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Examining Nuclear Negotiations: Iran After Rouhani's First 100 Days

Mr. Chairman, Ranking Member Engel, Members of the Committee, it's always an honor to appear before the House Foreign Affairs Committee. Thank you for including me.

You asked your witnesses today to address several specific questions and make suggestions regarding future steps.

As we assess the current negotiations with Iran over its illicit nuclear weapons program and measure the efficacy of our sanctions, our overall Iran policy, and the quality of our negotiations themselves, a few things become clear. From the 35,000 foot perspective, looking at more than just Iran, we see that despite the vast economic, military, and in most cases political superiority of our nation vis-a-vis our adversaries, we have rarely achieved anything of note in negotiations over nuclear weapons programs without some *deus ex machina*. Consider U.S. efforts over the years with the North Korean, Pakistani, Indian governments over their nuclear programs. While in no way equating the nature of these governments, one consistent theme emerges: Despite assiduous efforts to roll back, eliminate, neutralize or otherwise alter the trajectory of each country's program, we failed in almost every case, bar one, and that is Libya, where Qadhafi's assumption we would use force caused him to relinquish most (though not all) of his nuclear program. Indeed, only where governments have fallen or systems have changed (as with the collapse of the USSR, or the end of apartheid) have countries negotiated away advances to their nuclear programs. This lesson should guide any assessment of efforts regarding Iran.

We have also been fortunate in the nature of our adversaries. For decades, the world has been willing to cut Iran a break, overlook its steady advance toward a nuclear breakout capacity and brush aside its increasingly sophisticated missile programs. Only because the Islamic Republic has been so brazen, only because of its singularly incompetent leadership, only because of its catastrophic economic mismanagement have sanctions actually begun to bite. The Islamic Republic has pursued a regional policy that has alienated and terrorized its neighbors, wielded a brutal and heavy hand in Iraq and in Syria, interfered wantonly both at sea and on land in the affairs of Gulf states and otherwise made itself no friends. It has done so to advance a Persian vision of regional hegemony most – and I wish I could include the United States in this – find anathema.

In addition, successive presidents of the United States have consistently underused the authorities granted to them in law, both through IEEPA and a series of Iran and proliferation oriented pieces of legislation. Enforcement has depended far more on personality than on capacity (here I should mention the pioneering efforts of Stuart Levey at Treasury). Congress too has proven itself far more eager to draft and even pass new legislation rather than hold the administration's feet to the fire in the enforcement of existing laws. I am regularly struck by the willingness of committees of oversight to give a pass to State Department officials unwilling to enforce the letter of the law, and

their lawyers who view sanctions related determinations as optional instructions from the Congress.

Designations and the imposition of sanctions slowed dramatically since the June elections in Iran. Some journalists have suggested this amounts to sanctions relief in and of itself, a gesture from the Obama administration to the incoming Rouhani team. I can't speak to whether this was a deliberate slow down or not, but there is ample evidence that the President is very eager to make a deal with Tehran. This, we should add, is a good thing. Every president should be eager to end the Iranian nuclear weapons program and stifle Tehran's attempts to dominate the Middle East. The question is simply on what terms.

Unfortunately, those terms keep changing. In each new round of negotiations with Iran, the Obama administration has proffered a sweeter set of incentives and fewer demands of Tehran. This gives Iran every reason to play out the clock, advance its program and hope for a better offer next time around.

In April, 2013, the P5+1 negotiating team demanded that Iran:

- *Suspend all enrichment of uranium above 5 percent within Iran.*
- *Suspend all enrichment at the Fordow underground facility and increase monitoring by the International Atomic Energy Agency there, including cameras with real-time encrypted connectivity to agency headquarters in Vienna.*
- *Transfer all collected uranium ore, including ore enriched to 5 percent, to facilities at Natanz or Esfahan and put under IAEA safeguards.*
- *Remove from the Fordow facility any uranium enriched above 5 percent. Take an unspecified amount of uranium enriched to 20 percent and retain it as working stock for the Tehran Research Reactor, which is used for medical purposes.¹*

Previously, the P5+1 and its earlier iteration, the United States and the so-called EU-3, demanded a suspension of all enrichment. Before that, the group demanded no enrichment at all and an end to the conversion of UF₆ into precursors for enrichment. This time, the only suspension demanded is reportedly for six months. There is no demand to transfer enriched fissile material internally within Iran, let alone abroad. It is unclear whether the administration insisted on the shuttering of the heavy water facility at Arak. When I asked an administration official about Parchin, the suspected site of nuclear weaponization activities that Iran has assiduously been cleaning up over the last two years, he responded that Parchin is the IAEA's problem. For a full recounting of the evolving offers to and from Iran, the Arms Control Association has an excellent and specific history.²

¹ http://articles.washingtonpost.com/2013-10-07/world/42795228_1_enrichment-iran-s-economy-fordow

² http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals

Finally, on this question of how Iran will step back from its nuclear weapons programs, we need to consider the strong possibility that Iran has secret nuclear sites. Indeed, the United States has not discovered any covert Iranian nuclear site until it was well advanced, and in most cases revealed by another party. I have not spoken to a single official familiar with the intelligence from the United States or elsewhere who will deny that they suspect Iran is operating one or more covert nuclear sites.

