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The Parliament of the Commonwealth of Australia

# Review of the re-listing of Hizballah's External Security Organisation (ESO) as a terrorist organisation

Parliamentary Joint Committee on Intelligence and Security

June 2009  
Canberra

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## Membership of the Committee

Chair            The Hon Arch Bevis MP

Deputy Chair   The Hon Philip Ruddock MP

Members        Mr Daryl Melham MP

Mr Mark Dreyfus QC MP

Mrs Kay Hull MP

Senator Michael Forshaw

Senator Gavin Marshall

Senator Julian McGauran

Senator the Hon Helen Coonan

## Committee Secretariat

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## 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

### **Hizballah's External Security Organisation (ESO)**

*Criminal Code Amendment Regulations 2009 (No 7)*

Registered: 15 May 2009 (FRLI: F2009L01297)



## List of recommendations

### Recommendation 1

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Hizballah External Security Organisation  
as a terrorist organisation.



## 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 purpose 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 Hizballah's External Security Organisation (ESO) as a terrorist organisation for the purposes of section 102.1 of the *Criminal Code Act 1995*.
- 1.3 This is a review of the re-listing of this organisation.
- 1.4 In a letter received by the Committee on 8 May 2009, the Attorney-General advised that he intended to re-list this organisation 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-listing. This was accepted as submission number one to this review.
- 1.5 The regulations were tabled in the House of Representatives and the Senate on Monday, 25 May 2009. 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 has conducted its review to enable it to report to the Parliament by Thursday, 25 June 2009.
- 1.6 The Committee advertised the inquiry in *The Australian* on Wednesday, 27 May 2009 (see Appendix C). Notice of the review was also placed on the Committee's website. In addition to usual

submissions from the Attorney-General's Department the Committee received submissions from:

- Submission 4 – Federation of Community Legal Centres (Vic) Inc
- Submission 5 – Dr Patrick Emerton
- Submission 6 – Australia/Israel & Jewish Affairs Council

## **Committee comment on submissions 4 and 5**

- 1.7 As stated above the Committee received submissions 4 from the Federation of Community Legal Centres (Vic) Inc and submission 5 from Dr Patrick Emerton. Both of these submissions contained detailed criticism of the proscription regime itself. For example, of Dr Emerton's 27 page submission only 5 pages deal with Hizballah's ESO.
- 1.8 This report deals only with the re-listing of Hizballah's ESO.
- 1.9 In its first report, *Review of the listing of the Palestinian Islamic Jihad (PIJ)*, the Committee decided that it would test the validity of the listing of a terrorist organisation under the Criminal Code on both the procedures and the merits.
- 1.10 The Committee continues to regard this as a useful approach in the discharge of its responsibilities.

## **The Government's procedures**

- 1.11 In a letter received by the Committee on Wednesday, 27 May 2009, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of re-listing the organisation:
- Unclassified Statement of Reasons was prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing ESO.
  - On 19 March 2009 Mr George Witynski, Deputy Chief General Counsel provided written advice with respect to the Statement of Reasons for ESO.
  - The Acting Director-General of Security wrote to the Attorney-General on 20 March 2009 outlining the

background, training activities, terrorist activities, and relevant statements of ESO.

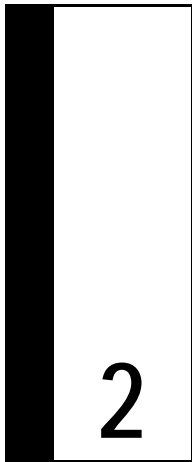
- A submission was provided to the Attorney-General on 31 March 2009 providing the following documents:
  - ⇒ copy of the Statement of Reasons received from ASIO with respect to the organisation
  - ⇒ advice from the Chief General Counsel, and
  - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed a statement with respect to ESO confirming that he is satisfied on reasonable grounds that the organisation is an organisation directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur.
- The Attorney-General also signed the Criminal Code Amendment Regulations 2009 in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minutes and explanatory statement.
- The Attorney-General wrote to the Prime Minister advising of his intention to list ESO as a terrorist organisation.
- The Attorney-General wrote to the Director-General of Security, in response to the Acting Director-General's letter dated 20 March 2009.
- On 9 April 2009 the Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the decision to re-list ESO as a terrorist organisation.
- The following responses were received from the Premiers and Chief Ministers of the States and Territories:
  - ⇒ Western Australia - 28 April 2009
  - ⇒ Northern Territory - 6 May 2009
  - ⇒ Australian Capital Territory - 7 May 2009
  - ⇒ Victoria - 7 May 2009
  - ⇒ Queensland - 13 May 2009
- All responses were supportive of the proposed re-listings.
- Note: On 8 May 2009, the NSW Department of Premier and Cabinet advised that it was not possible for the Premier to provide a response to the Prime Minister's

proposal within the timeframe requested. However, NSW did indicate that they supported the re-listing.

