



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND  
SECURITY

**Re-listing of Hizballah's External Security Organisation as a terrorist  
organisation**

THURSDAY, 10 JUNE 2021

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY

**Thursday, 10 June 2021**

**Members in attendance:** Senators Fawcett, Keneally, McAllister, Paterson and Dr Aly, Mr Byrne, Mr Dreyfus, Ms Hammond, Mr Leaser, Mr Tim Wilson.

### **Terms of Reference for the Inquiry:**

To inquire into and report on:

On 11 May 2021 the Parliamentary Joint Committee on Intelligence and Security commenced a review of the relisting of Hizballah's External Security Organisation as a terrorist organisation under the *Criminal Code Act 1995*.

Section 102.1 of the Criminal Code Act 1995 provides that the Committee may review a regulation which lists an organisation as a terrorist organisation and report its comments and recommendations to each House of the Parliament before the end of the applicable disallowance period for the House. The disallowance period is 15 sitting days from the day the regulation is tabled.

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**CHAIR (Senator Paterson):** I declare open this public hearing of the Parliamentary Joint Committee on Intelligence and Security for its review of the relisting of Hizballah's External Security Organisation as a terrorist organisation under the Criminal Code. These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. In acknowledgement of the current COVID-19 situation, certain measures have been implemented, which will be obvious to all of you.

I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the parliament as a contempt. In accordance with the committee's resolutions of 4 July 2019, this hearing will be broadcast on the parliament's website and the proof and official transcripts of the proceedings will be published on the parliament's website.

I now welcome Dr Levitt to give evidence to this public hearing today. Dr Levitt, do you have any additional comments to make on the capacity in which you appear today?

**Dr Levitt:** I direct the Jeanette and Eli Reinhard Program on Counterterrorism and Intelligence at the Washington Institute for Near East Policy, where I am the Fromer-Wexler Fellow, and I am a professor at Georgetown University.

**CHAIR:** Thank you very much, Dr Levitt. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded in *Hansard* and attracts parliamentary privilege, although, given that you are overseas, the parliament's privilege does not extend to international witnesses.

I now invite you to make an opening statement, should you wish to do so, after which members of the committee will ask questions.

**Dr Levitt:** Thank you very much. If appropriate, I would ask that the amended submission that I shared with the committee this morning be accepted as evidence.

**CHAIR:** Is it the wish of the committee that Dr Levitt's amended submission be accepted as evidence? There being no objection, it is so ordered.

**Dr Levitt:** I was asked to speak for just two minutes, so I'll keep it very, very brief. There is no such thing as distinct wings within Hizballah. You don't need to listen to me to understand that; just listen to Hizballah officials themselves. As I laid out in my written statement, there are many examples—and I gave you only a few—of Hizballah political personnel engaging in explicitly terrorist and also criminal and military behaviours. One example I didn't cite but I'll give to you now is just the way that Hizballah is structured, with multiple committees, including the jihad committee, which oversees all of its militant and terrorist activities. It includes, as official members of the jihad committee, individuals like Ibrahim Aqil and Fuad Shukr, both of whom were designated by the US Department of the Treasury in July 2015, where the Treasury released and declassified intelligence revealing that they are current members of the jihad council. These are the two heads of the ESO, and they are sitting on Hizballah's political body.

But the more important thing, I think, to the opening statement is not the facts, which I think everybody understands, but rather the debates about policy. I think it's critically important to understand that Hizballah has never carried out a retaliatory attack for being designated in part or in whole. Hizballah already carries out attacks. It has already called the bluff of those who have tried to get by by designating part of the group, including, in Australia, by recruiting at least one Australian operative who helped carry out the Burgas Bulgaria attack in 2012. European law enforcement agency Europol has come out publicly and explained that by virtue of having, within the EU, only part of Hizballah designated, this specifically undermines their investigations and makes them much more difficult because they have to demonstrate that funds collected are channelled specifically and only to the military wing of the organisation. Of course, that's—on purpose—not how the organisation is structured.

Perhaps the biggest concern is that by designating Hizballah we might further destabilise Lebanon, which is already deeply unstable. I would argue just the opposite: no organisation in Lebanon has done more to destabilise

the country than Hizballah. Look, for example, at the assassination just in February of Lokman Slim, a Lebanese Shia who was a vocal opponent of Hizballah, whom they silenced by assassinating him.

At the end of the day, designating Hizballah in full, not only through the ESO, would not just be a matter of getting in line with an increasing number of countries around the world that are doing the same, but would streamline Australian investigations. Your law enforcement and intelligence agencies can speak to that far better than I can; I can attest to the fact that they have been participating, for example, in the Law Enforcement Coordination Group—LECG—meetings that the US State Department has been convening around the world. It's a real honour and a pleasure to have this opportunity to appear before the joint committee and I'm happy to answer any questions anybody may have. Thank you.

**CHAIR:** Thank you very much, Dr Levitt. I'll ask a couple of initial questions, and then I'll offer the call to other members of the committee. I first want to return to this factual question that you addressed in the first part of your statement about whether any meaningful distinction can be drawn between the External Security Organisation and other parts of Hizballah, including the military wing, as well as the whole organisation. I think your view is clear that that's not a meaningful distinction, but, in your research, is there anyone who articulates a respectable case as to why they are different? Is there any plausible intellectual argument that makes that clear?

**Dr Levitt:** In a word, no. And the reason is that Hizballah leaders themselves are extremely vocal, even angry, about the idea that there could be different, distinct wings. Naim Qassem, the deputy secretary-general of the organisation, wrote a book—in Arabic and in English—about this. They basically make fun of people who suggest that there are actual distinctions. It's very clear: all of the aspects of all of the activities that Hizballah engages in are done for a collective group of purposes, which include these militaristic and terrorist purposes. There's no question Hizballah has multiple and sometimes competing goals. By virtue of putting so much effort into the war in Syria, Hizballah is not doing as much targeting of Israel right now. In order for me to be here right now, I had to decide to postpone my dinner. We all make decisions like that and prioritise things, but Hizballah is committed to these multiple things in a single unitary way. The argument that people make is: yes, it's a unitary organisation, but from a policy perspective is it still wise to designate it as such? That's a conversation that reasonable people can have. There's not a reasonable argument to be made that in fact there are distinct wings within the group.

**CHAIR:** In your view, what are the most important negative consequences of failing to designate the whole organisation?

**Dr Levitt:** Hizballah continues to engage in the type of activities it engages in around the world, such as recruiting operatives from Western nations, including Australia, because it understands that there's little to no consequence for doing so. It engages in the type of destabilising activities in Lebanon that it does because it understands that there are limited to no consequences for doing so. What I think the international community needs to do is to start showing that there are limited consequences for these types of behaviour. I think also it's very important to understand that from a strictly law enforcement perspective—and I started my career in the FBI, in counterterrorism, so I know from whence I speak—Hizballah is engaged in extremely diverse and sophisticated money laundering and other illicit financial schemes, many of which touch Australia. And it is extremely difficult to investigate, let alone prosecute, those when only part of the group is designated, because Hizballah doesn't do us the courtesy of making clear which money is going through the ESO and which money is going towards something else. Moneys are fungible, so they use that on purpose. They'll raise money for one thing and divert it to something else. So there are very tangible reasons for designating the entirety of the group.

**CHAIR:** Yes and there is a relevant case in Australia which we will no doubt come to with other witnesses. Finally, the approach Australia takes to this issue is different from that of most like-minded countries. Our allies in the Five Eyes typically designate at least the military wing if not the whole organisation. It has been occasionally suggested that perhaps there would be some value in Australia taking a different position—that we might have better access or diplomacy might be more open. What value do you put in arguments like that?

**Dr Levitt:** I challenge that, because every country that has designated Hizballah to include not just the terrorist wing, the ESO, but also the military, and often the entire organisation, is able to have significant contact and influence within Lebanon, even with elements of Hizballah itself. There is no reason why a designation should preclude those types of contacts. It's simply apples and oranges. The US has designated Hizballah in full for many, many years. We have a robust policy on Lebanon. We have been able to communicate things to Hizballah as necessary. We have been able to have a relationship with every part of the Lebanese government. The German government engages in back-channel diplomacy, prisoner swaps et cetera. I just don't see any evidence that, by virtue of designating more parts or preferably all of Hizballah, Australia would suddenly be at a loss diplomatically. That has not been the case for other countries who have taken those steps.

**CHAIR:** Thank you, Dr Levitt. I'll now offer the call to Mr Dreyfus.

**Mr DREYFUS:** Thank you very much, Dr Levitt, for appearing before the committee. It's of real assistance. Perhaps I could just, for the record, note—that this is not really a question—that you're recognised as a global authority on Hizballah. You've been described by an assistant director of the CIA, Charles Allen, in these terms:

Matthew Levitt is a recognized authority on Hezbollah and its activities, both in the Levant and globally.

One of your many books, a 2013 work, is entitled *Hezbollah: The Global Footprint of Lebanon's Party of God*. I thank you very much for the detailed nature of your submission to us. Could I just get you to confirm that your conclusion about Hizballah is that Hizballah is an international terrorist group and transnational organised crime syndicate and it acts in that way as a single unitary organisation. I take it you're not in doubt that Hizballah is a single organisation.

**Dr Levitt:** No, I'm not. First of all, thank you for that kind introduction. I hope my kids watch this so they can have at least some of the respect that you appear to. I'm honoured. Thank you. Let's be clear. This is not to say that every single person involved with Hizballah is aware of every single activity. Some of Hizballah's activities are more closely held. In the same way, not everybody in the Australian government will be aware of everything that ASIO or other parts of the intelligence or law enforcement community are in. But it does mean that the organisation overall is very much a unitary organisation. In fact, it leverages its political, social, educational and other types of civilian entities like a demining organisation or an environmental organisation that it has used to spy into Israel. It has used the positions of their environmental organisation as a launch pad to literally shoot anti-tank guided missiles from Lebanon into Israel, at vehicles in Israel. Each part of Hizballah is leveraged in different ways, but they all support one another. It is a unitary organisation.

**Mr DREYFUS:** Just on this, because it's really one of the key questions that the committee has to look at, we are examining a decision that the Australian government has made which is to proscribe, for the purposes of our counterterrorism legislation here in Australia, only a part of Hizballah described as the ESO. I'll be as kind as I can to the government's material and say that the government has not really explained why it has chosen—this has occurred repeatedly every three years for a good 15 years or so—to proscribe only the so-called ESO part of Hizballah. You've already noted in your evidence that a number of the other submissions that we have made the same point, which is that some 22 countries have chosen to proscribe Hizballah in its entirety, including our allies the United States of America, the United Kingdom and Canada. Can you think of a reason why it might be seen as appropriate to single this out, or assert that there is such a thing or such a recognisable part of Hizballah as this section, supposedly called the ESO?

**Dr Levitt:** At the end of my written testimony, I lay out what I understand to be, from talks over many years around the world, including in Australia with Australian authorities about this very issue, why some people think that it would be wise, or not, to designate all of the organisation. There are a variety of reasons. There are concerns about attacks; concerns about attacks not on their own citizens but on UN forces in the south of Lebanon; concerns about having a loss of leverage, a loss of the ability to affect Hizballah, a loss of leverage in diplomatic opportunity, as you heard with the previous round of questions; and, in Lebanon, concerns that, within the Lebanese diaspora, some who are not as wary of Hizballah might see this as being not anti Hizballah but anti Lebanon or anti Shiah—so that, while I do believe that Hizballah should be designated as a whole, I think that should go hand in hand with a very clear public diplomacy campaign that this is not against Lebanese, it is not against Shiah; it is against this particular militant organisation.

But I think that each of those has been proven not to hold water and, more to the point, that Hizballah's called this bluff. I think Hizballah pays very close attention to these decisions, and, every time there's a decision not to designate it in full, it understands that as a point of support for its position and it can continue to go ahead with business as usual; the consequences are not there.

As for who, and how we understand Hizballah to be unitary, I'll just add one more point, which I included in the written report. That is that here in the United States we have been indicting three ESO operatives, one of whom has already stood trial and been convicted. Cards on the table, I served as an expert witness for the US Department of Justice in that case. The defendant was Ali Al-Kourani, who's since been convicted. Ali Al-Kourani, in several meetings with the FBI, was very blunt. He described the ESO or Islamic Jihad Organisation or Unit 910—it's all the same thing—as the black ops of Hizballah, and he says it's the secret or covert part of Hizballah but he describes it as part of the organisation overall and, specifically, he says that the ESO, Unit 910, reports directly to Hizballah secretary-general Hassan Nasrallah. So the political head of Hizballah is responsible for and in charge of Hizballah's External Security Organisation. It doesn't get blunter than that, and that's about as much from the horse's mouth as you can get.

**Mr DREYFUS:** Thanks, Dr Levitt. You've also quoted in your submission—I'll read it out because it's worth having it in our transcript—the words of the deputy secretary-general, someone just the level below Hassan Nasrallah. This is one Naim Qassem. You quote him as saying:

If the military wing were separated from the political wing, this would have repercussions, and it would reflect on the political scene. But Hezbollah has one single leadership, and its name is the Decision-Making Shura Council. It manages the political activity, the Jihad activity, the cultural and the social activities ... Hezbollah's Secretary General is the head of the Shura Council and also the head of the Jihad Council, and this means that we have one leadership, with one administration.

Now, that's a very powerful statement by a very senior officer of Hizballah. Are you aware of any contrary statements that might suggest that there is some distinction that can be made about individual parts of Hizballah?

**Dr Levitt:** Not as such. At times, Hizballah leaders like Hassan Nasrallah will deny that Hizballah is engaged in this particular activity or that one. Hizballah, for example, deployed operatives to Syria long before it openly acknowledged doing so. When the Saudi and Yemeni governments revealed that Hizballah operatives were behind the shooting of a ballistic missile towards Riyadh international airport in support of the Houthis, Nasrallah went on TV and said, 'No, no, it couldn't possibly have been us.' When the US government revealed an extensive series of Hizballah illicit financial activities—not only around the world, but, more sensitively for Nasrallah, in Lebanon—he got on TV and went on for an hour about how Hizballah has no bank accounts, which is patently false. So they will deny certain things, for obvious reasons: when you are engaged in illicit conduct, you don't go around bragging about it. But the fact that they're a unitary organisation is a point of pride for them. So I don't know of contrary information.

I'll just add what I said earlier about the two individuals who are the leaders right now of the ESO, or were two of the key leaders, anyway, Ibrahim Aqil and Fuad Shukr, who the US government has outed as being current members of the jihad council, which, as you just mentioned, Nasrallah himself also sits on. It's not just that the political leadership sits on this council; it's that this council is considered part of the political body, and the heads of the ESO sit on it. There's no distinction.

**Mr DREYFUS:** The last question I've got is this. I'm not going to ask you about the impact on Australia's foreign relations—that's a matter for our department of foreign affairs and for us to judge—but, as someone who has spent many, many years studying Hizballah and has worked also at the highest levels of the US government, can you comment on how the listing, the proscription, of Hizballah in its entirety by the US government might have affected the diplomatic relations between the United States and the government of Lebanon.

**Dr Levitt:** Those who are members of, affiliated with or political partners of Hizballah in Lebanon don't like it—so, Gibran Bassil and some of the Christian political parties et cetera. Others in Lebanon are quite happy about it because what they are looking for is some type of cover—some type of umbrella under which they can say, 'Look, there are actions we need to take to continue to be a respected member of the international community.' When President Macron of France gets frustrated enough that he, in Lebanon, says: 'It's enough! We cannot consider Hizballah a legitimate political actor while it is threatening its neighbour to the south, deploying operative soldiers to the east, to Syria,' that's significant, given France's historical position in the Levant, in Lebanon and Syria, and given the significant number of dual nationals et cetera. So I think that the United States has been able to have an extremely robust diplomatic presence in Lebanon. The United States gives very, very generously to the Lebanese government. We have a very active embassy. Certainly Hizballah doesn't like everything the embassy is doing. That's fine. The US embassy is there to further US interests. Part of the US interest is stability in Lebanon. Hizballah is a direct threat to the stability of Lebanon.

