

Supplementary Submission by Michael Danby MP

Partial Suspension of Iran Sanctions inquiry (“the Inquiry”) Reference by Australian Senate to the Foreign Affairs, Defence and Trade References Committee

1. I refer to my original submission to the Inquiry and wish to add the following supplementary comments.
2. I have now had the benefit of reading the submission of the Department of Foreign Affairs and Trade (‘DFAT’) dated 11 April 2016.
3. I note that DFAT’s submission provides some explanation of the Australian Government’s rationale for the partial suspension (and then repeal) of certain sanctions relating to Iran. Reproduced below is an extract of relevant parts of that submission -

“Fundamentally, the JCPOA has secured Iran’s agreement to a set of measures that constrain its nuclear program, in exchange for sanctions relief. It was negotiated with Iran by the five permanent members of the United Nations Security Council, plus Germany. The JCPOA agreement was then endorsed by UN Security Council Resolution 2231 (2015). Of note, the Resolution calls on all UN member states “to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA”.

To meet the United Nations Security Council’s call to support the JCPOA, the Australian Government implemented the phased sanctions relief policy that the European Union had agreed with Iran via the JCPOA. Australia has worked with the European Union on Iran policy since 2008. Australia’s nuclear related sanctions approach has closely followed that of the European Union and our sanctions have formed an important part of international pressure on Iran.

Early and internationally coordinated sanctions relief by the Australian Government was important for not only demonstrating to Iran the benefits of compliance, but also to ensure that Australian businesses were not disadvantaged in pursuing opportunities in Iran. Just as it is in our interest to promote international peace and security in supporting this deal, it is also in our interest to ensure Australian companies are not disadvantaged relative to competitors in the European Union and elsewhere.

Under UN Security Council Resolution 2231 Australia maintains strict controls on goods, services and other nuclear ballistic missile related activities, and on the export of certain military equipment to Iran.

In addition, under our autonomous sanctions regime, Australia maintains sanctions on the export of arms and related material, as well as certain nuclear related software, graphite and metals to Iran. We continue to list 23 Iranian

individuals and 68 entities under autonomous sanctions due to their connection with the nuclear program.

...

As noted above, Australia's nuclear sanctions approach with respect to Iran has closely followed that of the European Union. The decision on which sanctions the European Union would lift, and which would remain, was the product of extensive and detailed negotiation by the parties to the JCPOA and it is in accordance with UNSC resolution 2231."

4. It is worth noting that this is the first time that the Australian Government has given more than a cursory explanation as to the basis on which it decided to suspend certain sanctions relating to Iran. But even this explanation does not provide much detail. Whilst I am not suggesting the explanation is adequate, I make the point that it is disappointing and unsatisfactory that not even a rudimentary explanation such as this was included in the relevant Explanatory Statements and that it has taken the formation of this Inquiry to obtain even this information.

5. As I commented more fully in my original submission, Iran is a state that is a dangerous and destabilising one for world peace and security, it is a significant abuser of human rights, it violates international laws and norms of behaviour, and the Australian Government's push towards normalising relations with it poses risks to Australian individuals, entities, security, industry, banking and finance operations and the Australian economy more generally.

6. It should be borne in mind that Iran was on the verge of acquiring nuclear weapons and had hidden and lied about its intentions and activities under its nuclear program. It is only through the pressure of sanctions that Iran has been brought to reach some accommodation on its nuclear program through the Joint Comprehensive Plan of Action ('JCPOA') - an arrangement that, even if complied with, only defers Iran's nuclear weapons aspirations. Whilst it is too early to assess how Iran will proceed under the JCPOA, Iran has already shown its defiance by engaging in ballistic missile tests. U.S. President Barack Obama has recently criticised Iran for undermining the spirit of the nuclear agreement, including through Iran's continued support of Hezbollah, its launching of ballistic missiles and other provocative behaviour.¹ And there are more recent reports that Iran has test launched the Simorgh space launch vehicle, the technology for which may enable the development of intercontinental ballistic missiles with the capability of delivering nuclear weapons.²

7. Iran's nuclear ambitions were only one aspect of the rationale for ongoing sanctions against it. Its support for terrorism and military interventions in other countries has been another major factor. At the April summit this year of the 57 member state Organization of Islamic Cooperation ('OIC'), the OIC issued a final communiqué that "deplored Iran's interference" in the affairs of other countries and its "continued support for terrorism".³ The conference also condemned Iran's proxy, Hezbollah, "for conducting terrorist activities in Syria, Bahrain, Kuwait and Yemen and for supporting terrorist movements and groups undermining the security and

