



Statement before the House Committee on Foreign Affairs

Subcommittee on the Middle East and North Africa

“Iran’s Noncompliance with its International Atomic Energy
Agency Obligations”

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*The views expressed in this testimony are those of the author alone and do not necessarily represent those of the
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Madam Chairman, Honorable Members. Thank you for the opportunity to testify on an issue so important to U.S. national security.

Overshadowing this hearing is the Obama administration's diplomacy with Iran and its desire, as Secretary of State John Kerry recently voiced, to have "the benefit of doubt" as the State Department nears its self-imposed deadline to reach a nuclear deal. Concerns loom, however, because as the outlines of a potential agreement take shape, it is clear that the proposals discussed by American and Iranian diplomats fail to resolve basic concerns with regard to Iranian non-compliance with its International Atomic Energy Agency (IAEA) obligations.

Why Iran Can't Be Given "Benefit of the Doubt"

The root of international suspicion with regard to Iran's nuclear ambitions rests on four problems, two of which directly involve non-compliance with the IAEA.

- The first is that Iranian authorities justify their nuclear program as a desire to have indigenous energy security. They can mine uranium inside Iran, enrich it to fuel grade, and then utilize it to operate the eight nuclear reactors they say they wish to build. The problem with this is that they possess only enough indigenous uranium to fuel eight reactors for perhaps 15 years, but for one-third the price, they could upgrade their refinery and pipeline network and fuel their country for more than a century without looking abroad.¹ Clearly, energy security is not their intention.
- The second problem is that while analysts and officials can debate the direction of Iran's current nuclear ambitions, what they cannot dispute is that Iran previously engaged in work which had only military applications—for example, experimenting with nuclear bomb triggers.² While the Obama administration pushes its diplomacy on the logic that Iranian President Hassan Rouhani is a reformer, a Deng Xiaoping figure within the Iranian hierarchy, it's important to remember that Iran's bomb work occurred previously under a reformist administration and against the backdrop of the so-called "Dialogue of Civilizations." Either the reformists were insincere, or they simply had no power over Iran's nuclear decision-making. Regardless, the problem starts at the top. White House officials cite Supreme Leader Ali Khamenei's supposed *fatwa* banning nuclear weapons as a sign of his sincerity, but Khamenei's official collection of *fatwas* does not include any such declaration. Meanwhile, numerous Iranian officials have threatened to use nuclear weapons, including several Khamenei appointees and confidantes.³
- The third problem is that, unlike with Iraq—where classified intelligence and defector accounts drove intelligence assessments—suspicions with regard to Iran's nuclear program stem from more than a decade of obfuscations and outright lies exposed during IAEA

¹ Pacific Northwest Center for Global Security, "Alternative Energy Economics for Iran: Options, Definitions and Evaluation," citing *Uranium 2003 Resources, Production and Demand*, NEA No. 5291, OECD 2004.

² David E. Sanger and William J. Broad, "Watchdog Finds Evidence that Iran Worked on Nuclear Triggers," *The New York Times*, May 24, 2011.

³ For specific instances from Persian sources, see Michael Rubin, "Can Iran be Trusted?" AEI Middle Eastern Outlook, September 2006.

inspections. A careful read of IAEA reports shows a persistent pattern of Iranian officials misleading, obstructing, or outright lying to the IAEA.

- And, the fourth is Iran's refusal to ratify the Additional Protocol. Iran deserves no special rewards for its ratification. By signing the Additional Protocol, it has already received increased access to nuclear technology. By persistently avoiding inspections which kick in after ratification, it suggests its program is not entirely civilian in nature. After all, an above-board, civilian program need not fear inspections, let alone build covert or underground enrichment facilities. At present, Iran only provides the IAEA with carefully managed visits.⁴

It has now been nearly a decade since the International Atomic Energy Agency (IAEA)'s Board of Governors formally found the Islamic Republic of Iran in non-compliance with its Nuclear Non-Proliferation Treaty safe-guards agreement.⁵ The reason for the IAEA's finding was, in its words, years of Tehran's "fail[ure] to make important declarations over an extended period of time and in pursuing a policy of concealment up to October 2003;" "continu[ed] gaps in the Agency's understanding of proliferation sensitive aspects of Iran's nuclear programme;" and Iran's "fail[ure]...to re-establish full suspension of all enrichment-related activities." The IAEA also noted that "the Agency is still not in a position to conclude that there are no undeclared nuclear materials or activities in Iran."

Not much has changed. The unfortunate reality is that the same concerns which led to the initial designation of non-compliance remain true today. On March 2, 2015, for example, IAEA head Yukiya Amano implied that Iranian authorities had yet to answer IAEA inquiries. "We have asked questions and the questions are clear, so they can answer," he said.⁶ "Iran has yet to provide explanations that enable the agency to clarify two outstanding practical measures," he added.⁷ Diplomatic efforts now appear more geared to papering over such non-compliance than resolving it.

