

House Committee on Oversight and Government Reform
Subcommittee on National Security

Protecting America from a Bad Deal: Ending U.S. Participation in the Nuclear Agreement

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Chairman DeSantis, Ranking Member Lynch, and distinguished members of this subcommittee, thank you for the opportunity to address you today on this important issue.

On May 8, 2018, President Trump announced that the United States was withdrawing from the Joint Comprehensive Plan of Action (JCPOA), a 2015 multi-national political commitment related to Iran's nuclear program. My testimony will explain why the president's decision was both justified and necessary and, in the wake of Secretary of State Mike Pompeo's May 20 speech, discuss the way ahead for both the administration and Congress.

Before I begin, I want to note that having worked for many years as a staffer both here in the House and in the Senate, I had the privilege to work with many talented people – Democrats and Republicans – who shared a passion for keeping America and our allies safe from the long list of threats posed by the Islamic Republic of Iran. Together, we put forward numerous bipartisan bills to increase the pressure on Iran. While my views regarding the president's decision to exit the JCPOA may differ from some of those held by members of the subcommittee, it is my sincere hope that we can find a way to resuscitate the bipartisan spirit that once infused this important national security issue.

Legally Justified

On July 14, 2015, President Obama announced that the United States, along with the permanent members of the United Nations Security Council plus Germany, had “achieved” a “comprehensive long-term deal with Iran that will prevent it from obtaining a nuclear weapon.”¹ Under the agreement, the United States committed to suspend nearly all the economic and financial sanctions imposed on the Islamic Republic in exchange for Iran's commitment to suspend certain nuclear activities for certain periods of time.

This “deal,” as President Obama described it, was not a treaty. It was not even an executive agreement. It was merely a political commitment.² From a legal perspective, that made the JCPOA non-binding and subject to change at any time.³

In July 2015, just after the JCPOA was established, John Bellinger, the former legal advisor for both the State Department and the National Security Council, wrote:⁴

The next president will have the legal right under both domestic and international law to scrap the JCPOA and reimpose U.S. nuclear sanctions on Iran. Such an action would be inconsistent with political commitments made by the Obama administration, but it would

¹ Michael Gordon and David Sanger, “Deal Reached on Iran Nuclear Program; Limits on Fuel Would Lessen with Time,” *The New York Times*, July 14, 2015. (<https://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-is-reached-after-long-negotiations.html>)

² Jack Goldsmith, “The Trump Administration Reaps What the Obama Administration Sowed in the Iran Deal,” *Lawfare*, May 9, 2018. (<https://lawfareblog.com/trump-administration-reaps-what-obama-administration-sowed-iran-deal>)

³ Curtis Bradley and Jack Goldsmith, “Presidential Control over International Law,” *Harvard Law Review*, March 2018. (https://harvardlawreview.org/wp-content/uploads/2018/03/1201-1297_Bradley-Goldsmith_Online.pdf)

⁴ “How Binding is the Iran Deal,” *Council on Foreign Relations*, July 23, 2015. (<https://www.cfr.org/interview/how-binding-iran-deal>)

not constitute a violation of international law, because the JCPOA is not legally binding. Nor would it constitute a violation of the new UNSCR.

He also noted that under United Nations Security Council Resolution 2231, which referenced the JCPOA, “the United States would not be legally required to lift U.S. sanctions on Iran.”⁵

Indeed, this view was later confirmed by the Obama administration. In a letter from the State Department to then-Representative Mike Pompeo, the administration wrote:⁶

The Joint Comprehensive Plan of Action (JCPOA) is not a treaty or an executive agreement, and is not a signed document. The JCPOA reflects political commitments between Iran, the P5+1 (the United States, the United Kingdom, France, Germany, Russia, China) and the European Union.

