

The Senate

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Foreign Affairs, Defence and Trade  
References Committee

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Partial suspension of sanctions against Iran

May 2016

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# Abbreviations

DFAT	Department of Foreign Affairs and Trade
ECA	Export Council of Australia
FATF	Financial Action Taskforce
IRGC	Army of the Guardians of the Islamic Revolution
JCPOA	Joint Comprehensive Plan of Action



# Recommendations

## Recommendation 1

**4.8** The committee recommends that the Australian Government issue a statement that affirms the human rights values it subscribes to, and seeks to promote domestically and internationally, and its condemnation of terrorist activities and military aggression, and affirms that Australia continues to hold concerns over the domestic and foreign policies of the Iranian regime. The committee also recommends that the Australian Government continue to make such statements as appropriate, particularly when it considers Iran has transgressed those principles, including in relation to its ballistic missile activity.

## Recommendation 2

**4.13** The committee recommends that the Minister for Foreign Affairs carefully consider the value of undertaking public consultation on any changes to Australia's autonomous sanctions regimes, including in instances where the obligations on parties are removed or reduced.

## Recommendation 3

**4.18** The committee recommends that the Department of Foreign Affairs and Trade publish on its website a detailed statement explaining the change in Australia's sanctions policy towards Iran, including why sanctions relief was granted to particular activities, persons and entities and not others.

## Recommendation 4

**4.21** The committee recommends that the Department of Foreign Affairs and Trade clarify the threshold for the reimposition of autonomous sanctions against Iran and the mechanism by which sanctions would be reimposed.

## Recommendation 5

**4.22** The committee recommends that the Australian Government undertake a review of all sanctions it has removed in relation to Iran to determine whether such removal is compatible with Australia's interests, values and principles, and not just whether it follows the approach of the European Union. This should include considering the approach that the United States has taken on sanctions with respect to Iran. Following such a review, the committee recommends that the Australian Government present a written report on the review to Parliament.

## Recommendation 6

**4.26** The committee recommends that the Department of Foreign Affairs and Trade improve the clarity and accessibility of information on its website on Iran. This should include information on trade which is still restricted or prohibited, and a summary of other international sanctions regimes.



# Chapter 1

## Introduction

### Referral of inquiry and terms of reference

1.1 On 17 March 2016, the Senate referred matters relating to the partial suspension of sanctions against Iran to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 11 May 2016.

1.2 The terms of reference for the inquiry are as follows:

- (a) the nature and scope of public consultation prior to the making of the Autonomous Sanctions (Suspension of Sanctions-Iran) Instrument 2016, the Autonomous Sanctions (Designated Persons and Entities and Declared Persons-Iran) Amendment List 2016, and the Autonomous Sanctions (Designated Persons and Entities and Declared Persons-Iran) Amendment List 2016 (No. 2);
- (b) the adequacy of the explanatory statements accompanying the regulations for the removal of certain activities and entities from the sanctions regime;
- (c) the extent to which any removed entities have institutional or financial ties to any entities that continue to be designated, and the nature of such ties;
- (d) the impact of lifting sanctions on the conduct of Iran in international affairs and on Australia's national interest;
- (e) the Australian Government's decision to re-open a trade office in Iran; and
- (f) any related matters.

### Conduct of the inquiry

1.3 The committee advertised the inquiry on its website calling for submissions to be lodged by 8 April 2016. The committee also wrote to a range of individuals and organisations likely to have an interest in the terms of reference, drawing their attention to the inquiry and inviting them to make written submissions.

1.4 The committee received 12 submissions and one supplementary submission to the inquiry. Public submissions are listed at Appendix 1 and are available on the committee's website at: [www.aph.gov.au/senate\\_fadt](http://www.aph.gov.au/senate_fadt).

1.5 The committee held one public hearing for the inquiry at the Portside Centre, Sydney. A list of witnesses who appeared at the hearing is available at Appendix 3. The *Hansard* transcript is available via the committee's website. Additional information and the response to questions on notice received during the inquiry are listed at Appendix 2.

## **Structure of the report**

1.6 The committee's report is in four chapters. Chapter 2 provides background on Australia's relations with Iran, including the announcement of the partial suspension of sanctions against Iran. Chapter 3 explores the issues raised during the inquiry in response to the terms of reference. Chapter 4 contains the committee view and recommendations.

## **Acknowledgements**

1.7 The committee thanks all those who contributed to the inquiry by making submissions or appearing at a public hearing to give evidence.

## **Note on references**

1.8 References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcripts.

## 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.<sup>1</sup>

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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> The Foreign Minister welcomed the announcement that Iran has met its commitments under the JCPOA nuclear deal, and stated that the

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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](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.<sup>5</sup> 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.<sup>6</sup>

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'.<sup>7</sup> 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.<sup>8</sup>

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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.<sup>9</sup>

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'.<sup>10</sup>

### **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.<sup>11</sup>

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.<sup>12</sup>

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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](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.<sup>13</sup>

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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.

## Chapter 3

### Key issues

#### Introduction

3.1 A number of concerns were raised during the inquiry regarding the Foreign Minister's decision to partially suspend sanctions against Iran. Criticisms were made regarding the adequacy and clarity of the explanatory statements that gave effect to the partial suspension, together with the scarcity of information on the reasoning behind the removal of some entities from the sanctions list and the retention of others.

3.2 The lack of public consultation prior to the suspension of sanctions was a significant concern, as was the positive political message the partial lifting would send to the Iranian authorities. Many argued that the partial suspension could be perceived as an expression of support for Iran's approach to human rights, its foreign policy and behaviour on the international stage, which many submitters widely condemned.

3.3 The proposed re-opening of a trade office in Tehran received a mixed response. While some supported the re-opening as a means of providing support and guidance to Australian business entering Iranian markets and encouraging change within Iranian society, others argued it would legitimise a regime that is the antithesis of Australia's open and pluralist society and liberal democratic values.

3.4 This chapter examines each of these concerns in greater detail under the following seven headings:

- explanatory statements;
- removal of entities and financial ties;
- lack of public consultation;
- significance of the partial suspension;
- human rights in Iran;
- Iran in international affairs; and
- an Australian trade office in Iran.

#### Explanatory statements

3.5 Criticisms were made of the explanatory statements that gave effect to the partial suspension and repeal of sanctions. The Department of Foreign Affairs and Trade (DFAT) advised that the explanatory statements 'comply with the requirements of both the *Legislation Act 2003* and the General Requirements for Preparing Explanatory Statements as required by the Senate Regulations and Ordinances Committee'.<sup>1</sup>

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1 Department of Foreign Affairs and Trade, *Submission 8*, p. 2.

3.6 The Export Council of Australia (ECA) was of the view that the explanatory statements adequately informed relevant parties of business dealings that remain restricted or prohibited between Australia and Iran. While the ECA stated that the statements 'are concise and present information on the regime in a clear and accessible manner, including relevant implementing legislation',<sup>2</sup> at the hearing the ECA Director, Mr Andrew Hudson, did not fully endorse the information on the DFAT website, especially information to assist SME exporters.<sup>3</sup>

3.7 However, the ECA argued that a lack of clarity and specificity with regard to the sanctions is one of the biggest barriers nationally and internationally to increased engagement with Iran following the Joint Comprehensive Plan of Action (JCPOA).<sup>4</sup> It was suggested there was scope to enhance the information available on DFAT's website to clearly state which trade remains restricted or prohibited:

... one recommendation to improve the available information on the Iran sanctions regime would be to create a summary of some sort that succinctly outlines trade which is still restricted or prohibited with Iran, rather than requiring users to scroll through the entire regime webpage to get a full picture of the situation. Considering relatively few sectors and activities remain restricted or prohibited, this may go some way toward providing a clearer picture of the sanction regime's current status.<sup>5</sup>

3.8 The ECA also recommended that a summary of the US and other international sanctions regimes on Iran be included.<sup>6</sup>

3.9 The Hon Michael Danby MP, Member for Melbourne Ports and Shadow Parliamentary Secretary to the Leader of the Opposition, described the explanatory statements as 'highly inadequate' for failing to provide information on the reasons supporting the decision to lift some sanctions but not others, and a comparison of Australia's sanctions regimes with other nations:

... the Australian Government has provided no detailed explanation as to why particular sanctions relief was given in relation to particular activities, persons and entities, the extent to which Australia differs from the U.S. and other relevant countries' approaches to sanctions relief, and the reasons for those differences.

On such an important matter and in relation to such a dangerous and untrustworthy regime, there should be detailed explanations of the matters referred to above. Not all such detail needs to be included in the

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2 Export Council of Australia, *Submission 3*, p. 1.

3 Mr Andrew Hudson, Director, Export Council of Australia, *Committee Hansard*, 27 April 2016, p. 2

4 *Submission 3*, p. 2.

5 *Submission 3*, pp. 1-2.

6 *Submission 3*, p. 2.

