



April 2020

U.S.-SAUDI NUCLEAR COOPERATION

Progress Is Stalled
over Nonproliferation
Conditions and
Agency Management
of Negotiations Is
Unclear

Why GAO Did This Study

U.S. policy has long sought to balance U.S. civilian nuclear exports with the nation's obligation to ensure that they are not used to proliferate nuclear weapons. The Atomic Energy Act (AEA) provides a framework for certain civilian nuclear exports and outlines the requirements for nuclear cooperation agreements, including that certain nonproliferation conditions be met; that State conduct negotiations with the technical assistance and concurrence of DOE; and that the President keep certain congressional committees fully and currently informed of negotiations or initiatives.

This report describes, among other things, (1) the status of U.S.-Saudi negotiations and any areas of disagreement and (2) what is known about U.S. agency management of the negotiations. GAO reviewed the AEA and documentation of interactions between U.S. and Saudi officials regarding nuclear cooperation. GAO received limited information from State and DOE officials during the review but interviewed over 30 other stakeholders, including former senior executive branch officials, former congressional staff, and others with knowledge of and insights into nuclear cooperation issues and the negotiations.

What GAO Recommends

GAO believes that Congress should consider amending the Atomic Energy Act to require regularly scheduled briefings. GAO is also making a recommendation that the Secretary of State commit to regularly scheduled, substantive briefings to the relevant congressional committees. State concurred with our recommendation.

View [GAO-20-343](#). For more information, contact David Trimble at (202) 512-3841 or trimbled@gao.gov.

U.S.-SAUDI NUCLEAR COOPERATION

Progress Is Stalled over Nonproliferation Conditions and Agency Management of Negotiations Is Unclear

What GAO Found

Since 2008, when the United States and Saudi Arabia signed a memorandum of understanding on nuclear energy cooperation, the current and prior U.S. administrations have engaged in discussions and negotiations about nuclear cooperation with the Saudi government. However, these negotiations are stalled; the two countries have not been able to resolve disagreements on several nonproliferation conditions, including Saudi Arabia agreeing to enrichment and reprocessing restrictions and signing an Additional Protocol with the International Atomic Energy Agency (IAEA), which would allow IAEA to obtain additional information about and access to Saudi nuclear activities.

U.S. agency management of the negotiations with Saudi Arabia remains unclear in two areas regarding AEA requirements—(1) that the Department of State (State) conduct negotiations, with the technical assistance and concurrence of the Department of Energy (DOE), and (2) that certain congressional committees be informed. First, it is unclear which U.S. agencies were present at or aware of various interactions where nuclear cooperation was or may have been discussed, except for the formal negotiations in 2012 and 2018 and a commercial mission coordinated with State. GAO was able to identify eight interactions where nuclear cooperation was discussed and five more interactions where nuclear cooperation may have been discussed (see figure).

U.S.-Saudi Interactions Where Nuclear Cooperation Was or May Have Been Discussed

Type of U.S.-Saudi interaction	2012	2013	2014	2015	2016	2017	2018	2019
Formal nuclear cooperation negotiation	1						1	
Nuclear cooperation <u>was</u> discussed			1				3	2
Nuclear cooperation <u>may have been</u> discussed						3		1

Source: GAO analysis of agency documentation. | GAO-20-343

Note: Interactions depicted in this figure include meetings, phone calls, and a letter, among other things.

Second, GAO was unable to determine whether the agencies kept the committees fully and currently informed. GAO identified two briefings on the negotiations—in December 2017 and January 2018—to the relevant committees, but it does not appear that these committees were briefed until more than a year after the March 2018 formal negotiations. According to congressional staff, Congress on occasion learned of developments through non-agency sources and had to apply forceful measures, including holds on nominations, to get information from the executive branch. By committing to regular briefings to Congress on nuclear cooperation negotiations and initiatives, State could better support congressional oversight on nuclear nonproliferation matters. In addition, congressional staff have said the AEA allows for broad interpretation of the “fully and currently informed” requirement. By specifying, through an amendment to the AEA, its expectations for timeliness and information provided by the agencies on nuclear cooperation negotiations and initiatives, Congress could have better assurance that it receives the information it needs for oversight of nuclear nonproliferation matters.

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Abbreviations

AEA	Atomic Energy Act
Commerce	Department of Commerce
CSA	Comprehensive Safeguards Agreement
DOD	Department of Defense
DOE	Department of Energy
FAM	Department of State's Foreign Affairs Manual
HEU	highly enriched uranium
IAEA	International Atomic Energy Agency
KACARE	King Abdullah City for Atomic and Renewable Energy
MOU	memorandum of understanding
NNSA	National Nuclear Security Administration
NPAS	Nuclear Proliferation Assessment Statement
NRC	Nuclear Regulatory Commission
NSC	National Security Council
PCC	Policy Coordination Committee
State	Department of State
Sub-PCC	Sub-Policy Coordination Committee
UAE	United Arab Emirates

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April 3, 2020

The Honorable Robert Menendez
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Marco Rubio
United States Senate

U.S. policy has long sought to balance encouraging U.S. exports of civilian nuclear products, services, and technology with the nation's obligation to ensure they are not used to proliferate nuclear weapons.¹ Section 123 of the Atomic Energy Act of 1954 (AEA), as amended,² outlines the process and requirements for negotiating nuclear cooperation agreements, which provide the framework for U.S. exports for civilian purposes of certain nuclear material and equipment, including components of nuclear reactors.

For more than a decade, Saudi Arabia has expressed interest in developing a civilian nuclear energy program. Since 2008, when the United States and Saudi Arabia signed a memorandum of understanding on nuclear energy cooperation, the current and prior U.S. administrations have engaged in discussions and negotiations about nuclear cooperation with the Saudi government. In October 2017, the Saudi government issued a solicitation to procure its first nuclear power reactor, and invited the United States, the Republic of Korea, China, Russia, and France to bid on the contract. Some members of Congress and nonproliferation experts have expressed concerns that a civilian nuclear program could enable Saudi Arabia to develop a capability to produce nuclear-weapons material. Senior Saudi officials have stated publicly that there could be conditions under which the country would seek to acquire nuclear weapons or develop a nuclear weapons program.

¹Under the Treaty on the Nonproliferation of Nuclear Weapons, the United States has an obligation not to assist any non-nuclear weapon state in the manufacture or acquisition of nuclear explosive devices. A non-nuclear weapon state is one that had not manufactured and detonated a nuclear explosive device prior to January 1, 1967.

²Atomic Energy Act of 1954, Pub. L. No. 83-703, § 123, 68 Stat. 919, 940 (codified as amended at 42 U.S.C. § 2153).

Under Section 123, the Department of State (State) is responsible for negotiating the agreements, with the “technical assistance and concurrence” of the Department of Energy (DOE).³ Section 123 also requires that State consult with the Nuclear Regulatory Commission (NRC)⁴ and that the President keep certain congressional committees “fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation.”⁵ The National Security Council (NSC) leads the interagency decision-making process for nuclear cooperation agreements; coordinates the negotiating process, including determining when to negotiate an agreement; and sets nuclear cooperation policy.

You asked us to review U.S. agencies’ negotiations with Saudi Arabia regarding potential nuclear cooperation. This report examines (1) the potential nonproliferation benefits and concerns, if any, stakeholders have identified with regard to U.S.-Saudi nuclear cooperation; (2) the status of U.S.-Saudi nuclear cooperation negotiations and any areas of disagreement; and (3) what is known about U.S. agency management of the nuclear cooperation negotiations with Saudi Arabia.

To address all three objectives, we reviewed relevant statutes, including the AEA, and agency procedures on conducting nuclear cooperation negotiations. We interviewed current officials from the agencies with a role in such negotiations, including State, DOE, the National Nuclear Security Administration (NNSA),⁶ NRC, the Department of Commerce (Commerce), and the Department of Defense (DOD). We also interviewed other stakeholders, such as former government officials—including former congressional staff of both parties—and nongovernmental and commercial entities with expertise in nuclear cooperation. We selected these stakeholders based on a snowball-sampling technique. In this report, we summarize the information

³42 U.S.C. § 2153(a).

⁴The Department of Defense and Department of Commerce do not have statutory roles in the negotiations, but State may consult them. Commerce has a role in increasing market access for U.S. businesses and promoting export growth, as well as in nuclear export controls.

⁵42 U.S.C. §2153(e). Executive Order No. 10841, on International Cooperation, states that the functions of negotiating and entering into international agreements shall be performed by or under the authority of the Secretary of State.

⁶NNSA is a separately organized agency within the Department of Energy, with responsibility for nuclear weapons and nonproliferation programs, among other things.

gathered from interviewees by using “some” to refer to three interviewees, “several” to refer to four or five interviewees, and “many” to refer to more than five interviewees.

To describe potential nonproliferation benefits and concerns stakeholders have identified, we also reviewed official documents and statements, including congressional testimony, in which nonproliferation benefits and risks of nuclear cooperation with Saudi Arabia were discussed. To examine the status of U.S.-Saudi nuclear cooperation negotiations and any areas of disagreement, we reviewed official documents such as agency correspondence. To examine U.S. agency management of the negotiations, including how the agencies have informed Congress about the negotiations, we reviewed official documents such as agency correspondence, certain export authorization-application packages, dates of congressional briefings on nuclear cooperation, and agency documentation related to U.S. government advocacy for U.S. businesses in relation to Saudi nuclear cooperation. We also requested materials used for briefings, if any, by the agencies to Congress.

