

# ASSESSING THE IRAN DEAL

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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  
FIRST SESSION

APRIL 5, 2017

**Serial No. 115-23**

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.fdsys.gov>  
<http://oversight.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

26-555 PDF

WASHINGTON : 2017

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Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
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## ASSESSING THE IRAN DEAL

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Wednesday, April 5, 2017

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

The subcommittee met, pursuant to call, at 2:19 p.m., in Room 2154, Rayburn House Office Building, Hon. Ron DeSantis [chairman of the subcommittee] presiding.

Present: Representatives DeSantis, Russell, Gosar, Hice, Comer, Lynch, Demings, and Welch.

Also Present: Representative Jordan.

Mr. DESANTIS. The Subcommittee on National Security will come to order. Without objection, the chair is authorized to declare a recess at any time. We will have some additional colleagues that are not here now. I will recognize them and waive them in when they are here.

On July 14, 2015, the United States, United Kingdom, France, Germany, Russia, and China reached an agreement with Iran called the Joint Comprehensive Plan of Action, widely known as the Iran nuclear deal. The Obama administration pushed an agreement giving Iran massive and immediate sanctions relief. In return, the world's largest state sponsor of terrorism agreed to temporarily pause its pursuit of nuclear weapons.

Shortly after announcing the deal, then-President Obama called it, quote, the strongest nonproliferation agreement ever negotiated, and promised it, quote, cuts off all of Iran's pathways to a bomb. But over a year and a half later, those words ring hollow. Instead of cutting off a path to the bomb, the JCPOA gives Iran a clear road to the bomb.

The nuclear deal's sunset clauses phased out most of its significant restriction on Iran's nuclear agreement over the course of the next 10 or 15 years. Once this happens, Iran will have access to a large-scale nuclear program powered by advanced technology and vastly increased resources due to the lifting of sanctions. President Obama acknowledged that lifting sanctions would give Iran access to advanced centrifuges, and by year 15 of the deal, the time it takes for Iran to, quote, break out and create a nuclear weapon will, quote, have shrunk down almost to zero, end quote.

This is a bad deal. That's why President Trump called it the worst deal ever negotiated. It's also why Senate Minority Leader Schumer and the Democratic ranking members of the House Foreign Affairs Committee and Senate Foreign Relations Committee all opposed it. And that's only part of the story.

After the JCPOA was adopted, the Obama administration made a bad deal even worse through its feeble implementation. The Obama administration failed to penalize Iranian violations, gave Iran exemptions from the JCPOA's nuclear restrictions, weakened sanctions far beyond the terms of the agreement, allowed Iran's ballistic missile launches and regional aggression to go unchecked. Not only did the Obama administration give Iran a pass, Secretary of State John Kerry actually served to lobby on behalf of Iran, flying to London and pitching European bankers that Iran was, quote, open for business, as his staff pressed Governors across the country to drop their State's Iran's sanctions.

Thankfully, the Trump administration signaled the beginning of a different approach this February. When Iran continued pursuing an agenda of regional aggression against us and our allies, the new administration responded by putting Iran, quote, on notice, and imposing new sanctions.

This hearing will highlight the numerous problems with the Iran nuclear deal that demand correction by the new administration, as well as Iran's destabilizing activities throughout the Middle East. The Obama administration failed to hold Iran to the JCPOA's nuclear restriction on critical issues like uranium, heavy water, and centrifuge restrictions. Independent experts have identified numerous ways in which Iran has been allowed to violate the deal's provisions, exploit loopholes, and being granted secret exemptions with no penalty.

There are also serious questions about the effectiveness of the IAEA's verification process and the degree of access its inspectors are receiving. There are other serious problems with the deal besides the implementation of its nuclear provisions.

After numerous U.S. sanctions on Iran were lifted on implementation day, Department of Treasury officials continue to weaken the sanctions. Treasury changes official guidance on a Friday evening before a holiday to allow foreign companies to do business with entities controlled by the Iran Revolutionary Guard Corps, IRGC, process on dollar transactions involving Iran and loosen due diligence standards.

Treasury also removed a number of entities tied to Iran's ballistic missile program and the IRGC from its sanctions list. For example, Treasury lifted sanctions on Bank Seppa, which it previously called the financial linchpin of Iran's missile procurement network.

Despite all these concessions, the deal failed to quiet Iran's belligerence. Just last week, the head of U.S. Central Command testified before Congress that, quote, we have not seen any improvement in Iran's behavior since the deal was finalized in July of 2015. This is evident from Iran's numerous ballistic missile tests conducted in defiance of U.N. restrictions and its escalating aggression towards the U.S. Navy in the Persian Gulf.

The State Department has identified Iran, still to this day, as the world's foremost state sponsor of terrorism. And now the funds Iran has gained through the deal sanctions relief are flowing in part to terrorists and insurgent groups, something former Secretary of State Kerry admitted would likely happen. The IRGC continues to use terror and insurgency to expand Iran's influence throughout the Middle East, including support for the Assad Gov-

ernment in Syria, radical Shiite militias in Iraq, Hezbollah in Lebanon, and Houthi rebels in Yemen.

Simply put, the deal, along with the way it has been implemented, is not a viable course of action going forward. The U.S. must make clear that Iran's nuclear violations, illicit financial networks, ballistic missile tests, and otherwise malignant activities will not be tolerated. This hearing will specifically identify where these problems originate, and discuss what we need to do to fix them.

And with that, I will now recognize the ranking member of the subcommittee, Mr. Lynch, for his opening statement.

Mr. LYNCH. Thank you very much, Mr. Chairman. I'd also like to thank you for holding this hearing to examine the continued implementation of the Joint Comprehensive Plan of Action, otherwise known as the Iran nuclear agreement. I'd also like to thank today's witnesses for helping the subcommittee with its work.

As reported by director—former Director of National Intelligence, Jim Clapper, in 2016, worldwide threat assessment, Iran remains the, quote, foremost state sponsor of terrorism and presents an enduring threat to U.S. interests because of its support to regional terrorists and militant groups and the Assad regime, as well as its development of advanced military capabilities.

Similarly, the most recent State Department counterterrorism report issued by the Obama administration in 2016 again underscored that Iran has been designated as a state sponsor of terrorism since 1984, and is maintaining its terrorist-related activity through support for Lebanese Hezbollah, Iraqi Shia terrorist groups in Iraq, Palestinian militant organizations in Gaza, and Iraqi, Afghan, and Pakistani Shia fighters aiming to bolster the Assad regime in Syria.

There is no doubt that Iran is a destabilizing force in the Middle East and continues to provide arms, financing, and training to terrorist groups in the region. It also remains unequivocally clear that we cannot trust the Iranian leadership, given these subversive military and foreign policy objectives. That is precisely why the U.S., the United Kingdom, France, Russia, China, Germany, and Iran sought to contain them. For these same reasons, successful implementation of the Iran nuclear agreement is not dependent on our trust that Iran will simply abide by the terms of the deal and limit its nuclear program and nuclear weapons capabilities.

A key advantage we gained is the ability to place inspectors and investigators on the ground in Iran. In referencing adversarial nations in the nuclear arms race in his 1960 inaugural address, President Kennedy remarked that the sincerity of negotiations, quote, "is always subject to proof," close quote. And to this end, a determination of whether Iran is living up to its commitments under the nuclear agreement is entirely based on the proof in the form of on-the-ground, realtime, robust nuclear inspections conducted by the independent International Atomic Energy Agency.

On March 8, the IAEA director general, Yukiya Amano, released his latest report on Iran's compliance with the nuclear agreement and corresponding U.N. Security Council Resolution 2231. As reported by the IAEA, Iran has already permanently disabled the core of the heavy water reactor at its water plant—heavy water

plant in Iraq by filling it with concrete, quote, “such that the agency was able to verify that it is not useable for a future nuclear application,” close quote. In addition, all existing uranium pellets and fuel assemblies related to the original design of the Iraq reactor remain under continuous IAEA supervision.

This is solid verified proof that Iraq has abided by its commitment under the Iran nuclear agreement to render the Iraq reactor inoperable so they can no longer produce weapons grade plutonium. According to the IAEA, Iran is thus far abiding by its commitment to refrain from producing or attaining uranium enriched at a level greater than 3.67 percent for 15 years, and is far less than the approximate 90 percent enrichment level of weapons grade uranium and the 20 percent level of uranium that Iran had previously stockpiled.

The IAEA also reports that there are currently no more centrifuges at the Natanz Fuel Enrichment Plant than are in accordance with Iran’s obligation to dismantle two-thirds of its centrifuges to enrich uranium for the next 10 years.

The IAEA enjoys unprecedented and open access to Iran’s nuclear facilities. It conducts formal reviews on at least a quarterly basis, and has determined that Iran has met its commitments in every one of its reports. This is a vast improvement over previous international ballpark estimates to try to assess Iran’s nuclear capabilities based on hypothetical breakout times. It is in light of the critical and continued work of the IAEA to verify Iranian compliance with the nuclear agreement that we must make every effort to ensure that the agency is able to carry out its inspections and verification workload.

Director General Amano recently stated that absent a 2.1 percent increase to its operating budget in 2018, or \$400 million from its contributing member states, the IA will not be able to implement the verification and monitoring activities required in Iran. In stark contrast, the budget blueprint recently submitted to Congress by President Trump proposes a nearly 29 percent, or \$10 billion, cut to the State Department budget. This could drastically decrease our estimated \$200 million annual contribution as the IAEA’s largest contributor, given that our typical 25 percent share of IAEA funding comes from the State Department.

While I understand that members on both sides of the aisle may have concerns with the rationale behind the agreement itself, I strongly believe we must continue to support the IAEA’s work of inspection that the Iran nuclear deal is in place.

Mr. Chairman, I look forward to discussing with today’s witnesses what additional steps we can take in furtherance on the sole purpose of the agreement, and, quote, “that under no circumstances will Iran ever seek, develop, or acquire any nuclear weapons,” close quote, as required in the agreement.

Thank you, Mr. Chairman, and I yield back the balance of our time.

Mr. DESANTIS. Thank you.

I’ll hold the record open for 5 legislative days for any members who’d like to submit a written statement.

We’ll now recognize our panel of witnesses. I’m pleased to welcome Michael Barbero, retired lieutenant general, United States



Army, and advisory board member for United Against Nuclear Iran; Mr. David Albright, president of the Institute for Science and International Security; Mr. Mark Dubowitz, chief executive officer at the Foundation for Defense of Democracies; Mr. Ray Takeyh, Ph.D., the Hasib Sabbagh senior fellow for Middle East Studies at the Council on Foreign Relations; and Mr. Jim Walsh, Ph.D., senior research associate for the Security Studies Program at MIT.

Welcome to you all.

Pursuant to committee rules, all witnesses will be sworn in before you testify. Can you please rise and raise your right hands?

Do you solemnly swear the testimony you're about to give will be the truth, the whole truth, and nothing but the truth, so help you God.

Okay. Please be seated.

All witnesses answered in the affirmative.

In order to allow time for discussion, we'd appreciate it if you limit your testimony to 5 minutes. Your entire written statement will be made part of the record.

We now recognize General Barbero for 5 minutes.

#### **WITNESS STATEMENTS**

##### **STATEMENT OF LIEUTENANT GENERAL MICHAEL BARBERO**

General BARBERO. Chairman DeSantis, Ranking Member Lynch, and members of the subcommittee, thank you for the opportunity to appear before you today to discuss the threat posed by the ever-expanding ambitions of the Islamic Republic of Iran.

I served as an infantry officer for 38 years, including a total of 46 months in Iraq over three combat tours from 2003 to 2011. And as a soldier and commander in Iraq, along with my good friend, Congressman Steve Russell, I witnessed Iran's subversive activities, hegemonic ambitions, and the direct targeting of American troops. In the 3 years since my retirement from the Army, I've made more than 20 trips to the region, meeting with many senior government and business leaders, witnessing the spreading domination of the Iranian regime from Tehran to the Mediterranean Sea.

Just 2 weeks ago, I was part of an international group in Israel to review the situation on the ground and assess the threat of Hezbollah and meet with national security leaders, including Prime Minister Netanyahu.

In the next few minutes, I'd like to highlight how Iran is directing its proxies, specifically those in Lebanon and Iraq, to successfully pursue a strategy of regional hegemony and carving a permanent zone of control. And I believe the actions of Iran and its proxies in Iraq and Lebanon present the most imminent challenge to the United States interests in the region.

In Lebanon, as we all know, Hezbollah is a creation of Iran, and today, it's funded by Iran to the tune of estimates of \$800 million annually. Until September 11, 2001, Hezbollah was responsible for killing more Americans than any other terrorist organization. Iran's military support to Hezbollah in Lebanon has only grown over time. In 2006, the last time Israel—hostilities broke out between Hezbollah and Israel, Hezbollah had approximately 13,000

mid- to short-range missiles and rockets. Since then, Hezbollah's influence and capabilities have increased dramatically.

According to Israeli estimates, Hezbollah now has an expanded arsenal of over 100,000 rockets and missiles, including long-range systems that possess greater precision, lethality, range, greatly threatening Israel population centers and critical infrastructure. Also, Hezbollah has fully integrated itself into Lebanon's political, social, and military and security apparatus. In recent combat operations in Syria to support the Assad regime, Hezbollah has gained important conventional capabilities, and is now a hybrid military power that is stronger than many conventional armies, including Lebanon. In Israel, the universal accepted view is that the third Lebanon war is not a question of if, but when, and that when is very short-term.

Turning to Iraq. The good news on Iraq is that ISIS is being driven from Mosul. The bad news comes the day after Mosul, when Iraq is sunk into endless sectarian strife fueled by Iran's support for brutal Shia militias, and the inability of the Iraq Government to control them. The Badr Organization, Kata'ib Hezbollah, Asaib al-Hak, these and other Iranian proxies fighting in Iraq are commanded by Qasem Suleimani, the commander of Iran's Quds Force, and have evolved into a permanent force in Iraq.

In a post-ISIS Iraq, these Iranian proxy forces represent the greatest threat to stability and security. The well-documented sectarian actions of Iranian-backed Shiite militias are establishing the de facto sectarian partition of Iraq. The brutal treatment of Sunnis and other minorities by these militias has served to deepen sectarian divisions and increase Sunni alienation from Baghdad Government, thereby damaging the prospects for post-ISIS political reconciliation in Iraq.

Our closest ally, the Kurds, have already clashed with these militias, and Kurdish leaders say their next fight is with these Iranian-controlled militias. If unchallenged, these well-resourced Iranian proxy forces will serve in the vanguard of the Hezbollahization of Iraq.

The Iranian resourcing and control of these militias and other proxy forces operating in Syria, Yemen, and Bahrain is part of a well-established strategy following the Hezbollah model. More than a year after signing the deal to postpone its ability to acquire nuclear weapons, as its actions across the region clearly demonstrate, Iran's desire is to dominate rather than be a positive force in the Middle East. Unfortunately, with the lifting of sanctions that accompanies the signing of the Iran nuclear deal, Tehran's resourcing of its proxy forces has continued unrestricted. And as we have seen in its aggressive and subversive actions across the Middle East, Iran will continue to pursue its strategic goals at the expense of regional stability, the security of our allies, and most importantly, at the expense of American strategic interests.

I thank you, and look forward to your questions.

[Prepared statement of General Barbero follows:]

**Testimony before the House Committee on Oversight and**

**Government Reform**

**Subcommittee on National Security**

**April 5, 2017**

**‘Assessing the Iran Deal’**

**Michael D. Barbero**

**Lieutenant General, U.S. Army (Retired)**

**Advisory Board Member, United Against Nuclear Iran**

Chairman DeSantis, Ranking Member Lynch and members of the Subcommittee, thank you for the opportunity to appear before you to discuss one of the most pressing national security challenges facing America and its closest allies today: the threat posed by the ever-expanding territorial and ideological ambitions of the Islamic Republic of Iran.

I am Lieutenant General Michael D. Barbero (retired). I served as an Infantry Officer and General Officer for 38 years. I have commanded at every level from Lieutenant Colonel to Lieutenant General. I served a total of 46 months in Iraq over three combat tours. In my last tour of duty in Iraq, from 2009 to January 2011, I was responsible for the training, equipping and development of all Iraqi security forces, while serving simultaneously as the Commander of Multi-National Security and Transition Command–Iraq and the Commander of the NATO Training Mission–Iraq. Most recently, I was the Director of the Joint Improvised Explosive Device Defeat Organization, responsible for leading the Defense Department’s actions to rapidly provide counter-IED capabilities in support of combatant commanders, military services and other federal agencies to enable the defeat of the IED as a weapon of strategic influence.

As a soldier and commander in Iraq I have witnessed Iran’s hegemonic ambitions and direct targeting of American troops. In the three years since my retirement from the Army, I have made more than 30 trips to the region, meeting with many senior government and business leaders. I have seen, first hand, the spreading domination of the Iranian regime from Tehran to the Mediterranean Sea. Just two weeks ago, I was part of a group of international senior retired military officials who traveled to Israel. We were there to review the situation on the ground, assess the threat of Hezbollah, and meet with national security leaders, including Prime Minister Netanyahu.

I am proud to be here today as a member of the Advisory Board of United Against Nuclear Iran (UANI), a not-for-profit, non-partisan, advocacy group that seeks to heighten awareness of the danger the Iranian regime poses to the international community. UANI’s private sanctions campaigns and state and federal legislative initiatives focus on ending the economic and financial support of the Iranian regime by corporations, individuals and other entities until Iran abandons its nuclear weapons program, support for terrorism and gross human rights violations.

On September 27, 2014, Ali Riza Zakani, a member of Iran’s parliament and a close confidante of Supreme Leader Ayatollah Khamenei, stated that Iran is at a phase of “Grand Jihad” and “Three Arab capitals (Beirut, Damascus, and Baghdad) have already fallen into Iran’s hands and belong to the Iranian Revolution.” That’s not to mention Yemen, where Iran continues to support the Houthis in their quest for control of the country.

In the short time I have today, I would like to focus on how Iran is directing its proxies in Lebanon and Iraq, taking full advantage of the world’s concern with ISIS and the civil war in Syria to successfully pursue its strategy of regional hegemony and carving what it hopes will be a permanent zone of control that surrounds Israel with hostile forces. The actions of Iran and its proxies in Iraq and Lebanon present the most imminent challenge to United States interests in the region.

### Iran in Lebanon

Iran's money helped create the terrorist organization Hezbollah in Lebanon in the early 1980s and today directly funds the group with an estimated \$800 million annually.

In a speech broadcast on June 25, 2016 Hezbollah leader Hassan Nasrallah said: "We are open about the fact that Hezbollah's budget, its income, its expenses, everything it eats and drinks, its weapons and rockets, come from the Islamic Republic of Iran. As long as Iran has money, we have money... Just as we receive the rockets that we use to threaten Israel, we are receiving our money. No law will prevent us from receiving it..."

Until September 11, 2001, Hezbollah was responsible for killing more Americans than any other terrorist organization. Among other deadly attacks, Hezbollah has been linked to the 1983 attack on U.S. Marine barracks in Lebanon; the 1992 suicide bombing at the Israeli embassy in Buenos Aires, Argentina; the 1994 suicide bombing of the Argentine Jewish Mutual Association in Buenos Aires; and the 2012 bombing of an Israeli tourist bus in Bulgaria. Hezbollah is also suspected of involvement in the February 2005 Beirut suicide bombing that killed 23 people, including former Lebanese Prime Minister Rafik Hariri.

Iran provides critical military support to Hezbollah in Lebanon—support which has only grown over time—in the form of armaments and training. In 2006, when hostilities last broke out between Hezbollah and Israel, Hezbollah had approximately 13,000 short and medium-range rockets which could directly threaten northern Israel. Since then, however, Hezbollah's weaponry, training and experience have increased as it defends the Assad regime in Syria. According to Israeli estimates, as of 2015, Hezbollah now has an expanded arsenal of over 100,000 rockets and missiles, including long-range systems which are capable of threatening Israeli cities and ports and paralyzing the economy. These 100,000 rockets and missiles are more precise, with greater lethality and range, greatly exacerbating this threat to Israel's population and critical infrastructure.

In a February speech, Hezbollah leader Hassan Nasrallah issued a threat to Israel's nuclear reactor at Dimona and to a large fertilizer plant.

"I urge the enemy [Israel] to shut its ammonia tank in Haifa and dismantle its Dimona nuclear reactor [in the Negev Desert]," Nasrallah said in a televised speech. "The enemy knows what will happen if our rockets strike this reactor," he added.

Complicating Hezbollah's status, the terror group has fully integrated itself into Lebanon's political, military and social institutions. Hezbollah holds 12 seats in the Lebanese Parliament and 17 of the 30 Ministers in the Lebanese Government are from Hezbollah or allied parties. Hezbollah orchestrated the political agreement that underpins the current government and was largely responsible for the current president, Michel Aoun, taking office.

We are also seeing the increasing influence of Hezbollah over the Lebanese Armed Forces and the institutionalization of Hezbollah into Lebanon's security apparatus. In addition to the very serious threat posed by its rockets and missiles, it is estimated that Hezbollah's tactical military

capability has grown to between 20,000 to 25,000 fighters and 2500 artillery and mortar systems. Hezbollah is a hybrid military power that is stronger than many conventional armies.

In operations in Syria to protect the Assad regime, Hezbollah has gained valuable operational experience and conventional abilities such as employing airpower, operating with armored forces and seizing and holding terrain. In Israel, it is universally accepted by the officials with whom I met that once the threat to the stability of the Assad regime is defeated in Syria, Hezbollah will redeploy to southern Lebanon and a “Third Lebanon War” between Israel and Hezbollah will be inevitable.

### Iraq

The good news in Iraq is that ISIS is being driven from Mosul. The bad news comes the day after Mosul, when Iraq could sink into endless sectarian strife, fueled by Iran’s support for brutal Shiite militias and the inability of Iraq’s government to control them. Collectively known as Popular Mobilization Units (PMU), these groups have deep ideological and financial ties to Iran and a long history of human rights abuses against Sunni and minority populations. Given their history of sectarian violence, these groups and their leaders will be an enduring challenge in any post-ISIS Iraq.

The Badr Organization is Iran’s oldest proxy in Iraq and even fought alongside Iranians during the 1980-1988 Iran-Iraq war. From 2004 to 2006, the group’s leader, Hadi al-Amiri, is accused of ordering attacks on up to 2,000 Sunni Iraqis. Since 2014, the group has also been documented carrying out summary executions of Sunnis and widespread burning and demolishing of homes. One Human Rights Watch employee in 2015 said that out of all the militias fighting ISIS, “we’ve documented the most abuses... definitely [by the] Badr Organization.”

Despite a long history of sectarian violence, Hadi al-Amiri—with deep ties to Iranian Quds Force commander Qasem Soleimani—has wielded tremendous influence in Iraq, having served a number of high level officials and in behind-the-scenes roles in the Iraqi government.

Kata’ib Hezbollah is a U.S.-sanctioned Iraqi terrorist organization formed in 2006. During the U.S. war in Iraq, Kata’ib Hezbollah earned a reputation for planting deadly roadside bombs and using improvised rocket-assisted mortars to attack U.S. and coalition forces. Its leader, Jamal Jaafar Ibrahim—also known by his alias Abu Mahdi al-Mohandes—is the alleged mastermind behind the U.S. and French embassy bombings in Kuwait in 1983 and the 1985 assassination attempt on Kuwait’s emir. After the battle to recapture Tikrit in 2015, Kata’ib Hezbollah was accused, alongside Badr and Asaib Ahl al-Haq, of carrying out summary executions of Sunnis and “indiscriminate attacks in civilian areas,” according to a report by Human Rights Watch.

Formed in 2006 during the U.S. war in Iraq, Asaib Ahl al-Haq (“League of the Righteous”) carried out more than 6,000 bombing and kidnapping attacks targeting U.S. soldiers. In recent years, monitoring groups have documented numerous sectarian and homophobic attacks carried out by AAH, including the massacre of dozens of Sunni men in Iraqi towns.

These and other Iranian proxies fighting in Iraq are fully loyal to the Iranian regime and its supreme leader, Ayatollah Ali Khamenei. While operating under the guise of “Popular

Mobilization Units” committed to defeating ISIS, these proxy Shiite militias are commanded by the Iranian Revolutionary Guard, have evolved into a permanent force in Iraq and will play a critical role in Iran’s strategy for regional control. The Iranian resourcing and control of the Shia militias in Iraq is repetition of a well-established strategy of arming, funding and training of similar groups. Following the Hezbollah model, these forces are part of Iran’s strategy to spread Iranian domination, extend Shia influence and exert dominant political control. As a result, they have grown to become, arguably, the most powerful military force in Iraq, and based on their true allegiance, these forces are ready to play any military role the Iranian leadership assigns to them.

In a post-ISIS Iraq, these Iranian-proxy forces represent the greatest threat to stability and security in Iraq. The sectarian actions of the Iranian-backed Shia militias are establishing the de facto partition of Iraq along sectarian lines. The brutal treatment of Sunnis and other minorities by these militias has served to deepen sectarian divisions and increased Sunni alienation from the Baghdad government, thereby damaging prospects for post-ISIS political reconciliation in Iraq. Kurdish Peshmerga and these Shia militias have already clashed, and Kurdish leaders have said that, following the defeat of ISIS, their “next fight” will be with the Iranian-controlled militias. These fully resourced proxy forces will continue their well-documented, brutal sectarian actions and will serve in the vanguard of the “Hezbollahization” of Iraq.

Whether it is propping up the Assad regime or directing Shiite militias in Iraq, the point man for Tehran’s ambitions remains Major General Qasem Soleimani, the commander of Iran’s Quds Force, the external wing of the Islamic Revolutionary Guard Corps.

As head of the Quds Force, Soleimani reports directly to the Iranian Supreme Leader. The U.S. government, the United Nations and the European Union have all sanction-designated Soleimani for involvement in either Iran’s nuclear program or the Syrian civil war, yet he traveled at least three times to Russia and other places with impunity. U.S. Central Command documents declassified in 2015 reveal that Iraqi Shiite militants under Soleimani’s command killed more than 500 U.S. service members in Iraq between 2005 and 2011 and that Soleimani also reportedly influenced then-Iraqi Prime Minister Nouri al-Maliki to insist on the 2011 U.S. withdrawal.

Soleimani reportedly oversees approximately 100,000 Iraqi Shiite fighters and six Iranian training camps, according to August 2016 U.S. military estimates. In Syria, Soleimani directs Iran’s military support for Syrian Dictator Bashar al-Assad. One Free Syrian Army commander told the *Wall Street Journal* in 2013 that Soleimani was “running Syria. [President] Bashar [al-Assad] is just his mayor.”

#### **What to do?**

In Lebanon, the United States must work with its European allies in cutting off the financial pipeline that makes Hezbollah such a powerful actor. While the U.S. State Department has designated Hezbollah as a foreign terrorist entity, the European Union has not done so. It has only sanctioned its military wing, which is indistinguishable from its political operation. Through the years, Europe has been a significant destination for Hezbollah fundraising. The recent arrest of Kassim Tajideen, a dual Lebanese-Belgian citizen, who was charged with

conspiracy, fraud, and money laundering, is a recent example. Also, in February, Hezbollah members were detained after funneling millions of dollars from the sale of cocaine in the United States and Europe to purchase arms in Syria. Europe needs to do better, and following the lead of the United States would be a good start.

Secondly, the United States must work with its Lebanese counterparts to better ensure against the misuse of U.S.-supplied arms. Lebanon was the fifth largest recipient of American military assistance in 2016. Nevertheless, reports surfaced last year of Hezbollah parading American-made M113 armored personnel carriers in Syria. And more broadly, as recently as February 2017, Hezbollah has claimed the Lebanese army supports its actions against Israel.

There are allies to be found in the Lebanese political establishment to prevent Hezbollah from profiting off of U.S. assistance—just last week, as Arab leaders gathered for the 28<sup>th</sup> Arab League Summit in Amman, five former Lebanese presidents and prime ministers sent a letter to King Abdullah of Jordan requesting that “the Arabs show solidarity with Lebanon [in] “the rejection of illegal arms [i.e. Hizbullah arms].” With the current makeup of the Lebanese government—particularly with Hezbollah-supported Michel Aoun as president—Congress and the Trump administration should undertake a full review of the relationship between the Lebanese army and Hezbollah, and to guarantee that the army is sufficiently empowered and independent from any malign influence.

In Iraq, much of the attention over the last few months has been on clearing ISIS from Mosul. While there has been much tactical progress, there has not been the requisite focus on what happens the day after ISIS is pushed out of Iraq’s second-largest city. The U.S. must remain engaged in Iraq after the defeat of ISIS and we must not repeat the strategic error of withdrawing as we did in 2011. Many leaders in Iraq have voiced their strong desire for continued American engagement to assist the legitimate leaders and the Government of Iraq to protect Iraq’s sovereignty. We must work with the Government of Iraq to improve representative governance and support the Iraq Government’s efforts to check the power of Shiite militias while empowering Sunnis, Kurds and others within Iraq’s federal structure.

### **Conclusion**

More than a year after signing a deal to postpone its ability to acquire nuclear weapons, Iran has moved aggressively against its neighbors, America, and its allies. As its actions in Syria, Iraq, Bahrain, Lebanon and Yemen clearly demonstrate, Iran’s desire is to dominate, rather than be a positive force in the Middle East. The most aggressive and most effectively subversive forces in the region remain those controlled and resourced by the Islamic Republic of Iran.

Unfortunately, with the lifting of sanctions that accompanies the signing of the Iran nuclear deal, Tehran’s resourcing of its proxy forces has continued unrestricted. Iran is the greatest threat to stability in the Middle East and the greatest threat to American interests in the Middle East. And, as we have seen in its aggressive and subversive actions across the Middle East, Iran has, and will continue to pursue its strategic goals at the expense of regional stability, our interests and the security of our allies.



Mr. DESANTIS. Thank you.  
Mr. Albright, you're up for 5 minutes.

#### STATEMENT OF DAVID ALBRIGHT

Mr. ALBRIGHT. Thank you, Mr. Chairman, Ranking Member, and other members of the committee. Thank you for inviting me to testify today.

The Iran deal needs to be implemented more effectively and its nuclear conditions strengthened and better verified. At its core, the Iran deal is a bet that by the time the nuclear limitations end, Iran, the region, or both will have changed so much that Iran will no longer seek nuclear weapons. But despite immense sanctions relief, Iran has been increasing its conventional military power in efforts at establishing regional hegemony. The bet does not appear winnable under the current circumstances, and Iran's current trajectory is a threat to the United States and its allies in the region.

Armed with substantial funds and a growing economy, Iran is challenging the U.S. in the region and appears as committed to maintaining the capability to pursue a nuclear weapons path as before, just a longer path. A solution needs to be thought through and a remediation path developed that will strengthen and fix the JCPOA, but as this longer term process develops, the deal needs to be better enforced and verified. A priority is knowing how Iran has been violating the deal and associated U.N. Security Council Resolution 2231. Also important is understanding how Iran exploits loopholes in the deal and pushes the envelope of tolerated behavior.

In my written testimony, I conclude that Iran is not in full compliance with the Iran nuclear deal and is flirting with violations in several areas. It is fair to conclude that Iran is not in compliance with the arms and ballistic missile provisions of Resolution 2231. However, it is difficult to argue that Iran has so violated the Iran deal, nuclear deal or the Resolution 2231's provisions as to justify snapping back sanctions.

