

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

PURPOSE

1. The purpose of this paper is to assess whether the Shining Path (SP) (also known as Sendero Luminoso, the Peruvian Communist Party, PCP-SL or SL) 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 SP'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, The Jamestown Foundation, IHS Jane's publications, Reuters, Combating Terrorism Center at Westpoint, United States Department

of State Country Reports on Terrorism, The Economist, The Wall Street Journal and The Bloomberg Review.

9. A range of regional media sources were referred to including Bueno Aires Herald, La Republica via Insight Crime, Peru This Week and the Peruvian Times.

CONTINUED INVOLVEMENT IN TERRORIST ACTIVITY

10. SP was designated as a terrorist entity on 12 September 2011.
11. On 14 September 2011, two Peruvian soldiers were killed and another wounded in an attack by SP militants near San Martin de Pangoa in the Junín province of the Valleys of the Rivers of Apurimac and Ene (VRAE). The attack occurred after a soldier was wounded by a landmine while on a routine counter-insurgency patrol in the area.² A military helicopter sent to retrieve the unit was fired upon by SP militants, killing the pilot and another soldier. The co-pilot was then able to fly the helicopter to safety.
12. On 12 December 2011, a soldier was killed and five others were wounded when SP militants launched a small-arms ambush targeting the soldiers' vehicle in the La Mar province in Ayacucho region of the VRAE. Later that day, a military helicopter deploying special forces soldiers to search for the militants who had carried out the earlier ambush, was attacked by SP militants, leaving a further seven Peruvian soldiers wounded.³
13. On 9 April 2012, 36 people, mostly employees of a Swedish construction company contracted to work for gas company Transportadora de Gas del Perú, were kidnapped by SP members in La Convencion Province in the Cuzco region of the VRAE.⁴ Longstanding SP leader Martin Quispe Palomino, who was in charge of the attack, told media the reason for the kidnapping was to lure Peruvian security forces to the area to ambush and kill them.⁵ Eight police and military officers were killed and ten wounded⁶ by SP during operations to free the kidnapped workers and to find missing security officers in the area.⁷ The hostages were released by SP on 14 April 2012.
14. On 29 May 2012, a soldier and a 15 year old civilian were wounded when a group of SP militants opened fire on a local counter-insurgency base in the village of Kepashiato in Cuzco region of the VRAE.⁸ SP snipers located in nearby hills fired on the base which had recently begun operating out of an abandoned school. This attack occurred in the same area where the gas workers had been kidnapped the previous month.⁹
15. On 17 February 2014, SP launched an attack on the Transportadora de Gas del Perú natural gas camp in the district of Echarate in southern Cuzco region of the VRAE. A gas worker was injured in the attack after receiving a gunshot wound to the stomach.¹⁰ In 2013, the gas company had temporarily suspended work on expanding the capacity of the pipeline due to the lack of security in the area. The gas company had only recently resumed work after the government increased security near the project.¹¹ Gas transported from the pipeline is an important source for generating electricity in Peru.

Ideology and objectives

16. SP is a Marxist/Maoist-inspired organisation which operates throughout Peru. SP aims to overthrow the Peruvian government and replace it with a Maoist-communist system. SP aims to achieve these goals by following Mao's principles of protracted guerrilla warfare.¹² SP does

not currently have the capacity to seriously threaten the stability of the Peruvian government; however it continues to operate and conduct attacks against the Peruvian state.

17. In late October 2011, a SP associated group, "The Movement for Amnesty and Fundamental Rights" (MOVADef), submitted over 300,000 signatures to file for political party status in Peru.¹³ Peruvian authorities considered this an attempt by the SP to win a nationwide amnesty for hundreds of its "political prisoners" (most notably former SP leader Abimael Guzmán).¹⁴ The electoral authority turned down the application, arguing that MOVADef was promoting terrorism by stating that its guiding principle was "Marxism-Leninism-Maoism-Gonzalo Thought", referring to SP's use of protracted guerrilla warfare to achieve its goals.¹⁵
18. SP's VRAE faction operates in areas in which there are large coca plantations.¹⁶ Local coca farmers, affected by Peruvian government drug eradication initiatives, have been recruited by SP. SP promote membership by claiming SP is defending the rights of the farmers to produce coca and thereby inculcates members with its Marxist ideology.¹⁷
19. SP also uses political rhetoric to justify its operations against gas companies by declaring they are acting on behalf of the local population who have complained about the companies operating in the region.

