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Hearing to Examine the Joint Comprehensive Plan of Action (JCPOA) and the Military
Balance in the Middle East

United States Senate Committee on Armed Services
Room SD-G50, Dirksen Senate Office Building
August 4, 2015

INTRODUCTION

Mr. Chairman, Ranking Member Reed, Members of the Committee, thank you for giving me the opportunity to appear before you today to discuss the full range of issues connected with the Joint Comprehensive Plan of Action (JCPOA) to resolve the Iranian nuclear issue, including regional security and U.S. defense policy in the Middle East. I have followed this issue for more than a decade as the U.S. Ambassador to Turkey and then as Under Secretary of Defense for Policy. Since retiring from government service in 2009 I have continued to track the progress of Iran's nuclear program and the negotiating effort to prevent Iran from developing a nuclear weapons capability. I have worked with several of my colleagues at the Center for Strategic and Budgetary Assessments on the broader threat that the program presents to the nuclear non-proliferation regime and regional security in the Middle East. I am also the co-chair with Ambassador Dennis Ross of a bipartisan Iran Task Force sponsored by the Gemunder Center for Defense and Strategy that has produced a series of detailed appraisals of the negotiations and now the JCPOA, but I want to stress that my comments today reflect only my own views.

First, let me say that I appreciate the care and deliberation that you and your colleagues are taking in examining this agreement. Major arms control agreements that bind the nation in matters vital to the national interest should rest on a broad public consensus and not purely on the preferences and actions of one individual. That is why the Founders required treaties to be ratified by a two-thirds majority of the Senate. As Constitutional scholar George Anastaplo observed many years ago,

“the arrangements in Section 2 with respect to treaties and appointments take it for granted that the Senate can be depended upon to be as well equipped as the President to know, or at least to be told, what is needed by the Country from time to time. The Senate shares the Executive power here, however convenient it may be to vest in a single man the negotiation of treaties.... The President is not

assumed to know things the Senate does not know or that the Senate cannot be told in appropriate circumstances.”

Although this agreement is not a treaty I believe the general proposition remains sound.¹

As I wrote with my colleague and Iran Task Force member Ray Takeyh in *The Washington Post* last month, a careful examination of the JCPOA reveals that it is deeply flawed because “it concedes an enrichment capacity that is too large; sunset clauses that are too short; a verification regime that is too leaky; and enforcement mechanisms that are too suspect.”² The Institute for Science and International Security, one of the most respected non-partisan authorities on non-proliferation in general and Iran’s nuclear program in particular, was straightforward in its assessment: “After year 10, and particularly after year 15, as limits on its nuclear program end, Iran could reemerge as a major nuclear threat. Even if the deal succeeds during the first ten years, it is unknowable whether the agreement will continue to accomplish its fundamental goal of preventing Iran from getting nuclear weapons in the long term.”³

Given these serious concerns, among many others, I believe the most judicious course is for Congress to disapprove the agreement, which would then allow for a more stringent deal to be renegotiated. As a career Foreign Service Officer for nearly thirty years, with a strong belief in the role of executive authority in foreign affairs, I have come to this recommendation extremely reluctantly. A multilateral agreement, negotiated over many years, should not be rejected for light or transient causes. The only legitimate grounds for doing so is when one believes that an agreement is so manifestly deleterious to the national security that it warrants rejection and renegotiation. In this case, I believe this agreement will put the imprimatur of the international community on an industrial-scale enrichment program that will leave Iran – even if the negotiated limits on enrichment are adhered to scrupulously – as a threshold nuclear state when the various provisions expire. President Obama conceded as much in an interview with NPR in April, when he observed “in year 13, 14, 15, they have advanced centrifuges that enrich uranium fairly rapidly, and at that point the breakout times would have shrunk almost down to zero.” The Institute for Science and International Security analysis cited above confirms the President’s judgment, noting that after 15 years “Iran’s breakout timelines could shrink to just days.”⁴