¹ <http://thehill.com/policy/national-security/274954-obama-iran-has-followed-letter-but-not-spirit-of-nuke-deal>

² <http://freebeacon.com/national-security/iran-conducts-space-launch/>

³ <http://iranprimer.usip.org/blog/2016/apr/15/iran-and-islamic-conference-tensions-summit>

stability of OIC Member States”.⁴ And in respect of Iran’s intervention in Syria, it has drafted thousands of its Afghan refugee community into fighting alongside the pro-government Syrian forces.⁵

8. It should also be noted that the U.S. formally designates Iran as a “state sponsor of terrorism” (one of three countries so designated).⁶ The U.S. Department of State website explains this as follows –

“Countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism are designated pursuant to three laws ... Taken together, the four main categories of sanctions resulting from designation under these authorities include restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions.”⁷

9. In view of the above, it should be of considerable importance that the Australian Government provide a full and detailed account and explanation as to why, and to what extent, it has chosen to relax restrictions on dealings with Iran. Such a detailed explanation is the first step towards openness and transparency on these matters, and that in turn will enable appropriate public awareness, scrutiny, consideration and debate.

10. DFAT’s submission compares the Australian Government’s lack of public consultation on the suspension of Iran sanctions with a similar approach taken by Australia in lifting sanctions with respect to Myanmar in 2015 and Fiji in 2014. However, those countries had nothing like the global impact and egregious record of Iran, and posed nothing like the threat to peace and security that Iran does.

What does UN Security Council Resolution 2231⁸ require?

11. The DFAT submission notes that UN Security Council Resolution 2231 “calls on all UN member states ‘to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA’”. The submission then states that, “To meet the United Nations Security Council’s call to support the JCPOA, the Australian Government implemented the phased sanctions relief policy that the European Union had agreed with Iran via the JCPOA”.

12. Whilst DFAT’s submission does not expressly state that the Australian Government was *obliged* by UNSC Resolution 2231 to lift the sanctions on Iran that it has, DFAT does appear to suggest that Australia has an obligation “to support the

⁴ <http://iranprimer.usip.org/blog/2016/apr/15/iran-and-islamic-conference-tensions-summit>

⁵ <http://www.bbc.com/news/world-middle-east-36035095>

⁶ <http://www.state.gov/j/ct/list/c14151.htm>

⁷ <http://www.state.gov/j/ct/list/c14151.htm>

⁸ For the full text of UN Security Council Resolution 2231 adopted on 20 July 2015 (which includes the text of the Joint Comprehensive Plan of Action ‘JCPOA’ as Annex A) see https://www.iaea.org/sites/default/files/unsc_resolution2231-2015.pdf
For background and links on Resolution 2231, see <http://www.un.org/en/sc/2231/>

JCPOA”, whatever that may mean. Foreign Minister, Julie Bishop, has gone further in suggesting that Australia was *obliged* by the UN to lift particular sanctions. As pointed out in my original submission, Ms Bishop said - “Australia has also lifted sanctions in accordance with the *UN obligations* [emphasis added]”.⁹

13. However, it should be noted that Australia was not a party to the JCPOA and is not bound by it, and that Australia is not bound by Resolution 2231 to lift any sanctions.

14. Whilst, as DFAT states, paragraph 2 of Resolution 2231 “*Calls upon* all Members States ... to take such actions as may be appropriate to support the implementation of the JCPOA ...”, the wording of that paragraph does not create a binding obligation on UN member states to lift any sanctions. The phrase “calls upon” is not indicative of an obligation, and particularly so when coupled with the very general and non-specific wording to “take such actions *as may be appropriate*” and to “*support* the implementation of the JCPOA” [emphasis added]. It is clear that paragraph 2 leaves open to each state to determine in its discretion how it may choose to follow this call (if it decides to do so at all) and what it considers may be appropriate.

15. Furthermore, paragraph 27 of Resolution 2231 confirms that the JCPOA only creates obligations for the parties to it, and not for any other states. Paragraph 27 provides that -

“... all provisions contained in the JCPOA are only for the purposes of its implementation between the E3/EU+3 and Iran and should not be considered as setting precedents for any other State or for principles of international law and the rights and obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and other relevant instruments, as well as for internationally recognized principles and practices”.

