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

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**Withdrawal from the Treaty on the Non-Proliferation
of Nuclear Weapons: report submitted by the
European Union**

European Union common approach

1. The 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons intensively discussed, under subsidiary body 3, entitled “Other provisions of the Treaty including Article X”, the issue of withdrawal. The working papers introduced by the European Union (NPT/CONF.2005/WP.32) and Australia and New Zealand (NPT/CONF.2005/WP.16) contributed to a large extent to this focused debate, where a consensus of member States seemed to be within reach. The review process leading up to the 2010 Conference should therefore build upon this discussion and prepare for possible decisions. From this perspective, the European Union would like to recall its common approach to this issue.

I. Article X

2. Article X, paragraph 1, of the Treaty on the Non-Proliferation of Nuclear Weapons provides that “Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests”.

3. While each State Party has a sovereign right to withdraw from the Non-Proliferation Treaty a withdrawal could, in a given case, constitute a threat to international peace and security. The legal requirements as set out in article X and the consequences of a withdrawal should therefore be clarified.



II. Legal requirements

4. A “notice of withdrawal” has to be given in writing, the usual format being a note verbale to the Governments of all States parties to the Treaty and the President of the Security Council.

5. This note verbale has to be given three months in advance of an intended withdrawal and shall include the statement of the required extraordinary events the country regards as having jeopardized its supreme interests; the statement should be as detailed and specific as possible.

6. The three-month period starts with the date of transmission of the note verbale to the Governments of all States parties to the Treaty and the President of the Security Council. Any other declarations, public statements or letters of intention are in no way valid in shortening this period.

III. Implementing article X

7. In the event that a State party makes known its intention to withdraw from the Treaty under the provisions of article X, paragraph 1, depositary States should immediately begin a consultation process of interested parties to explore ways and means to address the issues raised by the notification of intent, taking into account the situation of the notifying party vis-à-vis its safeguards undertakings as regularly assessed by the International Atomic Energy Agency (IAEA). Such notification would also prompt the depositaries of the Treaty to consider the issue and its implications as a matter of urgency.

8. Reiterating the key role of the Security Council as the final arbiter in maintaining international peace and security, a notification of withdrawal under article X should warrant immediate consideration and appropriate action by the Security Council. Any withdrawal notification under article X, paragraph 1, should prompt the Security Council to consider this issue and its implications as a matter of urgency, including examination of the cause for the withdrawal, which, according to the requirements of article X, has to be “extraordinary events related to the subject matter of the Treaty”.

9. The Security Council should further declare that, in case of a withdrawal notification under article X, paragraph 1, its consideration will include the matter of a special IAEA inspection of the notifying party.

IV. Effects of withdrawal

10. A State should remain internationally liable for violations of the NPT committed prior to withdrawal. On this basis the following principles and measures should be observed in the case of withdrawal:

(a) The premeditation and the preparation of the withdrawal decision with a view to conducting a military nuclear programme constitute a violation of the objectives of the Treaty;

(b) Withdrawal from the Treaty could in a given case constitute a threat to international peace and security;

(c) As a matter of principle all nuclear materials, equipment, technologies and facilities developed for peaceful purposes of a State party to the Treaty on the Non-Proliferation of Nuclear Weapons remain, in case of a withdrawal from the Treaty, restricted to peaceful uses only and as a consequence have to remain subject to safeguards;

(d) Without prejudice to any other measure likely to be decided by the Security Council, a State withdrawing from the Treaty should, as a matter of principle, no longer use nuclear materials, facilities, equipment and technologies acquired from a third country prior to withdrawal and materials produced therewith, and such nuclear facilities, equipment and materials must be frozen, with a view to having them dismantled and/or returned to the supplier State, under IAEA control. Steps to that end should be envisaged as soon as a withdrawal notification is issued;

(e) A clause prohibiting the use of transferred items and materials produced therewith, in the event of a withdrawal, should be included in intergovernmental agreements defining the modalities for transfers of sensitive nuclear goods (enrichment, reprocessing) or for large-scale transfers: a standard clause among State parties would help in this context;

(f) Examination of the possibility for IAEA to continue implementing safeguards and, where relevant, certain Additional Protocol provisions, on all nuclear materials, facilities, equipment and technologies initially developed for peaceful purposes, during an indefinite period following a withdrawal.
