

The Listing

The Criteria for listing an organisation

- 2.1 To be specified as a terrorist organisation for the purpose 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, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).¹

- 2.2 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. Some of the factors included:

- engagement in terrorism;
- ideology and links to other terrorist groups or networks;
- links to Australia;
- threat to Australian interests;
- proscription by the UN or like-minded countries; and
- engagement in peace/mediation processes.²

¹ Subsection 102.1(2) of Division 102, Subdivision A of the Criminal Code.

² Parliamentary Joint Committee on ASIO, ASIS and DSD, *Review of the listing of six terrorist organisations*, Parliamentary Paper No.: 67/2005; Tabled 7 March 2005, p. 15.

- 2.3 The Committee continues to use these criteria as the basis of its reviews of all listings.

Overview

- 2.4 This report is a consideration of the re-listing of Hizballah's ESO under the Criminal Code. In past reviews of re-listings the Committee has stated its preference to see information which relates to the activities of the organisation since the last re-listing. Receiving information on activities since the last re-listing, whilst not in itself conclusive, is an appropriate consideration in the process of re-listing. Whilst historical background is important to consider, and will be noted, evidence for a re-listing should focus on what has changed since the last review. The issue of currency of evidence was raised in the Committee's report, *Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah* (October 2006):

The re-listing of an organisation is a fresh exercise of executive discretion and the Committee believes that there must, therefore, be a sufficient degree of currency in the evidence to warrant the use of the power.³

Hizballah's External Security Organisation

- 2.5 This organisation was initially listed in 2003 under legislative arrangements which required that for an organisations to be listed they had to be on the United Nations list of terrorist organisations. The ESO came up for review under the current proscription regime in 2005, in 2007 and in 2009. This review is of the fourth re-listing of ESO as a terrorist organisation.
- 2.6 The Committee would like to make it very clear that this is *not* a listing of the entire Hizballah organisation. However, in looking at the ESO in particular, the Committee is faced with a difficulty. Many of the resources, such as Jane's Terrorism and Counter Insurgency Centre and the United States National Counterterrorism Centre, that the Committee uses to independently look at terrorist organisation that have been re-listed do not now differentiate between Hizballah and Hizballah's ESO.

3 Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of Al-Qa'ida and Jemaah Islamiyah*, October 2004, p. 3.

- 2.7 In relation to the difficulty of attributing specific attacks to Hizballah's ESO the statement of reasons refers to the "secretive" nature of the ESO and that:

... it is difficult to gather detailed information about the group's role and activities. However, there is no indication that the ESO's role has changed in recent times, and considering Hizballah's stated desire to avenge the death of Imad Mughniyah, and the recent arrest of a probable Hizballah operative in Bangkok, it is likely that the ESO retains its separate terrorist function within Hizballah's overall organisational structure.⁴

- 2.8 The Attorney-General's statement of reasons is at Appendix B

Engagement in Terrorism

- 2.9 The statement of reasons states that:

The External Security Organisation is a discrete branch within Lebanese Hizballah responsible for the planning, coordination and execution of terrorist attacks against Hizballah's enemies outside of Lebanon.⁵

- 2.10 The statement of reasons states that Hizballah's ESO has a record of regular terrorist attacks mainly against Israeli and US targets up until the early 1990s.

- 2.11 The statement of reasons refers to two attacks in particular against "Israeli interests" in Buenos Aires, Argentina in 1992 and 1994. While the 1992 attack was against the Israeli Embassy, the 1994 attack was against a Jewish cultural centre.

- 2.12 As mentioned above, Jane's does not differentiate between Hizballah and Hizballah's ESO. It should be noted that the statement of reasons suggests, in relation to the arrest by Thai authorities of an individual allegedly linked to Hizballah that:

... any Hizballah connection almost certainly would be through the ESO and points to ESO's on-going interest in, and preparations for, terrorist activities outside Lebanon.⁶

4 Statement of Reasons, Submission 1, see Appendix B.

5 Statement of Reasons, Submission 1, see Appendix B.

6 Statement of Reasons, Submission 1, see Appendix B.

- 2.13 The Committee is satisfied that terrorist acts and fundraising overseas attributed to Hizballah by Jane's involve Hizballah's ESO. In stating this the Committee notes this paragraph of the statement of reasons:

There have been no major acts of terrorism specifically attributed to the ESO since 1994. Nevertheless, Hizballah has vowed to retaliate against Israel for Israel's perceived role in Mughniyah's assassination. The ESO is likely to be responsible for planning future terrorist attacks against Israeli interests to this end.⁷

- 2.14 In relation to Hizballah's targeting of Israel, Jane's states that Hizballah:

... demonstrated an increasingly assertive military confidence in a 16 February 2011 speech by Nasrallah in which he stated that Hizbullah militants were now more than a local defence force. He went on to respond to alleged statements made by IDF Chief of General Staff Benjamin Gantz that IDF soldiers should be ready to re-engage with southern Lebanon in the event of a crisis, stating that Hizbullah forces would be ready to cross the border with Israel and secure the Galilee region in the event of a conflict with Israel.⁸

- 2.15 GlobalSecurity.org states that:

In Israel's view, Hizballah's activities are part of Iran's overall policy with regard to Israel, which is to fan the flames of the Israeli-Palestinian conflict and initiate terrorist activities against Israel, despite the fact that Hizballah is a Lebanese organization consisting entirely of terrorists from Lebanon, with no national connection to the Israeli-Palestinian conflict. In view of Iran's interest in smudging its fingerprints with regard to direct control over internal terrorist activities, Hizballah's status is significant as Iran's front-line operative arm against Israel.⁹

