

United States Senate

WASHINGTON, DC 20510

May 1, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 25000

Dear President Biden,

According to news reports, your Administration has been pursuing an agreement that would normalize relations between the Kingdom of Saudi Arabia and Israel in exchange for a U.S.-Saudi defense treaty, our support for Saudi Arabia's civil nuclear energy program, and progress towards a Palestinian state. Although I strongly support and would eagerly welcome a rapprochement between Israel and its Arab neighbors, including a two-state solution, I have deep concerns about the reported military and nuclear contours of a U.S.-Saudi deal. I fear that Saudi Arabia — a nation with a terrible human rights record — cannot be trusted to use its civil nuclear energy program solely for peaceful purposes and will instead enrich uranium and seek to develop nuclear weapons. I urge your Administration to ensure that the path towards Middle East peace holds Saudi Arabia accountable for its appalling human rights practices and constrains its ability to become a nuclear power.

Before Hamas's October 7, 2023 attack on Israel and the ensuing war in Gaza, the United States was reported to have been brokering a historic peace agreement between Israel and the Kingdom.¹ Described as a "mega-deal," the normalization of Israeli-Saudi relations would have involved "upgrading U.S.-Saudi relations with a defense treaty that includes U.S. security guarantees and a deal on a civil nuclear energy program on Saudi soil."² More recently, the talks reportedly have also included as a key element "moving forward toward the establishment of a Palestinian state."³ According to reports, the United States is "in the final stages of negotiating" such a package.⁴

Saudi Arabia's public flirtation with becoming a nuclear-armed state, however, strongly militates against an agreement that includes defense guarantees and support for its civil nuclear energy program. In 2018, Saudi Crown Prince Mohammad bin Salman vowed that "if Iran developed a nuclear bomb, we will follow suit as soon as possible."⁵ More recently, in 2023, the

¹ Barak Ravid, *Blinken tells Bibi Saudis want peace deal, but not without two-state solution*, Axios (Jan. 10, 2024), <https://www.axios.com/2024/01/10/saudi-israel-normalization-blinken-netanyahu-gaza>.

² *Id.*

³ Michael R. Gordon, *White House Makes Fresh Push for Historic Deal to Forge Saudi-Israel Ties*, Wall St. J. (Apr. 18, 2024), <https://www.wsj.com/world/middle-east/white-house-makes-fresh-push-for-historic-deal-to-forge-saudi-israel-ties-68ed3a8c>.

⁴ *Id.*

⁵ Warren P. Strobel et. al., *Saudi Arabia, With China's Help, Expand Its Nuclear Program*, Wall St. J. (Aug. 4, 2020), <https://www.wsj.com/articles/saudi-arabia-with-chinas-help-expands-its-nuclear-program-11596575671>; Kelsey Davenport, *Saudi Push for Enrichment Raises Concerns*, Arms Control Ass'n (Nov. 2023),

Crown Prince reiterated that threat, stating that if Iran acquires a nuclear weapon, “we have to get one.”⁶ The Kingdom has received assistance from the People’s Republic of China — outside international safeguards — in mastering the early stages of the nuclear-fuel cycle. And according to public reports, the “U.S. government has obtained intelligence that Saudi Arabia has significantly escalated its ballistic missile program with the help of China,” which “could mark another step in potential Saudi efforts to one day deliver a nuclear warhead were it ever to obtain one.”⁷ It is therefore not surprising to hear an Israeli security expert describe Saudi Arabia’s “nuclear appetite” as “very big” and “quite dangerous.”⁸

It would be irresponsible, in the face of Saudi Arabia’s open nuclear intentions, for the United States to reach a civil nuclear cooperation (or so-called “123”) agreement with Saudi Arabia that lacks a formal Saudi government commitment to forego enrichment and reprocessing of nuclear material. That is the “gold standard” for civil nuclear cooperation agreements under Section 123 of the U.S. Atomic Energy Act.⁹ Although a standard U.S. 123 agreement prohibits a partner country from enriching or reprocessing nuclear material acquired from the United States (without further agreement), that country may do so with technology and nuclear material acquired from other sources.¹⁰ The protections of the “gold-standard” would prevent that. Only this highest level of protection will suffice in the face of Saudi Arabia’s intentions to develop fissile material for a nuclear weapon.

A standard 123 agreement that provides the Kingdom with the ability to enrich uranium domestically could fray the existing global arms control regime, exacerbate tensions across the Middle East, and reduce U.S. leverage over the Kingdom to improve its human rights record. Section 123(e) of the Atomic Energy Act of 1954 requires your Administration to keep the Senate Foreign Relations Committee and the House Foreign Affairs Committee “fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation.”¹¹ I respectfully request that you ensure your Administration complies with this statutory directive so that, should a 123 agreement be reached with Saudi

<https://www.armscontrol.org/act/2023-11/news/saudi-push-enrichment-raises-concerns>.

⁶ Kelsey Davenport, *Saudi Push for Enrichment Raises Concerns*, Arms Control Ass’n (Nov. 2023),

<https://www.armscontrol.org/act/2023-11/news/saudi-push-enrichment-raises-concerns>.

⁷ Phil Mattingly et al., *Exclusive: US intel shows Saudi Arabia escalated its missile program with help from China*, CNN (June 5, 2019), <https://www.cnn.com/2019/06/05/politics/us-intelligence-saudi-arabia-ballistic-missile-china/index.html>.

⁸ Warren P. Strobel et. al., *Saudi Arabia, With China’s Help, Expand Its Nuclear Program*, Wall St. J. (Aug. 4, 2020), <https://www.wsj.com/articles/saudi-arabia-with-chinas-help-expands-its-nuclear-program-11596575671>.

