

STATEMENT OF CASE TO RENEW THE DESIGNATION OF AL-AQSA MARTYRS' BRIGADES AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to assess whether Al-Aqsa Martyrs' Brigades (AAMB) meets the statutory criteria to renew its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).
2. The paper concludes that the group meets the criteria for renewal as a designated terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out updated information about AAMB's continued involvement in terrorist activity and covers any changes and /or developments to the organisation since its original designation, including to its objectives, structure, weapons and tactics and includes any recent attacks which meet the definition of a terrorist act under the TSA.
4. This updated information, together with the information contained in the original designation paper¹ inform the analysis of whether reasonable grounds for designation still exist and provide the basis for the conclusion that the group meets the legal criteria to renew its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION RENEWAL UNDER THE TSA

5. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier revoked or renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts ("terrorist act" is defined in s 5). Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 25(1)(a) and (b)) and also includes an attempt to carry out the act (s 25(1)(c)).
6. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
7. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

8. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: BBC, Jane's World Insurgency and Terrorism Monitor, Council on Foreign Relations, Open Source Center, Reuters, START Terrorism Database, Human Rights Watch, ProQuest and IRIN.

9. Regional sources were also utilised, including Bethlehem Ma'an News Agency, The Jerusalem Post, Ramallah Al-Ayyam and Gaza Qudsnet.

CONTINUED INVOLVEMENT IN TERRORIST ACTIVITY

10. AAMB was designated as a terrorist entity on 15 December 2010.²
11. On 21 December 2010, an Israeli citizen was wounded when a Qassam rocket was launched by militants in the Gaza Strip. The rocket landed next to a kindergarten near the city of Ashkelon, Israel. No damage was reported. AAMB claimed responsibility for the attack.³⁴
12. On 26 October 2011, AAMB detonated an Improvised Explosive Device (IED) targeting an Israeli Defence Force (IDF) vehicle near the Efrat settlement, south of Bethlehem. AAMB claimed soldiers were injured, although no casualties were reported. The vehicle was damaged in the attack.⁵ AAMB claimed responsibility for the bombing in a statement released the next day.⁶
13. On 27 February 2012, an IED was detonated at an IDF vehicle located near the West Bank barrier and the village of Qibya in south-west Ramallah. The Martyr Imad Mughniyah Group of the AAMB claimed responsibility for the attack.⁷
14. In early 2012, AAMB units used rockets to target Israeli towns and cities. On 28 February 2012, AAMB claimed responsibility for a rocket attack on Ashkelon, Israel.⁸ On 12 March 2012, the AAMB's Ayman Jawdah unit claimed to have fired three "Al-Aqsa 2" rockets into Kfar Aza, a *kibbutz* in southern Israel.⁹
15. On 24 November 2012, an unidentified spokesman for AAMB claimed the group had fired 516 rockets at Israel during the eight day conflict between Israel and Gaza-based militants (from 14-21 November 2012).¹⁰ The Ayman Jouda Brigades, one of the most active groups of AAMB, claimed to have fired 81 rockets towards Israel.¹¹
16. On 26 January 2013, Israeli police claimed to have foiled a terror attack on the Jewish town of Elon Moreh, Israel. Police arrested two men initially for throwing Molotov cocktails at vehicles, but subsequent searches revealed grenades and other firebombs.¹² Police believe the two men were on the way to carry out an attack as they were also carrying a letter in Arabic claiming responsibility for an attack on Elon Moreh in the name of the AAMB, written on the official AAMB letterhead.¹³
17. On 26 February 2013 AAMB-affiliated group Faris al-Lil claimed responsibility for the first rocket fired from Gaza to land in Israel since the implementation of a ceasefire in late November 2012,¹⁴ saying, "Liberty will be achieved through sacrifice. We must fight the enemy with all means necessary. The resistance will continue."¹⁵ The launch was in retaliation for a Palestinian prisoner's death in an Israeli prison.¹⁶ The rocket hit a road and caused some minor damage in the immediate vicinity, but there were no injuries. The rocket was an M-75 unguided rocket.¹⁷

Ideology and objectives

18. AAMB evolved from a Fatah linked coalition of militias, with the common goal of ending Israel's presence in Gaza and the West Bank. Its ideology is based on secular

Palestinian nationalism.¹⁸ The armed factions individually associate themselves to Fatah, but the group is not known to have retained any significant formal structure associated to Fatah.¹⁹