**Mr DREYFUS:** Thanks very much, Dr Levitt.

**CHAIR:** We'll go to Mr Leeson.

**Mr LEESER:** Thank you, Dr Levitt, for your evidence today and for the particularly strong case that you've made for the listing of Hizballah in its entirety. I wonder if you might be able to assist the committee with the listing of Hizballah in Canada, the US and the UK, which are the three countries that are closest to us and most like us of those countries that have listed Hizballah in its entirety. Can you tell us something about the processes, regulations and reasons in those countries for the listing of Hizballah in its entirety and whether there are significant differences in the processes for listing or the reasons for listing. What are those differences between what those countries have done—not just in effect but in terms of the legislative framework, and also in the reasons that those countries have given that make them different to our own?

**Dr Levitt:** Thank you for your question. Obviously there are slight differences in the legal framework or the legislative processes in each of these countries, although there's more in common than not. Again, this tends to come down more to a decision of policy than to one of sufficiency. It's not a question of whether there's enough



information to justify such a designation—and time and again I've had this conversation with officials in each of those countries, and yours as well, and many others over the years. It's a question of policy. Canada has designated for quite some time—the US even more. The UK had a process. At first, like Australia and New Zealand, just the ESO was designated. That changed only when Hizballah's Unit 3800, which was its dedicated unit to assist the Iranian Quds Force in training and overseeing operations, targeting coalition forces in Iraq, started targeting British forces and British civilians in Iraq. At that point the British government expanded its designation to include also the military wing. And then it was of course only fairly recently that the UK broadened its designation to include the full organisation.

Within the rest of Western Europe right now we're seeing a country-by-country phenomenon, because with the European Union it's very difficult to get controversial decisions passed, in an organisation that includes that many countries and operates by consensus. Germany took its decision to designate the entirety of the organisation, and Lithuania, Kosovo—and there are debates within several other countries. I've held conversations with the French, the Belgians and others recently as well. At the end of the day, each of these frameworks allows for the designation of the organisation in its entirety. But, again, it comes down to a policy question of whether or not it suits the policies of this country, and the policy question that it ultimately comes down to is: what kind of reprisal will there be? Does our country have forces deployed with UNIFIL in southern Lebanon? Are we concerned about attacks against them? As it happens, Hizballah carries out attacks against them anyway. And, again, there are the recurring two questions of what this would do to our diplomatic reach with Lebanon and whether this would further destabilise Lebanon.

**Mr LEESER:** Thank you. But I suppose I'm looking for whether there's anything in the particular reasons given in those countries that might be useful in terms of our writing a report to point out, to compare and contrast with the Australian decision here, that may be relevant if we wished to say that we thought, as you think, that the whole of the organisation should be listed. Are there some particular things that you'd draw our attention to as a committee?

**Dr Levitt:** I'm not familiar with specific language that makes a significant difference. I haven't reviewed them recently; I have reviewed them in the past. Again, once the government has information, typically through its law enforcement and intelligence organisations, that the organisation writ large has engaged in terrorist activities, then typically there is legal threshold to designate the entirety of the organisation. That's not claiming that every politician has engaged in terrorism, but it's understanding that the organisation overall has engaged in this activity. In different parts of the organisation, even those that we might call the political or civilian side often contribute to the militancy, criminal activity and even terrorist activity. But we'd have to do a compare and contrast of the language, which I don't have in front of me, to give you a proper answer.

**Mr LEESER:** I wonder if you might take that on notice. I think that would be helpful to our committee. I have just two more very quick questions. There are significant Lebanese diasporas in the US, Canada and the United Kingdom, aren't there?

**Dr Levitt:** Yes, there are.

**Mr LEESER:** Have there been any diaspora organisations from the Lebanese diaspora in the US, the UK or Canada that have called for the total listing of Hizballah?

**Dr Levitt:** I can only speak to the US. There have been Lebanese diaspora organisations here in the US that have called for that designation. They typically are from other parts of the Lebanese sectarian political divide. So it shouldn't surprise—not only because of the sectarian divide but because, let's be honest, there are many, especially in the diaspora, who support Hizballah in part because they don't believe Hizballah has done any of the things that our law enforcement and intelligence agencies attest to; that's all an American-Western conspiracy, as far as they're concerned. They see Hizballah as a group that supports the Shia in Lebanon and abroad and that stands up to Israel, and there are plenty who see good in that. That shouldn't surprise. It's also the case that for many Shia, including Shia diaspora, who have family back home, there can be consequences to taking a public stand against Hizballah—not necessarily for you and the diaspora but for your family back home. To the contrary, there are definite benefits to your family back home if you're supportive and raise funds et cetera.

**Mr LEESER:** I have a significant Lebanese diaspora in my community, and, when I have talked to people, people have indicated the same sort of thing you have indicated about reprisals and so on. If you might furnish the committee with any evidence from organisations from the Lebanese diaspora in the United States that have called for listing, that would also assist us. No further questions from me.

**CHAIR:** Colleagues, this was our allotted time with Dr Levitt. I am prepared to go a little bit over, if he's prepared to go a little bit over, if there are other burning questions that have not yet been asked. Dr Aly, I will throw to you quickly.

**Dr ALY:** I won't take up too much of the committee's time. Thank you so much for sharing your expertise with us this morning, Dr Levitt—or this evening, for you! It is much appreciated. I have one question drawing on your broader expertise not just in Hizballah; you've written quite a few other pieces that I am happy to say I have read. In the context of institutionalised political Islamism, which, by its nature, is an ideology that is all encompassing—it covers jihad both violent and nonviolent, social welfare, governance, education, health and so on—if Hizballah is indeed unique in this respect, a shura council will have a majlis in the governance structure of any kind of political activity. What is it about Hizballah that prompts you to suggest that it should be listed in its entirety? In doing so, do we therefore set a precedent for other examples of institutionalised political Islamism?

**Dr Levitt:** Thank you for your question. Institutionalised political Islamism does not, by any definition, mean inherently the use of violence, let alone the use of violence targeting civilians. What sets Hizballah apart is the fact that it carries out acts of terrorism in Lebanon, around the region and around the world. It recruits your citizens and mine, sometimes, to do that—like Meliad Farah in Burgas, Bulgaria. It engages in expressly illicit criminal, financial and other activity in the United States, for sure, and in Australia, no question. In fact the FBI and the Australian Federal Police have worked very closely together on some of these cases. It is a projection of Iranian power in the region, in particular over the past few years in places like Syria, Iraq and Yemen. For that reason, by the way, it's not just Western countries that have joined this bandwagon of designating Hizballah; it's the GCC, and it's statements by the Organisation of Islamic Cooperation. The simple answer to your question is: it's the terrorism, it's the crime and it's the militancy. I take no issue with a shura council or with different ways of governing and organising themselves within religious precepts. There is nothing wrong with Islam, full stop. It's the terrorism.

**Dr ALY:** That is all from me. Thank you very much, Dr Levitt.

**CHAIR:** Thank you, Dr Aly. We'll go to Mr Wilson and then Senator Keneally.

**Mr TIM WILSON:** Thank you, Mr Levitt. My question follows on from the question that was raised by Mr Leaser earlier. To put it succinctly, you've painted an image of an organisation that's run by the Shura council; it then has essentially a very vertical structure, where decisions made centrally are implemented. You talked about reprisals. I just want to clarify. When you say 'reprisals', how does the enforcement of the decisions down the hierarchy of the structure work in practice, from your research—so that we can have clarity that, if a decision is made centrally, as a single organisation it flows all the way down to the ground/diaspora?

**Dr Levitt:** It varies on the circumstance. If there is some major policy issue that comes to the level of the head of the organisation—imagine the president or prime minister of a country—decisions can be made to do or not to do certain things. For example, when Hizballah made the decision to get involved in the war in Syria—the US government has declassified information and the US Treasury has made it public—that decision was made at the level of Hassan Nasrallah. That decision was then carried out down the chain of command. By the way, the person who accompanied Hassan Nasrallah for his weekly meetings with President Assad in Damascus was none other than the head of the ESO at the time, Mustafa Badreddine.

But, if it's a smaller type of circumstance—for example, we were talking earlier about reprisals within a diaspora community or against the family members back in Lebanon of a person who's living in a diaspora—that of course isn't something that comes to the level of the president, the prime minister or, in this case, the secretary-general, and that will be a decision that is made lower down the totem pole. It can still be at a significant level, but it is, somewhere within that same hierarchy, within that same structure, someone who is given the authority to make those decisions by virtue of where he—and it would be a 'he'—stands within that hierarchy. This very much feeds into our earlier discussion about the unitary nature of this organisation and it's a very clear organisational structure.

**Mr TIM WILSON:** Sorry, I just want to get clarity. When you talk about reprisals decentralised down to make sure that it goes through the whole system, are you talking violence, are you talking exclusion, are you talking some other measures?

**Dr Levitt:** I am primarily talking about violence. But, because we're talking about the organisation overall, whichever part of the organisational chart you're going down, it operates much the same way. Whether you're talking about its propaganda media activities, whether you're talking about different parts of its civilian infrastructure or whether you're talking about things that are going specifically through the Jihad council—there are multiple councils to put through the decisions on each of these lanes of effort, if you will. So we could tie this

conversation onto any of these lanes. But specific to the lane of violence—which is the reason why I believe the organisation should be proscribed—is that this is something that involves chain of command. It won't necessarily go all the way up to the top guy every time, in the same way it doesn't here in the United States or in Australia or any other functioning government or bureaucracy. But the bureaucracy is built so that decisions can be made at those multiple levels, and they can be made at those levels because people are empowered to do so by virtue of being entrusted with that position within the hierarchy.

**CHAIR:** Thanks, Mr Wilson. Senator Keneally, to take us out.

**Senator KENEALLY:** Thank you, Dr Levitt, for joining us today. It's been quite informative. I should say I grew up in Toledo, Ohio, so I have to have an appreciation—there was a strong Lebanese community of the multicultural nature of both the United States and Australia. I want to pick up on Mr Leeson's questions, because it would have a significant impact, potentially, in Australia amongst diaspora communities if there was a listing of Hizballah in its entirety. Are you aware of any work that governments, prior to a listing of the entire organisation, have done in terms of working with those diaspora communities to ensure that they understand the impact of the listing and to maintain social cohesion and community cohesion? We like to say in Australia that we're the most successful multicultural nation on earth. So what I'm really seeking is anywhere you can point us to as examples of some governments similar to ours who have done that community work in order to prepare the way or to lessen the impact on diaspora communities of the listing.

**Dr Levitt:** Thank you so much for this question, because this is so critically important. I do not know of any country that has done anything in advance, and I think that that would be really useful. I do know that in the United States we tend to do things a little bit reactively, especially once the National Counterterrorism Centre was created. NCTC has gone around the country and held town meetings on a whole variety of things. More of them are related to people going to Daesh, or ISIS, and what all that meant, but some of them have included both Shia extremism and, of course, right-wing extremism, and I imagine, given what's going on now, it will be even more so. Doing this in advance, even if it's not actually really done in advance, would mean having a plan in advance for what those meetings would look like and who would host those meetings, to be able to explain specifically why we are doing this and how it is that this is not against all Lebanon or all Lebanese or, very importantly, all Shia.

Frankly, to be perfectly blunt, it's also about where the boundaries are. As I said, there are many people who support Hizballah because they just see Hizballah as the group that supports Shia and stands up to Israel. You can agree or disagree with that, but there are people who truly see Hizballah that way. Those people need to be told where the borderline is. What can you do and what can you not do? Can you put a Hizballah flag up? It used to be that you could in the UK; now you can't. Can you send money? What does this mean? What does, to use a US term, material support actually mean in the context of Australian law? We in the United States have only done this ex post facto, after the fact, and I wish there were more upfront thinking about this. So I really appreciate the question and the concept.

**Senator KENEALLY:** Thank you.

**CHAIR:** Dr Levitt, thank you very much for making time available to join the committee today. Your evidence has been helpful. Mr Dreyfus is right to recognise your pre-eminent expertise in the area, and we're very grateful that you've made your time available. A copy of the draft *Hansard* transcript will be made available to you if you'd like to suggest any corrections. For any of those questions that you've taken on notice, I'd be really grateful if you could return responses by Friday 11 June Australian time so that we can complete our report. I know it's not a lot of turnaround, but we're on a tight deadline here. Once again, thank you very much for joining us.

**Dr Levitt:** It's my honour and pleasure. Thank you so much.

**CHAIR:** Before we move to the next witnesses, could I please have a colleague move that we accept Dr Levitt's supplementary submission for publication.

**Mr TIM WILSON:** So moved.

**CHAIR:** Thanks, Mr Wilson. I declare that carried.

**CARLILL, Dr Bren, Director of Public Affairs, Zionist Federation of Australia [by video link]**

**LEVIN, Ms Naomi, Senior Policy Analyst, Australia/Israel and Jewish Affairs Council [by video link]**

**RUBENSTEIN, Dr Colin, Executive Director, Australia/Israel and Jewish Affairs Council [by video link]**

**WERTHEIM, Mr Peter, Co-Chief Executive Officer, Executive Council of Australian Jewry [by video link]**

[10:12]

**CHAIR:** We will now move to our panel from the Zionist Federation of Australia, the Australia/Israel & Jewish Affairs Council and the Executive Council of Australian Jewry? Mr Leeser, I believe you want to make a declaration at this point.

**Mr LEESER:** Yes, thank you. I thought I should declare for the record that prior to my election to parliament I was a councillor of the Executive Council of Australian Jewry. I just wanted to note that for the record.

**Mr DREYFUS:** In the interests of full disclosure, I should also disclose that I was a member of the editorial board of the Australia/Israel & Jewish Affairs Council for some 10 years.

**CHAIR:** I now formally welcome our witnesses from the ZFA, AIJAC and the ECAJ. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege.

Colleagues, I was going to invite our witnesses to make opening statements, but I recognise we're already 15 minutes behind time and we have limited time with these witnesses. I understand Dr Carlill has an opening statement, so I propose that we incorporate that into *Hansard* so it is there for our records.

*The documents read as follows—*

#### ZIONIST FEDERATION OF AUSTRALIA

Thank you and good morning. The Zionist Federation of Australia's submission and, indeed, the submissions made by the ECAJ and AIJAC all urge this Committee to urge the Minister to proscribe the entire Hezbollah organisation.

That we are here shows that you are willing to give such a recommendation serious consideration, and, for that, I thank you.

There is a wealth of quotes available from senior Hezbollah figures denying any distinction between its military, terrorist, political, business and social welfare divisions. Indeed these officials have derided the West for inventing such distinctions.

Violence is an integral part of the organisation's identity, its fundraising ability, its ability to influence Lebanese internal affairs and Iran's perspective of it as a key proxy.

Not only is violence important to Hezbollah, but its military and terrorist activities are designed to complement its non-violent activities – and vice versa - inside and outside Lebanon.

Now, there are real world consequences in proscribing the entire organisation. Most are obviously in Australia's national interest, but some potential consequences are used as arguments against extending the proscription.

Will Australia's relationship with the Lebanese Government be unduly affected? Will Hezbollah target Australia? Will Australians in Lebanon be harmed? Given Hezbollah controls Beirut airport, will we still be able to repatriate Australian nationals from Lebanon in the event of a serious crisis?

I believe that the answer to all these questions is no, and am happy to expand on them if required.

Briefly, though, on the airport question, even if Australia proscribes all of Hezbollah, Australian government officials would – or, at least, should – be allowed to liaise with figures likely to be Hezbollah operatives if directed to do so in Australia's national interests.

The idea of not proscribing all of Hezbollah because doing so would prevent repatriation of our nationals due to a bureaucratic technicality of not being allowed to meet with them is, one would think, a relatively easy hurdle to leap.

