

114TH CONGRESS
1ST SESSION

H. RES. 410

Expressing the sense of the House of Representatives that the Iran Nuclear Agreement Review Act of 2015 does not apply to the Joint Comprehensive Plan of Action regarding Iran and submitted to Congress on July 19, 2015, because the Joint Comprehensive Plan of Action is a treaty and, pursuant to Article II of the U.S. Constitution, the Senate must give its advice and consent to ratification if the Joint Comprehensive Plan of Action is to be effective and binding upon the United States.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2015

Mr. GOHMERT (for himself, Mr. DUNCAN of South Carolina, Mr. MCCLINTOCK, Mr. KING of Iowa, Mr. BABIN, Mr. YOHO, and Mr. BRAT) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing the sense of the House of Representatives that the Iran Nuclear Agreement Review Act of 2015 does not apply to the Joint Comprehensive Plan of Action regarding Iran and submitted to Congress on July 19, 2015, because the Joint Comprehensive Plan of Action is a treaty and, pursuant to Article II of the U.S. Constitution, the Senate must give its advice and consent to ratification if the Joint Comprehensive Plan of Action is to be effective and binding upon the United States.

Whereas, on March 11, 2015, Secretary of State John Kerry, in describing the Administration's nuclear negotiations

with Iran, clearly stated that it was “not negotiating a legally binding plan” with Iran and therefore it does not have to be submitted to Congress;

Whereas, on August 6, 2015, White House Press Secretary Josh Earnest, at a White House Press Briefing, stated that “we don’t need Congress to approve this [Iran nuclear deal]”;

Whereas, on July 28, 2015, Secretary Kerry, at a hearing before the House Committee on Foreign Affairs, stated that “the reason why” the Iran nuclear agreement is not considered a treaty is because “it’s become physically impossible . . . [to] pass a treaty [through the United States Senate] anymore. . . . [I]t’s become impossible to . . . schedule. It’s become impossible to pass.”;

Whereas two days after Secretary Kerry testified that it has become “physically impossible” for the Senate to ratify treaties, the United States formally ratified the Amendment to the Convention on the Physical Protection of Nuclear Material when Henry S. Ensher, the Department of State’s ambassador to the International Atomic Energy Agency (IAEA), delivered the United States instrument of ratification to the IAEA;

Whereas, on June 4, 2015, less than two months before Secretary Kerry testified that it has become “physically impossible” for the Senate to ratify treaties, he stated that the Department of State is “preparing the instruments of ratification of [several] important treaties” and that he “want[s] to personally thank the U.S. Congress . . . for their efforts on” the implementing legislation for the nuclear security treaties;

Whereas, on May 7, 2015, the Senate held a vote on the Iran Nuclear Agreement Review Act of 2015, commonly referred to as the “Corker-Cardin bill”, in which every Senator voted on that bill with the understanding that the Iran nuclear agreement was an executive agreement, and not a treaty, and that United States sanctions on Iran’s ballistic missile program remain in place;

Whereas the Corker-Cardin bill states that “[i]t is the sense of Congress that . . . United States sanctions on Iran for . . . ballistic missiles will remain in place under an agreement related to the nuclear program of Iran that includes the United States”;

Whereas the Corker-Cardin bill was intended as a review of the application of statutory sanctions against only Iran’s nuclear program;

Whereas the Corker-Cardin bill prescribes a process for congressional review only of “Agreements with Iran Related to the Nuclear Program of Iran”;

Whereas under subsections (b) and (c) of section 135 of the Atomic Energy Act of 1954, as added by the Corker-Cardin bill, lawmakers may resolve to approve, disapprove, or take no action on “Nuclear Agreements with Iran”;

Whereas section 135(d) of the Atomic Energy Act of 1954, as added by the Corker-Cardin bill, calls for “Congressional Oversight of Iranian Compliance with Nuclear Agreements”;

Whereas, on July 14, 2015, the Administration finalized the Iran nuclear agreement and referred to it as the “Joint Comprehensive Plan of Action” (JCPOA);

Whereas, on July 19, 2015, the Administration submitted the JCPOA to Congress;

Whereas the JCPOA is not limited to sanctions enacted by Congress related to only Iran's nuclear program;

Whereas the JCPOA extends to Iran's ballistic missiles programs and other weapons activities—including the lifting of international arms embargoes covering both “any material or technology that might be useful to a ballistic-missile program,” and “battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles, or missile systems”;

