

Submission by Hon Michael Danby MP

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

This submission contends that overall it is far too soon to begin normalising relations with Iran, which is the main underlying driver in the Australian Government’s partial suspension of sanctions for that country. This submission does not purport to analyse each particular provision relating to sanctions relief, but considers that as the Australian Government has failed to provide reasonable and adequate information about these matters, and did not undertake any public consultation process about them, the Australian Government should explain and make its case on each item of sanctions relief.

1. Introduction

1.1 The Inquiry home page¹ refers to the Terms of Reference² as follows -

“Inquiry into the partial suspension of sanctions against Iran with particular reference to:

- a. the nature and scope of public consultation prior to the making of the *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016*³, the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Iran) Amendment List 2016*⁴, and the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Iran) Amendment List 2016 (No. 2)*⁵;
- 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.”

1.2 The *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 2016* (“the Suspension of Sanctions Instrument”) has the effect of suspending certain sanctions relating to Iran as set out in the *Autonomous Sanctions Regulations 2011* (“the Regulations”). It appears now that the Regulations have been amended by the

¹ http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Iran

² http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Iran/Terms_of_Reference

³ See - <https://www.legislation.gov.au/Details/F2016L00046/Download>

⁴ See - <https://www.legislation.gov.au/Details/F2016L00047/Download>

⁵ See - <https://www.legislation.gov.au/Details/F2016L00117/Download>

Autonomous Sanctions Amendment (Iran) Regulation 2016 (“the Iran Amendment Regulation”).

1.3 The Explanatory Statement to the Iran Amendment Regulation states that - "The purpose of the *Autonomous Sanctions Amendment (Iran) Regulation 2016* ... is to amend the *Autonomous Sanctions Regulations 2011* to remove certain autonomous sanctions measures that Australia implements in relation to Iran, **following the suspension of these measures in the *Autonomous Sanctions (Suspension of Sanctions – Iran) Instrument 2016***" [emphasis added].

1.4 It is unclear why the Australian Government amended the Regulations instead of relying on the Suspension of Sanctions Instrument. There was no indication in the Explanatory Statement for the Suspension of Sanctions Instrument that the instrument would be superseded by amendments to the Regulations. The Government should explain these matters. It should also explain and provide details of any other amendments it is proposing, or has made, to any other laws, regulations or instruments relating to sanctions on Iran.

1.5 At the time that the Inquiry was established, it was not known outside the Government that the Government intended to introduce the Iran Amendment Regulation and so the Terms of Reference didn't mention it, and only referred to the Suspension of Sanctions Instrument. Given that the Terms of Reference does not refer to the Iran Amendment Regulation, this submission will not address that amendment directly, but references to the Suspension of Sanctions Instrument should be taken to include the Iran Amendment Regulation where applicable.

1.6 As the Government has provided scant information and explanation for its partial suspension of sanctions relating to Iran and did not undertake a public consultation process, it is not possible to properly consider and analyse the particular sanctions relief as it applies to particular activities, persons and entities. This submission does not purport to do this. To enable a proper consideration of these matters the Government should provide information on the following -

- (a) A detailed explanation of the reasons for particular sanctions relief;
- (b) A detailed explanation of the criteria used by the Government to determine particular sanctions relief and the reasons for such criteria;
- (c) Detailed information about the checks and other investigations made to determine that persons or entities removed from the sanctions regime are not linked to persons or entities that are, or should be, subject to the sanctions regime e.g. the Islamic Revolutionary Guard Corps ('IRGC');
- (d) To what extent, and why, do Australia's sanctions relating to Iran differ from those of the U.S. and other relevant countries?