Overall, the agencies provided us with limited information in response to some categories we requested and did not provide information in other categories. Specifically, beginning in May 2019, we requested from State, DOE, and the NSC basic factual information on license applications for the transfer of nuclear technology to Saudi Arabia; the dates of any discussions or negotiations between U.S. and Saudi officials; the U.S. and Saudi agencies, offices, and representatives present at such meetings; and the types of records produced from such meetings. DOE provided us with information on the license applications, and State and DOE provided us with limited information on their general processes relating to the negotiations of agreements. After reviewing a preliminary draft of this report, State officials in January 2020 provided a list of congressional briefings on U.S. nuclear cooperation initiatives since 2013. However, these officials declined to discuss the details of the briefings with us, including the participating agencies, substantive issues, and other details that would have allowed us to establish the extent of information provided to Congress on U.S.-Saudi nuclear cooperation negotiations. Furthermore, neither agency nor the NSC provided substantive information in any of the other categories we requested. In order to complete this review within a time frame responsive to the needs of our congressional requesters, we adjusted our audit objectives to focus on describing the status of the negotiations and management of the negotiations process. Because State, DOE, and NSC did not provide information to fully address these adjusted objectives, we obtained

documentation and information from other agency officials and over 30 other stakeholders, including former U.S. government officials, current and former congressional staff, and nuclear industry representatives and knowledgeable nongovernmental experts who have followed the negotiations. Appendix I contains a more detailed description of our objectives, scope, and methodology.

We conducted this performance audit from April 2019 to April 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Uranium Enrichment and Reprocessing of Spent Nuclear Fuel

Uranium enrichment is the process of increasing the concentration of the uranium-235 isotope relative to uranium-238 in a quantity of uranium. Natural uranium consists of approximately 0.7 percent of the fissile uranium-235 isotope,⁷ while uranium used in commercial nuclear power reactors generally consists of 3 to 5 percent uranium-235 and uranium for nuclear weapons requires a higher concentration of uranium-235. In addition, as a nuclear reactor operates, some of the uranium in the reactor fuel is converted to plutonium, which can also be used as a weapons material when it is separated from other elements of the irradiated, or spent, fuel through a process known as reprocessing. Plutonium and enriched uranium are “special nuclear material” under the Atomic Energy Act.⁸ The processes for obtaining such material—enrichment and reprocessing—are called sensitive nuclear technologies.⁹

⁷Natural uranium consists primarily of two isotopes: uranium-238 (99.3 percent) and uranium-235 (0.7 percent). Fissile refers to the ability of the isotope to sustain a fission chain reaction and release large amounts of energy.

⁸Special nuclear material includes plutonium and uranium enriched in the isotopes uranium-233 and uranium-235. 42 U.S.C. § 2014(aa).

⁹Sensitive nuclear technology is any information that is not available to the public and is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water. 22 U.S.C. § 3203(a)(5).

The Treaty on the Nonproliferation of Nuclear Weapons, the International Atomic Energy Agency, and Safeguards

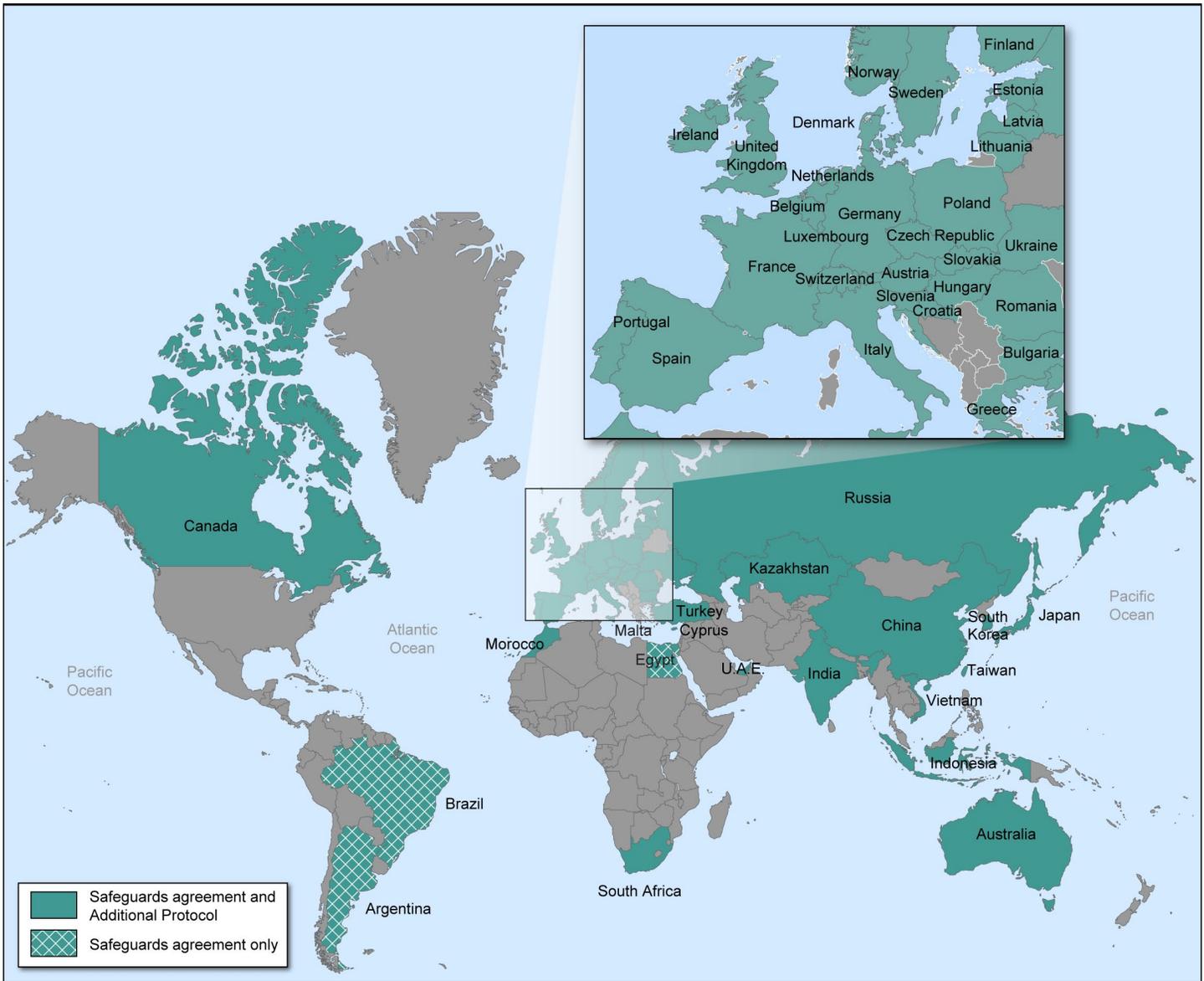
Under the Treaty on the Nonproliferation of Nuclear Weapons, which came into force in 1970, non-nuclear weapon state parties to the treaty may not acquire nuclear weapons and must conclude a Comprehensive Safeguards Agreement (CSA) with the International Atomic Energy Agency (IAEA). IAEA is an independent international organization affiliated with the United Nations that has the dual mission of promoting the peaceful uses of nuclear energy and verifying, through a set of technical measures called safeguards, that nuclear technologies and materials are not diverted from peaceful uses to military purposes.¹⁰ Most countries have also brought into force an Additional Protocol to their CSAs, which provides IAEA with a broader range of information on the country's nuclear and nuclear-related activities than under a CSA alone and gives the agency's inspectors access to an expanded range of locations.¹¹ For example, the Additional Protocol requires states to declare the location and status, among other things, of uranium mines and uranium and thorium mills.¹² Under a CSA alone, material in mining or ore processing activities (e.g., uranium at mines and mills) is not subject to the agency's safeguards as it is not yet suitable for enrichment. The United States promotes universal adoption of the Additional Protocol as a policy, but it is not a requirement for the conclusion of a nuclear cooperation agreement with the United States. Figure 1 shows the safeguards arrangements of the partners with which the United States has nuclear cooperation agreements.

¹⁰As previously noted, under the Treaty on the Nonproliferation of Nuclear Weapons, non-nuclear weapon states are those that had not manufactured and detonated a nuclear explosive device before January 1, 1967.

¹¹IAEA developed the Additional Protocol to obtain additional information about and access to countries' nuclear and nuclear-related activities as part of its response to the discovery in 1991 of a clandestine nuclear weapons program in Iraq. The expanded range of locations the Additional Protocol gives the agency's inspectors access to include those where the agency seeks to assure the absence of undeclared nuclear material and activities. Undeclared nuclear material and activities are those a state has not declared and placed under safeguards but is required to do so pursuant to its CSA or Additional Protocol.

¹²Specifically, this provision of the Additional Protocol requires information specifying the location, operational status, and estimated annual production capacity of uranium mines and concentration plants, among other things. IAEA refers to concentration plants as uranium mills.

Figure 1: Cooperating Partners with which the United States Has a Nuclear Cooperation Agreement and Their Safeguards Arrangements with the International Atomic Energy Agency



Source: GAO analysis of Department of Energy and International Atomic Energy Agency information. | GAO-20-343

Notes: Agreement status as of March 2019. The United States has a nuclear cooperation agreement with the European Atomic Energy Community (EURATOM), which is composed of the countries of the European Union. Those countries are individually represented on this map. As of March 2019, those countries included the United Kingdom, but the United Kingdom formally exited the European Union on January 31, 2020. A new nuclear cooperation agreement between the United States and the United Kingdom was signed May 2018 and is expected to go into effect after December 31, 2020.

The United States also has a nuclear cooperation agreement with the International Atomic Energy Agency.

The United States' nuclear cooperation agreements with Argentina, Brazil, and Egypt were signed prior to or immediately after the creation of the Additional Protocol. The United States signed a nuclear cooperation agreement with Mexico in May 2018, but as of March 2019, that agreement had not yet come into effect.

The U.S. Legal Basis for Nuclear Cooperation

Section 123 of the AEA establishes a framework for civilian nuclear cooperation agreements, which are a prerequisite for the export of certain nuclear material and equipment, including major components of nuclear reactors.¹³ The United States has 23 such agreements with other nations and entities.¹⁴ Section 123 generally requires that nuclear cooperation agreements include nine nonproliferation conditions, such as a guarantee from the cooperating party that transfers will not be used for any military purpose. The President may exempt an agreement from any of these requirements, provided that the president determines that the inclusion of any such requirement would be seriously prejudicial to United States nonproliferation objectives or otherwise jeopardize the common defense and security.¹⁵ See Table 1 for a list of the nine requirements.

