
2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

17 March 2010
English
Original: Russian

New York, 3-28 May 2010

Working paper prepared by Ukraine and the Russian Federation regarding recommendations on the procedures for, and consequences of, possible exercise by a State of the right to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons

No decisions on withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons should lead to the revision of article X, amendments to the text of the Treaty or compromise the generally recognized principles and standards of international law.

The consequences of withdrawal from treaties are regulated by international law, in particular article 70 of the 1969 Vienna Convention on the Law of Treaties, which establishes that, unless the treaty otherwise provides or the parties otherwise agree, withdrawal from the treaty (a) releases the party from any obligation further to perform the treaty and (b) does not affect any right, obligation or legal situation of the party created through the execution of the treaty prior to its termination. In other words, the State will remain internationally liable for violations of the treaty committed prior to withdrawal.

The Treaty does not have explicit provisions specifying the potential consequences of withdrawal from the Treaty. Article X, which covers “the right to withdraw” from the Treaty, establishes only the conditions for withdrawal and content requirements for appropriate notification. A party to the Treaty may not withdraw from the Treaty unless it decides that “extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country”. However, in that case the Treaty provides that, prior to withdrawal, the party must give notice three months in advance to the more than 180 other States parties to the Treaty and to the United Nations Security Council. Such notice must include “a statement of the extraordinary events it [the State party] regards as having jeopardized its supreme interests”. It is therefore clear from this provision that the justification given by the withdrawing party may be considered and discussed by the Security Council and by other parties to the Treaty.

Thus, the aforementioned standards of international law are applicable to withdrawal from the Treaty. There is no doubt that a State withdrawing from the Treaty must strictly observe the conditions set out in article X. However, the Review Conference needs to develop agreed recommendations on the procedures for, and consequences of, possible withdrawal from the Treaty.



1. We propose enshrining in 2010 Review Conference documents the following understanding of the commitments contained in article X:

(a) A “notice of withdrawal” should 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 United Nations Security Council;

(b) This note verbale should be given three months in advance of an intended withdrawal and include the statement of the extraordinary events the country regards as having jeopardized its supreme interests; the statement should be as detailed and specific as possible;

(c) The three-month period starts from the date of transmission of the note verbale to the Governments of all States parties to the Treaty and the President of the United Nations Security Council. No declarations, public statements or letters of intention are in any way valid in shortening this period.

2. In the event of a notice of withdrawal from the Treaty, the depositaries should hold consultations with all States parties to the Treaty in order to assess the consequences of such withdrawal, taking into account the conclusion of the International Atomic Energy Agency (IAEA) regarding compliance of the notifying party with its obligations under the safeguards agreement during the period in which it was a party to the Treaty.

3. In the event of a notice of withdrawal from the Treaty, the IAEA Board of Governors should be convened in the shortest possible time in order to authorize the Agency to verify compliance of the State withdrawing from the Treaty with its obligations under the safeguards agreement. Furthermore, in the event of the State’s non-compliance, the Board of Governors, in accordance with article 12 of the IAEA Statute, shall report this to the United Nations Security Council.

4. It must be reaffirmed that the premeditation and preparation of the withdrawal decision are contrary to the purpose of the Treaty.

5. It must be reaffirmed that withdrawal from the Treaty does not affect any right, obligation or legal situation of the party created through the execution of the treaty prior to its termination (in accordance with article 70 of the Vienna Convention on the Law of Treaties). In other words, the State will remain responsible under international law for violations of the treaty committed prior to withdrawal.

6. All nuclear materials, equipment, technologies and facilities established for peaceful purposes of a State withdrawing from the Treaty should be restricted to peaceful uses only and remain subject to IAEA safeguards.

7. A State withdrawing from the Treaty should return nuclear materials, equipment and technologies received from abroad prior to withdrawal, if so requested by the supplier State. If the supplier State does not make such a request, or if for technical reasons the nuclear facilities, equipment and materials cannot be returned, they must be subject to IAEA lifetime safeguards.

These undertakings should be enshrined in 2010 Review Conference documents regarding the exercise by a State of the right to withdraw from the Treaty.