



The Middle East After the JCPOA

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Testimony submitted to the Senate Foreign Relations Committee

January 20, 2016

Chairman Corker, Ranking Member Cardin, and members of the committee, thank you for this opportunity to again appear before you and discuss the implementation thus far of the Joint Comprehensive Plan of Action (JCPOA) and its implications for the Middle East and for American policy.

The next president will inherit a flawed nuclear agreement with Iran. The JCPOA enshrines Iran's status as a nuclear threshold state, leaving it with the key fuel fabrication, weaponization, and missile capabilities it would require in the future to develop a nuclear weapon. It fails to address the missile issue entirely, and does not touch upon Iran's support for terrorism or its destabilizing regional activities. Yet it provides Iran broad relief from economic sanctions, tens of billions of dollars in unfrozen assets, and invites it to come in from the diplomatic cold.

In a broad sense, whether one feels that the JCPOA was worthwhile or not comes down to the question of whether we have averted a crisis or merely deferred one. Advocates of the deal must hope that the next ten to fifteen years will witness changes in Iran and its relations with the United States and neighbors that rid it of its nuclear weapons ambitions. Skeptics, on the other hand, believe that we have purchased a pause, and an incomplete one at that, at a high price. Regardless of which view one adopts, however, the policy upshot is the same – we must use the coming years to our advantage, ensuring that when the JCPOA expires or unravels, we and our allies are well-positioned to deal with the consequences.

Yet Iran's enduring nuclear program is not the only problem that the next president will face in the Middle East – far from it. He or she must contend with the rise of ISIS and reinvigoration of global jihadism, the tumult that has gripped Iraq, Syria, Yemen, and Libya, the new boldness of Russia in the region, the Syrian refugee crisis and the heavy burden it has placed on Jordan, Lebanon, and Turkey, persistent instability in Egypt, the dimming of Israeli-Palestinian peace prospects, and many other concerns. Alarming, one of these problems, as seen from the region, is us – our alliances have weakened across the board, and we do not enjoy the credibility and trust with our regional partners that we once did.

The JCPOA has contributed to some of these problems, but we should harbor no illusions that an effort to put Iran policy on the right track will be a cure-all. Iran policy must be devised not in isolation, but in concert with a broader set of regional policies that are mutually reinforcing and designed not only to advance our near-term

objectives but to improve our readiness and capacity – together with allies – to confront problems in the future. In doing so, we must avoid the essential errors that have plagued our Middle East policymaking in for many years, among them a persistent failure to match means and ends and to use the full range of tools available to us in concert to achieve our aims, a failure to comprehend regional realities and take our partners' concerns into account and to nurture and enhance our alliances, and a tendency to craft policy reactively and for the near term rather than engage in serious strategic planning or long-term agenda-setting.

Implementation of the JCPOA to Date and Its Broader Impact

The United States government, along with other members of the P5+1 and the IAEA, announced that “Implementation Day” of the JCPOA had been triggered on January 16, 2016. This means that the IAEA had confirmed that Iran had met its initial commitments under the accord, which in turn has triggered the suspension or lifting of sanctions by the United States, European Union, and United Nations, as well as a range of other activities related to the monitoring of Iran’s nuclear activities and civil nuclear and other forms of cooperation with Iran.

While I am not in a position to verify or dispute the IAEA's conclusion that Iran has met its initial requirements, several other observations about the initial implementation of the JCPOA can be made. First, it bears reiterating that Implementation Day marks the completion only of Iran’s initial, “table-setting” obligations under the accord; however, Iran’s obligations under the JCPOA are ongoing and must be continually verified. It is one thing for Iran to cooperate sufficiently to achieve the transfer of frozen assets and the dismantling of the international sanctions regime. It is quite another for it to cooperate on an ongoing basis after these aims have been achieved.

Second, the IAEA has confirmed only that Iran has met its initial obligations under the JCPOA; this should not be taken to imply that the IAEA or other parties are prepared to fully perform their duties under the agreement. This is a separate question that the U.S. government should investigate on an ongoing basis.

