

**Written Testimony of Richard Nephew  
before the Senate Armed Services Committee on  
“The Joint Comprehensive Plan of Action and the Military Balance in the Middle East”  
August 5, 2015 at 9:30 a.m.**

Thank you, Chairman McCain, Ranking Member Reed, and other distinguished members of this Committee for inviting me to speak here today. It is a privilege and an honor to speak to you on a subject to which I have devoted nearly twelve years of my professional life as a civil servant at the Department of Energy, Department of State, and National Security Council: how to address the problems created by Iran’s nuclear program. In my current position at the Center on Global Energy Policy at Columbia, I have continued my study of the use of economic statecraft to deal with such national security challenges, with Iran as the centerpiece.

I would like to begin by extending my personal gratitude to the members of the U.S. negotiating team, all of whom set aside personal commitments large and small in the pursuit of the agreement reached in Vienna on July 14. Regardless of how one evaluates this deal, one cannot contest that the people who worked so hard and diligently to conclude it did so with anything other than the intention of addressing a profound threat to U.S. national security. These men and women, many of whom I can call friends, are dedicated to stopping Iran from acquiring a nuclear weapon. Some of them have pursued this goal for decades. We are all most fortunate that this country produces diplomats, civil servants, and experts like these.

I would like to offer here my evaluation of the Iran nuclear deal first as a general matter and then focus specifically on the regional implications of the deal. In doing so, I will describe what the deal itself has achieved, the consequences of this achievement, and the alternatives that would be facing us absent the deal. I come to the conclusion that, compared to the most realistic alternatives, this deal is a very good one.

The agreement reached two weeks ago will prevent Iran from having a credible opportunity to produce weapons-grade nuclear material for use in a bomb for at least 10 years and likely beyond that. It does this through a combination of restrictions and monitoring that will ensure Iran faces a long path to weapons-acquisition, which can be detected almost as soon as it begins. In this respect, President Obama and his successors will have the time they need to evaluate Iranian compliance with the agreement, and to take any necessary decisions to address Iranian deficiencies.

This includes the use of military force. President Obama has not taken this off of the table through this deal, nor would any President. Instead, President Obama has ensured that if such a decision is ever needed, it can be undertaken with greater time and clarity as to Iranian intentions.

Setting the context

To some degree, Iran has been at the precipice of a nuclear weapons capability since it first began operating centrifuges at the underground Natanz plant in 2007. Both Presidents Bush and Obama have had to consider regularly whether the Iranian nuclear program was getting out of hand, growing too large to be addressed through diplomacy.

In my opinion, we were reaching just such a dangerous crossroads in 2013. Iran’s nuclear program had grown to involve over 20,000 installed centrifuges, nearly 7,000 kilograms of up-to-5% enriched

uranium gas (enough for multiple weapons), nearly 200 kilograms of up-to-20% enriched uranium gas (nearly enough for one weapon), and a reactor at Arak that was nearly finished. Moreover, Iranian cooperation with inspectors at the International Atomic Energy Agency (IAEA) was stagnant, with access granted to confirm only that declared nuclear material was where it ought to be. While important, outstanding questions about Iran's past nuclear program remained unaddressed and with little prospect of answers or access forthcoming.

At the same time, sanctions were beginning to run out of steam. International oil prices were over \$100 a barrel and prospects for taking away further Iranian oil revenues were slim. Despite aggressive diplomatic efforts, including at the Presidential level, we were getting fewer returns on our demands for oil reductions. Iran was the worse for our sanctions, suffering a GDP contraction of 6.6% between 2012-2013 according to the World Bank.<sup>1</sup> Unemployment was high, as was inflation. But, still, Iran was continuing to expand its nuclear program and engage in all manner of destabilizing activities in the region.

This was leading to calls both within the United States and from our partners to consider military action. The problem was that no one could articulate a theory of such action that would be decisive in stopping Iran from ever getting a nuclear weapon without involving regime change.

Faced with this situation, the United States decided to test the proposition that newly-elected President Rouhani was committed to fulfilling his campaign promise to seek removal of sanctions and a new relationship with the international community. Talks began in secret to see if a first step arrangement could be concluded that would, if not step back from the brink of military confrontation or an Iranian nuclear weapon, at least hold us at the lip. Such an arrangement would require -- and did elicit in the end -- major nuclear concessions from the Iranians. They would be forced to halt their progress, something they had sworn never to do, and even roll the program back in key respects. Sanctions relief would need to be part of it, in order to create incentives to keep Iran negotiating for a final deal. It had to promise Iran a return on its investment but not make a final deal meaningless.

The result was the Joint Plan of Action (JPOA), a much-derided document at the time of its announcement but one that I think even critics would grudgingly agree has served these purposes well.

