



Title	NUCLEAR DISARMAMENT AND NON-PROLIFERATION JAPANESE AND CANADIAN PERSPECTIVES
Author(s)	Kurosawa, Mitsuru
Citation	Osaka University Law Review. 1997, 44, p. 9-26
Version Type	VoR
URL	<a href="https://hdl.handle.net/11094/11211">https://hdl.handle.net/11094/11211</a>
rights	
Note	

*The University of Osaka Institutional Knowledge Archive : OUKA*

<https://ir.library.osaka-u.ac.jp/>

The University of Osaka

# **NUCLEAR DISARMAMENT AND NON-PROLIFERATION JAPANESE AND CANADIAN PERSPECTIVES**

*Mitsuru Kurosawa\**

Both Canada and Japan have undertaken the obligation not to manufacture nor possess nuclear weapons, in spite of the fact that both countries have the technical and financial capability to make them. The two states are parties to the Nuclear Non-Proliferation Treaty (NPT) of 1970, as non-nuclear-weapon states (NNWSs). Both Canada and Japan have been allied with the United States and enjoying the nuclear umbrella of the U.S. for their security. On the one hand, the situations regarding nuclear weapons are very similar in Canada and Japan, however, on the other hand, we can witness some differences between the two countries on their posture to nuclear weapons.

For example, recently in international society there emerged suspicion on Japan's nuclear policy, in particular that Japan might seek to make nuclear weapons. There are three reasons for this suspicion: i) Japan is proceeding toward commercial use of plutonium; ii) Japan had not initially made its position clear on the extension of the NPT; and iii) the situation in North Korea may encourage Japan to rethink its policy on nuclear weapons. In Canada's case, no suspicion has emerged that Canada may seek to have nuclear weapons. Canada has no commercial use of plutonium, and Canada has supported the indefinite extension of the NPT from the earliest time.

In this article, I will conduct a comparative study of both states' approach toward nuclear weapons, nuclear disarmament and nuclear non-proliferation. By making both similarities and differences clear, I will examine the elements for their background, taking into account the U.S. position or influence. Finally, I will search for some lessons for each country to learn from the other.

## **I. The Situations Surrounding Nuclear Weapons**

### **1. Acquisition of nuclear weapons**

---

\* Professor of International Law, Osaka School of International Public Policy and Faculty of Law, Osaka University, JAPAN.

Canada was engaged in the work of making the first atomic bomb in the United States and the United Kingdom during the World War II. In August 1943 in Quebec, Churchill, the Prime Minister of the U.K. and Roosevelt, the President of the U.S. with the presence of King, the Prime Minister of Canada, agreed to undertake the manufacture of the atomic bomb, establishing a Combined Policy Committee comprising the U.S., the U.K. and Canada. As Canada had much uranium and much experience from participating in the Manhattan Project for manufacturing the first atomic bomb, it had the capability to develop nuclear weapons at the end of the WW II. In spite of this background, Canada took a different path from the U.K.

The Government of Canada, just after the war, without much discussion, decided that Canada should not start a nuclear program. This decision was thought to be natural, and there was no active discussion for or against a Canadian nuclear option. In this context, John Mueller explained the reason as follows; Why did the British pursue a nuclear policy while the Canadians never considered the idea seriously? An important part of the answer can be found in the two countries' self-image. The British considered themselves to be a "great" power; Canada saw herself as a "middle" power.<sup>1)</sup>

According to William Epstein, the first reason is that Canada faced no military threat and had no known potential enemies and in the case of threat, it was generally believed, the U.S. would protect and defend Canada; the second is that the Manhattan Project was too expensive and Canada felt it impossible to undertake a nuclear program from an economic point of view; and the third is that as Canada had no ambitions to become a great power, the development of nuclear weapons would not enhance independence, political or economic power or influence; and the last reason is that idealistic and moral attitudes of Canada played a role.<sup>2)</sup>

Canada made up its mind not to develop nuclear weapons just after the war, and there emerged no strong opposition against its decision. The Canadian Cabinet declared the non-nuclear-weapon policy several times in the 1940s. Since then, we have heard neither a voice demanding nuclear weapons, nor a suspicion that Canada might make nuclear weapons.

On the other hand, Japan has Article IX of the Constitution which stipulates an abandonment of war and no possession of army, navy or air force, and has

1) John E. Mueller, "Incentives for Restraint: Canada as a Nonnuclear Power," *Orbis*, Vol.11, No.3, Fall 1967, p.866.

2) William Epstein, "Canada," Jozef Goldblat ed., *Non-Proliferation: The Why and Wherefore*, SIPRI, Taylor & Francis, London and Philadelphia, 1985, p.175.

employed the policy that Japan should not be a militarily powerful nation. In addition, *Basic Law of Nuclear Energy* of 1955 limits its use exclusively for peaceful purposes, and the Government has declared several times that Japan would not possess nuclear weapons.