Thirdly, the resolution of concerns regarding Iran’s past and possibly ongoing nuclear weaponization efforts – the “PMD” issue in IAEA parlance – was far from satisfactory. While the IAEA affirmed that Iran met its modest obligations under a protocol negotiated in parallel between the Tehran and the Agency, it does not appear that Iran submitted a complete declaration of its past and possibly ongoing activities related to weaponization, nor that it provided the IAEA with access to personnel, facilities, or documents related to those activities. In addition, the IAEA’s report on the matter makes it seem as though Iran did not answer all of the IAEA’s questions regarding weaponization, calling into question whether Iran can truly be considered to have cooperated. While the IAEA Board of Governors has decided to close the PMD issue, it should be borne in mind that absent the sort of cooperation I describe above, it will be difficult to have any confidence that Iran is complying with the JCPOA’s requirement that it refrain from weaponization work.

Finally, I am concerned that the sanctions relief that has been provided to Iran is effectively broader than stipulated in the JCPOA. Even before Implementation Day, it was clear that the administration was reluctant to impose penalties on Iran for activities such as its ballistic missile tests in October and December, a dangerous and provocative live-fire incident in the Gulf, the seizure and inappropriate treatment of U.S. Navy personnel near Farsi Island, or Iran’s ongoing activities in Syria and Iraq.

It is reasonable to assume that two concerns lie behind this reticence – first, a desire to avoid derailing the implementation of the nuclear deal, and second, a desire to avoid undermining the electoral prospects of Iranian moderates ahead of Iran’s February parliamentary election. However, having negotiated a narrow

nuclear accord in which Iran accepted no limits on its regional activities, missile development, or support for terrorism, we cannot ourselves accept limits on our freedom to penalize Iran for the same. If we do, Iran will receive the benefits of a comprehensive accord while incurring the obligations of a narrow one, and the opposite will pertain to the United States and our allies.

In terms of the JCPOA's broader impact, the incidents I note above suggest that there has been little change in Iran's regional policy. And because Iran has only begun to receive the benefits of sanctions relief and its unfrozen overseas assets, the full impact of the JCPOA on Iran's regional agenda will not be apparent for some time. Any increase in Iranian aid to the Assad regime, Hezbollah, Hamas and other Palestinian terrorist groups, or proxies elsewhere in the region could further destabilize an already chaotic region. The administration has insisted that Iran will use the benefits of the JCPOA only for domestic priorities, but this strikes me as unrealistic; Iran has invested a great deal in its regional pursuits when it might have been more prudent to focus on domestic development, and I believe that we can expect Iran to spend its post-deal windfall both on domestic and regional priorities.

Nor has the deal yet proven a boon to Iran's pragmatists, who might be most inclined to moderate Iran's behavior. If anything, internal divisions within Iran have grown sharper as those opposed to it and to President Rouhani seek to prevent him from gaining ground domestically in its wake (especially with parliamentary elections around the corner), and as Iran's Supreme Leader attempts to undergird the regime's anti-American ideology and make clear no broader transformation is under way.

Meanwhile, from what I have observed, the JCPOA has fueled preexisting fears among our allies that an American regional disengagement and/or realignment is under way, which has undermined their trust in us and increasingly prompted them to act independently in ways that we sometimes find unhelpful. By and large, these allies are less concerned with the particulars of Iran's nuclear program than with Iran's regional aims, which they fear have been abetted by American accommodation of Iran and by the sanctions relief provided by the JCPOA.

It is worth noting that since the JCPOA was concluded, the United States and Iran have reached several other agreements through direct engagement. The first of these was the release of U.S. Navy personnel seized by the Islamic Revolutionary Guard Corps (IRGC) Navy near Farsi Island. The second was a "prisoner swap" in which five American citizens detained by Iran were freed in exchange for the pardoning of seven Iranians imprisoned in the United States and the lifting of Interpol Red Notices for fourteen others. The third was the settling of a 1970s-era Iranian claim against the United States for \$1.7 billion.

Each of these outcomes has been touted as evidence that direct engagement with Iran is paying dividends, and even that U.S. diplomacy has succeeded in shifting the internal dynamics within Iran. However, such claims strike me as exaggerated. The seizure of additional Iranian-Americans since the conclusion of the JCPOA, as well as the seizure and apparent ill treatment of the U.S. Navy personnel, suggests that the IRGC continues to act with impunity and continues to target U.S. interests. Furthermore, engaging in prisoner swaps – especially given that the American citizens involved were little more than hostages held on trumped-up charges – is a questionable enterprise which risks rewarding bad behavior and encouraging more of it. Iranian-Americans previously held by Iran were released without such swaps.