Organisation and Structure

20. SP has two main operating factions, a prominent faction operating in the Upper Huallaga Valley region (Huallaga Regional Committee) and the other in the VRAE (Main Central Regional Committee).¹⁸
21. The SP continues to be split between these two geographically distinct forces; however both factions seek to establish a Marxist Peruvian state.¹⁹ The larger force, the Main Central Regional Committee, is in the southern region of the VRAE (and specifically parts of Ayacucho, Apurimac, Cuzco, Huancavelica, and Junín) and has increased its offensives over the last two years; including placing improvised explosive devices (IEDs)²⁰ against major gas pipelines and kidnappings.²¹ The Main Central Regional Committee has extended its influence from the VRAE²², to include the valleys surrounding Mantaro River.²³
22. On 7 December 2011, SP's Huallaga Regional Committee leader Jose "Pepe" Flores Hala (also known as Comrade Artemio²⁴) announced the military defeat of the SP Huallaga Regional Committee faction, stating it was prepared for dialogue with the Peruvian authorities but would only surrender its weapons if the government did not engage in armed conflict with them.²⁵ Despite these assertions, a number of SP militants continued to operate in the area.
23. Comrade Artemio was arrested on 12 February 2012 following a skirmish with the Peruvian military.²⁶ He was subsequently convicted of terrorism, drug and money laundering related offences. On 3 March 2012, Artemio's replacement, Walter Diaz Vega, was also arrested in the Huallaga Valley region.²⁷ SP still operates in the Upper Huallaga Valley region; however it has been severely limited in its operations.²⁸ On 9 December 2013, Alexander Dimas Huaman (also known as Héctor), who was then leading the Huallaga Regional Committee, was arrested. Following this, Peru's national drug police declared SP had disappeared from the upper Huallaga Valley.²⁹

Weapons and Tactics

24. Since its original designation in September 2011, SP has maintained a steady tempo of low-level attacks against security forces and continues to pose a low-level threat to the Peruvian state. Despite its limited size, SP has demonstrated it retains the ability to target Peru's security forces with success.
25. The SP faction operating in the VRAE region frequently targets the pipeline gas expansion projects throughout the region. This faction not only increasingly employed kidnapping operations, but has also burnt helicopters, construction machinery and vehicles belonging to the company operators and construction contractors.³⁰ For example on 6 June 2012, SP members briefly seized 18 pipeline workers from an area close to the site where 36 gas workers were kidnapped on 9 April 2012. The 36 hostages were unharmed and released hours later. During this incident SP spray-painted revolutionary slogans on the workers' helicopters.³¹ On 6 October 2012, Transportadora de Gas del Perú was forced to temporarily stop maintenance work on the pipeline after SP members broke into an airfield at Kiteni, in Cuzco in the VRAE and destroyed three helicopters which had been used to inspect the conduit.³²
26. While SP continues to use drug trafficking to fund their operations,³³ the group still conducts its attacks to further its ideological objectives and continues to espouse radical revolutionary propaganda.³⁴ The group is also known to conduct attacks on the security forces independent of known drug trafficking locations. On 1 December 2011, Comrade Artemio denied having links to drug traffickers, but said that because the SP's only enemy was the state, drug traffickers were allowed to operate in the Huallaga Valley territory.³⁵

Law of Armed Conflict (LOAC)

27. There have been no significant changes in the status of the conflict or in the conduct of SP to invalidate the legal analysis contained in the original designation. The situation continues to be one of sporadic violent activity by SP, and has not reached a level of intensity and continuity on the part of SP that would bring the situation within the meaning of "armed conflict" for the purposes of the exemption in section 5(4) of the TSA. Accordingly, the exemption in s 5(4) cannot apply, and the SP attacks are properly characterised as terrorist acts.