During an appearance before the House Foreign Affairs Committee in late July 2015, then-Secretary of State John Kerry was asked why the JCPOA was not negotiated as a treaty to be submitted to the Senate for ratification. His response: “I spent quite a few years trying to get a lot of treaties through the United States Senate, and it has become physically impossible.”⁷

Kerry was not only wrong about the impossibility of the Senate ratifying a treaty (e.g. last year the Senate ratified a non-controversial protocol to the North Atlantic Treaty of 1949 on the accession of Montenegro by a vote of 97-2),⁸ he was also wrong about the impossibility of the Senate ratifying the JCPOA – with certain changes. As my FDD colleague Orde Kittrie wrote at the time in the *Wall Street Journal*:⁹

In the case of treaties, as the Senate website explains, the Senate may “make its approval conditional” by including in the resolution of ratification amendments, reservations, declarations, and understandings (statements that clarify or elaborate agreement provisions but do not alter them). “The president and the other countries involved must then decide whether to accept the conditions . . . in the legislation, renegotiate the provisions, or abandon the treaty.”

Indeed, as Professor Kittrie pointed out, the Senate has used this tool of approving treaties or amendments to treaties with conditions many times, including approval of the Threshold Test Ban Treaty, the Peaceful Nuclear Explosion Treaty, the Chemical Weapons Convention, and a 1997

⁵ John Bellinger, “The New UNSCR on Iran: Does it Bind the United States (and future Presidents)?” *Lawfare*, July 18, 2015. (<https://www.lawfareblog.com/new-unscr-iran-does-it-bind-united-states-and-future-presidents>)

⁶ Matthew Weybrecht, “State Department Affirms That Iran Deal Is Only a Political Commitment,” *Lawfare*, November 28, 2015. (<https://www.lawfareblog.com/state-department-affirms-iran-deal-only-political-commitment>)

⁷ Tim Hains, “John Kerry Explains Why Iran Deal Is Not Legally a Treaty: ‘You Can’t Pass A Treaty Anymore,’” *Real Clear Politics*, July 29, 2015. (https://www.realclearpolitics.com/video/2015/07/29/john_kerry_explains_why_iran_deal_is_not_a_treaty_you_cant_pass_a_treaty_anymore.html)

⁸ United States Senate, “Roll Call Vote 115th Congress – 1st Session,” March 28, 2017. (https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=1&vote=00098)

⁹ Orde Kittrie, “Congress Can Rewrite the Iran Deal,” *The Wall Street Journal*, August 12, 2015. (<https://www.wsj.com/articles/congress-can-rewrite-the-iran-deal-1439419154>)

modification to the Treaty on Conventional Armed Forces in Europe. The Obama administration itself had already successfully renegotiated a nuclear cooperation agreement with the UAE at the request of the House Foreign Affairs Committee chairman in early 2009. By May, Professor Kittrie noted, the UAE made concessions and the agreement was finalized.

While politically expedient at the time, the Obama administration's decision to pursue the JCPOA as a political commitment rather than a treaty made President Trump's decision to end America's participation and re-impose U.S. sanctions on Iran both predictable and legally justified. Indeed, the international community was put on notice that such an event might occur, months before the JCPOA was finalized. In a March 2015 open letter to Iranian leaders, 47 U.S. Senators wrote:¹⁰

[W]e will consider any agreement regarding your nuclear-weapons program that is not approved by the Congress as nothing more than an executive agreement between President Obama and Ayatollah Khamenei. The next president could revoke such an executive agreement with the stroke of a pen and future Congresses could modify the terms of the agreement at any time.

National Security Imperative

It is important to keep in mind that President Trump's decision was not only legally justified, it was also necessary for the national security of the United States. To understand this better, let us first review how the JCPOA was constructed.

From 2010-2012, Congress enacted a series of laws that imposed crippling sanctions on the Islamic Republic in response to a wide range of illicit conduct by the regime, including ballistic missile development, nuclear activities, and the sponsorship of terrorism. In 2010, Congress enacted the Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA),¹¹ which required the Treasury Department to prohibit or impose strict conditions on the opening or maintaining in the United States of a correspondent account or a payable-through account by any foreign financial institution that facilitates a significant transaction for any bank designated in connection with Iranian proliferation or terrorism. In effect, Congress leveraged the U.S. financial system against banks around the world and put them to a choice: do business with designated Iranian banks or do business in the United States, but you cannot do both.

