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Transcript

TOWARD A COMPREHENSIVE DEAL WITH IRAN

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Foreign Relations Committee of the German
Lower House of Parliament

April 21, 2015

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Good afternoon. I wish to thank representative Wadephul, the Deutscher Bundestag, and the members of its Foreign Relations Committee for this opportunity to discuss issues concerning Iran's nuclear program with you today. The EU3+3 is at a critical point in its negotiation with Iran and I hope that today's session will contribute to a better understanding of the challenges which Foreign Minister Steinmeier and his colleagues are facing in concluding a good agreement.

The organizers asked me to discuss four specific issues of interest to parliamentarians, and in these introductory remarks I will briefly treat all of these.

IRAN AND US CONGRESSIONAL LEGISLATION

The most important background for German legislators to know about concerning how an Iran nuclear agreement will be handled by the United States Congress is that the legal process follows from the separation of powers in the U.S. Constitution, while the politics on this issue are highly partisan.

In the United States the President and the Executive Branch make foreign policy in the national interest and the role of the Congress is normally to provide guidance and support. Regarding the President's negotiations with Iran, the Congress has pressed for more decision making authority. Perhaps the possibility that Congress might defeat a deal will stiffen the backs of US negotiators, but given current polarization on this issue and more generally between the White House and Congress, lawmakers' engagement could instead be dysfunctional and prevent a good agreement with Iran from happening.

U.S. lawmakers want a greater role for a variety of reasons. Some Congressmen may be concerned that the security implications of a deal with Iran for the U.S. and its allies are too great to be left to the President alone; some may feel the White House should be trying harder to get a better deal with Iran, while some others may be motivated by ideology or partisanship to prevent the President from achieving success with Iran. In any case, U.S. lawmakers' focus will be on sanctions because the Congress has leverage over the President in that specific area.

Until recently the Congress was inclined to believe that increasing sanctions will get the U.S. a better deal. That may be a default assumption because the Congress has been increasing sanctions against Iran for many years at little risk to U.S. interests. But the President's adversaries must have known that increasing sanctions since 2014 could be fatal, because the Joint Plan of Action spells out that, as long as Iran is meeting its commitments, the EU3+3 will not implement more sanctions. The President has argued that new sanctions would cause Iran to quit the negotiations and cause some countries to end their cooperation with international sanctions, and he has for that reason vowed to veto any legislation calling for new sanctions on Iran.

In coming weeks, the House and the Senate will likely vote on a yet-to-be finalized Iran Nuclear Agreement Review Act. This appears to have strong bipartisan support. If it is passed, that will delay implementation of any pending Iran deal for several weeks of Congressional review by suspending the President's powers to lift sanctions on Iran. Lawmakers may also vote on a resolution of disapproval. If an identical resolution is passed in both houses by two-thirds majorities, an Iran deal may be aborted because the President's sanctions-lifting powers would be revoked.

Unlike the Federal Republic of Germany, the U.S. is not governed by a parliamentary system. If there is an Iran deal, and Congress approves it, the separation of powers leaves open the possibility that the U.S. may walk away from the agreement at any time if Congress has enough votes. From the outset the Administration has sought to conclude a so-called "executive agreement" with Iran without Congressional approval. That would permit the next President to overturn the agreement. If Congress instead votes and approves it, the next President may not overturn it without Congressional approval.

TECHNICAL ISSUES IN NUCLEAR TALKS

If a comprehensive agreement contains all of the elements presented in a "fact sheet" released by the U.S. State Department on April 2, in my view this package would go quite far in establishing the basis

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for an understanding with Iran about the future of its nuclear program for between 10 and 15 years, as it would include, inter alia, the following components:

- A reduction in the number of centrifuges by 2/3 for a 10 year period and a limit on enrichment to 3.67 % for 15 years
- Reduction of Iran's low-enriched uranium inventory from 10,000 kilograms to 300 kilograms.
- Extension of breakout time from 2 to 12 months
- No new centrifuge deployment for 15 years, limitations on R&D for 10 years
- Fordo facility suspended for 15 years
- Redesign and reconstruction of the Arak reactor and removal irradiated fuel to effectively prevent plutonium path to weapons

The technical provisions of the U.S. understanding from April 2 would not represent a perfect agreement for the foreseen 10-year period. Questions remain about Iran's 20%-enriched uranium and its ongoing R&D activities, for example.