Of course, the administration pats itself on the back that it holds the trump card in its hands: military action. I believe that the Iranians assess the likelihood of American military action under Barack Obama at zero. If they had any doubt about that before President Obama promised to bomb Syria and then backed off, the Syria spectacle has settled the matter. Both American and Israeli red lines for military action have evolved so dramatically over the years that no such statement can be viewed as a deterrent. In 2003, the IAEA demanded that Iran “suspend all further uranium enrichment-related activities, including the further introduction of nuclear material into Natanz...” In 2005, George Bush said, “We cannot allow the Iranians to have the capacity to enrich.” In 2009, Barack Obama said: “[W]e do want to make sure that by the end of this year we've actually seen a serious process move forward, and I think that we can measure whether or not the Iranians are serious.”

Ditto the Israelis: In 2005, Ariel Sharon said that Israel cannot live with an Iran with nuclear technology. In 2011, Ehud Barak said: “[T]he Iranians are gradually, deliberately entering into what I call a zone of immunity [...] I cannot tell you for sure, nor can I predict whether it's two quarters or three quarters. But it's not two or three years.” Last year he warned that no more than one year remains to stop Iran from obtaining nuclear weaponry. Also last year, Benjamin Netanyahu said: “The red line should be drawn right here...Before Iran completes the second stage of nuclear enrichment necessary to make a bomb. Before Iran gets to a point where it's a few months away or a few weeks away from amassing enough enriched uranium to make a nuclear weapon.” Iran has already reached that point according to numerous experts.

Even the United Nations Security Council has laid out its own set of red lines, demanding in no fewer than six binding resolutions that Iran suspend “all enrichment related and reprocessing activities”. Remember that next time the Obama administration accuses anyone of ignoring the will of the international community or flouting international law.

Will additional sanctions persuade the Iranians of the need to end their program? Will strong action from the Congress persuade the administration to demand more of the Iranians? Yes and no. Only the strongest of sanctions have gotten Iran to the table. They have yet to agree to the de minimis demands of the Obama administration, let alone the more stringent ones of the United Nations and IAEA. Only tougher measures will keep them at the table and force genuine negotiations. Regarding the administration, however, we should understand that once given, concessions are hard to withdraw. What new sanctions will do is signal to the world that the United States is

not opening the floodgates to Iran, that this is not the beginning of the end of Iran's isolation, and that even if the administration chooses to use its own latitude to ease sanctions on Iran, Congress will backfill when possible.

One final point; we have spoken today of Iran's nuclear program, though of course Iran also has a growing and sophisticated missile arsenal. In addition, the regime in Tehran is the prime engine of the Assad regime's battlefield successes in Syria, the sole sponsor of Hezbollah, the world's most powerful terrorist group, a sponsor of Hamas, a spoiler in Afghanistan, in Iraq, in Bahrain, in Yemen, and a threat to the Iranian people. On most of those issues, the United States is doing too little. We are imposing few costs on Iran for its behavior at home or abroad, easing the path for Iran to destabilize the Middle East. And while this is not a hearing about terrorism or Syria, our decision not to impose costs on Iran for being one of the most malign regimes operating today means that we have needlessly frittered away leverage that could have offered us additional pressure points in nuclear negotiations.

The Committee also asked about the domestic Iranian environment in which Hassan Rouhani finds himself. My colleague at AEI, Will Fulton, assesses Rouhani as a genuine reformer within the context of the Islamic Republic. He wishes to sustain the system which was put at risk by Mahmoud Ahmadinejad and his friends in the Iranian Revolutionary Guard Corps. Mr. Rouhani is reportedly not on good terms with the IRGC, though he still enjoys the backing of the Supreme Leader. That being said, it is important to understand that Rouhani's remit is to set Iran once again on a stable footing, not to relinquish the nuclear weapons option or reconcile with the neighborhood's Sunni governments. American officials who see themselves as the key to Rouhani's credibility would be better served worrying about their own credibility. Their efforts to micromanage American domestic politics have been unsuccessful; efforts to manage Iran's are certain to fail.

Thank you.