

Prepared Statement
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Introduction

Chairman Wexler, Ranking Member Gallegly, members of the subcommittee, thank you for inviting me to testify before you today. The hearing today is on an important topic, which has not always received the public attention it deserves. Understandably, in the terrorism arena, most of the focus over the past five years has been on al Qaeda and its affiliates, and what governments are doing to combat their terrorist activities. Often forgotten in the process is Hezbollah, which many experts regard as an even more capable and potentially dangerous organization.

Hezbollah is an organization with a global reach, with an extensive presence in Africa, Latin America, and Europe. In his written testimony, my colleague Matthew Levitt discussed Hezbollah's European activities at length, outlining Hezbollah's involvement in numerous past terrorist acts in Europe, its use of Europe as a launching pad for attacks elsewhere, and its ongoing fundraising and recruiting. I'll focus my remarks today on why Hezbollah is not banned, and what impact a ban could have.

Why is Hezbollah not banned?

Reviewing Hezbollah's lengthy record of terrorist activity, violence, and disruptive actions, it raises the question as why to the Europeans have not added the organization to its terrorist list. The answer lies primarily in the bureaucratic system that the European Union (EU) has set up for adding groups – other than those affiliated with al Qaeda and the Taliban—to its terrorist lists.

The EU maintains two separate lists of terrorist organizations, entities, and individuals. It is important to understand the distinctions between these lists to realize why the EU has not yet banned Hezbollah, and why it is such an uphill struggle.

Al Qaeda/Taliban: One of the EU's terrorist lists is comprised of al Qaeda and Taliban members, who have been designated by the UN's so-called "1267 committee." This UN committee is responsible for all issues relating to UN Security Council Resolution 1267, passed in 1999 to increase pressure on the Taliban to evict al-Qaeda from Afghanistan. Any individual or entity designated under Resolution 1267 is –for all intents and purposes -- automatically added to the EU's own list of terrorist subjects. Under EU law, all EU member states are then required to impose the sanctions mandated by the UN Security Council: 1) freeze the assets of those designated persons and groups within their jurisdiction; 2) restrict individuals from those entities from traveling through their

territories, and; 3) to prevent anyone under their jurisdiction from trading arms with listed entities.

Other Terrorist Organizations: The European Union also maintains a list of terrorists who are not affiliated with Al Qaeda or the Taliban. In reality, this list comprises two components— one for external terrorist organizations (i.e. non-European) and one for internal. The external component, which includes Hamas and Palestinian Islamic Jihad, is the one that Hezbollah would be added to, should the Europeans move in this direction. The internal list includes such groups as Spain-based ETA and the Real Irish Republican Army. The impact of being banned differs, depending on whether an organization, entity or individual is on the external or internal list. For external terrorist groups, such as Hamas and PIJ, all EU member states are required to freeze all assets within their jurisdiction, and financial transactions are banned as well. For the internal groups, the member states are free to devise their own mechanisms for how the sanctions should be implemented.

Obstacles to Designation: The primary obstacle in adding Hezbollah to the list stems from the fact that consensus among all 27 European Union member is required to add or remove a name from the non-al Qaeda list. Economic sanctions fall largely under the EU's Common Foreign and Security Policy (CFSP), or the so-called “second pillar” under the Treaty on European Union. Under the CFSP, to amend the existing list, the European Council – consisting of representatives of all of the member states – must unanimously agree on a “common position.” Achieving consensus is, not surprisingly, a more difficult endeavor as the EU continues to expand.

France has publicly led the charge against a Hezbollah designation. With its historical role and ties in Lebanon, France has always paid close attention and been highly sensitive to the political situation in Lebanon. France has been reluctant to take action which they believe could upset the tenuous domestic political balance. Hezbollah's role as a political party has greatly complicated this situation. As a former French Foreign Minister stated, “Hezbollah has a parliamentary and political dimension in Lebanon. They have members of parliament who are participating in parliamentary life. Political life in Lebanon is difficult and fragile.” Other countries which apparently oppose an EU designation – but far less vocally in most cases – reportedly include Spain, Belgium, Greece, and Italy.

In terms of the current dynamic, what is also likely now fueling European opposition is the presence of European military forces in largely Shia Southern Lebanon, as part of the UN Interim Force in Lebanon (UNIFIL). An enhanced UNIFIL force was put in place in the wake of last summer's war, primarily to monitor the cease-fire between Israel and Hezbollah. Countries such as France, Spain, Belgium, and others which have deployed troops to UNIFIL might be concerned that a designation could destabilize the country further, putting their own military forces more at risk.

