

The Listing

The criteria for listing an organisation

- 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, planing, 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).¹
- 2.2 In previous reports, the Committee has commented on the breadth of this definition.² The definition does not explain why certain organisations who engage in, prepare, plan, assist in or foster the doing of a terrorist act have not been proscribed under the Criminal Code, whereas other have.
- 2.3 In order to understand the process of selecting organisations for listing, the Committee sought guidance from ASIO. At the hearing on 1 February 2005 for the *Review of the listing of six terrorist organisations*, the Director-General of ASIO advised the Committee of ASIO's evaluation process in selecting entities for proscription under the Criminal Code. Factors included:

¹ Paragraphs 102.1(2) (a) and (b) of the Criminal Code.

² See: Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of the Palestinian Islamic Jihad*, June 2004, p. 18 and Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of six terrorist organisations*, March 2005, Chapter 2.

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- engagement in terrorism;
 - ideology and links to other terrorist groups/networks;
 - links to Australia;
 - threat to Australian interests;
 - proscription by the UN or like-minded countries; and
 - engagement in peace/mediation processes.³
- 2.4 The Committee accepted these criteria as useful and has used them as the basis of its reviews over the last three years. However, matching information within the statements of reasons with the criteria has proved to be elusive. Therefore, the Committee has asked the Attorney-General to use the criteria as the basis of statements of reasons. This has not yet occurred.

The re-listing of Ansar al-Sunna (previously Ansar al-Islam)

- 2.5 The Attorney-General informed the Committee of the proposed listing by letter dated 2 March 2007 with an attached statement of reasons. On 26 March 2007, the Attorney-General issued a media release announcing the decision to re-list Ansar al-Sunna. The media release provided some comments about the organisation but did not attach, as was formerly the practice, the statement of reasons.⁴
- 2.6 The Attorney-General's statement of reasons is attached at Appendix B.
- 2.7 On the basis of the statement of reasons and other open sources, Ansar al-Sunna has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.8 All sources state that Ansar al-Sunna proclaims itself as a significant part of the insurgency in Iraq. It is estimated to be between 500 and 1000 strong, although precise numbers are unknown. Despite its origins in the organisations known as Jund al-Islam and Ansar al-

3 Confidential exhibit, ASIO, tabled 1 February 2005.

4 The practice appears to have ceased with the re-listing of TQJBR in February 2007.

Islam, both the US State Department and Janes' list Ansar al-Sunna's beginning as an internet proclamation in September 2003, 'calling for all extremists in Iraq to unite under the new name.'⁵ The statement of reasons states that the organisation, which had been scattered from its bases in northern Iraq during the invasion of March 2003, regrouped and 'returned to Iraq, where they sought, in cooperation with other foreign and Iraqi militants, to create an umbrella organisation for Sunni jihadi resistance to the Coalition presence in Iraq.'⁶

- 2.9 Since its formation, it has taken responsibility for a large number of serious attacks within Iraq, not only against Coalition forces, but also against local authorities, both military and political, and local citizens. The statement of reasons lists nine attacks in the period under review, since May 2005. The deaths of 134 people are detailed in these attacks; however, the statement also says that unspecified numbers of people were killed in some of the attacks.⁷

Ideology and links to other terrorist groups/networks

Ideology

- 2.10 Ansar al-Sunna's objectives are to overthrow the Iraqi Government, expel coalition forces from the country and establish an Islamic state under Sharia law.⁸ Insofar as it employs violence in pursuit of these objectives, it fits the definition of a terrorist organisation.
- 2.11 However, the Committee wishes to reiterate its concerns with this category of the criteria, which appears to confuse political ideology with methods of operation.⁹ Ideology *per se* has not been addressed in the statement of reasons, nor has the relation between ideology and terrorist acts been spelt out.

5 US State Department, Annual Country Reports on Terrorism, 2005.

6 See the statement of reasons, Submission 1 in Appendix B.

7 See the statement of reasons, Submission 1 in Appendix B.

8 See the statement of reasons, Submission 1 in Appendix B.

9 This was raised in the Committee's last report, *Review of the re-listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (TQJBR)*, May 2007, p. 17. The Committee will consider the question of the suitability of ASIO's criteria in its broader review of the proscription power currently being undertaken.

Links to other terrorist groups

2.12 Ansar al-Sunna is linked to al-Qa'ida in Iraq and to al-Qa'ida itself. The US State Department says that some of the members of al-Sunna 'were trained in al-Qa'ida camps in Afghanistan'¹⁰. Janes' says that 'most of the group's members have fought in Afghanistan [and] some are also believed to have fought in Chechnya.'¹¹ It is closely associated with the al-Zarqawi network, or al-Qa'ida in Iraq.

