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February 26, 2018

The Honorable Rex W. Tillerson
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

The Honorable Rick Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Dear Secretaries Tillerson and Perry,

According to recent press reports, the Trump administration is pursuing a deal to sell nuclear reactors to the Kingdom of Saudi Arabia, and formal talks between the United States and Saudi Arabia are expected to begin in the coming months.¹ Any deal is almost certain to require a civil nuclear cooperation agreement — or 123 agreement — between the two countries. Yet, previous U.S. efforts to conclude a 123 agreement with Saudi Arabia have been unsuccessful because of its long-standing refusal to commit to forgoing any uranium enrichment or spent-fuel reprocessing on its territory — the so-called the “gold standard” for 123 agreements.

The Kingdom’s unwillingness to make this commitment is particularly concerning in light of comments made by Saudi officials and members of the Royal family suggesting that a nuclear program may be as much for geopolitical purposes as for electricity generation. Saudi Arabia has openly expressed concern that its regional rival, Iran, will eventually pursue a nuclear weapon despite the establishment of the Joint Comprehensive Plan of Action, in which Iran commits to the international community that “under no circumstances will Iran ever seek, develop, or acquire any nuclear weapons.”²

For example, former Saudi officials and members of the Saudi Royal family have averred that whatever Iran gets “we will want the same.” Further, they have made clear that Saudi Arabia’s

¹ Michael R. Gordon, Timothy Puko & Summer Said, *U.S. Pursues Saudi Nuclear Deal, Despite Proliferation Risk*, WALL STREET JOURNAL, Feb. 20, 2018, <https://www.wsj.com/articles/saudi-resistance-to-nuclear-standards-could-roil-u-s-reactor-deal-1519122600>.

² Joint Comprehensive Plan of Action, Preamble, General Provision iii.

leaders “will never allow Iran to have a nuclear weapon while we don’t,” that “if Iran does it, nothing can prevent us from doing it too, not even the international community,” and that “should Iran gain the ability to produce weapons-grade uranium and [the] ability to deploy such weapons[,]” developing a Saudi capability in response “would be considered as part of our homeland security.”³

These comments, coupled with Saudi Arabia’s longstanding unwillingness to commit to the gold standard, are alarming. A commitment to the gold standard is one way the United States ensures that nations with whom we engage in civil nuclear cooperation are living up to the highest nuclear nonproliferation standards.

And far from committing to the gold standard, Saudi Arabia has failed to take basic steps that would signal its commitment to use nuclear energy solely for peaceful purposes. For example, it has not yet agreed to implement the Additional Protocol to its Comprehensive Safeguards Agreement with the International Atomic Energy Agency (IAEA). The Additional Protocol — which 129 other nations and the European Atomic Energy Community have implemented — would grant the IAEA expanded access to information and sites in the Kingdom, thereby providing enhanced assurance about the peaceful nature of its nuclear activities.⁴

The Atomic Energy Act requires the President to keep the Senate Foreign Relations Committee “fully and currently informed of any initiative or negotiations related to a new or amended agreement for peaceful nuclear cooperation.”⁵ 123 agreements meet this statutory requirement because they are important nonproliferation tools that have major implications for U.S. foreign and national security policy. Yet, despite reports that the Trump administration is deliberating whether to compromise longstanding U.S. nuclear nonproliferation policies in order to secure a 123 agreement with Saudi Arabia, Congress remains in the dark about what exactly is being considered, why we may be re-evaluating our nonproliferation objectives and standards, and how and when this information is being conveyed to Saudi Arabia and other countries around the world.

Therefore, I respectfully ask that you respond to the following questions, no later than March 15, 2018.

1. What is the impetus for renewed discussions on a nuclear cooperation agreement between the United States and Saudi Arabia? Has Saudi Arabia asked the administration to consider concluding a 123 agreement that does not include the gold standard or did the Trump administration independently decide to consider this prospect?
2. Has the United States changed its longstanding policy of opposing the transfer or spread of sensitive nuclear technologies such as uranium enrichment and spent-fuel reprocessing? To date, the Trump administration has not advised the Senate Foreign Relations

³ Yaroslav Trofimov, *Saudi Arabia Considers Nuclear Weapons to Offset Iran*, WALL STREET JOURNAL, May 7, 2015, <https://www.wsj.com/articles/saudi-arabia-considers-nuclear-weapons-to-offset-iran-1430999409>.

⁴ <https://www.iaea.org/topics/additional-protocol>.

⁵ 41 U.S.C. § 2153(e).

Committee (SFRC) of any change to this longstanding nuclear nonproliferation policy, but administration officials have told Committee staff that the administration “is working to develop a position on non-proliferation standards” with regard to Saudi Arabia.⁶ Why is Saudi Arabia receiving this kind of special consideration?