In December 2011, the Senate passed an amendment to the Fiscal Year 2012 National Defense Authorization Act, which applied the same basic CISADA concept to banks that facilitate transactions with the Central Bank of Iran (CBI).¹² That law not only sent shockwaves through the Iranian financial system and destabilized the Iranian currency,¹³ it also forced countries that

¹⁰ Office of Sen. Tom Cotton (R-AR), Press Release, "Cotton and 46 Fellow Senators to Send Open Letter to the Leaders of the Islamic Republic of Iran," March 9, 2015. (https://www.cotton.senate.gov/?p=press_release&id=120)

¹¹ Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. 111-195, 124 Stat. 1311, codified as amended at 22 U.S.C. §§8501-8551. (<https://www.treasury.gov/resource-center/sanctions/Documents/hr2194.pdf>)

¹² National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, 125 Stat. 1297, codified as amended at 112 U.S.C. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf)

¹³ John Allen Gay, "Iran Loses the Economic Battle," *The National Interest*, October 4, 2012. (<http://nationalinterest.org/commentary/iran-loses-its-economic-battle-7552>)

imported Iranian crude to reduce their purchases.¹⁴ In the Iran Threat Reduction and Syria Human Rights Act of 2012, Congress improved the effectiveness of the CBI sanctions by requiring that money used to buy Iranian oil had to be deposited into escrow accounts inside the purchaser's country – held in local currency and only used for Iran to buy goods from that purchasing country.¹⁵

Two other Congressional initiatives in 2012 accelerated Iran's financial crisis. In February, the Senate Banking Committee passed an amendment authorizing the president to impose sanctions on the Brussels-based SWIFT secure financial messaging service if it did not disconnect the Central Bank of Iran and all other designated Iranian banks.¹⁶ By March, at SWIFT's urging, the European Union ordered the cooperative to comply.¹⁷ Removing Iran's banks from SWIFT meant that rogue actors could no longer use the system to quietly evade U.S. sanctions. It closed a gaping loophole in the financial sanctions architecture.

In December 2012, the Senate passed an amendment to the Fiscal Year 2013 National Defense Authorization Act¹⁸ – the Iran Freedom and Counter-Proliferation Act – which closed additional loopholes and increased our sanctions pressure to near-maximum levels. The law prohibited the provision of precious metals to Iran – directly confronting the Turkish-Iranian gold trade – and blacklisted the energy, shipping, shipbuilding, and port sectors of Iran. It threatened insurers and banks with sanctions if they conducted business with any of those sectors or with entities on Treasury's Specially Designated Nationals list.

As both President Obama¹⁹ and Secretary Kerry²⁰ acknowledged, these crippling sanctions brought Iran to the negotiating table seeking relief. By 2013, Iran was facing an imminent balance-of-payments crisis.²¹ The regime needed a deal before it faced a financial collapse and internal unrest – so it invented the myth of a new “moderate” Iranian president capable of changing Iran's behavior. The Obama administration embraced the narrative and jumped into negotiations.

From a negotiating perspective, securing a nuclear deal that would prevent Iran from ever having the capability to build a nuclear weapon was doomed from the start. Rather than keeping maximum pressure in place during negotiations to extract maximum concessions from the Iranian regime, the Obama administration provided up-front sanctions relief under the interim Joint Plan of

¹⁴ U.S. Energy Information Administration, “Under sanctions, Iran's crude oil exports have nearly halved in three years,” June 24, 2015. (<https://www.eia.gov/todayinenergy/detail.php?id=21792>)

¹⁵ Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. 112-158, 126 Stat. 1213, codified as amended at 112 U.S.C. (https://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf)

¹⁶ Rick Gladstone, “Senate Panel Approves Potentially Toughest Penalty Yet Against Iran's Wallet,” *The New York Times*, February 2, 2012. (https://www.nytimes.com/2012/02/03/world/middleeast/tough-iran-penalty-clears-senate-banking-panel.html?_r=3&ref=world&)

