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(Classified information has been deleted. Other information
has been withheld at Mr Zaoui's request)

DECISION ON SECURITY RISK CERTIFICATE AGAINST MR ZAOUI:
13 SEPTEMBER 2007

1. Mr Ahmed Zaoui arrived in New Zealand in December 2002 and claimed to be a refugee. My predecessor issued a security risk certificate against him in March 2003. The certificate was subsequently maintained by the previous Director and then formally confirmed by me when I became Director of Security in November 2006. I am obliged as the Director of Security to keep the certificate under review. The recent, first stage of the review hearings held by the Inspector-General of Intelligence and Security provided the catalyst for me to reconsider whether the security risk certificate should continue to be maintained as at September 2007.

2. The NZSIS has received considerable further information about Mr Zaoui as a result of:

- a request for further classified material in June 2007;
- evidence and documents presented on behalf of Mr Zaoui during the first 4 weeks of open hearing held in July and August 2007;
- the transcript from the open hearing;
- an extensive interview by NZSIS held with Mr Zaoui immediately following the first 4 weeks of open hearing.

3. I have considered this information in light of the NZSIS' core concerns about Mr Zaoui:

- French conviction;
- Belgian conviction;
- activities in Switzerland;
- relationship to the GIA (Groupes Islamique Armee or Armed Islamic Groups) and other extremist groups (including GIA factions and breakaway groups after 1995);
- a matter which cannot be disclosed because sensitive classified material would be compromised;
- credibility.

4. I have also considered the impact of the passage of time since Mr Zaoui's activities in Europe and his high public profile since his arrival in New Zealand.

5. In addition, the previous Director had concerns about risks to New Zealand's international reputation if Mr Zaoui were allowed to stay here. I consider these concerns in light of further information about the position of some "like-minded" countries.

6. My conclusion is that, as at September 2007, my concerns about Mr Zaoui can be sufficiently mitigated to enable the security risk certificate to be withdrawn. A summary of my consideration of the information is set out below.

Conviction in France

7. The key finding of concern by the French Court was that Mr Zaoui had possessed electronic items that could be used for bomb-making. Aside from the decision of the Court, however, there is no information on the court file or in the classified material that confirms that it was Mr Zaoui who left the items. The key witness in the case made inconsistent statements about who left the items at his house.

8. I am advised that, when the further unclassified information is considered together with the classified information, it is likely that Mr Zaoui both knew and accompanied the person who left the items. But the information does not establish that Mr Zaoui knew the items existed.

9. The activities underlying the French conviction are now 14 years old. While Mr Zaoui's continued association with one of the individuals named in the French case, "A", has been a cause for concern for the NZSIS, the individual resides overseas. There is classified information which also reduces the NZSIS' concerns about Mr Zaoui's association with this individual.

Conviction in Belgium

10. Mr Zaoui belonged to a social network in Belgium that included both the GIA armourer and the treasurer. He admitted meeting with the person described as the "GIA treasurer" regularly but says he stopped doing so when he realised the person had joined the GIA. Mr Zaoui was arrested with the "GIA armourer" at the Swiss border, but says it was a coincidence that they were travelling together in the same car. Mr Zaoui does not deny knowing the person but he does deny being a leader or member of the network.

11. Mr Zaoui's explanations seem convenient. I think it is clear that he did associate with these individuals but did not see any harm in it. The question is whether he went further and supported or led their activities.

12. Aside from the Belgian Court decision, there is no further information available to NZSIS about the specific activities Mr Zaoui undertook for the network. That would not necessarily be surprising because, if he were a leader of the network, he would not be expected to carry out "functional" activities. He would provide direction and inspiration, and would act as a connecting node for the various parts of the network. The Court did find that

Mr Zaoui put key people in the network in touch with each other, but there was no evidence of him providing direction or inspiration to a particular end. Nor is there is any evidence that he gave radical speeches at mosques or wrote radical articles. Contemporaneous interviews with Mr Zaoui by the European media and authorities show that, at worst, Mr Zaoui made ambiguous statements as to whether he supported the armed movement in Algeria.