Based on available information, certain patterns of Iranian non-compliance are clear. Iran often conducts small scale cheating on the nuclear deal's limitations, such as we were able to identify at least two cases involving centrifuge research and development. It misinterprets clauses to justify actions that should be viewed as violations. Iran policy to deny IA inspectors access to military sites should be viewed as fundamentally inconsistent with the nuclear deal and, in fact, renders its weaponization development ban, called section T, unverifiable.

A damaging pattern developed during the Obama administration where Iran could create a crisis over a potential violation, the United States and allies would find—would have to find a, quote, solution, and Iran would cynically demand compensation as part of that solution. A far more effective approach would have simply been the United States insisting that Iran solve its own compliance issues or simply be in noncompliance with the JCPOA.

The deal's implementation under the Obama administration was too permissive and tolerant of Iran's violations of the deal, its exploitation of loopholes, and its avoidance of critical verification requirements. The result was that Iran was able to push the enve-

lope of allowed behavior in directions harmful to the U.S. national security. Moreover, U.S. actions muddled the waters of determining compliance with the JCPOA.

Until today, the Trump administration has continued to implement the deal, and I hope that policy continues. However, that does not mean that the Trump administration should continue the previous administration's overly permissive way of implementing the deal and its avoidance of dealing with the deal's shortcomings. I certainly expect the Trump administration to chart a new path forward that better protects U.S. interests in national and Middle East regional security.

A key part of a new approach is looking again at compliance. As the leading negotiator of the JCPOA, the United States has a special responsibility to thoroughly evaluate Iran's compliance with the nuclear deal and Resolution 2231. The Trump administration can look freshly at the issue and provide a more objective review than done previously.

If the nuclear deal is to succeed, let alone survive, the Trump administration will need to take aggressive actions to adequately enforce the nuclear deal and Resolution 2231 toward a policy of stricter enforcement. The administration should announce that the United States will strictly interpret these deals, it will demonstrate zero tolerance for Iranian violations, and will respond both within and outside the context of these agreements. Where violations are significant, the United States should start the process of snapping back U.S. and U.N. sanctions. Thank you.

[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**

**Assessing the Iran Deal: Examining Iranian Non-Compliance with the Joint  
Comprehensive Plan of Action and United Nations Security Council  
Resolution 2231**

**April 5, 2017**

The Joint Comprehensive Plan of Action (JCPOA) needs to be implemented more effectively and its nuclear conditions strengthened and better verified. A critical part of that effort is to determine the type and extent of Iranian non-compliance with provisions in the JCPOA and associated United Nations Security Council (UNSC) resolution 2231.

The deal's implementation under the Obama administration was too permissive and tolerant of Iran's violations of the deal, its exploitation of loopholes, and its avoidance of critical verification requirements. The result was that Iran was able to push the envelope of allowed behavior in directions harmful to U.S. national security. Too often, the Obama administration made concessions, tolerated cheating, or avoided strengthening steps out of a misplaced fear that Iran would walk away from the deal or that somehow President Rouhani's presidency needed protecting. This led to absurd situations where U.S. officials badgered European JCPOA country officials to support initiatives clearly favoring Iran that were contrary to their own views and interests. One must ask based on the JCPOA's implementation so far, why have the deal in the first place if verification steps or strengthening measures have been avoided for fear of the JCPOA failing?

Until today, the Trump administration has continued to implement the deal. I hope that policy continues. However, that does not mean that the Trump administration should continue the Obama administration's overly permissive way of implementing the deal and its avoidance of dealing with the JCPOA's shortcomings. I certainly expect the Trump administration to chart a new path forward that better protects U.S. interests and national and Middle East regional security.

There is an urgency to focus on fixing deficiencies in the Iran deal. At its core, the Iran deal is a bet that by the time the nuclear limitations end, Iran, the region, or both will have changed so much that Iran will no longer seek nuclear weapons. But despite immense sanctions relief, Iran has been increasing its conventional military power and efforts at establishing regional hegemony, including interfering in the affairs of and threatening its neighbors. The bet does not appear to be winnable under the current circumstances, and Iran's current trajectory is a threat to the United States and its allies in the region.

Those who argued that a key benefit of the nuclear deal would be a moderation of Iran's behavior in the region have been sadly disappointed. Armed with substantial funds and a growing economy, Iran is challenging the United States in the region and appears as committed to maintaining the capability to pursue a nuclear weapons path as before, just a longer path.

When the major nuclear limitations end at the end of year 15 of the deal, Iran has stated it will have industrial-size enrichment facilities. With this capability, it will be poised to rapidly break out to make weapon-grade uranium, first within a few months and in successive years, breakout times will decrease toward a few days. Iran will have developed advanced centrifuges that would enable a quick sneak out to nuclear weapons. It is seeking to master long-range, nuclear-capable ballistic missiles including possibly intercontinental nuclear-tipped ballistic missiles. So, in a sense, the JCPOA potentially delays and creates an even worse reckoning. This Iranian nuclear future is unacceptable. A solution needs to be thought through, and a remediation path developed that will strengthen and fix the deal.

But as this longer-term process develops, the deal needs to be better enforced and verified. A priority is knowing how Iran has been violating the deal and associated United Nations Security Council resolution 2231. Also important is understanding how Iran exploits loopholes in the deal and pushes the envelope of tolerated behavior.

### Identifying Violations

At my Institute, we devote resources to assessing Iran's compliance with the JCPOA. However, determining Iranian violations and loopholes has been complicated by the excessive secrecy surrounding the implementation of the deal and its associated parallel arrangements. In addition, International Atomic Energy Agency (IAEA) reporting on the situation in Iran has dramatically decreased in quantity and quality. Much of this secrecy is unnecessary and counterproductive, and some of the secrecy of the Obama administration appeared more aimed at hiding potentially problematic implementation issues as part of a plan to fend off critics of the deal. Despite the roadblocks, a great amount of information has been learned, as would be expected with an international deal involving so many countries and individuals.

I should also note and commend the Joint Commission's move last December to release publicly its major decisions.<sup>1</sup> It undoubtedly felt increasing pressure to do so as a result of the election of Donald Trump who has supported more openness, pressure from groups like mine, and finally the important role played by Congress in demanding more transparency. However, much of the key information remains secret. Moreover, the IAEA continues to underreport the actual situation on the ground, which makes it harder for governments and publics to evaluate the true situation with respect to Iran's compliance with the JCPOA.

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<sup>1</sup> *Communication Dated 21 December 2016 to the Agency Sent on Behalf of High Representative Mogherini in Her Capacity as Coordinator of the Joint Commission Established Under the Joint Comprehensive Plan of Action, INFCIRC/907 and Revisions and Addendums*, December 21, 2016 and January 12, 2017, <https://www.iaea.org/publications/documents/infcircs/communication-dated-21-december-2016-to-the-agency-sent-on-behalf-of-high-representative-mogherini-in-her-capacity-as-coordinator-of-the-joint-commission-established-under-the-joint-comprehensive-plan-of-action>

Based on available information, certain patterns of Iranian non-compliance are clear. Iran often conducts small-scale cheating on the JCPOA's nuclear limitations. It misinterprets clauses to justify actions that should more properly be viewed as violations. A damaging pattern that developed during the Obama administration is that Iran would create a crisis over a potential violation, the United States and allies would have to find a "solution," and Iran would cynically demand compensation as part of that solution. Throughout this process, Iran has demanded an unjustified amount of secrecy from the P5+1 and the IAEA, hiding many of its activities from governments and the public and thereby more easily accomplishing its deceptive and brazen goals.

#### **Violations of UN Security Council Resolution Involving Ballistic Missiles and Conventional Arms**

Iran continues to test ballistic missiles that are inconsistent with or in violation of UN Security Council resolution 2231. Iran's ongoing development of missiles capable of carrying nuclear weapons is a direct threat to the nuclear deal and cannot be treated as somehow unrelated to the JCPOA. A nuclear weapon is properly defined as a nuclear warhead and a delivery system. This definition was used by South Africa for its nuclear weapons program back in the 1980s, when that program was active and engaged in intense secrecy and obfuscation to deceive the world.<sup>2</sup> When the program became more overt with the onset of missile flight testing, it too denied that its missiles would ever carry nuclear weapons. But it admitted the interconnectivity of the two programs only after it verifiably abandoned its nuclear weapons program in the early 1990s. Iran's ballistic missile program should be viewed as the other half of a nuclear weapon whose development continues unabated today, and it should be treated accordingly. At the least, Iran's continued testing of ballistic missiles should be viewed as a violation of UNSC 2231 and inconsistent with the fundamental purpose of the JCPOA.

In addition, Iran is not in compliance with UNSC resolution 2231's prohibition on conventional weapons sales and transfers and against making procurements for its military and missile programs without UN Security Council authorization (see references in footnote).<sup>3</sup>

#### **Iran/North Korean Cooperation**

The United States has also sanctioned Iranian and North Korean entities for cooperating on ballistic missiles and conventional weapons, including coordinating shipments of commodities

<sup>2</sup> David Albright with Andrea Stricker, *Revisiting South Africa's Nuclear Weapons Program* (Washington, DC: Institute for Science and International Security, 2016), <http://isis-online.org/uploads/isis-reports/documents/RevisitingSouthAfricasNuclearWeaponsProgram.pdf>

<sup>3</sup> "Iran Tests Ballistic Missile in Defiance of UN Resolution, U.S. Officials Say," FoxNews.com, January 30, 2017, <http://www.foxnews.com/world/2017/01/30/iran-conducts-ballistic-missile-test-us-officials-say.html>; U.S. Department of Treasury, "Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Iran's Islamic Revolutionary Guards Corps – Qods Force," February 3, 2017, <https://www.treasury.gov/press-center/press-releases/Pages/as0004.aspx>; *Second six-month report of the Facilitator on the implementation of Security Council Resolution 2231 (2015)*, S/2017/49, January 18, 2017.

and traveling to share technology and development efforts.<sup>4</sup> There are also unverified concerns that they may be undertaking nuclear cooperation or transferring nuclear technology, equipment, or materials to each other. It goes without saying that Iran's missile and conventional military cooperation with North Korea also violates UNSC resolutions on North Korea.<sup>5</sup> Any nuclear cooperation that is uncovered would be a breach of the JCPOA.

### Heavy Water

Iran has twice had more than its heavy water limit of 130 metric tonnes inside Iran, as has been noted by the IAEA in its quarterly reports. As it was approaching its second violation, the IAEA warned Iran that it would soon reach the cap. Instead of stopping heavy water production or blending down some heavy water into normal water, Iran knowingly violated the 130 metric tonnes cap. More recently, it has argued that the cap is not really binding. In early March 2017, Iran stated: "Nothing in the JCPOA requires Iran to **ship out the excess Heavy Water** which is made available to the international market but has not yet found an actual buyer to which the heavy water needs to be delivered (bolding in original)."<sup>6</sup> In essence Iran is fallaciously reinterpreting the JCPOA so as to eliminate the 130 tonnes cap, as long as it states that it is seeking an international buyer. As Iran continues to make heavy water, it is expected to once again have more than 130 metric tonnes of heavy water inside Iran by May or June. The Trump administration should look at Iran's recent statement as both a compliance issue and an attempt to extort more heavy water sales. It should make clear at the Joint Commission that Iran is simply wrong to continue this practice. Any excess heavy water over 130 tonnes should be blended down into normal water. Heavy water is not radioactive and it can be simply thrown into a river.

These Iranian actions and statements serve to highlight a far deeper problem in the way the heavy water cap was implemented under the Obama administration. Rightfully, the cap should apply to all the heavy water Iran owns and controls, whether in or outside Iran. In secret, the Joint Commission acted so as to exempt Iranian heavy water held overseas. The problem goes back to before Implementation Day, when the Joint Commission undertook several moves that served to conciliate and redress potential Iranian violations of the JCPOA which undermined the cap and provided Iran with financial incentives and even uranium it did not deserve. As referenced above, on January 14, 2016, shortly before Implementation Day, the Joint Commission allowed Iran to send out heavy water in excess of the 130 metric tonnes cap, with the expectation that it would be sold to a buyer and delivered expeditiously, rather than blending down the heavy water to normal water as a sounder interpretation of the deal would require. Under this decision, Iran apparently exported about 50 metric tonnes of heavy water to Oman for consignment while awaiting a buyer, which turned out to be the United States and Russia, two countries that did not need the heavy water and had little reason to subsidize and legitimize Iran's heavy water production. The only purpose would have been a swiftly orchestrated effort

<sup>4</sup> U.S. Department of Treasury, "Treasury Sanctions those Involved in Ballistic Missile Procurement for Iran," January 17, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/rl0322.aspx>

<sup>5</sup> United Nations Security Council, *Resolution 1718 (2006)*, S/RES/1718 (2006), October 14, 2006.

<sup>6</sup> *Communication dated 3 March 2017 received from the Permanent Mission of the Islamic Republic of Iran to the Agency regarding the report of the Director General on verification and monitoring in Iran*, INFCIRC/915, March 16, 2017. <https://www.iaea.org/sites/default/files/publications/documents/infcircs/2017/infcirc915.pdf>

to help Iran avoid being in violation of the JCPOA on Implementation Day, or under a more cynical reading, part of a payoff to Iran to stay in compliance.

In the months lead-up to Implementation Day, the United States should have instead asked Iran whether it in fact had an international buyer for the excess heavy water that could take possession prior to Implementation Day. If not, the United States would have been far wiser to simply tell Iran to address the problem. Iran could have decided to throw the excess into a nearby river or be in violation of the deal on Implementation Day. Instead, the United States sought to solve Iran's compliance problem and acquiesced to what *de facto* amounted to paying Iran to do so. Russia repeated the mistake but in return for a shipment of heavy water it received, Russia provided Iran with 149 metric tonnes of natural uranium.<sup>7</sup>

On two separate occasions after this initial export of 50 tonnes, Iran subsequently exported about 31 metric tonnes of heavy water to Oman. No Joint Commission decisions have yet been made available authorizing these subsequent shipments. But Iran felt comfortable exporting the heavy water, as if the cap applied only to what it held in Iran rather than to the more accurate and reasonable standard of what it owns and controls in total.<sup>8</sup>

To fix this compliance issue, the Trump administration should make clear that the 130 metric tonnes cap applies to all the heavy water Iran owns and controls, whether in or outside Iran. But it needs to take further action about any Iranian heavy water stored in Oman.

A literal reading of the JCPOA would conclude that the shipments of Iranian heavy water from Oman to the United States and Russia should have been subject to approval by the Procurement Working Group. Oman should have submitted a proposal to the Procurement Working Group (PWG) for approval. It did not do so.

The PWG is a Joint Commission body set up at the United Nations to administer and approve or not approve proposals by countries seeking to participate in or permit certain transfers of nuclear or nuclear dual-use goods and technology, or engage in nuclear or nuclear related transactions *for the benefit of Iran* (italics added). Heavy water is a nuclear good on Part I of the Nuclear Suppliers Group (NSG) list, and the onward transfer of Iranian heavy water by Oman clearly benefits Iran, a key condition listed in the relevant section of the nuclear deal discussing the Joint Commission approvals of exports and transfers of goods (JCPOA paragraph 6.1 of annex IV, see footnote below),<sup>9</sup> even though the heavy water originated in Iran. As a result, under the nuclear

<sup>7</sup> "AP Exclusive: Diplomats: Iran to Get Natural Uranium Batch," The Associated Press. January 9, 2017. <http://bigstory.ap.org/article/db5a8d6cad764c208322939cd84a0d49> It turned out that there was a second shipment that brought the total to 149 metric tonnes.

<sup>8</sup> More information about the heavy water exports can be found in, *Heavy Water Loophole in the Iran Deal*, by David Albright and Andrea Stricker, Institute for Science and International Security Report, December 21, 2016. <http://isis-online.org/isis-reports/detail/heavy-water-loophole-in-the-iran-deal>

<sup>9</sup> Under 6.1. of annex IV of the JCPOA:

*With the purpose of establishing a procurement channel, the Joint Commission will, except as otherwise provided by the United Nations Security Council resolution endorsing this JCPOA, review and decide on proposals by states seeking to engage in: 6.1.1. the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag vessels or aircraft to, or for the use in or benefit of,*

deal, Iranian heavy water transfers from Oman to a foreign customer should require a proposal from the government of Oman subject to PWG review. Of course, the Obama administration would not have blocked such a proposal, but this expectation should not excuse the lack of a proposal or use of this mechanism in the future. The Trump administration should make clear that Oman's lack of an official proposal would violate the Iran deal's provisions. Moreover, the new administration should move to end the Oman heavy water loophole in its entirety. The cap should be viewed as a hard cap where heavy water in excess of 130 metric tonnes must be blended down. Although Iran can sell its heavy water internationally, any such sale should not lead to Iran owning or controlling more than 130 metric tonnes of heavy water, whether in Iran or abroad.

It should also be noted that the Trump administration should make no further U.S. purchases of Iran's heavy water. My Institute has written in a separate report that the purchases serve to undermine the creation of a stable North American supply chain that is under development and legitimize Iran as a nuclear supplier before it has earned that distinction.

#### **Centrifuge Research and Development (R&D) Issues**

One of the more pressing compliance issues involves Iran's centrifuge R&D program. Although the publicly known violations are not that significant, they do illustrate Iran's frequent low level cheating on the JCPOA.

There are allegations that Iran is exploiting allowed "quality assurance" criteria at Kalaye Electric for centrifuge rotor assembly to conduct additional mechanical testing of centrifuges beyond that allowed under the JCPOA.

Iran is also operating IR-6 centrifuges in excess of the limit of "roughly 10" allowed, choosing to interpret this condition as allowing 15 to operate. A limit of 10 plus or minus one may make sense but Iran's interpretation is not supported by the JCPOA.

#### **Iran's Denial of Access to the IAEA**

One of the most serious compliance issues concerns Iran's on-going refusal to allow the IAEA to access military sites and interview personnel. The access was sought before the JCPOA to settle issues associated with the Iran's past nuclear weapons efforts. In one key case, the IAEA wanted to visit Sharif University, a site linked to past undeclared nuclear activities. Evidently, it was not allowed to do so; it stated that it satisfactorily obtained answers to its questions from Iran. One has to ask if this outcome is indeed satisfactory and not the result of backing down from creating a compliance crisis over Iranian intransigence regarding access. Access to military sites is needed after Implementation Day as part of reaching a broader conclusion under the Additional

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*Iran, and whether or not originating in their territories, of all items, materials, equipment, goods and technology set out in INFCIRC/254/Rev.12/Part 1.*

Since heavy water in amounts greater than 0.2 metric tons is subject to Part 1 of the NSG and Iran benefits from the retransfer of heavy water from Oman to a customer, this provision appears to require Oman to submit a proposal to the PWG for each heavy water shipment from its territory to an overseas customer. It has not done so.



Protocol and verifying nuclear weapons development bans in the JCPOA (section T of Annex 1). Because of fears that such access requests could torpedo the JCPOA, the IAEA and the Obama administration have resisted pushing Iran to allow access to military sites. Therefore, the JCPOA remains largely unverified by the IAEA on the nuclear weapons development side.

Under the comprehensive safeguards agreement, the IAEA has the right to visit any site in Iran, whether military or civilian in furtherance of its safeguards obligations to ensure that the Iranian nuclear program is peaceful. Iran has challenged this right and frequently denied inspectors access to sites and individuals.

Section T of Annex 1 of the JCPOA contains bans on Iranian nuclear weaponization activities, namely activities which could contribute to the design and development of a nuclear explosive device.<sup>10</sup> The IAEA has the authority under UNSC resolution 2231 to request access to sites associated with these section T bans. The resolution “requests the Director General of the IAEA to undertake the necessary verification and monitoring of Iran’s nuclear-related commitments for the full duration of those commitments under the JCPOA.” In addition, the resolution states: “The International Atomic Energy Agency (IAEA) will be requested to monitor and verify the voluntary nuclear-related measures as detailed in this JCPOA.” These section T bans remain unverified in the absence of IAEA visits to military and other sites.

In addition, fear of derailing the JCPOA negotiations or the agreement itself led to a poorly designed arrangement between Iran and the IAEA on investigating and drawing conclusions about alleged nuclear weapons-related high explosive work at a site at the Parchin military complex. Not surprisingly, this weak arrangement in which the IAEA was limited in its visits and sample taking at the site, failed to resolve the issue. Moreover, it put the IAEA in a weaker position to access the Parchin site in the future to resolve this issue, which includes making sense out of uranium particles detected by environmental sampling taken the one time the IAEA visited the site. The presence of these particles combined with many previous, suspicious site alterations by Iran are dramatic evidence that Iran likely conducted secret nuclear weapons activities at Parchin, despite Iran’s on-going denials. However, the IAEA has not been able to make that conclusion. Access also makes sense as part of the IAEA reaching a broader conclusion or verifying nuclear weapons development bans. It should be able to further investigate the Parchin case, deploying its special verification expertise. It should also be

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<sup>10</sup> Section T, Annex 1, JCPOA:

*ACTIVITIES WHICH COULD CONTRIBUTE TO THE DESIGN AND DEVELOPMENT OF A NUCLEAR EXPLOSIVE DEVICE*

*82. Iran will not engage in the following activities which could contribute to the development of a nuclear explosive device:*

*82.1. Designing, developing, acquiring, or using computer models to simulate nuclear explosive devices.*

*82.2. Designing, developing, fabricating, acquiring, or using multi-point explosive detonation systems suitable for a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.3. Designing, developing, fabricating, acquiring, or using explosive diagnostic systems (streak cameras, framing cameras and flash x-ray cameras) suitable for the development of a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.4. Designing, developing, fabricating, acquiring, or using explosively driven neutron sources or specialized materials for explosively driven neutron sources.*

facilitated in accessing key individuals and additional sites, including those near the Parchin high explosive bunker and relevant manufacturing sites. It may well find other important information.

**Inhibition of Investigation into Iran's Past Military Nuclear Program.** As part of the JCPOA, the Obama administration and its counterparts in the P5+1 in effect gave away via an unrealistic deadline, the IAEA's ability to resolve its concerns about Iran's past nuclear weapons work, referred to in shorthand as the possible military dimensions (or PMD) of its nuclear programs. This is reflected by the IAEA's sparse report and investigation into Iran's past nuclear weapons program issued in December 2015. It is underlined by IAEA's inability to access Iranian military sites and individuals. It also involved Iranian refusal to provide answers to IAEA questions; part of the refusal of access was reportedly to prevent the risk of Iranians making contradictory statements that could serve to uncover past undeclared activities and create a lengthy investigation that would extend well past the Obama administration's plan to implement the agreement in January 2016. To this day, the IAEA has not been able to state that Iran has addressed its concerns and questions about past nuclear weapons activities or to determine the exact status of what Iran achieved and may have hidden away.

The Trump administration should insist that the IAEA revisit the issue of the past military nuclear program through its effort to reach the broader conclusion under the Additional Protocol. This is imperative to ensuring Iran's past military nuclear program has truly ended, a key aspect of determining that Iran's nuclear program is truly peaceful.

These denials of access would not be tolerated by the IAEA or international community in other nonnuclear weapon states with comprehensive safeguards agreements. Denial of access would be rightly called a major violation. The Obama administration decided to ignore Iran's actual and potential obstacles to the IAEA's right to visit military sites. However, the Trump administration should no longer ignore Iran's intransigence on this critical issue.

### **Stricter Interpretations Needed for an Acceptable Deal**

The implementation of the JCPOA has highlighted a number of loopholes in the deal.

**Natural Uranium Imports.** The Procurement Working Group recently allowed Iran to acquire 149 metric tonnes of natural uranium in payment for Iranian heavy water exported to Russia instead of cash. The receipt of this uranium, which contributes to building Iran's nuclear capability, is an added benefit Iran did not deserve. Iran's nuclear chief proclaimed that this decision would allow Iran to have 60 percent more stockpiled uranium than it did prior to the JCPOA. Ali Akbar Salehi, the head of the Atomic Energy Organization of Iran, was quoted by the semi-official Fars News Agency stating that Iran would receive a final batch of 149 metric tonnes of natural uranium, in addition to 210 metric tonnes already delivered since early 2016. The 149 metric tonnes of uranium were received instead of a cash payment for part of its cache of heavy water in Oman, heavy water that should have instead been blended down into normal water, if the deal had been seriously enforced. Interestingly, the caching of heavy water in Oman and the decision to approve sending natural uranium to Iran were considered secret by the Joint Commission and the Obama administration. These 149 metric tonnes, if enriched to weapon-grade uranium, would be enough for over 15 nuclear weapons.

Iran also sought to import 950 metric tonnes of natural uranium from Kazakhstan in an effort that was blocked by Britain. This sale was being negotiated in secret late last fall and in the early winter. According to an official of one government of the P5+1, this uranium was being offered as part of Iran accepting an arrangement that would blend down much if not all of the low enriched uranium held-up in its Enriched UO<sub>2</sub> Powder Plant (EUPP). Iran wanted the pre-approval of the Joint Commission for this large import of natural uranium and subsequent conversion of about a third of it into uranium hexafluoride. However, Britain blocked the effort during the last months against the wishes of the Obama administration. Iran subsequently decided to make this case public, including identifying Britain as obstacle of the export to Iran. Iran's motivation for doing so is unclear, but it likely has not given up trying to obtain the uranium.

The Trump administration should thank Britain for its decision and further block any further Iranian efforts to stockpile natural uranium. Not only does Iran not need this uranium, but its export to Iran would substantially benefit Iran's nuclear program and help legitimize a large nuclear program that is inimical to U.S. goals in the region. Moreover, once the JCPOA ends, a program that was running low on uranium to run enrichment efforts would be well poised to continue and expand them.

#### **Suspicious Nuclear Procurement Efforts**

The Atomic Energy Organization of Iran has sought sensitive nuclear-related materials and facilities beyond what it needs or should get. In at least two cases, the requests could have been tests of the JCPOA's nuclear and nuclear-related goods procurement channel and a supplier country's ability to police the channel. Under the deal, Iran is viewed as being able to ask for whatever it wants as far as nuclear or nuclear-related goods from overseas and does not have to report the request to the Joint Commission. Suppliers must seek permission for sales from their governments, which then send a proposal to the Procurement Working Group, which is the final arbiter of the export. Although in the two cases referenced, a government detected and made clear its intention to deny the suppliers both exports, Iran could repeat the pattern in other countries, testing other countries' systems of controls and their processes of submitting requests to the PWG. In this way, this loophole lays the basis for Iran to find less scrupulous suppliers and countries that will eventually make unauthorized sales. Armed with this knowledge, Iran would be far better positioned to find those able and willing to assist secret Iranian illicit procurements of controlled dual-use goods for its nuclear, missile, or other military programs. If it is caught making these requests, it can claim it is not violating the deal. If it receives any of the controlled goods, it may have violated the JCPOA and its PWG's rules. However, there is no mechanism to demand Iran return ill-gotten goods. Iran can also claim it made the import by mistake or insist that the goods are for a civilian, non-nuclear program and should be treated as an insignificant or nonexistent violation.

The United States should recognize this Iranian practice of seeking goods as inconsistent with the JCPOA and likely intended as a scheme to aid in the violation of the JCPOA and UNSC resolution 2231. It should insist that Iran report any further requests for nuclear or nuclear-related goods to the Joint Commission and Procurement Working Group.

### Cap on Low Enriched Uranium (LEU)

Iran is limited to 300 kilograms (kg) of low enriched uranium hexafluoride (LEU with less than 3.67 percent uranium 235). Iran has sought and received exemptions to this cap in the form of enriched uranium in low level waste and likely in EUPP LEU holdup that is not blended down.

Iran would like additional exemptions to this cap. In particular, it would like to undertake domestic research, development, and testing of enriched uranium fuel for nuclear power reactors. This effort could involve hundreds, if not metric tonnes, of LEU that would be produced in the Natanz enrichment plant and exempted from the cap. The JCPOA controls this activity under section J of Annex 1 of the JCPOA, and this section should be interpreted strictly to prevent Iran from exempting LEU for any domestic production of fuel for nuclear power reactors.<sup>11</sup> In practical terms, Iran could not produce LEU fuel for power reactors that would meet a reasonable interpretation of section J. With that recognition, further exemptions to the 300 kilograms enriched uranium cap should be deferred indefinitely, except in the case of LEU fuel for Iran's modified Arak reactor.

### Naval Reactors and Extra Enrichment Loopholes

Iran is seeking to exploit a loophole in reactor restrictions involving naval propulsion reactors. The United States should make clear that it interprets the JCPOA as banning the research and development of naval propulsion reactors, including land prototypes.

Iran has also sought to avoid the 300 kg cap on LEU by enriching depleted uranium to natural uranium. Because this activity is enrichment, the product (albeit natural uranium) should be considered part of the 300 kilogram LEU cap.

### Export Controls

According to the JCPOA, "Iran *intends* to apply nuclear export policies and practices in line with the internationally established standards for the export of nuclear material, equipment and technology (emphasis added)."<sup>12</sup> Iran has not committed to do so, and Tehran could interpret this condition far differently than the United States.

<sup>11</sup> According to section J, Annex 1, JCPOA:

*Enriched uranium in fabricated fuel assemblies and its intermediate products manufactured in Iran and certified to meet international standards, including those for the modernised Arak research reactor, will not count against the 300 kg UF<sub>6</sub> stockpile limit provided the Technical Working Group of the Joint Commission approves that such fuel assemblies and their intermediate products cannot be readily reconverted into UF<sub>6</sub>. This could for instance be achieved through impurities (e.g. burnable poisons or otherwise) contained in fuels or through the fuel being in a chemical form such that direct conversion back to UF<sub>6</sub> would be technically difficult without dissolution and purification. The objective technical criteria will guide the approval process of the Technical Working Group.*

<sup>12</sup> JCPOA, Annex 1, par. 73: "Iran intends to apply nuclear export policies and practices in line with the internationally established standards for the export of nuclear material, equipment and technology. For 15 years, Iran will only engage, including through export of any enrichment or enrichment related equipment and technology, with

As part of creating a strategic trade control regime in Iran, the United States should also interpret the JCPOA as stating that Iran will commit not to conduct illicit commodity trafficking for government controlled or owned military, missile, nuclear, or other industries and programs, and it will agree to enforce this ban on private Iranian companies. Conducting illicit commodity trafficking is not in line with internationally established standards for strategic trade control systems.

The United States should request regular UN reporting on Iran's progress in establishing strategic export controls that meet international standards. The United States and its counterparts in the P5+1 should cooperate with the United Nations Secretariat to ensure that its reporting on Iran's efforts to conduct illicit commodity trafficking for its military, nuclear, missile, or other industries is more fulsome. The Facilitator of resolution 2231 stated in its last report that it "received no information regarding alleged actions inconsistent with resolution 2231 (2015)," yet the Facilitator went on to identify potential violations on its own. It is worth noting that the report does not cover Iranian missile launches.<sup>13</sup>

### **Stricter Enforcement against Past and On-Going Iranian Violations of U.S. Laws**

The Trump administration should aggressively seek to detect, interdict, and otherwise thwart Iran's illicit procurement efforts that violate national laws. In particular, the Department of Justice and Department of Homeland Security should more aggressively investigate, indict, and extradite those involved in outfitting Iran's nuclear, missile, or conventional weapons programs in defiance of U.S. laws and sanctions.

