
The Parliament of the Commonwealth of Australia

Review of the re-listing of Al-Qa'ida, Jemaah Islamiyah and Al-Qa'ida in the Lands of the Islamic Maghreb

Parliamentary Joint Committee on Intelligence and Security

October 2008

Canberra

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ISBN 978-0-642-79090-3 (Printed version)

ISBN 978-0-642-79091-0 (HTML version)



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Membership of the Committee

Chair	The Hon Arch Bevis MP	
Deputy Chair	The Hon Philip Ruddock MP	
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	Mr Mark Dreyfus QC MP	Senator Fiona Nash
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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

Al-Qa'ida

Criminal Code Amendment Regulations 2008 (No 1)

Select Legislative Instrument No 160 of 2008

Registered: 8 August 2008 (FRLI: F2008L02843)

Jemaah Islamiyah

Criminal Code Amendment Regulations 2008 (No 2)

Select Legislative Instrument No 161 of 2008

Registered: 8 August 2008 (FRLI: F2008L02845)

Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

Criminal Code Amendment Regulations 2008 (No 3)

Select Legislative Instrument No 162 of 2008

Registered: 8 August 2008 (FRLI: F2008L02844)



List of recommendations

2 The Listings

Recommendation 1

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

- Al-Qa'ida
- Jemaah Islamiyah (JI)
- Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

as terrorist organisations

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 the following organisations as terrorist organisations for the purposes of section 102.1 of the Criminal Code:
 - Al-Qa'ida
 - Jemaah Islamiyah (JI)
 - Al-Qa'ida in the lands of the Islamic Maghreb (AQIM)
- 1.3 This is a review of the re-listing of these three organisations.
- 1.4 Al-Qa'ida and JI were originally listed on 21 and 27 October 2002 and re-listed on 31 August 2004, with effect on 1 September 2004. The Committee first considered the listing of Al-Qa'ida and Jemaah Islamiyah in 2004 after the Committee's role in the Criminal Code procedure had been established. Both organisations were again re-listed on 4 September 2006 and the Committee subsequently reviewed the re-listing, reporting to Parliament in October 2006.
- 1.5 Al-Qa'ida in the lands of the Islamic Maghreb was originally listed under the name Salafist Group for Call and Combat (GSPC) in 2002 following their listing by the United Nations Security Council. The Committee first considered the listing of the GSPC in 2004 after the Committee's role in the Criminal procedure had been established. The GSPC was re-listed on 5

November 2004 and again on 1 November 2006. With regard to the change of name the Attorney-General's Department was able to inform the Committee that:

...on the legal front the main thing that would interest you is whether there is any significance in the change of name. I can reassure you that there is not.

- 1.6 Further information on the change of name is given in chapter two.
- 1.7 In a letter to the Committee on 29 July 2008, the Attorney-General advised that he intended to re-list these three organisations prior to the lapsing of their current listing as provided for in section 102.1(3). The Attorney provided statements of reasons for the re-listings. These are accepted as submission number one to this review.
- 1.8 The regulations were signed by the Governor-General on 7 August 2008. They were then tabled in the House of Representatives and the Senate on 26 August. 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 was required to report to the Parliament by 13 October 2008.
- 1.9 Notice of the review was placed on the Committee's website.
- 1.10 In its first report, Review of the listing on 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. This chapter will examine the Government's procedures in listing the three organisations and chapter two will consider the merits of the listings.

The Government's procedures

- 1.11 In a letter sent to the Committee on 28 August 2008, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of listing the organisations:
- Unclassified Statement of Reasons were prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing Al-Qa'ida (AQ) Jemaah Islamiyah (JI) and Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM).
 - On 12 June 2008 Mr Henry Burmester QC, Chief General Counsel provided written advice with respect to the Statement of Reasons for AQ, JI and AQIM.

- The Director-General of Security, Mr Paul O'Sullivan wrote to the Attorney-General on 12 June 2008 outlining the background, training activities, terrorist activities, and relevant statements on AQ, JI and AQIM.
- A submission was provided to the Attorney-General on 17 June 2008 attaching:
 - ⇒ Copies of the Statement of Reasons received from ASIO with respect to the three organisations
 - ⇒ Advice from the Chief General Counsel in relation to the three organisations; and
 - ⇒ regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed separate statements with respect to AQ, JI and AQIM confirming that he is satisfied on reasonable grounds that each 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 separate *Criminal Code Amendment Regulations* in relation to each organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum, and executive council minutes and explanatory statements for each organisation.
- The Attorney-General wrote to the Prime Minister on 20 June 2008 advising of his intention to list AQ, JI and AQIM as terrorist organisations
- The Attorney-General wrote to the Director-General of Security on 20 June 2008, in response to the Director General's letter dated 12 June 2008.
- On 7 July 2008 the Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the decision to list AQ, JI and AQIM as terrorist organisations. The following responses were received from the Premiers and Chief Ministers of the States and Territories:

New South Wales – dated 24 July 2008

Victoria – 28 July 2008

Western Australia – 29 July 2008

South Australia – 29 July 2008

Australian Capital Territory – 24 July 2008

Queensland – 25 July 2008

Tasmania – 4 August 2008

All responses were supportive of the proposed re-listings.

Note: On 22 July 2008 the Chief Executive of the Department of the Chief Minister advised that as (an) election in the Northern Territory would take place on 9 August 2008, the conventions of a caretaker government applied and it would therefore not be possible to provide a response to the Prime Minister's proposal within the timeframe requested.

- The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and Security on 29 July 2008 advising of his decision to re-list AQ, JI and AQIM as terrorist organisations.
- The Attorney-General advised the Leader of the Opposition of the proposed re-listing of AQ, JI and AQIM by letter dated 29 July 2008 and, offered a briefing in relating (sic) to these re-listings.
- On 7 August 2008 the Governor-General made separate regulations as follows:
 - ⇒ *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Al'Qa'ida (AQ)
 - ⇒ *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Jemaah Islamiyah (JI)
 - ⇒ *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Al'Qa'ida in the Lands of the Islamic Maghreb (AQIM)
- The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 8 August with the following FRLI reference numbers:
 - ⇒ F2008L02843 - *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Al'Qa'ida (AQ)
 - ⇒ F2008L02845 - *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Jemaah Islamiyah (JI)
 - ⇒ F2008L02844 - *Criminal Code Amendment Regulations 2008 (No.1)* with respect to the re-listing of Al'Qa'ida in the Lands of the Islamic Maghreb (AQIM)
- The Attorney-General issued a Media Release on 8 August 2008 announcing the re-listing of the terrorist organisations and attaching copies of the Statements of Reasons for each organisation.

- The Attorney-General's Department's National Security website was also updated.

1.12 This letter was accepted as submission number two for this review.

Procedural comments

State and Territory consultation

- 1.13 The Committee notes that all States and the Australian Capital Territory acknowledged communication from the Attorney General and none of them disagreed with the re-listing.
- 1.14 The Committee notes the reasons given by the Northern Territory for not being able to reply to the communication from the Attorney General.