2. Background

2.1 Iran is a major sponsor of terrorism (including through its proxy Hezbollah); is a destabilising influence in the Middle East (particularly in relation to Syria, Yemen, Saudi Arabia, Bahrain, Lebanon, Iraq and the Palestinian territories); is a significant abuser of human rights (including discrimination against women and religious, ethnic

and sexual orientation minorities); is rated “not free” in relation to civil liberties, political rights and press and internet freedom⁶; executes more persons per capita than any other country⁷; continues to engage in ballistic missile launches and development and asserts its right to do so⁸; has a history of deceiving and not cooperating with the International Atomic Energy Agency and the international community in relation to its nuclear program; promotes Holocaust denial; threatens to wipe out another UN member state (Israel); continues to make belligerent comments against the U.S., such as “death to America”; recently had arms shipments originating from it seized by both the Australian and U.S navies⁹; is allegedly involved in cyberattacks against U.S. financial institutions and infrastructure¹⁰; continues to engage in hostile and threatening behaviour¹¹; and is intent on substantially expanding its military capability (such as plans to purchase around \$8 billion worth of jets, anti-aircraft missile systems and other military hardware from Russia¹², and recent statements by the Iranian Defense Minister that Iran intends “to increase the precision-striking power of its weapons systems”, is “boosting the destructive and penetration power of different weapons' warheads” and that “We should strengthen ourselves to the level that we can prevent failure and acquire victory over our enemies”¹³).

2.2 Moreover, Iran has serious problems with its banking and financial system. In an article by Patrick Clawson of The Washington Institute¹⁴, the author raises some of these concerns as follows -

“Iranian banks are out of step with international banking regulations established over the past two decades. ... Iranian banks have fallen behind ... the strict anti-money laundering and counter-terrorist financing (AML/CFT) rules adopted across the world, and also include regulations tightened after the 2007-2008 global financial crisis, namely the "Basel III" standards covering risk management, corporate governance, bankruptcy laws, and other bank safety requirements. ... [Chief Executive of Iran's privately owned Middle East Bank, said] "Foreign banks are not obliged to risk their reputation by working with those Iranian banks which lack efficient compliance departments." And an anonymous senior Tehran banker noted, "Our banking system, like our economy, has been isolated and has no idea of what has happened in the world over the past decades." ...

⁶ See Freedom House report on Iran – <https://freedomhouse.org/report/freedom-world/2016/iran>

⁷ <http://freebeacon.com/national-security/iran-executed-1084-people-2015/>

⁸ <http://en.farsnews.com/newstext.aspx?nn=13941221000636>

⁹ <http://www.reuters.com/article/us-iran-usa-yemen-arms-idUSKCN0X12DB>

¹⁰ <http://www.politico.com/story/2016/03/us-indicts-iranians-in-cyber-attacks-on-dam-221196>

¹¹ See, for example, this 3 April 2016 article by Yousef Al Otaiba, ambassador of the United Arab Emirates to the U.S. - <http://www.wsj.com/articles/one-year-after-the-iran-nuclear-deal-1459721502> and this NY Times article of 7 April 2016, ‘John Kerry Confronts Concerns of Arab States After Iran Nuclear Deal’ <http://www.nytimes.com/2016/04/08/world/middleeast/year-after-iran-nuclear-deal-kerry-confronts-concerns-of-arab-states.html?ref=middleeast>

¹² <http://freebeacon.com/national-security/iran-spend-8-billion-russian-weapons/>

¹³ Iranian Defense Minister Brigadier General Hossein Dehqan, Fars News Agency, 6 April 2016 <http://en.farsnews.com/newstext.aspx?nn=13950118000571>

¹⁴ ‘Iran Locks Itself Out of the International Financial System While Blaming Washington’, Patrick Clawson, 6 April, 2016 <http://www.washingtoninstitute.org/policy-analysis/view/iran-locks-itself-out-of-the-international-financial-system-while-blaming-w>

Iranian banks have become so badly run and heavily politicized that a recent study from London-based consultancy Darien Analytics warned about the risk of “a major banking crisis three or four years from now”. It cited “unsophisticated management controls and IT systems, accounting and auditing practices that are inconsistent and lax at recognizing [non-performing loans]”. ... Indeed the Iranian business scene is characterized by lack of transparency on many matters. Deceptive financial activities are deeply ingrained in banking practice, partly in response to sanctions and partly as a reflection of the Islamic Republic's rampant corruption. ...

