STATEMENT
BY

AMBASSADOR ABDUL SAMAD MINTY
SPECIAL REPRESENTATIVE FOR DISARMAMENT
AT THE DEPARTMENT OF FOREIGN AFFAIRS
REPUBLIC OF SOUTH AFRICA

AT THE FIRST SESSION OF THE PREPARATORY COMMITTEE FOR THE
2010 REVIEW CONFERENCE OF THE PARTIES
TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR
WEAPONS

SPECIFIC ISSUE - OTHER PROVISIONS OF THE TREATY,
INCLUDING ARTICLE X

11 MAY 2007
Vienna

Check against delivery
Chairperson,

At the 2005 NPT Review Conference we had an opportunity to discuss the matter of withdrawal from the Treaty, and my delegation wishes to use this opportunity to again state South Africa's position on this issue.

Chairperson,

Article X of the NPT clearly provides that a State may withdraw from the Treaty in the exercise of its sovereign right in certain defined circumstances and in accordance with the procedure set out in this article.

The question of withdrawal is therefore not an issue that is open to interpretation. Care should be taken that proposals to interpret Article X do not create ambiguity. Such legal uncertainty is always undesirable and may undermine the Treaty itself. Loose interpretations of the provisions of the Treaty may well create greater uncertainties and/or loopholes.

Although my delegation has no objection to debate the procedural aspects of withdrawal, discussions on penalising withdrawal from the Treaty would seem not appropriate, as this aspect has not been provided for in the Treaty itself. It can be argued that if it had been the intention of the drafters to penalise withdrawal, then it would have been expressly provided for in the NPT.

Although the withdrawal of States from the Treaty is a cause of concern, this issue should be separated from additional proposals to penalise such withdrawal, which can only be achieved through an amendment of the Treaty itself.

Chairperson,

It should be recalled that Article 54 of the Vienna Convention stipulates as follows: "The termination of a treaty or the withdrawal of a party may take place: (a) in conformity with the provisions of the treaty; or (b) at any time by consent of all the parties after consultation with the other contracting States".

In dealing with the issue of withdrawal in the context of Article X of the NPT, we must also take into account the Vienna Convention on the Law of Treaties, which governs all international treaties. Care should be taken not to agree to modalities 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.

My delegation also recognises that, as a general principle of customary international law, a State remains liable for breaches of international obligations undertaken prior to its withdrawal from a treaty.

Chairperson,

In conclusion, our discussions on the issue of withdrawal should therefore be limited to clarify the procedural aspects outlined in Article X. We cannot consider proposals that would constitute a de facto amendment of the Treaty, unless we agree to initiate a process to amend the Treaty in accordance with Article VIII.

I thank you.