Community Consultation

- 1.15 In a previous report, *Review of the listing of six terrorist organisations*, March 2005, the Committee recommended that:
- a comprehensive information program, that takes account of relevant community groups, be conducted in relation to any listing of an organisation as a terrorist organisation.¹
- 1.16 At a subsequent hearing into the *Review of the re - listing of the Kurdistan Worker's Party (PKK)* Attorney-General's Department informed the Committee that they:
- . . . have been working on some new material which will be in various languages.
- The new material is focussing a lot more on the listing that we are developing in various languages.²
- 1.17 During this hearing the Attorney-General's Department advised the Committee that they would be monitoring the effectiveness of these

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

2 Parliamentary Joint Committee on Intelligence and Security, *Review of the re-listing of the Kurdistan Workers' Party (PKK)*, June 2008, p. 5.

pamphlets and undertook to engage in consultations with community leaders.³

- 1.18 The letter from the Attorney-General on the process for re-listing did not refer to any community consultation. In evidence before the Committee, the Attorney General's Department stated:

Community consultation has been discussed here before. I am very aware that there is an outstanding PJC report on that and I can assure you that the government is giving that report very careful consideration. I have promised you on a few occasions that we would have some improved material. The material is written in all different languages. We always produce this material just before elections. This has been cleared. We are in the process now of finally making sure that we have that material distributed.⁴

- 1.19 The Committee is pleased that the Attorney General's Department has taken note of its concerns regarding community consultation.

- 1.20 The Committee is mindful of the need for appropriate notification and explanation of proposed listings especially to sections of our community that may have a particular interest in that organisation or group. Similarly, advice of the implications as a result of a listing should be provided to organisations or groups with a likely interest in the listing.

- 1.21 The Committee will continue its discussion with the Attorney General's Department about these matters, including satisfactory methods of distribution of this material.

3 Parliamentary Joint Committee on Intelligence and Security, *Review of the re-listing of the Kurdistan Workers' Party (PKK)*, June 2008, p. 5.

4 Classified transcript, private hearing 4 September 2008, p. 2.

The Listings

The Criteria for listing an organisation

- 2.1 To be specified as a terrorist organisation for the purpose 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).¹

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

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

- engagement in peace/mediation processes.²

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

Overview

2.4 At the outset, it is important to state the Committee's view clearly. The three organisations under review, Al-Qa'ida, Jemaah Islamiyah (JI) and Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM), given their records and stated purposes, fit the definition of a terrorist organisation under the Act and for the purposes of the proscription power.

2.5 The Committee does not recommend disallowance.

2.6 As in the previous report, tabled in October 2006, this report will identify issues relating to the current nature and reach of Al-Qa'ida, JI and AQIM with particular emphasis on developments since the Committee last reviewed the listing of these organisations. As previously stated by the Committee in its report, *Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah* (October 2006):

The Committee believes that it is important that the Parliament seek to establish as accurate a picture as possible of the nature, size, reach, and effectiveness of organisations that are subject to section 102.1 of the Criminal Code and that these reviews should reflect the most current information available about the organisations under review.

2.7 As the Committee is now in the process of primarily considering the re-listing of organisations under the Criminal Code, the Committee again reiterates that it is logically preferable to see information which relates to the activities of the organisation since the last re-listing. Whilst historical background is important to consider, and will be noted, evidence for a re-listing should focus on what has changed since the last review, whether it reflects an increase or decrease in terrorist activities. The issue of currency of evidence was brought forward in the Committee's previous 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

2 Confidential exhibit, ASIO, tabled 1 February 2005.

must, therefore, be a sufficient degree of currency in the evidence to warrant the use of the power.

Al-Qa'ida

2.8 Al-Qa'ida was initially listed as a terrorist organisation under the Criminal Code on 21 October 2002. A regulation was made re-listing the organisation as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 31 August 2004, commencing on 1 September 2004. A second re-listing was made on 24 August 2006 and tabled in the House of Representatives on 4 September 2006.

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

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

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

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

Current status of Al-Qa'ida

Al-Qa'ida is a Sunni Islamic extremist organisation whose core leadership is centred in the border regions between Afghanistan and Pakistan. In 1988, Al-Qa'ida emerged from the Maktab al-Khidamat, a recruitment and fundraising network for the Afghan resistance to the Soviet Union's occupation of Afghanistan. The impetus for establishing

Al-Qa'ida was to retain a common purpose for Islamic extremists following the end of the conflict with the Soviets. Usama bin Laden co-founded Al-Qa'ida with Dr Abdullah Azzam and gained full control after the assassination of Azzam in 1989.

During the late 1990s, Al-Qa'ida was transformed from providing a unifying function for extremist elements into a global network of cells and affiliated groups. In 1998, key figures of five terrorist groups, including Usama bin Laden, issued a declaration under the banner of the 'World Islamic Front' announcing a jihad against 'Jews' and 'Crusaders', stating the US and its allies should be expelled from the Middle East. Since the US intervention in Afghanistan, following the 11 September 2001 attacks, Al-Qa'ida has lost its primary base for training, planning and preparing for terrorist operations. Al-Qa'ida has sought alternative venues in which to train and regroup and members continue to gain combat experience in the ongoing conflicts in Iraq and Afghanistan. Despite sanctions against Al-Qa'ida's extensive financial networks, Al-Qa'ida continues to find means of raising and transferring money including through donations and criminal activity, and via couriers.

Al-Qa'ida maintains core support networks and operations in Afghanistan and Pakistan and continues to conduct attacks in Afghanistan. Al-Qa'ida also provides international inspiration and influence, demonstrated by the decisions of the Salafist Group for Call and Combat in Algeria and the Jamaat Tawhid wa'al-Jihad group in Iraq to merge with the extremist organisation. Now known as Al-Qa'ida in the lands of the Islamic Maghreb (AQIM) and Al-Qa'ida in Iraq (AQI) respectively, both groups accept strategic direction and at times receive further funding from Al-Qa'ida. Moreover, Al-Qa'ida leadership relies on its franchise organisations, like AQIM and AQI, to plan and execute attacks.

Al-Qa'ida provides encouragement and inspiration to affiliated and aligned groups around the world. Such groups include but are not limited to: Egyptian Islamic Jihad, Armed Islamic Group, Abu Sayyaf Group, Jamiat ul-Ansar, Islamic Movement of Uzbekistan, Islamic Army of Aden, Asbat al Ansar, Jemaah Islamiyah, Lashkar-eTayyiba, Lashkar-e Jhangvi, Jaish-e-Mohammad and Ansar al-Islam.

Reporting indicates Al-Qa'ida has encouraged, inspired and assisted like-minded individuals as seen in the 7 July 2005 attacks on the London transport system. While there was no evidence of Al-Qa'ida command and control over these attacks, there were indications of Al-Qa'ida involvement in training and influencing those involved. Two of the perpetrators of the attacks, Mohammed Siddique Khan and Shehzad Tanweer, had travelled to Pakistan and, according to a statement by Al-Qa'ida's deputy leader, Ayman al-Zawahiri, had been trained by Al-Qa'ida operatives.

Senior Al-Qa'ida leaders continue to make public statements promoting Al-Qa'ida's ideology, supporting attacks undertaken by other groups and advocating violent jihad against the West. Since 2004, a number of statements have been made by Usama bin Laden and Ayman al-Zawahiri calling for attacks against the US and its allies, including Australia.

Objectives

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

Leadership and membership

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

Terrorist activities

Al-Qa'ida has been involved in a number of terrorist attacks including; suicide attacks; hijackings; attacks using improvised explosive devices (IEDs); vehicle-borne IEDs and; maritime IEDs. Al-Qa'ida has also assisted and financially supported terrorist acts by affiliated groups.

