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## Inflection Point *Requirements for an Enduring Diplomatic Solution to the Iranian Nuclear Challenge*

POLICY BRIEF



By Colin H. Kahl

The long-simmering nuclear crisis with Iran is approaching a critical inflection point. The election of Hassan Rouhani, a moderate former nuclear negotiator, as Iran's new president has re-energized diplomacy between Iran and the P5+1 (the United States, Britain, China, France, Germany, and Russia). Sanctions have taken a heavy toll on the Iranian economy, and Rouhani believes he has a popular mandate and sufficient latitude from Iran's Supreme Leader, Ayatollah Ali Khamenei, to reach an accommodation with the international community in exchange for lessening the pressure. The prospects for a comprehensive agreement to peacefully resolve the nuclear impasse have never been higher.

The most recent round of talks between Iran and the P5+1, held in Geneva, concluded on November 10. The negotiations were serious and sustained, including several hours of intensive bilateral discussions between the United States and Iran. Differences between the parties have been narrowed, bringing the broad contours of an interim nuclear agreement into view. Nevertheless, a number of sticking points remain.<sup>1</sup> Talks are set to resume in Geneva on November 20.

We do not yet know whether an initial deal will materialize. But if it ultimately resembles the agreement described in recent press reports, it would be a meaningful first step on the road to a final, comprehensive accord to address the Iranian nuclear challenge.

In the coming months, the opportunity to meaningfully constrain Iranian nuclearization could be seized, leading to a peaceful resolution of a decades-long conflict, or squandered, setting the stage for an Iranian nuclear bomb, another war in the Middle East, or both. Achieving a peaceful solution that prevents Iran from acquiring nuclear weapons will require continued commitment to serious, tough-minded negotiations, and close cooperation between the Obama administration and Congress. Given the profound distrust between the United States and Iran, care must be taken to maintain diplomatic momentum and avoid missteps and backsliding that could otherwise put the parties on the road to confrontation. In particular, as U.S. negotiators work to get an initial agreement by the end of 2013 to halt the most troubling and urgent dimensions of Iran's nuclear enterprise, Congress should refrain from imposing additional sanctions or taking other actions that would tie the hands of U.S. diplomats and undermine the prospects for success.

## The Goals of an Enduring Diplomatic Solution

According to U.S. intelligence officials, Iran has already mastered the basic knowledge and technology required to eventually develop nuclear weapons, should the regime decide to do so.<sup>2</sup> Nothing, including the complete dismantling of Iran's nuclear infrastructure, will put this technological genie back in the bottle. Instead, negotiations should focus on a more concrete and achievable objective: placing meaningful and verifiable constraints on Iran's ability to translate its accumulated knowledge and civilian nuclear capabilities into nuclear weapons.

Specifically, diplomacy should aim to prevent Iran from achieving a nuclear "breakout capability," defined as the point at which Iran could produce fissile material for one or more nuclear weapons so quickly or so secretly that the international community could not detect it and respond in time. A final diplomatic agreement sufficient to prevent breakout should seek to:

- **Lengthen breakout timelines.** The final agreement should include sufficient technical constraints to ensure the timeframe between the initiation of breakout and the production of fissile material for one or more weapons is sufficient to allow interdiction.
- **Shorten detection timelines.** Verification mechanisms must be in place to ensure that breakout activities would be detected by International Atomic Energy Agency (IAEA) inspectors and through other means at the earliest possible stage.
- **Provide assurances against a covert nuclear infrastructure.** Transparency and verification mechanisms should be sufficient to detect construction of covert fuel-cycle facilities and weaponization activities.

In the aftermath of any agreement, the United States (and the international community) must also maintain the will and capability to take effective action, including the use of military force if necessary, to prevent the acquisition of enough fissile material for a nuclear weapon if breakout is detected.<sup>3</sup>

An agreement that met these conditions would prevent and deter Iran from racing to a nuclear bomb and, should the regime nevertheless decide to do so, provide ample time for the United States and the international community to interdict the process before it was completed.

