

United States Senate

WASHINGTON, DC 20510

March 14, 2019

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

The United States currently has nearly two dozen agreements for peaceful civilian nuclear cooperation with international partners including foreign countries, the European Atomic Energy Community, the International Atomic Energy Agency, and Taiwan.

Section 123 of the U.S. Atomic Energy Act (AEA) of 1954 establishes the conditions and outlines the process for major nuclear cooperation between the United States and other countries. Before an agreement can come into force, the President is required to submit to Congress the text of the agreement and a Nuclear Proliferation Assessment Statement (NPAS) explaining how the nuclear cooperation agreement conforms with the nonproliferation conditions laid out of the AEA. Congress has a total of 90 days in continuous session to consider a conforming agreement, after which it automatically becomes law unless Congress adopts a joint resolution opposing it. Past Administrations have followed this law, and Congress has extensively scrutinized new and renewed agreements, giving particular consideration to a country's ability or intention of nuclear proliferation.

Reports over the past two years indicate that the Administration has been exploring a possible nuclear cooperation agreement with the Kingdom of Saudi Arabia. Other nations – principally Russia, China and the Republic of Korea – are also believed to be very interested in pursuing nuclear cooperation with Saudi Arabia.

Members of the Senate Foreign Relations Committee have a range of concerns surrounding a potential 123 agreement with Saudi Arabia, including regional security and nuclear proliferation concerns associated with a Saudi civilian nuclear program. Before the committee approves a 123 agreement with Saudi Arabia, Members would want to be assured that any agreement includes rigorous nonproliferation safeguards and other conditions to prevent nuclear cooperation with Saudi Arabia from undermining or threatening regional or international security. In particular, some Members hope and expect that any 123 agreement with Saudi Arabia will conform with the tougher "Gold Standard" created by the 123 agreement with the United Arab Emirates of December 2009, in which the Emirates agreed to forswear uranium

enrichment and spent-fuel reprocessing, and to sign, ratify and implement the Additional Protocol with the International Atomic Energy Agency. The UAE also reserved the right to renegotiate a new 123 agreement if the United States concludes a civil nuclear cooperation agreement with another state in the Middle East that does not uphold the Gold Standard.

Members of the Committee understand that the Department of Energy (DOE), rather than the State Department which usually leads nuclear cooperation negotiations, has served as the principal U.S. government agency leading efforts with Saudi counterpart agencies and industries regarding potential nuclear cooperation between the Kingdom and the United States. We are aware, among other things, that Secretary of Energy Rick Perry has made several trips to Saudi Arabia in the past two years in which nuclear cooperation was likely discussed.

Members of the Committee are especially concerned that negotiations or discussions of nuclear cooperation are happening in a very opaque manner, and that Congress is not being fully updated on the status of any discussions or negotiations between DOE and counterparts in Saudi Arabia, pursuant to requirements under statute. Regrettably, neither DOE, the State Department, nor other parts of the Administration have kept Members of the Committee informed of their ongoing discussions of potential nuclear cooperation with the Saudis.

Members of the Committee are also concerned that DOE's interactions with Saudi Arabia are not being fully coordinated within the interagency and that other key agencies, such as the State Department, may not be fully engaged or involved in the DOE-led discussions or negotiations. As a result, it is possible that specific proposals or initiatives presented by DOE officials in their discussions with the Saudis have not been fully vetted across the interagency for security, proliferation, or other concerns.

Members of the Committee are aware of GAO's prior work assessing nuclear proliferation and security concerns associated with the development and execution of 123 agreements, and we request that GAO conduct an urgent review of DOE's interactions with Saudi Arabia regarding nuclear cooperation, how it has coordinated with or involved other relevant agencies, particularly the State Department, and the specific initiatives or proposals for nuclear cooperation that have been presented or discussed in those interactions. Specifically, we are requesting the GAO address the following objectives:


1. What have been the extent of DOE officials' meetings, communications, or other interactions with Saudi Arabian officials and/or representatives of any Saudi Arabian non-governmental organizations or commercial entities regarding potential future cooperation with the United States, in any form, but in particular nuclear cooperation since January 2017? And also between December 17, 2009 and January 2017?
2. What has been the nature of these interactions, and what specific forms of nuclear cooperation have been discussed? Which agencies or officials have primarily led these discussions? Has the State Department been present at these meetings?

3. Under what authority have DOE officials conducted their interactions with Saudi Arabia, particularly regarding any interactions concerning potential nuclear cooperation, and do DOE officials believe that they or other members of the administration have kept the Committee informed of any nuclear cooperation initiatives or negotiations with the Saudis?
4. To what extent have DOE officials jointly planned or involved other U.S. government agencies and officials – including the Department of State, Department of Commerce, and the National Security Council – in interactions with Saudi Arabia regarding nuclear cooperation, or communicated the results of their interactions to other agencies?
5. To what extent have DOE officials coordinated these interactions with or shared information about such interactions with representatives of U.S. nongovernmental organizations or commercial entities?

We request that GAO begin this work as soon as possible, and provide regular updates to Members of the Committee on the status of its work, including any access issues or other issues impeding GAO's work. Please coordinate this work with Lowell Schwartz and Megan Bartley of the Senate Foreign Relations Committee staff and Robert Zarate in the Office of U.S. Senator Marco Rubio.

Sincerely,


Robert Menendez
United States Senator


Marco Rubio
United States Senator