

Parliamentary Joint Committee on Intelligence and Security

***Review of the re-listing of Ansar al-Islam, AAA, IAA, IMU, JeM and LeJ as
terrorist organisations***

Tabled 15 June 2009

Government's Response to Committee's Recommendations

Recommendation 1:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Ansar al-Islam as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 2:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Asbat al-Ansar (AAA) as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 3:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Islamic Army of Aden (IAA) as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 4:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Islamic Movement of Uzbekistan (IMU) as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 5:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Lashkar-e Jhangvi (LeJ) as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 6:

The Committee does not recommend the disallowance of the regulation, made under the Criminal Code section 102.1, to list Jaish-e-Mohammad (JeM) as a terrorist organisation.

Response:

The Government agrees with the recommendation.

Recommendation 7:

The Committee recommends that where a decision to de-list an organisation is made, that the Attorney-General provide a statement of reasons to the Committee and a public statement of reasons.

Response:

The Government agrees in principle with the recommendation.

Before an organisation can be listed as a terrorist organisation under the Criminal Code, the Attorney-General must be satisfied that 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 advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur). The statement of reasons, which is made available to the public, contains information which forms the basis for the Attorney-General's decision to list or re-list an organisation.

Regulations listing an organisation as a terrorist organisation under the Criminal Code expire after two years. The organisation then ceases to be listed, unless new regulations are made to re-list the organisation. To date, two organisations – the Armed Islamic Group and the Egyptian Islamic Jihad – have not been re-listed following the expiry of regulations listing these organisation as terrorist organisations. In both cases, the Government informed the public by media releases that the organisations would not be re-listed. The media releases explained why the organisations no longer met the statutory test for listing as terrorist organisations under the Criminal Code. The Government considers that this is an appropriate way

of informing the public that an organisation will not be re-listed, and considers that this performs the function of a 'public statement of reasons'.

The Government recognises that the Committee has a particular interest in these matters. Where the Committee requests more information on an organisation that is not being re-listed, the Government will ensure that the Committee receives a further briefing by ASIO to explain in more detail why the organisation no longer meets the statutory test for listing.

Improving the statement of reasons

The Government also notes the discussion in the Committee's report on improving the statement of reasons. In particular, the Government notes the Committee's request that future statements of reasons be drafted, at least in part, in such a way that the information is directly referable to the statutory criteria for listing contained within the Criminal Code.

In response to the Committee's request, the structure of the statement of reasons has been improved. The statement of reasons now states the statutory criteria for listing under the Criminal Code, and clearly sets out how the organisation to be listed or re-listed satisfies the statutory criteria.