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The Parliament of the Commonwealth of Australia

# Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah as terrorist organisations

Parliamentary Joint Committee on Intelligence and Security

October 2006  
Canberra

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## Membership of the Committee

Chair           The Hon David Jull MP

Deputy Chair   Mr Anthony Byrne MP

Members       The Hon Duncan Kerr SC MP

Mr Stewart McArthur MP

Mr Steven Ciobo MP

Senator Alan Ferguson

Senator the Hon Robert Ray

Senator the Hon John Faulkner

Senator Fiona Nash

## Committee Secretariat

Secretary           Ms Margaret Swieringa

Administration Officer   Mrs Donna Quintus-Bosz



## Terms of reference

This inquiry and report is conducted under the following powers:

*Criminal Code Act 1995*

### **Section 102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security**

*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 Intelligence and Security 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

### Relisting of Al Qa'ida

*Criminal Code Amendment Regulations 2006 (No 2)*

**Select Legislative Instrument 2006 No. 220 [FRIL Reference No: F2006L02639]**

Dated 24 August 2006

### Relisting of Jemaah Islamiyah

*Criminal Code Amendment Regulations 2006 (No. 3)*

**Select Legislative Instrument 2006 No. 221 [FRIL Reference No: F2006L02640]**

## List of abbreviations

|        |   |
|--------|---|
| AQ     | Al-Qa'ida   |
| ASG    | Abu Sayyaf Group  |
| ASIO   | Australian Security Intelligence Organisation   |
| ASPI   | Australian Strategic Policy Institute   |
| DFAT   | Department of Foreign Affairs and Trade   |
| DI     | Darul Islam (Indonesia)   |
| FRLI   | Federal Register of Legislative Instruments   |
| ICG    | International Crisis Group  |
| IEDs   | Improvised Explosive Devices  |
| JI     | Jemaah Islamiyah  |
| KOMPAK | Komite Aksi Penanggulangan Akibat Krisis (translated as the Crisis management/prevention Committee ) Mujahideen<br>KOMPAK is a Jemaah Islamiyah splinter organisation |
| MILF   | Moro Islamic Liberation Front   |
| MMI    | Majelis Mujahidin Indonesia   |
| PIJ    | Palestinian Islamic Jihad   |
| UN     | United Nations  |



# List of recommendations

## 1 Introduction

### Recommendation 1

The Committee renews its request that the Attorney-General and ASIO incorporate the criteria ASIO has provided for determining which organisations should be listed in future statements of reason.

## 2 The listings

### Recommendation 2

The Committee does not recommend the disallowance of the regulations.





## 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 Intelligence and Security (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.
- 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:
  - Al-Qa'ida;
  - Jemaah Islamiyah.
- 1.3 This is a review of the re-listing of these two organisations. They were originally listed on 21 and 27 October 2002 and re-listed on 31 August 2004, with effect on 1 September 2004. The Committee first considered the listing of Al-Qa'ida and Jemaah Islamiyah in 2004 after the Committee's role in the Criminal Code procedure had been established. In a letter to the Committee on 10 August 2006, the Attorney-General advised that he intended to re-list both organisations prior to the lapsing of their current listing as provided for in section 102.1(3). The Attorney provided statements of reasons for the re-listings. These are accepted as submission number 1 to this review.

- 1.4 At a private meeting on 17 August 2006, the Committee resolved to review these listings on the papers rather than by way of hearings.
- 1.5 The regulations were signed by the Governor-General on 24 August 2006. The Attorney-General issued a media release announcing the decisions to re-list the organisations on the same day. The media release provided open source details on the organisations. This information is the same as the information provided to the Committee in the statements of reasons.
- 1.6 The regulations were tabled in the House of Representatives on 4 September 2006. 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 19 October 2006.
- 1.7 Notice of the review by the Committee was also placed on the Committee's website.
- 1.8 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. The Government's procedures in listing the organisations are examined below. Chapter 2 will consider the merits of the listings.

## **The Government's procedures**

- 1.9 In a letter sent to the Committee on 5 September 2006, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of listing the organisations:

### **Al-Qa'ida and Jemaah Islamiyah**

- A separate unclassified Statement of Reasons for Al-Qa'ida and Jemaah Islamiyah was prepared by the Australian Security Intelligence Organisation (ASIO), in consultation with the Department of Foreign Affairs and Trade, detailing the case for re-listing Al-Qa'ida and Jemaah Islamiyah.
- Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 27 July 2006 that the Statement of Reasons for both organisations was sufficient for the Attorney-General to be satisfied on reasonable grounds of the matters required under s 102.1(2) for the re-listing by

regulation of both organisations as terrorist organisations under the *Criminal Code Act 1995* (the Criminal Code).

- The Director-General for Security, Mr Paul O'Sullivan, wrote to the Attorney-General on 31 July 2006 outlining the background, training activities, terrorist activities, and attaching separate Statements of Reasons for Al-Qa'ida and Jemaah Islamiyah.
- A submission was provided to the Attorney-General on 8 August 2006 attaching:
  - ⇒ copies of the Statement of Reasons from ASIO for Al-Qa'ida and Jemaah Islamiyah
  - ⇒ advice from the Chief General Counsel in relation to Al-Qa'ida and Jemaah Islamiyah; and
  - ⇒ separate regulations and Federal Executive Council documentation for Al-Qa'ida and Jemaah Islamiyah.
- Having considered the information provided in the submission, the Attorney-General signed separate statements for both Al-Qa'ida and Jemaah Islamiyah confirming that he is satisfied on reasonable grounds that the organisations are 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 separate regulations with respect to Al-Qa'ida and Jemaah Islamiyah, and approved associated Federal Executive Council documentation including Explanatory Memoranda, and Executive Council Minutes and Explanatory Statements.
- The Attorney-General wrote to the Prime Minister on 10 August 2006 advising of his intention to re-list Al-Qa'ida and Jemaah Islamiyah as terrorist organisations under the Criminal Code.
- The Attorney-General advised the Leader of the Opposition by letter dated 10 August 2006 of the proposed re-listing of Al-Qa'ida and Jemaah Islamiyah as terrorist organisations under the Criminal Code. The Leader of the Opposition was offered a briefing in relation to the re-listing of each organisation.
- The Attorney-General wrote to the Attorneys-Generals of the States and Territories on 10 August 2006 advising them of the decision to re-list Al-Qa'ida and Jemaah Islamiyah as terrorist organisations under the Criminal Code. A copy of the Statements of Reasons for each organisation was attached to the letters.
- The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and

Security on 10 August 2006 advising of his decision to re-list Al-Qa'ida and Jemaah Islamiyah as terrorist organisations under the Criminal Code.