[T]he U.S. government has issued public warnings about dealing with Iranian banks. ... the State Department's principal deputy coordinator for sanctions policy, insisted that the United States does not block Iran's access to normal banking, but simultaneously noted that banks would be subject to stiff penalties unless they ensure they are not doing business with sanctioned entities such as firms linked to the Islamic Revolutionary Guard Corps - no easy task given the IRGC's history of disguised business ties. That follows a similar December 2015 warning from Acting Treasury Undersecretary for Terrorism and Financial Intelligence Adam Szubin: "Companies going into Iran need to take care. They need to conduct the due diligence necessary to ensure that their Iranian counterparts are not affiliated with designated individuals or organizations, such as the ... IRGC or its network of companies."

... Warnings from international bodies, especially the Financial Action Task Force (FATF), play a key role as well. At the organization's latest meeting in February, thirty-seven member governments - including Russia and China - gave consensus approval for a statement warning about the risks of doing business with Iran and North Korea. As one passage noted, “The FATF remains particularly and exceptionally concerned about Iran's failure to address the risk of terrorist financing and the serious threat this poses to the integrity of the international financial system. The FATF reaffirms its call on members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions”.”

2.3 Notwithstanding that it is claimed that Iran has implemented its initial obligations under the Joint Comprehensive Plan of Action (“JCPOA”) Iran has failed to demonstrate that it is now a responsible, peace-loving and trustworthy member of the international community. Indeed its actions and statements belie this. The U.S. is well aware of Iran’s bad behaviour, malfeasance and threat to global security and accordingly still maintains most sanctions preventing its citizens and corporations dealing with Iran. It has also imposed additional sanctions as a result of Iran’s ballistic missile activity and recently confirmed that it is not planning to allow Iran access to the U.S. financial system or the use of the U.S. dollar for transactions¹⁵. Further, it has been reported that the U.S. proposes to rely on UN Security Council Resolution 2231 to block Russia from selling its advanced fighter jets to Iran¹⁶.

¹⁵ <http://www.reuters.com/article/us-iran-nuclear-usa-congress-idUSKCN0X2ISM>

¹⁶ <http://freebeacon.com/national-security/us-block-russian-arms-iran/>

2.4 The Australian Department of Foreign Affairs and Trade (‘DFAT’) website summarises in broad terms the Australian Government’s approach on the partial lifting of sanctions for Iran as follows¹⁷ -

“Following implementation of the JCPOA nuclear deal and the lifting of economic sanctions on Iran, there is significant potential for increased trade and investment flows.

In line with the JCPOA nuclear deal, on 17 January 2016 the Australian Government decided to lift most of its autonomous sanctions, particularly economic sanctions. Key changes include removal of sanctions on the following areas:

- financial, banking and insurance
- oil, gas and petrochemical
- shipping, shipbuilding and transport
- gold, other precious metals, banknotes and coinage.

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

In line with UN Security Council resolution and the EU approach, Australia will continue to enforce sanctions on arms and related material, certain metals, software and nuclear-related equipment, as well as persons and entities related to these areas.

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.”

2.5 UN Security Council Resolution 2231 (the resolution endorsing the JCPOA) terminates certain UN Security Council Resolutions that had included UN sanctions against Iran¹⁸ (subject to ‘snap-back’ in the case of significant default by Iran) and then imposes specific restrictions (as set out in Annex B of resolution 2231) against dealings with Iran that apply to all states.¹⁹

2.6 However, it should be noted that UN Security Council Resolution 2231 does not require Australia to suspend or remove any of its autonomous sanctions relating to Iran. This is something that Australia has voluntarily chosen to do. Though Foreign Minister, Julie Bishop, in a joint press conference on 15 March 2016 with Iranian