There may be more problems to come. In late December 2014, Asghar Zarean, deputy head of the Atomic Energy Organization of Iran, said that Iran would announce advances in laser enrichment on April 9, 2015, Iran's National Nuclear Technology Day in Iran.⁸ While Tehran claims that their nuclear laser industry is for medical purposes, the same technology also makes it easier for Iran to secretly build nuclear weapons if the Iranian leadership so chose. Regardless, the development of laser enrichment against the backdrop of ongoing diplomacy contradicts White House claims that Iran has suspended most nuclear work.

The Problem of Possible Military Dimensions

Overlaying Western concerns are the possible military dimensions of the Iranian nuclear program. There is much reason for concern given Iran's pattern of dishonesty and deception. In 2003, the IAEA challenged Tehran to explain the presence of uranium metal in its nuclear fuel cycle, since "neither its

⁴ "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran," IAEA Board of Governors, November 7, 2014, GOV/2014/58.

⁵ "Implementation of the IAEA Safeguards Agreement in the Islamic Republic of Iran," IAEA Board of Governors, September 24, 2005, GOV/2005/77.

⁶ "IAEA head says cannot say when investigation into Iran's nuclear work will end," Reuters, March 2, 2015.

⁷ "IAEA says Iran still withholding key information." Reuters, March 2, 2015.

⁸ "Iran to Unveil New N. Achievements in April," Fars News (Tehran), January 10, 2015.

light water reactors nor its planned heavy water reactors require uranium metal for fuel.”⁹ Iran was also in possession of instructions for “casting and machining of enriched and depleted uranium metal into hemispheres.”¹⁰ This, of course, could be a central component of a bomb.

The IAEA also has sought clarification on experiments Iran conducted with regard to separation of plutonium during the period when Hassan Rouhani was secretary of the Iran’s Supreme National Security Council. The IAEA, however, found inconsistencies between its data and analysis and Iranian explanations.¹¹ This has become especially important given uncertainties regarding the Arak heavy water reactor which can produce plutonium as a byproduct. Despite the Joint Plan of Action and contrary to Obama administration declarations that Iran has frozen its program, the IAEA continues to find Iran in contravention of IAEA Board of Governors and Security Council resolutions relating to heavy water work.¹²

In 2011, the IAEA provided an annex listing concerns regarding possible military dimensions to Iran’s nuclear program.¹³ These were numerous, and involved illicit efforts to acquire nuclear material, extraordinary efforts to conceal enrichment from the IAEA, Iran’s work on components for an explosive device, Iran’s interest in the use of high explosives used to initiate a nuclear detonation, firing systems, modelling work, and integration into a missile delivery vehicle. As of November 2014, the IAEA reported Iran’s continued refusal to address its concerns regarding possible military dimensions.¹⁴

Clearly, it is in the national and international interest to resolve concerns regarding possible military dimensions to Iran’s program. Unfortunately, the sunset clause strategy which the Obama administration is now pursuing in negotiations may make this impossible. In order to verify the completeness of South Africa’s declaration of inventory of nuclear material and facilities, the IAEA went back more than two decades into South Africa’s nuclear program.¹⁵ The Islamic Republic of Iran refuses to provide a similar baseline, making IAEA verification impossible. Indeed, it appears the White House is sacrificing the IAEA’s ability to do its job in order to win an unverifiable and incomplete deal.

Was North Korea a “Teachable Moment?”

There is an unfortunate pattern I detail in my recent book, *Dancing with the Devil: The Perils of Engaging Rogue Regimes*. Once high-level diplomatic processes start, the White House and State Department are loathe to see them end. Second term presidencies only exacerbate the problem as political

⁹ “Implementation of the NPR safeguards agreement in the Islamic Republic of Iran,” IAEA Board of Governors, June 6, 2003, GOV/2003/40.

¹⁰ “Implementation of the NPR safeguards agreement in the Islamic Republic of Iran,” IAEA Board of Governors, June 6, 2003, GOV/2003/40.

¹¹ “Implementation of the NPR safeguards agreement in the Islamic Republic of Iran,” IAEA Board of Governors, April 28, 2006, GOV/2006/27.

¹² “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran,” IAEA Board of Governors, November 7, 2014, GOV/2014/58.

¹³ “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran,” IAEA Board of Governors, November 8, 2011, GOV/2011/65.

¹⁴ “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran,” IAEA Board of Governors, November 7, 2014, GOV/2014/58.

¹⁵ Adolf von Baeckmann, Garry Dillon, and Demetrius Perricos, “Nuclear Verification in South Africa,” *IAEA Bulletin*, January 1995.

considerations and quest for legacy sometimes trump prudence. The security concerns which sparked the initial diplomacy become subordinate to the desire to keep opponents at the table. Signing a deal becomes more important than the substance of that deal.