Iran made clear during the negotiations on the JPOA that they would not be able to accept it as a permanent arrangement; the sanctions still in place were too severe and political pressure would prove toxic for Rouhani if talks went on too long. So, they wanted to complete the deal faster. Unfortunately, a similar desire to speed up the negotiations also emerged from the United States and some of our partners, despite the fact that Iran gave up much in its nuclear program for a modest amount of relief. This was the first time, but not the last, that opponents of the deal in the United States and Iran share a common view. Unfortunately, a similar desire to speed up the negotiations on a comprehensive deal emerged from the United States and some of our partners, despite the fact that -- for a modest amount of relief -- Iran gave up much. It was the first time, but not the last, that opponents of a deal in both the United States and Iran were in full agreement.

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<sup>1</sup> World Bank data, downloaded on July 20, 2015, and available at: [http://data.worldbank.org/country/iran-islamic-republic?](http://data.worldbank.org/country/iran-islamic-republic?locations=US)

As a direct consequence, deadlines were established that Iran sought to use as leverage against the United States. Iran came to believe that the deadlines put in place were more important for U.S. negotiators than for themselves, leading to inevitable delays in Iranian decision-making and extended talks.

Still, the United States did not rush into a deal. Had it done so, talks would not have been extended first in July 2014, then in November, and then multiple times at the end of June and into July 2015. Instead, the U.S. negotiators demonstrated time and again that, as Secretary Kerry said, “we will not rush and we will not be rushed.”

In the end, the Administration successfully demonstrated to Iran that, if it wished to conclude a nuclear deal, then it would have to make a number of concessions on issues that no less an authority than the Supreme Leader had established as redlines. Admittedly, this did not surprise me. Iranian negotiating style often involves brinkmanship and some degree of exaggeration. It is only through testing and prodding such redlines that the real limits of Iran’s negotiating room could be established. For this reason, key redlines -- like the requirement that immediate sanctions relief be furnished before any nuclear changes could be implemented or that R&D continue without restriction or even that Iran would require 190,000 centrifuges in the near term -- were broken by Iran in the final deal.

#### Evaluating the nuclear aspects of the deal

The result of these negotiations is a deal that, in my view, satisfies U.S. national security objectives. I define these as being:

1. Lengthening the time that Iran would need to produce enough nuclear material for one nuclear weapon; and,
2. Ensuring that, during this time, any such attempt could be quickly detected, such that the entire length of the breakout time is available for response.

With respect to the first objective, the deal manifestly delivers.

The deal negotiated by the P5+1 will create a one year or longer breakout timeline for Iran’s declared nuclear program for the first ten years of the implementation phase of the deal. And, that’s just for uranium; for plutonium, the breakout timeline is far longer, potentially measurable in decades. Why?

With respect to uranium, the deal restricts Iran’s installed centrifuges to just over 6,000 IR-1 type machines for 10 years. Iran will be able to do some small scale enrichment using advanced machines at the end of this time period, but in numbers far too modest to contribute to breakout. This limitation will also hold back the progress of Iran’s enrichment program. One does not go immediately from small scale enrichment on small numbers of centrifuges to installing and operating thousands of machines. Iran will have to spend time perfecting these machines and it is unreasonable to expect that they will achieve perfection in a few months of work. Iran has spent nearly twenty years working on the IR-1 centrifuge, 1970s technology that it bought outright, and only managed to operate this centrifuge at roughly half of its design capacity.

Iran will also be limited to solely 300 kilograms of 3.67 percent U-235 in any form for 15 years. This restriction alone would hold Iran back from quick breakout because 60-70 percent of the work required for a bomb is in the initial period of enrichment from natural levels to ~4 percent.

But, combined with the centrifuge limits, Iran will be a year away for at least 10 years --until 2025 -- and anywhere from 6-12 months away for another 5 years beyond that. It is also important to note that, during this time, inspectors will have continuous, online enrichment monitoring of Iran's centrifuges. So, if a move to breakout were to take place, it could be detected almost immediately through a system of sophisticated, secure sensors.

After that, it is true that breakout probably will narrow. But, only with respect to the declared uranium path. For plutonium, the breakout timeline is multiple years long and will not shrink for a considerable length of time. The Arak reactor's modification will render it incapable of producing such plutonium, essentially permanently because of difficulty of modifying the reactor core of a once-operated reactor. Iran's agreement to not engage in reprocessing R&D, to construct a reprocessing facility, or to construct a reactor capable of producing weapons-grade plutonium in useful quantities will last until 2030. But the impact of this decision will go farther: having been stymied in this work for so long, it is unreasonable to expect a rapid improvement in Iran's capabilities or physical capacity. Judging by how long Iran has been building the Arak reactor (i.e., since 2007), it is reasonable to argue that it would be 2035 at least before Iran could have another such reactor, let alone spent fuel reprocessing capabilities.

Breakout is not the sole measure of a deal. But, compared to the status quo -- 2-3 months to breakout for uranium, with 1-2 weapons worth of plutonium being produced per year at Arak -- we are far better off with the deal than without it.