- The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and Security advising of his decision to re-list ESO as a terrorist organisation.
- The Attorney-General advised the Leader of the Opposition of the proposed re-listing of ESO as a terrorist organisation by letter, and offered a briefing in relating to this re-listing.
- On 14 May 2009 the Governor-General made the Criminal Code Amendment Regulations 2009 (No. 7) with respect to the re-listing of ESO.
- The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 15 May 2009 with the following FRLI Reference Number:
  - ⇒ F2009L01297 - Criminal Code Amendment Regulations 2009 (No. 7).
- The Regulations came into effect on 16 May 2009, the day after they were registered on FRLI.
- The Attorney-General issued a Media Release on 15 May 2009 announcing the re-listing of the terrorist organisation and attaching a copy of the Statement of Reasons.
- The Attorney-General's Department's National Security website was also updated.

## **Procedural comments**

- 1.12 The Committee is satisfied with the procedures undertaken by the Government and notes the responses of the States and Territories.



## The Listings

### **The criteria for listing an organisation**

#### The legal criteria

- 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); or

Advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).<sup>1</sup>

- 2.2 To provide further clarification of this definition, Section 102.1 (1A) of the Criminal Code states that an organisation advocates the doing of a terrorist act if:

The organisation directly or indirectly counsels or urges the doing of a terrorist act; or

The organisation directly or indirectly provides instruction on the doing of a terrorist act; or

The organisation directly praises the doing of a terrorist act in circumstances where there is risk that such praise might have the effect of leading a person (regardless of his or her age or mental

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<sup>1</sup> Paragraphs 102.1(2) (a) and (b) of the *Criminal Code Act 1995*.

impairment (within the meaning of section 7.3) that the person might suffer) to engage in a terrorist act.<sup>2</sup>

## ASIO's guidelines

- 2.3 At its 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. Some of the factors included:
- Engagement in terrorism;
  - Ideology and links to other terrorist groups or networks;
  - Links to Australia;
  - Threat to Australian interests;
  - Proscription by the UN or like-minded countries; and
  - Engagement in peace and mediation processes.<sup>3</sup>
- 2.4 The Committee notes that these guidelines are indicators only and are not formally set out in the Act however the Committee has found these to be a useful tool in reviewing the listing of terrorist organisations.
- 2.5 The Committee has decided to continue to use these guidelines to assist its review of Hizballah's ESO. Submission 4 from the Federation of Community Legal Centres (Vic) Inc places great emphasis on these guidelines - which they refer to as the non-statutory criteria - however the Committee has previously accepted, and reiterates that, the absence of information in relation to these guidelines is not determinative of the listing of an organisation.

## Overview

- 2.6 This report is a consideration of the re-listing of Hizballah's ESO under the Criminal Code. On past occasions of consideration of a re-listing, the Committee has stated that it is preferable to see information which relates to the activities of the organisation since the last re-listing. Receiving information on activities since the last re-listing, whilst not in itself conclusive, is an appropriate consideration in the process of re-listing. Whilst historical background is important to consider, and will be noted,

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2 Paragraphs 102.1 (1A) (a) (b) and (c) of the *Criminal Code Act 1995*.

3 *Confidential exhibit*, ASIO, tabled 1 February 2005.

evidence for a re-listing should focus on what has changed since the last review. The issue of currency of evidence was brought forward in the Committee's report, *Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah* (October 2006):

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.<sup>4</sup>

## Hizballah's External Security Organisation

- 2.7 This organisation was initially listed in 2003 under legislative arrangements which required that organisations to be listed had to be on the United Nations list of terrorist organisations. The ESO came up for review under the current proscription regime in 2005 and again in 2007. This review is of the third re-listing of ESO as a terrorist organisation.
- 2.8 The Committee would like to make it very clear that this is *not* a listing of the entire Hizballah organisation.
- 2.9 The Attorney-General's statement of reasons is as follows:

(Also known as: ESO, Islamic Jihad Organisation, Hizballah International and Special Operations Branch)

The following information is based on publicly available details about Hizballah's External Security Organisation (ESO). These details have been corroborated by classified material. ASIO assesses that the details set out below are accurate and reliable.

The United Kingdom has listed Hizballah's External Security Organisation as a terrorist organisation under 'Hizballah's Military Wing'. Hizballah (including ESO) has been listed as a terrorist organisation by the governments of the United States, Canada and Israel.

*Current status of Hizballah's ESO*

Formed in Lebanon in 1982 in the wake of the Israeli occupation of southern Lebanon, Hizballah ('Party of God') emerged as a splinter group of former Amal clerics inspired by the Iranian

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4 Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of Al-Qa'ida and Jemaah Islamiyah*, October 2004, p. 3.

