

AIJAC's Submission to the Senate Foreign Affairs, Defence and Trade References Committee Inquiry into Australia's Sanctions Regime.

4 September 2024

Introduction

As the premier independent public affairs organisation for the Australian Jewish community, the Australia/Israel & Jewish Affairs Council (AIJAC) appreciates the opportunity to make a submission to the Foreign Affairs, Defence and Trade References Committee Inquiry into Australia's Sanctions Regime.

Since late 2022, AIJAC has repeatedly noted with deep concern that the Australian Government has significantly lagged behind the US, UK, Canada and the European Union in both timing and breadth when it comes to imposing autonomous sanctions on Iranian regime entities and individuals.¹ This problem was stressed in AIJAC's submission to the Foreign Affairs, Defence and Trade References Committee's Inquiry into the Human Rights Implications of Recent Violence in Iran in Nov. 2022.²

The Committee's final report, released on Feb. 1, 2023, stated:

Given that the very purpose of Australia's Magnitsky legislation is to ensure that Australia can act quickly against human rights abusers, the committee is left questioning why Australia was so far behind other democratic and like-minded countries in taking this step. The government has not been able, or willing, to explain why Australia has sanctioned significantly less individuals than allies with whom we share intelligence.³

The Government has since imposed further sanctions, most recently on May 14, 2024, bringing the total to 90 Iranian-linked individuals and 100 Iranian-linked entities.⁴ However, the problems noted by AIJAC nearly two years ago have persisted. Australia continues to lag woefully behind in terms of timing as well as the number of sanctions it has applied relative to its allies and partners. Canada, for instance, had sanctioned 200 Iranian individuals and 250 Iranian entities as of April 25.⁵ On June 19, Canada became

¹ Oved Lobel, "Australia once again the odd one out on Iran", *AIJAC*, Jan. 25, 2023, <https://aijac.org.au/fresh-air/australia-once-again-the-odd-one-out-on-iran/>

² "Submission to the Inquiry into the Human Rights Implications of Recent Violence in Iran", *AIJAC*, Nov. 23, 2022, <https://aijac.org.au/submissions/submission-to-the-inquiry-into-the-human-rights-implications-of-recent-violence-in-iran/>

³ "Report: Human rights implications of recent violence in Iran", Feb. 2023, p. 70, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/HumanRightsinIran/Report

⁴ "Targeted sanctions in response to Iran's destabilising activities in the Middle East", May 14, 2024, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/targeted-sanctions-response-irans-destabilising-activities-middle-east>

⁵ "Canada imposes further sanctions against Iran", April 25, 2024, <https://www.canada.ca/en/global-affairs/news/2024/04/canada-imposes-further-sanctions-against-iran.html>

the second Australian ally to list the Islamic Revolutionary Guard Corps (IRGC) as a terrorist organisation,⁶ something the Government continues to refuse to act on.

Meanwhile, on September 2, the UK sanctioned the IRGC's Qods Force Unit 700 and three Iranian individuals associated with the regime's destabilising and terrorist activities: Abdolfatah Ahvazian, the commander of IRGC Unit 340, Hamid Fazeli and Behnam Shahriyari.⁷ The IRGC Quds Force's Unit 700 is a secret unit responsible for smuggling supplies and providing logistics to Iran's terrorist proxies. In particular, it is responsible for transferring military equipment to Iran's proxies in Syria and Lebanon, and is thus a major contributor to the violence, terrorism and instability in the region.

Australia, however, has imposed no new sanctions against Iranian individuals or entities in nearly four months, and should at the very least quickly add these individuals and this IRGC Qods Force unit to the Consolidated List.

This problem is not limited to Iran, and is especially notable in relation to the People's Republic of China (PRC), which the Government has not targeted for its gross and systematic human rights abuses, particularly against the Uyghur minority in Xinjiang;⁸ global weapons proliferation and vital support for Russia's invasion of Ukraine and Iran's ballistic missile and drone program; and direct and constant cyberattacks against Australia itself, among other malign activities. While the issue is sensitive due to the economic relationship, this cannot excuse complete inaction on issues that are directly connected to Australia's national security interests.