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

- 7 August 1998: Bombed the US Embassies in Nairobi and Dar es Salaam which killed over 200 people;
- 2 October 2000: Used a maritime IED to attack the USS Cole off the coast of Yemen which killed 17 people;
- 11 September 2001: Coordinated attacks involving hijacked passenger jets crashing into the World Trade Center buildings in New York, the Pentagon in Washington and a fourth in a field in Pennsylvania which killed approximately 3000 people;
- 11 April 2002: Bombed a synagogue on the Tunisian island of Djerba which killed 20 people;
- 12 October 2002: Assisted in funding attacks on night clubs and the US Consulate in Bali which killed 202 people, including 88 Australians;
- 28 November 2002: Conducted attacks in Mombasa, Kenya, involving the car bombing of a hotel and firing of two surface-air-missiles at an Israeli airliner taking off from Mombasa airport;
- 15 November 2003: Assisted in planning and preparing car bomb attacks on two synagogues in Istanbul which killed 20 people;
- 20 November 2003: Assisted in planning and preparing car bomb attacks on the HSBC Bank headquarters and the British Consulate in Istanbul which killed 30 people;
- 7 July 2005: Assisted in training those involved in IED attacks on London's transport system which killed 56 people, including one Australian.

Senior members of Al-Qa'ida have made numerous statements advocating the conduct of terrorist attacks against the US and countries perceived to have allied themselves with the US and Israel. The February 1998 statement issued under the banner of the 'World Islamic Front' decreed that civilians in these countries were legitimate targets for terrorist attack.

Recent statements claimed by or reliably attributed to Al-Qa'ida reiterate this theme by highlighting and advocating the conduct of terrorism. The following excerpts of recent speeches by Usama bin-Laden and Ayman al-Zawahiri demonstrate this:

- The 19 January 2006 statement by Usama bin-Laden stated, in part, "You have occupied our land, defiled our honour, violated our dignity, shed our blood, ransacked our money, demolished our houses, rendered us homeless, and tampered with our security. We will treat you in the same way" and "The evidence of this is the bombings you have seen in the capitals of the most important European countries of this aggressive coalition. As for the delay in carrying out similar operations in America, this was not due to failure to breach your security measures. Operations are under preparation, and you will see them on your own ground once they are finished, God willing".
- The 24 April 2006 statement by Usama bin-Laden stated "... the Umma has reached a consensus that he who offends or degrades the messenger would be killed. Such offence is regarded as kufr (infidelity). We ask Allah to give his blessings to whoever decried the behaviour of the infidels who have offended the prophet in every part of the world, and blessings to those who have died in the process, while we vow to Allah to avenge for those whose blood have been spilled".
- The 10 July 2007 audio message by Zawahiri states, "We must respond to that attack. We must surround America with terror. We would not let the one who made us lose our safety feel safe. Whenever the Americans go to one of the Muslim countries, their central goal was to exercise all different kinds of attack. "
- The 14 December 2007 audio message from Al-Qa'ida deputy leader, Dr Ayman al-Zawahiri stated, "I bear you witness to our promise to Allah that we ourselves will not abandon our weapons and will never stop our Jihad and will never abandon our belief and will not abandon Andalusia, Sebta, Melilla, Bosnia, Kosovo, Cyprus, Jerusalem, Haifa, Um Rashrash, Baghdad, Kabul, and Kashmir and Grozny even if they have many conferences in Oslo or Annapolis, and one thousand conferences in London and Salah Al-Din. Do not let the eyes of the cowardly sleep. "
- The 19 March 2008 audio message from Usama bin Laden stated "Although our tragedy in your killing of our women and children is a very great one, it paled when you went overboard in your unbelief and freed yourselves of the etiquettes of dispute and fighting and went to the extent of publishing these insulting drawings. This is the greater and more serious tragedy, and reckoning for it will be more severe. ... In closing, I tell you: if there is no check on

the freedom of your words, then let your hearts be open to the freedom of our actions. "

- The 20 March 2008 audio statement from Usama bin Laden addressed to the worldwide Islamic community said, "Palestine has been suffering [greatly] for roughly a century at the hands of the Christians and Jews, and both opponents did not take it from us through negotiations and dialogue, but through iron and fire, and it is this way to bring it back; for iron [can meet] iron, and Allah showed us the way to destroy the hardness of infidels: <Qu'ranic verse>. With incitement and fighting, the hardness of the infidels is destroyed. ... liberation from these evil manacles is a necessity, [as is] surrendering and worshiping only Allah... Only then, will the person be liberated, and then he can seek the liberation of his Ummah, Palestine, and Al-Aqsa [Jerusalem], and will see the doors opened to the roads of liberty and dignity, to the fields of men and confrontation, the fields of killing and death for the cause of Allah, as in Afghanistan, Waziristan, the Islamic Maghreb, Somalia, Kashmir, Chechnya, and the most important and greatest that hurts the enemy, Baghdad, the House of the Caliphate, and those around it. "
- On 2 April 2008, Al-Qa'ida's media arm, as-Sahab, posted to jihadist internet forums an audio file of Ayman al-Zawahiri responding to questions from forum participants. Al-Zawahiri referred to Australia when responding to a question criticising Al-Qa'ida for killing Muslims in Muslim lands and not conducting attacks in Israel. Zawahiri responded citing attacks against the US and its allies, including Australia, in various locations and that these countries supported Israel.

Conclusion

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

- (a) 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) advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

ASIO assesses that Al-Qa'ida is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. ASIO also assesses that Al-Qa'ida advocates the doing of terrorist acts. This

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

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

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

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

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

Engagement in terrorism

- 2.11 The statement of reasons states that 'Al-Qa'ida has been involved in a number of terrorist attacks; suicide attacks; hijackings; attacks using improvised explosive devices (IEDs); vehicle-borne IEDs and; maritime IEDs. Specific evidence related to these categories is listed in a series of dot points, prefaced with the statement, 'Terrorist attacks for which responsibility or involvement has been claimed by, or reliably attributed to, Al-Qa'ida'. None of the dot points relate to the period since the last re-listing.
- 2.12 Jane's Terrorism and Insurgency Centre analysis on Al-Qa-ida notes the following attack committed by Al-Qa'ida in the Lands of the

Islamic Maghreb (AQIM) a group formally affiliated with Al-Qa'ida since 24 January 2007³

- 11 April 2007, 33 people were killed in three near-simultaneous suicide attacks in the Algerian capital, Algiers. A suicide bomber drove his vehicle into the guard post at Prime Minister Abdelaziz Belkhadem's headquarters. Two other suicide bombers apparently attacked a police station in the eastern suburb of Bab Ezzouar.⁴

2.13 Jane's also lists a number of other attacks not listed in the statement of reasons, carried out by organisations affiliated with Al-Qa'ida between 2002 and 2005 in Bali, Riyadh, Madrid and Amman.