Revolution. By the end of 1984, Hizballah had become an umbrella group covering several smaller organisations including the Lebanese al-Dawa Party, Islamic Amal and the Islamic Students Union. Hizballah evolved into a multi-faceted organisation including political, social and military components supported by Iran and Syria. Hizballah operates as a recognised political party and sanctioned 'resistance group' in Lebanon with representation in parliament and the Lebanese Cabinet.

After senior member Imad Mughniyah fled to Iran after the 1983 attack on the US military in Beirut, the 'international wing' grew out of the military wing to become a separate branch. This is thought to be the genesis of Hizballah's 'international wing', or 'External Security Organisation (ESO)'.

ESO constitutes a distinct terrorist wing within Hizballah's structure. Since entering the Lebanese Parliament in 1992 and the Government in 1995, Hizballah has sought to strengthen its public image as a respected resistance movement and lessen its reputation as a terrorist group. This has encouraged the terrorist network to operate independently of the parent organisation and become among the best organised terrorist networks in the world. While Mughniyah was considered one of the world's most capable and dangerous terrorists, his death in February 2008 is unlikely to reduce ESO's effectiveness in the long term. ESO's current leader, Talal Hamiyah was a long-time associate of Mughniyah and he will continue ESO's activities with minimal disruption.

Hizballah, including ESO, receives substantial support from Iran, in the form of financial, training, weapons, political and military assistance. Syria is also a significant supporter, particularly in the provision of political and military assistance.

In the 2006 conflict with Israel, Hizballah utilised Iranian-supplied military resources including Unmanned Aerial Vehicles (UAV) and a wide variety of short to long range rockets. As part of Hizballah, and given ESO's direct contact with Iran, these or similar resources would be available to ESO.

ESO is based in Lebanon. Hizballah has an international infrastructure including cells; charitable organisations; and business enterprises (both legal and illegal) in the Middle East, Asia, Africa, Europe and North and South America, from which it derives significant financial support. In the Tri-Border area of South America alone it is estimated Hizballah has raised millions



of dollars through activities such as drug and arms smuggling and product piracy. ESO is likely to have access to this funding.

Since the attack against US Marines in Beirut in 1983, and two attacks against Israeli interests in Argentina in 1992 and 1994 (discussed in more detail below) Hizballah has established an insurgent capability in Iraq with support from Iran. ESO continues to operate on a global basis gathering intelligence to be used in terrorist attack planning, collecting money by both legal and illegal methods, recruiting and training terrorists and acquiring weapons. There is reporting to indicate ESO is planning attacks against Israeli or Jewish targets outside Israel to avenge the death of Mughniyah.

Hizballah provides training, operational support and material to Palestinian extremist groups, including the Palestinian Islamic Jihad, Hamas' Izz al-Din al-Qassam Brigades, both of which are currently proscribed entities, and Shia militia elements in Iraq. Elements of ESO are likely involved in these activities.

#### *Objectives*

Hizballah is committed to armed resistance to the state of Israel and aims to 'liberate' all Palestinian territories and Jerusalem from Israeli 'occupation'. Hizballah actively promotes terrorist attacks in the Palestinian arena to reduce the possibility of agreements or accords between Palestinians and Israel. Ultimately, Hizballah aims to create a Shia Islamic state in Lebanon and remove all Western and Israeli influences in the region. ESO has undertaken terrorist acts against Israeli and other interests in support of these objectives.

#### *Leadership and membership*

Little is known about ESO. It is a covert and highly secretive organisation and it has been successful in restricting information about its organisational structure and membership. Its leader is Talal Hamiyah.

#### *Hizballah ESO engagement in terrorist activities*

The attack against the US Marine barracks in Beirut in October 1983 which killed 241 US servicemen gave Hizballah world wide attention for the first time. Further violent attacks in Lebanon and around the world in the 1980's demonstrated Hizballah's capacity for violence. The 1992 bombing of the Israeli Embassy and the 1994 bombing of a Jewish cultural centre in Buenos Aires are the

most well known of the attacks conducted outside of Lebanon. These attacks are widely accepted as being planned and executed by Mughniyah and ESO.

The Hizballah ESO had a record of regular terrorist attacks against mainly Israeli and US targets up until the early 1990's. As a result of the Israeli withdrawal from southern Lebanon in 2000, Hizballah concentrated on targets in Israel and the Palestinian Territories. Even after the 2006 military confrontation with Israel, Hizballah's ability to launch terrorist attacks was not completely destroyed. It has since built up a significant rocket and anti-aircraft capability with the assistance of Iran. Its rockets can now reach deep into Israel.