16. Specific obligations on all UN member states are imposed by subparagraph 7(b) of Resolution 2231, but that does not require states to lift any sanctions. It provides –

“All States shall comply with paragraphs 1, 2, 4, and 5 and the provisions in subparagraphs (a)-(f) of paragraph 6 of Annex B for the duration specified in each paragraph or subparagraph, and are called upon to comply with paragraphs 3 and 7 of Annex B” [note also the difference in wording between the mandatory “shall comply” and the non-mandatory “called upon to comply”].

17. A copy of Annex B of Resolution 2231 is annexed to this supplementary submission. It is evident that it does not require states to lift sanctions relating to Iran. On the contrary, it requires countries not to engage in certain dealings with Iran (or permits some activities subject to obtaining the approval of the Security Council).

18. Further, under subparagraph 6(c) of Annex B, countries are required to continue to freeze the funds, other financial assets and economic resources, of the

⁹ http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160315.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D

individuals and entities that were specified on the list established and maintained pursuant to resolution 1737 (2006) *with the exception of* those individuals and entities listed in the Attachment to Annex B. In other words, the individuals and entities named in the Attachment have been removed from the sanctions list. However, it is difficult to understand how that list bears on the individuals and entities recently removed from the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) List 2012*. Accordingly, as mentioned in my original submission, the Australian Government should provide further information and explain how it came to decide who should be removed from, and who should be retained on, the Australian list.

Why follow the European Union approach to sanctions?

19. DFAT has advised that Australia's sanctions approach with respect to Iran closely follows that of the European Union.¹⁰ But there is little explanation as to why Australia adopted that approach (apart from the stated desire of ensuring that Australian businesses are "not disadvantaged in pursuing opportunities in Iran").

20. A number of points can be made in response. First, Australia is an independent, mature country with different geo-political, economic, defence, security and other considerations to those of Europe. It should be making its own considered assessments of what is appropriate with respect to its relationship with Iran, rather than relying on the European Union.

21. Second, there are significant downsides in doing business with Iran, including possible contagion from Iran's terrorist and military activities, its corruption and cronyism¹¹, its deficient business, banking and finance practices, and its human rights violations. What may appear to be business opportunities with Iran may turn out to be founded on quicksand. Indeed, even the United Kingdom, which supports opening up trade with Iran, expresses considerable caution. Section 4 of the UK's explanatory guide¹² notes that -

"Although Iran offers huge potential for UK companies it will not be an easy place to do business.

Key challenges include:

- Risk of bribery and corruption. Iran scores high on the Corruption Perception Index
- Influence, direct or indirect control by the Iranian security services of many Iranian companies
- Inflation, price control and subsidies reduce the potential for private sector growth

¹⁰ For a summary of the European Union approach to sanctions on Iran, see

http://eeas.europa.eu/top_stories/pdf/iran_implementation/information_note_eu_sanctions_jcpoa_en.pdf

¹¹ 'Iran's Corruption and Human Rights Overlooked', http://www.huffingtonpost.com/majid-rafizadeh/irans-corruption-and-huma_b_8382140.html

'Corruption a way of life in Iran', <http://www.middleeasteye.net/columns/corruption-has-become-way-life-iran-1127296548>

¹² <https://www.gov.uk/government/publications/doing-business-with-iran/frequently-asked-questions-on-doing-business-with-iran>

- Iran ranks low on the World Bank Ease of Doing Business report ranking 118th in 2015-16 report
- Lack of investment in infrastructure
- Risk of bureaucratic delays
- Some sanctions on Iran remain in place

You should ensure you take the necessary steps to comply with the requirements of the UK Bribery Act.”

22. Further in relation to Iran’s business environment, it is worth reiterating the statement made by the Financial Action Task Force (‘FATF’) in February this year. The FATF is the global standard setting body for anti-money laundering and combating the financing of terrorism (‘AML/CFT’). Its standards aim to protect the international financial system from money laundering and financing of terrorism (‘ML/FT’). Its February 2016 statement on Iran¹³ is set out below –

“The FATF remains particularly and exceptionally concerned about Iran’s failure to address the risk of terrorist financing and the serious threat this poses to the integrity of the international financial system.

The FATF reaffirms its call on members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions. In addition to enhanced scrutiny, the FATF reaffirms its 25 February 2009 call on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran. The FATF continues to urge jurisdictions to protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices and to take into account ML/FT risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdiction. Due to the continuing terrorist financing threat emanating from Iran, jurisdictions should consider the steps already taken and possible additional safeguards or strengthen existing ones.