In spite of the factors described above, there are still clearly a number of European countries which favor an EU designation of Hezbollah. For example, the Dutch now support banning Hezbollah, and are the only EU country which has designated the entire

organization domestically. The Dutch view on Hezbollah changed, in the wake of the 2004 murder of filmmaker Theo Van Gogh by an Islamic extremist. According to their 2004 annual intelligence report, the Dutch discovered in the course of their stepped up counterterrorism investigations that “Hezbollah’s political and terrorist wings are controlled by one coordinating council,” and that therefore “there is indeed a link between these parts of the organization.” Germany, which has identified 900 Hezbollah supporters in its territory, reportedly also favors an EU ban. The United Kingdom, where Hezbollah’s military wing has been proscribed since 2003, has also pushed for action by the EU.

A Non-Transparent Process: Unfortunately, it is difficult to assess exactly where each of the European member states stand on a Hezbollah ban. While France has stated its position publicly, few other countries have followed France’s lead. The process for adding and removing names from the terrorist list is done in secret by a committee which generally meets biannually, and there are no records of these proceedings. Even when groups are added to the list, there is no explanation as to why this action was taken.

When asked about the EU’s failure to add Hezbollah, an EU spokeswoman merely stated that “the group makes its deliberations in a very discrete way,” and that “we are not able to assess the reasons why such unanimity could not be reached.” In fact, EU foreign policy chief Javier Solana muddied the waters further in 2006 on exactly why Hezbollah is not on the list, when he proclaimed that the real reason was that there was not “sufficient data” to take this action.

In these secretive proceedings, it is hardly surprising that questionable negotiations occur on individual designations. For example, according to the German publication *Der Spiegel*, the United Kingdom opposed a proposal to remove the Mujahedin-e Khalq (MEK), an Iranian opposition group, from the EU’s list. In response, some other EU member states then blocked the UK’s request to add Hezbollah.

There may be some movement in the EU to make the process somewhat more transparent, in response to a recent judgment by an EU court. In December 2006, the court ruled that the European Council had illegally listed the MEK. In reaching its finding, the court faulted the council for failing to provide MEK with adequate reason or sufficient information on the basis of the designation. The EU is currently deliberating how to respond to this opinion, and what changes should be made to the designation process.

Why a Hezbollah Ban would be Important

Symbolic Impact: An EU designation of Hezbollah would have both symbolic and practical implications. First, it would send an important message to Hezbollah that they cannot have it both ways: they cannot engage in terrorist activity, but still be considered and treated as a legitimate political party. As terrorism expert Bruce Hoffman noted, “Our problem is that Hezbollah’s path to legitimacy has been purchased with the blood of over 300 dead Americans, and the model that its leaders are now actively seeking to

export challenges the axiom that terrorism doesn't work. As long as the Hezbollah model goes unchallenged, we'll have no hope of persuading other aggrieved groups that terror is a repugnant and useless tool for gaining legitimate political power."

Financial Impact: An EU ban would also have a more tangible effect, particularly in terms of Hezbollah's European fundraising activities. According to Secretary General Hassan Nasrallah, the effect of this action would be devastating. In a widely quoted 2005 interview, Nasrallah commented that an EU ban would "“destroy” the organization as “[t]he sources of our funding will dry up and the sources of moral, political and material support will be destroyed.”

While Nasrallah may be somewhat overstating the likely impact, Hezbollah does have reason to be nervous. Until now, Europe has been a permissive operating environment for the group, in large part because there were no EU-wide little restrictions. If Hezbollah were designated, all EU member states would be required to freeze any of the group's assets within their jurisdiction, and all European financial institutions would be prohibited from processing any Hezbollah-related transactions.

Furthermore, the European member states have far greater capabilities to bring to bear on terrorist financing than they did prior to 9/11. The Europeans have heeded the call of UN Security Council resolution 1373, passed on September 28, 2001, which required countries to take a variety of steps to combat terrorist financing. In addition to establishing the EU terrorist lists, European countries have also: created or designated specific government agencies to lead the counterterrorist financing efforts; criminalized terrorist financing; and developed systems to freeze assets, among other changes. For example, Spain established the Commission for the Activities of Terrorist Funding, and France now appoints an economic and financial investigating judge to assist the anti-terrorism magistrate in terrorist financing cases.

The EU and its member states have also been active participants in the Financial Action Task Force (FATF), an international, Paris-based organization responsible for setting global standards on combating money laundering and terrorism financing. The European Commission (the EU's bureaucratic arm) and a number of European countries are among the 33 members of FATF. Perhaps as a result, Europe has been among the leaders in implementing FATF's nine "special recommendations" to combat terrorist financing.

In addition to the changes made by the European governments, many of which are described above, the European private sector has also taken on greater responsibility in addressing terrorist financing. For example, based on the FATF recommendations, European financial institutions are subject to various "know your customer" requirements and must report suspicious financial transactions which might be indicative of terrorist financing.

Relatedly, all of the EU's 27 member states have Financial Intelligence Units (FIU), and are part of the global FIU network, the Egmont Group. FIUs are centralized, national agencies responsible for detecting and fighting terrorism financing and money

laundering. An FIU's primary functions, as defined by Egmont, are to receive, analyze, and disseminate information about suspicious financial activity in the unit's respective country. FIUs are supposed to share this information not only with law enforcement in their own countries, but also with other units throughout the world. In the view of FATF, having a fully functioning FIU is an important component of an effective counterterrorism financing regime.