2.14 In the Committee's previous report, it was noted that Al-Qa'ida is no longer capable of carrying out any formal large scale training' and that Al-Qa'ida 'can no longer be considered a coherent organisation with a chain of command and material assets.'⁵

2.15 Since this time, but particularly in the last year, Jane's states that Al-Qa'ida, in conjunction with the Taliban, has undergone a resurgence in the border area of Pakistan and Afghanistan, known as the Federally Administered Tribal Areas (FATA):

Both Al-Qaeda and the Taliban have experienced a resurgence in Afghanistan in the last few years. Lieutenant General Michael Maples, the director of the US Defense Intelligence Agency (DIA), told the Senate Armed Services Committee in November 2006 that Al-Qaeda's influence and numbers are growing rapidly in Afghanistan....⁶

2.16 Recent media reports suggest that this resurgence has escalated further with Al-Qa'ida shifting its focus from Iraq to Afghanistan and that Al-Qa'ida and the Taliban are in control of 'vast swaths of territory' in the FATA.⁷

3 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 2.

4 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 2.

5 *Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah as terrorist organisations*, October 2006, p. 16.

6 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 4.

7 Bruce Loudon, Al-Qa'ida 'changing focus to Pakistan', *the Australian*, 21 July 2008, p. 11 and Bruce Loudon, 'Al-Qa'ida numbers soar in Pakistan', *the Australian*, 22 July 2008, p.9.

2.17 The Middle East Quarterly reports:

Now that Al-Qaeda's senior leadership has gained safe haven in the tribal regions of Pakistan, the organisation's power and relevance grow even greater today....with a resilient central leadership.....possessing a lethal combination of capability and....a demonstrated desire to carry out mass-casualty attacks on US soil.

Since Jan. 2005, some forty different organisations in countries that include Afghanistan, Egypt, Iraq, Lebanon, Morocco, Pakistan, Saudi Arabia, Syria, and Yemen have announced their formation and pledged allegiance to bin Laden, Al-Qaeda, and their strategic objectives.

With [peace] agreements in place the United States has seen an influx of Al-Qaeda operatives and money onto the tribal regions. Recent video taken in a Pakistani training camp shows a graduation ceremony of about 300 recruits for suicide missions...⁸

2.18 As stated in the Committee's last report, and as indicated by the statement of reasons and recent articles, Al-Qa'ida's ideological inspiration remains strong through its internet based information campaigns and propaganda.

The main way that the [core Al-Qaeda] leadership imposes some control and uniformity of purpose is through its broadcasts and web postings. These have attained increasing sophistication and follow a clear pattern, promoting recruitment, keeping local groups motivated, suggesting targets and providing overall direction.⁹

2.19 ASIO also gave evidence that, whilst it is difficult to provide accurate membership estimates of organisations like Al-Qa'ida, its popularity is not diminishing.¹⁰

8 Daveed Gartenstein-Ross and Kyle Dabruzzi, Radical Evolution, 'Is Al-Qaeda's central leadership still relevant?', *Middle East Quarterly*, April 2008, pp. 29-32.

9 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 8.

10 Classified Transcript, private hearing, 4 September 2008, p. 9.

Ideology and links to other terrorist groups/networks

Ideology

- 2.20 Founded in 1988, Al-Qa'ida is a radical Sunni Muslim group which subscribes to Salafist ideology.¹¹ As evidenced by the statement of reasons, its adherents believe in waging violent jihad to remove 'un-Islamic' governments in Muslim countries and expel the United States and its allies from these lands, establishing an Islamic caliphate in their wake. Jane's illustrates Al-Qa'ida's ideology in further detail:

Al-Qaeda's long term aim is the creation of a pan-Islamic global Caliphate.....Al-Qaeda works towards this ambition by waging violent jihad against the US and other Western 'occupiers' in Muslim countries, such as Saudi Arabia and Iraq, as well as other states with Muslim majorities such as Indonesia and Algeria.....Al-Qaeda also serves as an inspirational model for others seeking to protect oppressed Muslims, to eject foreign non-Muslim interlopers in the Middle East and other Islamic countries, and to oppose Muslim governments and regimes that place the interests of non-believers before those of their co-religionists.¹²

Links to other terrorist groups/networks

- 2.21 The statement of reasons notes that Al-Qa'ida provides international inspiration and influence to a large number of affiliated and aligned groups around the world, two of which will be reviewed later in this report, JI and AQIM. However Jane's qualifies this affiliation by highlighting Al-Qa'ida's underlying methodology post 11 September 2001:

The methodology of Al-Qaeda's core leadership has shifted since 11 September 2001....The UN Monitoring Team on Al-Qaeda and the Taliban noted in its sixth report to the Security Council on 8 March 2007 that the reliance on like-minded affiliates "is in line with the ambition of the core leadership to play a more direct role in determining strategy while encouraging local groups to do whatever they can as opportunity arises at tactical level".

11 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 1.

12 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 1.

- 2.22 Much of the literature attests to the fact that this dispersed or cell based structure significantly contributes to Al-Qa'ida's continued viability and strength as a terrorist organisation capable of attacking democratic states.

[Al-Qa'ida's] decentralised command and control structure, coupled with the dispersal of Al-Qaeda militants worldwide, makes tracking the group more complex than before the destruction of its Afghan bases.¹³

- 2.23 These links to affiliated terrorist organisations are also reinforced by Al-Qa'ida's propaganda statements:

...the main way the [Al-Qaeda] leadership imposes some control and uniformity of purpose is through its broadcasts and web postings. These have attained increasing sophistication and follow a clear pattern, promoting recruitment, keeping local groups motivated and providing overall protection.¹⁴

- 2.24 Preventing funding from reaching Al-Qa'ida remains a concern even though it has been reported that Al-Qa'ida's pre-September 11 financial structure was depleted. Authorities are aware funding is obtained through front charities from a wide range of individuals across the global Islamic community. Through its cause celebre it appears that Al-Qa'ida continues to attract funding from wealthy supporters from across the Middle East and Gulf States. Criminal enterprise is also used to generate funds, whilst new methods of funding are constantly evolving through alternative, sometimes traditionally based banking systems.

Links to Australia

- 2.25 The statement of reasons indicates that Al-Qa'ida provides encouragement and inspiration to affiliated and aligned groups around the world. There is no information on any specific link to Australia.

Threat to Australian interests

- 2.26 The statement of reasons lists a reference to Australia made by Ayman Al-Zawahiri when citing attacks against the US and its allies.
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13 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, pp. 7-8.

14 Jane's Terrorism and Insurgency Centre, Al-Qaeda, 18 May 2007, <http://jtic.janes.com>, p. 8.

The Statement of reasons provides no further information in relation to this.

- 2.27 Al-Qa'ida promoted violence in a number of countries poses a threat to Australians abroad.
- 2.28 The assessed likelihood that Al-Qa'ida has shifted some of its focus from Iraq to Afghanistan make it likely that Australian troops in Afghanistan confront armed forces linked to Al-Qa'ida.

Proscription by the UN or like-minded countries

- 2.29 The statement of reasons states that Al-Qa'ida is listed by the United Nations on its 1267 Committee's consolidated list and is also listed by the governments of Canada, New Zealand, the United Kingdom, the United States and the European Union.

