



ATTORNEY-GENERAL  
THE HON ROBERT McCLELLAND MP



Submission No:..... 1 .....
Date Received:..... 11 Aug 09 .....
Secretary:.....

10 AUG 2009

09/7535

The Hon Arch Bevis MP  
Chair  
Parliamentary Joint Committee on Intelligence and Security  
Parliament House  
CANBERRA ACT 2600

*Arch*  
Dear Mr Bevis

I am writing to advise you that I have decided to list Al-Shabaab as a terrorist organisation for the purposes of section 102.1 of the Criminal Code. This would be the first time that Al-Shabaab is listed under the Criminal Code.

I expect that regulations listing Al-Shabaab will be made at the 12 August 2009 meeting of the Federal Executive Council, following consultations with the States and Territories.

I am satisfied on reasonable grounds that Al-Shabaab is an organisation 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).

The listing of Al-Shabaab will ensure that all offence provisions under Division 102 of the Criminal Code will apply in relation to this organisation.

My decision to list Al-Shabaab was made following careful consideration of unclassified intelligence information provided by ASIO in consultation with the Department of Foreign Affairs and Trade, as well as legal advice provided to me by the Australian Government Solicitor.

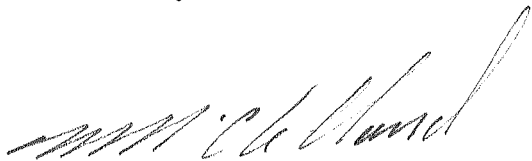
Section 102.1A of the Criminal Code provides that the Parliamentary Joint Committee on Intelligence and Security may review the regulation as soon as possible after it has been made, and report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period for that House.

To assist the Committee, I enclose a copy of the Statement of Reasons provided by ASIO in relation to Al-Shabaab, upon which my decision to list this organisation was based. Additional information detailing the procedure followed for the purposes of listing Al-Shabaab will be provided to you upon the registration of the regulations.

It is proposed that the regulations listing Al-Shabaab as a terrorist organisation will commence the day after registration. I note that, in response to a recommendation made by the Committee, the Government agreed to consider delaying the commencement of regulations when an organisation is listed for the first time until after the Parliamentary disallowance period has expired. However, the Government's response also noted that, as recognised by the Committee, flexibility must be maintained within this approach so that, in circumstances where the Attorney-General considers that a listing should commence immediately (for example, for security reasons), there remains scope for a regulation to commence when it is registered. ASIO has advised me that there are very strong operational reasons for Al-Shabaab to be listed as soon as possible. If the Committee requires more information on these reasons, ASIO will be able to provide a briefing during the Committee's review of the listing of Al-Shabaab. In addition, the Commonwealth Director of Public Prosecutions has advised that it would be preferable to list Al-Shabaab as soon as possible to provide as much time as possible between the listing and the substantive legal proceedings.

The action officer for this matter in my Department is Muriel Joseph who can be contacted by e-mail at [muriel.joseph@ag.gov.au](mailto:muriel.joseph@ag.gov.au) or by telephone on 02 6141 2922.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert McClelland', written in a cursive style.

Robert McClelland

## **Al-Shabaab**

**(Also known as: Al-Shabaab al-Islamiya, Harakat al-Shabaab al-Mujahideen, Mujahidin Youth Movement, Shabaab al-Mujahideen Movement, Young Mujahideen Movement, Young Mujahideen Movement in Somalia)**

The following information is based on publicly available details about the al-Shabaab. These details are accurate and reliable and have been corroborated by classified information.

### **Basis for listing a terrorist organisation**

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

- (a) is directly or indirectly engaged in, preparing, planning, or 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).

### **Details of the organisation**

Al-Shabaab, or 'the youth', is the name often applied to the Somali militant group which was formerly the most prominent of the militia groups comprising the militant wing of the Council of Islamic Courts (CIC). Al-Shabaab encompasses a range of elements, ranging from those focused solely on the domestic insurgency in Somalia to elements that support al-Qa'ida's global ideology of violent extremism. Elements of al-Shabaab are linked to al-Qa'ida through leadership contacts and training, both recent and historical, and by al-Qa'ida senior leadership endorsement of its activities.

The CIC held power in much of southern Somalia during the second half of 2006, before being ousted in December 2006 by Somali Transitional Federal Government (TFG) and Ethiopian forces. From that time al-Shabaab has conducted a violent insurgency against TFG and Ethiopian forces. It has also carried out attacks against peacekeeping forces from Uganda and Burundi, who are in Somalia as part of an African Union (AU) peacekeeping mission.

