



The Joint Comprehensive Plan of Action (JCPOA) and the Military Balance in the Middle East

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Chairman McCain, Ranking Member Reed, and Members of the Committee, thank you for this opportunity to appear before you today to discuss the nuclear agreement with Iran and its implications for the United States and the Middle East.

America's Objectives and Iran's

When we analyze foreign policy, the first question should be what interest or objective is served by a particular policy. A good policy should clearly advance U.S. interests and should complement rather than clash with our larger strategy, unless the policy in question heralds an entirely new strategy that can be clearly articulated and implemented. A prudent, conservative foreign policy should clearly deliver benefits that outweigh its costs or, by incurring certain costs, forestall an even greater projected cost.

The objective in this case is not—and has never been—simply to conclude a nuclear agreement with Iran. A deal is a means toward an end, not an end in itself. The intended end in this case is to prevent Iran from possessing a nuclear weapon, in order to safeguard our interests in the Middle East and beyond, which would be clearly threatened by such a development. While this objective has long enjoyed consensus bipartisan support, the question that has divided policymakers—acutely in recent years—is how to accomplish it when faced with an Iranian leadership apparently willing to entertain great cost and risk to expand Iran's nuclear weapons capability.

At the outset of the recently concluded diplomacy—the P5+1 process devised in 2005—the U.S. strategy was to persuade Iranian leaders to embark on a broad "strategic shift," recognizing that the costs of their regional strategy outweighed the benefits. The logic of this approach was that Iran's nuclear weapons ambitions were not separate from but an integral part of a larger security strategy, and only a strategic shift would sustainably end those ambitions.

Absent such a strategic shift, the sensible stance was to insist on the suspension of Iran's nuclear efforts and dismantlement of its nuclear infrastructure. Even if Iran retained the desire for nuclear weapons, it would be denied the means to develop them, and a ban on nuclear fuel cycle and related activities would be less

challenging to police than limitations on the same activities would be. Such an approach would also offer an appealing symmetry—the dismantling of Iran's nuclear fuel cycle infrastructure and related activities in exchange for the dismantling of sanctions.

Absent such dismantling, the most sensible approach would have been to deny Iran at least those elements of its nuclear program most essential to retaining the option to build a nuclear weapon in the future—to deny it a nuclear weapons capability, practically speaking. Yet retaining that option appears to have been a key Iranian objective in these negotiations.

Iran's negotiating positions over the past decade-plus of nuclear talks suggest a twofold objective: securing the removal of sanctions while retaining a nuclear weapons capability. While Iran has throughout the negotiations proven willing to brook temporary limitations on certain nuclear activities, it has steadfastly refused to consider steps—for example, forgoing advanced enrichment R&D, providing access to suspected weaponization sites and scientists, or accepting limitations on missile activities or permanent constraints of any kind—that would foreclose the future development of a nuclear weapon.

Indeed, Iran's behavior makes little sense absent a desire for nuclear weapons. It can obtain reactor fuel from abroad, as do most countries that utilize nuclear energy. Furthermore, an indigenous fuel cycle is marginal to Iran's energy security, given its rich endowment of fossil fuels. Rather, it is Iran's secret pursuit of that fuel cycle and other nuclear weapons-applicable technology that has proven a greater threat to its energy security in the form of sanctions on its hydrocarbon, financial, and other sectors.

Assessing the Nuclear Accord

It is instructive to assess the extent to which the agreement advances the U.S. and Iranian objectives described above. Nuclear weapons development requires three lines of action—fuel fabrication, weaponization, and development of a delivery vehicle. It also presumably requires secrecy, since being caught at the task would entail risk of a military response.

When it comes to *fuel fabrication*, the nuclear agreement leaves Iran in possession of a full nuclear supply chain from uranium mining to enrichment, and also leaves in place the heavy water reactor at Arak. These are subject to various temporary restrictions—Iran agrees to cap the number and type of centrifuges installed, the level to which it enriches, and the amount of low-enriched uranium it stockpiles, and converts its heavy water reactor at Arak to avoid producing weapons-grade plutonium. It also agrees not to build new enrichment, heavy water, and reprocessing facilities.

Two points stand out as most concerning, however: Iran is permitted to continue research and development on advanced centrifuges and to begin deploying such centrifuges after just eight and a half years. Because such centrifuges are designed to enrich uranium much more efficiently than Iran's existing "IR-1" centrifuges, they are far better suited to a covert weapons-development effort—far fewer of them, operating for less time, would be required to produce weapons-grade fuel. Second, the restrictions described above phase out ten to fifteen years from now, meaning that at that time Iran would face few technical impediments to reducing its breakout time substantially.