The FATF urges Iran to immediately and meaningfully address its AML/CFT deficiencies, in particular by criminalising terrorist financing and effectively implementing suspicious transaction reporting requirements. If Iran fails to take concrete steps to continue to improve its CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in June 2016.”

23. The third point to be made about Australia following the European Union approach, is why are purported ‘business opportunities’ (if indeed they are real and don’t turn out to have detrimental consequences) considered to trump all the other negatives of expanding relations with Iran (see paragraphs 5-8 and 21-22 of this supplementary submission and paragraphs 2.1-2.3 of my original submission)?

¹³ <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2016.html>

24. Fourth, whilst DFAT has made the general comment that Australia has closely followed the European Union approach, no detailed information has been provided on the extent to which Australia has followed that approach and, if there are differences, why? The Australian Government should provide a detailed comparison and explanation. For example, as pointed out in paragraph 6.1(f) of my original submission, Australia has lifted sanctions in relation to the provision of a service that “assists with, or is provided in relation to”, “a military activity” for Iran. How is that consistent with the European Union approach? And if it is, why should Australia and Australians be permitted to play a role in enhancing Iran’s military capability?

25. Fifth and finally, if Australia wants to take its lead from any country in relation to dealings with Iran, why not look to the U.S.? The U.S. is arguably our most important strategic ally and is also one of our top three trading partners. It has been the prime mover in imposing sanctions on Iran and negotiating the JCPOA. It also has considerable intelligence and information-gathering capability with respect to the Iranian regime and substantial experience and history in analysing, dealing with, and developing sanctions with respect to, Iran.

26. The U.S. has adopted a vastly different approach to sanctions on Iran than the European Union. For a start, the U.S. still maintains a primary trade embargo on all business with Iran (subject to a few exceptions). Just as the European Union approach is partly contained in the JCPOA, so is the U.S. approach. And there is nothing in the JCPOA that prevents the parties to the JCPOA (or anyone else for that matter) from maintaining sanctions against Iran for conduct outside the scope of the JCPOA.

27. Senior U.S. Treasury official, Adam J. Szubin, outlined the U.S. sanctions position with respect to Iran in an address to a U.S. senate committee. An extract from his address is set out below¹⁴ –

“Upon “Implementation Day,” when phased relief would begin, the United States will lift nuclear- related secondary sanctions targeting third-country parties conducting business with Iran, including in the oil, banking, and shipping sectors. These measures were imposed in response to the security threat from Iran’s nuclear program; accordingly, they will be suspended in exchange for verifiable actions to alleviate that threat.

As we phase in nuclear-related sanctions relief, we will maintain and enforce significant sanctions that fall outside the scope of this deal, including our primary U.S. trade embargo. Our embargo will continue to prohibit U.S. persons from investing in Iran, importing or exporting to Iran most goods and services, or otherwise dealing with most Iranian persons and companies. Iranian banks will not be able to clear U.S. dollars through New York, hold correspondent account relationships with U.S. financial institutions, or enter into financing arrangements with U.S. banks. Nor will Iran be able to import controlled U.S.-origin technology or goods, from anywhere in the world. In

¹⁴ <https://www.treasury.gov/press-center/press-releases/Pages/jl0144.aspx>

For a more formal outline of the U.S. sanctions approach see the Frequently Asked Questions document issued by the U.S. Treasury – https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf

short, Iran will continue to be denied access to the world's principal financial and commercial market. The JCPOA provides for only minor exceptions to this broad prohibition. ...

As we address the most acute threat posed by Iran, its nuclear program, we will be aggressively countering the array of Iran's other malign activities. The JCPOA in no way limits our ability to do so, and we have made our posture clear to both Iran and to our partners. This means that the United States will maintain and continue to vigorously enforce our powerful sanctions targeting Iran's backing for terrorist groups such as Hizballah. In the last two months alone, for example, we designated eleven Hizballah military officials and affiliated companies and businessmen. We will also continue our campaign against Hizballah's sponsors in Iran's Islamic Revolutionary Guard Corps-Quds Force; Iran's support to the Houthis in Yemen; its backing of Assad's regime in Syria; and its domestic human rights abuses. We will also maintain the U.S. sanctions against Iran's missile program and the IRGC writ large.

Let there be no doubt about our willingness to continue enforcing these sanctions. During the JPOA period, when we were intensely negotiating with Iran, we took action against more than 100 Iranian-linked targets for their WMD, terrorism, human rights abuses, evasion and other illicit activities.