¹⁷ “Payments system SWIFT to cut off Iranian banks,” *Reuters*, March 15, 2012. (<https://uk.reuters.com/article/uk-eu-iran-sanctions/payments-system-swift-to-cut-off-iranian-banks-idUKBRE82E0VU20120315>)

¹⁸ National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239, 126 Stat. 1631, codified as amended at 112 U.S.C. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112_239.pdf)

¹⁹ Jordan Fabian, “Obama: Sanctions were only way to bring Iran to table,” *The Hill*, August 10, 2015. (<http://thehill.com/policy/international/250723-obama-sanctions-were-only-way-to-bring-iran-to-table>)

²⁰ CNN, “Kerry: Sanctions Brought Iran to the Table,” *YouTube*, July 14, 2015. (<https://www.youtube.com/watch?v=O2xvjd7N5bg>)

²¹ “Highlights from Foreign Policy Podcast Interview: “The Future of the Iran Deal” – Part 1,” *MarkDubowitz.Org*, March 29, 2018. (<https://markdubowitz.org/2018/03/foreign-policy-iran-nuclear-deal-1/>)

Action.²² When a group of bipartisan Senators came forward with legislation to support the negotiations²³ – by establishing prospective sanctions if the Iranians refused to meet key benchmarks in a final agreement – the White House unleashed a firestorm of attacks aimed at quashing legitimate dissent about the deal.²⁴ By spring 2014, one thing was clear: Obama and Kerry were willing to accept any deal, even one whose terms did not prevent Iran from preserving and enhancing its nuclear capabilities.

The final deal did not include basic requirements to prevent Iran from ever acquiring a nuclear weapon.²⁵ Longstanding international and Congressional demands that Iran halt all uranium enrichment were abandoned while longstanding demands that Iran halt its development of ballistic missiles and sponsorship of terrorism were left unaddressed. Iran was given the right to enrich uranium on its own soil, keep its nuclear infrastructure largely intact, and keep its missile program moving forward. The deal did nothing to stop Iran from sponsoring terrorism or expanding its presence throughout the Middle East. The narrow restrictions put on Iran's nuclear program were reversible and, in many cases, temporary.²⁶ In exchange, the United States suspended all the tough sanctions Congress had enacted between 2010 and 2012 – even though the sanctions had been enacted to address issues beyond just Iran's nuclear program.

The deal, as critics had predicted, did not advance the national security goals we set out to achieve with the deal. Iran's development of nuclear-capable ballistic missiles continued unabated, with at least 23 tests following the JCPOA's establishment.²⁷ In testimony before this subcommittee, David Albright from the Institute for Science and International Security pointed to a series of Iranian compliance issues that were never addressed by the International Atomic Energy Agency or the Joint Commission – issues relating to heavy water, suspicious procurement, research and development of advanced centrifuges, denial of access to research and military sites, and the inability to verify Section T of the JCPOA with respect to nuclear weaponization activities.²⁸ All along, as we learned from the recent Israeli intelligence bonanza, Iran was hiding a secret nuclear

²² U.S. Department of the Treasury and U.S. Department of State, “Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action Reached on November 24, 2013, Between the P5+1 and the Islamic Republic of Iran,” January 20, 2014. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance.pdf)

²³ Nuclear Weapon Free Iran Act of 2013, S. 1881, 113th Congress (2013). (<https://www.congress.gov/bill/113th-congress/senate-bill/1881/cosponsors>)

²⁴ Ryan Grim, “White House Dares Democratic Senators Pushing Iran Sanctions to Admit They Want War,” *The Huffington Post*, January 9, 2014. (https://www.huffingtonpost.com/2014/01/09/white-house-iran-war_n_4572003.html)

²⁵ Joint Comprehensive Plan of Action, Vienna, July 14, 2015. (<https://www.state.gov/documents/organization/245317.pdf>)

²⁶ Mark Dubowitz, “Assessing the Iran Deal,” *Testimony before the House Oversight and Government Reform Committee*, April 5, 2017. (http://www.defenddemocracy.org/content/uploads/documents/40517_MD_Testimony.pdf)

