United States Senate
WASHINGTON, DC 20510

February 7, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden:

Your administration's talks with the P4+1 and Iran to reach a new nuclear agreement related to Iran's nuclear weapons program have reached a "political" inflection point, according to officials involved in the negotiations.

We write to call attention to a range of obligations that your administration is statutorily mandated to fulfill in relation to Congressional oversight over any such agreement, and to ensure that your officials know we are committed to providing availability, assistance, and resources so you can fully meet these mandates. We also write to emphasize that we are committed to using the full range of options and leverage available to United States Senators to ensure that you meet those obligations, and that the implementation of any agreement will be severely if not terminally hampered if you do not.

As a threshold matter, we reiterate our view that any agreement with Iran regarding its nuclear program is of such gravity for U.S. national security that by definition it is a treaty requiring Senate advice and consent. Furthermore, genuinely robust nuclear agreement with Iran would be compelling enough to secure assent from two-thirds of the Senate – and the only reason not to present it for a resolution of ratification is that it is too weak to pass muster. Any agreement related to Iran's nuclear program which is not a treaty ratified by the Senate is subject to being reversed, and indeed will likely be torn up, in the opening days of the next Presidential administration, as early as January 2025. That timeline is roughly as long as the Joint Comprehensive Plan of Action (JCPOA) survived implementation, and potentially even shorter.

In the meantime, however, the Iran Nuclear Agreement Review Act of 2015 ("INARA", 42 USC § 2160e) mandates that your administration submit to Congress for evaluation, within 5 days after it is reached, any agreement related to the nuclear program with Iran, as well as all related documents and side deals. The submission of such materials then triggers a statutorily-defined review process, and includes the possibility of Congress blocking implementation of the agreement.

An "agreement" for the purposes of INARA is codified in 42 U.S.C. § 2160e(h)(1) –

> The term "agreement" means an agreement related to the nuclear program of Iran that includes the United States, commits the United States to take action, or pursuant to which the United States commits or otherwise agrees to take action, regardless of the form it takes, whether a political commitment or otherwise, and regardless of whether it is legally binding or not, including any joint comprehensive plan of action entered into or made between Iran and any other parties, and any additional materials related thereto, including annexes, appendices, codicils, side agreements, implementing materials, documents, and guidance, technical or other understandings, and any related agreements, whether entered into or implemented prior to the agreement or to be entered into or implemented in the future.

The definition obviously encompasses any agreement that includes concessions to Iran or commitments by Iran beyond parties' respective JCPOA commitments. It also straightforwardly encompasses phased approaches, interim agreements, so-called "less-for-less" deals, and any other arrangements in which economic or diplomatic pressure on the Iranian regime is reduced in exchange for Iranian concessions that fall short of its commitments under the JCPOA.

INARA's mandates would also be triggered by any arrangement in which the United States, the P4+1, or Iran committed only and exclusively to returning to compliance with the terms of the JCPOA. The policy environment has changed to such a degree in recent years that, by definition, a return to compliance would require new "agreements" as defined by INARA, including actions "entered into or made between Iran and any other parties," e.g. the International Atomic Energy Agency (IAEA).

On the Iranian side, during the first year of your administration, the regime has made qualitative progress toward a nuclear arsenal that requires new measures to reverse, far beyond anything envisioned by the JCPOA. The exhaustive list of that progress is not available to the public, but what has been publicly disclosed is that Iran has: enriched uranium to 60% purity, expanded its stockpile of enriched uranium to greater than 3,200 kilograms, produced 200 grams of uranium metal enriched up to 20%, which can be used for nuclear weapons, and started enriching 20% uranium using advanced IR-6 centrifuges at the Fordow underground military bunker that the JCPOA allowed Iran to keep open. Just some of these advances had already led IAEA Director General Rafael Grossi to assess in May 2021 that the US already could not secure compliance using the measures envisioned by the JCPOA but needed a new understanding: "It is not possible. Iran has accumulated knowledge, has accumulated centrifuges and has accumulated material… They have many options. They can dismantle, they can destroy, they can put in a cupboard. What we need to be able to do is to verify in a credible and timely manner."

