

# Arms Control Ratification: Opportunities for Modifying Agreements

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Amy F. Woolf, Specialist in Nuclear Weapons Policy ([awoolf@crs.loc.gov](mailto:awoolf@crs.loc.gov), 7-2379)

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On July 14, 2015, Iran, the United States, the United Kingdom, France, Russia, China, and Germany (the P5+1) finalized a Joint Comprehensive Plan of Action (JCPOA)—an [agreement](#) that restricts Iran's nuclear program in an effort to ensure that it can only be used for peaceful purposes. The Obama Administration and others who support this agreement contend that efforts by Congress to alter or amend the agreement would necessitate additional negotiations and, essentially, block a diplomatic solution. Some Members of Congress and others who oppose the agreement contend, however, that if Congress mandated changes and insisted on further negotiations, the United States could conclude a better agreement. Some note that, in the past, "Congress has rejected or altered hundreds of international agreements." [According](#) to one analyst, the Senate has added conditions to its consent to ratification, even when the agreements "included numerous other participating countries." This has led, according to [another analyst](#), to Congress playing a significant role in "modifying important national security treaties or agreements."

While it is true that the Senate has adopted conditions before consenting to the ratification of arms control treaties, this history does not provide a useful guide for the review process for the JCPOA, which is not a treaty. The [Iran Nuclear Agreement Review Act](#) contemplates congressional consideration of a joint resolution of approval or disapproval, which, if enacted, could affect sanctions relief but could not amend the terms of the negotiated agreement. However, because the act does not place any express restrictions on the resolution's content, Congress could disapprove of the existing JCPOA and include provisions for conditional approval of an agreement with different obligations.

Although possible, the Senate has never conditioned consent to an arms control treaty's ratification on changes in the terms of the agreement. In most cases, the conditions adopted during the Senate review were attached to resolutions of ratification and affected only U.S. activities, programs, and policies.

## Senate Review of Treaties

The Senate role in the treaty ratification process is stipulated in Article II of the Constitution, which states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur." The Senate provides its advice and consent through the passage of a resolution of ratification. The Senate may attach conditions to its approval of a treaty, with amendments to the text and with reservations, understandings, and declarations codified in the resolution of ratification.

If the Senate amended the text of the treaty, the President would have to transmit the amendment to the other parties to the treaty, leading to either further negotiations or abandonment of the treaty. Without agreement by all parties, the treaty could not enter into force. The Senate could also adopt reservations that constitute limits or qualifications that change the U.S. obligations in the treaty. A reservation must also be communicated to the other parties and, in a bilateral treaty, explicitly agreed to by the other party. This has happened on a few occasions during recent arms control history.

Understandings and declarations attached to the resolution of ratification generally do not alter the obligations in the treaty and do not have to be approved by the other parties. An understanding is an interpretation or elaboration

ordinarily considered consistent with the treaty. A declaration states policy or positions related to the treaty but not necessarily affecting its provisions. The Senate can also adopt conditions mandating that the United States take certain steps while it implements its treaty obligations. These are often in the form of reports or certifications, and do not alter the obligations established by the treaty. The conditions also often support or require investments in the development or modernization of technologies and weapons systems affected by the terms of the treaty.

### Arms Control Examples

Since the end of World War II, the Senate has not amended any arms control treaties signed by the President. Twice—with the Geneva Protocol on Use in War of Poison Gas ratified in 1974 and the Intermediate Range Nuclear Forces Treaty (INF) ratified in 1988—the Senate [attached reservations](#) communicated to the other parties. Prior to the mid-1980s, the Senate also made sparing use of declarations and understandings. However, since the ratification of the INF Treaty, the Senate has attached a significant number of conditions to resolutions of ratification.

The Senate approved nearly 30 conditions when it passed the resolution consenting to the ratification of the Chemical Weapons Convention. These addressed a number of implementation issues and required numerous reports and certifications, but did not alter the obligations established by the convention. The Senate also attached 8 conditions and 4 declarations to the Resolution of Ratification for the 1991 Strategic Arms Reduction Treaty (START); 6 conditions and 7 declarations to the Resolution of Ratification for the 1993 START II Treaty; and 14 conditions, 3 understandings, and 12 declarations to the Resolution of Ratification for the 2010 [New START Treaty](#). These include reporting and certification requirements and statements about U.S. nuclear weapons, missile defense, and arms control policies. As with the CWC, none of these conditions changed the text of the treaties or altered the parties' obligations. They affected only U.S. policies and programs.

Congress has also occasionally adopted conditions that sought to influence the provisions of future agreements. For example, an amendment to the legislation approving the 1972 SALT I Interim Agreement on Offensive Arms mandated that future agreements contain the same limits for all parties. In 2010, the Resolution of Ratification for New START called on the United States to negotiate an agreement with Russia that would reduce the disparity in the number of U.S. and Russian tactical nuclear weapons. While these provisions demonstrated concern with the terms of the agreements under consideration, they were guides for future negotiations, not modifications to completed agreements. Efforts to alter a completed agreement would require renegotiation.