

**PROTECTING AMERICA FROM A BAD DEAL: END-  
ING U.S. PARTICIPATION IN THE NUCLEAR  
AGREEMENT WITH IRAN**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY

OF THE

COMMITTEE ON OVERSIGHT

AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

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# CONTENTS

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Hearing held on June 6, 2018 .....	Page 1
WITNESSES	
Mr. Richard Goldberg, Senior Advisor, Foundation for Defense of Democracies	
Oral Statement .....	6
Written Statement .....	9
Mr. David Albright, President, Institute for Science and International Security	
Oral Statement .....	21
Written Statement .....	23
Mr. Michael Pregent, Senior Fellow, Hudson Institute	
Oral Statement .....	37
Written Statement .....	40
Jim Walsh, Ph.D., Senior Research Associate, Security Studies Program, Massachusetts Institute of technology	
Oral Statement .....	45
Written Statement .....	47
Michael Rubin, Ph.D., Resident Scholar, American Enterprise Institute	
Oral Statement .....	66
Written Statement .....	68



## **PROTECTING AMERICA FROM A BAD DEAL: ENDING U.S. PARTICIPATION IN THE NU- CLEAR AGREEMENT WITH IRAN**

**Wednesday, June 6, 2018**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON NATIONAL SECURITY,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
*Washington, D.C.*

The subcommittee met, pursuant to call, at 2:14 p.m., in Room 2154, Rayburn House Office Building, Hon. Ron DeSantis [chairman of the subcommittee] presiding.

Present: Representatives DeSantis, Russell, Amash, Hice, Comer, and Welch.

Also Present: Representatives Zeldin and Donovan.

Mr. DESANTIS. The Subcommittee on National Security will come to order.

Without objection, the chair is authorized to declare a recess at any time.

May 8, 2018, President Trump made one of the most momentous decisions of his Presidency by terminating the United States' participation in the Joint Comprehensive Plan of Action, or JCPOA, better known as the Iran deal, and he decided to immediately begin reimposing sanctions on Iran.

The President made the right decision. He saw this deal for what it was, calling it, quote, "one of the worst and most one-sided transactions the United States has ever entered into," end quote.

The Iran deal has empowered the Iranian regime and has fueled Iran's ambitions for regional dominance. It's not hard to see why. The deal provided Iran with billions upon billions of dollars in upfront sanctions relief, including airlifting \$1.7 billion in cash, effectively to the Iran Revolutionary Guard Corps.

To obtain this financial windfall, Iran agreed to a temporary set of restrictions on its nuclear program that sunset after 10 and, in some cases, 15 years. But by allowing Iran a vast nuclear infrastructure and allowing Iran to reduce its breakout time to almost zero, the deal paved the way for Iran to have a bomb. And the deal's fundamentally flawed inspection regime allows Iran to block inspectors from accessing military sites, leaving the IAEA incapable of verifying if Iran is even complying with the deal.

The agreement did nothing to stop Iran's ballistic missile program or its support for terrorism. Now Tehran is using the financial windfall from the deal to spread money to terrorists and insurgents throughout the Middle East.

Iran and its Islamic Revolutionary Guard Corps are firing rockets into Israel, propping up the Assad government and its butchery in Syria, supporting anti-American Shiite militias in Iraq, bolstering Hezbollah to unprecedented levels of strength in Lebanon, arming Houthi rebels in Yemen, and backing the Taliban in Afghanistan.

And thanks to Israeli intelligence revealed recently by Prime Minister Benjamin Netanyahu, we now know without question that the Iran deal was built on lies. As part of the deal, Iran's leaders promised never to build a nuclear weapon and to come clean to the IAEA about their past nuclear activities.

Iran's Foreign Minister, Javad Zarif, said, Iran, quote, "didn't have any program to develop nuclear weapons," and considered them, quote, "both irrational as well as immoral," end quote.

But the documents obtained by Israel proved that Iran had a nuclear weapons program, that Iran brazenly lied by denying it. And then, even after entering the JCPOA, Iran kept a secret archive of tens of thousands of files on its nuclear weapons program.

Now, when the Iran deal was first announced, President Obama's advisor, Ben Rhodes, drew on his MFA in writing to create a, quote, "echo chamber of false narratives to try to sell the agreement." And in spite of overwhelming evidence that the deal wasn't working and Iran was acting in bad faith, the foreign policy establishment and the enablers in the press are again spinning a web of deception to try to undermine President Trump's decision.

They claim, his critics, that he, quote, violated the JCPOA by withdrawing. In reality, the Obama State Department admitted in a letter to then-Congressman Mike Pompeo that, quote, "the JCPOA is not a treaty or an executive agreement and is not a signed document."

The JCPOA reflects political commitments between Iran the P5+1 and the EU. The deal would never have been ratified as a binding treaty because it was opposed by bipartisan majorities of both the House and Senate, including Senator Chuck Schumer and the Democratic ranking members of the House Foreign Affairs Committee and Senate Foreign Relations Committee.

The Iran deal was effectively of a nonbinding commitment between President Obama and Ayatollah Khamenei, which imposes no obligation upon a successor President to follow it.

As Harvard's Jack Goldsmith writes, "You don't get to make an enormously consequential international deal in the face of opposition from Congress," and from the public, I might add, "and skirt the need for congressional consent by making the agreement non-binding under domestic and international law and then complain about a subsequent withdrawal," end quote.

President Trump's opponents claim his decision was reckless and leaves America isolated. The truth is that the administration conducted a lengthy review of the JCPOA, held extensive negotiations with European allies to try to correct its many flaws, and set a clear deadline for results.

Now, Secretary Pompeo has presented a new strategy in which he specified the conditions for a new agreement, including a complete stop to uranium enrichment, a full accounting of past nuclear activity, unqualified access for IAEA inspectors, halting ballistic

missile activity, ending support for terrorism, and releasing all hostages.

The door remains open for Europe to work with the U.S. to reach a better deal that addresses these issues, but instead of reaping the spoils of the sanctions relief, Iran will now face unprecedented financial pressure from U.S. sanctions, and companies around the globe will have to decide whether they would rather do business with the world's biggest economy or the world's largest state sponsor of terrorism.

In contrast to the narrative that withdrawing from the deal leaves America isolated, many countries in the Middle East strongly support President Trump's approach, including Israel, Saudi Arabia, the UAE, and Bahrain. They are the ones who are most at risk from Iranian misconduct.

By ending U.S. participation in the Iran deal, President Trump demonstrated that American strength and leadership are back again. We should all be thankful that the President kept his word. He campaigned on this being a bad deal, said he would terminate it if they couldn't get better terms, and he followed through on that.

And I would also like to point out, since I did these remarks, there has been reports about whether or not Iran was in fact able to access the U.S. financial system. That was supposed to be a no-go.

We had testimony during the pendency and when the deal was agreed to from the Obama administration saying that that was not going to happen. This committee obviously is going to want to investigate what happened there because that is a really big deal.

But I thank the witnesses for being here. I look forward to your testimony. And it is my pleasure, in lieu of my friend from Massachusetts, I recognize for his opening statement, my friend from Vermont, Mr. Lynch.

Mr. WELCH. Welch.

Mr. DESANTIS. Mr. Welch. I knew that.

Mr. WELCH. You were wishing. And we all are. We miss Congressman Lynch. But thank you, and I thank the witnesses.

And, Mr. Chairman, thanks for having this very important hearing. And I just want to say at the outset, I listened very carefully to your statement, and I know that it reflects not just your views but the views of many people who oppose the agreement from the beginning.

What I did not hear in your statement was what's next. What is the Trump plan? The President has not laid that out. And he is playing a game of very high stakes poker with American national security, with our relationships with our allies.

President Trump's decision to withdraw from the Iran nuclear agreement, painstakingly negotiated with our best allies—the United Kingdom, France, Germany, and even China and Russia, who I wouldn't classify as our best friends; they are frenemies, in this case, but they cooperated with us to get this agreement—in my view and the views of many, undermines national security, and it inflames tensions in war zones like Syria Lebanon and Yemen.

While the Iran nuclear agreement did not address many of the issues that you expressed and for which I share concern, it did ad-

dress one. It required Iran to cease and desist from active development of nuclear weapons. That is a huge strategic achievement.

Within the four corners of the document, its sole purpose was to ensure, quote, “under no circumstances will Iran ever seek, develop, or acquire any nuclear weapons.” And it did also set forth a system of third-party verification. This was no “trust but verify.” This was distrust, verify, distrust, verify immediately.

Based on the robust on-the-ground inspections and verification regime mandated by the agreement, the IAEA has continually reported that Iran has abided by the significant constraints on its nuclear program. And I don’t believe the President really challenged that. According to the IAEA’s most recent monitoring report, Iran has refrained from producing or retaining uranium enriched at levels greater than 3.67 percent, far less than the approximately 90 percent enrichment level of weapons grade uranium and 20 percent level of the uranium that Iran had previously stockpiled.

The IAEA has also verified that, in compliance with the agreement, there are no more than 5,060 centrifuges at Natanz fuel enrichment plant, and that is in accordance with Iran’s commitment to dismantle two-thirds of the centrifuges to enrich uranium.

So essentially we have got a situation here where all of the experts are in agreement that as far of the four corners of the verification program and compliance with the agreement, Iran has been in compliance. None other than Defense Secretary Mattis, widely respected on both sides of the aisle, testified before the Senate Armed Services Committee in April of this year that the Iran nuclear agreement, and I quote, “is written almost with an assumption that Iran would try to cheat,” that Iran would try to cheat.

There is no trust on the side of the U.S. It is all about verification. So the verification, he said, what is in there, is actually pretty robust.

If President Trump were to get a similar agreement and similar results in his meeting with North Korea’s Kim Jong-un later this month, it would make the world safer. In my view, I hope he is successful. We will see. But based on his public position and statements, President Trump would likely walk away from such a deal.

The U.S. withdrawal from the Iran nuclear deal has, in my view, and the view of many others, has made the world less safe and probably increased the likelihood of military conflict with Iran.

Iran has indicated it will enhance its uranium enrichment capacity. And just yesterday, Iran’s Atomic Energy Organization announced that Iran has completed a new centrifuge assembly center at the Natanz plant and would increase its capacity to produce uranium hexafluoride to supply its centrifuges.

Our allies, France, Germany, and the United Kingdom are trying to uphold the Iran nuclear agreement without us, but they face the Hobson’s Choice, as you said, Mr. Chairman. And the potential of U.S. sanctions has significant potential to hurt our closest allies. My view, not a good thing.

In the meantime, the President has not provided the American people or Congress with any information suggesting he has a realistic plan to replace the Iran nuclear agreement that he just ripped up. And I will be very interested in hearing from the witnesses as

to whether you are aware of a plan to proceed in the absence of the one we just ripped up.

However, the words and actions of his closest advisors, President Trump's closest advisors, give us a clue as to the President's ultimate goal. And it is a fair question. Regime change.

In January 2018, prior to becoming the President's National Security Advisor, Mr. Bolton, during an interview on FOX News, said that, quote, "our goal should be regime change in Iran." That's what he said.

On May 5th, just 3 days before the United States withdrew the Iran nuclear deal, Rudy Giuliani, the President's lawyer confirmed that the President is, quote, "is as committed to regime change as we are."

If regime change is the intended goal of the Trump administration, I will give them this: That is a clear policy. Reckless, but clear. Is that their policy?

And I would be interested in hearing from witnesses as to your view on that.

It's imperative that the administration change its direction and work with Congress, along with our European partners, to mitigate the very destabilizing consequences of our withdrawal from the Iran nuclear agreement.

I thank the witnesses and look forward to your testimony. Thank you, Mr. Chairman.

Mr. DESANTIS. I thank the gentleman from Vermont.

I am pleased to introduce our witnesses today. We have Rich Goldberg, senior advisor at the Foundation for Defense of Democracies. We've got David Albright, president of the Institute for Science and International Security; Michael Pregent, senior fellow at the Hudson Institute; Dr. Jim Walsh, senior research associate at MIT's Security Studies Program; and Dr. Michael Rubin, resident scholar at the American Enterprise Institute. Welcome to you all.

Pursuant to committee rules, all witnesses will be sworn in before they testify. So if you can please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Please be seated.

All witnesses answered in the affirmative.

In order to allow time for discussion, please limit your testimony for 5 minutes. Your entire written statement will be made a part of the record. As a reminder, the clock in front of you shows your remaining time. The light will turn yellow when you have 30 seconds left and red when your time is up. If you hear me banging this a little softly, that means wrap it up.

Please also remember to press the button to turn on your microphone before speaking.

And, with that, I will recognize Mr. Goldberg for 5 minutes.

**WITNESS STATEMENTS****STATEMENT OF RICHARD GOLDBERG**

Mr. GOLDBERG. Mr. Chairman, Mr. Ranking Member thank you so much. It's a real honor to be here. It was just a few years ago that I was sitting behind the dais behind Members advising them on how to grill people like me, so go easy.

I'll start off basically summarizing my initial remarks, and I would really like to get to recommendations. But I will say this. For many, many years, we worked in an incredibly bipartisan way to advance Iran policy in the Congress, in the House and the Senate.

Bills moved in overwhelmingly bipartisan fashion to not only stop the pursuit of nuclear weapons by the Islamic Republic but to help the people of Iran pursue human rights, dignity, democracy inside their country, to ensure that Iran no longer was a state sponsor of terror, and to defend our allies from Iran's proliferation, from their missile development, and from their terrorism.

The idea that this has become very partisan and that things that I might say or that others might say during the hearing become partisan is a more recent phenomenon. And it is my hope that, in this post-JCPOA environment, while it might take a little time, that we find ways to come together bipartisanly to move things forward for the good of the American people, for our country, and for our allies.

As for the JCPOA, I would say that the JCPOA, the decision to move away from the Iran deal to withdraw by the President was both legally justified and necessary from a national security perspective. Legally justified.

Mr. Chairman, you summarized it well. Many legal scholars at the time made it very clear that the JCPOA was a political commitment, not an executive agreement, certainly not a treaty. A political commitment is politically binding but not legally binding. This was confirmed just a couple weeks ago on a panel where Jake Sullivan was speaking, a former senior official during the previous administration and a key member of the negotiating team that led to the JCPOA.

Now, some might say, well, that is true, but there was a U.N. Security Council resolution, 2231, that referenced the JCPOA and, therefore, made this international law, made this legally binding for the United States.

That, again, is not true. If you really read the resolution, and this was noted at the time, again, by many legal scholars, I note in my testimony, it uses words like "endorses," "urges," "calls upon." These are nonbinding words for the U.N. Security Council. Truly the only thing that was very proactive in one of its clauses, No. 27, it decides that as the council decides that the JCPOA is not a matter of international law.

And so this is a political commitment. You might disagree with the decision of the President to withdraw, but from a legal perspective, domestically and internationally, this was simply a political commitment. And when we have a change in leadership in our democracy, many times we see a change in our policies.

If you recall back in 2009 when President Obama in his first year in office decided to change our foreign policy, our national security policy, with respect to two European allies, Poland and the Czech Republic.

Just the previous year, his predecessor, President Bush, had signed executive agreements with those two countries. Those two countries had staked their politics domestically and lot of their security risks on a strategy for missile defense in Europe.

President Obama came in. His team had a different direction that he wanted to pursue, and they did so. They withdrew from an executive agreement, something that had carried more weight than the JCPOA.

Now, at the time, Brussels wasn't screaming and protesting. There weren't EU Council resolutions deciding, how do we stop the Obama administration from changing the missile defense policy of Europe?

There was outcry of Republicans in the Congress. I remember there were attempts in Appropriations and Armed Services to pass amendments to stop what President Obama was doing. The Republicans did not hold the majority at the time. Those efforts failed, and we moved on. And we moved on together, and together we have continued to do as best we can in bipartisan efforts on missile defense.

From a national security perspective, the JCPOA failed in many ways, well beyond those that we talk about. We talked about the three elements that were the elements that the President was trying to negotiate with the E3, the so-called fix to the JCPOA. We talked about the fact that the agreement never covered ballistic missiles, the delivery systems to carry nuclear weapons.

How do you have an agreement that is supposed to stop the advancement of a nuclear weapons program without covering ballistic missiles? We have talked about that ad nauseam.

We talked about the sunsets. Mr. Chairman, you referenced them. Temporary restrictions on Iran's nuclear program. We gave away our toughest sanctions for, in some cases, temporary restrictions on the nuclear program.

And, of course, as my colleague to the left of me will probably touch on—or could—he has written extensively on it, we have talked about the lack of inspections in military sites, the inability by the IAEA to verify Section T of the agreement that has to do with weaponization activities.

Even though, as Mr. Ranking Member, you referenced, the IAEA would say that on the technical levels of some of the concessions that Iran made, Iran was in agreement with those, was in compliance, he could not say with confidence that the IAEA was capable of verifying Section T. That was an issue that Ambassador Haley had raised several times.

But those three issues, though they were the bulk of what was being negotiated between the United States and the E3, that wasn't the fundamental flaw of the deal.

The fundamental flaw was that we handcuffed ourselves from dealing in a nonmilitary way with all of the rest of Iran's illicit activities.

The idea that we were allowed to impose nonnuclear sanctions, that nothing in the deal would prohibit us from imposing non-nuclear sanctions was a myth.

Think about it. The banks that were helping Bashar al-Assad, loaned money, credit lines, never were we allowed to impose sanctions on them again. They were in Annex 2 of the JCPOA. Total immunity for Iranian banks to finance Bashar al-Assad. Total immunity for Iran to finance Hezbollah and continue the war in Syria. Total immunity for Iran to set up bases in Syria and Lebanon and to start converting rockets of Hezbollah into precision-guided munitions to target our allies in Israel. Total immunity to continue to arm the Houthis in Yemen with ballistic missiles that could target Saudi Arabia or even commercial merchant vessels that are transiting. This was really the fatal flaw. We handcuffed ourselves because to do any of these sort of nonnuclear sanctions to touch Annex 2, the Europeans would say, would drive the Iranians out of the deal.

And so, in some ways, Mr. Ranking Member, I disagree with your statement. The JCPOA was making war more likely, not less. We had a limited our nonlethal options. We had taken our coercive economic options off the table. All we were left with was military deterrence. And that's why, leading up to the decision of the President, there were so many reports about the need to use military force in Syria, elsewhere, and beyond.

I will say: I have a number of recommendations for the way ahead. I hope that we have time to discuss them today, Mr. Chairman. They have to do with the strategy which is threefold, political warfare, economic warfare, and strong military deterrence. And I hope we can do that in a bipartisan fashion.

[Prepared statement of Mr. Goldberg follows:]

CONGRESSIONAL TESTIMONY: FOUNDATION FOR DEFENSE OF DEMOCRACIES

House Committee on Oversight and Government Reform  
*Subcommittee on National Security*

# Protecting America from a Bad Deal: Ending U.S. Participation in the Nuclear Agreement

RICHARD GOLDBERG

Senior Advisor  
*Foundation for Defense of Democracies*

Washington, DC  
June 6, 2018



[www.defenddemocracy.org](http://www.defenddemocracy.org)

Chairman DeSantis, Ranking Member Lynch, and distinguished members of this subcommittee, thank you for the opportunity to address you today on this important issue.

On May 8, 2018, President Trump announced that the United States was withdrawing from the Joint Comprehensive Plan of Action (JCPOA), a 2015 multi-national political commitment related to Iran's nuclear program. My testimony will explain why the president's decision was both justified and necessary and, in the wake of Secretary of State Mike Pompeo's May 20 speech, discuss the way ahead for both the administration and Congress.

Before I begin, I want to note that having worked for many years as a staffer both here in the House and in the Senate, I had the privilege to work with many talented people – Democrats and Republicans – who shared a passion for keeping America and our allies safe from the long list of threats posed by the Islamic Republic of Iran. Together, we put forward numerous bipartisan bills to increase the pressure on Iran. While my views regarding the president's decision to exit the JCPOA may differ from some of those held by members of the subcommittee, it is my sincere hope that we can find a way to resuscitate the bipartisan spirit that once infused this important national security issue.

#### **Legally Justified**

On July 14, 2015, President Obama announced that the United States, along with the permanent members of the United Nations Security Council plus Germany, had "achieved" a "comprehensive long-term deal with Iran that will prevent it from obtaining a nuclear weapon."<sup>1</sup> Under the agreement, the United States committed to suspend nearly all the economic and financial sanctions imposed on the Islamic Republic in exchange for Iran's commitment to suspend certain nuclear activities for certain periods of time.

This "deal," as President Obama described it, was not a treaty. It was not even an executive agreement. It was merely a political commitment.<sup>2</sup> From a legal perspective, that made the JCPOA non-binding and subject to change at any time.<sup>3</sup>

In July 2015, just after the JCPOA was established, John Bellinger, the former legal advisor for both the State Department and the National Security Council, wrote:<sup>4</sup>

The next president will have the legal right under both domestic and international law to scrap the JCPOA and reimpose U.S. nuclear sanctions on Iran. Such an action would be inconsistent with political commitments made by the Obama administration, but it would

<sup>1</sup> Michael Gordon and David Sanger, "Deal Reached on Iran Nuclear Program; Limits on Fuel Would Lessen with Time," *The New York Times*, July 14, 2015. (<https://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-is-reached-after-long-negotiations.html>)

<sup>2</sup> Jack Goldsmith, "The Trump Administration Reaps What the Obama Administration Sowed in the Iran Deal," *Lawfare*, May 9, 2018. (<https://lawfareblog.com/trump-administration-reaps-what-obama-administration-sowed-iran-deal/>)

<sup>3</sup> Curtis Bradley and Jack Goldsmith, "Presidential Control over International Law," *Harvard Law Review*, March 2018. ([https://harvardlawreview.org/wp-content/uploads/2018/03/1201-1297\\_Bradley-Goldsmith\\_Online.pdf](https://harvardlawreview.org/wp-content/uploads/2018/03/1201-1297_Bradley-Goldsmith_Online.pdf))

<sup>4</sup> "How Binding is the Iran Deal," *Council on Foreign Relations*, July 23, 2015. (<https://www.cfr.org/interview/how-binding-iran-deal/>)

Richard Goldberg

June 6, 2018

not constitute a violation of international law, because the JCPOA is not legally binding. Nor would it constitute a violation of the new UNSCR.

He also noted that under United Nations Security Council Resolution 2231, which referenced the JCPOA, “the United States would not be legally required to lift U.S. sanctions on Iran.”<sup>5</sup>

Indeed, this view was later confirmed by the Obama administration. In a letter from the State Department to then-Representative Mike Pompeo, the administration wrote:<sup>6</sup>

The Joint Comprehensive Plan of Action (JCPOA) is not a treaty or an executive agreement, and is not a signed document. The JCPOA reflects political commitments between Iran, the P5+1 (the United States, the United Kingdom, France, Germany, Russia, China) and the European Union.

During an appearance before the House Foreign Affairs Committee in late July 2015, then-Secretary of State John Kerry was asked why the JCPOA was not negotiated as a treaty to be submitted to the Senate for ratification. His response: “I spent quite a few years trying to get a lot of treaties through the United States Senate, and it has become physically impossible.”<sup>7</sup>

Kerry was not only wrong about the impossibility of the Senate ratifying a treaty (e.g. last year the Senate ratified a non-controversial protocol to the North Atlantic Treaty of 1949 on the accession of Montenegro by a vote of 97-2),<sup>8</sup> he was also wrong about the impossibility of the Senate ratifying the JCPOA – with certain changes. As my FDD colleague Orde Kittrie wrote at the time in the *Wall Street Journal*:<sup>9</sup>

In the case of treaties, as the Senate website explains, the Senate may “make its approval conditional” by including in the resolution of ratification amendments, reservations, declarations, and understandings (statements that clarify or elaborate agreement provisions but do not alter them). “The president and the other countries involved must then decide whether to accept the conditions . . . in the legislation, renegotiate the provisions, or abandon the treaty.”

Indeed, as Professor Kittrie pointed out, the Senate has used this tool of approving treaties or amendments to treaties with conditions many times, including approval of the Threshold Test Ban Treaty, the Peaceful Nuclear Explosion Treaty, the Chemical Weapons Convention, and a 1997

<sup>5</sup> John Bellinger, “The New UNSCR on Iran: Does it Bind the United States (and future Presidents)?” *Lawfare*, July 18, 2015. (<https://www.lawfareblog.com/new-unscr-iran-does-it-bind-united-states-and-future-presidents>)

<sup>6</sup> Matthew Weybrecht, “State Department Affirms That Iran Deal Is Only a Political Commitment,” *Lawfare*, November 28, 2015. (<https://www.lawfareblog.com/state-department-affirms-iran-deal-only-political-commitment>)

<sup>7</sup> Tim Hains, “John Kerry Explains Why Iran Deal Is Not Legally a Treaty: ‘You Can’t Pass A Treaty Anymore,’” *Real Clear Politics*, July 29, 2015. ([https://www.realclearpolitics.com/video/2015/07/29/john\\_kerry\\_explains\\_why\\_iran\\_deal\\_is\\_not\\_a\\_treaty\\_you\\_cant\\_pass\\_a\\_treaty\\_anymore.html](https://www.realclearpolitics.com/video/2015/07/29/john_kerry_explains_why_iran_deal_is_not_a_treaty_you_cant_pass_a_treaty_anymore.html))

<sup>8</sup> United States Senate, “Roll Call Vote 115<sup>th</sup> Congress – 1<sup>st</sup> Session,” March 28, 2017. ([https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=115&session=1&vote=00098](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=1&vote=00098))

<sup>9</sup> Orde Kittrie, “Congress Can Rewrite the Iran Deal,” *The Wall Street Journal*, August 12, 2015. (<https://www.wsj.com/articles/congress-can-rewrite-the-iran-deal-1439419154>)

modification to the Treaty on Conventional Armed Forces in Europe. The Obama administration itself had already successfully renegotiated a nuclear cooperation agreement with the UAE at the request of the House Foreign Affairs Committee chairman in early 2009. By May, Professor Kittrie noted, the UAE made concessions and the agreement was finalized.

While politically expedient at the time, the Obama administration's decision to pursue the JCPOA as a political commitment rather than a treaty made President Trump's decision to end America's participation and re-impose U.S. sanctions on Iran both predictable and legally justified. Indeed, the international community was put on notice that such an event might occur, months before the JCPOA was finalized. In a March 2015 open letter to Iranian leaders, 47 U.S. Senators wrote:<sup>10</sup>

[W]e will consider any agreement regarding your nuclear-weapons program that is not approved by the Congress as nothing more than an executive agreement between President Obama and Ayatollah Khamenei. The next president could revoke such an executive agreement with the stroke of a pen and future Congresses could modify the terms of the agreement at any time.

#### **National Security Imperative**

It is important to keep in mind that President Trump's decision was not only legally justified, it was also necessary for the national security of the United States. To understand this better, let us first review how the JCPOA was constructed.

From 2010-2012, Congress enacted a series of laws that imposed crippling sanctions on the Islamic Republic in response to a wide range of illicit conduct by the regime, including ballistic missile development, nuclear activities, and the sponsorship of terrorism. In 2010, Congress enacted the Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA),<sup>11</sup> which required the Treasury Department to prohibit or impose strict conditions on the opening or maintaining in the United States of a correspondent account or a payable-through account by any foreign financial institution that facilitates a significant transaction for any bank designated in connection with Iranian proliferation or terrorism. In effect, Congress leveraged the U.S. financial system against banks around the world and put them to a choice: do business with designated Iranian banks or do business in the United States, but you cannot do both.

