

Al-Shabaab, Hamas' Izz al-Din al Qassam Brigades, Lashkar-e-Tayyiba and Palestinian Islamic Jihad

Al-Shabaab

- 2.1 Al-Shabaab, or 'the youth', is the name generally applied to the Somali militant group that was formerly the most prominent of the militia groups within the militant wing of the Council of Islamic Courts (CIC). The Somali Transitional Federal Government and Ethiopian forces ousted the CIC in December 2006. Al-Shabaab established itself as the leading insurgent group operating in Somalia and, following the withdrawal of Ethiopian forces in January 2009, Al-Shabaab controlled much of the country.¹
- 2.2 The statement of reasons notes:
- The intervention of Kenyan and Ethiopian forces from 2011 drove Al-Shabaab from Mogadishu and much of southern and central Somalia. Following its displacement and a pledge of allegiance to al-Qa'ida in February 2012, Al-Shabaab shifted from conventional military tactics and governance to using guerrilla operations against domestic and foreign security forces and the Federal Government of Somalia.²
- 2.3 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, Al-Shabaab has engaged in a violent insurgency

1 Statement of Reasons, Al-Shabaab, p. [1]. See also Jane's Counter Terrorism and Insurgency Centre, *Harakat al-Shabaab al-Mujahideen*, viewed 10 September 2015, <<http://janes.ihs.com>>.

2 Statement of Reasons, Al-Shabaab, p. [1].

and committed numerous terrorist attacks against the Somali Government and African Union forces supporting that government.³

- 2.4 The statement of reasons notes that Al-Shabaab does not participate in the Somali political system despite invitations from the African Union Mission in Somalia to disarm and participate in the Somali peace process.⁴
- 2.5 It is estimated that Al-Shabaab has between 3000 and 9000 fighters most of whom are ethnic Somalis. In addition to recruiting members from neighbouring Kenya, a small number of Al-Shabaab fighters are recruited from other countries including the United States, Canada and Australia.⁵
- 2.6 The statement of reasons lists a number of attacks that are attributed to Al-Shabaab, or for which Al-Shabaab has claimed responsibility, that demonstrate a continuation of an engagement in terrorism since the organisation's last re-listing in August 2012.⁶ Al-Shabaab has also exhibited the intent and capability to undertake mass casualty terrorist attacks on targets outside Somalia.⁷
- 2.7 According to Jane's Counter Terrorism and Insurgency Centre, Al-Shabaab suffered a series of significant blows to its leadership following several American operations against the group in 2014 and early 2015, including the killing of its leader, Ahmad Abdi Aw Muhammad Godane, in an airstrike on 1 September 2014. Attacks by the group quickly resumed with a continuation of suicide attacks in Mogadishu as well as cross-border assaults in Kenya, most notably the attack on Garissa University on 2 April 2015 that killed at least 148 people.⁸
- 2.8 The statement of reasons advises that Al-Shabaab was listed as a proscribed terrorist organisation by the governments of the United States in March 2008, New Zealand in February 2010, Canada in November 2010, United Kingdom in May 2010 and by the European Union in April 2010.⁹
- 2.9 In Australia, Al-Shabaab was originally listed as a terrorist organisation under the Criminal Code on 22 August 2009, and relisted on 18 August 2012.
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3 Statement of Reasons, Al-Shabaab, pp. [1-2]. See also Jane's Counter Terrorism and Insurgency Centre, *Harakat al-Shabaab al-Mujahideen*, viewed 10 September 2015, <<http://janes.ihs.com>>.

4 Statement of Reasons, Al-Shabaab, p. [5].

5 Statement of Reasons, Al-Shabaab, p. [2]. See also Jane's Counter Terrorism and Insurgency Centre, *Harakat al-Shabaab al-Mujahideen*, viewed 10 September 2015, <<http://janes.ihs.com>>.

6 Statement of Reasons, Al-Shabaab, pp. [2-3].

7 Statement of Reasons, Al-Shabaab, p. [1]. See also Jane's Counter Terrorism and Insurgency Centre, *Harakat al-Shabaab al-Mujahideen*, viewed 10 September 2015, <<http://janes.ihs.com>>.