When it comes to *weaponization*, the agreement commits Iran not to "engage in activities, including at the R&D level, which could contribute to the development of a nuclear explosive device."¹ But the question is how Iran's adherence to this commitment can be verified, especially since such activities tend to be secretive by their

¹ Joint Comprehensive Plan of Action, part C, para 16

very nature. Indeed, International Atomic Energy Agency (IAEA) reporting suggests that Iran has already engaged in various "activities related to the development of a nuclear explosive device,"² part of what the IAEA terms the "possible military dimensions" (PMD) of Iran's nuclear program.

Many analysts have urged that Iran be required as part of any agreement to disclose the extent of its past (and possibly ongoing) weaponization and other clandestine nuclear efforts so that inspectors understand what progress Iran made, and provide the IAEA with the necessary access to ensure that such efforts are not resumed. The agreement does not appear to meet these criteria. It does not specify that inspectors must be given access to weapons-related sites and personnel, or that full disclosure of past weaponization and other clandestine nuclear work is required for the agreement's implementation to proceed. Without such provisions, I do not believe we can have confidence that Iran's work on nuclear weapons will not be resumed (perhaps by elements of Iran's security apparatus, and perhaps even without the knowledge of the civilian officials with whom inspectors interact) or even that it has ceased.

In the area of *delivery vehicles*, the agreement contains no limitations whatsoever as far as I can tell. Iran is not required to limit its ballistic missile development and testing, nor does the list of "activities which could contribute to the design and development of a nuclear explosive device" from which Iran agrees to refrain in Annex I of the agreement include any mention of missile reentry vehicles, despite their inclusion in the IAEA's accounting of PMD. Indeed, the binding ban on Iran "undertak[ing] any activity related to ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology"³ contained in UN Security Council Resolution 1929, is replaced with nonbinding, hortatory language⁴ in UN Security Council Resolution 2231.

The effect of this shift is that as of "Implementation Day" of the nuclear accord, Iran will not be barred from conducting ballistic missile launches or pursuing nuclear-capable ballistic missiles, which are an essential part of any modern nuclear weapons program. This concern has even been voiced in the past by Russian officials. In 2008, following a failed Iranian missile test, then-Deputy Foreign Minister Aleksandr Losyukov said the test added "to general suspicions of Iran regarding its potential desire to build nuclear weapons."⁵ When sanctions on Iran's ballistic missile program are lifted in eight years, it will also be able to receive foreign assistance, which has been described in the past by U.S. officials as essential to its ability to produce intercontinental ballistic missiles (ICBMs). While some U.S. secondary sanctions on missile cooperation with Iran will remain in place, these are insufficiently robust to deter Iran's likely partners.

Taken together, these weaknesses suggest that the agreement will permit Iran to retain the option to build a nuclear weapon in the future. Indeed, the agreement could be seen as a means by which Iran buys time to perfect, in some cases with international assistance, the technologies—advanced centrifuges, weaponization, and long-range ballistic missiles—required to build a nuclear weapon in the future. In my view, this is not by accident—Iran's "redlines" seem to have been designed to shape this outcome, implying again that Iran's purpose in the talks has been to obtain sanctions relief while retaining or even improving its nuclear weapons capability.

The strength of the agreement must instead rest, then, on our ability to detect and deter any such weapons-development effort, whether covert or overt. Unfortunately, the inspection mechanism in the accord does not appear up to this task. While robust monitoring will be in place at declared sites, the U.S. intelligence

² IAEA GOV/2011/65

³ UN Security Council Resolution 1929, op9

⁴ UN Security Council Resolution 2231, Annex B, para 3

⁵ "Iran: Russia Says New Rocket Raises Nuclear 'Suspensions,'" Associated Press, February 7, 2008.

community assessed in 2007 that Iran "probably would use covert facilities—rather than its declared nuclear sites—for the production of highly-enriched uranium for a weapon."⁶ The agreement does not, however, permit inspectors anything approaching unfettered access to suspect sites.

Rather, after an indefinite back-and-forth with Iran regarding suspicious activity, the IAEA could formally request access to a site, which would initiate a deliberative process lasting as many as twenty-four days. If, however, Iran continued to deny inspectors access at the end of this period, the matter might not be resolved for another thirty to sixty-five days—bringing the delay to fifty-four to eighty-nine days—or even longer if any of these periods were extended by consensus of a "Joint Commission" consisting of Iran, the EU, and the P5+1. This is far too long a delay to permit inspectors to do their jobs effectively.