This agreement reverses almost 50 years of U.S. non-proliferation policy. As my colleague at Johns Hopkins SAIS, Michael Mandelbaum has noted, the agreement abandons the “policy of prohibiting the spread of enrichment technology even to friendly democratic governments ... as a result, it will henceforth be extremely difficult to prevent other countries, at first in the Middle East but ultimately elsewhere, particularly in East Asia, from equipping themselves with the capacity for enrichment.”⁵

It is likely, in my view, that the prospect of Iranian nuclear latency will, in turn, put the Middle East on the path to a catastrophic arms race. Five to ten or twelve years down the road, such an arms race is likely to result in a more proliferated region, with multiple adversaries, each armed with small and vulnerable nuclear arsenals struggling to co-exist in an inherently unstable strategic environment. The flight times between the competitors will be mere minutes, and hence the decision-making space will be quite constrained and short. This would present an unprecedented challenge for the region, the United States, and the world at large with every possibility that the ultimate weapons actually will be used by accident or miscalculation for the first time since 1945.

JCPOA SHORTCOMINGS

Last week, the Task Force I co-chair issued a detailed assessment of the problems and questions posed by the JCPOA. This is a deal that would essentially legitimize Iran's nuclear program, require the international community to provide it with assistance, and leave it as a threshold nuclear state, with no clear mechanisms that would remain after the provisions sunset to ensure that Iran will adhere to its Non-Proliferation Treaty (NPT) obligations.⁶

Indeed, though Iran's breakout time would be rolled back over the next decade and beyond, all major restrictions on its nuclear and conventional military programs would be removed over 5-15 years, including the prohibition on new nuclear-related facilities. Furthermore, the sanctions regime that originally weakened Iran and brought it to the negotiating table to begin with would be rolled back quickly with Iran getting an early windfall when its frozen assets are released. The sanctions regime, despite the efforts to create a "snap-back" mechanism, could not be easily reconstituted. Tellingly, Foreign Minister Zarif has noted that sanctions could be "re-imposed on Iran only in case of serious violation of its obligations and not in case of small-scale violations." In other words, Iran doesn't need to worry about being held to account for incremental violation of the agreement.⁷

While Iran's nuclear activities would be made more transparent by some of the requirements of the JCPOA, these measures would still be insufficient to detect or deter every possible attempt at a breakout or sneak out. The failure to secure the much bruiated "anytime/anywhere" inspections standard is a case in point. As a recent Institute for Science and International Security study notes, under the cumbersome procedures for requesting access to undeclared sites:

Iran could likely move and disguise many small scale nuclear and nuclear-weapon related activities. These include:

- High explosive testing related to nuclear weapons;

- Small centrifuge manufacturing plant;
- Small centrifuge plant that uses advanced centrifuges (in this case, we assume a facility of tens of, or at most a few hundred, centrifuges organized in specially designed facilities suitable for rapid removal and with a containment system).⁸

I have focused here on the question of verification, as opposed to other deficiencies, because the history of arms control arrangements is replete with instances of cheating – Versailles, the Strategic Arms Limitation Treaties and INF Treaties with the offer just a few examples – and because Iran’s record of serial violation of earlier NPT obligations creates a particular burden on defenders of this arrangement.

Whether or not Iran complies fully – and there are diverse reasons to believe it would not – the net result would be a regime in a much stronger position than it is today. The termination of U.S.-led sanctions against Iran’s energy, financial and industrial sectors would repatriate as much as \$150 billion in frozen funds while allowing Iran to rebuild its straitened economy through rejuvenated oil exports and foreign investment. Moreover, the Iranian leadership is counting on a surge of business activity, unleashed by the ending of sanctions, to immunize them against future efforts to re-impose sanctions in the event that Iran violates the agreement. As Foreign Minister Zarif recently noted, “once the structure of the sanctions collapses, it will be impossible to reconstruct it.”⁹

