

# A “Winter Phase” for Arms Control and Disarmament and the Role for Japan\*

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## Abstract

It appears that arms control and disarmament have entered a “winter phase” at least for the time being. This conclusion seems unavoidable given the outlook for the performance of arms control and disarmament measures not only in terms of existing bilateral treaties between the United States and the Russian Federation but also in terms of multilateral nuclear non-proliferation and disarmament measures under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). It does not appear this situation will change for the better any time soon. In light of such realities, what sort of role might Japan be expected to play? There is a limit to any role Japan might pursue toward fostering improved bilateral relations between the US and Russia. On the other hand, Japan conceivably has a role it should fulfill multilaterally. From that perspective, it established a Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament (EPG) in 2017. After two years of intensive discussions, it proved unable to substantively alter the entrenched pattern of rivalry separating two factions that could be referred to as the “disarmers” and the “deterriers.” Yet even as it failed to close the gaps in fundamental perspectives, the EPG did succeed in fostering a certain shared awareness of the actions that should be pursued over the near and intermediate term. That accomplishment is likely to have positive value in aiding efforts to predict the future course of government-level negotiations.

**I**t appears that arms control and disarmament have entered a “winter phase” at least for the time being. This is despite the adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) in July 2017 and the conferral of the 2017 Nobel Peace Prize to the International Campaign to Abolish Nuclear Weapons (ICAN), the nongovernmental organization instrumental in making that treaty.

This conclusion seems unavoidable given the outlook for the performance of arms control and disarmament measures not only in terms of existing bilateral treaties and negotiations on new treaty arrangements between the United States and the Russian Federation, but also in terms of multilateral nuclear non-proliferation and disarmament measures such as those under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). It does not appear this situation will change for the better any time soon. In light of these realities, what sort of role might Japan be expected to play?

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## 1. Stalled US-Russian negotiations on nuclear disarmament

Bilateral US-Russian negotiations on nuclear disarmament have been stalled for quite some time. The treaty most recently concluded and still in force between the two states is the New Strategic Arms Reduction Treaty (New START), which was signed in Prague in 2010.

Among post-Cold War agreements aimed at reducing strategic nuclear arms, immediately before the New START was the Strategic Offensive Reductions Treaty (SORT) signed in 2002. The SORT was to remain in force until 2012, but it was superseded by the New START of 2010. The SORT accord was reached in 2002 as a new initiative aimed at moving forward with reductions agreed under the Strategic Arms Reduction Treaty (START I), which had been signed in 1991 and was set to expire in 2009.<sup>1</sup>

As this review of relevant historical details should show, until recently US-Russian talks and agreements on strategic nuclear arms reductions had followed a process marked by the launch and conclusion of negotiations on a new treaty while the previous treaty was still in force. However, the situation is now different. Brought into force on February 5, 2011 with a duration of 10 years, the New START is scheduled to expire in February 2021. Although this treaty contains provisions (Art. XIV, para. 2) that allow it to be extended for a period of up to five years, the prospects for such an extension, let alone the start of negotiations on a new treaty, appear dim.<sup>2</sup>

The problems are not limited to strategic nuclear weapons alone. To the contrary, one of the most pressing issues right now has to do with nonstrategic nuclear weapons. Signed in 1987, the Intermediate-Range Nuclear Forces (INF) Treaty provided for the elimination of the two states' entire arsenals of ground-based ballistic missiles and cruise missiles with ranges from 500 up to 5,500 km. The INF Treaty represented a breakthrough in that it not only eliminated one category of nuclear weapons entirely, but also was the first treaty under which the Soviet Union consented to accept statutory on-site inspections. Furthermore, it helped set the stage for the subsequent START I accord of 1991 and also led to the extremely intrusive inspection regime under the Chemical Weapons Convention (CWC) of 1993.

However, the US in recent years has cited Russia for violating the INF Treaty, namely, for testing and deploying a new type of ground-launched cruise missile (the SSC-8 or 9M729) with a range prohibited by the Treaty.<sup>3</sup> Russia in turn has criticized the US for INF Treaty violations of

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<sup>1</sup> The history of US-Russian strategic nuclear arms reduction is far more complicated as follows. START I was signed in 1991 and entered into force in December 1994, and was to remain in force for 15 years. In the interest of achieving further strategic weapons reductions, the US and Russia signed the START II treaty in 1993, even before START I had been brought into force. The US ratified START II in 1996. In 1997, agreements were reached on a modified reduction schedule for the START II in the form of a Protocol and on the clarification concerning the Anti-Ballistic Missile (ABM) Treaty in the form of Agreed Statements, and integrated into START II. Russia ratified START II in its entirety in 2000 but set the condition that the US ratifies the 1997 Protocol, etc. and reserved its right to withdraw from START II should the US exit the ABM Treaty. However, because the US did not ratify the Protocol, etc. and in 2002 went on to withdraw from the ABM Treaty, START II did not enter into force and Russia declared in 2002 that it would not be bound by the provisions of START II.