2.13 Janes' concludes that:

As the insurgency in Iraq developed momentum over the course of 2004, the name Ansar al-Islam remained closely associated with the terrorism plaguing the country. There were even reports suggesting that Ansar al-Islam was extending its reach into Europe as well as throughout Iraq.

It is unlikely that an essentially parochial group of Kurdish mountain guerrillas represented a significant threat to Europe or had the ability to operate effectively outside Iraqi Kurdistan. It is more likely that, through their Arab/ Afghan connections, the most ardent Ansar al-Islam fanatics were incorporated into the ranks of the jihadist volunteers that have moved into Iraq in the wake of the invasion.¹²

Links to Australia

2.14 The statement of reasons gives no information about links to Australia for this organisation.

Threat to Australian interests

2.15 The statement of reasons gives no information about threats to Australian interests. The Committee notes, however, that Australian troops operate in Iraq.

Proscription by the UN or like-minded countries

2.16 Ansar al-Sunna is listed as Ansar al-Islam in the United Nations 1267 Committee's consolidated list. In addition, Canada, the United

10 US State Department, Annual Country Reports on Terrorism, 2005.

11 <http://jtic.janes.com>, *Ansar al-Islam*

12 <http://jtic.janes.com>, *Ansar al-Islam*, p. 4.

States and the United Kingdom also list Ansar al-Islam. The United Kingdom also separately lists Ansar al-Sunna.

Engagement in peace/mediation processes

- 2.17 There was no evidence from any source of the involvement of this organisation in a peace process, although the statement of reasons is silent on the matter.

Jaish-e-Mohammad (JeM)

- 2.18 The Attorney-General informed the Committee of the proposed re-listing by letter dated 15 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Jaish-e-Mohammad (JeM) and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listings, the statements of reasons, were not linked to the media release.
- 2.19 The Attorney-General's statement of reasons is attached at Appendix C.
- 2.20 On the basis of the statement of reasons and other open sources, Jaish-e-Mohammad (JeM) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.21 JeM is a Pakistani based organisation, established in 2000.¹³ It provides religious and military training and conducts operations in the disputed territories on Indian Administered Kashmir (IAK). It is described by all sources as active, well resourced, well trained and motivated. It is said by Janes' to pose a major terrorist threat to India and Pakistan and to Western targets in both these countries.' The US State Department says it has 'tens of thousands of followers ... [and] 'at least several hundred armed supporters.'¹⁴ Most of its

13 The announcement of its establishment was made in January 2000, although Janes' notes that 'the date of its founding is usually given as December 1999 following the release of its founder from prison in India.' <http://jtic.janes.com>, *Jaish-e-Mohammad*.

14 US State Department, Annual Country Reports on Terrorism, 2005.

membership comes from Pakistan and Kashmir; however it attracts Arabs, Afghans, veterans from the Afghan war, as well as other jihadists who come to train. The statement of reasons notes that:

Reporting also indicates that JeM may be helping to facilitate the activities of international jihadists intending to conduct terrorist operations outside Kashmir or India, including the United Kingdom. The British National, Rashid Rauf, arrested in Pakistan as one of the main coordinating figures allegedly responsible for the disputed British trans-Atlantic planes bombing plot in August 2006, is strongly suspected of having links with JeM.

Investigators have also uncovered possible connections between JeM and the British-born suicide bombers responsible for the London subway attacks.¹⁵

- 2.22 Seven attacks are listed for the period since the last review. Most of these attacks were directed at officials, particularly police, but included the deaths of civilians as well. In the past, the organisation is accused of the attempted assassination of the President of Pakistan, General Musharraf (twice in December 2003), an attack on the Indian Parliament (2001) and an attack on the legislative assembly of Jammu and Kashmir (2001).¹⁶

Ideology and links to other terrorist groups/networks

Ideology

- 2.23 The objective of JeM is to reunite the IAK with Pakistan.¹⁷ This objective is combined with a domestic agenda of establishing an Islamic state in Pakistan and opposition to the presence of Shias, Christians, Hindus and Jews in Pakistan.¹⁸ Its violence in support of these aims is what designates it as a terrorist organisation under the Criminal Code.

15 See the statement of reasons Appendix C.

16 US State Department, Annual Country Reports on Terrorism, 2005

17 This is a long-running dispute dating from Indian independence in 1948. It is notable that many of the organisations designated as terrorist organisations emerge out of long-running, intractable and unresolved territorial or political disputes. In the case of JeM, India has accused Pakistan's ISI of encouraging the development of this and other organisations related to this dispute.

18 <http://jtic.janes.com>, *Jaish-e-Mohammad*.

