Mr. Chairman,

The United States welcomes this opportunity to address the important NPT issue of efforts to discourage potential abuse of the Treaty’s right to withdraw.

At the 2010 Review Conference, Parties discussed the issue of withdrawal from the Treaty, in particular, how to respond in the event a State violates its Treaty obligations and then announces that it intends to withdraw from the NPT, pursuant to Article X.1. This could present a critical challenge to the Treaty. My delegation joins with others in believing that withdrawal should be discouraged and its adverse consequences should be addressed by NPT Parties during the current NPT review cycle.

The United States would like to emphasize again that we do not seek to amend the Treaty to revise Article X.1, or to undermine the sovereign right of each state to determine what jeopardizes its “supreme interests,” the criterion for withdrawal specified in the Treaty. We believe NPT Parties should consider how they would discourage such withdrawal and respond if a withdrawing state were to abuse that right.

With these Article X.1 rights come responsibilities. If a Party were to withdraw from the Treaty, it would be an abuse of that right if the state were to then develop nuclear weapons using nuclear material, equipment, or technology that was supplied for peaceful purposes on the basis of that state’s NPT membership. It is of particular concern that the safeguards agreement required by NPT Article III would normally terminate upon the withdrawal of a Party from the Treaty. Subsequently, unless other arrangements are made, or other safeguards agreements already exist, the Party’s nuclear activities would no longer be subject to international verification.
All NPT Parties have a clear interest in preserving the integrity of the NPT. Abuse of the withdrawal provision may undermine confidence in the Treaty as a basis for peaceful nuclear cooperation or even threaten the maintenance of international peace and security. As reflected in Part 1 of the 2010 Final Document, many Parties have underscored that, under the Vienna Convention on the Law of Treaties, a withdrawing Party remains responsible for violations of the Treaty committed prior to its withdrawal. Even if withdrawal is carried out in accordance with the provisions of the Treaty, it would not affect any other existing legal or political commitments between the withdrawing State and any other Party, including nonproliferation conditions in bilateral cooperation agreements.

We believe abuse of the withdrawal provision is not a hypothetical concern, but one for NPT Parties to address now. We further note that this issue applies equally to nuclear-weapon and non-nuclear weapon NPT Parties.

Mr. Chairman,

It is clear that NPT Parties could benefit from further discussion of measures that could be taken to discourage abuse of Article X.1. A number of ideas have been proposed that we would like to summarize:

First, there are actions that could be taken following a notice of withdrawal, such as consultations by the NPT Parties and the UN Security Council.

Second, the IAEA could be asked to assess the withdrawing State’s compliance with its obligations under its safeguards agreement and to make a final inventory of items under IAEA safeguards.

Third, prior to a notice of withdrawal, supplier States could proactively create mechanisms, including government-to-government supply agreements, contracts, or other arrangements to ensure that nuclear supplies remain subject to safeguards in perpetuity, whether those safeguards are applied by the IAEA or through other means.

Fourth, supplier States could require that a withdrawing Party return and/or dismantle nuclear materials, equipment, and technologies received from abroad prior to withdrawal. If return is not feasible, those nuclear supplies should remain subject to safeguards in perpetuity, as well as any other nonproliferation conditions agreed by the supplier and recipient States.
We are encouraged by the growing number of States Parties, including the members of the Nonproliferation and Disarmament Initiative (NPDI), that have expressed interest in addressing abuses of withdrawal from the NPT in a way that reaffirms the security interests of States Parties that remain committed to the Treaty. We look forward to further developing these proposals in order to elaborate recommendations for the 2015 NPT Review Conference.