

STATEMENT OF CASE TO RENEW THE DESIGNATION OF IZZ AL-DIN AL-QASSAM BRIGADES AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to assess whether the Izz al-Din al-Qassam Brigades (the military wing of Hamas and also known as Ezzedeen Al-Qassam Brigades and Izz al-Din Al-Qassem Brigades) 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 Izz al-Din al-Qassam Brigades (the Brigades) 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 the Brigades' 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 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, Foreign Policy, The Guardian, Haaretz, Al Jazeera, The Washington Post, The New York Times, The

Christian Science Monitor, The Longwar Journal, Human Rights Watch, The Jamestown Foundation, Jane's IHS series, Council on Foreign Relations, Center for Strategic and International Studies, Reuters, Royal United Services Institute and a report of the United Nations Human Rights Council. The official website of the Izz al-Din Al-Qassam Brigades has also been referred to.

Continued involvement in terrorist acts

9. The Brigades were designated as a terrorist entity on 11 October 2010.
10. On 6 April 2011, the Brigades claimed responsibility for a Kornet antitank missile which hit a school bus in southern Israel. The missile, fired from Gaza, killed an Israeli teenager² and also wounded the bus driver.³ The Brigades immediately claimed responsibility for the missile, asserting the group had specifically aimed at the target as "an initial response to the occupation's [Israel's] crimes, the latest of which was the assassination of the three holy fighters".⁴ This was a reference to an Israeli air strike which had killed three senior Hamas operatives a few days earlier.
11. On 14 November 2012, the military commander of the Brigades, Ahmed al-Jabari, was killed in a targeted Israeli air strike.⁵ This prompted a series of retaliatory rocket attacks by Hamas and other Palestinian groups and a reciprocal response from Israel.⁶ During the resulting eight day conflict, more than 1,500 rockets were fired at Israel, killing six Israelis (including four civilians) and wounding over 200.⁷ According to statements released by the Brigades, they were responsible for firing at least 195 of those rockets into Israel.⁸ These included:
 - 11.1. Five Grad type rockers launched at Kiryat Malachi, a town of 20,000 people, on 15 November 2012.⁹ One Grad type rocket struck the top two floors of a residential apartment building at 8 am on that day.¹⁰ Three Israeli civilians were killed.¹¹ Three other civilians, including an 8-month-old baby, were wounded in the attack.
 - 11.2. Two Fajr-5 missiles fired at Tel Aviv on 17 and 18 November 2012 which the Brigades called "a response for the ongoing aggression against Palestinian people".¹² Both missiles missed the city.¹³
12. On 21 November 2012, a bomb was detonated on a passenger bus which was passing a military headquarters in Tel Aviv¹⁴, wounding at least 20 people.¹⁵ The bomb was left on the bus by a passenger and remotely detonated with a mobile phone. Israeli authorities arrested an Israeli citizen of Palestinian descent.¹⁶ The indictment stated the man planted the bomb on the bus on behalf of Hamas.¹⁷ He then informed other members of the cell, who detonated the explosive using a mobile phone. A number of Palestinian operatives affiliated with Hamas and Palestinian Islamic Jihad were also arrested following the attack.¹⁸ Israeli authorities said the operatives admitted recruiting the passenger, preparing the bomb, choosing the target and purchasing the cell phone to detonate the device.¹⁹ Despite the Brigades praising the attack on their Twitter site, stating "you opened the gates of hell on yourselves"²⁰ and members of the cell confessing to their involvement²¹, Hamas' leader Khaled Meshaal has denied Hamas involvement in the bombing.²²

Ideology and objectives

13. The Brigades share Hamas' overall objectives (the destruction of Israel and for recovering and the creation of a Sunni Islamic state in all of mandated Palestine.²³). The Brigades maintain their own website, including an English language version, which hosts military statements and publicises the group's aims and activities. The website is often used to claim responsibility for attacks and to publish biographies of 'martyrs' killed by Israeli forces.²⁴

Organisation and Structure

14. Hamas is divided into three wings; political, social and military. The Brigades were established in 1992 as the military wing of Hamas. However, the Brigades are structured as a distinct and discrete organisation from the other wings of Hamas.²⁵ The group is notoriously secretive, but it is thought the Brigades comprise around 15,000²⁶-20,000 fighters.²⁷

Weapons and Tactics

15. The Brigades operate predominately out of Gaza²⁸, with a minor presence in the West Bank.²⁹ Fighters are equipped with various kinds of small arms, short and medium range rockets and surface-to-air missiles.³⁰ The Brigades continue to pose a significant threat to Israeli security as they have demonstrated they have longer range rockets capable of reaching Tel Aviv³¹ and Jerusalem³², including access to Fajr-5 missiles which have a range of about 45 miles.