Beyond real-world hypotheticals, however, there's the matter of principle. When any organisation meets the Australian definition of terrorism, it should be proscribed. Australia should not make it a practice to not list what is clearly a terrorist organisation because of possible negative consequences. What would it say about Australia if we shy away from calling Hezbollah a terrorist organisation if the reason we do so is because of the threat of Hezbollah terrorism?

Thank you. I look forward to answering your questions.

#### AUSTRALIA/ISRAEL AND JEWISH AFFAIRS COUNCIL

Thank you to the committee for inviting the Australia/Israel & Jewish Affairs Council (AIJAC) to present here today.

AIJAC again calls on Australia to list the entirety of Hizballah as a terrorist group. To progress this recommendation, AIJAC calls on the Parliamentary Joint Standing Committee on Intelligence and Security (PJCIS) to recommend that the Australian Government designate in its entirety Hizballah as a terrorist group.

Over the past 18 years, AIJAC has consistently advocated for Hizballah to be listed under Australia's Criminal Code as a unitary organisation. AIJAC has long argued that listing the Hizballah External Security Organisation (ESO) is not effective to protect Australia's national security.

Hizballah is a proxy force established by and for Iran. It is used by the Iranian mullahs to spread their Islamic Revolution beyond Iran's borders.

Hizballah dominates Lebanon with a militia considerably stronger than the Lebanese Armed Forces and is a cradle-to-grave organisation. Its ESO is an integral part of a unitary Hizballah organisation and subordinate to Hizballah's leadership who supervise its activities.

Hizballah has perpetrated extensive terrorism at home and abroad. As well as being responsible for the killing of scores of Lebanese and Israelis, Hizballah is responsible for the murder of more than 300 Americans, plus dozens of other international citizens, including the murder of 89 civilians at the Jewish community AMIA building in Buenos Aires in 1994. It was a very confronting experience for me to meet with relatives of the victims of this appalling terrorist at the AMIA building some years ago, the likes of which we never want to see again, especially on our shores!

As it stands, Australia is the only country in the world to list just the ESO as a terrorist group. All other jurisdictions that deem Hizballah a threat consider the entire organisation dangerous, or at least its entire Military Wing.

The United States, the United Kingdom and Canada and 20 other nations have all designated the entire Hizballah as a terrorist organisation.

AIJAC continues to urge the Australian Government to list the entirety of Hizballah as a terrorist group to better protect our national security and to enhance our support for our closest security and intelligence allies.

Australia's artificial distinction between Hizballah proper and the ESO continues to allow the Lebanese-based group to recruit, fundraise and advocate for their cause in Australia.

Australia's limited approach leaves Hizballah relatively free to operate on our shores.

We saw this recently in Sydney, when – not for the first time – pro-Palestinian demonstrators proudly waved Hizballah flags on city streets. This would not be allowed on the streets of Toronto, New York or London.

On social media, AIJAC posted images of the demonstrations to highlight the continued presence of Hizballah supporters in Australia.

We expected our social media audience to share our disgust. Some did. But what shocked us was the number of Australians who made comments in support of Hizballah, including their violent objectives and murderous activities.

It was incredibly disturbing to us that so many Australians were supportive of Hizballah's violence.

There is clearly local support for the group. While social media comments may not take lives, the evidence is clear that Hizballah has sleeper cells around the world waiting for an opportunity to attack.

AIJAC has concerns for the security of all Australians, particularly for the Jewish community.

AIJAC also wishes to ensure the ongoing cohesion of Australia's multicultural society is maintained with a judicious emphasis on both responsibilities as well as the rights of all Australian citizens.

Finally, as AIJAC argues and demonstrates in the written submission, and given the recent experience of nations such as the USA and UK, proscribing all of Hizballah would not be detrimental to Australia's ongoing bilateral relationship with Lebanon.

#### EXECUTIVE COUNCIL OF AUSTRALIAN JEWRY

We ask the Committee to recommend that the Government give urgent consideration to extending the listing of Hizballah's so-called "External Security Organisation" (the ESO) under the Criminal Code to Hizballah in its entirety.

As an alternative, although we would consider it an inadequate measure, we ask the Committee to extend the listing at a minimum to the whole of the operation nominally controlled by Hizballah's military council, namely the so-called 'Military Wing'.

My organisation's concerns about Hizballah are focused on the dangers it presents to Australia. For the reasons set out in our submission we believe Hizballah in its entirety represents a security threat, a threat to social cohesion and a crime risk to all Australians, and to the Australian Jewish community in particular.

In our view, to limit those concerns to the ESO is to heighten those dangers. There is no evidence to support the proposition that Hizballah's central governing body, the Majlis al-Shura, and its Secretary General Hassan Nasrallah, have no role in deciding what targets the ESO strikes at, and when and why. In fact the available evidence, in the form of statements by Hizballah leaders themselves, and by their operatives who have been caught by law enforcement agencies in other countries, points the other way.

The government's Statement of Reasons asserts that the ESO is "a discrete entity within Hizballah", but this is an assumption, not a conclusion based on evidence. Statements made by senior US officials are cited in support of this assertion, but those officials themselves do not subscribe to any such assertion.

It is also difficult to accept that proscription of the whole of Hizballah would prejudice Australia's ability to work with the Lebanese government, as the government previously suggested. Argentina, Colombia and the United States each have larger expatriate Lebanese communities than Australia, and they each enjoy friendly relations with Lebanon. They seem to have no difficulty in working with the Lebanese government, despite the fact that Hizballah in its entirety is proscribed by all three of those countries.

Australia is now the only country in the world to limit its proscription of Hizballah to the ESO. It is possible that the reason for this may have something to do with Australia's relations with Iran. If that is the case, then at the very least this Committee should be fully briefed about the reason in closed session.

**CHAIR:** We might proceed directly to questions, unless there are any objections. I will ask an opening question to any witness who feels they'd like to make a contribution, and then I'll offer the call to other colleagues. We just heard from Dr Matthew Levitt, who gave very helpful evidence about his expertise. I'm interested in your view about whether any harm is occasioned to Australia by listing only the Hizballah External Security Organisation and not extending the listing to at least the military wing, if not the whole organisation, of Hizballah. Does any witness feel they have a contribution to make?

**Mr Wertheim:** I'm happy to have a go at that, Mr Chairman. I'm thinking of a situation of someone like Hossam Yaacoub, who was caught in Cyprus and said that he was engaged in surveillance activities of Jewish organisations and Jewish communities around the world. He said that this is something that Hizballah does around the world. Now, I'm just taking a hypothetical situation—but it may not be that hypothetical—where an operative of Hizballah in Australia conducts surveillance activities in relation to Jewish institutions and Jewish individuals and is caught doing that and sends the information back to Hizballah in Lebanon. A prosecutor is then faced with having to prosecute that person and having to prove to the criminal standard that the information was being collected for the ESO and not for, say, the political arm of Hizballah. It seems to me to just impose an additional burden on a prosecutor that wouldn't otherwise be necessary and to hamstring the operation of law enforcement in that regard. That's just one situation that comes to mind. There may be others.

**CHAIR:** Thank you, Mr Wertheim. Indeed, you're right; that is not only a hypothetical. We have one real case that I'm aware of in Australia. Are any of the witnesses familiar with Mr Ali Haidar and his case? For the benefit of those watching who may not be, this is a person who was charged with violent offending, and New South Wales police sought a supervision order over him because, in addition to his violent offending, he had a number of social media posts, tattoos and other paraphernalia associated with Hizballah, and also with the Amal party. That application was not successful, because, according to Justice Davies, the Commonwealth had not listed the whole organisation of Hizballah as a terrorist entity, only the ESO, and it wasn't possible for the court to determine whether this person's support was merely for the political entity of Hizballah rather than the terrorist organisation. That's a real example. Do any witnesses have a comment on that case?

**Mr Wertheim:** Not beyond the situation that I outlined to you before. It just imposes an unnecessary burden on a prosecutor and makes it all the more difficult to carry out what should be the intent of the legislation, which is to assist law enforcement in a situation like that, not impose a further obstacle.

**Ms Levin:** The only thing I'd add to that, if I could, is that I'm aware that the Minister for Home Affairs was involved in that case to some degree and made some media comment on it. In fact, the minister requested additional information on it, so there was clearly some government awareness of that situation. Unfortunately, I don't think there was a public response from the minister after he sought that advice, but it was heartening, I suppose, to know that it was being taken seriously by government.

**Dr Carlill:** I just want to add a further answer to your question about whether or not there was any harm to Australia in only listing the ESO. I think the harm is in the negative, in that I believe Australia's interests would be better served by prescribing the entire organisation. By not prescribing it, we are minimising the benefit to our national interests, and this includes in regard to tackling Hizballah's international drug trafficking and its money laundering, and in regard to better antiterrorism coordination with our allies. Frankly, there is a growing trend of countries recognising that the entire organisation is a terrorist organisation. I think it is not in Australia's interests to be left behind in that.

**CHAIR:** Thank you. We will go to Mr Dreyfus.

**Mr DREYFUS:** Perhaps the first question is to go to something that is set out in the ECAJ submission. I want to ask Dr Carlill and Ms Levin about it. The ECAJ submission sets out something said by Sajid Javid, the UK

Home Secretary, explaining in 2019 a decision made by the United Kingdom government to go to a full proscription of Hizballah. I will read it out; this is the UK Home Secretary:

There have long been calls to ban the whole group, with the distinction between the two factions derided as smoke and mirrors. Hezbollah itself has laughed off the suggestion that there is a difference. I have carefully considered the evidence and I am satisfied that they are one and the same, with the entire organisation being linked to terrorism.

... ..

This Government have continued to call on Hezbollah to end its armed status; it has not listened. Indeed, its behaviour has escalated; the distinction between its political and military wings is now untenable. It is right that we act now to proscribe this entire organisation.

Starting with you, Dr Carlill, are you aware of any difficulties that the proscription of the whole of Hizballah has caused for relations between the United Kingdom and Lebanon?

**Dr Carlill:** I am not aware of that. I have seen commentary by senior officials in the British government saying, 'Look, we gave our officials two or three months grace period in order to cut off any ties with Hizballah officials, and they did'. There were a few complaints in the foreign Commonwealth office, but after that everyone was able to do it. Provision of aid to Lebanon carried on as normal. Some of the aid was redirected to other recipients but the aid was still sent to Lebanon and so on and so forth. There were no problems communicating with the Lebanese government. The short answer is: I'm not aware of it and the British government itself has said that there weren't any problems.

**Mr DREYFUS:** Thanks, Dr Carlill. Ms Levin, you gone to some trouble in a very thoughtful submission that you were the researcher for—this is the AIJAC submission. In a section entitled, 'Designating Hizballah in its entirety would not damage Australia's ongoing state-to-state relationship with Lebanon'. A large part of that section of the submission is taken up with a summary of work done by the Abba Eban Institute. Ron Prosor, the former Israeli ambassador to the UN, is the head of that institute. I wonder if you could just talk us through what appears to have been, from the description in your submission, a very substantial piece of work over a 20-year period, looking at the effect on relations between quite a large number of countries and Lebanon of proscription of Hizballah. The conclusion that you set out is that it is not possible to detect any adverse consequences for relations between any of these countries and Lebanon, and there are now 22 countries which have proscribed Hizballah in its entirety. I wonder if you could speak to that research a little bit more.

**Ms Levin:** Yes. This is very interesting research because it is actually quantitative, and the discussion around this is usually quite qualitative. This particular piece of research looked at a number of countries and considered three parameters which were disbursement of humanitarian aid, official development assistance and trade relations between a list of countries who had designated different portions of Hizballah and also with Lebanon. It tracked those three parameters, as you said, over a decade, and it indicated that there was no substantial diminishing of the relationship between any of those countries, Australia included, with Lebanon as a result of designating certain sections of Hizballah. So there were definitely fluctuations in aid provided and economic relationships, but there was no correlation between those fluctuations and decisions taken towards Hizballah. There is a link in the submission to the full report if you're interested. It's quite interesting reading.

**Mr DREYFUS:** Thanks very much. Can I thank all three organisations for the very comprehensive submissions that they provided. It saves us the need to go through some of this in oral questioning, but I wanted to direct a question to you, Mr Wertheim, which relates to what's known about Hizballah's activities in Australia. Annexed to your submission are some photographs taken at a whole range of public demonstrations showing the appearance of the Hizballah flag, which, of course, includes an image of a fist grasping an assault rifle. I wonder if you could briefly speak to the activities of Hizballah in Australia. Just to give this context, the chair, in his first question in this session, noted a case where a court felt unable to go further in respect of someone's associations with Hizballah because of the extremely limited nature of the prescription under Australian law. That's the context for asking. What are you able to say about Hizballah's activities in Australia?

**Mr Wertheim:** I'd say two things. Firstly, obviously, we are limited in terms of what we know by what we're told by law enforcement agencies in Australia. But, from time to time, there have been warnings to be on heightened alert because surveillance operations are underway or there might be other activities planned. That's as far as we are told and is the limit of my own knowledge. But this has been going on over a number of years; it's not something new. In terms of the public face of Hizballah, the flying of the flag and so on, that's something that's been done on a regular basis in Australia. Our concern is that it serves as a rallying point for all kinds of extremism, and not just of the Islamist variety. One of those photos actually shows a very well-known Neo-Nazi figure in Australia marching behind the Hizballah flag at a rally in 2012, I think it was. So it sets the tone for

political discourse in Australia. It undermines social cohesion in that respect. It serves as a rallying point for extremism and provides a fertile milieu for recruiting and for planning other activities.

**Mr DREYFUS:** Thanks. I've got nothing further, Chair, for the moment.

**Mr LEESER:** To all three organisations, thank you for the submissions. Mr Dreyfus drew your attention to the quote in the ECAJ submission from Sajid Javid. Mr Wertheim, is that directly from the occasion in the UK parliament where he was reporting the listing, or was that taken from some other context in the parliament?

**Mr Wertheim:** It's taken from the British *Hansard*. It was when he was reporting on the reason for extending the listing. The UK history, as you know, began with listing just the ESO and then it extended to the so-called military wing. In 2019 it extended to the whole organisation. It was in that context.

**Mr LEESER:** It's a very helpful quote. I wonder if you have any other helpful material that you could assist the committee with from either the Canadian or the US context, where relevant government officials have listed reasons that are different to the reasons that the minister in Australia has listed for her decision. Can you help advise the committee whether there is any substantive difference in the listing processes, the regulations around those processes or the circumstances of those countries, particularly Canada, the US and the UK, which would see those countries coming to a different conclusion to Australia?

**Mr Wertheim:** I think the most helpful ones would be countries that originally did not list the whole organisation and have then moved onto listing the whole organisation. The UK was the most convenient and the most recent, but there was also Germany. I'm happy to research that and see if there's anything I can discover about that which I could share with the committee. Whenever those changes have occurred and whenever a country has moved from a limited listing to a comprehensive listing, my organisation—and I'm sure the other two organisations represented here—have written to the relevant authorities to make them aware of that, to draw their attention to it and to invite them to follow suit.

**Dr Rubenstein:** I'll add a point on that. Thanks for hearing our evidence today. On the UK example, as Peter has said, it was only in 2019 that the UK listed the entirety of Hizballah. I think it's important that they've said since then of others, and Sajid Javid in particular, that the strong ties with Lebanon remain. It's possible to prescribe all of Hizballah and retain valuable working relations with Lebanon. But specifically, and relevant to the Australian case, you pointed out that the three months grace period was given to British diplomats to reject their relationship within Lebanon. That would be one of the guidelines, I think, that would be useful in the Australian case as well. I'm sure it plays on the minds of our diplomats and officials as well.

The other point, just to reiterate what Naomi Levin said before, is that prescribing the entirety of Hizballah really doesn't have a negative effect on maintaining economic relationships and maintaining aid with Lebanon. This is extremely important. But if I could also add that the waving of the Hizballah flag at the recent demonstrations in Australia—which, as Peter said, has happened for many years at other demonstrations—was very distressing. AIJAC did post these images on our social media to highlight the continued presence Hizballah supporters in Australia. We expected our social media audience to share our disgust—some did—but what shocked us was the number of Australians who made comments in support of Hizballah, including their violent objectives and murderous activities. Indeed, to recruit, fundraise or advocate for their cause is still not illegal in Australia. So this is very disturbing to us. I think, as someone involved, like all of you, in the evolution of our very successful, cohesive, multicultural society, this is a bit of a wake-up call—a shock, not just a security threat. The Jewish community, I think, is very much at risk by these developments. They are of great concern to us.