<sup>2</sup> Ryan Fedasiuk, “U.S., Russia Meet New START Limits,” March 1, 2018, at <https://www.armscontrol.org/act/2018-03/news-briefs/us-russia-meet-new-start-limits>; Julian Borger, “US and Russian Nuclear Arsenals Set to be Unchecked for First Time Since 1972,” *The Guardian*, April 17, 2018.

<sup>3</sup> Since 2014, the US has considered Russian tests of ground-launched cruise missiles to be in violation of the INF Treaty. In 2016 it convened a meeting of the Special Verification Commission (SVC) established under Article XIII of the INF Treaty and communicated its concerns. US Department of State, Bureau of Arms Control, Verification and Compliance, “Fact Sheet: INF Treaty at a Glance,” December 8, 2017; Amy F. Woolf, *Russian Compliance with the Intermediate Range Nuclear Forces (INF) Treaty: Background and Issues for Congress*, CRS Report (Congressional Research Service, December 2017), pp. 14–16.

its own.<sup>4</sup> Ultimately, on February 2, 2019, the US issued a declaration of its intention to withdraw from the INF Treaty pursuant to the provisions of Article XV.<sup>5</sup> Under those provisions, the withdrawal notice takes effect six months after the date of declaration. The operation of the INF Treaty was thus terminated on August 2.<sup>6</sup> Soon thereafter, on August 18, the US tested a ground-launched intermediate-range cruise missile of the type banned by the INF Treaty.<sup>7</sup> Regarding the expressed intention by the US to deploy its intermediate-range missiles in Asia, China has expressed its concern that it would severely undermine the international and regional security.<sup>8</sup>

The impact of this development has had implications that extend beyond the INF Treaty itself. Linton Brooks, a former Administrator of the US National Nuclear Security Administration (NNSA), has stated that it would be difficult for the US to conclude a new strategic nuclear arms reduction treaty with Russia unless the INF Treaty noncompliance issues are resolved.<sup>9</sup> Not only that, but relations between the US and Russia have taken on a seriously confrontational tone since the latter annexed Crimea in March 2014. Moreover, Russia is suspected of being behind the March 2018 nerve-agent poisoning of Sergei Skripal, a former Russian military intelligence officer, in Salisbury, England. This triggered a massive wave of expulsions of each other's diplomats by the US and Russia. Additionally, in UN Security Council deliberations, Russia exercised its veto power three times in succession to block renewal of the mandate for the Joint Investigative Mechanism (JIM) established to identify those involved in the use of chemical weapons in Syria. Since then, this confrontation has moved to the Executive Council of the Organisation for the Prohibition of Chemical Weapons (OPCW). In this way, tensions between the US and Russia are taking a steadily worsening course.

## 2. Widening divisions over the Treaty on the Prohibition of Nuclear Weapons

The US and Russia are not the only two states that have been engaged in disputes over nuclear disarmament. The atmosphere of confrontation has become global in scale.

On July 7, 2017, the United Nations Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading towards Their Total Elimination adopted the Treaty on the Prohibition of Nuclear Weapons (TPNW) with 122 member states in favor, one against (Netherlands), and one abstaining (Singapore). From this fact alone, one might gain the impression that a revolutionary treaty banning nuclear weapons had been agreed upon, reflecting the general consensus of the international community. The reality is somewhat different. The

<sup>4</sup> Russia has asserted that the use of intermediate-range missiles as targets for US missile defense system tests, the use of armed drones, and plans (Aegis Ashore) for land-based deployment of the US Navy's MK-41 missile launcher are violations of the INF Treaty, but the US has rejected those claims. *Ibid.*, pp. 23–26.

<sup>5</sup> US Department of State, "Press Statement: U.S. Intent to Withdraw from the INF Treaty," February 2, 2019. See also "United States Initiates Withdrawal from Intermediate-Range Nuclear Forces Treaty," *American Journal of International Law*, Vol. 113, No. 3 (July 2019), pp. 631–634.