8 Jane's Counter Terrorism and Insurgency Centre, *Harakat al-Shabaab al-Mujahideen*, viewed 10 September 2015, <<http://janes.ihs.com>>.

9 Statement of Reasons, Al-Shabaab, p. [5].

Hamas' Izz al-Din al Qassam Brigades

- 2.10 Hamas is a Palestinian Sunni Islamist organisation and political party founded in 1987. Hamas' Izz al-Din al-Qassam Brigades (the Brigades) were officially established circa 1991 to provide Hamas with a paramilitary capability.¹⁰
- 2.11 Hamas is a multifaceted organisation that maintains extensive social service networks and is largely responsible for the administration and provision of government services, including health, education and security, to Gaza's inhabitants. Despite previous power struggles between Hamas and Fatah, the primary Palestinian authority in the West Bank, the two groups attempted to establish a unity government in 2014.¹¹ The Australian Government does not recognise Hamas as a legitimate government.¹²
- 2.12 The Brigades were forced to develop, at least partially, into a more traditional military unit following Hamas forming government in Gaza in 2007 and the announcement of the unity government with Fatah in 2014. The Brigades operate predominantly in Gaza, with limited representation in the West Bank.¹³ According to 2014 estimates, the Brigades have several thousand full-time members and thousands of reservists and trainees.¹⁴
- 2.13 The Brigades seek to establish a Palestinian Islamist state comprising Gaza, the West Bank and Israel, destroying Israel as a political entity in the process. Due to the disparity in the military capabilities of the Brigades and Israel, the Brigades have adopted terrorist tactics in their efforts to defeat Israel, including indiscriminate rocket attacks, suicide bombings and kidnappings. The Brigades have never demonstrated intent to conduct attacks outside of Israel and the Palestinian Territories or to target interests of countries other than Israel.¹⁵
- 2.14 Due to the operational losses incurred during Israel's Operation Protective Edge, the Brigades are rebuilding, but still retain the capability to conduct attacks on Israel, primarily through rocket fire and asymmetric tactics.¹⁶

10 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [1].

11 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [1].

12 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, footnote 1.

13 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [1].

14 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [2].

15 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [1].

16 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [5].

- 2.15 The statement of reasons advises that governments in the United Kingdom and New Zealand have proscribed the Brigades as a terrorist organisation.¹⁷ Canada and the United States have proscribed Hamas (including the Brigades) as a terrorist organisation. Hamas is listed by the European Union and the Department of Foreign Affairs and Trade for the purposes of the financing of terrorism.
- 2.16 In Australia, the Brigades were originally listed as a terrorist organisation under the Criminal Code on 9 November 2003, and re-listed on 5 June 2005, 7 October 2005, 10 September 2007, 8 September 2009, and 18 August 2012.

Lashkar-e-Tayyiba

- 2.17 Lashkar-e-Tayyiba (LeT) is a Pakistan-based Sunni Islamic extremist organisation that uses violence in pursuit of its stated objective of uniting Indian-administered Kashmir with Pakistan.¹⁸ LeT is 'one of the most capable and high-profile militant groups currently active in South Asia'.¹⁹
- 2.18 LeT's broader objectives include establishing an Islamic Caliphate across the subcontinent to encompass all of India's Muslim populations even in areas where they do not form a majority.²⁰
- 2.19 LeT was formed circa 1989 as the military wing of the Pakistan-based Islamist fundamentalist movement Markaz al-Dawa wal Irshad (also known as Jamaat al-Dawa). LeT was originally formed to wage militant jihad against the occupation of Afghanistan by the former Soviet Union, though shifted its focus to the insurgency in Indian-administered Kashmir in the 1990s following the Soviet withdrawal from Afghanistan.²¹
- 2.20 LeT was banned by the Pakistani government in 2002, but continues to operate in Pakistan under the alias Jamaat ud-Dawa (JuD). According to the statement of reasons, JuD functions as a front organisation for LeT to mask its activities and to continue to solicit funds for its activities.²² JuD

17 Statement of Reasons, Hamas' Izz al-Din al-Qassam Brigades, p. [6].

18 Statement of Reasons, Lashkar-e-Tayyiba, p. [1].

19 Jane's Counter Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba*, viewed 10 September 2015, <<http://janes.ihs.com>>.

