"Special Time" Discussions: Other Provisions of the Nuclear Nonproliferation Treaty, including Article X

remarks by

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Mr. Chairman and distinguished delegates, I thank you for the opportunity to speak briefly on provisions of the Nuclear Nonproliferation Treaty (NPT) other than those already covered by our various discussions over the past days. Though the time available for these substantive discussions has been distressingly constrained - for reasons which by this point hardly need belaboring - it has been striking the degree to which so many delegations have used this limited time so well.

For months, as this Preparatory Committee meeting has approached, delegations from all regions of the world and from all sides of every significant issue of importance to the NPT regime made crystal clear that they hoped that this Treaty review cycle could get off to a good start. In this respect, they clearly did not mean merely that they hoped this meeting would accomplish limited procedural objectives such as selecting a date, venue, and chair for the 2008 meeting of the Preparatory Committee.

Instead, the refrain one heard again and again was that all hoped that this meeting would establish a good “tone” or “atmosphere” for the NPT review cycle that is now beginning, and which will culminate in the Review Conference of 2010. They hoped it would be possible for delegations to overcome division and dissention over the meeting’s agenda, and for us all to engage in open, honest, and serious debate about how the NPT regime can meet the grave challenges that face it today. Indeed, some even dared to hope that the States Party of the NPT would be able to show themselves effectively united in their support for the integrity of the Treaty, committed to its goals, and capable of speaking as if with one voice in the face of challenges to the Treaty’s effectiveness and viability.

Well, Mr. Chairman, it has been a sometimes nerve-wracking ride, but what I have increasingly been hearing over the past three days - a sentiment with which I myself concur - is that in perhaps surprising ways, and perhaps against the odds, this Preparatory Committee meeting seems to have been a success. It offers, I would venture to say, a
good foundation upon which those committed to the success of the NPT regime can build during the remainder of the Treaty review cycle.

I congratulate you Mr. Chairman, on the success of your diligent efforts to bring this about. In this regard, I should add that we look forward to working with Ambassador Yelchenko for the second Preparatory Committee.

As we conclude a remarkably disciplined and I believe very constructive series of substantive debates, therefore, I would like quickly to mention a couple of final points that the United States believes need to become a part of our collective efforts to help the Treaty meet the challenges it faces.

**Deterring Treaty Withdrawal by Violators**

In my remarks earlier this week on the subject of implementing provisions of the NPT pertaining to the nonproliferation of nuclear weapons, I mentioned the importance of ensuring that we do everything we can to deter withdrawal from the NPT by countries in violation of its core of nonproliferation obligations. In my oral remarks at that time, in the interests of brevity, I did not offer much detail about the kind of steps that we believe are important, so I would like to add a little detail today.

Article X’s requirements that a withdrawing Party give three months notice to the international community and provide a statement of the reasons for its withdrawal give the international community the time and opportunity to mount an effective response to an announcement of intent to withdraw from the Treaty. The United States believes that there are specific measures the UN Security Council, the IAEA Board of Governors, and nuclear suppliers might take in the event a Party in violation of its nonproliferation obligations announces its intent to withdraw from the Treaty. Incidentally, having mentioned the IAEA, let me once again congratulate the Agency on its 50th Anniversary and its excellent work on safeguards and the promotion of the peaceful uses of nuclear energy.

Because an NPT violator’s intention to withdraw from the NPT will likely be coupled with the intention to acquire nuclear weapons, and because such proliferation poses a threat to international peace and security, the United Nations Security Council must carefully consider the potential consequences of withdrawal for international peace and security. Upon receipt of a notification of withdrawal, the Council should meet promptly to consider the Party’s reasons for withdrawing, the likely consequences of such withdrawal for peace and security, and the possibility that measures short of withdrawal might address the withdrawing Party’s concerns. The Council could ask the IAEA for all relevant information it may have about the country in question, including the status of its safeguards compliance, its technological capabilities, its holdings of relevant nuclear materials, and inspectors’ assessments of the Party’s activities. The Council also may wish to consult with the withdrawing Party and make clear the possible future steps the Council might take.
Should the Party actually withdraw, the Council should carefully consider whether the resulting situation constitutes a threat to international peace and security. If it does, the Council should consider all appropriate measures, including invoking its authority under Chapter VII of the UN Charter, to address the threat.

