

How a UN Resolution Can Generate Confidence in an Iran Nuclear Deal

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Brief Analysis

A tough UNSC resolution could help boost the long-term viability and strength of a nuclear agreement, but only if said resolution avoids some of the errors seemingly present in the current negotiations with Iran.

For the United States and its partners to carry out the provisions of any nuclear agreement with Iran, the UN Security Council will need to adopt a new resolution and take specific actions to "manage" what by all accounts will be a phased implementation by both sides. UNSC resolutions have facilitated similar agreements outside the council in the past, including UNSCR 687 in 1991 after the Gulf War, UNSCR 1031 in 1995 after the Balkan Dayton-Paris Accords, and UNSCR 2118 in 2013 after the U.S.-Russian agreement on Syrian chemical weapons.

As Colum Lynch and Jamila Trimble wrote in *Foreign Policy* last week, crafting such a resolution as part of the larger effort to suspend sanctions inside and outside the UNSC would be a complicated procedure. Even if it did not place binding obligations on the United States, any resolution would inevitably increase pressure on subsequent American administrations to adhere to an Iran agreement. But a resolution with the right terms offers an opportunity to reinforce confidence in said agreement, and in U.S./UNSC intentions to ensure Iranian compliance.

WHAT MIGHT A NEW RESOLUTION LOOK LIKE?

Taking advantage of this opportunity necessitates reviewing the realities of any potential resolution. First, although the Security Council's five permanent members have been the key players in the P5+1 (i.e., the United States, Britain, China, France, and Russia, along with Germany) and the negotiations with Iran, the council itself has never formally authorized that group. UNSCR 1929 took note of the P5+1's negotiating efforts and "encouraged" its work, but that is not a legal endorsement. Therefore, a P5+1 deal with Iran cannot commit the council to any specific

action -- rather, the agreement should be written with the idea that Washington and its partners will later work within the UNSC to urge enforcement of provisions that fall under the council's responsibility.

Second, any UNSC resolution would have at minimum the following elements:

- Language "welcoming," "supporting," or otherwise endorsing the nuclear deal, probably attaching the agreement's text to the resolution. Such formulations were used in the past resolutions cited above. Of particular importance will be the degree to which the resolution urges or "tasks" member states to revise, waive, or lift non-UNSC sanctions and other measures as laid out in the agreement.
- Statements about the timing of and conditions required for suspending, modifying, or lifting specific sanctions and other measures previously taken by the UNSC.
- Language on how the council will monitor Iran's compliance with the P5+1 agreement. This includes a request from the council through the UN secretary-general asking the International Atomic Energy Agency to conduct whatever inspection regime the agreement stipulates beyond standard IAEA procedures, as well as language on what role the Iran-related UNSC bodies (the Sanctions Committee and Panel of Experts) will play in enforcing the agreement's terms.
- Indication of what steps the UNSC will take if Iran or another party does not carry out its agreement obligations. These steps would presumably be laid out in the agreement itself, but the council has responsibilities that no outside agreement can fully replace. The resolution could also urge member states to take their own actions in response to noncompliance.
- Language indicating what Iran's status will be in the transition from the present situation -- with four existing UNSC resolutions on Iran's problematic behavior, nuclear and otherwise -- to the end state specified in the November 2013 "Joint Plan Of Action," when "the Iranian nuclear programme will be treated in the same manner as that of any non-nuclear weapon state party to the NPT." This determination would have to resolve the council's responsibility to address reports from the IAEA Board of Governors since 2006, which have repeatedly outlined serious concerns about the Iranian nuclear program. After all, the P5 states conducting the negotiations are acting in an ad hoc capacity; they also have a broader responsibility for international security as UNSC members, and this responsibility cannot be encroached upon by any outside agreement.

Third, while a UNSC resolution cannot modify the commitments laid out in a P5+1 deal, it could elaborate on the council's role in executing the agreement. It could also express the council's interest in deterring potential threats to peace in ways that would encourage Iran to adhere to the agreement and build confidence in it. Steps toward this end include the following:

