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Third Session of the Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

Withdrawal

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Thank you, Mr. Chairman.

As my delegation already mentioned at the General Debate, the Republic of Korea believes that the 2010 NPT Review Conference should give high consideration to the issue of withdrawal. Acknowledging that the right itself to withdraw from the NPT pursuant to Article X should be duly respected, we are of the view that it is also imperative to properly address the possibility of abuse of this right by states violating their Treaty obligations. If such violators are allowed to withdraw from the Treaty with impunity once they have acquired necessary materials and technologies, particularly under the cover of ostensibly peaceful nuclear activities guaranteed by Article IV, the NPT would face a very serious challenge to its raison d'etre.
Mr. Chairman,

My delegation believes that we can effectively prevent the possibility of abuse of the right to withdraw once we are able to agree to a more clarified interpretation of Article X. In addition, we have to elaborate on possible measures to duly respond to situations of unlawful and illegitimate withdrawal. To this end, my delegation will first review procedural and substantive requirements for legalizing withdrawal, and then propose possible response mechanisms in case of withdrawals from the Treaty.

<Procedural and Substantive Requirements>

First, it is particularly important to note that Article X.1 of the Treaty contains a requirement that obliges a withdrawing party to notify the UN Security Council. The negotiating history of the NPT shows that the drafters of the Treaty intended to engage the UNSC because a withdrawal from the Treaty may constitute a serious threat to the maintenance of international peace and security, as stated in Article 39 of the UN Charter. The requirement of notifying withdrawal to all other parties to the Treaty also clearly implies that the issue of withdrawal is a matter that should be discussed and addressed by all States Parties. Three months advance notice was stipulated in order to give the UN Security Council and the States Parties sufficient time to respond to any extraordinary events and was introduced as an additional element of deterrence. This notice should be in written form, and is considered invalid if it is pronounced as a unilateral declaration or public statement.

Second, Article 70 of the Vienna Convention on the Law of Treaties stipulates that "termination of adherence to a treaty ... does not affect any right, obligation or legal situation of a party created through the execution of the treaty prior to its termination." This Article indicates that before withdrawal from the Treaty takes effect, the withdrawing State Party must ensure that i) any obligation under the NPT is fully implemented before the withdrawal; and ii) nuclear equipments and materials obtained under Article IV of the NPT are immediately returned to the suppliers.
I would now like to turn to the issue of developing an effective response mechanism in case of withdrawal. The States Parties to the NPT should consider the establishment of an effective and collective response mechanism for withdrawal. Such a mechanism can include the following measures:

(a) Convening an emergency meeting of States Parties to address the situation upon request by Depository Governments or at least one third of the States Parties within 30 days of receipt of such notice, given that withdrawal is a tremendous challenge to the NPT States Parties.

The Meeting thus convened may:
- Call upon the State Party in question to be present at the meeting to clarify and elaborate the reason for the withdrawal,
- Consider ways to ensure that nuclear equipment and materials are immediately returned to the supplying States, and
- Consider measures to ensure that the nuclear facilities, equipment and materials of the State Party remain under IAEA safeguards pending their return to the supplying states;

(b) Prompt consideration by the UN Security Council on the situation.

Mr. Chairman,

Considering that any withdrawal from the NPT may pose a direct threat to international peace and security and severely undermine the validity and durability of the NPT, we encourage the States Parties to undertake constructive and active deliberations on a collective response mechanism to a possible withdrawal from the Treaty. We furthermore hope that these deliberations will prompt the 2010 NPT Review Conference to adopt a decision or a guideline on Article X. In closing, my delegation would like to remind you that the Republic of Korea submitted a working paper on the subject of withdrawal to the 2nd PrepCom last year where you can find more details on this issue.

I thank you, Mr. Chairman.