Nor are we relieving sanctions on Iran's Revolutionary Guard Corps, its Quds Force, any of their subsidiaries or senior officials. The U.S. designation of Quds Force commander Qassem Suleimani will not be removed, nor will he be removed from EU lists related to terrorism and Syria sanctions.

Sanctions will also remain in place on key Iranian defense entities, including Iran's Ministry of Defense and Armed Forces Logistics (MODAFL), Defense Industries Organization, Aerospace Industries Organization and other key missile entities, including Shahid Hemat Industrial Group (SHIG) and Shahid Bagheri Industrial Group (SBIG). We will also retain sanctions on Iranian firms such as the Tiva Sanat Group, which has worked to develop a weapons-capable fast boat to be used by the IRGC-Navy, and Iran Aircraft Manufacturing Industrial Company (HESA), which manufactures unmanned aerial vehicles used by the IRGC, as well as third country firms that have assisted Iran's missile and defense programs. Under the JCPOA, more than 225 Iran-linked persons will remain designated and subject to our sanctions, including major Iranian companies and military and defense entities and firms.

It is worth emphasizing that our sanctions authorities will continue to affect foreign financial institutions that transact with these more than 200 Iranian persons on our Specially Designated Nationals List, as well as persons who provide material or other types of support to Iranian SDNs. These measures provide additional deterrence internationally. For example, a foreign bank that conducts or facilitates a significant financial transaction with Iran's Mahan Air, the IRGC-controlled construction firm Khatam al Anbiya, or Bank Saderat will risk losing its access to the U.S. financial system, and this is not affected by the nuclear deal."

28. In the penultimate paragraph of the above extract, Mr Szubin comments that, “more than 225 Iran-linked persons will remain designated and subject to our sanctions”. That figure is more than double the number of persons and entities listed by Australia for sanction, as set out in the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) List 2012* (as amended)¹⁵. The numbers in that list are 23 individuals and 68 entities, making a total of 91 altogether. Given the differences, the Australian Government should explain why Australia’s list carries a significantly lesser number of persons and entities than that of the U.S.

29. Further, DFAT states in its submission that, “We continue to list 23 Iranian individuals and 68 entities under autonomous sanctions *due to their connection with the nuclear program*” [emphasis added]. But given that the main rationale for the lifting of sanctions has been the alleged diminution of Iran’s nuclear program, it seems unlikely that all those on the Australian list are still listed because of their connection with that program. Perhaps DFAT might explain this.

Conclusion

30. Iran is not some benign, friendly and peaceful member of the international community. It is the major state sponsor of terrorism in the world today, directly and indirectly through proxies such as Hezbollah. It has intervened in, and threatened, many of the countries in its region and elsewhere. Its human rights record is abysmal. Its people live under an illiberal, unfree, authoritarian theocracy. The recent nuclear agreement only came about through sustained and significant pressure and after Iran had concealed and lied about its nuclear program and ambitions. Even during and after negotiating this temporary halt to its nuclear program, Iran has shown its defiance with proclamations of “death to America”, threats to “wipe Israel off the map”, launches of ballistic missiles and other provocative behaviour.

31. Easing sanctions and taking other steps towards normalising relations with respect to a country like Iran, deserves a full and transparent account and explanation by the Australian Government. There needs to be a clear understanding and scrutiny of the Government’s actions and intentions. Having these matters debated in the Australian Parliament would have contributed significantly to this process. There are also many sectors of Australian society that would have been able to provide constructive input if they had been properly informed and consulted. None of these things happened, which is highly unsatisfactory. This lack of explanation, consultation and debate is contrary to the way an open and democratic society should operate.

32. DFAT has now advised that the Australian Government adopted the European Union approach to sanctions on Iran. But the U.S. has a far better understanding and history of dealing with Iran, including in relation to sanctions, and is a country with which Australia has more in common than the countries making up the European Union. Whilst Australia should form its own views about its relations with Iran, if it is looking for international guidance, there are sound reasons why the U.S., and not the European Union, should be Australia’s primary guide. The U.S. is not rushing to

¹⁵ See <https://www.legislation.gov.au/Details/F2016C00246>

normalise relations with Iran. It recognises that Iran has a long way to go in demonstrating that it is a responsible member of the international community.