On the American side, beginning with the Trump administration's withdrawal from the JCPOA in 2018, there are now hundreds of designations, authorities, regulations, laws, sanctions, and executive orders that did not exist when the JCPOA was agreed to and implemented. Any reduction in the implementation of these measures necessarily go beyond the JCPOA.

We remain committed to providing you and your administration with whatever resources you need to meet your statutory obligations related to these mandates.

Sincerely,

Ted Cruz
United States Senator

Bill Hagerty
United States Senator

Tom Cotton
United States Senator

Charles E. Grassley
United States Senator

Roger Marshall, M.D.
United States Senator

Thom Tillis
United States Senator

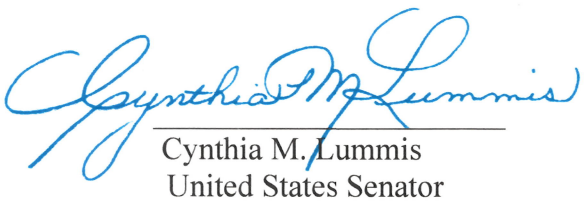
Marco Rubio
United States Senator

Tim Scott
United States Senator

Bill Cassidy, M.D.
United States Senator

Mike Braun
United States Senator

Rick Scott
United States Senator

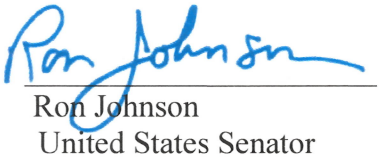


Cynthia M. Lummis
United States Senator

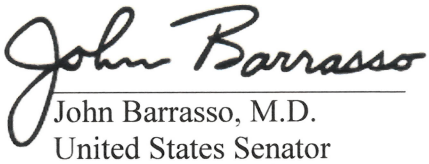
Roger F. Wicker
United States Senator

Joni K. Ernst
United States Senator

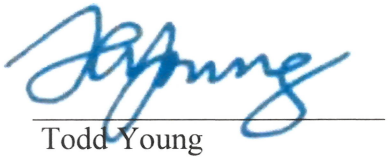
John Boozman
United States Senator



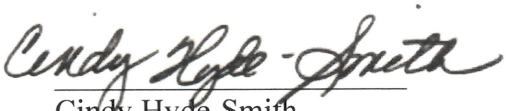
Ron Johnson
United States Senator



John Barrasso, M.D.
United States Senator



Todd Young
United States Senator



Cindy Hyde-Smith
United States Senator

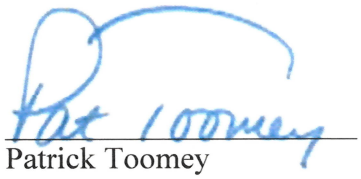
Kevin Cramer
United States Senator

James Inhofe
United States Senator

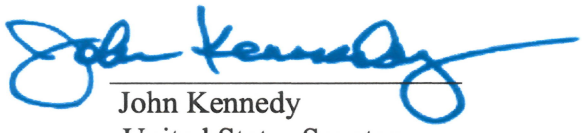
John Hoeven
United States Senator

Ben Sasse
United States Senator

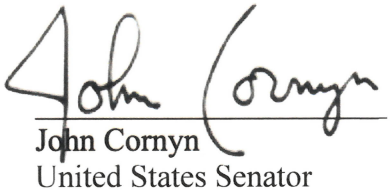
Steve Daines
United States Senator



Patrick Toomey
United States Senator



John Kennedy
United States Senator

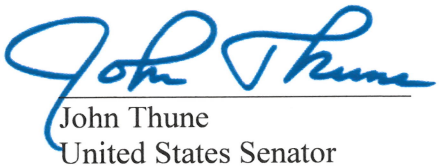


John Cornyn
United States Senator

Rob Portman
United States Senator

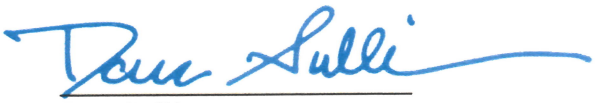
Marsha Blackburn
United States Senator

Michael S. Lee
United States Senator



John Thune
United States Senator

James E. Risch
United States Senator



Dan Sullivan
United States Senator