CONCLUSION

28. 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 SP to be designated under that section.
29. Since its designation in September 2011, SP has continued to carry out attacks which meet the definition of terrorist acts in ss 5 and 25 of the TSA (see paragraphs 11-15). Accordingly, given there are still reasonable grounds to believe that 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 s35.
30. The designation must be renewed by 12 September 2014 to be effective.

- ¹ The statement of case, dated 15 September 2011 can be accessed at: www.police.govt.nz/service/counterterrorism/designated-terrorists.html
- ² (15/09/2011) “*Shining Path Attack on Army Helicopter Kills 2*”, La Republica <http://www.larepublica.pe/15-09-2011/sendero-luminoso-no-pudo-derribar-helicoptero-mi-17-pero-mato-al-piloto-y-un-capitan> accessed via Insight Crime, <http://www.insightcrime.org/news-briefs/shining-path-attack-on-army-helicopter-kills-2>. Accessed on 18/03/2014.
- ³ (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ⁴ (15/04/2012) “*Peru says hostages freed, clashes with Shining Path*”, Reuters <http://www.reuters.com/article/2012/04/15/us-peru-rebels-idUSBRE83D0B020120415>. Accessed 20/03/2014.
- ⁵ (18/04/2012) “*Peru rebel leader mocks Humala’s army after ambush*”, Buenos Aires Herald, <http://www.buenosairesherald.com/article/98546/peru-rebel-leader-mocks-humalas-army-after-ambush>. Accessed 20/03/2014.
- ⁶ (30/05/2013) “*United States Department of State, Country Reports on Terrorism 2012 – Peru*” United States Department of State <http://www.state.gov/j/ct/rls/crt/2012/209984.htm>. Accessed 20/03/2014
- ⁷ (30/04/2012) “*Peru policeman reappears after 17 days in the jungle*”, BBC <http://www.bbc.com/news/world-latin-america-17902562>. Accessed 20/03/2014.
- ⁸ (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ⁹ (29/05/2012) “*Peru guerrilla attack leaves two injured in La Convencion*”, Peru This Week, <http://www.peruthisweek.com/news-peru-guerrilla-attack-leaves-two-injured-in-convencion-12218>. Accessed on 6/03/2014
- ¹⁰ (18/02/2014) “*Shining Path Attacks Natural Gas Pipeline Camp*” The Peruvian Times, <http://www.peruviantimes.com/18/shining-path-attacks-natural-gas-pipeline-camp/21577/>. Accessed on 20/03/2014
- ¹¹ (18/03/2014) “*Pipeline Workers Attacked in Remote Area of Peru*”, Wall Street Journal, <http://online.wsj.com/news/articles/SB10001424052702304899704579391610967961396>. Accessed 20/03/2014.
- ¹² (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ¹³ (11/04/2012) “*Hot Issue — On The Rebound: Shining Path Factions Vie for Control of Upper Huallaga Valley*”, The Jamestown Foundation, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=39249&tx_ttnews%5BbackPid%5D=7&cHash=1619237a4707dc8fdd291d5d5d570574#. Accessed 19/03/2014
- ¹⁴ (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ¹⁵ (08/09/2012) “*Peru’s Shining Path – Still Smouldering*”, The Economist, accessed via <http://www.economist.com/node/21562244> on 14/02/2014.
- ¹⁶ Coca leaf is the raw material for the manufacture of cocaine
- ¹⁷ (11/04/2012) “*Hot Issue — On The Rebound: Shining Path Factions Vie for Control of Upper Huallaga Valley*”, The Jamestown Foundation, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=39249&tx_ttnews%5BbackPid%5D=7&cHash=1619237a4707dc8fdd291d5d5d570574#. Accessed 19/03/2014