## The Dangers of Pushing for a Maximalist Deal

Some analysts argue that U.S. negotiators should capitalize on the existing leverage created by crippling economic sanctions and Iran's apparent willingness to negotiate to insist on a maximalist deal. Maximalists contend that nothing short of a complete dismantling of Iran's fuel-cycle activities – including its current uranium enrichment activities, as well as facilities that could eventually enable Iran to produce weapons-grade plutonium – can achieve the objective of preventing nuclear breakout, and nothing short of this ideal outcome would merit lessening pressure on Iran.<sup>4</sup> This approach is reflected in Israeli Prime Minister Benjamin Netanyahu's "Four No's": no uranium enrichment at any level; no stockpile of enriched uranium; no centrifuges or centrifuge facilities; and no Arak heavy water reactor.<sup>5</sup> Iran would also have to acquiesce to intrusive inspections to verify the dismantling of these capabilities and provide a full accounting of "past military dimensions" of its nuclear program.<sup>6</sup> Incentivizing Iran to accept such an agreement, proponents argue, requires a steady escalation of U.S. sanctions and a credible threat of military action if Iran fails to agree.<sup>7</sup>

Attempting to keep Iran as far away from nuclear weapons as possible by demanding that the country

completely abandon fuel-cycle activities, particularly the demand for zero enrichment, seems prudent and reasonable. All else being equal, the total absence of enrichment activities puts Iran further away from nuclear weapons than allowing some limited enrichment, and it would be easier to verify. Moreover, most countries with civilian nuclear power plants forgo domestic enrichment. (Although it is also the case that Argentina, Brazil, Germany, Japan and the Netherlands have domestic enrichment capabilities while remaining compliant with the Nuclear Non-Proliferation Treaty.) But in reality, the quest for an optimal deal that requires a permanent end to Iranian enrichment at any level would likely doom diplomacy, making the far worse outcomes of unconstrained nuclearization or a military showdown over Tehran's nuclear program much more likely.

Regardless of pressure from the United States, U.S. allies, and the wider international community, the Iranian regime is unlikely to agree to permanently end all enrichment. Khamenei, the ultimate decider on the nuclear file, has invested far too much of the regime's domestic legitimacy in defending Iran's "rights" (defined as domestic enrichment) to completely capitulate now, even in the face of withering economic sanctions. The Islamic Republic has spent more than \$100 billion over decades and enormous amounts of political capital to master the knowledge and centrifuge technology associated with uranium enrichment.<sup>8</sup> The nuclear program and "resistance to arrogant powers" are firmly imbedded in the regime's ideological *raison d'être*. Khamenei and hardliners within the Revolutionary Guard are therefore unlikely to sustain support for further negotiations, let alone acquiesce to a final nuclear deal, if the end product reflects a total surrender for the regime. If Khamenei cries uncle and dismantles the entire Iranian program, how will he explain the tremendous expense and justify the years of sanctions and isolation to his people? What would it all have been for? Khamenei likely

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fears such a humiliation more than he fears economic collapse or targeted military strikes against his nuclear facilities. As RAND Corporation Iran analyst Alireza Nader observes, "[s]anctions are a danger to their rule, but weakness in the face of pressure might be no less a threat."<sup>9</sup>

Nor are President Rouhani and his negotiating team likely to agree to halt enrichment and advocate for such a policy within the regime, since doing so would be political suicide. In 2003, during Rouhani's previous role as Iran's chief nuclear negotiator, he convinced Khamenei to accept a temporary suspension of enrichment. But further talks with the international community stalled in early 2005 over a failure to agree on Iran's asserted right to enrichment, and Tehran ended its suspension shortly thereafter. Rouhani believes – as do the supreme leader and Rouhani's critics in the Revolutionary Guard – that the West pocketed Iranian concessions and Tehran got nothing in return. The failure of Iran's earlier approach under Rouhani facilitated the rise of Mahmoud Ahmadinejad and his hardline policies, including the development of a much more robust uranium enrichment capability. Rouhani is unlikely to make that mistake again. And even if Rouhani and his lead negotiator, foreign minister Javad Zarif, were somehow convinced to do so, the Iranian president would be savaged by his right flank.<sup>10</sup>