Hizballah has established an insurgent capability in Iraq, engaging in assassinations, kidnappings and bombings. The Hizballah units have been set up with the encouragement and resources of Iran's Revolutionary Guards al Qods Brigades. Hizballah has also established a special training cell known as Unit 3800 (previously known as Unit 2800) specifically to train Shia fighters prior to action in Iraq. . Available reporting does not specifically identify these terrorist units as ESO entities. However, as ESO's primary role is international terrorism, it is likely to be heavily involved in the activities of Unit 3800 and the attacks against the Iraqi Government and Coalition forces.

Given the clandestine nature of the group, ESO's activities do not have a high profile and it does not claim responsibility for terrorist attacks. However, there is no indication the intent of ESO has changed or its capability has diminished. ESO is active internationally and it is likely it will continue to undertake attacks or contribute to attack planning if and when the opportunity arises, in accordance with the strategic priorities of ESO's parent organisation, Hizballah, or its state sponsors. ESO's close association with Syria and Iran means it could draw on significant resources for future activities.

At the funeral of former ESO head Imad Mughniyah, assassinated in February 2008, Hizballah Secretary-General said he welcomed open war with Israel as a means of avenging the death of Mughniyah.

Due to the secretive nature of ESO, it is difficult to gather information on its role and activities. However, ESO still exists as a discrete organisation under the umbrella of Hizballah but with a

separate leadership and direct links to Iran. ESO has a history of terrorist activity and as terrorism is such a fundamental part of its *raison d'être*, there is nothing to suggest its terrorist purposes have changed. Given its close links to Iran and Syria, ESO has the capability to execute its terrorist objectives. Hizballah uses a separate terrorist arm to conduct attacks and accordingly recent terrorist activity generally attributed to Hizballah is likely to have been conducted by ESO, either wholly or as a major contributor. On this basis and previous evidence of terrorist activity, it is assessed ESO is still directly preparing, planning, assisting in or fostering the doing of terrorist acts.

### ***Conclusion***

The Criminal Code provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied that:

- (a) the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or
- (b) the organisation advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

On the basis of the above information, ASIO assesses that Hizballah ESO is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted the acts attributable to Hizballah ESO are terrorist acts as they:

- (i) are done with the intention of advancing a political cause, namely, destruction of the state of Israel, establishment of a Shiite theocracy in Lebanon and the elimination of Western influences from the region;
- (ii) are intended to coerce or influence by intimidation the governments of foreign countries, namely the US, Israel and Lebanon and/or intimidate a section of the US, Israeli or Lebanese public; and
- (iii) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

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

## Hizballah, the ESO and the IR

- 2.10 In its July 2007 report *Review of the Re-listing of Hizballah's External Security Organisation* the Committee provided detailed information on Hizballah and where the ESO fits within its overall structure.<sup>5</sup> The current statement of reasons again confirms this, stating that the 'ESO still exists as a discrete organisation under the umbrella of Hizballah.'<sup>6</sup> The ESO is a separate international arm within Hizballah, which is distinct from its military wing, the Islamic Resistance (IR).
- 2.11 In its submission to the inquiry, the Australia/Israel and Jewish Affairs Council contest this distinction stating that:
- Hezbollah leaders have frequently stated explicitly that there is no distinction between the military and political wings of the organisation.<sup>7</sup>
- 2.12 At its hearing, the Committee heard evidence which confirmed that Hizballah is a legitimate political party within Lebanon and that Hizballah's ESO is a distinct wing which engages in terrorist activity:
- Hizballah itself is a legitimate political entity in Lebanon. We proscribe only the ESO part of it because that is the element which conducts terrorist activity...it is ESO which is conducting most of the terrorist activity which meets the criteria [for proscription].
- 2.13 Hizballah remains a key Shi'a political organisation in Lebanese Parliament and Cabinet and continues to operate as a sanctioned 'resistance group' which also provides for a number of social welfare institutions in Lebanon.<sup>8</sup>
- 2.14 In its submission to the inquiry, the Australia/Israel and Jewish Affairs Council is supportive of the listing of Hizballah's ESO but requests that the Committee recommend to the Attorney-General that:
- ...the entire Hezbollah organisation should be listed as a terrorist organisation, rather than only its External Security Organisation.<sup>9</sup>
- 2.15 This issue has been considered by the Committee in the previous parliament, in its *Review of the re-listing of Hizballah's ESO*, July 2007. At

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5 *Review of the Re-listing of Hizballah's External Security Organisation*, July 2007, pp. 6-8.

6 Statement of Reasons, *Submission 1*.

7 Australia/Israel and Jewish Affairs Council, *Submission 6*, p. 4.

8 See statement of reasons and *Review of the Re-listing of Hizballah's External Security Organisation*, July 2007, p. 6.