Compared to the US, Australia's ability to unilaterally coerce, punish or deter through financial sanctions is very limited. On the other hand, as a respected middle power and liberal democracy, it can be a key force multiplier in coordinated and multilateral sanctions announcements with its allies and partners, both in terms of practical effect as well as ensuring that Western democracies are presenting a clearly united front. If adversaries see Australia lagging by 1-2 months on every announcement, they will perceive a political gap to exploit.

Thanks to Australia's Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021, the Government technically has most of the authorities it needs to rectify these issues. The problem seems to be less one of staffing at the Australian Sanctions Office (ASO) or any other technical issue and more about political resolve.

⁶ "Government of Canada lists the IRGC as a terrorist entity", June 19, 2024, <https://www.canada.ca/en/public-safety-canada/news/2024/06/government-of-canada-lists-the-irgc-as-a-terrorist-entity.html>

⁷ "UK sanctions secret IRGC Quds Force unit arming Iran's proxies", *Iran International*, Sept. 2, 2024, <https://www.iranintl.com/en/202409023772>

⁸ Senator Claire Chandler, "One year but little action on Xinjiang report", Aug. 31, 2023, <https://www.liberal.org.au/latest-news/2023/08/31/one-year-little-action-xinjiang-report>

The current problems can only be fully solved through greater political will and courage, not mere technical solutions. There are, however, legislative amendments and other actions that could make Australian sanctions more effective.

AIJAC recommends the following:

- The establishment of a specific office or position within the ASO, if it does not already exist, to liaise directly with counterparts in the US, UK, Canada and the European Union to ensure coordination of sanctions targets and announcements.
- Ensuring close consultation with our closest security and intelligence partner, the United States, and working with its Office of Foreign Assets Control (OFAC) to generate new targets for sanctions action and regimes.
- The expansion of autonomous sanctions against Iranian individuals and entities, including all those already sanctioned by Australia's allies and partners, involved in terrorism, systematic human rights abuses, cyberattacks, intimidating Australian citizens critical of the regime, involvement in Russia's war against Ukraine and other activities such as hostage-taking.
- The establishment of a specific PRC sanctions regime and the imposition of sanctions against entities and individuals in the PRC responsible for gross and systematic human rights abuses, cyberattacks against Australia, involvement in Iran's drone and missile programs and in enabling Russia's invasion of Ukraine.
- The introduction of legislation granting similar powers to those utilised by the US under Executive Order 14059 on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade.⁹
- The introduction, if possible, of legislation similar to the US Rebuilding Economic Prosperity and Opportunity (REPO) for Ukrainians Act,¹⁰ allowing Australia to confiscate assets of sanctioned individuals and entities.
- Amending Australia's thematic sanctions regime to allow the targeting of facilitators of sanctions evasion, particularly in the Asia-Pacific region, such as individuals and entities based in Malaysia.¹¹
- Establishing a sanctions regime specifically targeting individuals and entities monitoring, harassing, threatening and intimidating Australian citizens on Australian soil.
- Expanding the ASO to accommodate updated sanctions architecture and expansion of sanctions as well as monitoring and enforcement.

⁹ "Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade", Dec. 15, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/15/executive-order-on-imposing-sanctions-on-foreign-persons-involved-in-the-global-illicit-drug-trade/>

¹⁰ Yuliya M. Ziskina, "The REPO Act: Confiscating Russian State Assets Consistent With U.S. and International Law", *Lawfare*, Oct. 12, 2023, <https://www.lawfaremedia.org/article/the-repo-act-confiscating-russian-state-assets-consistent-with-u.s.-and-international-law>

¹¹ Xinghui Kok, "Iran's capacity to move oil reliant on Malaysian providers, US official says", *Reuters*, May 7, 2024, <https://www.reuters.com/business/energy/irans-capacity-move-oil-reliant-malaysian-providers-us-official-says-2024-05-07/>; Dalga Khatinoglu, "Trade Data Highlights Malaysia's Role in Shipping Iranian Oil to China", *Iran International*, May 14, 2024, <https://www.iranintl.com/en/202405148133>

- Amending the *Criminal Code Act 1995* to allow the listing of the IRGC as a terrorist organisation.