Links to other terrorist groups

- 2.24 JeM is one of a number of organisations that have grown up around the conflict over Jammu/Kashmir. Not all of these organisations are allies, many resulting from disputes and the subsequent splintering of groups as they come under pressure. Such groups include: Khuddam ul-Islam(KuL), Jamaat ul-Furqan (JuF). The statement of reasons asserts that 'despite these factions, the group is commonly regarded as a single entity and referred to as JeM.'¹⁹
- 2.25 However, more significantly, Janes' says that JeM has allied itself to Lashkar e-Taibyya (LeT) and Lashkar e-Jhangvi (LeJ) and that these organisations form the United Jihad Council.²⁰ The US State Department claims that JeM shares its cadre with Harakat ul-Mujahedin (HuM) and Harakat ul-Jihad-i-Islami (HuJI) and has close ties to Afghan Arabs, the Taliban and to LeT, LeJ and Sipahi-e-Sahaba Pakistan (SSP).
- 2.26 The State Department claims that 'there are suspicions that Osama Bin Laden has provided funds to JeM'.²¹ The statement of reasons goes further and states that 'JeM is closely associated with Al Qa'ida and reports suggest that Azhar (the JeM leader) may have assisted Al Qa'ida fight US forces in Somalia and helped to establish Al Qa'ida training camps in Yemen.'²² Janes' is more circumspect and notes that 'from open source material, it is impossible to assess the validity of [statements about the close links of JeM to the Taliban and Al Qa'ida.]'²³

Links to Australia

- 2.27 No information is provided on links between JeM and Australia.

Threat to Australian interests

- 2.28 No information is provided about threats to Australian interests.

19 See the statement of reasons, Appendix C.

20 <http://jtic.janes.com>, *Jaish-e-Mohammad*. In addition to JeJ and LeT, the Council also includes HuM, Hizb-ul-Mujahideen (HM) and Al Badar.

21 US State Department, Annual Country Reports on Terrorism, 2005.

22 See the statement of reasons, Appendix C.

23 <http://jtic.janes.com>, *Jaish-e-Mohammad*.

Proscription by the UN or like-minded countries

- 2.29 JeM is listed in the UN 1267 Committee's consolidated list and by the governments of Canada, the United Kingdom, the United States, Pakistan and India.

Engagement in peace/mediation processes

- 2.30 No information is provided about whether JeM has been involved in any peace or mediation process.

Lashkar-e-Jhangvi (LeJ)

- 2.31 The Attorney-General informed the Committee of the proposed re-listing by letter dated 15 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Lashkar-e-Jhangvi (LeJ) and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listing, the statements of reasons, were not linked to the media release.
- 2.32 The Attorney-General's statement of reasons is attached at Appendix D.
- 2.33 On the basis of the statement of reasons and other open sources, Lashkar-e-Jhangvi (LeJ) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.34 The statement of reasons says that the LeJ is estimated to have about 300 active members. The US State Department says 'probably fewer than 100'.²⁴ Since the last review of this organisation, the statement of reasons lists four attacks, all against Shiite religious leaders or places of worship.
- 2.35 The details of these attacks are in the statement of reasons at Appendix D.

24 US State Department, Annual Country Reports on Terrorism, 2005.

Ideology and links to other terrorist groups/networks

Ideology

2.36 The statement of reasons states that the objective of LeJ is 'the establishment of an Islamic state in Pakistan'. However, the evidence provided from all sources points to an organisation that emerged from sectarian disputes between Sunnis and Shias in the 1980s and these disputes appear still to be an influence on the aims and activities of the organisation. The support base of LeJ is religious and sectarian. The religious divisions are complicated by economic and social differences in Pakistani society between Sunnis and Shia, which in turn have been exacerbated by external interventions. This history is detailed in the Committee's last review of this organisation in August 2005. It is broadly repeated here as it appears to continue to drive the nature of the terrorist attacks committed by the group.

2.37 After the Iranian revolution in 1979, bitter sectarian division increased in Pakistan between the majority, but economically poorer, Sunnis and the minority, but wealthy, landowning class of Shias. With the Russian invasion of Afghanistan, the rise of the Shia organisation, Hizbullah, in Lebanon and rumours of Iranian funding for radical Shia mosques throughout the region, the Sunnis in Pakistan and elsewhere were alarmed. This fear and resentment was further fuelled by Saudi and US intervention:

The government of Saudi Arabia, encouraged by the United States, undertook a programme to counter the Iranian initiative. Saudi money (from government and charitable foundations) was poured into Sunni mosques and religious institutions across the Middle East and Asia. This promoted radical strands of Sunni Islam and Deobandism, at the expense of the often much more tolerant local traditions, which in southeast Asia and Kashmir had been influenced by Sufism or Hindu and Buddhist traditions.²⁵

2.38 The rise of organisations such as the SSP and, in the 1990s, the LeJ, and other Sunni militant parties was encouraged. Sectarian violence, directed at first at Iranian diplomats and then at the

25 <http://jtic.janes.com>, *Lashkar-e-Jhangvi*.