20 Statement of Reasons, Lashkar-e-Tayyiba, p. [1]. See also Jane's Counter Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba*, viewed 10 September 2015, <<http://janes.ihs.com>>.

21 Statement of Reasons, Lashkar-e-Tayyiba, p. [1].

22 Statement of Reasons, Lashkar-e-Tayyiba, p. [2].

- was subsequently named as a terrorist group by the United Nations Security Council.²³
- 2.21 The statement of reasons comments that although the current strength of LeT is unknown, it is reported to include several thousand active members, the majority of whom are fighters from Pakistan and Afghanistan.²⁴
- 2.22 Since the Committee last reviewed the re-listing in 2012, LeT has continued to either directly engage in terrorist acts or facilitate the commission of terrorist acts.²⁵ These activities have occurred predominantly in Indian-administered Kashmir and India but also in Afghanistan. The statement of reasons lists four recent attacks which 'can be reliably attributed to LeT' between March 2013 and December 2014.²⁶
- 2.23 In addition, the statement of reasons notes that LeT has demonstrated an ongoing intent to undertake attacks in both India and India-administered Kashmir. The statement of reasons further comments that LeT 'seeks opportunities for surveillance, attack facilitation and recruitment in the furtherance of future attacks', and cites a number of recent examples where LeT-planned attacks have been disrupted by Indian authorities.²⁷
- 2.24 Although LeT's links with Australia were more direct in previous years – a French court and the New South Wales Supreme Court convicted two individuals in 2003 and 2006 respectively for planning terrorist attacks in Australia in conjunction with LeT – the statement of reasons states that the organisation still poses a threat to Australian interests.²⁸
- 2.25 LeT has been listed as a terrorist organisation in the United States, Canada, the United Kingdom, New Zealand, Pakistan and India. LeT is also listed in the United Nations Security Council 1267 Committee's consolidated list, and this listing has been adopted on the Consolidated List maintained in Australia by the Department of Foreign Affairs and Trade.²⁹
- 2.26 In Australia, LeT was originally listed as a terrorist organisation under the Criminal Code on 9 November 2003, and re-listed on 5 June 2005, 7 October 2005, 8 September 2009, and 18 August 2012.
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23 Jane's Counter Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba*, viewed 10 September 2015, <<http://janes.ihs.com>>.

24 Statement of Reasons, *Lashkar-e-Tayyiba*, p. [2].

25 Statement of Reasons, *Lashkar-e-Tayyiba*, p. [3].

26 Statement of Reasons, *Lashkar-e-Tayyiba*, p. [3].

27 Statement of Reasons, *Lashkar-e-Tayyiba*, pp. [3-4].

28 Statement of Reasons, *Lashkar-e-Tayyiba*, p. [6].

29 Statement of Reasons, *Lashkar-e-Tayyiba*, p. [6].

Palestinian Islamic Jihad

- 2.27 Palestinian Islamic Jihad (PIJ) is a Sunni Islamist organisation committed to the destruction of Israel. PIJ seeks to establish a sovereign Islamic state within the geographic borders of the pre-1948 British-mandated Palestine.³⁰ The organisation has not participated in the political process and rejects the possibility of a negotiated settlement to the ongoing conflict in Israel/Palestine.³¹
- 2.28 Formed in 1981 in Gaza, PIJ comprises a leadership council and a military wing called the al-Quds Brigades, which claims responsibility for PIJ attacks.³² The statement of reasons notes that as PIJ focuses ‘almost exclusively on militant activities that further its objectives, the organisation as a whole and the al-Quds Brigades are essentially indistinguishable’.³³
- 2.29 Although PIJ is a Sunni group, the organisation remains ideologically supportive of and maintains close ties with Iran’s Islamic Revolutionary Guards Corp and Hizballah. PIJ is principally funded by Iran, though it has also received funding from Syria and the Palestinian community.³⁴
- 2.30 PIJ recruits its members principally from Palestinian communities in Gaza and the West Bank. The statement of reasons comments that as it is a secretive organisation, the exact size of PIJ membership is unknown, though it is likely to consist of less than 1000 members.³⁵ Despite its relatively small size, PIJ is considered to be one of the more effective Palestinian militant groups with a significant presence in both Gaza and the West Bank.³⁶
- 2.31 Since the Committee last reviewed the relisting of PIJ in 2012, the organisation has continued to engage in terrorist activity. In response to Israel’s Operation Protective Edge in July and August 2014, PIJ increased