During the last administration, there were excessive denials or non-processing of extradition requests and lure memos out of a misplaced concern about their effect on the Iran nuclear deal. These actions, largely concentrated in the State Department, reportedly interfered with investigations. The denials, delays, and hold-ups served to discourage new or on-going federal investigations of commodity trafficking involving Iran. The new administration should have a policy of encouraging investigations of Iranian illicit commodity trafficking efforts that includes a determined extradition and lure process. If feasible, past Iran-related lure and extradition requests held up or denied by the previous administration should be approved.

### **Final Word: Judging Compliance**

Some have tried to state that the IAEA has judged Iran in compliance with the JCPOA. However, making this determination is not the responsibility of the IAEA. Moreover, IAEA quarterly reporting does not make such broad judgements.

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any other country, or with any foreign entity in enrichment or enrichment related activities, including related research and development activities, following approval by the Joint Commission."

<sup>13</sup> *Second six-month report of the Facilitator on the implementation of Security Council Resolution 2231 (2015)*, S/2017/49, January 18, 2017.

The latest IAEA report states, as have previous ones: “Since Implementation Day, the Agency has been verifying and monitoring the implementation by Iran of its nuclear-related commitments” under the Iran deal. Nowhere in the report does the IAEA state that it has judged Iran as fully compliant with the JCPOA. The IAEA report lists many areas where Iran has met the conditions of the JCPOA’s provisions. Sometimes it reports on violations, such as on the amount of heavy water in Iran. However, many of the issues I have discussed here are not included in the IAEA reporting but should be. Moreover, the IAEA regularly states that it is still unable to determine the absence of undeclared nuclear material and activities in Iran, and thus unable to provide assurance that Iran’s nuclear program is truly peaceful. Although the IAEA is a critical source of information about compliance, it is not the determiner of whether Iran is complying with the JCPOA.

The issue of judging compliance is rightly the responsibility of the Joint Commission and each country of the P5+1. As the leading negotiator of the JCPOA, the United States has a special responsibility to thoroughly evaluate Iran’s compliance with the nuclear deal. The Trump administration needs to carefully review Iran’s compliance with the JCPOA and UNSC resolution 2231. It can look freshly at the issue and provide a more objective review than done previously.

Under the Iran Nuclear Agreement Review Act of 2015, the President must certify every 90 days that Iran is: transparently, verifiably, and fully implementing any agreement; Iran has not committed a material breach, or if it has, that it has cured such a breach; and Iran has not taken any action, including covert action, that could significantly advance its nuclear weapons program. The next certification is due this April. It is not clear that the new administration, as short-staffed as it is so far, can yet realistically perform a new review. But by this summer or fall, a more fulsome review should be possible.

So far, however, in my view, it is not possible to judge Iran in full compliance with the JCPOA, and Iran is flirting with violations in several areas. It is fair to conclude that Iran is not in compliance with the arms and ballistic missile provisions of UNSC resolution 2231. However, it is difficult to argue that Iran has so violated the JCPOA’s or UNSC resolution 2231’s provisions as to justify snapping back sanctions. Nonetheless, the administration should review violations as part of its Iran policy review and make a judgment based on that assessment. As part of that effort, the United States should start to publicize Iranian non-compliance to date with the JCPOA and UNSC resolution 2231. By doing so, it will lay a stronger basis for not tolerating future violations and build a broader international awareness of such violations and make it easier to rectify them. If this deal is to succeed, let alone survive, the Trump administration will need to take aggressive actions to adequately enforce the JCPOA and UNSC resolution 2231. Towards a policy of stricter enforcement, the administration should announce that the United States will demonstrate zero tolerance for Iranian violations of the JCPOA and resolution 2231 and will respond both within and outside the context of these agreements. Where violations are significant, the United States should start the process of snapping back US and UN sanctions.

Mr. DESANTIS. Thank you.

Mr. Dubowitz, you're recognized for 5 minutes.

**STATEMENT OF MARK DUBOWITZ**

Mr. DUBOWITZ. Thank you. Chairman DeSantis, Ranking Member Lynch, members of the committee, on behalf of the FDD and our Center on Sanctions Illicit Finance, thank you for the invitation to testify.

At the heart of the JCPOA is a fatal flaw. Iran does not need to cheat to reach threshold nuclear weapons capabilities. By following the deal and waiting patiently for key constraints to sunset, Tehran can emerge as a threshold nuclear power with an industrial-size enrichment program; near-zero breakout time; an easier clandestine sneak-out pathway; an advanced long-range ballistic missile program, including ICBMs; access to advanced heavy weaponry; greater regional dominance; and a more powerful economy, which will be increasingly immunized against our ability to use sanctions.

The U.N. snapback is deal ending, which makes it highly ineffective against Iran's incremental cheating strategy that Dr. Albright has outlined.

Since the announcement of the nuclear agreement in July 2015, Iran has received a significant economic stimulus through sanctions relief and additional unilateral concessions from the Obama administration. In spite of or because of these economic benefits, Iran's destabilizing and malign activities have only accelerated.

To address these threats, Congress and the new administration need to follow in the footsteps of Ronald Reagan. In the early 1980s, President Reagan instructed his National Security Council to develop a comprehensive strategy to undermine the Soviet Union. We need a similar plan now, one that uses both covert and overt economic, financial, political, diplomatic, cyber, and military power to subvert and roll back the Iranian threat.

The administration, with assistance from Congress, needs to reinvigorate the sanctions regime aimed at deterring Iran's support for terrorism, ballistic missile development, human rights abuses, war crimes, and destabilizing activities throughout the Middle East. It's very clear that these nonnuclear sanctions are fully consistent with the JCPOA. In particular, Congress should apply the terms of Executive Order 13224, the terrorism executive order to the IRGC, and require the Treasury Department to expand the number of IRGC entities designated from the current 68 to the thousands of entities it owns or controls. There is overwhelming evidence to support this designation. Congress should reject the argument that this designation will provoke the IRGC to threaten or commit violence. To do so would hold American policy hostage.

Since 2013, the conclusion of the interim agreement and through the final agreement, there has been enormous increase, particularly in Syria, in Iran-related terror attacks, again, terror attacks that deliver the use of violence against civilians with a political objective. Iran has perpetrated and supported these attacks through the IRGC, Hezbollah, and Iranian-backed militias. This is part of the reason why the State Department calls Iran the leading state sponsor of terrorism.

Congress should also require the administration to investigate whether or not Iran Air is supporting Iran's malign activities in Syria, Yemen, and elsewhere. As the first slide indicates, since implementation day on January 16 of last year, there have been 696 flights from Iran to Syria. Of those flights, 114 were Iran Air, including some to and from an IRGC resupply base in Abadan, Iran.

On the second slide, you'll see an example of a flight that is supposed to travel between Tehran and Damascus, but is actually flying by the IRGC resupply base in Abadan. If Iran Air is complicit in Tehran's illicit behavior, as I believe it is, Iran Air should face new sanctions, U.S. licenses for aircraft sales should be revoked, and the Boeing and Airbus deals with Iran Air should be canceled.

When Washington implements stricter sanctions, international banks and companies will think twice about working with the Iranian entities engaged in this malign conduct, especially with the IRGC. I agree with Mr. Albright. We need to rigorously enforce the deal, but it presents a bedeviling paradox. The greater the focus on enforcement, the higher the likelihood that Iran will take a patient pathway to nuclear weapons capability as a result of the agreement's sunset provisions and the lack of an effective mechanism to physically inspect Iranian military sites.

To address this, as Mr. Albright has recommended, the Trump administration should work with Congress to design a statutory architecture that freezes the Iranian nuclear program where it is today, and impose new crippling sanctions if the nuclear breakout time drops under 1 year. To achieve this, Iran's advanced centrifuge research, development, and deployment levels, for example, need to be significantly constrained, and IAEA's physical access to military sites must be guaranteed. There is no compelling reason for Iran to have a breakout time of less than 1 year.

The Trump administration also needs to put Iran on notice that the U.S. will use force to counter Iranian aggression. Sanctions without the credible threat of military action will always be insufficient to change the regime's calculus.

And, finally, the administration must make it clear to the Europeans, the Chinese, and the Russians that it is prepared to negotiate a follow-on agreement that addresses the fatal flaws of the original deal. Iran still struggling to attract foreign investment because of its continued malign activities could benefit from such an offer if it is prepared to halt its subversive behavior.

Thank you for the opportunity to testify. I look forward to your questions.

[Prepared statement of Mr. Dubowitz follows:]



CONGRESSIONAL TESTIMONY: FOUNDATION FOR DEFENSE OF DEMOCRACIES

Committee on Oversight and Government Reform, National Security Subcommittee

# Assessing the Iran Deal

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Washington, DC  
April 5, 2017



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Mark Dubowitz

April 5, 2017

Chairmen Chaffetz and DeSantis, Ranking Members Cummings and Lynch, members of the committee, on behalf of the Foundation for Defense of Democracies and our Center on Sanctions and Illicit Finance, thank you for the opportunity to testify. This testimony will analyze both the nuclear and sanctions elements of the Iran nuclear deal known as the Joint Comprehensive Plan of Action (JCPOA), describe steps taken since the JCPOA by Iran and the Obama and Trump administrations, and recommend a path forward for a comprehensive plan to use all elements of American power including sanctions to address the continued Iranian threat.

### **PATIENT PATHWAY TO NUCLEAR WEAPONS**

President Donald Trump promised to “rigorously enforce” the JCPOA,<sup>1</sup> which he has also called “the worst deal ever negotiated.”<sup>2</sup> While strict enforcement is an important first step, it is insufficient. The JCPOA provides Iran with a patient pathway to nuclear weapons capability. If the United States simply enforces the agreement, Iran will become a threshold nuclear weapons state.

The JCPOA preserved essential elements of the country’s nuclear infrastructure and placed only limited, temporary, and reversible constraints on Iran’s nuclear activities. In exchange, Iran got the complete dismantlement of many of the most effective U.S. and international economic sanctions.

At the heart of the JCPOA is a fatal flaw: Iran does not need to cheat to reach threshold nuclear weapons capabilities. By following the deal, and waiting patiently for key constraints to disappear, Tehran can emerge as a threshold nuclear power with an industrial-size enrichment program; near-zero breakout time; an easier clandestine sneak-out pathway; an advanced long-range ballistic missile program, including intercontinental ballistic missiles; access to advanced heavy weaponry; greater regional dominance; and a more powerful economy increasingly immunized against Western sanctions.

In less than four years under UN Security Council Resolution 2231 in which the JCPOA is embedded, the UN embargo on conventional arms sales will disappear. In less than seven years, the restrictions on ballistic missile development will disappear, too.<sup>3</sup> From there, Tehran can significantly enhance its military power – as well as the capabilities of its proxies – by acquiring advanced conventional weapons and further expanding its long-range ballistic-missile program to include intercontinental ballistic missiles. No country developing ICBMs has ever not also obtained nuclear weapons.

Under the terms of the JCPOA, Iran’s uranium and plutonium pathways to atomic weapons expand over time, as well. The deal allows for Iran to continue limited testing and ultimately ramp up the testing of even more advanced centrifuges in seven years, and install these machines in its Natanz enrichment facility in nine years from now.<sup>4</sup> Breakout time – the amount of time needed to enrich one bomb’s worth of fissile material to nuclear grade – drops from one year, where it is now, to months and then just weeks.<sup>5</sup>

In less than 15 years, the majority of restrictions on vital components of a military-nuclear program vanish. This includes bans on uranium enrichment above 3.67 percent purity and the

stockpiling of low-enriched uranium.<sup>6</sup> At that time, Iran can restart its uranium enrichment in the Fordow nuclear facility – a previously secret nuclear site buried under a mountain that is believed to be impenetrable to U.S. military strikes. Moreover, Iran can build an unlimited number of other advanced centrifuge-powered enrichment facilities just like Fordow.<sup>7</sup> Iran can deploy an unlimited number of advanced centrifuges in these facilities. They are more efficient than Iran's basic models, can enrich uranium to weapons-grade faster thereby requiring a fewer number of machines, and can be housed in smaller, harder-to-detect facilities. While building clandestine facilities and diverting uranium to these sites would be a JCPOA violation, the leaders in Iran know that the challenge of monitoring and inspecting such a massive nuclear program on a territory more than twice the size of Texas will be a formidable challenge for the IAEA and Western intelligence services.

#### VERIFICATION WITHOUT PHYSICAL ACCESS TO MILITARY SITES

The nuclear deal also does not guarantee physical inspections of military sites even if the IAEA believes Iran is conducting weaponization activities. The case study of the Parchin military base makes clear this fatal flaw.

In September 2015, IAEA Director General Yukiya Amano visited the Parchin military base, but the IAEA did not conduct a physical inspection. Indeed, rather than conducting on-site inspections with the physical presence of inspectors at the location (per the IAEA's standard practices), Iranian inspectors took environmental samples while IAEA inspectors monitored remotely.<sup>8</sup> This "self-inspection" protocol was a response to Iranian objections over physical inspections.

Prior to the announcement of the JCPOA, Iranian Supreme Leader Ali Khamenei proclaimed that "inspection of our military sites is out of the question."<sup>9</sup> Similarly, in the days following the announcement of the nuclear agreement, Foreign Minister Mohammad Javad Zarif stated before the Iranian parliament that Iran had successfully achieved its goal of preventing IAEA access to military facilities.<sup>10</sup> Even as U.S. officials asserted that the deal provided unprecedented access to Iranian facilities, Ali Akbar Velayati, an advisor to Khamenei, confirmed that "entry into our military sites is absolutely forbidden."<sup>11</sup>

Despite the lack of physical inspections, the environmental samples from Parchin revealed the existence of man-made uranium particles. Last summer, *The Wall Street Journal* reported that U.S. officials believed those particles were related to previous nuclear weapons activities. "The existence of two particles of uranium there would be consistent with our understanding of the involvement of Parchin in a past weapons program, but by themselves don't definitively prove anything," a senior administration official said.<sup>12</sup>

William Tobey, former deputy administrator for defense nuclear nonproliferation at the National Nuclear Security Administration, explained that these particles are "prima facie evidence" of undeclared nuclear material in Iran. "A larger quantity of uranium left them behind," he notes.<sup>13</sup> For years, Iran has denied that it engaged in nuclear weaponization activities at the site, yet has vigorously engaged in cleanup efforts, which have compromised the IAEA's ability to investigate.<sup>14</sup> These efforts, Tobey explains, have created an ambiguous situation that is

beneficial to the Iranians. The IAEA's findings are inconclusive, and this uncertainty means that the international community will not be united in its response.

That is all the more reason why the IAEA should continue to investigate and attempt to verify Iran's declarations about its nuclear activities. As former IAEA Deputy Director General and my FDD colleague Olli Heinonen explained, the IAEA "has an obligation to carry out its safeguards verification mission under the comprehensive safeguards agreement. The possible existence of undeclared uranium at Parchin gets to the heart of those provisions."<sup>15</sup> Yet, to date, the IAEA has not specified its follow-up investigation efforts, and its recent reports have lacked important, technical details about Iran's compliance with its JCPOA obligations, according to the nuclear experts at the Institute for Science and International Security.<sup>16</sup>

This is a dangerous precedent. The IAEA did not insist on physical inspections of Parchin, instead agreeing to an Iranian demand that its own scientists do the sampling. Then, when the IAEA discovered uranium particles in these samples, it did not insist on a follow-up inspection, physical or otherwise, which is required under the comprehensive safeguards agreement to which Iran is a party. Tehran is establishing the precedent for blocking future inspections of military sites; it could deny the IAEA physical access to the facilities, and then invoke the example of Parchin to deny access for follow-up inspections, even if suspicious materials or activities are discovered. This scenario will severely erode the efficacy of the verification regime that the Obama administration touted as an achievement of the JCPOA.

This problem is compounded by the way all of Iran's weaponization activities were resolved. In December 2015, the IAEA decided to "close" the file on outstanding concerns about possible military dimensions of Iran's nuclear program.<sup>17</sup> Without ever admitting to weaponization activities, Iran convinced the international community to wipe the slate clean. The IAEA's report on the possible military dimensions of Iran's nuclear program<sup>18</sup> left many questions unanswered.<sup>19</sup>

In addition to prohibiting on-site inspections of suspected military sites, Iran can delay IAEA inspections of suspected sites without facing consequences. The JCPOA creates a minimum of a 24-day delay (possibly longer) between a formal IAEA request to access a suspicious site and the date Iran must allow access. As Mr. Tobey explains, "24 days ... [is] ample time for Iran to hide or destroy evidence."<sup>20</sup>

Dr. Heinonen agrees. He argues that, for small facilities, 24 days is enough time for Iran to "sanitize" suspected sites, including, for example, where Iran may be engaged in weaponization activities.<sup>21</sup> Iran is also likely to have developed contingency plans to respond to IAEA demands to visit these sites. According to Dr. Heinonen, Tehran may only need two days to remove nuclear equipment from a small facility<sup>22</sup> and remove any traces of uranium, which even environmental sampling may be unable to detect. As Dr. Heinonen notes:

Time for 'scrubbing' takes on special salience in nuclear-related developments without nuclear material present. Some of the past concealment events carried out by Iran in 2003 left no traces to be detected through environmental sampling.<sup>23</sup>

Finally, to prevent the U.S. and its allies from pushing for greater access and more thorough inspections, Iran will likely threaten to deploy its “nuclear snapback.” The JCPOA explicitly states, “Iran has stated that if sanctions are reinstated in whole or in part, Iran will treat that as grounds to cease performing its commitments under this JCPOA in whole or in part.”<sup>24</sup> In effect, if Washington attempts to exercise its rights under the JCPOA to unilaterally snap back the UN sanctions to force Iran to allow the IAEA to gain access, Tehran has warned that it will walk away from the deal and snap back its nuclear program. Fearing this, the Europeans, Chinese, or Russians may be reluctant to pressure Tehran to comply with the terms of the deal or even to punish Iran for violations short of the most flagrant and egregious violations. The lack of specific sanctions agreed to between the parties (short of deal-ending sanctions) undercuts the inspection regime and makes it that much more difficult to force access to Iranian military sites.

#### **SANCTIONS RELIEF AND IRAN’S ECONOMIC GROWTH**

On January 16, 2016, the nuclear agreement reached “Implementation Day,” and Iran received substantial sanctions relief, including access to around \$100 billion in restricted oil revenues.<sup>25</sup> Iranian banks, including the Central Bank of Iran, were reconnected to the global financial system through the SWIFT financial network.<sup>26</sup> Sanctions on Iran’s crude oil export transactions were lifted along with sanctions on key sectors of the Iranian economy, including upstream energy investment and energy-related technology transfers, the auto industry, petrochemicals, and shipping, as well as the precious metals trade. Tehran already appears to be using this relief to pay off some of its outstanding debts, repair its damaged economy, fortify itself against future sanctions pressure, continue its support for terrorist groups, provide additional funds to allied rogue regimes, and expand its conventional military power.

This sanctions relief served as a major “stimulus package” for Iran. Iran has brought oil to market more quickly than expected by drawing down its inventories, while also accessing imports, and stabilizing the economy.<sup>27</sup> As a result, in the first half of the 2016/2017 fiscal year, Iran’s real GDP grew by an impressive 7.4 percent, according to the International Monetary Fund (IMF).<sup>28</sup> The organization projects that Iran’s economic growth for the entire FY 2016/17 will have been 6.6 percent, will settle to 3.3 percent this year (FY 2017/18), and will stabilize at about 4.5 percent over the medium term. After the implementation of the JCPOA’s sanctions relief, inflation has dropped to single digits and has stabilized at about 9.5 percent since the middle of last year,<sup>29</sup> down from an annual rate of more than 30 percent between 2012 and 2014.<sup>30</sup>

This is a major shift. In 2012 and 2013, Iran’s economy was crashing. It had been hit with an asymmetric shock from sanctions, including those targeting its central bank, oil exports, and access to the SWIFT financial messaging system.<sup>31</sup> The economy shrank by more than six percent in the 2012/13 fiscal year, largely due to the drop in oil exports and revenue because of tightening sanctions, and it bottomed out the following year, contracting by another two percent.<sup>32</sup> Accessible foreign exchange reserves were estimated to be down to only \$20 billion, limiting imports.<sup>33</sup> At the time, the rial was collapsing,<sup>34</sup> reportedly in one week in September 2012, the rial lost nearly 60 percent of its value.<sup>35</sup>

This all started to change during the nuclear negotiations. During the 18-month period starting in late 2013, interim sanctions relief and the lack of new sanctions-induced shocks saved the Iranian leadership – including the supreme leader and Islamic Revolutionary Guard Corps (IRGC) – from a balance of payments crisis. This enabled Iran to move from a severe recession to a modest recovery.<sup>36</sup> In the 2014/15 fiscal year, the Iranian economy rebounded and grew at a rate of at least three percent.<sup>37</sup>

With substantial sanctions relief in hand from the nuclear agreement, the Iranian regime is now working to insulate itself from future economic pressure. Iran's plan: undermine the efficacy of U.S. sanctions by persuading European and Asia countries to oppose the snapback of sanctions and challenge the American position; fortify the economy sufficiency to lessen the economic blow from U.S. measures; and render sanctions useless against a near-zero nuclear program.

#### **OBAMA ADMINISTRATION PROVIDED RELIEF BEYOND THE JCPOA**

As if it did not concede enough, the Obama administration attempted to provide economic relief to Tehran beyond its JCPOA obligations. First, it actively encouraged foreign businesses to invest in Iran, notwithstanding the ongoing designation of Iran as a "jurisdiction of primary money laundering concern"<sup>38</sup> and the fact that Iran remains on the black list of the Financial Action Task Force (FATF), the global body monitoring and addressing money laundering and terror finance.<sup>39</sup> Former Secretary of State John Kerry engaged in an international invest-in-Tehran "road show"<sup>40</sup> to encourage large European banks to do business with Iran, arguing that banks simply needed to "do their normal due diligence."<sup>41</sup> The largest global banks, however, have been reluctant to restart relationships with Iranian financial institutions because they know that there is no "normal due diligence" in a country that engages in such extensive illicit financial activities.

The Obama administration also urged state and local governments to lift their own sanctions on Iran,<sup>42</sup> many of which were tied not only to Iran's illicit nuclear program but also to its role as the leading state sponsor of terrorism.<sup>43</sup> The JCPOA itself contained language that complicates a more robust sanctions effort. Under the terms of the accord, the United States and the European Union committed to "refrain from any policy specifically intended to directly and adversely affect the normalization of trade and economic relations."<sup>44</sup> Iran interpreted this to mean that the United States and EU cannot implement terrorism or other non-nuclear sanctions – and has since threatened to walk away from the JCPOA and restart its nuclear program if such sanctions are imposed.<sup>45</sup> Iranian officials also argue that the United States must go further, pushing skittish multilateral companies and global banks back into Iran.

The Trump administration is likely to take a different approach, arguing that there is a big difference between not interfering with commercial relations and actively advocating for banks and companies to enter the Iranian market. Since taking office on January 20, the new administration already has reiterated the position of the Obama administration that non-nuclear sanctions are not a violation of the JCPOA,<sup>46</sup> designated 25 Iranian and foreign persons and entities involved in Iran's illicit ballistic missile program or aiding the IRGC's terrorism activities,<sup>47</sup> sanctioned another 11 Chinese, North Korean, and UAE companies and individuals for providing sensitive technology to Iran which could aid its ballistic missile development, and

sanctioned another 19 companies and individuals for other violations of the Iran, North Korea, and Syria Nonproliferation Act.<sup>48</sup>

**Recommendation 1:** Congress should play an active role in countering Iran's financial legitimacy campaign by drawing attention to the ongoing compliance and business risks involved in transactions with Iran. Congress should expose Iran's ongoing deceptive conduct and illicit activities through both open-source data and declassified evidence to build on the well-documented market concerns of doing business with Iran. These risks need to be highlighted by U.S. administration officials at Financial Action Task Force meetings, including at the upcoming June meeting where Washington should resist efforts to permanently lift the mandatory countermeasures on Iran that were temporarily suspended in June 2016.<sup>49</sup>

**Recommendation 2:** Congress should require the administration to provide detailed reporting on Iran's deceptive conduct and illicit activities, exposing Iran's shadow networks, the corruption of top Iranian officials, and the role of the IRGC and other designated Iranian actors in "legitimate" businesses. This should include passing enhanced auditing standards required for a company doing business in Iran, given the financial risks. These measures will underscore that responsible actors have an obligation to keep Iran at arm's length until there is greater certainty that they are not implicated in illegal activity.

#### *Dollarized Transactions*

The Obama administration's post-JCPOA sanctions concessions were not only limited to business roadshows and efforts to undercut state and local sanctions. Secretary Kerry also briefed State Department reporters on a plan to license foreign banks to use dollars when processing transactions with their Iranian counterparts<sup>50</sup> – a concession never explicitly negotiated as part of the nuclear deal. This prompted a backlash in Congress that had Treasury Department officials scrambling to issue guidance that Washington was not permitting Iranian access to the U.S. financial system, even as they left open the possibility of offshore dollar clearing.<sup>51</sup>

Iran wants direct – or, at a minimum, indirect – access to the U.S. dollar because the dollar is the preferred currency for global trade. In 2008, Treasury banned Iran's last access point to the U.S. financial system by prohibiting "U-turn" transactions between a foreign bank and an Iranian bank that briefly transit the U.S. financial system to dollarize the transaction.<sup>52</sup> At the time, Treasury's Office of Foreign Assets Control noted that the move was designed to "protect the U.S. financial system from the threat of illicit finance posed by Iran and its banks."<sup>53</sup>

Three years later, Treasury designated Iran as a jurisdiction of primary money laundering concern under Section 311 of the USA PATRIOT Act because of Iran's "support for terrorism," "pursuit of weapons of mass destruction" – including its financing of nuclear and ballistic missile programs – and the use of "deceptive financial practices to facilitate illicit conduct and evade sanctions."<sup>54</sup> In other words, Iran's entire financial system posed illicit finance risks to the global system.

Permitting Iran access to the U.S. dollar would have contradicted promises the Obama administration repeatedly made.<sup>55</sup> Most explicitly, Treasury's former Acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin publicly committed in September 2015:

Iran will not be able to open bank accounts with U.S. banks, nor will Iran be able to access the U.S. banking sector, even for that momentary transaction to, what we call, dollarize a foreign payment. It was once referred to as a U-turn license, and Iran was allowed to make such offshore-to-offshore payments that cross U.S. banking sector thresholds for just a second. That is not in the cards.<sup>56</sup>

However, in October 2016, Treasury updated language in its "Frequently Asked Questions" resource about the JCPOA to state that foreign financial institutions are permitted to process dollar-denominated transactions involving Iran. Treasury's guidance previously stipulated that foreign financial institutions could not clear "dollar-denominated transactions involving Iran through U.S. financial systems," but it never clarified what was actually permitted.<sup>57</sup> Risk-averse global banks assumed that actions not explicitly permitted remained off-limits. The updated guidance represented a further concession to Iran outside the scope of the JCPOA.

If the United States were to go a step further and provide dollarized access now, Iran would claim that this sanctions relief is part of "nuclear sanctions" lifted by the JCPOA. It would then be difficult to revoke this access for non-nuclear reasons when Iran conducts another ballistic missile test, provides even more lethal assistance to Syrian President Bashar al-Assad, executes more dissidents, or engages in other provocative and illicit behavior in the future.<sup>58</sup> Iran will threaten to walk away from the deal and restart its nuclear program, effectively neutralizing Washington's ability to use non-nuclear sanctions.

**Recommendation 1:** Congress should consider legislation to prohibit U.S. financial institutions from processing transactions for Iranian entities, even when such a "transfer was by order of a non-Iranian foreign bank from its own account in a domestic bank to an account held by a domestic bank for a non-Iranian foreign bank."<sup>59</sup> Congress could also state that it is prohibited for a U.S. financial institution to provide dollars for offshore clearing facilities if any party in the financial chain is an Iranian entity. The termination of this prohibition could be linked to a presidential certification that Iran is no longer supporting terrorism and developing ballistic missile capabilities.

**Recommendation 2:** Congress could also require the Treasury Department to report on all financial institutions involved in giving Iran direct or indirect access to the U.S. dollar, with details on institutions, transactions, counterparties, and mechanisms. Any financial institution or offshore large value payment system that provides dollar-clearing services in transactions involving an Iranian party should be liable for sanctions.

#### *Treasury FAQs about Permitted Business with Iran*

In October 2016, the Obama administration found yet another way beyond the JCPOA to quietly ease sanctions on Iran.<sup>60</sup> Treasury's Office of Foreign Assets Control (OFAC) updated its



Frequently Asked Questions (FAQs) and significantly eased restrictions on transactions between Iran and non-U.S. banks and companies.<sup>61</sup>

In addition to the change regarding dollarized transactions as discussed above, the new guidance also stipulated that it is not necessarily prohibited for foreign companies to do business with a non-sanctioned entity that is minority-owned or -controlled by an entity on its sanctions list. Iran's Islamic Revolutionary Guard Corps (IRGC), the key driver of proliferation, terrorism, and human rights abuses for the Iranian regime, maintains a pervasive role in the Iranian economy but often keeps its ownership of companies under 50 percent to avoid sanctions.<sup>62</sup> In effect, the Obama administration green-lighted business with companies in which the Guard has a significant business interest below the 50-percent threshold.

Currently, Treasury uses the 50-percent threshold to determine IRGC ownership (or ownership by any other designated entity); however a 25-percent threshold would better reflect global standards and Treasury's own regulations and recommendations regarding beneficial ownership, those who "own, control, and profit from companies."<sup>63</sup> Foreign companies are able to do business with companies owned by the IRGC if those companies are not explicitly designated on Treasury's Specially Designated Nationals list. The threshold for "shadow SDNs" is similarly set at 50 percent.<sup>64</sup>

**Recommendation:** Congress should require the Treasury Department to lower the threshold for designation to the 25-percent beneficial ownership threshold rather than majority ownership. This change should also be reflected in Treasury's "shadow SDN" guidance. Under new criteria, many additional IRGC-controlled entities (and companies owned by sanctioned persons) would be eligible for designation, and foreign companies would shun business with Iranian partners with IRGC connections. Lowering the threshold would also generate greater public scrutiny and enhanced due diligence and auditing by the private sector. Additionally, Congress and the administration should clarify ambiguities in the law that allow business with IRGC companies not designated by the U.S. government as agents or affiliates of the IRGC.<sup>65</sup>

Obama's Treasury Department's updated guidance also took a weak stance on the question of know your customer's customer (KYCC), a hotly debated topic in the world of corporate compliance. According to the new guidance, "OFAC does not expect a non-U.S. financial institution to repeat the due diligence its customers have performed on an Iranian customer unless the non-U.S. financial institution has reason to believe that those processes are insufficient." The new Treasury guidance thus lowers the compliance requirements for global banks doing business with companies that may have significant ties to illicit actors in Iran. In effect, unless a non-U.S. financial institution has a specific reason to believe that a customer's clients are sanctioned, it can process transactions and provide banking services. Given the United States' history of leading the global efforts to ensure the international financial system is not abused by terrorists, money launderers, and weapons proliferators, this is a significant weakening of the international KYCC principles.

**Recommendation:** The Trump administration should issue new FAQs or make an announcement revoking these changes to the FAQs – which have no legal standing and are mere statements of how an administration interprets regulations. Congress should encourage the Trump administration to take such steps immediately.

## IRAN'S ONGOING MALIGN ACTIVITIES

In spite – or perhaps because – of the significant sanctions relief received, Iran's destabilizing and malign activities have accelerated since the announcement of the JCPOA in July 2015.

