



## NPT Article X

### Sally Horn, Senior Advisor, Bureau of Verification and Compliance

Statement to the 2005 Review Conference of the Treaty on the Nonproliferation of Nuclear Weapons  
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Madame Chair, at this Conference as at prior review conferences, there has been widespread support for universal adherence to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Obviously, we move away from achieving this goal if a party to the Treaty announces, as North Korea did in January 2003, its intention to withdraw from the NPT. In addition to the concern about moving away from universality is the concern that an announced intention to withdraw from the NPT also may occur in response to being caught in breach of the Treaty and reflect an intention openly to acquire nuclear weapons following withdrawal. North Korea has now made clear by its statements since January 2003 that this was precisely its intent. It is, therefore, fitting that this Review Conference, the first since North Korea's 2003 withdrawal announcement, consider Article X with great care.

States Party to the NPT enjoy benefits not available to those states that have chosen not to adhere to the Treaty. Among those benefits are the rights, privileges, and consideration due to a state which has adhered to and complied with its commitments; participation in deliberations such as this Review Conference and other meetings the purpose of which are to strengthen the Treaty; and access to cooperation and a broad range of technical support in the pursuit of peaceful purposes. A state that enjoys these benefits while violating its obligations and then withdraws from the Treaty after advancing its non-peaceful program should not be permitted to benefit in any way from its deceit.

One thing should be made clear at the outset. Withdrawal does not absolve a state of any violation of the Treaty that was committed while still a party to the Treaty. Should a party withdraw from the Treaty before it remedies any violations that it has committed, that state remains accountable for those violations even after it withdraws from the Treaty.

Should a party announce its intention to withdraw, the NPT and the nuclear nonproliferation regime already provide some means of addressing the situation. Although each case will have unique circumstances, it must be very clear to a party considering withdrawal for the purpose of manufacturing nuclear weapons that such actions have consequences.

It is useful to repeat the text of Article X.1:

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.

By requiring three months notice before withdrawal is complete, Article X gives parties the opportunity to seek to influence the withdrawing party or to prepare to deal with the consequences of a completed withdrawal. This notice must be given to the other NPT parties and to the UN Security Council (UNSC).

NPT parties should consider undertaking a wide range of actions to seek to dissuade a state from withdrawal and to express opposition to an intended withdrawal. They should outline and be prepared to take measures if a state withdraws after breach of the Treaty's nonproliferation obligations or for purposes of pursuing a nuclear weapons program. The NPT Depository Governments should consult to consider possible action.

Because an intention to withdraw from the NPT may be coupled with an intention to acquire nuclear weapons, the Security Council must carefully consider the security consequences of the intended withdrawal. Upon its receipt of a notification of withdrawal, the Security Council, therefore, should meet promptly to address the "extraordinary events" cited by the party as giving rise to its intention to withdraw, the consequences for peace and security of the withdrawal, and the possibility of alternative measures short of withdrawal to address and resolve the circumstances cited by the party.

The Security Council has made clear that proliferation of nuclear weapons constitutes a threat to international peace and security. Accordingly, in a case of withdrawal from the NPT, the Council should consider the full range of options provided by the Charter and warranted by the circumstances of the case. Withdrawal by a party in breach of commitments freely undertaken -- commitments that other Parties based their security calculations on -- would further underscore the need for consideration of options by the UNSC.

The Security Council could ask the IAEA (International Atomic Energy Agency) for relevant information, including the status of safeguards compliance by the withdrawing state. The IAEA may be able to provide other information such as the state's capabilities in reprocessing and enrichment and any holdings of enriched uranium and plutonium.

The Security Council also may wish to undertake consultations with the withdrawing country and make clear the possible future steps the Council might take. Obviously, should the requirements of Article X.1 be fulfilled and withdrawal completed, the Council may need to take some very stringent measures if it determines that the situation resulting from the withdrawal constitutes a threat to international peace and security.

Independent of any action by the Security Council, the International Atomic Energy Agency's Board of Governors should consider the following:

1. measures for continued safeguarding of nuclear equipment and material in the withdrawing state should the party complete the requirements of Article X;
2. prompt reporting to the UN Security Council of any outstanding safeguards or other compliance concerns; and
3. suspension of IAEA technical assistance to the party in question, whether on Statutory grounds, as a matter of policy, or as directed by the UN Security Council.

The United States believes that there should be no further nuclear supply to a country that has withdrawn from the Treaty and is pursuing unsafeguarded

nuclear activities or nuclear weapons. Even the act of providing a notification of withdrawal should provide sufficient cause for suspending nuclear supply in these instances. Nor should such a withdrawing party be allowed to benefit from the use of nuclear materials and equipment that it imported while it was party to the Treaty. This conclusion is fully justified because the assistance was provided based on the NPT party's professed commitment to the NPT and on its acceptance of comprehensive IAEA safeguards. When these commitments are renounced or violated, the withdrawing state should not be entitled to the benefits acquired while it was a party to the Treaty and subject to comprehensive safeguards. In these circumstances, nuclear supplier states may wish, through appropriate means, to seek a halt in the use of nuclear material and equipment previously supplied to the withdrawing state and the elimination of such items or their return to the original supplier. Nuclear suppliers should reserve these rights in their bilateral nuclear supply agreements. The Nuclear Suppliers Group, which is already considering a requirement that IAEA safeguards apply for the lifetime of supplied items, could also incorporate a "right of return" in its export guidelines. Return of such items could also be directed by the Security Council in a Chapter VII resolution if such an action were deemed necessary to respond to a threat to international peace and security. In the case of withdrawal, nuclear suppliers could also meet to consider joint or unilateral action to monitor compliance with bilateral assurances that may pertain to nuclear material and equipment supplied prior to withdrawal.

We note in this connection that under Article XII.A.7 of the Statute of the IAEA, the Agency has the right to "withdraw any material or equipment made available by the Agency or a member" in furtherance of an Agency project if a recipient state does not comply with its safeguards agreement and fails to take corrective action in a reasonable time. Article XII.C has a similar provision. Thus, the concept of removing materials and equipment from a State based on its failure to meet nonproliferation norms is not a new or novel concept.

Finally, parties may have their own intelligence and interdiction resources. In the event of withdrawal, parties with these resources could focus them on the withdrawing state in an attempt to stop any clandestine transfers directed at the acquisition of a nuclear weapons capability or of the proliferation of such technology to others.

The right to withdraw from the Treaty remains a sovereign right. But it is also true that parties to the NPT have a sovereign right to consider the ramifications upon their individual and collective security of such a withdrawal, including by states that have breached their obligations prior to withdrawal. We, the parties to the Treaty, should make clear that consequences will flow from withdrawal from the Treaty and, in doing so, deter such actions and further the goal of universal adherence.

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