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explanatory statements, but it should be easily accessible elsewhere with appropriate references to it.<sup>7</sup>

3.10 The Executive Council of Australian Jewry noted that while the Iran page on the DFAT website provides relevant background and details of the UN Security Council and autonomous sanctions which currently apply under Australian law: 'There is no statement of the underlying rationale for removing or continuing each of the autonomous sanctions'.<sup>8</sup>

3.11 Moreover, the submission argued that when read together the Explanatory Statements, DFAT's website and the Foreign Minister's media release do not provide an easily comprehensible summary of the new sanctions regime, or how the remaining sanctions are targeted against Iran's human rights record, in particular Iran's promotion of racism and support for terrorism:

...the Explanatory Statements, the Iran page of the DFAT website and the Foreign Minister's media release do not, in our view, provide a simple, readily-comprehensible summary of which sanctions (both UN-mandated and autonomous) that were formerly applied by Australia against Iran have been removed, which of them remain in force, and the underlying rationale in each case for removing or continuing the sanctions. A summary table collating this information would be helpful, and could be provided on the Iran page of the DFAT website.

It is also unclear from the Explanatory Statements how the remaining autonomous sanctions are effectively targeted against Iran's human rights abuses, its promotion of racism, its support for terrorism and its destabilising foreign policy. Given that the stated purpose of removing certain sanctions is as a reward for Iran's compliance with its obligations under the JCPOA, it would have been desirable to have provided some explanation of how the remaining sanctions will be directed at other unlawful behaviours of the Iranian regime which fall outside the scope of the JCPOA. This information also could be provided on the Iran page of the DFAT website.<sup>9</sup>

### ***Snapback of sanctions***

3.12 The Executive Council of Australian Jewry was also critical of the Explanatory Statements for not providing an explanation of how the Australian government intends to reimpose autonomous sanctions against Iran in the event of a significant breach or non-performance by Iran of its JCPOA commitments.<sup>10</sup>

3.13 Mr Danby speculated on the circumstances which could lead to a 'snapback' of sanctions:

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7 The Hon Michael Danby MP, *Submission 9*, p. 8.

8 Executive Council of Australian Jewry, *Submission 6*, p. 6.

9 *Submission 6*, p. 6.

10 *Submission 6*, p. 6.

It is difficult to see beyond what the Iranians are already doing that could lead to snapback of sanctions. They are conducting ballistic missile tests. The one on 18 April this year had the potential to carry a nuclear warhead. It is difficult to be more specific or threatening than that, if you ask me. They have written on the side of a missile tested in February of this year that a member state of the United Nations should be wiped out. I wonder what more they ought to do?<sup>11</sup>

3.14 The Australian Strategic Policy Institute (ASPI) submission emphasised the importance of the Australian Government developing a clear 'snapback' plan for the rapid reimposition of sanctions in the event of non-compliance:

Government should have the necessary regulations drafted to allow a swift re-imposition of sanctions should other countries adopt this course of action. It would be important for Australia not to lag the international community in this effort, nor to find that loopholes in regulations are unable to prevent exports that might in some way assist an Iranian nuclear or missile program should any come to the attention of Western Governments.<sup>12</sup>

3.15 When questioned on the mechanisms for reimposing sanctions on Iran, Ms Justine Braithwaite, Assistant Secretary, Sanctions, Treaties and Transnational Crime Legal Branch, DFAT, replied that there were clear provisions in the JCPOA and UN Security Council Resolution 2231 around the circumstances under which sanctions could be reimposed.<sup>13</sup> However, the situation in regard to the reimposition of Australian autonomous sanctions was less clear:

On the threshold for reinstating Australian autonomous sanctions, I would be hesitant to speculate on the set of circumstances that might lead to that ... what I can say is that the decision to reinstitute sanctions will be one for the government of the day at a time when there is an activity of concern that would require some form of response. I should also note that sanctions are only one of the available tools in our foreign policy toolbox to respond to situations or developments of concern.<sup>14</sup>

### **Removal of entities and financial ties**

3.16 Concern was also expressed regarding how the decision to remove certain entities from the sanctions list was made. DFAT explained that Australia's approach to sanctions against Iran has 'closely followed' that of the European Union. DFAT added:

The revocations of the lists of designated persons and entities were in line with the actions of likeminded states party to the JCPOA, which was endorsed by UN Security Council Resolution 2231...the Australian

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11 The Hon Michael Danby MP, Member for Melbourne Ports and Shadow parliamentary Secretary to the Leader of the Opposition, *Committee Hansard*, 27 April 2016, p. 17.

12 Australian Strategic Policy Institute, *Submission 11*, p. 3.

13 Ms Justine Braithwaite, Assistant Secretary, Sanctions, Treaties and Transnational Crime Legal Branch, Department of Foreign Affairs and Trade, *Committee Hansard*, 27 April 2016, p. 37.

14 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 37.

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Government will continue to closely monitor developments in Iran and it is open to the Government to impose new sanctions on individuals, entities or classes of activities if the Government considers it appropriate to do so.<sup>15</sup>

3.17 The Executive Council of Australian Jewry criticised the dearth of information provided by DFAT regarding the decision to remove certain entities but not others from the sanctions list:

There is no readily available list of persons and entities against whom autonomous sanctions by Australia have ceased to apply. Nor is there any explanation as to why autonomous sanctions by Australia have ceased to apply to each of those persons and entities, but continue to apply to persons and entities who continue to be named in the Australian List.<sup>16</sup>

3.18 Mr Peter Wertheim, Executive Director, stated that he 'would simply like the government to share its thinking with the public about why particular individuals have been removed from that list and why particular individuals have been kept on it'.<sup>17</sup> Mr Wertheim outlined the potential benefits of a more open approach:

It would simply serve to better inform the public, and I think also the business community in particular, about the dangers that are faced in dealing with the particular individuals who remain on the list and why the government feels that there is no continuing danger in relation to those who have been removed from the list.<sup>18</sup>

3.19 Mr Danby was also critical of the process, saying that while 'some very brief and general information' was contained in the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) List 2012*, the Australian Government should provide information and an explanation as to how the government determined who should be removed from, and who should be retained on, the list.<sup>19</sup>

3.20 Mr Danby contended that to enable proper consideration of the partial suspension of sanctions, the Australian Government should provide the following information:

- a detailed explanation of the reasons for particular sanctions relief;
- a detailed explanation of the criteria used by the Government to determine particular sanctions relief and the reasons for such criteria;
- detailed information about the checks and other investigations made to determine that persons or entities removed from the sanctions regime are not

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15 *Submission 8*, pp. 2-3.

16 *Submission 6*, p. 4.

17 Mr Peter Wertheim, Executive Director, Executive Council of Australian Jewry, *Committee Hansard*, 27 April 2016, p. 10.

18 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 10.

19 The Hon Michael Danby MP, *Supplementary Submission 9*, p. 8.

linked to persons or entities that are, or should be, subject to the sanctions regime e.g. the Army of the Guardians of the Islamic Revolution (IRGC);

- to what extent, and why, do Australia's sanctions relating to Iran differ from those of the U.S. and other relevant countries?<sup>20</sup>

3.21 Former Australian diplomat and senior editor of the *Australian*, Ms Rebecca Weisser, submitted that it is vital that sanctions continue to apply to the IRGC because it is directly involved in training and supplying Hezbollah and Hamas, which are fully proscribed terrorist organisations in Australia.<sup>21</sup>

3.22 Drawing on the work Dr Emanuele Ottolenghi, an international authority who recently described the IRGC as an 'economic conglomerate',<sup>22</sup> Ms Weisser argued that because IRGC is the single most powerful institution in Iran, the Australian Government must work with key intelligence partners to identify all of the IRGC's economic activities to ensure they remain fully sanctioned:

Unless the Australian government urgently devotes the necessary resources to do this, it is almost certain, given the reach of the IRGC throughout the Iranian economy, that Australian businesses will inadvertently contribute to providing the IRGC with the means to continue its terrorist agenda and threaten the security not just of the Middle East and in other parts of the world, but in Australia's own region.<sup>23</sup>

3.23 Ms Weisser emphasised that unless this close examination of the IRGC's ties occurs, 'the lifting of sanctions will almost certainly contribute to the enrichment of the IRGC and increase its ability to fund terror'.<sup>24</sup>

### ***Approach to sanctions***

3.24 As noted earlier, Australia's approach to sanctions against Iran is closely aligned with that of the European Union. Mr Danby queried why Australia was following the European approach to sanctions, rather than aligning with the United States given that 225 entities and individuals remain under sanctions in the United States compared with 91 entities and individuals on the Australian sanctions list:

Given the fact that the United States has 225 entities and individuals listed...under sanctions, there are only 91 who are listed by the Australian government after the current lifting of sanctions. There is an obvious danger that Australian companies trading with Iranian individuals or entities, such

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20 *Submission 9*, p. 2.