### *Ballistic Missiles*

Between July 2015 and February 2017, Iran tested as many as 14 ballistic missiles, according to a comprehensive study by my FDD colleague Behnam Ben Taleblu,<sup>66</sup> and reportedly tested another two short-range ballistic missiles in early March.<sup>67</sup> These tests violate the UN Security Council resolution endorsing the nuclear deal. Lamentably, the JCPOA fails to address Iran's ballistic missiles despite the U.S. intelligence community's assessment that ballistic missiles would be Iran's preferred delivery vehicle for a nuclear bomb.<sup>68</sup>

Under the Trump administration, Treasury has issued designations under proliferation and terrorism authorities,<sup>69</sup> and the State Department also designated companies for violating the Iran, North Korea, and Syria Nonproliferation Act.<sup>70</sup> While these are important first steps and an indication that the Trump administration seeks to enforce U.S. sanctions against Iran, Congress can take a leadership role in crafting policies to create additional pressure on the Iranian regime to change its behavior.

A bipartisan group of senators and representatives introduced two important pieces of legislation at the end of March.<sup>71</sup> Among other measures, the Senate bill imposes secondary sanctions on any individual or entity found to be financing or supporting Iran's ballistic missile development. The House bill also imposes ballistic missile sanctions, and requires the president to issue a report to Congress on Iranian and foreign individuals and companies that are part of Iran's global supply chain. This report would likely serve as the basis for additional sanctions.

**Recommendation:** Congress should require the administration to report on the link between the global supply chain and the sectors of Iran's economy that contribute directly or indirectly to the development of the country's ballistic missile program. Much of this information is available through open source material. Indeed, FDD's research has revealed that supply chains in the metallurgy and mining; chemicals, petrochemicals, and energy; construction; automotive; and electronic, telecommunication, and computer science sectors are involved in Iran's ballistic missile program.<sup>72</sup>

### *Iran's Islamic Revolutionary Guard Corps*<sup>73</sup>

Last month, the Trump administration was reportedly<sup>74</sup> contemplating whether to designate Iran's Islamic Revolutionary Guard Corps (IRGC) as a foreign terrorist organization,<sup>75</sup> a State Department listing that includes Hamas, Hezbollah, the Islamic State, and other groups. The

United States has for the past three decades officially delineated Iran as the leading sponsor of terrorism.<sup>76</sup> In 2007, a number of Democratic and Republican politicians, including then-Senators Hillary Clinton and Barack Obama,<sup>77</sup> cosponsored a bill known as the Iran Counter-Proliferation Act that called on the George W. Bush administration to report on its efforts to designate the Revolutionary Guard as a Foreign Terrorist Organization.<sup>78</sup> But the bill did not pass.

From the IRGC's inception in 1979, terrorism has been its defining feature. The 125,000-strong force has always been commanded by violent, religious ideologues.<sup>79</sup> During the 1980s, the IRGC conducted vicious campaigns against all forms of dissent, as well as against ethnic minorities, especially the Kurds and the Baluchis. Throughout the 1990s, the group attacked the Iranian reform movement and became even more feared than Iran's intelligence ministry, which had a reputation for human rights abuses. In 1999, Supreme Leader Ali Khamenei unleashed the IRGC to crush student protests – a move that President Hassan Rouhani, then the secretary of the Supreme National Security Council, had passionately supported.<sup>80</sup> In the summer of 2009, the Guard also squashed the pro-democracy Green Revolution, arresting thousands and torturing hundreds.<sup>81</sup> Over the years, the IRGC has also overseen a terror apparatus that has assassinated intellectuals, journalists, dissident politicians, and literary figures abroad.

Yet it is IRGC's terrorism abroad that has garnered the most attention. In the early 1980s, it combined various Lebanese Shiite groups to form Hezbollah, now Iran's most dependable and lethal proxy. At Iran's behest, Hezbollah bombed a U.S. Marine compound in Beirut in 1983, killing 238 U.S. service members. Since then, the Guard has continuously trained and armed non-Iranian Shiite radicals, often dispatching them against Americans. The 1996 Khobar Tower bombing in Saudi Arabia, which killed 19 American service members, was an Iranian-directed proxy attack.<sup>82</sup> Since 2003, Iranian-supplied munitions and Iranian-trained paramilitary forces have killed and maimed U.S. troops in Iraq.<sup>83</sup>

In 2011, the Revolutionary Guard attempted to conduct its first attack on U.S. soil by assassinating the Saudi ambassador to the United States, Adel al-Jubeir, at a restaurant in Washington, D.C.<sup>84</sup> Then-Attorney General Eric Holder declared that the failed plot was "directed and approved by elements of the Iranian government, and, specifically by the senior members of the Qods Force," which is an arm of the IRGC.<sup>85</sup> An Iranian agent pleaded guilty to the crime and has been sentenced to 25 years in prison.<sup>86</sup>

In Syria, the Guard has been instrumental in preserving the regime of President Bashar al-Assad. Under the direction of IRGC General Hossein Hamadani, recently killed in battle, Syrian militias modeled after Hezbollah entered the battle.<sup>87</sup> It can be said that Assad's war crimes are also the IRGC's war crimes since the IRGC directed military operations, carried out by either Shiite militias or Assad's forces, explicitly aimed at slaughtering civilians. But the Islamic Republic was not punished for these atrocities at any point during the first six years of the war. It seemed, at the time, that President Obama was focused on brokering his Iran nuclear deal and thus wanted to avoid at all costs a collision with Iran and its Shiite militias.

The Trump administration must know that it cannot stabilize the Middle East without first weakening the IRGC. And to do that, it should target the group's financial empire. The IRGC has become Iran's "most powerful economic actor," according to the U.S. Treasury.<sup>88</sup>

If President Trump faces opposition to designating the IRGC as an FTO, he can use Executive Order 13224, signed by President Bush in 2001, which gives the administration the authority to freeze the assets of individuals or groups that either carry out terrorist acts or are planning them. Indeed, the new Senate bill mandates sanctions on the IRGC in its entirety pursuant to Executive Order 13224. President Trump should comply and shut the Guard out of the global financial and commercial markets. Bush used this authority in 2007 to block the assets of the Quds Force after it provided material support to Hezbollah, the Taliban, and three Palestinian terrorist groups.<sup>89</sup>

Targeting only the Quds Force, however, did not go far enough. As the war in Syria demonstrates, the Quds Force is not a separate entity but an integral part of the IRGC. Quds Force and Revolutionary Guard units operate as one, with personnel routinely rotating back and forth within a unified command structure.<sup>90</sup> Further, the Quds Force plays only a small role in the IRGC's vast business ventures, which it uses to fund its terrorist activities.

The United States has designated the IRGC under nonproliferation and human rights authorities,<sup>91</sup> demonstrating a willingness to label the entire organization for these illicit activities. But these sanctions do not specifically target the role of the Guard in supporting terrorism. Sanctions are designed to address the underlying illicit conduct in order to change behavior. And there is clear evidence of the IRGC's role in conducting and supporting terrorist activities. The Trump administration should not accept the argument that this designation under Executive 13224 will provoke the IRGC to threaten or commit more acts of terrorism if it is designated. To do so would hold American policy hostage to any terrorist organization issuing these threats.

Designating the IRGC for terrorism also should pave the way for designating thousands of business entities owned or controlled by the IRGC and would likely draw greater international attention in the global financial and business community to the terrorism financing risks involved in transactions with Iran. This would further squeeze the Guard financially, since it would highlight the risks for European and Asian corporations looking to do business worth billions of dollars in sectors the Guard controls. This is particularly important now, because the EU will lift its nuclear sanctions on all IRGC entities by October 2023, pursuant to the JCPOA.

Designating the IRGC for terrorism would not violate the JCPOA – despite protests by Iran to the contrary. Washington should proactively explain that if the nuclear deal falls apart as a result of this designation, the blame falls squarely on Iran both for its decision to walk away from the agreement and for its terrorism support in the first place. To tame the Islamic Republic, the United States must diminish the Guard's power. Labeling it a terrorist group is just one way to begin that process.

**Recommendation 1:** Executive Order 13324 should be applied against the IRGC in its entirety. Congress should encourage the administration to significantly expand the number of IRGC designations from the current 60 to include the thousands of front companies operated by the Guard.

**Recommendation 2:** Congress should require that the Treasury Department create an “IRGC Watch List” of entities that do not meet the threshold for designation but have demonstrable connections to the IRGC. As the IRGC continues to evolve, and as its influence and control in the Iranian economy becomes increasingly sophisticated and hidden, enforcement of IRGC-related sanctions must also evolve. The criteria for inclusion on the IRGC Watch List should be flexible to account for the IRGC’s use of deceptive business practices.

#### *Iran Air’s Continued Illicit Activities*

The JCPOA lifted sanctions against Iran’s state-owned airline, Iran Air, despite a lack of evidence that the airline had ceased the illicit conduct for which it had been sanctioned in the first place. In 2011, Washington designated Iran Air for providing material support and services to the IRGC and Iran’s Ministry of Defense. At the time, Treasury noted, “Rockets or missiles have been transported via Iran Air passenger aircraft, and IRGC officers occasionally take control over Iran Air flights carrying special IRGC-related cargo ... carried aboard a commercial Iran Air aircraft, including to Syria.”<sup>92</sup>

When the previous administration was asked why sanctions on Iran Air were lifted, State Department Spokesman John Kirby did not argue that Iran Air’s behavior had changed,<sup>93</sup> or that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was “not at liberty to go into the reasons behind” the de-listing.<sup>94</sup>

Based on open source research, my FDD colleague Emanuele Ottolenghi has concluded that between January 16, 2016 (Implementation Day) and March 30, 2017, Iranian airlines have flown at least 690 flights from Iran to Syria, including 114 on Iran Air.<sup>95</sup> The use of deceptive practices – turning off tracking signals, using false tail numbers, or listing fabricated itineraries<sup>96</sup> – indicates that these flights were likely part of Iran’s efforts to arm the Syrian government. I am confident, based on my sourcing, that in the past few months, Iran Air has transported hundreds of thousands of kilograms of missiles and katyusha rockets and hundreds of fighters to Syria and Yemen.

Iran Air also is unlikely to retain all of the aircraft it is now set to purchase from Western companies (since its current fleet is only 36 planes<sup>97</sup> but it has signed preliminary contracts for nearly 200), and instead likely will transfer, resell, or lease them to sanctioned airlines, including Mahan Air, which the U.S. government designated for supporting the IRGC’s terrorism activities.<sup>98</sup>

Despite these concerns, Boeing and Airbus sales to Iran continue apace. These deals should not be allowed to proceed. The licenses should be immediately suspended, pending a thorough

investigation into Iran Air's conduct. If the investigation determines that Iran Air is engaged in illicit activities, the licenses should be canceled and Iran Air re-designated. Sales of new aircraft to Iran should only move forward once Iran has demonstrated that it will no longer use civilian aircraft for malign purposes and that none of the aircraft will end up in the hands of sanctioned entities.

**Recommendation 1:** Congress should require the administration to investigate suspicious flights to determine whether or not Iran Air is engaged in illegal and illicit conduct supporting Iran's malign activities in Syria, Yemen, and throughout the region. If the IRGC or other designated entities have used Iran Air to ship weapons and/or fighters to Syria, Iran Air should face new sanctions. And any licenses for aircraft sales should be revoked.

**Recommendation 2:** Representatives and Senators should send letters to Boeing, Airbus, and other manufacturers reminding them that they will incur significant reputational and legal risks if the IRGC uses their planes to aid the Syrian and Yemeni war effort. Additionally, Congress could remind these companies and the banks or aircraft leasing firms financing the deals that if Iran Air is re-sanctioned, they will likely be left holding the tab.

**Recommendation 3:** Congress should require the president to certify that none of Iran's commercial planes are being used for purposes other than exclusively civil aviation end-use. The certification could then include at least a five-year waiting period, after which new planes could be sold only on a trial basis, with only a small number of planes delivered per year with full payment made by Iran in cash at the time of delivery.

**Recommendation 4:** Congress should also expand sanctions against entities that are aiding the IRGC's efforts in Syria, Yemen, and elsewhere by authorizing sanctions against any foreign company providing replacement parts, dual-use items, financial services, and ground services to airlines involved in weapons shipments. Currently, Mahan Air flies routes to major European destinations, and the companies involved in servicing those planes are likely violating U.S. laws. Congressional efforts to expand sanctions should severely limit Mahan's ability to operate.

#### *Illicit Activities by Previously Designated Iranian Entities*

The ongoing illicit activities of Iran Air are indicative of a greater problem with the JCPOA. The deal lifted sanctions on numerous Iranian entities without providing evidence that the companies and individuals in question had changed their behavior. As the Trump administration conducts a review of U.S.-Iran policy, Congress should request the intelligence community to reassess the de-listing of entities whose illicit behavior has not changed.

Two further examples are:

*Bank Sepah*

When Treasury sanctioned Bank Sepah in 2007, then-Under Secretary for Terrorism and Financial Intelligence Stuart Levey called the bank the “financial linchpin of Iran’s missile procurement network,” noting that the bank “has actively assisted Iran’s pursuit of missiles capable of carrying weapons of mass destruction.”<sup>99</sup> The nuclear agreement, however, lifted U.S. sanctions on the bank despite Obama administration promises that the JCPOA would only lift “nuclear” sanctions. Levey, now the chief legal officer of HSBC, noted the contradiction: “One of the narratives was that the missile sanctions were not lifted. ... I never did understand what that meant with Bank Sepah not being sanctioned.”<sup>100</sup>

The lifting of sanctions on Bank Sepah occurred under troubling circumstances. In January 2016, the Obama administration reportedly signed a secret agreement with Iran<sup>101</sup> to support the lifting of UN sanctions against Bank Sepah and its London branch in exchange for the release of U.S. hostages held in Iran – part of a larger package of concessions to Iran.<sup>102</sup> Under the nuclear agreement, the UN and European Union were not slated to lift sanctions on Bank Sepah until 2023.<sup>103</sup> As a result, the Iranian negotiating team scored a hat trick: It convinced the P5+1 negotiators not to include ballistic missile restrictions in the nuclear agreement and at the same time to lift sanctions on entities – including Bank Sepah – involved in ballistic missile procurement.<sup>104</sup> No less importantly, Tehran successfully weakened United Nations restrictions on its ballistic missile development.<sup>105</sup>

Now, the bank can operate freely in Europe, bolstering an already thriving illicit procurement network. Iran’s efforts to illegally acquire nuclear and unconventional weapons technology were robust in 2015, according to Germany’s domestic intelligence agency, and its “already considerable procurement efforts” for its “ambitious missile technology program” increased further.<sup>106</sup> Now that Iran’s preferred missile-financing bank is back in business, these efforts could multiply.

**Recommendation 1:** Congress should request a report from the Trump administration and the intelligence community to determine whether the bank is still involved in Iran’s missile procurement network, and if not, which financial institution(s) has stepped in to fill the gap. Any financial institution involved in Iran’s ballistic missile development and illicit procurement should be immediately sanctioned.

*Execution of Imam Khomeini’s Order (EIKO)*

The JCPOA sanctions relief is also benefitting the Supreme Leader Ali Khamenei’s financial empire – a “shadowy network of off-the-books front companies,” according to the U.S. Treasury.<sup>107</sup> The network, headed by an organization known as the Execution of Imam Khomeini’s Order (EIKO) or Setad, is reportedly worth at least \$95 billion.<sup>108</sup> When Treasury designated the organization and its subsidiaries in June 2013, the department noted that the purpose of EIKO was “to generate and control massive, off-the-books investments, shielded from the view of the Iranian people and international regulators.”<sup>109</sup> Despite the fact that the sanctions were unrelated to Iran’s illicit nuclear program, the U.S. lifted the sanctions as part of the nuclear agreement.

The supreme leader, the IRGC, and the ruling elite in Iran have enriched themselves at the expense of the Iranian people. As then-Assistant Secretary of the Treasury Daniel Glaser noted, this type of corruption “stifles economic development, impairs democratic institutions, erodes public trust, and impairs international cooperation ... [and] creates space for criminals to flourish.”<sup>110</sup> In Iran, these criminals are not only traditional thugs, but are also state-sponsored human rights violators.

**Recommendation 1:** Congress should request an intelligence assessment of EIKO to determine its involvement in systemic corruption in Iran. If the organization has indeed not reformed its illicit financial conduct, Congress could require the administration to re-designate EIKO under anti-money laundering and kleptocracy authorities.

**Recommendation 2:** Last session, Congress passed the Global Magnitsky Human Rights Accountability Act, which (among measures targeting human rights violators) authorizes sanctions against government officials and their associates responsible for significant corruption.<sup>111</sup> Congress should request a report from the intelligence community naming all EIKO managers. The relevant congressional committees should require the president to assess whether these individuals should be sanctioned under Global Magnitsky.

## ONGOING SYSTEMIC HUMAN RIGHTS ABUSES

Nearly two years after the announcement of the JCPOA, the Iranian regime continues to repress its people. Far from ushering a new era of freedom, there has been no meaningful change in the regime’s deplorable human rights record, according to Dr. Ahmed Shaheed, who served as the United Nations Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran during and after the JCPOA negotiations.<sup>112</sup>

When President Rouhani was elected in June 2013, there was a widespread, but incorrect, assumption that he would shepherd in an era of greater freedoms in Iran. Instead, even in the wake of the nuclear deal, the human rights situation has deteriorated even further. The Islamic Republic continues to commit serious human rights abuses. Just last month, the new Special Rapporteur Asma Jahangir presented the latest report before the UN Human Rights Council and painted a bleak picture.<sup>113</sup> In her report, Jahangir noted that the use of the death penalty, including for juvenile offenders is “very high;” human rights activists and journalists are being “arrested, detained and prosecuted for the peaceful exercise of their profession or of their legitimate rights to freedoms of expression and association;” and minority communities continue “to face persistent discrimination and persecution.”<sup>114</sup> Meanwhile, Iran continues to hold hostage U.S., Canadian, British, and other dual nationals.

Despite this behavior, Tehran wants the nuclear agreement to wipe clean its record of systemic human rights abuses. It hopes that businesses seeking to enter the Iranian market will ignore this repression. But the world must hold Iran accountable. Sadly, Washington’s most recent human rights designations took place in 2014, and at the time, the Obama administration only designated one individual and two entities.<sup>115</sup> Congress and the Trump administration have an opportunity, and a moral obligation, to change the direction of U.S. human rights policy on Iran.



**Recommendation 1:** Congress should impose human rights sanctions on state organs responsible for institutionalized human rights abuses, as well as individuals who work for these state organs. Expanding the designation list to include the people, companies, and state institutions like prisons and military bases (many of which are controlled by the IRGC) at which abuses like torture and arbitrary detention occur will help cut off the sources of revenue that facilitate and embolden Iran's vast system of domestic repression.

**Recommendation 2:** Congress should also consider the creation of a new authority to designate an entity, or even an entire country, as a "jurisdiction of human rights concern." Using the model of Section 311 of the USA PATRIOT Act, the finding would carry regulatory implications in the United States but would also send a strong signal to foreign companies and banks, even if they are not directly affected by the finding. The goal of this policy would be to encourage the private sector to sever ties with institutions that perpetrate human rights abuses.

**Recommendation 3:** Congress should work with the Trump administration to link any further sanctions relief concessions to Iran with an improvement in Tehran's atrocious human rights record. During the Cold War, Western negotiators linked certain arms control agreements with the Soviet Union to demands for Moscow's adherence to the civil rights portion of the 1975 Helsinki Accords. By contrast, the JCPOA did not require Tehran to make any improvements in its human rights record. This is a mistake: It would be much easier to monitor Iran's nuclear program in a relatively freer and more transparent Iran.

#### CONCLUSION: DEVELOPING A COMPREHENSIVE IRAN PLAN

To address the continued Iranian threat, Congress and the new administration need to treat Iran in the way that Ronald Reagan treated the Soviet Union. In the early 1980s, President Reagan instructed his National Security Council to develop a comprehensive strategy to undermine the Soviet Union. The Trump National Security Council needs a similar plan, one that uses both covert and overt economic, financial, political, diplomatic, cyber, and military power to subvert and roll back the Iranian threat.

Iran's Supreme Leader Khamenei has alluded to his regime being "on the edge of a cliff" as a result of the 2009 democratic uprisings.<sup>116</sup> President Trump should create the distinct impression that America will help the millions of Iranians who despise the regime to push it over that edge.

In addition, as discussed above, the Trump administration, with assistance from Congress, needs to reinvigorate the sanctions regime aimed at Iran's support for terrorism, ballistic-missile development, human-rights abuses, war crimes, and destabilizing activities in the Middle East. These sanctions need to target, in particular, the Islamic Revolutionary Guard Corps, which controls strategic areas of Iran's economy. The new bipartisan legislation introduced in the House and Senate is a good start in rebuilding peaceful tools of leverage targeting Iran's continued illicit conduct.

Foreign diplomats may balk, but these sanctions are fully compliant with the nuclear deal. As President Barack Obama stated in August 2015, “We will continue to have sanctions in place on Iran’s support for terrorism and violation of human rights. We will continue to insist upon the release of Americans detained unjustly.”<sup>117</sup> This comment was reiterated by Obama’s secretary of state and acting under secretary of Treasury for terrorism and financial intelligence who said, “The United States will oppose Iran’s destabilizing policies with every national security tool available,” and, “We will be aggressively countering the array of Iran’s other malign activities. The JCPOA in no way limits our ability to do so, and we have made our posture clear to both Iran and to our partners.”<sup>118</sup> When the Trump administration implements stricter sanctions, international banks and companies will think twice about working with IRGC companies, especially if doing so might mean losing access to the U.S. market.

With regard to the nuclear deal, the Trump administration needs to rigorously enforce the agreement by using the Joint Commission, the Procurement Channel, and strict interpretations of the terms of the agreement. But as discussed, a sole focus on enforcement presents a bedeviling paradox: The greater the focus on enforcement, the higher the likelihood Iran will emerge with nuclear weapons. As a result of the sunset provisions, the JCPOA provides Iran with patient pathways to nuclear weapons capability.

The Trump administration should work with Congress to design a statutory architecture that freezes the Iranian nuclear program where it is today and impose new crippling sanctions if it expands in any way that drops nuclear breakout time to less than one year. To achieve this, advanced centrifuge research, development, and deployment levels, for example, need to be significantly constrained. There is no compelling reason for Iran to have a breakout time to a nuclear bomb of less than one year.

The Trump administration also needs to put Iran on notice that the U.S. will use force to counter Iranian aggression. Sanctions without the credible threat of military action will always be insufficient to change the regime’s calculus.

While applying pressure on the regime, the administration should make it clear to the Chinese, Europeans, and Russians that Washington is prepared to negotiate a follow-on agreement that addresses the fatal flaws of the original deal. Tehran, still struggling to attract foreign investment because of its continued malign activities, can benefit from such an offer if it is prepared to come back to the table and halt its subversive behavior.

Thank you for the opportunity to testify today. I look forward to your questions.

<sup>1</sup> Eric Cortellessa, “In call with Riyadh, Trump vows to ‘rigorously enforce’ Iran deal,” *The Times of Israel*, January 30, 2017. (<http://www.timesofisrael.com/in-call-with-riyadh-trump-commits-to-rigorously-enforce-iran-deal/>)

<sup>2</sup> “Trump administration pledges ‘great strictness’ on Iran nuclear deal,” *Reuters*, March 7, 2017. (<http://www.reuters.com/article/us-iran-nuclear-idUSKBN16E2GZ>)

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Mr. DESANTIS. Thank you.

Mr. Takeyh, you're up for 5 minutes.

**STATEMENT OF RAY TAKEYH, PH.D.**

Mr. TAKEYH. Thank you, Mr. Chairman, Ranking Member, for inviting me. And it's a privilege to be here with my co-panelists.

I actually come with good news. The Islamic Republic is at an impasse. It is an ideological experiment born in the 20th century that has managed to crawl into this century, but this journey will end and the theocratic dictatorship will join their radical counterparts in the dustbin of history.

In some ways, Iran today resembles the Soviet Union of the 1970s, a bloated state that avoids reforms and eventually brought about its own collapse. The foremost function of U.S. policy, therefore, is to continuously weaken the wobbly foundations of the clerical regime by pressing it both internally and in the region.

The theme of today in Washington today, these days, is to push back on Iran. I think it is important to remember that pushing back on Iran must begin in Iran itself. The summer of 2009 and the rise of the green revolution will always be recalled as a watershed moment after which things are not the same. No less than Supreme Leader Ali Khamenei has confessed that the movement brought Iran, quote, to the edge of the cliff. General Mohammad Jafari, the Commander of the Guards, has suggested that the Green Movement was a greater danger for the system and the Islamic revolution, and we went to the brink of the overthrow and the sedition. Sedition is the pejorative term they use for the Green Movement. The regime's security services proved unreliable, dissension spread within the Guards, a number of commanders had to be dismissed, the ruling elites, which had perfected the strategy of staging counter-demonstrations, failed to do so for 6 months.

The Islamic Republic was never and is never a typical totalitarian state. Its electoral processes and institutions provided the public at least with a veneer, an impression of democratic representation. That republican element of the regime evaporated in 2009, and with it vanishes legitimacy.

The task of American diplomacy is, as Mr. Dubowitz suggested, is similar to that as Ronald Reagan facing the Soviet Union, not just negotiate or renegotiate a better arms control agreement, but devise a comprehensive strategy that undermines the regime. As the administration at that time did with Solidarity in Poland and other such organizations, we should find a way of establishing ties with opposition movements within Iran.

Given the Islamic Republic's cruelty and corruption, the opposition spans the entire social spectrum. The Iranians have given up, not just on the Islamic Republic, but on religious observance itself, as most mosques are empty during most Shia commemoration days. Three decades of theocratic rule has transformed Iran into one of the most secular nations in the Middle East. The middle class, the working poor are equally hard pressed by the regime's incompetence and corruption. Even some of the senior members of the clergy are beginning to recognize the toll that politics has taken on religion. America has ready allies in Iran and must make an effort to empower them.

Economic sanctions, in my view, are a critical part of any strategy of pressuring Iran. The experience of the past few years has shown that the United States and its partners have real capacity to shrink Iran's economy. The fewer resources that the regime has at its disposal, the less capable it is of sustaining a cadre whose loyalty today is purchased, and the guardians of the revolution are well aware of that. Once deprived of money, the state will find it difficult to fund patronage networks that are essential to its rule and its imperial ventures.

For Iran's leadership to yield to international norms, all the walls around them have to close in, so it is important to stress its economy, divide the society, but also to push back on its influence in the Middle East, as was mentioned before. By contesting Iran's gains, Washington can pose additional costs on the regime and contribute to regional stability. Iran's leaders believe that the vitality of the revolution mandate its exports, and it is that export that must be negated as means of undermining that revolution.

The best arena to push back on Iran, I think, still remains in the Gulf. Iran and Saudi Arabia are locked into the regional conflict. We should assist all Gulf allies. Iraq, as was mentioned, is also a place where the United States can potentially have steady allies if it rehabilitates that country's institutions and the military. Iraq cannot be whole and free so long as Iran interferes in its affairs. A commitment by the United States to Iraq will go far to diminishing its ties to Iran.

Some in Washington believe that the Iran problem is secondary to violent jihadists. For all their achievement, those movements do not yet possess the resources and capability of a large sophisticated state. It must be noted that the Iranian regime was the original Islamic revolutionary state. Its successes inspired a wave of radicals across the Middle East. At the most basic level, this is a confrontation between a super power and a second rate autocracy, and therefore, we should emulate Ronald Reagan's famous injunction in dealing with them: We win, they lose.

Thank you, Mr. Chairman.

[Prepared statement of Mr. Takeyh follows:]

## Assessing the Iran Deal

Prepared Statement by

Ray Takeyh

*Hasib J Sabbagh Senior Fellow for Middle East Studies, Council on Foreign Relations*

Before the

Subcommittee on National Security of  
The Committee on Oversight and Government Reform

April 5, 2017

The Islamic Republic is at an impasse. An ideological experiment born in a century of so many such radical postulations has managed to crawl into this epoch. But its journey is likely to end, and the theocratic dictatorship will join its radical counterparts in the dustbin of history. In some ways, Iran resembles the Soviet Union of the 1970s, a bloated state that eschewed reforms and eventually brought about its own collapse. The foremost function of U.S. policy moving forward is to continuously weaken the wobbly foundations of the clerical regime by pressing it both internally and in the region.

The faded history of the Cold War tends to focus little on Soviet premier Alexei Kosygin. In the mid-1960s, Kosygin pressed for economic reforms that involved loosening state controls. This was the China model before China embarked on it in the late 1970s. Kosygin's enterprising efforts were ultimately obstructed by an aging Politburo led by Leonid Brezhnev. The Soviet Union chose to rely on oil wealth, which seemed a smart decision amid the price hikes that followed the Arab oil embargo in the early 1970s. But once oil markets went from boom to bust, the Kremlin had a problem it could neither mitigate nor resolve: Failure to sustain the Kosygin reforms which would have been cushioned by the rising state revenues meant that Mikhail Gorbachev's belated efforts had no chance of succeeding.

Beyond unwise economic planning, the Soviet Union also made some costly foreign-policy decisions in the 1970s. The Kremlin began investing money and resources in areas peripheral to core Soviet security concerns, such as Africa and Latin America. Imperialism was tempting, but it was also costly. Eventually, those imperial impulses led Moscow to the invasion of Afghanistan, a disastrous decision that further bled Russia. A combination of economic mismanagement and imperial misadventures contributed much to the Soviet Union's demise.

The Soviet Union's past is the Islamic Republic's presence, and hopefully, its future. President Hassan Rouhani is celebrated in the West for his pragmatic approach to state planning and international relations. But by another perspective, Rouhani is making a series of mistakes that could imperil the state he seeks to revive. During his tenure, there is a scant evidence that he intends to embark on structural changes necessary to resolve Iran's mounting economic problems. Inflation and unemployment plague Iran, while rampant corruption remains unaddressed. Like Russia's former Communist leaders, Rouhani appears to hope that sanctions relief, access to global financial markets, and ramped-up oil sales will prove sufficient. Ironically, it is Iran's reactionary Supreme Leader Ali Khamenei who is actively calling for development of local industries and markets, as opposed to the sorts of short-term remedies that appear attractive to Iran's president and his modernist aides.

Like the Soviet Union of the 1970s, Iran has embarked on an imperial mission whose costs are more obvious than its benefits. The billions that Iran spends to sustain Bashar al-Assad in Syria and the lavish sums it invests in terrorist organizations such as Hezbollah may offer regional sway, but they further burden the Islamic Republic's depleted economy. No policy has been more destructive to Iran's practical interests than its unrelenting hostility toward Israel. The two states have neither territory in dispute nor a long history of animosity, yet an ideologically driven Islamic Republic has made assaulting the Jewish state one of its principal obsessions. This has led Iran to partner with unsavory actors, alienate much of the international community, and distress a public that has no stake in the Israeli-Palestinian conflict.

Still, in Iran's miscalculations lies an opportunity for the United States to deal effectively with one its most important adversaries. The task at hand is to use all of America's coercive tools to press for genuine change in Iran.

*Containment Begins at Home*

The Islamic Republic's relentless expansionism stems in part from the belief that its revolution can be consolidated at home only if it is exported abroad. This was always, after all, a revolution without borders. Moreover, threats from the outside have always been a convenient way for the Revolutionary Guards and other state instruments to seek to justify their brutality. Thousands of executions since the inception of the theocratic state testify to the oppressive nature of the regime and to its overriding goal of shoring up its rule at home, particularly by eliminating the threat that emanates from its own people.