¹³Other aspects of civilian nuclear cooperation, including exports of commercial nuclear technology and assistance, are regulated by the Department of Energy under 10 C.F.R. Part 810. Such exports may include blueprints, manuals, or services related to the production of special nuclear material abroad.

¹⁴Information on the total number of agreements is as of March 2019. Entities with which the United States has agreements include Taiwan; the European Atomic Energy Community (EURATOM), composed of the 27 countries of the European Union; and IAEA. Governmental relations between the United States and Taiwan were terminated on January 1, 1979. All agreements concluded with the Taiwan authorities prior to January 1, 1979, are administered by the American Institute in Taiwan, a nonprofit District of Columbia corporation.

¹⁵An agreement so exempted shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such an agreement.

Table 1: Conditions for Nuclear Cooperation Found in Section 123 of the Atomic Energy Act of 1954

Condition	Description
IAEA safeguards as a condition of supply to non-nuclear weapons states	In the case of non-nuclear-weapon states, continued U.S. nuclear supply is to be conditioned on the maintenance of IAEA safeguards over all nuclear materials in all peaceful nuclear activities within the territory, under the jurisdiction, or subject to the control of the cooperating party.
Other agreement-specific safeguards	Safeguards, as agreed to by the parties to the agreement, are to be maintained over all nuclear material and equipment transferred, and all special nuclear material used in or produced through the use of such nuclear material and equipment, as long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason.
Peaceful use guarantee	The cooperating party must guarantee that it will not use the transferred nuclear materials, equipment, or sensitive nuclear technology, or any special nuclear material produced through the use of such, for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any other military purpose.
Right to require return	An agreement with a non-nuclear weapon state must stipulate that the United States has the right to require the return of any transferred nuclear materials and equipment, and any special nuclear material produced through the use thereof, if the cooperating party detonates a nuclear explosive device, or terminates or abrogates an agreement providing for IAEA safeguards.
Physical security	The cooperating party must guarantee that it will maintain adequate physical security for transferred nuclear material and any special nuclear material used in or produced through the use of any material, or production or utilization facilities ^a transferred pursuant to the agreement.
Retransfer rights	The cooperating party must guarantee that it will not transfer any material, Restricted Data ^b or any production or utilization facility transferred pursuant to the agreement, or any special nuclear material subsequently produced through the use of any such transferred material, or facilities, to unauthorized persons or beyond its jurisdiction or control, without the consent of the United States.
Restrictions on enrichment or reprocessing of U.S.-obligated material	The cooperating party must guarantee that no material transferred, or used in, or produced through the use of transferred material or production or utilization facilities, will be reprocessed or enriched, or with respect to plutonium, uranium-233, highly enriched uranium (HEU), or irradiated nuclear materials, otherwise altered in form or content without the prior approval of the United States.
Storage facility approval	The cooperating party must guarantee not to store any plutonium, uranium-233, or HEU that was transferred pursuant to a cooperation agreement, or recovered from any source or special nuclear material transferred, or from any source ^c or special nuclear material used in a production facility or utilization facility transferred pursuant to the cooperation agreement, in a facility that has not been approved in advance by the United States.
Additional restrictions	The cooperating party must guarantee that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of transferred sensitive nuclear technology, will be subject to all the requirements listed above.

Source: GAO analysis of the Atomic Energy Act of 1954, as amended. | GAO-20-343

^aProduction facilities are (1) nuclear reactors designed or used primarily for the formation of plutonium or uranium-233; or (2) certain facilities designed or used for the separation of the isotopes of plutonium; or (3) certain facilities designed or used for the processing of irradiated materials

containing special nuclear material. Utilization facilities are nuclear reactors other than those designed or used primarily for the formation of plutonium or uranium-233 or (2) certain accelerator-driven subcritical-operating assemblies used for the irradiation of materials containing special nuclear material.

^bRestricted Data include data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. § 2162.

^cSource Material means: (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) uranium, (ii) thorium or (iii) any combination thereof. Source material does not include special nuclear material.

Section 123 of the AEA also requires that State supply the President with an unclassified Nuclear Proliferation Assessment Statement (NPAS) for each proposed agreement, accompanied by a classified annex prepared in consultation with the Director of National Intelligence. The NPAS describes how the agreement meets AEA nonproliferation requirements and usually includes an overview of the other party's nuclear energy program and related infrastructure, nonproliferation policies, and relations with countries of proliferation concern.

Section 123 also lays out requirements for informing congressional committees and obtaining congressional review. It requires that the President submit any proposed agreement along with the NPAS to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations for consultation for a period of at least 30 days of continuous session. The proposed agreement, with the NPAS, must subsequently be submitted to Congress as a whole (and referred to the abovementioned committees) for a period of 60 days of continuous session, during which the committees consider it and submit recommendations to the House and Senate, respectively, as to whether to approve the agreement. As a general matter, the agreement may then be brought into effect unless a joint resolution of disapproval is enacted before the end of this period.¹⁶ Section 123 also requires the President to keep the abovementioned committees "fully and currently informed" of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation.

Figure 2 depicts the stages and time frames for negotiation and conclusion of nuclear cooperation agreements.

¹⁶By contrast, an agreement exempted by the President from any of the conditions described in table 1 shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such an agreement.

Figure 2: Procedures and Time Frames for Negotiating and Concluding Nuclear Cooperation Agreements

Negotiation	Consultation with Committees of Congress	Review by Committees and Full Congress
<ul style="list-style-type: none"> The Department of State, with the technical assistance and concurrence of the Department of Energy and in consultation with the Nuclear Regulatory Commission, is responsible for leading negotiations on a nuclear cooperation agreement. 	<ul style="list-style-type: none"> The President submits any proposed agreement to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations for consultation. 	<ul style="list-style-type: none"> The President subsequently submits the proposed agreement to Congress as a whole (and refers it to the Committees mentioned in the prior step). Unless a joint resolution of disapproval is enacted before the end of this period, the agreement may be brought into effect.
Time frame: Undefined	Time frame: At least 30 days of continuous session	Time frame: 60 days of continuous session

Source: GAO analysis of Atomic Energy Act of 1954, as amended. | GAO-20-343

Another section of the AEA, Section 57(b), governs the direct or indirect engagement or participation in the development or production of special nuclear material outside the United States.¹⁷ Under this provision, DOE regulates exports of commercial nuclear technology and assistance. DOE has promulgated these regulations at 10 C.F.R. Part 810; authorizations under these regulations are accordingly referred to as “Part 810 authorizations.” Activities authorized under section 57(b) may not require a nuclear cooperation agreement.¹⁸ The Secretary of Energy signed seven “Part 810” authorizations for the export of nuclear technology to

¹⁷For example, persons who provide blueprints for civilian nuclear reactors to a foreign country are subject to section 57(b). Also, persons (including, but not limited to, nuclear reactor operators, private companies, and universities) who hire foreign nationals to work in U.S. nuclear facilities are subject to section 57(b) when their employment may provide them with access to information or technology covered by 10 C.F.R. Part 810. This is referred to as a “deemed export” because the foreign nationals may gain access to U.S. nuclear technology through such employment that the foreign national may take back to their home country and use for activities that may lead to the production of special nuclear material in another country.

¹⁸According to DOE officials, such activities usually do not require a nuclear cooperation agreement and the U.S.-China agreement is the only one that covers such activities in the text of the agreement.

Saudi Arabia between December 2017 and February 2019.¹⁹ For more information about Part 810, see table 2.

Enrichment and Reprocessing Commitments in Nuclear Cooperation Agreements

In negotiating nuclear cooperation agreements, the United States has sometimes pursued nonproliferation measures beyond the nine conditions specified by the AEA. For example, the agreement that the United States concluded with the United Arab Emirates (UAE) in 2009 includes a provision in which UAE agreed to forswear enrichment and reprocessing capabilities.²⁰ This broad restriction on any enrichment and reprocessing, which became known as the “gold standard,” goes beyond the enrichment and reprocessing restriction required by Section 123 of the AEA, because it applies to all nuclear material rather than just U.S.-obligated material.²¹ U.S.-obligated material includes material transferred by the United States or material used in, or produced through, the use of material or facilities transferred by the United States. Following the conclusion of the UAE agreement, the NSC deliberated requiring the so-called “gold standard” for all nuclear cooperation agreements as a policy, but ultimately adopted a policy of pursuing it on a case-by-case basis. The nuclear cooperation agreement that the United States concluded with Taiwan in 2014 included a similar provision. By contrast, the agreement concluded with Vietnam the same year includes a political commitment, rather than a legal one, not to acquire enrichment and reprocessing capabilities.

Role of Agencies in Nuclear Negotiations

In addition to the roles of State, DOE, and the NSC discussed previously, additional U.S. agencies such as Commerce, DOD, and NRC are involved in matters related to international nuclear cooperation and the negotiation and conclusion of a nuclear cooperation agreement. Table 2 describes agency roles related to nuclear cooperation.

¹⁹Under the AEA, Part 810 authorizations require concurrence of State and consultation with DOD, Commerce, and NRC. In 2016, a “Part 810” authorization application originally submitted in 2013 was returned without approval because the government of Saudi Arabia was not responsive to a State request for government-to-government nonproliferation assurances.

²⁰Specifically, the provision prohibits the UAE from possessing sensitive nuclear facilities within its territory or otherwise engaging in activities within its territory relating to enrichment or reprocessing of material.

²¹Section 123(a)(7) requires U.S. approval prior to enrichment or reprocessing of U.S.-obligated material.