Law of Armed Conflict (LOAC)

16. The Brigades attacks since the 2010 designation can be characterised by their indiscriminate nature, and in some cases the Brigades have targeted civilians and civilian objects. It is possible that some Brigades attacks (such as in November 2012) have occurred in a situation of armed conflict. However, in any instances where there threshold for an armed conflict was met, the Brigades attacks breached the principle of distinction and therefore the exemption in s 5(4) of the Act does not apply.

CONCLUSION

17. 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 the Brigades to be designated under that section.
18. Since its designation in October 2013, the Brigades have continued to carry out attacks which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraph 10-12). Accordingly, given there are still reasonable grounds to believe that the Brigades have knowingly carried out terrorist acts as set out in s 22 of the TSA, the Brigades meet the legal criteria for renewal of the group's designation as a terrorist entity under s 35.
19. The designation must be renewed by 11 October 2013 to be effective.

- ¹ The statement of case, dated 10 October 2010 can be accessed at: www.police.govt.nz/service/counterterrorism/designated-terrorists.html
- ² (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.
- ³ (7/04/2011) "Gaza missile hits Israeli school bus, wounding teen; Israel hits back, killing four", The Washington Post, http://articles.washingtonpost.com/2011-04-07/world/35261900_1_gaza-strip-bus-attack-dome-missile-defense-system. Accessed 24/01/2013.
- ⁴ (7/04/2011) "Missile from Gaza Hits School Bus", The New York Times, <http://www.nytimes.com/2011/04/08/world/middleeast/08gaza.html>. Accessed 11/03/2013.
- ⁵ (14/11/2012) "Feroocious Israeli Assault on Gaza Kills a Leader of Hamas", The New York Times, <http://www.nytimes.com/2012/11/15/world/middleeast/israeli-strike-in-gaza-kills-the-military-leader-of-hamas.html>. Accessed 26/03/2013.
- ⁶ (2012) "World Report 2013: Israel/Occupied Palestinian Territories", Human Rights Watch, <http://www.hrw.org/world-report-2013/country-chapters/israel-palestine>. Accessed 11/03/2013.
- ⁷ United Nations Human Rights Council (March 2013) *Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council Resolutions S-9/1 and S-12/1: Concerns related to adherence to international human rights and international humanitarian law in the context of the escalation between the state of Israel, the de facto authorities in Gaza and Palestinian armed groups in Gaza that occurred from 14 to 21 November 2012*. United Nations Human Rights Council. Accessed 07/06/2013
- ⁸ (11/01/2013) "Hamas", Jane's World Insurgency and Terrorism at page 10, available on subscription. Accessed 28/01/2013.
- ⁹ (15/11/2012), "In an hour, Al Qassam Brigades fired 121 missiles, three Israelis killed", Al-Qassam: Ezzedeen Al-Qassam Brigades - Information Office, http://www.qassam.ps/statement-1416-Al-Qassam_Brigades_fired_121_missiles_three_Israelis_killed.html. Accessed 12/03/2013.
- ¹⁰ (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.
- ¹¹ (2012) "World Report 2013: Israel/Occupied Palestinian Territories", Human Rights Watch, <http://www.hrw.org/world-report-2013/country-chapters/israel-palestine>. Accessed 11/03/2013
- ¹² (17/11/2012) "Al Qassam Brigades Fire 'Fajer-5' missile at 'Tel Aviv'", Al-Qassam: Ezzedeen Al-Qassam Brigades - Information Office, http://www.qassam.ps/statement-1472-Al-Qassam_Brigades_Fire_Fajer_5_missile_at_Tel_Aviv.html. Accessed 12/03/2013.
- ¹³ (11/01/2013) "Hamas", Jane's World Insurgency and Terrorism at page 12, available on subscription. Accessed 28/01/2013
- ¹⁴ (21/11/2012) "Israel-Gaza crisis: Tel Aviv bomb blast on bus", BBC, <http://www.bbc.co.uk/news/world-middle-east-20425352>. Accessed 15/03/2013.