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Shadow Parliamentary Secretary to the Leader of the Opposition

24 April 2016

Annexure to Supplementary Submission of Michael Danby

For the full text of UN Security Council Resolution 2231 adopted on 20 July 2015 (which includes the text of the Joint Comprehensive Plan of Action ‘JCPOA’ as Annex A), see

https://www.iaea.org/sites/default/files/unsc_resolution2231-2015.pdf

For background and links on Resolution 2231, see

<http://www.un.org/en/sc/2231/>

Annex B of UN Security Council Resolution 2231 (2015)

Annex B: Statement

Statement

China, France, Germany, the Russian Federation, the United Kingdom, the United States, and the European Union have concluded with Iran a Joint Comprehensive Plan of Action (JCPOA) to reach a comprehensive, long-term and proper solution to the Iranian nuclear issue. To improve transparency and create an atmosphere conducive to the full implementation of the JCPOA, China, France, Germany, the Russian Federation, the United Kingdom, the United States, and the European Union have set forth below certain provisions. Their participation in the JCPOA is contingent upon the United Nations Security Council adopting a new resolution that would, acting under Article 41 of the UN Charter: terminate resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010), and 2224 (2015); require States to comply with the provisions in this statement for their respective durations; and facilitate, in cooperation with the Joint Commission established in the JCPOA, implementation of the JCPOA as provided in paragraphs 2 and 6(a) below.

As provided by a resolution so deciding, the following provisions would apply on the date on which the IAEA Director General submits a report verifying that Iran has taken the actions specified in paragraph 15.1-15.11 of Annex V of the JCPOA:

1. The term “all States” as used in this document, and as incorporated in the resolution, means “all States without exception.”

2. All States may participate in and permit the following activities provided that approval is provided in advance, on a case-by-case basis, by the Security Council:

(a) the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag vessels or aircraft to, or for the use in or benefit of, Iran, and whether or not originating in their territories, of all items, materials, equipment, goods and technology set out in INFCIRC/254/Rev.12/Part 1 and INFCIRC/254/Rev.9/Part 2 (or the most recent versions of these documents, as updated by the Security Council), as well as any further items if the State determines that they could contribute to reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA;

(b) the provision to Iran of any technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, related to the supply, sale, transfer, manufacture or use of the items, materials, equipment, goods and technology described in subparagraph (a) above; and

(c) acquisition by Iran of an interest in a commercial activity in another State involving uranium mining or production or use of nuclear materials and technology as listed in INFCIRC/254/Rev.12/Part 1, and such investment in territories under their jurisdiction by Iran,

its nationals, and entities incorporated in Iran or subject to its jurisdiction, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them,

except that approval in advance by the Security Council shall not be required for the supply, sale, or transfer to Iran of equipment covered by B.1 of INFCIRC/254/Rev.12/Part 1 when such equipment is for light water reactors, low-enriched uranium covered by A.1.2 of INFCIRC/254/Rev.12/Part 1 when it is incorporated in assembled nuclear fuel elements for such reactors, as well as items, materials, equipment, goods and technology set out in INFCIRC/254/Rev. 9/Part 2 only when for exclusive use in light water reactors.

For any items, materials, equipment, goods and technology that are approved by the Security Council pursuant to subparagraph (a) above, or are supplied, sold, or transferred subject to the exception stated above, States are to ensure that: (a) the requirements, as appropriate, of the Guidelines as set out in the referenced INFCIRC have been met; (b) they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of any supplied item; (c) they notify the Security Council within ten days of the supply, sale or transfer; and d) in the case of supplied items, materials, equipment, goods and technology listed in the referenced INFCIRCS, they also notify the IAEA within ten days of the supply, sale or transfer.

And except also that approval in advance by the Security Council is not required for the supply, sale, or transfer of items, materials, equipment, goods and technology, and the provision of any related technical assistance, training, financial assistance, investment, brokering or other services, that is directly related to the necessary modification of two cascades at the Fordow facility for stable isotope production, the export of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium, and the modernization of the Arak reactor based on the agreed conceptual design and, subsequently, on the agreed final design of such reactor, provided that Member States ensure that: (a) all such activities are undertaken strictly in accordance with the JCPOA; (b) they notify the Security Council and Joint Commission ten days in advance of such activities; (c) the requirements, as appropriate, of the Guidelines as set out in the referenced INFCIRC have been met; (d) they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of any supplied item; and (e) in case of supplied items, materials, equipment, goods and technology listed in the referenced INFCIRCS, they also notify the IAEA within ten days of the supply, sale or transfers.