Today, the theocratic state is ruled by clerical ideologues who claim to know the mind of God. For them, the Islamic Republic is not merely a nation-state, it is a combatant in a struggle between good and evil, at home and abroad—a battle waged for moral redemption and genuine emancipation from the political and cultural tentacles of a profane West. The mullah's internationalist vision has to have an antagonist and the United States and its allies, particularly Israel, are it.

Still, in the 1990s, it looked as if the Islamic Republic would follow the trajectory of other revolutionary states and gradually dispense with its ideological patrimony. The rise of the reform movement led by enterprising intellectuals who sought to harmonize religious values with republican norms led to hopes of a different future. The election of Muhammad Khatami in 1997 was the culmination of efforts to connect the reformers to the larger public. The so-called Tehran Spring led to the rise of civil society groups, critical media and a string of electoral victories by leaders committed to genuine change. And then came the counter-reaction. Under the watchful eye of the Supreme Leader Ali Khamenei, the conservatives struck back. The clerical oversight bodies negated parliamentary legislation, the judiciary closed reformist newspapers and the vigilante groups assassinated key officials and terrorized others. To the detriment of the Islamic Republic, the possibility of evolutionary change through the use of Iran's own constitutional provisions died.

The summer of 2009 will always be recalled as a watershed moment, after which things would never be the same. In June of that year, the presidential election that returned Mahmoud Ahmadinejad to power by rigging the vote presented the theocratic state with the most consequential crisis of its life-time. The Green Movement that exploded on the scene was a coalition of disenchanted clerics, restive youth, disenfranchised women and impoverished elements of the middle class. The regime managed to regain control of the streets through brutal violence against its own citizens, show trials in which regime loyalists confessed to fantastic crimes, and continued repression. However, the essential link between the state and society were severed.

No less than Khamenei has acknowledged that the movement nearly brought about the collapse of the system. In a speech in 2013, supreme leader Ali Khamenei admitted that the Green Movement brought the regime to the "edge of the cliff." General Mohammad Jaffari, the commander of the Revolutionary Guards, has similarly described the post-election period as a "greater danger for the system and the Islamic revolution" than the Iran-Iraq War. "We went to the brink of overthrow in this sedition," Jaffari stated. The regime's security services proved unreliable. Dissension spread even within the guards. Khamenei had to dismiss several commanders. The ruling elite, which had perfected the strategy of staging large pro-regime demonstrations, dared not bring its supporters out for more than six months. Every commemoration day became an occasion for protest. The Islamic Republic was never a typical totalitarian state, as its electoral procedures and elected institutions provided the public with at least impressions of democratic representation. That republican element of the regime provided it with a veneer of legitimacy—and in 2009 that legitimacy vanished.

The task of American diplomacy is similar to the one that Ronald Reagan faced with the Soviet Union: not just renegotiating a better arms-control agreement but devising a comprehensive policy that undermines the theocratic regime. In this regard, there is nothing as powerful as the presidential bully pulpit. Reagan's denunciations of Communist rule did much to galvanize the opposition and undermine the Soviet empire. Dissidents in jail and others laboring under the Soviet system took heart from an American president who championed their cause. Barack Obama chose the opposite course and remained silent as protesters in 2009 called on America to support their cause. His administration was the one that paid scant attention to Iran's human rights abuses. As president, Trump should study Reagan's old speeches and emulate his powerful rhetoric.

As it did with Solidarity in Poland, the United States should find a way of establishing ties with forces of opposition within Iran. Given the Islamic Republic's cruelty and corruption, the opposition spans the entire social spectrum. The Iranians have given up not just on the Islamic Republic, but even on religious observance, as mosques go empty during most Shia commemorations. Three decades of theocratic rule has transformed Iran into one of the most secular nations in the world. The middle class and the working poor are equally hard pressed by the regime's incompetence and corruption. Even the senior ayatollahs are beginning to realize the toll that has taken on Shia Islam by its entanglement with politics. America has ready allies in Iran and must make an effort to empower those who share its values.

Economic sanctions are a critical aspect of any policy of pressuring the Islamic Republic. The experience of the past few years has shown that the United States has a real capacity to shrink Iran's economy and bring it to the brink of collapse. The fewer resources the regime has at its disposal, the less capable it is of sustaining a cadre whose loyalty is purchased. The guardians of the revolution are well aware of their unreliability of their coercive services; the government had difficulty in repressing the Green Movement or mobilizing counter-demonstrations in the summer of 2009. Designating the Revolutionary Guards as a terrorist organization and imposing financial sanctions could go a long way toward crippling Iran's economy. Once deprived of money, the mullahs will find it difficult to fund the patronage networks that are essential to their rule and their imperial ventures.

By generating such pressures, it is hoped that the Islamic Republic begins negotiating with the opposition elements. This will involve releasing political prisoners, allowing those barred from public service to stand as candidates for public office, and ceasing its attacks on civil society groups such as trade unions and professional syndicates. The rulers of Iran will only embark on such activities if they are subject to sustained international pressure and condemnation. Iran should be held as accountable for its dismal human rights record, as its nuclear infractions or support for terrorism.

#### *Pushing back in the Region*

For the recalcitrant mullahs to yield to international norms, all the walls around them have to close in. So as it stresses Iran's economy and divides its society, the United States should also push back against its influence in the Middle East. By contesting Iran's gains, Washington can impose additional costs on the regime and contribute to regional stability. Iran's leaders believe that the vitality of their revolution mandates its export. And it is that export that must be negated as means of undermining the revolution.

An essential insight of any such policy is to dispense with the false notion that Iran and America have a common enemy in the Islamic State (ISIS) or other radical Sunni terrorist organizations. Beneath Iran's expressions of concern about the rise of ISIS is a more cynical strategy. Iran today is using ISIS' ascendancy in the Middle East to consolidate its power. Theocracy is now the key all keeping Iraqi Shias and Alawite Bashar al-Assad's regime standing against well-armed and tenacious Sunni Jihadists. In those battles, Iran will do just enough to make sure the Sunnis don't conquer the Shia portions of Iraq and Assad's enclave in Syria, but no more. Meanwhile, in ISIS' wake, Tehran will strengthen its own Shia militias. It is important to stress the fact that Sunni radicalism is the necessary by-product of Iran's Shia chauvinism. Destroying the Islamic States requires diminishing the tides of Sunni militancy, which in turn necessitates tempering Iran's regional ambitions.

The best arena in which to achieve the objective of pushing back on Iran is in the Persian Gulf region. The Gulf sheikdoms, led by Saudi Arabia, are already locked into a region-wide rivalry with Iran. The Sunni states have taken it upon themselves to contest Iran's gains in the Gulf and the Levant. Washington should not only buttress these efforts but press all Arab states to embark on a serious attempt to lessen their commercial and diplomatic ties to Tehran. The price of American guardianship is for Sunni Arab states to do their part in resisting the rising Shia power of Iran.

Getting the Gulf states to agree to take common action has always been difficult. The United States should help the Gulf states not only as they battle Iranian proxies in Syria, Iraq and Yemen, but also as they deal with a range of other challenges. These include protecting themselves against Iran's efforts to undermine their internal security, defending their economic infrastructure (such as oil and gas platforms, water-desalinization plants, and tourist sites), and preventing Iran from interdicting their energy exports along key transit routes.

To confront Iran, the Gulf states will need capabilities commensurate with the challenge. In particular, the United States should consider supplying them with systems that defend against guided rockets and mortars, such as the Centurion c-ran. And in the long-run, the Gulf states have the financial resources, even at reduced oil prices, to invest in the next generation of missile defense technologies, such as directed-energy weapons, which would diminish Iran's ability to attack them.

The countries in the region with formidable special-forces capabilities, such as Jordan and the United Arab Emirates, should use that advantage to help some of the more vulnerable countries, such as Bahrain, deal with their internal security problems—arrangements that Washington could help broker. Iran's adversaries could even develop a subset of special forces capable of operating inside Iran to exploit the grievances of various ethnic minorities. The goal would be to make Iran think twice about its campaign of regional subversion by demonstrating that two can play that game.

The Gulf states need to further reduce Iran's ability to choke off oil exports by blocking the Strait of Hormuz. Although they have already built pipelines to bypass the strait, they should also take steps to increase those pipelines capacity. The Gulf states should invest in capabilities such as air-to-air missiles to take down Iran's aircraft and land-attack cruise missiles to destroy its anti-ship cruise missiles. And they should augment that effort with the undersea capabilities needed for a campaign against Iran's surface naval assets, including its many small boats.

Even in a disorderly Middle East, there are opportunities to forge new constructive alliances. The enmity that Saudi Arabia and Israel share toward Iran should be the basis for bringing these two countries closer together. Instead of lecturing the Saudis to share the Middle East with Iran and hectoring Israelis about settlements, the United States should focus on imaginative ways of institutionalizing the nascent cooperation that is already taking place between Riyadh and Jerusalem. The U.S. should press both countries to move beyond intelligence sharing and perhaps force complementary trade ties, with Saudi oil exchanged for Israeli technological products. History rarely offers opportunities to realign the politics of the Middle East: a truculent Iran has presented this chance.

Another alliance that needs refurbishing after years of neglect and rancor, is the US-Israeli relationship. One of the most spurious yet pervasive arguments has been that America's ties with Israel damages its standing in the Middle East. To be effective in the Middle East, it is claimed, Washington should put some distance between itself and the only democracy in the region. Any strategy of pushing back on Iran has to have Israel as one of its core elements. The fact is that the Islamic Republic respects Israeli power and fears its integration in the Middle East. An Israel closely tied to the United States enhances our deterrent power. And an Israel that is mending fences with Sunni Arab states only empowers the anti-Iran alliance and further isolates the theocracy in the region. America's task should not be to distance itself from Israel and but to bring all elements of its anti-Iran coalition together.

Although today Iraq seems like a protectorate of Iran, this is a predicament that most Iraqi leaders want to escape. Iraq was once the seat of Arab civilization and the center of the region's politics. The Shia leaders in Iraq take Iranian advice and money for the simple reason that they are locked out of Sunni Arab councils and abandoned by the American superpower. Iraqis understand that Iran has exercised a pernicious influence in their country, further accentuating its sectarian divides as a means of ensuring Iranian influence. Iraq cannot be whole and free so long as Iran interferes in its affairs. A commitment by the United States to once more rehabilitate Iraqi army and bureaucracy can go a long way toward diminishing its ties to Tehran. No Iraqi Arab wants to be subordinate to imperious Shia Persians. Once Iraq frees itself of Iranian dominance, it may yet find a path back to the Arab world and once more serve as a barrier to Iranian power.

At a practical level, Washington should also push Baghdad to govern more inclusively, so that the central government is seen as benefiting Sunnis and Kurds, and just the Shias. It should make an outreach to the Sunni tribes on a scale equivalent to what took place during the 2007 surge of U.S. troops. And it should ramp up its military assistance to Kurds and the Sunni tribal forces, intensify the air campaign against ISIS in both Iraq and Syria, and embed U.S. personnel in the Iraqi military at lower levels than it currently does. A heightened U.S. presence in Iraq need not entail a massive combat force there, but it would mean a larger troop presence and thus a greater risk of casualties. Again, the price for greater U.S. involvement should be a commitment on the part of local actors to press back against Tehran and its enablers.



The tragedy of Syria is that, as the Obama administration stood aloof and preoccupied itself with useless international summits, Iran and Russia possibly succeeded in saving the Assad Dynasty. The Syrian army, buttressed by Iran's Revolutionary Guards, Hezbollah terrorists, and Russian airpower, is poised to control most of the population centers. This hardly ends the civil war, but the attempt to unseat Iran's client in Damascus will take considerable effort and commitment by the United States and its Sunni allies. For both strategic and humanitarian reasons, we should embrace this task. Pushing back on Iran means harassing its Syrian proxy. At the very least, as the opposition strengthens, Iran will have to face the dilemma of sinking more resources and men into a quagmire or cutting its losses, as the Soviet Union was forced to do in Afghanistan.

As regime as dangerous to U.S. interest as the Islamic Republic requires a comprehensive strategy to counter it. This means exploiting all of Iran's vulnerabilities; increasing the costs of its foreign adventures, weakening its economy, and supporting its domestic discontents. Pursuing that strategy will take time, but eventually, it will put the United States in a position to impose terms on Iran. We should seek to compel Iran to cease its regional subversion, not create power vacuums that encourage it. And we should move human rights up the agenda, not look the other way as Iran's leaders oppress their people.

Some in Washington believe that Iran problem is of secondary importance to the United States compared to violent Jihadists. For all their achievements, those radical movements do not yet possess the resources and capabilities of a large, sophisticated state. It must be noted that the Iranian regime was the original Islamic revolutionary state. Its successes inspired a wave of radicals across the Middle East. At its most basic level, the confrontation between the United States and Iran is a conflict between the world's sole superpower and a second-rate autocracy. Washington does not need to settle for hopes that theocrats with no interest in relaxing their grip will somehow become moderates. A determined policy of pressure would speed the day when the Iranian people replace a regime that has made their lives miserable. And in the interim, it would reduce the threat of a triumphant regime posed to the Middle East and the world beyond.

Mr. DESANTIS. Thank you.  
Mr. Walsh, you're up for 5 minutes.

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

Mr. WALSH. Mr. Chairman, Mr. Ranking Member, members of the committee, it's an honor to be here today to discuss the implementation of the nuclear agreement with Iran and our P5+1 international partners.

Let me begin first by looking at Iran's compliance with the JCPOA. The JCPOA is a nuclear agreement. It's not an agreement on regional relations, human rights, or other issues, and it's a nuclear agreement for good reason. Denying Iran nuclear weapons is the uncontested single most important American objective in the Gulf. Yes, Iran supports policies that run contrary to American interests, but the only thing worse than an Iran that does bad things is an Iran that does bad things and has nuclear weapons.

It's also worth noting, as I have explained in past testimony, that the JCPOA is arguably the strongest multilateral nonproliferation agreement negotiated in the nuclear age. No country has been subjected to the kind of intrusive inspection and verification embodied in this agreement. Today, IAEA has more inspectors on the ground in Iran than ever before.

To assess Iran's compliance, I use a variety of metrics. One, Iran's implementation of specific provisions. Did Iran remove 98 percent of its uranium stockpile? Yes. Did Iran dismantle two-thirds of its centrifuges? Yes. Did it destroy the calandria of the Arak reactor? Yes. Time does not permit me to go through the whole list, but I think you get the idea.

Next, I look at, two, assessments by others. The International Atomic Energy Agency, the U.S. intelligence community, our European partners, including Britain, France, Germany, and the EU, have all concluded that Iran is in compliance with its obligations. The Israeli military, for its part, has changed its threat assessment as a result of the nuclear agreement.

Let me turn now to Iran's regional activities. Iran's regional activities pose problems for U.S. interests in the region, but by way of context, few countries in the Middle East have been shy about meddling in the affairs of their neighbors. Saudi Arabia, Qatar, Turkey, and Egypt, for example, have all recently intervened in other countries, directly or through proxies. Moreover, these practices have been a prominent feature in the region for decades.

Now, none of this means that Iran's unwanted behavior should be simply accepted; it shouldn't. What it does suggest, however, is that regional meddling is not new, it is unlikely to go away any time soon by any of the players, and it should be judged in context and not in isolation. In short, this is the Middle East, and it has been like this for a very long time. But when it comes to Iran, ambition is one thing, capability is another.

And even when one looks at the Iranian-Saudi rivalry, it's pretty clear who has the upper hand. In this competition, the Kingdom is supported by the Gulf Emirates, Pakistan, Egypt, and the U.S., among others. The Iranian side is poor and weak by comparison. It includes Lebanon, a weak state, Syria, in the middle of a civil war, and possibly Iraq, although I doubt that for the long-term, but

is also fighting a war on its own territory. Saudi Arabia alone, without counting its many allies, is far wealthier than Iran and outspends its rival on defense.

The International Institute for Strategic Studies reported that Saudi Arabia spends almost four times as much on its military as Iran. It goes on to conclude that, quote, Saudi Arabian Armed Forces remain the best equipped of all of the states in the region except Israel. So while Iran may have aspirations of hegemony, it lacks the economic and military capabilities to achieve that status, particularly in a region where Sunnis vastly outnumber the Shia.

Terrorism. Iran is said to be the largest state sponsor of terrorism in the world, though some experts would instead point to Pakistan and Saudi Arabia. Critics of the agreement have suggested that it would free resources that Iran would use for increased terror activity. As my past testimony explains, there are reasons to doubt this. In addition, I went back and tested the proposition using the University of Maryland's global terrorism database. I examined terror attacks for all four groups that Iran has supported in the past. The results are striking and surprising.

First, terror attacks by the most active groups are all significantly down from their historic highs. More tellingly, attacks are all down beginning around 2013, 2014, that is to say, with the JPOA and the JCPOA. Now, one will have to keep an eye on this to see if it changes, but to date, the data is clear: the rise in terror attacks by Iranian-backed groups predicted by critics simply did not happen.

Ballistic missiles. Under the Security Council resolution, Iran has, quote, called upon not to carry out ballistic missile tests of nuclear-capable missiles. To be clear, the language in the resolution does not mandate that Iran end missile tests, and the resolution actually provides for missile technology transfers in the agreement. Since the time its cities were attacked by ballistic missiles by Iraq during the Iran-Iraq war, Iran has viewed missiles as a defense need, not surprisingly, and has achieved virtual self-sufficiency in that program. Sanctions cannot change that reality. Only a reduction of regional tensions can do that, but until then, the U.S. has other options at its disposal.

In conclusion, I believe that Congress has an important role to play in the JCPOA's implementation, and I stand ready to work with this committee to make sure we achieve our common goal and our first priority: ensuring that Iran never acquires nuclear weapons.

Thank you very much.

[Prepared statement of Mr. Walsh follows:]

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

“Assessing the Iran Deal”

Wednesday, April 5, 2017

Statement of Dr. Jim Walsh  
MIT Security Studies Program

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

It is an honor to be with you today to discuss the status of the nuclear agreement with Iran and our P5+1 international partners.<sup>1</sup> Congressional leadership is one reason we have a historic and unprecedented nuclear agreement, and continued oversight by Congress will be required if the Joint Comprehensive Plan of Action (JCPOA) is to achieve its objective of preventing Iran from acquiring a nuclear weapon.

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, Daryl Kimball, Edward Levine, William Luers, Iris Bieri, Aria Rivero, the Center for Arms Control and Nonproliferation, Max Walsh, and Corie Walsh. My testimony and comments are mine alone, however, and are not intended to represent the views of the MIT Security Studies Program or individuals I have consulted in 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.

In my testimony today, I want to directly address the two issues raised by this hearing.<sup>3</sup>

1) Iran's compliance with the JCPOA

2) Iran's regional behavior

My summary judgment is that Iran has complied with its obligations under the JPOA and the JCPOA for all 3 years. It is my assessment that Iran engages in a number of objectionable policies in the region, but that a) its profile in is often exaggerated and mischaracterized, b) many if not most states in the region also engage in these same activities, and c) these practices have been a prominent feature of regional relations in the Middle East for decades. I conclude that the JCPOA is accomplishing the single most important American national interest in the Gulf, namely preventing Iran from acquiring nuclear weapons. Moreover, I find that Iran's problematic behavior outside the JCPOA does not present an imminent, unusual, or significant threat to US interests, nor is it outside the ability of the United States and its partners to constrain and counter Iran's unwelcome activities.

#### **I. Iran's compliance with the JCPOA**

Before reviewing Iran's performance under the JCPOA, it makes sense first establish a context for assessment. 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.

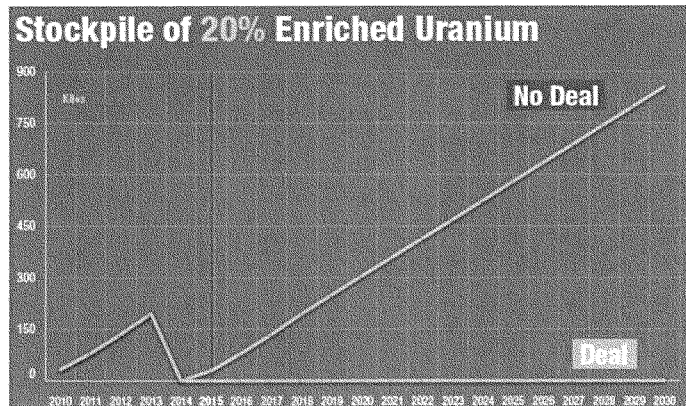
It is also worth noting, as I have explained in previous testimony, that the JCPOA is arguably the strongest multi-lateral nonproliferation agreement negotiated in nuclear age.<sup>4</sup> The Nuclear Non-proliferation Treaty (NPT), the cornerstone of the nonproliferation regime, does not come close. No country has been subjected to the kind of intrusive inspection and verification regime embodied in the JCPOA. Today, the IAEA has more inspectors on the ground than ever before.

One measure of the value of the agreement is to compare where we are today to where we would be in the absence of the JCPOA. The chart below forecasts those alternative futures for the production of 20% enriched uranium, once the single biggest concern about Iran's nuclear

<sup>3</sup> "Witness Invitation Letter from the Committee on Oversight and Government Reform to Jim Walsh," March 31, 2017.

<sup>4</sup> See, for example, Jim Walsh, "Comments on the Recently the Recently Negotiated Joint Comprehensive Plan of Action," Invited comments for the Senate Foreign Relations Committee, United States Senate, August 1 2015. Washington, DC: US Congress. 2015, pp. 1-6; Jim Walsh, "Iran Terror Financing and the Tax Code." Written statement for the House Committee on Ways and Means, Oversight Subcommittee, United States House of Representatives, November 4, 2015. Washington, DC: US Congress, 2015, pp. 1-10.

activities, but broadly representative of a variety of measures from installed centrifuges to LEU stockpiles to research and development of advanced centrifuge designs.<sup>5</sup>



To assess Iran's compliance or non-compliance with the JCPOA, I use four metrics: 1) whether it has implemented the specific provisions of the agreement, 2) assessments by the US and other governments and entities, 3) the nature or quality of the compliance (e.g., affirmative versus slow and begrudging), and 4) whether any party to the agreement has made use of its rights under the agreement to make a formal claim of non-compliance.

#### 1) Iran's implementation of specific provisions of the JCPOA

This simple but straightforward approach of evaluation focuses on specific actions Iran is obligated to have carried out. Below is a list of some of the more important requirements under the agreement and Iran's response.

|                                                                      |      |
|----------------------------------------------------------------------|------|
| Did Iran remove 98% of its LEU stockpile?                            | Yes. |
| Did Iran dismantle two-thirds of its centrifuges?                    | Yes. |
| Did Iran destroy the calandria of the Arak reactor?                  | Yes. |
| Did Iran cap its level of enrichment to 3.67%?                       | Yes. |
| Did Iran convert the Fordow underground facility?                    | Yes. |
| Did Iran submit to 24/7 IAEA inspection of its sensitive facilities? | Yes. |
| Is Iran reprocessing plutonium?                                      | No.  |

Based on my own analysis of these and other Iranian actions, I conclude that Iran has complied with its obligations under the JCPOA. Moreover, this has been true not just for a year under the JCPOA but rather a full 3 years going back to the interim Joint Plan of Action (JPOA). As a

<sup>5</sup> Ali Vaez, "Key Features of Iran's Nuclear Program," International Crisis Group, September 10, 2015. <http://blog.crisisgroup.org/worldwide/2015/09/10/key-features-of-irans-nuclear-program/>

consequence, one can say with high confidence that Iran cannot, under these conditions, build a nuclear weapon.

Of course, this is just one analyst's judgment. This conclusion would be strengthened, if assessments by others arrived at a similar result and weakened, if these evaluations arrived at a different finding. Accordingly, we consider a second metric for assessment.

## 2) Assessments by others

This committee is not alone in wanting to determine if Iran has complied with its obligations. The other signatories to the agreement as well as those not party to the JCPOA (e.g., Israel) have a strong stake in whether Iran is abiding by the terms of the JCPOA and the associated UN Security Council Resolution.

Perhaps first among the interested observers is the International Atomic Energy Agency (IAEA) which has responsibility for much of the formal verification of the JCPOA. The IAEA has conducted quarterly and sometimes monthly reviews of Iran's compliance and has judged in every one of its reports that Iran has met its obligations.<sup>6</sup>

Similarly, when questioned in Congressional hearings, representatives from the US intelligence community reported that Iran has complied with the nuclear agreement. Moreover, American intelligence officials judge that if Iran were not in compliance, we would know: "the international community is well postured to quickly detect changes to Iran's declared nuclear facilities."<sup>7</sup>

These same conclusions have been affirmed by our European partners in the agreement, including Britain, France, Germany, and the EU.<sup>8</sup> For example, the High Representative of the EU for Foreign Affairs and Security Policy recently remarked that, "So far, as I said, both through the IAEA's reports – five of them – and through the Joint Commission Assessments that looks at all the different elements of full compliance in good faith by all actors of the JCPOA, we have always assessed together that there is full compliance in all sides by all actors."<sup>9</sup>

Particularly interesting are the views offered by the Israeli military. Statements by Israeli Chief of the General Staff Lieutenant General Gadi Eizenkot, who commands the Israeli Defense Forces (IDF), suggested that the JCPOA had the effect of reordering Israel's defense priorities, a

<sup>6</sup> For the latest IAEA report, see IAEA. "Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015)," GOV/2017/10, February 24, 2017.

<sup>7</sup> James R. Clapper, "Statement for the Record Worldwide Threat Assessment of the US Intelligence Community, Senate Armed Services Committee, February 9, 2016, p. 8.

<sup>8</sup> [http://dsms.consilium.europa.eu/952/Actions/Newsletter.aspx?messageid=8829&customerid=32950&password=cnc\\_32336E613435734555473368\\_cnc](http://dsms.consilium.europa.eu/952/Actions/Newsletter.aspx?messageid=8829&customerid=32950&password=cnc_32336E613435734555473368_cnc).

<sup>9</sup> [https://eeas.europa.eu/headquarters/headquarters-homepage/23056/high-representativevice-president-federica-mogherini-2017-carnegie-nuclear-policy-conference\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/23056/high-representativevice-president-federica-mogherini-2017-carnegie-nuclear-policy-conference_en).

result reflected in Israel's 2016 National Intelligence Estimate.<sup>10</sup> 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>11</sup>

In short, every official assessment offered to date supports the conclusion that Iran is complying with its obligations under the JCPOA.

### 3) The nature or quality of Iran's compliance

The United States and international community have years of experience enforcing nonproliferation agreements. Some countries have been affirmative and forthcoming in their implementation of their obligations; others have stonewalled and stalled. The poster child for the latter approach was Saddam Hussein and Iraq, where UN inspectors were under constant pressure from a regime that was determined to hinder the implementation of UN mandates. Iran has not followed the Saddam Hussein model. Instead, Iran moved swiftly to fulfill its obligations. And when disputes over implementation have arisen, as one would expect with a complex agreement of more than 100 pages, the parties have been able to quickly resolve them and move forward.

### 4) Formal claims of non-compliance

Under the JCPOA and UNSCR 2231, the parties to the agreement and the IAEA have the prerogative to go to the UNSC and declare that Iran is in breach of its obligations. Such a declaration would trigger the snap back sanctions provisions and process. To date, no country has made such a claim, and that includes the Trump administration. Indeed, I am not aware that any of the groups represented at this hearing –FFD, UNANI, or ISIS– have called on the US government to make such a declaration, and given the arguments they have made in the past, I presume they would not be "self-deterred" from urging such a move if they believed that Iran was in compliance.

In short, my analysis finds that Iran has complied with its obligations and that this conclusion is broadly consistent with the judgments made by a wide array of governments and international observers. Moreover, no party to the agreement has gone to the UNSC or even threatened to go to the UN to claim that Iran is in material breach of its obligations.

## **III. Iran's Regional Activities**

### The Context: Iranian Aspirations and the Saudi-Iranian Rivalry

Iran's regional activities pose a number of problems for US interests in the region, as well as for the interests of our allies and partners. Before reviewing Iran's regional behavior, it would be helpful to step back and look at the policy and historical context.

<sup>10</sup> 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/>

<sup>11</sup> Kaye, Dalia Dassa. *Israel's Iran Policies After the Nuclear Deal*. Santa Monica, CA: RAND Corporation, 2016, p. 7. <https://www.rand.org/pubs/perspectives/PE207.html>.



First, it is worth noting that Iran is not the first country to enter into a nuclear agreement but then continue with regional activities that were contrary to US interests. Arms control agreement with the Soviet Union did not end Moscow's foreign adventurism, nor did the nonproliferation agreement with Libya stop Colonel Gadafi from his anti-Israel rhetoric and policies. Nevertheless, these agreements are considered to have bolstered the security of the US and its allies. And certainly in the absence of these nuclear agreements, both countries would have engaged in the same behavior, regardless.

Second, few countries in the Middle East have been shy about meddling in the affairs of their neighbors. Saudi Arabia, Qatar, and Turkey took early and aggressive steps to support insurgent groups in Syria, including those that had extremist tendencies or were associated with known terror organizations. Saudi Arabia and its allies are currently waging a war in Yemen that has had horrific consequences for the civilian population, and the Wall Street Journal has reported that Saudi-backed forces have fought alongside and in cooperation with Al Qaeda.<sup>12</sup> And not to be left out, Egypt has intervened in Libyan conflict.

Moreover, these practices have been a prominent feature in the region for decades. In Egypt under Nasser, Cairo intervened in Yemen, took over Syria, and hatched any number of coup attempts against Iraq and other rivals. Iran and Iraq, particularly under the Shah and Saddam Hussein respectively, engaged in countless attempts to put pressure on each other through the use of proxies and propaganda. Saddam Hussein also invaded Kuwait. It would be easier to name the countries in the region that have not meddled in the affairs of their neighbors than to name all the ones who have.

None of this is to suggest that Iran's unwanted behavior should simply be accepted. It shouldn't. The US has a variety of foreign policy tools it can use to minimize and counter such activity, as it has had to do for years. What it does suggest, however, is that this behavior is not new, it is unlikely to go away any time soon, and that it should be judged in context and not isolation. In short, this is the Middle East, and it has been like this a long time.

The Islamic Republic's attempts at regional mischief are tied to two larger currents in Iranian foreign policy: its view of itself as a country that should be a hegemon in Southwest Asia and more importantly, the increasingly destructive rivalry between Saudi Arabia and Iran. Iran has long thought of itself as deserving a privileged status, but the current Saudi-Iranian rivalry has its roots in more recent events, in particular the 1979 Iranian revolution and the 2003 War in Iraq.

Iran's ambition to be the regional hegemon is one part ambition, one part humiliation from having been dominated by foreign powers, and one part religious identity, as it is the central Shi'ite Muslim country in a region where Sunni Muslims predominate. Long before the Iranian revolution, the Shah of Iran had hoped to become the leading state in the region. Iranians sometimes wistfully refer to Cyrus the Great and the Persian Empire and express shame at what has befallen them since. They are the Rodney Dangerfield of the Middle East, feeling like they don't

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<sup>12</sup> Maria Abi-Habib and Mohammed Al-Kibsi, "Qaeda Fights on Same Side as Saudi-Backed Militias in Yemen," *Wall Street Journal*, July 16, 2015, <http://www.wsj.com/articles/al-qaeda-fights-on-same-side-as-saudi-backed-militias-in-yemen-1437087067>

get any respect, and clearly there is an ethnic dimension to this, as some Iranians feel a sense of superiority over their Arab neighbors and stew at the notion that the wealthy Gulf kingdoms have surpassed them economically and politically. Still ambition is one thing, capability is another.