The role of Australian sanctions

The historical record of sanctions by themselves successfully coercing any country into ceasing the activity for which it is being sanctioned is thin, even when imposed and enforced fully by the US, which does have the power to inflict immense economic pain to adversaries and human rights violators.

Instead, sanctions by Australia serve primarily as a more forceful form of condemnation and diplomatic signalling. Yet this does not mean they are purely symbolic; on the contrary, they complicate and punish certain activities and ensure that Australian companies and individuals are not contributing to the sanctioned activities. Sanctions also serve to name and shame individuals and entities and to publicly expose interconnected networks and thus can be used to try to deter specific activities such as Iranian hostage-taking.¹²

Because diplomatic signalling is one key purpose of sanctions, they are most effective when done in a clearly coordinated fashion alongside allies. Such coordination is also a force multiplier in terms of the concrete effects of our sanctions on affected individuals and entities.

Yet Australia inexplicably missed an opportunity to do this on April 25, 2024, when the US, UK and Canada jointly announced coordinated sanctions against Iran following its massive missile and drone attack against Israel on April 13.¹³ If this was because the Government was not aware of this announcement in advance, then a new office or position in the ASO responsible for coordinating sanctions with allies is obviously necessary.

Australian sanctions architecture should complement and reinforce US sanctions as well as those of other allies and partners. Coordination is key to giving Australian sanctions their broadest possible impact, and thus making them the most effective foreign policy tool possible. Even in cases where Australia wishes to take independent sanctions action, it should still make it a key priority to consult with its allies and partners to try to coordinate multilateral sanctions announcements wherever possible.

PRC sanctions regime

Australia is in a uniquely vulnerable economic position when it comes to acting forcefully against PRC-linked individuals and entities involved in horrific human rights violations, weapons proliferation, the global drug trade, malicious cyberactivity targeting Australia at all levels of government and business, and Russia's war against

¹² Kylie Moore-Gilbert, "Australia must use its Magnitsky-style sanctions more effectively to deter hostage diplomacy", *ASPI*, Dec. 21, 2022, <https://www.aspistrategist.org.au/australia-must-use-its-magnitsky-style-sanctions-more-effectively-to-deter-hostage-diplomacy/>

¹³ "UK targets Iran's ability to launch drones through new round of sanctions", April 25, 2024, <https://www.gov.uk/government/news/uk-targets-irans-ability-to-launch-drones-through-new-round-of-sanctions>

Ukraine. It is therefore understandable that previous governments have chosen to avoid establishing a sanctions architecture to deal with these violations.

However, Australia seems to be almost alone in refusing to do so. Canada, the UK, the US and the EU have all responded with sanctions regimes, and it is now time for Australia to do the same. The political situation has changed, and while a new sanctions regime targeting our most important economic partner will be a difficult balancing act, it is absolutely vital that Australia play its part as an important member of the Western alliance in punishing certain PRC activities. Given our proximity to China, Australia arguably has the most to lose from allowing many of these malign activities by China to go unchecked.

The most important targets for the first tranche of Australian sanctions will be those already sanctioned in a coordinated fashion by our allies and partners¹⁴ for involvement in gross and systematic human rights abuses against the Uyghur minority in Xinjiang. The sanctions should also include those behind the PRC state-sponsored cyber group Advanced Persistent Threat (APT) 40, also known as Kryptonite Panda, GINGHAM TYPHOON, Leviathan and Bronze Mohawk,¹⁵ which can be designated under Australia's Significant Cyber Incidents sanctions regime.¹⁶

On July 10 of this year, NATO publicly accused the PRC of being “a decisive enabler of Russia’s war against Ukraine” due to “its large-scale support for Russia’s defense industrial base.” The US warned that “the United States will continue to impose sanctions on P.R.C. entities involved in this activity, in coordination with our European allies.”¹⁷ Those entities should be added to Australia’s sanctions regime, as well.