The International Atomic Energy Agency (IAEA) has no direct role in matters related to Treaty withdrawal, but its role in safeguards implementation and compliance would make it an important player in the event that a Party in violation of its safeguards obligations announced its intent to withdraw from the Treaty. The IAEA Board of Governors, for example, should consider the actions it could take in response to such an announcement. These include promptly reporting findings of any safeguards noncompliance to the UN Security Council, in accordance with its Statute, as well as being responsive to Security Council requests regarding any other compliance concerns. The Board might also invoke the Agency’s statutory authority to suspend projects or technical assistance between the Agency and a state in noncompliance with its safeguards obligations, as well as withdrawing IAEA-provided material or equipment from such a state. The Board should also take appropriate action for continuing safeguards in the withdrawing state under such authorities as may be available, such as any INFCIRC/66 agreements that had been superseded by the withdrawing state’s NPT safeguards agreement. Finally, the Board might play a role in applying safeguards pursuant to the bilateral requirements of states that had supplied nuclear equipment and material to the withdrawing state (so-called “fallback safeguards” requirements).

As has been stated at these meetings, countries in violation of their NPT nonproliferation obligations should not expect to receive the benefits of nuclear cooperation, but I would further hope all NPT Parties can agree that there should be no further nuclear supply to a country in violation of the NPT once it announces its intent to withdraw. Nor should such a withdrawing Party be allowed to benefit from the use of nuclear materials and equipment that it imported while it was an NPT Party. A withdrawing state that has violated the NPT should not continue to enjoy the benefits acquired while it was a Party. To this end, NPT nuclear supplier states should seek through appropriate means to halt the use of nuclear material and equipment previously supplied to the withdrawing state and to secure the elimination of such items or their return to the original supplier. Nuclear suppliers should reserve these rights in their bilateral nuclear supply arrangements and exercise them wherever appropriate. All states could also use their resources to ensure the withdrawing Party does not engage in clandestine transfers directed at the acquisition of a nuclear weapons capability or at the proliferation of such technology to others.

Procedural Issues

If I may, Mr. Chairman, I would like to conclude my remarks with some comments about matters related to Article VIII of the Treaty – which sets up the NPT review cycle – in the sense that they pertain to how States Party organize themselves to make the most of this unique global forum.
In my opening remarks to this meeting, the United States called for future meetings of this body to adopt agendas that permit consideration of any issue affecting the operation and purpose of the Treaty, and yet to do so without provoking needless controversy, delay, and potential stalemate by identifying contentious specific substantive issues in their agenda formulations. We acknowledged, however, that States Party have legitimate concerns with ensuring that matters of special importance to them receive appropriate treatment in each meeting. To help ensure that such concerns are met without provoking paralyzing procedural squabbles, we suggested that future meetings might be able to address such issue-specific questions only through the allocation of time for discussion of specific matters.

Events earlier in the course of this Preparatory Committee meeting have, I fear, illustrated the merit in pursuing such a broad, all-inclusive, and non-controversial approach to agenda formulation. I hope, however, that the events of the past two weeks have also reassured all interested parties that a sincere commitment to engagement and dialogue on the part of States Party to the Treaty can make a meeting such as this a substantive success even in the face of procedural gamesmanship. Together, I believe these two lessons can help us successfully plot a course for 2010 and beyond.

Finally, Mr. Chairman, I also noted in my opening remarks that the United States believes that it would be best to develop practices of leadership rotation that would permit a more fair and representative selection from among diplomats from all the regional groups within the NPT review process. The limitations of available time have precluded proper consideration of this topic. We are pleased, however, to have been able to raise this issue and introduce it as a topic of discussion during this review cycle. To contribute constructively to such debate, we will be releasing a paper on this subject in the near future. We offer such thoughts at the outset of this review cycle in the interest of catalyzing debate and encouraging discussion of various ways in which it might be possible to create a fairer and more representative process for the next review cycle.

Let me conclude by thanking you again, Mr. Chairman, for all your hard work, and congratulations on the success of this meeting. I would also like to thank my fellow delegates for their many constructive contributions and their commitment to dialogue and engagement on the important issues that face the NPT regime. I look forward to working with all of you in the months and years ahead. Thank you.