In December 2011, the Senate passed an amendment to the Fiscal Year 2012 National Defense Authorization Act, which applied the same basic CISADA concept to banks that facilitate transactions with the Central Bank of Iran (CBI).<sup>12</sup> That law not only sent shockwaves through the Iranian financial system and destabilized the Iranian currency,<sup>13</sup> it also forced countries that

<sup>10</sup> Office of Sen. Tom Cotton (R-AR), Press Release, "Cotton and 46 Fellow Senators to Send Open Letter to the Leaders of the Islamic Republic of Iran," March 9, 2015. ([https://www.cotton.senate.gov/?p=press\\_release&id=120](https://www.cotton.senate.gov/?p=press_release&id=120))

<sup>11</sup> Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. 111-195, 124 Stat. 1311, codified as amended at 22 U.S.C. §§8501-8551. (<https://www.treasury.gov/resource-center/sanctions/Documents/hr2194.pdf>)

<sup>12</sup> National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, 125 Stat. 1297, codified as amended at 112 U.S.C. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa\\_publaw.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf))

<sup>13</sup> John Allen Gay, "Iran Loses the Economic Battle," *The National Interest*, October 4, 2012. (<http://nationalinterest.org/commentary/iran-loses-its-economic-battle-7552>)

imported Iranian crude to reduce their purchases.<sup>14</sup> In the Iran Threat Reduction and Syria Human Rights Act of 2012, Congress improved the effectiveness of the CBI sanctions by requiring that money used to buy Iranian oil had to be deposited into escrow accounts inside the purchaser's country – held in local currency and only used for Iran to buy goods from that purchasing country.<sup>15</sup>

Two other Congressional initiatives in 2012 accelerated Iran's financial crisis. In February, the Senate Banking Committee passed an amendment authorizing the president to impose sanctions on the Brussels-based SWIFT secure financial messaging service if it did not disconnect the Central Bank of Iran and all other designated Iranian banks.<sup>16</sup> By March, at SWIFT's urging, the European Union ordered the cooperative to comply.<sup>17</sup> Removing Iran's banks from SWIFT meant that rogue actors could no longer use the system to quietly evade U.S. sanctions. It closed a gaping loophole in the financial sanctions architecture.

In December 2012, the Senate passed an amendment to the Fiscal Year 2013 National Defense Authorization Act<sup>18</sup> – the Iran Freedom and Counter-Proliferation Act – which closed additional loopholes and increased our sanctions pressure to near-maximum levels. The law prohibited the provision of precious metals to Iran – directly confronting the Turkish-Iranian gold trade – and blacklisted the energy, shipping, shipbuilding, and port sectors of Iran. It threatened insurers and banks with sanctions if they conducted business with any of those sectors or with entities on Treasury's Specially Designated Nationals list.

As both President Obama<sup>19</sup> and Secretary Kerry<sup>20</sup> acknowledged, these crippling sanctions brought Iran to the negotiating table seeking relief. By 2013, Iran was facing an imminent balance-of-payments crisis.<sup>21</sup> The regime needed a deal before it faced a financial collapse and internal unrest – so it invented the myth of a new “moderate” Iranian president capable of changing Iran's behavior. The Obama administration embraced the narrative and jumped into negotiations.

From a negotiating perspective, securing a nuclear deal that would prevent Iran from ever having the capability to build a nuclear weapon was doomed from the start. Rather than keeping maximum pressure in place during negotiations to extract maximum concessions from the Iranian regime, the Obama administration provided up-front sanctions relief under the interim Joint Plan of

<sup>14</sup> U.S. Energy Information Administration, “Under sanctions, Iran's crude oil exports have nearly halved in three years,” June 24, 2015. (<https://www.eia.gov/todayinenergy/detail.php?id=21792>)

<sup>15</sup> Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. 112-158, 126 Stat. 1213, codified as amended at 112 U.S.C. ([https://www.treasury.gov/resource-center/sanctions/Documents/hr\\_1905\\_pl\\_112\\_158.pdf](https://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf))

<sup>16</sup> Rick Gladstone, “Senate Panel Approves Potentially Toughest Penalty Yet Against Iran's Wallet,” *The New York Times*, February 2, 2012. ([https://www.nytimes.com/2012/02/03/world/middleeast/tough-iran-penalty-clears-senate-banking-panel.html?\\_r=3&ref=world&](https://www.nytimes.com/2012/02/03/world/middleeast/tough-iran-penalty-clears-senate-banking-panel.html?_r=3&ref=world&))

<sup>17</sup> “Payments system SWIFT to cut off Iranian banks,” *Reuters*, March 15, 2012. (<https://uk.reuters.com/article/uk-cu-iran-sanctions/payments-system-swift-to-cut-off-iranian-banks-idUKBRE82F0VU20120315>)

<sup>18</sup> National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239, 126 Stat. 1631, codified as amended at 112 U.S.C. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112\\_239.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112_239.pdf))

<sup>19</sup> Jordan Fabian, “Obama: Sanctions were only way to bring Iran to table,” *The Hill*, August 10, 2015. (<http://thehill.com/policy/international/250723-obama-sanctions-were-only-way-to-bring-iran-to-table>)

<sup>20</sup> CNN, “Kerry: Sanctions Brought Iran to the Table,” *YouTube*, July 14, 2015. (<https://www.youtube.com/watch?v=O2xvjd7N5bg>)

<sup>21</sup> “Highlights from Foreign Policy Podcast Interview: ‘The Future of the Iran Deal’ – Part 1,” *MarkDubowitz.Org*, March 29, 2018. (<https://markdubowitz.org/2018/03/foreign-policy-iran-nuclear-deal-1/>)

Action.<sup>22</sup> When a group of bipartisan Senators came forward with legislation to support the negotiations<sup>23</sup> – by establishing prospective sanctions if the Iranians refused to meet key benchmarks in a final agreement – the White House unleashed a firestorm of attacks aimed at quashing legitimate dissent about the deal.<sup>24</sup> By spring 2014, one thing was clear: Obama and Kerry were willing to accept any deal, even one whose terms did not prevent Iran from preserving and enhancing its nuclear capabilities.

The final deal did not include basic requirements to prevent Iran from ever acquiring a nuclear weapon.<sup>25</sup> Longstanding international and Congressional demands that Iran halt all uranium enrichment were abandoned while longstanding demands that Iran halt its development of ballistic missiles and sponsorship of terrorism were left unaddressed. Iran was given the right to enrich uranium on its own soil, keep its nuclear infrastructure largely intact, and keep its missile program moving forward. The deal did nothing to stop Iran from sponsoring terrorism or expanding its presence throughout the Middle East. The narrow restrictions put on Iran's nuclear program were reversible and, in many cases, temporary.<sup>26</sup> In exchange, the United States suspended all the tough sanctions Congress had enacted between 2010 and 2012 – even though the sanctions had been enacted to address issues beyond just Iran's nuclear program.

The deal, as critics had predicted, did not advance the national security goals we set out to achieve with the deal. Iran's development of nuclear-capable ballistic missiles continued unabated, with at least 23 tests following the JCPOA's establishment.<sup>27</sup> In testimony before this subcommittee, David Albright from the Institute for Science and International Security pointed to a series of Iranian compliance issues that were never addressed by the International Atomic Energy Agency or the Joint Commission – issues relating to heavy water, suspicious procurement, research and development of advanced centrifuges, denial of access to research and military sites, and the inability to verify Section T of the JCPOA with respect to nuclear weaponization activities.<sup>28</sup> All along, as we learned from the recent Israeli intelligence bonanza, Iran was hiding a secret nuclear

<sup>22</sup> U.S. Department of the Treasury and U.S. Department of State, "Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action Reached on November 24, 2013, Between the P5+1 and the Islamic Republic of Iran," January 20, 2014. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa\\_guidance.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance.pdf))

<sup>23</sup> Nuclear Weapon Free Iran Act of 2013, S. 1881, 113<sup>th</sup> Congress (2013). (<https://www.congress.gov/bills/113/congress-senate-bill/1881/cosponsors>)

<sup>24</sup> Ryan Grim, "White House Dares Democratic Senators Pushing Iran Sanctions to Admit They Want War," *The Huffington Post*, January 9, 2014. ([https://www.huffingtonpost.com/2014/01/09/white-house-iran-war\\_n\\_4572003.html](https://www.huffingtonpost.com/2014/01/09/white-house-iran-war_n_4572003.html))

<sup>25</sup> Joint Comprehensive Plan of Action, Vienna, July 14, 2015.

(<https://www.state.gov/documents/organization/245317.pdf>)

<sup>26</sup> Mark Dubowitz, "Assessing the Iran Deal," *Testimony before the House Oversight and Government Reform Committee*, April 5, 2017.

([http://www.defenddemocracy.org/content/uploads/documents/40517\\_MD\\_Testimony.pdf](http://www.defenddemocracy.org/content/uploads/documents/40517_MD_Testimony.pdf))

<sup>27</sup> Behnam Ben Talebli, "Iranian Ballistic Missile Tests Since the Nuclear Deal – 2.0," *Foundation for Defense of Democracies*, January 25, 2018.

(<http://www.defenddemocracy.org/content/uploads/documents/IranBallisticMissileResearchMemo.pdf>)

<sup>28</sup> David Albright, "Assessing the Iran Deal: Examining Iranian Non-Compliance with the Joint Comprehensive Plan of Action and United Nations Security Council Resolution 2231," *Testimony before the House Oversight and Government Reform Committee*, April 5, 2017. (<https://oversight.house.gov/wp-content/uploads/2017/04/Albright-Statement-Iran-Violations-4-5.pdf>)

weapons archive.<sup>29</sup> Iran had misled the IAEA with respect to the military dimensions of its nuclear program – a violation of the JCPOA in and of itself – and was preserving the knowledge necessary to restart a nuclear weapons program.

Meanwhile, as Iran’s missile program accelerated and its nuclear weapons program was on standby, America was effectively hand-cuffed from using economic coercion to respond as Iran established weapons factories in Syria,<sup>30</sup> shipped ballistic missiles to Yemen,<sup>31</sup> and spent roughly \$15 billion a year to prop up Bashar al-Assad.<sup>32</sup> In Syria, Iran established a base from which to attack Israel on its northern border. We saw the first hint of their increased capability earlier this year when an Iranian UAV flew into Israeli airspace.

The era of the JCPOA was essentially an era of American détente with Iran. The deal fundamentally changed America’s strategic approach to Iran in the Middle East. The Drug Enforcement Agency, for example, was reportedly pressured to back off pursuing key Hezbollah-related investigations.<sup>33</sup> Even recently under President Trump – before the decision to withdraw from the JCPOA – the Defense Department insisted that countering Iranian influence in Syria was not its mission.<sup>34</sup> Just as the Soviets used the cover of détente to expand their global reach and cheat on agreements with the West, so too Iran used the cover of the JCPOA to establish its so-called Shiite Crescent stretching from Yemen all the way to the Lebanese coast.

Most damningly – and truly the demonstration of the deal’s fatal flaw – despite being told by the Obama administration repeatedly that the JCPOA would not prevent the United States from imposing sanctions on Iran for non-nuclear reasons, not a single entity listed in Annex II of the JCPOA – that is, the annex outlining the U.S. sanctions relief – was ever designated for terrorism, missiles, or human rights abuses during the entirety of America’s participation in the deal. When entities were found to be involved in these illicit activities, the U.S. refrained from taking action. Sure, we designated other entities of lesser importance to the regime. But nothing happened to the banks we knew were financing the Quds Force, providing lines of credit to Assad, or supporting other illicit activities. Nothing happened to the supreme leader’s business empire despite his ongoing abuse of human rights. Why? For fear that Iran – with Europe’s echo – would cry foul and leave the deal.

This status quo was unsustainable. With increasing concerns over Iranian precision-guided munitions in Syria and Lebanon, Iranian bases expanding in Syria, and Iranian ballistic missiles

<sup>29</sup> Elliott McLaughlin, “Netanyahu says he has proof of secret Iranian nuclear program,” *CNN*, May 1, 2018.

(<https://www.cnn.com/2018/04/30/middleeast/netanyahu-iran-nuclear-program/index.html>)

<sup>30</sup> Isabel Kershner, “Iran Building Weapons Factories in Lebanon and Syria, Israel Says,” *The New York Times*, August 29, 2017. (<https://www.nytimes.com/2017/08/29/world/middleeast/iran-missiles-lebanon-israel.html>)

<sup>31</sup> Callum Paton, “Iran’s Secret Missile Shipments in Yemen Confirmed by U.N.,” *Newsweek*, January 16, 2018.

(<http://www.newsweek.com/irans-secret-missile-shipments-yemen-confirmed-un-tensions-us-782236>)

<sup>32</sup> David Adesnik, “Iran Spends \$16 Billion Annually to Support Terrorists and Rogue Regimes,” *Foundation for Defense of Democracies*, January 10, 2018. (<http://www.defenddemocracy.org/media-hit/david-adesnik-iran-spends-16-billion-annually-to-support-terrorists-and-rogue-regimes/>)

<sup>33</sup> Josh Meyer, “The secret backstory of how Obama let Hezbollah off the hook,” *Politico*, December 18, 2017.

(<https://www.politico.com/interactives/2017-obama-hezbollah-drug-trafficking-investigation/>)

<sup>34</sup> Rebecca Kheel, “Top general: Countering Iran in Syria not a US military mission,” *The Hill*, February 27, 2018.

(<http://thehill.com/policy/defense/375789-top-general-countering-iran-in-syria-not-a-us-military-mission>)

raining down on Saudi Arabia, the United States could no longer stay inside a deal that handcuffed its ability to respond. President Trump's decision was indeed justified and necessary.

#### **What Do We Do Now?**

Just as President Reagan reversed American policy toward the Soviet Union – turning from détente to rollback – we too must now turn from the era of the JCPOA to a comprehensive rollback of Iran's malign activities. That requires three primary lines of effort: political and ideological warfare; maximum economic and financial warfare; and military activities, both overt and covert, that remove Iranian forces from Syria and Yemen and demonstrate a willingness to use military force if the regime decides to race toward a nuclear weapon.

This is a maximum pressure strategy, which requires a broad interagency effort – tightly coordinated by a senior official at the National Security Council or an agency empowered by the president to take the lead. In his recent Heritage Foundation address, Secretary Pompeo helped the U.S. and, indeed, the world understand the goal of this effort: force the Iranian regime to choose between fundamental behavior changes or certain collapse from within.

The secretary laid out 12 conditions for any future arrangement where the United States pulls back on its maximum pressure strategy. As he pointed out, these 12 issues are the bare minimum of what we could consider to be a normal country in the community of nations – one that does not sponsor terrorism, seek to threaten its neighbors, or enable grave crimes against humanity. If Iran's leaders want normalization of trade and diplomatic relations, they must first normalize their own behavior.

Without a doubt, this strategy requires a no-holds-barred, pedal-to-the-metal approach to succeed. The Trump administration will have its hands full with the diplomacy and enforcement that comes with a maximum sanctions approach – particularly in Europe, Asia, and the Gulf. The complexities involved in rolling back Iran's presence in Syria will require careful planning by our military leaders in close coordination with our allies. New personnel, programs, and instruments of strategic communications may be needed to fully execute a political warfare strategy of a Cold War-style scale.

But Congress, as it always has, can and should play a critical role. Historically, the issue of Iran was never a partisan issue. The hyper-partisanship surrounding American policy toward Iran is a phenomenon that emerged in early 2014 and later spiraled out of control in the run-up to, and aftermath of, the 2016 presidential election. Whether you agreed with the president's decision to exit the JCPOA or not, Congress should find a way to return to its long-standing bipartisan commitment to stop Iran's pursuit of nuclear weapons, end the regime's sponsorship of terrorism, stand with Iranian dissidents and persecuted minorities, and defend our allies from Iranian terrorism, weapons, and aggression.

These are a few initial recommendations:

**Recommendation #1:** Establish regular briefing schedules for members and staff by senior administration officials to ensure Congress fully exercises its sanctions enforcement oversight responsibilities and uses its existing authorities to maximum effect. This should include:

- 1) Regular briefings by State Department officials to ensure countries receiving “exceptions” under FY 12 NDAA Sec. 1245 have actually “significantly reduced” their imports of Iranian oil to an extent that should merit an exception from sanctions being granted. These briefings should also include key Treasury Department officials to ensure such importing countries are complying with the escrow account requirements under that Act (i.e. requirements that countries importing Iranian oil deposit their payments in a locally held escrow account so that Iran can only use the money to buy goods from that country using the local currency).
- 2) Regular briefings by Treasury Department officials related to all other sanctions enforcement issues, providing members and staff an opportunity to raise questions about open-source reporting on alleged sanctions violators. While I have full confidence Treasury officials will be doing their utmost to hold any would-be sanctions evaders accountable, Congress has played an important role for many years in holding both Republican and Democratic administrations accountable for enforcement.
- 3) Regular briefings by Commerce Department officials related to the enforcement of export control laws, providing members and staff an opportunity to raise questions about open-source reporting on alleged violations.
- 4) Regular briefings by Treasury Department officials to review potential sanctions targets, including companies owned or controlled by the IRGC and Iran’s defense industry (which represent 20 percent of the total market capitalization of the Tehran Stock Exchange) and the supreme leader’s \$200-billion business conglomerate, including EIKO and the *bonyads* (charitable trusts) where the mullahs store their money.

**Recommendation #2:** A critical element of a maximum pressure strategy that closes all loopholes that the regime might exploit is disconnecting the Central Bank of Iran and all other re-designated Iranian financial institutions from the SWIFT financial messaging service. While SWIFT, a Brussels-based cooperative, claims it is “only the messenger,” we know that, in the modern-age, transactions get done by moving ones and zeros. That is where SWIFT plays a role in facilitating illicit transactions despite the imposition of sanctions targeting financial transactions. SWIFT’s own corporate rules state clearly that users can be suspended if they “demonstrate a conduct which is not in line with generally accepted business conduct principles.” One would think financing the Quds Force, among other illicit activities, would offer such a demonstration. As the United States re-imposes all of its sanctions by November, Congress should do everything possible to ensure SWIFT disconnects from the Central Bank of Iran and all other re-designated Iranian financial institutions. Pressing SWIFT to take these merited actions could include:

- 1) Urging the president to use his authority under Section 220 of the Iran Threat Reduction and Syria Human Rights Act of 2012 to impose sanctions on board members of SWIFT if

Richard Goldberg

June 6, 2018

the cooperative does not disconnect all designated Iranian banks, including the Central Bank of Iran, by November 4, 2018. Board members of SWIFT are financial institutions represented by individuals – both the companies and people should be subject to sanctions.

- 2) Changing Section 220(c)(1) from permissive to mandatory – substituting “shall” for “may” where appropriate.
- 3) Asking the board members of SWIFT to appear before committees of oversight to state whether or not they will comply with U.S. sanctions law. Ensure they fully understand the financial consequences – both personally and for the corporation – if they are found to be knowingly providing specialized financial messaging services to the Central Bank of Iran and other re-designated Iranian financial institutions.

**Recommendation #3:** Expand congressional sanctions against Iran to include:

- 1) Enacting H.R. 5132, the Iranian Revolutionary Guard Corps Economic Exclusion Act, which would significantly expand U.S. sanctions to target companies in which the IRGC owns at least a 33-percent share. Our sanctions should target the IRGC wherever it operates.
- 2) Reconciling H.R. 3329, the Hezbollah International Financing Prevention Amendments Act of 2017, with its Senate counterpart, S. 1595. By adopting the broadest language possible, Congress can help cut off Hezbollah from the international financial system, while helping the administration crack down on the group’s fundraising, recruitment, narcotics trafficking, and other transnational criminal activities.
- 3) Expanding the sectoral sanctions in the Iran Freedom and Counter-Proliferation Act to include Iran’s mining, engineering, and construction sectors – and any other sector the president determines is of strategic importance to the regime. This idea was included in bipartisan Senate legislation introduced prior to the JCPOA’s establishment.

**Recommendation #4:** Establish key goals for the Department of State, Department of the Treasury, and Broadcasting Board of Governors, and then provide adequate resources to achieve those goals:

- 1) The Treasury Department should be asked to conduct a maximum enforcement campaign, investing time and people into investigations, travel, and coordination of enforcement actions. This will undoubtedly require additional staffing. Between Iran and North Korea alone, Treasury’s sanctions enforcers are already stretched thin. The Department should be asked for a realistic estimate of additional staff it might need to hire to sustain long-term maximum pressure campaigns – and the necessary funds should be appropriated.
- 2) The Department of State should be asked to conduct robust daily political and ideological warfare against the Islamic Republic, design strategies to expand access to information and

secure communication for the Iranian people, and support Iranian dissidents and persecuted minorities. Funds provided by Congress to Near East Regional Democracy (which should be once again called the Iran Democracy program) should be used to support this effort, including the cost of staff, technology, travel, and programming.

- 3) The Voice of America Persian service and Radio Farda should be asked to expand their coverage to prioritize:
  - a. Fact-checking statements made by Iranian officials, including Foreign Minister Javad Zarif, and providing the Iranian people with information they can use to counter Iranian propaganda;
  - b. Reporting on Iran's illicit activities outside its borders, including Syria and Yemen, and the amount of money these efforts are costing the Iranian people;
  - c. Reporting on corruption inside the Iranian government and Revolutionary Guard Corps;
  - d. Reporting on the hypocrisy of Iranian officials who preach hatred against America and the West but send their families abroad for school, vacations, or long-term living;
  - e. Reporting on political prisoners and prisoners of conscience, including interviews with their families; and
  - f. Reporting on pro-U.S., anti-regime figures inside Iran rather than anti-U.S. so-called reformists tied to the Islamic Republic.

Other recommendations put forward recently by the American Foreign Policy Council should be implemented as well.<sup>35</sup> Recent news that Voice of America will begin a new 24/7 Farsi-language channel is encouraging, but continuous oversight of content and market competitiveness will be necessary.

**Recommendation #5:** Establish U.S. policy and then hold senior officials accountable to a political and military strategy – closely coordinated with our allies – that rolls back Iran throughout the Middle East.

- 1) Establish that it is the policy of the United States to achieve an end-state in Syria that is free of IRGC forces, bases, weapons, missile production facilities, and free of Iranian-sponsored Shiite militias. That will demand close intelligence and operational coordination with Israel and clear messages describing U.S. policy delivered to Moscow.
- 2) Congress should continue its longstanding support for U.S.-Israel missile defense cooperation, particularly as we could see an escalation on Israel's northern border. The U.S. and Israel should look to new and innovative ways to combat salvos of precision-guided missiles and increase our bilateral cooperation in cyber warfare activities.

<sup>35</sup> "U.S. Persian Media Study – Final Synthesis Report," *American Foreign Policy Council*, October 6, 2017. ([https://www.bbg.gov/wp-content/media/2011/11/AFPC\\_Persian-Language-Broadcasting-Study\\_synthesis-report.pdf](https://www.bbg.gov/wp-content/media/2011/11/AFPC_Persian-Language-Broadcasting-Study_synthesis-report.pdf))

Richard Goldberg

June 6, 2018

- 3) Our military strategy in Syria cannot be decoupled from our policies toward Lebanon and Iraq. The border between Syria and Lebanon cannot remain porous – nor can U.S. policy allow further Iranian transfers of advanced weapons or precision-guided munition conversion kits to Lebanon from Syria. Congress should consider tying future assistance to the Lebanese Armed Forces to full-faith enforcement of United Nations Security Council Resolution 1701, including interdictions of weapons transfers coming across the border from Syria. A continued U.S. presence along the Iraq-Syria border will remain critical until the IRGC and Iran-backed militias withdraw from Syria and a reliable Iraqi border force is established.
- 4) Bahrain is home to the U.S. Navy's Central Command and is at the forefront of the movement to normalize Arab-Israeli relations. We cannot allow Iran to destabilize the Bahraini government. Congress should encourage the Defense Department to work with GCC partners and other allied forces to target Iranian arms smuggling into Bahrain, while strengthening U.S.-Bahraini counterintelligence cooperation.
- 5) With on-the-ground training and provision of weapons and ballistic missiles, Iran is slowly turning the Yemeni Houthis into Yemeni Hezbollah. This not only poses a threat to Saudi Arabia and the UAE, it also threatens military and commercial vessels in the Red Sea. The Defense Department should consider providing 24/7 ISR coverage for Saudi forces targeting IRGC personnel and weapons. We should also target Iran's supply routes in the Gulf of Oman and overland through Oman.

**Conclusion**

These recommendations are by no means exhaustive, but they are important steps Congress could take to help increase the pressure on Iran, hold the administration accountable, and ensure the administration's strategy succeeds. On behalf of the Foundation for Defense of Democracies, I thank you again for inviting me to testify and I look forward to addressing your questions.

Mr. DESANTIS. I thank the gentleman. Your time is expired.  
Mr. Albright, you are up for 5 minutes.

#### STATEMENT OF DAVID ALBRIGHT

Mr. ALBRIGHT. Thank you, Chairman DeSantis and Ranking Member Welch and other members of the committee for holding this hearing and inviting me to testify.

Although the administration in the E3, Germany and Britain and France, could not agree on a document to fix the deficiencies of the Iran nuclear deal, they did agree on many issues. Rather quickly in the negotiations, the E3 and the Trump administration reached agreements on the need for the IAEA to improve its inspections in Iran, particularly visiting military sites associated with past nuclear weapons work and centrifuge work and implementing Section T.

The U.S. and the E3 also agreed that an Iranian ICBM is intrinsically tied to the nuclear deal, and its development would be sufficient to justify the reimposition of draconian sanctions by the U.S. and the European Union.

However, as we all know, they could not agree on the sunset issue and how to structure the reimposition of sanctions if Iran augmented its enrichment program. However, the E3 did agree that the growth of Iran's enrichment program was a grave security threat.

Overall, the negotiations helped clarify many transatlantic areas of agreement on the future of the underlying issues of the JCPOA. The partial agreements can be a basis for ongoing collaborative work with Europe as the Trump administration builds its coalition against Iran's most threatening behaviors.

One development that confirmed the E3 U.S. agreement on the need to improve inspections in Iran was Israel's dramatic revelation on April 30 about Iran's hidden nuclear weapons archive. The project, the work, the archive mostly focused on the AMAD Project and showed that it was indeed halted in 2003 or 2004, but it carried on. Iran carried on in a more research-oriented fashion afterwards aimed at eliminating scientific and engineering bottlenecks in developing nuclear weapons and increasing know-how about them.

The new information makes the sunsets far deadlier, as the document show that Iran's nuclear weapons program is both more organized and more advanced than previously thought, allowing a faster dash to the bomb.

What is new in the archive? I have had two briefings by Israeli intelligence officials as of today, certainly read the public information. I would like to just list some of the information that's new that was not known before.

The number and kilotons of nuclear weapons sought by Iran, the specific amount of highly enriched uranium and nuclear explosives to that design: that information was not available to the IAEA previously. Blueprints for the production of all the components of nuclear weapons; the location of planned nuclear weapons test sites: there was some information on that, but it was more conceptual than concrete. Details about a second building at the Parchin site involved in high-explosive work related to nuclear weapons in an

explosive chamber; it is called the Taleghan 2 site. Taleghan 1 is the site where we know well, where the explosive bunker is that the IAEA visited. Taleghan 2 has not been visited by the inspectors.

There's much more detail about Iran's massive work on uranium metallurgy, including ample evidence of Iran having all the equipment for all the work needed in a nuclear weapon's uranium metallurgy program.

The information also shows that Iran made all the uranium metal components with surrogate materials. Iran did do small scale uranium processing for a neutron initiator for a nuclear weapon. That was also not known.

There is now direct evidence that the secret Fordow enrichment site, which was exposed in 2009, was being built to make weapon-grade uranium.