In spite of these facts, now Japan's military budget is second to the U.S., and the Government has stated since 1957 that nuclear weapons of defensive character were not necessarily contrary to Article IX of the Constitution. In 1965, the head of the legal division of the Cabinet declared that when nuclear weapons which met a self-defense purpose were available, the possession of such weapons would not be unconstitutional, and Prime Minister Sato recognized this statement as a formal statement of the Government. In addition, arguments that Japan should keep the nuclear option open and suspicions that Japan would develop nuclear weapons have sporadically arisen.

For example, according to the findings of research in the mid-1970s, in Japan, South Korea, and Taiwan there seems to be an awakening of interest in the nuclear weapons option. Japan, because of her international status and immense technological capability, commands primary attention in this respect. The Nixon Doctrine reawakened self-reliance sentiments in Japan, which make the possibility of Japanese nuclear forces a more serious issue than ever before. The relevant question may come to be not whether Japan will go nuclear, but how U.S. interests will be affected by a Japanese decision to go nuclear.<sup>3)</sup>

Thomas Marks explained the Japanese nuclear option in 1973 as follows:

Whether Japan will, indeed, go nuclear turns on four basic factors: i) domestic political concerns and attitudes, ii) perceived external threats, iii) future relations with the United States, and iv) international reaction to such a move. The preponderance of evidence in these four areas indicates that Japan will obtain nuclear weapons, and that the real question is not one of acquisition but of timing.<sup>4)</sup>

As Japan is using an enormous amount of plutonium for peaceful uses of nuclear energy, the possibility of diverting it into military purposes has been worried about since the 1970s.<sup>5)</sup> In addition, in connection with the NPT extension

---

- 3) William Van Cleave and S.T. Cohen, "Nuclear Aspects of Future U.S. Security Policy in Asia," *Orbis*, Vol.19, No.3, Fall 1975, pp.1166-1167. Of course there were some analysis that claimed no evidence of Japan developing nuclear weapons. (James Dougherty, "Nuclear Proliferation in Asia," *Orbis*, Vol.19, No.3, Fall 1975, p.940.)
- 4) Thomas Marks, "The Acquisition of Nuclear Weapons by Japan," *Military Review*, Vol.53, March 1973, pp.39-48.
- 5) Aldo Cassuto, "Hiroshima's Japan Goes Nuclear," *World Today*, Vol.28, August 1970, p.316.

problem, in 1993 the then Minister of Foreign Affairs reportedly said that Japan should keep its nuclear option open, in particular, in face of North Korean nuclear suspicions.

## 2. Deployment of nuclear weapons

Both Canada and Japan are allied with the U.S., Canada being a member of NATO and NORAD and Japan being a party of the U.S.-Japan Security Treaty. U.S. nuclear weapons have been deployed in allied states not only in Europe but also in other areas.

The deployment of nuclear weapons, quite different from the problem of acquisition of nuclear weapons, became a big issue in Canada and attracted big debates, and in 1963 the Diefenbaker Cabinet had to dissolve itself because of this issue. The Cabinet had promised to accept nuclear weapons to Canada and Canadian forces in Europe in 1958 and 1959 but had postponed its implementation. With strong criticism from the U.S. on its non-implementation, the Cabinet had to yield to a new Pearson Cabinet, which implemented its deployment because the previous Cabinet had promised.

Many Canadians worried about the deployment of nuclear weapons on their territory or with their forces in Europe, and many wanted to have no connection with nuclear weapons. Prime Minister Pearson accepted the deployment of nuclear weapons because it was necessary to give honor to undertakings taken by the previous Government. He himself wanted a more acceptable Canadian non-nuclear role, although the promise had to be implemented.<sup>6)</sup>

The Trudeau Cabinet which succeeded the Pearson Cabinet in 1968 decided that it was not appropriate that nuclear weapons were deployed with Canadian forces and that they should be withdrawn as soon as possible. With these Canadian efforts, the U.S. began withdrawing its nuclear weapons from Canada and Canadian forces in Europe in the early 1970s and all nuclear weapons were withdrawn in 1984.

When the tests of air-launched cruise missiles (ALCMs) were planned in Canadian territory in accordance with an agreement with the U.S. in 1983, many Canadian people expressed their opposition to the tests. Although the tests did not include nuclear weapons, it was felt by those opposing that the tests meant Canadian cooperation with the nuclear arms race and increase of the chance of nuclear war.

---

6) William Epstein, *op. cit.*, p.179.