21 Hizballah is a multi-faceted organisation including political, social and military components. The Hizballah External Security Organisation (ESO) is a discrete branch within Hizballah responsible for the planning, coordination and execution of terrorist attacks against Hizballah's enemies outside of Lebanon. The ESO is a proscribed terrorist organisation.

22 Ms Rebecca Weisser, *Submission 10*, pp. 1-2.

23 *Submission 10*, p. 2.

24 *Submission 10*, p. 3.

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as the Iranian Revolutionary Guards, will still be trading with companies that are barred or sanctioned by the United States.<sup>25</sup>

3.25 In a supplementary submission, Mr Danby cited a speech by senior US Treasury Official, Adam J. Szubin, outlining how US sanctions with respect to Iran pursued a significantly tougher approach than that of Australia:

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). 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.<sup>26</sup>

3.26 Mr Danby was of the view that 'Australia should reorientate its policy on Iran sanctions by aligning them in word and deed with the United States'.<sup>27</sup>

3.27 When questioned on this matter, Ms Braithwaite advised that alignment with the European Union occurred because the European sanctions system is the most comparable, and applied in a similar way, to Australia.<sup>28</sup> Ms Braithwaite explained that the United States' approach to sanctions is fundamentally different to that taken by Australia:

The US system uses sanctions that are far more broadly defined in terms of a tool of national security. The US applies not just nuclear related sanctions; it also applies sanctions in a whole range of other areas that we do not have—for example, on the grounds of organised crime, counter-narcotics and in response to cyberattacks. Those are just some of the additional areas where the US applies additional sanctions. That could explain the differentiation in numbers.<sup>29</sup>

3.28 By contrast, Australia's autonomous sanctions are only linked to two criteria:

- the Foreign Minister must be satisfied that the person is engaging in an activity connected with Weapons of Mass Destruction programs or their delivery systems; or
- the Foreign Minister must be satisfied that a person or an entity is assisting someone to violate relevant UN Security Council resolutions.<sup>30</sup>

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25 Mr Danby, *Committee Hansard*, 27 April 2016, p. 13.

26 *Supplementary Submission 9*, p. 9.

27 Mr Danby, *Committee Hansard*, 27 April 2016, p. 13.

28 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 35.

29 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 35.

30 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 35.

3.29 The ASPI submission observed that the views on JCPOA held by candidates in the United States Presidential Election differ to those held by the Obama Administration, meaning there is likely to be a change in the United States' approach to Iran after the forthcoming election. As such, the Institute suggested that it would be prudent to take a cautious approach to any change in Australia's policy:

The most sensible course of action for Australia is not to get too far ahead of possible American changes of policy after the Presidential election. A significant reversal of American policy in response to concerns about Iranian nuclear developments would presumably force a reconsideration of Australian policy. Following Hillary Clinton's advice to 'distrust and verify' Australia should remove sanctions slowly and only after evidence of a positive Iranian intent to abide by the JCPOA.<sup>31</sup>

### **Lack of public consultation**

3.30 In its submission to the inquiry, DFAT advised that no public consultation was undertaken in relation to the instruments that put into effect the partial suspension of sanctions because 'all instruments used to give effect to the decision *reduce* legal obligations on Australians in regard to Iran'.<sup>32</sup> DFAT described this reduction as of 'minor regulatory impact', and noted that the lack of consultation was in accordance with the process followed when autonomous sanctions were partially removed against Fiji in 2014 and Myanmar in 2015.<sup>33</sup>

3.31 However, a number of submitters were of the view that the government should have undertaken public consultation prior to the partial suspension of sanctions to ensure that the wider implications of the suspension were taken into account. For example, the Executive Council of Australian Jewry stated:

... the mere fact that the relevant instrument removed, rather than added, the names of persons and entities who are subject to Australia's sanctions regime is not, in our view, a sufficient reason not to have had a prior public consultation about the changes. The removal of the names of persons and entities from the sanctioned list might adversely affect third parties, that is, persons or groups in the wider Australian community, and Australia's national interests more broadly.<sup>34</sup>

3.32 The Council was of the view that the lack of consultation meant that individuals and organisations were unable to ventilate their concerns over the partial suspension of sanctions:

... many other groups in Australia have expressed their concerns publicly over Iran's appalling human rights and foreign policy record. These groups include the Australian Bahai community, the trade union movement, the National Council of Churches of Australia, the Australian Partnership of

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31 *Submission 11*, p. 3.

32 *Submission 8*, p. 2.

33 *Submission 8*, p. 2.

34 *Submission 6*, p. 4.

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Religious Organisations, human rights organisations such as Amnesty International, women's rights advocates and children's rights advocates.

A process of public consultation should have been undertaken so as to give these groups, and any other groups or individuals in Australia who have an interest in these matters, an opportunity to ventilate their concerns and have them addressed by the government.<sup>35</sup>

3.33 Mr Wertheim suggested that a public consultation could have occurred under the auspices of the Senate's Foreign Affairs, Defence and Trade Committee following the conclusion of the JCPOA but before the partial lifting of sanctions came into effect. Such a public consultation process would not have disadvantaged Australian businesses, but would have highlighted important considerations beyond Iran's nuclear program and possible new business opportunities.<sup>36</sup>

3.34 Mr Wertheim speculated that one of the reasons for the lack of public consultation may have been the Government's desire to repatriate Iranian refugees:

I think it was no secret—because the foreign minister did actually say so—that the government's principal concern at the time, or perhaps I should say one of its principal concerns, was the repatriation of some 8,000 or 9,000 former Iranian nationals who had sought asylum in Australia and had been found not to be refugees. The government, I think it is fair to say, was anxious to reach an understanding with the Iranian government about the repatriation of those people to Iran.<sup>37</sup>

3.35 Mr Danby was adamant that consultation should have taken place to explain the reasons for the partial suspension:

The sanctions were in place because Iran was considered a danger to world peace and security and had engaged in unacceptable behaviour. Little to no explanation has been given as to why particular sanctions and listings of persons and entities have been suspended ... Without public consultation and scrutiny and a proper explanation, Australians have not had the opportunity of assessing the appropriateness of sanctions relief and what steps have been taken to ensure that relieved individuals and entities are not associated with wrongful activity or sanctioned organisations.<sup>38</sup>

3.36 Mr Danby believed that the partial suspension should have been debated in the Parliament to allow for a fulsome consideration of relevant issues and implications.<sup>39</sup>

3.37 In response to DFAT's statement that the lack of consultation was in accordance with the process followed when autonomous sanctions were removed against Myanmar and Fiji, Mr Danby contended that 'those countries had nothing like

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35 *Submission 6*, p. 5.

36 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 8.

37 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 9.

38 *Submission 9*, pp. 6-7.

39 *Supplementary Submission 9*, p. 9.

the global impact and egregious record of Iran, and posed nothing like the threat to peace and security that Iran does'.<sup>40</sup>

3.38 Mr Wertheim similarly considered that there was 'no comparison' between Myanmar and Fiji on the one hand, and Iran on the other, observing that while Myanmar and Fiji may have been internally problematic they did not pose an external threat of the magnitude of Iran.<sup>41</sup>

3.39 DFAT indicated that the comparison with Myanmar, Fiji and Iran was not made to compare the nations themselves, but merely to highlight recent instances of sanctions being lifted or eased without DFAT undertaking public consultation.<sup>42</sup> Ms Braithwaite assured the committee that '[i]f we were imposing sanctions on new individuals or creating new sanction regimes altogether, then in that circumstance the department would go out to public consultation'.<sup>43</sup>

### **Significance of the partial suspension**

3.40 The majority of submitters expressed deep concern over the significance of the partial suspension of sanctions against Iran, arguing it could be interpreted as a message of support for Iran's approach to domestic and international affairs.

3.41 The Jewish Community Council of Victoria was highly critical of Iran's behaviour, arguing that Iran had done nothing to warrant sanctions being lifted:

... the Australian Government should cut all and any economic ties with the Iranian regime until it implements true democracy, ceases the brutal and inhumane treatment of its people which is the antitheses to Australian expectations, and demonstrates a real commitment to peaceful coexistence with its neighbours, around the region and around the world.<sup>44</sup>

3.42 Mr Wertheim stated: 'The easing of sanctions by Australia in such circumstances sends a signal to the Iranian regime that it can persist in this behaviour with impunity'.<sup>45</sup>

3.43 Concerns were also raised by the Australian Bahá'í Community, who argued that the partial suspension of sanctions may signal to Iran that it would not be held to account for its poor human rights record:

To decrease the international pressure on the Iranian government over the human rights situation in its country at this time, when there has been no documented improvement in conditions on the ground, may well give credence to the false view, often put forward by Iranian representatives, that past expressions of concern have been politically motivated. It would give a

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40 *Supplementary Submission 9*, p. 3.

41 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 8.

42 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 36.

