

The Proposed Listings

- 3.1 The six organisations for which the regulations have been made are:
- Al-Qa'ida
 - Jemaah Islamiyyah (JI)
 - Abu Sayyaf
 - The Armed Islamic Group (GIA)
 - Jamiat ul-Ansar (JuA) (formally Harakat Ul-Mujahideen) and
 - The Salafist Group
- 3.2 In media releases which announced his decision, the Attorney-General provided open source details on the six organisations to be reviewed. In addition, he informed the Committee by way of letters to the Chairman and attached statements of reasons.¹ The statements of reasons provided to the public on the Attorney-General's web site were a substantially abridged version of the statements of reasons provided to the Committee. The Committee believes that they should be the same.
- 3.3 In addition, on 10 December 2004, the Attorney-General's Department provided a statement on the procedures followed by the department in the listing process. This statement is submission number 7.

¹ The letters comprise submissions 1-6 for the review. They are available on the Committee's web site.

- 3.4 Al-Qa'ida and Jemaah Islamiyah were originally listed on 21 October and 27 October 2002 respectively. New regulations were made on 31 August 2004. Abu Sayyaf, the Armed Islamic Group (GIA), the Jamiat ul-Ansar (JuA), (formally Harakat Ul-Mujahideen), and the Salafist Group, were all originally listed on 14 November 2002. New regulations for these four groups were made by the Attorney-General on 4 November 2004. All six regulations were tabled in the House of Representatives and the Senate on Monday 6 December 2004. The 15 sitting day disallowance period started from that time. Therefore, the Committee is obliged to report to the House before 14 March 2005 and to the Senate before 10 May 2005.

Al-Qa'ida

- 3.5 The letter concerning Al-Qa'ida was received on 31 August 2004 for a regulation made on that day. The Attorney-General's statement of reasons is as follows:

Background

Al-Qa'ida ('The Base') is a loose-knit grouping of individuals and organisations that espouses a violent Islamic extremist ideology. It was founded, and has been led at all times, by Usama Bin Laden.

Al-Qa'ida emerged in 1989 from the Makhtab al Khidemat (the 'Services Office'), a body established to finance and facilitate volunteers for the mujahideen (Islamic warriors) war against the Soviet Union in Afghanistan during the 1980s. It drew together individuals from a number of pre-existing Islamic extremist groups, and has formed affiliations with many other Islamic extremist organisations.

Objectives

The initial focus of al-Qa'ida was a general opposition to non-Islamic regimes, particularly those seen as oppressing or attempting to oppress Islamic peoples or states. After Iraq invaded Kuwait in 1990, and Saudi Arabia permitted US forces to be based in the Kingdom, the major focus of al-Qa'ida became the desire to rid the Islamic Holy Land (Saudi Arabia) of the infidel (US forces).

Since then the objective of al-Qa'ida has been extended to encompass the ejection from the entire Muslim world of US

and Western influence and the recovery of Muslim lands 'lost' at any point in history.

In furthering its international objectives, Australia is seen as a legitimate target by al-Qa'ida and associated groups. Since 11 September 2001, Australia has been named as a target in five public statements by Usama bin Laden and one by his deputy Ayman al Zawahiri. Australia has also figured in media and internet statements by al-Qa'ida and other Islamist extremist sources.

In his most recent mention of Australia, on 18 October 2003, bin Laden stated in a message broadcast by al-Jazeera television in relation to the war in Iraq that:

“we maintain our right to reply, at the appropriate time and place, to all the states that are taking part in this unjust war, particularly Britain, Spain, Australia, Poland, Japan and Italy.”

Leadership and membership

Usama bin Laden and his deputy, Ayman al-Zawahiri, continue to lead al-Qa'ida. While al-Qa'ida has suffered major losses in leaders and personnel in the US-led War on Terrorism, al-Qa'ida continues to recruit new members and has replaced captured and killed leaders.

Prior to the September 11 attacks on the United States, Afghanistan provided a safe haven for 'training camps' that provided training to al-Qa'ida recruits in a range of disciplines from Islamic doctrine to terrorist techniques. ASIO has confirmed that a small number of Australians have trained in such camps in Afghanistan. The training at such camps has included training in manufacture, use, and smuggling of explosives, assassinations, and military operations.

Training was arranged for members of radical Islamic groups, including al-Qa'ida, from around the world - reliable estimates of the figures range from 15,000 to 20,000 individuals trained in such camps. As a consequence, groups and cells, other than member groups of al-Qa'ida, have formed a network of Islamic extremists on which bin Laden has drawn or inspired to act in support of his objectives. Many of these groups and cells remain in existence in a large number of countries.

While al-Qa'ida has lost Afghanistan as a safe haven, it has regrouped and recruited new members in many parts of the world, including the Middle East, South and South East Asia and East Africa. Al-Qa'ida also successfully exploits the Internet and other technology to propagandise and proselytise.

Terrorist activities

Al-Qa'ida continues to organise and engage in acts of terrorism and also acts as a coordinator and facilitator of such acts by associated groups. Bin Laden defined the al-Qa'ida terrorism agenda by statements (fatwas) directing his followers to look widely for targets. In 1998, he issued a fatwa decreeing that US civilians were legitimate targets for terrorist attack. The fatwa stated: *"the killing of Americans and their civilian and military allies is a religious duty for each and every Muslim to be carried out in whichever country they are until Al Aqsa mosque has been liberated from their grasp and until their armies have left Muslim lands"*.