The deal also offers much by way of timely detection. Daily access to Iran's most sensitive nuclear sites remains possible. But, continuous monitoring -- including through use of sophisticated new safeguards technology -- may make this unnecessary. The right to utilize advanced monitoring technology is perhaps one of the most important if unsung elements of the deal, reducing cost and labor burdens while also dealing with problems of immediate access that would have constantly raised questions as to whether Iran was cheating at any particular moment.

Beyond the declared facilities, there is an impressive array of monitoring provisions with respect to all of the key aspects of the nuclear fuel cycle. From uranium production through centrifuge manufacturing, the IAEA will have the right to monitor what Iran is doing to ensure that it cannot be diverted to a covert path. Similarly, Iran will be forced to utilize a procurement channel that enables the United States to have a vote on what Iran can procure and end use verification by exporters and, in some cases, the IAEA. Some of these provisions lapse at the ten year mark but others -- including the important provisions on centrifuge manufacturing and uranium production -- continue for 20 and 25 years respectively. This means that the world will have visibility into Iran's nuclear program beyond the international norm, even enhanced by the Additional protocol, until 2040. And, of course, the access Iran is required to provide under its Comprehensive Safeguards Arrangement and Additional Protocol will continue so long as Iran is adhering to those treaties; a decision to withdraw from either would, naturally, trigger an international response.

Some may argue that the time available to the President is far less than promised, seeing as there is now a dispute resolution process that participants are obliged to observe if there are difficulties with

JCPOA implementation. This process could take perhaps as long as 80 days. But, within a 1 year breakout time, that is still enough time to seek new diplomatic action, based on the reapplication of pressure via the snap-back mechanisms that would be triggered at the end of that process as well as additional sanctions.

Moreover, we must bear in mind that any contingency that requires less time than 80 days is also probably not one that sanctions would have addressed in any event. Exposure of an ongoing, near-breakout and covert Iranian nuclear weapons program would prompt consideration of military options more than sanctions, and I personally believe that use of force would be the best course of action in this instance. At the same time, more modest actions prompting snap-back also would be less likely to shrink the breakout time by any discernible degree. Discovery that Iran has 100 more kilograms of 3.67% enriched uranium would be a problem. But, it would not shorten breakout below the snap-back threshold.

In my view, therefore, any discussion of snap-back and the dispute process needs to be based on a thorough evaluation of likely scenarios and responses. Doing so results in different expectations for the risk created by any particular Iranian violation.

#### After the sunset

Even some skeptics may agree that, within a 10-15 year band of time, the deal may work as designed. However, this is distinct from the concerns that exist about what would happen after the deal's main restrictions end in 2030. Some, most notably Prime Minister Netanyahu, have alleged that it is in this fashion that the deal paves the way to an Iranian nuclear weapon.

I disagree. First, the argument against sunset presupposes that there is either no point in time in which Iran could be trusted with a nuclear program -- or, anyway, the Islamic Republic of Iran -- or that negotiations could possibly have delivered a sunset far longer than what is in the deal. Having experienced these talks personally, I can vouch for the fact that there was no scenario in which Iran would accept voluntarily the absence of a serious nuclear program for decades. If the Iranian negotiators had delivered such a deal, people -- including important people in the security services -- would be right to ask why Iran endured sanctions for as long as it did. Moreover, Iran has become an advocate for the entire non-nuclear world in its defense of a nuclear program including enrichment. Expecting Iran to back away from that role, even in return for sanctions relief, went beyond what negotiations could achieve.

Some would argue in response that this does not mean that sunset of 10 years is acceptable. Certainly, I too would have preferred a multi-decade long set of restrictions. But, it is legitimate to question why that would be necessary as well as to ask how many years would be enough to build confidence. Given that, taken in combination, the restrictions and access provisions extend in some respects for 15-25 years, it is reasonable to argue that sunset will be a prolonged affair.

During this time period, of course, the United States is also free to abrogate the agreement and to declare that Iran's nuclear program, at the time, remains a concern. Successful execution of this step will require effective diplomacy and the right context at the time. But, it is achievable if a future President decides that no other options would work. And, of course, a future President could also decide that Iran's nuclear program must be met with force.

### But what about sanctions?

A major complaint about the nuclear deal is that it provides Iran with far too much sanctions relief and that the practical effect of increasing trade with Iran will render snap-back ineffective.

First, on the issue of scale, it is a blunt reality that Iran was not going to accept major restrictions on its nuclear program and invasive monitoring on the cheap. No one in the United States government would disagree that Iran should take these steps without compensation, seeing as it is Iran that stands in violation of its international obligations. But, in the real world, this is not a sustainable argument. Just as Iran could not scrap its nuclear program to make a deal work, Iran could also not accept nuclear steps being taken without reciprocation. De-escalation of the nuclear program required de-escalation of sanctions.