- The Governor-General made the regulations on 24 August 2006.
- The Regulations were lodged with the Federal Register of Legislative Instruments (FRLI) on 24 August 2006 with the following reference numbers:
  - ⇒ Re-listing of Al-Qa'ida:  
Criminal Code Amendment Regulations 2006 (No. 2)  
(FRIL Reference Number: F2006L02639).
  - ⇒ Re-listing of Jemaah Islamiyah:  
Criminal Code Amendment Regulations 2006 (No. 3)  
(FRIL Reference Number: F2006L02640).
- A press release was issued on 24 August 2006 and the Attorney-General's Department's National Security website will be updated.

## Procedural matters

### Consultation with the States and Territories and DFAT

- 1.10 Information about consultations on these listings and the consultations themselves appear to have been mechanical rather than meaningful. Contact with the States was at the level of Attorneys-General rather than at the level of Premiers and Prime Minister as stipulated in the *Inter-Governmental Agreement on Counter-Terrorism Laws*.<sup>1</sup> The submission gives no indication as to whether the disagreement between the States and the Commonwealth about the level of consultation on re-listings has been resolved and in what way.<sup>2</sup>

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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' and Subclause 3.4(6) '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'.

2 At a previous hearing, the Attorney-General's Department 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

- 1.11 The time frame for State responses, 14 days, has been more reasonable than on previous listings; however no indication of what, if any, responses have been made by the States is given in the submission. It is unclear how seriously the States are taking their role in the process.
- 1.12 Similarly with regard to consultation with DFAT, the Attorney-General's Department has noted in passing that the statements of reasons were prepared in consultation with the Department of Foreign Affairs and Trade.

## Community consultation

- 1.13 The Committee has asked in the course of a number of reviews what information is provided to the community in relation to the listing of organisations. Laws or regulations with severe penalties must be clearly understood, particularly by those who might be directly affected by them. Recommendations about such information programs were made in previous reports in March, May, August and September last year. The Attorney-General's Department has assured the Committee that such programs were being developed.
- 1.14 However, the procedural submission dealing with the listing of Al-Qa'ida and Jemaah Islamiyah makes no reference at all to any information program, except for the media release on the making of the regulation on 24 August 2006. This does not appear to be sufficient to inform the community properly.

## Re-listings and the statement of reasons

- 1.15 The Committee has completed one whole round of reviews of terrorist listings beginning with the first review under section 102.1 of the Criminal Code which considered the listing of the Palestinian Islamic Jihad in March-June 2004. Since that time the Committee has reviewed the regulations for all 19 organisations listed by the Australian Government. Under section 102(3) the regulations cease to have effect on the second anniversary on the day on which they took effect. The organisations must, therefore, be re-listed or the regulation will lapse.

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liaises with his counterparts in the States and Territories.' See also discussion in the Committee's reviews of August 2005, *Review of the listing of seven terrorist organisations*, and September 2005, *Review of the listing of four terrorist organisations*.

We are now in the process of considering the re-listing of organisations under the Criminal Code procedure.

- 1.16 For the purpose of the re-listing the Attorney-General must be satisfied on the same grounds as for the original listing, that is '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>3</sup> The Attorney-General explains his reasons for the regulation in a statement of reasons provided to the Committee and publicly released by media release. These statements of reasons explain by open source material his reasons for making the regulation. To comply with the Act the statements of reasons cover the terrorist activity of the organisation which is the subject of the regulation. In the initial consideration of the listing of organisations the statement of reasons canvassed activity over a period of many years.
- 1.17 However, for the purpose of a re-listing it would be preferable, from the Committee's perspective, to see arguments about the activities of the organisation in the period since the last listing. Information about contemporaneous activities, rather than historical activities already considered in previous reviews, would appear to be the more material. Background information about the history of the terrorist activities of an organisation is useful, but the Committee believes that the arguments for a re-listing should concentrate on recent activities and information about what has changed since the last review, whether that be an increase or a decrease in terrorist activity. Over time information becomes stale. The re-listing of an organisation is a fresh exercise of executive discretion and the Committee believes that there must, therefore, be a sufficient degree of currency in the evidence to warrant the use of the power.

## **Criteria for listings and the statement of reasons**

- 1.18 The legal test for the listing of an organisation is set out in the Criminal Code. The Attorney-General 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

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3 *Criminal Code Act 1995*, section 102.2

occur).<sup>4</sup> The Committee noted in previous reviews the breadth of this definition and sought advice from ASIO as to why some organisations which fitted the definition have not been proscribed while others have. ASIO's response was to provide the Committee with a set of criteria which it used to determine which entities it sought to proscribe. These criteria were:

- Engagement in terrorism;
- Ideology and links to other terrorist groups or networks;
- Links to Australia;
- Threats to Australian interests;
- Proscription by the UN or like minded countries; and
- Engagement in peace/mediation processes.<sup>5</sup>

1.19 There has been considerable discussion about the validity of these criteria in public submissions put to the Committee in reviews over the last two years. There has also been a continuing discussion with ASIO about the way the criteria might logically be applied, whether holistically or not. This has not been resolved. Nevertheless, the Committee has found the criteria useful as a means of assessing the arguments provided by the Government in each statement of reasons.

1.20 In two previous reports, in May 2005 and September 2005, in order to make greater sense of the decision-making process, the Committee asked the Government to address these criteria in future statements of reason. The Government has not responded formally to the recommendation which dealt with this request in the *Review of the listing of four terrorist organisations*, nor has it altered the structure or the content of the subsequent statements of reasons. A clearer exposition of the criteria would strengthen the Government's arguments, provide greater clarity and consistency in the evidence and therefore increase public confidence in the regime as a whole. It would greatly facilitate the Committee's review process if this change occurred.

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4 *Criminal Code Act 1995*, section 102.2

5 Criteria given at a hearing on 1 February 2005. The last factor was seen as an exclusionary factor.

**Recommendation 1**

**The Committee renews its request that the Attorney-General and ASIO incorporate the criteria ASIO has provided for determining which organisations should be listed in future statements of reason.**



## The listings

- 2.1 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>

- 2.2 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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- 2.3 The Committee continues to use these criteria as the basis of its reviews of all listings.

