



Getting to a Final Agreement

Nuclear Negotiations with Iran and Congressional Action

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The April 2 announcement of initial parameters for a comprehensive negotiated settlement to Iran's nuclear program was a welcome achievement after more than a year of tough negotiations between Iran and the P5+1—the permanent five members of the U.N. Security Council plus Germany.¹ The announced parameters are strong, but Washington should remain clear-eyed about the difficult task of reaching a final agreement before the June 30 deadline. As the recent remarks of Iranian Supreme Leader Ayatollah Khamenei make clear, many critical issues remain unresolved and even the parameters announced by the United States are not yet set in stone.²

If the P5+1 is able to secure a final agreement that addresses critical remaining issues, such as sanctions relief timing and the nature of Iran's permitted nuclear research and development, it will make the United States and its allies more secure by blocking Iran's pathway to a nuclear weapon and keeping in place all options to stop Iran if it violates the agreement.

But potentially harmful congressional action could undermine these sensitive negotiations before June 30. The current draft of the Iran Nuclear Agreement Review Act³ championed by Sen. Bob Corker (R-TN) includes several problematic provisions that restrict the ability of U.S. negotiators to secure a final deal and guarantee the failure of any nuclear deal through a poison pill terrorism certification clause. Instead of making a final nuclear agreement stronger, congressional action currently being considered could weaken a final deal or make it more likely that talks fail altogether. Congress has an important role to play in this process, as CAP has previously argued.⁴ However, lawmakers should delay legislative action until after negotiations conclude.

The most constructive role for Congress isn't as a negotiator, but as an enforcer of a deal. When Congress does act, it must preserve the authorities needed for the United States to implement its side of an agreement; establish strong monitoring, verification, and enforcement mechanisms; and ensure the immediate snapback of sanctions in case of material breach by Iran.

The potential final agreement would support U.S. and allied security interests

Cuts off all paths to an Iranian nuclear weapon

A final deal that addresses the issues discussed below will cut off all three current Iranian paths to a nuclear weapon: uranium enrichment at the Fordow and Natanz underground facilities; plutonium production at Arak; or a covert program. The restrictions on centrifuges, enrichment levels, and uranium stockpiles will increase the amount of time it would take Iran to breakout through uranium enrichment from the current timeframe of two to three months to at least 12 months.⁵ The reconfiguration of the Arak plutonium reactor will make it physically impossible to produce weapons-grade plutonium. Finally, the intrusive inspections of Iran's entire nuclear supply chain will ensure that any covert effort to "sneakout" can be detected before progressing far enough to make a nuclear weapon.

Permanently restricts Iran's nuclear program

A final agreement would be tiered, with some restrictions on Iran expiring after 10, 15, or 25 years and others remaining in place forever. The elements of the deal that expire in 10 years will not enable Iran to return to a nuclear weapons program. Iran's nuclear program will remain subject to International Atomic Energy Agency, or IAEA, safeguards under the Treaty on the Non-Proliferation of Nuclear Weapons and the Additional Protocol forever, ensuring broad IAEA inspection authorities and access rights to facilities and information. The most intrusive inspections of Iran's nuclear supply chain established by the deal will remain in place for 25 years.⁶

Keeps all options on the table to stop Iran from developing a nuclear weapon

If Iran pursues a nuclear weapon following the expiration of centrifuge and enrichment restrictions, a final agreement that meets the criteria in this paper will guarantee the United States and its international partners can still detect any violations, apply diplomatic and economic pressure to deter Iranian leaders, and if necessary, take military action to destroy Iran's nuclear facilities before Iran can produce a nuclear weapon. Furthermore, this agreement will strengthen U.S. military options by providing at least 15 years of information gathering about Iran's nuclear program, making transparent details about installations, operations, and supply routes that could be crucial to planning and executing an effective military strike.

Negotiators must address several critical issues by June 30

Clarify the suspension process and snapback mechanism for international sanctions

The final agreement must ensure that the international arbitration process for Iranian noncompliance is short in duration—preferably less than 60 days—and that the snapback of international sanctions will not be subject to a potential veto by any of the permanent five members of the U.N. Security Council—the United States, the United Kingdom, France, China, and Russia. U.N. sanctions against Iran should not be lifted before Iran fulfills its commitments in a final deal.

Strengthen the IAEA inspections regime

A final agreement must have comprehensive monitoring and verification of Iran's nuclear supply chain and facilities, including undeclared facilities, by the IAEA. The IAEA must have adequate capacity to conduct all inspections authorized in an agreement.

Provide more detailed plans for stockpiles of nuclear material and research and development facilities

The April 2 parameters remain ambiguous and subject to differing interpretations about what precisely happens to nuclear materials and research and development facilities in Iran. According to the announced parameters, Iran will reduce its stockpile of low-enriched uranium from 10,000 kg—enough for roughly 9 to 10 nuclear warheads if enriched to weapons grade—to 300 kg, only one-quarter of the fissile material necessary for a nuclear weapon.⁷ But the parameters do not specify whether Iran will ship its uranium stockpile to another country or reduce it through some other mechanism domestically. The parameters also place important restrictions on Iran's research and development capabilities over the next 10 years, but a final agreement will need to provide clear guidance about exactly what those restrictions are and whether any restrictions will remain in place beyond the initial 10 years.