There's an image of a device to assemble the central core of a nuclear explosive using a surrogate metal material, and the Netanyahu briefing showed an animation of that. Subsequently, the Israelis investigating the archive found a picture of the actual assembly device.

There is additional equipment that Iran must potentially collar under Section T of the Iran nuclear deal, and I could go on. And I am only representing a small fraction of the information in there because much of the information would be considered highly classified and not subject to public release by myself or—and certainly not by the Israelis.

And so the new information adds most of the missing pieces to the puzzle of Iran's past nuclear weapons program and raises troubling assessments about Iran's intention to use this archive to build nuclear weapons in the future.

The conditions of the existence of this archive and the extent of the information in it suggests that Iran has been violating the JCPOA and the spirit of the Nuclear Non-Proliferation Treaty.

Under the NPT, Iran should be rigorously challenged why it possesses and maintains such an archive while simultaneously refusing to allow the IAEA to visit military sites and personnel named in the archive. The new information makes it more urgent to fix IAEA inspections in Iran even if the JCPOA falters.

Iran is a still of a signatory to the nonproliferation treaty and its comprehensive safeguards agreement requires Iran to cooperate with the IAEA over determining whether its program is purely peaceful.

The United States should work with its allies, and I think they would find willing partners in Europe, to raise the issue of Iran's past and possibly ongoing nuclear weapons program at the IAEA Board of Governors.

The new information argues for putting much more pressure on Iran to allow the IAEA to do its job under both the JCPOA and the comprehensive safeguards agreement.

If Iran refuses, then the JCPOA should be discarded by all and the world should unite and return to a pressure campaign, including the reimposition of all sanctions.

Thank you. I am sorry for going over.

[Prepared statement of Mr. Albright follows:]

**Testimony of David Albright,  
President of the  
Institute for Science and International Security,  
before the House Subcommittee on National Security,  
Committee of Oversight and Government Reform**

**Hearing title: Protecting America From a Bad Deal:  
Ending U.S. Participation in the Nuclear Agreement with Iran**

**June 6, 2018**

After several months of intense negotiations with Britain, France, and Germany (the E3), President Trump decided on May 8, 2018 that the weaknesses in the Joint Comprehensive Plan of Action (JCPOA) could not be remedied sufficiently to justify the United States from ceasing to further participate in the agreement and re-impose the full suite of U.S. nuclear-related Iran sanctions. The weaknesses of the JCPOA are well known, namely inadequate inspections, sunsets in nuclear limitations, and lack of treatment of intercontinental ballistic missiles (ICBMs).

Significantly, the administration did not remain a member to the agreement while invoking the snap-back clause in the JCPOA, which it could have justifiably done based on the new Iranian nuclear weapons information discovered by Israel in a dramatic seizure in early 2018. As a result, the administration did not end the JCPOA and snap back United Nations Security Council (UNSC) sanctions on Iran, adopting the stance for now that it is not excluding others' continued participation in the JCPOA. It is unclear how long the JCPOA will continue as the United States gradually re-imposes nuclear sanctions on Iran. However, it would need to involve Iran withdrawing from the agreement. If Iran ignores the nuclear limitations, one would expect the re-imposition of the UNSC sanctions and Europe to snap back its own sanctions.

Iran's refusal to allow access to its military sites or honestly address allegations about its past nuclear weapons work is also well documented. Rather quickly in the negotiations on a supplementary agreement, the E3 and the Trump administration reached agreements on fixing this weakness of the JCPOA. They agreed on the need for the International Atomic Energy Agency (IAEA) to improve its inspections in Iran, particularly visiting military sites associated with past nuclear weapons and centrifuge work and implementing Section T. This section is a part of the JCPOA that bans certain work related to nuclear weapons development and subjects certain related activities to Joint Commission approval and IAEA monitoring. So far, Section T has not been implemented or adequately verified due to Iranian resistance. The IAEA appears more cognizant of the inspection problem, having recently stated in its latest quarterly report on

Iran that “timely and proactive cooperation by Iran in providing [complementary] access would facilitate implementation of the Additional Protocol and enhance confidence.”<sup>1</sup>

The United States and E3 also agreed that an Iranian ICBM is intrinsically tied to the JCPOA, and its development would be sufficient to justify the re-imposition of draconian sanctions by the United States and the European Union.

However, they could not agree on the sunset issue and how to structure the re-imposition of sanctions if Iran augmented its enrichment program. The E3 did agree that the growth of Iran’s enrichment program was a grave security threat. Nonetheless, they refused to accept the U.S. condition that sanctions would be re-imposed if Iran’s breakout timeline dropped below 12 months. In practice, the 12-month criterion had evolved into a set of conditions that marked when Iran would physically increase its gas centrifuge program. Based on Iran’s voluntary enrichment plant submitted as part of the JCPOA, an example would be Iran deploying an increasing number of advanced centrifuges after the tenth year of the agreement, roughly seven and half years from now. In draft Senate legislation, this number was taken as 100 advanced centrifuges.

Instead of the 12-month criterion, the E3 were proposing another approach that involved definitions of a peaceful nuclear program and what constituted a military nuclear program inconsistent with the JCPOA. The Europeans proposed that if the peaceful use of Iran’s nuclear program could not be established, they would agree to consider returning to the pressure track and sanctions, according to an administration official. However, this language was not enough to convince the administration. There was discussion of trying to quantify such a condition, but from what I understand, those discussions were not sufficiently robust for the administration.

The E3 also argued that the sunset condition proposed by the administration would be a violation of the JCPOA, once enacted, and would lead Iran to withdraw from the JCPOA. The administration rejected this view and assessed instead that Iran would not leave the JCPOA over this issue; Iran would likely choose to remain in the deal at least until the first sunset involving an increase in numbers of centrifuges, which would occur in about seven years.

The problem of how to re-impose sanctions was debated in the context of a proposed Senate Iran Nuclear Agreement Review Act of 2015 (INARA) amendment by creating “off-ramps” that would not make the re-imposition of nuclear sanctions automatic. The intent of the legislation, and an E3/US agreement, was to create conditions that would encourage Iran to renegotiate the sunset conditions while avoiding automatic snapback of U.S. nuclear sanctions.

Negotiations proceeded well on five of six parallel regional issues raised by the Trump administration, for example dealing more broadly with the activities of the Iran Revolutionary Guards Corps (IRGC), human rights, and Iran’s ballistic missiles. The E3 and the United States had reached tentative agreement on the need to act collectively in these five areas. The issue of

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<sup>1</sup> *IAEA Director General's Introductory Statement to the Board of Governors*, June 4, 2018.  
<https://www.iaea.org/newscenter/statements/iaea-director-generals-introductory-statement-to-the-board-of-governors-4-june-2018>

designating Hezbollah as a terrorist organization was unsettled. In addition, the E3 negotiators expressed increasing interest in a coalition being built by the United States to counter Iran's malign activities in the region.

With lack of agreement on the sunset issue, it was inevitable that President Trump would end U.S. participation in the deal. It is unfortunate that the parties could not reach a compromise, given their fundamental agreement that the sunset issue of the JCPOA would have to be fixed and their agreement on the other two critical issues of inspections and ICBMs. None of the parties directly engaged in the negotiations argued that Iran's increase of its centrifuge program was an inevitable outcome of the JCPOA or that it would be anything but a grave security challenge. Some outside the negotiations, including several non-E3 EU member states, have argued that we should welcome Iran's increase in its enrichment program and that the JCPOA legitimizes that expansion. The E3 and the United States did not accept that attitude.

The negotiations overall helped clarify many transatlantic areas of agreement on the future of the underlying issues of the JCPOA. The partial agreements can be a basis for on-going collaborative work with Europe, as the Trump administration builds its coalition against Iran's most threatening behaviors. In the short term, however, further negotiations with the E3 appear too complicated to pursue, as the E3 is focused on trying to salvage the JCPOA and warding off expected secondary sanctions on its companies and banks. The administration's return to opposing any enrichment in Iran further complicates resuming discussions with the E3 in the short term.

It should be pointed out, however, that this new no-enrichment position eases the administration's task of pressing Saudi Arabia to accept the Gold Standard in a 123 agreement with the United States. It also strengthens the administration's hand in negotiating with North Korea, which no longer can use a precedent of the JCPOA to argue for keeping its own uranium enrichment program. With recent evidence of a secret uranium enrichment plant, often called Kangsong, outside the Yongbyon nuclear site able to continue making weapon-grade uranium, this is no time to consider the idea of allowing North Korea to keep any of its uranium enrichment program.<sup>2</sup> Any deal can easily provide a guaranteed outside supply of the relatively small amount of low enriched uranium (LEU) North Korea might need for its civil nuclear program.

Like in the case of Iran, North Korea has no economic justification for its enrichment program. Given the technical limitations of both of their centrifuge programs, these two countries will always be able to buy LEU more cheaply from abroad than they can produce it domestically. So, if North Korea makes a denuclearization deal, it will be able to obtain LEU from abroad for its relatively small reactors. Certainly, the United States should not accept continued enrichment in

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<sup>2</sup> David Albright, "On the Question of Another North Korean Centrifuge Plant and the Suspect Kangsong Plant," Institute for Science and International Security, May 25, 2018. <http://isis-online.org/isis-reports/detail/on-the-question-of-another-north-korean-centrifuge-plant-and-the-suspect-ka>; See also Joby Warrick, "Summit collapse foils chance to press North Korea on suspicious sites," *The Washington Post*, May 25, 2018. [https://www.washingtonpost.com/world/national-security/summit-collapse-foils-chance-to-press-north-korea-on-suspicious-sites/2018/05/25/d5a14044-602d-11e8-9ec3-49d6d4814c4e\\_story.html?utm\\_term=.733f1074df0c](https://www.washingtonpost.com/world/national-security/summit-collapse-foils-chance-to-press-north-korea-on-suspicious-sites/2018/05/25/d5a14044-602d-11e8-9ec3-49d6d4814c4e_story.html?utm_term=.733f1074df0c)

in any nuclear deal with North Korea. Similarly, it no longer makes sense to legitimize Iran's uranium enrichment programs.

### **Iran's Nuclear Archive**

One development that confirmed the E3/US agreement on the need to improve inspections in Iran was Israel's dramatic revelation on April 30<sup>th</sup> about Iran's hidden "nuclear weapons archive." The archive holds some 100,000 documents and files, or a half ton of documents, CDs, and other materials, reportedly containing vital information about Iran's past nuclear weapons-related effort, in particular the work of the AMAD program. This program's structured work on developing the nuclear weapon itself was largely halted in 2003 or 2004 but carried on in a more research-oriented fashion afterwards, aimed at eliminating scientific and engineering bottlenecks in developing nuclear weapons and increasing know-how about them.

These revelations highlight the fundamental mistake made by the JCPOA negotiators not to settle the issue of Iran's past and possibly on-going nuclear weapons program prior to the implementation of the JCPOA in January 2016. Because this issue is so fundamental to preventing Iran from acquiring nuclear weapons, the decision to sweep this issue under the carpet served to not only weaken the JCPOA, but with this new information, serves to call into question its very purpose.

The new information makes the sunsets far deadlier, as the documents show that Iran's nuclear weapons program is both more organized and more advanced than previously thought, allowing a faster dash to a bomb. As reported on June 3<sup>rd</sup> in the *London Times*, "'What Iran told the International Atomic Energy Agency about its capacities was almost comical compared to what we have here,' said an Israeli intelligence expert who has studied the documents. 'Iran said there had only been feasibility and scientific studies but what we see is that Iran ran a fully fledged nuclear weapons programme and that it followed directions from the political levels.'"<sup>3</sup>

According to the Israelis, this archive was not gathering dust but was part of an on-going stewardship program meant to enable Iran to reincarnate its nuclear weapons program on short order. It was being kept in a secret location and maintained under the authority of an Iranian military organization, Organization of Defensive Innovation and Research, or SPND, by the Persian acronym. The SPND's head is Mohsen Fakhrizadeh, the former head of the AMAD program. He is assisted by other former members of AMAD, according to the Israelis who have analyzed the nuclear archive. In short, Iran is maintaining and nurturing a reconstitution kit ready for use to build nuclear weapons.

The conditions of its existence of this archive and the extent of the information in it suggest that Iran has been violating the JCPOA and the spirit of the Nuclear Non-Proliferation Treaty. Under the JCPOA, Iran agreed that "under no circumstances will Iran ever seek, develop or acquire nuclear weapons."<sup>4</sup> Under the NPT, Iran should be rigorously challenged why it possesses and

<sup>3</sup> David Charter, Berlin | Roger Boyes, "Secret files prove Iran is trying to build bomb, claims Israel," *The Times*, June 4, 2018. <https://www.thetimes.co.uk/article/secret-files-prove-iran-is-trying-to-build-bomb-02qxs8mpc>

<sup>4</sup> *Joint Comprehensive Plan of Action*, Preface, Vienna, July 14, 2015.

maintains such an archive while simultaneously refusing to allow the IAEA to visit military sites and personnel named in the archive.

The Israelis are right to criticize the failure to ensure that Iran has come clean about its past nuclear weapons program and to permit inspectors to monitor those facilities and individuals involved in past activities. The IAEA knows how to do this type of work, if the country cooperates, and has made many visits to nuclear weapons-related sites in both South Africa and Taiwan after those nations ended their nuclear weapons programs. The lack of Iranian cooperation reinforces the view that Iran is merely hiding its nuclear weapons program, awaiting the right moment for it to re-emerge. At a minimum, the archive requires a much tougher approach on inspections in Iran.

The new information makes it more urgent to fix IAEA inspections in Iran, even if the JCPOA falters. Iran is still a signatory to the Nuclear Non-Proliferation Treaty, and its comprehensive safeguards agreement requires cooperation with the IAEA over determining whether its program is purely peaceful. Iran has a binding legal obligation to grant the IAEA inspectors access to sites materials, equipment, documents, and personnel to resolve outstanding questions about the military dimensions of its past nuclear activities. The IAEA has an obligation to investigate completely the personnel, sites, equipment, and activities described in the Nuclear Archive discovered by Israel, including gaining access to military sites. If Iran refuses, then it is in violation of its safeguards obligations. As discussed above, the IAEA appears to be more determined to better address its inability to conduct adequate inspections of military sites.

With an abundance of detailed information now in hand, the IAEA can ask for greater access in Iran with better justification than before. The United States should work with its allies in Europe and elsewhere to raise this issue at the IAEA Board of Governors. Working together, they should ensure that the IAEA inspectors carry out their responsibilities under the NPT and comprehensive safeguards agreement. The United States, the European Union, and other members of the IAEA Board of Governors have a responsibility to ensure that Iran reveals its past nuclear weapons programs and is in compliance with its safeguards agreement.

The E3 should be expected to play a critical role in the JCPOA ensuring that inspections in Iran are improved. Preserving the JCPOA should not become an excuse to allow Iran to back slide on compliance and avoid allowing the IAEA access to military sites or effectively implementing Section T of the JCPOA.

The new information argues for putting much more pressure on Iran to allow the IAEA to do its job both under the JCPOA and the comprehensive safeguards agreement. If Iran refuses, then the JCPOA should be discarded and the world should return to a pressure campaign and the universal re-imposition of sanctions.

#### **What is new?**

The Nuclear Archive contains much new information not previously available to the IAEA or Western governments. I have reviewed much of the information gathered by the IAEA about Iran's past nuclear weapons programs and it is compelling, but this information has many gaps

and is unable to lead to conclusions about the current program and its intentions. The archive fills in many of these holes, and overall, according to the Israelis, it presents a much more complete picture of Iran's nuclear weapons efforts than previously available.

What was missing from the previously existing information? The new information includes: the number and kilotons of nuclear weapons sought by Iran, the location of planned nuclear weapons test sites, other nuclear weapons related sites and activities, uranium metallurgy work, military uranium enrichment activities, additional equipment that Iran must potentially declare today under Section T, information about calculations, and simulations captured in videos. This new information adds many key missing pieces to the puzzle of Iran's past and possibly on-going nuclear weapons program.

#### **Fordow Enrichment Plant**

A new archive document released by Israel is a draft contract signed by the Atomic Energy Organization of Iran (AEOI), then headed by Reza Aghazadeh and the Iranian Defense Ministry, headed then by Ali Shamkhari. The document orders the transfer of responsibility, and required information, methods, and budget, to the Defense Ministry for the task of further enriching uranium hexafluoride from three percent to over 90 percent, or weapon-grade. The AEOI would have produced the three percent enriched uranium, likely in its secret Natanz enrichment plant, and the onward enrichment would have been accomplished in a military facility. There is no date on the paper but the Israelis have assessed that it is likely from 2001.

The onward enrichment to weapon-grade, a sure sign of intended use in nuclear weapons, would have been slated for Project Ghadir, an underground facility for the AMAD program. This facility was built in secret by Iran in the mid-2000s after the official end of the AMAD program and publicly exposed by Britain, France, and the United States in 2009. After its exposure, Iran re-purposed the underground halls for the production of uranium enriched less than five percent and allowed IAEA inspections. It was first known publicly as the Qom site and then later called the Fordow uranium enrichment site.

This document parallels my understanding of Iran's decision to build the Fordow underground enrichment plant that I assessed a few years ago was likely designed to make weapon-grade uranium from low enriched uranium, based in large part on inspector findings when they first visited the plant. At the time, based on available information, the Iranian nuclear weapons program could not be directly linked to a plant to make weapon-grade uranium. The link had to be inferred. Today, the new documents from the archive directly link Fordow to the planned production of weapon-grade uranium as late as 2009, when Iran was caught building this secret plant.

The Iranian agreement translated into English follows on the next page.

Agreement from the Nuclear Archive Obtained by Israel in Tehran and provided recently to journalists in Europe

*Agreement*

*This agreement was drafted on \_\_\_\_\_, between the Atomic Energy Organization of Iran (AEOI), represented by engineer Reza Aghazadeh, which will be referred to in this agreement as the Organization, and the Ministry of Defense, represented by Amir Daryaban Ali Shamkhani, for the following subjects:*

*Article 1) Subject of the agreement*

*According to this agreement, the Organization is transferring to the Ministry of Defense its task of enriching UF6 by centrifuges from 3% to over 90%.*

*Article 2) Responsibilities of the parties:*

*2.1. The responsibilities of the Organization:*

- 2.1.1. Transferring to the Ministry of Defense a copy of all the schematics, scientific and professional documents and original samples relating to the project.*
- 2.1.2. Cooperating and helping making accessible the information, work performed and methods used by the Organization.*
- 2.1.3. Transferring the required budget to the Ministry of Defense.*
- 2.1.4. Preparing and supplying UF6 enriched to 3%, and transferring it to the Ministry of Defense in accordance with the timeline and quantities agreed upon.*

*2.2. The responsibilities of the Ministry of Defense:*

- 2.2.1. Preparing the project's timeline and assessing the required budget.*
- 2.2.2. Drafting a progress report for the project and delivering it to the relevant officials.*
- 2.2.3. Ensuring the project is classified top secret.*

*Article 3) The budget:*

*It has been agreed that the estimated budget of the project will be deposited directly, in coordination with the president, into the Ministry of Defense's account, through the Management and Planning Organization.*

*Article 4) Delivery between the parties:*

*This agreement has four articles, and it was drafted in two identical copies and delivered to the parties.*

*Ministry of Defense—Ali Shamkhani*

*Head of the AEOI—Reza Aghazadeh*

This document supplements a schematic from the nuclear archive released by Israel on April 30<sup>th</sup>, which my organization subsequently compared to the Fordow centrifuge plant. We overlaid this schematic from the AMAD archive on the Qom, now called the Fordow, deeply buried enrichment plant (see figure).<sup>5</sup>

- The schematic matches the entrances and expected layout of the deeply buried Qom uranium enrichment plant.
- The schematic is an AMAD document, showing that the origin of this plant was in the Iranian nuclear weapons program, a fact we have long assessed but is now proven.
- We and others assessed that the Qom plant was likely intended to make weapon-grade uranium for nuclear weapons. The new document from the archive establishes this point.
- The site's public revelation in 2009 by Britain, France, and the United States derailed Iran's ability to make weapon-grade uranium at this secret site. Locating the site was not easy for Western intelligence agencies.
- Iran was building this plant at a time when U.S. intelligence agencies were stating that Iran's nuclear weapons program had ended. The linkage of this facility to the AMAD program provides new evidence that in 2009 Iran was creating a facility in secret to make the raw ingredient for nuclear weapons, namely weapon-grade uranium.

#### Underground Nuclear Testing

The Nuclear Archive contains more details about Iran's plans to conduct underground testing of a nuclear device. Previously, there was no direct information about Iran's underground nuclear testing plans in the AMAD plan. An excerpt from one of our earlier reports on the status of the IAEA's information on an underground nuclear test site, citing an IAEA report and using information obtained by interviewing officials knowledgeable about the underlying information follows below.<sup>6</sup> However, the information does not state that the information is about the testing of a nuclear explosive device; that conclusion is inferred.

*The IAEA received a schematic diagram for an underground testing site that is 400 meters deep with a control unit 10 kilometers away. The diagram shows the placement of a high voltage power generator. The information shows the development of a remote system for firing an object in the 400 meter-deep shaft. Text accompanying the diagram calls for the simultaneous remote firing of two spark gap detonators. Although EBWs are safer, both methods would work. Is this related to the two EBWs needed to set off the two halves of the R265 system? According to the November 2011 safeguards report, the IAEA has been informed by another member state that these arrangements directly reflect those which have been used in nuclear tests conducted by nuclear-weapon states. IAEA officials assessed that this information is most likely related to testing a nuclear explosive*

<sup>5</sup> Albright and Frank Pabian, "It Fits! Qom Site Layout," Institute for Science and International Security, May 1, 2018, <http://isis-online.org/isis-reports/detail/it-fits-qom-site-layout/8>

<sup>6</sup> David Albright, Paul Brannan, Mark Gorwitz and Andrea Stricker, "ISIS Analysis of IAEA Iran Safeguards Report: Part II - Iran's Work and Foreign Assistance on a Multipoint Initiation System for a Nuclear Weapon," Institute for Science and International Security, November 14, 2011. <http://isis-online.org/isis-reports/detail/iran-work-and-foreign-assistance-on-a-multipoint-initiation-system-for-a-n/8>

*device, although it reflects the conceptual development of a test rather than representing an engineering drawing or plan.*

On April 30<sup>th</sup>, Israel revealed information from the archive on five sites Iran was considering for conducting a nuclear test. It stated that the archives contained many more documents on underground testing.

Prior to obtaining the archive, the information on underground nuclear testing was indirect and inferred, and based on few sources. Afterwards, the information includes the sites Iran was evaluating as underground nuclear test sites and other specific information about nuclear testing as well. The information in the archive goes well beyond just an inferred, rather simple, conceptual development of an underground nuclear test.

### **Recommendations**

The new Nuclear Archive information calls for the IAEA to redouble its efforts to get to the bottom of Iran's past military nuclear activities and provide a full accounting for them to ensure those efforts have ended. With more site and individuals identified, the IAEA can ask for greater access in Iran with better justification than before. If Iran refuses, then it is in violation of its safeguards obligations as well as the JCPOA.

The United States should work with its allies in Europe and elsewhere to raise this issue at the IAEA Board of Governors. Working together, they should ensure that the IAEA inspectors carry out their responsibilities under the NPT and comprehensive safeguards agreement.

The E3 should ensure that inspections in Iran are improved under the JCPOA. Preserving the JCPOA should not become an excuse to allow Iran to back slide on compliance and avoid allowing the IAEA access to military sites or effectively implementing Section T of the JCPOA.

Overall, the new information justifies putting much more pressure on Iran to allow robust inspections. If Iran continues refusing to answer honestly the IAEA's questions and allow broad access, then the JCPOA should be abandoned by all and the international community should return to an intense pressure campaign and the universal re-imposition of sanctions.

So far, the administration has been ambivalent about the JCPOA continuing without its participation. It needs to clarify its intent. If it will tolerate the continuance of the JCPOA, and Europe's continued participation (meaning the United States will not seek UN sanctions snapback), it should waive sanctions on certain activities on-going under the JCPOA. These include the modification of the Arak reactor and perhaps non-nuclear, stable isotope separation work in the centrifuges at the underground Fordow site. These are useful limitations to keep in effect from a nonproliferation standpoint.

The fate of the Iran nuclear deal is still yet to be determined. Iran may decide to stay within the constraints of the JCPOA, and in effect, try waiting out President Trump's first term in the hope that he will not be re-elected. European governments have indicated that this may be a preferred strategy for both Iran and Europe. The E3 have also reportedly warned Iran not to surpass the

JCPOA limits or it will be forced to snap back sanctions. In this case, in the medium term, the proliferation aspect may stay contained and the Trump administration will be able to significantly increase a range of sanctions against Iran.

However, over the next several months, Iran may face leadership and internal pressures to start to withdraw from the JCPOA, deploy more centrifuges, and resume higher levels of enrichment. Iran's Supreme Leader stated on June 4<sup>th</sup> that the "Iranian nation & government will not stand being under both sanctions & nuclear restrictions." He continued, the AEOI "must immediately make the preparations for achieving 190K SWU [separative work units, an enrichment term used here incorrectly to express a large enrichment program]—for now within the JCPOA—starting tomorrow."<sup>7</sup> This warning appears to indicate that the Supreme Leader may want to try use his own pressure by threatening the Europeans to do Iran's bidding or the nuclear restrictions under the JCPOA. The Ayatollah may have decided that Europe is unlikely to be able to provide Iran with the economic benefits envisioned under the JCPOA in the face of the threat of resumed U.S. sanctions and secondary sanctions against European businesses and banks.

However, Iran must be aware that if it violates the conditions of the JCPOA, it will grow the U.S. coalition against it and lead to the imposition of more sanctions, including possibly EU and UNSC sanctions. The administration is now free to re-impose the nuclear sanctions that were in a straightjacket under the Iran deal and effectively unusable even against Iranian terrorism, ballistic missiles, or other malign activities. During the next several months, the future of the Iran nuclear deal will become clearer, as well as the administration's deployment of its new strategy to pressure Iran to abandon enrichment and reprocessing and deter it from scaling up its nuclear weapons capabilities.