¹⁷ DFAT website page on Iran (accessed 28 March 2016) <http://dfat.gov.au/geo/iran/Pages/iran-country-brief.aspx>
Note the DFAT website page on Iran sanctions is currently being updated (accessed 7 April 2016) <http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/iran/Pages/iran.aspx>

¹⁸ The UN Security Council resolutions terminated are -1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015). For a summary of these (apart from 2224) see – <https://www.armscontrol.org/factsheets/Security-Council-Resolutions-on-Iran>

¹⁹ For background and links on UN Security Council Resolution 2231, see <http://www.un.org/en/sc/2231/>

Foreign Minister, Javad Zarif, appeared to give the impression that Australia was obliged to lift these sanctions when she said - “Australia has also lifted sanctions in accordance with the *UN obligations* [emphasis added], and this opens the way for there to be greater trade and investment between Australia and Iran”.²⁰

2.7 The specific paragraphs of the Terms of Reference for the Inquiry are addressed below.

3. 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)*

3.1 The explanatory statement for the *Autonomous Sanctions (Suspension of Sanctions—Iran) Instrument 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.”

3.2 The explanatory statements for the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) Amendment List 2016 (No. 1) & (No.2)* state -

“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.”

3.3 In view of the comments in Part 2 above, it is submitted that the suspending of sanctions against Iran and persons and entities connected with it should involve reasonable public consultation. 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. The U.S. has still maintained most sanctions in relation to its individuals and corporations dealing with Iran (its sanctions relief mainly applies to non-U.S. persons) and has introduced additional sanctions as a result of Iran’s ballistic missile activity²¹.

3.4 Without public consultation and scrutiny and a proper explanation, Australians have not had the opportunity of assessing the appropriateness of sanctions relief and

²⁰ http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160315.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D

²¹ <http://www.theguardian.com/world/2016/mar/24/us-treasury-new-sanctions-iran-ballistic-missile-test>

what steps have been taken to ensure that relieved individuals and entities are not associated with wrongful activity or sanctioned organisations (such as the IRGC). There needs to be a detailed explanation as to why the Australian Government suspended various sanctions and transparency in relation to its reasoning. It should be kept in mind that the reason for the nuclear deal with Iran was because Iran had defied and deceived the international community and was working towards nuclear weapons capability.

3.5 Underlying the partial suspension of sanctions on Iran is an intention by the Australian Government to proceed towards normalising relations with Tehran. This is evident from, among other things, the recent meetings in Australia between the Australian Foreign Minister, Julie Bishop and the Iranian Foreign Minister, Javad Zarif. At the joint press conference on 15 March 2016²², Foreign Minister Bishop said -

“It will be the Iranian New Year in the next few days, and it's a time to celebrate renewal, harmony and hope, and I hope that underscores the bilateral relationship between Iran and Australia, and most certainly Iran's engagement with the international community. ... We have had a very extensive discussion today, and Dr Zarif has also met with our Trade and Investment Minister, our Immigration Minister, our Minister for International Education and Tourism, and also with the Prime Minister.

Among the matters that we have discussed in our bilateral meeting included our enthusiasm for enhancing our trade and investment ties ... Australia has also lifted sanctions in accordance with the UN obligations, and this opens the way for there to be greater trade and investment between Australia and Iran, and I know many Australian businesses have already registered their interest, along with many other businesses from around the world, in deepening economic ties with Iran. ...

Can I also add ... that in relation to enhanced two-way trade and investment, our Minister for Trade and Investment has announced today that Austrade will be re-opening its office in Tehran. And you would be aware that Australia has maintained an Embassy in Tehran over the last few decades ...”

3.6 The lack of public consultation on the partial suspension of sanctions is linked to the Australian Government's lack of public consultation and clarity on the wider issue of Australia's closer relationship with Iran. It is no secret that one of the reasons the Australian Government is developing this relationship is because it wants to return thousands of Iranian asylum-seekers.²³ Perhaps the lack of public consultation on sanctions relief is because the Australian Government does not want to open up for discussion, scrutiny and criticism, the sensitive issue of Australia seeking warmer relations with Iran.

