Third Preparatory Committee for the 2010 Nuclear Non-Proliferation Treaty Review Conference
11 May 2009

Specific Issue – Other provisions of the Treaty, including Article X

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(Check against delivery)

Mr Chairman

The constructive discussion on the issue of withdrawal from the NPT at the first two Preparatory Committee meetings of this review cycle and before that at the 2005 Review Conference has showed that, while all accept withdrawal from the NPT remains a sovereign right, there is wide support for stronger disincentives to withdrawal and for an appropriate international response to any cases of withdrawal.

These discussions confirmed the widely-held view that withdrawal should not be a means for states that violate their NPT obligations to avoid being held accountable.

Consistent with the international legal principles applying to treaties – including Article 70 of the Vienna Convention on the Law of Treaties – withdrawal does not absolve a state party from meeting obligations left un-met at the time of withdrawal.

Broad agreement also emerged that nuclear materials, equipment and technology 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 should forever remain subject to peaceful use obligations.
Australia welcomes the firm support from states parties 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. In this context, states that withdraw from the NPT should be banned from accessing nuclear material, equipment and technology.

Furthermore, any transfers of nuclear material, equipment and technology should require that if a state withdraws from the NPT, any nuclear materials, technology and equipment acquired under Article IV of the treaty prior to withdrawal must be returned to the supplier state, rendered inoperable or dismantled under international verification.

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 should 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.

The Security Council has a responsibility to respond appropriately in accordance with the UN Charter, should a withdrawal threaten international peace and security.

A meeting of the Security Council could also set out the conditions that would apply in the event that a notified withdrawal proceeds, including demanding the immediate verification of the State’s compliance with the Treaty.

Mr Chairman

NPT withdrawals remain a key issue for this review cycle. Agreement on strong disincentives to withdrawal, and an appropriate international response to any cases of withdrawal, would help produce a key component of a successful Review Conference outcome. Moreover, agreement would serve to reinforce the integrity of the treaty.

It is clear that the broad majority of states parties are supportive of some form of disincentive to states that withdraw from the treaty. Yet states parties have been talking about these issues for too long. The 2010 Review Conference provides the perfect opportunity for NPT member states to agree on and formally endorse measures with respect to withdrawal. We urge all member states to take this opportunity.

It is incumbent on all NPT parties to ensure that no other NPT party takes the North Korean route of developing nuclear technology, announcing withdrawal from the treaty but using that same technology for a nuclear weapons program. Such action would weaken the NPT and would not be in our mutual security interests.