Bin Laden is widely regarded as being responsible for ordering the 11 September 2001 attacks on the World Trade Centre and the Pentagon in the United States. He has not made any attempt to deny such responsibility and, following those attacks, he made a number of self-incriminatory statements. In a video made on 20 October 2001, which was circulated to supporters of the al-Qa'ida network, he referred to the attacks on US buildings, and stated: *"It is what we instigated for a while, in self-defence... So if avenging the killing of our people is terrorism, let history be a witness that we are terrorists."* He also indicated an intention to continue al-Qa'ida's terrorist activities, stating that *"The battle has been moved inside America, and we shall continue until we win this battle, or die in the cause and meet our maker."*

Since the 11 September 2001 attacks on New York and Washington, attacks for which responsibility has been claimed by, or reliably attributed to, al-Qa'ida have included:

- an explosive-laden boat attack on a French oil tanker (the MV Limburg) off Yemen in October 2002;
- an attack using shoulder launched missiles in November 2002 against an Air Arkia 737 near Mombasa airport — both of which missed. This attack occurred simultaneously with a suicide car bomb attack on an Israeli-owned holiday resort in Mombasa which killed 12 people;

- a car bomb suicide attack in a residential complex in Riyadh, Saudi Arabia, on 12 May 2003 which killed approximately 40, including an Australian;
- bomb attacks against several Western targets in Morocco on 16 May 2003 which killed 41 people;
- the bombing of a housing compound in Riyadh on 8 November 2003;
- car bomb attacks on the Neve Shalom and Beth Israel Synagogues in Istanbul on 15 November 2003, which killed 25 and injured over 300;
- two near simultaneous truck bombs attacks against the British Consulate and the British owned HSBC bank in Istanbul on 20 November 2003, killing at least 27 people, including an Australian woman who was working at the Consulate, and injuring approximately 450;
- multiple bomb attacks on the Madrid rail system in March 2004 which killed 191 people and injured 1500; and
- attacks on office buildings and residential compounds in al-Khobar in May 2004 in which 22 people were killed.

The US Government assesses that al-Qa'ida is currently engaged in preparing to undertake an attack in the United States, probably to affect and / or coincide with the Presidential and Congressional elections in November 2004.

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. This assessment is based on information provided by reliable and credible intelligence sources.

In the course of pursuing its objectives, al-Qa'ida is known to have engaged in actions that:

- are aimed at advancing al-Qa'ida's political and religious causes; and
- 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 in countries around the world and persons visiting these countries.

In view of the above information, al-Qa'ida 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 numerous countries, including Australia. The actions or threatened actions which al-Qa'ida are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

- 3.6 The Department of Foreign Affairs expressed no view and raised no objection to the listing of this organisation.
- 3.7 Measured against ASIO's stated evaluation process, and on the basis of the statement of reasons and evidence given at the hearing, Al Qa'ida;
- continues to engage in terrorist acts, a number are listed in the statement of reasons, the latest being in al-Khobar in May 2004;
 - facilitates terrorist acts through a network of affiliated organisations and groups;
 - has links to Australia in that 'a small number of Australians have trained in camps in Afghanistan'. Janes suggests that Al Qa'ida has also held training exercises in Australia in the Blue Mountains;
 - has named Australia in five separate statements as a possible target;
 - has been listed by the UN, and proscribed by the US, the UK and Canada;² and
 - is not involved in any peace processes.
- 3.8 ASIO, in noting that Al Qa'ida was also proscribed by the US the UK and Canada, informed the Committee that these were Australia's markers in the consideration of proscriptions.³ Al Qa'ida also remains at the centre of the United Nations' consolidated list of terrorist organisations; many of the organisations and individuals on the list are there as affiliates of Al Qa'ida and it was concern about the activities of Al Qa'ida and the Taliban that motivated much of the UN's anti-terrorism work through Resolution 1267 (1999) and subsequent resolutions.⁴

2 The UN lists organisations under a series of Security Council resolutions passed since 1999. This does not ban the organisations but creates obligations on member states to monitor certain activities in relation to these organisations. The UN does not require that states ban organisations under these arrangements. See detail of this in Chapter 2, paragraphs 2.40-2.43.

3 ASIO transcript, 1 February 2005, p. 11.

4 See discussion of the Consolidated List in Chapter 2.

3.9 The Committee asked Mr Richardson, the Director-General of ASIO, how the success of the proscription power might be measured. He stated that it was difficult to measure the success of proscription of an organisation like Al Qa'ida, but he believed that some people had distanced themselves from some of the listed groups.

[Proscription] is a platform which you lay down which I think makes it very clear across the community what you feel about certain organisations and certain people take a greater risk if they are going to be formal members of them.⁵

3.10 Janes describes Al Qa'ida as a network or umbrella organisation. Its aims have changed, originally being to recruit young Muslims to join the Mujahideen in Afghanistan; now its aims are to establish Islamic states throughout the world, overthrow un-Islamic regimes, expel US soldiers and Western influences from the Gulf through to South and Southeast Asia.⁶ It is described as a complex, well funded and flexible organisation, which, despite the pressure on it from military action, continues to appeal over a widely dispersed area of the globe.

3.11 On the listing of Al Qa'ida, Mr Emerton posed a number of questions and argued that, given the offences listed in the statement of reasons, prosecutions would be possible under other criminal legislation.⁷ This is a larger argument on the usefulness and focus of the power as a whole. The Committee will be reviewing the proscription power in 2007.

3.12 Of the matters raised, the Committee believes that the links to Australia are a most important consideration in the on-going proscription of Al Qa'ida, because it is through these links that the proscription power can have greatest effect. The Committee does not recommend the disallowance of this regulation.

5 ASIO transcript, 1 February 2005, p. 11.

6 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

7 Emerton, submission, p. 13.

Jemaah Islamiyyah (JI)

- 3.13 Jemaah Islamiyyah (JI) was originally listed on 27 October 2002. A new regulation was made by the Attorney-General on 31 August 2004. The Attorney-General's statement of reasons is as follows:

Background

JI evolved from the long-established Indonesian 'Darul Islam' movement which had promoted the establishment of an Islamic state in Indonesia under rule of Sharia law. This movement was subjected to Indonesian Government security clampdowns in the late 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 the mid-90s. Sungkar died in 1999 and Ba'asyir returned to Solo, Indonesia in 2000 where he established the Majelis Mujahideen Indonesia (MMI), a coalition of radical Islamic groups which may also act as a 'legal front' for JI.

JI is divided into regional areas called *mantiqi* (territories), which are in turn divided up into *wakalah* (branches), then *qirdas* (platoons) and *fiah* (squads). Mantiqis I, II and III cover South East Asia, whilst Mantiqi IV covers Australia. Mantiqi leaders meet as members of the *markaziyah* (central command), where operational decisions are made. However, operational cells have demonstrated autonomous decision-making, suggesting the hierarchical structure of JI is not binding.