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<sup>7</sup> Ayatollah Seyed Ali Khamenei on Twitter, June 4, 2018, [https://twitter.com/khamenei\\_ir/status/1003660784403189761](https://twitter.com/khamenei_ir/status/1003660784403189761)

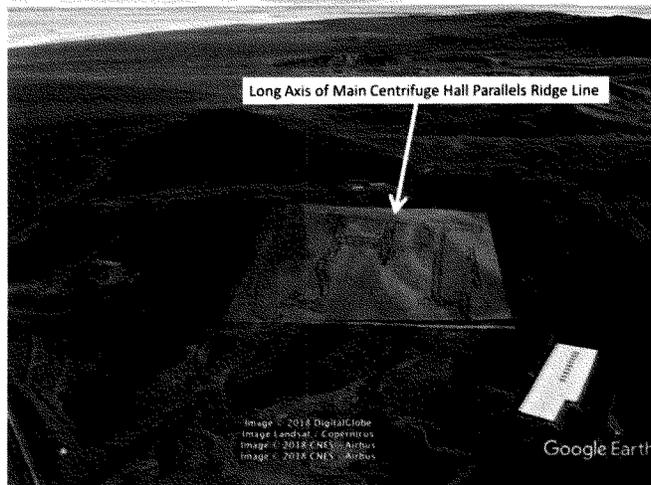
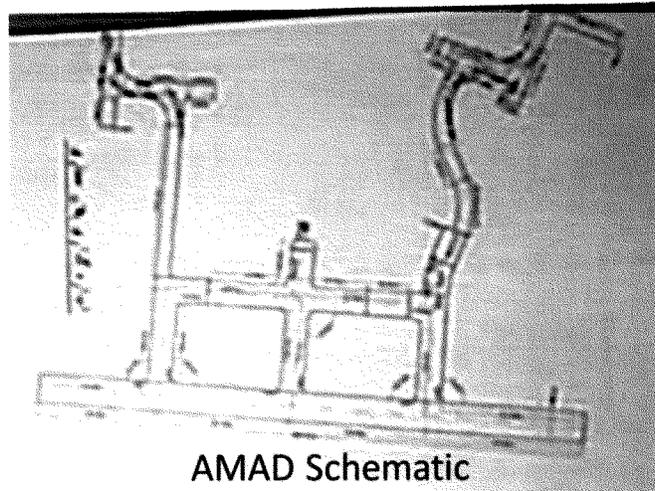
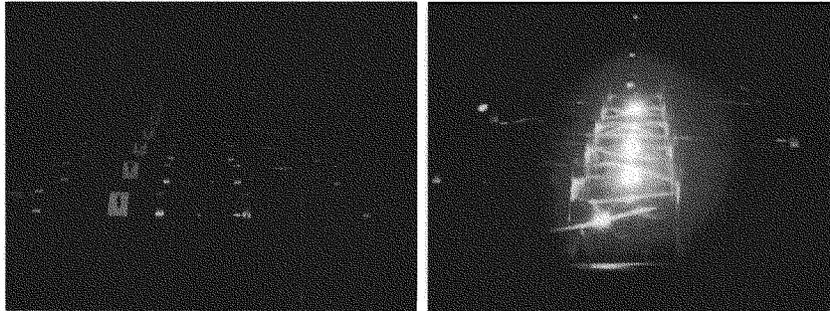
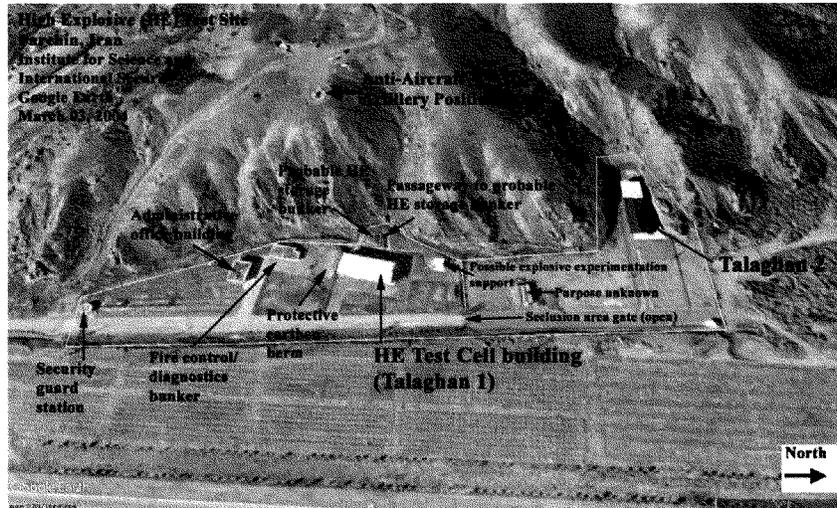


Figure. Qom Site with overlay of AMAD schematic, showing location of underground enrichment site by matching it with the tunnel entrances. Source: [http://isis-online.org/uploads/isis-reports/documents/Qom\\_Site\\_Schematic\\_Overlay\\_May\\_1\\_2018\\_final.pdf](http://isis-online.org/uploads/isis-reports/documents/Qom_Site_Schematic_Overlay_May_1_2018_final.pdf)

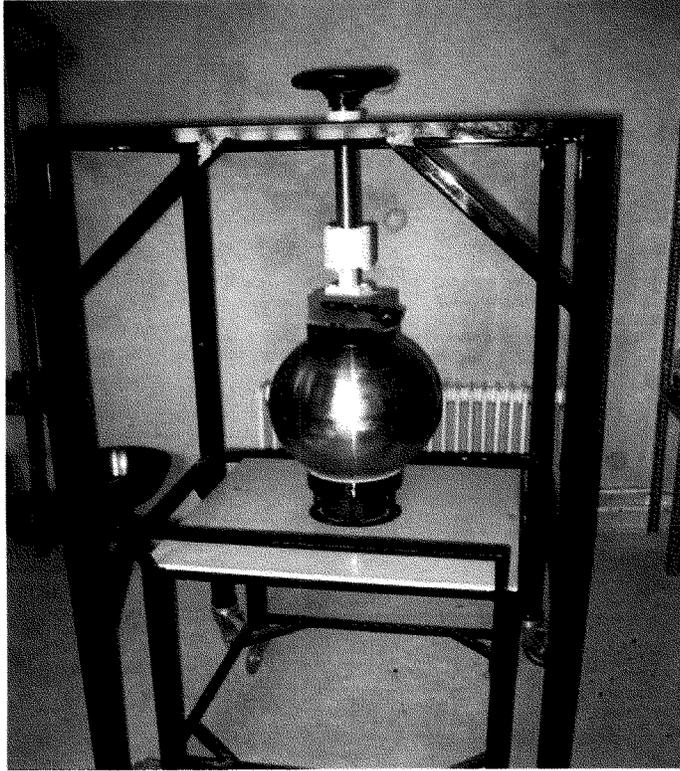
**From the Iranian Nuclear Archive Seized in 2018 in Tehran by  
Israel:  
Images and information relevant to the Parchin site and the  
development of nuclear weapons.**

**Supplement to Written Testimony of David Albright before the  
House Subcommittee on National Security,  
Committee of Oversight and Government Reform**

**June 6, 2018**



The top image is a Google Earth commercial satellite image showing the Parchin complex that was involved in nuclear weapons high explosive testing work in the AMAD project. This site has been extensively sanitized by Iran. The Nuclear Archive discusses this site, including the two main facilities which Iran calls in the documents Talaghan 1 and 2. Talaghan 1 contains the high explosive test chamber often discussed publicly and by the IAEA. European journalists recently received from senior Israeli intelligence officials an image from the archive of a Marx generator in Talaghan 2, which is a building on the north end of the site (see second image). According to the Israelis, the Marx generator produced a high voltage pulse for a flash x-ray used inside Talaghan 2 to examine small-scale tests of hemispherical high explosives components for the AMAD project in a small, elongated chamber. The Nuclear Archive shows that Iran conducted many more high explosive tests related to nuclear weapons development than previously known. The IAEA has not visited the Talaghan 2 building. Source: Senior Israeli intelligence officials



An assembly device for the central portion of a nuclear explosive, where a surrogate metal would be used instead of highly enriched uranium. It contains what the Israelis call the “flyer” of the inner part of a nuclear device and a core made of a surrogate material instead of highly enriched uranium (inner core not visible in the image but see below). The external hemisphere is apparently the flyer; one of which can be seen in the background on the left of the image. This device can be recognized in a simulation in the video of Prime Minister Netanyahu presenting the nuclear archive on April 30, 2018 at about 6:45/19:48. The animation shows the device in action assembling an actual nuclear weapon. It is significant that Iran built this assembly, which appears in this case for use with a surrogate metal core of material, not an actual nuclear weapon. It is unclear if it is a full-size assembly device. Source of image and text: Senior Israeli intelligence officials. The video can be found at <https://www.youtube.com/watch?v=pkhrV4cZLE>

Mr. DESANTIS. I thank the gentleman.  
The chair now recognizes Mr. Pregent for 5 minutes.

#### STATEMENT OF MICHAEL PREGENT

Mr. PREGENT. Thank you. Chairman DeSantis, Ranking Member Welch, and distinguished members of the Subcommittee on National Security. On behalf of the Hudson Institute, I am honored to testify before you today.

I just want to say upfront, there would be an Iran deal in place today if the Iranian regime wasn't so blatant in its violations of existing U.N. Security Council resolutions, violations fueled by the JCPOA.

There would still be an Iran deal in place today if the regime hadn't continued and accelerated its illegal ballistic missile program, a violation of existing U.N. Security Council Resolutions.

There would still be an Iran deal in place if the regime didn't use commercial aircraft to deploy Islamic Revolutionary Guard Corps Quds Force advisors in its militias to Syria, another violation of existing U.N. Security Council Resolutions.

There would still be an Iran deal in place today if the regime stopped providing funds and lethal aid to Hamas, the Houthis, and Hezbollah—again, a violation.

There would still be an Iran deal in place today if the regime hadn't empowered and increased the lethal and financial aid to existing IRGC Quds Force militias and created new ones that threaten Americans in Iraq and Syria.

The regime's maligned activities are the reason the JCPOA is no longer in place. The regime's actions continuously demonstrated a willingness to cheat out in the open on existing U.N. Security Council resolutions while defenders of the regime and defenders of the Iran deal said they were complying in the shadows with the JCPOA.

We would have to believe that the regime is good when no one is looking and somehow dismiss its cheating behavior on the international stage and disregard it as an indicator of the regime's actual intentions.

Critics will argue that the Iran deal was not meant to curb Iran's regional destabilizing activities and that it was simply an arms control agreement. The problem with that argument is Iran saw the Iran deal as a vehicle to reactivate its destabilizing terror logistics and operations networks.

The JCPOA giveaways and Annex 2, that Rich mentioned, enabled, fueled, and allowed the regime to accelerate its destabilizing activities. Annex 2 delisted banks that fund terrorism. Annex 2 delisted shipping lines that moved weapons to terrorist organizations. Annex 2 delisted Qasem Soleimani and other individuals that train, arm, and direct terrorist groups and build new terrorist organizations.

Critics of the JCPOA were not surprised to see the regime step up its destabilizing activities. All you had to do was look at Annex 2 and see what the regime asked for and received.

The regime saw the Iran deal as a way to fuel its regional destabilizing strategy, become an economic powerhouse, become the pre-

mier conventional military threat in the Middle East, and, at the end of the sunset clauses, become a weaponized nuclear power.

Critics argue that walking away from the Iran deal would cause Iran to increase its destabilizing activities and rush to a bomb. Not only did the regime increase its activities under the protections of the Iran deal, it expanded its reach into Lebanon, Bahrain, Yemen, and cemented its reach and influence in Iraq and Syria.

Iran has been doing for years what critics say the regime will do if the U.S. walked away from the JCPOA. Iran became more dangerous under the protections of the JCPOA.

Since the implementation of the JCPOA, the IRGC Quds Force has amassed upwards of 50,000 militia members in Syria, from Lebanon, Iraq, and Afghanistan. They are there at the direction of the IRGC Quds Force to shore up Assad and threaten and U.S. and Israel.

Iran has increased Hezbollah's capability to target Israel with more advanced and precision-guided rockets and missiles. Hezbollah is now operating at the brigade level. They are able to do combined operations in this theater because of the IRGC Quds Force.

The IRGC Quds Force along with Lebanese Hezbollah have introduced lethal capabilities to the Houthis in Yemen that threaten international shipping lanes and Saudi Arabia with missile and rocket attacks.

Iran has increased funding and lethal capability of IRGC Quds Force militias that have killed Americans in the past and pledged to do so again.

Since the implementation of the JCPOA in 2015, the IRGC Quds Force has created additional militias, ones that are being sanctioned now by the House and by the Senate, Kataib Imam Ali and Harakat Nujaba.

The IRGC has increased lethal aid to the Taliban in Afghanistan and is behind fomenting the internal sectarian divisions with U.S. Arab allies.

The IRGC is fomenting sectarian strife in the Shia enclaves of Saudi Arabia and Bahrain. And if Iran rushes to a bomb, they lose Europe; they lose Russia; they simply lose. Russia will not tolerate a nuclear regime on its border. The U.S., Israel, and our Sunni regional allies will not allow Iran to rush to the bomb. But wait.

In the preamble of the JCPOA, you have to go down three sections, and you will see this promise by Iran. Iran reaffirms that under no circumstances will Iran ever seek, develop, or acquire any nuclear weapon. So, basically, you just have to go to the preamble, three references down, to see that Iran deal itself was based on a lie.

Iran's currency has lost 60 percent of its value since 2015 in the JCPOA because they squandered the windfall of cash to promote destabilizing activities instead of focusing on its economy.

Critics argue that Europe will pick Iran over the United States. Every day, we see European banks and businesses withdrawing from deals with the regime. It is simple. They are picking the \$20 trillion economy over a shrinking \$400 billion economy.

Iran is now asking for more concessions and promises of investment from Europe to no avail, without making any concessions on its ballistic missiles, sunset clauses and adventurism.

[Prepared statement of Mr. Pregent follows:]

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Testimony of

**Michael Pregent**

Senior Fellow, Hudson Institute

on

**“Protecting America from a Bad Deal: Ending U.S.  
Participation in the Nuclear Agreement with Iran”**

U.S. House of Representatives Committee on Oversight and Government Reform’s  
Subcommittee on National Security

Wednesday, June 6<sup>th</sup>, 2018

Chairman DeSantis, Ranking Member Lynch, and distinguished members of the Subcommittee on National Security, on behalf of the Hudson Institute, I am honored to testify before you today on walking away from a bad deal.

**There would be an Iran Deal in place today if the Iranian regime wasn't so blatant in its violations of existing United Nations Security Council Resolutions (UNSCRs).**

There would still be an Iran Deal in place today if the regime hadn't continued and accelerated its illegal ballistic missile program – a violation of existing UNSCRs.

There would still be an Iran Deal in place today if the regime hadn't detained 10 Sailors and filmed them for propaganda purposes - a violation of the Geneva Convention.

There would still be an Iran Deal in place if the regime didn't use commercial aircraft to deploy the IRGC-QF and its militias to Syria – another violation of existing UNSCRs.

There would still be an Iran Deal in place if the regime stopped providing funds and lethal aid to Hamas, the Houthis, and Hezbollah – again, a violation.

There would still be an Iran Deal in place if the Regime hadn't empowered and increased lethal aid to existing Islamic Revolutionary Guard Corps –Quds (Jerusalem) Force (IRGC-QF) militias and created new ones that threaten Americans in Iraq and Syria.

There would still be an Iran Deal in place if the Regime had not squandered upwards of 150 billion dollars on adventurism, instead of using the windfall of funds to focus on its domestic economy. No one is louder here than the Iranian protesters on this failure by the regime.

The regime's malign activities are the reason the JCPOA is no longer in place. The regime's actions continuously demonstrated a willingness to cheat out in the open on existing UNSCRs while defenders of the regime, and the Iran Deal, said they were complying in the shadows with the JCPOA. We would have to believe that the regime is good when no one is looking, and somehow dismiss its cheating behavior on the international stage and disregard it as an indicator of the regime's actual intentions.

**Iran's destabilizing activities were fueled by the JCPOA - the Iran Deal - and the regime's malign activities accelerated under the protections of the JCPOA. Ending the U.S. participation in the Iran Deal ends the constraints on U.S. Foreign Policy in the Middle East and puts the U.S. back in a position of strength to curtail the regime's malign activities.**

**The Regime is weaker and more constrained with the U.S. out of the JCPOA.**

Critics argue that the Iran Deal was not meant to curb Iran's regional destabilizing activities, and that it was simply an arms control agreement. The problem with that argument is Iran saw the Iran Deal as a vehicle to protect its nuclear program, reap the economic benefits from a deal,

but more importantly, reactivate its destabilizing terror logistics and operations networks. The JCPOA giveaways in Annex II enabled, fueled, and allowed the regime to accelerate its destabilizing activities.

Annex II delisted banks that fund terrorism, Annex II delisted shipping lines that moved weapons to terrorist organizations, Annex II delisted Qassem Soleimani and other individuals that train, arm, and direct terrorist groups and build new terrorist organizations. Critics of the JCPOA were not surprised to see the regime step up its destabilizing activities, all you had to do was look at what the regime asked for and received in Annex II.

The regime saw the Iran Deal as a way to fuel its regional destabilizing strategy, become an economic powerhouse, become the premiere conventional military threat in the Middle East, and at the end of the sunset clauses – become a weaponized nuclear power. All the while waiting to call the U.S. in breach of the Iran Deal for countering any of the regime’s malign activity.

Critics argue that walking away from the Iran Deal will cause Iran to increase its destabilizing activities and rush to a bomb. Not only did the regime increase its activities under the protections of the Iran Deal, it expanded its reach into Lebanon, Bahrain, and Yemen, and cemented its reach and influence in Iraq and Syria.

#### **Iran’s destabilizing activities accelerated under the protections of the JCPOA.**

Since the implementation of the JCPOA, the IRGC-QF has amassed upwards of 50,000 militia members in Syria from Lebanon, Iraq, and Afghanistan. All there at the direction of the IRGC-QF to shore up Assad and threaten the U.S. and Israel.<sup>1</sup>

We saw increased lethal and financial aid to Hamas, Hezbollah, and the Houthis, and as Representative Brad Sherman said, “those are just the ones that begin with the letter H.”<sup>2</sup>

Iran increased Hezbollah’s capability to target Israel with more advanced and precision guided rockets and missiles.

Since the implementation of the JCPOA, the IRGC-QF and Lebanese Hezbollah have introduced lethal capabilities to the Houthis in Yemen that threaten international shipping lanes and Saudi Arabia with missile and rocket attacks.

<sup>1</sup> Ilan Berman, “New Report: Iran’s Influence in Syria Far Broader Than Commonly Understood” May 31, 2018. <http://www.tabletmag.com/scroll/263288/new-report-irans-influence-in-syria-far-broader-than-commonly-understood>

<sup>2</sup> William Booth, “Iran’s post-sanctions windfall may not benefit Hamas”, The Washington Post, August 31, 2015 ([https://www.washingtonpost.com/world/will-irans-post-sanctions-windfall-benefit-hamas-maybe-not/2015/08/30/08d0c62c-481e-11e5-9f53-d1e3ddfd0cda\\_story.html?utm\\_term=.0e3cf2f7ba7e](https://www.washingtonpost.com/world/will-irans-post-sanctions-windfall-benefit-hamas-maybe-not/2015/08/30/08d0c62c-481e-11e5-9f53-d1e3ddfd0cda_story.html?utm_term=.0e3cf2f7ba7e))

Iran increased funding and the lethal capabilities of IRGC-QF militias that have killed Americans in the past and pledge to do so again. Since the implementation of the JCPOA in 2015, the IRGC-QF created at least two additional Iraqi militias: Kataib Imam Ali and Harakat Nujaba – both have threatened Americans in Iraq and Syria. The IRGC now deploys these very same militias to prop up Assad in Syria and move against our Sunni, Christian, and Kurdish allies in Iraq.

The IRGC increased lethal aid to the Taliban in Afghanistan, and is behind fomenting internal sectarian divisions with U.S. regional Arab allies.

The IRGC-QF is fomenting sectarian strife in the Shia enclaves of Saudi Arabia and Bahrain.

Iran has been doing for years what critics say the regime will do if the U.S. walked away from the JCPOA. The JCPOA arguably made Iran more dangerous - Iran became more dangerous under the protections of the JCPOA.

And if Iran rushes to a bomb – they lose Europe, they lose Russia, they simply lose. Russia will not tolerate a nuclear regime on its border. Russia is distancing itself from Iran in a post JCPOA world. The U.S., Israel, and our Sunni regional allies will not allow Iran to rush to the bomb.

With the U.S. in the JCPOA, Iran remained 6 months away from breakout if they cheated, and 10 years away from being a nuclear North Korea if all parties complied with the agreement.

With the US out of the JCPOA, Iran is 6 months away from breakout with this exception: The US is no longer constrained from taking economic and military actions. And again, a rush to the bomb loses European support and justifies military intervention.<sup>3</sup>

Again, under the protections of the JCPOA, in 10 years, the regime would have become an economic power, an advanced conventional military threat, an intercontinental ballistic missile threat, and a militarized nuclear power. That is no longer the case.

**The regime is weaker now and running out of friends.**

Iran's currency has lost 60% of its value since 2015 under the JCPOA. The Iranian Toman was 3000:1 in 2015, it is now 8000:1 in 2018. European companies are walking away, European supporters of the JCPOA are calling for Iran to make concessions on its ballistic missile program and to end its destabilizing activities. Russia is sitting on its hands and allowing Israel to strike IRGC-QF targets with impunity, and China is pouring billions into the Iranian economy to compensate for the lack of European investment and risking US sanctions for doing so. The

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<sup>3</sup> "Iran Supreme Leader Ali Khamenei orders country's atomic energy body to prepare for uranium enrichment capacity upgrade" June 4, 2018. <https://www.independent.co.uk/news/world/middle-east/iran-nuclear-deal-uranium-enrichment-supreme-leader-ali-khamenei-atomic-energy-trump-a8383076.html>

regime is weaker today and constrained by the definite consequences it would face from any aggressive actions taken.

Critics argue that Europe will pick Iran over the United States. Everyday we see European banks and businesses withdrawing from deals with the Regime.<sup>4</sup> It's simple, they are picking a 20 trillion-dollar economy over a shrinking 400 billion-dollar one, where their investments are subject to US secondary sanctions – it's simply not worth it.

Iran is now asking for more concessions and promises of investment from Europe to no avail – without making any concessions on its ballistic missiles, sunset clauses, and adventurism.<sup>6</sup>

Iran is weaker now than ever, Russia is starting to see Iran as a problem in Syria and has even went so far as to demand IRGC-QF advisors, their troops, and their proxies exit Syria. Russia is sitting on its hands while Israel sets back Qassem Soleimani's terrorist infrastructure in Syria 3 years – the time spent building up offensive capabilities since the implementation of the JCPOA in 2015.

Critics say walking away from the Iran Deal would hurt us with North Korea – walking away gave us leverage day one, and the release of 3 captive Americans is proof that a negotiating team can set conditions before sitting down at the table to negotiate a nuclear deal.

Kim Jong-Un stepped up his missile launches and nuclear activity after the JCPOA went into effect. Kim Jong-Un accelerated his activities in the last year of the Obama administration in hope of getting a JCPOA like deal – one where he put his nuclear program on hold, one that was heavily laden with incentives based on promises, and one with weak enforcement. Kim Jong Un will not get that in a post JCPOA world. If the JCPOA was still in place, he would certainly expect to get all Iran received.

Walking away from the Iran Deal was the right thing to do, if all parties adhered to the JCPOA, the Iranian regime would have become an advanced conventional military threat, an intercontinental ballistic missile threat, and a militarized nuclear power. Again, that is no longer the case.

Thank you for the opportunity to address this committee.

Michael Pregent

<sup>4</sup> Bloomberg, "Trump's Iran Sanctions Have Already Convinced One Oil Company to Leave the Country" May 17, 2018. <http://fortune.com/2018/05/17/trump-iran-sanctions-total-oil-leave-country/>

<sup>5</sup> Reuters Staff, "France's PSA suspends joint ventures in Iran to avoid U.S. sanctions" June 4, 2018. <https://www.reuters.com/article/us-iran-nuclear-peugeot/frances-psa-suspends-joint-ventures-in-iran-to-avoid-u-s-sanctions-idUSKCN1J026R>

<sup>6</sup> Tom DiChristopher, "Iran's Supreme Leader just made 5 tough demands for Europe to save the nuclear deal" May 24, 2018 <https://finance.yahoo.com/news/iran-apos-supreme-leader-just-153800317.html>

Mr. DESANTIS. We'll let you put that for the record. We are just running over, so I want to make sure we get everyone in. So thanks for that and we'll—

Mr. PREGENT. Sure, sure, sure.

Mr. DESANTIS. So, Dr. Walsh, 5 minutes.

#### STATEMENT OF JIM WALSH, PH.D.

Mr. WALSH. Thank you. Mr. Chairman, Mr. Ranking Member, and members of the committee, it is an honor to appear again before your committee.

In written testimony, I address a number of different issues, including the ones raised by my colleagues. But in oral testimony, I want to focus on the negative consequences of violating the agreement for U.S. national security and America's standing in the world.

My summary judgment is the JCPOA successfully address the single most important American national security interest in the Gulf, namely preventing Iran from acquiring nuclear weapons. By violating the agreement and having no real strategy to replace it, the administration has increased the risk of nuclear proliferation in the Middle East, raised the probability of military conflict between the U.S. and Iran, undermined America's single most important national security alliance, and likely worsened the very problems the administration said it was trying to solve. Iran's regional activities, its ballistic program, missile program, et cetera.

There are good reasons why Secretary of Defense Mattis and CENTCOM Commander Votel, who is responsible for Iran in that region, men who may have to respond to what happens next, have both argued for staying in the JCPOA as have Chairman Royce and Chairman Thornberry.

Number one, the decision was poorly thought out, leaving the U.S. no strategy and unprepared for what would come next. British Foreign Secretary Johnson lamented that, quote, "plan B does not seem well developed at this stage." He said that the day before the President's announcement.

For his part, the President admitted that if he were the Iranians, he probably wouldn't negotiate with the U.S. under these circumstances. That was President Trump who said that in his announcement.

The U.S. has gone from being part of the strongest multilateral nonproliferation agreement in nuclear history to no strategy, few friends, no timetable for achieving objectives, and Iran now free to advance its civilian nuclear program.

Indeed, more than one observer has suggested that scuttling the JCPOA would, quote, "mainly help Iran."

Number two, it increases the risk of war and proliferation in the Middle East. By attacking the JCPOA, the administration has both improved Iran's capability to pursue nuclear weapons by removing restrictions and has created conditions that might very well lead to that outcome.

The President's decision has allowed Iran out of its nuclear box, and now threatening Iran making demands that no country would ever agree to and loose talk that sounds like regime change in-

creases the pressure on Iran to consider its nuclear options, the very opposite of what is in U.S. national security interest.

Now, if Iran begins taking steps, reintroducing centrifuges, reducing IAEA access, there would be an immediate public outcry. And many of those who advocating ditching the JCPOA will be the very same people demanding military action, despite the fact that it was their policies that got us here in the first place.

Number three, undermines European alliances. Americans fought and died in World War I and World War II, wars that resulted in millions of deaths and the destruction of Europe. Coming out of the ashes of World War II, the Atlantic and European alliances have been the single most important instrument for America's national security.

The administration not only ignored requests of our allies to stay in the JCPOA, it is now threatening sanctions against European firms if they continue to abide by the agreement. Let me repeat that. The United States of America is threatening to punish our European allies if they refuse to violate the agreement.

There was a time when America was the leader of the free world. Leadership is when you take action and are followed by others who share your views and have confidence in your leadership. Leadership is not walking away from commitments and then threatening your friends if they don't do the same.

Not a single country followed us out of the JCPOA, not one. That is not leadership. That is not making America great. That is making America isolated.

Number four, the problems of Iranian military spending, ballistic missiles, regional activities, human rights will be worse, not better, as a result of this decision. Will Iran, in the aftermath of U.S. actions, feel more threatened or less threatened? It would seem likely that it will feel more threatened for the reasons discussed above. That appears to be the President's objective.

Now research and scholarship and security studies would predict that, on average, as countries feel more threatened, they are more likely, not less likely, to spend money on their military and to develop weapons like missiles. They are more likely, not less likely, to hold their allies close in anticipation of a conflict and more likely to undermine their adversaries to prepare for coming conflict.

Mr. Chairman, Ranking Member, and members of the committee, I want to thank you again for the opportunity to appear before you on a topic of utmost importance for U.S. national security and the security of our friends and allies.

The JCPOA was a singular nonproliferation achievement that was years in the making. In 1 day, the President has undercut it. Letting Iran out of its nuclear box and setting off a series of events that could bring war and nuclear proliferation to a region that needs neither.

These developments will pose new challenges for America's national security, and the American people will hold Congress accountable for those results.

I remain committed to working with you to protect the American people and our friends abroad. I look forward to conversations about those dangers and challenges that lie ahead. Thank you.