Faced with this reality, the Administration did the right thing in leveraging sanctions relief for maximum, early nuclear steps. Instead of debating whether one sanction was worth 10 centrifuges, the Administration cut Iran a deal: in exchange for big nuclear steps, big sanctions relief could be given. Iran is now under every incentive to take the steps required of it as soon as possible (and, arguably, would be even now removing centrifuges if the Iran Nuclear Agreement Review Act had not been passed, mandating the present 60 day review period). The United States insisted, and Iran agreed, that no such sanctions relief could be enacted until the IAEA verifies that Iran has done its part. As a result, we will be able to see -- and have the IAEA report -- that Iran has done everything required of it before any relief flows.

But, the sanctions relief provided by the United States does not equate with unilateral sanctions disarmament. The United States retains a number of sanctions authorities that will continue to damage Iran's ability to engage in terrorism financing, as well as to exact consequences for violations of Iranian human rights and other destabilizing activities. This includes the all-too-important tool of secondary sanctions through the Comprehensive Iran Sanctions, Accountability and Divestment Act or CISADA. With this tool, the United States will still be able to pressure banks and companies against doing business with the IRGC, Qods Force, Qassem Solemani, and Iran's military and missile forces. The EU and UN decisions to remove some of these entities from their own sanctions list is therefore important to Iran mainly as a symbolic step; practically, these entities and individuals will find their international business activities stymied due to the centrality of the United States in global finance until they correct their own behavior in the eyes of the United States.

Moreover, the United States will retain its ability to impose sanctions on entities and individuals trading with Iran in conventional arms and ballistic missiles, even after UN restrictions in this regard lapse in 5 and 8 years respectively. The UN's provisions were important in terms of setting international approval and backstopping for U.S. unilateral efforts. But, they were conditioned, even as early as 2006 and 2007, on Iran's failure to fulfill its nuclear obligations. Even the earliest UNSC resolutions laid out a package in which these sanctions would be terminated when Iran satisfied the P5+1 and IAEA on the nuclear issue. Further, it is the consequence of U.S. sanctions on these targets that can best deter bad behavior. Similarly, international export controls governing transfers of these types will remain fully in force.

Second, on the issue of snap-back, Iran's growing international economic integration will cut both ways. Certainly, it is possible that the politics around future Iran sanctions will be prejudicial to rapid snap-back. However, the structure of the dispute process gives even just one country the right

to insist that the UNSC consider whatever matter is in question with respect to compliance with the deal. And, the deal structures the snapback of UNSC sanctions such that the P5 veto power only works to end sanctions relief. In other words, though the process may need to be navigated, in the end, even acting alone, the United States can bring existing UNSC sanctions back into operation.

As noted, this could come with political costs. Many skeptics point to these costs as likely meaning that no such snapback would ever be triggered. But, many of these same skeptics also argue that it is theoretically possible to end the deal now and keep international partners moving forward with the imposition of sanctions. This is out of joint with reality and practical experience. Simply put, international reaction to U.S. actions now or in the future will always depend on the context and narrative. If the rationale for doing so is credible and the context demands action, then chances for success will always be higher.

Additionally, Iran too would have much to lose if snapback were to be triggered. Iran's leaders would therefore have to carefully evaluate the costs and benefits of any course of action that threatens the integrity of the nuclear deal. These costs will grow as Iran's economy recovers and grows. Explaining to Iran's people why a civil nuclear program has gone out of alignment with any practical needs, prompting reversion of sanctions, would prove a difficult conversation for Tehran, maybe as difficult as the one the United States would need to have with partners about the imperative of reapplying sanctions.

### Regional Implications

I would like to concentrate on two different sets of regional implications. The first is the risk that Iran will plow its hard-won sanctions relief into terrorism and regional troublemaking. The second is that Iran's enrichment program will spawn a cascade of new nuclear programs through the Middle East. And, I will conclude with some thoughts on how to address these implications.

#### *Terrorism*

It is certainly true that Iran will continue to support terrorism and activities that we oppose throughout the region. No level of sanctions could stop them from doing so. This is a government that has, after all, funded and armed radical elements since the fall of the Shah of Iran in 1979, through the Iran-Iraq War, and after the intensification of crippling sanctions in 2010. Tehran continued to invest in the Assad regime, despite the immediate loss of over a quarter of its 2012 oil revenues from sanctions imposed in December 2011, and \$60 billion in potential revenues from that point forward. Likewise, Iran has assisted Shiite militants in Iraq, the Taliban in Afghanistan, and is now supporting the Houthis in Yemen, despite major economic crisis at home. Clearly, money is no consideration for the Iranians when it comes to support for terrorism.

But, money is important when it comes to Iran's domestic front. Iran's population as well as its leaders know how much money is at stake, and how it can be used. It is implausible that, after the Supreme Leader allowed Rouhani to be elected president in 2013 on a platform pledging economic recovery — in part, through promises of sanctions relief — either man would support initiatives that leave the Iranian population in the cold in order to protect foreign groups and leaders like Assad. To do so would be to risk the very instability and threat to the regime that the Iranian government have sought to prevent by seeking sanctions relief through this deal.