19. On 30 December 2010, in a statement marking the second anniversary of the Israeli war on Gaza, AAMB reaffirmed its rejection of the occupation of the Gaza Strip and its preparedness to repel any new offensive in the area. AAMB also reinforced their adherence to all methods of resistance to Israeli occupation.²⁰
20. AAMB members continue to collaborate with other groups, including Hamas' Izz al-Din al-Qassam Brigades and Palestinian Islamic Jihad's Al-Quds Brigades.²¹

Organisation and Structure

21. The AAMB consists of a number of small loosely-affiliated cells in the West Bank and Gaza Strip split amongst the various cities and towns, which, to a large extent, act autonomously.²²
22. AAMB has shown a desire to unite its many factions, stating in July 2012 that unity "is the strength for our movement and a way to increase our capability to confront the enemy and its schemes"²³. Despite this, some groups were reluctant to unify, preferring to maintain independence.²⁴ During the eight day conflict between Israel and Gaza-based militants, the majority of the groups that comprise AAMB agreed to participate in a "Joint Military Council" to promote coordination and unified action.²⁵

Weapons and Tactics

23. The Qassam and Grad rockets used by the AAMB are unguided.²⁶ Accordingly, rockets continue to be fired without precision and without the ability to discriminate between civilian and military targets.²⁷ The group also targets IDF posts and equipment with IEDs.²⁸
24. In December 2010, an AAMB commander in the Gaza Strip revealed to *Qudsnet* that AAMB had successfully developed a locally-manufactured and long-range Palestinian rocket, which would "surprise the Israeli occupation".²⁹

Law of Armed Conflict (LOAC)

25. AAMB attacks since the 2010 designation have been violent but sporadic, and have not generally reached the level of intensity and continuity to be considered in a situation of armed conflict. It is possible that some attacks (such as in November 2012) have occurred in a situation of armed conflict. However, in any instances where the threshold for an armed conflict may have been met, AAMB failed to discriminate between military targets and civilian objects, particularly when it has conducted rocket attacks against Israel. The attacks therefore breach the principle of distinction and therefore the exemption in s 5(4) of the Act does not apply.

CONCLUSION

26. On the evidence set out above, this paper concludes that there are still reasonable grounds as set out in s 22 of the TSA for AAMB to be designated under that section.

27. Since its designation in December 2010, AAMB has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA, including preparation for (paragraph 16) and actually carrying out such acts (paragraphs 11-15 and 17). Accordingly, given there are still reasonable grounds to believe that AAMB has knowingly carried out terrorist acts as set out in s 22 of the TSA, AAMB meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
28. The designation must be renewed by 16 December 2013 to be effective.

¹ The statement of case, dated 15 December 2010 can be accessed at:

www.police.govt.nz/service/counterterrorism/designated-terrorists.html

² *Ibid*

³ (Undated) "Incident Summary", START Global Terrorism Database,

<http://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtid=201012210005>. Accessed 17/04/2013.

⁴ (21/12/2010) "Two Palestinians Suffer 'Critical Injuries' in Israeli air raids", Ma'an News Agency - BBC Monitoring Middle East, accessed via <http://www.accessmylibrary.com/article-1G1-245028176/two-palestinians-suffer-critical.html>. Accessed on 17/04/2013.

⁵ (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 42. Available on subscription. Accessed 22/03/2013

⁶ (28/10/2011) "Fatah armed wing claims responsibility for IED attack in West Bank", Jane's Terrorism Watch Report, accessed via ProQuest <http://search.proquest.com> on 12/04/2013.

⁷ (27/02/2012) "West Bank: Fatah militants Claim Targeting IDF in Response to Al-Aqsa 'Desecration'", Gaza Qudsnet, accessed via Open Source Centre, <http://opensource.gov> on 12/04/2013.

⁸ Schanzer, J. (April 2012). *The New Palestinian Strategy* Commentary 133.4. Accessed via ProQuest, <http://search.proquest.com> on 12/04/2013.

⁹ (12/03/12) "Gaza Militant Factions Claim Responsibility for Rocket Attacks on Southern Israel", Ma'an News Agency, via Open Source Centre, [www.opensource.gov](http://opensource.gov). Accessed 15/04/2013

¹⁰ (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 7. Available on subscription. Accessed 22/03/2013

¹¹ (15/04/2013) "A who's who of fighters in Gaza", IRIN, <http://www.irinnews.org/Report/97847/A-who-s-who-of-fighters-in-Gaza>. Accessed 16/04/2013.