Table 2: Agency Roles in Nuclear Cooperation

Agency	Role
Department of State (State)	State is responsible for negotiating any proposed nuclear cooperation agreement and has the lead role in working with country officials to develop the specific terms and conditions that are included. State's <i>Foreign Affairs Manual</i> includes procedures— specifically, the Circular 175 Procedure—that facilitates “the application of orderly and uniform measures” to the negotiation of U.S. international agreements. ^a
Department of Energy (DOE)	DOE has a statutory role to provide technical assistance in State-led nuclear cooperation agreement negotiations. Additionally, under Section 57(b) of the Atomic Energy Act, as amended, the Secretary of Energy is responsible for authorizing activities that may directly or indirectly assist in the production of special nuclear material outside of the United States. Such activities include, but are not limited to, the export of design information for technology and consulting services related to the production of special nuclear material. DOE's regulations for implementing the process to authorize such activities are found at 10 C.F.R. Part 810, and the resulting authorizations are known as “Part 810 authorizations.”
Department of Commerce (Commerce)	Commerce does not have a formal role in 123 agreement negotiations but participates in interagency discussions. The International Trade Administration within Commerce works to (1) strengthen the competitiveness of U.S. industry, (2) promote trade and investment, and (3) ensure fair trade and compliance with trade agreements. In addition, Commerce's Bureau of Industry and Security regulates the exports of dual-use items—items that can be used for both civilian and military applications, some of which are nuclear-related items.
Nuclear Regulatory Commission (NRC)	Section 123 requires State to consult with NRC before submitting a proposed nuclear cooperation agreement to the President. The agency is authorized to issue licenses for exports of nuclear material, equipment, and components that fall under the legal framework of such agreements. NRC has promulgated regulations implementing its licensing process at 10 C.F.R. Part 110.
Department of Defense (DOD)	DOD has participated in nuclear cooperation agreement negotiations in the past. State is generally not required to solicit DOD's participation under section 123. However, State officials previously told us that they involve DOD because it is a part of the foreign policy and national security communities and because DOD may have equities in any given nuclear cooperation agreement. DOD is required under section 123(d) to provide its views on a proposed agreement to specified congressional committees upon their request.
National Security Council (NSC)	The NSC has a role in setting nuclear cooperation agreement policy and coordinating interagency roles and positions.

Source: GAO. | GAO-20-343

Note: The agencies listed above have roles in the export license activities of the other agencies. For example, DOE must obtain concurrence from State and must consult with Commerce, DOD, and NRC with regard to DOE's authorizations of exports relating to the production of special nuclear material. Export licenses issued by NRC for nuclear reactors, reactor components and material may be coordinated with or reviewed by State, DOE, DOD, and Commerce. Export license applications to Commerce for the export of nuclear-related dual-use items involve reviews from State, DOD, and DOE depending on the item to be exported. DOD reviews certain export applications to State for defense articles and services. Other agencies, such as the Office of the Director of National Intelligence, may also have a role in reviewing certain aspects of proposed nuclear cooperation agreements.

^aU.S. Department of State, *Foreign Affairs Manual (FAM)*, Vol. 11. State generally uses what it calls the “Circular 175 Process” to authorize the negotiation and conclusion of international negotiations and to coordinate negotiations among agencies. However, there is no specific Circular 175 memorandum that documents the beginning of nuclear cooperation agreement negotiations because State uses a blanket Circular 175 memorandum for all nuclear cooperation agreements. State officials told us that the blanket Circular 175 for nuclear cooperation agreements dates from the 1970s.

Stakeholders Have Identified a Range of Potential Nonproliferation Benefits and Concerns

Stakeholders we interviewed identified various potential nonproliferation benefits and concerns related to negotiating a nuclear cooperation agreement with Saudi Arabia. Specifically, stakeholders identified the following benefits:

A nuclear cooperation agreement would limit production of weapons-usable material. Several stakeholders told us that a nuclear cooperation agreement with Saudi Arabia would give the United States the opportunity to directly restrict Saudi Arabia's proliferation potential. For example, a U.S.-Saudi nuclear cooperation agreement would include a term required by the AEA that would limit Saudi Arabia's production of weapons-usable material by prohibiting Saudi Arabia from separating plutonium accumulated in any reactor supplied under the agreement without U.S. consent.²² According to some stakeholders, other potential supplier countries likely would not impose such restrictions as conditions of supplying Saudi Arabia with nuclear materials or equipment.

Cooperation would help the United States retain influence. Several stakeholders noted that nuclear cooperation with Saudi Arabia could help revitalize the United States as a global nuclear supplier, which would help the United States retain its current influence over global nonproliferation norms and rules. For example, as a global nuclear supplier, the United States would have greater influence in international nuclear forums such as the Nuclear Suppliers Group, which establishes nonproliferation guidelines.²³ According to one stakeholder, the United States' political leverage to promote strong global nonproliferation norms depends upon the United States' retaining a leadership role in nuclear energy. Another stakeholder said that nuclear cooperation agreements provide the United States with influence over countries' proliferation decisions. For instance, this stakeholder said that nuclear cooperation agreements include legal conditions that reinforce the legal obligations of the Treaty on the Nonproliferation of Nuclear Weapons and create an additional disincentive to violate those conditions or withdraw from the treaty.

Stakeholders we interviewed also identified several proliferation concerns that U.S.-Saudi nuclear cooperation may not mitigate, and could

²²As mentioned above, agreements are generally required to include such a term but can be exempted from including any terms required by the AEA if Congress adopts, and there is enacted, a joint resolution stating that the Congress favors such an agreement.

²³The Nuclear Suppliers Group is a voluntary, nonbinding arrangement among nuclear supplier countries. Participating countries undertake a political commitment to abide by the goals and principles established by the group.

potentially aggravate. According to these stakeholders, concerns include the following:

Concerns about stated Saudi nuclear weapon ambitions and commitment to obligations. Some stakeholders expressed concern over Saudi officials' stated interest in acquiring nuclear weapons. As previously noted, senior Saudi officials have said publicly that there could be conditions under which the country would seek to acquire nuclear weapons or develop a nuclear weapons program. For example, Saudi Crown Prince Mohammed bin Salman said publicly in 2018 that if Iran develops or obtains a nuclear weapon, Saudi Arabia would also work to do so. In 2009 and 2012, respectively, King Abdullah and Prince Turki al-Faisal were reported to have made similar statements. Some stakeholders said that the intent behind such statements was to send a message about Saudi Arabia's posture toward Iran, but some other stakeholders said that lower-lever Saudi officials have also indicated that the country is open to pursuing nuclear weapons. Several stakeholders said that such statements should be taken seriously as indicators of Saudi nuclear weapons ambitions. One stakeholder said that such statements raise concerns as to Saudi Arabia's commitment to its obligations under the Treaty on the Nonproliferation of Nuclear Weapons. This stakeholder also said that Saudi Arabia has demonstrated willingness to disregard the terms of transfers of U.S. conventional arms to the country, calling into question whether the country could be trusted to abide by the terms of the nuclear cooperation agreement.²⁴

Concerns about the extent to which a nuclear cooperation agreement would mitigate the risks of a Saudi weapons program. Several stakeholders questioned whether the terms of an agreement would meaningfully restrict proliferation behavior. For example, notwithstanding the provision of Section 123 of the AEA that prohibits a partner country from using U.S.-obligated material or equipment for weapons purposes, some stakeholders said that another risk of nuclear cooperation is that it would provide Saudi Arabia with the infrastructure and knowledge to produce nuclear material for a future weapons program. In addition, some stakeholders said that there were questions

²⁴Under the Arms Export Control Act, no defense articles shall be furnished to any country on a grant basis unless the country agrees that it will not, without the consent of the President, use or permit the use of such articles for purposes other than those for which they were furnished. 22 U.S.C. § 2314(a)(1)(C). It has been reported that Saudi Arabia transferred American weapons to fighters in Yemen contrary to such an agreement.

as to whether the United States could enforce the terms of an agreement if it was breached—for example, whether in practice the United States would be able to retrieve U.S.-obligated nuclear material from another country. One stakeholder also noted that the terms of a nuclear cooperation agreement would only be relevant in mitigating proliferation risks if Saudi Arabia contracted with a U.S. company to build the reactors.²⁵ If Saudi Arabia purchases reactors from other suppliers, its nuclear program will not be bound by the section 123-mandated restrictions of a nuclear cooperation agreement with the United States, since those restrictions only apply to U.S.-obligated material.

Concerns about the thoroughness of a U.S. assessment of Saudi proliferation risks. Some stakeholders raised concerns about whether the NPAS process would adequately assess Saudi proliferation risks. We have previously identified weaknesses in the NPAS process related to interagency consultation and a robust, transparent review process.²⁶ As described above, an NPAS for a U.S.-Saudi nuclear cooperation agreement would be expected to include an overview of Saudi Arabia’s nuclear energy program and related infrastructure, nonproliferation policies, and relations with countries of proliferation concern. An NPAS would also include an analysis of the adequacy of safeguards and other control mechanisms to ensure that assistance provided under the U.S.-Saudi agreement is not used to further any nuclear weapons effort. Some stakeholders said that it would be important for the NPAS for Saudi Arabia to address the questions regarding the country’s stated intentions to develop a nuclear weapons program. One stakeholder questioned whether an NPAS would provide a sufficient assessment of Saudi nuclear proliferation behavior or potential because the statutory requirement for intelligence community input into the NPAS is narrowly worded. Specifically, the addendum that the intelligence community is to provide to each NPAS is required to contain a comprehensive analysis of the country’s export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the

²⁵A nuclear cooperation agreement establishes the framework for cooperation but does not guarantee that cooperation will take place.