²⁷ Behnam Ben Taleblu, “Iranian Ballistic Missile Tests Since the Nuclear Deal – 2.0,” *Foundation for Defense of Democracies*, January 25, 2018. (<http://www.defenddemocracy.org/content/uploads/documents/IranBallisticMissileResearchMemo.pdf>)

²⁸ David Albright, “Assessing the Iran Deal: Examining Iranian Non-Compliance with the Joint Comprehensive Plan of Action and United Nations Security Council Resolution 2231,” *Testimony before the House Oversight and Government Reform Committee*, April 5, 2017. (<https://oversight.house.gov/wp-content/uploads/2017/04/Albright-Statement-Iran-Violations-4-5.pdf>)

weapons archive.²⁹ Iran had misled the IAEA with respect to the military dimensions of its nuclear program – a violation of the JCPOA in and of itself – and was preserving the knowledge necessary to restart a nuclear weapons program.

Meanwhile, as Iran’s missile program accelerated and its nuclear weapons program was on standby, America was effectively hand-cuffed from using economic coercion to respond as Iran established weapons factories in Syria,³⁰ shipped ballistic missiles to Yemen,³¹ and spent roughly \$15 billion a year to prop up Bashar al-Assad.³² In Syria, Iran established a base from which to attack Israel on its northern border. We saw the first hint of their increased capability earlier this year when an Iranian UAV flew into Israeli airspace.

The era of the JCPOA was essentially an era of American détente with Iran. The deal fundamentally changed America’s strategic approach to Iran in the Middle East. The Drug Enforcement Agency, for example, was reportedly pressured to back off pursuing key Hezbollah-related investigations.³³ Even recently under President Trump – before the decision to withdraw from the JCPOA – the Defense Department insisted that countering Iranian influence in Syria was not its mission.³⁴ Just as the Soviets used the cover of détente to expand their global reach and cheat on agreements with the West, so too Iran used the cover of the JCPOA to establish its so-called Shiite Crescent stretching from Yemen all the way to the Lebanese coast.

Most damningly – and truly the demonstration of the deal’s fatal flaw – despite being told by the Obama administration repeatedly that the JCPOA would not prevent the United States from imposing sanctions on Iran for non-nuclear reasons, not a single entity listed in Annex II of the JCPOA – that is, the annex outlining the U.S. sanctions relief – was ever designated for terrorism, missiles, or human rights abuses during the entirety of America’s participation in the deal. When entities were found to be involved in these illicit activities, the U.S. refrained from taking action. Sure, we designated other entities of lesser importance to the regime. But nothing happened to the banks we knew were financing the Quds Force, providing lines of credit to Assad, or supporting other illicit activities. Nothing happened to the supreme leader’s business empire despite his ongoing abuse of human rights. Why? For fear that Iran – with Europe’s echo – would cry foul and leave the deal.

This status quo was unsustainable. With increasing concerns over Iranian precision-guided munitions in Syria and Lebanon, Iranian bases expanding in Syria, and Iranian ballistic missiles

²⁹ Elliott McLaughlin, “Netanyahu says he has proof of secret Iranian nuclear program,” *CNN*, May 1, 2018. (<https://www.cnn.com/2018/04/30/middleeast/netanyahu-iran-nuclear-program/index.html>)

³⁰ Isabel Kershner, “Iran Building Weapons Factories in Lebanon and Syria, Israel Says,” *The New York Times*, August 29, 2017. (<https://www.nytimes.com/2017/08/29/world/middleeast/iran-missiles-lebanon-israel-.html>)

³¹ Callum Paton, “Iran’s Secret Missile Shipments in Yemen Confirmed by U.N.,” *Newsweek*, January 16, 2018. (<http://www.newsweek.com/irans-secret-missile-shipments-yemen-confirmed-un-tensions-us-782236>)

