



Australian Government

Department of Foreign Affairs and Trade

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Committee Secretary
Senate Foreign Affairs, Defence and Trade References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator

I refer to your letter of 29 March 2016 to Peter Varghese, Secretary of the Department of Foreign Affairs and Trade, inviting the Department to make a submission to the inquiry on the partial suspension of sanctions against Iran.

Please find attached a Submission by the Department of Foreign Affairs and Trade, addressing the terms of reference. This response draws upon input from Austrade.

Yours sincerely

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DFAT Submission to Senate Inquiry: Partial suspension of sanctions against Iran

Overview of the policy framework and decision to partially suspend (and then repeal) certain sanctions with respect to Iran

Foreign Minister the Hon Julie Bishop MP announced in a media release on 17 January that Australia's decision to lift certain autonomous sanctions was in support of the United Nations Security Council endorsed Joint Comprehensive Plan of Action (JCPOA) nuclear agreement, which constrains Iran's nuclear program, and provides verifiable assurances to the international community that Iran's nuclear activities will remain exclusively peaceful.

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

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

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

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

In addition, under our autonomous sanctions regime, Australia maintains sanctions on the export of arms and related material, as well as certain nuclear-related software, graphite and metals to Iran. We continue to list 23 Iranian individuals and 68 entities under autonomous sanctions due to their connection with the nuclear program.

The onus is on Iran to comply fully with all the requirements set out in the JCPOA and UN Security Council Resolution 2231. There is a real risk to Iran of "snapback" of UN sanctions should it fail to meet its commitments. Should we consider it in our national interest, the Australian Government also has the capacity, through the *Autonomous Sanctions Regulations 2011*, to strengthen our autonomous sanctions on Iran relatively quickly.

Australian 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. It is worth recalling that when the Autonomous Sanctions Bill 2010 was introduced to Parliament, it was in the context of concerns over Iran. As then Foreign Minister the Hon Stephen Smith MP said in his Second Reading speech, “Allowing these measures to be applied by regulations will allow the necessary flexibility for the Government to respond to fluid and rapidly changing international developments in a timely way.”

In July 2015, the flexibility afforded by the *Autonomous Sanctions Regulations 2011* was enhanced by introducing 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.

Public consultation

In accordance with subsection 18 (2) of the then *Administrative Instruments Act 2003* (now called the *Legislation Act 2003*) and consistent with usual practice no public consultation was undertaken in relation to the instruments used to give effect to the Australian Government’s suspension (and then repeal) of certain sanctions with respect to Iran, including targeted financial sanctions and travel bans.

All instruments used to give effect to this decision *reduce* legal obligations on Australians in regard to Iran, by reducing the number of export and import sanctioned goods, services and commercial activities that applied in regard to Iran; and by reducing the number of Iranian persons and entities subject to targeted financial sanctions and travel bans. As such, the instruments used to give effect to the Government’s repeal of sanctions were of minor regulatory impact.

This approach to public consultation was in accordance with the similar autonomous sanctions changes including the partial removal of autonomous sanctions in regard to Myanmar in 2015 and the total repeal of autonomous sanctions on Fiji in 2014.

The Department of Foreign Affairs and Trade conducts regular outreach to business, government and non-government sectors to explain sanctions obligations.

Explanatory Statements

The Explanatory Statements to the instruments that gave effect to the Government’s action to suspend and then repeal sanctions 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.

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

The revocations of the listings 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.

As noted above, Australia’s nuclear sanctions approach with respect to Iran has closely followed that of the European Union. The decision on which sanctions the

European Union would lift, and which would remain, was the product of extensive and detailed negotiation by the parties to the JCPOA and it is in accordance with UNSC resolution 2231. The Australian 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.

The decision to re-open an Austrade office in Iran

Australia has had a long-standing relationship with Iran and has maintained an Embassy in Tehran since 1968. Austrade had previously maintained an office within the Australian Embassy in Tehran from 1968 to 2010.

The re-opening of the Austrade office in Tehran in the second half of 2016 will allow the Australian Government to more effectively assist Australian businesses to capitalise on commercial opportunities emerging in Iran following sanctions removal. Iran is a significant regional economy with a large population (78 million in 2014), GDP of around US\$400 billion, and some of the world's largest oil and gas reserves.

The lifting of sanctions on Iran offers new export opportunities for Australian businesses, particularly in mining (equipment, technology and services), oil and gas, water resource management, healthcare, and education and skills training. In the lead up to and following the JCPOA nuclear deal, Austrade received strong interest in these potential opportunities from Australian companies, industry bodies and educational institutions.