

STATEMENT OF CASE TO RENEW THE DESIGNATION OF SHINING PATH AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating The Shining Path (SP, also known as the Peruvian Communist Party, PCP-SL, PCP, SL, Partido Comunista del Peru en el Sendero Luminoso de Jose Carlos Mariategui, Communist Party of Peru on the Shining Path of Jose Carlos Mariategui, Partido Comunista del Peru, Communist Party of Peru, The Communist Party of Peru by the Shining Path of Jose Carlos Mariategui and Marxism, Leninism, Maoism and the Thoughts of Chairman Gonzalo, Revolutionary Student Front for the Shining Path of Mariategui, Communist Party of Peru - By Way of the Shining Path of Mariategui, PCP - por el Sendero Luminoso de Mariategui, Ejercito Guerrillero Popular, Ejercito Popular de Liberacion, EGP, EPL, People's Aid of Peru, People's Guerrilla Army, People's Liberation Army, the *Militarizado Partido Comunista del Perú* (MPCP, the Militarized Communist Party of Peru)- and *Sendero Luminoso*) meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about SP's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in September 2011¹ and renewals in July 2014² and July 2017,³ including SP's objectives, structure, weapons and tactics and includes recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with the information contained in the original designation paper and previous renewal papers, provide the basis for the conclusion that SP meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. 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)).
5. 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.
6. 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

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting.

8. A range of think tanks were referred to including Instituto de Democracia y Derechos Humanos, and Jane's World Insurgency and Terrorism.
9. A range of regional news sources were also referred to including Huachos.com, America TV, and La Republica.
10. Other sources utilised include US Department of State, Garda World, and Insight Crime.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. Peruvian authorities report that SP committed four terrorist acts in 2019, sixteen in 2018, and nine between July and December 2017. There were three notable acts between July 2017 and July 2019. These include:
 - 11.1. On 9 August 2018, a soldier was killed during an armed attack on Peruvian Special Forces in Canayre, Hunanta province of the Valle de los Ríos Apurímac, Ene y Mantaro (VRAEM).⁴
 - 11.2. On 18 October 2018, SP attacked Peruvian soldiers on patrol in the Cintiarío area of the VREAM, killing one and injuring another.⁵
 - 11.3. On 25 June 2019, five soldiers were killed by SP members in the VREAM region of central Peru. Three of the soldiers were killed in an ambush set by SP, with a further two killed during the military's response.⁶

Ideology and objectives

12. SP continues to seek to destroy existing state institutions in Peru, rid Peru of foreign influences and replace the current democratic system with a peasant revolutionary authority.⁷ SP aims to achieve these objectives by waging a protracted guerrilla conflict against Peruvian security forces, and participation in the illegal narcotics trade.
13. Information seized by Peruvian security forces in 2019 suggests that SP's most immediate objective is to use ambushes and assassination of police and military forces in order to re-establish its control of the territories in which it historically had influence (see below).⁸

Organisation and structure

14. Since its most recent renewal of designation in July 2017 SP has continued to operate in VRAEM, a region with a high concentration of coca plantations and a centre of cocaine production (in 2017, 74% of Peruvian cocaine hydrochloride was cooked in the VRAEM).⁹
15. SP was severely depleted in the 1990s by Peruvian authorities and split into two largely independent groups in 2001.¹⁰ These groups remained operating in the Upper Huallaga Valley and VRAEM. Since the renewal of designation of SP in July 2014 (which documents the capture and imprisonment of the Huallaga Valley SP leadership) there has been no significant reporting of SP activity in the Upper Huallaga Valley.
16. SP activity in the VRAEM is led by the Victor Quispe-Palomino (aka Comrade José), with second in command his brother Jorge Quispe-Palomino (aka Comrade Raul). The third in

command is ‘Comrade Olga’. A set of sub-commanders falling under this trio continue to be targeted by Peruvian law enforcement.¹¹

17. Pressure on SP has resulted in a number of deaths among SP leadership. For example, Hugo Sixto Campo Córdova aka “Julio Chapo”, was captured alive by the Peruvian National Police in July 2018.¹² Another commander, Juan Carlos Badajoz Vizarres aka “Comrade Miguel” was shot and potentially killed by law enforcement officers in August 2019 (the body was not recovered).¹³
18. Victor Quispe-Palomino restructured the VREAM remnant of the SP under the name Militarized Communist Party of Peru (MPCP) in 2018.¹⁴ A document uncovered by Peruvian security services and analysed by the Peruvian Police’s counter-terrorism directorate indicates that the adoption of the alias is at least partly intended to re-energise support for SP among rural and farmer communities.¹⁵
19. Peruvian authorities estimate a membership of between 250 and 300 militia, of which 60 to 150 are armed fighters.¹⁶ These fighters are possibly young and inexperienced,¹⁷ with reporting indicating that many may be current or former child soldiers.¹⁸

Weapons, tactics and capability

20. In May 2019 the armed forces and police in VRAEM uncovered a large cache of explosives considered to belong to SP, and the 7 June 2018 attack involved an IED.¹⁹
21. SP funds its activity via “revolutionary taxes” imposed on the drug trade in VRAEM and is thought to provide “security” and transportation to drug trafficking organisations.²⁰

LAW OF ARMED CONFLICT (LOAC)

22. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if the act occurs in a situation of armed conflict and is, at the time and place that it occurs, in accordance with rules of international law applicable to the conflict. The activities of SP do not meet either of these conditions. The sporadic violence has not reached a level of intensity and continuity on the part of SP which would bring the situation in Peru within the meaning of “armed conflict”. Further, SP have made police officers the subject of actual or planned attacks which breaches the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and SP attacks are properly characterised as terrorist acts.