Combined with lifting the U.N. arms embargo and sanctions against Iran’s ballistic missile program within eight years and possibly less, these increased revenues would enable the country to modernize and expand its military capabilities across the board and to boost its support for terrorist and other proxy forces across the Middle East. At the same time, the JCPOA’s sunset provisions would transform Iran from a near-pariah to being treated “in the same manner as that of any other non-nuclear weapon state party to the NPT.” The “deal” itself will legitimize years of illegitimate conduct and will enhance its drive for hegemony and through sanctions relief provide the means and mechanisms to accomplish this end. Therefore, rather than being isolated and restrained, Iran would be unleashed by the sunset of the agreement to continue its struggle for mastery in the Middle East. Iran’s Supreme Leader has said as much in the days and weeks since the JCPOA was signed in Vienna (amidst a number of large public rallies marked by the continuing mantra of “Death to America” which seems to be a core ideological principle of the current regime).¹⁰

REGIONAL IMPACT

With a latent nuclear deterrent, enhanced military capabilities and bolstered revenues, Iran would attempt to push its influence further around the Middle East through proxies

and subversion. Even under the weight of crippling sanctions, Tehran has backed Bashar al-Assad to the hilt in the Syrian Civil War, spending billions of dollars and inserting the forces of the Islamic Revolutionary Guard Corps (IRGC) and its proxies in Hezbollah ever more deeply in major combat operations to keep the regime on life support. An influx of cash from sanctions relief could encourage Iran to try to shift the strategic balance back in the regime's favor once and for all. Subsequently Hezbollah which has been forced to direct much of its energy to defending the Syrian regime could re-prioritize the "resistance" struggle and increase the already significant threat to Israel on both the Lebanese and Syrian fronts. Undoubtedly it would enjoy even greater support from Iran after the agreement. This is no small consideration, since Hezbollah already possesses roughly 100,000 rockets and missiles, including many long-range surface-to-surface and sophisticated anti-tank and anti-ship missiles.

Tehran's military assistance and political control in Baghdad (and possibly Erbil) would increase as well, allowing it to further consolidate its grip over Shia-majority swathes of the country while doing nothing to soften the sharp sectarian divisions that foster instability within and beyond Iraq. This would play a role in driving the radicalization of Iraqi Sunnis, in effect, recruiting new foot soldiers for ISIL. Similarly in Yemen, Iran's support for the Shia-affiliated Houthi insurrection has already helped unravel that country's tenuous efforts at constitutional reform, while simultaneously hindering U.S. counterterrorism cooperation and creating a potential quagmire for Saudi Arabia and other U.S. regional allies. The larger strategic problem is that Iranian hegemony in Yemen could be matched by additional Iranian moves in Saudi's Eastern Province as well as in Bahrain (both majority Shia) and thus put Riyadh in an east-west strategic vice. An increase in Iran's influence there could create myriad challenges, including: the growth of a proxy force on Riyadh's doorstep and greater instability astride a global energy chokepoint in Bab el-Mandeb. Even an Iranian policy that did not achieve its maximal aims would result in deepening the security vacuum within Yemen which has proven to be a boon to the growth of Al Qaeda in the Arabian Peninsula..

Many of these problems potentially could be mitigated or addressed by the United States in cooperation with its allies. U.S. policy, however, has been self-defeating in this regard. Our closest regional partners, namely Israel and the Gulf Arab states, have been disconcerted by the Iran nuclear deal. The serial concessions that moved U.S. redlines in the nuclear negotiations from prevention of an Iranian nuclear capability to limiting the time for breakout to one year, as well as the failure to enforce the red line on Syrian CW use two years ago, have called into question the credibility of U.S. promises to defend our allies against a reinvigorated and resurgent Iran. Finally, and most importantly, the actual terms of the JCPOA confront our allies with the prospect of a

nuclear-capable Iran that is better situated to realize its hegemonic aspirations in the Middle East.

With our allies dismayed, and increasingly concerned about the value of U.S. guarantees, they will become more inclined to pursue policies of self-help. For Israel, this means trying to manage an intrinsically unstable virtual nuclear balance with Iran. Given the geographic, demographic and military asymmetries between Iran and Israel (and the high potential penalty for not shooting first in a crisis) both countries will assume extremely high alert postures and be certain to pursue pre-emptive strategies that will lead to chronic crisis instability.

