



Australian Government

Attorney-General's Department

Information and Security Law Division



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7 December 2004

Ms Margaret Swieringa
 Secretary
 Parliamentary Joint Committee on ASIO, ASIS and DSD
 Parliament House
 CANBERRA ACT 2600

Dear Ms Swieringa

PROCESS FOR LISTING TERRORIST ORGANISATIONS – AL QA’IDA, JEMAAH ISLAMIYAH; ABU SAYYAF GROUP, JAMIAT UL-ANSAR, ARMED ISLAMIC GROUP, AND SALAFIST GROUP FOR CALL AND COMBAT

On 31 August 2004 the Governor-General signed regulations specifying Al Qa’ida and Jemaah Islamiyah for the purposes of paragraph (b) of the definition of *terrorist organisation* under section 102.1 of the *Criminal Code Act 1995* (the Criminal Code). The Abu Sayyaf Group, Jamiat ul-Ansar, the Armed Islamic Group and the Salafist Group for Call and Combat were similarly specified in regulations on 5 November 2004.

The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD (the Committee) to advise the Committee of his decision to re-list the organisations as terrorist organisations on the basis that he is satisfied on reasonable grounds that the organisations are directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the act has occurred or will occur). The Attorney-General provided to the Committee a Statement of Reasons provided by the Australian Security Intelligence Organisation in relation to each organisation upon the basis of which his decision to re-list was made.

The Criminal Code does not require that an organisation have a link to Australia before it can be listed. It is in Australia’s national interest to be proactive and list any organisation which is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. This will ensure that Australia is well placed to prevent terrorist acts occurring within Australia and discourage these organisations from obtaining a foothold in Australia as it will be an offence to direct the activities of terrorist organisations, recruit, train or associate with them or provide funding, support or resources for such organisations.

To assist the Committee, should it choose to review the listing regulations pursuant to section 102.1A of the Criminal Code, I enclose additional information to that provided by the Attorney-General detailing the procedure followed for the purposes of listing the abovementioned organisations. Steps are currently being taken to ensure that this additional information is provided in relation to all future listings.

I hope this additional information is of assistance to the Committee.

Yours sincerely



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Process for listing of Al Qa'ida and Jemaah Islamiyah as terrorist organisations.

On 31 August 2004, regulations were made specifying 2 organisations as terrorist organisations under the *Criminal Code Regulations 2002*. The organisations named in the regulations are: Al Qa'ida and Jemaah Islamiyah.

The following process was undertaken for the purpose of listing both organisations:

1. An unclassified Statement of Reasons was prepared by ASIO in relation to each organisation detailing the case for listing with respect to each organisation.
2. Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 27 August 2004 that each Statement of Reasons was sufficient for the Attorney-General to be 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 terrorist act has occurred or will occur.
3. The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 27 August 2004 outlining the background, training activities, terrorist activities, and relevant statements of each organisation.
4. AGD consulted with DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the continued listing of both organisations by email on 24 August 2004.
5. Submissions were provided to the Attorney-General on 30 August 2004 including:
 - a. copies of the Statements of Reasons from ASIO for each organisation
 - b. advice from the Chief General Counsel in relation to each organisation
 - c. letter from the Director-General of Security
 - d. responses from DFAT in relation to the proposed listings, and
 - e. regulations and Federal Executive Council documentation.
6. Having considered the information provided in each submission, the Attorney-General signed a statement for each organisation confirming that he remained 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 a regulation in relation to each organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.
7. The Attorney-General wrote to the Prime Minister on 30 August 2004 advising of his intention to list both organisations.

8. The Leader of the Opposition was advised of the proposed listings by letter on 30 August 2004 and was offered a briefing in relation to the listings;
9. On 30 August 2004, the Attorney-General wrote to the Attorneys-General of the States and Territories advising them of his decision to re-list the organisations. To date, one response has been received. The Office of the Chief Minister of the Northern Territory replied on 7 November 2004 expressing support for the re-listings.
10. The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 30 August 2004 advising of his decision to list the organisations.
11. The Governor-General made the regulation on 31 August 2004.
12. The regulations were gazetted in Special Gazette No. S362, Wednesday 1 September 2004.
13. A press release was issued on 1 September 2004 and the Attorney-General's Department National Security website was updated.

Process for listing Abu Sayyaf Group, Jamiat ul-Ansar (formerly listed and known as Harakat Ul-Mujahideen), Armed Islamic Group, and Salafist Group for Call and Combat

On 4 November 2004, regulations were made specifying 4 organisations as terrorist organisations under the *Criminal Code Regulations 2002*. The organisations named in the regulations are: Abu Sayyaf Group, Jamiat ul-Ansar (formerly listed and known as Harakat Ul-Mujahideen), Armed Islamic Group, and Salafist Group for Call and Combat.

The following process was undertaken for the purpose of listing all 4 organisations:

1. An unclassified Statement of Reasons was prepared by ASIO in relation to each organisation detailing the case for listing with respect to each organisation.
2. Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 25 October 2004 that each Statement of Reasons was sufficient for the Attorney-General to be 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 terrorist act has occurred or will occur.
3. The Director-General for Security, Mr Dennis Richardson, wrote to the Attorney-General on 27 October 2004 outlining the background, training activities, terrorist activities, and relevant statements of each organisation.
4. AGD consulted with DFAT in order to identify issues of relevance with respect to that portfolio. In this instance, DFAT expressed support for the continued listing of each of the organisations by email (provided between 21 October and 27 October 2004).
5. Submissions were provided to the Attorney-General on 28 October 2004 including:
 - a. copies of the Statements of Reasons from ASIO for each organisation
 - b. advice from the Chief General Counsel in relation to each organisation
 - c. letter from the Director-General of Security
 - d. responses from DFAT in relation to the proposed listings, and
 - e. regulations and Federal Executive Council documentation.
6. Having considered the information provided in each submission, the Attorney-General signed a statement for each organisation confirming that he remained 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 a regulation in relation to each

organisation, and approved associated Federal Executive Council documentation including an explanatory statement, explanatory memoranda, and an executive council minute.

- 7 The Attorney-General wrote to the Prime Minister on 1 November 2004 advising of his intention to list the 4 organisations.
8. The Leader of the Opposition was advised of the proposed listings on 1 November 2004 and was offered a briefing in relation to the listings which was provided on 9 November 2004.
9. On 1 November 2004, the Attorney-General wrote to the Attorneys-General of the States and Territories advising them of his decision to re-list the 4 organisations. To date, no responses have been received by the Australian Government.
10. The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD on 1 November 2004 advising of his decision to list the 4 organisations.
11. The Governor-General made the regulation on 4 November 2004.
12. The regulations were gazetted in Special Gazette No. S448, Friday 5 November 2004.
13. A press release was issued on 6 November 2004 and the Attorney-General's Department National Security website was updated.