- 2.16 The United States National Counterterrorism Centre states that:

Several Hizballah operations have been disrupted since Mughniyah's death, including the 2008 disruption of a cell in Baku, Azerbaijan, targeting the Israeli embassy there, and the late-2008 disruption of a Hizballah cell in Egypt targeting Israeli tourists and ships in transiting the Suez Canal. Additionally, a

7 Statement of Reasons, Submission 1, see Appendix B.

8 Jane's Terrorism and Insurgency Centre, <www.jtic.janes.com> viewed on 28 May 2012.

9 GlobalSecurity.org, <<http://www.globalsecurity.org/military/world/para/hizballah.htm>> viewed on 28 May 2012.

Hizballah operation was reportedly disrupted in Turkey in 2009, and in early 2011 Israel warned its citizens of several Hizballah plots against Israeli interests in Turkey, Azerbaijan, Georgia, and Cyprus.¹⁰

Ideology and links to other terrorist groups/networks

Ideology

2.17 Jane's states that:

Hizbullah, or Party of God, was formed in 1982 but formally announced its existence in February 1985. It was initially composed of small radical Shia Muslim groups that looked to Iran's 1979 Islamic revolution for inspiration. Many of the early leaders had studied in Shia seminaries in Najaf in Iraq where they were inspired by the radical teachings of Mohammed Baqr as-Sadr and Ruhollah Khomeini.

Hizbullah began to emerge in the wake of the 1982 Israeli invasion of Lebanon. Islamist members of the mainstream Shia Amal Movement broke away to form Islamic Amal, headed by Hussein Mussawi. Islamic Amal joined with former members of the Lebanese Dawa Party and numerous small radical Shia groups to form Hizbullah. The group originated in the northern Bekaa Valley before spreading to the southern suburbs of Beirut and then slowly southward during the 1980s. It won a loyal support base through the provision of social services, including health, education, and infrastructure in impoverished Shia areas. In 1992, it stood candidates in the first post-civil war parliamentary elections, securing eight seats for Hizbullah members which, along with four allies, granted the party a parliamentary bloc of 12.¹¹

2.18 The statement of reasons describes how the ESO came into being:

The ESO was set up by Imad Mughniyah, who has been described variously as the head of Hizballah's security section, a senior intelligence official and as one of the founders of Hizballah. After Imad Mughniyah fled to Iran following Hizballah's 1983 attack on the US military in Beirut, the 'international wing' grew out of the military wing to become a separate branch under Mughniyah's

10 United States National Counterterrorism Centre, <<http://www.nctc.gov/site/groups/hizballah.html>> viewed on 25 May 2012.

11 Jane's Terrorism and Insurgency Centre, <www.jtic.janes.com> viewed on 25 May 2012.

control. This is thought to be the genesis of Hizballah's 'international wing', or the ESO.¹²

Links to other terrorist groups/networks

2.19 The statement of reasons states that:

Hizballah elements provide training, operational support and material to Palestinian extremist groups, including the Palestinian Islamic Jihad and HAMAS's Izz al-Din al-Qassam Brigades, both of which are proscribed entities, and Shia militia elements in Iraq. Although these activities are undertaken by units within Hizballah specifically created for these tasks, elements of the ESO are likely involved.¹³

2.20 Global Security.org state the following in relation to fundraising:

Besides operating a worldwide network of fundraisers, funds are also raised through so-called 'charity funds'. Some of these are extremist Islamic institutions that, while not directly connected to Hizballah, support it, albeit marginally, in view of their radical Islamic orientation. While some of these funds undoubtedly pay for Hizballah's military and terrorist operations, other funds enable the group to provide its members with day jobs, to drape itself in a veil of legitimacy, and to build grassroots support among not only Shi'a, but also Sunni and Christian Lebanese.¹⁴

Links to Australia

2.21 There is no information in the statement of reasons on Hizballah's ESO having any direct funding or support links with Australia.

Threat to Australian interests

2.22 The statement of reasons contains no information on this matter.

Proscription by the UN or like-minded countries

2.23 Hizballah's ESO has been listed as a terrorist organisation in the United Kingdom, under 'Hizballah's Military Wing'. Hizballah as a whole, which

12 Statement of Reasons, Submission 1, see Appendix B.

13 Statement of Reasons, Submission 1, see Appendix B.

14 GlobalSecurity.org, <<http://www.globalsecurity.org/military/world/para/hizballah.htm>> viewed on 28 May 2012.

includes the ESO, has been listed as a terrorist organisation by the governments of the United States, Canada and Israel.

Engagement in Peace and Mediation processes

2.24 No information on this matter was provided in the statement of reasons.

Conclusion

2.25 It is clear that many research organisations, such as Jane's Counterterrorism and Insurgency Centre and the United States National Counterterrorism Centre, that the Committee refer to in reviewing a re-listing such as this no longer make a distinction between Hizballah and Hizballah's ESO. On this basis, and with the benefit of having examined this organisation on numerous occasions, the Committee was able to conclude that certain activities attributed to Hizballah could equally be attributed to Hizballah's ESO.

2.26 The Committee found that the Hizballah ESO continues to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

Recommendation 1

The Committee recommends that the regulation, made under the Criminal Code section 102.1, to list Hizballah's External Security Organisation as a terrorist organisation not be disallowed.

Hon Anthony Byrne, MP

Chairman