JI's initial impetus and ongoing *modus operandi* stems from its legacy of militant training activities, originally in Afghanistan (for older militants, such as Hambali, Muchlas and others) and more recently in the Southern Philippines. JI operations have been influenced by Osama bin Laden's 1998 fatwa, which called for jihad against the West. Bombings appear to be JI's preferred method of attack.

Objectives

JI is a Sunni Islamic extremist organisation, the stated goal of which is to create an Islamic state encompassing Indonesia, Malaysia, Singapore, Thailand and Mindanao in the southern Philippines. JI resorts to violence to overthrow the Indonesian

government and expel Western interests, so that an Islamic state can be achieved in Indonesia.

Leadership and membership

After the death of Abdullah Sungkar in 1999, Abu Bakar Ba'asyir became the *amir* (spiritual leader) of JI up until mid-2002, when he was replaced by Thoriquddin, aka Abu Rusdan, who has since been arrested in connection with the Bali bombing. Ba'asyir was arrested in October 2002 and is due to face trial on terror charges for his role as leader of JI. Former mantiqi leaders (now in detention) have included Hambali (Mantiqi I), Bali-bomber Muchlas (Mantiqi I) and Nasir Abbas (Mantiqi III).

Ji employs a broad network of radical *pesantren* (Islamic boarding schools) to garner support, membership and to facilitate communication. The most prominent *pesantren* in this network includes Ba'asyir's Al-Mukmin *pesantren* (also known as Ngruki) in Solo, Central Java and the Dar us-Syhadah *pesantren* in Boyolali, Central Java. The Hidayatullah *pesantren* in East Kalimantan also forms part of this network.

Ji is known to receive significant shelter and support from 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 provides expert training in bomb-making to MILF members. Ji members undertaking training in the Southern Philippines typically travel via Sulawesi and the Maluku, where Ji enjoys support from local militant Islamic groups, including Laskar Jundullah, Kompak and Laskar Jihad. Ji members are also suspected of having undertaken training in Java.

Ji has established internal funding via contributions from its members, siphoning of charity monies and donations from corporate entities and patrons. Financing for the Bali attacks was facilitated through robbery and direct transfers via Hambali, who had links to al-Qa'ida. Continuing trials regarding the Marriott attack suggest funding came from Hambali and his younger brother Gunawan, who was a member of Ji's al-Ghuraba cell in Pakistan. Al-Qa'ida funding of extremist groups in South East Asia is in large part facilitated through Saudi-controlled institutions, such as al-Haramain.

Terrorist activities

Jl has been involved in a number of terrorist attacks, including suicide attacks and car bombs, targeting Western interests in Indonesia and the Indonesian government. The Bali and Marriott attacks involved Dr. Husin bin Azahari, a leading Jl member and an expert in bomb-making, and Noordin Mohamad Top, a senior field operative, both of whom are still at large and pose a significant threat.

Recent terrorist attacks for which responsibility has been claimed by, or reliably attributed to Jl, 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. At least 14 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 Jl and MILF operatives.
- the suicide car-bomb attack upon the J.W. Marriott Hotel in Jakarta on 5 August 2003, which killed 11.

Conclusion

ASIO assesses that Jl 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 information provided 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, Jl is known to have engaged in actions that:

- are aimed at advancing Jl's political and religious causes; and
- 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 in Indonesia, the Philippines, Singapore, Australia and other persons visiting areas in which it operates.

In view of the above information, JI 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 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.

- 3.14 The Department of Foreign Affairs and Trade expressed no view and raised no objection to the listing of this organisation.
- 3.15 Measured against ASIO's evaluation criteria, ASIO gave evidence that Jemaah Islamiyah was proscribed for the following reasons. JI:
- has engaged in and continues to engage in terrorist acts, most of them in Indonesia and the Philippines;
 - is connected to Al Qa'ida and to other regional terrorist organisations. According to Rohan Gunaratna, Jemaah Islamiyah is effectively Al Qa'ida's South East Asian regional arm⁸;
 - has links to Australia. JI is known to have maintained cells throughout South East Asia and Australia, including Perth, Melbourne and Sydney⁹. ASIO's annual report, 2001 -2002, states that 'key regional JI leaders and members' visited Australia several times. Currently JI has not taken any strategic decisions that have altered its focus and interest. ASIO believes that the threat is current;
 - leaders continue to denounce Australia and plan attacks against western, including Australian, interests;
 - is listed by the UN and proscribed by, the US, the UK and Canada; and
 - is not involved in any peace process.
- 3.16 Janes quotes US intelligence as stating that JI has around 750 members, of which 400 are in Indonesia and approximately 300 are in the Philippines. Janes also claims that:
- low level training and recruitment has taken place in Australia, although due to the strength of security and law

8 Gunaratna, Rohan, *Inside Al-Qaeda: Global Network of Terror*, 2002

9 Background paper provided by the Parliamentary Library.

enforcement in Australia, JI has preferred to maintain Australia as a safe haven and fund raising base. JI is unlikely to conduct direct operations in Australia, although Australian interests in Indonesia have been attacked and threatened.¹⁰

- 3.17 Again the Committee views the links to Australia as the most persuasive argument on the continued listing of JI. The Committee does not recommend the disallowance of this regulation.

Abu Sayyaf

- 3.18 The Abu Sayyaf Group was originally listed on 14 November 2002. A new regulation was made by the Attorney-General on 4 November 2004. The Attorney-General's statement of reasons is as follows:

Background

The ASG was founded in the early 1990s by Abdurajak Janjalani. It was formed from the more militant elements of the Moro National Liberation Front, an established Islamist separatist movement in the southern Philippines. The ASG is based in the southern Philippines, primarily the Sulu archipelago, Tawi Tawi and Basilan but also has elements in Mindanao. Although it proclaims an Islamist separatist agenda, the ASG often resorts to criminal activities including murders, bombings, extortion and kidnap-for-ransom.

Objectives

Since its formation the ASG's stated aim has been to unite Philippine Muslims to fight for an Islamic state encompassing the southern Philippines. ASG amir, Khadaffy Janjalani, gave an indication on 27 September 2002 that the ASG will continue to conduct terrorist attacks in the Philippines against both Philippine and foreign, presumably US, targets:

"We call on all believers in the oneness of Allah and who fear the day of judgment to do their sacred duty to protect the interest of Islam and strike at its enemies, both foreign and local, at their persons and their properties wherever they may be."