³² David Adesnik, “Iran Spends \$16 Billion Annually to Support Terrorists and Rogue Regimes,” *Foundation for Defense of Democracies*, January 10, 2018. (<http://www.defenddemocracy.org/media-hit/david-adesnik-iran-spends-16-billion-annually-to-support-terrorists-and-rogue-regimes/>)

³³ Josh Meyer, “The secret backstory of how Obama let Hezbollah off the hook,” *Politico*, December 18, 2017. (<https://www.politico.com/interactives/2017/obama-hezbollah-drug-trafficking-investigation/>)

³⁴ Rebecca Kheel, “Top general: Countering Iran in Syria not a US military mission,” *The Hill*, February 27, 2018. (<http://thehill.com/policy/defense/375789-top-general-countering-iran-in-syria-not-a-us-military-mission>)

raining down on Saudi Arabia, the United States could no longer stay inside a deal that handcuffed its ability to respond. President Trump's decision was indeed justified and necessary.

What Do We Do Now?

Just as President Reagan reversed American policy toward the Soviet Union – turning from détente to rollback – we too must now turn from the era of the JCPOA to a comprehensive rollback of Iran's malign activities. That requires three primary lines of effort: political and ideological warfare; maximum economic and financial warfare; and military activities, both overt and covert, that remove Iranian forces from Syria and Yemen and demonstrate a willingness to use military force if the regime decides to race toward a nuclear weapon.

This is a maximum pressure strategy, which requires a broad interagency effort – tightly coordinated by a senior official at the National Security Council or an agency empowered by the president to take the lead. In his recent Heritage Foundation address, Secretary Pompeo helped the U.S. and, indeed, the world understand the goal of this effort: force the Iranian regime to choose between fundamental behavior changes or certain collapse from within.

The secretary laid out 12 conditions for any future arrangement where the United States pulls back on its maximum pressure strategy. As he pointed out, these 12 issues are the bare minimum of what we could consider to be a normal country in the community of nations – one that does not sponsor terrorism, seek to threaten its neighbors, or enable grave crimes against humanity. If Iran's leaders want normalization of trade and diplomatic relations, they must first normalize their own behavior.

Without a doubt, this strategy requires a no-holds-barred, pedal-to-the-metal approach to succeed. The Trump administration will have its hands full with the diplomacy and enforcement that comes with a maximum sanctions approach – particularly in Europe, Asia, and the Gulf. The complexities involved in rolling back Iran's presence in Syria will require careful planning by our military leaders in close coordination with our allies. New personnel, programs, and instruments of strategic communications may be needed to fully execute a political warfare strategy of a Cold War-style scale.

But Congress, as it always has, can and should play a critical role. Historically, the issue of Iran was never a partisan issue. The hyper-partisanship surrounding American policy toward Iran is a phenomenon that emerged in early 2014 and later spiraled out of control in the run-up to, and aftermath of, the 2016 presidential election. Whether you agreed with the president's decision to exit the JCPOA or not, Congress should find a way to return to its long-standing bipartisan commitment to stop Iran's pursuit of nuclear weapons, end the regime's sponsorship of terrorism, stand with Iranian dissidents and persecuted minorities, and defend our allies from Iranian terrorism, weapons, and aggression.

These are a few initial recommendations:

Recommendation #1: Establish regular briefing schedules for members and staff by senior administration officials to ensure Congress fully exercises its sanctions enforcement oversight responsibilities and uses its existing authorities to maximum effect. This should include:

- 1) Regular briefings by State Department officials to ensure countries receiving “exceptions” under FY 12 NDAA Sec. 1245 have actually “significantly reduced” their imports of Iranian oil to an extent that should merit an exception from sanctions being granted. These briefings should also include key Treasury Department officials to ensure such importing countries are complying with the escrow account requirements under that Act (i.e. requirements that countries importing Iranian oil deposit their payments in a locally held escrow account so that Iran can only use the money to buy goods from that country using the local currency).
- 2) Regular briefings by Treasury Department officials related to all other sanctions enforcement issues, providing members and staff an opportunity to raise questions about open-source reporting on alleged sanctions violators. While I have full confidence Treasury officials will be doing their utmost to hold any would-be sanctions evaders accountable, Congress has played an imported role for many years in holding both Republican and Democratic administrations accountable for enforcement.
- 3) Regular briefings by Commerce Department officials related to the enforcement of export control laws, providing members and staff an opportunity to raise questions about open-source reporting on alleged violations.
- 4) Regular briefings by Treasury Department officials to review potential sanctions targets, including companies owned or controlled by the IRGC and Iran’s defense industry (which represent 20 percent of the total market capitalization of the Tehran Stock Exchange) and the supreme leader’s \$200-billion business conglomerate, including EIKO and the *bonyads* (charitable trusts) where the mullahs store their money.