²² http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160315.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D

²³ <http://www.theguardian.com/australia-news/2016/mar/09/iranian-asylum-seekers-could-be-sent-home-under-deal-with-tehran>

4. b. The adequacy of the explanatory statements accompanying the regulations for the removal of certain activities and entities from the sanctions regime

4.1 The explanatory statements are highly inadequate. As mentioned above, 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.

4.2 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 explanatory statements, but it should be easily accessible elsewhere with appropriate references to it. Without full transparency and disclosure, there cannot be an adequate understanding and scrutiny about what has been done and what is proposed in the future.

5. 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

5.1 There is some very brief and general information contained in the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) List 2012*, as amended²⁴ (“the Designated Persons and Entities List”). However, the Australian Government should provide further information and explain how it came to decide who should be removed from, and who should be retained on, the Designated Persons and Entities List.

6. d. The impact of lifting sanctions on the conduct of Iran in international affairs and on Australia's national interest

6.1 As mentioned above, the partial suspension of sanctions against Iran is tied in with the Australian Government's push towards normalising relations with Tehran. As sanctions relief and other normalising behaviour is only in its early stages, it is not possible to make clear assessments about the consequences. Moreover, as the Australian Government has not engaged in public consultation on these issues, there is a lack of information from relevant sectors of the Australian community in this regard. Nevertheless, it is submitted that the following matters should be considered:

- (a) The Australian Government seems to be rushing headlong into developing closer ties with Iran without reasonable evidence that Iran has significantly changed its ways. Indeed the recent ballistic missile tests and some of the other activities mentioned in paragraph 2.1 above, suggest that Iran has not changed

²⁴ The list as amended by 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)* can be found here – <https://www.legislation.gov.au/Details/F2016C00246/Download>
By way of comparison, the list before such amendments can be found here – <https://www.legislation.gov.au/Details/F2015C00371/Download>

and remains a dangerous and untrustworthy regime. What message is Australia sending to Iran, and other recalcitrant regimes, by being willing to engage with Iran on a less restrictive basis? To what extent is Australia going against its values and principles? To what extent is Australia aiding, supporting, encouraging or facilitating some of the more nefarious activities of the Iranian regime?

(b) What consideration has been given to the effect that sanctions relief, and the consequent development of closer ties with Iran, will have on Australia's relations with other countries?

(c) What assessment has been made about the security concerns of Australians and Australian entities doing business in and with Iran and the risks they face, both personally and commercially? Is there a greater risk of Australians and Australian entities being engaged in, or supporting, terrorist or military activities?

(d) What assessment has been made about the risks to Australian banks and financial institutions, and the Australian economy more generally, from associations with Iranian banks and financial institutions? See, in particular, the comments made in paragraph 2.2 above. Is there a risk of contamination by the lack of integrity in the Iranian banking and financial system? It is noted that the Suspension of Sanctions Instrument ("SI") as it applies to the Regulations (see changes to regs 5A(3) and 5A(4)) now allows -

- the opening of offices in Australia of Iranian financial institutions, or the acquisition or sale of interests in Australian financial institutions by Iranian financial institutions (s.8(7) SI, reg 5A(3))
- the establishment by a financial institution of a joint venture with, the establishment by a financial institution of a correspondent banking relationship with, or the opening by a financial institution of a bank account with, Iranian financial institutions (s.8(8) SI, reg 5A(4)(a), (b) and (e))
- the opening by a financial institution of a representative office in Iran (s.8(9) SI, reg 5A4(c))
- the establishment by a financial institution of a branch or subsidiary in Iran (s.8(10) SI, reg 5A4(d)).