9 Australia/Israel and Jewish Affairs Council, *Submission 6*, p. 3.

that time the Committee stated that Hizballah has grown significantly since it began and has developed into both a legitimate Lebanese political party and an umbrella organisation for myriad of social welfare institutions.<sup>10</sup>

- 2.16 In regard to the relationship between the ESO and Hizballah, it was stated in the 2007 report that Hizballah's ESO constitutes a distinct terrorist wing within Hizballah's structure. Separate from the ESO, is Hizballah's guerrilla wing, the Islamic Resistance (IR). The IR is widely regarded as the most capable non-state armed group in the Middle East. The ESO, according to Jane's is even more secretly run than the IR.
- 2.17 The Committee is not persuaded, at this time, to make the recommendation proposed by the Australia/Israel and Jewish Affairs Council.

## The Lebanese elections

- 2.18 Lebanese elections were held on 7 June 2009. Lebanon's pro-Western coalition led by Saad Hiriri, won power over the Hizballah-led opposition.<sup>11</sup> Hizballah won 11 seats of the 128 member Lebanese Parliament.<sup>12</sup>
- 2.19 After Hizballah's defeat at the polls the organisation's deputy leader, Sheik Naim Kassem, appeared on Hizballah's Al-Manar television station acknowledging the defeat and indicated Hizballah will meet with the new Government to discuss its strategy.<sup>13</sup>
- 2.20 The outcome of these talks will be crucial in determining the stability of Lebanon following the election. In Lebanese politics, power is divided among the country's fourteen religious groups which results in Lebanese Parliamentary representation being divided equally between Muslims and Christians.<sup>14</sup> The Lebanese cabinet consists of a government of national unity, where prior to the elections, Hizballah held two seats and the right

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10 *Review of the re-listing of Hizballah's ESO*, July 2007, p. 6.

11 Massoud A. Derhally, "Lebanon Election Victors Must Reach Terms with Beaten Hezbollah" *Bloomberg.com*, Tuesday 9 June 2009, <http://www.bloomberg.com/news?pid=20670001&sid=a0TT8UKN2CdY>

12 Alistair Lyon, "Analysis - Hezbollah still potent despite Lebanon vote" *Reuters*, Thursday 11 June 2009, <http://www.reuters.com/articlePrint?articleId=USL91015636>

13 Massoud A. Derhally, "Lebanon Election Victors Must Reach Terms with Beaten Hezbollah" *Bloomberg.com*, Tuesday 9 June 2009, <http://www.bloomberg.com/news?pid=20670001&sid=a0TT8UKN2CdY>

14 Jason Koutsoukis, "Hezbollah's stocks on the rise regardless of Lebanon poll result" *Sydney Morning Herald*, Saturday 6 June 2009, p. 14.

to veto cabinet decisions.<sup>15</sup> Whether this veto power will again be granted to Hizballah is still to be determined but Hizballah's deputy leader has warned that if it is not given then there will a 'renewed political crisis in Lebanon'.<sup>16</sup>

## Engagement in Terrorism

- 2.21 The statement of reasons states that as Hizballah has sought to strengthen its public image as a respected resistance movement and political party within Lebanese politics, it has encouraged the terrorist network, the ESO, to operate independently of its parent organisation.
- 2.22 The statement of reasons states that Hizballah's ESO has a record of regular terrorist attacks mainly against Israeli and US targets up until the early 1990s.
- 2.23 The statement of reasons refers to two attacks in particular against "Israeli interests" in Buenos Aires, Argentina in 1992 and 1994. While the 1992 attack was against the Israeli Embassy, the 1994 attack was against a Jewish cultural centre.
- 2.24 The Committee recognises that those carrying out a terrorist attack may wish to view an attack of this kind as an attack against Israel. But this is a false view. By way of example, an attack committed against a Jewish institution in Australia would be an attack against Jewish and Australian interests. It would be incorrect and inappropriate for it to be viewed as an attack against Israeli interests.
- 2.25 Following the 2006 military confrontation with Israel, ESO terrorist activity has reportedly been sustained, as it has since built up a significant rocket and anti-aircraft capability with the assistance of Iran capable of reaching deep into Israel.<sup>17</sup>
- 2.26 Both Jane's and the statement of reasons report that in February 2008, ESO's leader, Imad Mughniyeh, was assassinated in a car bomb explosion in Damascus, Syria. At his funeral two days later, Hizballah's leader, Hassan Nasrallah, declared "open war" against Israel.<sup>18</sup>

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15 Jason Koutsoukis, "Hezbollah's stocks on the rise regardless of Lebanon poll result" *Sydney Morning Herald*, Saturday 6 June 2009, p. 14.