43 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 36.

44 Jewish Community Council of Victoria, *Submission 4*, p. 4.

45 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 8.

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signal to Iran that it will no longer be held accountable for its treatment of its citizens and thus has a free hand to continue, and possibly increase, its human rights abuses.<sup>46</sup>

3.44 Mr Joshua Koonin, Member of executive, B'nai B'rith Australia/New Zealand, outlined the circumstances in which he considered it appropriate that sanctions could be relaxed without there being a perception of the current Iranian regime being supported:

... there would have to be a significant pattern of behaviour shown by the Iranian regime in terms of promotion of human rights at home. I think that issues such as the decriminalisation of homosexuality would be important, as would the end of persecution of minorities—particularly the Baha'i, the Kurds, the Jewish community and various Christian communities who are persecuted—and I think that Iran would also need to change its behaviour in the international arena.<sup>47</sup>

3.45 The submission from B'nai B'rith Australia/New Zealand drew particular attention to Iran's treatment of Israel as a cause for concern, arguing that there should be no relaxation in sanctions until Iran demonstrated a commitment to democratic values or until there was a significant change in Iran's attitude towards Israel:

Further, in the light of the avowed intention of Iran's leaders to destroy another sovereign state – Israel – any relaxation of the sanctions regime would signal Australia's sanctioning of Iran's current policies and practices.

In this context, we note that a relaxation of global sanctions in all likelihood would lead to increased Iranian revenue flowing to its recognised proxy terror organisations such as the military wings of Hezbollah and Hamas, both of which support the Iranian aim of destroying Israel.<sup>48</sup>

3.46 In order to address perceptions that the lifting of sanctions may condone the behaviour of Iran, Mr Wertheim suggested the Australian Government should have issued a statement that:

- affirmed the values that Australia subscribes to and seeks to promote both domestically and internationally;
- affirmed that Australia has not fundamentally altered its view of the Iranian regime;
- noted that Iran 'remains implacably committed to the propagation around the world of its theocratic totalitarian ideology and form of government, and remains equally implacably opposed to democratic and secular forms of government everywhere';

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46 Australian Bahá'í Community, *Submission 1*, p. 2.

47 Mr Joshua Koonin, Member of executive, B'nai B'rith Australia/New Zealand, *Committee Hansard*, 27 April 2016, p. 26.

48 B'nai B'rith Australia/New Zealand, *Submission 2*, p. 2.

- noted that Iran lacks respect for the UN charter system, violates international laws, and complies with it 'only grudgingly and to the extent that it feels compelled to do so';
- noted the regime continues to use brutal repression domestically, and military force, terrorism and espionage externally; and
- concluded that friendly relations, such as those which ordinarily prevail between nations, cannot be sustained with Iran under its present form of government.<sup>49</sup>

3.47 Mrs Venus Khalessi, Director of Public Information, Australian Bahá'í Community, asserted that given Iran's continued poor human rights record, the Australian Government must take every opportunity to maintain scrutiny of human rights abuses in Iran, both in its bilateral relationship with Iran and in multilateral fora.<sup>50</sup>

### **Human rights in Iran**

3.48 As noted in the previous section, of serious concern to submitters was the poor human rights situation in Iran. For example, the submission from Amnesty International highlighted significant misgivings regarding the human rights record of Iran, including:

- use of the death penalty, including for minors;
- the use of torture, and cruel, inhuman and degrading punishment;
- unfair trials;
- lack of freedom of expression, association and assembly; and
- extensive discrimination against woman, and ethnic and religious minorities.<sup>51</sup>

3.49 The Jewish Community Council of Victoria also drew attention to the high number of public executions, persecution of people of 'diverse sexual orientation and gender identity', anti-Semitism and religious intolerance. The Council concluded that these transgressions 'suggest a regime that should not be trusted, tolerated or partnered with'.<sup>52</sup>

3.50 The Executive Council of Australian Jewry considered that 'Iran's policies and practices are diametrically opposed to the values of democracy, human rights and the rule of law, which Australia as a nation subscribes to and seeks to promote'.<sup>53</sup>

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49 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 8.

50 Mrs Venus Khalessi, Director of Public Information, Australian Bahá'í Community, *Committee Hansard*, 27 April 2016, p. 19.

51 Amnesty International Australia, *Submission 5*, pp. 1-5.

52 *Submission 4*, p. 2.

53 *Submission 6*, p. 9

3.51 Whilst acknowledging Iran's poor record in the human rights sphere, the ECA offered the pragmatic view that closer economic engagement might serve to improve the human rights situation:

Australia has been able to separate trade and politics with Iran in the past ... There is an argument to be made that economic engagement rather than sanctions is the best way to encourage Iran toward a less confrontational and more open path over the medium and longer terms.<sup>54</sup>

3.52 Ms Michelle Bolger drew upon her personal experience as a traveller to Iran to argue the sanctions only served to punish the wider population:

... it is difficult to understand why we have participated in the en masse punishment of innocent people and seriously undermined their capacity to meet their basic economic and social needs ... I am confident that I speak for the majority of Australians in stating that they would be as distressed as I was to witness and understand the severe effects of the sanctions on the Iranian people, particularly given the lack of proven efficacy that sanctions have when punishing non-target groups and the seeming lack of a severe enough security concern to justify the harshest sanctions ever imposed on a nation.<sup>55</sup>

3.53 However, other submitters were not convinced that the partial suspension of sanctions would improve the human rights situation, arguing instead that sanctions were a proven mechanism to force regime's to change their behaviour. For example, Mr Koonin cited the example of sanctions against South Africa as an instance where sanctions had brought about positive change:

... in previous historic instances, such as the apartheid regime in South Africa, sanctions were extremely effective in bringing about democratic change and in forcing a regime to meet international norms. I believe that there is no reason to set a different course with regard to Iran.<sup>56</sup>

3.54 Mr Wertheim concurred, noting that while trade, education and cultural exchanges can soften the hard edges of dictatorial regimes, when it comes to dealing with Iran such soft measures have been limited in their effectiveness: 'Unfortunately, the only things that seem to have worked have been sanctions and, occasionally, the threat of force.'<sup>57</sup>

3.55 In response to concerns about the appearance of a lack of action over human rights violations, Mr Greg Ralph, Acting First Assistant Secretary, Middle East and Africa Division, DFAT said: '... there was a question this morning that we might be pulling our punches on some of these things, because we have other interests with

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54 *Submission 3*, p. 3.

55 Ms Michelle Bolger, *Submission 7*, p. 1.

56 Mr Koonin, *Committee Hansard*, 27 April 2016, p. 25.

57 Mr Wertheim, *Committee Hansard*, 27 April 2016, p.11.

Iran. We do have other interests with Iran, certainly on the security front, but we do not pull our punches on human rights'.<sup>58</sup>

### **Iran in international affairs**

3.56 A number of submitters were deeply concerned about the potential impact of the partial suspension of sanctions against Iran on international affairs, arguing that Iran had not demonstrated the behaviour expected of a valued member of the international community.

3.57 The Executive Council of Australian Jewry considered that the impact of lifting sanctions is likely to '...give a major boost to Iran's international standing and its ability to infiltrate other countries'.<sup>59</sup> The Council considered this to be an undesirable and potentially dangerous development, taking into consideration that Iran:

- is widely regarded as the world's foremost state sponsor of terrorism;
- continues to carry out public executions at the rate of two to three people each day;
- continues to promote Holocaust denial;
- continues to persecute, harass and intimidate trade union activists and to deny basic labour rights to workers;
- is involved in cyber-attacks against Western targets; and
- continues to arbitrarily arrest and imprison political activists, ethnic minorities, religious minorities, gays and artists.<sup>60</sup>

3.58 Mr Danby also commented on the potential implications of the partial suspension of sanctions for Iran's conduct in international affairs, suggesting that a number of broader issues required careful consideration:

- lack of evidence that Iran has 'significantly changed its ways', including the recent ballistic missile tests;
- impact of the partial suspension on Australia's relations with other nations;
- assessments of security concerns for Australian businesses operating in Iran;
- risks to Australian banks and financial institutions from associations with Iranian banks and financial institutions;
- potential for goods or services supplied to Iran to be used for terrorist or military activities; and

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58 Mr Greg Ralph, Acting First Assistant Secretary, Middle East and Africa Division, Department of Foreign Affairs and Trade, *Committee Hansard*, 27 April 2016, p. 33.

59 *Submission 6*, p. 7.

60 *Submission 6*, pp. 7-9.