²⁶GAO, *U.S.-Russia Nuclear Agreement: Interagency Process Used to Develop the Classified Nuclear Nonproliferation Assessment Needs to be Strengthened*, [GAO-09-743R](#) (Washington, D.C.: June 30, 2009) and *2010 Resubmission of the U.S.-Russia Nuclear Cooperation Agreement: Further Actions Needed by State and Other Agencies to Improve the Review of the Classified Nuclear Proliferation Assessment*, [GAO-10-1039R](#) (Washington, D.C.: Sept. 21, 2010) .

actual or suspected nuclear, dual-use, or missile-related transfers to such countries, but the requirement does not call for the intelligence community to assess the country's intent to develop nuclear weapons.²⁷ State officials declined to tell us whether they had begun drafting an NPAS in anticipation of an agreement with Saudi Arabia. However, State officials noted that their engagement with the intelligence community in the development of an NPAS goes beyond the requirements of that statute, but they also said that the legal requirement was limited.

Concerns about regional proliferation risks and undermining of global nonproliferation norms. Several stakeholders expressed concerns about the regional and international nonproliferation implications of a U.S.-Saudi nuclear cooperation agreement. For example, several stakeholders said that an agreement without restrictions on enrichment and reprocessing could lead to the renegotiation of the agreement with the UAE. The agreement with the UAE, which includes a commitment to forswear enrichment and reprocessing, also contains a provision that would allow the UAE to request renegotiation of its agreement if another country in the region concludes a less restrictive agreement with the United States. Several stakeholders also raised the concern that a nuclear cooperation agreement without additional nonproliferation conditions would undermine U.S. and global nonproliferation norms by sending the message that such norms were negotiable. For example, in addition to the Additional Protocol being a mechanism to prevent diversion of nuclear material, many stakeholders said that insisting on the Additional Protocol was critical and emphasized the importance of the Additional Protocol as a global nonproliferation norm. Several stakeholders also questioned the premise that supplying Saudi Arabia's nuclear program would allow the United States to retain influence over international nonproliferation norms. One stakeholder said that the United States has not been a significant nuclear exporter for decades and has nonetheless retained its influence.

²⁷50 U.S.C. § 3024(w).

Nuclear Cooperation Negotiations with Saudi Arabia Have Stalled over Differences over Nonproliferation Conditions

The United States and Saudi Arabia have not made significant progress toward a nuclear cooperation agreement because of persistent differences between the parties over nonproliferation conditions, including U.S. insistence that Saudi Arabia conclude an Additional Protocol with IAEA and that Saudi Arabia agree to restrictions on enrichment and reprocessing, based on our analysis of available information.

The United States and Saudi Arabia first held formal nuclear cooperation negotiations in 2012, during which the United States provided a draft agreement text to Saudi officials that included the nine nonproliferation conditions required under Section 123 of the AEA, according to NNSA officials. In that round of negotiations, Saudi officials accepted “the vast majority” of the conditions in the draft text, according to NNSA officials; these officials estimated that approximately three pages of the text remained to be negotiated. NNSA officials told us that the areas of disagreement include provisions required by the AEA. In the next formal negotiations in 2018, there was no progress in resolving the remaining issues, and no changes to the text of the agreement were made at the time, according to agency officials. The areas of disagreement that were not resolved in 2012—including those regarding provisions required by the AEA—remained unresolved as of January 2020, according to agency officials. These areas of disagreement include:

- **Additional Protocol.** The United States has urged Saudi Arabia to conclude an Additional Protocol with IAEA, according to a September 2019 letter from the Secretary of Energy to the Saudi Minister of Energy, Industry, and Mineral Resources and based on public statements by the Secretary of Energy and another government official. Several former agency officials and other stakeholders said that Saudi Arabia has expressed an unwillingness to conclude an Additional Protocol with IAEA.
- **Restriction on enrichment and reprocessing.** According to public statements by agency officials, the United States supports a permanent restriction on enrichment and reprocessing. According to the Secretary’s September 2019 letter and to former officials we interviewed, however, the United States may be willing to accept a temporary restriction on enrichment and reprocessing in its

negotiations with Saudi Arabia.²⁸ According to these former officials, such a temporary restriction would allow the United States and other countries more time to work with Saudi Arabia to reach agreement on mutually acceptable terms. However, one stakeholder said that this option would not be attractive to Saudi Arabia and would not be useful to the United States as a nonproliferation measure because an existing nuclear cooperation agreement and any nuclear infrastructure that it would have enabled would reduce U.S. leverage to influence Saudi enrichment and reprocessing decisions in the future.

Despite the lingering disagreement on certain provisions between both countries, NNSA officials told us in November 2019 they believed the negotiations had made progress since 2012 because the continued interactions with Saudi officials over this time were useful in advancing Saudi understanding of the United States' position on the nonproliferation conditions of a potential agreement.

We are unable to characterize Saudi views on the status of the negotiations or on other aspects of our review, because State did not respond to our repeated requests for assistance in facilitating travel to Saudi Arabia and interviews with relevant Saudi officials. We also did not receive a response to our written request to the Saudi ambassador to the United States for an opportunity to interview relevant Saudi officials about the negotiations.

Agency Management of Negotiations, Including Agency Roles and Informing Congress, Remains Unclear

Agency management of U.S.-Saudi nuclear cooperation negotiations remains unclear with regard to agency roles and informing Congress. We were unable to confirm U.S. agency roles at a range of U.S.-Saudi interactions where nuclear cooperation was or may have been discussed. We were also unable to determine whether the agencies kept the relevant congressional committees fully and currently informed of the negotiations.

²⁸According to one stakeholder, the concept of a limited-duration restriction on enrichment and reprocessing may have been raised to address Saudi complaints about the Joint Comprehensive Plan of Action with Iran, which is not a nuclear cooperation agreement. Through the Joint Comprehensive Plan of Action, Iran agreed to temporary restrictions on enrichment in exchange for sanctions relief. The United States withdrew from the agreement in 2018, and Iran announced in January 2020 that it would no longer abide by the agreement's limitations on enrichment, although it did not withdraw from the agreement.

Agency Roles in U.S.- Saudi Nuclear Cooperation Negotiations Remain Unclear

The roles various U.S. agencies have played in U.S.-Saudi nuclear negotiations remain unclear because DOE and State did not provide us with information to clarify or corroborate such roles. According to a State official and DOE officials, State would have “by definition” led any negotiations and without State present, any interactions between U.S. and Saudi officials on nuclear cooperation did not constitute negotiations. The AEA stipulates that State conduct any nuclear cooperation negotiations but does not define “negotiations.” According to one stakeholder, during an NSC meeting in late 2017, during which nuclear cooperation with Saudi Arabia was discussed, the NSC made a decision to reinforce established agency roles, including specifying that State would lead any negotiations.²⁹ We were unable to confirm whether NSC made such a decision because NSC did not respond to our requests for interviews or documentation. However, through our interviews with State, DOE, and NRC officials, we determined that representatives of each agency participated in the 2012 and March 2018 formal nuclear cooperation negotiations with Saudi Arabia.³⁰

State and DOE officials did not provide information that we requested about interactions between the United States and Saudi Arabia, such as the dates and agency participants. However, despite the limited cooperation from State and DOE, we were able to identify through our analysis of documentation and interviews with other stakeholders, a range of interactions between the United States and Saudi Arabia where nuclear cooperation was or may have been discussed. The interactions we were able to identify during which potential nuclear cooperation was discussed are as follows:

- five bilateral meetings, including a September 2018 meeting in Washington, D.C., a December 2018 meeting in Saudi Arabia, and an August 2019 meeting in Washington, D.C.;

²⁹Between March 2017 and January 2018, the NSC held at least seven interagency meetings on civil nuclear cooperation with Saudi Arabia, in which the agencies discussed renewing negotiations with Saudi Arabia on a civil nuclear cooperation agreement.

³⁰In this report, we use “formal nuclear cooperation negotiations” to signify sessions where parties aim to agree on specific terms and conditions in the text of an agreement. Some officials we interviewed also describe less formal interactions between U.S. and Saudi officials since 2012 as “negotiations.” Because agency officials did not provide information that would have allowed us to determine the nature of such interactions, we use the term “interactions” in this report to characterize all other U.S.-Saudi encounters on potential nuclear cooperation outside of the 2012 and 2018 formal negotiations. We use “negotiations” to refer to the overall negotiations process.

- a Civil Nuclear Energy Roundtable in Saudi Arabia in December 2017, hosted by Commerce;
- a commercial nuclear mission to Saudi Arabia in April 2018, in partnership with DOE; and
- the letter from the Secretary of Energy to his Saudi counterpart in September 2019 conveying U.S. positions on nonproliferation conditions for U.S.-Saudi nuclear cooperation.

We also identified five interactions where the U.S. Secretary of Energy and Saudi officials may have discussed nuclear cooperation, including a phone call in November 2017 and meetings on the sidelines of four events:

- the IAEA General Conference in Austria in September 2017,³¹
- the Bilateral Energy Dialogue in Saudi Arabia in December 2017,
- the World Economic Forum in Switzerland in January 2018, and
- the Future Investment Initiative in Saudi Arabia in October 2019.

Figure 3 illustrates U.S.-Saudi negotiations and other interactions, and appendix II includes a detailed list of the interactions we were able to identify.

Figure 3: U.S.-Saudi Interactions Where Nuclear Cooperation Was or May Have Been Discussed

Type of U.S.-Saudi interaction	2012	2013	2014	2015	2016	2017	2018	2019
Formal nuclear cooperation negotiation	1						1	
Nuclear cooperation <u>was</u> discussed			1			2	2	2
Nuclear cooperation <u>may have been</u> discussed						3		1

Source: GAO analysis of agency documentation. | GAO-20-343

Note: The interactions depicted in this figure include meetings, phone calls, and a letter, among other things.

³¹The General Conference is an annual meeting of representatives of IAEA's member states to consider and approve IAEA's budget, among other things.