For Saudi Arabia and our other Sunni Arab allies, the result will be further efforts to seek new security partners, perhaps bringing China into the Gulf arena as a major security player, and increased pursuit of conventional arms as well as seeking a latent nuclear capability of their own to offset Iran's relatively short breakout timeline. Unfortunately, it seems likely that the interaction among three or more nuclear-armed powers in the region would be more prone to miscalculation and escalation than a bipolar competition.¹¹

In the Cold War the spread of nuclear weapons among U.S. allies was a collective good, since Britain, France and the United States were members of the same formal security alliance, with a nuclear planning group to coordinate deterrence efforts and official policy declaring nuclear weapons integral to Western Europe's collective defense. A similar process in the Middle East would be a zero-sum phenomenon, since an unstable Iran-Israel nuclear dyad would be replicated between both countries and Saudi Arabia, were Riyadh to pursue an arsenal, and so on with Turkey, Egypt or others. As Henry Kissinger and George Shultz commented recently: "Traditional theories of deterrence assumed a series of bilateral equations. Do we now envision an interlocking series of rivalries, with each new nuclear program counterbalancing others in the region?"¹²

MILITARY EFFECTS

These regional impacts would be daunting enough for U.S. defense planners who already face serious difficulties maintaining credible conventional deterrence in the region, given the prevailing trends and budgetary constraints. The aforementioned shortcomings of the JCPOA, however, will have knock-on military effects across the Middle East.

U.S. conventional deterrence, in the forms of carrier strike groups, expeditionary strike capability, long-range strategic airpower and (when needed) boots on the ground, will become increasingly difficult to maintain as Iran's own military power grows and

improves. In fact, they are already under stress due to budgetary and other constraints, as Admiral Richardson admitted last week during his confirmation hearing.¹³

Because Tehran knows it cannot compete head-to-head with the United States in conventional capabilities, it has long pursued its own asymmetric anti-access/area-denial (A2/AD) capabilities in the Gulf, including: mobile missile launchers, anti-ship cruise missiles, advanced air-defense systems, new deeply-buried and hardened nuclear facilities, increasingly effective torpedoes, smart mines and possibly anti-ship ballistic missiles akin to those deployed by China in the Pacific Ocean to hold U.S. carriers at greater risk, albeit on a smaller scale.

As the JCPOA sunsets, Iran will be able to access the materiel and technology to bolster these forces. Russia and China, not to mention Iran, pushed for the lifting of the arms embargo and ballistic missile restrictions not because they believed the windfall in unfrozen assets would ameliorate the condition of the long-suffering Iranian people, but because Iran wished to secure and Russia and China hoped to sell precisely these capabilities.¹⁴ Foreign Minister Zarif recently underscored to the Majlis that Iran's pursuit of ballistic missile and other enhancements of its defense capabilities, while violating existing UNSCRs, is not a violation of the JCPOA.¹⁵

As a result, the United States will not be able to rely, as it has for the past 30 years, on an assumption that it will have unimpeded access and control in all the domains of warfare in the Persian Gulf. In the wake of this deal the United States will likely have to expand its regional military presence to reassure Israel and the Gulf States and to deter Iran. The Iranians, however, would now have an additional \$150 billion dollars to beef up its A2/AD capabilities, the IRGC Quds Force, and the ability to project power regionally through subversion and proxies. The United States will need to upgrade both its own and allied capabilities to counter this growing threat from Iran and will likely have to "reassess the validity of its legacy planning assumptions, operational concepts, and forward military posture for the Persian Gulf." In particular this means developing concepts that enable the United States to fight both within range of Iranian missile forces as well as from extended range.¹⁶

The potential acquisition by Iran of an upgraded S-300 air defense systems from Russia – which appears already to be in the works – as well as upgrades for its outdated air fleet and potential expansion of its nuclear infrastructure, would pose a severe challenge to the air supremacy currently enjoyed by U.S. forces in and around the Persian Gulf.¹⁷ Thus far, Tehran's attempts to challenge the status quo in the Strait have been met with firm demonstrations from the U.S. Navy that underscore Iran's inability to mount any realistic opposition – most notably sending additional U.S. carrier battle groups into the

Gulf. As time goes on these steps may carry greater risk for U.S. forces than we assume today.