- assessments made regarding the removal of persons and entities from the Designated Persons and Entities List, as well as the decisions to lift certain sanctions but not others.<sup>61</sup>

3.59 The submission by Ms Weisser raised concerns about the effect that lifting of sanctions would have on Iran's capacity to sponsor international terrorist activity. Estimating that Iran could access approximately US\$150 billion in sanctions relief following implementation of the JCPOA, Ms Weisser argued that these substantial additional funds will allow Iran to 'turbo-charge its terrorist activities', support its allies in advancing the goal of achieving regional hegemony, and increase the threat of a nuclear-armed Iran.<sup>62</sup>

3.60 Ms Weisser highlighted a number of weaknesses with the JCPOA which could impact global and therefore Australian security. These include that it:

- expires after ten years;
- does not allow for 'anytime, anywhere' inspections;
- does not impose penalties for anything other than 'gross infringements';
- ends the arms embargo in five years and the ballistic missile embargo in ten years; and
- does not address Iran's support for terrorism, nor its destabilisation of the Middle East region including threats to Israel.<sup>63</sup>

3.61 Further, Ms Weisser drew attention to two recent incidents involving Iran which further show the limitations of the JCPOA:

- on October 10 2015, Iran fired two ballistic missiles which resulted in US sanctions against businesses and individuals involved in procurement of materials for Iran's ballistic missile program; and
- on 9 March 2016, Iran test fired two ballistic missiles which had the phrase 'Israel must be wiped out' written in Hebrew.<sup>64</sup>

3.62 Mr Danby questioned if the Australian Government was reconsidering the partial suspension of sanctions, or if additional sanctions should be imposed against Iran, in light of this continued activity in ballistic missile development and testing.<sup>65</sup>

### ***Financial Action Task Force***

3.63 In order to avoid Australian funds being used to support terrorist activities, the role of the Financial Action Task Force (FATF) as the global standard-setting body for anti-money-laundering and combatting the financing of terrorism organisations

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61 *Submission 9*, pp. 8-10.

62 *Submission 10*, p. 4.

63 *Submission 10*, p. 4.

64 *Submission 10*, p. 5.

65 *Submission 9*, p. 11.

was briefly discussed. Mr Danby noted that in February 2016 the FATF had declared that it '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.'<sup>66</sup>

3.64 Mr Danby suggested that Australia should be an active member at a forthcoming FATF conference, and seek to apply specific cautions to Iranian involvement in Australia or Australian involvement in Iran with financial institutions that the FATF identifies as problematic.<sup>67</sup> Mr Danby justified his reasoning for this stance:

I would not like Australia to be involved—I am sure none of us would—in entities which might be involved in the financing of terrorism even though they are the business that, for example, you were doing some metallurgy within Isfahan or somewhere.<sup>68</sup>

3.65 Ms Braithwaite advised that there are 'very robust requirements' under the FATF regime around the need for financial institutions to conduct enhanced customer due diligence. Ms Braithwaite explained that responsibility for undertaking due diligence had shifted from DFAT to the financial institutions themselves:

Previously, DFAT was in a situation where it needed to assess all financial transfers to and from Iran over \$20,000. That financial transaction limit has now been repealed. Instead, it has been replaced by this FATF requirement for financial institutions to conduct due diligence to specifically address the issue of counterterrorist financing and money laundering. Due diligence includes obviously updating and clarifying identity and beneficial ownership information, obtaining further information on the source of the customer's beneficial owner's funds, clarifying the nature of the customer's business, analysing past and future transactions and seeking senior management approval to process transactions or to continue the business relationship. Those are the types of questions that financial institutions are now obliged to seek information on before supporting those dealings.<sup>69</sup>

3.66 Mr Ralph was encouraged by the fact that Iran itself had shown an interest in engaging with the FATF to improve the transparency of its banking sector. The matter was discussed during the recent visit by the Iranian Foreign Minister Zarif to Australia:

He [Dr Zarif] made the point himself that the Iranian banking sector has been cut off from the outside world from nearly two decades and is a long way behind where it needs to be in terms of openness and transparency. I think it is reassuring that at least elements of the Iranian government are aware of that, and we will do what we can to assist their re-engagement with the FATF process. Anything we can do to push them further down that

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66 Mr Danby, *Committee Hansard*, 27 April 2016, p. 13.

67 Mr Danby, *Committee Hansard*, 27 April 2016, pp. 16-17.

68 Mr Danby, *Committee Hansard*, 27 April 2016, pp. 16-17.

69 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 38.

path can only be to the good in ensuring that no moneys flow from any business engagement that Australia might have to support for other groups in the region which we would not want to see supported.<sup>70</sup>

### **An Australian trade office in Iran**

3.67 As noted in chapter 2, the Australian Government will re-open a trade office in Tehran in the second half of 2016. DFAT advised that Australia had previously maintained an office within the Australian Embassy in Tehran from 1968 to 2010.<sup>71</sup>

3.68 Given the considerable significance of Iran as a regional economy, the re-opened trade office '...will allow the Australian Government to more effectively assist Australian businesses to capitalise on commercial opportunities emerging in Iran following sanctions removal'.<sup>72</sup> DFAT observed that there are particular opportunities in the areas of mining, oil and gas, water resource management, healthcare, and education and skills training.<sup>73</sup>

3.69 Mr Ralph advised that preparations for re-opening the office were proceeding, and that the office would be a valuable resource for Australian companies looking to move into Iranian markets:

The reopening of the office, as much as anything else, is to have a resource there to assist those companies that are coming in. As I said, we have had a lot of interest. We, and our colleagues in Austrade—there are 30 or 40 Australian companies who are kind of queueing at the door. Some have already reopened offices in Tehran and others have expressed interest in doing so. So we actually need a resource at the embassy dedicated to making those contacts.<sup>74</sup>

3.70 The ECA expressed strong support for the re-opening of the trade office, noting that it would '... go some way toward restoring our once strong trading relationship with Iran'.<sup>75</sup> The Council considered that having a physical presence in Iran would both assist Australian businesses to make initial connections in the market, and signal to the Australian business community that the Government takes market potential in Iran seriously, and is willing to provide assistance to business interested in engaging there.<sup>76</sup>

3.71 The ECA identified a number of areas where there is significant potential for trade growth, including:

- agricultural commodities;

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70 Mr Ralph, *Committee Hansard*, 27 April 2016, p. 33.

71 *Submission 8*, p. 3.

72 *Submission 8*, p. 3.

73 *Submission 8*, p. 3.

74 Mr Ralph, *Committee Hansard*, 27 April 2016, p. 35.

75 *Submission 3*, p. 1.

76 *Submission 3*, p. 3.

- livestock exports;
- mining and related knowledge;
- manufacturing;
- education; and
- health, medical and aged care services.<sup>77</sup>

3.72 In order to take advantage of new opportunities the ECA suggested that DFAT develop a specific Iran page that comprehensively outlines trade with Iran, including online tutorials and presentations, and information on the Australian and international sanctions regime.<sup>78</sup>

3.73 Mr Andrew Hudson, Director of ECA, further suggested that small and medium enterprise exporters would benefit from the establishment of a specialist Iran office in one of the capital cities in Australia which could act as a central point of expertise on doing business in Iran.<sup>79</sup>

3.74 Ms Braithwaite advised that DFAT was currently revising its website, as well as the online sanctions system to make information more readily accessible.<sup>80</sup> Ms Braithwaite also expressed a desire to include information regarding obligations under the sanctions laws of other countries.<sup>81</sup>

3.75 However, a number of submitters were critical of the decision to re-open a trade office. For example, Mr Danby described the decision as 'highly premature'.<sup>82</sup>

3.76 Ms Weisser was stridently opposed to the re-establishment of a trade office in Iran:

In view of the scarcity of resources in the budget of the Department of Foreign Affairs and Trade, it seems to me unconscionable that Australian taxpayers should be expected to foot the bill for actively promoting commerce with a state that ruthlessly launches terror attacks on civilian targets.

Until Iran ceases to sponsor terrorism, it seems to me that it would be much better to devote resources to determining the involvement of the IRGC in the Iranian economy and that the government should maintain the highest vigilance in ensuring that Australian companies do not, either advertently or inadvertently, contribute to the funding of Iranian terror.<sup>83</sup>

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77 *Submission 3*, pp. 3-4.

78 *Submission 3*, p. 5.

79 Mr Hudson, *Committee Hansard*, 27 April 2016, pp. 2-3.

80 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 37.

81 Ms Braithwaite, *Committee Hansard*, 27 April 2016, p. 39.

82 *Submission 9*, p. 11.

83 *Submission 10*, p. 6.