Nevertheless, these incidents should be carefully analyzed, not dismissed. The speed with which the U.S. Navy personnel were released, and the apparent role of the Iranian Foreign Ministry in securing their release by the IRGC, contrasts starkly with similar episodes in the past. It bears watching whether reflects a shift in internal

regime dynamics or the regime's attitude toward such matters, or whether it was merely a function of Tehran's desire to receive sanctions relief and its frozen assets without delay.

Whatever one feels about the outcomes achieved, these episodes suggest that Iran is increasingly willing to engage directly with the United States on a variety of issues. It is important, in my view, that we not conflate engagement as a tactic with the particular outcomes this administration has achieved via engagement, any more than our dissatisfaction with the Iraq War should lead us to forswear the use of military means in our foreign policy. Nor should we fall into the trap of thinking that engagement is meritorious in and of itself, or that every outcome achieved via engagement is necessarily a diplomatic triumph. When doing so would advance our interests, we should not hesitate to engage diplomatically with Iran; yet we should not allow such engagement to deter us from simultaneously pursuing firm and forceful policies toward Iran. We should instead consider engagement one tool among many, to be utilized when needed in concert with other tools. We achieve our best results when we employ diplomacy backed by force.

Post-Deal Iran Policy

Discussions of foreign policy too often begin with tactics – whether, for example, to enforce the JCPOA strictly or to walk away from it altogether. I believe we will arrive at better policy if we instead begin by considering the objectives and outcomes we hope to achieve, and mapping our way to achieving them. We also have a regrettable tendency to think of foreign policy as an exercise in problem-solving, focusing first and sometimes last on addressing conflicts, and neglecting the more prosaic work of building relationships and heading off new problems. Yet in the Middle East, we are likely to have far more and faster success in bolstering alliances that have weathered the region's storms – such as those with Jordan, the GCC, and Israel – than in, say, ending Syria's civil war or building a new government in Libya. Finally, we have a tendency to think and plan in short increments, considering what must be done over the coming months, without reference to any clear longer-term agenda.

Despite the dramatic developments of recent years, our interests in the Middle East have not fundamentally changed. They include things like nonproliferation, counter-terrorism, the free flow of energy and commerce, and the security of Israel. However, the obstacles to advancing those interests have changed starkly – they include not only a flawed JCPOA, but also the rise of ISIS, the fall of allies (albeit problematic ones) in Egypt, Tunisia, and elsewhere, and so forth. This new context demands a new strategy – a set of actions that, given the obstacles and opportunities we face, holds the best chance of advancing our interests. This is not the forum for articulating a new Middle East strategy in full. But as we consider how we move forward in the aftermath of the JCPOA, it is important that the post-deal Iran policy we devise be consistent with and reinforce such a strategy. It is worth noting that none of the policy steps I recommend below strictly require that the JCPOA be renegotiated.

The first objective of our policy toward Iran should remain preventing nuclear proliferation in the Middle East. While the JCPOA provides some useful tools in this regard – chiefly by increasing the access of IAEA inspectors and recommitting Iran to implementing enhanced safeguards arrangements – it also has significant weaknesses.

The first and most critical weakness of the JCPOA is that it is not strong enough to prevent Iran from pursuing a nuclear weapon clandestinely. Iran is permitted to continue R&D on advanced centrifuges, the efficiency of which would be well-suited to the operation of a small, secret enrichment facility; it was not required to provide the IAEA with access to facilities and personnel involved in weaponization, making it difficult to have confidence that these will not be utilized again in a future weapons push; and it is permitted to

openly pursue a ballistic missile program, and may receive international aid to do so within eight years. Uncovering a clandestine nuclear weapons program is complicated by the IAEA's lack of "anytime, anywhere" inspection authority, and the relative paucity of enforcement mechanisms, either in the JCPOA or in the national policies of the United States and its allies.