Pakistani Shia community, spread. By 1998, it was, according to Janes', spiralling out of control.²⁶

- 2.39 It would appear that since 2001, when the organisation was banned by President Musharraf and members sought refuge in Afghanistan, LeJ has become more integrated to the broader jihadist struggle. The agenda of the organisation has broadened to include hostility towards all Westerners and non-believers. Attacks have occurred on Christians (in 2001) and on French technical workers (in 2002), on the US Consulate (in 2002) and, allegedly, Daniel Pearl, (in 2002). Nevertheless, all the attacks listed by the statement of reasons, the most recent activities of LeJ, have involved attacks on Shias.

Links to other terrorist groups

- 2.40 Lashkar-e-Jhangvi (LeJ) is a splinter group which broke away from the Sipah-e-Sahaba (SSP) in the mid 1990s. It is now part of the web of Pakistani based extremist groups as detailed in the previous assessment of JeM.²⁷ Janes' says that, in 2002, the list of suspects in the attacks on Western targets suggests contact between LeJ and Al Qa'ida.

Links to Australia

- 2.41 No information was provided on this matter.

Threat to Australian interests

- 2.42 No information was provided on this matter.

Proscription by the UN or like-minded countries

- 2.43 LeJ is listed in the UN 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of the United Kingdom, the United States, Canada and Pakistan.

Engagement in peace/mediation processes

- 2.44 No information was provided on this in the statement of reasons.

26 <http://jtic.janes.com>, *Lashkar-e-Jhangvi*.

27 Note in particular paragraphs 2.24-2.26 above.

Egyptian Islamic Jihad (EIJ)

- 2.45 The Attorney-General informed the Committee of the proposed re-listing by letter dated 22 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Egyptian Islamic Jihad (EIJ) and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listing, the statements of reasons, were not linked to the media release.
- 2.46 The Attorney-General's statement of reasons is attached at Appendix D.
- 2.47 On the basis of the statement of reasons and other open sources, Egyptian Islamic Jihad (EIJ) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.48 The statement of reasons for the EIJ provides no evidence of contemporary terrorist activity for this organisation. The last cited incident is 1995, a truck bomb attack against the Egyptian embassy in Pakistan.²⁸ The statement explains that the 'domestic faction is mostly inactive due to successful, sustained actions by Egyptian authorities' and 'the international faction, led by al-Qa'ida deputy, Ayman al-Zawahiri, is largely subsumed within al-Qa'ida. ... Terrorist activities by the international faction are likely credited to al-Qa'ida rather than the EIJ.'²⁹ The statement also notes that both the domestic leader and the spiritual leader are in prison. The US State Department says that the EIJ merged with al-Qa'ida in 2001. It also notes no activities in Egypt after 1993 and no international acts after the disrupted attack in 1998. Given these arguments and al-Zawahiri's position, it would appear that the EIJ has in fact given way to al-Qa'ida and its separate existence must be questionable.
- 2.49 However, Janes' sees the EIJ as the 'backbone of al-Qa'ida'. It says that the group has been scattered, both forced out of Afghanistan after US attacks in November 2001, and operating in places as geographically dispersed as: Albania, Azerbaijan, Bulgaria, the

28 See statement of reasons, Appendix E. The list of terrorist activities does include a disrupted attack in 1998 in Albania.

29 See statement of reasons, Appendix E.

United Arab Emirates, Kashmir, Chechnya, the Philippines, Indonesia, Somalia and with networks in the United Kingdom, Yemen, Lebanon and the Sudan. Jane's argues that:

Although the group's base and communications have been greatly disrupted, the EIJ's leader remains a potent symbol of resistance to thousands of sympathisers across the world. The group's ability to act as a whole has been compromised by the US led War on Terrorism, but it is believed to have despatched numerous cells, many of which are believed to remain at large, that are fully self sufficient and capable of future terrorist activities.