**Mr LEESER:** Thank you, Chair. No further questions from me.

**Dr ALY:** Thank you to all the witnesses for appearing today and for the submissions that they gave. The chair mentioned the case of Ali Haider, and we've talked a little bit about the difficulty of prosecuting people who are supportive of Hizballah and the difficulty of proving that they are providing material support to the violent agenda of Hizballah because of the lack of listing of the organisation in its entirety. We heard from Dr Levitt that, among the Lebanese diaspora in the US, a large proportion were out of ignorance, perhaps even wilful ignorance, unaware of the violent aspects and the terroristic activities of Hizballah. Their perception was that Hizballah was looking after the Shi'ites in Lebanon—that they were a social welfare organisation.

In your opinion and in the research that you've done, would the listing of Hizballah in its entirety address this issue? If we were to address this issue, of people providing material support for Hizballah with the perception that they're providing support for social welfare activities among the Shiah in Lebanon, what else would we need to do?

**Mr Wertheim:** Again, I will have a crack at answering that, if I may.

**Dr ALY:** Thank you.



**Mr Wertheim:** Of the 22 countries that list the entirety of Hizballah as a terrorist organisation, I believe Argentina, Colombia and the United States have Lebanese communities that are even larger than the expatriate Lebanese community in Australia. Clearly, that issue that you have quite properly raised has not been an impediment to them listing the whole organisation. The question that you have raised goes to the ancillary measures that might have to be taken by the government, and perhaps by other community leaders, following on from a proscription of the whole organisation.

I agree that that would need to be addressed along the lines that, I think, Dr Levitt outlined when he was answering the question from Senator Keneally. It is a legitimate issue. It would need to be addressed through close government consultation with the Shiah community of Australia so that they understand there is a major difference between genuine welfare activities supporting their families and friends in Lebanon to supporting an organisation like Hizballah.

**Dr Rubenstein:** Could I add, Mr Chair, that I think what's important to elucidate and enlighten everybody about in Australia is that Hizballah is an organisation that's effectively hijacked Lebanon. Its militia is stronger than the Lebanese armed forces. Importantly, it was established by Iran after the 1982 Lebanon war. It's a proxy for Iran and it's part of its revolutionary mission to promote the Islamic revolution across the region and beyond. At a time when our Prime Minister is making important speeches about freedom-loving countries getting together and standing up for our rights, and on the other side of the divide there are those countries somewhat more authoritarian and permissive towards terrorism, it's clear that Iran and its proxies are in the other group. It's clear that Iran and its proxies are engaged in other activities in this country as well, particularly in the area of cybersecurity, as we know.

I think that broader geostrategic situation and the political divide globally that we now confront, in which Australia is clearly on one side and our partners on our side—the United States, in particular, and Secretary of State Antony Blinken couldn't have been clearer in May when he called on his allies, including Australia, to be more proactive in dealing with Hizballah. What he meant was looking at the need to examine all of its activities and, implicitly, emulate the activities of the UK, Canada and the US as well as those other 19 countries and more in proscribing the whole entity, which is one. It's a unitary organisation. As Dr Levitt and others have said, it's an integral part of the Hizballah leadership who supervise it—that is, the ESO that we alone, uniquely, proscribe. In terms of Australia's interests and our future, I don't want to be in the situation that I confronted some years ago at the AMIA Jewish community centre in Buenos Aires, where I met with the relatives of the 89 deceased members who had been blown up in 1994 by a Hizballah terrorist attack. We don't want to be in that situation. We have basic interests, security interests and interests of social cohesion in this country, and I'm convinced that all Australians, when the realities of what Hizballah does are clearly explained by our leadership, will be supportive of us taking that extra step in proscribing the whole of Hizballah for reasons that go right to the heart of our security and our freedom.

**Dr ALY:** Thank you, gentlemen. Thank you, Chair.

**CHAIR:** We will quickly move to Senator Fawcett, then Senator Keneally, and then Ms Hammond, before we have to go to ASIO.

**Senator FAWCETT:** Thanks, Chair. I'll just raise some evidence from the AIJAC submission but invite answers from any of the panel. AIJAC highlights the US Department of Treasury, Europol and others in terms of their crackdowns on money laundering and how proscription of the whole organisation aids that. AIJAC then makes the comment that proscription here may prevent Hizballah from perceiving Australia as a safe place to raise funds, amongst other things. Is there any evidence available to you and to the committee of a diversion of fundraising activities from the US, Europe or other places to Australia as a result of the proscriptions that have occurred in those other nations?

**Ms Levin:** I'm happy to respond to that question. We at AIJAC haven't seen any direct evidence of that, but obviously Hizballah operates, in terms of its fundraising, through a variety of shady organisations or front organisations, and it's often unclear immediately as to where that money is going. I think it is important, though, to note that, with so many other similar jurisdictions proscribing or designating all of Hizballah, Hizballah use their resources and they look for other opportunities. So we need to be careful that Australia doesn't open itself to those opportunities.

**Dr Rubenstein:** Could I just commend to the committee the submission by another genuine Hizballah expert, Dr Emanuele Ottolenghi, who knows the Australian situation well. Also, he does deal with these matters—the fungibility of money and the fact that our law enforcement and security agencies are limited by the very narrow definition that we have of Hizballah. It's limited only to the ESO, as you know. He claims—and, I think, with a lot of evidence—that there's an overlap between their networks in the business community, in terms of drug

trafficking and laundering of money. It's very compelling, the evidence that he provides, especially in Latin America, but I believe that applies in other jurisdictions as well. And I think he makes a very powerful case about how the restrictions on our law enforcement and security agencies are very genuine and very real, ones that I think we would like to remove.

**Mr Wertheim:** Could I add that both in our submission and, I believe, in the ZFA submission there's a reference to the case of Altaf Khanani and Hassan Mansour, some years ago, 2016 or 2017, moving the proceeds of the sale of illicit drugs into and out of Australia. In fact, that's a quite clear example of crossover between the so-called different divisions of Hizballah and how the tendency to view the ESO as a discrete organisation is just divorced from reality.

**Dr Carlill:** Could I just add one final comment to that. Of course I agree with what the others have said. The thing to keep in mind is that Hizballah will operate wherever and whenever it can. It flourishes and operates much more strongly in those countries where the rule of law is not strong, hence the areas in South America, for instance, where Hizballah is particularly strong.

In a way that's not a direct answer to your question, but something to keep in mind is just that, going back to what others have said, we've got one hand tied behind our back by only prescribing one part of the military wing of Hizballah, particularly in regard to the fight against their international criminal network—their drug trafficking, money laundering and stuff like that. Were we to prescribe the whole of Hizballah, then, by helping like-minded countries to prevent Hizballah from flourishing in those areas where the rule of law is not strong, we would be in a much better position globally to help that fight.

**Senator KENEALLY:** Thank you to the all the witnesses for being here today. Your evidence has been helpful. I want to pick up on something that I asked Dr Levitt about. I do acknowledge the work that your various organisations do in an ecumenical and multicultural space and the partnerships that you have formed. If we as a country were to think of recommending or if this committee were to recommend the listing of Hizballah in its entirety, have you given some thought to the type of work that government or, indeed, community organisations should do to educate, prepare and inform the Australian community in order to maintain community cohesion and the strength of our multicultural community?

**Dr Rubenstein:** If I could, I will just comment on that. I think you've made a very important suggestion and intervention in this debate. But, all along, I think all the members on this committee and the witnesses today are very much committed to Australian multiculturalism and to maintaining its success. But we all know that the success of that Australian multiculturalism has always depended on—

**Senator KENEALLY:** Mr Rubenstein, can you just pause for a moment? There's a great deal of background noise. Someone is not on mute and I'm really having trouble hearing you.

**Dr Rubenstein:** Sorry.

**Senator KENEALLY:** Not your fault.

**Dr Rubenstein:** No, I understand. Thank you very much for your intervention and your comment. I'm saying that we're all committed to Australian multiculturalism. It depends on complying with the responsibilities, as well as our rights. Frankly, I think, the responsibility of leadership right across the board, not just political—media, cultural and so on—is to focus not just on the rights we have, which we cherish, but on our responsibilities as Australian citizens: responsibilities to respect each other, to comply with the rule of law and also to oppose the very essence of what Hizballah embodies. It's a terrorist organisation and, unfortunately, it's a terrorist organisation that, from the evidence of Dr Levitt's and others, and from the evidence that we've adduced as well, is still active in Australia, in recruiting and fundraising and, we suspect, in drug trafficking and money laundering. This goes against the whole ethos of Australia's democracy and Australia's multiculturalism. So I think you're right: we need to double down in explaining the realities, virtues and responsibilities of Australian multiculturalism not just the rights—meaning an Australian citizen carries those obligations and doesn't just have the rights that we all cherish. I think a campaign from our political leadership—I know we, the Jewish community organisations, reach out to other organisations. We're against bigotry, extremism, Islamophobia, anti-Semitism—you name it; we'll be at the front of the queue when opposing those threats to our open and multicultural society. And all of us need to do better on every front, I think.

**CHAIR:** I will go to Ms Hammond now, just in the interests of time.

**Ms HAMMOND:** Thank you all for appearing. My question follows on a little bit from Senator Keneally's. Is there any evidence that having the full listing in other countries has increased the profile of the recruitment or the sympathies for Hizballah? Have they used it as a tool for recruitment? Have they got more profile because of it and/or is there any evidence in those countries of Lebanese communities being demonised?

**Dr Carlill:** I'm unaware of any evidence, and I believe that Dr Levitt and Dr Ottolenghi, whom Dr Rubenstein mentioned earlier, would have the answers—and, I'd say, the definitive answers—to that question. I think the questions that you and Senator Keneally are raising are really important because, really, there are two issues here. There's the principle. It's pretty obvious that Hizballah as an entire organisation meets the Australian legislative definition, so, ideally, we should prescribe it. But then there are the real-world consequences, and of those real-world consequences there are positives for Australia and there are also potential negatives. I guess what you, Senator Keneally and the others on the committee are trying to work out is whether or not those real-world, possible negative consequences outweigh the positive consequences and, frankly, outweigh the principle that we should apply Australian law equally. These are good questions. I think that the answers to them will be that the possible negative consequences don't outweigh the benefits, but, as I said, going to Dr Levitt in particular is the way to answer those questions.

There are other issues as well: Will Hizballah target Australia? Will Hizballah target Australian nationals in Lebanon? Will Australia be able to repatriate Australians from Lebanon in a future crisis, given that Hizballah controls the Beirut airport? I think the answer to the first two questions is no and the answer to the third question is yes. This is the direction you're heading in, which is great, but I would reach out to Dr Levitt for that information.

**Ms Levin:** Ms Hammond, I'm happy to provide evidence on notice. There has been a recent report from Germany talking about an increase in Hizballah membership in that country, and Germany proscribed all of Hizballah last year. I only saw media reports, because the initial report was in German and I don't speak German. As far as I can tell, there was no correlation mentioned between the prescription and the small increase in the number of Hizballah members—or affiliates or associates, you could call them—in Germany, but I'm happy to provide that information to the committee on notice.

**Ms HAMMOND:** Thank you very much, Ms Levin.

**CHAIR:** Thank you, all witnesses, for your assistance to the committee today and the work you put into your submissions, which were gratefully received. If you have been asked to take a question on notice, we'd be extremely grateful if you could return an answer to us by tomorrow afternoon. I appreciate that it is a short turnaround time, but we have to table our report in the parliament very soon as well. You will also be sent a transcript of today's proceedings in case you would like to make any corrections. Thank you very much, everyone, for your time.

**BURGESS, Mr Mike, Director-General of Security, Australian Security Intelligence Organisation**

[10:52]

**CHAIR:** I now welcome Mr Mike Burgess. Do you wish to make an opening statement?

**Mr Burgess:** I do, Chair. Thank you for the opportunity to appear today. ASIO protects Australia and Australians from threats to their security. Part of that role involves providing advice on terrorist organisations that pose a threat to Australian interests, including the subject of today's consideration.

Hizballah's External Security Organisation, the ESO, is responsible for procurement, intelligence, surveillance, and planning, coordinating and executing terrorist attacks against Hizballah's enemies outside Lebanon. This includes clandestine activities targeting Israeli and US interests outside of the Middle East. ASIO assesses ESO to be capable and organised. In 2020, a Bulgarian court convicted, in absentia, Meliad Farah, an Australian-Lebanese citizen, for his alleged role in a 2012 ESO attack on an Israeli tourist bus in Burgas, Bulgaria, which killed six people. In September 2019, a naturalised American citizen was indicted in the US for undertaking terrorist activities on behalf of the ESO. He was charged with providing material to support, and the receipt of, military type training. His activities allegedly included surveillance of potential targets across the US, including the United Nations headquarters, the Statue of Liberty, Times Square, and airports, tunnels and bridges in New York City. In May 2019, an individual in the US was convicted for undertaking terrorist activities on behalf of the ESO. The court found the individual had, over a period of years until 2015, helped procure weapons and gather intelligence about potential targets in the US for future terrorist attacks, including JFK airport and law enforcement facilities in New York City. This demonstrates the ESO is a highly capable terrorist organisation. As a consequence, the ESO remains a security concern to ASIO. I'm happy to take your questions.

**CHAIR:** Thank you very much, Mr Burgess. I'll start before I offer the call to colleagues. The committee has received no evidence to suggest that the ESO should not be listed as a terrorist organisation, but the bulk of evidence we have received suggests that we should consider extending that listing further to at least the military wing if not the whole organisation. Evidence before the committee from Dr Matthew Levitt this morning is that no meaningful distinction can be drawn between the ESO and the rest of Hizballah. Does ASIO disagree with that assessment?

**Mr Burgess:** I don't disagree with that assessment.

**CHAIR:** Would ASIO have any concerns if the listing was broadened to include either the military wing or the whole organisation?

**Mr Burgess:** From ASIO's perspective—and we're not the decision-maker here; obviously we call out threats and, when asked, we give threat assessments—listing the entire organisation would not impact ASIO's ability to do its job.

**CHAIR:** Thank you. That's very helpful. Are you familiar with the case I cited earlier to the witnesses—Mr Ali Haider?

**Mr Burgess:** I'm not familiar, Chair.

**CHAIR:** Just to briefly refresh your memory and the committee members' memory, he was charged with a range of violent offences but also had possessed material that indicated his support and sympathy for Hizballah. The judge in the case said that, given that the Commonwealth accepts that Hizballah maintains a militia and that it had deployed forces in Syria to assist the Syrian regime, the Commonwealth did not list Hizballah as a terrorist organisation and it would introduce confusion into the area of antiterrorism if the court were to reach a different conclusion and therefore declined police application for more-extensive supervision of this individual. Is that not a fairly concrete example of the harm that could be caused to Australians by restraining law enforcement agencies from appropriately supervising people who may have sympathies with terrorist organisations?

**Mr Burgess:** I agree with your view on how unhelpful that is for law enforcement.

**CHAIR:** Does ASIO have an assessment that you can share in this forum on the level of support and sympathy for Hizballah within Australia?

**Mr Burgess:** We have views on that, but we would not talk about those assessments in an unclassified forum.

**CHAIR:** Fair enough. I think that's probably sufficient from me for now. I might come back to further questions later.

**Senator KENEALLY:** I'd like to take a step back from that previous line of questioning and go to the protocol for listing terrorist organisations. I note that it has recently changed. What was the impetus for that change?

**Mr Burgess:** I was part of the drive for the change. I may not have been the full reason. It was simply, from my point of view, as Director-General of Security, that ASIO's role should be limited to doing security assessments relating to threats to security, not do other things where we would consider other factors when we're forming our security views—so, simply to give ASIO the role of giving a security assessment. What is done with that assessment in regard to listing and what other factors are taken into account was clearly, in my view, not a matter for ASIO in itself but to be left to others to consider.

