

# United States Senate

WASHINGTON, DC 20510

September 18, 2019

The Honorable Michael R. Pompeo  
Secretary of State  
United States Department of State  
2201 C Street, NW  
Washington, DC 20520

The Honorable Rick Perry  
Secretary of Energy  
United States Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Secretary Pompeo and Secretary Perry,

We write to express our concern regarding Saudi Arabia's stated intention to enrich uranium on its territory. Seeking a nuclear cooperation agreement with Riyadh endangers U.S. national security by rewarding Saudi Arabia's disregard for fundamental human rights and humanitarian standards, especially if done without a Saudi renunciation of uranium enrichment and spent fuel reprocessing on its territory and a commitment to conclude an Additional Protocol with the International Atomic Energy Agency.

According to a September 9, 2019 report by Reuters, Saudi energy minister Prince Abdulaziz bin Salman told an Abu Dhabi audience that his country aims to implement every stage of the nuclear fuel cycle, including the production and enrichment of uranium.<sup>1</sup> Once a country is enriching uranium, it can use this technology to produce weapons-grade fissile material.

In 2018, Saudi Crown Prince Mohammed bin Salman stated publicly that Saudi Arabia would seek to acquire nuclear weapons if Iran were to "develop" a nuclear bomb.<sup>2</sup> Given Iran's recent steps to advance its enrichment program beyond the limits it agreed to in the Joint Comprehensive Plan of Action (JCPOA), Saudi Arabia may already perceive Iran to be "developing" a nuclear weapon.

In light of these statements and developments, it would be highly irresponsible for the Trump administration to seek to reach a civil nuclear cooperation (or so-called "123") agreement that lacks a formal Saudi government commitment to forgo enrichment and reprocessing of nuclear material. The absence of this "gold standard" commitment typically leaves ambiguity about a

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<sup>1</sup> Rania El Gamal and Alexander Cornwell, *Saudi Arabia flags plan to enrich uranium as U.S. seeks nuclear pact*, Reuters (Sep. 9, 2019), <https://www.reuters.com/article/us-energy-wec-saudi-nuclearpower/saudi-arabia-wants-to-enrich-uranium-for-nuclear-power-minister-idUSKCN1VU168>.

<sup>2</sup> Vivian Salama, *Saudi crown prince: If Iran makes a nuclear bomb, so will we*, NBC News (Mar. 19, 2018), <https://www.nbcnews.com/politics/white-house/saudi-crown-prince-if-iran-makes-nuclear-bomb-so-will-n857921>.

state's enrichment intentions. However, Saudi Arabia has already removed that ambiguity. Even worse, Riyadh has already stated that it may pursue nuclear weapons, as noted above. Including the "gold standard" language from the 2009 agreement with the United Arab Emirates is thus especially important in this case.

We are also alarmed by the Deputy Secretary of Energy's recent implication that the administration has the authority to approve civil nuclear cooperation absent a 123 agreement that is reviewed by Congress. The Reuters report of September 9, 2019 quotes the Deputy Secretary as saying: "We would like to see a 123 agreement accompany any agreement to transfer U.S. technology or use U.S. technology in Saudi or any other place."<sup>3</sup> The Atomic Energy Act of 1954 is clear that Congress must review – and be provided an opportunity to disapprove – a 123 agreement before the executive branch approves the sharing of civil nuclear technology.

Commercial entities that would benefit from the absence of "gold standard" language in any future 123 agreement with Saudi Arabia have lobbied the White House and State and Energy Departments not to insist on it.<sup>4</sup> They have, for instance, argued that Iran received special treatment because the JCPOA curtailed, but did not eliminate, its enrichment abilities. Iran's treatment, however, also included sweeping U.S. primary sanctions and certain secondary sanctions that stayed in place under the JCPOA, as well as billions of dollars in U.S. arms sales to its regional rival. We note that a Saudi enrichment capability would give Iran a further excuse to step away from its JCPOA commitments. It would also trigger a clause in the U.S.-UAE 123 agreement that allows renegotiation if any other country in the region is allowed to cooperate with the United States on weaker non-proliferation terms.