Indeed when one looks at the Iranian-Saudi rivalry, it's pretty clear who has stronger position. In this competition, the Kingdom is supported by the Gulf emirates, Pakistan, Egypt, and the US, among others. The Iranian "side" is poor and weak by comparison. It includes Lebanon (a weak state), Syria (in the middle of a civil war) and possibly Iraq (also at war on its own territory), though my own guess is that if Iraq ever gets its act together, a resumption of the Iran-Iraq rivalry may well follow. Saudi Arabia alone, without counting its many allies is far wealthier than Iran and far outspends its rival on defense. The most recent figures from the respected International Institute for Strategic Studies reports that Saudi Arabia spends roughly \$60b a year on its military compared to approximately \$16b in Iran. That is a ratio of 3.75-1. That bears repeating. Saudi Arabia spends nearly four times as much on its military as Iran. IISS goes on to conclude that "Saudi Arabian armed forces remain the best equipped of all the states in the region except Israel."<sup>13</sup>

So while Iran may have the aspirations of a hegemon, it lacks the economic and military capabilities to achieve that status, particularly in a region where Sunnis vastly outnumber the Sh'ia.

#### Iran in the Region: Aggressor, Defender, or Both?

Iran is involved in the internal affairs of a number of countries in the region, but the situations vary considerably.

In Iraq, it is playing defense. Having been *invited* by the Iraqi government, Iran is fighting ISIS, as the US is doing as well. Iran no doubt hopes that its assistance to Iraq will win it friends and influence there, but the historical record of Iranian intervention into Iraqi affairs is not a pretty one. The more Iran attempts to wield influence, the more average Iraqis hold it responsible if things turn out poorly. Worse yet for the Iranians, they are their own worst enemy. Their sense of superiority over Arabs and their lack of a deft touch often alienates Iraqis, who resent the high-handed foreigners. This cycle has played out repeatedly in Iraqi domestic politics since 2003.<sup>14</sup> It is also worth remembering that quite a number of Iraqi Shi'ite Arabs killed a lot of Iranian Shi'ite Persians during the bloody Iran-Iraq War. It remains to be seen whether religion or ethnicity and nationalism will prove to be the stronger force, but in any case, Iraq's non-trivial Sunni population will get a say.

In Syria, Iran is again on defense, fighting on behalf of one of its few allies in the region, Assad. My personal view is that Assad is a war criminal who should be tried for crimes against humanity, but as a scholar of international relations, it certainly does not surprise me that states come to the defense of their allies for reasons of national interest. That is the way states behave. The good news is that Iran is finally having to pay costs for its alliance. Prior to this, the

<sup>13</sup> IISS, *The Military Balance, 2017*, (London: IISS), 2017, p. 401

<sup>14</sup> Jim Walsh "Rivals, Adversaries, and Partners: Iran and Iraq in the Middle East," In *Iran and Its Neighbors*, London: Palgrave Macmillan, 2017.

relationship was all benefits and no real costs to speak of. In Syria and Iraq, the Islamic Republic is spending blood and treasure, and at least in Syria, it will likely do some for years to come. This is blood and treasure that once spent cannot be recouped and used elsewhere for other purposes.

In Lebanon, Iran's role is more straightforwardly an attempt to extend its influence, especially through Hezbollah and other Shi'ite groups. Its influential role in Lebanese affairs is bad for the region and especially bad for Israel.

Yemen and Bahrain are the other two countries where Iran is involved, but the relationship here involves neither the costly defense of an ally nor self-interested meddling for its own purposes. Iran sees itself as both the defender of the Shia and a rival to Saudi Arabia. Both elements undergird Iran's involvement with these countries. But unlike the countries discussed above, neither Yemen nor Bahrain is a vital interest to Iran, and in neither case is it "all in." What's more, in both countries there are particular histories and interests that both precede and supersede Iran's role. Iran or no Iran, the Houthis would be fighting their fellow countrymen, as they have for decades now. It is a complex cauldron of Houthi grievance, the lingering machinations of a former dictator, a rather robust Al Qaeda presence, and Saudi insecurity.

In Bahrain, the situation is different, insofar as it is a case of a majority population (Shi'a) being ruled by a Sunni autocrat and what has been, at least until recently, a largely indigenous and peaceful attempt by Bahraini's to advance their political rights. Iran has largely stayed away from direct involvement in this fight, and the locals certainly do not want to be discredited by colluding with a foreign capital like Tehran. Whether reports of arms shipments to Bahrain prove both true and significant remains to be seen, but it would be a very negative development. So while Yemen and Bahrain represent different situations, they both represent an interest – though not a vital interest – to Iran as well as a way to pressure or strike back at the Saudis.

#### Reducing the Regional Conflicts

It is in the interest of the US to reduce the intensity if not see an end to the many conflicts in the region. Conflicts lead to instability, migration and internal population movements, civilian casualties, and weak states. These weak states are unable to police their own territory and thus become havens for violent extremists.

Sanctions are not likely to have much impact when a country's vital interests are on the line.<sup>15</sup> So what can the US and others in the region do? Two areas stand out from the rest: 1) degrading and destroying ISIS and 2) turning down the volume on the Saudi-Iranian rivalry. This latter objective will require both reassuring Saudi Arabia but also pushing for a political arrangement that can set boundaries and thus end some of the most pernicious aspects of the competition between these two rivals. Absent a new political understanding between the two rivals, it will be very difficult to stop the bloodshed and chaos. Iran and Saudi Arabia do not have to be friends;

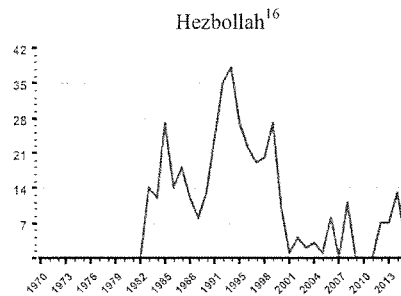
<sup>15</sup> For a review of the social science research on sanctions effectiveness, see Jim Walsh and John Park, "Stopping North Korea, Inc.: Sanctions Effectiveness and Unintended Consequences," MIT Security Studies Program, August 2016, pp. 1-64  
<[https://drive.google.com/file/d/0B\\_ph0c6i87C\\_eGhCOGRhUVFaU28/view](https://drive.google.com/file/d/0B_ph0c6i87C_eGhCOGRhUVFaU28/view)>

they need rules of the road and mutually agreed limits that benefit both parties. Such arrangements have been worked out before between rivals in the regional, though they are hard to sustain over time. At a minimum, the US should not stand in the way of a political solution, and ideally it should encourage one.

In the end, there will probably be conflict in the Middle East for at least the foreseeable future. Inter-state meddling is not a new phenomenon in the region; it has a long and rich history. But it can be marginally worse or marginally better, and it is in American interests to see the latter. The conflicts also serve as a reminder why the top priority for the region must be that Iran or others do not acquire nuclear weapons. Instability and conflict may persist for some time, but it will be a less dangerous state of affairs if the parties do not have the ultimate weapon.

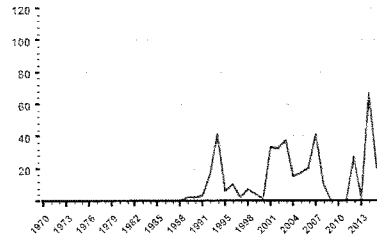
#### IV. Terrorism

One aspect of regional relations not yet discussed is terrorism. Iran has been called the largest state sponsor of terrorism in the world, though some experts would instead point to Pakistan and Saudi Arabia as peer competitors in this regard. Iran has supported a number of non-state actors that have been designated by various governments as terror organizations. These include most centrally Hezbollah, as well as Hamas, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command. Iran's relations with these groups have waxed and waned over time, but the advent of the JCPOA led some to suggest that the agreement would free resources that Iran could put into increased terror activity. As my previous testimony explains, there are strong reasons to doubt this, but rather than repeat those arguments, I thought I would go back and do something that had not been done: taking a look at the actual data. Using the University of Maryland's database for terror incidents, I went and looked at terror attacks by all four groups over time. The results suggest that terror attacks by these groups have, in most cases, actually declined in number since the JPOA. The full tables are contained in an appendix, but here are the charts documenting attacks for each of the four groups.

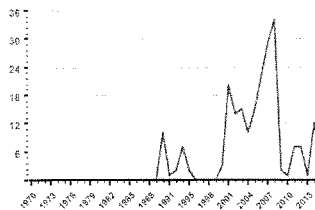


Hamas<sup>17</sup>

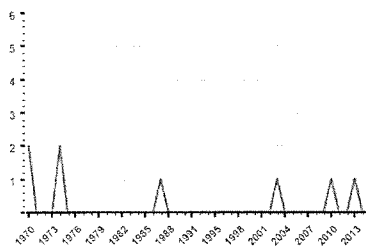
<sup>16</sup>[https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties\\_type=b&casualties\\_max=&dtp2=all&success=yes&perpetrator=407&ob=GTDDID&od=desc&page=1&count=100#results-table](https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties_type=b&casualties_max=&dtp2=all&success=yes&perpetrator=407&ob=GTDDID&od=desc&page=1&count=100#results-table)



Palestinian Islamic Jihad<sup>18</sup>



Liberation of Palestine-General Command



Two features are striking. First, terror attacks by the three most active groups are all generally down from the historic highs compared with previous years. Second, and perhaps more telling, attacks are all down beginning around 2013-2014, i.e., with the JPOA and JCPOA. One will have to keep an eye on this to see if this changes over time, but to date the data is pretty clear.

<sup>17</sup>[https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties\\_type=&casualties\\_max=&success=yes&perpetrator=399&ob=GTIDID&od=desc&page=3&count=100#results-table](https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties_type=&casualties_max=&success=yes&perpetrator=399&ob=GTIDID&od=desc&page=3&count=100#results-table)

<sup>18</sup>[https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties\\_type=&casualties\\_max=&success=yes&perpetrator=30214&ob=GTIDID&od=desc&page=2&count=100#results-table](https://www.start.umd.edu/gtd/search/Results.aspx?expanded=no&casualties_type=&casualties_max=&success=yes&perpetrator=30214&ob=GTIDID&od=desc&page=2&count=100#results-table)

The rise in terror attacks by Iranian backed groups predicted by JCPOA critics simply did not happen.

#### V. Ballistic Missiles<sup>19</sup>

“The issue of Iran’s missile development was discussed at the hearing, and it might be useful to describe Iran’s missile program and place it in a proper context.

Iran has had a committed program of ballistic missile development for years, and possesses one of the larger and more advanced programs in the region. Still, Israel’s missiles are more advanced, as are some of the Gulf states’ tactical missile programs and missile defense initiatives.<sup>20</sup>

Iran’s interest in ballistic missiles is not surprising given the “War of the Cities” during the Iran-Iraq War, when Saddam Hussein lobbed missiles and other munitions at Iranian urban areas in an attempt to demoralize the population. In addition, Iran’s defense planners likely view ballistic missiles as an instrument of asymmetric deterrence, given Iran’s poor air power capabilities and its limited capacity to project conventional military force. Put another way, Iran may think of ballistic missiles as a useful, if not completely effective, deterrent to air and missile attacks on Iranian territory.

In none of the UN Security Council resolutions is there a requirement that Iran abandon its missile program. The pre-Iran agreement UN Security Council resolutions, notably Resolution 1929 required that governments refrain from the transfer of missile technology to Iran until such time as it entered into negotiations on its nuclear program.<sup>21</sup> These missile-related sanctions, together with restrictions on the sale of conventional weapons were --like economic sanctions-- a punishment for Iran’s nuclear program, with the implied expectation that they would be removed after Iran resolved the nuclear dispute. In other words, the missile sanctions were not about missiles per se but rather important only as it related to Iran’s nuclear program. The one exception in this case was any ballistic missile development that might be *directly* related to nuclear weapons as a delivery platform.

Under UNSCR 2231, which implements the JCPOA, the moratorium on missile technology transfers is extended for eight years and Iran is called upon not to carry out ballistic missile tests

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<sup>19</sup> This section is taken from my testimony from before the House Ways and Means Committee. Jim Walsh, “Supplemental Remarks on Iran Terror Financing and the Tax Code,” Written statement for the House Committee on Ways and Means, Oversight Subcommittee, United States House of Representatives, 18 November 2015, Washington, DC: US Congress, 2015, pp. 1-9.

<sup>20</sup> Michael Elleman, “Gulf I: Iran’s Power in the Air,” The Iran Primer, Michael Elleman’s Blog, United Institute of Peace, March 11, 2013, <http://iranprimer.usip.org/blog/all/Michael%20Elleman>; Anthony H. Cordesman, “The Iran Nuclear Agreement and Iranian Missile Developments,” CSIS, July 22, 2015, <http://csis.org/publication/iran-nuclear-agreement-and-iranian-missile-developments>

<sup>21</sup> United Nations Security Council, Resolution 1929 (2010), June 9, 2010, [https://www.iaea.org/sites/default/files/unsc\\_res1929-2010.pdf](https://www.iaea.org/sites/default/files/unsc_res1929-2010.pdf)

of nuclear capable missiles.<sup>22</sup> The concept of “nuclear capable” is a murky one, insofar as any missile could, in theory, carry a nuclear payload if the country had the capacity to produce a sufficiently small warhead. (For its part, the US during the Cold War produced nuclear warheads that could be fired from a bazooka -- the Davy Crockett.) But the resolution also permits missile technology transfers during this eight-year period on a case-by-case basis.

Iran, for its part, does not believe that the international community has the right to restrict its missile program outside of its direct relevance to nuclear weapons, and it did not agree to those provisions in UNSCR 2231 (thus the language that Iran is “called upon....”). As such it is not bound in the legal sense.<sup>23</sup>

When it comes to assessments of Iran’s ballistic missiles, one sometimes reads breathless warnings about Iranian capabilities and its “ICBM program.” One should treat these assessments with skepticism. Iran has never flight-tested an ICBM. Its missile program continues to grapple with issues of accuracy, and while it has made progress over the years, recent assessments point to delays and challenges.<sup>24</sup> To be sure, it is a well established and now a largely indigenous program, but its trajectory points to incremental progress over time. Recently, Adm. Bill Gortney, head of U.S. Northern Command, testified that it would be years before Iran would be able to flight-test an ICBM, and that US assessments were pushing back the estimated projected progress in Iran’s long-range missile efforts.<sup>25</sup>

## VI. Conclusion

I thank the Committee for providing me the opportunity to address these issues. Conceptual clarity and a reliance on facts and evidence rather than assertion and speculation will be important, as we navigate the future.

As I indicated, the JCPOA is arguably the most robust multi-lateral nonproliferation agreement ever negotiated in the 70-year history of the nuclear age. It will require wisdom, prudence, and the support of international partners to see that the agreement is successfully realized.

I believe that Congress has an important role to play in the JCPOA’s implementation. On the

<sup>22</sup> United Nations Security Council, S/RES/2231 (2015), July 20, 2015, <http://www.un.org/en/sc/inc/pages/pdf/pow/RES2231E.pdf>

<sup>23</sup> My thanks to longtime SFRC and SSCI staffer Ed Levine for his help in decoding this language.

<sup>24</sup> Greg Thielmann, “Addressing Iran’s Ballistic Missiles in the JCPOA and UNSC Resolution,” Arms Control Association, Issue Briefs, Volume 7, Issue 8, July 27, 2015, <http://www.armscontrol.org/Issue-Briefs/2015-07-27/Addressing-Irans-Ballistic-Missiles-in-the-JCPOA-and-UNSC-Resolution>; Barbara Salvin, “Sanctions, Sabotage, Science Delay Iran’s Missile Program, *Al Monitor*, December 17, 2014, <http://www.al-monitor.com/pulse/originals/2014/12/iran-missile-development-slow.html#>

<sup>25</sup> Jason Sherman, “Senior Military Officer Says Iranian ICBM Threat Delayed until Later this Decade at ‘Earliest’,” *Inside Defense*, November 10, 2015, <http://insidedefense.com/daily-news/senior-military-officer-says-iranian-icbm-threat-delayed-until-later-decade-earliest> Inside Defense

other hand, rash or shortsighted actions by the legislative or executive branches could undermine the US position and leave Iran free to pursue its nuclear program. I stand ready to work with the Committee to make sure we achieve our common goal and first priority: insuring that Iran never acquires nuclear weapons.



Mr. DESANTIS. Thank you.

The chair now recognizes himself for 5 minutes.

General Barbero, you mentioned, which we don't mention enough, I think, the number of U.S. troops that were killed at the hands of Iran while we were in Iraq. And by my estimate, it was definitely hundreds and may have been over a thousand. Do you agree that those numbers are accurate?

General BARBERO. I agree, Mr. Chairman.

Mr. DESANTIS. And these are attacks that are directed by, in many cases, Iran's Quds Force, correct?

General BARBERO. They were active in equipping, training, and directing these attacks.

Mr. DESANTIS. And has there ever been any type of remorse or anything, Iran take responsibility, this deal, anything for all the American deaths?

General BARBERO. Absolutely not.

Mr. DESANTIS. Now, Iran is pursuing this ballistic missile program. What type of a threat does that pose to the United States and how should we respond to it?

General BARBERO. Well, I'm not the expert on ballistic missiles, but as a leader in the Middle East just described, the combination, the continued advancing of certain related technology, such as their centrifuge, and linking them with the long-range ballistic missile program is not good for the United States in the future, and that this deal is further described as zero nukes today, 100 nukes tomorrow.

Mr. DESANTIS. Mr. Dubowitz, 2231 has restrictions on ballistic missile activity. It talked about missiles designed to be capable of delivering nuclear weapons. How do you define a nuclear-capable missile? Is there a difference between that and conventional? Because what you'll hear people who defend Iran will say is, yeah, they did this ballistic missile, but that's not necessarily anything having to do with nuclear. They're just testing missiles.

So how do you make that distinction, or do you?

Mr. DUBOWITZ. Well, I think the key point, there are missiles that are capable of delivering a nuclear warhead, and many of Iran's missiles already are capable of delivering a warhead. And certainly Iran has a very active long-range ballistic missile program and an ICBM program that they are working on, not only by themselves, but always important to remember the extensive cooperation between Iran and North Korea on missiles and the long progress that North Korea has made on their ICBM program.

Mr. DESANTIS. And so what—is there a different purpose that would be reasonable for this ballistic missile program other than to deliver a nuclear payload?

Mr. DUBOWITZ. Well, there's certainly no reason to have an ICBM, unless you're interested in delivering a nuclear payload. And the long-range ballistic missile program that Iran has is getting more sophisticated, more lethal, ranges are increasing. And it is absolutely clear, as you know, Secretary Kerry testified to the Senate Foreign Relations Committee in 2015, that the U.N. Security Council Resolution 2231 was designed to prohibit Iran from testing and developing those missiles.

Mr. DESANTIS. So how close is Iran, in your estimation, right now to developing an ICBM that could reach the United States?

Mr. DUBOWITZ. Well, according to open source information, it's not imminent and still may be years away, but it's important to remember that the way Iran has structured and architected this nuclear deal is that there are multiple pathways. And what Mr. Walsh is not telling you is he—it's not the status quo today, it's the trajectory, it's Iran's trajectory on the nuclear side because of sunset provisions to an industrial size nuclear enrichment program; it's the trajectory on missiles, to a long-range ballistic missile program with an ICBM; and it's the economic trajectory, where they'll continue to fortify their economy against our ability to use economic pressure. It's the trajectory; it's the patient pathway to nuclear weapons capability, long-range ballistic missiles and an ICBM.

Mr. DESANTIS. So the lifting of sanctions, has that helped to boost the ballistic missile program?

Mr. DUBOWITZ. The lifting of sanctions has helped to boost all of Iran's malign activities, because Iran is now—has resources that are available to it. The \$100 billion in frozen oil money that was released, access to oil markets, the lifting of sector-based sanctions on key strategic sectors of the economy. Iran in 2013 was 4 to 6 months away from a severe balance to payments crisis. They were ready to collapse. So they were making very, very painful budgetary decisions at the time. Those decisions are a lot less painful when their economy is growing at 7, 8 percent, as it is today, inflation is down to single digits, and Iran's foreign exchange reserves are at least five or six times greater.

Mr. DESANTIS. So can additional sanctions imposed by Congress help rein in the ballistic missile program, and if so, how should they be targeted?

Mr. DUBOWITZ. Congress needs to design a secondary sanctions regime that's predicated on Iran's ballistic missile malign activity, it needs to designate key entities that are in the ballistic missile supply chain, both foreign and domestic, and it needs to provide punishing sanctions against any foreign entity or any foreign bank that does business with any Iranian entity in support of that ballistic missile program. We are a long way from that, but I think the legislation that was introduced in the House and the Senate begins that process.

Mr. DESANTIS. And, finally, my last question. Mr. Takeyh, you talked about Iran, really this regime is on unstable foundations. You mentioned the 2009 Green Movement. What does this administration need to do to kind of further erode some of these foundations so that the Iranian people could have a better pathway forward?

Mr. TAKEYH. Well, I do think that it's very important to focus as much on human rights infractions as it is on nuclear infractions and terrorism. Iran is also member of various international bodies and has to adhere to international conventions on human rights behavior, which it is egregiously in violation of. I would actually support a sanctions regime along the lines of Mark that actually targeted human rights and human rights abuses that are ongoing in the country so there will be actual punishment.

As I mentioned, our task is to continuously weaken the regime's coercive power and the regime itself. That actually now relies on the transactional relationship with its cadre. It essentially gives them money as enforcers. If it has less money, it has less capacity for enforcement.

Mr. DESANTIS. Thanks. My time's expired.

I'll now recognize the ranking member, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Walsh, thank you for your testimony. I'm going to give you a couple of comparisons. We have a situation with Pakistan where they have nuclear weapons; not only that, they're fixated on India, they have mobile nuclear weapon capacities. So they keep—as a matter of defense, they keep moving their nuclear weapons around to avoid any first strike vulnerabilities. In the meantime, the Taliban and various warlords in those areas, they're not on the eastern border of Pakistan, they're more on the western part that is controlled, in large part, by the Taliban. And then we have North Korea that has nuclear weapons capacity already and highly unstable leadership, to say the least.

What is greater risk right now? Is it North Korea that has nuclear weapons and, you know, like I say, a very unstable—I'm being generous here—a very unstable leader, Pakistan that has nuclear weapons and is moving them back and forth, or Iran that is stuck in a freeze here.

And just—I just want to go through the checklist here. Did Iran remove 98 percent of its lightly enriched uranium stockpile? Yes, it did. Did Iran dismantle two-thirds of its centrifuges? Yes, it did. That's all been verified. Did Iran destroy the calandria at the Arak reactor? Yes. Our inspectors were there. They filled it with concrete. It cannot be used. That was a big step. That was a lot of research and effort on their part. Did Iran cap its level of enrichment to 3.67 percent? Yes. Did Iran convert the Fordow underground facility? Yes, it did, mid-construction. Did Iran submit to 24/7 International Atomic Energy Agency inspections of its sensitive facilities? Yes, it did. And is it reprocessing plutonium? No, it is not.

So, again, what's the greatest danger here?

Mr. WALSH. Yeah. Number one by far, I think—first of all, India, Pakistan, and North Korea are in a class by themselves in terms of nuclear danger. They're nuclear weapon states. You can only have a nuclear war if you have nuclear weapons.

Mr. LYNCH. Right.

Mr. WALSH. And, frankly, the India-Pakistan situation has deteriorated recently. Even though it doesn't get as much play as this other stuff, I think it's far more serious. And then I worry about North Korea, having been to North Korea and studied it for years. I don't think Kim Jong-un is going to start a war on purpose, because he knows he's going to lose, but I fear that we're one dead fisherman away from some crisis that escalates. Because everyone is leaning forward, it's a very escalatory environment.

Iran doesn't have a nuclear weapon. It's not going to have one for 15 years. I, frankly, think it's going to be a lot longer than that. I don't think these things compare.

And let me say, within the region, you know, Iran is not 10 feet tall. It's not the Soviet Union. It's not even the most powerful coun-

try in its own region. By my estimation, Israel, Turkey, Saudi Arabia are all far stronger by GDP, military expenditures, quality of weapons. It's—if it's fourth, it's lucky.

Mr. LYNCH. Let me ask you, recently President Trump tweeted out, this was his tweet: "Iran has been formally put on notice for firing a ballistic missile," close quote. Is there—is there a—is there a legal or defense terminology to being put on notice? Is there any technical thing that I'm missing there?

Mr. WALSH. I—it's not my job to interpret the tweets of the President. It certainly doesn't add up to a policy.

Listen, most of the experts you've talked to, Michael Elleman, who's a missile expert, others, they'll say that the program is largely indigenous. Its purpose is asymmetric deterrence. It fears an attack by another state. It has no ICBM program, I'm going to have to disagree with my good friend, Mark. And if you look at my testimony, there are footnotes to that effect.

It hasn't flight tested an ICBM. You can't have an ICBM program if you haven't flight tested a missile. So I think that's a missile program. I wish they didn't have missiles, I wish no one had missiles, but I don't think sanctions are going to somehow change the defense needs.

Mr. LYNCH. I have to reclaim my time. And I appreciate your remarks. And also ballistic missile control is an aspirational statement within the agreement; it's not a requirement.

Mr. WALSH. Right.

Mr. LYNCH. Just yesterday, North Korea, a nation, again, with dangerous nuclear weapons, fired a ballistic missile that was just the latest in a series of test firings. Here's what Secretary Tillerson said: "North Korea launched yet another immediate-range ballistic missile. The United States has spoken enough about North Korea. We have no further comment," close quote.

So, you know, there are some dangers out there, but I don't think giving Iran back the ability to develop nuclear weapons is the way to go.

I yield back.

Mr. DESANTIS. The gentleman yields back.

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

Mr. RUSSELL. Thank you, Mr. Chairman. And thank you, gentlemen, for being here today.

General Barbero, it's great to see you. I guess my first question, I'm a little taken aback that Iran does not present a significant imminent, unusual threat to U.S. interests. How would you characterize Iran as a threat? Do you agree with that statement?

General BARBERO. I don't agree with that, Congressman. You know, Iran's actions have been diametrically opposed to U.S. interests in the region, and they're acting on those and executing a strategy.

Mr. RUSSELL. And in one of your capacities, you took a lot of interest in explosively formed projectiles, IEDs, and the destruction that they caused on U.S. soldiers in theater. Who was behind most of the EFPs?

General BARBERO. These were copper plates that were used and designed for one purpose: to burn through American armor, and

they were used exclusively targeting American vehicles and forces, causing, you know, casualties across the board.

There is intelligence that forensically links and tracks these plates back to their factories in Iran by lots, and we're now starting to see the same type of plates in Bahrain being used by the Iranian proxies there.

Mr. RUSSELL. And so I just—you know, we've stood on the same turf together on some very dark days, and I—I just kind of take—you know, I'm taken aback that Iran is not an imminent, unusual, or significant threat, or somehow because the neighborhood is a bad neighborhood, that they are justified in their criminal activity. I think that that is absurd.

Mr. Walsh, Iran signed the Nuclear Non-Proliferation Treaty. So they promised that they wouldn't proliferate nuclear weapons. Why didn't we just leave it at that?

Mr. WALSH. Well, we didn't leave it at that, sir. We have extensive safeguards arrangements that have grown more intrusive over time and now have been expanded again under the JCPOA. We—normally, we don't take people at their word.

Mr. RUSSELL. Well, in your initial testimony, you talked about that this was the best safeguard to prevent them from the quick track of developing nuclear weapons, but they signed the non-proliferation treaty, so why didn't we just take them at their word? We're taking them at their word now. Why isn't their word good enough by them signing the treaty?

Mr. WALSH. Well, we've never taken any country at its word on nonproliferation. As I said, we have safeguards agreements that came with the NPT and we have verification measures in Iraq. I mean, we have 24/7 electronic monitoring of their most sensitive nuclear facilities. Their—

Mr. RUSSELL. Unless they're military, right? The IAEA is not granted access to military—

Mr. WALSH. That's not true, sir. Under the additional protocol, they are absolutely granted—

Mr. RUSSELL. Under the protocols they are. How is that access going with them?

Mr. WALSH. Well, I know of no instances in which the IAEA has demanded access to a military site and not received it. Now, if they did, they are—

Mr. RUSSELL. You stated in your testimony, sir, that they were denied access, but that they were given, as I read the testimony, because I realize that we didn't have time to go through all of it, but they were given assurances from the Iranian Government that everything was okay at those facilities. So we're taking them at their word, yes or no?

Mr. WALSH. I think that's David's testimony, not mine.

Mr. RUSSELL. Oh, David. My apologies, Mr. Walsh. Is it still true?

Mr. WALSH. Well, under the agreement, the IAEA both under the initial protocol and the agreement has access to it. And if they feel that they are not getting satisfaction, then they're able to take that directly to the U.N. Security Council and U.S. snapback sanctions. And by the way, the U.S. has its own intelligence community, the Israelis have an intelligence community, the Russians have an in-

telligence community. If they find that—if they think that there's cheating, I'm pretty sure you're going to see a file before the U.N. Security—

Mr. RUSSELL. Well, we're already seeing evidence of a lot of cheating, which is why we're all ready for a little snapback.

And, I guess, two things with regard—ballistic missile tests not being part of a threat, and yet you are one of the most accurate writers of the dangers and the imminent threat of North Korea. Why are we even concerned that they launched a missile yesterday? Shouldn't—I mean, if missiles don't really matter, why are we concerned about North Korea's missiles?

Mr. WALSH. Well, I think we're worried about North Korea's missiles because they're going to mate a nuclear weapon to them. That's not going to happen in the case of Iran because we have the JCPOA. I also—

Mr. RUSSELL. Can they at the end of 10 years? They can do whatever they like. It's wide open.

Mr. WALSH. It's not 10 years. And some of the restrictions of the JCPOA go in perpetuity, they last forever. Like, they're not bringing the calandria back, right? That's destroyed forever. Some of the restrictions go for 20 years, 25 years.

Mr. RUSSELL. Well, in my remaining time, Mr. Chairman, I just want to make the statement that as far as Iran just being part of the—you know, its bad neighborhood, no one is a greater proliferator of terrorism than Iran. They've killed more Americans since 1979 than any other state. We have seen repeated attacks. General Joseph Votel, commander of CENTCOM: Iran poses the most significant threat to the central region and to our national interests and the interests of our partners and allies.

We've seen the Director of National Intelligence 2016 report: Iran presents an enduring threat to U.S. national interests because of its support to regional terrorism.

And I would argue that any dropoff in terrorist activity, Mr. Chairman, has not been because of goodwill of the JCPOA; it's been because they're fighting in Yemen and Syria and in militias in Iraq.

Hopefully, we'll get a round two. And I appreciate your indulgence. I'm out of time.

I yield back, Mr. Chairman.

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

Mr. Walsh, what would you say, I mean, with the Syria deal, with the chemical weapons? The administration heralded it, they're gone. Even the Israelis said, oh, it was good. Well, it turned out not to be the case. And so we—and I agree with you, there are Israelis you talk to, and they think that from what they can tell, they may have been in check, but we don't know what we don't know, and that's what I'm concerned about. In Syria, a lot of people thought that that had been taken care of, and obviously, tragically this week we found out it didn't.