3.77 Similarly, the Executive Council of Australian Jewry and the Jewish Community Council of Victoria were adamant that the trade office should not be re-opened as it would have the effect of normalising relations with Iran.<sup>84</sup>

### *Doing business in Iran*

3.78 A number of submitters commented on the risks and complexities of doing business in Iran and recommended that the Australian Government proceed with caution. Mr Wertheim drew attention to a 2008 statement from the former Deputy Prime Minister, the Hon Warren Truss MP, who described Iran as a 'difficult market':

He was alluding, I think, to several things. One was the fact that most of the trade that we had with Iran prior to the imposition of sanctions was trade which Australia itself financed. In other words, we provided the money to the Iranians to buy our product. That was done through the Export Finance and Insurance Corporation and also through export market development grants. So the arrangement was that we would depend, then, on the Iranian government repaying that debt. My understanding is they did fully repay that debt. However, the commercial reality of that arrangement was that the Australian taxpayer was essentially bearing the commercial risk of that debt for the benefit of private exporters, and it seems to me that there is something fundamentally askew with that kind of rationale... The other thing was that, as you said, it is a notoriously difficult market to deal with, because there is no real rule of law in Iran. There is no transparency. There is nothing that would in any way approximate our standards of transparency and accountability in commercial dealings. So it was indeed, as he said, a difficult market, and I think it remains so.<sup>85</sup>

3.79 Mr Hudson agreed that Iran would be a challenging operating environment, but considered that Australian businesses should strive to be early entrants into the market to make the most of the opportunities.<sup>86</sup> Mr Hudson emphasised the critical importance of due diligence, observing that Iran was not unique in this regard:

The starting point is extreme caution. It is part of the due diligence or the homework we talk about. Iran is not necessarily unique in this respect. There are many governments around the world where you might find that the military who previously ran the country have now changed into business suits and still have those significant connections ... increasingly exporters, whether of goods or financials, will have this on their agenda. It is part of their anticorruption and bribery training, part of their concern about the regimes that take place.<sup>87</sup>

3.80 Ms Weisser warned that entrants into the Iranian markets should 'use extreme caution' due to the uncertainty of the environment.<sup>88</sup>

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84 *Submission 6*, p. 9; *Submission 4*, p. 4.

85 Mr Wertheim, *Committee Hansard*, 27 April 2016, p. 11.

86 Mr Hudson, *Committee Hansard*, 27 April 2016, p. 3.

87 Mr Hudson, *Committee Hansard*, 27 April 2016, pp. 5-6.

88 Ms Weisser, *Committee Hansard*, 27 April 2016, p. 28.

3.81 In order to ensure that Australian companies do not inadvertently contribute to the exclusion of minorities from Iranian society, Mrs Khalessi recommended that 'systematic measures be put in place to ensure that those Australian corporations seeking to do business in Iran are made fully aware of the environment in which they propose to operate'.<sup>89</sup>

3.82 Mr Danby said that the United Kingdom had taken a cautious approach in its explanatory guide for businesses looking to operate in Iran, highlighting the following potential challenges:

- risk of bribery and corruption, with Iran scoring highly 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;
- 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; and
- some sanctions on Iran remain in place.<sup>90</sup>

3.83 Mr Danby considered that 'the Australian government should be more explicit in issuing similar cautions'.<sup>91</sup>

3.84 The ASPI submission also advised that the Australian Government should take a cautious approach in facilitating Australian trade and investment with Iran, given the risks associated with moving too quickly. This support for a cautious approach was based on four factors:

- Australia's ability to lift a sanction regime can be done far more quickly than the detailed intelligence analysis can be done to establish evidence of covert proliferation;
- because of the classified nature of this analysis, it can be problematic to share the results of these assessments with firms seeking to expand business opportunities in Iran;
- Australia's ability to 'snap-back' with fresh sanctions will, by definition, lag behind covert proliferation activities. Once sanctions are lifted it may not be possible to bring an effective sanctions regime back into existence; and

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89 Mrs Khalessi, *Committee Hansard*, 27 April 2016, p. 19.

90 Mr Danby, *Committee Hansard*, 27 April 2016, p. 12.

91 Mr Danby, *Committee Hansard*, 27 April 2016, p. 12.

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- the range of current American and Australian sanctions form a very complex body of regulations and laws. These are difficult to interpret with a view to providing the private sector with actionable and accurate advice on trade and investment.<sup>92</sup>

3.85 Mr Danby was also concerned about dual use goods. He asked:

What consideration has been given to the possibility of dual-use goods (goods that can be used for both non-military and military purposes) finding their way to Iran; identifying the persons and entities providing such dual-use goods; and Australian laws and Ministerial determinations that have been, and can be, relied on, to prevent the export or sale of such dual-use goods to Iran?<sup>93</sup>

3.86 He also noted that:

...sanctions have been removed from "Goods mentioned in the Australia Group Common Control Lists"...The Australia Group, which provides such lists, notes on its website that it "seeks to ensure that exports do not contribute to the development of chemical or biological weapons". It refers to the following lists that it provides – (i) Chemical Weapons Precursors, (ii) Dual-use chemical manufacturing facilities and equipment and related technology and software, (iii) Dual-use biological equipment and related technology and software, (iv) Human and Animal Pathogens and Toxins, and (v) Plant pathogens.<sup>94</sup>

3.87 Further he drew specific attention to the fact that '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', and asked 'why should Australia and Australians be permitted to play a role in enhancing Iran's military capability?'<sup>95</sup>

3.88 ASPI called for the exercise of caution over the export of goods that could have both civilian and military uses:

Mining equipment, technology and services, for example are just as important to the construction of underground nuclear facilities as they are to natural resource extraction. As has been observed with Iranian covert programs in the past, Tehran can take measures to hide the intended purpose of dual-use goods, or indeed simply divert useful acquisitions to more covert purposes. The Australian Government should take particular care over export approvals that may have dual use applications.<sup>96</sup>

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92 *Submission 11*, p. 3.

93 *Submission 9*, p. 10.

94 *Submission 9*, p. 9.

95 *Supplementary Submission 9*, p. 7.

96 *Submission 11*, p. 4.

3.89 ASPI warned that the Government's advice to Australian businesses may not remain valid or accurate for long given the rapidly changing strategic landscape of the Middle East.<sup>97</sup> Taking into consideration the various factors at play, the Institute concluded that the most prudent approach to doing business with Iran would be to 'proceed slowly and carefully with expanding business connections ... There is no benefit and, indeed, substantial risk for the Australian Government and business community to get too far ahead of the international community in lifting sanctions'.<sup>98</sup>

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97 *Submission 11*, p. 4.

98 *Submission 11*, p. 4.

## Chapter 4

### Committee view and recommendations

#### Introduction

4.1 The Australian Government's partial suspension of sanctions against Iran has the potential to usher in a new era in Australia-Iran relations. While this development may be to the mutual benefit of Australia and Iran, a number of significant barriers must be overcome before Australia can be confident in its dealings with Iran.

4.2 The committee notes that Australia and Iran are vastly different nations. Australia is a democratic and pluralistic society where citizens regardless of gender, ethnicity, religion or sexual orientation, should have the equal opportunity to make a positive contribution to society. In contrast, Iran is a theocratic and totalitarian regime with a dismal record of human rights and international engagement. Its recent testing of ballistic missiles is of considerable concern. These are challenging differences to overcome. Business seeking to trade with Iran will need to exercise strict due diligence and extreme caution to ensure that Australian goods, services or funds do not inadvertently contribute to terrorism or the repression of minorities.

4.3 The committee is deeply concerned by certain aspects of the partial suspension of sanctions against Iran. Questions have been raised—and remain unanswered—about the justification for the shift in policy towards Iran, the reasons for sanctions being lifted against some entities and not others, and the mechanisms in place to reimpose sanctions in the event that Iran breaches its international obligations.

4.4 The lack of public consultation and explanation from Government were major issues raised in evidence. This inquiry has shed light on some very real concerns that should have been closely examined prior to the sanctions being partially lifted. Members of the community believe their concerns have not been properly addressed, resulting in a perception that new market opportunities for Australian business have been pursued at the expense of human rights. There is also a perception that the partial suspension may have partly arisen as a consequence of the Australian Government's need to repatriate Iranian citizens who have sought asylum in Australia.

4.5 The committee is of the view that the Australian Government must proceed with caution in its relations with Iran and, specifically, on the issue of sanctions. The committee has made a number of recommendations to improve the information available on the public record on the decision to partially suspend sanctions, together with information that will assist exporters to ensure their dealings with Iran are conducted in accordance with the law. The committee has also identified ways to improve the process of suspending sanctions and to bring greater clarity to the process for reimposing sanctions should the need arise.

#### Human rights and international affairs

4.6 During the inquiry, deep concern was expressed over Iran's domestic and international behaviour. The committee shares these significant misgivings regarding

Iran's human rights record, including the use of the death penalty and torture; cruel, inhuman and degrading punishment; unfair trials; the lack of freedom of expression, association and assembly; and the extensive discrimination against woman, ethnic and religious minorities. The committee also notes Iran's continued aggression towards its neighbours, most notably Israel, and the conduct of ballistic missile tests which threaten the stability of the region. The committee further notes that Iran is a major sponsor of terrorism and is closely associated with Hezbollah whose External Security Organisation is officially designated by Australia as a terrorist organisation.

