

## **STATEMENT OF CASE TO RENEW THE DESIGNATION OF AL-AQSA MARTYRS' BRIGADES (AAMB) AS A TERRORIST ENTITY**

### **PURPOSE**

1. The purpose of this paper is to set out the case demonstrating Al-Aqsa Martyrs' Brigades (AAMB), also known as Al-Aqsa Martyrs' Brigade, Al-Aqsa Intifada Martyrs' Group, Al-Aqsa Brigades, Martyrs of Al-Aqsa Group, Al-Aqsa Martyrs Battalion and Armed Militias of the Al-Aqsa Martyr Battalions, 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 relevant changes and/or developments to the organisation since its original designation in December 2010<sup>1</sup> and renewal in October 2013.<sup>2</sup> Updates include AAMB's objectives, structure, weapons and tactics, and 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 paper, and previous renewal paper, provide the basis for the paper's conclusion that AAMB meets the legal criteria for renewal of 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 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. 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: Open Source Centre, Jane's World Insurgency and Terrorism series, Council on Foreign Relations and BBC News. This

paper also utilises public information from the US Department of State and International Committee of the Red Cross. Local news sources referenced include Times of Israel, Israel National News, Breaking Israel News, Jerusalem Post, Palestine Media Watch, Haartez and Jerusalem Center for Public Affairs.

## **EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA**

### **Continued involvement in terrorist activity**

9. AAMB was designated as a terrorist entity on 15 December 2010. The designation was renewed on 2 October 2013.
10. In July 2014, AAMB joined Hamas and other militant groups in fighting Israel during Operation Protective Edge.<sup>3</sup> Operation Protective Edge was launched by Israel on 8 July 2014 in response to increased rocket and mortar attacks from the Gaza Strip. AAMB posted a message in Hebrew on social media on 9 July 2014 saying: “A message to the Israeli government and the Israeli people: Death will reach you from the south to the north. Flee our country and you won’t die. The KN-103 rocket is on its way toward you”.<sup>4</sup> The fighting, which lasted for seven weeks, was the deadliest in years.<sup>5</sup> Israel claimed hundreds of unguided rockets were fired at its territory, directly threatening its civilians. A total of 73 people were killed on the Israeli side, including six civilians.<sup>6</sup> Several attempts to arrange a ceasefire failed. Israel claimed it had accepted successive truce proposals but resumed fire following renewed rocket attacks from militants.<sup>7</sup>
11. On 12 July 2014, Ayman Judah Brigades, an offshoot of AAMB, claimed responsibility for firing a missile at Kibbutz Miflasim and two improvised projectiles at Kibbutz Beerli, both in Israel’s Southern district. No casualties were reported.<sup>8</sup>
12. On 22 July 2014, AAMB announced via social media an “open war” with Israel that “will include many surprises, and that will create a balance of terror and lead to a campaign in the Zionist interior.” On 16 August 2014, AAMB posted a summary of the more than 30 attacks it had carried out between 22 July and 14 August, including:<sup>9</sup>
  - 22 July: Firing toward Rehalim Junction south of Nablus, one soldier wounded;
  - 23 July: Firing toward Gush Etzion Junction and firing toward an IDF force in the al-Arurv refugee camp;
  - 25 July: Firing toward an IDF force near the village of Yatta in the Hebron district, firing toward the Kalandia checkpoint, firing toward the settlement of Beit El and shooting near the settlement of Itamar;
  - 30 July: Firing toward an IDF force in the village of Qabalan in the Nablus district, wounding an IDF soldier;
  - 31 July: Shooting near the Shavei Shomron checkpoint;
  - 4 August: Shooting near the Hebrew University of Jerusalem and wounding of a soldier, firing toward an IDF force near the village of al-Khader in the Bethlehem district and firing toward the DCO liaison office in Beit Jalla;
  - 8 August: Firing toward the settlement of Psagot in the Ramallah area;
  - 9 August: Firing toward the IDF observation tower beside the al-Arurv refugee camp, firing toward an IDF force near the village of Jit in the Kalkilya district and wounding of a “Zionist”, firing toward an IDF force in the area of the Nur Shams refugee camp in the Tulkarem district and shooting in the al-Tur area south of Nablus;
  - 10 August: Firing toward the Gush Etzion Junction, and;

14 August: Firing toward a force in Tulkarem.

### **Ideology and Objectives of AAMB**

13. AAMB evolved from a Fatah linked coalition of militias with the common goal of ending Israel's presence in Gaza and the West Bank. AAMB's ideology is based on secular Palestinian nationalism.<sup>10</sup> This goal and ideology remains today.
14. On 18 June 2013, AAMB released a statement reiterating their strong, strategic relationship with Hizbollah and Hizbollah's Secretary General Hasan Nasrallah. Nasrallah had reportedly promised AAMB the "compass was and still is directed toward the holy Al-Aqsa and that the Palestinian question will remain the mother cause until the end of occupation". AAMB warned all free men of the world that the last link in the "Zio-US scheme" was the Judaisation of Al-Aqsa Mosque in front of Muslims who are "drowned in sedition". AAMB called on resistance factions and free men to mobilise and pool their efforts, and declare general mobilisation to confront the "Zio-US conspiracy". AAMB reaffirmed the only "basic battle" should be with the Israeli occupation.<sup>11</sup>