Mr. WALSH. Yeah. I think it's way easier to produce a chemical weapon, which is basically just using industrial chemicals and weaponizing it, than to make a nuclear weapon and a miniaturized warhead. They're just in terms of the capacity required, you know, night and day.

So I think it was a good thing to get all that agent out. Had we struck Syria, we might have sent a weak deterrent message, but all that agent would have been there. We got a lot of it out, but they went back to making it.

Mr. DESANTIS. All right.

And I will now recognize the gentleman from Vermont for 5 minutes.

Mr. WELCH. Thank you very much. Thank you, Mr. Chairman, for this hearing, and Ranking Member Lynch.

First, I want to say thank you to General Barbero and also to his colleague and fellow soldier, my colleague, Mr. Russell, for your service. And let me tell you, listening to both of you is very powerful, because you were on the receiving end of a lot of malign behavior from Iran. So how can I express my appreciation for that, we all are. But I know that you also appreciate that this is about a policy that is important to the U.S. and its allies.

And the question for me on this whole Iran nuclear deal was not whether I was going to turn a blind eye to what you experienced, it was whether in the longrun the region would be safer with a malign but nonnuclear Iran than with a malign and nuclear Iran. And we had a lot of debate here and will continue to have disagreement about whether the Iran deal was a good deal or a bad deal, but where we're at now is we have a deal, and I share the concern about wanting it to be enforced.

The concern I have is that some folks who are of the view that it was a bad deal, from my perspective, may go too far in using enforcement arguments as a way to try to unravel it, but that's a—that's in the eye of the beholder. I think we're all in agreement that we have to enforce this deal.

One of the questions I have, you know, President Trump, as you know, thought it was a terrible deal, he said that during the campaign. But the budget that he's proposing is going to significantly cut State Department funding. I saw that General Mattis said that we need State Department funding, because the less money they get, the more I have to ask for for ammunition. But that's going to directly affect the boots on the ground of the IAEA.

And I'll just ask you, General Barbero, I know you oppose the agreement, but do you think it would jeopardize our capacity to monitor and enforce if we have a significantly reduced budget for the enforcement agency?

General BARBERO. Well, I think it would damage our abilities to monitor this deal. But if I could, Congressman, you know, this is not—hopefully, do not come across as an old soldier who is bitter about what happened.

Mr. WELCH. I didn't hear that.

General BARBERO. But this is about American national interests—

Mr. WELCH. Right.

General BARBERO. —and currently in the region, and what I here from leaders, where are—where is the United States? This is a zero-nukes-today-100-nukes-tomorrow deal. This is a postponement, not a cessation. And we should look—we should not sacrifice other American interests in the region at the expense of this deal. And it seems from the capitals there that America has pulled back

and American leadership is lacking in confronting this real, and in some cases, existential threat to our friends and allies in the region.

Mr. WELCH. A lot of people agree with what you just said. But, you know, if we're honest with ourselves, this is a tough situation. It's not like there's a definitive answer. And a lot of times, the American people want a military response, partly because they trust the military, and partly because when something really bad happens, they want a definitive action that is going to make it go away. But we saw it with our engagement in the Middle East, and I think President Trump talked about this during the campaign, that some of those decisions didn't work out the way it was hoped. You know, we did nation building in Afghanistan and Iraq; it didn't work. We aided people in Libya, and it was a mess. And we stayed out of Syria, and that's a mess.

So I'm just asking all of you, even with your point of view, which is I think different than mine, to acknowledge that there is not an easy call for the President, whether it was Obama or it's Trump.

General BARBERO. If I could go further?

Mr. WELCH. Sure.

General BARBERO. I agree. This is not an easy challenge, but the argument is not to, you know, reinstate 100,000 troops and do nothing. There are plenty of actions we could take. Sanctions, declare the IRGC a terrorist—a foreign terrorist organization, which they clearly are. Go after the financing of the IRGC and their—

Mr. WELCH. I note that Mr. Lynch is very active in the financing.

General BARBERO. —and work with our allies in the region.

General Jones, Jim Jones, former national security adviser, SACEUR, said let's lead the way in formulating a NATO-like defense agreement and body within the Gulf—with the Gulf States and Saudi Arabia. I think they're ready for that. So there's a number of things we can do.

Mr. WELCH. My time is up. But thank you, General.

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

We have a procedural vote, but I'm not going to stop the hearing for it, so members can go and come back. We're going to keep it going, because I think it's just one vote and done. These are not our actual votes that we had scheduled at 4 o'clock. And I don't want to have to adjourn twice in 30 minutes.

So with that, I will now recognize Mr. Comer for 5 minutes.

Mr. COMER. Thank you, Mr. Chairman.

My question is for Mr. Albright and Mr. Dubowitz. Are the joint comprehensive plan of actions current, inspection and transparency measures sufficient to verify Iran is abiding by its terms?

Mr. ALBRIGHT. In theory, the international inspectors have tremendous rights of access. It's given by what's called the comprehensive safeguards agreement. Unfortunately, Iran's policy is to deny access to military sites, and it has done so on multiple occasions. And even in the example of the Parchin site, which was finally accessed by the IA, it only got one visit, and it got partial access.

If you take bans in the JCPOA against nuclear weapons development activities inside Iran, those need inspections of military sites.



And they are not—those military inspections or the visits to the military sites are not happening.

So I would say that parts of the JCPOA are not verified. Parts of it have not been tested yet, that in the sense that the IA is going to ask to go to military sites, and the expectation is that Iran is going to say no, because that's been its policy. So I think that the bottom line is, is that parts of the JCPOA are unverified, parts are untested. The parts that are well verified are the declared sites.

Mr. Walsh referred to those as sensitive. They're the known sites. And so those have been verified quite a bit, but the IA is still unable to answer the basic question: Does Iran have undeclared nuclear activities? It still does not know the answer to that question. And when it tries to do that, it very well could be there's going to be a major confrontation with Iran over access.

Mr. DUBOWITZ. Well, I mean, I agree. I mean, Supreme Leader Ali Khamenei, quote, "Inspection of our military sites is out of the question." Foreign Minister Zarif before the Iranian parliament: We've successfully achieved the goal of preventing IAEA access to military facilities. Ali Velayati, an adviser to Khamenei, quote, "Entry into our military sites is absolutely forbidden."

And Mr. Albright mentioned Parchin. Remember, the IAEA didn't get physical inspection of the Parchin military site. It got self-inspection, where the Iranians were providing samples. Interestingly enough, even when providing samples to the IAEA and not letting them in through the gates, naturally, manmade uranium particles were actually discovered.

The IAEA should have insisted, under the comprehensive safeguards agreement, for a follow-on physical inspection. They did not. So now you have to the Parchin precedence, which is—you know, it's not the name of some Robert Ludlum novel. It is what the Iranians will invoke the next time we want to go into their military sites. They'll say, you're not getting in. And maybe at the end of the day they'll let in another self-inspection.

But I think as Mr. Albright, as my colleague, Dr. Olli Heinonen has said, it is insufficient. And unless you get into these sites, into these small sites, you're not going to be able to confirm whether there are weaponization activities taking place.

Mr. COMER. Mr. Dubowitz, let me ask you this: How did updates to the Department of Treasury's OFAC frequently asked questions weaken sanctions on Iran?

Mr. DUBOWITZ. So in three major ways. One, it provided explicit permission for Iran to use dollars outside of the U.S. financial system and clear dollars in offshore dollar clearing facilities. Again, that was a concession not negotiated by Iran as part of the JCPOA.

Second, it weakened the restrictions on doing business with the Revolutionary Guards in providing more—more of a space for foreign companies to do business with entities where they were not majority controlled by the IRGC.

And third, it lowered the know-your-customers customer due diligence requirements, which had been a longstanding feature of U.S. anti-money laundering and counter-financing of terrorism laws.

Again, all three concessions unilaterally given by the Obama administration in exchange for nothing from Iran and not part of the JCPOA's explicit text, as far as I can find.

Mr. COMER. Okay.

Thank you, Mr. Chairman. I yield back.

Mr. DESANTIS. The gentleman yields back.

Do we have—I guess the Dems have left the building. Let me just—we're going to go out for votes.

But, Mr. Albright, you pointed out Iran is basically doing serial violations, but they're doing it kind of up to the point before it would lead to an actual response. And that's concerning, because it seems like they can get away with a lot bit by bit.

What would it take for them to do—to engage in conduct that would actually lead to snapback sanctions? Because my sense is that a lot of the Europeans, who are a part of the deal, don't have a lot of appetite for that.

Mr. ALBRIGHT. In fact, it's actually—even though it appears to have been a very strong part of the deal, it's actually one of the problems of the deal, is that if the IA, let's say, really gets aggressive and asks to go to the military sites, it has a list that it would like to look at for various reasons, it has to worry that it will bring down the entire deal.

And so I think part of the challenge for the Trump administration is to—how to enforce this deal more effectively within the context of the deal. And I think the Europeans would actually be interested.

I mean, there's a whole range of issues that are on the table in these discussions among the P5+1 where Iran is, I would say, violating the deal. It's on heavy water. It's on centrifuge research and development. It's on—it is on the IA ability to do its inspections. I mentioned section T on weaponization bans. I mean, they do need to verify that this—this part of the JCPOA is being agreed—abided by by Iran.

So I think the mechanisms will probably be in the joint commission within the procurement working group, but I think a critical thing would be for the Trump administration to make it very clear that it is going to—it is going to enforce this deal strictly, and it's no longer going to tolerate, essentially, what is Iranian games to push the limits of the deal and at the same time get compensation for those. It could be in the form of money for sales of heavy water or in terms of uranium imports. It's short on uranium, and it has been able to use the deal to increase its uranium supply.

Mr. DESANTIS. So given some of the deficiencies that you've outlined, I think it's really good stuff. I mean, is it—is it correct to say for certain we know Iran is—that this deal has worked? I mean, it seems to me that even if some of the areas that people discussed, even if you take that at face value, there's still stuff we don't know. So can we definitively say that the deal has worked?

Mr. ALBRIGHT. I think you can say that the deal has accomplished certain objectives. And Mr. Lynch went through—went through several of them, and those are important. But will the deal succeed in preventing Iran from building nuclear weapons? I think that's a very open question, and it's a worrisome question given the current trajectory of this deal.

And I think it really is a time to get much tougher on Iran and to make sure that it's going to abide by it, and that—and that, in addition—and Mark discussed this—we have to fix the weaknesses

in the deal, particularly in the long term. And that—and that—but we first have to get the deal in order, strictly enforce it, and then we have to start looking at how do you improve this deal to make sure that Iran does not have a huge nuclear weapons capability that starts to grow in year 10.

Mr. DESANTIS. Well, thank you.

We—I was actually wrong about we're going to do the rest of the votes for the day. We're—the members have left because of that, so I know we had others who wanted to participate.

I think it was a very informative panel. I want to thank you guys for coming, offering your views, and answering the questions.

And clearly, this is going to be an issue that this administration is going to deal with and that we in the Congress are going to have to deal with in one form or another.

So with that, the hearing is now adjourned.

[Whereupon, at 3:31 p.m., the subcommittee was adjourned.]



## **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD

**Responses to Questions for the Record  
National Security Hearing, 5 April 2017: Assessing the Iran Deal  
Michael D. Barbero, LTG (Ret) US Army**

**1. How can the United States balance its opposition to Iranian influence throughout the Middle East with its fight against ISIS?**

These missions are not competing for the same assets or capabilities. The mission to defeat ISIS is largely reliant on American advisors and trainers and airpower and other kinetic systems for precision attacks on ISIS leadership and capabilities. The mission to oppose Iranian influence will largely require American “soft power.” American leadership to support our allies in the region, intelligence on Iranian assets and operation and enforcing existing sanctions and other actions to limit Iranian malign activities will not rely on the same capabilities that are directly engaged in the fight against ISIS. We can, and must, focus on both threats.

**2. How significant of a role does Iran play in supporting the Assad regime in Syria?**

Iran plays a direct role in support the Assad regime through direct aid and use of proxy forces. The main Iranian proxy force supporting Assad is Hezbollah. Hezbollah had been an active participant in the war in Syria.

Speaking in late May 2014, Hezbollah Secretary General Nasrallah declared that the battle in Syria was Hezbollah’s fight: “We will continue along the road, bear the responsibilities and the sacrifices. This battle is ours, and I promise you victory.” To that end, Hezbollah went “all-in” fighting alongside Assad regime loyalists and Iranian Revolutionary Guardsmen against Syrian rebels. The commitment of Hezbollah into the Syrian conflict is a clear indication of the enormous power that Iran holds over Hezbollah.

**3. What impact has Iranian support had upon Hezbollah and its involvement in Syria?**

Hezbollah is a proxy force of Iran, its leaders and commanders answer to the command of the Supreme Leader of Iran. Hezbollah relies on Iran for almost all

aspects of its support – military, budgetary and all other forms of support come from Iran.

**4. How does President Trump's Tomahawk missile strike on Syria's Shayrat Airbase affect Iran? How are Iran and other countries in the Middle East responding to the strike?**

This strike has received significant notice by Iran and almost every country in the Region. They perceive it as a significant shift in American policy, and our friends in the Region are encouraged that this is an indication of the return of American leadership to the Region.

**5. You mentioned that other countries in the Middle East believe the U.S. has not done enough to confront the Iranian threat. How should the U.S. respond to Iranian provocations such as ballistic missile tests and naval aggression in order to deter further belligerence?**

First, the United States should work with our Allies in the Region to develop a coherent strategy to confront the Iranian threat. Our Regional allies see Iran as the primary threat to their existence and are eager to partner with America to “push back” against Iranian aggression. We must clearly articulate American interests in the Region, in relation to this Iranian threat, and then act to protect and pursue these American interests. Second, the United States must work with our European allies to cut off financing to Iran and its proxy forces. Third, we must support our allies which are in direct confrontation with Iranian proxy forces and organizations: Israel’s confrontation with Hezbollah; Saudi Arabia’s confrontation with Houthi forces; and Iraq’s attempts to restrain and control Iranian Shiite militias. Finally, when our forces are threatened by provocative actions by Iranian forces we must send a clear and unmistakable message that we will not tolerate provocative actions.

**Questions for Mr. David Albright  
President  
Institute for Science and International Security  
Questions from Chairman Ron DeSantis  
Subcommittee on National Security  
April 5, 2017, Hearing: "Assessing the Iran Deal"**

1. Iran has explicitly violated the terms of the Joint Comprehensive Plan of Action's (JCPOA) 130 metric ton cap on heavy water twice. Why is this significant? And, was Iran penalized in any way for these violations?

On two occasions, Iran had more than its heavy water limit of 130 metric tons inside Iran, as has been noted by the International Atomic Energy Agency (IAEA) in its quarterly reports on Iran. Since Iran continues to make heavy water, it is expected to once again have more than 130 metric tons of heavy water, potentially violating the cap again. Iran received no penalty for these two violations, and in fact, the Obama administration sought to downplay their significance. However, the violations were significant because they allowed Iran to push the envelope of compliance, undermining efforts to ensure that the JCPOA is adequately verified. These violations sent a signal to Iran that the United States will tolerate low level cheating. These violations also indirectly affirmed Iran's operation of its Arak heavy water production plant, which is unnecessary for civilian purposes and could contribute importantly to a breakout if the JCPOA fails.

2. Is the interpretation of the 130 metric ton heavy water cap argued by Iran's Ambassador to the IAEA Reza Najafi during a recent IAEA Board Meeting valid?

Iran recently argued that the 130 metric tons cap is not binding. In early March 2017, Iran stated: "Nothing in the JCPOA requires Iran to **ship out the excess Heavy Water** which is made available to the international market but has not yet found an actual buyer to which the heavy water needs to be delivered (bolding in original)."<sup>1</sup> In essence Iran is fallaciously reinterpreting the JCPOA to state that it can exceed the 130 metric tons cap, as long as it states that it is seeking an international buyer for the excess. The Trump administration should look at Iran's recent statement as both a compliance issue and an attempt to extort more heavy water sales. It should make clear at the Joint Commission and publicly that Iran is simply wrong to continue its practice of exceeding the 130 metric ton cap and any overage will be seen as a violation of the JCPOA, which will result in penalties for Iran. In addition, the United States should seek to block any sale of Iranian heavy water on the international market as unnecessary and an undeserved reward for multiple violations of this limit.

Moreover, the United States should view the heavy water cap as including all heavy water under Iran's control, whether inside or outside Iran. Any re-transfer of heavy water under Iranian control that resides abroad should be subject to the approval of the Procurement Working Group.

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<sup>1</sup> Communication dated 3 March 2017 received from the Permanent Mission of the Islamic Republic of Iran to the Agency regarding the report of the Director General on verification and monitoring in Iran, INFCIRC/915, March 16, 2017. <https://www.iaea.org/sites/default/files/publications/documents/infcircs/2017/infcirc915.pdf>



3. Did Iran choose to violate the heavy water cap intentionally?

As Iran was approaching its second violation, it was warned by the IAEA that the cap would soon be breached. Instead of stopping heavy water production or blending down some heavy water into normal water, Iran knowingly violated the 130 metric tons cap.

4. When Iran exports heavy water does it abide by the international rules nuclear suppliers are expected to comply with?

Iran does not have an export control system. Under the JCPOA, Iran pledged only that it “*intends* to apply nuclear export policies and practices in line with the internationally established standards for the export of nuclear material, equipment and technology (emphasis added).” Iran is also not a member of the Nuclear Suppliers Group (NSG) and therefore its exports are not considered by this body. Despite these facts, the heavy water exports were given legitimacy since they were made on a case by case basis with NSG member states, the United States and Russia. Iran should not be allowed to operate as though it is a legitimate nuclear supplier before it has fulfilled its commitments under the JCPOA, implemented an effective export control system, halted its practices of illicitly procuring nuclear-related goods from abroad, and shown that it is an international law abiding supplier.

5. One of the hearing witnesses included a chart in their written testimony claiming that Iran has no 20% enriched uranium. Is this claim accurate?

No, this statement is false but it is a common tactic used by strident proponents of the JCPOA to make the deal look like it accomplishes more than it in fact does. According to the IAEA, Iran possesses many tens of kilograms of 20 percent enriched uranium that is used as fuel in the Tehran Research Reactor (TRR). Periodically, Iran also imports such enriched uranium from amounts previously exported under the JCPOA in order to add to its stock of TRR fuel. Some of this enriched uranium could be important in a breakout to nuclear weapons in reducing the time needed to produce enough weapon-grade uranium for a nuclear weapon.

6. After you released your report detailing how Iran was secretly granted exemptions to the JCPOA, the State Department maintained that there were “no exceptions” to the deal. In light of the IAEA’s subsequent publication of these exemptions, were these denials misleading?

Yes, the Obama administration deliberately misled the public about these exemptions to the JCPOA. It used duplicitous wording and omissions in its statements about the facts and findings in our report. The Obama administration’s press officials, White House Press Secretary Josh Earnest and State Department Spokesman John Kirby, refused to address the central issues of our report, namely that there were exemptions to the JCPOA including those involving low enriched uranium (LEU) and hot cells. Kirby repeated several times that there were no “exceptions” to the deal that would impact Iran’s commitments. The administration provided some insight into its thinking on the LEU exemption. Kirby stated that the limits applied to “usable” low enriched uranium, which can be further enriched for nuclear weapons. His framing implied that certain

LEU need not be counted and thus could be ignored. This same philosophy is evident in the false statement that Iran does not have any 20 percent enriched uranium (see question 5).

7. Why are these secret exemptions troubling? Would Iran have been out of compliance with the terms of the JCPOA on Implementation Day without receiving them?

Our central claim was that the exemptions were necessary for Iran to comply with the JCPOA on Implementation Day. Had the Joint Commission not reached decisions granting these exemptions, Iran would have violated the JCPOA. Several of these exemptions should not have been made and reflected major concessions to Iran on heavy water stocks, hot cells, and low enriched uranium. In addition, they set negative precedents that will need to be reversed by the Trump administration.

In addition, the manner in which these exemptions were allowed reflected a misguided approach to Iranian threats to violate the JCPOA. Ultimately, each exemption represented an Iranian refusal to take the actions necessary to come into compliance with the conditions of the JCPOA. Although some exemptions may have been justified, overall, too many were granted. A damaging pattern that developed during the Obama administration was that Iran would create a crisis over a potential violation, the United States and allies would have to find a “solution,” and Iran would cynically demand compensation as part of that solution. Throughout this process, Iran has demanded an unjustified amount of secrecy from the P5+1 and the IAEA, hiding many of its activities from governments and the public and thereby more easily accomplishing its deceptive and brazen goals.

8. How is Iran allegedly conducting prohibited mechanical testing of centrifuges under the guise of allowed “quality assurance” activity and how should the U.S. respond?

One of the more pressing compliance areas involves Iran’s centrifuge R&D program. There are allegations that Iran is exploiting allowed “quality assurance” criteria at Kalaye Electric for centrifuge rotor assembly to conduct additional mechanical testing of centrifuges beyond that allowed under the JCPOA.

Iran is also operating IR-6 centrifuges in excess of the limit of “roughly 10” allowed, choosing to interpret this condition as allowing 13-15 to operate. A limit of 10 plus or minus one IR-6 centrifuge is a more appropriate interpretation.

9. What are the dangers of setting precedents which allow Iran to commit violations of, have exemptions from, and exploit loopholes in the terms of the JCPOA?

The most immediate danger is that Iran continues to expand in scope and number its nuclear activities that are in violation of the JCPOA. These activities allow Iran to develop capabilities that will allow for a more rapid surge in its nuclear program if the deal fails and that will allow for a more successful sneak out or breakout to nuclear weapons.

During the last decade, Iran has typically engaged in incremental violations of its safeguards agreement. Today, it is applying the same strategy to the JCPOA. Stopping these violations and

enforcing stricter interpretations of the provisions of the deal, even though a violation may be minor, must be a priority if the deal is to continue.

Iran continues to state that it will not allow the IAEA access to military sites. As a result, portions of the JCPOA are unverified, and Iran is laying the basis to create no-go zones for the inspectors. If successful, Iran could easily cheat on the major limitations aimed at blocking all of Iran's paths to nuclear weapons.

10. Does the IAEA have 24/7 access to all Iranian sites of concern, as supporters of the deal have claimed?

No. This claim is another common misnomer about the verification of the JCPOA. Although this claim is often put forward by supporters of the JCPOA, it is not true. The IAEA has wide-ranging access to certain declared sites, such as the Natanz and Fordow enrichment plants and centrifuge rotor assembly and testing facilities. However, the IAEA does not know the locations of all, or have 24/7 access, to all of Iran's centrifuge manufacturing facilities, and recently the head of the Atomic Energy Organization of Iran stated that Iran has initiated "mass production" of several advanced centrifuges, in particular the IR-2, IR-4, and IR-6.<sup>2</sup> Such a statement deserves careful scrutiny as to where all these components are being made and in what number. It also deserves scrutiny as to whether the IAEA can verify or disprove Salehi's statement. The mass production of these centrifuges (or their components), particularly the IR-2, would greatly expand Iran's ability to sneak-out or breakout to nuclear weapons or surge the size of its centrifuge plants if the deal fails. The IAEA also does not have regular, let alone 24/7, access, to military sites relevant to verifying section T, annex 1, of the JCPOA, which contains bans on Iranian nuclear weaponization activities, namely activities which could contribute to the design and development of a nuclear explosive device.<sup>3</sup> In fact, the IAEA has reportedly not accessed any military sites since Implementation Day, and Iran has stated that its policy is to deny access to military sites. As such, the JCPOA is not being verified in key ways, directly contradicting the claim that the inspectors have 24/7 access.

11. What kinds of efforts have you seen Iran engage in to illicitly procure goods it can use to advance its nuclear program?

<sup>2</sup> "AEOI Chief underscores Nuclear Progress," *Financial Tribune*, April 10, 2017.  
<https://financialtribune.com/articles/national/62153/aeoi-chief-underscores-nuclear-progress>

<sup>3</sup> Section T, Annex 1, JCPOA:

*ACTIVITIES WHICH COULD CONTRIBUTE TO THE DESIGN AND DEVELOPMENT OF A NUCLEAR EXPLOSIVE DEVICE*

*82. Iran will not engage in the following activities which could contribute to the development of a nuclear explosive device:*

*82.1. Designing, developing, acquiring, or using computer models to simulate nuclear explosive devices.*

*82.2. Designing, developing, fabricating, acquiring, or using multi-point explosive detonation systems suitable for a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.3. Designing, developing, fabricating, acquiring, or using explosive diagnostic systems (streak cameras, framing cameras and flash x-ray cameras) suitable for the development of a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.4. Designing, developing, fabricating, acquiring, or using explosively driven neutron sources or specialized materials for explosively driven neutron sources.*

Iran uses a wide range of methods to seek goods illegally abroad for its nuclear, missile, and conventional arms program, including from the United States. It has widespread procurement networks where agents operate from other countries to pose as legitimate end users, or they work with trading companies and pay large sums of money to have these companies act as the end users of the goods, where once received, they are then illicitly shipped to Iran. Iranian president Rouhani and other high level officials have openly stated that they do not intend to comply with provisions under UN Resolution 2231, which instituted the JCPOA, that prohibits Iran from importing military or missile related goods. There are also indications that Iran tests the system set up by the JCPOA to regulate its nuclear-related imports for its remaining nuclear activities. One weakness of the JCPOA is that the onus is on suppliers to seek approval for such exports to Iran.

12. The JCPOA includes a provision stating that the agreement's parties commit to "refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation." Are Iran's actions consistent with the letter, spirit, and intent of the JCPOA?

No, in fact, they undermine the letter, spirit, and intent of the JCPOA. Iran should be seeking to demonstrate that it is now willing to abide by international laws and norms against nuclear proliferation. Taken together, the above questions and answers indicate that Iran is still willing to push the envelope of agreed restrictions and violate the JCPOA's nuclear limitations.

**Questions for Mr. Mark Dubowitz**  
 Chief Executive Officer  
 Foundation for Defense of Democracies

**Questions from Chairman Ron DeSantis**  
 Subcommittee on National Security

April 5, 2017, Hearing: "Assessing the Iran Deal"

### **1. How would you evaluate Iran's level of compliance with the terms of the JCPOA?**

Iran is engaged in incremental non-compliance of the JCPOA, which combined, are egregious violations of the nuclear agreement. Since January 2016 when the deal was implemented, Iran has undertaken the following activities which are inconsistent with its commitments under the agreement:

- Centrifuge research and development: Iran is reportedly conducting mechanical testing at Kalaye Electric beyond what is allowed under the JCPOA; operating more IR-6 centrifuges than permitted under the agreement; and building excess centrifuge rotor tubes.<sup>1</sup> Head of the Atomic Energy Organization of Iran Ali Akbar Salehi stated last month that Iran has initiated "mass production" of several advanced centrifuges, which would be a violation of the JCPOA.<sup>2</sup> The IAEA has not yet verified or disproved this statement. The mass production of these centrifuges or their components would significantly expand Iran's ability to sneak-out or breakout to nuclear weapons.
- Heavy water: Iran is violating the cap on its heavy water production. Iran is storing excess heavy water in Oman, which means that this stockpile remains in Iran's possession.<sup>3</sup> Additionally, even within the country, Iran has twice produced and stockpiled more heavy water than permitted under the deal. The second time, the IAEA warned Iran that it would soon exceed the limit, but rather than halting production, Iran purposely violated the limit and has since begun arguing that the JCPOA's cap is not binding.<sup>4</sup> Based on current production rates, Iran is expected to again exceed the cap in May or June.
- Exemptions: The Obama administration and its international partners provided Iran with an exemption to the JCPOA restrictions on its low-enriched uranium (LEU) stocks by not

<sup>1</sup> David Albright, "Assessing the Iran Deal: Examining Non-Compliance with the Joint Comprehensive Plan of Action and United Nations Security Council Resolution 2231," Testimony House Government Oversight and Reform Subcommittee on National Security, April 5, 2017. (<http://isis-online.org/conferences/detail/house-subcommittee-testimony-of-david-albright-on-assessing-iran-nuclear-de>)

<sup>2</sup> Jenna Lihits, "Is Iran Pushing the Envelope on Its Nuclear Deal?," *The Weekly Standard*, April 18, 2017. (<http://www.weeklystandard.com/is-iran-pushing-the-envelope-on-its-nuclear-deal/article/2007685>)

<sup>3</sup> Olli Heinonen, "Concerns about a Reduction of Transparency in IAEA Reporting on Iran's Nuclear Program," *Foundation for Defense of Democracies*, November 28, 2016, page 5.

([http://www.defenddemocracy.org/content/uploads/documents/112816\\_IAEA\\_Memo\\_Olli\\_.pdf](http://www.defenddemocracy.org/content/uploads/documents/112816_IAEA_Memo_Olli_.pdf))

<sup>4</sup> David Albright, "Assessing the Iran Deal: Examining Non-Compliance with the Joint Comprehensive Plan of Action and United Nations Security Council Resolution 2231," Testimony House Government Oversight and Reform Subcommittee on National Security, April 5, 2017. (<http://isis-online.org/conferences/detail/house-subcommittee-testimony-of-david-albright-on-assessing-iran-nuclear-de>)

counting enriched uranium in waste products.<sup>5</sup> This allowance went beyond any commitment or obligation under the JCPOA and is a possible violation. Moreover, after initial reports in the summer of 2016 that Iran had more than its allowed amount of enriched uranium, the IAEA changed its reporting on the amount of LEU in Iran's enriched uranium conversion plant, lowering the total amount to below the allowed threshold. The above exemption is only one of a number of concerning exemptions Iran may have received.<sup>6</sup> Congress and the administration should get clarity on the implications of these exemptions and address them appropriately.

- **IAEA Access:** Since the announcement of the JCPOA, Iran has denied IAEA inspectors direct, physical access to facilities at which the Agency believed nuclear weapons activities previously occurred. Iran insisted that the IAEA conduct its inspection of the Parchin military facility using remote monitoring, and Iran denied the agency any access to Sharif University. Under the JCPOA and the comprehensive safeguards agreement, the IAEA has the right to visit any facility - military or civilian - in order to conduct its investigations, but Iran is trying to set a precedent denying this access.
- **Possible Military Dimensions:** Finally, Iran did not provide the IAEA with full answers to outstanding questions about the possible military dimensions of its program. The IAEA's December 2015 report noted that Iran did not provide information, did not answer questions, or was otherwise uncooperative. Yet the IAEA closed the file anyway, breaking protocol, apparently under political pressure.

This list of violations does not include Iran's ballistic missile development, which violates UN Security Council Resolution 2231 which endorsed the JCPOA. Moreover, it does not include Iran's arms shipments to militant groups in the region, activities which also violate 2231.

**2. In your written testimony you suggested that Iran may pursue a clandestine "sneak-out" pathway to develop a nuclear weapon at a facility not disclosed to the IAEA. How likely do you believe this scenario is and what led you to conclude this might be feasible?**

Unfortunately, my colleagues and I at the Foundation for Defense of Democracies assess this to be a highly likely scenario. While the JCPOA does increase the level of IAEA monitoring of Iran's nuclear program relative to the pre-deal era, it does very little to provide assurances about past activities Iran had undertaken at facilities the IAEA will not be inspecting. Put differently, the JCPOA offers enhanced monitoring of the known facilities involved in Iran's nuclear program, but does not provide inspections and assessments on the unknown and/or covert elements of Iran's nuclear program. Moreover, Iran requires advance notification of inspections, negating the element of surprise and increasing the likelihood that Iran can conceal illicit activity.

