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Issue Brief

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New UN Treaty on Prohibition of Nuclear Weapons: Prospects of Nuclear Disarmament

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Since the advent of nuclear weapons technology, the international community has made several attempts to control its spread and pursued the broader objectives of arms control and comprehensive nuclear disarmament. Over the past decades, the international community has devised several instruments and formed an international nuclear non-proliferation



regime. These measures achieved some success in the nuclear non-proliferation domain and established Nuclear Weapons Free Zones (NWFZ), pursued arms control measures and prohibited some categories of the Weapons of Mass Destructions (WMD) like chemical weapons, biological weapons, land mines and cluster munitions. However, the international community hardly achieved any success in the domain of comprehensive universal nuclear disarmament due to the priorities, positions and policies of major Nuclear Weapons States (NWS). Currently, there are nine known nuclear weapons states, which include the US, Russia, UK, China, France, India, Pakistan, Israel, and North Korea. Due to their political and national security reasons, they have increased their reliance on nuclear weapons. This may cause insecurity for other smaller and weaker states, and could compel them to acquire nuclear weapons capability to address their insecurities. In addition to this, there is a profound fear that the growing rise of non-state actors and terrorist organisations might also compel these actors to acquire nuclear weapons technology to further their goals, which could endanger regional and the international peace.

On July 7, 2017, taking a lead from the Nuclear Non-Proliferation Treaty (NPT) to “pursue negotiations in good faith on effective measures relating ... to nuclear disarmament,”¹ the United Nations General Assembly (UNGA) adopted the Treaty on the Prohibition of Nuclear Weapons (PNW).² The UNGA Secretary General, acting as a depository, issued a notification that the treaty shall be opened for signature to all states from September 20, 2017.³ This renewed attempt “to conclude as soon as possible a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination,” was a result of a UNGA Resolution 71/258, which was adopted on December 23, 2016. In this resolution, the UN, expressing catastrophic consequences of any use of nuclear weapons and the associated risks of the existence of nuclear weapons, called upon all states to conclude a legally binding treaty prohibiting nuclear weapons. However, the known nine nuclear states have stayed out during the treaty negotiation and adaptation process.

The PNW stipulates following prohibitions for each State party to the treaty to never, under any circumstances:⁴

- a. Develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices;
- b. Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly;
- c. Receive the transfer of or control over nuclear weapons or other nuclear explosive devices directly or indirectly;
- d. Use or threaten to use nuclear weapons or other nuclear explosive devices;
- e. Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Treaty;

¹ Article VI, “Treaty on the Non-Proliferation of Nuclear Weapons (NPT) – UNODA,” accessed March 13, 2017, <https://www.un.org/disarmament/wmd/nuclear/npt/>.

² “Treaty on the Prohibition of Nuclear Weapons” (United Nations General Assembly (UNGA), July 7, 2017), <http://undocs.org/A/CONF.229/2017/8>.

³ “CN.475.2017-Eng.Pdf,” accessed August 24, 2017, <https://treaties.un.org/doc/Publication/CN/2017/CN.475.2017-Eng.pdf>.

⁴ “Treaty on the Prohibition of Nuclear Weapons.”

- f. Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a State Party under this Treaty;
- g. Allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control.

The other clauses of the treaty include a deceleration of possession, elimination and irreversible conversion of nuclear weapons and related materials. The International Atomic Energy Agency (IAEA) will ensure total elimination of nuclear weapons and non-diversion from peaceful activities through its safeguards mechanism. The treaty also stipulates that states will take national implementation measure to ensure enforcement of the treaty under its jurisdiction or control. The treaty also encompasses states responsibility to ensures victim assistance and environmental remediation. The treaty strongly supports the international cooperation and assistance in fulfilling the obligations of this treaty. The treaty will come into force after the 50th instrument of ratification and attach great importance with the universality of the treaty. It considers that it is the responsibility of each State Party to encourage other states, not a party to this treaty to sign, ratify, accept, approve or accede to the treaty.⁵

The treaty has been adopted and soon it would be opened for signature to all the states, however, it has raised several questions. Nuclear experts believe that earlier efforts of nuclear disarmament have failed to yield any positive results and there is the likelihood that this treaty will suffer the same fate. The PNW treaty has even sparked a debate among NWS and Non-Nuclear Weapon States (NNWS) about the scope and nature of this treaty. A majority of NNWS -122 - who voted in favour to adopt this treaty at the UNGA, believe that the time has come to make a choice and it is a choice between responsibility and irresponsibility. However, prospects of a legally binding instrument to totally eliminate nuclear weapons require an in-depth analysis of existing approaches towards comprehensive nuclear disarmament.