- ¹⁸ (28/02/2012) “*Peru’s Shining Path rebels: Old enemy, new threat*”, BBC, accessed via www.bbc.co.uk/news/world-latin-america-17188842. Accessed 6/03/2014
- ¹⁹ (11/04/2012) “*Hot Issue — On The Rebound: Shining Path Factions Vie for Control of Upper Huallaga Valley*”, The Jamestown Foundation, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=39249&tx_ttnews%5BbackPid%5D=7&cHash=1619237a4707dc8fdd291d5d5d570574#. Accessed 19/03/2014
- ²⁰ (25/06/2013) “*Army removes explosives near gas pipeline*”, Peru This Week, <http://www.peruthisweek.com/news-army-removes-explosives-near-gas-pipeline-100216>. Accessed 19/03/2014.
- ²¹ (10/12/2013) “*Capture of SL leader likely to weaken group’s operations in Peru further*” IHS Jane’s Country Risk Daily Report. Available on subscription. Accessed on 7/03/2014
- ²² (28/02/2012) “*Peru’s Shining Path rebels: Old enemy, new threat*”, BBC, accessed via www.bbc.co.uk/news/world-latin-america-17188842. Accessed 6/03/2014
- ²³ (11/09/2012) “*Peruvian security forces intensify counterinsurgency efforts in coca region*,” IHS Jane’s Intelligence Weekly, available on subscription. Accessed 7/03/2014.
- ²⁴ (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ²⁵ (23/08/2013) “*Sendero Luminoso (SL)*”, Jane’s World Insurgency and Terrorism. Available on subscription. Accessed on 14/02/2014
- ²⁶ (28/02/2012) “*Peru’s Shining Path rebels: Old enemy, new threat*”, BBC, accessed via www.bbc.co.uk/news/world-latin-america-17188842. Accessed 6/03/2014
- ²⁷ (4/03/2012) “*Peruvian police capture ‘Shining Path boss’ Walter Diaz*”, BBC, accessed via www.bbc.co.uk/news/world-latin-america-17253453. Accessed on 6/03/2014
- ²⁸ (30/05/2013) “*United States Department of State, Country Reports on Terrorism 2012 – Peru*” United States Department of State <http://www.state.gov/j/ct/rls/crt/2012/209984.htm>. Accessed 20/03/2014
- ²⁹ (9/12/2013) “*Con captura de ‘Héctor,’ Sendero Luminoso desaparecería en el Huallaga*,” El Comercio, accessed via <http://elcomercio.pe/mundo/actualidad/captura-hector-sendero-luminoso-desapareceria-huallaga-noticia-1670804> on 25/06/2014
- ³⁰ (7/10/2012) “*Peru rebels burn helicopters at jungle airfield*”, BBC, accessed via www.bbc.co.uk/news/world-latin-america-19858757. Accessed 6/03/2014
- ³¹ (30/05/2013) “*United States Department of State, Country Reports on Terrorism 2012 – Peru*” United States Department of State <http://www.state.gov/j/ct/rls/crt/2012/209984.htm>. Accessed 20/03/2014
- ³² (9/11/2012) “*Humala resumes war on Shining Path to stifle Peru cocaine boom*”, Bloomberg Business Week, <http://www.businessweek.com/news/2012-11-09/humala-resumes-war-on-shining-path-to-stifle-peru-cocaine-boom>. Accessed 20/03/2014.
- ³³ (28/04/2014) “*Drug Trafficking, Terrorism, and Civilian Self-Defense in Peru*”, Combating Terrorism Center at Westpoint, <https://www.ctc.usma.edu/posts/drug-trafficking-terrorism-and-civilian-self-defense-in-peru>. Accessed on 25/06/2014
- ³⁴ (8/10/2012) “*‘Shining Path’ Take Out 3 Gas Company Helicopter*”, Insight Crime, <http://www.insightcrime.org/news-briefs/shining-path-destroy-helicopters-vrae>. Accessed on 18/03/2014.
- ³⁵ (31/01/2012) “*Peruvian Army Presses Proseguir Faction*”, Jamestown Foundation Militant Leadership Monitor, Volume: 3 Issue: 1. Accessed via http://mlm.jamestown.org/single/?tx_ttnews%5Btt_news%5D=38946&tx_ttnews%5BbackPid%5D=591&no_cache=1#. Accessed on 19/03/2014