A case in point is the Agreed Framework with North Korea which this past October marked its 20th anniversary. Barely a month into the Clinton presidency, the North Korean regime stopped IAEA inspections and soon after announced its impending withdraw from the Nuclear Non-Proliferation Treaty. Unwilling to take any path that could lead to military action, Clinton's team sought to talk Pyongyang down from its nuclear defiance. Clinton's very willingness to negotiate North Korea's nuclear compliance was a concession, however, since the 1953 armistice agreement demanded that Pyongyang reveal all military facilities and, in case of dispute, enable the Military Armistice Commission to determine the purpose of suspect facilities. By making weaker nonproliferation frameworks the new baseline, Clinton let North Korea off the hook before talks even began. It's a model that Obama repeated with Iran. After all, six unanimous or nearly unanimous UN Security Council Resolutions demanded a complete cessation of Iranian enrichment, a requirement which Obama waived to get Iran to the table.

Just as it does today with Iran, however, the IAEA held firmer to the demands for North Korean compliance than did American negotiators who feared too strict a verification and inspection regimen might undercut the possibility of a deal. The issue came to a head in September 1993 after the State Department pressured the IAEA to compromise on limited inspections. The IAEA let alone the United Nations Security Council have been clear with respect to Iran's obligations, but the Obama administration has allowed Iran a path to noncompliance for the sake of keeping diplomacy alive. Not surprisingly, given an inch, Tehran took a mile.

The North Korea example remains relevant today for two other reasons:

- First, even if the idea behind the North Korea formula had been solid, in hindsight it is clear that the Agreed Framework failed to prevent North Korea's nuclear breakout.
- Second, the Iranian leadership looks at North Korea's nuclear program as a model to emulate rather than an example to condemn. In 2005, the Iranian nuclear negotiator Hossein Mousavian, who remains a persistent voice of praise for the current process, bragged about the earlier round of talks under President Mohammad Khatami, "During these two years of negotiations, we managed to make far greater progress than North Korea."¹⁶ Iranian negotiators still win by the same standard. The sunset clause offered by the Obama administration to remove enrichment limitations on Iran after a decade afford the Islamic Republic a path to the bomb two years quicker than North Korea achieved.

Is a Bad Deal Better Than No Deal?

There is no doubt that the United States can reach a deal with the Islamic Republic of Iran if the Obama administration continues to abandon its own redlines but adhere to respect Supreme Leader Ali Khamenei's. Rewarding intransigence never brings compromise; it only encourages continued Iranian non-compliance with its obligations to the IAEA. Nor, after years of cheating, does limiting inspections to the IAEA regimen make sense: The IAEA is only able by its own bylaws to inspect

¹⁶ Victor Davis Hanson, "Should we fix Gaza, Iran and N. Korea?" *Chicago Tribune*, August 19, 2005.

declared nuclear sites. This is why the IAEA Board of Governors have been quite precise only saying that Iran has not enriched uranium hexafluoride above 5 percent in any of its declared facilities since the Joint Plan of Action took effect.¹⁷ The Islamic Republic has a long history of maintain clandestine sites spanning from Natanz to Fordo and now, according to recent revelations, to Lavizan-3. Even if the international community saw truckloads of highly enriched uranium or plutonium entering or exiting an undeclared site, the IAEA would not be able to inspect it should Iran refuse to declare it as a nuclear facility.

Shortly before stepping down as secretary of Iran's Supreme National Security Council, Hassan Rouhani gave a speech at Ferdowsi University in Mashhad, in which he reviewed his strategy as Iran's nuclear negotiator as well as U.S.-Iran relations. "What we were able to do was to make the opposite of whatever America predicted occur," he declared. He crowed triumphant: "What the Islamic Republic of Iran has done in this period has been a great and complex task. Iran was alone and no one supported it. Despite all this we were able to show this power of maneuvering to the world and with divine grace and power we will continue the rest of the way..." Lest anyone question what he meant, he explained, "The basis of the discussion is that a nation that has the power to prepare nuclear power plant fuel also has the power to produce an atomic bomb."¹⁸ Who could have ever expected that over the course of an 18-month diplomatic process, more than a decade of Iranian non-compliance with the IAEA would be waived, and Tehran would be handed the path to, in Rouhani's words, "the power to produce an atomic bomb."

¹⁷ "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran," IAEA Board of Governors, November 7, 2014, GOV/2014/58.

¹⁸ Hassan Rouhani, "Iran's Measures Rob the Americans of Foresight," as published in *Rabbord* (Tehran) [the journal of the Expediency Council's Center for Strategic Studies], Spring 2005.