13. While the Belgian conviction is significant, it is now more than 10 years old. Mr Zaoui has not associated with any of his co-defendants since his arrest there.

Activities in Switzerland

14. Mr Zaoui issued communiqués on behalf of the CCFIS (a European-based branch of the FIS created by Mr Zaoui and his associates) which purported to speak to “mujahideen” in Algeria, asking them not to join the truce unless certain conditions were met. One of the conditions was the release and reinstatement of Ali Belhadj, a radical leader of the FIS who supported the use of violence. The condition was not one that could realistically be achieved, and the communiqué was issued at a time when thousands of civilians were being killed in Algeria. It was regarded as extreme, by both the Swiss Government and the NZSIS.

15. The NZSIS’ very real concerns about the communiqués are now well understood by Mr Zaoui. Mr Zaoui has distanced himself from them, saying now that others helped to write them. He accepts he must take responsibility because he signed them. But he has explained that his associates in Switzerland had greater influence over the content of the communiqués once he moved there, and that they had stronger views than him.

16. The Swiss authorities were also concerned that Mr Zaoui was attracting extremists to Switzerland, because shortly after his arrival, “B” and “C” attempted to enter Switzerland. Both were suspected by the Swiss of arms trafficking in relation to Algeria. “B” was also named in the French decision as a person who delivered items to Algeria.

17. Mr Zaoui no longer associates with “B”. He does have an ongoing relationship with “C”, but there is classified information that reduces the NZSIS’ concerns about this relationship.

18. My concerns about Mr Zaoui’s activities in Switzerland have diminished. Mr Zaoui has distanced himself from the CCFIS communiqués. Mr Zaoui’s potential for attracting extremists has lessened with the change in conditions in Algeria. Many involved in the armed movement are now living freely in Algeria and the Algerian Government appears to be gaining the confidence of the people.

Relationship to GIA

19. Mr Zaoui was openly a member of the FIS (the political party), but he was also linked to the GIA (the Armed Islamic Group or Groups) and other extremist groups (including GIA factions and breakaway groups after 1995). These links between Mr Zaoui and the GIA are

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distinct from those that arose in the context of Mr Zaoui's convictions in France and Belgium. The links arise both by association and from classified reports about him.

20. The links by association are summarised below:

- Mr Zaoui admitted meeting with an individual considered to be of serious security concern to the NZSIS, "D", when he was in Morocco in 1993, but said he only did so at the request of another FIS member. He says he argued with the individual. This is the first time Mr Zaoui has made this disclosure.
- Two of Mr Zaoui's former colleagues publicly joined the GIA in 1994, a move supported by some of Mr Zaoui's FIS associates. Mr Zaoui says he did not support the move. These colleagues were killed in November 1995 as a result of internal disputes in the GIA.
- Mr Zaoui worked with people who expressed their support for the GIA, Haddam (based in the US) and "E" (based in another country that cannot be disclosed). There is no evidence, however, that these individuals provided logistical support. Mr Zaoui says he disagreed with their support for the GIA.
- Mr Zaoui was in contact with "F" who was linked to an armed group known as the GSPC. The GSPC has recently joined Al Qaeda. Mr Zaoui's contact was in 2000, when Mr Zaoui was in Burkina Faso. Mr Zaoui does not recall the contact. Mr Zaoui does not appear to have had any contact with this individual since then.
- One of Mr Zaoui's associates, "G" provided logistical support to armed groups in Algeria in the late 1990s in the form of weapons. "G" also provided other support (also of a serious nature) to such groups, but those details cannot be disclosed publicly. Mr Zaoui's relationship to this individual has been a real cause for concern for the NZSIS.

21. Mr Zaoui claims that he was not aware of any of his associates providing logistical support to the armed movement in Algeria, including "G". He agrees it is possible that they did so without his knowledge.