10 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

Leadership and membership

The ASG's membership, currently estimated at around 400, is drawn almost exclusively from members of ethnic groups from the islands of Basilan and Jolo in the southern Philippine province of Sulu.

The ASG has links to al-Qa'ida and Jemaah Islamiyah, and ASG members have been trained by both organisations in guerrilla warfare, military operations and bomb making. In 1991 Osama bin Laden's brother-in-law, Mohammad Jammal Khalifa, established the Islamic International Relief Organisation in the Philippines and used this organisation to channel funds to the ASG for training and arms.

Despite joint US-Armed Forces of the Philippines military operations in 2002 to diminish the ASG's strength, the ASG continues to plan terrorist attacks in the Philippines, including bombings and attacks against civilians and Western - but predominantly US - interests.

Terrorist activities

The ASG has been involved in a number of terrorist attacks including assassination, bombings of civilian and military establishments and domestic infrastructure including airports and ferries, kidnapping local officials and Western tourists, the beheading of local and Western hostages, and extortion against local and Western businesses.

Terrorist activities ascribed to the ASG, or for which it claims responsibility, include:

- the April 1995 attack on a village in coastal Mindanao which killed 75 civilians;
- the 28 December 1995 kidnapping of 16 people, including 6 Americans from a tourist resort at Lake Sebu, Mindanao. The hostages were released on 31 December in return for new housing and a cemetery for local Muslims in South Cotabato;
- the 14 February 1996 attack using automatic weapons on the Citibank headquarters in Manila. Philippine Police attributed the attack to the ASG;
- the 30 March 1998 assassination of a radio broadcaster in Zamboanga City, Mindanao. The ASG publicly claimed responsibility for his murder;

- the 23 April 2000 kidnapping of 21 people, including 10 foreign tourists, from the Malaysian resort island of Sipadan. This kidnapping was resolved in 2001 when the ASG received a \$15 million ransom from the Philippine Government;
- the 27 May 2001 kidnapping of 20 people from the Philippine tourist resort of Dos Palms on Palawan Island, in which several victims were subsequently murdered - including a US citizen. Another US citizen was killed during a rescue operation on 7 June 2002;
- the 2 October 2002 bombing of a karaoke bar in Zamboanga City which killed four people, including a US soldier and injured 24 others;
- the 4 March 2003 bombing of the Davao International Airport, Davao City which killed 22 persons;
- the 2 April 2003 bombing of the Sasa Ferry Wharf, Davao City which killed 16 persons; and
- the 27 February 2004 bombing of Superferry 14 in Manila Bay which is estimated to have killed over 100 people.

ASIO assesses that the ASG remains committed to its objective of uniting Philippine Muslims to fight for an Islamic state encompassing the southern Philippines, and to engaging in terrorist acts in pursuit of that objective. ASIO assesses that the ASG 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.

Conclusion

In the course of pursuing its objectives, the ASG is known to have engaged in actions that:

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

In view of the above information, the ASG 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 government and

people of the Philippines, the United States and other countries. The actions or threatened actions which the ASG are assessed to be involved in would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

3.19 The Department of Foreign Affairs and Trade expressed no view and raised no objection to the listing of this organisation.

3.20 ASIO indicated to the Committee through the statement of reasons and evidence at the hearing that the Abu Sayyaf Group:

- continued to engage in terrorism, targeting Western interests in the Philippines;
- is linked to, trains with and supports Al Qa'ida and Jemaah Islamiyah;
- no information was received as to whether this organisation had links to anyone in Australia;
- had targeted Australian interests in the mid 1990s;
- is listed by the UN and proscribed by the US, the UK and Canada; and
- unlike the MILF, is not engaged in any peace negotiations.

3.21 Janes describes the Abu Sayyaf Group as an organisation that is suffering some decline in numbers, from between 800 and 850 in 2001 to 450 in late 2002, and currently 70 to 80 in small bands on Basilan, 50 to 70 on the Zamboanga Peninsula, and 250-350 on Jolo. It also sees Abu Sayyaf as an organisation that has degenerated in its aims from seeking the establishment of an independent Islamic republic in Mindanao and on surrounding islands to 'a brutal criminal enterprise preoccupied largely with the local kidnap for ransom industry.'¹¹ Despite this decline – its coffers have been substantially reduced since its high income days and its forces severely cut back - Janes argues that the ASG retains a real capacity to rebound. And 'ultimately the group's capacity for survival stems from the region's festering socio-economic malaise and the political and religious alienation it has bred.'¹²

11 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

12 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

- 3.22 Clearly this organisation has a brutal history and has killed and kidnapped and terrorised civilians in pursuit of its objectives, but the lack of any current information about an Australian connection to it either through financial or personnel support makes it difficult for the Committee to judge the value of the proscription power in relation to it. The best argument might be that, through its connections to Al Qa'ida and Jemaah Islamiyah, particularly in the training of operatives, there may be some danger to Australians. This is speculation on the part of the Committee and, in future considerations of this listing, the Committee would like to see more information that demonstrated how this power might apply effectively to this organisation for the greater security of Australia.
- 3.23 Nevertheless, the Committee does not recommend the disallowance of this regulation at this time.

Armed Islamic Group (GIA)

- 3.24 The Armed Islamic Group was originally listed on 14 November 2002. A new regulation was made by the Attorney-General on 4 November 2004. The Attorney-General's statement of reasons is as follows:

Background

GIA is a Sunni Islamic extremist organisation based in Algeria. It was founded in the early 1990's following the Algerian Government's ban on the Islamic Salvation Front (FIS), imposed after FIS's victory in the first round of legislative elections in December 1991.

The GIA began a high profile campaign of terrorist acts in 1993 and quickly became one of Algeria's most radical and violent Islamist extremist groups. It distinguishes itself from other such groups operating in Algeria by indiscriminately targeting civilians, a policy that has contributed to its lack of popular support in the country.

