

Beyond Partisan Infighting: The Role Congress Should Play in Reacting to the Nuclear Agreement with Iran

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It would be hopelessly naïve to assume that the next 60 days of review of the draft agreement with Iran will not be tied to partisan politics, the 2016 presidential campaign, and efforts to secure pro-Israel votes at the time that Prime Minister Netanyahu has taken so strong a stand against the agreement. These are the realities of American political life, and the much broader set of divisions in U.S. politics that seem likely to extend well beyond November 2016.

The fact is, however, that the agreement does deserve detailed review and challenge, that criticism can be both partisan and constructive, and that both Republicans as well as concerned Democrats can both secure political gains while serving the national interest. The issue is not simply seeking 67 votes to over ride a veto, it is taking action that can put the agreement in a legislative context that will ensure it is properly enforced, and that meaningful action is taken if it is violated or the inevitable gaps in its provisions are exploited by Iran in ways that have a serious strategic impact.

You Have to Play the Only Game in Town

The Congress – and presidential candidates – also need to keep in perspective the fact that this is the only agreement we were ever likely to get, and that the choices now are this agreement or no agreement.

It was clear from the start that Iran was never going to sacrifice both its nuclear and missile capabilities, accept a total freeze on conventional arms imports, suddenly seek to accommodate its Arab neighbors and focus on the “common threat” from ISIS, halt its efforts to expand its regional influence, or reverse its political attacks on Israel or the United States. The best agreement possible always had to be a limited agreement and the best defense for it was always that it would be better than no agreement.

It was also always clear that any agreement would – at least in the short term – be the source of ongoing political struggles with Iran and an extension of war by other means. Moreover, it would be an ongoing duel where enforcement and verification required constant effort, and where some need to updating and modification was inevitable. No meaningful arms control agreement can really bind the future, especially for 5, 8, 10 or 15 years

One can debate the finer details, but in the real world, the agreement we have is about as good as any real world agreement could be. If this agreement is now blocked by internal U.S., politics, Iran is almost certain to react by portraying the United States as dishonest and as blocking arms control and peace, and react with a more active series of nuclear and military efforts — as well with even more hostile efforts in Iraq, Syria, Lebanon, and the Gulf.

Moreover, if the deal fails to pass Congress, outside nations will also take advantage of America’s divisions. Russia and China will exploit the U.S. “failure” for their different reasons. The EU countries are likely to see this as an example of U.S. internal weakness and inability to lead. Our regional allies will have to confront both a more active Iran and a United States whose leadership and unity has proven to be all too uncertain.

Congressional Options

So what can Congress do other than a veto or focus its efforts on blocking the agreement? It has a wide range of options, some of which can be legislated quickly and others over time.

Here are a few examples:

- ***First, it can use the 60 days to give Iran's obligations and options for cheating and violation full visibility, and legislate reporting requirement that ensure any hint of Iranian violations. The agreement is complex.*** It is sometimes nearly opaque or uses words that seem to have far more real world impact than they really have. All the proper caveats and cautions need to be surfaced. Iran also needs to be put on notice that it will be under constant review, that its options are understood and will be monitored.

The Congress can legislate a semi-annual reporting requirement for the life of the agreement that requires reporting on every key aspect of compliance as well as Iran's other key activities: Conventional arms imports and build-up, missile programs and developments, and Iran's activities to expand its influence and role in the region.

It can confront Iran with a requirement for formal public notice of any suspected violation, as well as regular classified briefings by the intelligence committees, armed service committees, and foreign relations committees. Effectively, it can force verification without trust, and in ways that are unclassified and public enough so that Iran has no hope of sheltering behind the politics of diplomacy.

- ***Second, it can pass some form of "Snap Back" legislation to reestablish sanctions.*** The Congress can legislate that the United States will not only resume sanctions if Iran is caught in violation, but also expand those sanctions in ways that will pressure other nations to join the United States in enforcing them. This will require careful wording, waiver provision to avoid a needless crisis, and possibly talks with the EU and our European allies. But it will be clear to Iran that it cannot simply wait out the agreement or hope the United States will not react to a violation. This will also reassure Israel and our Arab allies.
- ***Third, the Congress can call for the United States to offer Israel and its Arab allies more formal security guarantees, and it can offer its Arab allies "extended deterrence" in some form.*** The United States needs to build trust on the part of its regional allies for many reasons and this is an ideal opportunity.

It did not offer the Gulf states or Gulf Cooperation Council (GCC) new formal security agreements at Camp David, but it can do so now, and it can state that if Iran violates the agreement, it will provide extended deterrence of the kind it once provided to Europe to meet the Warsaw Pact theater nuclear threat. It also can establish a formal agreement to provide advanced theater missile defenses to the GCC states, and possibly include Turkey in both the extended deterrence and missile defense offers.

The United States does not need to provide such assurances to a nuclear-armed Israel, but it can assure Israel that it will continue to help it maintain a decisive edge in weapons and missile defenses. It also can establish a long-term missile defense cooperation agreement with Israel to continue the programs already underway.

- ***Fourth, the Congress can legislate new sanctions on firms or state entities that do sell critical conventional arms and missile technology. And/or, it can set reporting requirements that publically identify the seller and cover not only whole weapons but critical components and technologies.*** It may be enough to simply embarrass sellers – who will have to deal with the Arab reaction – but the United States can certainly reinforce the five years limits to arms sales and eight year limits to missile sales with a permanent ban on exports and investment by foreign companies and entities that sell such components, or fines and tariff equivalents.
- ***Fifth, the Congress can hold hearings on IAEA and U.S. intelligence verification.*** It can make sure that all the necessary resources and technologies are provided, that all the proper reporting and analysis is done, that the effort is properly funded, and that Iran and other allies both see just how serious we really are. The day may come when trust is an option. The day has already come when verification is vital.

A “Win-Win” Approach to Partisan Politics

It will take some tolerance on the part of both the White House and Republican leadership to work out such legislation, and make sure it takes a practical form without hair triggers or constitutional challenges. Inevitably, it will mean some gains for the Republican leadership, and compromise. It does, however, seem far better to focus on making the agreement work than a veto fight or partisan divisions that accomplish nothing in the U.S. interest.

Most importantly, as long as the agreement is in force, the key issue will be to show Iran there are no good alternatives and no time at which the agreement’s goals will be forgotten, and that the United States will stand by its allies. Not every form of partisanship has to be destructive. There are some games where both sides can win.

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