- As Lynch and Trimble proposed, if sanctions and other actions are to be waived pending Iran's actions, those waivers should allow for "snapback" of sanctions -- i.e., a P5+1 agreement could offer waivers only for a short period, with a UNSC vote needed to renew. The alternative options -- waivers that lack time limits, or waivers that can only be ended by the UNSC, which would require nine affirmative votes and no veto by a permanent member -- would be equivalent to completely lifting the sanctions in question, thus losing any deterrent value. This was a problem with the "automatic" timed termination of Bosnia arms sanctions in 1996.
- Any UNSC resolution should emphasize the Chapter VII nature of the council's relationship with Iran over the duration of the agreement, invoking the portion of the UN Charter that describes the binding force of international law on member states and enables punitive measures such as economic sanctions and military action. Chapter VII status is a prerequisite to lifting or temporarily waiving UNSC sanctions, but the specific wording of relevant provisions is important. As with the Syrian chemical weapons resolution (UNSCR 2118), a new Iran resolution should implicitly authorize the use of force under Chapter VII if the terms of the P5+1 agreement are challenged or ignored (Russia and

China would rule out explicit authorization).

- Recent reports strongly suggest that a P5+1 agreement will not require a satisfactory Iranian response to the weaponization concerns formally expressed by IAEA Board of Governors, but will instead call on Tehran and the IAEA to simply work further on this issue. If so, a UNSC resolution should highlight the problematic nature of this situation and call for it to be resolved as a matter of urgent international security concern. Given the council's global responsibility for consistent nonproliferation policy, simply dropping interest in this issue would be a mistake beyond just Iran.
- Any resolution should offer clear support for the IAEA and the integrity of the inspection effort set forth in a P5+1 agreement. Violations of inspection criteria or other threats to transparency should be explicitly cited as triggers for the types of serious UNSC action noted above.
- Regarding IAEA inspectors' findings under the regime established by a P5+1 agreement, any UNSC resolution should establish streamlined, automatic, and frequent reporting of this information directly to the council rather than waiting for the agency's Board of Governors to deliberate on it. Although no resolution should undercut the important role that the IAEA, its board, and its director play in identifying compliance problems, such an arrangement would allow more rapid, documented UNSC consideration of possible violations or inspector access problems. UNSCR 1031 established a similar reporting requirement on the NATO Bosnia force.
- Any resolution should avoid aspirational language about a nuclear agreement or Iran's promise as a model UN state. Given the anticipated generous terms of a P5+1 agreement, Iran will not have demonstrated very much by simply signing it. Tehran's depredations around the region, its legacy of secret nuclear infrastructure at Fordow and Natanz, and its failure to answer for compelling evidence of a weaponization program rule out premature accolades. While the previously mentioned resolutions on Iraq, the former Yugoslavia, and Syria all supported outside agreements, they nevertheless maintained a tone of skepticism and caution toward former aggressors and violators. Iran is a bigger threat to international security than any of these states were, and it deserves the same treatment.

OBSTACLES TO A TOUGH RESOLUTION

The first potential barrier to the helpful provisions described above would be if Iran is able to insert language in the P5+1 agreement or a side deal that limits the tone and nature of an accompanying UNSC resolution. Iran's chief negotiator, Mohammad Javad Zarif, is an accomplished former ambassador to the UN and understands the council well. A weak P5+1 deal could essentially allow him to dictate to the UNSC issues related to its core responsibility beyond an agreement -- giving him that opportunity would be a mistake of the highest order.

Second, other P5+1 negotiating partners, other UNSC states, or Iran itself might object to tough resolution language. Tehran obviously has an interest in undercutting any such initiative, while European partners tend to suffer from both naivete about Iran's clerical leadership and a "we want a deal more than they do" mindset. And while Russia and China are not charmed by the prospect of a nuclear-armed Iran, they are happy to see Tehran challenging the U.S.-led security system in the Middle East and keeping U.S. forces tied down there (and, in Moscow's case, exerting upward pressure on hydrocarbon prices).

Third, the Obama administration itself could oppose tough UNSCR language, either out of understandable but misplaced fear that such terms would trigger Iranian threats to the president's proudest diplomatic achievement, or out of concern that they would undercut the administration's suspected goal of "flipping" Iran into a stabilizing force in the region. In either case, recent events -- including the senatorial letter to Iran and Binyamin Netanyahu's speech before Congress -- demonstrate that the administration is fighting strong headwinds on Iran. Any P5+1 agreement will require huge effort to sell to Congress, much of the American media, and most regional allies, and a tough UNSC resolution would help in this regard. In the end, an agreement with Tehran is possible, but the degree of opposition

and the likelihood of continued Iranian transgressions mean that the administration will have to show more spine to preserve the deal's viability and efficacy.

James Jeffrey is the Philip Solondz Distinguished Visiting Fellow at The Washington Institute. ❖

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