This is a problem because the Islamic Republic resurrected the late Shah's nuclear program amid the 1980-1988 war with Iraq, and according to a former president of Iran, considered nuclear

<sup>5</sup> Jonathan Landay, "U.S., others agreed 'secret' exemptions for Iran after nuclear deal: think tank," *Reuters*, September 1, 2016. (<http://www.reuters.com/article/us-iran-nuclear-exemptions-exclusive-idUSKCN1173LA>)

<sup>6</sup> David Albright and Andrea Stricker, "JCPOA Exemptions Revealed," *Institute for Science and International Security*, September 1, 2016. ([http://isis-online.org/uploads/isis-reports/documents/JCPOA\\_Exemptions\\_Revealed\\_1Sept2016\\_Final1.pdf](http://isis-online.org/uploads/isis-reports/documents/JCPOA_Exemptions_Revealed_1Sept2016_Final1.pdf))

weapons for deterrence purposes. Given the initial military motivation for a nuclear weapon as well as the covert nature of the program for 18 years, absent a full accounting and a non-politicized closure to the “possible military dimensions” file,<sup>7</sup> the U.S. will have a hard time assessing through national technical means and IAEA inspections what sites are still active and where weaponization related studies are taking place.

This challenge is compounded by Iran’s insistence (to which the P5+1 appears to have unfortunately acquiesced) that military sites will not be inspected. Iran’s insistence that the IAEA only conduct remote inspections of the Parchin military facility where the IAEA suspects weaponization activities occurred. The Agency’s inability to conduct follow-up inspections to address inconsistencies<sup>8</sup> should not be permitted to set a precedent.

When asked to evaluate the verification and inspection regime in the JCPOA on a scale of 1 to 10, former IAEA Deputy Director General for Safeguards Dr. Olli Heinonen explained the difference between verification at declared facilities, inspection of undeclared but suspicious sites, and detection of weaponization activities:

“A rating of seven to eight for declared facilities, the way I see it. And why it is not higher is because there is this dispute settlement process. ... But then if you ask me to give the rating for this access to suspected sites, undeclared sites, I don’t think that I would give more than five, if we use this rating. And then if you ask my opinion with other possibilities to find these computer codes and someone using them, and there is actually even not really an inspection procedure for that, I think it’s a zero. It’s not even one.”<sup>9</sup>

Finally, the JCPOA allows Iran to conduct research and development on advanced centrifuges and begin deploying them in less than ten years. Advanced centrifuges enrich uranium at higher rates meaning that Iran needs fewer of them to enrich to weapons-grade. If Iran decides to violate the JCPOA and conduct covert nuclear activities, in an easy-to-hide facility, Iran can use a small number of advanced centrifuges to sneak-out.

In short, the JCPOA does not guarantee against a secret parallel route to the bomb.

**3. During the hearing, one of the witnesses claimed that Iranian support for terrorism has decreased since the Joint Plan of Action and Joint Comprehensive Plan of Action (JCPOA). Do you agree with that statement? Why or why not?**

<sup>7</sup> “The Possible Military Dimensions of Iran’s Nuclear Program,” *Iran Task Force*, December 2015. ([http://taskforceoniran.org/pdf/The\\_PMDs\\_of\\_Iran%E2%80%99s\\_Nuclear\\_Program.pdf](http://taskforceoniran.org/pdf/The_PMDs_of_Iran%E2%80%99s_Nuclear_Program.pdf)); Olli Heinonen, “Next Steps in the Implementation of the JCPOA,” *Foundation for Defense of Democracies*, December 8, 2015. (<http://www.defenddemocracy.org/media-hit/next-steps-in-the-implementation-of-the-jcpoa/>)

<sup>8</sup> Olli Heinonen, “Uranium Particles at Parchin Indicate Possible Undeclared Iranian Nuclear Activities,” *Foundation for Defense of Democracies*, July 1, 2016. (<http://www.defenddemocracy.org/media-hit/olli-heinonen1-uranium-particles-at-parchin-indicate-possible-undeclared-iranian-nuclear-a/>)

<sup>9</sup> Olli Heinonen, Transcript, *Hearing before the House Financial Services Task Force to Investigate Terrorism Financing*, July 22, 2015. (<https://www.bgov.com/core/news/#!/articles/NRYD6H3H0JK0>)

Iran remains the world's leading state sponsor of terrorism, according to the U.S. government. Iran's support for terrorism throughout the region has increased since the announcement of the JCPOA. For example, the latest State Department report on terrorism, issued under the Obama administration in June 2016, noted, "In 2015, Iran increased its assistance to Iraqi Shia terrorist groups."<sup>10</sup> The Iranian terror threat is broader than proxies driving suicide trucks into buildings. It is the instrumentalization of terror as a political weapon, and the fear that such militias and proxy forces can have.

Those who argue that Iran's support for terrorism has decreased often only look at specific terrorist incidents rather than the broader context of Iran's regional destabilization. For example, those who make this claim seem to overlook the terrorist attacks of Iranian-backed groups in Bahrain. In March, the State Department designated two Bahraini terrorists backed by Iran, one of whom lives in Qom. Furthermore, the statistics that these experts often cite not only exclude the activities of Hezbollah and the Shiite militias in Syria but also discount the activities of the IRGC Quds Force (which the U.S. has designated for terrorism) as well as Iran's support for the Houthi militants in Yemen.

**4. According to Foundation for Defense of Democracies' analysis, Iran has launched up to 14 ballistic missiles since it agreed to the JCPOA, through February 2017. Do these launches violate the terms of U.N. Security Council Resolution 2231?**

In short, yes, Iran's ballistic missile launches violate UN Security Council Resolution 2231. As a reminder, the number 14 was arrived at through a review and aggregation of English- and Persian-language open-source material on missile launches between July 2015 and February 2017.<sup>11</sup> It only focuses on ballistic missiles (as opposed to cruise missiles, which can also serve as delivery vehicles for nuclear weapons) and bypasses the MTCR metric of "nuclear capability." This is because according to the former Director of National Intelligence James Clapper, Iran's ballistic missiles are assessed as being "inherently capable of carrying WMD."<sup>12</sup>

Regarding the UN resolution, the language pertaining to ballistic missiles in UNSCR 2231 (which enshrines the JCPOA) is nowhere as strong as UNSCR 1929. But even with that, it does "call" on Iran not to test such weapons. During the congressional debate on the Iran deal and in the months that followed, Obama administration officials stated that the language change did not diminish the ban on Iran's ballistic missiles development.<sup>13</sup>

<sup>10</sup> U.S. Department of State, *Country Reports on Terrorism 2015*, Chapter 3: State Sponsors of Terrorism Overview, June 2016. (<https://www.state.gov/j/ct/rls/crt/2015/257520.htm>)

<sup>11</sup> Behnam Ben Taleblu, "Iranian Ballistic Missile Tests Since the Nuclear Deal," *Foundation for Defense of Democracies*, February 6, 2017. ([http://www.defenddemocracy.org/content/uploads/documents/20917\\_Behnam\\_Ballistic\\_Missile.pdf](http://www.defenddemocracy.org/content/uploads/documents/20917_Behnam_Ballistic_Missile.pdf))

<sup>12</sup> James R. Clapper, "Worldwide Threat Assessment of the U.S. Intelligence Community," Statement for the Record Submitted to Senate Armed Services Committee, February 9, 2016, page 8. ([https://www.armed-services.senate.gov/imo/media/doc/Clapper\\_02-09-16.pdf](https://www.armed-services.senate.gov/imo/media/doc/Clapper_02-09-16.pdf))

<sup>13</sup> For example, when asked by Senator Bob Corker specifically about the "calls upon" language and if the ballistic missile tests would violate UNSCR 2231, the Department of State Lead Coordinator for Iran Nuclear Implementation Ambassador Stephen Mull confirmed that a test would violate the resolution. "The Status of JCPOA Implementation and Related Issues," *Hearing before the Senate Foreign Relations Committee*, December 17, 2015. (<https://www.foreign.senate.gov/hearings/the-status-of-jcpoa-implementation-and-related-issues-121715>)



Additionally, in response to Iran's ballistic missile tests, then-UN Secretary General Ban Ki-moon said certain missile launches in 2016 were "not consistent with the constructive spirit" of the accord. Iran worked hard to get the word "designed" into the clause in the UN resolution, permitting the regime to claim Tehran has no intention of designing its ballistic missiles to carry unconventional payloads. This is a loophole entirely derived from an Iranian negotiating victory. As my colleague Behnam Ben Taleblu previously stressed, "Creative Iranian interpretations of its missile force and the new resolution should not be permitted to stand unchallenged for the next decade."<sup>14</sup>

##### **5. Does Iran have an ICBM program and, if so, what kind of threat does it present to the U.S.?**

Iran appears to have elements of an ICBM program. Although assessments by the U.S. intelligence community and outside experts have rolled back Iran's ICBM test date from the mid-late 1990s to 2020 at the earliest, Iran retains the political and security motivations for such a weapon. Worse, U.S. government reporting emphasizes a long-standing concern that Iran may use technologies related to its satellite launch vehicles as a "test bed" for an eventual ICBM capability.

Earlier this year, a new report alleged that, through North Korea, Iran is continuing its nuclear activities in violation of the JCPOA.<sup>15</sup> Given the extensive ties between Iran and North Korea on issues related to ballistic missile development, this report deserves careful consideration. Specifically regarding missile cooperation, a February 2016 Congressional Research Service report described the relationship between the two countries as "significant and meaningful."<sup>16</sup> The relationship is believed to date back to the 1979 Revolution, and Iranian officials have made public reference to bilateral deals and their trips to North Korea in the 1980s. The relationship is believed to have ultimately resulted in Iran's liquid-propelled Shahab-3, a nuclear-capable medium-range ballistic missile. According to missile experts, the Shahab-3 is based on the North Korean NoDong-A, and has served as the basis (after a domestic upgrade that grew the body of the Shahab) for Iran's first series of space-launch vehicles that would be used to propel satellites into outer space.

The DPRK-Iran missile relationship does not end with the Shahab. In January 2016 - one day after the implementation of the JCPOA - the U.S. Treasury Department sanctioned a key individual working for Iran's military industrial complex who "has worked directly with North Korean officials in Iran from UN- and U.S.-designated Korea Mining Development Trading Corporation (KOMID)."<sup>17</sup> The Treasury Department also cited that previously, "Iranian missile

<sup>14</sup> Behnam Ben Taleblu, "Missing the Point on Iran's Ballistic Missiles," *War on the Rocks*, April 28, 2017. (<https://warontherocks.com/2017/04/missing-the-point-on-irans-ballistic-missiles/>)

<sup>15</sup> Refael Ofek and Dany Shoham, "Iran Is Progressing Towards Nuclear Weapons Via North Korea," *The Begin-Sadat Center for Strategic Studies*, February 28, 2017. (<https://besacenter.org/perspectives-papers/iran-progressing-nuclear-weapons-via-north-korea/>)

<sup>16</sup> Paul K. Kerr, Steven A. Hildreth, and Mary Beth D. Nikitin, "Iran-North Korea-Syria Ballistic Missile and Nuclear Cooperation," *Congressional Research Service*, February 26, 2016. (<https://fas.org/sgp/crs/nuke/R43480.pdf>)

<sup>17</sup> U.S. Department of the Treasury, Press Release, "Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran," January 17, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0322.aspx>)

technicians... traveled to North Korea to work on an 80-ton rocket booster being developed by the North Korean government.”

Iran has made key long-term investments in its missile and rocket forces for purposes of security, status, and deterrence. It has also done the same with its satellite industry, which provides Iran with a “scientific” cover for an IBCM program. There is a widespread consensus in Washington surrounding Iran’s habitual use and abuse of dual-use goods and definitions for military purposes.

Should Iran develop long-range rockets that can be staged on one another and be propelled by solid-fuel, and should Iran make strides in its re-entry vehicle technology in the realm of heat shields and ablation processes, this would constitute a significant threat to U.S. interests around the world. First and foremost, Iran would likely use a long-range missile capability to threaten Europe. Coupled with a nuclear weapon that could be developed via a covert pathway, an ICBM could even be used to threaten the U.S. homeland and/or deter any potential military action against Iran or its allies and proxies around the globe. An Iranian ICBM may very well be an eventuality if Iran’s satellite launches and ballistic missile progress continue to go unchecked.

#### **6. What can Congress do to help restrict Iran's ability to launch ballistic missiles in the future?**

Under the Trump administration, Treasury has issued designations under proliferation and terrorism authorities,<sup>18</sup> and the State Department also designated companies for violating the Iran, North Korea, and Syria Nonproliferation Act.<sup>19</sup> While these are important first steps and an indication that the Trump administration seeks to enforce U.S. sanctions against Iran, Congress can take a leadership role in crafting policies to create additional pressure on the Iranian regime to change its behavior.

A bipartisan group of senators and representatives introduced two important pieces of legislation at the end of March which deserve strong consideration. Among other measures, the Senate bill imposes secondary sanctions on any individual or entity found to be financing or supporting Iran’s ballistic missile development. The House bill also imposes ballistic missile sanctions, and requires the president to issue a report to Congress on Iranian and foreign individuals and companies that are part of Iran’s global supply chain. This report would likely serve as the basis for additional sanctions.

Congress should also require the administration to report on the link between the global supply chain and the sectors of Iran’s economy that contribute directly or indirectly to the development of the country’s ballistic missile program. Much of this information is available through open source material. Indeed, FDD’s research has revealed that supply chains in the metallurgy and mining; chemicals, petrochemicals, and energy; construction; automotive; and electronic,

<sup>18</sup> U.S. Department of the Treasury, Press Release, “Treasury Sanctions Supporters of Iran’s Ballistic Missile Program and Iran’s Islamic Revolutionary Guard Corps – Qods Force,” February 3, 2017. (<https://www.treasury.gov/press-center/press-releases/Pages/as0004.aspx>)

<sup>19</sup> U.S. Department of State, Press Release, “Iran, North Korea, and Syria Nonproliferation Act Sanctions,” March 24, 2017. (<https://www.state.gov/r/pa/prs/ps/2017/03/269084.htm>)

telecommunication, and computer science sectors are involved in Iran's ballistic missile program.<sup>20</sup> This report should serve as the basis for sectoral sanctions imposing secondary sanctions on any foreign company conducting business with Iranian entities in designated sectors.

#### **7. How significant of a role does Iran play in supporting the Assad regime in Syria?**

The Assad regime would not have remained in power without support from the Iranian regime. Tehran perceives the Syrian war as an existential conflict that threatens its supply line to Lebanese Hezbollah and very survival of the regime itself. It has thus gone to great lengths to prevent the overthrow of Assad.

Since the announcement of the JCPOA and Iran's receipt of significant sanctions relief, the regime has escalated its military involvement in the Syrian war in support of Assad. It has deployed thousands of its own regular ground forces - the first in the country's history since the end of the Iran-Iraq War in the 1980's - and Shiite proxies drawn from Afghanistan, Pakistan, Iraq and Lebanon.<sup>21</sup> Iran is estimated to command 20,000 - 30,000 foreign and Iranian fighters in Syria.<sup>22</sup> Iran also convinced Russia to escalate its military involvement in Syria, with IRGC Quds Force commander Qassem Soleimani traveling to Moscow in July 2015 to devise a plan with his Russian counterparts.<sup>23</sup> Finally, Iran is complicit in the war crimes of the Assad regime, including massacres of civilians and its use of chemical weapons.<sup>24</sup>

#### **8. How closely do Iranian forces cooperate with the Syrian military?**

Iranian forces and Iranian-backed Shiite militias closely coordinate and cooperate with the Syrian military. Iran is part of the military command center with Syria and Russia that make the highest decision. Iranian military advisers and regular forces and Shiite militias fight alongside the Syrian military - whatever is left of it - and pro-Assad Syrian militias.<sup>25</sup>

#### **9. What impact has Iran had upon Hezbollah and its involvement in Syria?**

<sup>20</sup> Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," *Foundation for Defense of Democracies*, March 17, 2016.

([http://www.defenddemocracy.org/content/uploads/documents/Ballistic\\_Missile\\_Sanctions.pdf](http://www.defenddemocracy.org/content/uploads/documents/Ballistic_Missile_Sanctions.pdf))

<sup>21</sup> Amir Toumaj, "Array of pro-Syrian government forces advances in Aleppo," *The Long War Journal*, December 9, 2016. (<http://www.longwarjournal.org/archives/2016/12/array-of-pro-syrian-government-forces-advance-in-aleppo.php>); Amir Toumaj, "Iranian military involvement in the battle for Aleppo," *The Long War Journal*, August 3, 2016. (<http://www.longwarjournal.org/archives/2016/08/iranian-military-involvement-in-the-battle-for-aleppo.php>)

<sup>22</sup> "Iran commands 25,000 Shi'ite fighters in Syria: Israeli official," *Reuters*, November 3, 2016.

(<http://www.reuters.com/article/us-mideast-crisis-syria-israel-idUSKBN12Y1VK>)

<sup>23</sup> Max Peck, "Doubling Down on Damascus: Iran's Military Surge to Save the Assad Regime," *Foundation for Defense of Democracies*, January 2016.

([http://www.defenddemocracy.org/content/uploads/documents/Doubling\\_Down\\_on\\_Damascus.pdf](http://www.defenddemocracy.org/content/uploads/documents/Doubling_Down_on_Damascus.pdf))

<sup>24</sup> Benjamin Weinthal, "How Iran Enables Syria's Chemical Warfare Against Civilians," *The Jerusalem Post*, April 17, 2017. (<http://www.jpost.com/Middle-East/How-Iran-enables-Syria's-chemical-warfare-against-civilians-488180>)

<sup>25</sup> Amir Toumaj, "Array of pro-Syrian government forces advances in Aleppo," *The Long War Journal*, December 9, 2016. (<http://www.longwarjournal.org/archives/2016/12/array-of-pro-syrian-government-forces-advance-in-aleppo.php>)

Hezbollah is the most successful export of Iran's Islamic revolution, and the brightest star in its constellation of proxies. According to some Israeli estimates, Iran provides Hezbollah with as much as \$900 million annually.<sup>26</sup>

It is best not to think of Hezbollah as an independent entity that is a client of Iran, but as a regiment of the IRGC. It has always functioned as an extension of Tehran, and from its outset swore loyalty to whomever would occupy the office of Supreme Leader. Iran's impact on all of Hezbollah's decisions is near-absolute, and that includes involvement in Syria. Hezbollah is an Iranian extension in Lebanon and not an authentic Lebanese movement and therefore needs Assad - a critical ally of Iran in the region - as Hezbollah's "umbilical cord" to its Iranian patrons, allowing the passage of funds and weapons to the group. Assad's hold on power thus allows Iran to perpetuate the exportation of its revolution. Iran is therefore rumored to have ordered Hezbollah to enter the fray of the Syrian civil war to help prop up Assad.<sup>27</sup>

#### **10. What lessons can be learned from the apparent failure of the 2013 international agreement for the destruction of Syria's chemical weapons?**

The Assad regime's continued use of chemical weapons against innocent civilian populations reveals inherent weaknesses of international agreements with authoritarian regimes. Generally, the United States should not delegate its national security priorities to international bodies (OPCW in the case of Syria and the IAEA in the case of Iran) that inherently lack their own enforcement powers. When the authoritarian regime inevitably incrementally or egregiously violates its commitments, the United States is then dependent on the agreement from states like Russia, which have their own calculations and interests sometimes at odds with U.S. interests, in order to hold the authoritarian regime accountable.

Moreover, if the United States is going to use international agreements on issues as important as arms control and nonproliferation, these agreements must have strong verification mechanisms. Unfortunately, the JCPOA fails to provide the IAEA with anywhere-anytime access to all suspicious sites, documents, and personnel. Instead, the JCPOA creates a 24-day delay between a request for access and the physical access - if indeed the IAEA can even get physical access, which was not the case when the IAEA inspected the Parchin facility. Twenty-four days is enough time to "sanitize" small, suspected sites.<sup>28</sup> Iran is also likely to have developed contingency plans to respond to IAEA demands to visit these sites. According to Dr. Heinonen,

<sup>26</sup> Yaakov Katz, "Security and Defense: The fly in the spider web?" *The Jerusalem Post* (Israel), July 1, 2011. (<http://www.jpost.com/Defense/Security-and-Defense-The-fly-in-the-spider-web>). In 2013, Reuters reported: "A regional security official with access to current intelligence assessments put Hezbollah's annual income at between \$800 million and \$1 billion, with 70-90 percent coming from Iran, the amount partly depending on the price of oil." Samia Nakhoul, "Special Report: Hezbollah gambles all in Syria," *Reuters*, September 26, 2013. (<http://www.reuters.com/article/us-syria-hezbollah-special-report-idUSBRE98P0A120130926>)

<sup>27</sup> Ariel Ben Solomon, "Report: Nasrallah Secretly Visited Iran to Discuss Syria War," *The Jerusalem Post*, June 27, 2017. (<http://www.jpost.com/Middle-East/Report-Nasrallah-secretly-visited-Iran-to-discuss-Syria-war-318013>); Mona Alami, "Hezbollah in the fight in Syria to win, backed by Iran," *USA Today*, June 6, 2013. (<https://www.usatoday.com/story/news/world/2013/06/06/hezbollah-syria/2394617/>)

<sup>28</sup> Bill Gertz, "Ex-IAEA Leader: 24-Day Inspection Delay Will Boost Iranian Nuclear Cheating," *The Washington Free Beacon*, July 21, 2015. (<http://freebeacon.com/national-security/exiaea-leader-24-day-inspection-delay-will-boost-iranian-nuclearcheating/>)

Tehran may only need two days to remove nuclear equipment from a small facility<sup>29</sup> and remove any traces of uranium, which even environmental sampling may be unable to detect. He notes: "Time for 'scrubbing' takes on special salience in nuclear-related developments without nuclear material present. Some of the past concealment events carried out by Iran in 2003 left no traces to be detected through environmental sampling."<sup>30</sup>

Finally, the failure of the Syrian chemical weapons agreement reveals that it is not enough to eliminate current stockpiles, an agreement must also rollback existing capabilities to prevent the authoritarian regime from covertly producing more material.

**11. You discussed how Iran Air regularly flies to Syria, as other Iranian airlines do such as Mahan Air, which remains sanctioned for activities including ferrying Iranian military support to Syria. Did the U.S. confirm that Iran Air is no longer engaged in these activities?**

The JCPOA lifted sanctions against Iran's state-owned airline, Iran Air, despite a lack of evidence that the airline had ceased the illicit conduct for which it had been sanctioned in the first place. In 2011, Washington designated Iran Air for providing material support and services to the IRGC and Iran's Ministry of Defense. At the time, Treasury noted, "Rockets or missiles have been transported via Iran Air passenger aircraft, and IRGC officers occasionally take control over Iran Air flights carrying special IRGC-related cargo ... carried aboard a commercial Iran Air aircraft, including to Syria."<sup>31</sup>

When the previous administration was asked why sanctions on Iran Air were lifted, State Department Spokesman John Kirby did not argue that Iran Air's behavior had changed,<sup>32</sup> or that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was "not at liberty to go into the reasons behind" the de-listing.<sup>33</sup>

**12. Boeing and Airbus have reached agreements to supply Iran Air with a combined total of over 200 airplanes. Are you concerned these sales will support Iran's malign activities?**

Iran Air is unlikely to retain all of the aircraft it is now set to purchase from Western companies. Its current fleet is only 36 planes,<sup>34</sup> but it has signed preliminary contracts for nearly 200. Instead, Iran Air likely will transfer, resell, or lease excess aircraft to sanctioned airlines,

<sup>29</sup> Michael R. Gordon, "Provision in Iran Accord Is Challenged by Some Nuclear Experts," *The New York Times*, July 22, 2015. (<http://www.nytimes.com/2015/07/23/world/middleeast/provision-in-iran-accord-is-challenged-by-some-nuclear-experts.html>)

<sup>30</sup> Olli Heinonen, "The Iran Nuclear Deal and its Impact on Terrorism Financing," *Testimony Before the House Financial Services Committee, Task Force to Investigate Terrorism Financing*, July 22, 2015. (<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=399373>)

<sup>31</sup> U.S. Department of the Treasury, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

<sup>32</sup> "Boeing's historic deal with Iran rests on shaky foundations," *Associated Press*, June 23, 2016.

(<http://www.foxnews.com/us/2016/06/23/boeing-historic-deal-with-iran-rests-on-shaky-foundations.html>)

<sup>33</sup> John Kirby, "Daily Press Briefing," *U.S. Department of State*, June 23, 2016.

(<http://www.state.gov/r/pa/prs/dpb/2016/06/259015.htm>)

<sup>34</sup> "Profile," *Iran Air*, accessed May 8, 2017. (<http://www.iranair.it/english/profile.shtml>)

including Mahan Air, which the U.S. government designated for supporting the IRGC's terrorism.

Moreover, Iran Air itself is likely to use the aircraft for malign activities in support of the Syrian airlift. While much of Iran's assistance to the Assad regime is hard to track, its airlifts can be viewed openly, through flight tracking websites and software, even as the airline uses deceptive practices – turning off tracking signals, using false tail numbers, or listing fabricated itineraries – when flying these routes. Based on open source research, my FDD colleague Emanuele Ottolenghi has concluded that between January 16, 2016 (Implementation Day) and March 30, 2017, Iranian airlines have flown at least 690 flights from Iran to Syria, including 114 on Iran Air and 231 on Mahan. The following information is a summary of the testimony he provided on this topic before the House Committee on Financial Services on April 4.<sup>35</sup>

The bulk of the transport of materials, weapons, and personnel from Iran to Syria occurs on commercial aircraft. During the same period from January 2016 to March 2017, the Iranian air force only flew six trips to Syria. Based on the following information, it is clear that the frequent flights between Tehran and Damascus on commercial aircraft are in fact a key part of Iran's support for the Assad regime.

- Syria is a war zone with little tourism or commerce, yet an average of 11 flights per week land in Damascus from Iran.
- Iran Air flight 697 flies from Tehran to Damascus twice a week, but a ticket cannot be purchased on Iran Air's booking website or through travel agencies. Indeed, the airline does not include Damascus among its destinations from Tehran.
- Moreover, flight 697 periodically makes a stopover in Abadan, an IRGC logistical hub.

The U.S. intelligence community should review this publicly available data and its classified information about Iran Air's activities and determine whether - as it appears from public reporting - that the airline is an active participant in Iran's support for the Assad regime. If so, the airline should be sanctioned under Executive Order 13224 for terrorism and under Syria executive orders. Treasury should then revoke the licenses it granted to Boeing and Airbus.

### **13. Boeing recently announced it reached a \$3 billion deal with Iran Aseman Airlines. Do you have concerns over this agreement as well?**

Boeing's announced deal with Aseman Airlines is deeply troubling given the connection between the airline's CEO and the IRGC. The following information is drawn from the work of my colleagues Emanuele Ottolenghi and Saeed Ghasseminejad.<sup>36</sup>

<sup>35</sup> Emanuele Ottolenghi, "Increasing the Effectiveness of non-Nuclear Sanctions against Iran: Iran's Aviation Sector," *Testimony before the Monetary Policy and Trade Subcommittee and the Terrorism and Illicit Finance Subcommittee of the House Committee on Financial Services*, April 4, 2017.

(<https://financialservices.house.gov/uploadedfiles/hhrg-115-ba19-wstate-cottolenghi-20170404.pdf>)

<sup>36</sup> Emanuele Ottolenghi and Saeed Ghasseminejad, "CEO of Iranian Airline to Buy Boeing Jets Has Ties to IRGC," *Real Clear Defense*, April 24, 2017.

([http://www.realcleardefense.com/articles/2017/04/24/ceo\\_of\\_iranian\\_airline\\_to\\_buy\\_boeing\\_jets\\_has\\_ties\\_to\\_irgc\\_111233.html?utm\\_s](http://www.realcleardefense.com/articles/2017/04/24/ceo_of_iranian_airline_to_buy_boeing_jets_has_ties_to_irgc_111233.html?utm_s))

CEO Hossein Alaei is a senior member of the IRGC (which remains under U.S. sanctions) and served as commander of the IRGC Navy. During his tenure in that position, the IRGC Navy targeted commercial and military vessels - including U.S.-owned commercial and Navy vessels - during the so-called Tanker War. Additionally, Alaei served as the director of Iran's Aviation Industries Organization (a subsidiary of the Ministry of Defense) which was designated by the Treasury Department in 2013 and by the EU for involvement in Iran's military program and proliferation.<sup>37</sup>

**14. Do the Department of the Treasury's recent change to the ownership standard rules violate any legal prohibitions against doing business with the IRGC?**

Exactly one year ago, Treasury issued final rules regarding customer due diligence and recommended that Congress pass legislation on beneficial ownership.<sup>38</sup> These are important issues for financial transparency and integrity, unrelated to the Iran nuclear deal and remaining non-nuclear sanctions.

Separately, under the Obama administration, Treasury's Office of Foreign Assets Control issued guidance and FAQs about the implementation of the nuclear deal and related sanctions relief. These FAQs troublingly appeared to ease restrictions on the enforcement of U.S. sanctions banning transactions with the IRGC. In short, Treasury stated that transactions with entities minority-owned by designated persons may not be sanctionable, that banks do not necessarily need to do due diligence on their customers' customers, and that foreign financial institutions can do dollarized transactions with Iranian entities provided the dollars do not touch the United States. Combined, these measures significantly eased restrictions on transactions between Iran and non-U.S. banks and companies.

Congress should request clarification from the Treasury Department on its FAQs and should urge the Trump administration to rescind the guidance until it has completed its review of U.S.-Iran policy.

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<sup>37</sup> U.S. Department of the Treasury, Press Release, "Additional Treasury and State Designations Targeting Networks Linked to Iranian WMD Proliferation and Sanctions Evasion," December 12, 2013. (<https://www.treasury.gov/press-center/press-releases/Pages/jl2241.aspx>)

<sup>38</sup> U.S. Department of the Treasury, "Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion," May 5, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0451.aspx>)

**Questions for Ray Takeyh, Ph.D.**

Hasib J. Sabbagh Senior Fellow for Middle East Studies  
Council on Foreign Relations

**Questions from Chairman Ron DeSantis**

Subcommittee on National Security

April 5, 2017, Hearing: "Assessing the Iran Deal"

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1. How significant a role does Iran play in supporting the Assad government in Syria?

Iran is critical to the survival and stability of the Assad regime. Through Shia militias and Hezbollah forces that it has deployed, it now constitutes 75% of Assad's ground forces. The Revolutionary Guards are also active in Syria in terms of logistics, planning and directing military operations.

2. What actions can the U.S. take to support forces of opposition to the Iranian government within the country?

The United States has a great deal of ability to influence the developments in Iran. By tailoring our broadcasting services to challenge the regime's legitimacy and directly aiding internal forces of dissent, we can press for Iran's democratization.

3. What are the implications of Ebrahim Raisi's candidacy for the presidency of Iran?

Ebrahim Raisi is one of the most notorious figures in Iran today. In his role in the judiciary over the past three decades, he has been responsible for some of the regime's most important atrocities. From his service on the "death commission" of the 1980s to his active role in repression of the Green Movement in 2009, he is an unsavory figure much detested by the public.