## Overview

- 2.4 At the outset, it is important to state the Committee's view clearly. The two organisations under review, Al-Qa'ida and Jemaah Islamiyah, given their records and stated purposes, fit the definition of a terrorist organisation under the Act and for the purposes of the proscription power.
- 2.5 The Committee will not recommend disallowance.
- 2.6 However, the Committee does note that the effectiveness of the proscription power itself might be a much more debateable question. It was a question raised at some length by the Sheller review of security and counter terrorism legislation. This question of effectiveness will be part of the Committee's own review of the operations, effectiveness and implications of the proscription power in the Criminal Code at the beginning of next year.
- 2.7 This report, however, will canvass issues of the current nature and reach of Al-Qa'ida and Jemaah Islamiyah, with particular emphasis on what might have changed since the Committee last reviewed the listing of these organisations. The Committee believes that it is important that the Parliament seek to establish as accurate a picture as possible of the nature, size, reach and effectiveness of organisations that are subject to section 102.1 of the Criminal Code and that these reviews should reflect the most current information available about the organisations under review.

## Al-Qa'ida

- 2.8 Al-Qa'ida was initially listed as a terrorist organisation under the Criminal Code on 21 October 2002. A regulation was made re-listing the organisation as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 31 August 2004. The regulation commenced on 1 September 2004.
- 2.9 The Attorney-General's statement of reasons is as follows:

Al-Qa'ida (Also known as: The Base, Al-Qaida, Al-Qaeda, Qa'idat al-Jihad, Maktab al-Khidamat, International Islamic Front for Jihad Against Jews and Crusaders, Al-Jabhah al-Islamiyyari al-'Alamiyyah li-Qital al-Yahud wal-Salibiyyin, The Group for the Preservation of Holy Sites, Islamic Army of the Liberation of the Holy Places, Islamic Army for the Liberation of the Holy Shrines, Usama bin Laden Network, Usama bin Laden Organisation, Islamic Salvation Foundation, International Front for Fighting Jews and Crusaders, International Islamic Front Against Jews and Christians).

The following information is based on publicly available details about Al-Qa'ida and its senior leadership. These details have been corroborated by material from intelligence investigations into the activities of Al-Qa'ida. ASIO assesses that the details set out below are accurate and reliable.

Al-Qa'ida is listed in the United Nation's 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of Canada, New Zealand, the United Kingdom and the United States. Al-Qa'ida is listed by the European Union for the purposes of its anti-terrorism measures.

#### *Background*

From 1988, Al-Qa'ida emerged from the Maktab al-Khidamat, a recruitment and fundraising network for the Afghan resistance to the Soviet Union. The impetus for establishing Al-Qa'ida was to retain a common purpose for Islamic extremists following the end of the Soviet war. Usama bin Laden co-founded Al-Qa'ida with Dr Abdullah Azzam and gained full control after the assassination of Azzam in 1989.

During the late 1990s, Al-Qa'ida was transformed from providing a unifying purpose for extremist elements into a global network of cells and affiliated groups. In 1998, key figures of five terrorist groups, including bin Laden, issued a declaration under the banner of the 'World Islamic Front' announcing a jihad against the 'Jews' and 'Crusaders', stating the US and its allies need to be expelled from the Middle East. Since the US intervention in Afghanistan following the 11 September 2001 attacks, Al-Qa'ida has lost its main base for training, planning and preparing for terrorist operations. Al-

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Qa'ida has sought alternative venues in which to train and regroup, but members continue to gain combat experience in the ongoing conflicts in Iraq and Afghanistan. Although there are increased sanctions against Al-Qa'ida's extensive financial networks, Al-Qa'ida continues to find means of raising and transferring money including through donations and criminal activity, and via couriers.

Al-Qa'ida maintains support networks and operations in Afghanistan and Pakistan with localised attacks carried out by a core of Al-Qa'ida fighters. Additionally, Al-Qa'ida leadership relies on its franchise organisations, like Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn and Al-Qa'ida in the Arabian Peninsula, to plan and execute attacks. Al-Qa'ida further provides encouragement and inspiration to like-minded, or affiliate groups across the world. Such groups include: Egyptian Islamic Jihad, Armed Islamic Group, Salafist Group for Call and Combat, Abu Sayyaf Group, Jamiat ul-Ansar, Islamic Movement of Uzbekistan, Islamic Army of Aden, Asbat al Ansar (Lebanon), al-Ittihad al-Islami, Jemaah Islamiyah, the Libyan Islamic Fighting Group, the Taliban, Lashkar-e-Tayyiba, Lashkar-e Jhangvi, Jaish-e-Mohammad and Ansar al-Islam.

Al-Qa'ida has also encouraged and inspired like-minded individuals as seen in the 7 July 2005 attacks on the London transport system. While there is no evidence of Al-Qa'ida command and control over the 7 July 2005 attacks, there are indications of Al-Qa'ida involvement in training and influencing those involved. Two of the perpetrators of the attacks, Mohammed Siddique Khan and Shehzad Tanweer, had travelled to Pakistan and, according to a statement by al-Zawahiri, had been trained by Al-Qa'ida operatives. Video statements in September 2005 and July 2006 that appear to have been compiled by Al-Qa'ida's media wing have included statements by these two London bombers. The videos also included statements by senior Al-Qa'ida leader Ayman al-Zawahiri.

Al-Qa'ida also provides international inspiration and influence as seen by the adoption of variations of the Al-Qa'ida name by a number of groups including the 'Secret Organisation of Al-Qa'ida in Europe' and the 'Al-Qa'ida organisation for the Malay Archipelago'.

Al-Qa'ida's leadership continues to make public statements promoting their ideology, supporting attacks undertaken by other groups and advocating violent jihad against the West. Since 2004, a number of statements have been made by bin Laden and his deputy Ayman al-Zawahiri urging attacks against the US and its allies, including Australia.

#### *Objectives*

Al-Qa'ida seeks to remove governments in Muslim countries that it deems are 'un-Islamic' in order to establish an Islamic Caliphate. The United States and its allies are believed to represent the greatest obstacle to this objective given their perceived support for these governments.

#### *Leadership and membership*

Usama bin Laden and his deputy, Ayman al-Zawahiri, continue to lead Al-Qa'ida. The exact size of the organisation is unknown but estimates are that it consists of several thousand fighters. Originally Al-Qa'ida recruited veterans of the Afghan conflict of 1979-89 and from campaigns involving these veterans in such places as Bosnia-Herzegovina, Kashmir, Mindanao, Chechnya, Lebanon, Algeria and Egypt. The next generation of fighters include those who have gained experience in the conflicts in Afghanistan and Iraq.

#### *Terrorist activities*

The Al-Qa'ida organisation has been involved in a number of terrorist attacks which have included suicide attacks, hijackings, improvised explosive devices (IEDs), vehicle-borne IEDs and maritime IEDs. Al-Qa'ida has also assisted in and financed terrorist acts by associated groups.