**Senator KENEALLY:** In many ways it sounds like you're saying that ASIO now provides facts and grounds that should be fed into the listing but it is one agency now that provides advice to Home Affairs. Is that a correct assessment of the role that you now have?

**Mr Burgess:** I'm happy with that assessment. And I'm not being difficult, so let me give you a bit more colour. There are a range of factors, including the legal threshold, that would be considered and that do have to be considered when it comes to a decision to list a terrorist organisation. ASIO's role is to do the security assessment on organisations such as Hizballah, the Hizballah military wing and Hizballah ESO. That's the extent of our role. And when, through Home Affairs, government are considering whether something should be listed or not, there are a range of legal and non-legislative factors they take into account. ASIO can be consulted at that stage as well. As I've said previously in answer to the chair, sometimes it would be, 'Would listing impact ASIO's ability to do its job?' And, no, it doesn't. We restrict our input—and this is my push—to security threats and let others deal with the consideration of listing: not only the legal threshold but other factors that a country would take into account.

**Senator KENEALLY:** Can I explore some of that. I imagine other factors would include impact on foreign policy, on diplomatic relations, on our defence personnel to do their job and on diaspora communities. Are those the types of considerations that would be represented by other agencies?

**Mr Burgess:** That's correct.

**Senator KENEALLY:** Is there any capacity for contestability, dissent or discussion between agencies in this protocol, or is it just that things get fed in, and then out of Home Affairs comes a decision?

**Mr Burgess:** No. In my experience, it's not just Home Affairs going out and asking for opinion and then, with their magic cue ball, making a decision. There is much consultation and engagement, and robust engagement at times.

**Senator KENEALLY:** Is that engagement just between the Department of Home Affairs and the agency, or across agencies? I'm trying to understand the extent to which, say, Foreign Affairs might say to ASIO, or Defence might say to Foreign Affairs: 'Hey, you've recommended this, but our view is that.'

**Mr Burgess:** It's broader than just between the department and ASIO. Home Affairs will be best placed to answer that this afternoon, but they engage widely on these matters.

**Senator KENEALLY:** I might leave that there and we can take that up with the department this afternoon. I know that the chair has asked you some of these questions, and you flagged the extent to which you might answer them in other forums, but what is ASIO's recommendation to Home Affairs on the risks and opportunities presented by listing Hizballah's ESO, its military wing or Hizballah in its entirety?

**Mr Burgess:** I'm constrained in what I can say beyond ESO; that is now listed, and I therefore can talk about it. My security assessments are classified. A key point I can make, though, beyond that is that, for me, our ability to do our job is not impacted if the listing is broadened. That's ASIO's input into a conversation.

**Senator KENEALLY:** We might leave that there, but that is useful evidence. Just to unpack that a little bit more in terms of that last statement: can you describe the level of concern you might have about dual citizens in Australia and their engagement with Hizballah's ESO?

**Mr Burgess:** Yes. What I can say there is—and I had the benefit of hearing the previous witnesses' evidence, and I was grateful to hear that—our ability is not restricted or enabled by listing of an organisation. ASIO has appropriate powers under law that allow us to investigate, on matters of security, to determine if there is a matter relevant to security or not. Whether a group is listed in the broad or not, or what is listed, doesn't impact ASIO's ability to do its job. We're not law enforcement. But I do acknowledge, at the same time, that it does impact law enforcement's ability to do their job. So, with regard to the question you gave me there, there is no issue for us. We will investigate individuals where we consider there are threats to security, and the level of our investigation inquiry depends on what we find and how we go up that tree of our intrusive powers that are available to us.

**Senator KENEALLY:** We have heard in public submissions that Hizballah operates under Iranian direction, including with the goal of exploiting the Iranian revolution. To what degree does ASIO assess that Hizballah operates under Iranian direction?

**Mr Burgess:** I wouldn't want to comment on that in public.

**Senator KENEALLY:** Alright. We'll leave that there. I thank Mr Burgess for his evidence.

**CHAIR:** Thanks, Senator Keneally. We'll go to Mr Wilson and then to Mr Dreyfus.

**Mr TIM WILSON:** Thank you, Mr Burgess, for coming today. I have some pretty short, sharp questions following on from Dr Levitt's submission and contribution earlier today. I'm not sure if you observed them. He made the express point about the singular or unitary nature of Hizballah under the Shura Council. When asked about this by Mr Leeson and me, he outlined that their capacity to enforce decision-making from the central body was based on reprisal mechanisms, which may be decentralised but nonetheless come from the enforcement edict, including violence. Is ASIO aware of any examples of violence occurring in local outposts of Hizballah and its various activities against people failing to conform?

**Mr Burgess:** I'm not aware of that specific example, no.

**Mr TIM WILSON:** Okay. Thank you.

**CHAIR:** Mr Dreyfus.

**Mr DREYFUS:** We've had evidence already today from Dr Levitt, an acknowledged expert in Hizballah, and a range of material put before us by the Australia/Israel & Jewish Affairs Council, the Executive Council of Australian Jewry and the Zionist Federation of Australia. All of them are to the same effect in relation to the nature of Hizballah—that it is a unitary organisation. In fact, it could hardly be clearer that it is a unitary organisation. Dr Levitt was very clear on this. He quoted not merely from other experts on Hizballah and people at the US state department and the CIA but also from direct statements made by high officials of Hizballah itself, which make it absolutely clear that it is a single organisation with a single leadership. Have you got any reason to think that's wrong in any respect?

**Mr Burgess:** I have no reason to suspect that is wrong. Obviously, we are very much aware that it is a multifaceted organisation with political, social and military components. Members of Hizballah hold seats in the Lebanese government. It is organised under a consultative council chaired by a secretary-general. It has five functional councils: political, parliamentary, executive, judicial and military—or jihad. The military wing is a highly capable and well-resourced militia, and ESO is part of that.

**Mr DREYFUS:** I appreciate that you've made the distinction, many times before this committee and many times publicly, that your organisation is not a law enforcement organisation but an intelligence organisation. The key impact, if I can put it like that, of the proscription of the whole of the organisation would be that it would bring consequences for the criminal law. You've rightly said it's not going to impact on ASIO's activities, but we've had a number of submissions put to us directly the effects of designating the whole group—that is, the whole of Hizballah rather than just the ESO. The Australia/Israel & Jewish Affairs Council say in their submission:

Designating the whole group, rather than just the ESO, will assist law enforcement to link Hizballah's criminal activity—for example its fundraising efforts via drug trafficking and money laundering—with Hizballah's funding of its military and terror activities.

Is that something that you're able to comment on in this hearing?

**Mr Burgess:** Yes, I can. If you're involved in drug trafficking or money laundering—it doesn't matter whether that's for terrorism or other purposes—it's still actually potentially unlawful. Having said that, and not to take away from those witnesses' comments, I agree that the mere fact of a group being listed does give law enforcement another lawful means by which they can deal with the problems that we are seeing in our society.

**Mr DREYFUS:** If I could go to another matter—again, this might be something that is difficult for you to comment on in this public hearing—a number of the submissions that we have received comment on activities of Hizballah in Australia. Happily, we haven't seen the kind of Hizballah activity that has already been referred to in this hearing—a dreadful and tragic event in Buenos Aires in 1994 when some 89 people were murdered in the Jewish community centre in Buenos Aires by a bomb set by Hizballah with the assistance of the Iranian government—and I hope we never do see any event of that nature involving Hizballah activity in Australia. Notwithstanding that, quite a number of the submissions have identified a range of activities of Hizballah in Australia, such as broadcasts by Hizballah through a satellite transmission station Al-Manar into Australia, some of it involving praise of terror activities. Other submissions provided us with photographs of the Hizballah flag, a

flag that includes an image of a fist grasping an assault rifle, being displayed, really, throughout the last decade at multiple demonstrations primarily in Sydney. Other submissions have referred to the Australian link of an Australian citizen being sentenced to life in prison by a Bulgarian court for his involvement in the bombing of a bus load of Israeli tourists in Bulgaria in 2012. The chair, in earlier questioning today, referred to the activities of Sydneysider Ali Haidar, and I could go on. There is clearly quite a lot of Hizballah activity in Australia, much more, it might be said, than activities directly in Australia of a number of other groups that our government has seen as appropriate to proscribe. I could think of an example, Boko Haram, where I don't think anyone has ever identified any activities of Boko Haram on Australian soil. Is there anything you can say in this public hearing about the activities of Hizballah in Australia?

**Mr Burgess:** Certainly. Firstly, I am not sure I agree with you that there is much more Hizballah terrorist activity in this country. Actually, that is not me having a go at you; let me put that in a bit more context for perspective. Of course, the national terrorism threat level remains at probable. The biggest portion of that rests with religiously motivated violent extremists—that is, Sunni but there is also elements of Shia violent extremists in that, so you have some shared ideological drivers, perhaps—but I don't think it's fair to say that there's much more than we're aware of but we're living in a world where the terrorism threat level remains probable. My agency focuses on those individuals that will do harm, so what part of Hizballah is listed doesn't impact our ability to do our job. If we find people preparing for acts in terrorism or actually doing them we are able to take action and, of course, law enforcement are able to take action with what we and they find on the ground happening in this country today, regardless of whether or not a group is listed.

**Mr DREYFUS:** The point has been made to us in a range of submissions that some 22 countries have now listed Hizballah in its entirety as a proscribed terror organisation. Those 22 countries include our Five Eyes partners—the United States, the United Kingdom and Canada. Australia is in an extreme minority of countries having decided to only list this small part, albeit a very dangerous part, of Hizballah as the proscribed terror organisation. Given that so many countries around the world have listed Hizballah in its entirety as a terror organisation, do you think there is a chance that Hizballah might come to view Australia as something of a safe haven for its general activities? Is that something that would concern you?

**Mr Burgess:** If they had that view, that would concern me, but I don't believe they do have that view.

**CHAIR:** I have a follow-up question. Is the position that ASIO takes today—that there would be no harm to your operational capability from a listing of the entire organisation of Hizballah—a different position to one that ASIO has taken in the past, for example, when it was previously considered for listing in 2018?

**Mr Burgess:** Thanks for the question. I am not sure I could answer that off the top of my head because, being the Director-General since 2019, I can only say what I know. I will take that question on notice.

**CHAIR:** Let me maybe help you a little bit there. Has anything changed since the listing of Hizballah was last considered in terms of your legislative powers that would enable you, operationally, to overcome the fact that Hizballah is listed in its entirety?

**Mr Burgess:** No. Nothing's changed that has enabled me to do this. We have long had that view that allows us to do things that are otherwise unlawful. There are special powers we can call on that allow us to do that, so we have long had that capability. The only change perhaps is I am a director-general who wants to focus on our role. I recognise there are others across the official space who have a whole range of other competing views or different interests they need to put forward to be discussed when listings are occurring. I didn't want ASIO to shape its advice to suit an outcome that others were looking for. I'm happy for them to put their best case forward so decisions can be made based on full information. Our bit, in the purest sense, is we'll focus on threats to security.

**CHAIR:** I will look forward to your answer on notice. Longer-serving members of the committee will correct me if I'm wrong but I think your statement before the committee today—that you would have no concerns and no opposition to the organisation being listed in its entirety—is a new statement from ASIO, at least in a public forum, on the question of Hizballah.

**Mr Burgess:** Sure, absolutely.

**CHAIR:** Mr Burgess, thank you as usual for your extensive cooperation and availability for the committee. We're grateful that, among all the other important priorities that you have, you prioritise your assistance to the PJCIS. The questions you have taken on notice, we would be grateful if you could return the answers by tomorrow afternoon given the very tight time line we have to return our report to the parliament. As usual, you will get a transcript of your evidence and will have an opportunity to request corrections to any transcription errors.

**Mr Burgess:** Thank you.

**Proceedings suspended from 11:17 to 12:32**



**BRERETON, Mr Ed, Acting First Assistant Secretary Counter-Terrorism Coordination Centre, Department of Home Affairs**

**CHICK, Mr David, Assistant Secretary Counter-Terrorism Strategic Policy Branch, Department of Home Affairs**

**CHIPMAN, Air Vice-Marshal Robert, Head Military Strategic Commitments, Department of Defence**

**FEAKES, Mr Richard, Acting Deputy Secretary Social Cohesion and Citizenship, Department of Home Affairs**

**JEFFREY, Mr Hugh, First Assistant Secretary International Policy, Department of Defence**

**LEE, Mr Scott, Assistant Commissioner Counter-Terrorism and Special Investigations, Australian Federal Police**

**McCARTNEY, Mr Ian, Deputy Commissioner Investigations, Australian Federal Police**

**NOBLE, Mr Roger, Ambassador for Counter-Terrorism, Department of Foreign Affairs and Trade**

**PAGE, Mr Damian, Deputy Chief General Counsel, Australian Government Solicitor**

**CHAIR:** I welcome witnesses from a range of government agencies. Thank you to all of you who have joined us today. In a moment, I'll invite you to make an opening statement, but can I just clarify whether there is one opening statement on behalf of all witnesses or each organisation represented wants to make its own opening statement.

**Mr Feakes:** Chair, I don't have an opening statement. I was proposing to make a few preliminary remarks just to frame the discussion, but I don't know about others.

**Mr Jeffrey:** I'm happy not to make an opening statement.

**CHAIR:** In that case, I will invite you to do that now, Mr Feakes, and then we will proceed to questions.

**Mr Feakes:** Thank you, Chair. I'll be brief. As you know, Chair, successive governments have listed the ESO, the external security organisation, since 5 June 2003. It has been relisted on seven occasions since then and most recently on 2 May this year. Since the committee last reviewed the ESO's listing, we've kept the appropriateness of the proscription under review, as we undertook to do in our response to the committee's report in April 2019.

It's quite a complex area of government engagement. It involves a number of departments, as you heard this morning from the director-general, spanning intelligence, policy and of course the Australian Government Solicitor. It's not purely a binary question of whether to list or not to list based on whether an organisation meets the thresholds or otherwise. There are also, as you know, Chair, public interest criteria that come into agency considerations of a listing under division 102 of the Criminal Code. You know that we've recently updated the protocol. I think we set that out in our submission to the committee. That's been an important body of work. It's taken some time. We started in the middle of last year. It was important to get it right. I think now it gives much better effect to the actual roles of agencies in consideration of prescription, particularly Home Affairs and ASIO, as you heard from the director-general this morning.

Finally, I gather that there may be a private hearing next week on this issue. I think that'll provide a much better opportunity to go into some details that a public hearing such as this might otherwise constrain against. Thanks, Chair. I'm in your hands. I'm happy to answer any questions.

**CHAIR:** Thank you, Mr Feakes. I'll start with a few questions and then I'll offer the call to some of my colleagues. Firstly, I have just a factual question. It has been suggested at times that perhaps there is some advantage to Australia in not listing the full Hizballah, as many of our allies and like-minded countries have done, due to the fact that they have listed the full entity and that affords us certain freedoms and abilities to operate in Lebanon that they don't have, and in fact it might be to the advantage of our allies that we've done that. I'll direct this question to DFAT, but anyone else who wishes to comment should feel free. Are you aware of any occasion on which, for example, a Five Eyes partner or other close ally has asked Australia not to list Hizballah in its entirety?

**Mr Noble:** The simple answer to that is no. Just to verify, under the international financial sanctions regime that Australia applies, under part 4 of the Charter of the United Nations Act, Hizballah is listed in its entirety, and that's an international listing regime, and that's about financing and resources. It has been listed that way since 2001, and it's been reconfirmed a number of times since 2001. That's the state of play in that particular regime,

which is not the Criminal Code regime. The other thing I'd say to you is that we're in a constant dialogue with partners about listing and exchange of information.

**CHAIR:** So, to your knowledge, it's never been the case that we've been asked not to list it in its entirety and, to the contrary, there's some evidence on the public record—for example, the new administration in the United States—of urging countries to list Hizballah in its entirety?

