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May 8, 2018 hearing on “Confronting the Iranian Challenge”
U.S. House of Representatives, Committee on Foreign Affairs

Chairman Royce, Ranking Member Engel, Members of the Committee, thank you for the honor of appearing before you today. This hearing takes place four days before the May 12 deadline when the President will either continue to waive nuclear sanctions on Iran or withdraw the United States from the P5+1 nuclear agreement with Iran.

The question I wish to address is “what will the world look like on May 13?” As a political centrist who has served in five prior Republican administrations, I have concluded that those who see merit in maintaining the restraints on Iran’s nuclear program under the Joint Comprehensive Plan of Action, and those – including the President – who believe that Iran poses serious threats to our interests that are not addressed by the existing accord, are both right. Both points of view can be accommodated, if the Congress is prepared to act.

By May 12, the President may be prepared to recertify Iran’s compliance and continue to waive nuclear sanctions on Iran. A supplemental agreement has been under discussion with Europe, which presumably would require Iran to agree. The alternative, described as a real possibility by the Secretary of State, is that the President will announce on May 12 that the US is withdrawing from the JCPOA.

I share the President’s concerns about Iran but respectfully submit that withdrawal from the JCPOA is neither the only nor the best way to address them. Here is what we might see, starting on May 13, if the US pulls out of the nuclear agreement:

1. With our EU3 negotiating partners – our strategic allies – there will be disappointment, public acrimony and division, as the best diplomatic efforts of President Macron and Chancellor Merkel will appear to have been rejected in Washington.
2. Iran may resume its rapid march toward nuclear weapons and long-range delivery systems, with no JCPOA restraints. The head of the Atomic Energy Organization of Iran, Ali Akbar Salehi, recently said that if ordered by his superiors, they could resume 20 percent enrichment activities at the Fordo facility in four days.
3. A nuclear arms race could break out in the war-torn Middle East. Iran’s Arab neighbors across the Persian Gulf have made clear since 2008 that they will not allow Iran to have any weapon that they do not also possess, a position reiterated in recent months. America’s pledge to maintain Israel’s Qualitative Military Edge in the region would be put at grave risk if Iran and any of our Arab allies embarked on a race to acquire nuclear weapons.
4. The other major consequence of our withdrawing from the JCPOA despite then-CIA Director Pompeo’s testimony last month that Iran is in compliance, is the potential impact on all

future Presidents' ability to forge agreements with the rest of the world. Executive agreements are a precious currency of American power and presidential leadership; the world believes that they represent the full faith and credit of our country. The day other governments conclude that agreements reached with a current administration could easily be disavowed by a subsequent President, they may insist upon a treaty, requiring ratification by the US Senate. There are some agreements that should be treaties; but if the United States cannot transact deals with other countries without assuring a two-thirds vote in the Senate, not only will the House of Representatives be disempowered, but the power of this and future presidents over foreign policy, including trade, will be diminished.

As an alternative to the US withdrawing from the JCPOA, I recommend that the Congress consult with the President and consider amending its oversight law, the Iran Nuclear Agreement Review Act of 2015 (INARA), specifically Section II(d)(6), the provision on "compliance certification." INARA requires the President to make a certification regarding Iran's compliance with the JCPOA not later than every 90 days. That kind of legislative mechanism has been used in the past to ensure that presidents do not disregard violations by other parties to an agreement in the interest of preserving smooth relationships, and to ensure that the President – not Congress – bears political responsibility if unreported violations come to light. INARA did not provide a means to address the concerns of a President who is inclined to withdraw from the JCPOA even though Iran is complying with its terms.

The national interest would be better served by having Congress remove the certification requirement and instead require the administration to report regularly on any plausible information of possible unsafeguarded nuclear weapons-related activity. Other parties have raised questions about specific Iranian activities, and the JCPOA's Annex I, Paragraph T provides that Iran will not conduct any "activities which could contribute to the design and development of a nuclear explosive device." The reality is that the International Atomic Energy Agency (IAEA) can never reach the JCPOA milestone of a "Broader Conclusion" that Iran's nuclear activity is entirely peaceful unless all legitimate suspicions are put to rest. As a signatory to the Non-Proliferation Treaty and the NPT Additional Protocol, which it is committed to ratify under the JCPOA, Iran must cooperate fully with IAEA inspection requests.

The administration's hand will be strengthened in pressing for more comprehensive verification and compliance on Iran's nuclear program if the US and our European allies adopt a unified position, leveraging the JCPOA in a stepped-up effort to fulfill its avowed purpose and end uncertainties about Iran's undeclared activities rather than giving Iran an opening to pose as a victim and exploit differences between the US and our allies.

