country through the use of such criminal law mechanisms as proscription under the *Criminal Code*.<sup>44</sup>

### Ideology and links to other terrorist groups/networks

- 3.72 The result of internal political tensions and international influence led the ideology of the LeJ towards radical strands of Sunni Islam – Wahhabism and Deobandism. The aim of the LeJ, subsequently, was the establishment of a theocratic state in Pakistan.<sup>45</sup> Its opposition has extended to violent hostility to all non-Sunnis – primarily Shi'as, but also Christian, Jewish and Hindu groups in Pakistan. It is connected into a number of other groups – the Taliban and Al Qa'ida as well as the SSP (although this is denied by both organisations<sup>46</sup>), JuA or HuM, the JeM and HuJI.<sup>47</sup>

### Links to Australia

- 3.73 No links to Australia are outlined in the statement of reasons. At the hearing, ASIO advised that links to Australia may exist through mutual association with other organisations.<sup>48</sup>

### Threat to Australian interests

- 3.74 Australian interests in relation to this group would be similar to those outlined above in relation to the JeM, that is Australian interests in

42 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Jhangvi (LeJ)*, 18 February 2005, <http://jtic.janes.com>, p. 2.

43 Statement of reasons.

44 Mr Patrick Emerton, Submission No 8, p. 16.

45 See statement of reasons above.

46 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Jhangvi (LeJ)*, 18 February 2005, <http://jtic.janes.com>, p. 3.

47 See statement of reasons and Jane's Terrorism and Insurgency Centre, *Lashkar-e-Jhangvi (LeJ)*, 18 February 2005, <http://jtic.janes.com>, p. 3.

48 Transcript, private hearing 2 May 2005, p. 12.

Pakistan.<sup>49</sup> ASIO described the threat to Australia in terms of threats made against Western interests (although it is notable that actual attacks as listed in the statement of reasons have been against Shi'a rather than western targets).

### Proscription by the UN or like-minded countries

3.75 LeJ is proscribed by the United Nations, the United States and Canada.

### Engagement in peace/mediation processes

3.76 No information was provided on this matter.

## Recommendation 6

**The Committee does not recommend the disallowance of this regulation.**

## Islamic Movement of Uzbekistan

3.77 The Islamic Movement of Uzbekistan was initially specified as a terrorist organisation under the Criminal Code on 11 April 2003. A regulation was made re-listing the Islamic Movement of Uzbekistan as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 7 April 2005. The regulation commenced on 11 April 2005.

3.78 The Attorney-General's statement of reasons is as follows:

### **Islamic Movement of Uzbekistan**

**(Also known as: IMU, Islamic Party of Turkestan, Islamic Movement of Turkestan)**

The following background information is based on publicly available details about the Islamic Movement of Uzbekistan (IMU). These details have been corroborated by material from intelligence investigations overseas into the IMU's activities and official reporting. ASIO assesses that the details set out below are accurate and reliable.

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<sup>49</sup> See paragraphs 3.62-3.64.

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The IMU has been proscribed as a terrorist organisation in Australia, and by the United Nations and the governments of the United States, United Kingdom and Canada.

### **Background**

The IMU was founded in 1997 and is a coalition of Islamic extremists from Uzbekistan and other Central Asian states who oppose the current Uzbek regime. The IMU's area of operation includes Uzbekistan, Afghanistan, Tajikistan, Pakistan and Kyrgyzstan.

In May 2001, the group announced that it had changed its name to the Islamic Party of Turkestan. The motivation for this is unclear, although it could reflect divisions in the group or signals a change in emphasis from anti-Uzbek government activities to a wider radical Islamic agenda. The organisation has, however, continued to be known as the IMU. Despite IMU's losses in Afghanistan during the US intervention in 2002, it remains active and continues to attract recruits from throughout the region. The IMU's propaganda has always included anti-Western and anti-Israeli rhetoric. The group's tactics include hostage-taking (including foreigners), assassination, car and suicide bombing.

The IMU has close ties with al-Qa'ida and the former Taliban government. IMU fighters have trained in camps in Afghanistan, some controlled by al-Qa'ida. IMU members have been trained by al-Qa'ida instructors in guerrilla warfare, sabotage, bomb-making, assassination and urban terrorism. The IMU has received funding from al-Qa'ida. Senior IMU leaders have held positions in the al-Qa'ida hierarchy.