16 Massoud A. Derhally, "Lebanon Election Victors Must Reach Terms with Beaten Hezbollah" *Bloomberg.com*, Tuesday 9 June 2009, <http://www.bloomberg.com/news?pid=20670001&sid=a0TT8UKN2CdY>

17 See statement of reasons.

18 Jane's Terrorism and Insurgency Centre, *Hizballah*, 21 April 2009, <http://jtic.janes.com>, p. 13.

2.27 In its submission to the inquiry the Federation of Community Legal Centres (Vic) Inc stated that it was unclear whether the statutory criteria had been made out in respect of Hizballah's ESO as ASIO had not identified any terrorist activity additional to that provided in the statement of reasons for the 2007 re-listing. The Federation suggested that:

In our view, it is...important that ASIO specifically identify the 'recent activity' that it is referring to in order that the public can properly assess the merits of the listing.<sup>19</sup>

2.28 As previously stated at 2.5, whilst it is preferable to see information which relates to the activities of the organisation since the last re-listing, this information it is not in itself conclusive in the consideration of a re-listing.

2.29 At its hearing the Committee heard evidence that whilst Hizballah's ESO are planning and recruiting for terrorist activity, and have in the past fired rockets into Israel, at the moment:

...ESO is quiet in a deliberate effort on their part to not draw attention to Hizballah, which is doing quite well in the political process within Lebanon itself.<sup>20</sup>

2.30 The statement of reasons and Jane's also state that Hizballah has established an insurgent capability in Iraq, engaging in assassinations, kidnappings and bombings. Hizballah units have been set up with the encouragement and resources of Iran's Revolutionary Guards, the *al Qods Brigades*. Hizballah has also established a training cell, known as *Unit 3800*, specifically to train Shia fighters prior to action in Iraq.

2.31 The statement of reasons, qualifies this by stating that available reporting does not specifically identify these terrorist units in Iraq as ESO entities but it can be inferred, that as ESO's primary role is international terrorism, it is likely to be heavily involved.

## Ideology and links to other terrorist groups/networks

### Ideology

2.32 Hizballah or 'Party of God' was formed in Lebanon in 1982, in the aftermath of the Israeli occupation of southern Lebanon by a splinter group of Amal<sup>21</sup> clerics inspired by the Iranian Revolution.

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19 Federation of Community Legal Centres, Submission 4 p. 12

20 *Classified Transcript*.

21 Amal is a shi'ite militia movement in Lebanon, which came to prominence during the Lebanese Civil War. It traditionally had strong ties with Syria, who provided support and

- 2.33 Following this Hizballah evolved into a multi-faceted organisation including political, social and military components supported by Iran and Syria.
- 2.34 In 1983, after senior Hizballah member, Imad Mughniyah, fled to Iran following the 1983 attack on the United States military in Beirut, ESO began to take shape. The statement of reasons reports that from this incident the 'international wing', or ESO, grew out of Hizballah's military wing to become a separate branch.
- 2.35 The statement of reasons provides information relating to Hizballah's objectives and states that the ESO has undertaken terrorist attacks in support of these objectives.
- 2.36 The statement of reasons reports that Hizballah is committed to armed resistance against the state of Israel and aims to 'liberate' all Palestinian territories and Jerusalem from Israeli 'occupation'. To achieve this aim, Hizballah actively promotes terrorist attacks in the Palestinian arena to reduce the possibility of agreements or accords between Israel and the Palestinians.
- 2.37 Regarding Lebanon, the statement of reasons also notes the overall Hizballah aim of creating a Shia Islamic state in Lebanon, with the removal of all Western and Israeli influences from the region.

### Links to other terrorist groups/networks

- 2.38 The statement of reasons states that the ESO is currently led by Talal Hamiyah.
- 2.39 Both the statement of reasons and Jane's report that the ESO is a highly secretive and 'mysterious'<sup>22</sup> entity which has been successful in restricting information about its organisational structure and membership.
- 2.40 However, the statement of reasons does provide evidence of support from Iran in the form of finance, training, weapons, political and military assistance. Syria is also a significant supporter. The statement of reasons reports that given ESO's direct links with Iran, these resources would also be available to the ESO.

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resources. It currently has representatives in the Lebanese Parliament. *Amal Movement*, [http://en.wikipedia.org/wiki/Amal\\_Movement](http://en.wikipedia.org/wiki/Amal_Movement).

22 Jane's Terrorism and Insurgency Centre, *Hizballah*, 21 April 2009, <http://jtic.janes.com>, p. 2.



- 2.41 Janes' states that some unofficial estimates put Iranian donations to Hizballah at approximately USD 60 million annually.<sup>23</sup>
- 2.42 Although based in Lebanon, Hizballah has an international infrastructure including cells, charitable organisations and business enterprises in the Middle East, Asia, Africa, Europe and North and South America, from which it derives significant financial support. The statement of reasons states that the ESO is likely to have access to this funding.
- 2.43 Janes' provides further detail on these connections stating that as a result of an alliance with the Revolutionary Armed Forces of Colombia (FARC) Hizballah may also receive narcotics funding.<sup>24</sup>
- 2.44 In 2009, Janes' reports that Egyptian security forces uncovered a Hizballah-organised arms smuggling network in the northern Sinai involving Egyptian, Palestinian and Sudanese nationals. Hizballah's leader Nasrallah publicly admitted that this was an attempt to get weapons to militant groups operating in the Gaza Strip.<sup>25</sup>
- 2.45 The statement of reasons also states that Hizballah provides training, operational support and material to Palestinian extremist groups, including the Palestinian Islamic Jihad, Hamas' Izz al-Din al-Qassam Brigades, both of which are currently listed as terrorist organisations in Australian law and also to Shia militias in Iraq. Elements of ESO are likely to be involved in these activities.