3. According to reports, the White House has held meetings to “hammer out the details” of what a potential nuclear cooperation agreement with Saudi Arabia might look like.⁷ What is the outcome of these meetings? Has the administration agreed to a proposal it will offer to Saudi Arabia and, if so, what is the proposal? Please provide supporting documentation, including any proposal drafts, meeting notes, memos, or other correspondence related to the meetings or development of a proposal.
4. The Atomic Energy Act requires the President to keep the SFRC “fully and currently informed of any initiative or negotiations related to a new or amended agreement for peaceful nuclear cooperation.”⁸ Does the administration feel it has met this obligation? If so, please explain. At what point in the process of exploring a potential 123 agreement with Saudi Arabia does the administration feel it needs to brief SFRC? Does the administration feel it is obligated to brief Congress before it proposes any terms to Saudi Arabia formally or informally? If not, why not?
5. How many trips have Department of Energy and National Nuclear Security Administration officials taken to the Kingdom of Saudi Arabia since January 20, 2017?
6. Have any of these same officials held meetings with representatives from the Embassy of the Kingdom of Saudi Arabia here in Washington, D.C. since January 20, 2017? If yes, please provide documentation related to these meetings, including any agendas, meeting memos, notes, meeting summaries, briefs, or other correspondence.
7. Please detail any efforts the Department of Energy has undertaken to support trips by U.S. commercial and nuclear vendors to Saudi Arabia since January 20, 2017. Have Department of Energy officials traveled alongside any of these commercial delegations to Saudi Arabia? If so, when, which officials, and with whom did they travel? Please provide documentation related to this travel, including any agendas, meeting memos, notes, meeting summaries, briefs, or other correspondence.
8. How many authorizations under 10 C.F.R. Part 810, if any, has the Department of Energy authorized for the transfer of unclassified nuclear technology and assistance to entities

⁶ Timothy Gardner, *Trump officials brief Hill staff on Saudi reactors, enrichment a worry*, REUTERS, Dec. 15, 2017, <https://www.reuters.com/article/us-usa-nuclear-saudi/trump-officials-brief-hill-staff-on-saudi-reactors-enrichment-a-worry-idUSKBN1E92MI>.

⁷ Jennifer Jacobs, Ari Natter & Jennifer A Dlouhy, *Trump Considers Easing Nuclear Rules for Saudi Project*, BLOOMBERG, Dec. 12, 2017, <https://www.bloomberg.com/news/articles/2017-12-12/trump-is-said-to-consider-easing-nuclear-rules-for-saudi-project>.

⁸ 41 U.S.C. § 2153(e).

organized in, owned by, or partially owned by Saudi Arabia? Please provide a list and description of each Part 810 authorization, which can be classified if necessary.⁹

9. What steps, if any, is the United States taking to encourage Saudi Arabia to accede to the Additional Protocol as part of its Comprehensive Safeguards Agreement with the IAEA? Is it the policy of the United States to share nuclear technology or engage in nuclear cooperation with nations that have not agreed to the Additional Protocol?
10. Have any countries in the Middle East or elsewhere expressed concern to the State Department about the United States potentially engaging in nuclear cooperation with Saudi Arabia? Has the State Department prepared a diplomatic strategy to address the ramifications of the United States potentially offering terms to Saudi Arabia more favorable than those in other 123 agreements in the region? For example, our 123 agreement with the United Arab Emirates is a gold-standard agreement. It also permits the United Arab Emirates to ask to re-negotiate the terms of its 123 agreement if other countries in the Middle East are offered less stringent terms. Will the United States also consider offering the same terms it offers to Saudi Arabia to the United Arab Emirates?
11. What assurances, if any, has the United States received from Saudi Arabia that its nuclear program will be used only for electricity generation, and will not be used either to attempt to exert its influence over other countries in the Middle East or as a counter to its regional rival Iran?
12. According to reports, Saudi Arabia's Crown Prince Mohammed Bin Salman will visit the United States in March. During his visit, does the administration plan to raise at any level — formally or informally — the possibility of concluding a 123 agreement with Saudi Arabia? If so, does the administration intend to brief Congress before it initiates these discussions? If not, why not?

It is my sincerest hope that the answers you provide will begin to provide some clarity on the administration's nuclear policy towards Saudi Arabia and will pave the way for Congress to be more actively involved in these important deliberations. Should you or your staff have any questions about this request, please do not hesitate to contact Zachary Hosford of my staff at 202-224-2742.

Sincerely,



Edward J. Markey

⁹ 10 C.F.R. Part 810.