Some analysts disagree. The Council on Foreign Relations' Ray Takeyh, for example, argues that Khamenei and Rouhani have boxed themselves in by raising such high expectations among the Iranian people for significant sanctions relief. According to this line of reasoning, regime fears of a popular backlash in the event that diplomacy fails produce considerable leverage for the international community to insist on a maximalist deal.<sup>11</sup> But this misreads Iranian political currents. Rather than boxing the regime in, Khamenei more likely believes that Rouhani's election has bolstered the regime's domestic standing, badly damaged after the fraudulent 2009 presidential elections, buying the regime additional room for maneuver with the Iranian public.<sup>12</sup> Rouhani's new moderate tone with the international community has also recast the Islamic Republic as the reasonable party, further mitigating the risks of a popular backlash, especially if further negotiations deadlock over "unreasonable" maximalist demands. According to a recent Gallup poll, only 13 percent of the Iranian public holds the regime responsible for the hardships produced by economic sanctions (46 percent blame the United States). The same poll found that 68 percent of Iranians support continuing the country's nuclear program despite economic sanctions,<sup>13</sup> a finding consistent with other surveys showing widespread support for maintaining Iran's enrichment program even if it results in additional economic pressure.<sup>14</sup> Consequently, if talks are seen to collapse because of Washington's insistence on demands for zero enrichment, the Iranian public is likely to direct their ire at United States, not the regime, for the diplomatic failure.

Given profound reasons for the regime to reject a maximalist deal, pursuing one would require the United States to go to the brink of the abyss with Iran, escalating economic and military threats to the point that the regime's survival was acutely and imminently at stake.<sup>15</sup> Yet pursuing such a high-risk

strategy is unlikely to succeed, and the consequences of failure would be profound.

First, it is unclear if any escalation of sanctions could bring the regime to its knees in time to prevent Iran from achieving a breakout capability. Although some analysts believe Tehran is on the ropes and that additional sanctions can force Iran to completely dismantle its nuclear program, they rarely explain how more sanctions would produce a sufficient threat to the regime fast enough to prevent Iran from crossing critical nuclear thresholds.<sup>16</sup> Iran's apparent willingness to negotiate under pressure is not, in and of itself, evidence that more pressure will produce total surrender on the nuclear issue. There must be a mechanism to produce a regime crisis – and it must happen fast enough. Yet, while Iran's economy is in dire straits, the country does not appear to be facing imminent economic collapse.<sup>17</sup> Khamenei and the Revolutionary Guard also seem to believe that the Islamic Republic weathered worse during the Iran-Iraq war, an eight year conflict that killed hundreds of thousands of Iranians and produced over half a trillion dollars in economic losses before Iran agreed to a ceasefire. Even if Congress goes forward with additional harsh sanctions, economic conditions are not likely to produce enough existential angst among Iranian leaders, generate mass unrest, or otherwise implode the regime before Iran achieves a nuclear breakout capability. And even if the regime miraculously fell, it still might not prove sufficient to force a nuclear surrender. After all, the imprisoned leaders of the Green Movement and Iranian secularists opposed to the Islamic Republic also support Iran's declared right to enrichment.<sup>18</sup> Therefore, if preventing nuclear breakout is an urgent priority, it would be advisable to pursue a framework that can realistically achieve that objective over the next year rather than gambling on a maximalist strategy that is unlikely to work and almost certainly will not work in time.

Second, and somewhat paradoxically, escalating sanctions at this moment could actually end up weakening international pressure on Iran. For better or worse, Rouhani has already succeeded in shifting international perceptions of Iran. If the United States, rather than Iran, comes across as the intransigent party, it will become much more difficult to maintain the international coalition currently isolating Tehran. In particular, if negotiations on a comprehensive framework collapse because of Washington's unwillingness to make a deal on limited enrichment – a deal Russia and China and numerous other European and Asian nations support – it will likely become much harder to enforce sanctions. Some fence sitters in Europe and Asia will start to flirt with Iran again, leaving the United States in the untenable position of choosing between imposing extraterritorial sanctions on banks and companies in China, India, Japan, South Korea, Turkey and elsewhere, or acquiescing to the erosion of the comprehensive sanctions regime.

Third, issuing more explicit military threats (through a possible authorization of the use of military force, for example) is also unlikely to achieve a maximalist diplomatic outcome. There is little doubt that maintaining a credible military option affects the Iranian regime's calculations, raising the potential costs associated with nuclearization. And, if diplomacy fails, the United States should reserve the option of using force as a last resort to preclude Iran from developing nuclear weapons. But short of invading, occupying and imposing regime change, threats to surgically strike Iranian nuclear sites, no matter how credible, would not hold the regime sufficiently at risk to compel them to completely dismantle their nuclear program.