## Links to Australia

- 2.46 There is no information in the statement of reasons on Hizballah's ESO having any direct funding or support links with Australia.
- 2.47 In his submission to the inquiry, Dr Patrick Emerton, highlighted the difficulty involved in proscribing one part of a complex organisation:
- ...what is being proscribed is one wing of a multi-faceted political, military and social organisation which continues to play a central role in the life of Lebanese polity, a polity to which many Australians have deep and ongoing connections.<sup>26</sup>

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23 Janes' Terrorism and Insurgency Centre, *Hizbullah*, 21 April 2009, <http://jtic.janes.com>, p. 6.

24 Janes' Terrorism and Insurgency Centre, *Hizbullah*, 21 April 2009, <http://jtic.janes.com>, p. 6.

25 Janes' Terrorism and Insurgency Centre, *Hizbullah*, 21 April 2009, <http://jtic.janes.com>, p. 4.

26 Dr Patrick Emerton, *Submission 5*, p. 27.

2.48 At its hearing the Committee heard evidence that whilst:

...there is support for Hizballah in Australia, particularly given a quite significant Lebanese population of around 75,000. We do not expect the relisting of the ESO to provoke a major reaction from the Lebanese community in Australia, particularly as the proscription applies to the ESO specifically, rather than to Hizballah in its entirety.<sup>27</sup>

## Threat to Australian interests

2.49 Whilst the statement of reasons contains no information on this matter, it can be inferred that, through ESO's links with Shia elements involved in the insurgency in Iraq, Australian citizens, including ADF personnel and Australian interests may be threatened.

## Proscription by the UN or like-minded countries

2.50 Hizballah's ESO has been listed as a terrorist organisation in the United Kingdom, under 'Hizballah's Military Wing'. Hizballah (including ESO) has been listed as a terrorist organisation by the governments of the United States, Canada and Israel.

## Engagement in Peace and Mediation processes

2.51 No information on this matter was provided in the statement of reasons.

2.52 In the Committee's last review of Hizballah's ESO, the Committee of the 41<sup>st</sup> Parliament provided detail on Hizballah's involvement in the peace process following the 2006 conflict in Lebanon.

2.53 This included the acceptance of resolution 1701 of the United Nations Security Council by Lebanon, Israel and Hizballah. This resolution called for a 'full cessation of hostilities'<sup>28</sup> between Israel and Hizballah and the implementation of a Lebanese led UN peacekeeping force in southern Lebanon.

2.54 However, Janes' states that tension continues in Lebanon with Hizballah refusing to abide by UN Resolutions and disarm its military wing, arguing that the force is needed to defend Lebanon against future Israeli attacks.<sup>29</sup>

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27 *Classified Transcript.*

28 Security Council Press Release 8808, "Security Council Calls for End to Hostilities"  
<http://www.un.org/News/Press/docs/2006/sc8808.doc.htm>

29 Janes' Terrorism and Insurgency Centre, *Hizballah*, 21 April 2009, <http://jtic.janes.com>, p. 2.

## Conclusion

2.55 The Committee found that the Hizballah ESO continues to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

### Recommendation 1

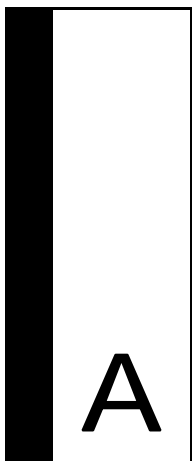
**The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:**

- **Hizballah External Security Organisation  
as a terrorist organisation.**

**Hon Arch Bevis, MP**

Chairman

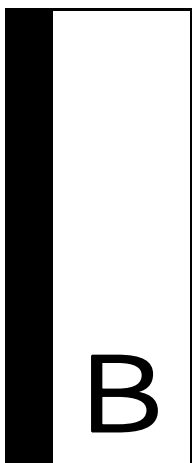




## Appendix A – List of Submissions

1. The Hon Robert McClelland MP, Attorney-General
2. Attorney-General's Department
3. Attorney-General's Department
4. Federation of Community Legal Centres (Vic) Inc
5. Dr Patrick Emerton
6. Australia/Israel and Jewish Affairs Council