[Prepared statement of Mr. Walsh follows:]

Committee on Oversight and Government Reform  
Subcommittee on National Security  
U.S. House of Representatives

"Protecting America from a Bad Deal: Ending US Participation in the Nuclear Agreement with Iran"

June 6, 2018

Mr. Chairman, Mr. Ranking Member, and Members of the Committee:

It is an honor to appear again before your committee, this time to discuss the consequences of the Trump Administration's decision to unilaterally abrogate the Joint Comprehensive Plan of Action (JCPOA), the international nuclear agreement with Iran and our P5+1 partners.<sup>1</sup> Congress will face difficult but critical decisions going forward as a result of this decision, and so I laud the committee for beginning to prepare for the future ahead.

I come to today's hearing as someone who has provided assessments to Republican and Democratic presidents, as well as to Republican and Democratic Members of Congress, as they have wrestled with these policy challenges. I have studied Iran, its nuclear program, its role in the region, sanctions, and terrorism for more than 15 years. I have written extensively on Iran and its foreign policy, and have had the honor to share my views in testimony before Congress on a number of occasions.<sup>2</sup>

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<sup>1</sup> I would like to thank the many people who suggested thoughts or otherwise supported my testimony, including Angela Nichols, Max Walsh, Corie Walsh, Bill Luers, Kathryn Grant, Paul Pillar, George Lopez, Adam Weinstein, David Wade, Paul Barker, and others. My testimony and comments are mine alone, however, and are not intended to represent the views of the MIT Security Studies Program or individuals that have contributed to the preparation of this testimony.

<sup>2</sup> See, for example, Jim Walsh "Rivals, Adversaries, and Partners: Iran and Iraq in the Middle East," In *Iran and Its Neighbors*, London: Palgrave Macmillan, 2017; Jim Walsh, editor, *Terrorism: Documents of International and Local Control*, Vols. 37-41, Dobbs Ferry, N.Y: Oceana Law Publications; Jim Walsh, "Nuclear Regimes and Nuclear Terrorism," Testimony before the Subcommittee on International Security, Proliferation and Federal Services of the Senate Governmental Affairs Committee, *Multilateral Non-proliferation Regimes, Weapons of Mass Destruction Technologies and the War on Terrorism*. February 12, 2002, pp. 1-12; Jim Walsh, "Evaluating Key Components of a Joint Comprehensive Plan of Action With Iran," Written statement for the hearing before the Senate Foreign Relations Committee, United States Senate, June 25, 2015, Washington, DC: US Congress, 2015, pp. 1-26; "Assessing the Iran

In my testimony today, I want to directly address four issues raised by this hearing.

- 1) The domestic and international reaction to the President's decision
- 2) An accounting of what had been accomplished by the nuclear agreement
- 3) A review of various criticisms of the JCPOA
- 4) The negative consequences of violating the agreement for US national security and America's standing in the world

My summary judgment is that the JCPOA was successfully addressing the single most important American national security interest in the Gulf, namely, preventing Iran from acquiring nuclear weapons. By violating the agreement and having no real strategy to replace it, the Administration has increased the risk of nuclear proliferation in the Middle East, raised the probability of military conflict between the US and Iran, undermined America's single most important national security alliance, and likely worsened the very problems the Administration said it was trying to solve, e.g., Iran's regional activities and its ballistic missile program.

### **1) The domestic and international reaction to the President's action**

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Deal.” Written Testimony. Committee on Oversight and Government Reform, Subcommittee on National Security, U.S. House of Representatives. April 5, 2017. <<https://oversight.house.gov/wp-content/uploads/2017/04/Walsh-Statement-Iran-Violations-4-5.pdf>>; “Special Economic Measures Act and the Freezing of Corrupt Foreign Officials Act.” Written testimony. Hearing before the House of Commons Standing Committee on Foreign Affairs and International Development. November 30, 2016; “Iran Terror Financing and the Tax Code.” Written statement for the House Committee on Ways and Means, Oversight Subcommittee. United States House of Representatives. 4 November 2015. Washington, DC: US Congress. 2015, pp. 1-10; “Comments on the Recently the Recently Negotiated Joint Comprehensive Plan of Action,” Invited comments for the Senate Foreign Relations Committee. United States Senate. 1 August 2015. Washington, DC: US Congress. 2015, pp. 1-6; “The Iran-North Korea Strategic Alliance.” Written statement for the joint hearing before the Subcommittees on Terrorism, Nonproliferation, and Trade; Asia and the Pacific; and Middle East and North Africa. House Committee on Foreign Affairs. United States House of Representatives. 28 July 2015. Washington, DC: US Congress. 2015, pp. 1-18, <<http://docs.house.gov/meetings/FA/FA18/20150728/103824/HHRG-114-FA18-Wstate-WalshJ-20150728.pdf>>

A long list of government officials and nuclear experts had urged the President to comply with the agreement, including many who had previously criticized the JCPOA as well as important national security officials in the Trump Administration and in the US military. Secretary of Defense Mattis, Chairman of the Joint Chiefs Dunford, and CENTCOM Commander Votel, men who may have to respond to the consequences of this decision, both argued for staying in the JCPOA.<sup>3</sup> While serving in office, Secretary of State Tillerson and National Security Advisor McMaster had also argued for remaining in the agreement.<sup>4</sup> Similarly, in the US House of Representatives, the chairs of the two committees most directly involved in these issues, Chairman Royce of Foreign Affairs and Chairman Thornberry of House Armed Services, urged the President not to break the agreement.<sup>5</sup> In addition, more than 40 former officials and nuclear experts cautioned against undermining the JCPOA.<sup>6</sup>

Internationally, America's closest and most important allies --Britain, France, and Germany-- pleaded with the President to not violate the deal. Conservative British Foreign Secretary Johnson said breaking the agreement would be a "mistake," and

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<sup>3</sup> Ellen Mitchel, "Mattis defends Iran deal as Trump considers withdrawal," *The Hill*, April 26, 2018, <<http://thehill.com/policy/defense/385094-mattis-defends-iran-deal-as-trump-considers-withdrawal>>; Paul McLeary, "Trump's Top General Says Iran Honoring Nuke Deal," *Foreign Policy*, September 26, 2017, <<http://foreignpolicy.com/2017/09/26/trumps-top-general-says-iran-honoring-nuke-deal>>;

Daniel Cebul, "CENTCOM chief backs Iran deal as Trump chooses critic for top diplomacy job," *Defense News*, March 14, 2018, <<https://www.defensenews.com/congress/2018/03/14/centcom-chief-backs-iran-deal-as-trump-chooses-critic-for-top-diplomacy-job/>>.

<sup>4</sup> Elizabeth McLaughlin, "Tillerson's support for Iran deal helped get him fired, but Mattis shares his views," *ABC News*, March 13, 2018, <<https://abcnews.go.com/Politics/tillersons-support-iran-deal-helped-fired-mattis-shares/story?id=53712207>>; Asawin Suebsaeng, Spencer Ackerman, Sam Stein, "McMaster Wants to Save the Iran Deal by Hiding It From Trump," *The Daily Beast*, October 12, 2017, <<https://www.thedailybeast.com/mcmaster-wants-to-save-the-iran-deal-by-hiding-it-from-trump>>.

<sup>5</sup> "Republican House Armed Service chair warns Trump against leaving Iran deal," *Reuters*, May 6, 2018, <<https://www.reuters.com/article/us-iran-nuclear-usa-thornberry/republican-house-armed-service-chair-warns-trump-against-leaving-iran-deal-idUSKBN1170Q3>>; Rep. Edward Royce, "Remarks: Chairman Royce on Iran," House Foreign Affairs Committee, May 8, 2018, <<https://foreignaffairs.house.gov/press-release/remarks-chairman-royce-on-iran-2>>.

<sup>6</sup> See the document signed by 47 national security leaders, "Statement on a Comprehensive Policy to Constrain Iran," *Iran Project*, Fall 2017, <<https://www.scribd.com/document/355867352/Iran-Letter-IranPolicy-080817#https://www.scribd.com/document/355867352/Iran-Letter-IranPolicy-080817>>.

that "every alternative is worse."<sup>7</sup> Echoing those views were the UN Secretary General and also the President of the European Commission, who warned that it would constitute "a major threat to security in the region."<sup>8</sup>

Less well appreciated were concerns emanating from Israel. Prime Minister Netanyahu's views received extensive press coverage, but not former Prime Minister Ehud Barak, who had been a critic of the agreement and who at various points while in office had considered a military strike on Iran's nuclear facilities. He pointed to the "logic in maintaining" the JCPOA.<sup>9</sup> He is not alone. Maj. Gen. Amos Gilad, the former research chief at Military Intelligence, also a critic of the agreement, expressed a similar view as did others in Israel's professional military and intelligence community.<sup>10</sup>

In short, an overwhelming consensus, including central figures serving in the current administration, cautioned against violating the deal. As with the decision to withdraw from the Paris Climate accord, the President ignored his own advisers, America's allies, and members of his own Congressional leadership and tore up the agreement.

## **2) An accounting of what had been accomplished by the JCPOA**

In the course of over four years, the Joint Plan of Action (JPOA) and the JCPOA produced a number of nonproliferation milestones. Under the agreement, Iran:

- 1) Removed 98% of its stockpile of low enriched uranium

<sup>7</sup> Boris Johnson, "Don't Scuttle the Iran Nuclear Deal," *New York Times*, May 6, 2018, <https://www.nytimes.com/2018/05/06/opinion/boris-johnson-trump-iran-nuclear-deal.html>.

<sup>8</sup> Jones Hayden, "Ending Iran Nuclear Deal Would Be Major Security Threat, EU Says," *Bloomberg*, May 16, 2018, <https://www.bloomberg.com/news/articles/2018-05-16/eu-readies-measures-to-protect-firms-from-u-s-sanctions-on-iran>.

<sup>9</sup> Neri Zilber, "Israel's Ex-Prime Minister Ehud Barak Says Keep the Iran Nuclear Deal," *Daily Beast*, May 7, 2018, <https://www.thedailybeast.com/israels-ex-prime-minister-ehud-barak-says-keep-the-iran-nuclear-deal>.

<sup>10</sup> Amos Harel, "U.S. Exit From Nuclear Deal Would Help Iran, Former Israeli General Says," *Haaretz*, May 6, 2018, [https://www.haaretz.com/amp/israel-news/.premium-israeli-ex-intel-official-u-s-exit-from-nuclear-deal-would-help-iran-1.6055374?\\_\\_twitter\\_impression=true](https://www.haaretz.com/amp/israel-news/.premium-israeli-ex-intel-official-u-s-exit-from-nuclear-deal-would-help-iran-1.6055374?__twitter_impression=true). See also, Allison Kaplan Sommer, "Top Brass vs. Netanyahu's Government: Where Israel Stands on Nixing Nuke Iran Deal," *Haaretz*, May 08, 2018, <https://www.haaretz.com/israel-news/.premium-where-israel-s-leaders-stand-on-the-iran-nuclear-deal-1.6070237>.

- 2) Dismantled two-thirds of its centrifuges
- 3) Destroyed the calandria of the Arak heavy water reactor
- 4) Capped its level of enrichment to 3.67%
- 5) Converted the Fordow underground facility
- 6) Submitted to 24/7 IAEA inspection of its sensitive facilities
- 7) Did not reprocess plutonium

The IAEA has formal access not only to traditionally safeguarded facilities but also up the fuel cycle covering the production of rotors and centrifuges, as well as uranium mines.

At no point in the nuclear age has any country submitted to as intrusive a level of inspection and verification as was provided for under the JCPOA.

### **3) Criticisms of the JCPOA**

Critics of the agreement ginned up a wide variety of claims and criticisms from 2013 to 2015, but few of them have been sustained. Over time, governments have increasingly recognized that the JCPOA is the strongest multilateral nonproliferation agreement in history.<sup>11</sup> As a consequence, critics largely conceded the debate on the nuclear merits, and shifted the discussion to non-nuclear aspects like Iran's regional behavior.

More recently, with the Administration's move to break the agreement and the need to defend this action in the face of broad criticism, a handful of proliferation-related claims have been reasserted. These criticisms include: 1) Iran is not in compliance with the agreement, 2) the so-called "sunset" provisions are a fatal flaw, 3) the IAEA has insufficient powers or alternatively lacks the will to carry out the required verification regime, and 4) the JCPOA is a "mere" agreement, not a treaty.

Let's consider each claim.

#### Compliance

There is broad consensus that Iran is in compliance with the JCPOA. In testimony before the US Congress, officials from the Department of Defense, the State Department, and the US intelligence community have stated that Iran is abiding by

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<sup>11</sup> See, for example, Walsh, "Comments on the Recently the Recently Negotiated Joint Comprehensive Plan of Action;" Walsh, "Iran Terror Financing and the Tax Code."

its nuclear obligations.<sup>12</sup> Indeed, the Administration is obliged by law to report to Congress on Iran's compliance under the Iran Nuclear Agreement Review Act of 2015. As recently as April of this year, one month before the President's announcement, the State Department noted that:

...on three occasions during the reporting period the Secretary of State certified to Congress that: Iran is transparently, verifiably, and fully implementing the JCPOA; has not committed a material breach with respect to the JCPOA; has not taken any action during the reporting period, including covert activities....<sup>13</sup>

This finding is consistent with more than a dozen IAEA reports on Iran's nuclear program and with assessments made by Britain, France, and Germany.<sup>14</sup> Former Israeli Prime Minister Euhud Barak insists that Iran has "kept the letter of the agreement quite systematically..."<sup>15</sup>

Some critics have cited Israeli Prime Minister Netanyahu's May, 2018 press conference and his claim --made days before the President's announcement-- that a pilfered store of Iranian nuclear documents proved that Iran had "lied." Danny Yatom, the Prime Minister's former Mossad Director commented, "This is no smoking gun. The gun smoked many years ago. The information could have once been a smoking gun but is irrelevant today."<sup>16</sup> General Gilad, the former research chief at Military Intelligence, pointed out that the material did not, in fact, prove that Iran was violating the JCPOA.<sup>17</sup> Former Prime Minister Barak observed that...

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<sup>12</sup> See footnote 3 and 13. See also, Daniel R. Coats, "Worldwide Threat Assessment," February 13, 2018, p. 7, <<https://www.dni.gov/files/documents/Newsroom/Testimonies/2018-ATA---Unclassified-SSCI.pdf>>; Michael Hayden, "Our intelligence chiefs just want to tell the truth about national security,," *The Hill*, February 15, 2018, <<http://thehill.com/opinion/national-security/373991-dont-knock-our-intelligence-chiefs-for-being-part-of-the-deep-state>>.

<sup>13</sup> Department of State, "Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments," Arms Control, Verification, and Compliance Bureau, April 2018, p. 23, <<https://www.state.gov/documents/organization/280774.pdf>>

<sup>14</sup> Press Release, "Joint statement from Prime Minister May, Chancellor Merkel and President Macron following President Trump's statement on Iran," Prime Minister's Office, May 8, 2018, <<https://www.gov.uk/government/news/joint-statement-from-prime-minister-may-chancellor-merkel-and-president-macron-following-president-trumps-statement-on-iran>>.

<sup>15</sup> Zilber, "Israel's Ex-Prime Minister Ehud Barak Says Keep the Iran Nuclear Deal."

<sup>16</sup> Martin Indyk, @Martin\_Indyk, May 2, 2018, [https://twitter.com/Martin\\_Indyk/status/991615959298342913?s=19](https://twitter.com/Martin_Indyk/status/991615959298342913?s=19)

<sup>17</sup> Harel, "U.S. Exit From Nuclear Deal Would Help Iran, Former Israeli General Says."

...it was a truly remarkable intelligence achievement... and there was lots of material [there], but nothing that's new. Nothing substantive about what they did and didn't do that wasn't already known to intelligence for years now. Not one new item.<sup>18</sup>

It is worth noting that the Israeli government informed Washington about the cache of documents in January, and that Prime Minister Netanyahu brought the subject up in March. Yet there was no change in US assessments of Iranian compliance.<sup>19</sup>

#### Sunset provisions

Many arms control and nonproliferation agreements end after a certain period of time if not extended by the signatories, e.g., the US-Russian New Start Treaty and the original NPT. The JCPOA does not end at a point in the future, though some provisions are phased out over many years. Several of Iran's obligations are permanent. Iran is obliged to forgo nuclear weapons in perpetuity. The Additional Protocol also remains in force. Iran destroyed the heart of its heavy water reactor, and so would have to build a new reactor -- a major and visible undertaking requiring many years.

The more fundamental point, however, is the "sunset" argument does not make any sense. It contends that at the end of 10 or 15 years, important restrictions on Iran's behavior are lifted, and when that happens, terrible events will follow. So now, with the President's decision, we are brought to that point *immediately* rather than 15 years from now.

Imagine I go to the doctor and tell her that an illness is threatening my life, and that I will soon die. She says to me, "I have a pill that can keep you alive for 15 years, but since it does not last forever, I'm not going to give it to you." You would fire that doctor.

#### Strong access and verification

Some have suggested that IAEA lacks the ability or will to carry out inspections. But as former Secretary Moniz points out, the JCPOA represents the "most intrusive inspection regime in world," and that "the agreement is what gives the

<sup>18</sup> Zilber, "Israel's Ex-Prime Minister Ehud Barak Says Keep the Iran Nuclear Deal."

<sup>19</sup> "Mossad Discovered Iranian Nuclear Archive in 2016 and Smuggled It to Israel in January, Official Says," *Haaretz*, May 01, 2018, <<https://www.haaretz.com/middle-east-news/iran/mossad-smuggled-iranian-nuclear-archive-to-israel-in-january-1.6045870>>; Brian Bennett, "White House Has Known for Weeks About Israel's Stolen Iran Documents," *Time*, May 2, 2018, <<http://time.com/5262076/white-house-iran-israel-stolen-documents/>>.

international inspectors the tools to go anywhere in Iran and have access."<sup>20</sup> The agency itself, contrary to assertions by agreement critics, reports that it has, in fact, been carrying out inspections under the Additional Protocol. According to the IAEA, "The Agency... has conducted complementary accesses under the Additional Protocol to all the sites and locations in Iran which it needed to visit..."<sup>21</sup> Among other things, the Additional Protocol entitles the IAEA to visit military sites, if it has cause to believe that there are prohibited materials or activities at that site. What is does not authorize is fishing expeditions ordered at the whim of member government.

In its report, the agency says that it has had access to sites, but that Iran should provide more "timely and proactive cooperation."<sup>22</sup> This speaks both to the value and the efficacy of IAEA verification. If the agency begins to lose access, say to centrifuge production facilities or other provisions that relate specifically to the JCPOA and not its general safeguards obligations or Additional Protocol responsibilities, the world will know less, not more, about Iran's nuclear program. Moreover, it will be difficult to publicly call on Iran to explain its behavior or even discrepancies in its account, if it cannot gather the information in the first place.

The JCPOA is "just" an agreement, not a treaty

The notion that the JCPOA is a "mere" agreement and therefore not important is factually wrong and of dubious logic. The JCPOA is a multi-lateral agreement between sovereign governments, but it is also *anchored in a UN Security Council resolution*, and as such constitutes international law. That is certainly the view of Britain, France, Germany -- who described it as "the binding international legal framework for the resolution of the dispute about the Iranian nuclear programme." This view is shared by the other parties to the agreement and by the overwhelming majority of member states of the UN more generally.<sup>23</sup>

Moreover, the notion that just because an agreement is not a treaty, it cannot be important or effective strains credulity. A commitment by the United States of America is a commitment by the United States of America. Trying to explain away

<sup>20</sup> Ernest Moniz, "U.S. leaving Iran nuclear deal would be 'tragic,'" *PBS Newshour*, May 2, 2018, <https://www.pbs.org/video/deal-or-no-deal-1525300673/>.

<sup>21</sup> Francois Murphy, "Iran complying with nuclear deal, but could do better: IAEA," *Reuters*, May 23, 2018, <<https://www.reuters.com/article/us-iran-nuclear-iaea/iran-staying-within-nuclear-deals-restrictions-iaea-report-idUSKCN11P2IR>>.

<sup>22</sup> IBID.

<sup>23</sup> Press Release, "Joint statement from Prime Minister May, Chancellor Merkel and President Macron following President Trump's statement on Iran."

a violation of those commitments by saying the JCPOA is not a treaty misses the point. Americans expect their government to keep its word. Period. It does not want Washington to arbitrarily violate an agreement with no cause and without a Plan B. In addition, the US government has employed similar agreements for decades in service to solving all kinds of problems. In the arena of nonproliferation, for example, the Proliferation Security Initiative (PSI) began as a voluntary, multi-national arrangement. Does anyone say that PSI is not important or that walking out on it would be a good thing? No. No one says that.

Countries in the region (Saudi Arabia, Israel, the Emirates) supported the Administration's decision.

There is no evidence to suggest that Oman, Qatar, Egypt, Jordan, Turkey, or Afghanistan, among others, supported the decision to violate the agreement.

The King of Saudi Arabia and Prime Minister Netanyahu lobbied the President to abrogate the agreement, but it is worth remembering that they were also vocal advocates of the 2003 Iraq War -- a calamitous and costly mistake that made the region even more dangerous for those that live there. Just because a particular leader in the region supports a policy does not make it a good idea.

As regards Israel in particular, one might want to be more precise. Certainly Prime Minister Netanyahu encouraged the US to violate the agreement, but he is not the only voice in Israel. Former Prime Minister Barak and significant figures in the active and retired corps of Israeli defense, intelligence, and nuclear officials supported the agreement, and many of those who had previously been critics have since objected to the idea of unilaterally killing the agreement.<sup>24</sup>

Particularly interesting are statements by the Israeli Chief of the General Staff, Lieutenant General Gadi Eizenkot, who commands the Israeli Defense Forces (IDF). He suggested that the JCPOA had a positive effect on Israel's security and thus resulted in a reordering Israel's defense priorities, a result reflected in Israel's 2016 National Intelligence Estimate. Indeed, a report by the RAND Corporation observed that "Israeli analysts who favored the nuclear agreement and those who opposed it largely assess the prospects for Iranian compliance with the JCPOA to be high."<sup>25</sup>

<sup>24</sup> See footnotes 9 and 10.

<sup>25</sup> See Graham Allison, "Is Iran Still Israel's Top Threat?," *The Atlantic*, March 8, 2016. <https://www.theatlantic.com/international/archive/2016/03/iran-nuclear-deal-israel/472767/>; Dalia Dassa Kaye, "Israel's Iran Policies After the Nuclear Deal," Santa Monica, CA: RAND Corporation, 2016, p. 7, <<https://www.rand.org/pubs/perspectives/PE207.html>>.

Iran does bad things (regional activities, human rights, etc.)

As I have indicated in previous testimony, "The JCPOA is a nuclear agreement. It is not an agreement on regional relations, human rights, or other issues. And it is a nuclear agreement for a good reason: denying Iran nuclear weapons is the uncontested, single most important American objective in the Gulf. Iran supports policies that run contrary to American interests and the interests of our allies, but the only thing worse than an Iran that does bad things is an Iran that does bad things and has nuclear weapons."

**4. The negative consequences of violating the agreement for US national security and America's standing in the world**

A. The decision was poorly thought out, leaving the US with no strategy and unprepared for what will come next.

Speaking *the day before* the President's announcement on his trip to Washington, British Foreign Secretary Johnson --representing America's closest ally-- lamented on *Fox and Friends* that "plan B does not seem, to me, to be particularly well developed at this stage."<sup>26</sup> Similarly, Israel's General Gilad had advised that if the US was going to break the agreement, then they should "prepare for alternatives, and I don't see this being done."<sup>27</sup>

Here in the US, following the President's announcement and Secretary Pompeo's speech describing the Administration's new approach, many observers were dismayed by the lack of a real strategy. It appeared as if the President ripped up the agreement with no thought or preparation for what would come next. Writing in the *Washington Post*, Josh Rogin, a frequent critic of President Obama's Iran

<sup>26</sup> "Don't 'Junk' The Iran Nuclear Deal, Boris Johnson Says On 'Fox & Friends,'" *NPR*, May 7, 2018, <<https://www.npr.org/sections/thetwo-way/2018/05/07/609025517/dont-junk-the-iran-nuclear-deal-boris-johnson-says-on-fox-friends>>.

<sup>27</sup> Amos Harel, "U.S. Exit From Nuclear Deal Would Help Iran, Former Israeli General Says," *Haaretz*, June 5, 2018, <[https://www.haaretz.com/amp/israel-news/.premium-israeli-ex-intel-official-u-s-exit-from-nuclear-deal-would-help-iran-1.6055374?\\_\\_twitter\\_impression=true](https://www.haaretz.com/amp/israel-news/.premium-israeli-ex-intel-official-u-s-exit-from-nuclear-deal-would-help-iran-1.6055374?__twitter_impression=true)>.

policy, was incredulous that the "strategy speech lacked a strategy."<sup>28</sup> The is no "Plan B," concluded Daniel Dresner from Georgetown.<sup>29</sup>

In the Secretary of State's Pompeo's presentation, he provided a laundry list of complaints about Iran from corruption to environmental mismanagement, suggesting that all were reasons to break the agreement, even as he conceded that the nuclear issue "presents the largest, most severe threat for sure."<sup>30</sup> He listed 12 "demands" that Iran must meet --including that it abandon its own allies-- before a formal treaty would be submitted to the Senate. How long would this take? He did not say.

For his part, the President admitted that if he were the Iranians, he probably would not negotiate with the US under these circumstances: "I'd probably say the same thing if I was in their position."<sup>31</sup> Here the President would seem to be correct. It is rare when one country violates an agreement, threatens the other country, demands that it capitulate in every possible way and then the accused country responds with enthusiasm for returning to the bargaining table. This is even more so in the case with Iran, a proud nation whose distrust of Washington goes back to 1953 and the US-sponsored coup that brought the Shah to power. Why, the Iranians will say, would we negotiate an agreement when you just tore up an agreement that took three years to negotiate, and when your real intention is regime change?

So what is supposed to produce this unlikely outcome of a new nuclear agreement? Sanctions, of course. Secretary Pompeo's "strategy" is an economic war against Iran. Sanctions are one of several useful options at the disposal of the US, but sanctions are a tool, not a strategy.<sup>32</sup> Moreover, the conditions necessary for

<sup>28</sup> Josh Rogin, "Pompeo's Iran strategy speech lacked a strategy," *Washington Post*, May 21, 2018, <[https://www.washingtonpost.com/news/josh-rogin/wp/2018/05/21/pompeos-iran-strategy-speech-lacked-a-real-strategy/?utm\\_term=.e9b04ba6b29c](https://www.washingtonpost.com/news/josh-rogin/wp/2018/05/21/pompeos-iran-strategy-speech-lacked-a-real-strategy/?utm_term=.e9b04ba6b29c)>.

<sup>29</sup> Daniel Dresner, "The Trump administration still has no Plan B on Iran," *Washington Post*, May 22, 2018, <[https://www.washingtonpost.com/news/posteverything/wp/2018/05/22/the-trump-administration-still-has-no-plan-b-on-iran/?utm\\_term=.359564d20d5b](https://www.washingtonpost.com/news/posteverything/wp/2018/05/22/the-trump-administration-still-has-no-plan-b-on-iran/?utm_term=.359564d20d5b)>.

<sup>30</sup> Mike Pompeo, "After the Deal: A New Iran Strategy," Remarks delivered at the Heritage Foundation, May 21, 2018, <<https://www.state.gov/secretary/remarks/2018/05/282301.htm>>.