Voting on the Iran Nuclear Agreement Review Act before June 30 undermines U.S. interests

Draft bill undermines U.S. negotiating position and enhances Iran's leverage

Congressional action has a direct impact at the negotiating table. Passing the current version of the bill sponsored by Sen. Corker before negotiations are complete will make it more difficult for U.S. negotiators to secure all the necessary elements to restrict Iran's nuclear program. Iranian negotiators reportedly used the March letter to Ayatollah Khamenei organized by Sen. Tom Cotton (R-AR)⁸ and signed by 47 Republican senators to argue that they could not accept a deal that did not include immediate sanctions relief by the United States.⁹ Iran's negotiators cited the Cotton letter as proof that the proposed U.S. plan on phased sanctions relief was unworkable and insincere. A bill passed by Congress that limits President Barack Obama's negotiating position and his congressionally authorized ability to waive sanctions enforcement for national security interests¹⁰ will similarly be used as a negotiating tool by Iran or may simply cause Iran to walk away from the negotiating table with blame for the failure falling on the United States. Conversely, if the international community views Iran's leaders as unreasonable or Iran agrees to and then violates a final deal, the burden of consequences will fall on Tehran.

Draft bill includes a misguided terrorism certification

Section 135.d.5.A.iv of the draft bill requires certification about Iran's state-sponsorship of terrorism against U.S. citizens or interests anywhere in the world.¹¹ Iran's sponsorship of terrorism is well documented and irrefutable.¹² A nuclear agreement will not stop Iran's destabilizing role in the Middle East, and the international community must remain vigilant about Iran's continued support for terrorism. The United States must continue to oppose Iran's aggressive actions, including its sponsorship of terrorism, regardless of the outcome of nuclear negotiations. The current language of the Corker bill ensures failure of that certification, resulting in the automatic re-imposition of all U.S. sanctions and guaranteeing the failure of any nuclear agreement and increasing the odds that Iran eventually gets a nuclear weapon.

A wide range of U.S. sanctions on Iran related to terrorism, human rights abuse, and money laundering will remain in place regardless of congressional action and are not subject to the terms of a nuclear agreement. Counterterrorism, human rights violations, money-laundering legislation, and additional security support to Israel and Gulf allies such as Saudi Arabia and the United Arab Emirates, or UAE, should be taken up as a separate issue by Congress and should not be tied to the nuclear negotiations. Any certification language about Iran's sponsorship of terrorism should match similar congressional language for Pakistan, Libya, and Tunisia.¹³

Draft bill will diminish U.S. credibility in the event a final deal fails to meet critical criteria

There is no time constraint that requires Congress to act prior to the completion of current negotiations, and doing so makes Congress pass judgment on an idea rather than an actual agreement. As previously discussed, this could help Iranian negotiators. It will also diminish the belief of the other world powers at the table that the United States is making a good faith effort. Should a deal fail, the global coalition that keeps sanctions on and pressure up on Iran would be more likely to fracture. Congress can always act after the conclusion of a final agreement to prevent implementation if lawmakers deem it necessary. There is no positive, substantive benefit for Congress to vote on the bill now as opposed to after a final agreement; the only difference is the downside of potentially undermining the negotiations process. U.S. sanctions will remain in place for many months past June 30, giving Congress time to prevent the implementation of a final deal if it does not meet the critical criteria listed above.

How to improve the Iran Nuclear Agreement Review Act

Delay cloture vote until after June 30

The Senate should not invoke cloture on the Corker bill until at least June 30 or the conclusion of talks that result in a final nuclear agreement. Senators who support the draft bill should also support a delay to vote on an actual deal.

Remove provisions that guarantee failure of even a strong nuclear agreement

Congress should amend the bill sponsored by Sen. Corker to remove several unhelpful provisions including:¹⁴

- Sec. 135.b.2: Removal of the president's ability to waive and suspend enforcement of sanctions
- Sec. 135.c.1.a-b: Preventing sanctions relief if Congress adopts a joint resolution that Congress does not favor the agreement
- Sec. 135.d.5.A.iv: Certification that Iran has not supported acts of terrorism against the United States or U.S. citizens anywhere in the world

Add provisions that strengthen enforcement

The core purpose of Congressional action to approve an agreement should be to strengthen the enforcement, including:

- Additional funding and authority for U.S. intelligence agencies to support more robust monitoring and verification mechanisms aimed at detecting any Iranian covert nuclear activities.
- Expediting the process for a sanctions snapback mechanism based on Sec. 5 of the Iran Congressional Oversight Act of 2015 (S. 669),¹⁵ which shortens the time to introduce a new sanctions bill in Congress and ensures that the bill will not be held up through procedural delays.
- Establishment of a high-level working group between the legislative and executive branches, such as a special commission or committee, to monitor and enforce the agreement, including establishing reporting requirements for the executive branch and providing recommendations to enhance inspections and intelligence capacities.
- Increased U.S. commitment, including funding, to enhance IAEA capacity on monitoring and verification.