This paragraph shall apply until the date ten years after JCPOA Adoption Day, as defined in the JCPOA, except if the IAEA submits a report confirming the Broader Conclusion before that date, then the requirement to obtain approval in advance by the Security Council shall be suspended immediately and, beginning on the date of this suspension, the exceptions provided for in this paragraph shall continue to apply and all States may participate in and permit the activities set forth in this paragraph if they notify the Security Council and the Joint Commission at least ten working days in advance of each such activity on a case-by-case basis.

3. Iran is called upon not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology, until the date eight years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier.

4. All States may participate in and permit the activities described below *provided* that the Security Council decides in advance on a case-by-case basis to permit such activity:

(a) the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag vessels or aircraft to or from Iran, or for the use in or benefit of Iran, and whether or not originating in their territories, of all items, materials, equipment, goods and technology set out in S/2015/546 and of any items, materials, equipment, goods and technology that the State determines could contribute to the development of nuclear weapon delivery systems; and

(b) the provision to Iran of any technology or technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, or Iran's acquisition of an interest in any commercial activity in another

State, related to the supply, sale, transfer, manufacture or use of the items, materials, equipment, goods and technology described in subparagraph a of this paragraph or related to the activities described in paragraph 3.

provided that in the event of an approval by the Security Council: (a) the contract for delivery of such items or assistance include appropriate end-user guarantees; and (b) Iran commit not to use such items for development of nuclear weapon delivery systems.

This paragraph shall apply until the date eight years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier.

5. All States may participate in and permit, *provided* that the Security Council decides in advance on a case-by-case basis to approve: the supply, sale or transfer directly or indirectly from or through their territories, or by their nationals or individuals subject to their jurisdiction, or using their flag vessels or aircraft, and whether or not originating in their territories, to Iran, or for the use in or benefit of Iran, of any battle tanks, armoured combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel, including spare parts, and the provision to Iran by their nationals or from or through their territories of technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance, or use of arms and related materiel described in this subparagraph.

This paragraph shall apply until the date five years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier.

6. All States are to:

(a) Take the necessary measures to ensure that any activities described in paragraphs 2, 4, and 5 occur on their territories, or involving their nationals or individuals subject to their jurisdiction, or involving their flag vessels or aircraft, only pursuant to the relevant terms of those paragraphs, and also to prevent and prohibit any activities inconsistent with these provisions, until the date ten years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier;

(b) Take the necessary measures to prevent, except as decided otherwise by the UN Security Council in advance on a case-by-case basis, the supply, sale, or transfer of arms or related materiel from Iran by their nationals or using their flag vessels or aircraft, and whether or not originating in the territory of Iran, until the date five years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier;

(c) For eight years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier, continue to freeze the funds, other financial assets and economic resources which are on their territories at the date of adoption of the JCPOA, and freeze the funds, other financial assets and economic resources which are on their territories at any time thereafter, that are owned or controlled by the individuals and entities that were specified on the list established and maintained by the Committee pursuant to resolution 1737 (2006) as of the date of adoption of the new resolution, with the exception of those individuals and entities specified in **Attachment hereto** [emphasis added], or that may be de-listed by the Security Council, and freeze those of additional individuals and entities that may be designated by the Security Council as: having engaged in, directly associated with or provided support for Iran's proliferation-sensitive nuclear activities undertaken contrary to Iran's commitments in the JCPOA or the development of nuclear weapon delivery systems, including through the involvement in procurement of prohibited items, goods, equipment, materials and technology specified in this statement; having assisted designated individuals or entities in evading or acting inconsistently with the JCPOA or the new resolution; having acted on behalf or at the direction of designated individuals or entities; or having been owned or controlled by designated individuals or entities, including through illicit means.

(d) For eight years from the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier, ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of designated individuals or entities. These requirements shall not apply to funds, other financial assets or economic resources that have been determined by relevant States:

- i. To be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Security Council of the intention to authorize, where appropriate, access to such funds, other financial assets or economic resources and in the absence of a negative decision by the Security Council within five working days of such notification;
- ii. To be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Security Council and has been approved by the Security Council;
- iii. To be necessary for the civil nuclear cooperation projects described in Annex III of the JCPOA, provided that such determination has been notified by the relevant States to the Security Council and has been approved by the Security Council;
- iv. To be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to the date of Security Council resolution 1737 (2006), is not for the benefit of a person or entity subject to the measures in this paragraph, and has been notified by the relevant States to the Security Council; or
- v. To be necessary for activities directly related to the items specified in paragraph 2, or to any other activity required for the implementation of the JCPOA, provided that such determination has been notified by the relevant States to the Security Council and has been approved by the Security Council.