Engagement in peace/mediation processes

- 2.30 The statement of reasons provides no information on this matter.
- 2.31 There has been some open source material which has suggested that the Waziristan peace accords signed with militants in the FATA, under former Pakistan President Pervez Musharraf, have allowed Al-Qa'ida a safe haven in which to re-group and train new recruits. As a result Taliban attacks in Afghanistan have increased.¹⁵

Jemaah Islamiyah

- 2.32 Jemaah Islamiyah (JI) was originally specified as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 27 October 2002. A regulation was made re-listing the organisation as a terrorist organisation for the purposes of section 102.1 of the Criminal Code on 31 August 2004, commencing on 1 September 2004. A second re-listing was made on 24 August 2006 and tabled in the House of Representatives on 4 September 2006.
- 2.33 The Attorney-General's statement of reasons is as follows:
- Jemaah Islamiyah (JI) (Also known as: Jema'ah Islamiyah, Jemaah Islamiya, Jemaah Islamiyyah, Jemaah Islamiah, Jamaah Islamiyah, Jama'ah Islamiyah, Jeemah Islamiyah, Jemaa Islamiya, Jema'a Islamiya, Jemaa Islamiyah, Jema'a

15 Daveed Gartenstein-Ross and Kyle Dabruzzi, *Radical Evolution, 'Is Al-Qaeda's central leadership still relevant?', Middle East Quarterly, April 2008, pp. 32.*

Islamiyya, Jemaa Islamiyya, Jemaa Islamiyyah, Jema'ah Islamiyyah, Al-Jama'ah Al-Islamiyah)

The following information is based on publicly available details about Jemaah Islamiyah (JI). These details have been corroborated by material from intelligence investigations into the activities of JI. ASIO assesses the details set out below are accurate and reliable. JI is listed in the United Nation's 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of Canada, New Zealand, the UK and the US.

Current Status of Jemaah Islamiyah

JI is a clandestine organisation that subscribes to a salafist jihadist interpretation of Islam, closely associated with terrorist groups such as Al-Qa'ida (AQ). Salafi jihadis seek to revive a pure form of Islam, free of modernist influence, by targeting the enemies of Islam through violent local and international jihad.

The clandestine nature of JI is prompted by a need to conceal the illegal activities of its cadres from authorities, such as operational planning and periodic military instruction, as well as contribute to H's internal security and long-term survival.

Founded in Malaysia on 1 January 1993 by Indonesian Islamic clerics Abdullah Sungkar and Abu Bakar Ba'asyir, JI evolved from the long established Indonesian Islamic insurgent movement, Darul Islam (DI).

DI, founded in 1948, engaged in an armed rebellion to establish an Islamic state in Indonesia, until an amnesty was achieved in 1962. Past and present incarnations of DI continue to provide pools of recruits and support networks for JI activity.

With terrorist attacks and armed combat an important part of JI ideology the group has been responsible for pursuing local and global jihad. As well as contributing to the violence in conflict zones such as Maluku and Poso, JI has conducted numerous attacks targeting foreign interests. These include attacks against the Philippines' ambassador in Jakarta in 2000 and against sectarian targets across Indonesia during 2000/2001 Christmas and New Year period.

Jl's first successful anti-Western attack was the Bali bombings in October 2002, which killed 202 people, including 88 Australians. This was followed by the 2003 JW Marriot Hotel bombing and the 2004 bombing of the Australian Embassy in Jakarta. The 2005 Bali bombing, which killed four Australians, was Jl's most recent successful attack aimed specifically against Western interests. Regional authorities continue to conduct significant disruption operations against Jl.

These include Malaysia's arrest of Agus Idru and Abu Husna in January 2008, and Indonesia's succession of security force operations since August 2006. In particular, the arrests of members of Jl military leader Abu Dujana's network around Central Java, in March 2007, resulted in the discovery of significant amounts of explosive materiel, firearms, ammunition and pipe bombs. These investigations led to the eventual arrest of Jl emir Zarkasih and military commander Abu Dujana in June 2007. Nevertheless, Jl is likely to have other yet undiscovered caches of explosive materiel for future use.

While remnants of Jl regional links likely persist, disruption by regional authorities has resulted in Jl having to scale down its previous organisational structure from four *Mantiqi* territorial areas of responsibility, previously encompassing parts of South-East Asia and Australia, to essentially only *Mantiqi II* covering Indonesia. Jl has also adopted a centralised functional structure that covers religious outreach, education, logistics and military affairs.

However, the organisation is far from defunct and Jl remains resilient and committed to a long term strategy to establish an Islamic state. Jl continues to recruit covertly from its network of *pesantren* (Islamic boarding schools), religious study groups and personal contacts. Jl funds its activities through donations from its members, criminal activity and affiliated business activity.

Given Jl is intent on conducting armed jihad, weapons and training are critical. Jl sources weapons and explosive materiel through theft, the black market or corrupt security officials, which are concealed in numerous caches. Jl members continue to conduct limited training in Indonesia and the southern Philippines.

Jl remains an independent organisation making its own operational decisions. However, active networking by senior Jl hierarchy in the past has facilitated links to local and international extremist groups. Within Indonesia these groups include Majelis Mujahidin Indonesia (Indonesian Mujahidin Council - MMI), Mujahidin KOMPAK (Komite Aksi Penanggulangan Akibat Krisis, Crisis Management/Prevention Committee), the Islamic Defenders Front (Front Pembala Islam - FPI), and the Sulawesi based Laskar Jundullah. Jl shares a common ideology with AQ and many of these two organisations' members shared the experience of training or fighting in Pakistan and Afghanistan during the late 1980's and early 1990's. Within the South-East Asian region, Jl continues to maintain active links with sub groups of the Abu Sayyaf Group (ASG) - particularly through Jl operatives Dulmatin and Vmar Patek - and elements of the Moro Independence Liberation Force (MILF) who still provide refuge to Jl personnel despite ongoing peace negotiations with the Philippines Government.

Whilst Jl leaders appear tactically opposed to anti-Western attacks, at the present time, the organisation remains anti-Western in orientation, committed to violent jihad as a means of achieving its objectives and is willing to conduct attacks against local sectarian targets.

Objectives

The "General Guide for the Struggle of Al-Jama'ah Al-Islamiyah" (PUPJI), Jl's charter and operating manual, outlines the religious principles and administrative aspects underlining Jl's primary objective of establishing, through armed struggle, an Islamic state in Indonesia and a regional Islamic caliphate.

Leadership and membership

Jl has no publicly acknowledged leader, but has a well-ordered succession plan, especially in the case of the arrest of the incumbent Emir. Following the June 2007 arrests, investigations revealed that Zarkasih had assumed the role of emergency Jl Emir in 2004, following the arrest of Abu Rusdan, who had assumed the position following the arrest

of Abu Bakar Ba'asyir. Zarkasih was the JI emir until his arrest in 2007, since which time no new Emir has been publicly identified.

JI's membership is not publicly known and is estimated to be anywhere from less than one thousand to several thousand members, mostly concentrated in Java but also spread throughout Indonesia, and neighbouring countries.

Jemaah Islamiyah's engagement in terrorist activities

Since re-listing by Australia in August 2006, JI has not succeeded in conducting any anti-Western attacks in South-East Asia. However, within Indonesia, JI has engaged in sectarian terrorist activities such as assassinations and bombings, principally in Poso, Central Sulawesi until disrupted by Indonesian authorities in January 2007.

In March 2007, JI operatives, linked to JI's military commander Abu Dujana aka Ainul Bahri, were arrested in Central Java attempting to move weapons between secret caches. These arrests subsequently led to the discovery of significant amounts of explosive and chemical precursors concealed in a number of secret caches. Indonesian authorities were forced to move against the cell over concerns they were plotting to assassinate the rector of the Christian Satya Wacana University in Central Java.