Recent terrorist attacks for which responsibility or involvement has been claimed by, or reliably attributed to, Al-Qa'ida have included:

- The August 1998 US Embassy bombings in Nairobi and Dar es Salaam in which over 200 people were killed;
- The 12 October 2000 USS Cole attack off the coast of Yemen;
- The coordinated attacks of 11 September 2001 involving hijacked passenger jets crashing into the World Trade Center buildings in New York, the Pentagon in

Washington and a fourth in a field in Pennsylvania. Approximately 3000 were killed in these attacks;

- The 11 April 2002 bombing attack on a synagogue on the Tunisian island of Djerba killing 14 Germans, 5 Tunisians and a Frenchman;
- Assisting in funding the 12 October 2002 attacks on night clubs and the US Consulate in Bali, killing 202 people, including 88 Australians;
- The 28 November 2002 attacks in Mombasa, Kenya, involving the car bombing of a hotel and firing of two surface-air-missiles (which missed) at an Israeli airliner taking off from Mombasa airport;
- Assisting in, and fostering, the 15 November 2003 car bomb attacks on two synagogues in Istanbul killing 20 people.
- Assisting in, and fostering, the 20 November 2003 car bomb attacks on the HSBC Bank headquarters and the British Consulate in Istanbul killing 30 people;
- Assisting in training those involved in the 7 July 2005 IED attacks on the London transport system, which killed 56 people, including one Australian.

The Al-Qa'ida organisation has made numerous statements advocating the conduct of terrorist attacks against the US and other Western countries. The February 1998 statement issued under the banner of the 'World Islamic Front' decreed that civilians in the US and allied countries were legitimate targets for terrorist attack.

Recent statements claimed by or reliably attributed to Al-Qa'ida reiterating this theme and highlighting and advocating the conduct of terrorism have included:

- The 19 January 2006 statement by Usama bin Laden stated, in part, *"You have occupied our land, defiled our honour, violated our dignity, shed our blood, ransacked our money, demolished our houses, rendered us homeless, and tampered with our security. We will treat you in the same way" and "The evidence of this is the bombings you have seen in the capitals of the most important European countries of this aggressive coalition. As for the delay in carrying out similar operations in America, this was not due to failure to breach your security measures. Operations are under preparation, and you will see them on your own ground once they are finished, God willing"*.
- The 24 April 2006 statement by Usama bin Laden stated that *"..the Umma has reached a consensus that he who offends or degrades the messenger would be killed. Such offence is*

*regarded as htjr (infidelity). We ask Allah to give his blessings to whoever decried the behaviour of the infidels who have offended the prophet in every part of the world, and blessings to those who have died in the process, while we vow to Allah to avenge for those whose blood have been spilled.*

- The 23 June 2006 videotape message from Al-Qa'ida deputy leader, Dr Ayman al-Zawahiri exhorted insurgents in Iraq to not "*lay down your weapons until Allah decrees for you victory or martyrdom*" and to "*fight everyone who stands beside America, lines up under its banner, shades himself with its cross, and seeks its assistance in invading the lands of Islam and fighting the Muslims*".

#### *Conclusion*

ASIO assesses that Al-Qa'ida is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. ASIO also assesses that Al-Qa'ida advocates the doing of terrorist acts. This assessment is corroborated by information provided by reliable and credible intelligence sources.

In the course of pursuing its objective of creating an Islamic Caliphate, Al-Qa'ida is known to have engaged in or advocated actions that:

- are aimed at advancing Al-Qa'ida's political and religious causes.
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life.
- are intended to cause, or have caused, serious risk to the safety of sections of the public globally.

In view of the above information, Al-Qa'ida is assessed to be directly or indirectly preparing, planning, and fostering the conduct of, and advocating, 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 of Governments and people globally. The actions or threatened actions which Al-Qa'ida is assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

- 2.10 On the basis of the statement of reasons and other publicly available information, Al-Qa'ida has been measured against ASIO's stated evaluation process as follows:

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## Engagement in terrorism

- 2.11 The statement of reasons says that Al-Qa'ida 'has been involved in a number of terrorist attacks which have included suicide attacks, hijackings, improvised explosive devices (IEDs), vehicle borne IEDs and maritime IEDs. Specific evidence related to these categories is listed in a series of dot points.<sup>3</sup> Only one of those dot points, the last dealing with the assisting in training of those involved in the 7 July 2005 attacks on the London transport system, relates to the period since the last review of Al-Qa'ida in 2004.
- 2.12 On Al-Qa'ida's responsibility for this attack, the *Report of the Official Account on the Bombings in London on 7<sup>th</sup> July 2005*, concludes that:
- the extent of Al-Qa'ida involvement is unclear. Khan and Tanweer may have met Al-Qa'ida figures during visits to Pakistan in the run up to the bombings.<sup>4</sup>
- 2.13 It also notes that:
- Al-Qa'ida's deputy leader has also claimed responsibility.<sup>5</sup>
- 2.14 However, Jane's notes that 'Al-Qa'ida is no longer considered capable of carrying out any formal large scale training'. And they note that Al-Qa'ida 'can no longer be considered a coherent organisation with a chain of command and material assets.' Nevertheless, all sources examined by the Committee noted the residual power of Al-Qa'ida either through training previously given or through its media efforts to inspire further terrorist attacks.
- 2.15 The International Crisis Group noted that in the 'war on terror' in relation to Al Qa'ida:
- Of course there have been some apparent successes, like the capturing or killing of some two thirds of Al-Qa'ida's leadership, but while this has undoubtedly diminished its organisational capacity, it hasn't done anything to diminish its global following. ... If the war on terrorism as it has so far been conducted has been a success, that is a well kept secret. Terrorist attacks classified by the US government as

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3 See paragraph 2.9, p. 15.

4 *Report of the Official Account of the Bombings in London on 7<sup>th</sup> July 2005*, p.26.

5 *Report of the Official Account of the Bombings in London on 7<sup>th</sup> July 2005*, p.26.



significant more than tripled worldwide to 650 last year from 175 in 2003.<sup>6</sup>

- 2.16 However, both the International Crisis Group and Chatham House warn against overestimating the threat. Chatham House states that 'Iraq excepted, international terror incidents are not at an especially high level.'<sup>7</sup> And the International Crisis Group, despite its view on the failures of the war on terror, argues:

Even the numbers for 9/11 and Iraq, for all their horror, don't look so big by comparison, for example, with the 30,000 still dying every month in the Congo and the 5,000 dying every month in Dafur from continuing violence and war related disease and starvation.<sup>8</sup>

- 2.17 While much of the literature on Al-Qa'ida questioned the solidity of the organisation since the pressure brought to bear on it by the invasion of Afghanistan, all agreed, however, that its value as an ideological inspiration remained strong. Most described a movement that was now largely self-generating, requiring little by way of training or finance from a central source. They described independent and unconnected groups, inspired by the deeds of the past and the media attention given to Al Qa'ida's video tapes and the claims of responsibility made by its leadership. If its role is largely one of propaganda, it would seem to the Committee that to ascribe more success to it than it warrants would be dangerous and self-defeating.