(e) What assessment has been made about the removal of sanctions on certain supplies of goods to Iran? Will Iran now be able to use such supplies for terrorist or military activities? For example, sanctions have been removed from "Goods mentioned in the Australia Group Common Control Lists" (s.5(2) SI, reg 4(2)). 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"²⁵. 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.²⁶

²⁵ <http://www.australiagroup.net/en/index.html>

²⁶ <http://www.australiagroup.net/en/controllists.html>

Those provisions of the Suspension of Sanctions Instrument (s.5(2) SI, reg 4(2)) also remove sanctions from “naval equipment” and “naval technology” “of a kind specified by the Minister”.

(f) What assessment has been made about the removal of sanctions on certain supplies of services to Iran? In particular, a service that “assists with, or is provided in relation to”, “a military activity” is no longer subject to sanction (s.7(3) SI, reg.5(4)). Why should Australians now be able to provide services relating to military activities for Iran? Is this an error?

(g) What assessment has been made about the removal of persons and entities from the Designated Persons and Entities List? What background checks were undertaken on these persons and entities? As mentioned in paragraph 2.2 above, the IRGC is known to disguise its ties with business entities. It is therefore important to ensure that entities that are no longer subject to sanction are not controlled by other sanctioned persons and entities. Furthermore, what steps have been taken to ensure that there aren’t new entities or persons that should now be included in the Designated Persons and Entities List?

(h) 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? For example, in 2010 the then Minister of Defence, Senator John Faulkner, made a determination under the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (‘WMD Act’) to prohibit an export of certain industrial items to an entity in Iran on the basis that the items might be diverted for use in a weapons of mass destruction program.²⁷ It would appear that Senator Faulkner made a number of such determinations under the WMD Act.²⁸

(i) DFAT’s website notes that key changes to Australia’s autonomous sanctions include the removal of sanctions in the following areas - financial, banking and insurance; oil, gas and petrochemical; shipping, shipbuilding and transport; and gold, other precious metals, banknotes and coinage²⁹. What assessment was made about the removal of sanctions in these areas? Surely senior representatives and advisers in these businesses and sectors would be in the best position to advise on the risks and benefits associated with such removal of sanctions, including risks relating to security, money laundering, compliance with laws, damage to Australian industry, possible enhancement of Iranian military capability etc.

²⁷ <http://www.smh.com.au/breaking-news-national/faulkner-blocks-iran-sale-under-wmd-law-20100528-wl5t.html>

²⁸ See <http://www.irantracker.org/roundup/global-business-iran-update-april-2-may-17> and <http://newsstore.fairfax.com.au/apps/viewDocument.ac?jsessionId=7D0B356D4A80EE7B786734D90CC67B1B?sy=af&pb=all&fx&dt=selectRange&dr=1month&so=relevance&sf=text&sf=headline&rc=10&rm=200&sp=brs&cls=16115&clsPage=1&docID=ILL101129AF4TB7LQ3E8>

²⁹ DFAT website page on Iran (accessed 28 March 2016) <http://dfat.gov.au/geo/iran/Pages/iran-country-brief.aspx>

7. e. The Australian Government's decision to re-open a trade office in Iran

7.1 It seems highly premature to re-open a trade office in Iran. See comments under Parts 2 and 6 above.

8. f. Any related matters

8.1 Will the Australian Government reconsider the suspension of some or all of its sanctions against Iran, or impose other sanctions against Iran, in view of Iran's continued activity in relation to ballistic missile development and ballistic missile tests? The U.S. has imposed further sanctions on Iran as a result of this ballistic missile activity³⁰. Such activity is possibly in contravention of UN Security Council Resolution 2231 (2015) or contrary to the spirit of that resolution.³¹

8.2 Paragraph 3 of Annex B of UN Security Council Resolution 2231 provides that –

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

Hon Michael Danby MP
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Shadow Parliamentary Secretary to the Leader of the Opposition

³⁰ <http://www.theguardian.com/world/2016/mar/24/us-treasury-new-sanctions-iran-ballistic-missile-test>

³¹ For background and links on UN Security Council Resolution 2231, see <http://www.un.org/en/sc/2231/>