<sup>6</sup> For the Russian response to the US withdrawal, see "Statement by the President of Russia on the unilateral withdrawal of the United States from the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles," August 5, 2019, at <http://en.kremlin.ru/events/president/news/61271>

<sup>7</sup> Shannon Bugos, "U.S. Completes INF Treaty Withdrawal," *Arms Control Today*, Vol. 49, No. 7 (September 2019), p. 25. To counter treaty violations by Russia, in 2017 the US reportedly began the early-stage research and development of new intermediate-range missiles within limits that would not violate its treaty obligations. *Yomiuri Shimbun*, August 20, 2019, evening edition.

<sup>8</sup> "Foreign Ministry Spokesperson Hua Chunying's Remarks," August 5, 2019, at [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1686226.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1686226.shtml)

<sup>9</sup> Interview with Ambassador Linton Brooks, former Administrator, US National Nuclear Security Administration, November 27, 2017.

122 states that voted in favor did not include any of the nuclear-armed states (nuclear-weapon states under the NPT and other states considered to possess nuclear weapons) or any of the non-nuclear-weapon states allied with the nuclear-armed states. Accordingly, concern arises that this treaty could spark or aggravate troubling divisions within the international community.

This fragmentation of international community has emerged (and begun to grow) not only between the nuclear-weapon states and the non-nuclear-weapon states but also between the non-nuclear-weapon states allied with the nuclear-armed powers and the non-aligned non-nuclear-weapon states. To be more precise, this trend was in fact already under way prior to the adoption of the TPNW. In 2014, only five states (the US, UK, France, Russia, and Israel) were opposed to the UN General Assembly resolution titled “Taking Forward Multilateral Nuclear Disarmament Negotiations,” a yearly adopted resolution which ultimately led to the convening of the treaty negotiating UN conference. However, by 2016, the year in which a decision was made to convene the UN conference, that number had expanded seven-fold to 35 states that included almost all of the nuclear-armed states and their non-nuclear allies.<sup>10</sup> Although the non-nuclear-weapon states allied with the nuclear-armed powers had sought to coordinate with the non-aligned non-nuclear-weapon states (at least superficially) on the quest for nuclear disarmament, the TPNW (negotiations) ultimately compelled them to shift from the non-nuclear camp and side with the nuclear-armed states by pressuring them to abandon the idea of extended nuclear deterrence.

As of August 2019, after slightly over two years since its adoption, the TPNW has been signed by 70 countries and ratified or acceded to by only 25, apparently to the disappointment of its proponents.<sup>11</sup> Nevertheless, it will probably enter into force eventually, once the required 50 states ratify or accede to it. Under the TPNW provisions, the treaty process is to begin with meetings of its States Parties within the first year following the entry into force of the treaty and every two years thereafter. It seems only natural that many of the non-aligned countries involved in the making of the TPNW consider it important. That view, together with the lack of progress in nuclear disarmament made through the NPT process, readily supports the prospect that these states will pivot away from the NPT process and toward the new TPNW process. The first meeting of States Parties of the TPNW will have the task of (unilaterally) setting a deadline for the elimination of nuclear weapons despite the (likely) non-participation of NPT-designated nuclear-weapon states and other states presumed to possess nuclear weapons (Art. 4, para. 2). Should that scenario materialize, the fractures dividing the nuclear-armed and nuclear-allied non-nuclear-weapon states on the one hand and the non-aligned non-nuclear-weapon states on the other will likely deepen. From a nuclear disarmament perspective, it will be unfortunate if many of the non-aligned states lose interest in the NPT process, transforming it into an empty formality as a universal forum that enjoyed the involvement of the nuclear-weapon states, while the nuclear-armed states themselves continue to view the TPNW with hostility or complete disregard.<sup>12</sup>

<sup>10</sup> See UN Docs. A/RES/69/41, December 2, 2014; A/69/PV.62, December 2, 2014, pp. 12–13; A/RES/71/258, December 23, 2016; A/71/PV.68, December 23, 2016, p. 17.

<sup>11</sup> Aside from the number of ratifying states, the number of signatories is only a little more than half the number that voted in favor of the treaty when it was adopted, notwithstanding that the executive branch can sign the treaty without parliamentary approval. This fact raises doubts about their actual level of commitment to the treaty.