### **Organisation and structure of AAMB**

15. AAMB is currently believed to comprise a few hundred members, spread across an unknown number of small cells.<sup>12</sup> The individual cells are often named after recently killed Palestinian militants. AAMB continue to align with other Palestinian militant groups, including Hizbollah, Hamas, and the Palestine Liberation Organisation.<sup>13</sup>

### **Weapons, tactics and capability of AAMB**

16. Low-level sporadic attacks by AAMB have continued in response to Israeli offensives in the Gaza Strip. While AAMB is considered only a minor threat to the Israeli state, it remains a significant source of instability, particularly when conducting simultaneous or joint operations with other Palestinian militant groups.<sup>14</sup>
17. AAMB continues to use or acquire unguided rockets which are unable to be fired with precision or discriminate between civilian and military targets. In August 2014, AAMB posted a video showing Israeli Defence Force military equipment reportedly seized in Gaza during Operation Protective Edge. AAMB claimed it took the equipment, including magazines, ammunition, and shoulder-fired rockets during clashes with Israeli forces east of Beit Hanun.<sup>15</sup>
18. In September 2014, a Palestinian journalist visited a subdivision of AAMB known as the Al-Asifa Army. In a video interview, a militant advised rockets were being prepared in preparation for coming battles. The militant also advised the Al-Asifa Army had successfully developed a "K-132 rocket".<sup>16</sup>
19. In November 2014, AAMB released a recruitment video showing fighters training.<sup>17</sup> The video includes militants practising kidnapping techniques and guerrilla tactics to combat Israeli targets. Lyrics in the accompanying music state, "A sniper unit in the battalions does not fear death...using RPGs and booby-traps, they did not leave even one settlement".<sup>18</sup>
20. In early October 2015, AAMB stated they had developed a rocket capable of reaching up to 40 miles "deep inside the Zionist enemy". Marking the AAMB's 15<sup>th</sup> anniversary, AAMB expressed their eagerness to "confront the occupation at any time".<sup>19</sup>

21. During Operation Protective Edge in 2014, Israel unearthed 32 offensive tunnels dug by Palestinians into Israeli territory.<sup>20</sup> In footage which aired on Iran's state-owned Al-Alam channel in June 2015, a masked AAMB fighter showcased what he claimed was a newly built 3.5km tunnel "ready for the next round of hostilities with Israel". The militant went on to ask Iran, described as a "long-time supporter of the resistance and the Palestinian cause", for money.<sup>21</sup>
22. During his weekly sermon on 29 January 2016 Hamas leader in Gaza, Sheikh Ismail Haniyeh, stated Hamas was developing their military capabilities and were rebuilding tunnels to prepare for a future conflict with Israel. Haniyeh stated, "There are those who think that the calm is a time of rest...but this is a continuation of the struggle". Haniyeh claimed AAMB were digging tunnels to defend Gaza and turn it into a launch pad for all of Palestine.

### Law of armed conflict (LOAC)

23. It is possible attacks undertaken by AAMB during Operation Protective Edge occurred in a situation of armed conflict. While a number of attacks AAMB were involved in during this time were aimed at military targets, unguided weapons were used and some attacks targeted settlements and junctions. These attacks therefore breach the LOAC principle of distinction. Outside of this Operation, AAMB attacks have been sporadic and do not amount to a situation of armed conflict. The exemption in section 5(4) of the TSA therefore cannot apply and AAMB attacks are properly characterised as terrorist acts.

### CONCLUSION

24. 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.
25. Since its designation in December 2010 and renewal in October 2013, AAMB has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 10-12). Accordingly, given there are still reasonable grounds to believe 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.
26. The designation must be renewed by 2 October 2016 to be effective.

<sup>1</sup> (15/12/2010) "*Statement of case to designate Al-Aqsa Martyrs' Brigades as a terrorist entity*", available at <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-al-aqsa-martyrs-brigades-terrorist-entity-15-dec-2010.pdf>

<sup>2</sup> (02/10/2013) "*Statement of case to renew the designation of Al-Aqsa Martyrs' Brigades as a terrorist entity*", available at <http://www.police.govt.nz/sites/default/files/publications/renew-aamb-2-oct-2013.pdf>

<sup>3</sup> (30/06/2015) "*Country Reports on Terrorism 2014*", US Department of State, accessed via <http://www.state.gov/documents/organization/239631.pdf> on 23/02/2016, and;

(08/05/2014) "*Al Aqsa Martyrs Brigades posts video showing IDF equipment seized in Gaza*", Jerusalem Post, accessed via <http://www.jpost.com/Operation-Protective-Edge/Al-Aqsa-Martyrs-Brigades-posts-video-showing-IDF-equipment-370151> on 23/02/2016.

<sup>4</sup> (09/07/2014) "*Fatah to Israelis: 'The KN-103 rocket is on its way toward you'*", Palestinian Media Watch, accessed via <https://www.youtube.com/watch?v=xGcR9-z5tw#t=11> on 25/05/2016.