Because State and DOE did not cooperate with our information requests, we cannot confirm that the interactions we identified constitute all of the interactions between the United States and Saudi Arabia on potential nuclear cooperation since 2012.³² Furthermore, we were unable to determine whether the agencies followed the established roles in the other interactions with Saudi Arabia where nuclear cooperation was or may have been discussed because NSC, State, and DOE did not respond to our requests for information to clarify these matters. Specifically, with the exception of the April 2018 commercial nuclear mission to Saudi Arabia,³³ we were unable to determine whether State or other agency officials authorized, were present for, or were aware of a number of DOE-led interactions with Saudi Arabia described above. In addition, State and DOE officials declined to confirm whether State authorized the September 2019 letter from the Secretary of Energy to his Saudi counterpart regarding U.S. positions on the nonproliferation conditions for nuclear cooperation.

The Level of Information U.S. Agencies Have Provided to Congress about U.S.-Saudi Nuclear Cooperation Negotiations Remains Unclear

It is unclear whether the agencies kept the relevant committees fully and currently informed of U.S.-Saudi negotiations. State officials stated that they consistently provide information to Congress, but the limited information they provided to us does not support this position. As previously stated, section 123 of the AEA requires that the President keep certain congressional committees “fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation.”³⁴

State officials told us during our May 2019 interview that they consistently provided information to Congress on the nuclear cooperation negotiations and other interactions with Saudi Arabia. However, neither State nor DOE

³²State and DOE officials did not provide us with requested information on the dates of and other basic factual information about U.S.-Saudi negotiations on nuclear cooperation. NSC officials, who generally determine when to initiate nuclear cooperation negotiations, declined our request for an interview to confirm, among other things, whether or when the NSC determined that negotiations with Saudi Arabia should be initiated. However, other agency officials, agency documentation we obtained, and public statements by agency officials allowed us to identify many key interactions and events related to potential U.S.-Saudi nuclear cooperation. For more information, see appendix I.

³³The commercial mission was led by the Nuclear Energy Institute, a nuclear industry group, in partnership with the U.S. Embassy in Saudi Arabia, Commerce, DOE, the U.S.-Saudi Arabian Business Council and the King Abdullah City for Atomic and Renewable Energy.

³⁴42 U.S.C. § 2153(e).

provided documentation within the time frame of our review to support these statements. DOE did not respond to our request for information on any dates or related details of any congressional briefings related to U.S.-Saudi nuclear cooperation negotiations. State did not respond to our initial request in May 2019 for information on dates and related details of any congressional briefings it held on U.S.-Saudi nuclear cooperation negotiations. However, in January 2020, after reviewing a preliminary draft of this report, State officials provided a list of congressional briefings on U.S. nuclear cooperation initiatives since 2013.

We reviewed this list and identified two briefings specifically focused on nuclear cooperation negotiations with Saudi Arabia: one held in January 2018 for House Committee on Foreign Affairs staff and another held in May 2019 for House Committee on Oversight and Reform staff.³⁵ State officials also noted that U.S.-Saudi nuclear cooperation may have been discussed in other State briefings that focused on nuclear cooperation in general or with other countries, such as briefings to the House Committee on Foreign Affairs and Senate Committee on Foreign Relations in July 2019 and November 2019. State officials declined to discuss the details of any congressional briefings with us, including the participating agencies, substantive issues, and other details. Consequently, we could not establish the extent and substance of information the agencies provided to Congress on U.S.-Saudi nuclear cooperation negotiations.

After State did not provide us with the information we requested, we reached out to a number of current and former staff of the House Committee on Foreign Affairs and Senate Committee on Foreign Relations, representing both parties. Through our interviews with eight of these staff, we were able to identify one congressional briefing by the agencies in December 2017 on the status of U.S.-Saudi nuclear cooperation negotiations.³⁶ However, based on our interviews with congressional staff, we were unable to identify the dates of any other briefings by the agencies on the U.S.-Saudi nuclear cooperation negotiations. Notably, based on our review of the documentation and interviews with congressional staff, it does not appear that the agencies provided a briefing to the House Committee on Foreign Affairs or Senate

³⁵The House Committee on Oversight and Reform conducted an investigation into the potential intersection of private efforts to advocate for exports of nuclear technology to Saudi Arabia with administration policy on nuclear cooperation with Saudi Arabia.

³⁶We summarized the information we gathered from former and current congressional staff by using “several” to refer to three or four interviewees and “many” to refer to five or more interviewees.

Committee on Foreign Relations until more than a year after the last formal U.S.-Saudi nuclear cooperation negotiations in March 2018.

Current and former congressional staff we interviewed also described their frustration in trying to obtain information, beyond briefings, from the agencies on the status of the negotiations. Several current and former congressional committee staff we interviewed told us that they learned of developments in the U.S.-Saudi negotiations through the press or from representatives of the nuclear industry, rather than directly from the agencies, despite having asked the executive branch to keep them informed of any developments. For example, one former staff member of a relevant committee told us that they learned of the March 2018 formal negotiations just days before the meeting through a press article. Another former congressional committee staff member said that since late 2017, the agencies have only provided information to Congress about the negotiations in response to forceful measures, such as holds on nominations or legislation. According to many of the current and former congressional staff we interviewed, this stands in contrast to past practice in which agencies regularly briefed the committees on nuclear cooperation negotiations without coercion, and sometimes even initiated the meetings.³⁷

State and DOE provided Congress with contradictory justifications for not providing such information to Congress, according to our review of documents and interviews with congressional staff. For example, one congressional committee staff member told us that agency officials said they were not obligated to keep the committee currently and fully informed of negotiations because the United States was not in negotiations with Saudi Arabia. On another occasion, when pressed by members of Congress in congressional hearings, an agency official said he could not discuss nuclear cooperation negotiations with Saudi Arabia because negotiations were ongoing. Specifically, in September 2019, the Assistant Secretary of State for International Security and Nonproliferation stated in a hearing that he could not get into details of nuclear cooperation negotiations with Saudi Arabia because the negotiations were ongoing. These contradictory justifications may have led to inconsistency in the agencies providing information to Congress on nuclear cooperation negotiations. By committing to regularly scheduled,

³⁷One former congressional staff we interviewed did not share the view that the agencies previously kept Congress fully and currently informed to their satisfaction and said that agencies previously also shared insufficient information with Congress about nuclear cooperation negotiations with Saudi Arabia.

substantive briefings to Congress on nuclear cooperation initiatives and negotiations, State and DOE could enhance transparency and build confidence with Congress on nuclear cooperation, preemptively address congressional concerns about cooperation with certain countries, and support congressional oversight on nonproliferation matters.

Former congressional staff, including those involved in drafting Section 123(e) in 2008—the “fully and currently informed” provision—said the intent of the provision was to promote transparency on the status of any nuclear cooperation negotiations to the congressional committees of jurisdiction to lay the groundwork for congressional consideration of any agreement. However, some former congressional staff said that the provision allows for broad interpretation and that it may be up to Congress to more clearly define the “fully and currently informed” requirement. By specifying, through an amendment to the AEA, its expectations for timeliness and information provided by the agencies on nuclear cooperation negotiations and initiatives, Congress could have better assurance that it will get the information it needs for its oversight of nuclear nonproliferation matters.

Conclusions

State officials told us that they consistently provided information to Congress on the nuclear cooperation negotiations and other interactions with Saudi Arabia. They later provided a list of congressional briefings on U.S. nuclear cooperation initiatives since 2013 but did not specify what was discussed. Based on this limited information, it is unclear whether the briefings by State kept Congress fully and currently informed of developments in the negotiations with Saudi Arabia, and congressional staff provided us with examples of having to find information on the negotiations from other sources, such as press articles.

The AEA stipulates that the President keep the relevant congressional committees fully and currently informed of nuclear cooperation negotiations and initiatives, and that State conduct nuclear cooperation negotiations with the technical assistance of the Department of Energy.³⁸ By committing to regularly scheduled, substantive briefings to Congress on nuclear cooperation and initiatives, State and DOE could enhance

³⁸42 U.S.C. § 2153(a). Executive Order No. 10841, on International Cooperation, states that the functions of negotiating and entering into international agreements shall be performed by or under the authority of the Secretary of State. ¹NNSA is a separately organized agency within the Department of Energy, with responsibility for its nuclear weapons and nonproliferation programs, among other things.

transparency and build confidence with Congress on nuclear cooperation, preemptively address concerns about cooperation with certain countries, and support congressional oversight on nuclear nonproliferation matters.

Former congressional staff involved in drafting the “fully and currently informed” provision said that its intent was to promote transparency and lay the groundwork for congressional consideration of any agreement. However, some said that this provision allows for broad interpretation of the “fully and currently informed” requirement. By specifying, through an amendment to the AEA, its expectations for timeliness and information provided by the agencies regarding nuclear cooperation negotiations and initiatives, Congress could have better assurance that it will get the information it needs for its oversight of nuclear nonproliferation matters.

Matter for Congressional Consideration

Congress should consider amending the Atomic Energy Act to require regularly scheduled briefings, for instance, on a quarterly basis, and specify expectations for the content of such briefings, such as potential difficulties in negotiating nonproliferation conditions with partner countries.

