

Congress's Role in Verification After an Iranian Nuclear Deal

By Peter Billerbeck and Mieke Eoyang | Published: 01/20/15

TAKEAWAYS

A nuclear armed Iran is unacceptable, and the best way to keep nuclear weapons out of Iran's hands is with a credible agreement. Sanctions have forced Iran to the negotiating table, but increasing sanctions now risks collapsing valuable progress and undermining international support. Congress should consider other options to turn up the heat on Iran—like improving monitoring and verification.

1. The U.S. has made significant progress at the negotiating table toward preventing a nuclear armed Iran.
2. Increasing sanctions isn't the only option to keep the pressure on Iran both now and after a deal is reached.
3. Given Iran's history of deception, the U.S. cannot simply trust, but must actively verify that Iran sticks to the deal.
4. Congress can and should strengthen monitoring processes while maintaining an independent role in verifying Iran's compliance.

Before the current interim nuclear deal with Iran expires on June 30, we hope the negotiators will have come to terms on a comprehensive agreement. Regardless, Congress need not simply watch from the sidelines.

Given Iran's inconsistent record with past compliance and understandable Congressional skepticism surrounding the terms of a future deal, Congress can take a proactive, constructive role in monitoring and verification.¹

1. The U.S. has made significant progress at the negotiating table toward preventing a nuclear armed Iran.

The U.S. restarted discussions with Iran in early 2013 on their nuclear program after four decades of broken relations, and led a process that included the P5+1 countries (US, UK, France, Russia, China, plus Germany). A breakthrough occurred in November 2013, when an interim agreement called the Joint Plan of Action (JPOA) was announced. It represented a significant milestone freezing Iran's nuclear program and also provided a way forward for measured re-engagement with Iran.

The JPOA provided an initial foundation for negotiators. Under the JPOA, Iran froze, and in some cases rolled back components of its nuclear weapons development for the first time. This included freezing processing of 20% enriched uranium, reprocessing enriched uranium back to non-enriched uranium oxide, and unprecedented levels of monitoring and access for the IAEA to Iranian facilities.²

There is significant debate about what the U.S. should demand in a final agreement.³ At a minimum, a deal should include: 1) rolling back Iran's nuclear weapons program and keeping dual-use technologies under strict monitoring; 2) allowing sufficient alert time should Iran change its calculus and decide to dash towards a nuclear weapon; 3) ensuring that any use of Iranian nuclear technology is only for peaceful purposes, consistent with the Nuclear Nonproliferation Treaty (NPT); and 4) providing for robust and credible monitoring and verification mechanisms.⁴

But no negotiation pleases all parties, so no matter what agreement is reached, some will be unhappy with the result. The question that those who are dissatisfied with the result or who distrust Iranian commitments will ask themselves is, what next? As Secretary Kerry has noted, there is just one answer to that question:

“This agreement cannot be based on trust because trust can't be built overnight. Instead, the agreement has to be based on verification.”

Secretary John Kerry, November 24, 2014, Statement after P5+1 negotiations

2. Increasing sanctions could derail progress already made and isn't the only option to keep the pressure on Iran both now and after a deal is reached.

Sanctions have forced Iran to the negotiating table, but imposing additional sanctions now could jeopardize further negotiating progress, divide U.S. partners and risk collapsing the international

consensus behind negotiations. Already, European officials have warned that the EU may decide to re-engage Iran without the U.S. and continue with diplomatic negotiations should Congress pass a new wave of unilateral U.S. sanctions.

New sanctions could do more than unravel the P5+1 consensus that is vital for progress toward a final agreement. For now, China, India and South Korea all continue to cut back on oil purchases from Iran, making it harder for Iran to profit. Unilateral sanctions would jeopardize this important source of unified pressure on the regime.

Frustration with delays in getting to a comprehensive nuclear agreement with Iran is rising. While most Members of Congress recognize that a negotiated agreement is by far the best way to keep nuclear weapons out of Iran's hands, many are looking for ways to increase the pressure. The United States imposing increased unilateral economic sanctions may be satisfying as a punitive measure, but it would also risk collapsing the negotiations process and undermining the international consensus to hold Iran to account.

3. Given Iran's history of deception, the U.S. cannot simply trust, but must actively verify that Iran sticks to the deal.