[Within Egypt] the roots of Islamist opposition remain, and it is likely that these extremists will restart their campaign against the Egyptian government as and when the opportunity arises. Escalating popular opposition to the government's pro-Western alliance has been of particular concern since the invasion of Iraq in early 2003, despite Mubarak's avowed opposition to this US policy.³⁰

- 2.50 Jane's lists a number of activities since 1995 which have tentative connections with the EIJ. These include attacks in Nairobi and Dar es Salaam in 1998, in Kushh in 2000, the USS Cole in 2000 and a shooting in Los Angeles airport in 2002. In 2004 it says that 15 men were charged in Egypt with membership of the EIJ.³¹
- 2.51 The statement of reasons estimates EIJ's strength at several hundred with several thousand supporters. The US State Department says that the strength of the organisation is 'unknown, but probably has several hundred hard-core members inside and outside Egypt.'³² Jane's says that its strength is unknown but notes that, when it was in Afghanistan, it was believed to have numbered 200 loyalists.'³³

Ideology and links to other terrorist groups/networks

Ideology

- 2.52 From the beginning, the purpose of the EIJ was the overthrow of the secular government in Egypt. With its merging with al-Qa'ida, the

30 <http://jtic.janes.com>, *El-Gihad*.

31 <http://jtic.janes.com>, *El-Gihad*.

32 US State Department, Annual Country Reports on Terrorism, 2005.

33 <http://jtic.janes.com>, *El-Gihad*.

EIJ agenda has assumed the objectives of al-Qa'ida: the establishment of a Caliphate.

Links to other terrorist groups

- 2.53 Apart from its connections with al-Qa'ida, the statement of reasons provides no information about EIJ linkages to other terrorist organisations.
- 2.54 Janes' describes possible linkages, asserted by the Egyptian government, with the Iranian Revolutionary Guards Corps (IRGC) largely through Sudan.³⁴ In addition, because of the close/integral relationship with al-Qa'ida, the EIJ then is part of the al-Qa'ida network involving the Islamic Group, the Abu Sayyaf Group (ASG), the Armed Islamic Group (GIA), the Salafist Group for Call and Combat (GSPC), Harakat-ul-Mujahideen (HuM), Islamic Movement of Uzbekistan (IMU), Islamic Union, Islamic Army of Aden (IAA), Uighur Separatists, Chechen Guerillas, Hamas and the Palestinian Islamic Jihad (PIJ). In addition, despite EIJ's radical Sunni philosophy, Janes' says that Ayman al-Zawahiri is believed to have links with the international wing of Hizballah.³⁵

Links to Australia

- 2.55 The statement of reasons provides no information about links to Australia.

Threat to Australian interests

- 2.56 The statement of reasons argues that the threat to Australian interests is contained in a video statement by Ayman al-Zawahiri on 27 July 2006 calling on Muslims to target the interests 'of all countries' who participated in the 'assault against the Muslims' in countries including Afghanistan and Iraq, a reference taken to include Australia.³⁶

34 <http://jtic.janes.com>, *El-Gihad*.

35 <http://jtic.janes.com>, *El-Gihad*.

36 See statement of reasons, Appendix E.

Proscription by the UN or like-minded countries

- 2.57 The EIJ is listed by the United Nations 1267 Committee's consolidated list, by the governments of Canada, the United Kingdom and the United States.

Engagement in peace/mediation processes

- 2.58 No information is provided on this matter.

Islamic Army of Aden (IAA)

- 2.59 The Attorney-General informed the Committee of the proposed re-listing by letter dated 22 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Islamic Army of Aden (IAA) and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listing, the statements of reasons, were not linked to the media release.
- 2.60 The Attorney-General's statement of reasons is attached at Appendix F.
- 2.61 On the basis of the statement of reasons and other open sources, the Islamic Army of Aden (IAA) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.62 The only 'new' 'terrorist activity' attributed to this group since it was last reviewed is the following dot point:
- Mar/ Apr 2006: The arrest of IAA members suspected of planning to travel to Iraq to fight foreign forces.'
- 2.63 The statement of reasons states that the strength of the IAA is 'unknown, but likely to be between 30 and 100'.³⁷ Janes' describes the membership of the organisation as 'small and says that it has 'limited organisational and operational capacities' and therefore its

37 See statement of reasons, Appendix F.

'firm rhetoric has not been translated into a corresponding level of action.'³⁸

Ideology and links to other terrorist groups/networks

Ideology

- 2.64 Like the EIJ, the IAA has sought the overthrow of the national government and the establishment of an Islamic state, and, like the EIJ, has widened its aims to support al-Qa'ida's goals for global jihad. Janes' suggests further aims of 'the removal of Westerners, particularly Americans and British citizens from the Middle East and the release of prisoners from Yemeni jails and avenging the death of Abu Hassan, the group's former leader.'³⁹ In the past the IAA has used kidnapping and bombing in pursuit of its aims.
- 2.65 Its leaders have been arrested, although the leader arrested in 2003, Khalid Abd al-Nabi, cooperated with authorities and was given a presidential pardon.⁴⁰

Links to other terrorist groups

- 2.66 The statement of reasons says that IAA is associated with al-Qa'ida and has made public statements in support of Osama Bin Laden. It is also claimed that the IAA 'may have received some funding through al-Qa'ida.