Combined with Iran potentially not being required to disclose and provide access to PMD-related sites, personnel, and documentation, and a missile program that is not subject to inspection at all to my knowledge, the result is an inspection regime that falls short of what is necessary to detect covert nuclear activity. This inadequacy is compounded by the fact that Iran's breakout time even at declared sites could potentially diminish to near zero once the restrictions on its enrichment- and reprocessing-related activities phase out in ten to fifteen years, rendering it practically improbable to halt a breakout attempt even with monitoring in place.

The inspection regime is further undermined by the agreement's enforcement mechanism. The only remedy for noncompliance—whether the refusal of access to inspectors by Iran or any other violation—is the termination of the accord and the reimposition of previous UN resolutions, in which case Iran has asserted that it would consider its obligations under the agreement null and void. The implication is that small violations of Iran's obligations are likely to go unpunished, and access requests are likely to face a high bar, for fear of unraveling the accord entirely—the IAEA may hesitate to make a formal access request for fear of being party to the agreement's collapse, and the other parties to the accord may hesitate to support the IAEA if they do. Violations of Iran's other obligations may be explained away as inadvertent, the work of rogue elements within Iran, or otherwise not worth risking the entire accord over.

As is often the case with such agreements, the leverage will be with the less risk-averse party. The U.S. has not, for example, imposed any cost on Russia for its reported violation of the INF Treaty, nor on Syria for apparently violating its commitment to destroy its chemical weapons. Indeed, in both cases U.S. officials have appeared loath even to acknowledge the violations. Iran has already indicated its intention to test the inspection regime by asserting that access to military sites will be refused as a rule. The absence of "snap" inspections will remove a psychological barrier to cheating and further encourage such risk-taking. Even in the event sanctions snap back, their initial effect is likely to be only psychological or symbolic—their economic impact will take far more time to be felt, much less to affect Iran's decisions.

Military force remains an option in extremis to enforce the agreement. However, the military option may prove more difficult to exercise in the future given the international legitimacy the accord grants to Iran's nuclear activities, the international involvement in those activities that it permits, any steps by Iran to further harden its nuclear sites against attack, and the likely return of international investment and commerce to Iran.

In sum, the nuclear agreement is best thought of as a form of containment: Iran will retain its nuclear weapons capability, and the U.S. and our allies will attempt to prevent it from being used. But it is a containment policy in which we agree in advance to gradually lower our defenses by phasing out the limitations on Iran's nuclear activities by a date certain, and limit our own toolkit by lifting sanctions nearly comprehensively up front. In past proposals, the U.S. had made the easing of restrictions dependent on Iran's own behavior. Under this

⁶ 2007 Iran Nuclear NIE

accord, all Iran need do is bide its time and the restrictions will be lifted regardless of its policies. The incentive for Iran is therefore simply to wait: to avoid significant overt nonperformance under the accord, but not to alter in any fundamental way its nuclear ambitions or regional strategy.

Broader Implications of the Nuclear Agreement

The challenge to U.S. interests posed by Iran goes well beyond its nuclear and missile program. Chairman of the Joint Chiefs of Staff General Martin Dempsey recently told the Senate Armed Services Committee that the threats posed by Iran also included its support for proxies, arms trafficking, sea-based mines, and cyber activities. These and other Iranian activities threaten our interest in nonproliferation, counterterrorism, freedom of navigation, and cybersecurity, and directly challenge a U.S. regional strategy focused on ensuring regional stability and bolstering the security of our allies.

President Obama has asserted that the agreement does not presume any improvement in Iranian behavior on these fronts, though he has expressed hope that Iran's behavior will in fact change as a result of the deal. However, in the short term at least, Iran's behavior in the region is more likely to worsen than improve.

Anti-Americanism is central to the ideology of the Iranian regime, and Iranian leaders—having just reached a diplomatic compromise with the U.S.—may feel the need to reaffirm its anti-American bona fides. The agreement is also widely perceived as a victory for Iranian pragmatists led by President Hassan Rouhani and was, according to Secretary of State John Kerry,⁷ opposed by the Islamic Revolutionary Guard Corps (IRGC) and other hardliners. Iran's Supreme Leader, widely regarded as seeking to balance the regime's contentious factions, may feel the need in the agreement's wake to give freer rein to those hardliners to prevent one faction from becoming too powerful.

