

Chapter 2

Background

Partial suspension of sanctions against Iran

2.1 The Joint Comprehensive Plan of Action (JCPOA) nuclear agreement with Iran was negotiated by the five permanent members of the UN Security Council, plus Germany (P5+1), and endorsed by UN Security Council Resolution 2231 on 20 July 2015. The purpose of the agreement was to constrain Iran's nuclear program and provide verifiable assurances to the international community that Iran's nuclear activities remain exclusively peaceful. The Resolution calls on all UN members to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA.¹

2.2 In supporting the implementation of the JCPOA, the Australian Government decided to implement the phased sanctions relief policy that the European Union and Iran had agreed to via the JCPOA. According to the Department of Foreign Affairs and Trade (DFAT) submission:

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 business were not disadvantaged in pursuing opportunities in Iran. Just as it is in our interest to promote international peace and security through 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.²

2.3 Ms Justine Braithwaite, Assistant Secretary, Sanctions, Treaties and Transnational Crime Legal Branch, DFAT, advised that Australia implements both United Nations Security Council sanctions regimes and Australian autonomous sanctions regimes. Since 2006 Australia has implemented successive rounds of UN Security Council sanctions against Iran, and since 2008 has implemented autonomous sanctions.³

2.4 The Australian Government's decision to lift certain autonomous sanctions against Iran was announced by Foreign Minister, the Hon Julie Bishop MP, via media release on 17 January 2016.⁴ The Foreign Minister welcomed the announcement that Iran has met its commitments under the JCPOA nuclear deal, and stated that the

1 Department of Foreign Affairs and Trade, *Submission 8*, p. 1.

2 *Submission 8*, p. 1.

3 Ms Justine Braithwaite, Assistant Secretary, Sanctions, Treaties and Transnational Crime Legal Branch, Department of Foreign Affairs and Trade, *Committee Hansard*, 27 April 2016, p. 31.

4 The Hon Julie Bishop MP, Foreign Minister of the Commonwealth of Australia, 'Iran to receive sanctions relief after meeting nuclear commitments', *Media release*, 17 January 2016 http://foreignminister.gov.au/releases/Pages/2016/jb_mr_160117.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D (accessed 27 April 2016)

easing of sanctions will ensure that Australian business is not disadvantaged in pursuing opportunities in Iran.

2.5 Sanctions were removed on the financial, banking and insurance industries; oil, gas and petrochemical industries; shipping, shipbuilding and transport; gold and other precious metals; banknotes and coinage.⁵ Sanctions remain in force on arms and related materials, certain metals, software and nuclear-related equipment, as well as persons and entities related to these areas.⁶

2.6 The *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016*, gives effect to the suspension of certain sanctions that Australia previously implemented in relation to Iran, while the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons List—Iran) Amendment List 2016 (No. 2)* provides the basis for the Foreign Minister revoking certain designations and declarations in relation to certain entities on the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) List 2012*.

2.7 DFAT stated that Australia's autonomous sanctions regulations are made by the Governor-General under the *Autonomous Sanctions Regulations 2011*, and are '...subject to the usual parliamentary scrutiny afforded to legislative instruments'.⁷ In July 2015, the flexibility provided by the *Autonomous Sanctions Regulations 2011* was enhanced by the addition of section 5D which enables the Foreign Minister to suspend the operation of certain sanctions measures if it is in the national interest to do so.

2.8 The Explanatory Statement to the 2016 Instrument issued by the Foreign Minister on 16 January 2016 states:

In accordance with subsection 18(2) of the *Legislative Instruments Act 2003*, no public consultation was undertaken in relation to the *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016*, as it is an instrument that is of minor regulatory impact as it suspends, and does not add to the legislative obligations on the Australian community. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain sanction laws implementing Australia's autonomous sanctions.⁸

5 Department of Foreign Affairs and Trade, *Iran Country Brief – Bilateral Relations* <http://dfat.gov.au/geo/iran/pages/iran-country-brief.aspx> (accessed 27 April 2016)

6 Department of Foreign Affairs and Trade, *Iran Country Brief – Bilateral Relations* <http://dfat.gov.au/geo/iran/pages/iran-country-brief.aspx> (accessed 27 April 2016)

7 *Submission 8*, p. 2.

8 Australian Government, Federal Register of Legislation, *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016 – Explanatory Statement* <https://www.legislation.gov.au/Details/F2016L00046/Explanatory%20Statement/Text> (accessed 27 April 2016).

2.9 The Explanatory Statement to the Amendment List 2016 (No. 2) states that no public consultation was entered into regarding the lifting of sanctions against designated and declared persons and designated entities:

Relevant Commonwealth Government departments were consulted prior to and during the drafting of this legislative instrument, but no public consultation was undertaken in relation to this instrument as it revokes the listings of certain persons and entities, but does not add to, the list of designated and declared persons and designated entities.⁹

2.10 The DFAT submission noted that Australia continues to list 23 Iranian individuals and 68 entities under autonomous sanctions due to their connection with the nuclear program. However, the Government has the capacity, through the Autonomous Sanctions Regulations 2011, to strengthen Australia's autonomous sanctions against Iran 'relatively quickly'.¹⁰

Australian Iran relations

2.11 A change in Australia-Iran relations was signified by the recent visit to Australia of Iranian Foreign Minister, Dr Mohammad Javad Zarif, and the holding of a joint press conference with the Australian Foreign Minister. During the joint press conference on 16 March 2016, the Australian Foreign Minister mentioned that Dr Zarif had held discussions with the Prime Minister, Minister for Trade and Investment, Immigration Minister, and the Minister for International Education and Tourism. Among matters discussed during bilateral meetings were enhancing trade and investment ties, enhancing education ties, and promoting tourism opportunities.¹¹

2.12 Also on 15 March 2016, it was announced by the Australian Minister for Trade and Investment, the Hon Steve Ciobo MP, that the government would re-open a trade office in Iran. The office will be located within the Australian Embassy in Tehran and operated by Austrade.¹²

9 Australian Government, Federal Register of Legislation, Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016 – Explanatory Statement <https://www.legislation.gov.au/Details/F2016L00046/Explanatory%20Statement/Text> (accessed 27 April 2016).

10 *Submission 8*, p. 1.

11 The Hon Julie Bishop MP, Foreign Minister of the Commonwealth of Australia, 'Joint Press Conference with Iranian FM Javad Zarif', 15 March 2016 <http://www.juliebishop.com.au/joint-press-conference-iranian-fm-javad-zarif/> (accessed 27 April 2016)

12 The Hon Steve Ciobo MP, Minister for Trade and Investment of the Commonwealth of Australia, 'Renewed commercial relationship with Iran', *Media release*, 15 March 2016 http://trademinister.gov.au/releases/Pages/2016/sc_mr_160315a.aspx (accessed 27 April 2016)

2.13 The visit by Dr Zarif and the lifting of sanctions triggered some hostile media commentary about Iran's political regime, its role on the international stage and continuing support for regional terrorist organisations.¹³

13 See, for example, Greg Sheridan, 'Bishop Deluded if she thinks this is progress', *The Australian*, 11 March 2016, p. 1; and Greg Sheridan, 'Julie, it's time told Tehran the truth', *The Australian*, 1 March 2016, p. 6.