Links to Australia

- 2.67 No information has been given on this matter.

Threat to Australian interests

- 2.68 No information has been given on this matter.

Proscription by the UN or like-minded countries

- 2.69 The Islamic Army of Aden (IAA) is listed in the United Nations 1267 Committee's consolidated list and as a proscribed terrorist

38 <http://jtic.janes.com>, *Aden-Abyan Islamic Army (AAIA)*.

39 <http://jtic.janes.com>, *Aden-Abyan Islamic Army (AAIA)*.

40 <http://jtic.janes.com>, *Aden-Abyan Islamic Army (AAIA)*.

organisation by the governments of the United Kingdom and Canada. The United States has designated the IAA as a terrorist organisation on the Terrorist Exclusion List

Engagement in peace/mediation processes

- 2.70 Apart from the pardon given to the leader arrested in 2003, there is no information on this matter.

Asbat al-Ansar (AAA)

- 2.71 The Attorney-General informed the Committee of the proposed re-listing by letter dated 22 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Asbat al-Ansar and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listing, the statements of reasons, were not linked to the media release.
- 2.72 The Attorney-General's statement of reasons is attached at Appendix G.
- 2.73 On the basis of the statement of reasons and other open sources, Asbat al-Ansar (AAA) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.74 Various open sources put the strength of Asbat al-Ansar at between 100 and 300 fighters, mostly Palestinians from the refugee camps in southern Lebanon. The statement of reasons lists two terrorist activities in the period since the last review. They both involve announcements made by the organisations itself, one in July 2005 and one in March 2006, that its members were killed during operations in Iraq. The statement of reasons says that Asbat al-Ansar has broadened its area of operations from southern Lebanon, and, in 2005 and 2006, 'sent fighters in support of the insurgency in collaboration with al-Qa'ida.'⁴¹

41 See the statement of reasons Appendix G.

- 2.75 However, the US State Department also notes that 'since 2003, the Lebanese government has monitored Asbat al-Ansar and the group's activities have been less successful.'⁴² This statement from a 2005 report, however, predates the organisation's claims of involvement in Iraq.

Ideology and links to other terrorist groups/networks

Ideology

- 2.76 Asbat al-Ansar aims to establish a radical Islamic state in Lebanon. It is anti-Christian and anti-Shia, opposed to the influence of Syria in Lebanon and seeks the elimination of the state of Israel. Its method of operating is through violence and Janes' suggests that the organisation might be 'a catalyst for provoking civil unrest in Lebanon'.⁴³

Links to other terrorist groups

- 2.77 The organisation has attracted people who have fought in Afghanistan, Chechnya, Kashmir and the Balkans. Although Janes' says that the financing of the organisation is 'unclear', it reports the suspicion that it receives funds from al-Qa'ida, having 'benefited from the charitable and financial networks associated with al-Qa'ida'.⁴⁴ The State Department is more emphatic, saying that Asbat al-Ansar has links to al-Qa'ida.⁴⁵
- 2.78 Janes' says there are 'reports indicating that al-Qa'ida funding transformed the movement from a parochial Islamist vigilante group into a much more capable organisation, with over 100 salaried gun men.'⁴⁶
- 2.79 It is notable, however, that Janes' also draws attention to the rivalry that exists between various Palestinian groups.

The Salafi radicals can be considered distinct from the well established Palestinian Islamic groups on the basis that they reject the pragmatic focus on the Palestinian nationalist agenda in favour of more radical ideological objectives. They

42 US State Department, Annual Country Reports on Terrorism, 2005

43 <http://jtic.janes.com>, *Asbat al-Ansar*.

44 <http://jtic.janes.com>, *Asbat al-Ansar*.

45 US State Department, Annual Country Reports on Terrorism, 2005.

46 <http://jtic.janes.com>, *Asbat al-Ansar*.

can also be distinguished on the basis of their relationship with Syria. While Hamas and Islamic Jihad have enjoyed Syrian recognition, the new wave of Salafi radicals are considered to be a threat to the Syrian regime.⁴⁷

Links to Australia

2.80 No information is supplied on this matter.

Threat to Australian interests

2.81 No information is supplied on this matter.

Proscription by the UN or like-minded countries

2.82 The statement of reasons states that AAA is listed in the United Nations 1267 Committee's consolidated list and as a proscribed organisation by the governments of Canada, Russia, the United Kingdom and the United States.