### **Objectives**

The IMU initially sought to overthrow the Uzbek regime and establish an Islamic state. However, by 2000, the IMU had broadened its goals to include the establishment of a radical Islamic caliphate in Turkestan, encompassing an area from the Caspian region to Xinjiang in western China.

### **Leadership and membership**

The IMU's political and ideological leader is believed to be Tahir Yoldashev, and the group's overall military commander is Joma Namangani. The latter was reported killed in the fighting in Afghanistan in 2002 but his death remains unconfirmed. He held a



position in the Taliban government prior to its fall and was reportedly one of Usama bin Laden's deputies in 2001.

The IMU attracts support from a variety of ethnic backgrounds, principally – Uzbeks, Kyrgyz, Tajiks, Kazakhs, Chechens and Uighurs from western China. The IMU's membership is believed to number under 2000. These are divided into brigades (comprised of approximately 40-50 men) made up according to ethnic background.

### **Terrorist activities**

The IMU has been involved in a number of terrorist attacks against Western diplomatic facilities and civilian targets in Central Asia, and IMU members continue to fight alongside the Taliban and al-Qa'ida against Coalition and Pakistani forces in Afghanistan and northern Pakistan.

Terrorist attacks and activities for which the IMU has claimed responsibility or for which responsibility has been reliably attributed to IMU have included:

- May 2003: bomb attack in the city of Osh in southern Kyrgyzstan;
- 29 March 2004: bomb attacks against a shopping centre in Tashkent and an apartment building in Bukhara killing 19 and wounding 26 people; and
- 30 July 2004: bomb attacks against the Israeli and US embassies in Tashkent, killing three and wounding nine people.

### **Conclusion**

ASIO assesses that the IMU is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. Although the organisation suffered significant losses during the Afghanistan conflict, it has attracted recruits from a variety of countries within the region, and has a history of working with other international terrorist organisations from which it may draw support. This assessment is corroborated by information provided by reliable and credible intelligence sources and by official reporting.

In the course of pursuing its objective of establishing a radical Islamist caliphate in Turkestan the IMU is known to have engaged in and planned actions that:

- are aimed towards advancing its political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life;

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- are done with the intention of coercing or influencing by intimidation the governments and people of numerous countries; and
  - are intended to cause, or have caused, serious risk to the safety of Uzbek officials and civilians, and any other person visiting areas in which it operates.

In view of the above information, the IMU is assessed to be continuing to prepare, plan, assist and foster the conduct of further terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing political, religious or ideological cause, or influencing by intimidation, the government of Uzbekistan and other countries. The actions which IMU is assessed to be involved would, if completed successfully, cause serious harm and death to persons and serious damage to property.

### Engagement in terrorism

- 3.79 The statement of reasons lists three incidents in 2003-04 as evidence of the IMU's terrorist activities. The statement also argues that the IMU has close ties to Al-Qa'ida and the Taliban. Beyond that, the information on the organisation in the statement of reasons is not extensive. Jane's confirms that the IMU was founded in 1997 in opposition to the Uzbek regime and that it grew out of opposition to the election as President of Islam Karimov, the former Communist Party leader of Uzbekistan.
- 3.80 The IMU is a relatively large organisation, estimates ranging from 1500 to 5000, and appears, according to Jane's, to be able easily to attract young volunteers, especially from the Ferghana Valley where unemployment is 70 to 80 per cent. Jane's also confirms that the organisation is active and violent, but reports that analysts are divided about whether it is 'a coherent, well coordinated guerrilla organisation or an effective but loosely organised group of bandits.'<sup>50</sup> Since 2000, the IMU, along with Al Qa'ida, appears to be involved with criminal syndicates in the drugs trade, weapons smuggling and money laundering. Tactics include infiltration, hostage taking, ambushes, raids on army bases assassinations/murder and car bombings.

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50 Jane's Terrorism and Insurgency Centre, *Islamic Movement of Uzbekistan (IMU)*, 18 February 2005, <http://jtic.janes.com>, pp.1-3.

## Ideology and links to other terrorist groups/networks

- 3.81 This group's objectives have expanded from the establishment of a fundamentalist Muslim Government to replace the Karimov government to the establishment of an Islamic caliphate across Central Asia from Turkestan to Xinjiang. The expansion of IMU activities into Afghanistan and joining the Al Qa'ida and Taliban training camps brought it into contact with other groups such as the Abu Sayyaf Group, the Armed Islamic Group (GIA), Harakat ul-Mujahideen (HuM), and radical Kashmiri groups.