The fight against Al-Qa'ida and associated groups poses several challenges. Governments and the media have personalised Al-Qa'ida through a constant evocation of bin Laden and a public narrative that defines the group in organisational and even bureaucratic terms. This 'parable' has little operational utility in countering Islamic jihadist groups. Instead it might actually support their aims by attributing operational reach and power to Al-Qa'ida it does not possess, allowing the group to morph from a material

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6 International Crisis Group, *Responding to Terrorism: A Global Stocktake*, Lisbon 25 October 2005, p4.

7 Adam Roberts, *Lessons of History and the 'War' on Terror*, Chatham House, 29 August 2006, p. 2.

8 International Crisis Group, *Responding to Terrorism: A Global Stocktake*, Lisbon, 25 October 2005, p.3.

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organisation centred on Afghanistan into a virtual and global model to be emulated, evoked or feared.<sup>9</sup>

## Ideology and links to other terrorist groups/networks

### Ideology

- 2.18 The statement of reasons outlines the Al-Qa'ida objective as the removal of governments in Muslim countries that it deems to be un-Islamic in order to establish an Islamic Caliphate. The United States and its allies are believed to represent the greatest obstacle to this objective given their perceived support for these governments.<sup>10</sup> However, the statement of reasons also quotes three recent statements from Usama bin Laden and his deputy which stress motives other than the creation of the caliphate:

You have occupied our land, defiled our honour, violated our dignity, shed our blood, ransacked our money, demolished our houses, rendered us homeless, and tampered with our security. We will treat you in the same way. The evidence of this is in the bombings you have seen in the capitals of the most important European countries of this aggressive coalition.

We ask Allah to give his blessings to whoever decried the behaviour of the infidels who have offended the prophet in every part of the world, and blessings to those who have died in the process, while we vow to Allah to avenge those whose blood has been spilled.

[to insurgents in Iraq] [do not] lay down your weapons until Allah decrees for you victory or martyrdom [and] fight everyone who stands beside America, lines up under its banner, shades himself with its cross, and seeks its assistance in invading the lands of Islam and fighting Muslims.<sup>11</sup>

- 2.19 Jane's sees the establishment of a caliphate as a long term goal, but suggests that it is a religious and spiritual concept rather than a secular one. Jane's also sees the main goal of Al-Qa'ida since 2001 to be more limited and more aligned to the quotations in the statement of reasons: to be an inspirational model to those seeking to protect

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9 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 22 August 2006, p. 14. <http://jtic.janes.com>

10 See statement of reasons, paragraph 2.9.

11 See statement of reasons, paragraph 2.9

Muslims from oppression, the ejection of non-Muslims from the Middle East and opposition to Muslim governments and regimes that place the interests of non-believers before those of Muslims.<sup>12</sup>

- 2.20 There is also a warning in Jane's assessment, based on an analysis of the motives and intentions of Al-Qa'ida, about what kind of responses might increase rather than decrease the level of threat. This view is concerned that the actions taken in the war on terrorism have lent credence to the propaganda of bin Laden and al-Zawahiri such as that in paragraph 2.14 above:

Much of the action against Islamic terrorism has led to more rather than less violence. Intelligence has often been poor, contaminated or obtained under duress, most notably from Abu Ghraib prison in Baghdad and the US base in Guantanamo Bay. Media reports that the US interrogators had desecrated the Koran, though later withdrawn, can be assumed to have compounded the damage already caused by either poorly designed procedures or badly trained personnel. The reluctance to use courts to assess the guilt or otherwise of suspects in many countries has given often untested powers to the executive and alienated the very communities that could provide information.<sup>13</sup>

### **Links to other terrorist groups/networks**

- 2.21 The statement of reasons says that Al-Qa'ida provides international inspiration and influence. It notes that other organisations have adopted its name. It says that Al-Qa'ida maintains a franchise on a number of listed organisations.<sup>14</sup> How solid this support is, is a matter for debate. Jane's sees the organisation as fragmented and dispersed, having lost a great many of its senior leaders and commanders since 2001. Jane's argues that:

While Al-Qa'ida was able to provide local and regional Islamist groups with ideological ballast, finance, training and weapons during the 1980s and 1990s through its Afghan bases, such options ended in 2001. It is probable that many of the claims of Al-Qa'ida's continuing support for other insurgent, resistance or terrorist groups reflects aspirational

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12 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 22 August 2006, p. 2.  
<http://jtic.janes.com>

13 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 22 August 2006, p. 14.  
<http://jtic.janes.com>

14 See statement of reasons, paragraph 2.9.

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or ideological confluences rather than any material or advisory aid.<sup>15</sup>

- 2.22 The International Crisis Group concludes that 'it cannot be assumed any longer, if it ever could, that any group with an extreme jihadist ideology must be directed by Al-Qa'ida, or by one of its regional affiliates.'<sup>16</sup>
- 2.23 In terms of funding, it would appear that Al-Qa'ida's pre-September 11 financial structure had been damaged and its budget depleted, a good deal of money having been frozen by authorities; however, the US 9/11 Commission believed that US authorities had no clear idea how much money the group was able to raise, from whom and how it spent whatever cash it obtained. Alternative banking systems, charities and criminal enterprises were considered possible sources.<sup>17</sup>

### Links to Australia

- 2.24 No information was contained in the statement of reasons on this matter.

### Threat to Australian interests

- 2.25 The statement of reasons provided no information on this matter.

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

- 2.26 The Attorney-General's statement of reasons, and media release, on Al-Qa'ida state that the organisation has been listed as a terrorist organisation by the United Nations, the European Union for the purpose of its anti-terrorism measures and by the governments of the United Kingdom, the United States, New Zealand and Canada.

### Engagement in peace/mediation processes

- 2.27 This criterion is not relevant to Al-Qa'ida.

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15 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 22 August 2006, p. 6.  
<http://jtic.janes.com>

16 International Crisis Group, *Responding to Terrorism: A Global Stocktake*, Lisbon 25 October 2005, p.2.

17 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 22 August 2006, p. 7.  
<http://jtic.janes.com>

## Jemaah Islamiyah

2.28 Jemaah Islamiyah was originally specified as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 27 October 2002. On 31 August 2004, a regulation was made re-listing the organisation as a terrorist organisation. The regulation commenced on 1 September 2004.