Finally, attempting to generate an existential crisis for the Islamic Republic could backfire by increasing the regime's incentives to acquire nuclear weapons. This is especially true in the current

diplomatic context. If the United States escalates economic or military pressure at the very moment that Iran has begun to finally negotiate in earnest, Khamenei will likely conclude that the real and irrevocable goal of U.S. policy is regime change rather than a nuclear accord.<sup>19</sup> Solidifying this perception would enhance, rather than lessen, Tehran's motivation to develop a nuclear deterrent as the only means of ensuring regime survival.

In short, “playing chicken” with Iran in pursuit of maximalist goals is not likely to work. Gambling everything by insisting on an optimal deal could very likely result in no deal, leaving Iran freer and potentially more motivated to build atomic arms.

### **Good Enough: Pushing for a Sufficient Deal**

A complete dismantling of Iran's nuclear program – including a permanent end to uranium enrichment – is therefore not in the cards. Instead of pushing for an ideal-but-unachievable agreement, the United States and other world powers should push for a sufficient and achievable one: an accord that significantly limits fuel-cycle activities under stringent conditions and verification procedures designed to preclude Iran's ability to rapidly produce nuclear weapons.

A “sufficient” deal would have several major components:

- **Significant constraints on uranium enrichment**, including: a cap on enrichment at the 5 percent level sufficient for civilian nuclear power reactors but far from bomb-grade; neutralizing or otherwise limiting the size of Iran's domestic stockpile of low-enriched uranium (LEU) to below one-bomb's worth of material; limits on the number, quality and/or output of centrifuges; and setting limits on the size and number of enrichment facilities.
- **Significant constraints on the plutonium track**, including: dismantling Arak, converting Arak to a proliferation-resistant light water reactor or

otherwise neutralizing the facility; and prohibiting the future construction of reprocessing facilities.

- **An intrusive inspections regime**, including: implementation of the IAEA Additional Protocol, allowing inspections of undeclared facilities; requirements for early notification of new nuclear sites; more frequent inspections and 24/7 remote surveillance of key facilities; monitoring centrifuge research, development and production facilities, and uranium mines; and enhanced monitoring of trade in sensitive goods and technologies.
- **Transparency into past military dimensions of the Iranian nuclear program**, including: cooperating with the IAEA investigation into past weapons-related research and development to confirm that these activities have been terminated; and providing IAEA access to key research facilities and scientists.

Taken together, these measures would substantially lengthen breakout timelines, shorten detection timelines and provide assurances against an Iranian covert infrastructure. For these reasons, leading arms control experts believe that such a comprehensive agreement would be sufficient to prevent Iranian nuclear breakout.<sup>20</sup> Furthermore, nothing about this proposal would take any options “off the table” in the event that Iran violated the agreement, reconstituted elements of its program and attempted to build nuclear weapons. The United States and other members of the international community would retain the ability to set back the program by force if necessary – and the nature of the constraints and verification procedures contained in the deal would ensure ample warning time to carry out such actions before Iran crossed the nuclear threshold.

The significant constraints imposed on Iran’s program by such a proposal may be difficult for Tehran to stomach. But if paired with meaningful sanctions relief, it has a much better chance of success than insisting on the complete dismantling

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of Iran’s program. Crucially, irrespective of whether the United States and its P5+1 partners formally recognize a right to enrichment (a step U.S. negotiators correctly say they will not do), the fact of limited enrichment under a sufficient deal could still allow Khamenei and Rouhani to claim Iran’s asserted rights had been respected. Thus, unlike the maximalist approach, which banks on creating an existential crisis for the regime that is likely to fail or backfire, a deal that allows some limited enrichment under stringent constraints offers the regime a face-saving way out. Under such an agreement, Khamenei could tell the Iranian people: “I said we never wanted nuclear weapons and I have issued a fatwa [religious ruling] against them. But I insisted that our rights be respected, and now they are.”<sup>21</sup> Given the reprehensible conduct of the Iranian regime, an outcome that allows the supreme leader to save face with his people is unpalatable. But it is clearly preferable to a world in which the same regime marches toward an atomic bomb.

