

**Written Questions from Senator Glenn Sterle (Senate Enquiry into the Partial
Suspension of Iran Sanctions April/May 2016)
DFAT's Responses in Red**

1. Your report notes that Australia's nuclear sanctions approach with Iran has closely followed that of the European Union. Why did Australia choose to adopt this position rather than the more sceptical stance of our closest security partner, the United States?

For instance at what level (NSC of cabinet was it) or just Foreign Minister decided not to say anything about the October, December 2015 and the March 2016 firing of Ballistic missiles by Iran.

Australia's sanctions were introduced as part of a global effort in response to Iran's nuclear program and reduced in line with the outcomes of that global effort, namely the JCPOA and UNSC Resolution 2231. The US has sanctions on Iran that address a set of wider policy objectives.

We also note that the European Union is more comparable to the Australian system in terms of sanctions implementation and that when enhanced autonomous sanctions against Iran were introduced by Australia in July 2013, under the previous government, these measures were very closely aligned to the EU measures.

Ms Bishop publicly raised Australia's serious concerns regarding Iran's recent ballistic missile launches on 15 March, during her joint press conference with Foreign Minister Zarif. This followed Ms Bishop's meeting with Foreign Minister Zarif in which she directly raised with him Australia's concerns.

2. DFAT suggests this European Orientation in our foreign policy towards Iran. Why has it not noticed the April decision of the Organisation of Islamic Cooperation (OIC) that it:
 - "deplored Iran's interference" in the affairs of other countries and its "continued support for terrorism". The OIC conference also condemned Iran's proxy, Hezbollah, "for conducting terrorist activities in Syria, Bahrain, Kuwait and Yemen and for supporting terrorist movements and groups undermining the security and stability of OIC Member States".
 - Doesn't this suggest for every increment in trade with Iran we will be imperilling our relationship with the OIC?

(It should also be noted that the U.S. formally designates Iran as a "state sponsor of terrorism" (one of three countries so designated).

No.

3. DFAT claims in its submission that Australia has an obligation “to support the JCPOA,”. Foreign Minister, Julie Bishop, has gone further in suggesting that Australia was *obliged* by the UN to lift particular sanctions.

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

Can you confirm that Australia is not a party to a nuclear deal with Iran known as the JCPOA..... And therefore it is not obliged to do anything such as removing sanctions as we are not parties to this treaty.

Australia is not a party to the Joint Comprehensive Plan of Action (JCPOA). However, United Nations Security Council Resolution 2231(2015) endorses the JCPOA and calls upon all UN member states “to take such actions 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”.

As a UN member state Australia is obliged under Article 25 of the Charter of the United Nations to accept and carry out the Security Council’s decision referred to above.

As the sanctions imposed by Australia in July 2013, were in very close alignment with the EU, the EU obligations under the JCPOA informed Australia’s approach to partially lifting autonomous sanctions on Iran.

4. I note that Section 4 of the UK's explanatory guide to dealing with Iran notes: "Although Iran offers huge potential for UK companies it will not be an easy place to do business.

Key challenges include:

- Risk of bribery and corruption. Iran scores high on 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
- Some sanctions on Iran remain in place

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

Why did Australia fail to issue similar cautions?

What measures is the Foreign Minister taking to see that Australians trading with Iran are wary about pitfalls of such trade, such as putting themselves in jeopardy by contradicting the very many sanctions still in place by the United States against Iran.

The Australian Government has on a number of occasions highlighted a range of risks to doing business in Iran. See for example the March edition of the *Business Envoy*, available here: <http://dfat.gov.au/about-us/publications/trade-investment/business-envoy/Pages/business-envoy.aspx>

The Iran country brief on the DFAT website also states that "Australians considering commercial or other dealings with Iran should familiarise themselves with the operation of the United Nations Security Council Resolution-mandated sanctions regime and Australia's autonomous sanctions, and seek independent legal advice before making commercial decisions".

The Austrade website page on doing business in Iran notes that 'certain sanctions and business risks remain and Australian firms will continue to face a range of market-specific barriers, so the need for due diligence will continue'. It also recommends that businesses should obtain independent legal advice before making commercial decisions and to consult their financial services provider before entering into commitments. The Austrade website also encourages readers to consult the DFAT website for sanctions information.

Can you confirm that some of the same individuals and entities that were involved in the Oil for Food activity with Saddam Hussein's Iraq are now involved in the proposed trade with Iran?

No

5. Despite the United States' approval for the nuclear deal with Iran (JCPOA) the treaty provides but minor exceptions for the broad American prohibitions on Iran's backing of terrorist groups such as Hizbollah and as US Treasury Official Adam Szubin said to the equivalent of this committee.

"We designated eleven Hizbollah military officials and affiliated companies and businessmen. We will also continue our campaign against Hizballah's sponsors in Iran's Islamic Revolutionary Guard Corps-Quds Force; Iran's support to the Houthis in Yemen; its backing of Assad's regime in Syria; and its domestic human rights abuses. We will also maintain the U.S. sanctions against Iran's missile program and the IRGC writ large"

He concluded: "a foreign bank that conducts or facilitates a significant financial transaction with Iran's Mahan Air, the IRGC-controlled construction firm Khatam al Anbiya, or Bank Saderat will risk losing its access to the U.S. financial system and this is not affected by the nuclear deal."

In the penultimate paragraph of the above extract, Mr Szubin comments that, "more than 225 Iran-linked persons will remain designated and subject to our sanctions" Yet 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 difference, the Australian Government should explain why Australia's list carries a significantly lesser number of personas and entities than that of the U.S.

Given the fact that that Australia retains sanctions on 91 entities and the United States on 225 how can this committee and the Australian Parliament assure the Australian people and businesses that an Australia business who deals in Iran will not be violating US trade sanctions and jeopardising themselves?

Doing business in Iran is not without its risks, including the risk of inadvertently engaging or providing material support to a designated entity or individual.

Australian companies and individuals are encouraged to undertake their own due diligence and to seek independent legal advice in relation to their business activities, particularly where their business activities may relate to Australian sanctions or to the sanctions laws of other countries.

The test of an effective sanctions regime is not measured by the number of individuals and entities designated for targeted financial sanctions and travel bans. All countries have a sovereign right to designate individuals and entities in line with their foreign policy choices. The US applies sanctions across a broader range of areas than Australia.

In particular can DFAT assure this committee and the parliament that companies like Stolway and CBCS Science Equipment who were barred by former Defence Minister Faulkner cannot resume previously barred potential dual use trade with Iran?

The partial lifting of Iran sanctions has no impact on Australia's obligations to control dual use goods.