In Japan, nuclear weapons reportedly were stationed before the revision of the U.S.-Japan Security Treaty in 1960. Before its reversion to Japan in 1971, Okinawa, which was administered by the U.S., had nuclear weapons in its territory. The main debate in connection with the reversion of Okinawa was whether Okinawa would be returned to Japan with or without nuclear weapons. Japanese people, as victims of the atomic bombing against Hiroshima and Nagasaki, and also victimized by a hydrogen bomb test conducted at Bikini Atoll by the U.S. in 1954, had a strong feeling against nuclear weapons, sometimes called "nuclear allergy".<sup>7)</sup>

The Sato Cabinet argued very strongly for return of Okinawa without nuclear weapons, and in this context declared a so-called "three non-nuclear principles" which meant that Japan should not possess, nor manufacture, nor permit the introduction of nuclear weapons. These three non-nuclear principles were later adopted as a resolution of the Diet and given the status of the nation's basic principle, although it is not a law.

In reference to the third principle, many Japanese thought that it was not observed because many U.S. ships visited Japan as port-calls, and navigated in Japanese territorial seas. A logical contradiction has been critically raised between the reliance on the U.S. nuclear weapons for Japanese security through the U.S.-Japan Security Treaty and the principle to refuse port-calls or navigation in territorial seas by U.S. ships.<sup>8)</sup>

### 3. Participation in nuclear disarmament negotiations

It is worth noting that Canada played an important and special role in the nuclear disarmament negotiations after the World War II, in spite of the fact that Canada clearly declared its non-nuclear stance and Canada was not a big power. The first disarmament negotiation was held under the Atomic Energy Commission of the United Nations, which was established in the first resolution of the General Assembly. Canada was a permanent member of the Commission in addition to the five permanent members of the Security Council. This was because Canada was a special country as a participant of war-time cooperation with the U.S. and the U.K. for developing the first atomic bomb and as an active member for peaceful uses of nuclear energy.

7) For nuclear allergy, see T.J.Pempel, "Japan's Nuclear Allergy," *Current History*, Vol.68, April 1975, pp.169-173, 183.

8) Hiroharu Seki, "Nuclear Proliferation and Our Option," *Japan Quarterly*, Vol.22, January-March 1975, p.14.

In 1952 a new disarmament commission was established by the General Assembly and the membership of the commission was comprised of members of the Security Council and Canada. A sub-committee of this commission was made up of the U.S., the U.K., the Soviet Union, France and Canada. In these negotiation bodies, Canada was treated as if it was a permanent member of the Security Council.

Outside of the U.N., a negotiation forum for disarmament in Geneva developed from the ten-nation disarmament committee in 1961, to the eighteen-nation disarmament committee in 1963, the conference of the committee on disarmament in 1969, the committee on disarmament in 1978 and now the conference on disarmament which is the only multilateral disarmament negotiation body. Canada was an original member of these committees and played an excellent role for disarmament. On the other hand, Japan was admitted to the United Nations in 1956, and since 1969 became a member of the Geneva-based committee.

## II. Nuclear Non-Proliferation Treaty

### 1. Potential nuclear-weapon states

Disarmament negotiations focused on the international control of atomic energy in the late 1940s, and on comprehensive disarmament in the 1950s. In the 1960s the focus moved to individual measures, in particular, nuclear test ban and nuclear non-proliferation. A survey on potential nuclear states in 1960 included Belgium, Canada, China, Czechoslovakia, France, West Germany, East Germany, India, Italy, Japan, Sweden and Switzerland as states which can make nuclear weapons in the near future.<sup>9)</sup> Another research study in 1962 listed Canada, India, West Germany, Italy, Japan, Sweden, Switzerland and Australia as early candidates for the nuclear club, and among them Canada, Italy and Japan were analyzed as not becoming nuclear powers because of domestic anti-nuclear feelings.<sup>10)</sup>

Leonard Beaton analyzed the situation in 1967 as follows:

In the immediate future the significant countries will be those which are capable of taking a decision to develop nuclear forces. A reasonable estimate is that this number now stands at three —

---

9) National Planning Association, *The Nth Country Problem and Arms Control*, National Planning Association, New York, 1960, pp.27-28.

10) Leonard Beaton and John Maddox, *The Spread of Nuclear Weapons*, Chatto & Windas, London, 1962.

Germany, Japan and Canada — with Sweden, Italy and India close behind....While a few countries, like Germany and Japan, may be able to build the facilities, even they rely on foreign sources for uranium fuel. It may well be that the only non-nuclear country which is wholly self-sufficient both in technology and uranium is Canada.<sup>11)</sup>

However, E.L.M.Burns explained that although Canada came within the category of potential nuclear powers as well as India and Sweden, Canada had even less reason than India or Sweden to contemplate making nuclear weapons by reason of its membership in the North Atlantic alliance and its geographical location.<sup>12)</sup> Arthur Larson listed India, Canada, West Germany and Japan as the top four countries which were near to developing nuclear weapons. But he examined individually the situation of West Germany, India, Japan and Israel only, excluding Canada.<sup>13)</sup>

From these researches it seems that both Canada and Japan were listed as potential nuclear powers from a technical point of view, and were the main target of the nuclear non-proliferation treaty, but in the later analysis, treatment of Canada and Japan were a little different because of their domestic policy toward nuclear weapons.