Given Iran's history of deception, Congress should consider alternatives to demonstrate its distrust. In particular, Congress can increase its role in the verification process and provide more resources for verification. Congress could send the message that it is not trust, but verification, that is necessary to stop Iran.⁵

First, while questions of monitoring and verification are generally the domain of the State Department and intelligence community, Congress can help bolster necessary resources to ensure sufficient capacity. In the past, U.S. intelligence agencies have uncovered evidence of deception in Iran, as they have in other countries. The U.S. intelligence community's successful detection of nuclear enrichment activity at the Fordow research facility is an excellent example of these capabilities.⁶ When Iran began covert enrichment activities there in early 2006, U.S. intelligence quickly detected increased radioactive signals and new underground construction. This evidence was publicly revealed by President Obama, French President Nicolas Sarkozy, and British Prime Minister Gordon Brown in September 2009.⁷

Congress has the responsibility of funding the intelligence community, which will play a key behind-the-scenes role in verifying Iran's compliance with the deal. Furthermore, the ability of the U.S. to pass tips to international inspectors is crucial to verification. While the U.S. intelligence services are among the most capable in the world, their resources are not limitless. Given the variety of threats facing the nation, specifically prioritizing intelligence resources to ensure that inspectors have the most up-to-date insights on Iran's program will be a challenge, but it must be done.

Second, Congress can create a more proactive role for itself in ensuring the success of any agreed upon deal terms. Congress doesn't just have to rely on the executive branch but can act to have its own role in the verification process. Some in Congress might want to increase the branch's role because of their suspicions of Iran. Others may do so because of their commitment to the general principle of non-proliferation. Still others may have the natural suspicion of the executive branch that comes from our system's balance of powers. In the past, Congress has created commissions that have allowed it to play an independent role in foreign policy issues, including the U.S. Helsinki Commission which works on arms monitoring and issues related to European Security Cooperation and the U.S. – China Economic and Security Review Commission.⁸ A similar structure would afford legislators an additional venue for useful, productive engagement on monitoring and verification with Iran.

The U.S. and other key P5+1 countries must also ensure that this consensus supports the International Atomic Energy Agency (IAEA) to the fullest extent possible to enable it to effectively monitor Iranian facilities and fissile materials.⁹ In short, there must be continued support among key international partners — especially the P5+1 — on the state of Iranian adherence to deal terms as well as response if noncompliance occurs.

Finally, there may come a time when Congress is again faced with a question of whether to authorize increased sanctions or military strikes against a country for developing weapons of mass destruction. Having a continuous role in the verification process will better equip Congress with the insights it needs to ensure the accuracy and objectiveness of the intelligence on which a case for increased sanctions or military strikes may be evaluated.

Given the above factors, Congress has a vital role to play to ensure the viability of a deal. By doing so, it can bolster the monitoring and verification crucial to the success of a deal and provide tough checks on Iranian backsliding. Members of Congress can then work to address the concerns raised by critics and enhance their role in monitoring and verification.¹⁰

4. Congress should strengthen monitoring and maintain an independent role in verifying Iran's compliance:

Others have thought specifically about the verification process, including the Federation of American Scientists' Nuclear Verification Capabilities Independent Task Force, whose work inspired the recommendations to Congress in this report.

There are two components that Congress can include in a strengthened monitoring and verification architecture:

1) Increased Resources for Verification: Though the U.S. intelligence community has resources and personnel devoted to collection and analysis of intelligence related to Iran, a dedicated

monitoring manager with regular reporting requirements to Congress can ensure legislators are adequately briefed on the status of Iranian compliance and have a full picture of available information if reneging or noncompliance occurs. This manager can also facilitate coordination and intelligence-sharing with IAEA monitors to better synchronize an international response to noncompliance. This Agreement Monitoring Manager would:

- "Own" the verification portfolio dedicated to this deal.
- Be a focal point in the USG to work with the IAEA and Consultative Commission to coordinate all U.S. intelligence community efforts on the issue and facilitate intelligence sharing with IAEA.
- Be housed in ODNI and draw on various interagency components; CIA, DIA, NGA, NSA, DOE and DTRA.
- Regularly report to a congressional commission with statutory authority beyond that of standing organizational hierarchy.
- Be responsible for periodic compliance reports.

2) Congressional Commission on Nuclear Compliance: Legislation would establish a new independent body modeled on the the Helsinki Commission, where legislators are afforded a proactive role in ensuring verification and compliance. This commission would bolster U.S. engagement with follow-on steps after deal terms are concluded, while providing a constructive avenue for legislative engagement.¹¹

The Commission's purview would be to monitor and supervise verification processes established in the final deal.

- The Commission will draw on bipartisan, bicameral membership from across committees (SFRC, SSCI, SASC, HFAC, HPSCI, HASC).
- Would include recognized outside experts from think tanks and/or academia.
- Ex-officio executive branch personnel may also be included.
- A small staff would be allocated to make the moving parts work.
- Authorizing legislation should be open to future mandates with other similar IAEA monitoring missions.