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

Jemaah Islamiyah (Also known as: Jema'ah Islamiyah, Jemaah Islamiya, Jemaah Islamiyyah, Jemaah Islamiah, Jamaah Islamiyah, Jama\*ah Islamiyah, Jeemah Islamiyah, Jemaa Islamiya, Jema'a Islamiya, Jemaa Islamiyah, Jema'a Islamiyya, Jemaa Islamiyya, Jemaa Islamiyyah, Jema'ah Islamiyyah)

The following information is based on publicly available details about Jemaah Islamiyah (JI). These details have been corroborated by material from intelligence investigations into the activities of JI. ASIO assesses the details set out below are accurate and reliable.

JI is listed in the United Nation's 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of Canada, New Zealand, the United Kingdom and the United States.

### *Background*

JI evolved from the long-established Indonesian 'Darul Islam'(DI) movement which, from the 1950s, engaged in an armed and violent struggle for the establishment of an Islamic state in Indonesia. The DI movement was subjected to Indonesian Government security clampdowns in the mid-1980s and a number of its leaders - notably Indonesian Islamic clerics Abdullah Sungkar and Abu Bakar Ba'asyir - fled to Malaysia where they established JI in 1993. Sungkar died in 1999 and Ba'asyir returned to Solo, Indonesia, in 2000 where he also established the Majelis Mujahidin Indonesia (MMI), which included other individuals and groups intent on establishing an Islamic state.

Traditionally, JI was divided into regional areas called *mantiqi* (territories). Mantiqis I, II and III covered Indonesia, Malaysia, Singapore and southern Phillipines while Mantiqi IV covered Australia and Papua. Mantiqi leaders met as

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members of the *qiyadah markazfjah* (central command), where operational decisions were made. However, operational cells increasingly demonstrate autonomous decision-making, suggesting the hierarchical structure of JI is not binding and some JI members may act independently.

JI has had well-documented links to Al-Qa'ida (AQ), including through the likes of Riduan Isamuddin aka Hambali, a senior JI operative, and through Indonesians attending training camps and jihad in Afghanistan. Despite close links to AQ and other groups, JI remains an independent organisation making its own operational decisions.

The everyday activities of JI are funded largely by members' dues and other contributions. JI receives large amounts of money from outside Indonesia for terrorist activities. AQ has provided funding for some JI operations including the Bali bombings in 2002 but the full extent of AQ funding is unclear.

A common heritage in DI shared by senior JI members has facilitated links to other extremist groups in Indonesia, including MMI, the so called Banten Ring, which was implicated in the Australian Embassy bombing on 9 September 2004, and Laskar Jundullah, which was active in the sectarian violence in Ambon and Sulawesi.

JI is known to have links to the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf Group (ASG) in the Southern Philippines. In return for shelter and facilitation of its training activities, JI provided expert training in bomb-making to MILF and ASG members. The current status of JI's links to MILF is not clear. The MILF is engaged in peace negotiations with the Philippines government and appears keen to distance itself from allegations of association with terrorist groups.

Following the raid on a JI safe house in November 2005, in which senior JI bomb maker Azahari bin Hussin was killed, Indonesian authorities recovered planning documents and a number of improvised explosive devices. In subsequent raids on other JI safe houses in Indonesia in April/May 2006, information on bomb making, propaganda material and explosive devices, similar to those used in the 2005 Bali attacks, were found. In a late 2005 video aired on Indonesian

television and posted on the website of the Indonesian SCTV network, an individual reliably identified as senior JI operational planner, Noordin Mohammad Top, made threats against Australia and senior Australian political figures. Taken together, these confirm that JI continues to have the capability (including current access to the necessary resources) and intent to conduct further terrorist attacks.

Individuals associated with JI were added to the United Nation's 1267 Committee's list in 2005 and 2006.

#### *Objectives*

JI's founding objective was to create an Islamic state that extends from northern Australia to Malaysia and Thailand, including Indonesia and the southern Philippine islands.

#### *Leadership and membership*

After the death of Abdullah Sungkar in 1999, Abu Bakar Ba'asyir became the *amir* (spiritual leader) of JI up until his arrest in October 2002, when he was reputed to have been replaced by Thoriqudin, aka Abu Rusdan, who was arrested in April 2003. The current leader of JI is reported to be Abu Dujana aka Abu Dujanah aka Ainul Bahri, who is being sought by the Indonesian authorities.

JI's membership has been numbered from as low as 750 to as high as 5,000. It has benefited from links with a broad network of radical *pesantren* (Islamic boarding schools) to propagate JI teaching, provide military training, and shelter fugitive members. The most prominent *pesantren* in this network includes Ba'asyir's *Al-Mukmm pesantren* (also known as Pondok Ngruki) in Solo, Central Java and the *Dar us-Syhadah pesantren* in Boyolali, Central Java. The *Hidayatallah pesantren* in East Kalimantan also forms part of this network.

JI's known membership includes a number of individuals who have been convicted and sentenced in relation to terrorist activities: it includes many of the perpetrators of the Bali bombing in October 2002, the bombing of the Marriott Hotel in Jakarta in August 2003 and the bombing of the Australian Embassy in Jakarta in September 2004. JI's known membership also includes individuals who are currently facing trial for their roles in the 2005 Bali bombing.

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### *Terrorist activities*

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

- an attempted assassination of the Filipino Ambassador to Indonesia on 1 August 2000, which killed two people and seriously injured the Ambassador;
- the series of bomb attacks on churches in Jakarta, Sumatra, Lombok, Java and Batam Island on 24 December 2000. 17 people were killed in these attacks and as many as 100 injured;
- the Bali bombing attacks on 12 October 2002 which killed 202 people, including 88 Australians;
- the bombings of the Davao International Airport on 4 March 2003, and of the Sasa ferry wharf in the southern Philippine city of Davao on 2 April 2003, involving JI and MILF operatives;
- the suicide car-bomb attack upon the J.W. Marriott Hotel in Jakarta on 5 August 2003, which killed 12 people including the suicide bomber;
- the suicide truck-bomb attack on the Australian Embassy in Jakarta on 9 September 2004, which killed 10 people and injured around 180; and
- the three suicide backpack bombings in Bali on 1 October 2005, which killed 20 people (including four Australians) and injured approximately 90.

### *Conclusion*

ASIO assesses that JI 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 reliable and credible intelligence sources.

In the course of pursuing its objective of creating an Islamic state in Indonesia and a pan-Islamic caliphate in South East Asia, JI is known to have engaged in actions that:

- are aimed at advancing JI's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endangerment of life; and
- are intended to cause, or have caused, serious risk to the safety of sections of the public in Indonesia, Malaysia, the Philippines, Singapore, Australia and other persons visiting areas in which it operates.