Engagement in peace/mediation processes

2.83 There is no information on this matter.

Islamic Movement of Uzbekistan (IMU)

2.84 The Attorney-General informed the Committee of the proposed re-listing by letter dated 22 March 2007 with an attached statement of reasons. On 2 April 2007, the Attorney-General issued a media release announcing the decision to re-list Islamic Movement of Uzbekistan (IMU) and five other organisations. The media release provided a short paragraph on each of the organisations. However, the more detailed arguments for re-listing, the statements of reasons, were not linked to the media release.

2.85 The Attorney-General's statement of reasons is attached at Appendix H.

47 <http://jtic.janes.com>, *Asbat al-Ansar*.

- 2.86 On the basis of the statement of reasons and other open sources, Islamic Movement of Uzbekistan (IMU) has been measured against ASIO's stated evaluation process.

Engagement in terrorism

- 2.87 The statement of reasons lists four incidents under the heading *Terrorist activities*: two, in 2005, were attacks against the Ministry of Emergency Situations in Tajikistan; one, in 2006, an attack on a prison in an attempt to free a prisoner; and one an attack on a border post in 2006. All of these attacks are 'local' to the traditional area of operations of this group.
- 2.88 However, all sources describe members of the IMU as having participated in the fighting against the Northern Alliance in Afghanistan in the 1990s. The US State Department says that since 2001, with the attacks by the US on Taliban and al-Qa'ida forces in Afghanistan, 'the IMU has been predominantly occupied with attack[ing] US and Coalition soldiers in Afghanistan and Pakistan.'⁴⁸ They say that 'Pakistani security forces continue to arrest probable IMU operatives in the Federally Administered Tribal Areas.'⁴⁹
- 2.89 Janes' gives the most comprehensive account of this organisation. It notes that, with the pressure brought to bear on the organisation by the war on terrorism in 2001, its members dispersed back to Tajikistan or into Northern Pakistan. It sees the IMU operatives in Pakistan as the 'remnants of the IMU'.⁵⁰ Some sources saw a split in the organisation with its 'forced relocation from Afghanistan'. There were also reports of the likely death of its leader, Juma Namangani, and the significant degradation of its operational capability.⁵¹
- 2.90 Janes' further argues that, although the IMU has a past history of working with international terrorist organisations, can conduct cross border incursions and may well arise again if there is mounting political instability in the region:

[Its] losses suffered during the US campaigns in Afghanistan appear to have hampered its ability to mount large scale operations within the region. While Uzbek authorities have

48 US State Department, Annual Country Reports on Terrorism, 2005.

49 US State Department, Annual Country Reports on Terrorism, 2005.

50 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

51 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

suggested IMU involvement in violence in Uzbekistan in 2004 and 2005, they have not presented convincing proof.⁵²

- 2.91 The statement of reasons estimates the membership to be between 200 and 2,000.⁵³ The US State Department puts the figure at approximately 500.⁵⁴ Janes' says that before the US attacks in 2001, the estimate was 5,000⁵⁵; however, while 'the intelligence estimates from Kyrgyzstan – which may have reason to exaggerate the threat – put the IMU's strength at around 1,500 battle ready guerrillas, ... assessments of them in the post Taliban period have generally put the number of fighters in the hundreds.⁵⁶

Ideology and links to other terrorist groups/networks

Ideology

- 2.92 This group, as with many of the groups that have been listed, began with limited and local grievances and ambitions. The IMU initially sought the overthrow of the regime of President Karimov and its replacement with a fundamentalist Islamic government.
- 2.93 The political struggle has been violent on all sides. Janes' reports that the murder of Uzbek government officials in 1997 led to mass detentions, torture and secret trials. In 2005, there was an alleged massacre of hundreds of political demonstrators in Andijan. Complaints about widespread and systematic torture have been made by the UN Special Rapporteur on Torture and Human Rights Watch.⁵⁷ There were, in 2005, said to be 6,000 political prisoners in Uzbekistan, opposition parties were banned, religious practice was severely restricted, there was no press freedom, the internet was censored and terrorism trials were considered to be unfair.⁵⁸ The ambassador for the United Kingdom in 2005, Craig Murray, argued

52 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

53 In the last statement of reasons, in 2005, it was estimated to be 2000.

54 US State Department, Annual Country Reports on Terrorism, 2005.

55 Possibly exaggerated by the inclusion of Taliban and al-Qa'ida forces.

56 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

57 UN Special Rapporteur on Torture, Professor Theo van Boven, 2002 report and Human Rights Watch, *Creating Enemies of the State*, 2004.