CONCLUSION

23. 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 SL to be designated under that section.
24. Since its designation on 12 September 2011 and renewals on 20 July 2014 and 17 July 2017, SP has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraph 11) including conducting attacks. Accordingly, given there are still reasonable grounds to believe SP has knowingly carried out terrorist acts as set out in s 22 of the TSA, SP meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
25. The designation must be renewed by 20 July 2020 to be effective.

¹ The statement of case, dated 12 September 2011 can be accessed at: http://www.police.govt.nz/sites/default/files/publications/statement-of-case-the-shining-path-terrorist-entity-12-sept-2011_0.pdf.

² The statement of case, dated 20 July 2014 can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/shining-path-renewal-september-2014.pdf>.

³ The statement of case, dated 17 July 2017 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/renew-the-shining-path-terrorist-entity-27july2017.pdf>

⁴ (1/11/2019) “Country Report on Terrorism 2018 – Chapter 1 – Peru), *US Department of State*, accessed via <https://www.ecoi.net/en/document/2019371.html> on 25/02/2020.

⁵ (19/10/2018) “Peru: Clashes with armed group in VRAEM region October 18”, *Garda World*, accessed via <https://www.garda.com/crisis24/news-alerts/167431/peru-clashes-with-armed-group-in-vraem-region-october-18> on 25/02/2020.

⁶ (28/06/2019) Will Hartley, “Killing of three soldiers by Shining Path insurgents in Peru underlines continued sporadic threat to security forces”, *Jane's*, accessed via <https://www.janes.com/article/89576/killing-of-three-soldiers-by-shining-path-insurgents-in-peru-underlines-continued-sporadic-threat-to-security-forces> on 27/01/2020.

⁷ (25/02/2019) “Sendero Luminoso: salen a la luz documentos del plan de los terroristas para 2021”, *América TV*, accessed via <https://www.america.com.pe/noticias/actualidad/sendero-luminoso-salen-luz-documentos-plan-terroristas-2021-n360700> on 12/02/2020.

⁸ (25/02/2019) “Sendero Luminoso: salen a la luz documentos del plan de los terroristas para 2021”, *América TV*, accessed via <https://www.america.com.pe/noticias/actualidad/sendero-luminoso-salen-luz-documentos-plan-terroristas-2021-n360700> on 12/02/2020.

⁹ (28/09/2017) “Indecisión del Gobierno frente a erradicación de cultivos de coca en el Vraem”, *La República*, accessed via <https://larepublica.pe/politica/1104193-indecision-del-gobierno-frente-a-erradicacion-de-cultivos-de-coca-en-el-vraem/> on 10/02/2020.

¹⁰ “Victor Quispe-Palomino”, *U.S. Department of State*, accessed via <https://www.state.gov/victor-quispe-palomino/> on 11/02/2020.

¹¹ (9/06/2018) “Terrorista ‘José’ amenaza con más ataques a las fuerzas del orden”, *La República*, accessed via <https://larepublica.pe/politica/1258375-terrorista-jose-amenaza-ataques-fuerzas-orden/> on 11/02/2020.

¹² (12/07/2019) “Cae camarada ‘Julio Chapo’, integrante de Sendero Luminoso en el VRAEM”, *La República*, accessed via <https://larepublica.pe/politica/2019/07/12/pnp-cae-camarada-julio-chapo-integrante-de-banda-terrorista-que-opera-en-el-vraem/> on 12/02/2020.

¹³ (10/08/2019) “Camarada ‘Miguel’ cayó abatido en choque con la Diviac en Huanta”, *La República*, accessed via <https://larepublica.pe/politica/2019/08/10/camarada-miguel-cayo-abatido-en-choque-con-la-diviac-en-huanta/> on 12/02/2020.

¹⁴ (9/06/2018) “Terrorista ‘José’ amenaza con más ataques a las fuerzas del orden”, *La República*, accessed via <https://larepublica.pe/politica/1258375-terrorista-jose-amenaza-ataques-fuerzas-orden/> on 11/02/2020.

¹⁵ (23/09/2019) Escrito por Sergio Saffon, “Peru’s Shining Path Plots Unlikely Return to Power”, *Insight Crime*, accessed via <https://www.insightcrime.org/news/analysis/shining-path-return-power-peru/> on 27/01/2020.

¹⁶ October 2018, “Country Reports on Terrorism 2018”, *United States Department of State*, pp.204-207.

¹⁷ (23/09/2019) Escrito por Sergio Saffon, “Peru’s Shining Path Plots Unlikely Return to Power”, *Insight Crime*, accessed via <https://www.insightcrime.org/news/analysis/shining-path-return-power-peru/> on 27/01/2020.

¹⁸ (15/06/2018) Mariella Villasante, “Nuevo ciclo de violencia en el VRAEM: la incapacidad del Estado y de las FFAA para eliminar el ‘narcoterrorismo’”, *Instituto de Democracia y Derechos Humanos*, accessed via <https://idehpucp.pucp.edu.pe/analisis/nuevo-ciclo-de-violencia-en-el-vraem-la-incapacidad-del-estado-y-de-las-ffaa-para-eliminar-el-narcoterrorismo/> on 12/02/2020.

i. (25/02/2019) “Sendero Luminoso: salen a la luz documentos del plan de los terroristas para 2021”, *América TV*, accessed via <https://www.america.com.pe/noticias/actualidad/sendero-luminoso-salen-luz-documentos-plan-terroristas-2021-n360700> on 12/02/2020.

¹⁹ (25/05/2018) “Encuentran base de Sendero Luminoso con dinamita en Ayacucho”, *La República*, accessed via <https://larepublica.pe/politica/1249475-encuentran-base-sendero-luminoso-dinamita-ayacucho/> on 27/01/2020.

²⁰ October 2018, “Country Reports on Terrorism 2018”, *United States Department of State*, pp.204-205.