- ¹⁵ (22/11/2012) "Israel arrests Hamas, Islamic Jihad cell behind Tel Aviv bus bomb", Haaretz, <http://www.haaretz.com/misc/article-print-page/israel-arrests-hamas-islamic-jihad-cell-behind-tel-aviv-bus-bomb-1.479958?trailingPath=2.169%2C2.216%2C2.217%2C>. Accessed 11/03/2013.
- ¹⁶ (24/11/2013) "Israel arrests Tel Aviv bus-bomb suspect", Al Jazeera, <http://www.aljazeera.com/news/middleeast/2012/11/2012112373247633556.html>. Accessed 12/03/13.
- ¹⁷ (19/12/2012) "Israel charges Tel Aviv bus bomb suspect", The Daily Star Lebanon, www.dailystar.lb/ArticlePrint.aspx?id=199105&mode=print. Accessed 18/06/2013.
- ¹⁸ (19/12/2012) "4 Threat Matrix: Israeli authorities release details on November bus bombing in Tel Aviv", Long War Journal, http://www.longwarjournal.org/threat-matrix/archives/2012/12/israeli_authorities_release_de.php. Accessed 18/06/2013.
- ¹⁹ (19/12/2013) "ISA announcement regarding the November Tel Aviv terror attack" Israeli Defence Force, <http://www.idf.il/1283-17909-en/Dover.aspx>. Accessed 18/06/2013.
- ²⁰ (22/11/2012) "Police Arrest Suspects in Tel Aviv Bus Blast, Including Israeli Citizen", The New York Times, http://www.nytimes.com/2012/11/23/world/middleeast/police-arrest-suspects-in-tel-aviv-bus-blast-including-israeli-citizen.html?_r=1&. Accessed 12/03/2013.
- ²¹ (21/11/2013) "Tel Aviv bus hit by bomb; Hamas celebrates", Reuters, <http://www.reuters.com/article/2012/11/21/us-israel-telaviv-bus-explosion-idUSBRE8AK0HS20121121>. Accessed 15/03/2013.
- ²² (19/12/2012) "4 Threat Matrix: Israeli authorities release details on November bus bombing in Tel Aviv", Long War Journal, http://www.longwarjournal.org/threat-matrix/archives/2012/12/israeli_authorities_release_de.php. Accessed 18/06/2013.
- ²³ (19/12/2013) "ISA announcement regarding the November Tel Aviv terror attack" Israeli Defence Force, <http://www.idf.il/1283-17909-en/Dover.aspx>. Accessed 18/06/2013.
- ²⁴ (21/11/2012) "Hamas leader tells Amanpour his group wasn't behind bombing", CNN, <http://amanpour.blogs.cnn.com/2012/11/21/hamas-political-leader-speaks-to-amanpour/>. Accessed 18/06/2013.
- ²⁵ (7/02/2012) "Who is Hamas? 5 questions about the Palestinian militant group", The Christian Science Monitor, <http://www.csmonitor.com/World/Middle-East/2012/0207/Who-is-Hamas-5-questions-about-the-Palestinian-militant-group/What-are-the-origins-of-Hamas>. Accessed 11/03/2013.
- ²⁶ "Ezzedeen Al-Qassam Brigades: Information Office" www.qassam.ps/. Accessed 26/03/2013
- ²⁷ Frankel, R (2012) Keep Hamas and Hezbollah Out of a War with Iran, *The Washington Quarterly*, 53-65.
- ²⁸ (18/11/2012) "Brigades That Fire on Israel Are Showing a New Discipline", The New York Times, <http://www.nytimes.com/2012/11/19/world/middleeast/brigades-that-fire-on-israel-show-a-deadly-new-discipline.html?pagewanted=all>. Accessed 15/03/2013.
- ²⁹ (9/12/2011) "Hamas ends armed resistance, but its military wing continues", Jane's Defence Weekly, access available on subscription. Accessed 26/02/2013.
- ³⁰ (27/11/2012) "Hamas", Council on Foreign Relations, <http://www.cfr.org/israel/hamas/p8968#>. Accessed 13/03/2013.
- ³¹ (11/01/2013) "Hamas", Jane's World Insurgency and Terrorism at page 3, available on subscription. Accessed 28/01/2013.
- ³² (9/12/2011) "Hamas ends armed resistance, but its military wing continues", Jane's Defence Weekly, access available on subscription. Accessed 26/02/2013.
- ³³ (16/11/2012) "Gaza Escalation", Center for Strategic & International Studies, <http://csis.org/print/40581>. Accessed 13/03/2013.
- ³⁴ (23/11/2012) "A Tenuous Ceasefire in Gaza" Royal United Services Institute, <http://www.rusi.org/go.php?structureID=commentary&ref=C50AF41C1EBDA7>. Accessed 14/03/2013.