Sharing nuclear technology with Saudi Arabia, especially without adequate safeguards, will give Riyadh the tools it needs to turn the Crown Prince's nuclear weapons vision into reality. It will also fail to promote U.S. leverage or influence. Riyadh likely perceives a green light to ignore future U.S. requests because the Trump administration has allowed Saudi leaders to escape accountability for the murder of U.S. resident and journalist Jamal Khashoggi; overlooked Saudi Arabia's use of child soldiers; supported Riyadh's indiscriminate military campaign in Yemen, including by providing billions in arms and production licenses to Saudi Arabia; and allowed some U.S. companies to provide nuclear knowledge to the country without informing Congress in a timely manner. The administration has undertaken all these actions despite bipartisan opposition, strengthening the Saudi perception of impunity.

This bipartisan opposition exists because Riyadh has turned increasingly belligerent in its foreign relations as it continues to violate human rights at home. The United States should not be rewarding Saudi Arabia with new nuclear cooperation at this moment. We urge you, beyond simply avoiding the most damaging outcome, to suspend ongoing negotiations with Saudi Arabia towards any civil nuclear cooperation agreement.

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<sup>3</sup> Rania El Gamal and Alexander Cornwell, *Saudi Arabia flags plan to enrich uranium as U.S. seeks nuclear pact*, Reuters (Sep. 9, 2019), <https://www.reuters.com/article/us-energy-wec-saudi-nuclearpower/saudi-arabia-wants-to-enrich-uranium-for-nuclear-power-minister-idUSKCN1VU168>.

<sup>4</sup> U.S. House of Representatives Committee on Oversight and Reform, *Corporate and Foreign Interests Behind White House Push to Transfer U.S. Nuclear Technology to Saudi Arabia* (July 2019), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Trump%20Saudi%20Nuclear%20Report%20July%202019.pdf>.

If the Trump administration turns a blind eye to the Kingdom's behavior at home and abroad while concluding an agreement that could fast-track its potential pursuit of a nuclear weapon, Congress will reject any such agreement.

Section 123(e) of the 1954 Atomic Energy Act provides that "[t]he President shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation pursuant to this section."

Accordingly, we respectfully request a written response to the following questions no later than October 9, 2019:

- 1) What is the current state of civil nuclear cooperation negotiations with Saudi Arabia?
- 2) How will the Saudi energy minister's statement regarding his government's intention to enrich uranium change your approach to negotiating a civil nuclear cooperation agreement with Saudi Arabia?
- 3) We remain deeply concerned that China and Russia are exhibiting expansionist foreign policies and undermining global norms. The Departments of State and Energy have warned that these countries are seeking to provide nuclear technology without the proliferation safeguards that come with U.S. cooperation. What, specifically, are the non-proliferation shortcomings of (a) Chinese nuclear cooperation; and (b) Russian nuclear cooperation in comparison to U.S. nuclear cooperation?
- 4) How have the Departments of State and Energy raised with Chinese, Russian, and other international counterparts the proliferation risks associated with their nuclear cooperation models?
- 5) How do your Departments assess the likelihood that Saudi Arabia would engage in civil nuclear cooperation with (a) China, given safety concerns regarding its reactors; and (b) Russia, given that Moscow has supplied Saudi Arabia's rival Iran with nuclear technology?
- 6) Do your Departments agree that a 123 agreement reviewed by Congress is the sole mechanism through which the executive branch has the authority to approve the sharing of nuclear technology with any country?
- 7) Are your Departments aware of any negotiations with Saudi Arabia towards a nuclear cooperation Memorandum of Understanding? If so, please explain the likely contents of such a document, including any potential references to the sharing of nuclear technology, services, or informational materials with the government of Saudi Arabia or companies based in that country.

Thank you for your attention to this matter.

Sincerely,

  
Edward J. Markey  
United States Senator

  
Jeffrey A. Merkley  
United States Senator