Recommendation

The Secretary of State, in coordination with the Secretary of Energy, should commit to regularly scheduled, substantive briefings for the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations on all initiatives and negotiations related to nuclear cooperation in order to enhance transparency and establish greater confidence with Congress on nuclear cooperation matters. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to the Secretaries of State, Energy, Defense, and Commerce, and to the Chairman of the NRC for review and comment. In its written comments, reproduced in appendix III, State neither agreed nor disagreed with our findings, and concurred with our recommendation. State also noted in its response that it is already implementing the recommendation; specifically, that it conducted briefings on nuclear cooperation in 2018 and 2019 to Congress. However, as we noted in our report, because State officials declined to discuss the details of these briefings, we could not establish the extent and substance of information the agencies provided to Congress on U.S.-Saudi nuclear cooperation negotiations. Furthermore, as we reported, staff of the relevant congressional committees we interviewed were able to identify only one briefing on U.S.-Saudi nuclear negotiations and several staff expressed frustration in trying to get information about the negotiations,

including learning of developments through the press. NRC also provided written comments, which are reproduced in appendix IV; NRC neither agreed nor disagreed with our recommendation. DOE provided technical comments, which we incorporated as appropriate. DOD and Commerce did not have any comments.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of State, the Secretary of Energy, the Secretary of Defense, the Secretary of Commerce, the Chairman of the Nuclear Regulatory Commission, and other interested parties. In addition, this report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or trimbled@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



David C. Trimble,
Director, Natural Resources and Environment

Appendix I: Objectives, Scope, and Methodology

This report examines (1) the potential nonproliferation benefits and concerns, if any, stakeholders have identified with regard to U.S.-Saudi nuclear cooperation; (2) the status of U.S.-Saudi nuclear cooperation negotiations and any areas of disagreement, and (3) what is known about U.S. agency management of the nuclear cooperation negotiations with Saudi Arabia. To address all three objectives, we reviewed relevant statutes, including the Atomic Energy Act of 1954, as amended, and agency procedures on conducting negotiations, such as the Department of State's *Foreign Affairs Manual* and procedures for interagency approval of nuclear cooperation agreements, and the Nuclear Regulatory Commission's procedures for the review of nuclear cooperation agreements. In addition, we interviewed current officials from the Department of State (State), the Department of Energy (DOE), DOE's National Nuclear Security Administration (NNSA),¹ the Department of Commerce (Commerce), the Department of Defense (DOD), and the Nuclear Regulatory Commission (NRC). We also interviewed other stakeholders, such as former government officials, including former congressional staff of both parties, and representatives of nongovernmental and commercial entities with knowledge of nuclear cooperation. We selected these stakeholders based on a snowball-sampling technique. Specifically, in our interviews with former U.S. government officials with direct prior involvement in nuclear cooperation matters, we asked for suggestions of other individuals who were knowledgeable on nuclear cooperation agreement negotiations or Saudi Arabia. We summarized the information gathered from interviewees in the report by using "some" to refer to three interviewees, "several" to refer to four or five interviewees, and "many" to refer to more than five interviewees. We summarized the information we gathered solely from former and current congressional staff by using "several" to refer to three or four interviewees and "many" to refer to five or more interviewees.

To describe potential benefits and concerns stakeholders have identified, we also reviewed the Treaty on the Nonproliferation of Nuclear Weapons and official documents and statements, including congressional testimony, in which nonproliferation benefits and risks of nuclear cooperation with Saudi Arabia were discussed. We also interviewed current officials and other stakeholders, including former government officials and representatives of nongovernmental and commercial entities with expertise in nuclear cooperation. To examine the status of U.S.-

¹NNSA is a separately organized agency within the Department of Energy, with responsibility for its nuclear weapons and nonproliferation programs, among other things.

Saudi nuclear cooperation negotiations and any areas of disagreement, we also reviewed official documentation such as agency correspondence to Saudi officials and transcripts of congressional hearings. In addition, we submitted to the Saudi Ambassador to the United States a written request for an opportunity to interview relevant Saudi officials about the negotiations, but did not receive a response. To examine U.S. agency management of the negotiations, including how the agencies have informed Congress about the negotiations, we reviewed official documentation such as agency correspondence to Saudi officials, certain export authorization application packages, dates of congressional briefings on nuclear cooperation, and agency documentation related to U.S. government advocacy for U.S. businesses related to nuclear cooperation with Saudi Arabia. We also requested a list of dates and participants of U.S.-Saudi interactions pertaining to nuclear cooperation, as well as materials used for briefings, if any, by the agencies to Congress.

The agencies provided us with limited information in response to some categories we requested and did not provide information in other categories. Specifically, beginning in May 2019, we requested from the Departments of State and Energy and the National Security Council (NSC) basic factual information on license applications for the transfer of nuclear technology to Saudi Arabia; the dates of any discussions or negotiations between U.S. and Saudi officials; the U.S. and Saudi agencies, offices, and representatives present at such meetings; and the types of records produced from such meetings. DOE provided us with information on the license applications, and State and DOE provided us with limited information on their general processes relating to the negotiation of agreements. State officials also provided a list of congressional briefings on U.S. nuclear cooperation initiatives since 2013 in January 2020, after reviewing a preliminary draft of this report, but declined to discuss the details of the briefings with us, including the participating agencies, substantive issues, and other details that would have allowed us to establish the extent of information provided to Congress on U.S.-Saudi nuclear cooperation negotiations. Furthermore, neither agency nor NSC provided substantive information in any of the other categories we requested; in order to complete this review within a time frame responsive to the needs of our congressional requesters, we adjusted our audit objectives to focus on examining the status of the negotiations and management of the negotiations process. Because State, NSC, and DOE did not provide information to fully address these adjusted objectives, we obtained documentation and information from other agency officials and over 30 other stakeholders, including, as

previously noted, former senior U.S. government officials, current and former congressional staff, and nuclear industry representatives and knowledgeable nongovernmental experts who have followed the negotiations.

We conducted our work from April 2019 through April 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Identified Developments in U.S.-Saudi Nuclear Cooperation

Since the United States and Saudi Arabia signed a memorandum of understanding on nuclear energy cooperation in 2008, there have been a variety of interactions between the United States and Saudi Arabia regarding potential nuclear cooperation between both countries, as well as other developments related to such cooperation. The Atomic Energy Act (AEA) does not define “negotiations.” In this report, we use “formal nuclear cooperation negotiations” and “formal negotiations” to signify sessions where parties aim to agree on specific terms and conditions in the text of an agreement. We use the term “interactions” for all U.S.-Saudi encounters on potential nuclear cooperation other than the two formal negotiations explicitly identified by agency officials. Table 3 provides information on dates we identified of formal U.S.-Saudi negotiations; other U.S.-Saudi interactions; National Security Council meetings to discuss policy and related matters on U.S.-Saudi negotiations; agency briefings to Congress on the negotiations; and other related developments, including developments in Saudi Arabia related to its planned nuclear power program.

See table 3 for more information.

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

Table 3: Identified Developments in U.S.-Saudi Nuclear Cooperation

Year	United States-Saudi nuclear cooperation arrangements and authorizations	U.S.-Saudi interactions where nuclear cooperation was or may have been discussed	Major Saudi nuclear developments	National Security Council meetings	Agency briefings to Congress
2008	May 16. The United States and Saudi Arabia sign a memorandum of understanding (MOU) on nuclear energy cooperation.	---	---	---	---
2009	May 19. A Project Specific Agreement "Concerning the Enhancement of Critical Energy Infrastructure Security" between the United States and Saudi Arabia becomes effective. October 20. An agreement between the United States and Saudi Arabia on science and technology cooperation becomes effective.	---	January 13. A Comprehensive Safeguards Agreement between Saudi Arabia and the International Atomic Energy Agency (IAEA) enters into force.	---	---
2010	---	---	April 17. The King Abdullah City for Atomic and Renewable Energy (KACARE) is established by royal decree.	---	---
2012	---	The Department of State leads formal nuclear cooperation negotiations with Saudi Arabia.	---	---	---
2013	December. A company submits a Part 810 authorization application (which is returned without approval in July 2016).	---	---	---	---

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

Year	United States-Saudi nuclear cooperation arrangements and authorizations	U.S.-Saudi interactions where nuclear cooperation was or may have been discussed	Major Saudi nuclear developments	National Security Council meetings	Agency briefings to Congress
2014	---	September. KACARE presents its plan for a Saudi nuclear program to representatives from State and the Department of Energy (DOE) at the IAEA General Conference. U.S. and Saudi officials discuss nuclear cooperation.	---	---	---
2015	March 8. An MOU between DOE and KACARE on renewable energy and nuclear energy becomes effective.	---	---	---	---
2016	July. A Part 810 application submitted in December 2013 is returned because the government of Saudi Arabia was not responsive to a State Department request for government-to-government nonproliferation assurances.	---	April. Saudi Arabia announces Vision 2030, a government program aimed at diversifying energy production in Saudi Arabia, and in response, KACARE proposes a plan to create an energy mix in which nuclear energy plays a “major role.”	---	---

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

Year	United States-Saudi nuclear cooperation arrangements and authorizations	U.S.-Saudi interactions where nuclear cooperation was or may have been discussed	Major Saudi nuclear developments	National Security Council meetings	Agency briefings to Congress
2017	<p>December 4. MOU between DOE and Saudi Arabia's Ministry of Energy, Industry, and Mineral Resources in the area of Clean Fossil Fuels and Carbon Management is signed and becomes effective.</p> <p>December 13. The Secretary of Energy signs a Part 810 authorization.</p>	<p>September 19. The Secretary of Energy meets with the President of KACARE in Vienna. Nuclear cooperation may have been discussed.</p> <p>November 10. The Secretary of Energy holds a phone call with the Saudi Minister of Energy, Industry, and Mineral Resources; nuclear cooperation may have been discussed.</p> <p>December. The Secretary of Energy leads a Bilateral Energy Dialogue with the Saudi Minister of Energy, Industry, and Mineral Resources in Riyadh; nuclear cooperation may have been discussed.</p> <p>December. Commerce holds a Civil Nuclear Energy Roundtable between the United States and Saudi Arabia in Riyadh (nuclear cooperation was discussed).</p>	<p>July. KACARE's proposed plan for energy production is approved by the Saudi cabinet of ministers and named the Saudi National Atomic Energy Project.</p> <p>October. Saudi Arabia issues a Request for Information for procurement of its first nuclear power plant.</p>	<p>March 9. A Sub-Policy Coordination Committee (Sub-PCC) meeting on Civil Nuclear Cooperation "123 Agreements" covers, among other things, the possibility of further discussions with Saudi Arabia.</p> <p>March 30. A Sub-PCC meeting is held on "Civil Nuclear Cooperation with Saudi Arabia."</p> <p>April 27. A Policy Coordination Committee (PCC) meeting is held on "Civil Nuclear Cooperation with Saudi Arabia."</p> <p>October 18. A PCC meeting is held on "Civil Nuclear Cooperation with Saudi Arabia."</p> <p>November 15. A Paper Deputies Committee meeting is held on "Civil Nuclear Cooperation with Saudi Arabia."</p> <p>December 13. A Deputies Small Group is held on "Civil Nuclear Cooperation with Saudi Arabia."</p>	<p>November 28. The Assistant Secretary of State for International Security and Nonproliferation states in his confirmation hearing before the Senate Committee on Foreign Relations that the United States is in discussions with Saudi Arabia about a nuclear cooperation agreement. He describes the "gold standard" as a "desired outcome" rather than a legal requirement.</p> <p>December 13. State briefs Senate Committee on Foreign Relations and House Committee on Foreign Affairs staff on nuclear cooperation agreement negotiations. According to former congressional staff, U.S.-Saudi nuclear cooperation was discussed.</p>