As Iran's A2/AD capabilities mature, the United States must make concerted efforts to maintain or achieve superiority in a range of areas, including: long-range U.S. strike and stealth capabilities; advanced bunker buster munitions like the Massive Ordnance Penetrator (MOP); sustainable unmanned intelligence, surveillance reconnaissance strike platforms; and advanced, integrated and layered air and missile defense systems for its in-theater forces and for its allies. We will need to develop greater capability for undersea precision strike and the ability, perhaps relying on close-in weapon systems and directed energy weapons, to defend our fielded forces in the theatre against cruise missile and swarming fast boat attacks. All of this will be extremely difficult, especially in an environment where defense spending is constrained under caps imposed by the Budget Control Act of 2011 and the threat of sequestration.¹⁸

JCPOA ALTERNATIVES

The Administration's constant refrain has been that no other agreement would have been possible, that this is the best deal that could have been achieved, and that the only alternative is war. I reject these propositions. As the historian E. H. Carr once suggested, "in politics, the belief that certain facts are unalterable or certain trends irresistible commonly reflects a lack of desire or lack of interest to change or resist them."¹⁹

A better deal – an acceptable deal that ensures basic U.S. national security interests – is possible and absolutely necessary. Our Iran Task Force has maintained throughout the negotiations that Iranian concessions will come only if Tehran believes it has more to lose than its counterparts. Fortunately, the United States still has options short of war that it could exercise to secure an acceptable agreement. Iran is in violation of multiple legally binding U.N. Security Council resolutions. Its regime relies heavily on energy export revenues, and remains vulnerable both to sanctions and to oil prices that will likely remain low for the next year or more. It is footing the bill, and providing manpower, to keep its proxies on the frontlines in Syria and Iraq, even as those proxies face rising pressures at home to keep morale high and continue the fight.

For all these and other reasons, Iran needs an agreement more than the United States. Rejecting the current deal will create discomfort for the Administration, and will require it or its successor to embark on a new round of diplomacy. This will undoubtedly be a messy, vexing task for whoever takes it on, but the United States retains powerful tools in the form of sanctions to discourage others from undertaking a headlong embrace of Iran – a fact which some of our P-5+1 partners have recently acknowledged, much to their discomfort.²⁰

The Administration has suggested that, in the event the agreement is blocked by Congress, Iran might sprint to a bomb (although this contradicts both the Administration position that the Supreme Leader has issued a fatwa against pursuit of nuclear weapons, and the intelligence community's consistent assessment that Iran is pursuing the means to build weapons but has not made a decision to proceed with weaponization). The reality is that Iran could undertake such an effort, but only at great potential peril to itself. The Congress might consider raising the potential costs by coupling its disapproval of the deal with authorization for the use of force to prevent Iran from acquiring a nuclear weapons capability.

To succeed, a new round of negotiations must use increasing pressure, including additional authorities beyond the tools that Congress has already provided. This is crucial if we hope to redress the manifest inadequacies of the existing agreement. Otherwise, we will put ourselves on a path that leads to a catastrophic war in the Middle East.

I thank you Mr. Chairman for my time, and I look forward to the Committee's questions.

¹ George Anastaplo, *The Constitution of 1787: A Commentary* (Baltimore, MD: Johns Hopkins University Press, 1989), p. 112.

² Eric Edelman and Ray Takeyh, "On Iran, Congress should just say no," *Washington Post*, July 17, 2015.

³ Institute for Science and International Security, "The Joint Comprehensive Plan of Action 'Kicks the Can Down the Road': How to prepare for the day when the can finally lands," July 22, 2015.

⁴ "Transcript: President Obama's Full NPR Interview on Iran Nuclear Deal," NPR, April 7, 2015; Institute for Science and International Security, "The Joint Comprehensive Plan of Action 'Kicks the Can Down the Road': How to prepare for the day when the can finally lands," July 22, 2015.

⁵ Michael Mandelbaum, "The Iran Deal: It's The Deterrence, Stupid," *The American Interest*, July 30, 2015.