A second aspect of the nuclear agreement that the President has found unsatisfactory is the series of sunset clauses after which Iran will face no legal restriction on its nuclear enrichment activities, and the world will be left to rely on Tehran's assurances that all such activities will be

peaceful in nature. President Obama, addressing the UN General Assembly in 2013, at the outset of the negotiations, outlined US policy toward the Middle East and North Africa, stating, “[W]e will not tolerate the development or use of weapons of mass destruction,” and later adding that “we are determined to prevent Iran from developing a nuclear weapon.” Mr. Obama favorably cited a religious edict from Iran’s Supreme Leader against the development of a nuclear weapon; and yet, by the end of the negotiating process two years later, Iran’s posture fell well short of a clear renunciation of nuclear weapons by the country’s leader. Some analysts point to vulnerability in the Supreme Leader’s political standing within Iran, and conclude that his negotiators were instructed to agree only to the minimum assurances necessary to achieve agreement with the P5+1.

If Iran will not unambiguously forswear nuclear weapons, now or after the sunset clauses expire, the United States can enshrine our longstanding position as a national commitment. Vice President Pence, addressing Israel’s Knesset in January, already issued a “solemn promise” that the United States will “never allow Iran to acquire a nuclear weapon.” The President can leave no room for doubt by reasserting this pledge as a doctrine.

A third area where the administration has expressed concern over the JCPOA is Iran’s ballistic missile activity, and I share that concern. One of the UN Security Council Resolutions lifted on July 20, 2015 – six days after the P5+1 reached agreement on the JCPOA – was Resolution 1929, adopted by the Security Council in 2010, which had prohibited Iran from conducting “any activity related to ballistic missiles capable of delivering nuclear weapons.” That language was modified during the nuclear talks to be non-binding under Resolution 2231. In March of 2016, just two months after the JCPOA came into effect, Iran began testing ballistic missiles capable of reaching Israel. Secretary of State Kerry suggested a new arrangement with Iran to address international concerns over Iran’s missile activity. Iran’s response was instructive: Foreign Minister Zarif called Secretary Kerry’s complaints “baseless”, while Defense Minister Dehqan called them “nonsense.”

Two years later, over 100 missiles have been fired by the Houthi militia in Yemen into Saudi Arabia. The Commander of the Islamic Revolutionary Guard Corps (IRGC) has threatened missile attacks against all US forces based within 1,300 miles, meaning all US forces in the region. Exiting the JCPOA will not mitigate this threat. The US and its European allies should collaborate to trace the flow of revenues from commercial activities to the individuals, companies, banks and organizations involved in Iran’s ballistic missile program, and all should be sanctioned and actively impeded within the global economy. The IRGC, which one British scholar has described as “a business conglomerate with guns,” controls important segments of Iran’s economy. While we and our allies improve defenses against Iranian ballistic missile threats, our governments should ensure that proposed commercial engagements with Iran will not underwrite these very threats.

Iran has been a burdensome actor dating back to the 1979 revolution. In this century alone, consider what the regime in Tehran has done to threaten the peace. It was caught secretly

developing a nuclear weapons program, and then sanctioned heavily by the UN Security Council after violating its promises to EU governments and the IAEA. It brought the world to the brink of crisis by accelerating its enrichment program. While its diplomats kept the world's powers focused on achieving a nuclear deal, Iran's Revolutionary Guards helped the Assad regime lay waste to Syrian cities and towns, with well over 500,000 killed and millions driven into desperate exile – a massive war crime that continues today. The Tehran regime, with its network of proxy Shi'ite militias commanded by the Qods Force, has relentlessly undermined efforts at legitimate constitutional government in Syria, Iraq and Yemen, while brutally suppressing popular aspirations at home. Israel, Lebanon, Iraq, Yemen and Saudi Arabia are all threatened by Iranian-backed extremist non-state actors.

While we consider discrete policy questions posed by the May 12 certification deadline, Congress should bear in mind the totality of Iran's transgressions. This clerical dictatorship has been conducting non-stop geopolitical arson, at the expense of regional peace and stability, international norms, and US national security interests. If these norms are to survive in this century, such behavior must be actively discouraged, and its perpetrators held accountable.

When May 13 arrives, less than a week from now, my hope is that the Administration and Congress will present a unified policy response to Iran. President Obama made a good faith offer to Iran's rulers in his 2013 UN speech, pointing in the direction of "a long road towards a different relationship, one based on mutual interests and mutual respect." At that time, it was a reasonable overture; but today, in 2018, we have Iran's response. They said 'yes' to the black letter requirements in the JCPOA, and 'no' to a relationship based on mutual respect. So let us hold Iran to the requirements of the JCPOA, confirm policies that address the agreement's shortcomings, and mobilize our friends and allies to focus our efforts on curbing Iran's aggression against the Syrian people, destabilization of neighboring governments through sectarian warfare, and alarming rate of executions and other human rights abuses at home.

Letting Iran divide the US from our European allies would be a policy failure. I am reminded of the US Army's operational doctrine that seeks to present multiple dilemmas to the adversary. If the US and Europe can present a united front in pressing the ruling clerics in Iran to abide by the JCPOA, cease their regional aggression, and stop abusing the rights of the Iranian people, it is they who will face multiple dilemmas.

I thank the Committee for its consideration.