In principle, no one questions the normative values attached to the PNW treaty. However, concerns have been raised at the mechanisms and procedures to totally eliminate nuclear weapons. The first major concern raised by the international nuclear experts and officials from NWS is that the PNW treaty is going to eradicate the credibility of NPT, which is considered as a cornerstone of the international nuclear non-proliferation regime. They argue that since the NPT already contains the provisions of gradual reduction and comprehensive nuclear disarmament, therefore, instead of devising new

⁵ Ibid.

mechanisms, existing instruments of nuclear arms control, non-proliferation and disarmament should be strengthened and implemented. Another major concern is the non-participation of the known nine NWS and of those states that have been provided extended nuclear deterrence by major powers in Europe and Asia. The critics argue that the NPT has the backing of P-5 and Security Council, whereas the PNW treaty is not even backed by a single NWS. This would eventually result in failure of this treaty. Former Swedish Prime Minister, Carl Bildt, argues that “the world would be better served by an incremental approach based on the NPT, strategic arms reductions by the major powers, and conflict resolution in key regions.”⁶

On July 7, 2017, the Permanent Representatives to the UN from the US, UK and France have also issued a joint statement and stated that “we do not intend to sign, ratify or ever become a party to it.” They even denied any legal obligation of this treaty on their countries and stated that the treaty “clearly disregards the realities of the international security environment.”⁷ These states have also expressed their commitment to the NPT and reaffirmed their support to safeguard and promote its authority, universality and effectiveness.⁸ Russia has also considered this treaty counterproductive and potentially dangerous.⁹ Russia’s Ambassador to the UK, Ambassador Alexander Yakevenko, believes that “the NPT contains all the necessary provisions in this sphere that must be applied consistently.”¹⁰

Pakistan, who acquired its nuclear weapons capability to safeguard its national security, has reiterated its commitment to “making the world free of nuclear weapons through a universal, non-discriminatory and comprehensive convention on banning nuclear weapons.” It believes that the goal of nuclear disarmament should be implemented in a manner that it promotes security and stability at regional and global levels and the treaty banning nuclear weapon does not fulfill these essential conditions - both in terms of process and substance.¹¹

⁶ Carl Bildt, “Proposed Treaty Is the Wrong Way to Prevent Nuclear War,” *Irish Examiner*, August 18, 2017, <http://www.irishexaminer.com/analysis/proposed-treaty-is-the-wrong-way-to-prevent-nuclear-war-457270.html>.

⁷ Bureau of Public Affairs Department of State. The Office of Website Management, “Joint Press Statement from the Permanent Representatives to the United Nations of the United States, United Kingdom, and France Following the Adoption of a Treaty Banning Nuclear Weapons,” July 7, 2017, /remarks/7892.

⁸ Ibid.

⁹ Dr Alexander Yakovenko Yakovenko, “Treaty on the Prohibition of Nuclear Weapons: Playing with Fire,” *Russia Today*, August 2, 2017, <https://www.rt.com/op-edge/398313-nuclear-weapons-treaty-prohibition/>.

¹⁰ Ibid.

¹¹ “Pakistan Committed to Nuclear Disarmament for Peaceful World: FO,” *ARY News*, August 7, 2017, <https://arynews.tv/en/fo-say-pakistan-committed-nuclear-disarmament-peaceful-world/>.

Given the volatile international security environment, achieving the goals of comprehensive nuclear disarmament seems remote. Without addressing national, regional and the international security concerns, the international community cannot get rid of nuclear weapons. The efforts to totally eliminate and prohibit the future production of nuclear weapons requires that the international community should take credible and concrete practical steps with a strong political will. It should move forward with a strict collective security commitment and assure an equal and non-discriminatory security approach for all the states.