⁶ JINSA Gemunder Center Iran Task Force, "Scorecard for the Final Deal with Iran," July 29, 2015; Jonathan Ruhe, the associate director at the Gemunder Center has provided me with invaluable assistance in preparing this statement. The report is available at: www.jinsa.org/publications/scorecard-final-deal-iran.

⁷ "Foreign Investments in Iran to serve as barrier for sanctions snapback – FM," BBC Monitoring Trans Caucasus Unit, July 21, 2015. I am indebted to my colleague Ray Takeyh for drawing my attention to these statements by Foreign Minister Zarif.

⁸ Institute for Science and International Security, "Verification of the Joint Comprehensive Plan of Action," July 28, 2015, p. 7.

⁹ "Foreign Investments in Iran to serve as barrier for sanctions snapback – FM," BBC Monitoring Trans Caucasus Unit, July 21, 2015. My colleague Ray Takeyh drew my attention to these statements by Foreign Minister Zarif.

¹⁰ Aresu Egbali and Asa Fitch, "Iran's Ayatollah Ali Khamenei Says Nuclear Deal Won't Change U.S. Ties," *Wall Street Journal*, July 18, 2015.

¹¹ Eric Edelman, Andrew Krepinevich and Evan Braden Montgomery, "The Dangers of a Nuclear Iran," *Foreign Affairs* (January/February 2011).

¹² Henry Kissinger and George P. Shultz, "The Iran Deal and Its Consequences," *Wall Street Journal*, April 7, 2015.

¹³ Travis J. Tritten and Chris Church, "Admiral: Carrier Gap in Persian Gulf hinders War effort," *Stars and Stripes*, July 30, 2015.

¹⁴ David Lerman and Anthony Capaccio, "How Iran Arms Embargo Became Key Sticking Point in Vienna Talks," *Bloomberg*, July 10, 2015.

¹⁵ For a more detailed background on Iran's pursuit of anti-access/area denial capabilities in past years see Andrew Krepinevich, *Why AirSea Battle?*, (Washington, DC: Center for Strategic and Budgetary Assessments, 2010), pp. 27-36; for Zarif's comment see "Iran's Violation of resolution on missiles does not violate deal – minister," BBC Monitoring Trans Caucasus Unit, July 21, 2015. I am grateful to Ray Takeyh for providing this reference.

¹⁶ An excellent preliminary examination of future requirements to counter Iran's emerging A2/AD complex is Mark Gunzinger with Chris Dougherty, *Outside-In: Operating from Range to Defeat Iran's Anti-Access and Area-Denial Threats* (Washington, DC: Center for Strategic and Budgetary Assessments, 2011), quotation on p. 19.

¹⁷ "Russia modernizing S-300 missile system for Iran: RIA, citing Putin aide," Reuters, July 30, 2015.

¹⁸ An excellent preliminary examination of future requirements to counter Iran's emerging A2/AD complex is Mark Gunzinger with Chris Dougherty, *Outside-In: Operating from Range to Defeat Iran's Anti-Access and Area-Denial Threats*, (Washington, DC: Center for Strategic and Budgetary Assessments, 2011).

¹⁹ Edward Hallett Carr, *The Twenty Years' Crisis, 1919-1939* (London: Macmillan and Company, 1939), p. 89.

²⁰ Josh Rogin, "Top French Official Contradicts Kerry on Iran Deal," Bloomberg View, July 30, 2015; French officials have denied that Monsieur Audibert made these comments but other members of the Congressional delegation who heard him say these things have corroborated the initial account. Furthermore, Audibert in his denial to *Le Monde* has reinforced the potential power of the U.S. sanctions. The original story is found at <http://www.bloombergvew.com/articles/2015-07-30/top-french-official-contradicts-kerry-on-iran-deal> For the denial and follow-up see: <http://freebeacon.com/national-security/lawmakers-confirm-french-diplomat-supports-congress-rejecting-iran-deal/> and <http://tempsreel.nouvelobs.com/monde/20150731.OBS3527/info-obs-le-conseiller-diplomatique-de-hollande-au-centre-d-une-polemique-a-washington.html#>