During the last few months of 2008, al-Shabaab militants spread their control over large areas of southern and central Somalia, including the significant cities of Kismaayo and Merca. Ethiopian troops withdrew from Somalia during January 2009, in line with a UN-brokered peace agreement reached in Djibouti in August 2008. Following the Ethiopian withdrawal al-Shabaab took control of areas of Mogadishu.

On 31 January 2009 Sheikh Sharif Sheikh Ahmed, leader of the moderate wing of the Alliance for the Re-Liberation of Somalia (ARS), was elected President of Somalia by an expanded session of the appointed Somali Parliament in Djibouti. He succeeded Abdullahi Yusuf, who resigned the Presidency on 29 December 2008. Al-Shabaab is

opposed to the Djibouti peace agreement, and continues its opposition to the Somali government. An al-Shabaab spokesman has said it will continue to fight foreign forces in Somalia, and the TFG.

The security environment in Somalia deteriorated during May 2009. Al-Shabaab and other Islamic militant groups engaged in an intensive violent campaign, centred in Mogadishu, against the Somali government and AU peacekeeping forces.

In a February 2009 video statement senior al-Qa'ida figure Sheikh Abu Yahya al-Libi congratulated al-Shabaab on its victory in causing the withdrawal of Ethiopian troops from Somalia. He also urged them to continue jihad against the Somali government and President, and their supporters.

Also in February, al-Qa'ida second-in-command Ayman al-Zawahiri issued a video statement which included a call to the mujahideen of Somalia to reject the government of President Sheikh Sharif Sheikh Ahmed. In mid-March al-Qa'ida leader Usama bin Laden issued a statement warning the Somali mujahideen about the new President, and calling for Muslims everywhere to help the Somali mujahideen fight until Somalia is an Islamic state.

Al-Shabaab has a loose leadership structure with a number of regional factions and commanders. It is not clear whether there is an individual overall leader, however the individual often named as having that role is Ahmed Abdi aw-Mohamed aka Ahmed Abdi Godane aka Abu Zubayr. The most publicly visible leader is spokesman Sheikh Mukhtar Robow aka Abu Mansur.

In August 2008, al-Shabaab released a video statement by al-Qa'ida in East Africa network operative Saleh Nabhan, in which al-Shabaab spokesman Sheikh Mukhtar Robow and Nabhan appeared together. In the video Nabhan pledged allegiance to Usama bin Laden, encouraged Muslim youth everywhere to go to Somalia to wage jihad, and was shown instructing recruits at an al-Shabaab training camp in Somalia

A September 2008 statement issued at the end of Ramadan by the al-Qa'ida-linked Dawn Media Centre, issuing seasonal greetings to jihadist leaders, grouped Mukhtar Robow with other jihadist leaders including Usama bin Laden and Ayman al-Zawahiri as one of "our leaders, sheikhs and emirs".

A former prominent al-Shabaab leader, Aden Hashi Ayrow, was killed in a missile strike in the town of Dusamareb on 1 May 2008. Al-Shabaab spokesmen including Mukhtar Robow vowed revenge for his death - including against Western interests.

Estimates of the numbers of al-Shabaab fighters vary from 3000 to as high as 7000.

### **Terrorist activity of the organisation**

Al-Shabaab's objective is the establishment of an Islamic state in Somalia, based on Islamic law and the elimination of foreign 'infidel' influence. In pursuit of this objective it has been carrying on a violent insurgency against the TFG, Ethiopian forces in Somalia in support of the TFG, and AU peacekeeping forces in Somalia supplied by Uganda and Burundi.

Al-Shabaab seeks the creation of an 'Islamic Emirate of Somalia', to include Somalia, Somaliland, Puntland, north-eastern Kenya, the Ogaden region of Ethiopia, and Djibouti. In December 2008 Mukhtar Robow told al-Jazeera television that after defeating the enemy [Ethiopia] in Somalia, al-Shabaab would "continue fighting and secure the freedom of many other places in the world from the colonialists".

Al-Shabaab has prepared, planned and carried out frequent attacks as part of its violent insurgency since the beginning of 2007. Its tactics have included mortar attacks, and use of rocket-propelled grenades and firearms. During 2007, elements of al-Shabaab appear to have drawn inspiration from violent extremists in Afghanistan and Iraq, and adopted their tactics of Vehicle Borne Improvised Explosive Devices (VBIEDs), roadside bombs and suicide attacks. Suicide-vehicle bombings in Hargeysa and Boosaaso, northern Somalia, in October 2008 have been widely attributed to al-Shabaab.