**Mr Noble:** The way I'd answer that is that different countries have different listing regimes and different decision-making around it. I think you've heard this before, but it's important that you understand that each national regime is different—

**CHAIR:** Of course.

**Mr Noble:** Therefore, the impacts of listing are different in each jurisdiction. I can give you some—

**CHAIR:** But that doesn't really answer the question I posed, which is that some of our friends and allies—for example, the United States—have publicly urged all countries to list Hizballah as a terrorist organisation in its entirety. That's true, isn't it?

**Mr Noble:** I'll take that on notice and verify. I'm not sure of the exact circumstances where they've done that, and who's done it, but I can check and verify.

**CHAIR:** Great. Thank you. And did you want to add to your initial answer?

**Mr Noble:** I was just going to make the offer: I can give you where some of the other countries, like-minded countries, are standing via listing in a general sense, if you'd like that.

**CHAIR:** Sure.

**Mr Noble:** Each of our international partners have their own mechanisms for and consequences resulting from prescribing an organisation as a terrorist organisation. Just to reiterate the point, it's a bit hard to compare directly. The US, the UK and Canada apply to Hizballah its entirety financial sanctions measures, similar to those applied by Australia to Hizballah in its entirety under part 4 of the Charter of the United Nations Act—the international sanctions that I described previously. New Zealand, France and the EU apply financial sanctions only to Hizballah's military wing and external security organisation. While Germany has not designated Hizballah as a terrorist group, it has banned Hizballah activities, including the use or display of Hizballah symbols. This ban also allows for the confiscation and forfeiture of assets controlled by Hizballah or supportive third parties. So that's the status for some of our like-minded partners.

**CHAIR:** I'm not sure how many of you saw the evidence earlier by your colleague Mike Burgess from ASIO, but I asked him whether there would be any harm or concern from ASIO's point of view, or any impact on their operations, if the Australian government listed Hizballah in its entirety, and he answered no. Does any witness here disagree with that assessment? Is there any difference? For any of the organisations that you represent, would there be harm caused by listing Hizballah in its entirety?

**Mr McCartney:** I think it's fair to say it will have an impact, but at this stage we believe we can manage that impact. But obviously we're still working through that assessment process.

**CHAIR:** I'll just stick with you for a moment, just to understand what you mean by the impact and why it would be manageable.

**Mr McCartney:** When we step back and look at our engagement with Lebanese authorities, it's not just through the lens of counterterrorism. We've been there since 2001. We have got a very productive relationship across a wide remit of criminal offending and offences. Lebanon is obviously a very complex environment. The assessment that we receive from posts is that it will register an impact, but, again, our assessment at this stage is that it is one that we can manage.

**Mr Noble:** If I can get away from using the word 'harm', I would say the listing will have an impact on Australian interests. Probably the better place to talk about that would be in a private hearing. But the types of things are threats to or impacts on Australians travelling overseas, Australian posts overseas and Australian interests overseas. In the process for listing, DFAT feeds into—I heard Senator Keneally talking about this earlier—that dialogue process led by Home Affairs.

**Mr TIM WILSON:** Sorry. This sounds a tawdry question. Did you say 'Australia Post' or 'Australian posts'?

**Mr Noble:** 'Posts'.

**CHAIR:** Unless any other witness has anything to add on that previous question, I'll move on to the next one.

**Mr Jeffrey:** As to Roger Noble's comments on the word 'harm', I think that's a word that would require a lot of clarification. 'Effect' is the word that we use. Were government to change the legal regime under which

Australia operates abroad, that would have an effect on how we do things. Of course, that's not taking a position. We would just look to implement the government's decision. Defence is active, as you know, in Lebanon through peacekeeping activities and, from time to time, through humanitarian support and in the context of contingency operations. If you change the legal parameters around which we would engage, of course that would have an effect.

**CHAIR:** Yes.

**Mr Jeffrey:** But you'd have to determine whether that's harm or not.

**CHAIR:** Yes, okay. It self-evidently would have an effect; that's the purpose of doing so. The question that is relevant for the committee—and I appreciate the constraints you have about being completely candid about it in this forum—is: would it be an insurmountable effect? Would it be a seriously deleterious effect? That's what I'm trying to establish.

**Mr Jeffrey:** From Defence's perspective, it will all depend on what decision is made and how it's implemented.

**CHAIR:** Okay.

**Mr Noble:** I would argue it's about the articulated position of the risk and understanding it and then whether that's acceptable to the government. That's kind of our role in giving that advice. The decision-making rests with the minister. That is how I'd answer it.

**CHAIR:** Okay. I'll move on to another matter. This is really for the AFP, but others can comment if they wish. A couple of times today, I've cited for witnesses the case of Mr Ali Haidar. New South Wales prosecutors sought some control and supervision orders on him. He was a violent criminal offender who also had an association with Hizballah. For example, he posed for photographs, possibly overseas, with automatic weapons. He has tattoos and other paraphernalia. How concerned are you that the restrictions that New South Wales police sought to place upon him were not successful because the Commonwealth had designated only the External Security Organisation and, in the judge's view, it wasn't clear to the court whether this person's support was for the political wing and aspects of Hizballah and not the terrorist wing?

**Mr McCartney:** Noting that this is a public hearing, the preference is not to delve too much into that operational matter. But I would say in general that obviously there are a number of offences under division 102 that require the existence of the organisation being designated as a terrorist organisation. It doesn't prevent us investigating and prosecuting. It does make it more difficult. Obviously, in the absence of listing a regime, we are required to prove beyond reasonable doubt that an organisation is a terrorist organisation. I think—and I may be corrected by my colleague—the only time that we've done that, going back a number of years, is in relation to Operation Pandanus and the Benbrika group. We proved beyond reasonable doubt that they, in terms of their operation, were designated as a terrorist organisation. Obviously, in terms of terrorist organisations that have been designated under the act, there have been a range of prosecutions over the last couple of years, and we've actively utilised that legislation.

**CHAIR:** To be clear, your task and the task of your state police colleagues is easier if an entity has been listed as a terrorist organisation—the bar to clear to prove it in court is lower?

**Mr McCartney:** Correct.

**CHAIR:** So should it be concern to us, then, that there is a potential issue where people can make a claim in court that they're only associated with the civilian or political aspects of an organisation, not the terrorist aspects?

**Mr McCartney:** It can be a concern. I'm not willing in a public hearing to get into that individual matter.

**CHAIR:** There are other matters I could pursue, but I want to share the call with my colleagues. Mr Dreyfus, are you seeking the call on behalf of your Labor colleagues?

**Mr DREYFUS:** I'm happy to start, but some of my colleagues may also have questions, particularly Dr Aly. My first questions are for Home Affairs. We've had evidence this morning from Dr Matthew Levitt of the Washington Institute—someone who's worked for the FBI and the state department and is a recognised expert on Hizballah—and we've had three detailed submissions put to us by the Australia/Israel & Jewish Affairs Council, the Zionist Federation of Australia and the Executive Council of Australian Jewry. All of them in various ways put a similar point to us, which is that Hizballah is a unitary organisation. Dr Levitt, for example, quoted from a statement that was made by the deputy secretary-general, Naim Qassem, who reports directly to Sheikh Nasrallah. The statement was made in 2020, so it's a recent statement. Mr Qassem said:

If the military wing were separated from the political wing, this would have repercussions, and it would reflect on the political scene. But Hezbollah has one single leadership, and its name is the Decision-Making Shura Council. It manages the political

activity, the Jihad ... activity, the cultural and the social activities...Hezbollah's Secretary General is the head of the Shura Council and also the head of the Jihad Council, and this means that we have one leadership, with one administration.

Dr Levitt went on to refer to statements made by the US treasury department and statements by other governments and reached this conclusion, which is on page 7 of his submission to us:

In short, there is no truth to the myth that Hezbollah operates distinct wings. Hezbollah is a unitary organization and each of its component parts plays roles in the group's militant and terrorist activities.

I've put that at some length just to make sure that it's all on the record. Why is it that Home Affairs seems to have taken a different position from that proposition that Hizballah is a unitary organisation?

Might I add that it's a position that's now been taken, it appears, by some 22 countries, including our Five Eyes partners Canada, the United States and the United Kingdom in their listing of Hizballah as an entirety as a terrorist organisation. Over to you.

**Mr Feakes:** I'm not sure that I would disagree with the references in the submissions which I've read. What I would say is that the ESO exists within the organisational structure of Hizballah. I think that's indisputable. I would also say that Hizballah is multifaceted, and I think one of the submissions—it might have been Mr Ottolenghi's—described it as compartmentalised. I used the word 'multifaceted'. I think the ESO operates within that broader organisational structure of Hizballah, existing with a number of councils, political, parliamentary, judicial, executive and the military, but within that broader structure.

**Mr DREYFUS:** Well, it's true that it might be a multifaceted organisation; you could say the same thing about the Australian government or about any large organisation, and on any view Hizballah is a large organisation. But what I'm putting to you is Dr Levitt's conclusion:

Hezbollah is a unitary organization and each of its component parts plays roles in the group's militant and terrorist activities.

What I'm trying to get to is why it is that Home Affairs has decided that only one particular part of this unitary organisation, where all of its parts play roles in the group's terrorist activities, should be listed.

**Mr Feakes:** In a public hearing, I won't go into the question of whether to list the whole organisation Hizballah or not. I just make the point again that ESO is one of those component parts.

**Mr DREYFUS:** But, publicly, you don't seek to disagree with the conclusion that's been expressed to this committee by Dr Levitt?

**Mr Feakes:** That its ESO operates within the broader organisational structure of Hizballah, or that it's unitary?

**Mr DREYFUS:** That it's unitary and that—I will repeat it—'each of its component parts plays roles in the group's militant and terrorist activities'?

**Mr Feakes:** Well, I don't disagree with the point of it having component parts. I agree entirely with that proposition.

**Mr DREYFUS:** Three years ago this committee looked at the same listing of just the ESO part of the larger organisation of Hizballah. We, of course, didn't disagree with that listing. The six Liberal members of the committee and the five Labor members of the committee made a bipartisan formal recommendation:

The Committee recommends that the Government give further consideration to extending the listing to include the military wing of Hizballah.

There was a formal government response:

The government accepts this recommendation in principle.

Why is it that the government has said nothing since accepting the recommendation in principle, and the statement of reasons that the minister has put forward makes no reference to the previous recommendation of the committee, which was not, I stress, for the listing of the whole of the organisation but, rather, for a listing of the military wing—a larger part of the organisation than simply the ESO?

**Mr Feakes:** Yes, you are right—the statement of reasons for the ESO listing doesn't make reference to that recommendation or our response that we, in principle, agree. Since this committee reviewed the ESO in the middle of 2018, as I referred to in my opening remarks, we have kept the appropriateness of that listing under very close review.

**Mr DREYFUS:** How do we know that, Mr Feakes? I'm just a bit mystified by this process here that the committee has previously considered the same listing of the ESO, has held a hearing back in 2018 and has recommended to the government that there be serious consideration given to extending the listing to include the military wing. We're here three years on. The government said it accepted that recommendation in principle, and

you now say nothing about it. You still haven't said anything about it, Mr Feakes, so I'm just not sure what this committee is meant to make of this.

**Mr Feakes:** Well, as I said, we've kept it under very close review, as we do review a range of organisations and the desirability or otherwise of prescribing organisations. I can't, in a public hearing, give you specific details of how and when and in what form. Perhaps that's something we could address in a private hearing.

**CHAIR:** Mr Dreyfus, sorry, I'm just going to jump in here for clarity. Mr Feakes, is there any current consideration underway of a wider listing of Hizballah than just the ESO?

**Mr Feakes:** In a public hearing, I can't go into any details on what the government might be doing as far as an extended listing goes. I can tell you that we keep these listings under review. There are a number of government structures which are designed for that purpose. But I can't tell you in a public hearing that we're giving thought to extending the listing or indeed giving thought to listing any other organisation.

**CHAIR:** I do appreciate the constraints you are under and I won't push you to go any further than you are comfortable. But, to Mr Dreyfus's point, how is the committee to understand what you mean when you say, 'under close review', if you aren't also able to say that it's under current consideration. What does 'close review' mean?

**Mr Feakes:** I take your point, and the constraints of a public hearing are awkward. What that means is that government agencies around this table, through standing whole-of-government governance structures—and there's a range of those—discuss these listings and other potential listings regularly, including drawing on assessments facts from ASIO. That's ongoing work.

**CHAIR:** Okay. Sorry, Mr Dreyfus. Back to you.

**Mr DREYFUS:** No, that's fine, Chair. That's helpful. There's a long list of Hizballah related terrorist activities right across the world that is included as part of the statement of reasons. Some of those simply refer to Hizballah in general; others refer to the ESO. Going right back to the infamous murder of some 89 people at the Jewish community centre in Buenos Aires in 1994, the Argentine government has repeatedly identified Hizballah, not making a distinction between Hizballah and the ESO, and indeed has identified the involvement of the Iranian government in that heinous crime. What was the basis in this statement of reasons for sometimes saying it was the ESO and other times not making a distinction and just saying it was Hizballah?

**Mr Feakes:** I will defer to colleagues here, but my instinct is—let's take a step back. ESO's operations are clandestine. Information about ESO operations is, therefore, rare and hard to get. Sometimes that information is not available, and that may lead you or us to a point where we're not able to actually identify whether it's ESO or Hizballah. But I might ask one of my colleagues, David, if I may.

**Mr DREYFUS:** Sure.

**Mr Chick:** The evidence provided here—and what I should say, also, is that the listing of an organisation has to be particular to the organisation under consideration. In this case, the statement of reasons justifies the listing of ESO within Hizballah. In terms of that, it's very important to have the most up-to-date information that you can. To make a legal listing in this country, it needs to be current under the legal thresholds. You need current examples of terrorist activity or advocacy. That is not always as simple as it may sound.

Other regimes may not have the need for the same level of specificity of more current examples of terrorist activity or advocacy. With situations such as the ESO, it's sometimes helpful to build a circumstantial case around the activities of the organisation being considered. To the extent that the statement of reasons goes beyond individual activities of the ESO, it's to show that the ESO is conducting certain activities—as best as we can articulate that with what is a clandestine organisation conducting clandestine activities.

**Mr DREYFUS:** I am still wanting to see what it is possible for you to say publicly about why Home Affairs is drawing this distinction in the listing. I'll read you what the United Kingdom Home Secretary said in the House of Commons on 26 February 2019. This is what Mr Sajid Javid, the Home Secretary, who is responsible for listing of terror organisations in the United Kingdom, said:

There have long been calls to ban the whole group, with the distinction between the two factions derided as smoke and mirrors. Hezbollah itself has laughed off the suggestion that there is a difference. I have carefully considered the evidence and I am satisfied that they are one and the same, with the entire organisation being linked to terrorism.

... ..

This Government have continued to call on Hezbollah to end its armed status; it has not listened. Indeed, its behaviour has escalated; the distinction between its political and military wings is now untenable. It is right that we act now to proscribe this entire organisation.

That's the position of our close friend, the United Kingdom, not that long ago in 2019. In a situation where Hizballah itself, through its highest officials, say directly that there's no distinction to be made—they self-describe as a unitary organisation—I am just wondering if you can identify what possible basis there is for drawing the distinction that this listing draws? It singles out—in what appears to me to be a very artificial distinction—one small part of a much larger organisation, all of which, the whole organisation, is involved in terror activities. Why is it that Home Affairs and the minister have reached this decision, have not commented on previous recommendations of this committee, and are persisting with this distinction that 22 other countries in the world are not persisting with—notably Canada, the United Kingdom and United States?

**Mr Feakes:** I can only reiterate what I said previously: we see Hizballah compartmentalised and the ESO—

**Mr DREYFUS:** Why, Mr Feakes? You keep saying that, but you're not actually conveying any information. I've told you what the UK Home Secretary has said, and I've just reminded you of the words of the Deputy Secretary-General of Hizballah itself. I can keep going with lots more material, all of which is to the same effect. The director-general of security, who was here this morning talking to the committee, said that he didn't disagree with the conclusion that there's no meaningful distinction to be made between ESO and Hizballah. What I am trying to get is something from Home Affairs that explains why the Minister for Home Affairs, in 2021, is persisting with this distinction?