While fugitive in the Philippines, JI operatives have taken the opportunity to facilitate attacks with local extremist groups against Philippine interests on the island of Mindanao. Multiple bombings with a JI signature were conducted on 10 October 2006 and 10 January 2007.

Despite the cumulative effects of disruption by regional authorities, the information and material seized during the arrests of JI leaders since 2006, demonstrates JI retains the capability and intent to use violence towards establishing an Islamic state in Indonesia.

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 JI is continuing to prepare, plan and foster the commission of acts involving threats to human life and serious damage to property. This assessment is corroborated by reliable and credible intelligence sources.

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

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

In view of the above information, JI is assessed to be preparing, planning, and fostering the conduct of terrorist acts. Such acts include actions which are to be done and threats of actions which are to be made with the intention of advancing a political, religious or ideological cause and with the intention of coercing, or influencing by intimidation of the Government and people of Indonesia which they consider apostate. 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.

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

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

Engagement in terrorism

- 2.35 The statement of reasons indicates that there have been no anti-Western attacks committed by JI in South-East Asia since the last re-

listing. However within Indonesia it is reported that JI has engaged in sectarian terrorist activities, such as assassinations and bombings, primarily in Poso, Central Sulawesi.

- 2.36 The statement of reasons also indicates that whilst fugitive in the Philippines, JI operatives took the opportunity to combine with local extremists with multiple bombings of Philippine targets on the island of Mindanao on 10 October 2006 and 10 January 2007.
- 2.37 The statement of reasons further indicates that due to disruption by local authorities in Indonesia and arrests of a number of key figures, JI's organisational structure has been depleted. At the present, JI appears to be tactically opposed to anti-Western attacks, although the organisation remains anti-Western in orientation and committed to violent jihad.
- 2.38 Jane's analysis corroborates this as does that of the International Crisis Group (ICG), stating that JI remains a threat to Western interests but at the moment is undergoing a consolidation and rebuilding phase.¹⁶ This phase is characterised by a split between a pro-bombing faction and the mainstream conservative faction.¹⁷ Jane's notes that the JI "mainstream" is oriented towards local targets such as police prosecutors, "apostate" officials and non-Muslims in conflict areas but that it is unlikely to attack unless there are clear organisational benefits.¹⁸
- 2.39 The ICG also comments that whilst:
- counter-terrorism capacity in Southeast Asia is improving, reducing the likelihood of a major attack on Western targets in the near term.... its members still constitute a potentially important recruitment pool for other terrorist groups [in the region].¹⁹
- 2.40 The Australian Strategic Policy Institute (ASPI) has also commented on the perceived threat. It notes that whilst there has been a
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16 Jane's Terrorism and Insurgency Centre, *Jemaah Islamiyah*, 19 February 2008, <http://jtic.janes.com>, p. 1 and International Crisis Group, *Indonesia: Jemaah Islamiyah's Current Status*, 3 May 2007, p. 1.

17 Jane's Terrorism and Insurgency Centre, *Jemaah Islamiyah*, 19 February 2008, <http://jtic.janes.com>, p. 1.

18 Jane's Terrorism and Insurgency Centre, *Jemaah Islamiyah*, 19 February 2008, <http://jtic.janes.com>, p. 1.

19 International Crisis Group, "*Briefing for the New President: The Terrorist Threat in Indonesia and Southeast Asia*" Sidney Jones in the *Annals of the American Academy of Political and Social Science*, 25 June 2008, p. 1.

‘concerted crackdown by regional police and intelligence forces’ JI remains a resilient organisation with a ‘hardcore membership of around 900 militants’.²⁰ There is also a ‘cadre of at least fifteen’ leaders, who remain at large and are led by Mohammad Noordin Top. This group is at the forefront of JI’s pro-bombing faction and orchestrated its anti-Western attacks in Jakarta and Bali in 2005.

- 2.41 The Committee notes that the concerted effort of Indonesian authorities, working with Australian and other agencies to address the threat from JI has met with some success.

Ideology and links to other terrorist groups/networks

Ideology

- 2.42 The statement of reasons states that the primary objective of JI is the establishment, through armed struggle, of an Islamic state in Indonesia and a regional Islamic caliphate.

- 2.43 ASPI asserts that:

JI’s immediate goal is the Islamisation of Indonesia, a vision that dates back to DI [Darul Islam] and its assertion that the only legitimate basis for the state was one that fully embodied the Muslim faith as its sole foundation. JI took this original conception and enshrined it as a fundamental component of a broader ideological vision that viewed *Daulah Islamiyah* as the necessary catalyst for the restoration of Islamic governance across Southeast Asia.²¹

- 2.44 As stated by ASPI this ideological view must be understood in the context of JI’s enduring intent to restore Islamic governance through force of arms:

An enduring theme highlighted throughout PUPJI [Pedoman Umum Perjuangan Al-Jama’ah or General Guide for the Struggle of JI] is the idea of acting as a distinctly ‘military outfit’.....the frequent use of the terms intelligence and recruitment (tajnid) and the detailed exposition of how to execute armed operations are prominent throughout the manifesto. Those elements together with an increasing

20 Australian Strategic Policy Institute, *Neighbourhood Watch, The evolving Terrorist Threat in Southeast Asia*, June 2008, p. 13.

21 Australian Strategic Policy Institute, *Neighbourhood Watch, The evolving Terrorist Threat in Southeast Asia*, June 2008, p. 10.

orientation towards martyrdom—which is vindicated as a force equaliser and the most visible means of establishing a true pioneering vanguard to champion the Islamic faith—are strong indicators that JI’s conception of jihad is one that is explicitly aimed at combat (qital), as opposed to diplomacy or dialogue.²²

Links to other terrorist groups/networks

2.45 The statement of reasons states that JI remains an independent organisation making its own operational decisions. Active networking by senior JI leaders in the past has facilitated links to local and international extremist groups, the names of which are detailed in the statement of reasons.

2.46 The ICG frames JI as part of a broader South Asia jihadi movement that is influenced by global Islamic extremist trends:

...jihadi ideology has taken root and has spread beyond the groups known to have used violence in the past. Some thirty JI-affiliated schools continue to educate the children and younger siblings of JI members and recruit new leaders for the organisation. Contacts with South Asia continue, particularly in Pakistan and Bangladesh...the Taliban resurgence on the Pakistan-Afghan border eventually could draw in Southeast Asians.

....Above all, it is important to underscore that the jihadi movement is dynamic, always adapting, and mutating....the greater danger may lie in groups or individuals....that may emerge and be able to draw on dissatisfied members of JI and other organisations.²³

2.47 In terms of funding, the ICG states that since 2003, when a cell in Karachi arranged a transfer through Al-Qa’ida contacts, there has been no significant external funding. In addition, there are many indicators that the organisation itself is strapped for funds with JI

22 Australian Strategic Policy Institute, *Neighbourhood Watch, The evolving Terrorist Threat in Southeast Asia*, June 2008, p. 11.

23 International Crisis Group, “*Briefing for the New President: The Terrorist Threat in Indonesia and Southeast Asia*” Sidney Jones in the *Annals of the American Academy of Political and Social Science*, 25 June 2008, pp. 1-2.

members in Poso robbing non-Muslims to support their jihad in 2005 and 2006.²⁴

- 2.48 However the ICG also reports that JI has developed a profitable publishing consortium in and around the pesantren (religious school) in Solo, Central Java. This consortium has developed into a key means of disseminating jihadi thought and also demonstrates the extent to which extremist ideology has developed roots in Indonesia.²⁵

Links to Australia

- 2.49 The statement of reasons states that disruption by regional authorities has resulted in JI having to scale down its previous organisational structure from four *Mantiqi* territorial areas of responsibility which originally encompassed parts of Australia, to having only *Mantiqi II* covering Indonesia.
- 2.50 No reference is made to any other links to Australia.