Since the international community intensified sanctions against Iran in 2010, Iran has only grown more desperate. For example, the country's oil sector now needs anywhere from \$50 to \$100 billion in investment to improve production, a point that Iranian officials, including Oil Minister Bijan Namdar Zanganeh, have emphasized repeatedly over the past two years. External investment was cut off by sanctions, and Iran has not had the spare capital to maintain, much less improve, its facilities. Nor has it enjoyed access to new technologies that could enhance oil field productivity.

Oil is, of course, only one part of Iran's economy, which includes struggling industries like automobile and domestic manufacturing. To avoid an over-dependence on global oil markets, Iran has also made it state policy to build a diversified export economy. Given the prevailing low global oil prices, Iran is likely to continue trying to strengthen other sectors to maximize its growth potential and limit its vulnerability to an uncertain market.

Lest observers assume that Iran would have turned its entire economy into a terrorism-financing machine if only it had the money, consider the fact that the most intensive sanctions on the country are only 3 years old. Before January 2012, oil sales were bringing in nearly \$88 billion a year, money that Tehran largely spent as any government would: on domestic priorities — not solely to back anti-Western interests. If the LA Times is to be believed, this is a conclusion that CIA has itself reached.

As with the effort to wean its economy off oil, Iran has also sought to reduce costly subsidies on everything from food, to housing, to energy, in order to improve the economy's efficiency, reduce waste, and spur competitiveness. But sanctions targeting Iranian oil revenues hampered that effort, as the country lacked the hard currency — and political will — to forge ahead with subsidy reform, at least until Rouhani's election. It is now struggling to complete this project, one that sanctions relief would undoubtedly boost by providing Iran with fresh revenue and reducing its citizens' dependence on government handouts. This is particularly important for Rouhani, who will be looking to shore up domestic support in the run-up to parliamentary elections in February 2016 and to win reelection in 2017.

But beyond this, any rosy expectations for Iran's economy must be tempered by the reality that oil, still its primary economic driver, is worth less today than in years past and is predicted to stay that way for the foreseeable future. Iran simply won't have as much money coming in on an annual basis, due to global economic conditions, until the rest of its economy picks up speed. Even if Tehran had wanted to spend \$100 billion on nefarious side projects a few years ago (and let's be clear: given \$100 billion was more than the entire annual oil export revenue for Iran at the time, even when prices were high, this would hardly be credible), it makes even less sense today.

Consequently, it is much more likely that only a portion of the liberated \$100 billion and any future revenues will go to support Tehran's regional adventurism. No one knows how much, but experts have made some educated guesses, suggesting that the regime has spent anywhere from \$3.5 to \$20 billion a year in Syria, figures that pale in comparison to annual military spending by the United States and the Gulf Cooperation Council.<sup>2</sup> This is not to say that Iran cannot do a lot of damage with a few billion more dollars.

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<sup>2</sup> Stockholm International Peace Research Institute, "SIPRI Military Expenditures Database," [http://www.sipri.org/research/armaments/milex/milex\\_database](http://www.sipri.org/research/armaments/milex/milex_database).

But, Iran will have to deal with residual U.S. and international sanctions inhibiting it. As mentioned earlier, this includes sanctions that preserve the secondary application of U.S. sanctions on foreign businesses and banks. But, beyond this, since 9/11, the international banking system has adopted new standards and helped create intergovernmental groups like the Financial Action Task Force to crack down on money laundering and terrorism financing. Banks monitor their business far more aggressively now than ever before to detect and prevent such activities, in part by using the best practices and guidelines developed by FATF. Banks are also under greater scrutiny by their national regulators — and, in fact, by the U.S. Treasury Department — to keep their systems from being used by terrorists and their financiers for illicit acts.

Moreover, if need be, Washington and its partners can always augment sanctions to deal with specific Iranian threats, such as Iran's conventional arms market. These could be modeled on an existing authority, like sanctions covering the manufacture, shipping, and financing of weapons of mass destruction. Far be it from abandoning sanctions as a tool after the nuclear deal, the United States could use sanctions as an effective deterrent in this regional context. Care, however, will have to be taken to avoid giving Iran a pretext to argue that the United States is undermining the very sanctions relief that made a nuclear deal possible in the first place.

In this context, several observers have suggested that it might be necessary to undertake strategic economic pressure against Iran as we have done to deal with the nuclear program. I think that this is probably unnecessary and potentially a mistake. First, we already have applied strategic economic pressure on Iran and did not meaningfully change its regional approach. Though the sanctions we applied on Iran from 2010-2013 were nuclear in focus, Iran felt no distinction. Nor did it respond by making accommodations on the terrorism front, as it did on the nuclear program. I believe this is because both the causes to which Iran is dedicated in the region are too dear to it to abridge and the financial requirements for the support of terrorism are relatively meager. To get the kind of economic pressure that would be required to get Iran to discontinue its financial support for terrorism — rather than reduce it, as probably did take place — we would have to establish the same kind of sanctions regime against Iraq in the 1990s, reducing Iran to a starvation diet.