Along with these principal recommendations for action the legislative branch can take, the Nuclear Verification Capabilities Independent Task Force outlined other areas for executive action in support of enhanced monitoring and verification.¹²

Conclusion

Given Iran's inconsistent record with past compliance and understandable Congressional

skepticism surrounding the future of deal terms, Congress should take a proactive, constructive role in monitoring and verification. It can do so by establishing through legislation a Congressional commission modeled on the Helsinki Commission, a dedicated mission manager within the intelligence community, focused on processing and analyzing verification intelligence as well as a consultative commission within the P5+1 to address compliance issues and engage with the IAEA on technical matters. By doing so, legislators can engage constructively and help ensure the success of a U.S. approach to a nuclear weapons-free Iran.

Endnotes

- 1 This brief builds on the work of the Federation of American Scientists Nuclear Verification Capabilities Independent Task Force and their report, "Verification Requirements for a Nuclear Agreement with Iran" Authored by task force leaders Christopher Bidwell, Orde Kittrie, John Lauder and Harvey Rishikof. Available at, <http://fas.org/pub-reports/verification-requirements-nuclear-agreement-iran/>
- 2 United States, Executive Office of the President, Office of the Press Secretary, "Summary of Technical Understandings Related to the Implementation of the Joint Plan of Action on the Islamic Republic of Iran's Nuclear Program," January 16, 2014. Accessed November 20, 2014. Available at: <http://www.whitehouse.gov/the-press-office/2014/01/16/summary-technical-understandings-related-implementation-joint-plan-actio>
- 3 Robert Einhorn, "Preventing a Nuclear-Armed Iran: Requirements for a Comprehensive Nuclear Agreement," Research Paper, The Brookings Institution, March 31, 2014. Accessed November 20, 2014. Available at: <http://www.brookings.edu/research/papers/2014/03/31-nuclear-armed-iran-einhorn>
- 4 Daryl G. Kimball, "Iran Nuclear Deal 101: How A Comprehensive Agreement Can Block Weapons Pathways," Issue Brief, Arms Control Association, October 30, 2014, Volume 6, Issue 10. Accessed November 20, 2014. Available at: <https://www.armscontrol.org/issue-briefs/2014-10-30/Iran-Nuclear-Deal-101-How-A-Comprehensive-Agreement-Can-Block-Weapons-Pathways>
- 5 These recommendations are based on the work of the Federation of American Scientists Nuclear Verification Capabilities Independent Task Force and their report, "Verification Requirements for a Nuclear Agreement with Iran"
- 6 David E. Sanger and William J. Broad, "U.S. and Allies Warn Iran Over Nuclear 'Deception'," The New York Times, September 25, 2009. Accessed November 20, 2014. Available at: <http://www.nytimes.com/2009/09/26/world/middleeast/26nuke.html?hp>
- 7 Plain Dealer staff and wire reporters, "Western leaders at G-20 summit demand Iran open nuclear site," *The Plain Dealer*, September 25, 2009. Accessed November 20, 2014. Available at: http://www.cleveland.com/world/index.ssf/2009/09/western_leaders_at_g-20_summit.html
- 8 Commission on Security and Cooperation in Europe. "About the Helsinki Process," Accessed November 20, 2014. Available at: <http://www.csce.gov/index.cfm?FuseAction=AboutHelsinkiProcess.OSCE>
- 9 Fredrik Dahl. "IAEA Says Needs More Money to Monitor Extended Iran Nuclear Deal" Reuters. November 26, 2014. <http://www.reuters.com/article/2014/11/26/us-iran-nuclear-iaea-idUSKCN0JA1N120141126>
- 10 David E. Sanger, "U.S. Adds Penalties Amid Resistance by Iran to Inspection of Nuclear Work," August 29, 2014. Accessed November 20, 2014. Available at: <http://www.nytimes.com/2014/08/30/world/middleeast/us-imposes-sanctions-on-iranian-groups.html>
- 11 22 USC Sec., 3001, 1976. Accessed November 20, 2014. Available at: <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title22/html/USCODE-2010-title22.htm>
- 12 An international commission based on the P5 1 technical expert teams would bolster the coalition and ensure the terms of the deal are implemented. The Joint Plan of Action provides for such a body, and similar bodies have often been established in prior international agreements. It would also help to ensure coordination among international coalition partners as well as consensus of opinion among leaders. The body would also include relevant Iranian counterparts, not limited to policy personnel but encompassing technical experts as well. This will build the trust and effective relationships necessary for implementation. Should a dispute about noncompliance occur, the commission could judge the nature and degree of violations.. Specifically, the commission would:
 - Include members from the P5 1 negotiating group, Iranian counterparts and technical experts from the IAEA and participant states.
 - Be established through joint accord of negotiating parties to discuss issues related to monitoring and verification.
 - Handle questions of monitoring implementation and clarify and questions stemming from negotiated terms.