Threat to Australian interests

- 2.51 As stated in the previous report, the threat to Australians travelling in Indonesia is still present. Australia continues to issue travel warnings to Australians travelling to Indonesia.
- 2.52 The statement of reasons makes no specific mention of a threat to Australian interests.

Proscription by the UN or like-minded countries

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

Engagement in peace/mediation processes

- 2.54 The Statement of reasons contains no information on this.

24 International Crisis Group, "*Briefing for the New President: The Terrorist Threat in Indonesia and Southeast Asia*" Sidney Jones in the *Annals of the American Academy of Political and Social Science*, 25 June 2008, p. 3.

25 International Crisis Group, *Indonesia: Jemaah Islamiyah's Publishing Industry*, Asia Report No. 147, 28 February 2008, p. 1.

Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

2.55 AQIM, formerly known as the Salafist Group for Call and Combat (GSPC), was initially listed under the Criminal Code as a terrorist organisation, in 2002 following their listing by the United Nations Security Council. The Committee first considered the listing of the GSPC in 2004 after the Committee's role in the Criminal procedure had been established. The GSPC was re-listed on 5 November 2004 and again on 1 November 2006.

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

Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

Also known as: Tanzim al-Qa'ida fi bilad ai-Maghreb al-Islamiya; Al-Qa'ida Organisation in the Lands of the Islamic Maghreb; Al-Qa'ida in the Islamic Maghreb; the Salafist Group for Call and Combat (GSPC); Le Groupe Salafiste Pour La Predication et le Combat; Salafist Group for Preaching and Combat)

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

AQIM is listed on the United Nations 1267 Committee's consolidated list as an entity associated with Al-Qa'ida. AQIM has been listed as a terrorist organisation by the US, Canada and the UK still list the group as the Salafist Group for Call and Combat (GSPC).

Current status of Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM) is a Sunni Islamic extremist group formerly known as the Salafist Group for Call and Combat (GSPC).

- On 11 September 2006, Al-Qa'ida deputy, Ayman al-Zawahiri, announced the merger between the GSPC and Al-Qa'ida.
- On 14 September 2006, the GSPC emir, Abu Musab Abdul Wadud, released a statement to its official website and Jihadist forums, announcing the groups joining with Al-Qa'ida and pledging alliance with Usama bin Laden.

- On 26 January 2007, the GSPC Emir, Abdelmalik Droukdal, announced the group had changed its name to Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM).

AQIM, then the GSPC, formed in 1998 as a splinter group of the Algerian Armed Islamic Group (GIA) to protest against the indiscriminate killing of civilians carried out by the GIA. The GSPC renounced attacks against civilians but was nevertheless implicated in attacks resulting in civilian deaths.

The GSPC quickly became Algeria's largest and most dangerous terrorist group, and by 2000, the external networks of the GIA across Europe and North Africa had been taken over by the GSPC. In June 2004, the GSPC released statements claiming its jihad in Algeria was part of the international jihad led by Usama bin Laden, and declared war on all foreigners and foreign interests in Algeria.

The culmination of this increasingly pro-Al-Qa'ida stance was the group's merger with Al-Qa'ida, and its subsequent name change. This was articulated in the 2006 statement by the GSPC emir when he noted that the group had joined Al-Qa'ida. Although GSPC (now AQIM) has joined Al-Qa'ida, it is able to operate separately from the parent organisation. After the merger in 2006, AQIM has released several media statements specifically targeting Western interests, and the group conducted the first of several attacks against Western targets in Algeria in December 2006. AQIM's most significant attack on Western interests in Algeria was the 11 December 2007 suicide bombing attack on the UN Office in Algiers, which killed 17 people. This constituted the worst attack on the UN since the bombing of the UN Headquarters in Iraq in 2003.

In addition to Western interests, AQIM also targets Algerian military, police and government interests. Common tactics used by AQIM include kidnapping, ambush, attacks using false roadblocks, raids on military, police, and government convoys, armed assault, roadside bombs, and vehicle borne suicide bombings. As a method of attack, suicide bombings have only been used by AQIM since the merger and subsequent name change in 2007.

AQIM has also planned and conducted attacks on foreign interests outside Algeria, most recently including an attack on French tourists in Mauritania, and an attack on the

Israeli embassy in Nouackchott, Mauritania. AQIM cells, members of the group, and persons otherwise linked to the group, have been disrupted or arrested in Europe, Canada, the UK, and the US, and have been linked to attacks on the G8 summit in Genoa in 2001, and a plan to produce and use ricin gas in an attack in London 2005.

AQIM continues to recruit new members, and undertakes training of individuals from nearby African nations with a view to returning them to their home countries to carry out attacks. AQIM support cells have been discovered and dismantled in Spain, Italy, Morocco, Mauritania, and Mali, and it maintained training camps in northern Mali.

AQIM's primary source of funding comes from its involvement in criminal activity. It engages in kidnapping for ransom; muggings; narcotics trafficking in Southern Algeria/Northern Mali; smuggling; protection rackets; and money laundering. AQIM receives financial support from Al-Qa'ida. Individual cells in Europe also provided support through small scale funding.

In February 2005, AQIM (then GSPC) leader Abdelmalik Droukhal first stated the group's absolute rejection of an offer of amnesty under the Algerian Charter for Peace and National Reconciliation - a government initiative designed to end the insurgency. The provisions of the Amnesty expired on 31 August 2007 and AQIM continues to reject any offer of reconciliation. In September 2007, AQIM made statements calling on Algerians to boycott local elections.

Objectives

AQIM is a Sunni Islamic extremist group whose stated goal is to overthrow the Algerian Government and replace it with an Islamic government, which would rule Algeria under Sharia law. Since its merger with Al-Qa'ida, AQIM has also adopted the global jihad ideology and has called for the freeing of the Maghreb from Spanish and French influence, and for the regaining of the lost Islamic regions of southern Spain, known as Al andalus.

AQIM has also stated its support for the Palestinians, and called on Muslims across North Africa to target Jewish and Christian interests to pressure the Algerian government to break its ties with Israel.

Leadership and membership

AQIM is currently led by Abdelmalek Droukdal (aka Abu Musab Abdel Wadoud). Other central figures of the group include Salah Gasmi, the head of the AQIM's Media Committee; Yahia Djouadi (aka Abou Amar), the commander of AQIM's Southern Zone; and regional smuggler and arms trafficker, and senior AQIM member, Mokhtar Belmokhtar.

Membership of AQIM is difficult to estimate. It has been reported to be as high as 5000 and as low as 500 members. Recent media reporting indicates there are at least 400 AQIM members in the forests and mountain regions of the Boumerdes Province, Algeria. The UN states membership of the group to be approximately 700 across Algeria and northern Mali.

