

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

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OTHER PROVISIONS OF THE TREATY, INCLUDING ARTICLE X

Working Paper submitted by the Islamic Republic of Iran

1. The Islamic Republic of Iran believes that the NPT Review Conference and its Preparatory Committees face with more important priorities and challenges which have emanated from the non-implementation of the disarmament obligations under the Treaty as well as the development of new nuclear weapons and the irrational doctrines of possible use of such inhumane weapons.
2. Indeed, the major challenges of the NPT today, are about the implementation of the two main pillars of the NPT namely nuclear disarmament and peaceful use of nuclear energy. Under this circumstances and shortcomings, there is no urgency and necessity to deal with the issues which are not a priority such as amending the Article X of the Treaty.
3. In these circumstances, trying to focus on issues like Article X would only divert the attention of the States Parties from their real tasks.
4. When this issue for the first time raised by “the UN High-Level Panel on Threats, Challenges and Change” and the Panel made a recommendation in this regard, the Non-Aligned Movement’s first reaction was the following:

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“NAM States Parties to the NPT consider that this recommendation goes beyond the provisions of the NPT. NAM Member Countries believe that the right of “withdrawal” of member States from treaties or conventions should be governed by international treaty law”.¹

5. The question of withdrawal is a sensitive and delicate issue and serious care should be taken that such proposals to reinterpret Article X of the NPT equal to the legal amendment of the Treaty. Such suggestions for legal amendment of the Treaty would actually undermine the NPT regime and create uncertainties and loopholes. However, if any State Party has any proposal for the amendment of the NPT it must follow the procedures stipulated in the Article VIII of the Treaty. It should be noted that unless all State Parties clearly demonstrate an intention to be legally bound by these new amendments, which would normally be done through a process of ratification, then the proposals on Article X have no basis in international law. It is a recognized fact that any proposals to amend a treaty will have to be discussed and adopted in the relevant multilateral forum.

6. The negotiating history of the NPT also shows that when the US and former USSR were the co-chairmen of the ENDC throughout the NPT negotiations and their interests were reflected in the final text, they were also obliged to take into account the views of other countries who wanted to avoid a treaty with an unlimited duration without undertakings by “the haves” to disarm that might forever divide the world into haves and have-nots. Thus the draft of the NPT contained both a withdrawal clause and a provision for a conference to review the operation of the Treaty. The wording of the NPT has also left judgments on the existence of the extraordinary events completely to the discretion of the withdrawing state, therefore, leaving no room for reinterpretation.

7. Furthermore, it should be taken into account that the Vienna Convention on the Law of Treaties governs all international treaties. Caution should be taken not to agree to new

¹ Comments of the Non-Aligned Movement on the observations and recommendations contained in the Report of the High-Level Panel on Threats, Challenges and Change (A/59/565 and A/59/565/Corr.1), New York, dated 24 February 2005.

prerequisites not already provided for in the Treaty as this could also have implications for other Treaties, thereby creating a precedent to act outside the Vienna Convention. Furthermore, it should be taken into account that all international treaties are governed by the customary rules of the law of treaty, many of which have been reproduced in the 1969 Vienna Convention on the Law of Treaties. Caution should be taken not to agree to new prerequisites not already provided for in the Treaty as this could also have implications for other treaties, thereby creating an unlawful precedent in this.

8. It should therefore be recalled that Article 54 of the Vienna Convention, which is also a customary international rule, provides that “the withdrawal of a party may take place in conformity with the provisions of the treaty”. Generally speaking, there are two categories of the treaties and conventions in term of “the withdrawal clause”. Some conventions such as the UN Convention on the Law of the Sea do not have such clauses. In legal relationships, parties to such treaties can arguably contest that what is not specifically prohibited by the treaty is therefore allowed. Similarly, the opposite interpretation may be equally credible: that unless expressly included, an act is not allowed. In the second category like the NPT, a convention or treaty is very explicit in terms of the withdrawal. Therefore, the treaty recognizes the existence of the unconditional right of a state to withdraw in exercising its national sovereignty.

9. In conclusion, it should be stressed that the main problems of the NPT are the continued existence of thousands nuclear warheads and the development of new ones by certain nuclear weapon States as well as the irrational doctrines for their possible use. The nuclear weapons states must work sincerely and seriously toward the total elimination of nuclear weapons which is the root cause of the NPT problems and till then paying the attention to the other less important issues would not have desirable results.