## Appendix B – Witnesses appearing at private hearing

Canberra

Thursday, 4 June 2009

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

Mr Geoff McDonald – First Assistant Secretary, National Security Law and Policy Division

Ms Annette Willing – Assistant Secretary, National Security Law and Policy Division

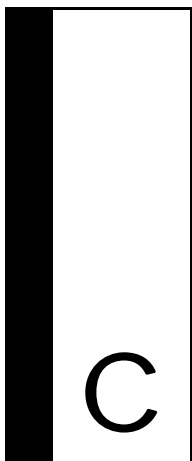
### **Australian Security Intelligence Organisation**

Acting Director-General

Assistant Director-General, National Threat Assessment Centre







## Appendix C – Newspaper Advertisement

Text of the advertisement placed in “The Australian” newspaper on Tuesday 26 May 2009.

### **New Inquiry**

Review of re-listing of Hizballah’s External Security Organisation (ESO) as a terrorist organisation.

Under section 102.1A of the *Criminal Code Act* the Parliamentary Joint Committee on Intelligence and Security is to review the regulations specifying the above organisation as a terrorist organisation.

Submissions from individuals and organisations are due by **Thursday 11 June 2009**.

For further details, visit [www.aph.gov.au/pjcis](http://www.aph.gov.au/pjcis) or email [pjcis@aph.gov.au](mailto:pjcis@aph.gov.au) or phone **(02) 6277 2360**.

A copy of the advertisement as it appeared follows.

# About the House

[www.aph.gov.au/aih](http://www.aph.gov.au/aih)

## Obesity report released next week

EconomicInclusion to address obesity in Australia will be presented to Federal parliament next Monday 1 June 2009 being the House of Representatives, Senate and Agency Committee. A detailed report on the issue. The report will be available at [www.aph.gov.au/iaa](http://www.aph.gov.au/iaa) or for more information email [iaa@aph.gov.au](mailto:iaa@aph.gov.au) or phone (61) 4277 4444.

## Getting youth into Transport jobs

As part of its review into successful youth transitions, the House of Representatives Education and Training Committee will be hearing from the Transport Western, Jobs and Train Transition Working Group (proposed to help regional young get jobs in the transport industry. The public hearing will be held at Parliament House in Canberra on Thursday 4 June 2009 and will be broadcast live at <http://webcast.aph.gov.au/webcast/transport>.

For more information visit [www.aph.gov.au/iaa](http://www.aph.gov.au/iaa) or email [iaa@aph.gov.au](mailto:iaa@aph.gov.au) or phone (61) 4277 4444.

## Terrorist listing

Local sections and staff of the Criminal Code Act the Parliamentary Joint Committee on Intelligence and Security is to review the regulations specifying individuals, Entities, Security Organisations as a terrorist organisations. Submissions from individuals and organisations are due by Thursday 21 June 2009. For further details, visit [www.aph.gov.au/jca](http://www.aph.gov.au/jca) or email [iaa@aph.gov.au](mailto:iaa@aph.gov.au) or phone (61) 4277 4444.

## Cyber crime under investigation

The nature and incidence of cyber crime is being investigated by the House of Representatives Communications Committee, which has looked public submissions by Friday 26 June 2009. Issues being examined include identity theft, and financial fraud on Australian companies and the impact of cyber crime on the wider Australian economy; the level of awareness and understanding of security risks within the Australian community; current measures to protect cyber crime; and future solutions, including emerging technologies, that will further reduce cyber crime and enhance security risks. For more information visit [www.aph.gov.au/iaa](http://www.aph.gov.au/iaa) or email [iaa@aph.gov.au](mailto:iaa@aph.gov.au) or phone (61) 4277 4444.

## Having a say on fair equity

The ACT Council of Social Services and the Women's Centre for Health Welfare will have their say on pay equity when they appear at a public hearing on Thursday 28 May 2009 in Canberra. The hearing is being conducted by the House of Representatives Employment and Workplace Relations Committee. A further hearing will be held in Canberra on Thursday 4 June 2009. For more information visit [www.aph.gov.au/iaa](http://www.aph.gov.au/iaa) or email [iaa@aph.gov.au](mailto:iaa@aph.gov.au) or phone (61) 4277 4444.

## Treaty reviews announced

Several key international agreements are being examined by Federal parliament's Treaty Committee, which is seeking submissions on the implications for Australia of ending these treaties. The committee is examining an agreement between Australia and Vietnam on the shipment of sentenced prisoners, an agreement on the safety of United Nations personnel, an agreement between Australia and Thailand on the shipment of the handling of detainees. Public submissions are invited by Friday 12 June 2009. For more information visit [www.aph.gov.au/jca](http://www.aph.gov.au/jca) or email [jca@aph.gov.au](mailto:jca@aph.gov.au) or phone (61) 4277 4444.

## Stay up to date

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