22. New classified information indicates that it was Mr Zaoui's associates, and not Mr Zaoui himself who provided logistical support to armed groups in Algeria in the late 1990s. It is possible, in fact, that Mr Zaoui did not know about the support being provided by his associate, "G". Mr Zaoui himself has now explained for the first time that "G" had stronger views than him; that "G"'s views were closer to those of Ali Belhadj; and that he and "G" were not that close. This is a significant concession by Mr Zaoui, partly because he has previously argued that would be inconceivable for FIS leaders to have also provided support to the GIA or other extremist groups.

23. Mr Zaoui was described as a leading member of the GIA by persons inside the GIA. There is also significant and reliable classified material from other sources that led to the

NZSIS' understanding that Mr Zaoui was a key member and leader of the GIA. But the NZSIS does not have any detailed information about the activities Mr Zaoui undertook to earn that description. I have considered whether there is some alternative explanation for Mr Zaoui having been described as a GIA leader. Having considered the new information (both classified and unclassified), I have decided there is a plausible alternative. Unfortunately, two significant aspects of the alternative explanation cannot be disclosed publicly. That would require me to disclose sensitive classified information.

24. In summary, while there was good reason to believe that Mr Zaoui was a "leading member" of the GIA, an alternative explanation for Mr Zaoui being described in this way is now equally plausible. The NZSIS cannot know conclusively which version is correct. But, given the existence of an alternative, plausible explanation and the lapse of time since these events occurred, I consider that this information should no longer be relied on to assess Mr Zaoui as a security risk in 2007. I have given considerable weight to the new information that indicates that Mr Zaoui was not providing weapons or other logistical support to armed groups in Algeria, even though some of his associates were.

Other significant information

25. There is other, very significant, classified information that I cannot disclose. It formed a key part of my assessment of Mr Zaoui as a security risk. It was also key to my predecessor's assessment, both in issuing and maintaining the security risk certificate. Unfortunately, nothing more can be said publicly about this information because to do so would compromise this classified material. Such disclosure may also cause Mr Zaoui to fear for his safety.

26. I can say that, in light of: new information disclosed by Mr Zaoui both during the hearing process and at the extensive interview with NZSIS immediately following the hearing; new classified information; and the lapse of time, I no longer rely on this information as providing a basis for assessing Mr Zaoui as a security risk in 2007.

Credibility

27. Despite all of the information the NZSIS now has, there are still some aspects for which Mr Zaoui's explanation does not ring true – such as the location of his false passports, as discussed in the decision of the French Court.

28. The question is whether Mr Zaoui has sufficient credibility to enable the NZSIS to assess accurately the level of the risk he poses for the future if he is allowed to remain in New Zealand. This is particularly so in respect of whether his statements as to his future intentions can be believed.

29. The overall credibility of Mr Zaoui's account has improved with the provision of further information. I have been advised about: the content of the further information from the first four weeks of the open hearing; answers given by Mr Zaoui at the interview conducted by the NZSIS since the hearing process to address my more focused concerns; and

the content of further information recently received (both classified and unclassified). In particular, the classified material and Mr Zaoui's answers to questions by the NZSIS (given he does not know what is in the classified material) have enhanced the plausibility of some of his explanations. My assessment is that there is now more consistency between his account of events and the independent information about those events (both classified and unclassified). Some gaps remain on matters of detail.

30. In summary, I am now more comfortable with Mr Zaoui's account of his past activities. While there are matters about which I am not convinced by the explanation, I do not think the remaining inconsistencies between his account and my information are such that they should adversely affect the assessment of security risk in the future. I take some comfort from his statements as to his future intentions if he stays in New Zealand, provided we maintain ongoing contact with him. Mr Zaoui has now willingly provided a sworn statement making specific assurances to the NZSIS about his future activities. He has also agreed to ongoing contact with the NZSIS. In this way, the NZSIS will maintain a presence but in a non-threatening manner.

Lapse of time

31. The lapse of time since Mr Zaoui's arrival in New Zealand in December 2002 is a significant factor in assessing whether Mr Zaoui presents a risk of substantial threatened harm if he is allowed to stay in New Zealand.