Finally, Iranian regional behavior is not driven solely by U.S. policy or this nuclear accord, but by events in the region themselves. Iran's security strategy, in part compensating for a lack of conventional military power, has focused on building asymmetric power through proxies and surrogates who are able to project Iranian power and keep potential foes such as Israel and Sunni Arab states occupied far from Iran's borders.

There is nothing in the agreement that requires Iran to change this strategy, or that would forestall a spike in malign Iranian behavior. Quite the opposite—the agreement will provide Iran with an influx of financial resources, some portion of which seem likely to go to foreign priorities such as Lebanon, Syria, Iraq, or Yemen. An infusion of Iranian funds could have salutary effects on the Assad regime, which has reportedly depended on Iranian assistance, for example receiving a fresh \$1 billion line of credit from Tehran just last month; on Hezbollah, which has reportedly seen assistance from Iran decline as the latter was squeezed by sanctions; on Palestinian Islamic Jihad (PIJ), which has reportedly been suffering from financial duress; and on Hamas, which seeks to rebuild military capacity degraded in its last round of fighting with Israel. It could also be used to step up recruiting for Iranian-backed militias in Syria and Iraq, to ensure that Iraqi Shiite militias backed by Iran are better resourced than official Iraqi security services, and to buy increased political influence in Iraq, Afghanistan, and elsewhere.⁸

The agreement will also lift the ban on ballistic missile tests and the designations of certain entities involved in Iran's regional troublemaking, such as (in eight years) the IRGC-Qods Force. It will also remove, in no more

⁷ Secretary of State John Kerry at the Council on Foreign Relations, July 24, 2015

⁸ For more examples, see "The Regional Impact of Additional Iranian Money," PolicyWatch 2456, The Washington Institute for Near East Policy, July 28, 2015, <http://www.washingtoninstitute.org/policy-analysis/view/the-regional-impact-of-additional-iranian-money>.

than five years, sanctions barring the transfer of arms to Iran—paving the way for the possible modernization of Iran's relatively antiquated conventional forces—and will lift by my reading the ban on Iran exporting arms itself.⁹ While in some circumstances other authorities exist to prohibit arms transfers to Iranian proxies, these measures have been poorly enforced and seem likely to be weakened further, not strengthened, by this agreement. As a result, and seeing as regional conflicts in which Iran is embroiled show little sign of abating, there is more reason to believe that Iran's regional activities will increase rather than diminish, including the proliferation of sophisticated arms.

While some regard Iran as a potential partner against the likes of ISIS, in fact any uptick in Iranian regional troublemaking stands to benefit ISIS and its ilk, which feed off the sectarian polarization Iran's activities foster. In addition, because many U.S. allies in the region see Iran and its proxies as a major threat to their security, they are likely to respond to any increase in Iranian adventurism. To an extent, we are already witnessing these dynamics playing out around the region. To make matters worse, U.S. allies may also seek in the wake of the accord to match Iran's nuclear capabilities to ensure they could respond rapidly to any Iranian nuclear breakout; while there is no guarantee they will do so, the incentive is clear. Our reassurances to them will be met with skepticism in light of our relative inaction thus far to counter Iranian regional aggression, and in light of our failure to follow through on similar assurances given to Ukraine in 1994 as part of our pursuit of a different arms control treaty.

This incentive will remain even if, as some hope, the Iranian regime becomes friendlier or more constructive in the coming years. Even a different regime in Tehran may not wish to concede a nuclear capability that has been granted international legitimacy. And given the long history of rivalry between Iran and its major neighbors, the presence of a large, advanced nuclear program in Iran will likely prompt a balancing reaction in the region regardless of Tehran's attitude toward the United States.

The agreement also seems likely to foster closer diplomatic, economic, and military ties between Iran and a host of states outside the region, including India, Pakistan, Russia, and especially China. Sino-Iranian trade has been growing despite sanctions, and even China's energy imports from Iran have reached record highs in 2014-2015 despite NDAA sanctions calling for states to reduce their oil trade with Iran. In addition, China-Iran military ties have increased, with Chinese fighter jets landing in Iran to refuel and Chinese warships paying a call to the Iranian port of Bandar Abbas in recent years. Chinese and Iranian defense officials have called for expansion of these ties, and the lifting or phasing out of sanctions will smooth the way for this to occur.