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

Year	United States-Saudi nuclear cooperation arrangements and authorizations	U.S.-Saudi interactions where nuclear cooperation was or may have been discussed	Major Saudi nuclear developments	National Security Council meetings	Agency briefings to Congress
2018	<p>March 30. The Secretary of Energy signs a Part 810 authorization.</p> <p>June 21. The Secretary of Energy signs two Part 810 authorizations.</p> <p>August 29. The Secretary of Energy signs a Part 810 authorization.</p> <p>October 18. The Secretary of Energy signs a Part 810 authorization.</p>	<p>January 15. KACARE reports that the U.S. Deputy Secretary of Energy visits Saudi Arabia, including KACARE, to review aspects of joint cooperation between Saudi Arabia and the United States, particularly on peaceful uses of atomic and renewable energy (nuclear cooperation was discussed).</p> <p>January 24. The Secretary of Energy meets with the Saudi Minister of Energy, Industry, and Mineral Resources in Davos during the World Economic Forum. Nuclear cooperation may have been discussed.</p> <p>March. The United States and Saudi Arabia hold formal nuclear cooperation negotiations in London, including a high-level political discussion and a round with working-level agency staff.</p> <p>April. The Nuclear Energy Institute, in partnership with the U.S. Embassy in Saudi Arabia, Commerce, DOE, the U.S.-Saudi Business Council, and KACARE, leads a U.S. Commercial Nuclear Mission to the Kingdom of Saudi Arabia</p>	<p>March 19. The Crown Prince of Saudi Arabia says on 60 Minutes, “Saudi Arabia does not want to acquire any nuclear bomb, but without a doubt, if Iran developed a nuclear bomb, we will follow suit as soon as possible.”</p> <p>July 24. An IAEA team concludes a 12-day mission to Saudi Arabia to review the status of its nuclear infrastructure using the Phase 2 criteria of IAEA’s Milestones Approach.</p>	<p>January 25. A Principals Committee meeting is held on “Civil Nuclear Cooperation with Saudi Arabia.”</p>	<p>January 24. State briefs House Committee on Foreign Affairs staff on nuclear cooperation agreement negotiations with Saudi Arabia.</p> <p>April 12. At his confirmation hearing, the Secretary of State tells the Senate Committee on Foreign Relations that he supports the “gold standard” and that he knows that State and DOE are “working towards achieving that.”</p> <p>May 24. At a hearing before the Senate Committee on Foreign Relations, the Secretary of State testifies that Saudi officials “have said they want a peaceful nuclear energy program, and we have told them we want a gold-standard Section 123 Agreement from them, which would not permit them to enrich. That is simply all I’ve asked of Iran, as well.”</p>

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

(nuclear cooperation was discussed).

September 10. The Secretary of Energy and Saudi Minister of Energy, Industry, and Mineral Resources meet in Washington, D.C., and discuss, inter alia, “the potential for U.S.-Saudi civil nuclear engagement and new technologies such as Small Modular Reactors.” (Nuclear cooperation was discussed.)

December 10. DOE reports that the Secretary of Energy visited Saudi Arabia and continued discussions with the Saudi Minister of Energy, Industry, and Mineral Resources on a potential nuclear cooperation agreement between the United States and the Kingdom of Saudi Arabia (nuclear cooperation was discussed).

**Appendix II: Identified Developments in U.S.-
Saudi Nuclear Cooperation**

Year	United States-Saudi nuclear cooperation arrangements and authorizations	U.S.-Saudi interactions where nuclear cooperation was or may have been discussed	Major Saudi nuclear developments	National Security Council meetings	Agency briefings to Congress
2019	<p>February 18. The Secretary of Energy signs a Part 810 authorization.</p>	<p>August 6. The Secretary of Energy and Saudi Minister of Energy, Industry, and Mineral Resources meet to discuss the planned Saudi nuclear program (nuclear cooperation was discussed).</p> <p>September 4. The Secretary of Energy sends a letter to the Saudi Minister of Energy about Saudi Arabia’s planned civilian nuclear power program, writing that the terms of a nuclear cooperation agreement must include a commitment for Saudi Arabia to sign the Additional Protocol with IAEA, as well as a commitment to forgo enrichment and reprocessing for the term of the agreement.</p> <p>October 28. The Secretary of Energy and the Saudi Minister of Energy meet in Riyadh. Nuclear cooperation may have been discussed.</p>	<p>January. KACARE announces it has received reactor bid proposals from entities in the United States, Russia, France, South Korea, and China.</p> <p>January 22. IAEA delivers its final report on a July 2018 expert mission that reviewed Saudi Arabia’s nuclear infrastructure.</p> <p>September. A new Minister of Energy is appointed in Saudi Arabia.</p> <p>September 9. The Minister of Energy reiterates Saudi Arabia’s intention to explore uranium enrichment, according to press reports, at an energy conference in Abu Dhabi,</p>	---	<p>May 23. State briefs the House Committee on Oversight and Reform on nuclear cooperation agreement negotiations with Saudi Arabia.</p> <p>June 25. In testimony to the House Science and Technology Committee, the Secretary of Energy states that the United States would not enter into a nuclear cooperation agreement with Saudi Arabia unless it agreed to sign an Additional Protocol in addition to its Comprehensive Safeguards Agreement with IAEA.</p>

Source: GAO analysis of agency documentation, interviews, and public information. | GAO-20-343

Appendix III: Comments from the Department of State



United States Department of State
Comptroller
Washington, DC 20520

MAR 25 2020

Thomas Melito
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, "U.S. -SAUDI NUCLEAR COOPERATION: Progress is Stalled over Nonproliferation Conditions and Agency Management of Negotiations is Unclear" GAO Job Code 103472.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

Jeffrey C. Mounts

Jeffrey C. Mounts (Acting)

Enclosure:
As stated

cc: GAO – David Trimble
ISN – Eliot Kang (Acting)
OIG - Norman Brown

Department of State Comments on GAO Draft Report

**U.S.-SAUDI NUCLEAR COOPERATION: Progress is Stalled over
Nonproliferation Conditions and Agency Management of
Negotiations is Unclear**

(GAO-20-343, GAO Code 103472)

The Department of State appreciates the opportunity to comment on the GAO draft report, "*U.S.-Saudi Nuclear Cooperation: Progress is Stalled over Nonproliferation Conditions and Agency Management of Negotiations is Unclear.*"

Recommendation 1: The Secretary of State, in coordination with the Secretary of Energy, should commit to regularly scheduled, substantive briefings for the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations on all initiatives and negotiations related to nuclear cooperation in order to enhance transparency and establish greater confidence with Congress on nuclear cooperation matters.

Response: Department of State agrees with the recommendation, as it has already been engaging in such briefings for the staff of these Committees as well as any other interested staff. As detailed in the list provided to GAO, the Department provides regular, substantive briefings to the relevant Committees on these issues, including four briefings on initiatives and negotiations related to nuclear cooperation in 2018 and five briefings in 2019. The Department strives to be as transparent as possible, consistent with the need to protect the details of ongoing negotiations and consistent with the President's Constitutional authority to conduct foreign affairs.

Appendix IV: Comments from the Nuclear Regulatory Commission



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 20, 2020

Mr. David Trimble, Director
U.S. Government Accountability Office
Natural Resources and Environment
441 G Street, NW
Washington, DC 20548

Dear Mr. Trimble:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter, dated March 4, 2020, which provided the NRC the opportunity to review and comment on the U.S. Government Accountability Office (GAO) draft report GAO-20-343, "U.S.-Saudi Nuclear Cooperation: Progress is Stalled over Nonproliferation Conditions and Agency Management of Negotiations is Unclear."

The NRC staff appreciates the opportunity to review the draft report, as well as, the GAO staff's professionalism and constructive interactions during the GAO engagement. The NRC's role in the negotiation of civil nuclear cooperation agreements (123 agreements) is accurately reflected in the report. The NRC staff also notes that the Agency fully cooperated on all GAO meeting requests and fulfilled all inquiries for information that were directly related to the NRC's consultative role in the Atomic Energy Act, Section 123 agreement process.

Overall, the NRC does not agree, nor does it disagree with the recommendations in the report. In our role as an independent regulatory agency, we do not usually participate in the Executive Branch's Congressional briefings on civil nuclear cooperation. Therefore, the NRC does not have an opinion on the frequency and substance of these briefings.

Thank you again for the opportunity to provide comments on the GAO report. Please feel free to contact Mr. John Jolicoeur at (301) 415-1642 or John.Jolicoeur@nrc.gov, if you have any questions or need additional information.

Sincerely,

3/20/2020

X

A handwritten signature in blue ink that reads "Margaret M. Doane".

Margaret M. Doane
Executive Director for Operations
Signed by: Margaret M. Doane

Margaret M. Doane
Executive Director
for Operations

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

David C. Trimble at (202)-512-3841 or trimbled@gao.gov

Staff Acknowledgements

In addition to the individual named above, other key contributors to this report were William Hoehn, Assistant Director; Alisa Beyninson, Analyst in Charge; Antoinette Capaccio; Tara Congdon; Camille Pease; Steven Putansu; Dan Royer; Sara Sullivan; and Madeline Welter.

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