Authorize additional support for the security of Israel and Gulf partners

In separate legislation, Congress should support initiatives to strengthen the confidence and support of U.S. regional allies. These initiatives could include funding Israel's Iron Dome and David's Sling missile system and mortar defense programs;¹⁶ supporting interdiction of Iranian weapons and fighters supporting terrorism; expediting security assistance to Gulf partners; and greater NATO and Gulf Cooperation Council military cooperation.

Conclusion

The negotiations with Iran, led by the United States and supported by the rest of the P5+1, represent an important opportunity to remove one of the most dangerous threats to the security of the United States and its allies in the Middle East: a possible Iranian nuclear weapon. Pursuing a final agreement by the June 30 deadline should remain a top priority for both the Obama administration and Congress. The United States must remain clear-eyed about its expectations: Iran will remain a dangerous and destructive actor in the region, it will continue to support terrorism, and it will likely continue to oppose many U.S. and allied interests throughout the Middle East. But a deal that meets critical criteria and neutralizes the potential nuclear threat Iran poses would be a major achievement for U.S. and international security interests. Congress should refrain from unnecessarily derailing the negotiation process and instead support negotiations through strong oversight and reporting requirements that do not disrupt Washington's ability to live up to a deal. The road to a final agreement remains long, but the April 2 announcement puts it within reach.

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Endnotes

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- 2 Thomas Erdbrink and David E. Sanger, "Iran's Supreme Leader Says Sanctions Must Lift When Nuclear Deal Is Signed," *The New York Times*, April 9, 2015, available at http://www.nytimes.com/2015/04/10/world/middleeast/iran-khamenei-rouhani-nuclear-agreement.html?_r=0.
- 3 *Iran Nuclear Agreement Review Act of 2015*, S. 615, 114th Cong. (introduced February 27, 2015), available at http://www.foreign.senate.gov/imo/media/doc/S.615_Iran_Nuclear_Agreement_Review_Act_of_2015.pdf.
- 4 Ken Sofer, "A Constructive Role for Congress on Iran," Center for American Progress, March 26, 2015, available at <https://www.americanprogress.org/issues/security/news/2015/03/26/109919/a-constructive-role-for-congress-on-iran/>.
- 5 The White House, "Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran's Nuclear Program."
- 6 Ibid.
- 7 Ibid.
- 8 Office of U.S. Senator Tom Cotton, "Cotton and 46 Fellow Senators to Send Open Letter to the Leaders of the Islamic Republic of Iran," March 9, 2015, available at <http://www.cotton.senate.gov/content/cotton-and-46-fellow-senators-send-open-letter-leaders-islamic-republic-iran>.
- 9 Bradley Klapper, "Official: Iran confronts US at nuke talks over GOP letter," Yahoo! News, March 16, 2015, available at <http://news.yahoo.com/us-iran-nuclear-pact-deadline-approaching-071208446--politics.html>.
- 10 All U.S. sanctions against Iran include some form of presidential waiver authority. For instance, the Comprehensive Iran Sanctions, Accountability, and Investment Act of 2010 gives the president authority to waive sanctions "if the President determines that such a waiver is in the national interest of the United States." See *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010*, H.R. 2194, Sec. 401.b.1, 111th Cong. (July 1, 2010), available at <https://www.congress.gov/bill/111th-congress/house-bill/2194/text#toc-HA4B3902ECBBF4377BE148A127ED41501>.
- 11 *Iran Nuclear Agreement Review Act of 2015*, S. 615, Sec. 135.d.5.A.iv, 114th Cong. (introduced February 27, 2015).
- 12 U.S. Department of State, *Chapter 2. Country Reports: Middle East and North Africa* (2013), available at <http://www.state.gov/j/ct/rls/crt/2013/224823.htm>.
- 13 For example, the Enhanced Partnership with Pakistan Act of 2009 requires certification that Pakistan has "demonstrated a sustained commitment to and is making significant efforts towards combating terrorist groups." *Enhanced Partnership with Pakistan Act of 2009*, S. 1707, 111th Cong. (October 15, 2009), available at <https://www.govtrack.us/congress/bills/111/s1707/text>.
- 14 *Iran Nuclear Agreement Review Act of 2015*, S. 615, 114th Cong. (introduced February 27, 2015).
- 15 *Iran Congressional Oversight Act of 2015*, S. 669, 114th Cong. (introduced March 4, 2015), available at <https://www.govtrack.us/congress/bills/114/s669/text>.
- 16 For more information on these defense systems, see Jeremy M. Sharp, "U.S. Foreign Aid to Israel" (Washington: Congressional Research Service, 2014), available at <https://fas.org/sgp/crs/mideast/RL33222.pdf>.