



Insight

Reflections on the Iran Nuclear Agreement Review Act

RACHEL HOFF | APRIL 9, 2015

Last week, members of the P5+1 announced [framework parameters](#) regarding Iran's nuclear program. These parameters establish the foundation of a potential final agreement with Iran, which the parties aim to conclude before July 1.

Congress may soon institute a formal process to review that final agreement. If enacted, the [Iran Nuclear Agreement Review Act](#) (INARA) would not obstruct ongoing multilateral negotiations, but it would preserve congressional influence over the final accord and any international agreements predicated on that accord. It would also bolster core non-proliferation objectives by reassuring other Middle Eastern states of American resolve.

In the absence of congressional action, President Obama intends to exclusively use his current statutory authorities to suspend some of the U.S. economic sanctions against Iran. These sanctions and the president's statutory authorities were established by [previous congressional authorizations](#).

By itself, the final Iran agreement will not be a legally binding document subject to congressional consent. However, the Iran agreement will likely become the foundation of a United Nations Security Council (UNSC) resolution that would remove international sanctions against Iran. It is possible that this resolution might also [create an international legal obligation](#) limiting future presidents' ability to re-impose U.S. sanctions.

Anticipating a final agreement, a bipartisan group of 12 senators (six Republican and six Democrat/Independent) introduced INARA. This bill primarily aims to "provide for congressional review and oversight of agreements relating to Iran's nuclear program." The Senate Foreign Relations Committee expects to vote on the bill on April 14.

Harvard professor and international law expert [Jack Goldsmith has observed](#) that INARA

essentially does the following:

- (1) requires the president to promptly transmit to Congress the final Iran agreement and associated documents;
- (2) establishes a 60-day congressional “period of review” and prohibits the president from removing relevant U.S. sanctions during that period;
- (3) creates an option for Congress, through a joint resolution, to restrict the president’s authority to diminish U.S. sanctions;
- (4) imposes several reporting requirements on the president concerning monitoring and verification; and
- (5) expedites congressional options for re-imposing sanctions, if certain conditions arise under the agreement.

These provisions guarantee that Congress will have the opportunity to evaluate the final agreement and the option to reduce the president’s statutory authorities before he applies them. *Effectively, the Act prevents the president from reducing congressionally enacted sanctions without at least passive congressional acquiescence.*

There are several reasons why INARA represents a sensible congressional review policy.

Crucially, the Act does not undermine ongoing negotiations. INARA does not impose new sanctions, authorize automatically-triggered sanctions, or mandate affirmative congressional approval of the final agreement. Congressional inaction will sustain the accord. In addition, the explicit requirement for congressional review of the agreement could help the administration obtain concessions from their Iranian counterparts during the remaining negotiations.

Furthermore, INARA will ensure Congress maintains some influence over the expected UNSC resolution based on the Iran agreement. The president might still seek such a resolution without first obtaining congressional endorsement, but Congress would retain the option to repudiate the underlying agreement. More likely, the president and other parties to the agreement might want (or even require) congressional acceptance before pursuing a new UNSC resolution.

Most importantly, requiring congressional acceptance of the Iran agreement will bolster the non-proliferation objectives that were the *raison d’etre* of the sanctions regime. The Iran sanctions were not only intended to prevent the Islamic Republic from acquiring a nuclear weapon. The sanctions regime also aimed to prevent broader nuclear proliferation in the

region. If other Middle Eastern states presume that Iran may soon possess nuclear weapons, those states are likely to seek such weapons themselves. The P5+1 might have little opportunity to restrain such proliferation, particularly since the “break-out time” for a [Saudi nuclear weapon](#) could be as short as three hours (the flight time from Karachi to Riyadh). Should Saudi Arabia acquire a weapon from Pakistan, the non-proliferation regime will be a dead letter.

Thus, the primary concern following the Iran negotiations will not be the president’s opinion of their outcome. Nor will it be how Congress or the other P5+1 members perceive the final accord. Ultimately, the dispositive factor will be how other Middle Eastern states evaluate the agreement. If they perceive the agreement as weak or lacking American resolve, the internal debates occurring within Washington and other western governments will be largely superfluous. The President implicitly acknowledged this concern when he [preemptively invited](#) members of the Gulf Cooperation Council to the United States to discuss the Iran agreement.

INARA will help reassure these states. They will likely want to know that any final agreement has congressional support (and hence broader American support) rather than simply the approval of a president with 18 months left in office. The Obama Administration may come to recognize that congressional acceptance of the final agreement will help elicit greater confidence among these allies.

The opinions expressed in this article are those of the author and do not necessarily reflect his institutional affiliations.