It is also unpopular with most other extremist Islamist groups operating in Algeria, who accuse it of the un-Islamic slaughter of innocent civilians, or complicity with the Algerian security forces. In 1998, the GIA split over the issue of attacking civilians. One of its commanders, Hassan Hattab, broke away to found the Salafist Group for Call and Combat (GSPC) which renounced attacks against civilians. Many GIA

guerrillas defected to the new group. Others split from the GIA to form new and autonomous groups.

Objectives

The objective of the GIA is to overthrow the secular Algerian Government and replace it with an Islamic state.

Leadership and Membership

The GIA is estimated to comprise around 100 guerrillas, although it is possible that membership could be as low as 30 following defections to the GSPC.

Since the death of Antar Zoubari, the long-time leader of the GIA, in February 2002, the GIA's chain of command has been weakened by inter-factional conflict, as well as by the appearance of some apparently autonomous splinter groups. Rashid Oukali (also known as Rashid Abu Tourab) was named as Zoubari's successor in April 2002. In July 2002, Oukali was reportedly killed but subsequent reports refute this claim.

The GIA has little or no relationship with other Islamist groups in Algeria and is a rival to the GSPC (GSPC leader Hattab is rumoured to have been complicit in Zoubari's death at the hands of Algerian security forces). The GIA is assessed to have had links to al-Qa'ida through Palestinian Shiekh Omar Mammud Muhammed Othman, also known as Abu Qatada, who was designated by bin Laden as spiritual advisor for Algerian groups. Abu Qatada was arrested in October 2002 by British authorities under the Anti-Terrorism, Crime and Security Act 2001. In recent years, however, al-Qa'ida is reported to have criticised the GIA's tactics of targeting civilians and seems to favour the GSPC. In March 2004, the US and Italy designated 10 alleged GIA members living in Italy as suspected al-Qaida members.¹³

The Algerian diaspora in Europe, and especially France, has been used by the GIA as a source of financial support and recruitment. France has also been used by the GIA as a sanctuary and a target

Terrorist Activities

The GIA has been involved in a number of terrorist attacks including hijacking, bombing civilian sites, attacking civilians, and ambushing Algerian security forces. Since 1992 the GIA is reliably reported to have killed more than 100 foreigners, mostly Europeans, in Algeria.

Terrorist activities for which responsibility has been claimed by, or reliably attributed to, the GIA, have included:

- hijacking of an Air France flight to Algiers in December 1994. One passenger was executed before French commandos killed the hijackers;
- a series of bombings in France in 1995, which killed 10 people and injured more than 200. The most frequent targets were subways, but there were also strikes against outdoor markets, a Jewish school, a high-speed train and the *Arc de Triomphe*. Several GIA members were convicted for these in late 1999;
- bombing a market place in Larbaa, about 20 kilometres from Algiers on 5 July 2002 (Algerian Independence Day) which killed 35 people;
- killing 13 people, including 5 children, in Western Algeria on 10 July 2002;
- killing 21 members of the same family in a rural area approximately 200 kilometres from Algiers on 24 October 2002;
- bombing a market at Boukadir (200km west of Algiers) in December 2002 in which four people were killed and 15 wounded;
- killing two families in an attack in May 2003 in the Chlef region of Algeria (west of Algiers), an area where the GIA is known to be active;
- attacks against a number of military targets during 2003 on mountain roads southwest of Algiers.

Conclusion

On the basis of available information, we assess that the incidence of terrorist activity by GIA has declined significantly since 2002. However, ASIO assesses that while the membership of the GIA has reduced since the defections to the GSPC, the GIA remains committed to its objective of overthrowing the Algerian Government and replacing it with an Islamic state. ASIO further assess that core members remain active, and continue 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, the GIA is known to have engaged in actions that:

- are aimed at advancing the GIA's political and religious causes;
- are intended to, or do, cause serious damage to property, the death of persons or endanger life; and
- are intended to cause, or have caused, serious risk to the safety of sections of the public in countries around the world and persons visiting these countries.

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

- 3.25 The Department of Foreign Affairs and Trade expressed no view and raised no objection to the listing of this organisation.
- 3.26 In respect of ASIO's evaluation process, the GIA is proscribed as an organisation on the basis of evidence provided. The GIA:
- has engaged in terrorism, almost entirely in Algeria, although there was a series of bombings in France in 1995. It has been violent and extreme and indiscriminate in its attacks on civilians;
 - is affiliated with Al Qa'ida and receives support from people in France and Belgium;
 - has significant links to Australia;
 - no information was received regarding possible threats to Australian interests;
 - is listed by the UN and proscribed by the US, the UK and Canada;
 - no information was received on the question of peace processes in relation to this group.
- 3.27 Janes' perspective on the GIA in most respects confirms, but is also somewhat at odds with, the view provided in the statement of reasons. Janes describes an organisation that has been one of the most

deadly in the region, but one that in Algeria is declining in numbers, contracting its area of operations and being isolated from other organisations, including Al Qa'ida.

The GIA's bloody targeting of civilians has drawn criticism from groups that might have expected to be allies, including Al Qa'ida which sponsored the breakaway GSPC.

According to the Government [of Algeria] 6,000 Islamist rebels have surrendered their arms since the 1999 Civil Concorde was offered, and between 300 and 400 rebels remain at large, mostly GSPC. Government-sourced estimates of late 2002 claimed that, following defections to the more ideologically minded GSPC, the GIA's strength was only around 30 guerrillas, operating in tiny bands. The US State Department estimate for 2003 was about 100 GIA guerrillas.

Since 2001, the group appears to have been operationally limited to the mountains within 200 km southwest of Algiers.¹⁴

- 3.28 However, Janes believes that, as many of these operations have come under pressure, the dispersal of cadres away from Algeria has focused the activities of the group in Europe. The European headquarters of the GIA is likely to be London and there have been cells in Germany and Italy as well as France and Belgium.¹⁵ How active these operatives remain is unclear.
- 3.29 The GIA was a product of a civil war in Algeria which broke out as a result of an overturned election in 1991. Janes also reports on claims that the GIA had been infiltrated by Algeria's intelligence and security services and 'served the interests of hardline elements within the regime anxious to maintain the atmosphere of a security crisis to underline the necessity for the army's role in government.¹⁶ While negotiations have taken place on the dispute between the Government and the various groups affected by the overturning of the 1991 election and a Civil Concorde agreed in 1998, the GIA was not invited and has condemned the process.
- 3.30 There are obviously complexities in the history and the circumstances surrounding the rise of this organisation. It would appear that local, political grievances need to be addressed to resolve the problems as

14 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

15 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

16 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

well as police pressure on people who have descended into terrorism. While the Committee recognises that there has been some dispersal of activity into Europe and there is a claimed link to Australia, although the extent and nature of that link is unknown to the Committee, it does also note that the underlying problems, which have led to this, fall more readily into circumstances that might be more effectively addressed by political reform and negotiation.