It is highly doubtful that our most important sanctions partners would support us in such an endeavor and the risk of sanctions leakage would be significant. But, even if they did, for how long would we prepared to keep such a regime in place? For, if we relaxed the pressure at some point, it is doubtful that Iran would abandon future support for terrorism. Ultimately, in my view, such a path leads us to requiring regime change, with all the complications that this would bring.

Instead, I believe that the use of targeted financial sanctions pressure to cut off nodes is a better, more effective approach to dealing with support for terrorism, as part of a larger approach I will describe below.

### *Regional Proliferation*

The second main concern posited is that Iran will fan the flames of regional nuclear proliferation, leading to nuclear weapons programs throughout the Arab world as a counter to Iran's now entrenched nuclear program.

I strongly disagree that this is the likely result of this deal. Moreover, I believe we have adequate tools to prevent such an outcome.

First, this argument presupposes that countries have been waiting for a negotiated outcome to enshrine Iran's enrichment program into international law to launch their own nuclear programs. But, this argument implicitly suggests that while a deal to constrain Iran's nuclear program might motivate others to launch a breakout, Iran's relatively unconstrained last ten years did not. If there is a logic to Arab nuclear weapons efforts, then it is that they cannot count on anyone else to stop Iran from acquiring nuclear arms and must counterbalance Iran themselves. If this were truly their view, then why only start now? We should be seeing signs of nuclear weapons breakout around the region.

Instead, we see either nuclear programs being undertaken with an explicit, if bounded, unilateral renunciation of uranium enrichment (as in the UAE) or with far less direction and interest than would be expected (as in Saudi Arabia and Egypt, principally). There have been periodic statements of interest in nuclear energy by other countries in the region and even some efforts to establish the legal and scientific infrastructure that could facilitate a larger program. But, the most advanced Arab nuclear program is in the UAE and, as noted, it is being built on the back of a non-enrichment pledge that no one in the UAE has suggested they will renounce. If a nuclear arms race has been launched, it may be the most modest one in history.

Of course, an argument can be made that, prior to the nuclear deal, Iran was under perpetual threat of military conflict with the United States. Now, with a deal, it is not. Such a mindset ignores the fact that President Obama has explicitly retained the military option for dealing with Iran's nuclear program and that several candidates to succeed him have done the same (if not indicated that military strikes would be a preferred approach to diplomacy). But, it is arguable that conditions have changed and, therefore, so must the security calculus of Arab countries.

The flaw in this argument, though, is that several states in the region have already stated their support for the deal, including those most often identified as the likeliest to match Iran with their own nuclear programs: Saudi Arabia, the UAE, Egypt and Turkey. The Gulf Cooperation Council issued its own statement of support on August 3, with the Foreign Minister of Qatar saying all of their behalf: "We are confident that what they undertook makes this region safer and more stable."<sup>3</sup> The GCC's statement also underscored the degree to which U.S. security assurances bring comfort to its membership. True, any of these countries could be concealing their security fears in order not to offend either the United States or Iran. But, taken in combination with the fact that none of them also has announced a decision to establish an enrichment program with which to compete against Iran – which would be entirely legitimate under the NPT's current rules – it is pure conjecture to argue that the arms race has been launched.

The statement that is used most often to contradict this positive assessment is that of former Saudi intelligence chief, Prince Turki al Faisal, who has often indicated that Saudi Arabia will insist on

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<sup>3</sup> Gordon, Michael, August 3, 2015, "John Kerry Wins Gulf States' Cautious Support for Iran Deal," New York Times, Available at: <http://www.nytimes.com/2015/08/04/world/middleeast/gulf-states-cautiously-support-iran-nuclear-deal.html?hp&action=click&pgtype=Homepage&module=second-column-region&region=top-news&WT.nav=top-news>

matching directly any physical capabilities that Iran has.<sup>4</sup> Presumably, this means that the Saudis will now seek to build their own enrichment plant to match Iran's and to invest in the capabilities required to bring it to the nuclear weapons threshold. But, we have not seen that thus far. What we have seen is a willingness to spend some money to develop science centers that, one day, could train the experts required to start a nuclear weapons project. We have seen willingness to explore the construction of reactors, but the physical infrastructure has yet to be built or pursued seriously.<sup>5</sup> To acquire even an enrichment program – much less a nuclear weapons program – would require a massive expansion of Saudi expenditure and investment. Certainly, the Saudis have the money to finance the attempt but every day that they do not is another day deep into the future that they would be able to turn finance into nuclear material. And, it takes time to develop such capabilities. The Manhattan Project was a war-time endeavor financed by the world's strongest economy and aided by some of the finest scientific minds in the world. Nuclear weapons programs in China, India, Pakistan, and North Korea have taken far longer. Iran's enrichment program started in the late 1980s, but on the backs of scientists who took their training at U.S. universities in the late 1960s and 1970s. Iran's first reactor, supplied by the United States, was delivered in 1967. These things take time.