<sup>31</sup> Donald J. Trump, "Full transcript of Trump's speech pulling U.S. out of Iran nuclear deal," *Cox Media Group* (National Content Desk), May 08, 2018, <<https://www.ajc.com/news/national/full-transcript-trump-speech-pulling-out-iran-nuclear-deal/htdRdreVy4HqnREDhO8n3O/>>.

<sup>32</sup> George Lopez, "America should take caution with maximum pressure Iran sanctions," *The Hill*, May 22, 2018, <<http://thehill.com/opinion/international/388757-america-should-be-cautious-with-maximum-pressure-iran-sanctions>>.

effective sanctions (e.g., the support and cooperation of other countries) are not present in this instance.<sup>33</sup> Even during the JCPOA, the US had maintained its own national sanctions, so it remains less than obvious how simply doing more of what the US has been doing on its own for 20 years will persuade Iran to wave a white flag and surrender to its perceived adversary. If anything, the Iranians-- having been humiliated-- will likely dig in deeper.

The US has gone from being part of the strongest multi-lateral nonproliferation agreement in nuclear history to no strategy, few friends, no timetable for achieving our objectives, and an Iran now free to advance its civilian nuclear program. Indeed, more than one observer has suggested that the scuttling the JCPOA "would mainly help Iran."<sup>34</sup>

#### B. It increases risk of proliferation in Middle East

America's most important national security objective in the Middle East is to prevent the spread of nuclear weapons, an objective that now has been discarded in favor of other concerns. Given the US violation, Iran can, unfortunately, respond in kind. The core of the JCPOA was its restriction of Iran's nuclear activities in return for sanctions relief. If Iran does not receive the relief it was promised, it will see no need to abide by the restrictions.

This is partly a matter of domestic politics. Recent polling suggests that the Iranian people --the very people that the President and Secretary Pompeo say they want to help-- are upset with the President's actions and primarily hold the US responsible for diminished economic gains from the JCPOA. Only 5% of the Iranians interviewed thought that the United States would keep its word, and 67% of respondents said that Iran should retaliate against the United States, if it violates the agreement. Just 31 percent thought that Iran should stay in the agreement under those circumstances.<sup>35</sup>

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<sup>33</sup> IBID.

<sup>34</sup> Amos Harel, "U.S. Exit From Nuclear Deal Would Help Iran, Former Israeli General Says."

<sup>35</sup> Amir Farmanesh, "Iranian Attitudes on JCPOA pre-Trump Announcement," *IranPoll*, May 2018, <<https://static1.squarespace.com/static/5525d831e4b09596848428f2/t/5af1c7d9f950b779a9d71636/1525794781666/IranPoll+exclusive+Apr+2018+results+2018-5-8.pdf>>. See also, Ali Arouzi and Saphora Smith "Iranians fear the future after Trump exits Iran nuclear deal," *NBC News*, May 10, 2018, <<https://www.nbcnews.com/news/world/iranians-fear-future-after-trump-exits-iran-nuclear-deal-n872931>>.

The Iranian system is part authoritarian, part republic. Public opinion is an important consideration for the country's decision-makers. More importantly, the US violation of the JCPOA has placed the Rohani government in a precarious position, in which it must simultaneously attempt to sustain the JCPOA with Europe while conceding to hardliner demands for a more provocative response. The decision has strengthened the hands of hardliners, who on Iranian social media and public forums extoll the value of "weapons" over "agreements." In short, the Trump Administration's decision to leave the agreement has given the hardliner interpretation greater credibility within the Iranian government. This week, we may have witnessed the first evidence of these dynamics: Iran's announcement to the IAEA that it plans to expand its production of uranium feedstock.<sup>36</sup>

To be clear, the Director of National Intelligence (DNI) has assessed that Iran halted its nuclear weapons program in 2003 and has not yet made a decision to build a bomb, and the potential end of the JCPOA is unlikely to change that fact in the near term. Presently, Iran is more likely to expand its civilian program rather than initiate a new weapons program.

But by ending the JCPOA, the Administration has both improved Iran's *capability* to pursue such a course and has created *conditions* that might lead to that outcome. Threatening Iran --*after* they had submitted to an agreement-- making demands that no country would ever agree to (and thus making it look like there is no real intention to negotiate), and loose talk that sounds like "regime change," increases the pressure on Iran to consider its nuclear options -- the very opposite of what is in US security interests.

And Iran is not the only country watching. Others in the region see that the restrictions of the JCPOA have been undercut, and they may worry that Iran will go for the bomb, the DNI notwithstanding. If so, then they may conclude that they need to take steps as well. If Iran responds to the US moves by resuming some of its prior nuclear activities, some actors may see this not as political tit-for-tat, but as signaling an interest in nuclear weapons, one that might require that they explore their own nuclear weapons options.

At a minimum, Saudi Arabia may demand greater latitude for its civilian nuclear program. The Trump administration is demanding Riyadh pledge to uphold the

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<sup>36</sup> "Iran tells IAEA it plans to produce feedstock for centrifuges," *Reuters*, June 5, 2018, <<https://www.reuters.com/article/us-iran-nuclear-iaea/iran-tells-iaea-it-plans-to-produce-feedstock-for-centrifuges-idUSKCN1J11Z0>>.

“Gold Standard” of no enrichment. If, because of the collapse of the JCPOA, Iran advances its civilian nuclear program, Riyadh is unlikely to bend to US pressure for the gold standard.<sup>37</sup>

The single biggest potential, near-term cause of proliferation in the Middle East concerns what might happen in the wake of a US or Israeli attack on Iran's nuclear facilities. As I have written elsewhere, there are good reasons to believe --based on history and on Iran's particular profile-- that following such an attack, Iran will make the bomb decision it had not yet made. At that point, following a military strike and an Iranian decision to build nuclear weapons, the region will be teetering on the edge, and the world will be a very dangerous place -- for American troops deployed to the region and for America's interests.

But is the US or Israeli likely to strike Iran? That question is the focus of the next section.

### C. Increases risk of war

There are two main paths to war with Iran in the coming months and years. One is the that US backs into a war it did not intend, and the other is that it deliberately chooses war in the name of regime change. It is difficult to estimate whether the Administration has adopted a regime change strategy or might in the future, though as discussed below, there are certainly signs that suggest that. On the other hand, it is not difficult at all to imagine how violating the JCPOA sets off a series of events that leads to the use of military force.

As suggested above, there will be strong domestic political pressure in Iran to respond to the President's words and actions. This pressure will come from the top, that is, political elites seeking to undermine Rouhani and his centrist camp and to play the nationalism card for their own political gain. There will also be pressure from the bottom up, as average Iranians demand that their government stand up to what they will see as American bullying and perfidy.

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<sup>37</sup> Nicholas Miller and Tristan Volpe, “Geostrategic Nuclear Exports: The Competition For Influence in Saudi Arabia,” *War on the Rocks*, February 7, 2018, <<https://warontherocks.com/2018/02/geostrategic-nuclear-exports-competition-influence-saudi-arabia/>>.

If Iran begins to take steps -- reintroducing centrifuges, reducing IAEA access, uranium enrichment at Fordow, enriching to 20% -- there will be an immediate public outcry. Many of those who advocated ditching the JCPOA will be *the very same people* demanding military action -- despite the fact that it was their behavior that got us here in the first place. The US media, not well versed in nuclear issues, will characterize it as Iran resuming its nuclear *weapons* program, not its *civilian* nuclear program. Both the President and Secretary Pompeo, have publicly threatened Iran with punishment, if it resumes its prior nuclear activities, pre-JCPOA.

In any case there will be strong pressure to do something, and with the US having thrown away all its options except for military strikes, the chances of a conflict will certainly increase.

There is also a possibility that the Administration will adopt a regime change strategy. I have my doubts that the President has any strategy at all or is himself strategic in orientation, but others point out that the President himself and many in his administration --from Mr. Bolton to Secretary Pompeo -- have advocated regime change in the past.<sup>38</sup> Many of these same officials were architects of the disastrous invasion of Iraq in 2003.<sup>39</sup> But it may not simply be the advisers. Mr. Giuliani recently assured an audience that the President is "as committed to regime change as we are."<sup>40</sup>

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<sup>38</sup> John R. Bolton, "To Stop Iran's Bomb, Bomb Iran," *New York Times*, March 26, 2015, <<https://www.nytimes.com/2015/03/26/opinion/to-stop-irans-bomb-bomb-iran.html?>>.

<sup>39</sup> Eric Lutz, "Trump's decision to pull out of the Iran Deal echoes the lead-up to the Iraq War," *Mic*, May 9, 2018, <<https://mic.com/articles/189304/trumps-decision-to-pull-out-of-the-iran-deal-echoes-the-lead-up-to-the-iraq-war#.46hRRIGkI>>; See also Fareed Zakaria, "Trump's only possible Iran strategy is a fantasy," *Washington Post*, May 10, 2018, <[https://www.washingtonpost.com/opinions/global-opinions/trumps-only-possible-iran-strategy-is-a-fantasy/2018/05/10/52626b4e-5494-11e8-a551-5b648abe29ef\\_story.html?utm\\_term=.915bac7414df](https://www.washingtonpost.com/opinions/global-opinions/trumps-only-possible-iran-strategy-is-a-fantasy/2018/05/10/52626b4e-5494-11e8-a551-5b648abe29ef_story.html?utm_term=.915bac7414df)>.

<sup>40</sup> Brent D. Griffiths, "Giuliani: Trump is 'committed to' regime change in Iran," *Politico*, May 5th, 2018, <<https://www.politico.com/story/2018/05/05/giuliani-trump-iran-regime-change-570744>>.

Other have warned that a military strike is very much in line with Likud Prime Minister Netanyahu's objectives,<sup>41</sup> and that he may push the President in this direction.<sup>42</sup>

I am in no position to judge the President's motives. I can say with confidence, however, that by violating the JCPOA, the President has created conditions that could result in a military conflict, whether that result is by design or by error.

#### D. Undermines the European alliance

Americans fought and died in World War I and World War II, wars that resulted in millions of deaths and the destruction of Europe. The US paid that terrible price for one reason, the threat to Europe was a direct threat to the future security of the United States. Had Europe fallen to the Nazi's or the Soviets, the US would have faced a terrible enemy alone. Coming out of the ashes of WWII, the Atlantic and European alliances have been the single most important instrument for America's national security.

The President has shown little interest in the European alliance or Europe for that matter. With the US withdrawal from the Paris climate accord over the objections of our allies, the imposition of tariffs, and other actions, this Administration has steadily chipped away at the political relationships at the core of the alliance.

So it was not a good situation to begin with, and now the President has unilaterally withdrawn from an international agreement to which our European allies are key members, despite every effort by Britain, France, and Germany to accommodate the President's demands. Adding insult to injury, the Administration not only ignored their requests to stay in the JCPOA, it is now threatening sanctions against European firms, if they *continue to abide by the JCPOA* and the accompanying UN Security Council resolution. The requires repeating: The United States of America is threatening to punish our European allies, if they refuse to violate the

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<sup>41</sup> Amos Harel, "Israel Hopes Trump Scrapping Nuclear Deal Could Ultimately Lead to Iran Regime Change," *Haaretz*, May 6, 2018, <<https://www.haaretz.com/israel-news/israel-hopes-trump-exiting-nuclear-deal-may-lead-to-iran-regime-change-1.6054152>>.

<sup>42</sup> Graham Allison, "On Iran: Don't Let Bibi Sell Us Another War," *National Interest*, May 7, 2018, <<http://nationalinterest.org/feature/iran-dont-let-bibi-sell-us-another-war-25729>>; Bruce Reidel, "Don't let Israel and Saudi Arabia drag the U.S. into another war," *Brookings*, May 15, 2018, <<https://www.brookings.edu/blog/order-from-chaos/2018/05/15/dont-let-israel-and-saudi-arabia-drag-the-u-s-into-another-war/>>

agreement. As Josh Rogin opined, the state of affairs should "shock those who care about the transatlantic alliance."<sup>43</sup>

Not surprisingly, Europe is confused and angry. French President Macron called the US policy "insane."<sup>44</sup> Writing in the Financial Times, Philip Stevens literally says "enough": "How has the US managed so comprehensively to isolate itself among friends and allies and thus empower its adversaries? Enough really is enough."<sup>45</sup>

Sadly, critics of the JCPOA have responded to Europe's concerns --they are physically closer to Iran and the region than the US-- by impugning their integrity, saying that all the Europeans care about is money. They apparently have forgotten the British soldiers who died fighting in Iraq and NATO casualties suffered in Afghanistan.

There was a time when America was the "leader of the free world." Leadership is when you take action and are followed by others who share your views and have confidence in your leadership. Leadership is not walking away from commitments and then threatening your friends, if they do not do the same. Not a single country followed the US out of the JCPOA. Not one. That is not leadership. That is not making America great. It is making America isolated.

#### **4. Makes the problems of Iranian military spending, ballistic missiles, regional activities, human rights worse, not better**

The administration has cited a number of areas of concern about Iran, including its regional behavior, military expenditures, missile program, human rights record, and role in Afghanistan<sup>46</sup>, among others. These are real concerns, though in some

<sup>43</sup> Josh Rogin, "Pompeo's Iran strategy speech lacked a strategy."

<sup>44</sup> Julian Borger, Donald Trump likely to scrap Iran deal amid 'insane' changes of stance, says Macron, *The Guardian*, April 26, 2018, <<https://www.theguardian.com/world/2018/apr/25/macron-goes-against-trump-on-paris-climate-deal-and-iran-nuclear-accord>>.

<sup>45</sup> Philip Stephens, "How Europe should react to Donald Trump," *The Financial Times*, May 11, 2018.

<sup>46</sup> Iran is the single largest source of Afghan imports and is among its top five trading partners. A re-imposition of sanctions threatens the India backed Chabahar port project in Iran that is largely funded by India. The Chabahar port complex in Iran will offer a new route for supplies into Afghanistan that circumvents the violent Afghanistan-Pakistan border, providing Afghanistan with millions of dollars in potential new trade. However, multiple contracts have already been delayed due to fears that companies and banks could face secondary sanctions in connection to

cases as I have written elsewhere, the concerns are exaggerated or without context.<sup>47</sup>

Regarding regional affairs for example, many object to Iranian meddling, but Saudi Arabia essentially kidnapped the Lebanese Prime Minister and forced him to resign on TV from Riyadh (a move he later reversed once home), ignored demands from the UN Secretary General that it allow humanitarian relief into Yemen which was facing a cholera epidemic, and blockaded Qatar -- a US ally that host the largest US military base in the region. This is meddling in the region, a practice that many of the states of the Middle East have engaged in for decades. (Similarly, Saudi Arabia receives a lower human rights rating than Iran by Freedom House.)

In any case, there are real and serious concerns about Iranian behavior. The question at issue, however, is whether violating the JCPOA and declaring economic war on Iran will mitigate or exacerbate those problems.

I begin with the premise that a state's number one priority is to defend itself against threats, as it perceives them, and that any country will make the necessary sacrifices to assure its own security. So will Iran, in the aftermath of US actions, feel more threatened or less threatened? It would seem likely that they will feel more threatened for reasons discussed above. Indeed, it appears as if the President's "strategy" is to make Iran feel more threatened, and certainly the appearance of a regime change strategy would reinforce that perception.

Research and scholarship in security studies would predict that, on average, as countries feel more threatened they are more likely, not less likely, to spend money on their military and develop weapons, e.g., missiles. They are more likely, not less likely, to hold their allies close in anticipation of a conflict, and more likely to attempt undermine their adversaries to prepare for a coming war.

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the project. If Washington fails to provide exemptions for this project it will alienate New Delhi and Kabul, reinforce Afghanistan's illicit economy, and undermine its own efforts to compel Pakistan to cease its clandestine support of armed terrorist organizations like the Haqqani Network. This is because that strategy hinges on Afghanistan's ability to diversify its trading partners. "Afghanistan Trade Summary 2016 Data," *World Integrated Trade Solution*, June 5, 2018, <<https://wits.worldbank.org/CountryProfile/en/Country/AFG/Year/LTST/Summary>>; Jonathan Landay and Rupam Jain, "U.S. sanctions on Iran threaten vital Afghanistan trade project," *Reuters*, May 20, 2018, <<https://www.reuters.com/article/us-iran-nuclear-afghanistan-analysis/us-sanctions-on-iran-threaten-vital-afghanistan-trade-project-idUSKCN11L04G>>.

<sup>47</sup> See, for example, Walsh, "Comments on the Recently the Recently Negotiated Joint Comprehensive Plan of Action;" Walsh, "Iran Terror Financing and the Tax Code."

The prospects for democracy and human rights will be similarly, adversely affected. Iranians who object to the social police, corruption, or a poor economy will nevertheless rally around their country, if they view it as under attack. And as I pointed out earlier, the Iranian people are already angry with the US for violating the agreement, as well as for the "Muslim ban" and other policies. The specter of an outside threat also provides the state with an easy excuse to crack down on dissent and to accuse any opposition as being beholden to a foreign power. It reduces the chances that those already arrested will be released and makes any engagement with Iranian civil society more difficult, if not impossible.

Such a response is not particular to Iran, though one might be tempted to say that the effects may be even more pronounced in the case of Iran given its history and its sense of pride. But this is not an Iranian dynamic. It applies to virtually any government under threat by an outside power, and all the more so, when the outside power's "demands" are essentially nonnegotiable.

#### **Conclusion**

Mr. Chairman, Ranking Members, and members of the Committee, I want to thank you again for the opportunity to appear before you on a topic of the utmost importance for US national security and the security of our friends and allies. The JCPOA was a singular nonproliferation achievement that was years in the making. In one day, the President has undercut it, letting Iran out of its nuclear box and setting off a series of events that could bring war and nuclear proliferation to a region that needs neither. We have angered our allies and the Iranian people for whom we profess concern. We have acted without a strategy, without a back up plan, and with no preparation for what will come next. Important concerns such as Iran's regional behavior or ballistic missiles are more likely to get worse as a consequence, not better.

These developments will pose new challenges for American national security, and American people will hold Congress accountable for the results, as it should in a democracy. I remain committed to working with you to protect the American people and our friends abroad. I look forward to future conversations about the dangers and challenges that lie ahead.

Mr. DESANTIS. I thank the gentleman.  
Dr. Rubin, 5 minutes.

**STATEMENT OF MICHAEL RUBIN, PH.D.**

Mr. RUBIN. Chairman DeSantis, Ranking Member Welch, honorable members, thank you for the opportunity to testify.

My written testimony goes into considerable detail, but in the interest of time, let me just highlight a few points.

One, the JCPOA considerably eroded counterproliferation precedent set by both South Africa and Libya.

Two, while some might argue that sunset clauses exists in some other treaties, what makes the JCPOA different is that it left Iran with an industrial scale nuclear program and more centrifuges at its disposal than Pakistan had when it built, not a bomb, by an arsenal.

Three, what Hassan Rouhani has said in Persian about motivation and strategy contradicts what Iranian diplomats often say in English. I should also note that it was during the so-called dialogue of civilization that Iran built the covert aspects and worked on a nuclear warhead design, not at a time when it was under threat. And this is something which Hassan Rouhani openly bragged about in Persian.

The JCPOA was never meant to be a get-out-of-jail-free card on other Iranian malfeasance. It is a sense of impunity in Tehran that has sparked Iranian aggression and heightened the risk of war. There are three major components to a nuclear weapons program: enrichment, warhead design, and delivery.

U.N. Security Council Resolution 2231 reversed precedent on ballistic missiles. It is imperative that the United States stop that program. The precedent for unilateral and extraterritorial sanctions was set by the Clinton administration in multiple executive orders and by Congress with the Iran-Libya Sanctions Act. The same "sky is falling" arguments were voiced then as now, and, happily, they are just as false.

As I detail in my written testimony, there are cases where Iran succumbed to pressure to cease rogue behavior. There is no reason the goals outlined by Secretary of State Pompeo should not be embraced in a bipartisan fashion. There is no reason to rationalize Iranian terrorism or regional aggression, for example.

The JCPOA unleashed a cascade of proliferation as regional states recognize that the agreement did not achieve its stated goals. It is counterfactual to argue that withdrawal from the JCPOA is what motivates Saudi Arabia to pursue a nuclear option. It is silly and an affront to the constitutional process to suggest that the JCPOA is a treaty.

Don't trust me on that. Julia Frifield, Assistant Secretary of State for Legislative Affairs under Secretary of State John Kerry, said it was unsigned, and I quote, "neither a treaty nor an executive agreement."

To suggest any U.N. Security Council Resolution becomes a treaty equal to Senate ratification is dangerous given the tendency of the U.N. to indulge in the base's anti-Americanism.

Look, democracy is the best system out there, but the democratic process can be messy. It is misanalysis to fail to understand in a

system like Israel's that some people are motivated by personal animus towards Israel's leaders and their own internal partisan battles, nor is it wise to assume that every person who has held a position is qualified to end debate.

Take for example Danny Yatom. His tenure at Mossad ended in 2001. Likewise, when I lived in Iran, the Iranian press constantly brought up former U.S. Attorney General Ramsey Clark's condemnation of U.S. policies. That he was a former high-level official didn't necessarily imbue him with great expert judgment.

Here is the point. We can debate whether or not Trump should have walked away from the JCPOA, but regardless, whether he did so or not, it would have been necessary to focus on the future and develop a strategy that confronts the challenge that Iran still poses on a number of fronts and fill the loopholes left by the JCPOA.

The U.S. should not get sucked into a Riyadh versus Tehran debate but rather should counter the ideological export of extremism, whether it comes in a Sunni form or whether it comes in a Shiite form.

I should note, however, that the problem here is that both the Iranian constitution and the founding statutes of the Islamic Revolutionary Guard Corps define the purpose of Iran to export revolution, which in a very public debate in Persian back in 2008 was concluded to mean a more violent kinetic aspect as opposed to a soft power aspect of export of resolution. Basically, it meant supporting terrorist groups.

Now, when it comes to recommendations, I outline these in considerable detail as to a broader strategy. And any strategy should have diplomatic, informational, military, and economic components. But in addition to some of the technical issues in the JCPOA, we could do much more, for example, to support independent trade union movements inside Iran. I do think the Bush administration missed a Lech Walesa moment back in 2005 when Iranian bus drivers created the first independent trade union there.

We could also invest a great deal in anticensorship technologies which Tiananmen Square refugees have created, and we can remove U.S. aircraft carriers from the Persian Gulf to make them invulnerable to Iranian swarming small boats while at the same time maintaining the ability to reach out at Iran should they engage in hostile behavior.

And, with that, let me thank you.

[Prepared statement of Mr. Rubin follows:]



Statement before the Committee on Oversight and Government Reform  
Subcommittee on Nation Security  
On "Protecting America from a Bad Deal: Ending U.S. Participation in the Nuclear  
Agreement with Iran"

## **Putting American Security First in the Post-JCPOA Order**

**Michael Rubin**  
Resident Scholar

June 6, 2018

The American Enterprise Institute for Public Policy Research (AEI) is a nonpartisan, nonprofit, 501(c)(3) educational organization and does not take institutional positions on any issues. The views expressed in this testimony are those of the author.

Chairman DeSantis, Ranking Member Lynch, and Honorable Members, thank you for the opportunity to testify today about the impact of President Donald Trump's decision to end U.S. participation in the Joint Comprehensive Plan of Action (JCPOA) on the threat posed by the Islamic Republic of Iran's nuclear ambitions.

The JCPOA was a complex agreement that the Obama administration and its supporters said cut off all of Iran's pathways to a nuclear bomb. Given the reality of JCPOA controls and only limited access to potential Iranian nuclear sites, such claims were an exaggeration. While there remains ample room for diplomacy, protecting American security and that of our regional allies requires dealing with the reality of Iranian behavior, rather than a public relations whitewash of it. To do anything other than addressing JCPOA flaws head-on would be national security malpractice.

#### **Did the JCPOA ensure "unprecedented verification"?**

One of the greatest misconceptions of the JCPOA revolved around the ability to confirm Iranian compliance. Contrary to the Obama administration's insistence that the JCPOA ensured "unprecedented verification" to guarantee Iran had no secret nuclear program, the JCPOA reversed decades of nonproliferation precedent.

The Apartheid regime in South Africa, for example, maintained a covert nuclear weapons program throughout the 1970s and 1980s. As President Frederik Willem de Klerk steered South Africa toward a post-Apartheid future, he decided to come clean about South Africa's program and join the Nuclear Non-Proliferation Treaty (NPT) as a non-nuclear weapons state. The International Atomic Energy Agency (IAEA) agreed both to dismantle the six nuclear warheads South Africa had built and to confirm and then certify South Africa's compliance with the NPT. Despite a fully compliant South African government welcoming inspections anywhere and anytime and its granting of full access to its covert nuclear archives and their complete transfer to inspectors, it still took the IAEA 19 years to certify South Africa's compliance as complete.

Likewise, when, on December 19, 2003, Libyan leader Muammar Qadhafi agreed to forfeit his nuclear program, the international community required Libya to dismantle physically its nuclear infrastructure. On January 18, 2004, for example, Donald Mahley, deputy assistant secretary of State for Arms Control, led a team of experts to Libya to inventory Libya's nuclear program components. Nine days later, the U.S. airlifted 27 tons of documents and components relating to Libya's nuclear and ballistic missile programs. They took no chances and rushed, knowing that the mercurial Qadhafi might reverse course at any time. On March 6, 2004, a U.S. tanker sailed from Tripoli removing additional equipment and SCUD missiles that North Korea had sold Libya, and, two days later, U.S., British, and IAEA officials arranged to fly 13 kilograms of highly enriched uranium to Russia.<sup>1</sup>

The JCPOA, however, not only allowed Iran to keep its base nuclear infrastructure intact but also permitted the Islamic Republic to sidestep ratification of the Additional Protocol, a protocol to enable greater verification of states' compliance with their safeguards agreements. The origin of the Additional Protocol lay in IAEA failure. Between 1980 and 1990, the IAEA had given Saddam Hussein's Iraq 11 clean bills of health certifying that Baghdad was not working on a covert nuclear program. But, documents seized during the 1991 Operation Desert Storm and the subsequent defection of Saddam's own son-in-law revealed that Iraq had fooled IAEA inspectors. As a result and to plug the loopholes that Saddam Hussein had exploited, the IAEA created the Additional Protocol in which states would accept more rigorous inspections in exchange for more generous

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<sup>1</sup> Douglas Frantz and Josh Meyer, "The Deal to Disarm Kadafi," *Los Angeles Times*, March 13, 2005.

technology sharing. Unlike 129 other states, Iran has refused to ratify the Additional Protocol, the necessary precursor to its inspection regime. Rather than demand ratification, JCPOA negotiators settled for an Iranian promise to abide by its terms without locking them in.

Alas, this played into the hands of those in the Iranian regime who wished to benefit from the perception of cooperation without actually committing to long-term cooperation. On October 21, 2003, for example, European foreign ministers announced an agreement for Iran to ratify the Additional Protocol with Hassan Rouhani, at the time secretary of Iran's Supreme National Security Council and the regime's chief nuclear negotiator.<sup>2</sup> The next day, however, Rouhani declared, "As long as Iran thinks this suspension is beneficial, it will continue, and whenever we don't want it, we will end it."<sup>3</sup> While supporters of the JCPOA argue that the Iranian leadership's pledge to abide by the Additional Protocol is as good as formal ratification, Rouhani's refusal to lock Iran into permanent compliance had long precedent.