## 2. Negotiation of the NPT

Canada was so much concerned with the proliferation of nuclear weapons, that as a natural outcome it had a strong policy of not developing nuclear weapons by itself. For Canada, the proliferation of nuclear weapons meant the increase of the threat to international and Canadian peace and security. Canada demanded a test ban as an approach to non-proliferation.

In the negotiations of the NPT, which were mainly held at the Eighteen-Nation Disarmament Committee (ENDC), Canada was one of the most active participants. Basic demands of Canada in these negotiations were: the need for a binding agreement; the requirement for reciprocity of obligations between nuclear-weapon states (NWSs) and non-nuclear-weapon states (NNWSs); the technical benefits that NNWSs should derive in exchange for their renunciation of nuclear weapons;

---

11) Leonard Beaton, "Nuclear Fuel For-All," *Foreign Affairs*, Vol.45, No.4, July 1967, pp.662-663.

12) E.L.M. Burns, "Can the Spread of Nuclear Weapons be Stopped?" *International Organization*, Vol.19, No.4, Autumn 1965, p.865.

13) Arthur Larson, *Questions and Answers on the Spread of Nuclear Weapons*, Rule of Law Research Center, Duke U School of Law, April 1968.

elimination of the loophole through peaceful nuclear explosives; the security assurances to NNWSs; and the need to provide partial measures of disarmament.<sup>14)</sup>

Canada's position, on the one hand, was close to the one of the U.S., because Canada was a member of the western group in the Committee and the U.S. consulted its proposals with the U.K., Canada and Italy before they were formally submitted. On the other hand, Canada's position was common with that of non-aligned countries, because Canada and non-aligned countries were all NNWSs.

Canada played a very important intermediary role in the negotiations, on the one hand by warning non-aligned nations not to demand too much in nuclear disarmament because it would make the drafting of the treaty itself impossible, and on the other hand by convincing NWSs to start negotiations for a nuclear test ban or the prohibition of production of nuclear material for weapon purposes in order to get support from non-aligned nations.

In the process of the treaty negotiations, Canada, in fact, played a significant role in the following four areas.<sup>15)</sup> First, in connection with a balance of mutual responsibilities and obligations between NWSs and NNWSs, Canada rejected the demand of non-aligned countries that the conclusion of NPT should be conditioned upon a prior commitment by the NWSs to disarm, and dissuaded non-aligned nations from demanding that, by arguing that that position would indefinitely postpone the conclusion of the NPT.

Second, in the field of peaceful uses of atomic energy, Canada said that a treaty permitting NNWSs to conduct, on a national basis, nuclear explosions for peaceful purposes, would contain a substantial loophole, because it was impossible to distinguish between the technology required in nuclear explosions for peaceful as against military purposes. In addition, Canada persuaded others by explaining that the Canadian experience in developing atomic energy for peaceful use had never been impeded by the lack of a nuclear explosion.

Third, on the issue of safeguards, Canada strongly argued that the obligation to place peaceful atomic activities under the IAEA safeguards should be accepted, and that controls over atomic installations for peaceful purposes should be accepted by nuclear powers as well as non-nuclear states. Canada emphasized the necessity of controlling nuclear export and asked for an agreement to export nuclear material and equipment only under the IAEA safeguards and only after the assurance that

14) Albert Legault and Michael Fortmann, *A Diplomacy of Hope: Canada and Disarmament 1945-1988*, McGill-Queen's University Press, Montreal, 1992, p.259.

15) Poeliu Dai, "Treaty on the Non-Proliferation of Nuclear Weapons with Special Reference to Canada's Position," *Canadian Yearbook of International Law*, Vol.6, 1968, pp.231-237.

they were used only for peaceful purposes was given.

Lastly, as to the security guarantees for non-nuclear states party to the Treaty, Canada called for the need to give security assurances to NNWSs and supported the positive security assurances as well as the negative security assurances.

In the process of treaty making, Canada played a significant role as an intermediary between NWSs and non-aligned countries and succeeded to effect compromise leading to an early completion of the negotiation.