- 3.31 The Committee, in considering the apparent decline of the GIA, asked at what stage delisting would be contemplated for this or any other proscribed organisation. ASIO noted that it was possible but should not be considered at this time in relation to the GIA.¹⁷
- 3.32 On the basis of testimony ASIO provided at the hearing (see paragraph 3.26, especially the assertion of 'significant links to Australia), the Committee has decided not to recommend disallowance of the regulation covering the GIA. However, if a further period of proscription is proposed, the Committee would expect the formal documentation provided by the Attorney-General to the community and to the Committee to justify more explicitly the continuing listing, and that the contradictions (see paragraph 3.27 and 3.28) between ASIO's assessment and those of other highly reputable sources be clarified.

Jamiat ul-Ansar (JuA), (formally Harakat Ul-Mujahideen)

- 3.33 Harakat Ul-Mujahideen was originally listed on 14 November 2002. A new regulation was made by the Attorney-General on 4 November 2004. The Attorney-General's statement of reasons is as follows:

Background

JuA is a Sunni Islamist extremist organisation based in Pakistan that operates primarily in Kashmir. Founded by Fazlur Rehman Kahlil in 1985 as the Harakat ul-Mujahideen (HuM), JuA was initially formed to participate in Afghanistan's 'holy war' against the Soviet Union in the 1980's. Following the Soviet withdrawal in 1989, JuA concentrated its efforts on the disputed territories of Kashmir and Jammu, where it has conducted numerous attacks against

17 ASIO transcript, 1 February 2005, p. 17.

Indian troops, civilians, and tourists. It is aligned politically with Jamiat-e-Ulema-e-Islam Fazul Rehman faction (JUI-F), a prominent radical Islamic party in Pakistan and Kashmir. HuM receives financial support from sympathisers not only in Pakistan and Kashmir, but also in Saudi Arabia and other Gulf States. JuA has cooperated with other Islamist militant groups operating in Afghanistan, Kashmir and Pakistan such as the Hizb-ul-Mujahideen (HM) and the Lashkar-e-Tayyiba (LeT).

In 1993 the JuA (then known as HuM) merged with another terrorist group, the Harkatul- Jihad-al-Islami (HuJI), to form the Harkat-ul-Ansar (HuA). As a consequence of reports linking the group to Usama bin Laden's global terrorist network, al-Qa'ida, HuA was proscribed as a terrorist organisation by the United States in 1997. The group immediately re-adopted the name Harakat ul-Mujahideen (HuM) to escape the ramifications of the proscription. In 1998, Fazlur Rehman signed Usama bin Laden's fatwa calling for attacks on Americans and US allies. In the aftermath of the September 11, 2001 terrorist attacks on New York and Washington, HuM was declared a terrorist organisation by the US President George W. Bush and was banned by Pakistani President Pervez Musharraf in November 2001. Following the ban, the HuM again renamed and is now operating under its present name of Jamiat ul-Ansar (JuA).

Objectives

JuA is a group that uses violence in pursuit of its stated objective of uniting Jammu and Kashmir with Pakistan under Islamic law.

Leadership and membership

JuA has several hundred armed supporters, most of them Pakistani or Kashmiri, but also including Afghan and Arab veterans of the Afghan war. JuA is aligned with al-Qa'ida, which has provided finance and training. The leader of JuA is Fazlur Rehman Khalil.

The formation of the militant Sunni group Jesh-e Mohammadi (JeM) in 1999 led to a large number of JuA operatives defecting to JeM, including a number of experienced field commanders, which has impacted on JuA's operational capabilities.

JuA operates a number of training camps where JuA members receive religious as well as military style commando and guerrilla training. JuA has operated terrorist training camps in Pakistan and, until they were destroyed by coalition air strikes in 2001, in eastern Afghanistan. The group uses light and heavy machine guns, assault rifles, mortars, explosives, and rockets.

Terrorist activities

JuA has been involved in a number of terrorist activities, including hijacking, bombings and abductions.

Terrorist activities for which responsibility has been claimed by, or reliably attributed to JuA, over the past 5 years include:

- the hijacking of an Indian airliner en route from Nepal to India in December 1999. One passenger was stabbed to death;
- the fatal shooting of around 30 Indian soldiers at two army posts in Kashmir in November 2000;
- attempted detonation of explosive devices in crowded areas and killing of key politicians in October 2001 - four JuA members were arrested;
- the abduction and subsequent murder of US journalist Daniel Pearl on 23 January 2002. Four persons, including JuA member Ahmad Omar Sheikh, were convicted of Pearl's murder;
- a planned attack on foreign diplomats and Pakistani government officials in September 2002;
- planned attacks against McDonalds and KFC restaurants in Karachi in September 2002; and
- the fatal shooting of 3 Indian troops in Kashmir in April 2003.

Conclusion

On the basis of available information, we assess that the incidence of terrorist activity by JuA has declined significantly since 2002. However we assess that JuA remains active and continues 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 uniting Jammu and Kashmir with Pakistan under Islamic law, the JuA is known to have engaged in actions that:

- are aimed at advancing JuA's political and religious causes; and
- 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 India, Pakistan and other persons visiting areas in which it operates.

In view of the above information, the JuA 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 India and Pakistan. The actions or threatened actions on which JuA are assessed to be involved would, if successfully completed, cause serious physical harm and death to persons and serious damage to property.