International Efforts Against Iran: While the Europeans are growing more concerned about the prospect of a nuclear Iran, to this point this has not correlated in increased focus on Hezbollah. Attempting to understand the Iranian threat, however, without including Hezbollah in the calculation is missing an important part of the picture. According to the US Director of National Intelligence, terrorism is a “key element” of Iran’s national strategy, and Hezbollah “at the center” of this strategy. Incidentally, as my colleague Matthew Levitt explained in his testimony, there have even been occasions when Iran has transferred funds to Hezbollah through Europe.

Role of Law Enforcement and Intelligence: Of course, for a ban to have great impact, the EU member states would then have to step up their law enforcement and intelligence efforts against Hezbollah to get a better handle on its European activities. Once Hezbollah is officially recognized as a terrorist entity though, member states may be more likely to increase the resources and attention that they devote to investigating the organization. In addition, European countries will be far more likely to assist one another in Hezbollah-related investigations. In fact, the EU urges its member states to “fully exploit” the powers granted by the EU in the course of their investigations or prosecutions of designated entities.

An EU ban will likely be particularly effective in member states which have taken steps to criminalize the EU’s list. While the EU requires countries to take administrative actions – such as freezing assets – against those on its list, some member states have gone further, and adopted related criminal penalties. For example, in Finland, a person who violates the sanctions regulations can be criminally charged, while in the United Kingdom, a 2006 order provides for criminal enforcement of the list.

What would it take for Europe to Ban Hezbollah?

Given the lack of transparency in the European designation process, it is difficult to determine what it will take for the Europeans to achieve consensus on this issue. It is not entirely clear, for example, whether countries such as Spain and Belgium are merely following France’s lead in opposing a ban, or strongly hold this position independently. Should France shift its long-standing opposition, it is hard to know to what extent these countries will still be willing to defend this stance.

In any event, the Europeans are unlikely to move forward on a Hezbollah designation as long as they do not regard the organization as a direct threat. In this regard, the Europeans must recognize that while Hezbollah has not carried out attacks in Europe for a number of years, this could change rapidly. Hezbollah’s infrastructure in Europe and its ties to

Iran give it the capability to quickly ramp up and carry out an attack should the perceived need arise.

In fact, in their 2005-2006 annual report, the United Kingdom's Intelligence and Security Committee (ISC) posed a scenario which could lead down this path. The ISC noted that if the diplomatic negotiations with Iran over its nuclear program deteriorate, Iran might respond by unleashing its terrorist proxies--perhaps against UK interests.

There is little doubt that if Iran instructed Hezbollah to conduct an attack, that Hezbollah would follow through. A quote by Hezbollah Secretary General Hassan Nasrallah helps illustrate this point. Nasrallah once told his senior leaders that he would even "divorce his wife" if the Iranian supreme leader told him to do so.

Conclusion

As the Europeans have learned firsthand, accommodation is not often an effective strategy with terrorist organizations. There are several examples worth noting. In the early 1990s, the French decided that they should not aggressively crack down on the Algerian terrorist groups, and risk provoking them. After suffering a number of attacks at the hands of these groups, however, the French concluded that the strategy was not working. In response, they shifted their approach and adopted a far more aggressive domestic counterterrorism approach – an approach they still utilize today.

Prior to 9/11, the United Kingdom was also regarded as somewhat of a sanctuary for terrorists. In fact, the French frequently referred to London as "Londonistan" to reflect their views on the United Kingdom's tolerance for radical Islamists. A former British Special Branch officer stated that there was actually an explicit agreement between the government and the jihadists: "There was a deal with these guys. We told them if you don't cause us any problems, then we won't bother you." After 9/11, the British realized that this strategy was no longer viable. To address this situation, they overhauled their counterterrorism efforts, making legislative changes, increasing their prioritization of counterterrorism, and utilizing a more aggressive law enforcement approach.

Germany also made a number of significant changes in response to the 9/11 attacks. Before 9/11, it was not a crime in Germany to be a member of a foreign terrorist organization, making it in some respects a logical place to plot an attack against a foreign country, such as the US. Indeed, the German government would have had a difficult time prosecuting the 9/11 plot members in Hamburg, even had German authorities discovered the plan prior to the attacks. After 9/11, the Germans amended this law, among other counterterrorism changes, to ensure that the country could no longer serve as a sanctuary for international terrorist organizations.

While there are certainly important distinctions between Hezbollah and al Qaeda type jihadists, the European should at least consider their prior experiences in deciding whether to blacklist Hezbollah. In weighing the likely benefits of a Hezbollah designation

as well as the potential dangers of inaction, it should then be clear to the Europeans that banning Hezbollah is a necessary and productive step forward.