Of course, there has long been a theory that Saudi Arabia could purchase nuclear weapons from Pakistan, drawing on the long history of support the Saudis have given the Pakistanis (which some say even involved financing the Pakistani nuclear weapons program). But, the Pakistanis have their own problems, none of which would be assisted by transferring nuclear weapons or nuclear weapons technology or even enrichment technology to a non-nuclear weapon state. Pakistan has sought to emerge from the pariah status it attained when A.Q. Khan sold uranium enrichment elsewhere in the Middle East (notably, to Iran and Libya but not to Saudi Arabia), one reason why – when the Bush Administration sought to overturn decades of nonproliferation practice by creating an India-specific set of carveouts to the nonproliferation regime – Pakistan was left in the cold. Moreover, Pakistan has already demonstrated independence from Saudi Arabia in turning down the Saudi request for ground troops in Yemen this spring.

Egypt faces similar technical problems, while the UAE and Turkey have made clear that they have different priorities than matching Iran's enrichment program (the latter aided by the maintenance of the NATO nuclear umbrella).

But, let us briefly consider an alternative scenario in which the Iranian nuclear program is not constrained by a nuclear deal. If those arguing that nuclear proliferation will begin immediately, then killing this deal would logically become the starting pistol for an arms race as well. Iran's nuclear program would almost certainly be rejuvenated, with thousands of new centrifuges and a completed Arak reactor only the most visible manifestations of a dedicated Iranian capabilities drive. Some have argued that a better deal would emerge from this, though this argues that Iran could be forced to agree to lower centrifuge numbers, longer terms, and more intrusive inspections after the United States becomes the diplomatic pariah for ending a deal most states in the world support. Assuming that is not the case, then the only response would be accommodation of even greater Iranian nuclear capabilities through a new deal – with a U.S. bluff having been called – or

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<sup>4</sup> Usher, Barbara Plett, March 16, 2015, "Iran Deal Could Start Nuclear Fuel Race: Saudi Arabia," [BBC](http://www.bbc.com/news/world-middle-east-31901961), Available at: <http://www.bbc.com/news/world-middle-east-31901961>

<sup>5</sup> Esfandiary, Dina and Ariane Tabatabai, April 22, 2015, "Why Nuclear Dominoes Won't Fall in the Middle East," Available at: <http://thebulletin.org/why-nuclear-dominoes-wont-fall-middle-east8236>

military action. Unless regime change were envisioned, military action is more likely to create an incentive for Iran to develop a nuclear deterrent in the future. And, as a consequence, more likely to spur the arms race that so many fear now.

### *U.S. policy response*

The above analysis lays out a reasoned examination of why the region will not spiral out of control simply because of the nuclear deal we are here to discuss. But, this is not to say that the United States should rest on its laurels. I recommend four specific steps to manage the consequences of the deal and to ensure that the doomsday scenarios I doubt will occur are clearly avoided.

First, the United States must continue to reaffirm its support for our partners in the region. This should involve arms sales, but must go beyond that. We should maintain a robust military presence in the region and ability to quickly bring military assets to bear throughout it. We should also explore ways of working with Arab countries to make their military response force a capable, coherent and useful instrument to challenge and contain Iranian regional bad behavior. Most important, we need to demonstrate that, though we have global interests, we have regional priorities, foremost of these the security of our regional partners. Coordination of activities in the region to combat terrorism is an important part of the endeavor, as are continued strategic dialogues about how to handle the various problems that exist in the region. And, importantly, dialogue must be a true two-way street in which the United States is free to share its perspectives and analysis, as are U.S. partners. This may include uncomfortable conversations about domestic situations in partner countries that could offer openings to Iranian troublemaking. Friends might not like hearing such things and resent the implied condescension, but it is the responsibility of friends to pass along tough messages as well as physical support.

Second, we need to maintain robust intelligence-sharing with countries in the region about Iran's activities and, importantly, compliance with the nuclear deal. Some things will need to be protected given sources and methods concerns, but the general modus operandi ought to be transparency when it comes to the nuclear deal. Only through confidence that intelligence cooperation is full and forthright will partners believe that they know all that we know about Iranian strategic intentions and capabilities. That can only come with enhanced coordination and sharing.