**Mr Feakes:** I think I said I didn't disagree either. One of the submissions refers to Hizballah as compartmentalised. I agree with that. There are distinct components of Hizballah operating under the councils. I'd make the point as well that, yes, you're right on the UK position as enunciated by the home secretary. Prior to 2019, they did list the ESO—

**Mr DREYFUS:** No, they listed the military wing. They had actually already got to a position that was broader than our current position.

**Mr Feakes:** I stand corrected: the military wing.

**Mr DREYFUS:** They were moving from the military wing, which is a larger component, to the whole organisation. We're still at ESO alone.

**Mr Feakes:** That's correct.

**Mr DREYFUS:** What is the reasoning that the Minister for Home Affairs or the Department of Home Affairs are employing here to say that it's only appropriate to list a small component part of a larger organisation when on publicly available evidence and on the conclusions publicly expressed our close allies, through their governments and ministers, list the whole organisation? What is it that Home Affairs is relying on to say that it's only appropriate to list a small component?

**Mr Feakes:** I will go back to what my colleague Mr Noble said. We each have our own proscription regimes which lead to different decisions being made and we each have our own public interest criteria which are factored into those decisions. We have reached our decision on ESO and have since 2003. That doesn't preclude reviewing or revisiting that decision. But, based on the work of agencies and decisions by government around the legislation and the public criteria, that's where we are.

**Mr DREYFUS:** That wasn't telling me anything, with the greatest of respect, Mr Feakes. It's meaningless for you to tell me in answer to my question that Australia has somewhat different public interest criteria to other countries or that Australia has a somewhat different legislative regime to our close allies Canada, the United Kingdom and the United States. All of that we know. This committee regularly looks at all of that. I am asking you to articulate a reason, not to tell me that there are different regimes, not to tell me that Australia is a different country to the United Kingdom, in the face of publicly available evidence about the involvement of the whole of this unitary organisation in terror activities throughout the world why it is that the Australian government has reached a decision that only a small component part of this organisation is to be listed.

**Mr Feakes:** I am not sure that I can elaborate on my answer any further in a public hearing. Privately, that may be possible. But I'm not sure that I can really elaborate any further.

**Mr DREYFUS:** Are you sure, Mr Feakes? I want to give the department the fullest possible opportunity to try to explain publicly, in a situation where other governments, like governments to our own, notably the government of the United Kingdom, have felt it possible to publicly express their reason for listing the whole organisation, why it is that the Australian government is choosing to list only a small part of this larger organisation?

**Mr Feakes:** The ESO met the legislative thresholds. They were listed. They have been listed since 2003 as a proscribed terrorist organisation. In a public setting like this, I can't go into any further detail.

**Mr DREYFUS:** Why doesn't the whole organisation meet the legislative criteria? Which legislative criteria does Hizballah, as a whole, not meet?

**Mr Feakes:** As I said before, and as others have said before, I can't talk in a public hearing about Hizballah and what they meet and what they don't meet. That would be imprudent.

**Mr DREYFUS:** Perhaps we will hear some more in a private hearing. But I would extend the invitation to the Department of Home Affairs and, through you, to the Minister for Home Affairs to seek to explain and to find a way to publicly explain why it is that the Australian government is taking a lesser and different position to the position taken by the United Kingdom, the United States and Canada.

I've got some other questions but I think we've got plenty of time, Chair, and I wanted to move on to some questions to DFAT. Maybe you can just come back to me and give someone else a go.

**CHAIR:** If you're comfortable with that, Mr Dreyfus, we'll do that. I'll go to Mr Wilson first and then back to a Labor colleague, which can either be you or another of your colleagues. I'll let you decide

**Mr DREYFUS:** I think we've got time, Chair. Go to Dr Aly next. She's looking keen!

**CHAIR:** Perfect. Alright, Mr Wilson then Dr Aly.

**Mr TIM WILSON:** Brevity is my focus, generally. Going to the point that was raised before, Mr Feakes, following on from Mr Dreyfus's comments, for the reasons you outlined to do with confidentiality and what you can deal with in public, you've said that you can't give further clarity about why only ESO has been designated, versus the whole organisation. But I was wondering if there's a way that you could articulate what the triggers might be that may lead to a reassessment of that and/or to say, 'No, the entire organisation should be classified.'

**Mr Feakes:** I'm not sure that I can articulate clearly triggers, but changed circumstances—

**Mr TIM WILSON:** Let's go with that.

**Mr Feakes:** Exogenous changed circumstances by Hizballah would clearly be something that might trigger further consideration.

**Mr TIM WILSON:** That's not a very substantive answer either, but perhaps we'll pursue that.

**Mr Feakes:** Well, triggers in what respect?

**Mr TIM WILSON:** In the sense that a recommendation's been made and, in a future context, everything goes through as it is presently; and then there would be other triggers where you'd say, 'No, no, now we recommend the entire organisation.' What would be the change necessary to the circumstances? Would it be because certain action's been taken—

**Mr Feakes:** Yes.

**Mr TIM WILSON:** the advice of partners, an update in the intelligence from ASIO? And on what basis would they occur?

**Mr Feakes:** How this system works—and you heard this from the director-general this morning—is they would provide an assessment; they would provide facts. If those facts changed that led us to consider that an extended listing to include Hizballah was appropriate, then we'd put advice to the minister. But it would need to be founded on some factual basis, and that's ASIO's remit.

**Mr TIM WILSON:** So—

**Mr Feakes:** An assessment.

**Mr TIM WILSON:** An assessment as well as facts, effectively informed by acts on the ground, which would say that the circumstances have changed to justify it.

**Mr Feakes:** Indeed, and those facts on the ground would necessarily inform ASIO's assessment.

**Mr TIM WILSON:** Let's look at it a different way. There's a line based on which you do ESO versus the entire organisation. How close to the line are we to recommending the whole organisation versus just the ESO? How much would the facts need to change?

**Mr Feakes:** I can't in a public hearing, I don't think, really talk about how close to the line we are with Hizballah. I can tell you what the triggers, the process, would be for listing Hizballah, and it would require circumstantial changes on the ground; an assessment; discussion within agencies whether to list or not. There would be advice from the AGS on whether the actions of Hizballah met the legal thresholds. AGS would provide us advice on that. There would then be policy discussion around public interest criteria—threats to Australian interests, links to Australia—and whether like-minded list Hizballah. And then advice would go to the minister.

**CHAIR:** Deputy Chair, do you have a clarifying question?

**Mr BYRNE:** Yes. Has ASIO's advice to you changed?

**Mr Feakes:** No, not that I'm aware of, Senator.

**Mr BYRNE:** Thanks for the promotion! Member of the lower house, the people's house, actually—no disrespect to my colleagues. Just so I've got this on the record, ASIO's assessment advice to you has not changed from the last listing?

**Mr Feakes:** As far as I'm aware, that's true, but I'll defer to a colleague here, who might have some advice.

**Mr Chick:** Thank you for the question. For every new listing or relisting, ASIO will as a matter of course provide details in relation to the organisation and the activities of that organisation. So whatever was provided in 2018 will necessarily be different from what is provided in 2021.

**Mr BYRNE:** That's talking about the facts and circumstances. My question back to you is: Has their assessment changed? Did they recommend anything other than just prescribing the ESO?

**Mr Chick:** This is a good opportunity to describe the process, if I can. ASIO and other intelligence agencies provide a very important role in providing facts: the truth as it stands. They don't provide a recommendation to list or not. It's very important that that factual basis—and part of the reason the protocol has changed, as discussed by the Director-General of Security this morning, is to ensure that those two activities are distinct: the policy versus the facts. ASIO doesn't make a recommendation to list; ASIO provides facts that are relevant. We then take those, collate them into a statement of reasons and take it to AGS for a view on whether the legal criteria are met. That, again, is separate from the policy considerations, or the non-legislative factors, that decide whether an organisation should be listed.

**Mr BYRNE:** So in any conversations involving any member of the Department of Home Affairs, in terms of coordinating this, you've not received a representation from ASIO that the full prescription of Hizballah should be looked at?

**Mr Chick:** We have the recommendation of this committee, of course, to look at the extension to the military wing.

**Mr BYRNE:** But, in this process, in the lead-up to the prescription of the ESO, or the recommendation, are you telling me that there was no-one from ASIO who recommended that Hizballah in its entirety or the military wing of Hizballah be potentially looked at for prescription?

**Mr Chick:** Information has been provided about the entirety of Hizballah and its components.

**Mr BYRNE:** From?

**Mr Chick:** From ASIO, but I think we need to leave that discussion broadly to a closed hearing, the difference being that—

**Mr BYRNE:** Having said that—yes, I know. I've been in closed hearings and I'm aware of what happens there. So that has been canvassed. I think this is what you're telling me in a public hearing, and I think you're saying the assessment can't be changed because, in effect, the protocols have changed, so therefore they can't make an assessment, but they provided you with facts, and, in those facts, it canvasses Hizballah and potential prescription, or another aspect of Hizballah being prescribed. Is that an accurate statement?

**Mr Chick:** They provide facts that help us determine whether the legislative thresholds are met. They also, along with other government agencies listed in the protocol, provide input into the list of non-legislative factors, to prioritise whether the listing should go ahead.

**Mr BYRNE:** Can you rule out that ASIO basically, in any way, shape or form, in the process leading up to this prescription, suggested to the Department of Home Affairs that Hizballah shouldn't be prescribed in its entirety?

**Mr Chick:** I don't think that's the role of ASIO. ASIO provide information to enable an assessment to be made; they don't make a recommendation to list or not.

**Mr BYRNE:** You know, they have in the past.

**Mr Chick:** Not under the protocol that they don't—

**Mr BYRNE:** I'll wait to have that discussion with you in a classified hearing. Thanks, Chair.

**CHAIR:** Mr Wilson?

**Mr TIM WILSON:** I do have just a couple of quick questions, but I am looking forward to this classified hearing. Earlier, as Mr Dreyfus referred to, we had Dr Levitt present to us and talk extensively about Hizballah being a unitary organisation. I asked of Mr Burgess this morning whether, through enforcement mechanisms, he'd



seen any evidence of violence or other types of coercive activity to keep the, for want of a better phrase, 'chain of command' operating in Australia. I will open this up to everybody, but the most logical people to go to would be DFAT. Are you aware of any evidence of violence or other forms of coercion being used as a mechanism to keep the unitary structure of Hizballah in operation?

**Mr Noble:** That would be me—DFAT. I'd really get the intelligence agencies to answer that question, for a comprehensive answer. That would be my immediate response. What I'm saying is that I can't add to it in any meaningful manner.

**Mr TIM WILSON:** Alright. That's what we will do. Thank you.

**CHAIR:** Dr Aly, I'll come to you in a second. I just want further clarity on this issue pursued by the deputy chair. I'm looking at the department's submission to the committee, and it outlines the process followed in this instance for the relisting of the ESO:

1. The Department coordinated whole-of-Government input to a Statements of Reasons outlining the case for re-listing the ESO.
2. On 25 February 2021, the Department sought initial legal advice from AGS on the case for re-listing the ESO.

The point I'm making is that this process seemed like a very narrow process, just focused on the ESO. Does that mean that a wider consideration of Hizballah's listing was not considered in this instance? Why was it only that input was sought from various agencies on the ESO?

**Mr Chick:** This is a statement of reasons for the listing of the ESO, which itself is a very important discrete task. The fact that this doesn't mention other work does not mean that other work has not occurred, but, as we've already represented in this hearing, if you wish to discuss that work, it would be better to do so in a closed hearing.

**CHAIR:** So we shouldn't assume from the process outlined here, which only refers to the ESO, that other work about a broader listing has not happened and may in fact still be ongoing.

**Mr Feakes:** This only refers to ESO because this statement of reasons only applies to ESO. It doesn't encapsulate, for those reasons, broader considerations.

**CHAIR:** I'm just trying to gain confidence that this wasn't a narrow, predetermined process where you thought, 'Let's just roll over the existing listing and not worry about wider considerations.'

**Mr Feakes:** As I said, it's very focused on the ESO. It goes to the relisting of the ESO. I can talk in a private hearing about other work, but, in this public hearing into the relisting of the ESO, with the statement of reasons that are before us, I can really only address—

**CHAIR:** I understand. Let me come at it from another angle one last time and then I'll go to Dr Aly. Is the point at which the government is required to consider the relisting of an organisation because it will expire if it doesn't do so the appropriate time to consider a broader listing, or is that immaterial? Is a broader listing just to be considered on its own time line and on its own merits and this is just coincidental?

**Mr Feakes:** I don't think they're mutually exclusive. I think within the time frame of the listing of the ESO there would be nothing that would preclude the government from looking more broadly at an extended prescription.

**CHAIR:** Thank you.

**Dr ALY:** This question is probably best directed at the AFP. I must first of all apologise if any of this territory has been covered, as I returned late. We have heard today from several witnesses about the unitary nature of Hizballah as an organisation, where all its functions are coordinated from a single shura or majlis—a single council—and the argument that it's difficult or impossible to separate the different functions of Hizballah. I'd like to take an example where an individual has been found to be lending support—material or otherwise—to Hizballah. We heard earlier from Dr Levitt that many people who do support Hizballah in the diaspora do so with the perception and understanding that they are supporting the social welfare activities that Hizballah undertakes among Shi'ites in Lebanon. Where we have an individual in Australia who's been found to be lending support—material or otherwise—to Hizballah under that perception, how easy would it be to prove, if we were to list Hizballah in its entirety, that they were actually supporting a listed terrorist organisation?

**Mr McCartney:** We have covered this aspect in this hearing, but I'm happy to provide advice again. It's not insurmountable. We can, but it makes it more difficult. In the absence of a listing regime the prosecution is required to prove beyond reasonable doubt that an organisation is a terrorist organisation. In the history of our work in this space, we've only ever done that once, back in 2005, related to Operation Pendennis and Mr Benbrika. So, it's not insurmountable, but it does make it more difficult.

**Dr ALY:** So, it makes it more difficult that they're listed as an organisation in its entirety? It makes it more difficult to prove the link with material support for a terrorist activity?

**Mr McCartney:** Under division 1 and 2 of the act, that encompasses that aspect, so it would make it more difficult in that aspect.

**Dr ALY:** Let's turn it around the other way. Let's say that an individual was providing material support but under the perception that they were providing charitable support for the social welfare functions of Hizballah in Lebanon. With all the evidence that we've seen, yes, it is irrefutable, I would say, that Hizballah operates as one entity. However, it does also provide social welfare support for the Shiah in Lebanon, right? So, let's turn that around, where an individual is providing funds under the understanding that they are providing funds for social welfare support. How difficult would it be for that individual to use that as a defence if we were to list Hizballah in its entirety?

**Mr McCartney:** We're getting into a complex space here, but, again, that would be for that individual. We look at each case, on a case-by-case basis, and the person's intent or intentions in terms of providing that funding is material in terms of the investigation and potentially a prosecution. Again, it's very much on a case-by-case basis.

**Dr ALY:** Would you consider that this would be something that would be fairly widespread among the Lebanese diaspora in Australia—that this would be an issue for the Shiah Lebanese diaspora in Australia?

**Mr McCartney:** That's probably better assessed by our intelligence partners. But I might just pass to Mr Lee, on the previous aspect.

**Mr Lee:** Senator, going to your previous question, I would also direct you to the fact that there are some exceptions that apply under the Criminal Code—where funding or support is provided where the association relates to a close family member or other broader family members. It also goes to the issue you raised where it says that the association is only for the purpose of providing aid of a humanitarian nature. So, there are some exceptions under the code, and obviously we take those issues into account where we're investigating individuals in terms of provision of support or other financial support to terrorist organisations. Those are factors that we need to take into account with our criminal investigations.