Recommendation #2: A critical element of a maximum pressure strategy that closes all loopholes that the regime might exploit is disconnecting the Central Bank of Iran and all other re-designated Iranian financial institutions from the SWIFT financial messaging service. While SWIFT, a Brussels-based cooperative, claims it is “only the messenger,” we know that, in the modern-age, transactions get done by moving ones and zeros. That is where SWIFT plays a role in facilitating illicit transactions despite the imposition of sanctions targeting financial transactions. SWIFT’s own corporate rules state clearly that users can be suspended if they “demonstrate a conduct which is not in line with generally accepted business conduct principles.” One would think financing the Quds Force, among other illicit activities, would offer such a demonstration. As the United States re-imposes all of its sanctions by November, Congress should do everything possible to ensure SWIFT disconnects from the Central Bank of Iran and all other re-designated Iranian financial institutions. Pressing SWIFT to take these merited actions could include:

- 1) Urging the president to use his authority under Section 220 of the Iran Threat Reduction and Syria Human Rights Act of 2012 to impose sanctions on board members of SWIFT if

the cooperative does not disconnect all designated Iranian banks, including the Central Bank of Iran, by November 4, 2018. Board members of SWIFT are financial institutions represented by individuals – both the companies and people should be subject to sanctions.

- 2) Changing Section 220(c)(1) from permissive to mandatory – substituting “shall” for “may” where appropriate.
- 3) Asking the board members of SWIFT to appear before committees of oversight to state whether or not they will comply with U.S. sanctions law. Ensure they fully understand the financial consequences – both personally and for the corporation – if they are found to be knowingly providing specialized financial messaging services to the Central Bank of Iran and other re-designated Iranian financial institutions.

Recommendation #3: Expand congressional sanctions against Iran to include:

- 1) Enacting H.R. 5132, the Iranian Revolutionary Guard Corps Economic Exclusion Act, which would significantly expand U.S. sanctions to target companies in which the IRGC owns at least a 33-percent share. Our sanctions should target the IRGC wherever it operates.
- 2) Reconciling H.R. 3329, the Hezbollah International Financing Prevention Amendments Act of 2017, with its Senate counterpart, S. 1595. By adopting the broadest language possible, Congress can help cut off Hezbollah from the international financial system, while helping the administration crack down on the group’s fundraising, recruitment, narcotics trafficking, and other transnational criminal activities.
- 3) Expanding the sectoral sanctions in the Iran Freedom and Counter-Proliferation Act to include Iran’s mining, engineering, and construction sectors – and any other sector the president determines is of strategic importance to the regime. This idea was included in bipartisan Senate legislation introduced prior to the JCPOA’s establishment.

Recommendation #4: Establish key goals for the Department of State, Department of the Treasury, and Broadcasting Board of Governors, and then provide adequate resources to achieve those goals:

- 1) The Treasury Department should be asked to conduct a maximum enforcement campaign, investing time and people into investigations, travel, and coordination of enforcement actions. This will undoubtedly require additional staffing. Between Iran and North Korea alone, Treasury’s sanctions enforcers are already stretched thin. The Department should be asked for a realistic estimate of additional staff it might need to hire to sustain long-term maximum pressure campaigns – and the necessary funds should be appropriated.
- 2) The Department of State should be asked to conduct robust daily political and ideological warfare against the Islamic Republic, design strategies to expand access to information and

secure communication for the Iranian people, and support Iranian dissidents and persecuted minorities. Funds provided by Congress to Near East Regional Democracy (which should be once again called the Iran Democracy program) should be used to support this effort, including the cost of staff, technology, travel, and programming.