Japan, which was not a member of the ENDC, did not positively participate in the negotiation, but expressed its opinions at the General Assembly of the U.N. and other occasions. Japan's position to the NPT was ambivalent at that time. One reason for the opposition was of military nature. It was criticized that the NPT would freeze the status of the monopoly of NWSs. The second was concerned with nuclear industries, and it was afraid that the NPT would hinder peaceful development of nuclear energy which was indispensable for Japan.<sup>16)</sup>

At the special session of the Diet, Foreign Minister Miki summarized three reservations to the Treaty: i) full consideration should be given in the treaty to the security of the countries which do not possess nuclear weapons; ii) the treaty should make clear the sincere intention on the part of the countries which possess nuclear weapons; and iii) the treaty should not hinder in any way the utilization of atomic power for peaceful purposes as well as its research and development.<sup>17)</sup>

When the NPT was adopted at the U.N. General Assembly and opened for signature, the Japanese Government said that although Japan quite agreed with the spirit of the Treaty, Japan was not in a position to sign the treaty because the Treaty contained many delicate problems. Japan's position can be summarized as follows: first, it may be conceded that the proliferation of nuclear-weapons states is bad, but the evil is rooted in nuclear weapons themselves. Therefore, what is of primary importance is the total abolition of nuclear weapons. In this respect, nothing could be more one-sided than the Treaty. Second, under the Treaty, NNWSs agree not to possess any nuclear weapons as well as undertake to accept the application of safeguards by the IAEA to verify the fulfillment of such obligations, while no corresponding obligation is imposed upon NWSs. In this respect, the NPT is a treaty the unequalness of which has rarely been revealed in modern history.

The third reason to oppose the Treaty is based on the ground that we have no right to bind the hands of posterity. It implies the possibility that Japan may

---

16) Kyoaki Murata, "Japan and Non-Proliferation," *Survival*, Vol.9, No.8, August 1967, pp.267-278.

17) Takeo Miki, "Japan's Reservation," *Survival*, Vol.9, No.5, May 1967, pp.149-150.

someday find it necessary to arm itself with nuclear weapons for its security. The fourth point is that the most substantial sacrifice that NNWSs are forced to accept in joining the NPT is the renunciation of the technological fall-out arising from the development of nuclear explosive devices, and that the NPT would hinder full utilization of nuclear energy for peaceful purposes on the ground that such activities could be used for the manufacture of nuclear weapons.

The fifth and last issue is that the application of the safeguards to Japanese nuclear facilities might hinder the normal and economical operation of nuclear activities, and NWSs would gain advantage over Japan in commercial competition in the nuclear field, because they are not going to be subject to the similar constraints as Japan.<sup>18)</sup>

The attitude to the NPT at this time is rather different between Canada and Japan, contrasting the Canadian positive posture and Japanese reluctance.

## 2. Signature to and ratification of the NPT

We can recognize a much bigger difference between the two nations in connection with the signature to and ratification of the NPT. On June 22, 1968, the U.N. General Assembly adopted the resolution which endorsed the NPT, on June 19, the U.N. Security Council adopted the resolution which included the positive security assurances of NNWSs, and the NPT was opened for signature on July 1.

On July 12, in Canada, the Standing Committee on External Affairs and National Defence recommended that Cabinet adopt the Treaty, and on July 17, Cabinet approved the signing of the Treaty. Canada signed the Treaty on July 23 and the Cabinet ratified the Treaty on December 19 after the debates at the Congress. The instrument of ratification was submitted to depositary Governments on January 8, 1969, as the fourth state following Ireland, Nigeria and the United Kingdom. Canada wanted to be the first to sign and ratify the Treaty to show itself as an example to promote the accession of other countries, and it was said to be too long to take half a year to proceed from the signature to ratification.<sup>19)</sup> The reasons for its delay were that Canada waited the ratification of at least one NWS and Canada had to await the completion of a model safeguards agreement.

---

18) Atsuhiko Yatabe, "A Note on the Treaty on the Non-Proliferation of Nuclear Weapons: The Japanese Point of View," *Japanese Annual of International Law*, No.14, 1970, pp.17-33; Ryukichi Imai, "The Non-Proliferation Treaty and Japan," *Bulletin of the Atomic Scientists*, Vol.25, No.5, May 1968, pp.2-7.

19) Albert Legault and Michael Fortmann, *op. cit.*, p.268.

On the other hand, Japan signed the Treaty on February 3, 1970, one year and half after the Treaty was opened for signature, as the 95th signatory. Ratification by Japan was on June 8, 1976, six years after its signature, as the 97th party to the Treaty. During the time of treaty negotiation and adoption, general opinion in Japan was rather cautious to or against its participation to the Treaty. In spite of these tendencies, Japan decided to sign the Treaty largely because of political considerations of the repercussion from foreign countries. At the time the entry into force of the Treaty came within sight, Japan was afraid that non-signature might cast suspicion on Japan's nuclear development.<sup>20)</sup>

Japan made the announcement at the time of signature that the progress made in the following three issues would be critically considered when Japan proceed to ratify the Treaty: i) concrete nuclear disarmament measures; ii) measures to strengthen the security of NNWSs; and iii) non-discriminatory treatment in the peaceful uses of nuclear energy. The most important among these three was the third point, in particular non-discrimination in the application of the IAEA safeguards.<sup>21)</sup> One aspect of this is the application of safeguards to the nuclear facilities of NWSs, and another is equality with EURATOM states. The U.S. and the U.K. made their intention clear that they would accept safeguards over certain facilities. After the EURATOM states concluded a safeguards agreement with the IAEA, Japan started its negotiation with the IAEA and concluded the safeguards agreement after Japan was permitted to establish a national safeguards system similar to the EURATOM.