¹² (21/01/2013) "Fatah terror group notes found on suspects", The Jerusalem Post, <http://www.jpost.com/MiddleEast/Article.aspx?id=301104>. Accessed 17/04/2013.

¹³ (27/01/2013) "Police Foil Terror Attack on Elon Moreh in Samaria", Arutz Sheva, <http://www.israelnationalnews.com/News/News.aspx/164612>. Accessed on 21/02/2013,

¹⁴ (15/04/2013) "A who's who of fighters in Gaza", IRIN, <http://www.irinnews.org/Report/97847/A-who-s-who-of-fighters-in-Gaza>. Accessed 16/04/2013.

¹⁵ (26/02/2013) "Rocket hits outskirts of Ashkelon; none injured", Ynet News, <http://www.ynetnews.com/articles/0,7340,L-4349447,00.html>. Accessed 2/08/2013

¹⁶ (26/02/2013) "First rocket fired from Gaza into Israel since November ceasefire", CNN, http://edition.cnn.com/2013/02/26/world/meast/israel-gaza-rocket/?hpt=wo_c2. Accessed 25/03/2013.

¹⁷ (4/03/2012) "Single rocket fired into Israel", HIS Jane's Missiles & Rockets, Available on subscription. Accessed 02/08/2013.

¹⁸ (2/10/2008) "Al-Aqsa Martyrs Brigade", Council on Foreign Relations, <http://www.cfr.org/israel/al-aqsa-martyrs-brigade/p9127>. Accessed 5/04/2013.

¹⁹ (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 14. Available on subscription. Accessed 22/03/2013.

²⁰ (30/12/2010) "Fatah armed wing rejects 'all forms of calm' with Israel", Ma'an News Agency via BBC Monitoring Newsfile and ProQuest <http://search.proquest.com> on 12/04/2013.

²¹ On 3 December 2012, Hanan al-Qassam, claiming to be the head of AAMB, stated to local media that militants from the group had fought with Hamas' Izz al-Din al-Qassam Brigades during the eight day conflict between Israel and Gaza-based militants (from 14-21 November 2012), claiming the fighting helped to build good will between the groups (Izz al-Din al-Qassam Brigades is a designated terrorist group in New Zealand pursuant to United Nations Security Council Resolution 1267).

The group also claimed to have fired rockets in a joint operation with the Al-Quds Brigades, the military wing of the Palestinian Islamic Jihad (Palestinian Islamic Jihad is a designated terrorist group in New Zealand pursuant to United Nations Security Council Resolution 1267)

(see (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 7. Available on subscription. Accessed 22/03/2013 and (2/12/12) "Al-Aqsa Brigades Berates Palestinian Media for Ignoring Role in Gaza", Ramallah Al-Ayyam via Open Source Centre, www.opensource.gov. Accessed 15/04/2013)

²² (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 14. Available on subscription. Accessed 22/03/2013

²³ (11/06/2012) "Officials Say Efforts to Unify Fatah's Armed Groups in Gaza Facing Obstacles", Ma'an News Agency via Open Source Centre, www.opensource.gov. Accessed 15/04/2013

²⁴ (11/06/2012) "Officials Say Efforts to Unify Fatah's Armed Groups in Gaza Facing Obstacles", Ma'an News Agency via Open Source Centre, www.opensource.gov. Accessed 15/04/2013

²⁵ (2/12/12) "Al-Aqsa Brigades Berates Palestinian Media for Ignoring Role in Gaza", Ramallah Al-Ayyam via Open Source Centre, www.opensource.gov. Accessed 15/04/2013

²⁶ (11/01/2013) "Hamas", Jane's World Insurgency and Terrorism at page 11, available on subscription. Accessed 28/01/2013

²⁷ (2012) "World Report 2012: Israel/Occupied Palestinian Territories", Human Rights Watch, <http://www.hrw.org/world-report-2012/world-report-2012-israeloccupied-palestinian-territories>. Accessed 24/01/2013.

²⁸ (19/05/2013) "Fatah" Jane's World Insurgency and Terrorism, at page 42. Available on subscription. Accessed 22/03/2013