- 3) The Voice of America Persian service and Radio Farda should be asked to expand their coverage to prioritize:
 - a. Fact-checking statements made by Iranian officials, including Foreign Minister Javad Zarif, and providing the Iranian people with information they can use to counter Iranian propaganda;
 - b. Reporting on Iran's illicit activities outside its borders, including Syria and Yemen, and the amount of money these efforts are costing the Iranian people;
 - c. Reporting on corruption inside the Iranian government and Revolutionary Guard Corps;
 - d. Reporting on the hypocrisy of Iranian officials who preach hatred against America and the West but send their families abroad for school, vacations, or long-term living;
 - e. Reporting on political prisoners and prisoners of conscience, including interviews with their families; and
 - f. Reporting on pro-U.S., anti-regime figures inside Iran rather than anti-U.S. so-called reformists tied to the Islamic Republic.

Other recommendations put forward recently by the American Foreign Policy Council should be implemented as well.³⁵ Recent news that Voice of America will begin a new 24/7 Farsi-language channel is encouraging, but continuous oversight of content and market competitiveness will be necessary.

Recommendation #5: Establish U.S. policy and then hold senior officials accountable to a political and military strategy – closely coordinated with our allies – that rolls back Iran throughout the Middle East.

- 1) Establish that it is the policy of the United States to achieve an end-state in Syria that is free of IRGC forces, bases, weapons, missile production facilities, and free of Iranian-sponsored Shiite militias. That will demand close intelligence and operational coordination with Israel and clear messages describing U.S. policy delivered to Moscow.
- 2) Congress should continue its longstanding support for U.S.-Israel missile defense cooperation, particularly as we could see an escalation on Israel's northern border. The U.S. and Israel should look to new and innovative ways to combat salvos of precision-guided missiles and increase our bilateral cooperation in cyber warfare activities.

³⁵ "U.S. Persian Media Study – Final Synthesis Report," *American Foreign Policy Council*, October 6, 2017. (https://www.bbg.gov/wp-content/media/2011/11/AFPC_Persian-Language-Broadcasting-Study_synthesis-report.pdf)

- 3) Our military strategy in Syria cannot be decoupled from our policies toward Lebanon and Iraq. The border between Syria and Lebanon cannot remain porous – nor can U.S. policy allow further Iranian transfers of advanced weapons or precision-guided munition conversion kits to Lebanon from Syria. Congress should consider tying future assistance to the Lebanese Armed Forces to full-faith enforcement of United Nations Security Council Resolution 1701, including interdictions of weapons transfers coming across the border from Syria. A continued U.S. presence along the Iraq-Syria border will remain critical until the IRGC and Iran-backed militias withdraw from Syria and a reliable Iraqi border force is established.
- 4) Bahrain is home to the U.S. Navy's Central Command and is at the forefront of the movement to normalize Arab-Israeli relations. We cannot allow Iran to destabilize the Bahraini government. Congress should encourage the Defense Department to work with GCC partners and other allied forces to target Iranian arms smuggling into Bahrain, while strengthening U.S.-Bahraini counterintelligence cooperation.
- 5) With on-the-ground training and provision of weapons and ballistic missiles, Iran is slowly turning the Yemeni Houthis into Yemeni Hezbollah. This not only poses a threat to Saudi Arabia and the UAE, it also threatens military and commercial vessels in the Red Sea. The Defense Department should consider providing 24/7 ISR coverage for Saudi forces targeting IRGC personnel and weapons. We should also target Iran's supply routes in the Gulf of Oman and overland through Oman.

Conclusion

These recommendations are by no means exhaustive, but they are important steps Congress could take to help increase the pressure on Iran, hold the administration accountable, and ensure the administration's strategy succeeds. On behalf of the Foundation for Defense of Democracies, I thank you again for inviting me to testify and I look forward to addressing your questions.