<sup>12</sup> The five nuclear-weapon states have declared before the UN General Assembly that they are opposed to the TPNW and will not support, sign, or ratify it. India and Pakistan have also announced that they cannot be parties to this treaty. “Joint Statement by China, France, Russian Federation, United Kingdom and United States,” United Nations General Assembly, First Committee, Thematic Debate (Nuclear Weapons), October 22, 2018; Ministry of External Affairs, Government of India, “Response by the Official Spokesperson to a Media Query regarding India’s View on the Treaty to Ban Nuclear Weapons,” July 18, 2017; Ministry of Foreign Affairs, Government of Pakistan, “Press Statement on the Treaty on the Prohibition of Nuclear Weapons (Nuclear Weapons Ban Treaty),” August 7, 2017.

### 3. The role for Japan

Given this state of affairs, what role can or should Japan fulfill? There is a limit to any role Japan might pursue toward fostering improved bilateral relations between the US and Russia.

Multilaterally, on the other hand, Japan conceivably has a role it should fulfill with regard to the mounting tensions spurred by the TPNW. That role was laid out at the first session of the Preparatory Committee of the 2020 NPT Review Conference in May 2017 by former Japanese Foreign Minister Fumio Kishida with his proposal for the establishment of a Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament (EPG), a group of experts in nuclear arms control and disarmament that had its inaugural meeting in Hiroshima in November that same year. (The author participated in it as an EPG member.)

The second EPG meeting assembled in Tokyo in March 2018 and prepared a proposal for submission to the second session of the NPT Preparatory Committee scheduled for the following month.<sup>13</sup> Bridge-building was its primary focus. Specifically, the EPG called for the start of what it considered to be an essential dialogue aimed at promoting mutual understanding of different standpoints and perspectives based on recognition of the divisions that existed within the international community. This was an exceptionally realistic proposal that focused directly on the reality of the global rifts that had developed over the issue of nuclear disarmament.

Afterward, the EPG held three more meetings (in Nagasaki, Kyoto, and Tokyo). In February 2019, the US announced its withdrawal from the INF Treaty. Against that backdrop, the EPG at its Kyoto meeting that March adopted a “Kyoto Appeal,” which urged the international community to adhere to nuclear arms control and disarmament treaties and agreements and fulfill all treaty obligations and commitments, called on the nuclear-weapon states to explain and share information on their nuclear policies, and appealed for the restoration of civility and respect in discourse and a return to the traditional practices of cooperation.<sup>14</sup>

At its fifth meeting, held in Tokyo in July 2019, the EPG conference began the process of finalizing its findings and proposals. However, it proved unable to substantively alter the entrenched pattern of rivalry separating two factions that could be referred to as the “disarmers” and the “deterriers.” Of course, it may have been unrealistic to expect that five meetings for dialogue would eliminate differences in the opinions and views that individual EPG members had developed and maintained over some decades as elements of their respective belief systems. Yet even as it failed to close the gaps in fundamental perspectives, the EPG did succeed in fostering a certain shared awareness of the actions that should be pursued over the near and intermediate term.<sup>15</sup> That accomplishment is likely to have positive value in aiding efforts to predict the future course of government-level negotiations.

The present author has articulated within and outside the EPG meetings his brief that making nuclear disarmament the primary objective as an unconditional, absolute good is not necessarily the correct choice. Disarmament is a means, not the ultimate objective. The ultimate objective is security: security at the national and international levels. If measures in disarmament threaten to harm the fundamentals of security, security has to be given priority over disarmament.

Of course, it is true that some people consider it fantasy to expect nuclear deterrence to

<sup>13</sup> Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament, “Building Bridges to Effective Nuclear Disarmament: Recommendations for the 2020 Review Process for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT),” at <http://www.mofa.go.jp/mofaj/files/000349264.pdf>

<sup>14</sup> Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament, “Kyoto Appeal: Appeals for the 2020 Review Process for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT),” at <https://www.mofa.go.jp/files/000469293.pdf>

<sup>15</sup> Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament, “Chair’s Report for the 2020 Review Process for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT),” at <https://www.mofa.go.jp/mofaj/files/000529774.pdf>

work or contribute to security. On the contrary, others still believe that nuclear deterrence is the ultimate guarantor of security and the primary reason for no major war having been fought since World War II. These diametrically opposing perspectives are directly linked to the differing stances on nuclear disarmament, and are arguably at their root. Moving forward, the EPG is scheduled to gain expanded scope that includes participation by government officials. It is the author’s earnest hope that it will help to ease, and ultimately open the door to the elimination of, dissent over these issues.