To address these weaknesses, I recommend the following steps:

- IAEA efforts to gain access to PMD-related facilities and personnel should be resumed, using the access provisions of the Additional Protocol and the JCPOA;
- The IAEA should use those same access provisions to verify the completeness of Iran's initial declarations regarding its uranium stocks, inventory of centrifuge components, and any related declarations;
- The IAEA should use those same access provisions to perform end-use verification of both nuclear-related and dual-use items, even though the latter is not specifically provided for in the JCPOA procurement channel;
- Whenever possible, the 24-hour inspection requirement of the Additional Protocol should be applied, rather than the 24-day schedule of the JCPOA dispute resolution mechanism;
- The United States and its allies should press the IAEA to be forward-leaning in its access requests, and ensure that the next Director-General of the IAEA is focused and credible on this matter;
- The United States, European Union, and other partners should agree on a "menu" of penalties short of full snapback to be applied in the event of Iranian delays or violations of the JCPOA, and indicate their willingness to begin applying those penalties during the 24-day dispute resolution mechanism if Iran proves slow or reluctant to cooperate with the IAEA;
- The U.S. Treasury and State Departments, in conjunction with counterparts in allied capitals, should continue to actively educate U.S. and foreign firms about remaining sanctions on Iran, and invest resources in detecting Iranian efforts to circumvent them;
- The United States and its allies should provide the IAEA with the funding it requires to carry out its mission in as robust a manner as possible;
- The United States continue to invest in detecting illicit Iranian nuclear activities, and the United States and its allies should enhance their cooperation to gather intelligence on Iran's nuclear program and furnish information as appropriate to the IAEA to assist in its monitoring and verification mission;
- The United States, European Union, and other partners should assist other states in putting in place and executing sufficient export controls to prevent illicit Iranian procurement, and should urge states to institute a presumption of denial for the export of sensitive goods to Iran; vigilance will also be required to monitor Chinese, and North Korean compliance;
- The United States and its allies should invest in deterrence, indicating clearly their continued willingness to use the military option if Iran violates the JCPOA, and ensuring that their force posture and actions reinforce the credibility of such statements; this should include investing in a sufficiently large Navy to provide coverage in multiple geographic theaters so the United States is not forced to "choose" between Asia and the Middle East.

It should be noted that many of the above steps rely on the United States retaining the support of four other members of the JCPOA's eight-member joint commission – the EU, UK, France, and Germany. But there can be no guarantee that coming elections in France, Germany, and elsewhere will ensure these governments' continued support. Should political developments in Europe leave the United States with less support on the Joint Commission than needed to rigorously enforce the above actions, the United States will be left with little choice other than to reconsider its adherence to the JCPOA.

The second threat to nuclear nonproliferation posed by the JCPOA comes with the expiration of its limitations in ten to fifteen years' time. After this period, there is nothing explicitly in the JCPOA to bar Iran from significantly expanding its enrichment and reprocessing capacity and reducing its nuclear breakout time to essentially zero. I recommend the following steps to mitigate this danger:

- The United States and its allies should make clear that they do not accept the proposition that simply because something is not explicitly barred by the JCPOA it is implicitly accepted by the international community; instead, the United States and its allies should make explicit their opposition to the future expansion of Iran's nuclear activities, and their intention to negotiate further reductions rather than increases in those activities;
- To further constrain Iran's future nuclear activities, the United States and its allies should consider supporting international arrangements that would limit the proliferation of enrichment and reprocessing technology globally;
- To prevent Iran from using the next ten to fifteen years to perfect the elements of its nuclear program not constrained from the JCPOA, the United States and its allies should endeavor to impede the development of Iran's missile program and prevent other states from assisting Iran's centrifuge or other enrichment R&D efforts.

Additionally, the permissive nature of the JCPOA enhances the prospect that other states in the region will develop their own nuclear programs in an effort to match or exceed Iran's capabilities. They will assume that Iran will either possess a nuclear weapon or will be a screwdriver's turn away from one in ten to fifteen years, and plan accordingly. While the United States can urge our allies to refrain from such destabilizing actions, they are more likely to be influenced by the seriousness of our actions to counter Iran and address the flaws of the JCPOA than by any demarches we issue.

The second objective of our policy toward Iran must be to counter its threat to regional stability. Regional instability threatens a number of U.S. interests, as it creates an environment in which terrorism has thrived, has endangered our allies, including Israel, and has given rise to a refugee crisis whose full effects have not yet been felt. This threat is compounded by the easing of pressure on Iran, insofar as many of the sanctions lifted were not strictly nuclear-related but also imposed pursuant to Iran's support for terrorism and regional policies, as well as Iran's enrichment through the transfer of previously frozen assets and the removal of restrictions on Iran's export of oil and banking activities.