Pushing for a tough-but-fair deal along these lines would also have the added benefit of maintaining vital international cooperation. Whereas insisting on maximalist demands risks shattering hard-built international consensus, pushing a sufficient deal along the lines suggested above would help maintain international pressure if talks falter. And, should it ever become necessary for the United States to employ military force to set back Iran’s program,

championing a reasonable deal would increase the international legitimacy of such actions.<sup>22</sup>

### The Path to a Final Deal

Achieving a comprehensive accord sufficient to prevent Iranian nuclear breakout will be difficult. But given the progress made thus far in Geneva, there is a plausible path forward.

Ongoing negotiations between Iran and the P5+1 envision a two-step process toward a comprehensive agreement. During first phase, which is the subject of current negotiations, media reports suggest that Iran would be required to:

- Stop producing enriched uranium at the near-bomb-grade 20 percent level.
- Neutralize most of its existing 20 percent stockpile through some combination of oxidation, downblending and/or conversion to fuel assemblies.
- Agree not to activate advanced IR-2m centrifuges.
- Freeze or reduce the number of operational IR-1 centrifuges enriching to the 3.5 percent level.
- Halt construction of the Arak heavy water reactor or, at the very least, refrain from loading fuel into the reactor.
- Agree to more intrusive inspections.<sup>23</sup>

In exchange for these initial Iranian steps to address the most urgent elements of their nuclear program, the Obama administration appears prepared to offer limited, targeted and reversible sanctions relief. According to media reports, this may include: a temporary suspension of sanctions on trade with Iran in petrochemicals, gold and other precious metals; waiving proliferation designations of Iran's auto industry; providing access to civilian aircraft parts; and/or a mechanism for releasing some Iranian funds tied up in overseas escrow accounts.<sup>24</sup> Sanctions would only be suspended for the period of

the agreement (approximately six months) and could be "turned back on" if Iran fails to honor the deal.

Critics of this prospective deal, most vocally Prime Minister Netanyahu, argue that it does far too little to constrain Iranian nuclear capabilities. They also contend that the associated offer of economic relief is too generous, risking the viability of the overall sanctions regime and reducing the pressure required to compel more meaningful Iranian concessions.<sup>25</sup>

But a closer examination reveals that the proposed interim agreement is very much in the interest of the United States and U.S.' closest allies, including Israel. It would halt and begin to roll back the most troubling aspects of the Iranian program. By stopping 20 percent enrichment and significantly reducing Iran's stockpile of 20 percent material, it would immediately address the very threat Netanyahu highlighted in his "red line" speech to the United Nations General Assembly last year.<sup>26</sup> The Institute for Science and International Security estimates it would currently take Iran as little as 1.3-2.3 months to produce one bomb's worth of weapons-grade uranium using a combination of its 3.5 percent and 20 percent uranium stockpile.<sup>27</sup> However, if Iran stops 20 percent enrichment and neutralizes most of its 20 percent stockpile, this would lengthen the breakout time for weapons-grade uranium to 3.1-3.5 months.<sup>28</sup> It would thus take longer for Iran to produce fissile material the day after such an agreement was implemented than is the case today. And since IAEA inspectors visit Iran's enrichment facilities at Natanz and Fordow every one to two weeks, on average, there would be sufficient time to detect any Iranian attempts to produce bomb-grade material. Furthermore, if an initial agreement freezes IR-1 centrifuge installation and precludes operation of advanced IR-2m centrifuges, as reported, it would make it more difficult for Iran to make further advances over the next six months that would otherwise reduce the time needed to enrich its stockpile of 3.5 percent LEU to weapons-grade level. Last but not

least, if the agreement slows or halts the construction of Arak, or at least credibly prevents fuel loading, it would address the pressing concern that the reactor could become operational as soon as mid-2014, potentially providing Iran with an unstoppable plutonium pathway to a bomb before a final deal to resolve the status of the reactor can be reached.<sup>29</sup> In short, there is little doubt that this agreement would leave us better off relative to the status quo and anticipated Iranian technical advances over the coming months.