30 Statement of Reasons, Palestinian Islamic Jihad, p. [1]. See also Jane’s Counter Terrorism and Insurgency Centre, *Palestinian Islamic Jihad*, viewed 10 September 2015, <<http://janes.ihs.com>>.

31 Statement of Reasons, Palestinian Islamic Jihad, p. [2].

32 Statement of Reasons, Palestinian Islamic Jihad, p. [1].

33 Statement of Reasons, Palestinian Islamic Jihad, p. [1].

34 Statement of Reasons, Palestinian Islamic Jihad, p. [1]. See also Jane’s Counter Terrorism and Insurgency Centre, *Palestinian Islamic Jihad*, viewed 10 September 2015, <<http://janes.ihs.com>>.

35 Statement of Reasons, Palestinian Islamic Jihad, p. [1].

36 Jane’s Counter Terrorism and Insurgency Centre, *Palestinian Islamic Jihad*, viewed 10 September 2015, <<http://janes.ihs.com>>.

the intensity of its rocket and mortar fire from Gaza. Despite suffering losses during this conflict, PIJ retains the capability to attack Israel.³⁷

- 2.32 In addition, the statement of reasons notes that PIJ has renewed its asymmetric warfare capabilities and has encouraged Palestinians to use 'all available means' to attack Israel.³⁸
- 2.33 PIJ has been listed as a terrorist organisation in Canada, New Zealand, the United Kingdom and the United States.³⁹ The European Union has also listed the organisation for the purposes of anti-terrorism financing measures. Similarly, PIJ is included in the Department of Foreign Affairs and Trade's Consolidated List which implements Australia's obligations under the United Nations Security Council Resolution 1373 in relation to countering the financing of terrorism.⁴⁰
- 2.34 In Australia, PIJ was originally listed as a terrorist organisation under the Criminal Code on 3 May 2004, and re-listed on 5 June 2005, 7 October 2005, 8 September 2007, 8 September 2009 and 18 August 2012.

Committee comment

- 2.35 As with its previous reviews of the re-listings of Al-Shabaab, Hamas' Izz al-Din al Qassam Brigades, Lashkar-e Tayyiba, and Palestinian Islamic Jihad as terrorist organisations, the Committee again used ASIO's criteria (as outlined at paragraph 1.20) to assess the information provided to support the re-listing.
- 2.36 On the basis of evidence provided, the Committee is satisfied Al-Shabaab, Hamas' Izz al-Din al Qassam Brigades, Lashkar-e Tayyiba, and Palestinian Islamic Jihad continue to engage in and advocate terrorist acts, thereby satisfying the definition of terrorist organisations set out in section 102.1 of the Criminal Code. Consequently, the Committee supports the re-listing of these four group under section 102.1 of the Criminal Code.

37 Statement of Reasons, Palestinian Islamic Jihad, p. [2]. See also Jane's Counter Terrorism and Insurgency Centre, *Palestinian Islamic Jihad*, viewed 10 September 2015, <<http://janes.ihs.com>>.

38 Statement of Reasons, Palestinian Islamic Jihad, p. [2].

39 Statement of Reasons, Palestinian Islamic Jihad, p. [2].

40 Statement of Reasons, Palestinian Islamic Jihad, p. [3].

Recommendation 1

The Committee recommends that the regulations, made under the Criminal Code section 102.1, to list Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Lashkar-e-Tayyiba, and Palestinian Islamic Jihad as terrorist organisations not be disallowed.