In view of the above information, JI is assessed to be 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 Indonesia. The actions or threatened actions which JI are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

- 2.30 On the basis of the statement of reasons and other publicly available information, Jemaah Islamiyah has been measured against ASIO's stated evaluation process as follows:

### Engagement in terrorism

- 2.31 The statement of reasons lists seven attacks in the period from 2000 to 2006 for which it says Jemaah Islamiyah (JI) is responsible, either by its own claim or reliable attribution. Of those attacks, two have occurred since the last review, in September 2004, of the listing of the group as a terrorist organisation. They were the suicide truck-bomb attack on the Australian Embassy in Jakarta on 9 September 2004, which killed 10 people and injured around 180; and the three suicide backpack bombings in Bali on 1 October 2005, which killed 20 people (including four Australians) and injured approximately 90.
- 2.32 The Committee accepts these as clear cases of deliberate terrorism bringing JI within the scope of the Criminal Code for proscription purposes.
- 2.33 The open source literature on JI presents a complex picture of JI which is worthy of noting. The International Crisis Group's report on *Terrorism in Indonesia: Noordin's Networks*, released in May 2006, outlines background detail for the planning and execution of the latest attacks: on the Marriott Hotel, the Australian Embassy bombing and the second Bali bombing. This report notes that, while there is an intersection and overlapping of personal networks, there are divisions over tactics among terrorist groups in Indonesia and that individuals often operate on their own.

The team that carried out the Christmas Eve bombings (2000) was led by Hambali and included Imam Samudra and many of the 2002 Bali bombers. From the beginning, these men were operating outside the JI administrative structure. ...

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Hambali had thus set a precedent for a secret team pursuing jihad on its own. This was probably in part because he controlled separate funding, including from Al-Qa'ida.<sup>18</sup>

- 2.34 This independence of action was replicated in the activities of Noordin Top who lead/organised the groups that conducted the Marriott bombing, the bombing of the Australian Embassy and the second Bali bombing. For these, he put together small teams, including JI members but also 'beyond the JI affiliation' and possibly without the endorsement of the JI hierarchy.<sup>19</sup> As he sought members for his teams, he encountered reluctance based on a view of many JI members that 'the Bali bombing had been a disastrous misstep'<sup>20</sup> He also sought support from the leadership of KOMPAK and Darul Islam (DI), but 'the problem was that neither had shown any interest in Al-Qa'ida style bombings'.<sup>21</sup> Nevertheless, he and others involved in these bombings, in 2004 and 2005, appear to have been given protection by JI members. JI, DI and KOMPAK members all joined his group, the arguments over tactics and goals ignored.
- 2.35 Although the police killed Azhari, the bomb maker, and others were arrested<sup>22</sup>, in the aftermath of the Bali bombing in 2005, Noordin Top escaped. Finally, the ICG argues that there are numerous indications (including insufficient funds coming from outside)<sup>23</sup> that 'the capacity of Noordin's group remains limited' although 'the troubling thing is that there seems to be no shortage of recruits'.<sup>24</sup>
- 2.36 Jane's analysis of JI confirms this last view of the ICG. They note that perceptions of the threat posed by the group (JI) vary widely; however, they assess that JI's role in regional violence 'is almost certainly exaggerated'.<sup>25</sup> They note that the group 'rarely conducts any operations' and that recent activities have not caused the level of damage their perpetrators may have expected. It is Jane's view that
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18 International Crisis Group, *Terrorism in Indonesia: Noordin's Networks*, 5 May 2006, p. 3.

19 This matter has been the subject of considerable debate and it is unclear what kind of approval or endorsement there might have been for Noordin Top's activities. ICG, *Terrorism in Indonesia: Noordin's Networks*, pp. 3-5.

20 International Crisis Group, *Terrorism in Indonesia: Noordin's Networks*, 5 May 2006, p. 5.

21 International Crisis Group, *Terrorism in Indonesia: Noordin's Networks*, 5 May 2006, p. 11.

22 Indonesian police have arrested over 150 people in relation to the four major JI attacks. <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p. 8.

23 The small number of participants in a training camp in October 2005 had to pay for themselves. Jane's also notes that 'the group does not appear to have established a steady source of funding. <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.9.

24 International Crisis Group, *Terrorism in Indonesia: Noordin's Networks*, 5 May 2006, p. 19.

25 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006.

'JI appears to have shifted from the material to the ethereal' and that 'JI's operational inertia in a target rich country, where it enjoys at least some material and considerable tacit support, remains a mystery'.<sup>26</sup>

- 2.37 Jane's also notes that the Indonesian authorities deny that JI exists in the form portrayed by many western intelligence agencies.<sup>27</sup>

It should be noted that there is a dispute over the 'mechanical' view of JI's structure, as it may suit the bureaucratic needs of local and international security agencies rather than representing an accurate picture of the dynamics that lie behind the alleged JI operations in South East Asia. Presenting JI as a structured terrorist group with a chain of command [is] unlikely to prevent further attacks against Western or non-Islamic targets or offer a coherent explanation of the source of the threat. ... The September 2004 and October 2005 bombings occurred despite the arrest and imprisonment of leading JI members. This suggests that the group has retained layers of command and control unaffected by the arrest and neutralisation of its alleged leadership, or that a large amount of autonomy within the organisation facilitates independent action, or that the group - as the Indonesian government contends - does not exist at all.<sup>28</sup>

- 2.38 The Australian Strategic Policy Institute (ASPI) comment on the reported rift and decentralisation within JI was that it might also reflect the fact that it was never as structured and homogenous an organisation as some commentators have made it out to be and more like what one report described as an 'increasingly organised network of individuals.'<sup>29</sup>

- 2.39 Arguments over the leadership of JI have been equally fraught. The April conference in Singapore summarised the position of Abu Bakar Ba'asyir as one of

significant influence and control over the political faction of JI but that his influence over terrorist operations is very limited, [and was] even prior to his arrest. With the formation of

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26 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.2.

27 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.4.

28 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.10. Emphasis added.

29 Australian Strategic Policy Institute, *Local Jihad: Radical Islam and Terrorism in Indonesia*, September 2005, p. 53.