Rouhani, for example, has bragged about how he used diplomacy with the West to run the clock down as Iran created what is now known to have been a nuclear weapons capability. "When I was entrusted with this portfolio, we had no production in Isfahan," he explained, saying that he succeeded in then building not only Iran's major uranium-enrichment facility at Natanz but also its plutonium-producing heavy-water plant in Arak. "The Islamic Republic acted very wisely in my view and did not allow the United States to succeed," he added.<sup>4</sup> Indeed, as Rouhani stepped down from his long tenure as secretary of the Supreme National Security Council, he credited Iran's ability to progress in the face of commitments to the West to a doctrine of surprise. "The actions of the regime took the world by surprise and they were usually unpredictable. . . . [The world does] not know what we will do a month from now," he explained.<sup>5</sup> Abdollah Ramezanzadeh, the former spokesman of President Mohammad Khatami, confirmed such deceit. "We had an overt policy, which was one of negotiation and confidence building, and a covert policy, which was continuation of the activities," he explained.<sup>6</sup>

One major JCPOA flaw seldom discussed in various assessments is the problem of off-site work. While it is difficult to hide centrifuge cascades (although Iran has done just this in the past) and sanitize illicit enrichment sites ahead of inspections, the same is not true for facilities in which warhead design and mathematical modeling might occur; these are more mobile and more easily sanitized. Too often, there is an assumption that countries like Iran that have involved themselves in illicit weapons work limit such work to within their own territory. But, there have long been military links between North Korea and Iran. There is hardly a missile test in North Korea in which Iranian scientists are not also present and vice versa. It is not a huge leap to question whether North Korea might provide Iranian scientists space to continue work that would be subject to inspections inside Iran itself. In such a scenario, the JCPOA provides no inspection or verification authority.

### **Did the JCPOA end the missile threat?**

<sup>2</sup> Foreign and Commonwealth Office, "Agreed Statement at the End of a Visit to the Islamic Republic of Iran by the Foreign Ministers of Britain, France, and Germany," October 21, 2003.

<sup>3</sup> BBC News, "Iran Agrees to Key Nuclear Demands," October 21, 2003, [http://news.bbc.co.uk/2/hi/middle\\_east/3210574.stm](http://news.bbc.co.uk/2/hi/middle_east/3210574.stm).

<sup>4</sup> *Etemaad*, "Nagoftaha-ye Hassan Rowhani as diplomasi hasteh-ye dureh eslahat az europa qol vatave tareh-i Amrika ra gerefeh budam," October 24, 2011.

<sup>5</sup> Hassan Rouhani, "Iran's Measures Rob the Americans for Foresight" (speech, Ferdowsi University Hall, February 9, 2005) *Rahbord* (Journal of the Expediency Council's Center for Strategic Studies, Tehran), Spring 2005.

<sup>6</sup> Fars News Agency (Tehran), "Ramezanzadeh: Siyasat-e Post Perdeh Dawlat-e Khatami Adameh-e Fa'liyatha-ye Hasteha-ye Bud," June 14, 2008.

One of the greatest problems with the JCPOA has been its erosion of prohibitions on Iranian ballistic missiles. A nuclear weapons program has three basic components: enrichment, warhead design, and delivery systems. Iran's covert efforts regarding the former contributed to the IAEA's 2005 decisions to find Iran in noncompliance with its Nuclear Non-Proliferation Treaty Safeguards Agreement and to refer the Iranian file to the United Nations.<sup>7</sup> The 2003 and 2007 National Intelligence Estimates, the IAEA's November 2011 catalogue of Possible Military Dimensions to Iran's nuclear program, and the Iranian nuclear archives exposed publicly by Israeli Prime Minister Benjamin Netanyahu make clear that Iranian work on warheads is well advanced, and, even if it has since been shelved, Iranian authorities have taken steps to preserve the knowledge.

The last major aspect of a nuclear weapons program, therefore, is delivery. UN Security Council Resolution 1929 stated that the Security Council "decides that Iran shall not undertake any activity related to ballistic missiles capable of delivering nuclear weapons." However, to conclude the JCPOA, the Iranian government demanded to change that language. Instead of outright prohibiting work on such ballistic missiles, UN Security Council Resolution 2231 "called upon [Iran] not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons." Iranian authorities have subsequently tested more than two dozen ballistic missiles, but they argue that they are designed for other purposes and that, even if they are capable of carrying nuclear warheads, they are allowed. Given official Iranian government and IRGC rhetoric both promoting genocide and the eradication of the State of Israel and threatening peace and stability for U.S. allies such as Saudi Arabia and Bahrain, it is crucial to address Iran's burgeoning ballistic missile threat head-on.

#### **Did sanctions relief benefit ordinary Iranians?**

Part of the U.S. logic driving initial negotiations was the belief that engaging with and allowing Iranian regime reformers to better the economy would privilege them against hardliners. What seemed sophisticated in Washington, however, looked transparent in Tehran. Speaking on the 30th anniversary of the seizure of the U.S. embassy on November 4, 2009, Supreme Leader Ali Khamenei declared, "[Reformists] can't roll out the red carpet for the United States in our country. They should know this. The Iranian nation resists." Perhaps a greater flaw in the U.S. strategy, however, was the presumption that reformers were more sincere than engaged in a game of good cop-bad cop. In reality, Rouhani had always been the regime's "Mr. Fix-it," and reformists more broadly were committed to retaining Ayatollah Ruhollah Khomeini's vision of clerical rule.

Rouhani's main objective in the run-up to the JCPOA was financial relief. According to official Iranian statistics, in the year before the beginning of negotiations, Iran's economy had shrunk 5.4 percent, and inflation on staples such as bread, meat, and milk had increased between 30 and 50 percent.<sup>8</sup> Rather than use its financial leverage to force greater Iranian concessions, the Obama administration promised sanctions relief. Estimates of the windfall amount range from the tens of billions of dollars to \$100 billion. In order to create a disincentive for President Obama's successor to abandon the deal, the JCPOA awarded Iran such relief upfront rather than calibrated to compliance. While some cash ended up with creditors and not in Iran itself, even the high-end estimates of Iranian benefits from the deal fail to account for additional investment.

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<sup>7</sup> International Atomic Energy Agency, Board of Governors, "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran," September 24, 2005, GOV/2005/77.

<sup>8</sup> *International Iran Times*, "Economy Shrank 5.4% Last Year," September 13, 2013; and MehrNews.com, "Narkh-e Tavarram 31 Dar Sad Shod / Jodul-e Garani-ha Dar Sal 92" [Inflation Rate Was 31 Percent/Table of Expenses for Year 2012-2013], June 3, 2013.

Alas, there is no evidence that any of this money benefited ordinary Iranians; quite the contrary, the money that has flowed into Iran in the post-JCPOA period appears to have disproportionately filled the coffers of the Islamic Revolutionary Guard Corps (IRGC). Here, the problem is structural. The IRGC rose to prominence during the 1980–88 Iran-Iraq War. At the conclusion of the fighting, they did not want simply to return to the barracks and subordinate themselves to politicians who they believed had lived the soft life during the war. Instead, they decided to establish an independent stream of funding. Their engineering and manufacturing unit formed *Gharargah Sazandegi-ye Khatam al-Anbiya* (Construction Base of the Seal of the Prophets).

Fast forward three decades, and Khatam al-Anbiya dominates the Iranian economy, controlling by some estimates up to 40 percent of Iranian GDP. Today, it controls dam building, highway and road construction, tunnel drilling, pipelines, and water systems. In addition, IRGC companies build cars, computers, telephones, scanners, and SIM cards. Add into the mix supermarket chains, shipping, and oil, and the stranglehold is complete. Over the past decade, Khatam al-Anbiya has reaped tens of billions of dollars in no-bid contracts, further privileging the IRGC over the ordinary economy.<sup>9</sup>

European companies and oil firms may claim due diligence in avoiding IRGC investment, but it is near impossible to avoid IRGC shell companies. When the French automobile manufacturer Peugeot, for example, partners with Iran Khodro Group, they are essentially partnering with an IRGC subsidiary company. The same is true with the relationship between Japanese companies Yamaha and Mazda and the Bahman Group. Iranian workers seldom benefit from foreign direct investment in IRGC-linked companies, as Khatam al-Anbiya uses its privileged status to skirt basic labor laws and often defaults on wages. Indeed, demand for back wages fuels Iran's trade union movement.

Nor have other Iranian commercial deals signed in the wake of the JCPOA and ostensibly meant to benefit ordinary Iranians really had that purpose. One of the highest-profile post-JCPOA deals has been Iran Air's efforts to purchase up to 100 Boeing aircraft and a similar number of Airbus planes.<sup>10</sup> Deal proponents say that the sale will help Iran reverse a poor commuter flight safety record, but a quick survey of the planes that Iran Air has sought to buy or lease suggest the acquisition of new aircraft is not solely for civilian purposes. After all, Iran Air's pre-JCPOA fleet totaled just 43 planes, more than one-third of which were relatively small 100-seaters. To suggest that Tehran's only interest in ordering new Boeings was passenger safety is to accept that the Iranian government wanted Iran Air to be larger and to carry more passengers than Japan Airlines, Qatar Airlines, and Singapore Airlines. Simply put, if Iran's intention were safe air travel at current capacity, they could achieve their aims with an order one-fifth as large. Already, reports that the IRGC is using new aircraft to ferry troops, militiamen, and arms into Syria belie the notion that the Iranian government sought to use the lifting of sanctions and new possibilities of investment to better the lives of ordinary Iranians.

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<sup>9</sup> *Abrar* (Tehran), "Vagazari-ye 850 Milyon Dolar Prozehpye Jadid-e Nafti Be Khatam al-Anbia" [\$850 Million New Oil Project Given to Khatam al-Anbia], March 16, 2010; *Abrar* (Tehran), "Gharargah-e Khatam al-Anbia Jaygozin-e Torkiyeh Dar 3 Faz-e Pars-e Jonoubi Mishavad" [Khatam al-Anbia Base to Replace Turkey in Three Phases of the South Pars], April 19, 2010; *Pol* (Tehran), "Jaygozinan-e Dakheil-ye Shell va Repsol Dar Pars-e Jonoubi" [Domestic Replacements for Shell and Repsol in South Pars], June 5, 2010; and *Mehr* (Tehran), "Vagazari bidun nashrifat 2 pirouzeh-i nafti beh qirargah Khatam al-Anbia" [No-Bid Contracts for Two Oil Projects Awarded to Khatam al-Anbia], February 26, 2011.

<sup>10</sup> Robert Wall, "Boeing Signs Deal to Sell Jets to Iran's State Airline," *Wall Street Journal*, June 21, 2016; and Rick Gladstone, "Delays Threaten to Unravel Iranian Plans to Buy 200 Jetliners," *New York Times*, July 22, 2016.

Also belying the notion that the Iranian government has used sanctions relief to benefit the lives of ordinary Iranians is the senior regime officials' shopping spree in the post-JCPOA period. In November 2015, Iranian Air Force commander Hassan Shah-Safi took an extended tour of Chinese state companies that are manufacturing aircraft and air defense hardware with a view toward future purchases.<sup>11</sup> Not long after, the Iranian Defense Ministry announced the purchase of new sniper rifles from Russia.<sup>12</sup> Tehran and Moscow subsequently entered into talks for a \$10 billion arms deal.<sup>13</sup> In April 2018, for example, Behzad Etemadi, the deputy head of Iran's Industrial Development and Renovation Organization (IDRO), announced an agreement between the IDRO and Russian Helicopters to manufacture two helicopter models inside Iran.<sup>14</sup> Iran's official defense budget continues to rise, and that does not take into account off-books IRGC profits.<sup>15</sup>

### Does unilateralism work?

It is easy to point out flaws in the JCPOA, but rehashing past debates is ultimately not useful unless there is a strategy to address some of the agreement's weaknesses. Two of the most trenchant criticisms about President Trump's decision to withdraw from the JCPOA have been (1) that abandoning the agreement erodes the meaning of America's word and (2) that it will fail to bring Iran to heel because European partners, let alone Russia and China, will not abide by U.S. unilateral sanctions.

While European leaders might complain about Trump's decision to step away from the JCPOA, the president was within his legal rights to do so. In a November 2015 letter, Julia Frifield, assistant secretary of State for legislative affairs under Secretary of State John Kerry, explained that the JCPOA was neither "a treaty [n]or an executive agreement, and is not a signed document" and instead only "reflects political commitments."<sup>16</sup> Had Kerry sought to treat the JCPOA as a treaty subject to Senate ratification, not only would it likely have survived shifting political winds, but also he might have used the necessity to negotiate a stronger agreement, more consistent with nonproliferation and verification precedent.

While multilateralism brings theoretical legitimacy to international dealings, criticism of unilateralism often falls flat because it ignores that unilateral measures are often more effective than multilateral ones and because there is ample precedent of European states, Russia, and China abiding by unilateral U.S. measures with which they disagreed. In 1995, for example, as Tehran's terror sponsorship and nuclear program accelerated, Clinton issued two Executive Orders in 1995, the first targeting Iran's oil industry and the second banning most American trade with and investment in Iran.<sup>17</sup> Many companies initially sought to bypass U.S. sanctions by shifting operations to European subsidiaries. Congress addressed this the following years with the Iran-Libya Sanctions Act, which empowered the United States to act against private companies investing in Iran. In 1997, Clinton tightened financial restrictions to close loopholes in which

<sup>11</sup> Fars News Agency, "Didar va Goftegu-ye Farmandehan-e Niru-ye Hava-ye Artesh-e Iran va Chin dar Peken" [Meeting and Conversation Between the Air Force Commanders of Iran and China in Beijing], November 2, 2015.

<sup>12</sup> Defa Press, "Moshkhasat AK-103: Aslahah Polermeri" [Profile: AK-103, Plastic Gun], August 7, 2016.

<sup>13</sup> Reuters, "Russia and Iran in Talks over \$10 Billion Arms Deal: RIA," November 14, 2016.

<sup>14</sup> Parsine.com, "Iran ba Komak-e Rusha Balgerd Misazad" [Iran to Build Helicopters with the Help of Russians], April 24, 2018.

<sup>15</sup> *Iranian Student News Agency*, "Sehom Bish az 400 Trilyon Riali Nehadha-ye Nizami az Budgeh 97" [Share of Military in 2018 Budget More Than 400 Trillion Rials], December 10, 2017; and "Budgeh-e Defa'e 145 dar sad nesbat beh Agaz Dawlet Rashad Dashteh Ast" [Defense Budget Grew 145% Since the Beginning of Administration], *Iran*, April 19, 2017.

<sup>16</sup> Julie Frifield, assistant secretary of state, letter to the Hon. Mike Pompeo, U.S. House of Representatives, November 19, 2015.

<sup>17</sup> Executive Order 12957 (March 15, 1995); and Executive Order 12959 (May 6, 1995).

companies exported American goods to Iran through third countries.<sup>18</sup> European companies—and European diplomats—complained about the U.S. position, but reality required acquiescence: They simply were unwilling to sacrifice access to the U.S. market and multibillion-dollar penalties to trade with Iran.

The Clinton administration also faced resistance to its punitive efforts from prominent officials of both parties. Former National Security Advisers Zbigniew Brzezinski and Brent Scowcroft, for example, argued that a strategy swapping sanctions with incentives would more likely moderate Iran's behavior.<sup>19</sup> The idea to flip rogues with trade may sound good in theory, but there is little evidence to suggest that it works in reality. Proponents of a moneyed embrace often cite China but ignore that, decades after the Nixon administration began its engagement of the People's Republic, China remains a one-party dictatorship and a potent military threat to U.S. interests.

Before the JCPOA, European powers tried to modify Iranian behavior and bolster the prospects of Iranian reformists through trade. Between 1998 and 2005, European Union trade almost tripled with the Islamic Republic, and, at the same time, the price of oil nearly quintupled. Importantly, this was at the time Rouhani was in charge of Iran's security policy and also coincided with the so-called "Dialogue of Civilizations." While Khatami sought to charm the West, Rouhani invested the bulk of the hard currency windfall in its ballistic missile program, its then-covert nuclear enrichment facilities, and its nuclear warhead program. To suggest, as some proponents of the JCPOA have, that removing impediments to trade enabled the deal but that George W. Bush-era coercion backfired as the Islamic Republic expanded its enrichment program ignores that the exponential increase in Iranian centrifuge operation occurred against the backdrop of this increase in trade.

Indeed, there is ample evidence that pressure works. Twice in the Islamic Republic's history, revolutionary authorities have sworn no surrender on core positions. In 1979, revolutionary leader Ayatollah Ruhollah Khomeini said Iran would not release their American hostages until Washington met his demands. He subsequently said he would accept no end to the Iran-Iraq War until the Islamic Republic achieved its top aims: the ouster and capture of Saddam Hussein. In both cases, however, pressure coupled with isolation caused the Islamic Republic to stand down: The 1980 Iraqi invasion of Iran made the international isolation suffered as a result of Iran's hostage taking too great to bear.<sup>20</sup> And, after rebuffing ceasefire proposals in 1982, Khomeini agreed to the same ceasefire six years later, likening his decision to "drinking a chalice of poison," but a necessary one in order to enable the Islamic Republic to survive.

And while the Obama administration initially opposed unilateral measures directed toward Iranian banks, the Senate passed them anyway, 100-0. The Obama administration subsequently acknowledged that it was those sanctions that brought Iran to the table.<sup>21</sup>

### **How does walking away from the JCPOA affect broad strategy?**

Too often, U.S. administrations craft bilateral strategies as if policy unfolds in a controlled environment in which outside issues or alternative precedents cannot penetrate. The world is not so sterile, however. As the Trump administration walks away from the JCPOA, it simultaneously seeks to negotiate a new denuclearization deal with North Korea.

<sup>18</sup> Executive Order 13059 (August 19, 1997).

<sup>19</sup> Zbigniew Brzezinski, Brent Scowcroft, and Richard Murphy, "Differentiated Containment," *Foreign Affairs*, May/June 1997.

<sup>20</sup> Peter W. Rodman, "The Hostage Crisis: How Not to Negotiate," *Washington Quarterly*, Summer 1981.

<sup>21</sup> Jordan Fabian, "Obama: Sanctions Were Only Way to Bring Iran to Table," *Hill*, August 10, 2015.

While many critics of the current administration argue that walking away from the JCPOA undercuts the U.S. ability to negotiate with North Korea, the opposite may actually be true. North Korea has failed over the decades to uphold its agreements, always calculating that desperation to keep them at the table would lead officials in Washington to turn a blind eye toward cheating and to prioritize process. Trump's move on the JCPOA suggests to Pyongyang that rhetoric and sleight-of-hand will not substitute for substance.

Negotiations with North Korea will be fraught and unlikely to succeed for a number of reasons, which my American Enterprise Institute colleague Nick Eberstadt has chronicled in the *New York Times*.<sup>22</sup> Far more important to the calculations of rogue rulers considering negotiations with the United States has been the fate of Libyan dictator Muammar Qadhafi. The United States turned on Qadhafi after, in the wake of the Arab Spring, he engaged in massive human rights abuses. While the United States was under no obligation to protect Qadhafi against the popular uprising that ultimately killed him, there is widespread perception among other governments and diplomats that forfeiting nuclear program was a fatal mistake for the mercurial late Libyan leader.

In many ways, the debate surrounding Trump's decision to exit the JCPOA misses a broader point: Even if Trump had continued to adhere to his predecessor's political agreement, sunset clauses mandate consideration of a post-JCPOA future. When gauging Iranian sincerity, Obama placed much faith in an anti-nuclear weapons *fatwa* supposedly issued by Supreme Leader Khamenei. Putting aside the fact that this *fatwa* does not appear in collections of Khamenei's other *fatwas*, the ailing Khamenei's death would open the door for any successor to reconsider an anti-nuclear stance. In short, it pays to be proactive and prepared.

Here, the Trump administration's apparent willingness to wage economic warfare against the Iranian leadership is wise. The price of oil is sharply on the upswing, meaning that not only Khamenei but also the IRGC stand to reap a windfall if they can conduct business openly. To sanction Iranian activities now is to prevent Tehran from channeling tens of billions of dollars in oil sales and investment income into an increasingly lethal array of ballistic missiles and UAVs, proxies waging war across the region, and perhaps even renewed nuclear weapons work on the many military bases in practice left uninspected in the post-JCPOA order. Importantly, the Iranian public has seldom blamed the United States or other outside powers for Iran's economic woes; rather, they recognize the fault is their leaders' mismanagement and corruption. While regime propagandists seek to blame Washington and sanctions for supposed shortfalls in medicine, for example, the Iranian public sees that there is no shortage of money among regime bureaucrats to import luxury automobiles and other extravagant goods.

A broader post-JCPOA strategy, however, would not simply be limited to sanctions and the denial of oil profits to Tehran. Every comprehensive strategy should have diplomatic, informational, economic, and military components. While both Democratic and Republican administrations tend to sequence these elements, they should instead be applied simultaneously; the whole is greater than the sum of the parts.

Consider other economic strategies beyond sanctions: It is ironic that many European leaders and some on the American left support organized labor elsewhere in the world but give Iran a free pass. After all, every dollar the Iranian government is forced to direct toward back wages and

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<sup>22</sup> Nicholas Eberstadt, "North Korea's Phony Peace Ploy," *New York Times*, April 25, 2018.

better working conditions is money that Tehran cannot spend in Yemen, Lebanon, or Syria, or on ballistic missiles.

The United States traditionally falls short with information strategies. Even 39 years after the Islamic Revolution, the Iranian regime continues to struggle with questions of basic legitimacy in the eyes of its public. Both the White House and State Department, as well as Radio Farda and Voice of America–Persian Service, should systematically attack the legitimacy of Iran’s ruling class by exposing the rampant corruption of its leaders. According to Mohammad Reza Pour-Ebrahimi, head of the Iranian parliament’s Economic Affairs Committee, there has been an unexplained capital flow of \$30 billion out of Iran in just the first two months of 2018.<sup>23</sup> Taking such items from the Iranian press and amplifying them back to a broader Iranian audience undercuts the Iranian government’s ability to simply dismiss U.S. pronouncements as propaganda. Other informational strategies could include raising the cost of internal Iranian attempts at censorship. In the past, firewall bypassing technologies and VPNs such as Ultrasurf developed by Tiananmen Square refugees have been limited only by a lack of capacity in servers.

Military strategies do not necessarily mean bombing. While it might seem counterintuitive, removing U.S. aircraft carriers from the Persian Gulf would also increase pressure on Iran significantly: The Persian Gulf is both shallow and narrow, limiting maneuverability of carriers. If those same carriers were deployed in the northern Arabian Sea, then U.S. aircraft could strike at Iran while rendering ineffective the Iranian strategy of swarming with small boats.

The Iranian threat remains real, and the JCPOA did little to remove permanently the threat posed by Iran’s nuclear and missile programs. To strive to close loopholes left open by the JCPOA is common sense, and to prepare for the post-JCPOA future is responsible policy.

Thank you.

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<sup>23</sup> Saham News, “Cheh Kasani 30 miliard dolar sarmayeh ra az Keshvar Kharej Kardand?” [Who Took \$30 Billion out of the Country?], May 24, 2018.

Mr. DESANTIS. I thank the gentleman.

The chair now recognizes himself for 5 minutes.

Is there any disagreement, I mean other—maybe, perhaps Dr. Walsh, but the rest of the witnesses, do you all agree that, regardless of whether you think the President should have withdrawn or not, that it was not binding on him. It was not a treaty. It was not U.S. law and effectively it was a political agreement that he could withdraw from, correct?

Mr. RUBIN. Yes.

Mr. DESANTIS. You don't believe that Dr. Walsh? You think it was binding?

Mr. WALSH. I don't think it was binding. I think—

Mr. DESANTIS. You said he violated it. So the question is, and I know you believe that it was good policy to stay in it, but do you have a qualm with us saying: Look, he had a right to do it. We live in a representative government. We have a treaty provision. We have executive agreements that could be read. That choice was not taken. And when you live by that sword, you die by that sword.

Mr. WALSH. First, Mr. Chairman, let me say that, when I testified last time, I hope you got the message I passed on to your staff, which I very much appreciated in these difficult times how I was treated in our last hearing.

Mr. DESANTIS. Oh, sure.

Mr. WALSH. And we really looked forward to returning.

I would say a couple of things very briefly.

If you ignore the U.N. Security Council Resolution part about that, and we can have a legal argument about that, if we ignore that part, which I am willing to do, I would say, sure, there's a difference between a treaty and a political agreement, but we have done a lot. You know, PSI was a similar agreement.

Mr. DESANTIS. Well, look, I get that. And I am going to probe you a little bit about that, but I just want to lay that out there because there was a lot of criticism saying: Oh, my gosh, we are violating an agreement.

It was not an agreement that was binding. We had that debate in Congress. It should have been submitted as treaty. At a minimum, it should have been an executive agreement, and it wasn't.

Let me ask you this, Dr. Walsh: You've made the claim that the withdrawal increases the likelihood of proliferation. Why, though, do you think that the people in the region were so opposed to the deal—Saudi Arabia, the Emirates, the Israelis—and that they cheered the President because I think that they want to see more tougher economic sanctions? They think that will make Iran less able to dominate the region.

So I know the Europeans, I think your point is well taken. Obviously, they agree with you.

Mr. WALSH. Yes.

Mr. DESANTIS. But how would you respond to the people in the Middle East, in that neighborhood—

Mr. WALSH. Yes.

Mr. DESANTIS. —who think it was a bad deal and are glad the President took the action they took.

Mr. WALSH. Well, first of all, I would disagree, not all the Emirates. And, secondly, I think there are more countries in the region

than Israel and Saudi Arabia, although that's what we tend to pay attention to.

I think, clearly, Saudi Arabia is in a death struggle with Iran. There is this giant rivalry, and obviously, the same thing is going on with, you know, there's a big rivalry there with Israel.

Those countries wanted sanctions. They didn't care as much about the nuclear issue as weakening Iran, making it as weak as possible and as vulnerable as possible. And I understand that it is a strategy, but the other states in the region, Europe, us, the rest of the world, the international community, all thought it would be—despite Israel's and Saudi Arabia's problems with Iran but taking a larger view—it is not about whether they are sanctioned or not sanctioned; it is about whether they have a nuclear weapon or not. That is obviously—

Mr. DESANTIS. I think they all care about that, obviously.

Well, Dr. Rubin, the Middle Eastern countries, can you speak to their view of this deal and their view of the President's action?

Mr. RUBIN. Without exception, or let me say, every moderate regime or U.S. ally was very much opposed to the Joint Conference Plan of Action. They very much resented that they were not consulted to give their expertise on closing some of the loopholes. That was a missed opportunity on the part of the previous administration. There were regimes out there, for example, the Syrian regime of Bashar al-Assad, which was much more interested and much more favorable to the JCPOA, as was some of the more harder line Shiite elements inside the Iraqi Government.

Mr. DESANTIS. Mr. Goldberg, my friend from Vermont mentioned, you know, like regime change as if—I mean, I don't think—I have not heard anyone say: Go in there and forcibly remove the Iranian regime.

On the other hand, there are vast swaths of Iranian society that are dissatisfied with living under an Islamist tyranny. And those are people, I think, that are probably pro-Western and that are people that we should have common cause with.

So dealing with the sanctions element, cutting off the money but then trying to empower, whether it's through social networks or other things, those people, isn't that a good policy? I mean, don't we want this regime to be weakened? It is not representative of the society. And there are people there that are trying to stand up to it, and we should have their back.

Mr. GOLDBERG. Mr. Chairman, it's not just good policy; it is U.S. policy, as voted on by bipartisan majorities in both Chambers over many years. We have legislation in law. We have sense of Congress language. We have sanctions for these issues. We have funding for these issues in the Appropriations Committees. This has been our policy.

The term regime change has become a loaded political term. Let's just get that out of the way. We know that. This is in a post-Iraq war environment, and the words "regime change" are try to get some sort of gotcha moment of, do you want to invade? Do you want this to be like the war in Iraq?