All of this is on its face would appear to constitute a significant strategic reversal by the United States—accommodating Iranian nuclear expansion after years of opposing it, lifting sanctions on Iran after years of expanding them, and facilitating Iran's financial and diplomatic reintegration into the international community after years of seeking to isolate it. These actions stand in opposition to longstanding U.S. strategy in the Middle East, which aimed to foster regional stability and prosperity by bolstering the security of allies, effectively countering those who challenged our mutual interests, and preventing inroads by hegemony from inside or outside the region. This conflict between our actions and our stated strategy inevitably leads allies to conclude either that our commitment to that strategy and to the region itself is diminished, or that we are embarking on a broader strategic realignment.

Looking Ahead

One of the chief defenses offered for the nuclear agreement is that, whatever its shortcomings, it is preferable to the alternatives. It is one thing to say, however, that a negotiated agreement of some sort was preferable to

⁹ UN Security Council Resolution 1747, op5

alternatives such as military conflict or acquiescence, and another entirely to claim that this is the best accord that could have been negotiated. I have little doubt that different tactics could have produced a stronger agreement. Indeed, it is the very denigration of our alternatives and failure to credibly project consequences—whether sanctions or military force—for Iran of failing to accept strict limitations on its nuclear activities that in my view most contributed to the weakness of this accord. The notion that Iran would have marched inexorably toward a nuclear weapon were it not for this deal ignores the considerable deterrent effect that further sanctions and the credible threat of military force would likely have had on Iranian decisionmaking.

Such assertions on both sides, however, are now largely a matter for historical debate. The more immediately relevant question is whether to implement the accord. If the deal cannot muster sufficient domestic support, it should like any rejected agreement be renegotiated. There is no particular reason it cannot be, though the other parties are likely to resist. Ordinarily they would nevertheless require U.S. participation for the termination of international sanctions, but the recent passage of a UN Security Council resolution endorsing the accord and setting a schedule for lifting sanctions gives rise to the possibility—the text of the deal is not clear on this point—that the deal's implementation could proceed even without the United States fulfilling our obligations.

It is also possible that Iran would refuse to implement its obligations were the deal rejected by the United States, and that it would find sympathy from partners such as Russia and China. Because, however, our allies would remain committed to preventing Iran from developing a nuclear weapon, Iranian noncompliance would not be met with resignation but would likely lead to a resumption of previous efforts to resolve the crisis through diplomacy and pressure. None of these scenarios is by any means an easy one; our policy to date will not be without consequences.

If the nuclear accord is implemented, U.S. policymakers will need to contend with the new reality it creates. We must avoid the temptation to overlook harmful Iranian policies or offer unilateral concessions in a misguided effort to bolster one regime faction against another, but instead establish clear disincentives for destabilizing behavior and incentives for constructive behavior by Tehran. It will be important to ensure that the U.S. intelligence community and IAEA have sufficient resources to monitor Iranian nuclear efforts, to strengthen the U.S. position in the Middle East by reinvigorating our regional alliances, to restore the credibility of U.S. military deterrence in the context of an overall strengthening of U.S. defense resources, to more firmly counter Iranian regional actions while pressing Iran to play a more constructive regional role, and to respond quickly to violations of Iran's nuclear obligations as well as activities not covered by the agreement such as provocative missile tests. Frankly these are objectives we should have been pursuing now for years—not merely considering as a consequence of a nuclear accord—but have neglected.

Most difficult of all, the next president is almost certain to find the nuclear constraints imposed on Iran by this accord to be unsatisfactory, if for no other reason than those limitations will begin to expire by the end of the next president's tenure if he or she is reelected. In this sense, the question is not whether, but when, we will need to devise an alternative policy toward Iran's nuclear and regional activities. The next president will need to rebuild international support for a strengthened Iran policy with fewer tools at his or her disposal, and may well be doing so in a less favorable international context given recent shifts in the international security environment and the likely strengthened diplomatic, economic, and strategic ties Iran may enjoy with other states in the future.

As I noted at the outset, sensible foreign policy must clearly advance American interests at a cost that is outweighed by the policy's projected benefits. It is not clear that the nuclear agreement with Iran meets these criteria. It does not clearly achieve the objective it sets out to—the prevention of a nuclear-armed Iran—nor does it complement our broader strategy in the Middle East or our global nonproliferation strategy. Instead, it

entails significant costs that are justified primarily by conjuring the specter of an even more costly war no analyst believed was imminent.