Al-Shabaab attack claims sometimes appear in internet statements in the name of the Young Mujahideen Movement in Somalia (YMMS), an al-Shabaab alias. There have been numerous statements claiming attacks including attempted assassinations of TFG officials, and against TFG security forces and Ethiopian forces in Mogadishu and surrounding areas. Some more significant terrorist attacks for which responsibility has been claimed by, or reliably attributed to, al-Shabaab include:

- 18 June 2009: A suicide-vehicle bombing attack against the Hotel Medina in Beledweyne killed approximately 20 people including the Somali security minister and Somalia's former ambassador to Ethiopia. The Mujahidin Youth Movement claimed responsibility and promised more bombings to target those it believes are traitors and invading forces.
- 13 April 2009: Al-Shabaab claimed responsibility for an attack in which an aircraft carrying US Congressman Donald Payne came under mortar fire when departing Mogadishu airport; the aircraft departed safely and there were no casualties. Congressman Payne had been visiting Mogadishu for talks on piracy with the Somali president.
- 22 February 2009: A suicide-vehicle bombing attack against an African Union military base in Mogadishu killed 11 Burundian peacekeeping troops and seriously injured 15 others.
- 29 October 2008: Three suicide-vehicle bombs exploded in Hargeysa, the capital of Somaliland, at the United Nations Development Program (UNDP) Office, the Ethiopian Consulate Office and the President's palace. Two similar attacks in Boosaaso, the Puntland capital, targeted the premises of the Puntland Intelligence Service. Approximately 30 people were killed, the majority in Hargeysa.
- 9 September 2008: Al-Shabaab claims responsibility for murdering Somali MP, Usman Maye, and mounting a large scale offensive against Ethiopian and Somali forces.
- 20-25 August 2008: In late August 2008, YMMS posted seven messages on extremist forums claiming responsibility for a range of attacks between 20-25 August:- the killing of at least 35 militia of a local warlord in Kismaayo; the

UNCLASSIFIED

killing of seven Ugandan peacekeeping soldiers in Mogadishu; the killing of five Ethiopian soldiers in the town of Beledweyne near the Ethiopian border; the killing of three Somali police; an attack on Somali soldiers in two separate incidents in Mogadishu; and an artillery and mortar attack on the Presidential Palace in Mogadishu.

- 21 and 22 May 2008: Al-Shabaab claims Mogadishu attacks, killing or injuring 57 Ethiopian soldiers.
- 13 April 2008: Insurgents loyal to al-Shabaab shot dead two Somali-born Britons and two Kenyans at a school in the central Somali town of Beledweyne. Sheikh Mukhtar Robow confirmed the killings but denied any responsibility.
- 13 March 2008: Three Somali soldiers were killed by al-Shabaab militants on a major road leading from Mogadishu to Baidoa, seat of the TFG.
- 5 February 2008: Bombings killed at least 20 Ethiopian immigrants in the Puntland (northern Somalia) port of Boosaaso. Close to 100 people were wounded. Al-Shabaab said the attack had targeted Ethiopian soldiers and some of their wives and children had been killed.
- 23 March 2007: A missile attack brought down a Belarusian-owned Il-76 cargo aircraft supporting the AU peacekeeping force. The attack took place shortly after takeoff from Mogadishu Airport, killing the eleven person crew.

Al-Shabaab spokesmen publicly advocated, on a number of occasions, terrorist attacks in revenge for the death of Aden Hashi Ayrow in a US missile strike on 1 May 2008:

- Sheikh Mukhtar Robow called on governments that support Ethiopia and America to keep their citizens out of Somalia. Robow also vowed that al-Shabaab would avenge Ayrow's death and would "redouble the holy war against the infidels."
- Another al-Shabaab leader, Ma'allim Hashi Muhammad Farah, said the mujahideen were ready to take revenge against US troops, and Muslims everywhere would "hunt the US Government."
- Shaykh Muqtar Robow also said al-Shabaab would kill American citizens in Somalia even if they are journalists and aid workers

Statements by al-Shabaab commanders in late 2007 confirmed the militants' intention to continue the insurgency against the TFG and foreign forces in Somalia. According to a December 2007 media report, senior al-Shabaab commander Sheikh Mukhtar Robow announced al-Shabaab planned to intensify its offensive against government troops and their Ethiopian allies. Robow said al-Shabaab had killed nearly 500 Ethiopian soldiers and would fight until foreign troops left Somalia.

UNCLASSIFIED

As demonstrated, al-Shabaab is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted the acts attributable to al-Shabaab are terrorist acts as they:

- (a) are done with the intention of advancing a political cause, namely, removing the Somali Government and the elimination of foreign influences from Somalia;
- (b) are intended to coerce or influence by intimidation the governments of foreign countries, namely the US, Uganda, Ethiopia and Burundi, and/or intimidate a section of the US, Ugandan, Ethiopian, Burundi public; and
- (c) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

**Other relevant information**

The United States listed al-Shabaab as a terrorist organisation in March 2008.

Al-Shabaab has not been involved in any peace or mediation process in Somalia.