Here we can recognize a big difference in attitudes between Canada and Japan, in spite of the similarities that both nations are allied with the U.S. and under the nuclear umbrella of the U.S., and both are two of the most advanced nations in peaceful uses of nuclear energy.

### III. New Nuclear Export Policy

#### 1. Nuclear test by India

India conducted its first nuclear explosion underground on May 18, 1974 and

---

20) Yoshihiko Ogawa, "Ratification of the Nuclear Non-Proliferation Treaty" (in Japanese), *Jurist*, No.618, August 1, 1976, p.121.

21) See George Quester, "Japan and the Nuclear Non-Proliferation Treaty," *Asian Survey*, Vol.10, September 1970, pp.765-778; Daniel Okimoto, "Japan's Non-Nuclear Policy: The Problem of the NPT," *Asian Survey*, Vol.15, May 1975, pp.313-327.

declared it was a peaceful nuclear explosion and that India had no intention to develop nuclear weapons.<sup>22)</sup> The Foreign Minister of India emphasized that the test was for national welfare and India violated no international agreements by conducting the scientific experiment.<sup>23)</sup>

This Indian nuclear test is the first which was conducted by a new state since the NPT entered into force in 1970, and this was the event which the NPT wanted to prevent. As India was not a party to the NPT, there was no violation of the NPT by India. India was a party to the 1963 Partial Test Ban Treaty, but it did not prohibit nuclear tests underground.

A third international agreement was the Canada-India Cooperation Agreement concerning Peaceful Uses of Nuclear Energy, under which India undertook to use nuclear material or facilities transferred from Canada exclusively for peaceful purposes. The agreement was concluded long before the NPT and did not clearly prohibit the peaceful nuclear explosion. That is the reason why India had to insist that its test was for peaceful purposes.

Just after the test, the Canadian delegation to the Conference of the Committee on Disarmament explained its position as follows:

Canada's long-standing co-operation with India in the nuclear energy field has been for peaceful purposes only and has been accepted by India on that basis. India has declared its nuclear explosion to be for research in the development of nuclear explosives for solely peaceful purposes. Unlike India, Canada is a party to the Non-proliferation Treaty. As a party, Canada has made clear that it sees no difference between the development of nuclear explosives intended for peaceful purposes and the development of nuclear explosives for military purposes. In the light of this, the Canadian Government must view India's action with special concern.<sup>25)</sup>

Canada decided the immediate stop of export of nuclear material and facilities to India, and directed to discontinue their reactor program and general arrangement for technical exchange until the situation becomes clear.

S.K.Kapoor, referring to the Canadian criticism that since Canada was a party to

---

22) CCD/424, May 23, 1974.

23) CCD/425, May 23, 1974; Rikhi Jaipal, "The Indian Nuclear Explosion," *International Security*, Vol.1, No.4, Spring 1977, p.44.

24) George H. Quester, "Can Proliferation Now be Stopped?" *Foreign Affairs*, Vol.53, No.1, October 1974, p.77.

25) CCD/426, May 23, 1974.

the Treaty and was giving nuclear aid and supplying nuclear materials to India for peaceful purposes, the latter was obliged to accept international safeguards and should not have conducted a nuclear explosion, said "this argument is absurd and untenable on its very face. Not being a party to the Non-proliferation Treaty, India was under no such obligation."<sup>26)</sup>

Canadian concern on India's nuclear development existed before the test, and Prime Minister Trudeau told Prime Minister Gandhi that the agreement with Canada prohibited nuclear explosions even for peaceful purposes when he visited India in 1971. Then he made the same assertion by sending a letter. Prime Minister Gandhi replied that India could not accept that interpretation which was taken retrospectively. One author concluded that India had at least violated the spirit, if not the letter of the agreements with Canada.<sup>27)</sup>

On December 20, 1974, Canada announced a new approach in the nuclear cooperation field, applying the strictest safeguards of any supplier country in the world. Canada required that international safeguards cover: i) all nuclear facilities and equipment supplied by Canada; ii) all nuclear facilities and equipment using technology supplied by Canada; iii) all nuclear material, including uranium, thorium, plutonium, and heavy water, supplied by Canada and all fissile material produced from or with these materials; and iv) all nuclear materials, whatever their origin, produced or processed in facilities supplied by Canada.