32. Mr Zaoui has had an elevated public profile for the past four and a half years. The public will continue to be interested in his future activities. Even if the NZSIS were to assess him as presenting a risk of substantial threatened harm, he would be highly unlikely to attempt any such activity while in New Zealand. This reduces the level of risk posed.

33. Mr Zaoui appears to have changed in his approach and in his attitude toward the NZSIS. Mr Zaoui has been more open about his links with others that could have led to adverse security assessments in the past. Mr Zaoui has admitted for the first time that he met with "D", a significant individual in security terms. Mr Zaoui has also admitted for the first time that "G" is more closely aligned with the approach of Ali Belhadj. Mr Zaoui has also confirmed that other associates, such as Haddam, did in principle support the GIA. While Mr Zaoui denies any wrongdoing himself, he does accept that those he associated with or worked with may have had more radical tendencies. These disclosures are largely a response to information put to Mr Zaoui by the NZSIS, but they also indicate a changed approach from that which he employed before the Refugee Status Appeals Authority, where evidence was led to the effect that there was no possibility of FIS leaders supporting the GIA or other extremist groups. More could be said here about particular individuals but to do so would reveal classified information or put Mr Zaoui at risk in terms of his safety.

34. Mr Zaoui has demonstrated his willingness to cooperate by attending an extensive interview with NZSIS and answering questions, and has formally agreed to maintaining regular contact with the NZSIS.

Additional consideration

35. The previous Director was concerned about New Zealand's international reputation and the consequences if like-minded countries thought that New Zealand was not taking its security obligations seriously by allowing Mr Zaoui to stay in New Zealand.

36. Even if this continued to be an issue, important developments since 2002 mean this is now less of a concern. The United Kingdom and Canada have experienced considerable difficulty in returning people identified as security risks to their countries of origin. They are more likely to understand New Zealand's position if Mr Zaoui were now allowed to stay.

37. The United States has granted refugee status to Anwar Haddam, an associate of Mr Zaoui (after considering classified information). He is now living freely in the United States. Anwar Haddam admitted supporting the GIA in 1994.

38. Another country that could be considered to be "like-minded" in security terms has granted citizenship to "E", an associate of Mr Zaoui who admitted supporting the GIA in 1994 - 1995.

Conclusions

39. In summary:

- Mr Zaoui's activities in France, Belgium and Switzerland occurred between 10 – 14 years ago. The potential for Mr Zaoui to undertake those same activities has significantly lessened with the improving conditions in Algeria.
- Mr Zaoui was described as a leading member of the GIA by persons inside the GIA and there is other classified information to this effect. But an alternative plausible explanation exists for Mr Zaoui being described in this way which means I should not regard such information as conclusive.
- New classified information indicates that it was Mr Zaoui's associates who provided weapons and other logistical support to armed groups in Algeria, and not Mr Zaoui.
- I have carefully considered other, very significant, classified material in light of the new information (both classified and unclassified) and have decided that I should no longer rely on it as providing a basis for assessing Mr Zaoui as presenting a threat of substantial harm in 2007. I have also factored in the significant lapse of time since these events occurred.
- Mr Zaoui's approach has changed. He is more willing to admit that some of his FIS associates provided support to the GIA, and acknowledges that he himself had contact with "D" and members of the GIA.

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- Mr Zaoui's credibility has improved and should not adversely affect the assessment of security risk for the future.
- Mr Zaoui has provided specific assurances as to his future activities should he be allowed to remain in New Zealand.
- Mr Zaoui has formally agreed to maintaining regular contact with the NZSIS that will allow me to continue to be comfortable about my assessment of him as not presenting a security risk.
- Mr Zaoui has an elevated public profile that means he will remain in the public eye for some time and which will constrain his freedom of action.

Decision

40. Taking into account my conclusions, Mr Ahmed Zaoui's specific assurances as to his future activities, and his agreement to have ongoing, regular contact with the NZSIS, I hereby formally withdraw the security risk certificate against him.

Dr Warren Tucker
Director of Security

13 September 2007