Australia: Article X and Other Issues - Statement

The discussion on NPT withdrawals issues at the 2005 Review Conference was very constructive, enabling good progress on this important issue. While NPT withdrawal remains a sovereign right, it was clear from the discussion in 2005 that there is wide support for stronger disincentives to withdrawal and an appropriate international response in any cases of withdrawal.

While no formal agreement was possible in 2005, the discussion on NPT withdrawals nevertheless did send some clear messages. Any party contemplating withdrawal should now understand that withdrawal is not a means for states that violate their NPT obligations to avoid being held accountable.

The discussion in 2005 also confirmed that, consistent with the international legal principles applying to treaties, withdrawal does not absolve a state party from meeting obligations it had not met at the time of withdrawal. Another clear message was that nuclear items acquired on the basis that they would be used for peaceful purposes while a country was subject to the non-proliferation assurances of the NPT remain subject to peaceful use obligations even if a state withdraws from the NPT.

Australia welcomes the firm support in 2005 for the principle that a state that withdraws from the NPT should not be able to benefit from nuclear materials, equipment and technology acquired while party to the Treaty. Measures to give effect to this principle include incorporation of clauses in intergovernmental nuclear supply agreements forbidding the use of nuclear items subject to such agreements and dismantling and/or return of such items if the recipient withdraws from the NPT. This same condition should apply to nuclear materials, equipment and technologies produced from, or with the help of, the nuclear materials, equipment and technology originally transferred.

The drafters of the NPT acknowledged the seriousness of any withdrawal by requiring in Article X that notice of withdrawal be given not only to all other Parties, but also to the Security Council. Australia considers it would be appropriate for the UN Security Council to convene automatically and immediately when any state gives notice of NPT withdrawal. This would enable the Security Council to consider the implications for international peace and security and the action required. Where a withdrawal would threaten international peace and security the Security Council has a responsibility to respond appropriately in accordance with the UN Charter. Notification of withdrawal by a state that has violated its NPT commitments is a particular concern given that the state involved may be embarked on a nuclear weapons program.

NPT withdrawals are a key issue for this review cycle. All NPT parties have a strong shared interest in ensuring that no other NPT party takes the North Korean route of developing nuclear technology, announcing withdrawal from the Treaty and using that same technology for a nuclear weapons program. Australia looks forward to working with others on taking NPT withdrawals issues forward, building on the strong foundation laid by the discussion on this matter in 2005.
The issue of nuclear terrorism has implications for many NPT objectives. The threat of nuclear terrorism is not new, but it deserves greater attention now than it has traditionally received. The globalisation of terrorism has added urgency to the task of ensuring terrorists never obtain a nuclear terrorism capability.

The consequences of an act of nuclear terrorism would impact on the interests of all states. As well as a potentially terrible human cost such an act could severely disrupt the trade, investment and movement of people essential to the economic development of all states.

The international framework in this area is being strengthened. Australia has signed the International Convention for the Suppression of Acts of Nuclear Terrorism and is actively working towards ratification. Australia urges all NPT parties to join this important additional defence against nuclear terrorism.

Australia was a founding partner of the Global Initiative to Combat Nuclear Terrorism, a grouping of nations cooperating to enhance global capacity against nuclear terrorism which was established in July 2006. As a contribution to the work-plan of the Global Initiative, Australia will host the Asia-Pacific Seminar on Combating Nuclear Terrorism in Sydney on 16-18 May. The seminar will inform regional countries about the Global Initiative with a view to encouraging their membership, as well as facilitating the exchange of information and experience relating to nuclear counter-terrorism.

Australia welcomes and strongly supports new initiatives that will help guard against the threat of nuclear terrorism. The international community needs also to strengthen the first line of defence provided by the NPT-based nuclear non-proliferation regime.

Strengthening the non-proliferation regime will raise the barriers to misuse of sensitive materials and technology by both state and non-state actors. Australia has outlined priority actions in other statements, including global application of the Additional Protocol, enhanced physical protection of nuclear materials and facilities – particularly by states acceding to the amended Convention on the Physical Protection of Nuclear Material and Nuclear Facilities – and effective domestic controls on sensitive materials and technologies, including export controls.

The international community received an alarming insight into the danger of nuclear black-markets with exposure of the A Q Khan nuclear proliferation network in 2004. That some of Khan's clients were states of proliferation concern was deeply troubling. But it is easy to see how terrorists could exploit such networks to acquire the means to pursue nuclear weapons.

Australia welcomed adoption of UN Security Council resolution 1540, and its follow-up Security Council resolution 1673, as timely and appropriate responses to the threats of non-state actors acquiring WMD and of WMD proliferation generally. Full implementation by all UN members of this ground-breaking resolution remains central to efforts to combat the threat of nuclear terrorism.

Australia would like to record its appreciation for the IAEA's strong contribution to international efforts to respond to the risk of nuclear terrorism, including though assistance to member states in strengthening their regulatory controls. Australia encourages all states to take full advantage of the IAEA's services.