## Links to Australia

- 3.82 ASIO did not advise of any direct links between this organisation and Australians. However, ASIO advised that such links were possible through mutual association with other organisations.<sup>51</sup>

## Threat to Australian interests

- 3.83 Australia has no diplomatic post in Uzbekistan, which is covered by our embassy in Moscow. Australia's commercial interests in Uzbekistan are negligible and declining<sup>52</sup>. It was put to the Committee that, since the IMU operates in Afghanistan and, as there is a threat to Australian interests in Afghanistan,<sup>53</sup> then they, (IMU), threaten Australian interests in that way.<sup>54</sup> However, even in Afghanistan Australia's presence is not large. There is no embassy, and total trade is low at approximately \$7 million annually. There is a travel advisory stating that Australians should defer all travel to Afghanistan and that Australians already in Afghanistan should consider leaving.<sup>55</sup>

## Proscription by the UN or like-minded countries

- 3.84 The IMU is proscribed by the United Nations, the United States, the United Kingdom and Canada.

## Engagement in peace/mediation processes

- 3.85 No information was provided on this matter.
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51 Transcript, private hearing 2 May 2005, p. 8.

52 Uzbekistan is ranked as Australia's 173<sup>rd</sup> trading partner with annual total trade of \$1.9million. This represents growth of - 9.6%. (DFAT fact sheet Uzbekistan)

53 [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au)

54 Transcript, private hearing 2 May 2005, p. 6.

55 DFAT travel advisory and country fact sheet.

**Recommendation 7**

**The Committee does not recommend the disallowance of this regulation.**

- 3.86 The Committee is grateful for the input into these reviews of interested members of the public as well as the relevant government agencies.

**Senator Alan Ferguson**

Acting Chairman





## Appendix A – List of submissions

1. Attorney-General's Department (Egyptian Islamic Jihad)
2. Attorney-General's Department (Lashkar-e Jhangvi)
3. Attorney-General's Department (Islamic Movement of Uzbekistan)
4. Attorney-General's Department (Jaish-e-Mohammad)
5. Attorney-General's Department (Asbat al-Ansar)
6. Attorney-General's Department (Ansar al-Islam)
7. Attorney-General's Department (Islamic Army of Aden)
8. Mr Patrick Emerton
9. Attorney-General's Department
10. The Federation of Community Legal Centres (Victoria) Inc





## Appendix B – Witnesses appearing at the private hearing

### Canberra (Private Hearing)

Monday, 2 May 2005

#### **Attorney-General's Department**

Mr Geoff McDonald, Assistant Secretary, Security Law Branch, Security and Critical Infrastructure Division

Ms Annabel Knott, Legal Officer, Counter-Terrorism Section, Security Law Branch, Security and Critical Infrastructure Division

#### **Department of Foreign Affairs, Defence and Trade**

Mr James Larsen, Assistant Secretary, Legal Adviser, Legal Branch

Mr Andrew Goledzinowski, Assistant Secretary, Counter-Terrorism Branch

#### **Australian Security Intelligence Organisation**

Mr Ian Cousins, Deputy Director-General of Security

Director – Government and Communications

Legal Adviser







## Comparative Table

GROUP	UNITED NATIONS Included on the 1267 Committee List	AUSTRALIA Listed under the <i>Charter of the United Nations Act 1945</i>	UNITED STATES OF AMERICA Designated as a FTO	UNITED STATES OF AMERICA Designated under EO 13224	UNITED KINGDOM Listed under the <i>Terrorism Act 2000</i>	CANADA Listed under the <i>Criminal Code</i>
Ansar al-Islam	✓	✓	✓	✓	✗	✓
Asbat al-Ansar	✓	✓	✓	✓	✓	✓
Egyptian Islamic Jihad	✓	✓	✓	✓	✓	✓
Islamic Army of Aden	✓	✓	✗	✓	✓	✓
Islamic Movement of Uzbekistan	✓	✓	✓	✓	✓	✓
Jaish-e- Mohammed	✓	✓	✓	✓	✓	✓
Lashkar-e Jhangvi	✓	✓	✓	✓	✗	✓