- 3.34 The Department of Foreign Affairs and Trade expressed no view and raised no objection to the listing of this organisation.
- 3.35 Measured against ASIO's stated evaluation process, and on the basis of the statement of reasons and evidence given at the hearing, the Jamiat ul-Ansar (JuA):
- continues to engage in terrorism, the last listed activity being April 2003;
 - aligns itself with the Al Qa'ida network;
 - no information on links to Australia was provided;
 - no information on threats to Australia was provided;
 - is listed by the UN and proscribed by the US, the UK and Canada; and
 - no information was provided about any peace processes in relation to this group
- 3.36 Janes notes that this organisation began as a Western-supported militant group intent on ridding Afghanistan of the Soviet invaders. It has since concentrated its activities on the dispute in Kashmir. It supports radical Islamic groups across the world, but Janes views its effectiveness in this regard as minimal. The Harakat (its old name) continues to commit atrocities in the Indian Administered Kashmir (IAK) and within Pakistan, but appears to be a dying force.¹⁸ The

18 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

organisation is not involved in a peace process although peace overtures on the dispute over Kashmir have been made between India and Pakistan.

- 3.37 The Committee does not recommend the disallowance of this regulation at this stage.

Salafist Group (GSPC)

- 3.38 The Salafist Group was originally listed on 14 November 2002. A new regulation was made by the Attorney-General on 4 November 2004. The Attorney-General's statement of reasons is as follows:

Background

The Algeria-based GSPC was formed by a splinter group of the Armed Islamic Group (GIA) in 1998. The GIA in turn was founded in the early 1990's following the Algerian Government's ban on the Islamic Salvation Front (FIS) imposed after FIS's victory in the first round of legislative elections in December 1991. The GIA began a high profile campaign of terrorist acts in 1993 and quickly became one of Algeria's most radical and violent Islamist extremist groups. It distinguished itself from other such groups operating in Algeria by indiscriminately targeting civilians, a policy which led one of its commanders, Hassan Hattab, to break away to found the GSPC. Many GIA guerrillas defected to the new group.

The GSPC has links to al-Qa'ida. Prior to his arrest in 2002, London-based Sheikh Omar Mahmud Muhammad Othman, also known as Abu Qatada and a spiritual leader within al-Qa'ida, maintained a relationship and coordinating role with the GSPC from the time of its formation. Abu Qatada was arrested in October 2002 by British authorities under the *Anti-Terrorism, Crime and Security Act 2001*. ASIO has additional credible information on links between GSPC members and al-Qa'ida, including information that GSPC members have received training in al-Qa'ida training camps and that the group receives weapons from al-Qa'ida.

The GSPC continues to engage in planned acts of violence with a view to furthering its political and religious objectives in Algeria, and has issued threats against US and European interests. It has made statements indicating an intention to

attack western civilians. In June 2004, the GSPC published a statement on a jihadist website declaring war on non-muslims in Algeria. The text, entitled "Comunique on war against foreigners" and signed by the emir Abou Ibrahim Mustapha, announced that "taking into account the difficult circumstances the Oumma and the mudjahidine are going through, war is declared against all foreigners in Algeria. Its interests, premises and infra-structures will not be spared".

Objectives

GSPC is a Sunni Islamic extremist group which aims to overthrow the secular government in Algeria and establish an Islamic Republic. The GSPC has, in pursuing this objective, undertaken murders, kidnappings, bombings, robbery, extortion and looting.

Membership and Leadership

The GSPC has approximately 3000 members. While many of the group's members were concentrated in the east of Algeria, many have recently relocated to Chad and Mali due to porous borders and counter-terrorism operations by the Algerian Government and the United States. The group also attracts support from European cells, predominantly in France, Spain, Italy and the United Kingdom.

GSPC founding member and leader Hassan Hattab was reportedly killed in an internal power struggle during September 2003. After this event, Nabil Sahraoui assumed leadership of the group until his death in June 2004. The GSPC is now reportedly led by Abou Mousaab Abdelouadoud.

Terrorist Activities

The GSPC has been involved in a number of terrorist attacks, including assassination, kidnapping, bombing, robbery, and extortion against Algerian government and military targets and Western nationals.

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

- a series of kidnappings of Western tourists in Algerian Sahara. A total of thirty two foreign tourists were kidnapped and held in two groups during February/March 2003. Seventeen hostages were freed through Algerian military action on 13 May 2003. Fourteen

were released in Mali in August 2003 after a negotiated ransom. One female hostage died, reportedly from dehydration and exhaustion;

- 7 April 2003 - attack on Maazouz village, killing three;
- a plan to kidnap competitors in the Paris to Dakar Rally in January 2004 as they travelled through Mali was foiled;
- 10 March 2004 - assassination in Algiers of the Imam of the El Harrach mosque, Abdennacer Abou Hafs;
- 4 March 2004 - Two civilians killed in Dellys, one of them a Democratic National Rally official;
- 24 April 2004 - robbery of an armoured car in Tizi Ouzou;
- 6 June 2004 - assassination of the chief of security for the Mekla region;
- 6 June 2004 - calls for assassinations via a web site with links to armed Islamist fundamentalist groups around the world;
- 21 June 2004 - car bombing of an electricity plant in Algiers;
- 7 July 04 - killing of an official from a local aggregate extraction quarry in Abouda;
- 18 September 2004 - defusing of a bomb by security agencies in a cafe located in Erraghen. This village has been the scene of attacks perpetrated by GSPC members active between the Babors mountains and Dar El-Oued;
- 23 October 2004 - 16 killed in attack on a bus transporting fans to a soccer match in Algeriers; and
- June 2003 - September 2004 - numerous attacks against Algerian police, security and military forces resulting in the deaths of approximately 19 personnel.
- The GSPC has also made public anti-Western statements since 2002:
 - October 2003 - the GSPC announced that it had pledged allegiance to al-Qa'ida;
 - January 2004 - statement released stating that the GSPCs jihad in Algeria was part of the international jihad led by Usama bin Laden; and
 - June 2004 - statement released declaring "war on all foreigners and foreign interests in Algeria".

ASIO assesses that the GSPC 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.

Conclusion

ASIO assesses that the GSPC remains committed to its objective of overthrowing the Algerian Government and replacing it with an Islamic state. ASIO further assess that core members remain active, and continue 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, the GSPC is known to have engaged in actions that:

- are aimed at advancing the GSPC's political and religious causes; and
- 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 in countries around the world and persons visiting these countries.