And since April 2, Iran has disputed specific items which the U.S. government has asserted had been agreed upon by all parties. It isn't clear, for example, that Iran agrees to remove all but 300 kilograms of its low-enriched uranium inventory or that Iran will limit centrifuge R&D. On many other items Iran has been silent.

IAEA VERIFICATION REGIME

Should the EU3+3 and Iran conclude an agreement reflecting the U.S. elements announced on April 2, this might go far toward reducing Iran's nuclear threat for 10 years, but success will depend utterly on the detailed provisions of the agreement.

The reason is that mutual suspicion between the two sides has persisted for many years, beyond nuclear issues and over a far longer historical timeframe, especially between Iran and the United States. Given this background, it is imperative that a comprehensive agreement strictly and precisely define the obligations critical to implementation and fulfillment, and also the consequences for each type of infringement or lack of implementation. In parallel, the final agreement must just as precisely define the authorities of the International Atomic Energy Agency concerning the verification of the agreement's provisions.

Iran's track record suggests that, without exact definitions, Iran may not fully implement the agreement. Since 2003 Iran has taken advantage of gaps in the IAEA's authority to deny cooperation necessary to resolve questions about Iran's ongoing and, especially, past activities. After 12 years Iran still has not implemented its Additional Protocol on the basis of a legal obligation and it is not clear as of April 2 that Iran is committed to implementing its Additional Protocol other than on a voluntary basis.

To credibly reduce Iran's nuclear threat, Iran must permit verification that goes beyond the Additional Protocol, and IAEA rights of access in this area too must be precisely defined, because Iran, most recently in December, 2014, has challenged the legal authority of the IAEA. Also, the IAEA Board of Governors in June, 2006 went on record that in its view the IAEA's powers to probe allegations of weaponization exceeded the Additional Protocol. The final agreement must therefore spell out the IAEA's explicit right of access to military locations, information, and individuals to obtain a comprehensive understanding about Iran's entire nuclear program. The IAEA needs this to develop a baseline to have assurance that Iran has no undeclared activities, and to understand the timelines for Iran's critical nuclear diversion paths.

DURATION OF THE AGREEMENT

Where people stand concerning the duration of the agreement depends on what assumptions they make about Iran's future course of action.

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Some observers express hope that after an Iran deal enters into force, Iran will see the benefit of compliance with it and then join the nonproliferation mainstream. In the best-case outcome, Iran would agree to indefinitely extend the term of the restraints on its nuclear activities when the agreement's various provisions expire. The likelihood of Iran abandoning an aggressive nuclear posture would be greater if the term of all provisions in the agreement were 20 years instead of 10 years.

It is possible instead that lifting hundreds of billions of dollars in sanctions will empower Iran to continue pursuing policies opposed by the United States, the Federal Republic of Germany, and the EU including hostility toward Israel, military support for the current Syrian regime, for Hizbollah, for Hamas, and for Shiite insurgencies in the Middle East. In the worse-case scenario, when the deal runs its course Iran would resume unbridled nuclear development to the extent this is possible and permitted by Iran's international obligations.

Neither side in this debate is telling the truth if it claims to know how Iran in ten years or 25 years will be governed. Observers may or may not be well-informed, but in any event they are guessing.

The uncertainties about Iran's future behavior have led some critics of the EU3+3's current diplomatic approach to seek to enlarge the scope of the talks to include Iranian recognition of Israel, missile technology, terrorism, and human rights. But the more issues that are put onto the agenda, the more this will distract negotiators from getting as water-tight a nuclear agreement as possible, containing firm and precise language on obligations, verification authority, and sanctions management that is needed to render the agreement technically credible and politically sustainable.

Thank you very much, and I look forward to your questions.