58 Craig Murray, *What drives support for this torturer?*, Guardian, 16 May 2005 and Jonathan Freedland, *He's our sonofabitch*, 18 May 2005 and Amnesty International, *Responsibilities have no borders*, 26 May 2005, p. 6..

that, based on the way in which evidence was collected, the label of terrorism was unsound.⁵⁹

- 2.94 Many of the demands that are made by this organisation and the attacks that are conducted appear to be directed at gaining the release of prisoners or attacking either the President or ministries involved in policing.
- 2.95 Further uncertainty about the motivation of the group is raised by Janes' who continue to argue, as they did in 2005, that although the organisation is active and violent, it is unclear whether it is 'a coherent, well coordinated guerrilla organisation or an effective but loosely organised group of bandits, drug runners and opportunists.'⁶⁰
- 2.96 In past reviews, an argument has been put often to the Committee that where the activities of groups are clearly criminal actions – murder, assault and torture – the criminal law should deal with them. Jane's view that it is difficult to decide whether the IMU is a gang of drug running and murderous criminals or an ideologically motivated terrorist organisation is an issue that was raised by the Committee in its last review and remains a legitimate concern.
- 2.97 Janes' also notes that:
- The IMU's apparent ease in recruiting young volunteers had much to do with poverty and economic decline in Uzbekistan and elsewhere in the region. It is estimated that some 60 per cent of the unemployed in Uzbekistan are between 16 and 30 years old, while over a quarter of the population live on less than \$US3 dollars a day. The figures are worse of the Ferghana Valley (the main base of the IMU) which has an estimated 70 to 80 per cent unemployment rate.⁶¹
- 2.98 Nevertheless, it should be noted that the experience of the IMU fighters in Afghanistan and Pakistan has seen a broadening of its aims to encompass the aims of al-Qa'ida for a regional caliphate.

Links to other terrorist groups

- 2.99 The participation of IMU fighters in Afghanistan has led to linkages to a variety of other Islamic groups which have collected in the

59 Craig Murray, *What drives support for this torturer?*, Guardian, 16 May 2005.

60 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

61 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

region as a result of the war on terrorism. Janes' lists these linkages as including: the Abu Sayyaf Group, the Armed Islamic Group, Harakat ul-Mujahideen and Harakat ul-Ansar as well as a bond with Uighur guerrillas from Xianjiang, Western China.⁶²

Links to Australia

2.100 No information is provided on this matter.

Threat to Australian interests

2.101 No information is provided on this matter.

Proscription by the UN or like-minded countries

2.102 The IMU is listed in the United Nations 1267 consolidated list and as a proscribed terrorist organisation by the governments of the United Kingdom, the United States and Canada.

Engagement in peace/mediation processes

2.103 No information is provided on this matter.

Conclusion

2.104 It is notable that all of these organisations have been localised groups growing out of specific grievances or particular conflicts. For most, it has been the advent of the war on terrorism that has extended their reach and their objectives – to the establishment of a regional caliphate, to providing fighters into other fields of battle, to cross funding through the al-Qa'ida network. Individual conflicts are now seen as part of a larger conflict and they appear to feed on and re-enforce each other, bringing experience and skill learned in one place to other disputes. And, with wars in Iraq and Afghanistan, the focus has broadened from opposition to local 'apostate' governments to a larger enemy in the West.

2.105 Nevertheless, the circumstances in which many of these groups operate are often complex and decisions to proscribe an organisation should not be made in an historical vacuum or without a rigorous testing of the evidence. It seems to the Committee that

62 <http://jtic.janes.com>, *Islamic Movement of Uzbekistan*.

the solutions to some issues still lie, not so much in the outlawing of particular groups, but in undermining support for violence by addressing local problems at the political or economic level or dealing with disputes as part of peace processes, especially settling longstanding disputes in places like Kashmir, Chechnya, and Palestine and negotiating solutions in Iraq and Afghanistan.

- 2.106 However, the Committee recognises that, in terms of the legal basis of the proscription power, these seven organisations fit the broad definition of terrorist organisations as set out in the Criminal Code, even if their proscription has not been established clearly according to ASIO's criteria. The statements of reasons provided to the Committee do not sufficiently address the criteria which ASIO has advised is the basis of its selection. The criteria themselves and their relationship to terrorism are not clear or consistently applied and therefore do not inspire confidence that the process is a rational one best directed at containing terrorism either in this country or internationally. The Committee hopes that these matters will be considered as a result of the review of the proscription power currently taking place.

Recommendation 1

The Committee does not recommend the disallowance of the regulations made to proscribe the following organisations: Ansar al-Sunna, Jaish-e-Mohammad, Lashkar-e-Jhangvi, Egyptian Islamic Jihad, Islamic Army of Aden, Asbat al-Ansar, Islamic Movement of Uzbekistan.

Hon David Jull, MP

Chairman