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

- 3.39 The Department of Foreign Affairs and Trade expressed no view and raised no objection to the listing of this organisation.
- 3.40 Measured against ASIO's stated evaluation process, and on the basis of the statement of reasons and evidence given at the hearing, the Salafist Group:
- has engaged in and continues to engage in terrorism, entirely within Algeria, although the organisation calls for assassinations through its web site;

- is linked to Al Qa'ida through Sheikh Omar Mahmud Muhammad Othman (Abu Qatada)¹⁹, directs its activities against Westerners and trains with Al Qa'ida;
 - no information was given to the Committee on a link to Australia;
 - no information was given to the committee on threats to Australian interests except insofar as Western tourists have been attacked in Algeria;
 - is listed by the UN and proscribed by the US, the UK and Canada;
 - no information was provided on any peace processes in relation to this group.
- 3.41 The statement of reasons states that the membership of the GSPC is approximately 3,000 members. Janes offers a very different estimate of the strength of the GSPC, suggesting that although the group claimed a membership of 5,000, that was 'always seen as a huge exaggeration and current estimates put the GSPC at no more than 500 cadres (and falling) in at least three distinct bands.'²⁰
- 3.42 The GSPC and the GIA have conducted a turf war, initially over what were seen as un-Islamic tactics on the part of the GIA in attacking fellow Muslim civilians.
- 3.43 Comments made about the GIA and the political causes underpinning the terrorism in Algeria are relevant to the GSPC. Janes states that the GSPC 'has recruited from among the disenfranchised and the embittered, but particularly in Europe it has concentrated on recruiting from among the criminal fraternity in prisons.'²¹ Details are given of negotiations between the Government of Algeria and opposition groups, but the GSPC, like the GIA, has criticised the peace process and the amnesty offered by the Government of Algeria in 1999.
- 3.44 Nevertheless, Janes assesses that, despite the disruption and dismantling of GSPC activities in Europe (where the organisation has sought to take over the GIA network), the group constitutes a particular concern in Western Europe, where sleepers may remain among Algerian communities.²²
- 3.45 The Committee notes the lack of any stated connection between this group and Australia.

19 Arrested in London in 2002.

20 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

21 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

22 Janes Terrorism and Insurgency Centre, November 2004, <http://jtic.janes.com>

- 3.46 The Committee does not recommend the disallowance of this regulation.

Conclusions

- 3.47 The Committee will err on the side of caution with respect to these regulations. It will not recommend to the Parliament that any of these regulations be disallowed. However, it is of some concern to the Committee that there still does not appear to be clarity, coherence and consistency in the process.
- 3.48 The information, both on the processing of the regulations and on the listed entities themselves, could be deemed to be inadequate for the Committee to judge the case for proscription with confidence. The Committee is grateful for the additional comments on ASIO's evaluation processes. That has been a valuable addition to its understanding of the methods by which ASIO selects organisations for listing. It is, however, not clear whether they are applied as a whole or individually to any listing. Judging by the information supplied on the individual listings, it must be individually. If this is the case, then dot points one and two in ASIO's list of factors for consideration²³ are so broad as to render the list meaningless.
- 3.49 The Committee is pleased to see the inclusion of Australian links in the factors ASIO considers in evaluating organisations for listing. However, the Australian links to some of the organisations under consideration appear to be very tenuous or non-existent.
- 3.50 The Committee believes that it is important to include, in any decision about listing an organisation, its links to Australia and Australians, because, despite the lack of a legislative requirement for this, the listing will have little practical effect without it. Application of the powers of the Criminal Code under the geographical extraterritoriality provisions appears to be an unlikely prospect. Prosecution of Australians, or foreigners acting in Australia, has a greater prospect of success. Therefore, listing only terrorist organisations which Australians support through financial contributions or by providing personnel makes sense in the fight against international terrorism. As well, listing those organisations that have a presence and operatives in Australia, where there is an immediacy of threat to the Australian community, also makes sense.

23 See paragraph 2.24.

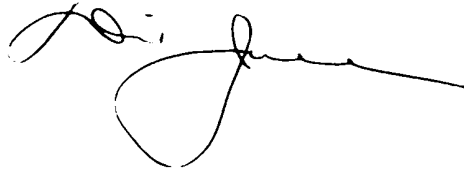
All else is symbolism that is costly in time and effort and possibly distracting for Australia's anti-terrorism efforts.

- 3.51 The Committee is also pleased to note that engagement in a peace process would be considered as a reason not to list an organisation. This makes some sense of what seemed to be inconsistencies in the application of the provisions; that some organisations, with a presence in Australia and listed by the UN as terrorist organisations, had not been proscribed by this country, while others with no connection to Australia had been.
- 3.52 The Committee was also disappointed that the information supplied to it did not contain more substantial details of the consultations held between the Commonwealth and the States and Territories. The time frame set for this process was so short that it rendered it impossible for the States and Territories to make any response, let alone object to a listing, as is their right.
- 3.53 Consultations with the Department of Foreign Affairs were noted but no details of DFAT's view were included. It would be valuable in future for the Committee to receive the details of DFAT's views at the time it receives the submissions on the listings from the Attorney-General.
- 3.54 Finally, issues were raised with the Committee about the need for the proscription power as a whole. This will be considered in 2007 during a full review of the use of the provision. However, the Committee notes that, to date, the power has not been used here or, as far as it knows, in other comparable countries. The view was put to the Committee that it was a difficult area in which to gain successful prosecutions. Certainly, some of the offences under the act, carrying heavy sentences, are for the more abstract offences such as association. To prosecute someone as an 'associate' in a democracy is difficult. It is antithetical to democratic principles and too abstract to allow for a successful prosecution in courts of law with traditions and expectations of concrete evidence for actions committed. This is an issue of both practice and principle which the Committee will continue to monitor.

Recommendation 2

The Committee does not recommend disallowance of the regulations on the six terrorist organisations:

- Al-Qa'ida;
- Jemaah Islamiyyah (JI);
- Abu Sayyaf ;
- The Armed Islamic Group (GIA);
- Jamiat ul-Ansar (JuA) (formally Harakat Ul-Mujahideen); and
- The Salafist Group.



The Hon David Jull, MP

Chairman