Third, the United States must strive to be an active, positive nuclear cooperation partner with countries in the region. Trying to put the genie back into the bottle by denying nuclear cooperation with countries like Saudi Arabia unless they foreswear any future possibility of uranium enrichment on their territories was always a complicated – and probably impossible – proposition. Now, it is undeniably more difficult. But, nuclear cooperation can put us in a stronger position to discourage the exercise of the enrichment option, which is not precluded by the NPT. We have never been able to convince any country to relinquish forever its capacity to produce enriched uranium at home. Even the “gold standard” nuclear cooperation agreement with the UAE contains the possibility of the UAE backing out of its no-enrichment pledge if it so chooses as well as an expiration date. Instead of pressing for a self-denying legal commitment, we must concentrate on removing the incentives to pursue enrichment or reprocessing by providing cradle-to-grave nuclear supply and by demonstrating our reliability as nuclear trading partners.

Fourth, we must continue to enforce our existing sanctions to deal with Iranian terrorism, destabilizing regional activities and violations of human rights. As noted above, Iran has reserved the right to react negatively to such decisions by withdrawing from the nuclear deal. This is not the unprecedented, unacceptable sign of a weak agreement that critics are making it out to be, but rather a standard principle of national sovereignty. Even the NPT has a withdrawal provision. But, Iran will face consequences should it decide to do so. Iran is less likely to withdraw from this nuclear deal in response to credible enforcement of non-nuclear-related sanctions than it is in response to broad sectoral-based sanctions for non-nuclear reasons. To this end, even new authorities could potentially be adopted so long as they do not overlap the terms of the sanctions relief provided in the JCPOA or give Iran a credible argument that it is being deprived of the relief its nuclear restrictions have purchased. One such concept could be the promulgation of sanctions authorities, including an Executive Order, that permits sanctions against those who traffic in conventional arms to or from Iran. This would remove the need to demonstrate that such arms are going to a particular end use, making the legal hurdles less. Iran may choose to ignore these sanctions or protest them, but we can enforce them nonetheless and continue to make such trade anathema. And, of course, we can continue to enforce the UN's and our specific sanctions covering transfers to terrorist groups, Assad's forces in Syria, and the Houthis in Yemen.

### Conclusion

I believe that the nuclear agreement reached by the United States, its P5+1 partners, and Iran is a good deal. It is not a perfect deal. There are things that, in a perfect world, would be changed, starting with the fact that -- ideally -- Iran would not be permitted to engage in enrichment, reprocessing or heavy water activities in perpetuity. And, such an Iran would also be forced to change into a better actor in the region and beyond.

But, we do not have the luxury of that world. Instead, we face two options. We can either accept the deal that has been negotiated. Or, we can turn our backs on it. To do so is to go in an ill-defined alternative scenario. Some argue that in this scenario, sanctions can be intensified in order to achieve a better deal. Still others argue that military action could be undertaken. But, each of these courses of action would require taking significant risks that either they would not be successful and, in the attempt, that we would lose the support of the international community. An Iran strategy based on "going it alone" is not a recipe for success.

Moreover, while pursuing such an alternative, Iran would either wait expectantly for the sucker punch to be delivered that would complete the job of undoing global support for U.S. efforts, or march forward on its nuclear program, beginning the operations of thousands of new centrifuges and constructing the Arak reactor in its original, bomb-factory design.

For, at this point, there is no magical middle ground to be occupied. If the United States rejects the deal now, it will not be possible to negotiate a new one and certainly not before Iran undertakes a potentially dramatic expansion of its nuclear program. This is because of both the politics that will be associated with doing so in Iran -- whose leaders would convincingly argue "if the United States is not going to fulfill this deal, what is to say they would fulfill a future one?" -- and because the JPOA would collapse at the same time as the Joint Comprehensive Plan of Action. Some argue that Iran could continue to observe its JPOA commitments and so could the United States. But, U.S. law now makes that impossible. Under the terms of the Iran Nuclear Agreement Review Act

(INARA), if a joint resolution of disapproval is passed by Congress, the JPOA can no longer be observed by the United States as a legal matter. The law states that the President is no longer permitted to provide relief from sanctions established by Congressional action. So, waivers could not be extended under the statutory authorities in place.

As such, the Executive Branch would have to restart efforts to reduce Iranian oil exports -- paused under the JPOA -- and impose sanctions for the movement of Central Bank of Iran funds. It is inconceivable that, even if Iran wished to keep the JPOA afloat, Iran would accept U.S. efforts to reduce Iran's oil exports by holding steady on the nuclear program. So, even if new laws are not adopted by Congress or the Executive Branch, U.S. sanctions under the JPOA would again be active and in need of enforcement.

Would international partners join us in this effort? It is highly doubtful and certainly not with the vigor needed to be effective. And, as such, the United States would be brought into confrontation with key trading partners.

So, Congress must make the choice that it asserted was essential in the passage of INARA and decide if the alternative to the JCPOA is worth it. Leadership and vision from Congress, as the President has shown in pursuing this deal, is now needed. I urge Congress to make the right choice, and to support this deal.