There is no one, I believe, on this panel and certainly in the administration, who is coming anywhere near such a policy. That is not the policy. We need to look more sort of a Cold War era policy.

What was the Reagan administration's victory policy, rollback policy towards the Soviets? We definitely wanted behavioral change. We wanted to roll them back throughout the world. We want to see the same sort of behavioral change out of this regime, but we will also benefit greatly if one day internally, peacefully, the people of Iran, people who are out in the streets, the people who are screaming out for freedom for some sort of government that represents them, that makes their lives better, the government that doesn't spend money in Syria or Yemen but spends money on them to get them jobs and higher incomes. If that happens peacefully through our policies, that's great; that's good for U.S.

Mr. DESANTIS. My time is expired. Let me wave in, I would like to recognize Mr. Zeldin and Mr. Donovan, both of New York. And I ask unanimous consent that, though they're not on the committee, that they be able to participate in the proceedings.

And, without objection, so ordered.

And it is now my pleasure to recognize my friend from Vermont, Mr. Welch, for 5 minutes.

Mr. WELCH. Mr. Goldberg, let me just start with you on this question of getting this regime change issue off the table because no one seriously is talking about that.

Have you ever heard of Josh Bolton?

Mr. GOLDBERG. Josh Bolton?

Mr. WELCH. Or Mr. Bolton. What is his name?

Mr. GOLDBERG. John or Josh?

Mr. WELCH. John, John.

Mr. GOLDBERG. The former chief of staff for the White House or the National Security Advisor—John Bolton, yes.

Mr. WELCH. And on FOX News, he said that our goal should be regime change in Iran. Should I take him seriously or you seriously?

Mr. GOLDBERG. Again—

Mr. WELCH. No, this is a serious question.

Mr. GOLDBERG. No, it is a very—

Mr. WELCH. You just waved it away. He is the National Security Advisor for the President. He said to the American people that our goal should be regime change in Iran. Now, you just want to blow him away and say that he didn't mean it.

Mr. GOLDBERG. No, Congressman I would say multiple things in response.

Mr. WELCH. All right. What about Rudy Giuliani?

Mr. GOLDBERG. Did you want a response?

Mr. WELCH. Look, I am asking you to respond whether we should take Mr. Bolton and now Mr. Giuliani seriously.

Mr. Giuliani said that the President is as committed to regime change as we are. Do I take Mr. Giuliani seriously?

Mr. GOLDBERG. Congressman, are you for repression of the Iranian people? Yes or no? No, I am asking a serious question. Are you for the repression and torture of people—

Mr. WELCH. There is no one in this Congress, no one in this country that condones repression anywhere by any dictator in any country. And you know that.

I am asking the questions here. Rudy Giuliani or Goldberg? Who do we listen to about regime change? And you don't have to answer it because—

Mr. GOLDBERG. I would listen to the President of the United States—

Mr. WELCH. Let me ask—

Mr. GOLDBERG. —Secretary Pompeo and those who are empowered by the President right now.

Mr. WELCH. All right. Now does anyone seriously think that trust on the American side of Iran had anything to do with this agreement, that President Obama or Secretary Kerry, quote, "trusted the Iranians"? Or do they believe that Secretary Mattis was right, that there was no basis for trust? That is why there had to be very strong verifiable inspections. Anyone disagree with that?

Mr. RUBIN. I disagree.

Mr. PREGENT. I disagree.

Mr. WELCH. All right. So you disagree, Mr. Albright and Mr. Pregent, you disagree?

Mr. PREGENT. Yes, sir.

Mr. WELCH. So you think this is based on trust?

Mr. RUBIN. I can cite President Obama on this.

Mr. WELCH. Sir, I am just asking—

Mr. ALBRIGHT. I disagree that if President Obama did that, he— one of the problems in the JCPOA that developed was the Obama administration became an advocate for Iranian noncompliance. They would try to—

Mr. WELCH. Mr. Albright, here is the question: There is nobody here—and I was in favor of all of the Iranian sanctions, by the way, all of the Iranian sanctions, and I was in favor of this agreement, not that it was perfect, but it got rid of the nuclear weapons.

Let me ask you a question about this: Under the agreement that has been now torn up, Iran has the choice to resume its nuclear activities. Let me ask this question: What is the option for the United States should Iran aggressively restart its activities towards building a nuclear weapon?

Who on the panel would favor the use of military action at that point? Just raise your hands.

You would.

Mr. PREGENT. Absolutely.

Mr. WELCH. Dr. Rubin?

Mr. RUBIN. As I detail in my written testimony, there are episodes of overwhelming pressure that have caused Iran to back down. That's what led to the release of the hostages in 1981. That's what led to the end of the Iran-Iraq war. I will let history be the precedent on this, Mr. Ranking Member.

Mr. WELCH. The President—let me just finish a minute. The President has tweeted that it's time for change in Iran, and the Secretary of State wrote that Congress must act to change the Iranian behavior and, ultimately, the Iranian regime. And you, Dr. Rubin, I understand have written that regime change is the only strategy short of military strikes that will deny Iran a nuclear bomb.

So this question about what the implications are of a torn up deal are not idle questions. They are real. We are heading in a different direction. That is what's happening.

Mr. RUBIN. Are you—

Mr. WELCH. Now, here is the other question. I understand you think assassination is a tool as well, in your writing, and you were for that before it became, quote—

Mr. RUBIN. That's woefully imprecise to what I said, Mr. Ranking Member. Would you care to say? I know the article you are referring to. Would you like to specify a specific example?

Mr. WELCH. My time is running out.

Mr. RUBIN. Okay. Then be accurate.

Mr. WELCH. Let me ask this question. I know many of you have recommendations about what our policy should be. Do any of you know what our policy is?

Mr. GOLDBERG. Yes.

Mr. WELCH. And it is what? Where is it? How come I don't know? How come the chairman doesn't know?

Mr. WALSH. Mr. Ranking Member, I have heard most of my colleagues talk about why they don't like Iran and why don't they like the deal. That is fine. I am sympathetic to many of the things they say. I have not heard anyone talk about the fact that we don't have a strategy and that this puts us on a path to warfare, either by design, regime change, or we back into it as we respond to them beginning to reinstall their nuclear program.

I would like to hear a lot more from my friends about how we will deal with that in the future because that is what General Mattis, that is what General Votel and the others fear and have to prepare for. And talking about why I don't like Iran isn't really going to get us anywhere.

Mr. WELCH. That is a straw man.

Mr. WALSH. By the way, and on this issue of the Iranians, who everyone professes such great concern for, the Iranian people are not happy with us.

Muslim ban, number one.

Number two, a poll came out last month that asked the Iranian people—this was a private poll, not a government poll—how should we respond to the U.S. pulling out? This was a prospective poll. Sixty-seven percent of the Iranians said that Iran should retaliate?

Why? Because they are rallying around their flag. They may not like the corruption. They may not like the economy, but if you threaten to attack their country, we are going to help the hardliners. We are not going to strike a blow for democracy.

Mr. DESANTIS. The gentleman's time—

Mr. WELCH. I thank the witnesses, and I yield back.

Thank you, Mr. Chairman.

Mr. DESANTIS. The chair now recognizes the vice chairman of the subcommittee, Mr. Russell, for 5 minutes.

Mr. RUSSELL. Thank you, Mr. Chairman.

And thank you to the witnesses for being here today.

Shortly after the Iran deal was concluded, President Obama, his administration, made repeated statements that Iran would be, quote, "denied access to the world's largest financial and economic markets," end quote.

Secretary of the Treasury Jack Lew reinforced this policy. Another Treasury official had stated that Iran would be, quote, “unable to deal in the world’s most important currencies.” That was Adam Szubin.

Earlier today, America learned through a Senate investigation that President Obama’s administration issued a license to deal in U.S. currency conversion of Omani rials at a bank in Muscat, that they could convert these billions of rials into billions of dollars and then euros, giving blanket access and providing key Iranian flow of funds that could be used for funding extremism and other troubling activity.

Fortunately, no U.S. bank wished to comply with such an authorization. They were fearing fallout, not only in the financial industry, but they were fearing violation of current U.S. sanctions law. I guess my question, as we debate this handshake agreement, that was not an agreement with the American people—it was not done through a treaty; it was not done through consent of Congress when we had bipartisan and overwhelming resistance to the Iran deal—I guess my question would be this: First, to Dr. Walsh, a series of basic questions to frame up activity of Iran, I think, is important here. Should we curtail proliferation of terrorism or promote it?

Mr. WALSH. Well, considering, Mr. Vice Chair, that I have spent virtually all my professional career working to prevent the spread of nuclear weapons and to undermine terrorism, I think my answer is pretty obvious on that one.

Mr. RUSSELL. Well, I am guessing, then, by your answer, it would be to curtail it then.

Mr. WALSH. Absolutely.

Mr. RUSSELL. And having been a soldier most of my life and seeing Iran kill United States soldiers, including some of my colleagues, I would be in agreement.

Mr. WALSH. As to General Mattis, who was CENTCOM Commander during that period and General Votel—

Mr. RUSSELL. But should we encourage nuclear cooperation with North Korea and Iran, or should we curtail that?

Mr. WALSH. To my knowledge, and I have testified before the Congress on this, there was missile cooperation between North Korea and Iran, but not nuclear cooperation. There are lots of media reports, but the DNI has never said it. The IAEA has never said it. Congressional Research Services never said it. And I was unable in a survey of 1,000 media stories—

Mr. RUSSELL. Well, should we encourage this cooperation or deny it? We do know that—

Mr. WALSH. What cooperation I guess is what I am saying?

Mr. RUSSELL. —North Korea, Iran, and Syria, I think that there is overwhelming evidence that there was cooperation, not only missile technology—

Mr. WALSH. Nuclear, nuclear cooperation.

Mr. RUSSELL. Sure, we can talk offline.

Should we strengthen the ability of the Iranian Republican Guard Corps to destabilize Iran’s neighbors, or should we curtail that?

Mr. WALSH. Absolutely curtail that.

Mr. RUSSELL. Absolutely. Despite Section 2, which had, by the way, 52 players that I identified and put on a deck of cards, and we were able to work with President Obama's Treasury administration to restore some of these back to the sanctions list. However, listening to all of the pundits for this agreement, they stated that there was no problem giving Soleimani and many of these industries and others sanctions relief.

Mr. WALSH. Well, the intelligence community has said that sanctions relief did not go in large measure to the—

Mr. RUSSELL. Oh, we know that they used it for peaceful purposes. My last question would be—

Mr. WALSH. Well, that wasn't my point but—

Mr. RUSSELL. —should we waive international and national financial standards on monetary exchange regarding these sanctions? Or should we maintain the strength of sanctions rather than creating the licenses to undermine financial markets?

Mr. WALSH. Here is what I think: I think, of all the things you listed, only one is the most important. It is called the priority. That's denying Iran the ability to acquire a nuclear weapon.

Mr. RUSSELL. I see. So and all of the other things notwithstanding, we should undermine the credibility and our record on human rights. We should undermine the credibility of the United States when it comes to standing up for other people. We should undermine our allies. And worse, we should undermine American soldiers who had continued to—

Mr. WALSH. Well, we are undermining allies now.

Mr. RUSSELL. If I may, reclaiming my time. One thing is crystal clear. When you make an agreement that the American people are overwhelmingly against—we are talking 60 percent plus. How I do know this? Just by numbers on the board through elected Representatives in Congress.

This was a bad deal. It made us less secure, and we hear testimony after testimony with our neighbors, our allies and others, and yet we are led to believe that we are making the world less secure.

Having the United States' credibility undermined makes the world less secure.

Mr. WALSH. Which is what—

Mr. RUSSELL. I am sorry. I am out of time. And thank you, Mr. Chairman.

Mr. DESANTIS. The gentleman's time is expired.

The chair now recognizes the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

And I would like to associate myself with your remarks earlier. I completely agree that President Trump made the right decision in this. The Iran deal was flawed from the start. We needed a better agreement in 2015. We need a stronger agreement now. And we cannot idly sit by while Iran continues to build up its ballistic missiles and all the things that you have mentioned here today.

Dr. Rubin, let me start with you with this. What kind of threat does Hezbollah and the Islamic Revolutionary Guard pose to Israel?

Mr. RUBIN. It poses an overwhelming threat.

The deputy secretary of Hezbollah has said that he welcomes the opportunity for all the Jews in the world to relocate to Israel because it would save them the trouble of hunting them down and killing them elsewhere.

Mr. HICE. All right. So we have a serious threat. What can the U.S. do to support Israel against this threat?

Mr. RUBIN. The Iranian strategy, as voiced by the Islamic Revolutionary Guard Corps, tried to overwhelm Israel missile defenses just by sheer number of the missiles, which are in Hezbollah or perhaps Hamas' hands.

The preventive action would be to continue to support the interdiction of any missiles or missile parts. When it came to the aircraft deal, I should note that Iran, if you calculate the number of seats that Iran Air has and you compare it to the Boeing and Airbus deal, Airbus and Boeing were prepared to give Iran more than three times the annual capacity of Iranian flights putting them on scale of Qatar airlines or Korean Air. So, clearly, it wasn't in that case about passenger safety, which is why encouraging companies to scale back aid which could go to the Islamic Revolutionary Guard Corps is wise if our goal is to constrain the Islamic Revolutionary Guard Corps.

Mr. HICE. All right. You mentioned the air. What about the naval aggression of Iran? What should be our role there?

Mr. RUBIN. With regard to the naval aggression, our presence matters. Now, I differentiate between our presence in general and our aircraft carrier presence, but when President Obama, for very good reasons, talked about a pivot to Asia, what many people in the Persian Gulf heard was a pivot away from us. And so, psychologically, there is a sense of abandonment among some of our GCC allies.

Now, the reason I talk about taking aircraft carriers and pushing them more into the Arabian Sea is just to neutralize the threat posed by Iranian small boat swarming tactics where we can reach them from the Arabian Sea; they can't retaliate against us.

Mr. HICE. So a stronger presence, be it our carriers or whatever, am I hearing you saying that would be a change from the Obama administration's approach?

Mr. RUBIN. Between 2003 and 2011, we had on average one carrier strike group in the Persian Gulf. I am sorry, between 1991 and 2003, we had one. Between 2003 and 2011, we had, on average, two.

What I am saying is we should continue with the destroyers and cruisers and amphibian LHDs in the Persian Gulf, but the aircraft carrier should remain outside.

Mr. HICE. Mr. Goldberg, let me go to you. In your written testimony, you describe a maximum pressure strategy using multiple lines of effort there. What further sanctions do we need, in your opinion, and how do we know that these sanctions, financial sanctions, are working.

Mr. GOLDBERG. Well, I appreciate the question, Congressman. And thank you all for your leadership on this in the past. It is going to be very important for this subcommittee and for other Members to conduct oversight over our enforcement to make sure

that we actually do have a maximum pressure campaign that succeeds.

We need to measure this by the liquidity crisis in Iran, the access of the regime to cash to hard dollars to hard euros. What we saw in the lead-up to the JCPOA, really the lead-up to the JPOA deal, the interim deal, was that, under the central bank sanctions, the disconnection of Iranian banks from the SWIFT, the sectorial sanctions that Congress enacted, we saw enormous pressure and stress of the regime, a balance of payments crisis emerging and a liquidity crisis.

Because the mullahs have so mishandled their economy, even under the sanctions relief provided by the JCPOA, the economy is already in crisis. Really, the timing of the reimposition of sanctions for a maximum measure campaign couldn't be better. The rial is in free fall in Iran.

And so, as we cut off banks from doing business with Iranian banks, as we pressure SWIFT to ensure that they disconnect Iranian banks as well, as all the sanctions come back on line, it will be very important for Congress to conduct oversight over that to make sure they are being enforced properly.

Mr. HICE. So has the withdrawal of this deal had any effect on other European companies doing business with Iran?

Mr. GOLDBERG. Absolutely. We have seen pretty much on a daily basis more and more companies, the large ones, getting out.

You may have seen today, there is a lot of news reports of oil, imports from Europe going to be canceled due to our return of the oil sanctions. We have seen that the European Investment Bank, the Europeans were talking about maybe using the European Investment Bank as a replacement for private institutions to provide financing for those companies that wanted continue in Iran.

Those leaders said, you know what? We don't want any part of that. Iran is too risky. Sanctions are too risky. We don't want to touch that.

And I would point everyone to yesterday's speech by our Under Secretary for TFI at Treasury. She gave a great speech that really was an indictment of the Iranian regime's financial system, not because of the nuclear deal but because of the practices, the behavior of this regime. That is why most banks and most companies don't want to do business there anyway, and now with the return of U.S. sanctions and our oversight from Congress to make sure that it is properly implemented, the Iranian regime is going to be under enormous stress.

Mr. HICE. Thank you, Mr. Chairman. Thank you to our panelists.

Mr. DESANTIS. The chair now recognizes the gentleman from New York, Mr. Zeldin, for 5 minutes.

Mr. ZELDIN. Thank you, Mr. Chairman.

Thank you for the invitation to today's hearing.

We obviously have a diverse group of speakers today. And I think it is important for us to learn lessons from what happened with the negotiation, with understanding the text of the deal and moving forward with, I am sure all five are, you know, concerned with the need to protect America's security at home and abroad. There might be a diversity of how to get there. And if you don't mind, I

guess I will start with Dr. Walsh. And I just want to get some other perspectives in this.

I understand that you are supportive of the deal. What in the deal have you identified as needing to get fixed?

Mr. WALSH. Well, I agree that several of the provisions, the ideal case would be, had things worked out a different way, for us to have then, after a year or whatever, enter into negotiations for Iran for a follow-on agreement. That's a very common practice in international affairs; you have a temporary agreement. I mean, the NPT was that way. There are lots of agreements that way.

You have an agreement, and then you build trust between the parties. You know, they see that we follow through on our promises. We see that they follow through on their promises. And then that become the basis for—

Mr. ZELDIN. I have a limited time.

Mr. WALSH. —follow-on agreements.

Mr. ZELDIN. What would you want to see in there?

Mr. WALSH. Pardon me?

Mr. ZELDIN. What would you want to see in the follow-on agreement?

Mr. WALSH. In the follow-on agreements? I would have like to see some longer—I am happy to take 15 years on the sunsets, but I wouldn't have objected to longer periods before some of the obligations came off.

Mr. ZELDIN. Anything with regards to the verification?

Mr. WALSH. I think, you know, Dave and I are good friends. He and I disagree slightly. When you read what the IAEA says, they say they are performing complimentary access inspections. That is what they said in their most recent statement. And so they are performing these inspections.

Can we get better access? I would be all in favor of that. But they are reporting to the international community that they are able to do their job. But, of course, you would always want more and better inspection, if you can.

Mr. ZELDIN. Yeah, I think, you know, two very important aspects that we just touched on is with regards to the sunset provision, whether you are the most passionate supporter the nuclear deal or you are one of the most vocal opponents of it, the sunset provisions are very problematic.

The verification agreement on top of what was said, I mean, the Iranians have said before, during, and after this negotiation that we will not have access to their military sites. AP reported—

Mr. WALSH. And yet we do have. We do.

Mr. ZELDIN. Well, actually, that's not true. So, at Parchin, we went there. We found particles that required a followup. And the Iranians said that the IAEA would not be able to go back to Parchin to inspect those particles further. The Iranians have said that we will not have access to the nuclear—

Mr. WALSH. We didn't have the additional protocol then—

Mr. ZELDIN. We have not gone to any military site. The Iranians are saying: You are not allowed to gain access to our military sites.

And we have not gained access to any of their military sites. I am sorry. You are shaking your head.

Mr. WALSH. Let me just say—

Mr. ZELDIN. What military sites have we been to?

Mr. WALSH. Well, I can't name them, but all I know is—

Mr. ZELDIN. Well, are you saying that we have been to military sites?

Mr. WALSH. Well, because I am not, you know, the IAEA doesn't—some of the stuff is done confidentially.

My point is the agency works on cause. If they have reason—if they have suspicions about a site, they have full authority under the additional protocol to demand an inspection.

Mr. ZELDIN. Right. But they are not.

Mr. WALSH. Well, no, they say that they have had access to all the sites they wanted to have. That is their language, not mine. And on sunsets, I would simply very quickly say—

Mr. ZELDIN. Yeah, with regard—you are not referring to military sites?

Mr. WALSH. Yes, I am. Yes, I am.

Mr. ZELDIN. The Iranians have said—

Mr. WALSH. I know they say stuff, but when it comes down to implementation, they have to follow the additional protocol like everyone else.

Super quickly—

Mr. ZELDIN. But where can I go to source that?

Mr. WALSH. I can give you the documents.

Mr. ZELDIN. You are saying that there's something that details all the military sites that IAEA has been able to access—

Mr. WALSH. I can give you—

Mr. ZELDIN. —since implementation?

Mr. WALSH. —today the statement by the IAEA that it has had access to every site that it has requested access to and that, additionally, it is under the additional protocol legally entitled to visit any military site.

Mr. ALBRIGHT. But they also, the inspector general just a couple days ago—and it was also on the latest safeguards report—said it would certainly be nice if Iran started allowing for access.

Mr. ZELDIN. They did. That's right.

Mr. ALBRIGHT. I think they got the message from the E3 U.S. negotiations they are not doing enough.

They told Ambassador Haley they had 50 sites of concern; they had 200 to 300 sites of interest. They have not visited all those sites, by any means. They have not visited any of the sites that have been named in the nuclear archive that was recently discovered and unknown to the IAEA, and probably Western intelligence. So there's many sites they have not visited. They have pulled their punches, and now it is time that they stop.

Mr. ZELDIN. Is there anything on the verification front that you all, the other four, Dr. Walsh, who have had a chance to talk for a while. Anything anybody else would like to add as far as improvements that need to get made with regards to the verification?

Mr. ALBRIGHT. Well, one is that it is not true that JCPOA was fully verified. I mean, a lot of these things happened behind the scenes; the IAEA doesn't tell the whole story. One of the issues has been Section T, which is a ban on nuclear weapons development activities that is still not verified. I mean, there are conditions in there that involve equipment, dual-use equipment that is known to

exist in Iran. Additional dual-use equipment has been identified in the nuclear archive that's subject to Section T. It should be declared by Iran, subject to joint commission approval, and monitored by the International Atomic Energy Agency, and that is not happening.

So I think to say that somehow this deal is fully verified, it is the best deal in the world, the best verified deal, is simply not true. And I think it is time to end this kind of simplistic talking point of the JCPOA proponents and get down to, how are we going to fix this situation now?

Mr. ZELDIN. I appreciate that. We can go on a lot further here with regards to the verification. I still, as a Member of Congress, we have not received copies of the verification agreement that was between the IAEA and Iran. We have read Associated Press reports that talk about Iran collecting some of their own soil samples, inspecting some of their own nuclear sites. But I think, with regards to verification as well as, you know, the conversation on the sunset provisions, we have some improvements need to get made. And, hopefully, all five of you would be able to agree that we can make this better.

Mr. DESANTIS. The gentleman's time is expired.

The chair recognizes Mr. Donovan for 5 minutes.

Mr. DONOVAN. Thank you, Mr. Chairman, for allowing me the opportunity to ask questions at this hearing today regarding protecting America from a bad deal, ending U.S. participation in the nuclear agreement with Iran.

There are a few facts I would like to highlight as a preface to my question.

Fact, the Joint Comprehensive Plan of Action, according to the Obama administration, was a political commitment, not a treaty. As such, the Iran deal imposed no international legal obligation, nor has any president after President Obama including President Trump, legally bound by the Iran deal because it was a political agreement, not a legal agreement.

Fact two, under the JCPOA, Iran has gone on a shopping spree, spending money, not on its own domestic needs but instead on supporting terrorists and dictators.

Iran has particularly focused its attention on Iraq, Syria, and Lebanon. What do Iraq, Syria, and Lebanon hold in common for Iran? Iraq, Syria, and Lebanon together represent a geographic land bridge for Iran that gives it a clear direct path to Israel.

Fact three, the Iran regime wants to destroy Israel. At every turn, the Iran regime has only fanned the flames of violence in the Middle East to serve its own hateful tremulous agenda.

Ayatollah Khamenei, just this past Sunday, stated on Twitter that, quote, "Israel is a malignant, cancerous tumor in the West Asian region that has to be removed and eradicated; it is possible, and it will happen," end quote.

President Trump's Administration has laid out 12 imminently reasonable requirements for a new deal with Iran, which include Iran ending its support for terrorist organizations and ending its threat against Israel and other nations in the Middle East.

There are certainly differences in our political beliefs here today. However, I, my Republican colleagues, the Trump administration,

and many of my Democratic colleagues have at least one thing in common: strong support for our ally Israel.

Congressman Sarbanes stated that, quote, "Israel is one of our closest and most important allies," end quote.

Congresswoman Demings said, quote, "Israel's security is essential for the future of the Jewish people and the security of the United States," end quote.

Congressman Lynch stated that, quote, "the state of Israel is one of our most important allies," end quote.

Congressman Engel agrees that the biggest danger in Israel's security is Iran. He stated, quote, "Today, the most serious danger Israel must confront emanates from Iran. It is simply unacceptable that a country with a history of supporting terrorism and calling for the destruction of Israel could have a nuclear weapon," end quote.

Minority Leader Nancy Pelosi has noted that, quote, "there is no greater political accomplishment in the 20th Century than the establishment of the state of Israel," end quote.

As you could see, across the aisle, we all want to see Israel survive and thrive, and agree that Iran's aspirations to annihilate Israel are not acceptable.

Mr. Pregent, given that the large bipartisan support for Israel, how does the United States withdrawing from the Iran deal enhance Israel and the United States' national security, if you may?

Mr. PREGENT. Well, thank you for the question. I think what's important is to see what Russia is actually doing and not doing in Syria.

Since our withdrawal from the Iran deal, we have seen Russia sit on its hands while Israel was able to conduct 4- to 6-hour airstrikes against the infrastructure that Qasem Soleimani put in place in Syria as an offensive capability against Israel, doing that under the protections of the JCPOA.

Doing that, putting those systems in place over the last 3 years, that Israeli airstrike that took place between 4 to 6 hours set back Qasem Soleimani offensive capabilities in Syria 3 years, and it demonstrated that in a post-JCPOA world, Iran is shedding support.

We are looking at what Russia is doing in Syria. We are looking at what the World Bank and the IMF are telling private sector businesses from Europe and the United States to not do business in Iraq because that is where Iran is looking to offset U.S. sanctions by penetrating Iraqi economic sectors.

Walking away from the Iran deal has actually made the Middle East less dangerous. I argue that if Iran takes an aggressive stance, if they start increasing their activities, they will lose European support. If they rush to a bomb, they are going to lose Russian support. Russia does not want the Islamic Republic to have a nuclear weapon on its border.

To your question about the regime change. I would ask the Iranian people what they think about regime change. The Iranian people have said that the regime has squandered the economic benefits of the Iran deal: \$150 billion spent on adventurism, spent on destabilizing the Middle East and trying to develop an offensive ca-

pability against Israel instead of focusing it on their domestic economy.

The regime is in free fall. This began under the protections of the JCPOA. We are now out of it. Iran is in a weaker position. We now have leverage, and our European allies are going to pick the U.S. especially Israel—correction—Iran takes aggressive actions in the region.

Mr. DONOVAN. Thank you very much for your insight. Mr. Chairman, I yield back the remainder of my time.

Mr. DESANTIS. The gentleman yields back.

I want to thank all the witnesses for appearing before us today. The hearing record will remain open for 2 weeks for any member to submit a written opening statement or questions for the record.

And if there is no further business, without objection, the subcommittee stands adjourned.

[Whereupon, at 3:55 p.m., the subcommittee was adjourned.]