**Dr ALY:** Okay. Do you think that the listing of Hizballah in its entirety might exacerbate some existing tensions between Shiah and Sunni communities in Australia? Perhaps this is also a question for Home Affairs.

**Mr McCartney:** That would probably be better directed at ASIO, in terms of that formal assessment. But there is the potential.

**Dr ALY:** Thank you so much for answering my questions today.

**Mr Noble:** I just might add something, because of the nature of your question. Under that international financial sanctions regime that Australia has, actually Hizballah in its entirety is already listed, which has the effect of freezing its assets, and then it makes it a criminal offence to interact with the assets. But you can also do an individual. Under that regime, unlike the Australian Criminal Code, you can designate a specific person. I've got the full list. I don't think we've done that for Hizballah, but we have done it for other individuals—for example, the Christchurch shooter. I mention that just so you're aware of that.

**Dr ALY:** Just to clarify: under that international regime where it's about freezing the assets of potential terrorist organisations or terrorist entities, we have not done that for Hizballah?

**Mr Noble:** Yes, we have. In 2001, under chapter IV of the United Nations Charter, we listed Hizballah in its entirety. We could also list individuals under that regime, should the foreign minister choose to do so.

**Dr ALY:** So we have listed Hizballah in its entirety under that regime and for the purposes of financial support or monetary support to Hizballah in its entirety. Why have we treated that differently? Why is it treated differently under that regime than the other mechanisms that we have? Why do we list it in its entirety under that regime but not under other mechanisms?

**Mr Noble:** It's a different regime, so it has a different set of criteria and requirements and a different objective. It's specifically focused on the business of terrorist organisations. Hizballah in 2001 in the eyes of the government met that particular set of criteria. I have them here. I am not a lawyer, but I can give you the specifics. It is different to the Criminal Code in Australia.

**CHAIR:** Perhaps in writing on notice would be helpful.

**Dr ALY:** Yes, it would be.

**Mr Noble:** I'll do that.

**Senator McALLISTER:** I have a question that follows on from some of Dr Aly's questions about the impact on the Lebanese diaspora in Australia. At different times, this committee has heard evidence that the listing process interferes with an implied right to political communication. That was particularly the case when we were examining the relisting of the PKK. I don't believe we have received any submissions from members of the Lebanese Australian community. I have looked at the website. I am wondering if the Department of Home Affairs, which of course carries responsibility for multiculturalism in Australia, has had any engagement with the Lebanese Australian diaspora about the broader indications for that community given the range of activities that it appears Hizballah is involved in, ranging from social welfare [inaudible] to terrorism.

**Mr Feakes:** It was a little bit hard to hear all of that question. I think it was about community engagement with the Lebanese community. I'll have to take that on notice.

**Senator McALLISTER:** Okay. Perhaps that's something we can discuss when we meet again. I would appreciate an opportunity to discuss that.

**Mr Feakes:** Yes. We will follow up.

**Mr LEESER:** My questions are for Mr Noble. They go to Australia's relationship with Lebanon, contrasting our relationship with Lebanon with, say, Britain, Canada and the United States. Just having a cursory look at the DFAT country brief on Lebanon, it doesn't seem to say very much about our relationship there beyond the fact that we've got a wonderful diaspora, with which I agree, and that we have provided some humanitarian aid. Does Australia have any strategic or security relationships with Lebanon or any agreements that we have signed with Lebanon in that regard?

**Mr Noble:** Noting that I am the ambassador for counter-terrorism, I'll give you my understanding. I'm happy to follow it up with more detail on notice. But a functional and prosperous Lebanon is in the Australian national interest and that is basically what we pursue. You were right to point out that the government stands firm with the Lebanese people, including almost a quarter of a million Australians of Lebanese heritage. We have been involved lately particularly around the explosion that occurred in Lebanon and are doing what we can to support a full and credible investigation into that. Also on a daily basis we are working where we can to ensure we support Lebanese people and the government. You mentioned the expenditure of aid and support. I can give you a rundown on that, if you would like it.

**Mr LEESER:** I'm really looking at strategic relationships. If I compare our entry about India to our entry about Lebanon—I am the chair of the parliamentary friends of India group, so I have a much deeper understanding of the relationship with India—there is discussion there about the complex and strategic partnerships and so on. It's quite forward leaning in relation to our relationship with India, for instance. What, if anything further, can you say about agreements or other things that we have in place with Lebanon?

**Mr Noble:** I'll take that on notice and give you a proper list. I'm not aware of anything in the order of a comprehensive strategic partnership, but there are a range of engagements with them and interactions.

**Mr LEESER:** Can you say anything about Britain's or Canada's or the United States's relationships with Lebanon, and how they differ from our relationship?

**Mr Noble:** I would have to take that on notice as well.

**Mr LEESER:** In your consideration of taking it on notice, let me direct you to the UK Foreign and Commonwealth Office's website, where they talk about Lebanon and the UK. I was interested to have a look at this. It's [www.gov.uk/world/Lebanon/news](http://www.gov.uk/world/Lebanon/news). In the UK they listed the whole of Hizballah in 2019, and the first three stories there talk about the UK training 48 officers of the Lebanese army, a MOU with Lebanon's internal security forces and 100 UK armoured patrol vehicles donated to the Lebanese. Looking at those things, it would seem that, despite the fact that the UK has listed the entirety of Hizballah, they seem to have a much deeper security and defence and strategic relationship with Lebanon than at least the public facing documents and comparable websites of the two different countries would indicate.

**Mr Noble:** I think the best thing I can do for you is take that on notice and detail our engagements with them. I would make the point, which I'm sure you know, that relationships are different and our interests are different. Potentially, in the private hearing, we could talk about some of the strategic issues more fulsomely. But I will lay out our relationship as it stands on notice for you, if you would accept that.

**Mr LEESER:** Yes—and can you compare our relationship to Canada's relationship, Britain's relationship and the United States's relationship?

**Mr Noble:** Yes, of course.

**Mr LEESER:** Thank you, Mr Noble.

**Mr DREYFUS:** In a way, Mr Leeson has already gone to the area I want to ask about. We've had a number of submissions put to the committee by Jewish community organisations. I will quote a little bit from them. They're about the asserted fact that, despite Hizballah in its entirety being listed by some 22 countries and organisations—in fact, I will quickly read them out to give a feel for this: Arab League, Argentina, Austria, Bahrain, Canada, Colombia, Czech Republic, Estonia, Germany, Guatemala, Gulf Cooperation Council, Honduras, Israel, Japan, Lithuania, the Netherlands, Paraguay, Serbia, Slovenia, Switzerland, United Arab Emirates, United Kingdom, United States and Venezuela.

The Executive Council of Australian Jewry tell us in their submission:

Except for Israel, the countries listed above which have proscribed Hizballah in its entirety have also managed to maintain friendly relations with Lebanon.

Just to add to that point, another of the submissions provided to us, from the Australia/Israel & Jewish Affairs Council, quotes from public statements made by former British Home Secretary Sajid Javid, which were to the effect that, since the banning of the whole of Hizballah by the United Kingdom in 2019, the UK has maintained strong ties with Lebanon. I was particularly struck by one of the reported comments from Sajid Javid:

Javid detailed that British diplomats were provided with a three-month grace period to cease working with Hizballah in Lebanon, including on humanitarian programs, before the announcement was made. "Once pushed to do it, they did it," Javid said.

You might want to take this on notice. The proposition that has been put to us very directly, based on a whole range of evidence, including a long study conducted by the Abba Eban Institute in Israel, is that despite the listing by these 22 countries there had not been any interruption to friendly relations with Lebanon. Is that something you're in a position to comment on, Mr Noble?

**Mr Noble:** What I'd say is we have listed Hizballah since 2001 under our international financial sanctions regime in its entirety. Since then, and today, we have positive relationships with Lebanon, so in a sense there's a parallel there. I would just say that the decisions of each state are different, their strategic interests are different and their circumstances are different. So it's not necessarily the case that because other states make a decision and have an outcome we would have an identical one. I would add that we can go into strategic interests in a bit more detail, potentially, in private rather than in a public forum.

**Mr DREYFUS:** Despite that listing of the whole of Hizballah in 2001 for the purposes of the financial transactions regime, you wouldn't point to any disruption of relations between Australia and Lebanon, and, indeed, it's possible to think of a whole range of cooperation between Australia and Lebanon—isn't it?—in that 20-year period. One could point to the extraction of Australian citizens from Lebanon during hostilities at various times in that last 20 years. Indeed, you've given a recent example, Mr Noble, which is the assistance that Australia has sent to Lebanon following the disastrous explosion in the port of Beirut recently. All of that has continued, hasn't it?

**Mr Noble:** What I would say is the current relationship is good, and the example you mentioned of the recent support post explosion probably is an example of the strength of it. I would be a bit reticent to mark the last 21 years completely, but where we are right now, we have a positive relationship with the state of Lebanon.

**Mr DREYFUS:** That's so, despite Australia having listed the whole of Hizballah, at least for the purposes of the financial transactions anti-terror legislation?

**Mr Noble:** We did that in 2001, yes.

**Mr DREYFUS:** One of the points made to us by the Australia/Israel and Jewish Affairs Council was about Germany's relations with Lebanon. They noted that Germany had designated Hizballah as a terrorist group in April 2020, but, they say in their submission, Germany's bilateral relationship continued even after this time. Then, similar to Australia, they say this:

In December 2020, the German Federal Foreign Office wrote expansively of the assistance Germany had provided to Lebanon in the aftermath of the Beirut Port explosion. Assistance totalling 24 million Euros was delivered directly, via UN agencies and via NGOs.

AIJAC tell us:

Designating Hizballah does not seem to have affected Germany's ability to provide a diverse array of support to the Lebanese people.

Mr Noble, you wouldn't expect, based on the experience of the 22 countries that have designated the whole of Hizballah as a terrorist organisation, that Australia's relations with Lebanon would be adversely affected if Australia were to do the same thing?

**Mr Noble:** How I would answer that question is by saying we listed its entirety for financial sanctions in 2001. The current situation is we have a positive relationship with Lebanon. The Criminal Code, its listing and its consequences and the risks associated with it are not necessarily directly comparable to other states or to that financial code.

**Mr DREYFUS:** Thank you very much, Mr Noble. Chair, I've got other questions, which really go back to Home Affairs. This is really for Mr Feakes. I have been listening to others ask questions. The relevant section is section 102.1 of the Criminal Code, under which these listings take place. The provision which empowers the minister is section 102.1(2), and it requires that, before the listing of a terrorist organisation, the minister—your minister—must be satisfied:

... on reasonable grounds that the organisation:

- (a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- (b) advocates the doing of a terrorist act.

The legislation is focusing on 'an organisation'. My question, Mr Feakes, is this: if the legislation is focusing on 'an organisation', and all of the publicly available evidence is that Hizballah is a unitary organisation, if the Director-General of Security tells this committee that he agrees that there's no meaningful distinction between Hizballah and the ESO, what basis in law or in the available evidence is there for the minister to draw the distinction that she is drawing here, by only listing something which I would suggest to you looks to be something of an illusion, being ESO, and not listing the whole of the organisation?

**Mr Feakes:** I would say we get legal advice from the AGS on whether an entity, an organisation, meets the thresholds. So implicit in that is AGS advice that the ESO constitutes an organisation within the legislation. My colleague David Chick might have something to add to that. But it's based around legal advice and legal interpretation of the legislation.

**Mr Chick:** That's exactly right. 'An organisation' doesn't have to be the overarching organisation. It has been the case since 2003 that successive governments have chosen to list ESO as an organisation. It's an organisation that meets the requirements that you have just outlined in the Criminal Code.

**Mr DREYFUS:** Yes. I understand the legislative framework, believe me. I'm trying to get you to articulate what it is in the face of the organisation self-describing as a single organisation under single direction that operates as a whole—what basis is there for listing only a part of it?

**Mr Chick:** For this open hearing, we are going through the legal criteria and the non-legislative factors relevant to the organisation under discussion, which is the ESO. We haven't gone into the legal criteria or the public interest or the other non-legislative factors in relation to an extension, whether that's the military wing or the entire organisation of Hizballah. So, while legally you can—

**Mr DREYFUS:** I'm offering you the opportunity to do so now.

**Mr Chick:** Thank you. I respectfully decline.

**Mr DREYFUS:** Alright. I will offer you a different opportunity. The government said that it accepted, in principle, the recommendation of this committee made in 2018 that the government should give further consideration to extending the listing to the military wing. What's the reason for not extending the listing to the military wing, if the government accepted that recommendation three years ago for such an extension?

**Mr Chick:** Indeed, the government did consider and—when the military wing was looked at against the legislative criteria and non-legislative factors—it has not proceeded.

**Mr DREYFUS:** Why?

**Mr Chick:** That is an issue we can discuss in a closed hearing.

**Mr DREYFUS:** So you're telling me that the Minister for Home Affairs, the government of Australia and your department are not prepared to advance a single reason in public, in the face of the clearest possible evidence that this is a unitary organisation—it self-describes as a unitary organisation, and 22 other countries around the world have decided to list it as a whole for counterterrorism purposes—why the Australian government, your government, is taking the much, much weaker and lesser position?

**Mr Feakes:** Since this committee reviewed the listing in mid-2018, we've undertaken, as we said we would in response to the recommendation, to keep the appropriateness of the ESO's listing under review. We've done that, and we continue to review listings.

**Mr DREYFUS:** So the answer to my question is: no, you are not prepared to advance a single reason. Is that right?

**Mr Feakes:** In a public hearing, as we've said many times today, it would not be advisable to advance a reason why we would seek to extend the listing to the military wing or to Hizballah. In a private hearing—

**Mr DREYFUS:** Why not? Seriously, Mr Feakes, why not?

**Mr Feakes:** I'll tell you why not: because to ventilate that sort of discussion and put an organisation like Hizballah or the military wing on notice as to the detailed considerations of government that go to listing raises security implications. It's very clear. But in a private hearing we can most certainly do that.

**Mr DREYFUS:** Well, I'll re-extend the invitation that I extended before, which is that, when the United States government, the Canadian government and the United Kingdom government have all decided to treat Hizballah as the unitary organisation that all the evidence suggests it is for counterterrorism purposes, I think the Australian public would be very interested to hear from our government what reason they have for not going down the same path. At the moment, there is a studied silence where you are seeking to say, in some way not explained, that there's some security reason why you don't want to offer that reason.

**Mr Feakes:** I'm simply saying—

**Mr DREYFUS:** I think it's very important for the government to actually try to explain that position. This is not an unknown organisation. This is not an organisation that other countries in the world have not reached a very clear view about. This is an organisation that three of the Five Eyes countries have reached a clear position on, and that 22 countries in total have reached a clear position on, and you're saying that the government's not prepared to explain why the Australian government is not reaching the same position.

**Mr Feakes:** I'm saying we listed the ESO. The ESO met the thresholds. I'm not prepared in a public hearing to discuss the reasons for not extending that listing. I don't think that's appropriate. But, in a private hearing, I am very happy to provide all the information the committee would like.

**Mr DREYFUS:** I don't think I can take this any further, Chair. Thanks very much, Mr Feakes.

**CHAIR:** Thank you, Mr Dreyfus. Are there any other committee members who would like to ask questions of these witnesses? If not, I thank you all very much for your attendance and your assistance to the committee today. As we canvassed, there's a fair amount of material that can't be considered in this format, so we will look forward to a classified hearing where we can explore these issues in more detail to inform the consideration of the committee, although of course we can't use material supplied to us in a classified hearing in our report, so we'll have to form our report from the evidence we've collected today. For those questions that you've taken on notice, we'd be very grateful if you can return responses by 4 pm tomorrow. I appreciate that is a very tight time line, but we are operating on a tight time line to table in the parliament before the 15-day period disallowance period expires, so, if you could assist us to meet that deadline, we'd be very grateful. As usual, you'll get a copy of the transcript to make suggestions for corrections to any transcription errors. Thank you very much for your appearance.

**Committee adjourned at 13:54**