<sup>5</sup> (26/08/2014) "*Gaza-Israel conflict: Is the fighting over?*", BBC News, accessed via <http://www.bbc.com/news/world-middle-east-28252155> on 23/02/2016.

<sup>6</sup> (29/08/2014) "*Islamic Jihad: 121 of our fighters killed in Gaza*", Times of Israel, accessed via <http://www.timesofisrael.com/islamic-jihad-121-of-our-fighters-killed-in-gaza/> on 25/05/2016, and;

(26/08/2014) "*Gaza-Israel conflict: Is the fighting over?*", BBC News, accessed via <http://www.bbc.com/news/world-middle-east-28252155> on 25/05/2016.

<sup>7</sup> (26/08/2014) "*Gaza-Israel conflict: Is the fighting over?*", BBC News, accessed via <http://www.bbc.com/news/world-middle-east-28252155> on 23/02/2016.

<sup>8</sup> (12/08/2014) "*Fatah*", Jane's Terrorism and Monitoring series, accessed on 23/02/2016. Available on subscription.

<sup>9</sup> (20/08/2014) "*The Al-Aqsa Martyrs Brigades, the Military Wing of Fatah, is officially returning to armed struggle and terror*", Jerusalem Center for Public Affairs, accessed via <http://jcpa.org/al-aqsa-martyrs-brigades-military-wing-fatah/> on 25/05/2016, and;

(22/07/2014) "*بيان باسم "كتائب شهداء الأقصى - القيادة العامة"*", Youtube, accessed via <https://www.youtube.com/watch?v=a3skz-ZICM0> on 25/05/2016.

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- <sup>10</sup> (02/04/2008) “*Al-Aqsa Martyrs Brigade*”, Council on Foreign Relations, accessed via <http://www.cfr.org/israel/al-aqsa-martyrs-brigade/p9127> on 23/02/2016.
- <sup>11</sup> (18/06/2013) “*Al-Aqsa Brigades call for stopping bloodshed in Syria, say relationship with Hizballah ‘Strategic’*”, Ma’an News Agency, accessed via Open Source Centre on 23/02/2016.
- <sup>12</sup> (30/06/2015) “*Country Reports on Terrorism 2014*”, US Department of State, accessed via <http://www.state.gov/documents/organization/239631.pdf> on 23/02/2016.
- <sup>13</sup> (08/05/2014) “*Al-Aqsa Martyrs Brigades posts video showing IDF equipment seized in Gaza*”, Jerusalem Post, accessed via <http://www.jpost.com/Operation-Protective-Edge/Al-Aqsa-Martyrs-Brigades-posts-video-showing-IDF-equipment-370151> on 23/02/2016, and;
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- (10/10/2015) “*Senior Fatah official confirms: We murdered the Israeli couple*”, Israel National News, accessed via <http://www.israelnationalnews.com/News/News.aspx/201349#.VsUkT2Hr9A2> on 18/02/2016, and;
- (30/06/2015) “*Country Reports on Terrorism 2014*”, US Department of State, accessed via <http://www.state.gov/documents/organization/239631.pdf> on 23/02/2016.
- <sup>14</sup> (12/08/2014) “*Fatah*”, Jane’s Terrorism and Monitoring series, accessed on 23/02/2016. Available on subscription.
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- <sup>16</sup> (22/09/2014) “*Fatah producing new rockets to replenish supplies to attach “the Zionist enemy” in “coming battles”*”, Palestine Media Watch, accessed via <https://www.youtube.com/watch?v=PjspNnh-9bs> on 23/02/2016.
- <sup>17</sup> (30/06/2015) “*Country Reports on Terrorism 2014*”, US Department of State, accessed via <http://www.state.gov/documents/organization/239631.pdf> on 23/02/2016.
- <sup>18</sup> (26/11/2015) “*Militant snacks on snake in new Fatah promotional video*”, The Jerusalem Post, accessed via <http://www.jpost.com/Arab-Israeli-Conflict/Militant-snacks-on-serpent-in-new-Fatah-promotional-video-435491> on 23/02/2016.
- <sup>19</sup> (04/10/2015) “*Al-Aqsa Martyrs Brigade reveal 40 mile range rocket*”, Breaking Israel News, accessed via <http://www.breakingisraelnews.com/49926/al-aqsa-martyrs-brigades-reveal-40-mile-range-rocket-terror-watch/#DDIJZopExtfxu60E.97> on 18/02/2016.
- <sup>20</sup> (29/01/2016) “*Haniyeh: Hamas rebuilding tunnels, preparing for conflict with Israel*”, Haaretz, accessed via <http://www.haaretz.com/israel-news/.premium-1.700304> on 23/02/2016.
- <sup>21</sup> (18/08/2015) “*Fatah’s armed wing in Gaza asks Iran for money to fight Israel*”, Times of Israel, accessed via <http://www.timesofisrael.com/fatahs-armed-wing-in-gaza-asks-iran-for-money-to-fight-israel/> on 23/02/2016.