Whereas Congress was informed only after the JCPOA was submitted to Congress that it removed international restrictions on Iran's ballistic missiles program and conventional arms;

Whereas because the terms of the Iran nuclear negotiations changed after Congress voted on the Corker-Cardin bill, the bill does not permit Congress to review or approve agreements on ballistic missiles and other weapons;

Whereas until July 22, 2015, more than a week after the Iran nuclear agreement was finalized, Secretary Kerry failed to inform Congress of the existence of “side deals” to nuclear agreement between the IAEA and Iran;

Whereas recent news reports indicate the IAEA has a secret agreement which would allow Iran to use its own experts to inspect a site allegedly used to develop nuclear arms, directly contradicting the intended effect of the Corker-Cardin bill by bypassing congressional oversight;

Whereas the Administration failed to follow the Corker-Cardin bill which required it to provide Congress with all nuclear agreement documents, including all “annexes, ap-

pendices, codicils, side agreements, implementing materials, documents, and guidance, technical or other understandings and any related agreements, whether entered into or implemented prior to the agreement or to be entered into or implemented in the future”;

Whereas the Administration failed to comply with the Corker-Cardin bill by not transmitting the nuclear agreement, “including all materials,” to Congress by “September 7, 2015”;

Whereas the JCPOA grants Iran’s Quds Force commander Qasem Soleimani, Defense Minister Mostafa Mohammad Najjar, who trained and commanded Hezbollah fighters in Lebanon at the time of the Beirut barracks bombing, and Hossein Salami, the current second-in-command of the Iranian Islamic Revolutionary Guard Corps, individual relief from international sanctions;

Whereas the JCPOA amends Article I of the Treaty on the Non-Proliferation of Nuclear Weapons (commonly referred to as the “Nuclear Non-Proliferation Treaty” or “NPT”) to which the United States is a signatory, and under which the United States is obligated “not in any way to assist, encourage, or induce . . . [Iran] to acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices”;

Whereas the JCPOA amends Article II of the NPT under which Iran is responsible not to acquire, directly or indirectly, nuclear weapons or capabilities of controlling nuclear weapons;

Whereas the JCPOA and the various secret side agreements to the JCPOA amend Article III of the NPT regarding international inspectors in Iran “who shall have access at

all times to all places and data and to any person who by reason of his occupation deals with materials, equipment, or facilities which are required by this Statute to be safeguarded”;

Whereas the JCPOA amends the NPT outside of the prescribed method of amendment in Article VIII of the NPT;

Whereas, on July 31, 2015, the non-partisan Congressional Research Service released a study establishing that Iran’s defense budget ranges anywhere from \$14 to \$30 billion a year, with much of that money going to fund terrorist proxy groups and rebel fighters across the Middle East, including in Yemen, Syria, Lebanon, and the Gaza Strip;

Whereas it is evident that the JCPOA is fundamentally different from the “international agreement” described by the Administration when Congress passed the Corker-Cardin bill;

Whereas it is evident that the Corker-Cardin bill does not reach many of the parts of the finalized nuclear agreement with Iran, and that the JCPOA thoroughly marginalized the Corker-Cardin bill;

Whereas the Corker-Cardin bill is designed to address an international agreement that is fundamentally different from the JCPOA and not a treaty; and

Whereas it is now evident the JCPOA is of sufficient magnitude that it rises to the level of a treaty: Now, therefore, be it

1 *Resolved*, That—

2 (1) the Iran Nuclear Agreement Review Act of
3 2015, commonly referred to as the “Corker-Cardin

1 bill”, does not apply to the Joint Comprehensive
2 Plan of Action (JCPOA) regarding Iran because the
3 JCPOA is fundamentally different from the agree-
4 ment as represented to Congress by the Administra-
5 tion and that the Corker-Cardin bill is only applica-
6 ble to an agreement that is not a treaty;

7 (2) Article II of the U.S. Constitution declares
8 that the President “shall have Power, by and with
9 the Advice and Consent of the Senate, to make
10 Treaties,” but only if “two thirds of the Senators
11 present concur”;

12 (3) the JCPOA is a treaty and, pursuant to Ar-
13 ticle II of the U.S. Constitution, the Senate must
14 give its advice and consent to ratification if the
15 JCPOA is to be effective and binding upon the
16 United States; and

17 (4) not later than 30 days after the date of the
18 adoption of this resolution, the Senate should sched-
19 ule and consider a resolution of ratification with re-
20 spect to the JCPOA.

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