In addition, this provision shall not prevent a designated individual or entity from making payment due under a contract entered into prior to the listing of such individual or entity, provided that the relevant States have determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in this statement; the payment is not directly or indirectly received by an individual or entity subject to the measures in this paragraph; and after notification by the relevant States to the Security Council of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten working days prior to such authorization.

In addition, States may permit the addition to the accounts frozen pursuant to this paragraph of interest or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts were frozen, provided that such interest, other earnings and payments continue to be subject to these measures and are frozen;

(e) For five years from the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier, take the necessary measures to prevent the entry into or transit through their territories of individuals described in paragraphs 6(c) above, although underlining that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory. The measures imposed in this paragraph shall not apply when the Security Council determines on a case-by-case basis that

such travel is justified on the grounds of humanitarian need, including religious obligations, or where the Security Council concludes that an exemption would otherwise further the objectives of the new resolution, including where Article XV of the IAEA statute is engaged;

(f) Take the required actions, in accordance with the resolution and guidance provided by the Security Council, with respect to items the supply, sale, transfer, or export of which is being undertaken contrary to the provisions contained in the JCPOA or this statement, and cooperate in such efforts.

7. All States are called upon to facilitate full implementation of the JCPOA by inspecting, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargo to and from Iran, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer, or export of which is being undertaken contrary to the provisions contained in the JCPOA or this statement; and are called upon also to cooperate in inspections on the high seas with the consent of the flag State, if there is information that provides reasonable grounds to believe the vessel is carrying items the supply, sale, transfer or export of which is being undertaken contrary to the provisions contained in the JCPOA or this statement.

China, France, Germany, the Russian Federation, the United Kingdom, the United States and the European Union note their understanding that, upon adoption of a resolution endorsing the JCPOA, the Security Council would make the practical arrangements to undertake directly the tasks specified in this statement, including to monitor and take action to support the implementation by Member States of these provisions, review proposals described in paragraph 2 of this statement, answer inquiries from Member States, provide guidance, and examine information regarding alleged actions inconsistent with the resolution. Furthermore, these states propose that the Security Council ask the Secretary-General to report to the Security Council on the implementation of these provisions every six months.

The duration of the provisions in this statement may be reviewed by the Joint Commission at the request of any participant at its biannual ministerial-level meetings, at which time the Joint Commission could make recommendations by consensus to the Security Council.

ATTACHMENT (to Annex B)

1. AGHA-JANI, Dawood
 2. ALAI, Amir Moayyed
 3. ASGARPOUR, Behman
 4. ASHIANI, Mohammad Fedai
 5. ASHTIANI, Abbas Rezaee
 6. ATOMIC ENERGY ORGANISATION OF IRAN (AEOI)
 7. BAKHTIAR, Haleh
 8. BEHZAD, Morteza
 9. ESFAHAN NUCLEAR FUEL RESEARCH AND PRODUCTION
CENTRE (NFRPC) AND ESFAHAN NUCLEAR TECHNOLOGY
CENTRE (ENTC)
 10. FIRST EAST EXPORT BANK, P.L.C.:
 11. HOSSEINI, Seyyed Hussein
 12. IRANO HIND SHIPPING COMPANY
 13. IRISL BENELUX NV
 14. JABBER IBN HAYAN
 15. KARAJ NUCLEAR RESEARCH CENTRE
 16. KAVOSHYAR COMPANY
 17. LEILABADI, Ali Hajinia
 18. MESBAH ENERGY COMPANY
 19. MODERN INDUSTRIES TECHNIQUE COMPANY
 20. MOHAJERANI, Hamid-Reza
 21. MOHAMMADI, Jafar
 22. MONAJEMI, Ehsan
 23. NOBARI, Houshang
 24. NOVIN ENERGY COMPANY
 25. NUCLEAR RESEARCH CENTER FOR AGRICULTURE AND
MEDICINE
 26. PARS TRASH COMPANY
 27. PISHGAM (PIONEER) ENERGY INDUSTRIES
 28. QANNADI, Mohammad
 29. RAHIMI, Amir
 30. RAHIQI, Javad
 31. RASHIDI, Abbas
 32. SABET, M. Javad Karimi
 33. SAFDARI, Seyed Jaber
 34. SOLEYMANI, Ghasem
 35. SOUTH SHIPPING LINE IRAN (SSL)
 36. TAMAS COMPANY
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