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Tandzim Qaedatul Jihad by Noordin Top Bas'asyr's influence over operations would continue to be limited.<sup>30</sup>

- 2.40 There was, however, concern expressed in the report that over time the political wing would be more significant than the military wing. Political proselytisation conducted by the JI mainstream or political faction tapped into both historical events such as the persecution of Darul Islam and the sense of injustice and repression.<sup>31</sup>

## Ideology and links to other terrorist groups/networks

### Ideology

- 2.41 The statement of reasons says that the founding objective of JI is to create an Islamic state that extends from northern Australia to Malaysia and Thailand, including Indonesia and the southern Philippine islands. Jane's also notes that JI was founded on teachings developed in fundamentalist Wahhabi and Salafi Islamic schools in Indonesia, Malaysia and Singapore. The message preached is the need to resist the threat represented by secular, anti-Islamic regimes in Indonesia, Malaysia, Singapore and the Philippines.<sup>32</sup> JI's stated commitment to the establishment of a South East Asian caliphate and their early opposition to, and attacks on, Christians in the Sulawesi and Maluku provinces have been transformed into a wider anti-Western bias in the aftermath of 11 September and the US response [to that attack].<sup>33</sup>
- 2.42 The comment in paragraph 2.34 - that there appears to be dissension within JI and related groups about their objectives - is borne out by the report of the conference on terrorism in South East Asia in Singapore in April 2006. This report concluded that:

After bombings in Bali and Jakarta there was dissatisfaction among the group members about pursuing Al Qa'ida's global jihad agenda. However, there is no agreement yet to return

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30 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, p. 7.

31 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, p.7.

32 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.11.

33 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.13.

to the old Darul Islam struggle – the establishment of Islamic law in Indonesia.<sup>34</sup>

- 2.43 Despite discussion of fractiousness and decline, there were warnings sounded by the April conference in Singapore about the causes and motivation of terrorist groups in the region. These are summarised below:
- Al-Qa’ida was able to absorb local groups including JI into its struggle;
  - Muslims from South East Asia returned from Afghanistan (in the 80s and 90s) and fed local conflicts;
  - The Middle East has become the principal provider of ideological inspiration;
  - In South East Asia, the media – print, audiovisual and especially the internet – was now the principal medium to disseminate jihadi ideologies and as tools for recruitment;
  - Iraq, now the epicentre of terrorism would provide a new generation of jihadists. Muslims in South East Asia and especially Indonesia have expressed strong resentment against the occupation of Iraq;
  - The issues such as the Palestine problem and the occupation of Iraq are being used as rallying points for jihad against the West. However, the groups are also evoking traditional local grievances;
  - Ideological extremism and robust terrorist support and operational infrastructure would continue to threaten regional security in the foreseeable future;
  - Many local groups perceive the US and its allies as primary enemies. There is increasing antipathy towards the US involvement in anti-terrorism measures in South East Asia, especially after the war in Iraq.<sup>35</sup>

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34 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, p. 7.

35 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, pp.9-10.

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## Links to other terrorist groups/networks

2.44 The statement of reasons links JI to Al-Qa'ida, particularly through Hambali, now imprisoned by the United States, and other members attending Al-Qa'ida training camps in Afghanistan prior to 2001. Other sources argued that JI is heavily influenced by Al-Qa'ida's ideology and modus operandi.<sup>36</sup> However, the Australian Strategic Policy Institute argues that 'JI is rooted more firmly in the Indonesian Darul Islam (DI) movement than in organisations such as Al-Qa'ida.'<sup>37</sup> ASPI also argues that:

Al-Qa'ida's influence on JI has probably had the effect of broadening JI's campaign to include the US and Australia. ... But it would be overstating the case to suggest that JI forms a solid part of the global jihadist movement. So far there is no evidence of substantial involvement by Indonesians in conflicts abroad, such as in Iraq.<sup>38</sup>

2.45 There is within JI also common membership with Darul Islam and the Majelis Mujahidin Indonesia (MMI) an organisation founded Abu Bakar Ba'asyir in 2000.

2.46 The most credible foreign linkage appears to be with the Moro Islamic Liberation Front (MILF) in the Philippines.<sup>39</sup> However, the statement of reasons suggests that, as the MILF is engaged in peace negotiations with the Philippines government, they are seeking to keep at arm's length from other terrorist groups, including JI. The ICG details movement between Indonesia and the Philippines for individuals seeking training or respite.<sup>40</sup> The report of the international conference on terrorism in South East Asia, April 2006, noted, however, that while there was cooperation between JI and the MILF for training and operational purposes, tensions developed as the agendas of different groups became difficult to fit together.<sup>41</sup> The

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36 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, p. 7.

37 Australian Strategic Policy Institute, *Local Jihad: Radical Islam and Terrorism in Indonesia*, September 2005, p. 48.

38 Australian Strategic Policy Institute, *Local Jihad: Radical Islam and Terrorism in Indonesia*, September 2005, p. 48.

39 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.9.

40 International Crisis Group, *Terrorism in Indonesia: Noordin's Networks*, 5 May 2006, pp. 12-13.

41 Institute of Defence and Strategic Studies and the Office of the Coordinator for Counter terrorism, US Department of State, *Terrorism in Southeast Asia: the Threat and Response*, 12-13 April 2006, p. 6.

other Philippines group with which JI has contact is the Abu Sayyaf Group (ASG).

## Links to Australia

- 2.47 The statement of reasons lists the impact of JI's activities on Australians through the attacks in Bali in both 2002 and 2005 and the attack on the Australian Embassy in 2004. No reference is made to links to Australians within Australia. In the last report, tabled in 2005, the Committee reported that 'JI is known to have maintained cells throughout South East Asia and Australia, including Perth, Melbourne and Sydney.'
- 2.48 Jane's reports that, after the arrests of November 2005, 'links were quickly, if unofficially made between the ten suspected Islamic militants and JI. However, Jane's notes that it is impossible to evaluate this information until cases come to trial.
- 2.49 Jane's also states 'that JI is unlikely to conduct direct operations in Australia.'<sup>42</sup>

## Threat to Australian interests

- 2.50 The threat to Australians travelling in Indonesia is real in terms of the experience of the last four years. Australia issues travel warnings to Australians travelling to Indonesia. ASPI explains the threat in the following terms:
- The most immediate but less strategically significant threat is the physical one to Australia and Australians;
  - The longer term but more serious strategic threat is that to wider Indonesian stability. In considering [this] threat we need to ask how, and how much, JI operations might lay the groundwork for political developments in Indonesia that could prove inimical to Australian interests in the longer term.<sup>43</sup>

## Proscription by the UN or like-minded countries

- 2.51 The Attorney-General's statement of reasons states that the organisation has been listed as a terrorist organisation by the 1267

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42 <http://jtic.janes.com/> Jemaah Islamiyah, 22 August 2006, p.3.

43 Australian Strategic Policy Institute, *Local Jihad: Radical Islam and Terrorism in Indonesia*, September 2005, p. 48.

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Committee of the United Nations and has been proscribed by the United Kingdom, the United States, Canada and New Zealand.

### Engagement in peace/mediation processes

2.52 This criterion is not relevant.

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### **Recommendation 2**

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

**Hon David Jull, MP**

Chairman