Japan's criticism of the Indian nuclear test was also harsh and all five political parties in Japan sent letters of criticism to the Indian Government. The Diet of Japan unanimously adopted a resolution protesting the Indian nuclear explosion. Ministry of Foreign Affairs decided the cutback of economic assistance to India. The analysis of the major Japanese daily newspapers suggested that the situation would strengthen domestic political factions opposing Japanese ratification of the NPT, but all the newspapers were in agreement in thinking that Japan should ratify the NPT as soon as possible.<sup>28)</sup>

India's nuclear explosion evidenced how easy it was to make nuclear weapons, and some argued that Japan should not abstain its nuclear option because China and India had nuclear weapons in Asia. However, as Frank Langdon pointed out,

26) S.K.Kapoor, "The Legality of Nuclear Testing: The Pokharan Explosion," *Indian Journal of International Law*, Vol.14, No.3 & 4, July-December 1974, p.431; Ashok Kapur, "India and the Atom," *Bulletin of the Atomic Scientists*, Vol.30, September 1974, p.28.

27) James R.Walczak, "Legal Implications of Indian Nuclear Development," *Denver Journal of International Law and Policy*, Vol.4, No.2, Fall 1974, p.255.

28) Ryukichi Imai, "Proliferation and the Indian Test: A View from Japan," *Survival*, Vol.16, September/October 1974, p.213.

Japan's policy is based on its own domestic revulsion against nuclear weapons and on the continued strong political opposition to them in virtually all segments of Japanese society.<sup>29)</sup> India's test was an unfortunate incident to Japan, but it did not encourage Japan to go nuclear.

## 2. Canada's nuclear export policy

Canada has been a major uranium exporter and a developed nation in peaceful uses of nuclear energy like CANDU, and exported nuclear material, facilities and technology to many states. In June 1965, Canada withdrew from the nuclear weapons program with the U.S. and the U.K., and announced the policy that Canadian uranium should be used solely for peaceful purposes.

After the adoption of the NPT, Canada made the statement that uranium and thorium should be restricted to peaceful purposes, and Canada's export should be restricted to only those states which concluded a safeguards agreement with Canada or the IAEA after the entry into force of the NPT. In 1972, when Canada was concerned Indian nuclear development, the agreement concluded with Iran included the phrase "development or manufacture of an explosive device would not be regarded as a peaceful use".

After the nuclear explosion by India, in December 1974 Canada announced a new export policy with wide-range safeguards coverage as mentioned above. In addition, a binding assurance would be required of recipients that no Canadian nuclear material, equipment, or technology would be used to produce an explosive device for whatever purpose. The nuclear export policy of Canada in those days was stricter than the U.S. and the toughest in the world.<sup>30)</sup>

Major export countries got together to set a common standard for nuclear export in the mid-1970s under a U.S. initiative. Canada and the U.S. demanded the application of full-scope safeguards, and prohibition of certain nuclear assistance, but West Germany and France opposed the introduction of full-scope safeguards. A guideline agreed among supplier countries in 1976 did not include an application of full-scope safeguards.

As there was no consensus on full-scope safeguards, Canada, in its new policy of December 1976, unilaterally included the application of full-scope safeguards as

---

29) Frank Langdon, "Japanese Reactions to India's Nuclear Explosion," *Pacific Affairs*, Vol.48, No.2, Summer 1975, pp.173-180.

30) Constance Hunt, "Canadian Policy and the Export of Nuclear Energy," *University of Toronto Law Journal*, Vol.27, No.1, Winter 1977, p.91.

a condition for nuclear export from Canada. The U.S. followed it by enacting the *1978 Nuclear Non-proliferation Act*.

In the negotiations to implement Canada's new policy of 1974, Canada's major uranium customers, Japan and the European Economic Community, as well as Switzerland, had not accepted the conditions of the policy. As a result, the Canadian Government decided to suspend, as of January 1, 1977, shipment of uranium to Japan, the EEC and Switzerland. John Noble explained that in total, shipments worth approximately \$300 million were stopped, thereby demonstrating that Canada was prepared to pay a commercial price to secure compliance with its enhanced safeguards policy.<sup>31)</sup>

### 3. Japanese reaction

Although Japan was among original members of the Nuclear Suppliers Group established in the mid-1970s, Japan was rather a nuclear import state because almost all nuclear material like uranium and nuclear facilities came from foreign countries. Among nuclear export countries, Canada, the U.S. and Australia adopted the strictest measures for non-proliferation. In particular, Canada demanded full-scope safeguards in London meetings of suppliers.<sup>32)</sup> As Japan imported uranium from Canada and the U.S. enriched the uranium for Japan, Japan was one of the targets of these new policies.