4.7 In order to clarify Australia's commitment to human rights, the committee is of the view that the Australian Government should issue a statement that affirms the human rights values it subscribes to, and seeks to promote domestically and internationally, and affirms that Australia continues to hold concerns over the domestic and foreign policies of the Iranian regime.

### **Recommendation 1**

**4.8 The committee recommends that the Australian Government issue a statement that affirms the human rights values it subscribes to, and seeks to promote domestically and internationally, and its condemnation of terrorist activities and military aggression, and affirms that Australia continues to hold concerns over the domestic and foreign policies of the Iranian regime. The committee also recommends that the Australian Government continue to make such statements as appropriate, particularly when it considers Iran has transgressed those principles, including in relation to its ballistic missile activity.**

### **The need for public consultation**

4.9 There has been grave disappointment over the lack of public consultation prior to the partial lifting of sanctions. As demonstrated by this inquiry, there is concern that a softening of relations with Iran will have detrimental outcomes and may indeed encourage Iran to continue its current behaviour towards its own citizens and regional neighbours.

4.10 A public consultation process undertaken prior to the suspension of sanctions would have allowed those most affected by the decision to have their say on this important matter. It also would have enabled the Australian Government to explain the reasons for change.

4.11 The committee is disappointed with the explanation from the Department of Foreign Affairs and Trade that the process followed by the partial suspension of sanctions against Iran was the same as that followed when sanctions were suspended against Fiji in 2014 and Myanmar in 2015. Iran poses a significantly greater threat to the international community than either Fiji or Myanmar. It is widely recognised that the Army of the Guardians of the Islamic Revolution (IRGC) is directly involved in training and supplying Hezbollah and Hamas. Moreover, the committee does not accept the precedent that no public consultation is undertaken when sanctions against a nation are removed. Public consultation is particularly important when dealing with a nation such as Iran.

4.12 The committee is of the view that the Foreign Minister should carefully consider the merits of undertaking public consultation on any changes to Australia's autonomous sanctions regimes on a case by case basis, including in instances where the obligations on parties are removed or reduced.

### **Recommendation 2**

**4.13 The committee recommends that the Minister for Foreign Affairs carefully consider the value of undertaking public consultation on any changes to Australia's autonomous sanctions regimes, including in instances where the obligations on parties are removed or reduced.**

4.14 In addition, the committee is perplexed by the Government's decision to mirror Australia's approach to sanctions against Iran with the approach of the European Union, rather than the United States. The committee acknowledges that the United States utilises a broader and more cautious approach to the use of sanctions than either Australia or the European Union, but in this instance caution is warranted.

4.15 The committee is concerned that in emulating the European Union, too great an emphasis has been placed on potential commercial gains rather than addressing the risk that Australian funds could be inadvertently used to support terrorist activities and violations of human rights in Iran.

### **Enhanced information on the sanctions regime**

4.16 As a consequence of the lack of public consultation, the committee considers there has been inadequate explanation from the Australian Government on the reasons underpinning this major change in foreign policy, as well as why sanctions were lifted on some entities and not others. The committee also notes that it has relied on DFAT for this information and has not been able to independently ascertain the extent of the sanctions lifted and those remaining and how such sanctions align with the policy of the EU.

4.17 The committee is of the view that DFAT should publish on its website a detailed statement explaining the change in Australia's sanctions policy towards Iran, including why sanctions relief was granted to particular activities, persons and entities and not others. Details should also be provided on how Australia's autonomous sanctions regime is different from the equivalent regimes pursued by the United States, European Union and other relevant countries, and the reasons for those differences.

### **Recommendation 3**

**4.18 The committee recommends that the Department of Foreign Affairs and Trade publish on its website a detailed statement explaining the change in Australia's sanctions policy towards Iran, including why sanctions relief was granted to particular activities, persons and entities and not others.**

4.19 The committee is also concerned by the lack of information on how the Australian Government would reimpose autonomous sanctions against Iran in the event of a significant breach by Iran of its JCPOA commitments or a major violation of human rights. While the committee acknowledges that sanctions are one of a suite

of tools available to Government to respond to developments, it is essential that Iran understands that there will be consequences to breaches, including the reimposition of sanctions.

4.20 Accordingly, the committee considers that DFAT should clarify the threshold for the reimposition of autonomous sanctions against Iran and the mechanism by which sanctions would be reimposed. The committee is also of the view that the Government should undertake a review of all sanctions it has removed in relation to Iran and report the findings to Parliament.

#### **Recommendation 4**

**4.21 The committee recommends that the Department of Foreign Affairs and Trade clarify the threshold for the reimposition of autonomous sanctions against Iran and the mechanism by which sanctions would be reimposed.**

#### **Recommendation 5**

**4.22 The committee recommends that the Australian Government undertake a review of all sanctions it has removed in relation to Iran to determine whether such removal is compatible with Australia's interests, values and principles, and not just whether it follows the approach of the European Union. This should include considering the approach that the United States has taken on sanctions with respect to Iran. Following such a review, the committee recommends that the Australian Government present a written report on the review to Parliament.**

#### **Doing business in Iran**

4.23 The committee is of the view that doing business with Iran will be difficult for Australian exporters. As such, it will be critically important for businesses considering engaging with Iran to be well equipped with sufficient information to make informed decisions that protect their interests and ensures that they do not contravene the law. In this respect, the committee accepts that re-opening a trade office in Tehran is a necessary, yet controversial, step in providing appropriate support to Australian business looking to expand into the Iranian market.

4.24 However, the committee is of the view that the current DFAT website is deficient in the amount and accessibility of information for potential exporters to Iran on both the Australian and international sanctions regimes. This lack of clarity, specificity and accessibility is arguably one of the biggest barriers to increased engagement with Iran following the JCPOA. There is considerable scope to improve the information presently available on DFAT's website, including summaries of trade which remains restricted or prohibited with Iran and information on other sanctions regimes, including the United States and European Union. This material could include comparative tables, online tutorials and presentations.

4.25 Australia should also closely engage with the Financial Action Task Force (FATF), the global standard-setting body for anti-money-laundering and combatting the financing of terrorism organisations, to minimise the possibility of Australian funds being used for nefarious purposes. While it is encouraging that Iran has expressed a desire to engage with FATF, it is critical that Australia actively utilises the FATF to protect its financial interests.

**Recommendation 6**

**4.26 The committee recommends that the Department of Foreign Affairs and Trade improve the clarity and accessibility of information on its website on Iran. This should include information on trade which is still restricted or prohibited, and a summary of other international sanctions regimes.**

**Senator Alex Gallacher  
Chair**



## Dissenting Report of Coalition Senators

1.1 While acknowledging the very real human rights and security concerns associated with Iran, Coalition Senators do not support this report as it is shallow and politically motivated.

1.2 Coalition Senators welcome the opportunity to inquire into the partial lifting of sanctions on Iran as an opportunity to draw attention to the Opposition's lack of understanding of its record in government and Australia's international obligations.

### **Bilateral Engagement with Iran**

1.3 The Australian Government continues to speak out on issues of concern in the bilateral relationship, such as human rights, the use of the death penalty and the treatment of religious minorities.

1.4 The Government recently expressed its concerns with Iran over its provocative behaviour including the recent ballistic missile tests and threatening statements directed at Israel.

1.5 The Minister for Foreign Affairs, the Hon Julie Bishop MP, raised these and other concerns directly with Iran's Foreign Minister, Dr Zarif, during his visit to Australia in March 2016. During a joint press conference with Foreign Minister Zarif, Minister Bishop stated:

I have also discussed matters of concern to Australia: Iran's recent ballistic missile tests, we have discussed human rights issues, we have discussed issues relating to Iran's relationships with other countries in the region, particularly Israel, Saudi Arabia, and in Yemen.

1.6 Coalition Senators note that ALP Members and Senators are divided regarding engagement with Iran. This Senate inquiry was motivated by the views of Labor senators who oppose engagement with Iran. In stark contrast, in November 2006, the Member for Sydney and current Deputy Leader of the Labor Party and Shadow Minister for Foreign Affairs and International Development wrote an article for the Sydney Morning Herald calling on western countries to open dialogue with Iran and Syria. This comment came at the peak of Iranian President Mahmoud Ahmadinejad's first term in office.

### **Autonomous Sanctions Bill 2011**

1.7 The Australian Government's decision to remove economic and financial sanctions against Iran following the implementation of the Joint Comprehensive Plan of Action (JCPOA) and United Nations Security Council Resolution (UNSCR) 2231, complied with the requirements of the *Autonomous Sanctions Act 2011*, drafted and passed by the former Labor Government, as well as with the requirements of the then *Legislative Instruments Act 2003* (now the *Legislation Act 2003*).

1.8 The bill was deliberately drafted to give the government of the day the ability to respond quickly to international developments.

1.9 In his Second Reading Speech, the then Minister for Foreign Affairs, the Hon Stephen Smith MP, stated that the legislation contained:

...the necessary flexibility for the government to respond to fluid and rapidly changing international developments in a timely way.