To be sure, an interim deal along these lines would not, in and of itself, be enough to achieve the objective of preventing a nuclear-armed Iran. No member of the P5+1, and certainly not the Obama administration, is under any illusion about this fact. But it would serve as a vital “first step” toward a final settlement, putting essential time back on the nuclear clock for a second phase of negotiations aimed at reaching a comprehensive agreement.

Also overblown is the concern that the envisioned sanctions relief in phase one of this process would undermine the ability to achieve a final deal. Nothing about the temporary and reversible sanctions relief package currently under discussion fundamentally weakens oil and financial sanctions – the most crippling elements of current pressure on Iran – or dismantles the international architecture supporting these measures. Consequently, even after the interim deal goes into effect, the United States and its P5+1 partners would still maintain significant leverage to incentivize the Iranian regime to agree to comprehensive constraints on its program during the next phase of negotiations.

### **Not the Time for New Sanctions**

According to media reports, the administration has asked Congress to refrain from passing additional sanctions legislation until the end of the year in order to conclude the first phase of this two-step process. Given the apparent willingness of the Iranians to engage in serious negotiations under the pressure of

existing multilateral and unilateral sanctions (including those imposed by previous legislation passed by Congress), this is a reasonable request.

At this stage, there is no need for Congress to pass additional sanctions unless Iran fails to agree to concessions in the current phase of talks. It would also be counterproductive to impose new sanctions at this juncture since doing so risks convincing the supreme leader that Rouhani’s experiment with moderation is a fool’s errand, empowering Iranian hardliners and aggravating tensions within the P5+1 and the wider international coalition currently isolating Tehran.<sup>30</sup>

Nevertheless, Congress should be prepared to ramp up the pressure through additional sanctions legislation if no meaningful interim agreement is reached by the end of this calendar year, or if one is concluded and Iran backslides. If Congress does so, however, lawmakers should carefully construct the legislation to ensure that new sanctions are reversible in the event of a final nuclear deal and avoid attaching conditions tied to other undesirable, but unrelated, Iranian behavior. Congress should also refrain from limiting executive discretion or waiver authority. Undermining executive discretion would greatly complicate diplomacy by conveying to Iran that American offers of even temporary, reversible sanctions relief are simply not credible. Stripping presidential waiver authority could also complicate the Obama administration’s efforts to keep many of Tehran’s closest trading partners from exiting the international coalition isolating Iran. Tremendous sanctions efficacy is derived from the adherence of China, India, Japan, South Korea, Turkey and a few other remaining Iranian energy consumers. If Congress takes away the administration’s leverage to craft an accommodation with Iran that is viable for Iran’s main trading partners, it risks alienating and driving away these countries. The result could be a net reduction in the effectiveness of pressure on Iran.



Finally, if Iran ultimately agrees to and implements a comprehensive and verifiable deal sufficient to prevent nuclear breakout, Congress should be prepared to support such an agreement by offering proportional sanctions relief. To be clear, non-nuclear Iran sanctions focused on terrorism and human rights should not be eased by progress on the nuclear issue. If a nuclear accommodation is achieved, the only sanctions that should be rolled back are those related to Iran's nuclear activities or the generation of revenue Tehran can use to finance nuclear activities.<sup>31</sup>

### Conclusion

As diplomacy with Iran enters a critical period, the United States should be mindful not to accept a bad deal. But an interim agreement along the lines discussed in Geneva would not be a bad deal; rather, it would serve as a meaningful first step toward a comprehensive resolution to the Iranian nuclear challenge. As the Obama administration and its P5+1 partners work to prevent Iran from acquiring nuclear weapons, Congress has an important role to play to ensure that any final accord advances U.S. national interests. As it does so, however, lawmakers should resist the temptation to insist on an optimal but unachievable agreement. If we are to avoid the worst possible outcomes – unconstrained Iranian nuclearization or another major war in the Middle East – then a good-if-imperfect deal is clearly preferable to no deal at all.

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U.S. Secretary of State John Kerry, left, and Iranian Foreign Minister Javad Zarif, right, attend a meeting of the five permanent members of the Security Council plus Germany during the 68th session of the United Nations General Assembly at the U.N. headquarters in New York on September 26, 2013.

(JASON DECROW/Associated Press)