

120228pc

1267 Committee dealing with Taliban and Al-Qaida

Briefing to the Portfolio Committee on Police
28 February 2012

Introduction

- The Portfolio Committee on Police requested a briefing on Proclamations in respect of entities involved in terrorist and related activities identified by the United Nations Security Council, made in terms of section 25 of the Protection of Constitutional Democracy Against Terrorist and Related Activities, 2004 (Act No 33 of 2004), and tabled in terms of section 26 of the Act.

PROCLAMATIONS TABLED

Proclamation No 41 published in the Government Gazette No 34469 dated 20 July 2011.

Proclamation No 42 published in the Government Gazette No 34469 dated 20 July 2011.

Proclamation No 43 published in the Government Gazette No 34469 dated 20 July 2011.

Proclamation No 45 published in the Government Gazette No 34555 dated 4 August 2011.

Proclamation No 47 published in the Government Gazette No 34555 dated 25 August 2011.

United Nation Charter

SECURITY COUNCIL FUNCTIONS AND POWERS

Article 24

- In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

United Nations Charter

- In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

United Nations Charter

Article 25

- The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

United Nations Charter

Article 26

- In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Constitution

- 231 (3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.

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CHAPTER 5

RESOLUTION OF UNITED NATIONS SECURITY COUNCIL

- **25. Notification by President in respect of entities identified by United Nations Security Council**
- The President must, by Proclamation in the *Gazette*, and other appropriate means of publication, give notice that the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations, has identified a specific entity as being -

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- (a) an entity who commits, or attempts to commit, any terrorist and related activity or participates in or facilitates the commission of any terrorist and related activity; or
- (b) an entity against whom Member States of the United Nations must take the actions specified in Resolutions of the said Security Council, in order to combat or prevent terrorist and related activities.

Parliamentary supervision

- **26.** Every Proclamation issued under section 25 shall be tabled in Parliament for its consideration and decision and Parliament may thereupon take such steps as it may consider necessary.

Consolidated List

4 Categories

- Taliban – individuals
 - Taliban – entities
 - Al-Qaida – individuals
 - Al-Qaida – entities
-
- “States encouraged to circulate it widely..”

Consolidated List 1267 Committee

Interpretation

- T = Taliban
- Q = Al-Qaida
- I = individual
- E = entity

- First number eg TI **106** indicates the follow number when listed
- Second number indicates year when person was listed

Listing

- Member States encouraged to submit names for listing as soon as supporting evidence is obtained;
- Committee consider proposed listings on basis of “associated with” standard (UNSCRes 1617 (2005));

Listing

- Before proposing names, Member States are encouraged to approach State(s) of residence / or citizenship of individual/entity to obtain additional information;
- Member States also encouraged to propose names of individuals responsible or concerned with listing;

Listing Continued

- UNSCRes 1735 (2006) Member States need to provide detailed statement of case in support to proposed listing – should include –
 - specific findings demonstrating the association or activities alleged;

Listing Continued

- NATURE OF SUPPORTING EVIDENCE (intelligence, law enforcement, judicial, media, admissions);
- supporting evidence / documents;
- details of any connection with currently listed individual or entity.

Listing Continued

- Statement of case must be releasable except for parts Member State identifies as confidential and Committee may use it for narrative summary;
- Member States (UNSCRes 1904(2009)) must provide Committee with as much relevant information in order to have accurate and positive identification of individuals, groups, undertakings and entities;

Listing Continued

- Standard form was made available by Committee;
- Different forms for individuals and entities;
- If listing is approved, Committee update Consolidated List;

Listing Continued

Secretariat –

- notifies Permanent Mission of country of which individual / entity is a national;
- includes narrative summary of reasons for listing;

Listing Continued

- description of the effect of listing;
- procedure for delisting.

Listing Continued

- Member States in accordance with domestic and international law must notify individual / entity of listing and relevant information.
- Office of Ombudsman also notify individuals / entities if address is known after Permanent Missions are notified.
- Information also forwarded to INTERPOL – INTERPOL –United Nations Special Notice

Amendments / Updating

- By Committee on information provided by Member States, regional or international organisations;
- Monitoring team to advise and assist to convey information to requesting states.

Effect of listing

- Freeze assets
- Arms embargo
- Travel ban

Delisting

- Petitioner submit request for de-listing;
 - To Office of Ombudsperson
 - By Member State to Committee after bilaterally consulting with designating State(s), State(s) of nationality, residence or incorporation;

Delisting

- Chairperson circulate request including appropriate additional information provided by Monitoring Team;
- Request placed on Committees agenda;
- States invited to submit views;

Delisting

- Committee gives due consideration to opinions of designating State(s), State(s) of residence, nationality or incorporation;
- If objection received – Committee rejects delisting request;
- Deceased – with necessary documentation confirming death – decision to be made with regard to unfrozen assets

Delisting

- Ombudsperson - gather information
(confidential) – any means
 - dialogue with Monitoring Team
 - Report in comprehensive confidential report to Committee and Monitoring Team
 - Makes observation (considered as recommendation)

Thank you