1.10 The implementation of the Joint Comprehensive Plan of Action (JCPOA) and United Nations Security Council Resolution 2231 was clearly what the former minister had in mind when he referred to "rapidly changing international developments".

1.11 The Hon Michael Danby MP, Member for Melbourne Ports, spoke in support of the bill at the time:

I welcome this and hope we make effective use of the powers which this bill creates. I commend the bill to the House.

1.12 Mr Danby did not raise any concerns about the legislation, including the regulation making power designed to give the Minister for Foreign Affairs the ability to respond to 'rapidly changing international developments' by applying or removing autonomous sanctions.

1.13 Former Minister Smith noted the importance of the regulation making power in his response to the Senate Standing Committee for the Scrutiny of Bills:

It [regulation making power] is imperative to the goal of autonomous sanctions.<sup>1</sup>

1.14 The bill was also considered by the Senate Foreign Affairs, Defence and Trade Legislation Committee, which recommended it be passed. In its report, the Committee agreed that:

...a regulation-making power is necessary for autonomous sanctions to be applied with the requisite speed and flexibility to respond effectively to situations of international concern.<sup>2</sup>

1.15 The need for the Minister of Foreign Affairs to have the authority to apply and remove sanctions by regulation to respond rapidly to international developments is well understood and accepted.

1.16 The partial lifting of sanctions following the implementation of JCPOA and UNSCR 2231 is entirely consistent with the legislation introduced by the former Labor Government.

### **Joint Comprehensive Plan of Action and obligations under UNSC 2231**

1.17 The Iranian nuclear deal (or JCPOA) is acknowledged internationally, including by the International Atomic Energy Agency and the United Nations Security Council, as the best opportunity to prevent Iran from acquiring a nuclear weapon.

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1 Senate Standing Committee for the Scrutiny of Bills, Tenth Report of 2010, 24 November 2010.

2 Senate Foreign Affairs, Defence and Trade Committee, Inquiry in Autonomous Sanctions Bill 2010, p. 14.

1.18 The positive impact of the JCPOA on regional and international security was outlined by the Department of Foreign Affairs and Trade (DFAT) at the public hearing:

Mr Ralph: ...back in 2014 it was assessed that Iran's break-out time—the amount of time it would take to produce enough fissile enriched uranium to create a bomb—was around two to three months. That was the nub of the matter that the JCPOA was designed to address. At the time of the negotiations, Iran had been adding rapidly to its stockpile of enriched uranium.

Today, having implemented the measures required of it by the deal, it would take Iran at least a year to accumulate enough fissile material to produce a nuclear bomb...this is the best deal that was available, and that is why it was achieved with the support of the international community, to bring Iran back from the brink of nuclear break-out.

1.19 The JCPOA is strongly supported by likeminded countries, which share Australia's view that the nuclear deal is the best option available to the international community to halt Iran's nuclear program. This is reflected in the following statements:

United State President Barack Obama:

Under the nuclear deal that we, our allies and partners reached with Iran last year, Iran will not get its hands on a nuclear bomb. The region, the United States, and the world will be more secure.

British Prime Minister David Cameron:

After persistent diplomacy and tough sanctions, the international community has delivered a historic deal with Iran. A deal which secures our fundamental aim – to keep Iran from developing a nuclear weapon - and that will help to make our world a safer place.

Canadian Foreign Minister Stéphane Dion:

Canada believes the Joint Comprehensive Plan of Action will help to ensure that Iran cannot build a nuclear weapon.

1.20 The suggestion by Opposition Members and Senators that Australia should not have lifted economic and financial sanctions following the implementation of the JCPOA and UNSCR 2231 would have left Australia isolated on the international stage.

1.21 It would have also been inconsistent with Australia's obligation to the United Nations.

1.22 Australia, as a member of the United Nations, is bound to implement UNSC Resolution 2231, which incorporates provisions of the JCPOA. The Resolution calls on all members to:

...take such action as may be appropriate to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA and this resolution and by

refraining from actions that undermine implementation of commitments under the JCPOA.

1.23 As a long-standing and committed member of the United Nations, Australia undertook appropriate action to implement the JCPOA.

1.24 As stated by DFAT official Ms Justine Braithwaite in her opening statement to the public hearing:

The Australian Government accordingly lifted certain autonomous sanctions against Iran, and is taking steps to implement UNSCR 2231 as is required under international law; to ensure its sanctions regime on Iran is consistent with the internationally-agreed consensus reached in the JCPOA.

1.25 While economic and financial sanctions have been lifted, other sanctions have been maintained. As explained to the committee by DFAT:

...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.

1.26 The Australian Government is implementing a phased sanctions relief policy in line with that agreed between the European Union (EU) and Iran as part of JCPOA negotiations. Australia has aligned its Iran policy with the EU since 2008, a position initiated by the former Labor Government.

1.27 The reasons for this are straightforward:

Ms Braithwaite: ...the EU system is the most comparable to ours, and the EU apply sanctions in a similar way to Australia. That is why Australia took the policy decision to align ourselves with the European Union. That is not to say we are not in step with the United States. That is not the case; it is just that the United States applies a far broader range of sanctions than Australia has done.

1.28 It is important to note that the number of Iranian individuals and entities listed by the Australian Government mirrors that listed under Labor.

1.29 Maintaining economic and financial sanctions on Iran would be inconsistent with Australia's commitment to the United Nations, and would leave Australia isolated from its international partners, including the United States, EU, United Kingdom, Japan and Canada, all of which have removed autonomous sanctions.

## **Recommendations**

1.30 Coalition Senators recommend that:

- 1) The committee acknowledges that the Government's lifting of economic and financial sanctions against Iran following the JCPOA and UNSCR 2231 complied with the requirements of the *Autonomous Sanctions Act 2011*, drafted and passed by the former Labor Government as well as with the requirements of the then *Legislative Instruments Act 2003* (now the *Legislation Act 2003*).

- 2) The committee acknowledges the Government's decision to remove economic and financial sanctions against Iran following the JCPOA and UNSCR 2231 was consistent with Australia's obligations as a member of the United Nations and United Nations Security Council Resolution 2231.
- 3) The committee acknowledges the Government's decision to remove economic and financial sanctions against Iran following the JCPOA and UNSCR 2231 was consistent with actions undertaken by likeminded countries including the United States, the European Union and Canada.
- 4) Coalition Senators do not support Recommendations 1, 2, 3 and 4 of the Chair's report. Coalition Senators support Recommendation 5.

**Senator Chris Back**  
**Deputy Chair**

**Senator David Fawcett**



# Appendix 1

## Submissions

- 1 Australian Baha'i Community
- 2 B'nai B'rith Australia/New Zealand
- 3 Export Council of Australia
- 4 Jewish Community Council of Victoria
- 5 Amnesty International Australia
- 6 Executive Council of Australian Jewry
- 7 Ms Michelle Bolger
- 8 Department of Foreign Affairs and Trade
- 9 Hon Michael Danby MP
- 9.1 Supplementary to submission 9
- 10 Ms Rebecca Weisser
- 11 Confidential
- 12 Australian Strategic Policy Institute



## **Appendix 2**

### **Tabled documents additional information, and answers to questions on notice**

#### **Tabled Documents**

- 1 Opening statement by Ms Justine Braithwaite, Department of Foreign Affairs and Trade, tabled at public hearing 27 April 2016

#### **Additional information**

- 1 Department of Foreign Affairs – Additional information from public hearing held on 27 April 2016 (received 28 April 2016)
- 2 Australian Baha'i Community additional information from public hearing held on 27 April 2016 (received 28 April 2016)

#### **Answers to Questions on Notice**

- 1 Executive Council of Australian Jewry - Answer to question on notice from public hearing 27 April 2016, received 27 April 2016
- 2 Department of Foreign Affairs Defence and Trade - Answer to question on notice from public hearing 27 April 2016, received 3 May 2016
- 3 Department of Foreign Affairs Defence and Trade - Answer to written question on notice from public hearing 27 April 2016, received 3 May 2016



## **Appendix 3**

### **Public Hearings and witnesses**

**Wednesday 27 April 2016**

**Export Council of Australia**

Mr Andrew Hudson, Director

**Executive Council of Australian Jewry**

Mr Wertheim, Executive Director

**The Hon Michael Danby MP**

**Australian Baha'i Community**

Mrs Venus Khalessi (Rahmani-Afoosi), Director Of Public Information

Mr Vargha Taefi-Nasrabadi, Member

**B'nai B'rith Australia/New Zealand**

Mr Joshua Koonin

**Ms Rebecca Weisser, Private Capacity**

**Department of Foreign Affairs and Trade**

Mr Greg Ralph, Acting First Assistant Secretary, Middle East and Africa Division

Ms Justine Braithwaite, Assistant Secretary, Sanctions, Treaties and Transnational Crime Legal Branch