Finally, China remains the premier enabler of Iran’s ballistic missile and drone program. While the PRC-based Karl Lee (Li Fangwei), who the US State Department said was “the most important overseas supplier of items and material for Iran’s missile program,” has been autonomously sanctioned by Australia since March 2012, many other PRC-based entities and individuals involved in its drone and missile program have not been sanctioned by Australia.

¹⁴ “Canada joins international partners in imposing new sanctions in response to human rights violations in Xinjiang”, March 22, 2021, <https://www.canada.ca/en/global-affairs/news/2021/03/canada-joins-international-partners-in-imposing-new-sanctions-in-response-to-human-rights-violations-in-xinjiang.html>

¹⁵ Australian Signals Directorate, “APT40 Advisory”, July 9, 2024, <https://www.cyber.gov.au/about-us/view-all-content/alerts-and-advisories/apt40-advisory-prc-mss-tradecraft-in-action>

¹⁶ DFAT, “Significant cyber incidents sanctions regime”, <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/significant-cyber-incidents-sanctions-regime>.

¹⁷ David E. Sanger, “For First Time, NATO Accuses China of Supplying Russia’s Attacks on Ukraine”, *New York Times*, July 10, 2024, <https://www.nytimes.com/2024/07/10/us/politics/nato-china-russia-ukraine.html>

OFAC has sanctioned several PRC-based networks involved in transferring components to Iran for these programs,¹⁸ most recently on July 30, 2024.¹⁹ The Government should consult closely with the US and add these entities and individuals to its own list under the new sanctions regime.

Conclusion

The shift to open geo-strategic competition with an axis of aggressive revisionist powers including the PRC, Russia and Iran requires a much bolder Australia, focussed on coordinating far more closely with allies and partners across a range of policies, including multilateral sanctions.

To date, Australia has not rectified the issues identified by AIJAC and others, including in the Foreign Affairs, Defence and Trade References Committee's 2023 report on its Inquiry into the Human Rights Implications of Recent Violence in Iran, and continues to lag behind the US, UK, Canada and the EU when it comes to both timing as well as number of sanctions imposed on Iranian individuals and entities.

In addition, for two years, the Government has refused to make the necessary legislative changes it believes are necessary to list the IRGC under Australia's *Criminal Code*. While this is not directly related to sanctions regimes, it is a key part of pressuring Iran. Canada has done so. It is time for Australia to do the same.

Australia also remains isolated when it comes to PRC sanctions, another issue which must be rectified. Even if this risks retaliatory action, Australia must be willing to stand up for itself and its principles, both for its own sake and for the sake of allied unity in the face of this growing threat. PRC sanctions will also impact the Iranian and Russian regimes.

While AIJAC's recommendations would go some way towards resolving Australia's uncoordinated and diffident sanctions policy, what is ultimately needed, on top of various technical solutions and legislative amendments, is the political will to act. The Government must recognise that the world has changed irrevocably, and that quiet diplomacy can no longer be the sole policy response to threats, human rights violations and dangerous rogue behaviour by various international actors. Sanctions architecture must be updated, and sanctions drastically expanded to meet the moment.

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¹⁸ OFAC, "Treasury Sanctions Iranian Defense Officials and a China-Based Network for Supporting Iran's Ballistic Missile Program", July 17, 2017, <https://home.treasury.gov/news/press-release/sm0088>; OFAC, "Treasury Sanctions Procurement Network Supporting Iran's UAV and Military Programs", April 19, 2023, <https://home.treasury.gov/news/press-releases/jy1423>; OFAC, "Treasury Targets Iran's International UAV Procurement Network", March 9, 2023, <https://home.treasury.gov/news/press-releases/jy1331>

¹⁹ OFAC, "Treasury Targets Iran's International UAV Procurement Network", July 30, 2024, <https://home.treasury.gov/news/press-releases/jy2510>