AQIM engagement in terrorist activities

AQIM issues a regular publication called the "Series of the Swords' Shadows". In this publication, the group claims responsibility for attacks it has committed. In June 2007, the group released a statement claiming responsibility for 18 separate attacks. Attacks for which responsibility or involvement has been claimed by or, reliably attributed to AQIM have included:

- 10 December 06 - a roadside bomb attack which killed one Algerian and injured four Britons, an American, and a Canadian;
- 03 March 07 - a roadside bomb attack targeting Russian gas workers, south-west of Algiers which killed three Algerians and one Russian;
- 11 April 07 - two suicide car bomb attacks targeted the Algerian Prime Minister's office, and a police station, which killed 33 people and injured over 200;
- 26 August 07 - a roadside bomb attack targeting an Algerian police patrol on the outskirts of Algiers, which injured two police officers and three civilians;
- 29 August 07 - a bomb placed between two railway tracks, targeting a freight train near Algiers which caused it to derail, and injured three people;
- 06 September 07 - a suicide bomber killed 11 people shortly before a scheduled visit by the Algerian President in the town of Batna, Algeria;

- 08 September 2007 - a suicide truck bomb attack on a naval military barracks in the port of Dellys which killed over 30 people;
- 11 September 07 - an explosive device was fired at an apartment complex in Batna, Algeria, which injured two children;
- 13 September 07 - authorities defused a bomb intended to explode in a crowd celebrating the first day of Ramadan in Chemora;
- 14 September 07 - three people were killed and five wounded when a bomb exploded outside a police building east of Algiers;
- 21 September 2007 - a suicide car bomb attack targeted a bus carrying foreigners east of Algiers, injuring nine;
- 24 September 07 - an ambush near Stah, Algeria which killed three municipal guards in Stah;
- 25 September 07 - a roadside bomb in Les Issers, killed two police officers;
- 27 September 07 - a bomb attack in Sidi Ali Bounab, in Boumedes Province, killed two soldiers;
- 09 October 07 - two roadside bombs targeting an army convoy in Boumerdes, Algeria, killed three military personnel;
- 08 November 07 - an RPG attack on an aircraft, at Djanet airport in southern Algeria;
- 10 December 07 - a bomb attack targeted Russian gas workers near Algiers, no injuries were recorded;
- 11 December 2007 - two suicide attacks targeting Algerian and UN establishments in Algiers which killed at least 60 people;
- 24 December 2007 - an attack on French tourists in Mauritania, which killed four and wounded five;
- 03 January 08 - a suicide truck bomb attack in Naciria, Algeria, killed four people and injured 20;
- 01 February 2008 - a firearm and grenade attack on the Israeli Embassy in Nouakchott, Mauritania, injuring at least three people;
- 22 February 2008 - two Austrian tourists were kidnapped in Tunisia.

Conclusion

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

(a) 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 Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM) is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted that the acts attributable to Al-Qa'ida in the Lands of the Islamic Maghreb are terrorist acts as they:

(i) are done with the intention of advancing a political cause, namely, the removal of the current regime and the installation of an Islamic regime in Algeria.

(ii) are intended to coerce or influence by intimidation the government of a foreign country, namely Algeria, and/or intimidate a section of the Algerian 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.

Engagement in terrorism

2.57 Jane's states that:

AQIM continues to pose a threat to the lives of security and regime personnel in spite of the government's ongoing counter-terrorism campaign against it. The combination of its enhanced profile through association with Al-Qaeda and the GSPC's well established infrastructure and training apparatus looks set to transform AQIM into a significant international threat.²⁶

2.58 The statement of reasons' comprehensive list of terrorist attacks provides substantial evidence of recent engagement in terrorist

26 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 1.

activity by AQIM. These attacks are independently verified by Jane's.²⁷

Ideology and links to other terrorist groups/networks

Ideology

2.59 The GSPC was founded in 1998 and was re-named AQIM in January 2007. Its immediate objectives are:

... to overthrow the Algerian regime and to replace it with an Islamic state under *sharia* (Islamic law). It seeks to achieve this by attacking regime targets including the military, police and security services.²⁸

2.60 The statement of reasons also conclude that:

... since its merger with Al-Qa'ida, AQIM has also adopted the global jihad ideology.

Links to other terrorist groups/networks

2.61 In relation to its name change Jane's says of AQIM that;

The name change is indicative of the group's desire to transform itself into an Al-Qaeda regional affiliate, expand its aims beyond Algeria to create a regional caliphate and adopt a pan-islamic, as opposed to nationalistic, jihadist ideology.²⁹

2.62 The above statement shows that AQIM is concerned with forging links with other terrorist organisations.

2.63 Jane's states that AQIM has an alliance with Al-Qa'ida and, suggest that, due to funding needs, groups such as the Libyan Islamic Fighting Group (LIFG) and the Moroccan Islamic Combat Group (GICM) would have little choice but to align with AQIM if their supporters in Europe decide to do so.³⁰

2.64 ASIO also gave evidence to the Committee on the significance of the name change:

27 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 7-9.

28 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 1.

29 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 1.

30 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 5.

It is just simply that they have aligned themselves with the broader strategic agenda that Al-Qa'ida is pushing out of Afghanistan. The benefits for them: there is potential money that may move in their direction. That is not to suggest that they are hierarchical, that they will only move with the direction of Al-Qa'ida out of Afghanistan and Pakistan. The reality is that AQIM has freedom of manoeuvre.....we simply indicate that they are moving in support of this wider objective. That provides them with the benefits of recruitment, access to training, weapons expertise, trust...³¹

Links to Australia and threats to Australian interests

- 2.65 The statement of reasons lists no links to Australia and no specific threats to Australian interests.

Proscription by the UN or like-minded countries

- 2.66 The GSPC³² has been on the US list of designated foreign terrorist organisations (FTO) since March 2002 and on the UK list of Proscribed Terrorist Groups since February 2001.³³
- 2.67 AQIM is listed on the United Nations 1267 Committee's consolidated list as an entity associated with Al-Qa'ida.

Engagement in peace/mediation processes

- 2.68 The statement of reasons lists no engagement in any peace/processes by AQIM.
- 2.69 The GSPC officially rejected the Charter for Peace and National Reconciliation which was an Algerian government initiative offering amnesty for all persons convicted of insurgency related crimes.

Conclusion

- 2.70 The Committee is satisfied that the three organisations continue to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

31 Classified transcript, private hearing 4 September 2008, p. 11.

32 The terms GSPC and AQIM are used interchangeably throughout the report.

33 Jane's Terrorism and Insurgency Centre, AQIM, 3 January 2008, <http://jtic.janes.com>, p. 1.

Recommendation 1

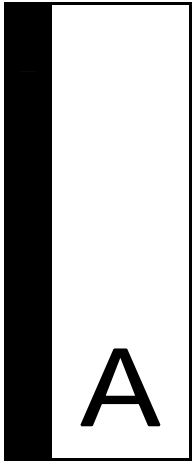
The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the three organisations:

- Al-Qa'ida
- Jemaah Islamiyah (JI)
- Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM)

as terrorist organisations

Hon Arch Bevis, MP

Chairman



Appendix A – List of Submissions

1. The Hon Robert McClelland MP, Attorney-General
2. The Hon Robert McClelland MP, Attorney-General



Appendix B – Witnesses appearing at private hearing

Canberra

Thursday, 4 September 2008

Attorney-General's Department

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

Australian Security Intelligence Organisation

Mr Paul O'Sullivan – Director-General

Assistant Director-General, National Threat Assessment Centre