Both Canada and the U.S. asked Japan to accept their new policies and demanded the revision of the bilateral nuclear cooperation agreements between those states and Japan. Canada suspended the shipment of uranium in 1977, and the U.S. did not permit the operation of reprocessing plant in Japan. Japan resisted those demands claiming that the real solution of non-proliferation could not be found in technical means but in political and security measures.<sup>33)</sup>

In addition, Japan claims rights to its nuclear energy from an energy security point of view, as Roger Gale explained as follows:

For Japan, the use of plutonium is seen as a matter of national security in two respects — first, because it can reduce Japan's imports

---

31) John Noble, "Canada's Continuing Search for Acceptable Nuclear Safeguards," *International Perspectives*, July/August 1978, p.45.

32) Ashok Kapur, "The Canadian-India Nuclear Negotiation: Some Hypotheses and Lessons," *World Today*, Vol.34, No.4, August 1978, p.311.

33) Hiroshi Ota, "Non-Proliferation: Risks and Controls," *Japanese Annual of International Law*, No.22, 1978, pp.96-103.

of fuel, and second, because the denial of Japan's right to chose its own energy future would usher in a new era of foreign control over energy. It would also relegate Japan to a position of technological inferiority.<sup>34)</sup>

Canada and Japan started negotiation on a new agreement, and initialled an amended protocol in January 1978, when the suspension of shipment of uranium to Japan was released. The new agreement entered into force on September 20, 1980, according to which stricter conditions were imposed on Japan.<sup>35)</sup>

#### IV. Conclusion—Canada-Japan-U.S.nuclear relationship

The Canada-Japan-U.S. relationship concerning nuclear weapons, nuclear disarmament, and nuclear non-proliferation is rather complicated as shown above. The U.S. is a NWS and the militarily strongest nation in the world. Japan and Canada, which have already abandoned the nuclear option and are not so militarily strong as the U.S., are two of the most developed countries economically and technologically.

In connection with the issue of acquisition of nuclear weapons, the attitudes of Canada and Japan are similar, bacause both nations have legally undertaken not to acquire nuclear weapons by joining the NPT, in spite of the fact that both have enough technical and financial capability to make nuclear weapons. However, on an international political level, attitudes and reputations of the two nations are different. From the beginning Canada has clearly demonstrated its policy that Canada will not acquire nuclear weapons, with domestic consensus. On the other hand, as you can see the debates on signature and ratification of the NPT, in Japan there was no consensus on no-acquisition of nuclear weapons, and even now there exists those who want Japan keep nuclear option open. The difference mainly depends on the geopolitical situation of both states. Japan has many things to learn from Canada in this respect.

Second, on the issue of nuclear weapons deployment, both countries have behaved similarly. We can identify similar patterns between Canada vs. the U.S. and Japan vs. the U.S. In the Cold War era, both countries relied on the U.S. nuclear umbrella for their security. Although it may seem logical to permit

34) Roger W.Gale, "Nuclear Power and Japan's Proliferation Option," *Asian Survey*, Vol.18, November 1978, p.1129.

35) The same measures were taken between Japan and Australia and between Japan and the U.S.

deployment of U.S. nuclear weapons in order to buttress their security like Western European states, both Canada and Japan negotiated their withdrawal because of strong opposition from their citizens. Japan could not apply the three non-nuclear principles perfectly in connection with port-calls and navigation in territorial seas. In the post-Cold War era, it is necessary to reexamine and strengthen this principles.

Third, the examination of participation and activities in nuclear disarmament negotiations shows quite big differences between the two nations. In the early years, it was natural because Canada was a victor and Japan was a loser in the WW II. In recent years, both countries participate in negotiations at the Conference on Disarmament in Geneva as two members of the western group. However, as was shown in the examination of the NPT negotiation, Canada played a significant role as an intermediary between NWSs and non-aligned countries. Japan could play a similar role in the international sphere as a member of industrial and western states, and as a member of Asian states.

Fourth, it is very interesting that in spite of the fact that Canada and Japan are very similar in many nuclear situations, approaches to the NPT are contrasting, Canada being the 4th party and Japan being the 97th party. Canada supports the NPT regime without reservation but Japan with considerable reservation. In this respect, the Canadian attitude is nearer to the U.S. than Japan.

Fifth, in connection with nuclear export, the attitude of Canada is the same as the U.S., and the Japanese attitude is opposed to those two states. It is the division between nuclear export countries and nuclear import countries, as well as between energy-resource-rich countries and energy-resource-poor countries.

Lastly, in the field of nuclear disarmament, Canada and Japan can and should cooperate to make progress in nuclear disarmament. In the post-Cold War era, Canada and Japan can and should take the initiative together for establishing a new international security order. As NNWSs, Canada and Japan can work together for nuclear disarmament globally or regionally, for example working together to persuade the U.S. and Russia for further reductions of nuclear weapons. They should work together for a convention on prohibition of the production of nuclear materials for military purposes. More realistically, Canada and Japan can work together for better implementation of the Comprehensive Nuclear Test Ban Treaty, which was recently adopted.