To address this threat, I recommend the following actions:

- First and foremost, the United States needs to revisit its policy towards Syria with an eye toward not only ending the conflict there, but to denying Iran the ability to project power in the Levant; One element of a new U.S. strategy in Syria should be firmer efforts to counter the activities there of the IRGC and its proxies, including Hezbollah as well as foreign Shiite militias; this is not only vital to countering Iran's regional threat, but to winning the support of our allies in the region and in Europe – where Syria has become a domestic political issue, not just a foreign policy concern – for our broader agenda;
- Work to disrupt Iranian control over certain Shiite militias (PMU) in Iraq, to prevent Tehran from permanently capturing the Iraqi security establishment in the manner it has done via Hezbollah in Lebanon;

- The United States and its allies should embark on a focused financial campaign against the IRGC, especially the IRGC-Quds Force, utilizing the robust financial tools we have developed over the last decade; if these tools prove insufficient, Congress should consider new legislation to add to them;
- In the same vein, act to prevent the transfer of funds, arms, equipment, and personnel by Iran to proxies such as Hezbollah, Hamas/PIJ, the Houthis, and Shiite militias, and make use of existing authorities to degrade those entities;
- The United States and likeminded members of the P5 should make clear our intention to deny requests for the export of banned arms or missile technology to Iran under the “case-by-case” mechanism established in UN Security Council resolution 2231;
- The United States should seek to drive a wedge between Iran and Russia to prevent the emergence of a de facto Tehran-Moscow-Damascus-Hezbollah alliance;
- The United States and its allies should be willing to engage with Iran on issues of mutual concern, but for the sake of transparency and to assuage allies’ concerns, should whenever possible do so in multilateral rather than bilateral settings, and should view further engagement with Iran as a means to an end rather than an end in itself.

A related but distinct threat is to the free flow of commerce and freedom of navigation through the Gulf and the Arabian Sea, which recent Iranian actions – the live-fire incident, seizure of U.S. Navy personnel, and earlier the diversion of the *Maersk Tigris* cargo vessel – have called into question. To address this we should, beyond simply reiterating our willingness to resort to military force against Iran, design a force posture that specifically addresses Iran’s anti-access/area denial strategy and asymmetric and unconventional and subversive tactics. We must not only prepare for a theoretical future conventional war against Iran – one which will hopefully never come to pass – but address Iran’s present-day actions, which are concerning in their own right.

Another element of countering Iran’s threat to regional stability is improving the strength of American alliances in the region and the capabilities of our allies, so that Iran faces a capable, unified front. This line of action is also vital to securing our allies against the threat posed by jihadist groups, and to restoring the United States’ standing in the region. To these ends, I recommend the following steps:

- Refocus the now-diffuse responsibility for U.S. policy in the Middle East in an empowered official at the Department of State (such as the Assistant Secretary for Near East Affairs), and charge that official with reestablishing smooth lines of communications with our Mideast allies and reaching an understanding of their priorities and needs;
- Attach particular importance to rebuilding cordial ties and effective cooperation at the strategic level with Israel;
- Continue the high-level consultations begun with the GCC at Camp David in 2015, and carry out the agenda outlined there; expand this forum to include Jordan and Egypt, similar to the GCC+2 mechanism utilized in the 2000s;
- Devise with key allies a multi-year procurement and training agenda designed to address their needs and vulnerabilities; coordinate this effort multilaterally within the region so that allies’ capabilities complement rather than replicate one another’s, especially in areas such as missile defense and naval activities where joint action makes the most sense;
- In the longer-term, seek to create a regional security forum focused on U.S. allies that can serve as a mechanism not only for policy consultations but for coordinated military, diplomatic, and other forms of planning and action, as well as a body suitable for multilateral engagement with Iran and others;
- Help our allies to improve their resilience in the face of Iranian and jihadist attempts at subversion by assisting them to build capable security, political, and economic institutions that can better weather crises such as those we have seen in recent years.

The list above is not exhaustive – others have proposed good ideas which can be readily added to it. However, I believe that by focusing on objectives rather than tactics, and engaging in long-term planning rather than continuing to think reactively or in six-month to one-year increments, the United States and its allies are more than up to the challenges posed by Iran and other regional threats.