⁹ *123 Agreements for Peaceful Cooperation*, Nat’l Nuclear Security Admin., <https://www.energy.gov/nnsa/123-agreements-peaceful-cooperation> (last updated Feb. 20, 2024); *123 Agreements Fact Sheet*, U.S. Dept. of State, <https://www.state.gov/fact-sheets-bureau-of-international-security-and-nonproliferation/123-agreements/> (Dec. 6, 2022).

¹⁰ *The U.S. Atomic Energy Act Section 123 At a Glance*, U.S. Arms Control Ass’n, <https://www.armscontrol.org/factsheets/AEASection123> (last visited Apr. 18, 2024).

¹¹ Atomic Energy Act of 1954, 42 U.S.C. § 2153(e), <https://www.energy.gov/sites/prod/files/2017/10/f38/Atomic%20Energy%20Act%20of%201954%20%28AEA%29%20in%20U.S.C..pdf>.

Arabia, Congress will be best positioned to review it and consider whether to pass a resolution of disapproval, as the Atomic Energy Act authorizes.¹²

And before the United States enters into any 123 agreement with Saudi Arabia, it must implement the International Atomic Energy Agency's (IAEA) Additional Protocol. The IAEA's mission is to prevent the proliferation of nuclear weapons, by "appl[ying] nuclear safeguards — consisting of monitoring, inspection, information analysis, and other activities — to verify that nuclear activities remain peaceful and detect and deter their diversion, including to weapons-related purposes."¹³ The Additional Protocol is a powerful tool in the IAEA's toolkit. It "requires states to provide broader declarations to the Agency about their nuclear programs and nuclear-related activities and expands the access rights of the Agency."¹⁴ Given Saudi Arabia's stated nuclear ambitions, it must be held to the higher standards of the Additional Protocol before the United States provides it with any assistance for its civil nuclear energy program.

The United States also should not reward a nation with as poor a human rights record as Saudi Arabia with defense guarantees and a civil nuclear energy cooperation agreement.¹⁵ The Kingdom's absolute monarchy restricts nearly all political and civil liberties, relies on the criminalization of dissent, and discriminates against women and members of ethnic and religious minorities. Saudi Arabia also has an established pattern of unlawful and extrajudicial killings, such as the killing of hundreds of Ethiopian displaced persons and asylum seekers at the Yemeni-Saudi border; unlawful airstrikes in its military campaign against the Houthis, which have killed and wounded thousands of civilians; and death penalty executions for nonviolent crimes and peaceful opposition to the monarchy tried in unfair judicial processes.¹⁶ Working conditions for the mostly foreign labor force are often exploitative, with laborers vulnerable to harassment, detention, trafficking, and forced labor.¹⁷

Saudi Arabia must make substantial progress on human rights, including through the release of political prisoners, before the United States should even consider the kind of agreement it is reportedly negotiating with the Kingdom. And no defense guarantees or 123 agreement with Saudi Arabia should be approved unless and until the Kingdom is truthful and transparent about the death of U.S. journalist Jamal Khashoggi.

¹² *Id.* § 2152(d).

¹³ *The International Atomic Energy Agency*, U.S. Dep't of State, <https://www.state.gov/iaea/> (last visited Apr. 18, 2024).

¹⁴ *Id.*

¹⁵ *2022 Country Reports on Human Rights Practices: Saudi Arabia*, U.S. Department of State, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/saudi-arabia/> (last visited Apr. 18, 2024).

¹⁶ *Id.*

¹⁷ *Freedom in the World 2023: Saudi Arabia*, Freedom House, <https://freedomhouse.org/country/saudi-arabia/freedom-world/2023> (last visited Apr. 18, 2024); *2022 Country Reports on Human Rights Practices: Saudi Arabia*, U.S. Dep't of State, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/saudi-arabia/> (last visited Apr. 18, 2024); *Saudi Arabia: Events of 2023*, Human Rights Watch, <https://www.hrw.org/world-report/2024/country-chapters/saudi-arabia> (last visited Apr. 18, 2024).

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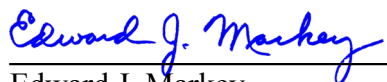
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To help me better understand the roles that civil nuclear energy cooperation and defense guarantees could play in any peace agreement involving the United States, Saudi Arabia, and Israel, I respectfully ask that your Administration respond to the following questions in writing by May 15, 2024:

1. What is the status of negotiations towards diplomatic normalization between Saudi Arabia and Israel? Please describe the U.S. involvement, including the roles played by the White House, the Department of State, and the Department of Energy.
2. Given Saudi officials' public statements of their government's desire to obtain a nuclear weapon, is your Administration seeking a 123 Agreement with "gold-standard" protections? If not, why not?
3. What U.S. defense guarantees or commitments are being offered in exchange for normalization of diplomatic relations with Israel? Would American troops be required to put their lives on the line to protect the Kingdom? If so, please provide details for each defense guarantee or commitment.
4. Is improvement of Saudi Arabia's human rights record an element of the negotiations? Will any agreement include provisions that address and seek to improve upon Saudi Arabia's human rights and civil liberties practices? If so, please outline them. If not, why not?
5. Will any agreement include guardrails to ensure that the U.S. defense guarantees and any provision of technology do not in any way contribute to Saudi Arabia's human rights violations? If so, please identify any such guardrails. If not, why not?

Thank you in advance for your attention to this important matter.

Sincerely,



Edward J. Markey
United States Senator

cc: The Honorable Lloyd J. Austin III

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