

USINDOPACOM J06/SJA TACAID SERIES

Topic: DPRK “Space Launches” Violate Multiple UNSCRs

BLUF

- The Democratic People’s Republic of Korea’s (DPRK) purported “space launch” attempts use ballistic missile technologies in violation of international law as transmitted in multiple unanimously approved United Nations Security Council Resolutions (UNSCRs).
- The DPRK’s characterization of its ballistic missile launches as space launchesⁱ does not provide a legal justification for the use of banned ballistic missile technologies.
- The UNSCRs related to DPRK’s ballistic missile and nuclear programs constitute binding international law that all nations – including the PRC and Russia – must uphold and enforce.

WHY THIS MATTERS

- The DPRK’s space-launch vehicles (SLVs) are ballistic missiles – the same missile technologies are used regardless of whether the launch sends a satellite into orbit or tests a weapon of war. In either case, the DPRK’s outlawed ballistic missile program stands to benefit at the expense of regional peace and security.
- Failure to condemn the DPRK and hold the regime and its supporters accountable under international law may embolden further testing and advancement of banned ballistic technologies under the guise of SLV activity.ⁱⁱ
- All nations have a responsibility to uphold UNSCRs and to oppose actions by the DPRK that undermine international law and international safety norms; compromise the global nonproliferation regime; destabilize the security environment across the Indo-Pacific; weaken the authority of the United Nations; and foment risk of miscalculation and escalation.

DETAILED DISCUSSION

1. Content of the UNSCRs

- From 2006-2018 the UN Security Council (UNSC) adopted 20 resolutions on the DPRKs ballistic missile and nuclear programs. During this period, the UNSC continuously reaffirmed that “proliferation” of the “**means of delivery**” for nuclear, chemical, and biological weapons “constitutes a threat to international peace and security.”ⁱⁱⁱ
- UNSCRs are binding international law pursuant to the UN Charter, which is the preeminent treaty in international relations ratified by all UN member states. **Collectively, the DPRK-related UNSCRs:**
 - **Prohibit DPRK from conducting nuclear and ballistic missile tests**
 - Require DPRK to **suspend and abandon all activities** related to its nuclear and ballistic missile programs
 - **Ban DPRK from any type of missile launch that uses ballistic missile technology**
 - Demand DPRK return to the nuclear nonproliferation treaty
 - Demand that the DPRK **commit to a moratorium on missile launching**
 - Authorize countries to inspect DPRK cargo in their territory or on the high seas with flag-state consent
 - Prohibit bunkering services for DPRK ships suspected of carrying illicit cargo
 - Ban financial support for trade that could contribute to DPRK nuclear or ballistic missile activities
 - Prohibit countries from directly or indirectly supplying DPRK with weapons, components, materials, and **technologies (including dual-use)** that could contribute to DPRK’s missile and nuclear programs

- Mandate countries to inspect and detain shipments to or from DPRK that transit through their territory if suspected to contain material that could be used for DPRK's nuclear program
- Restrict DPRK's ties to the international banking system
- Require countries to seize and impound ships within their territory or ports if caught with illicit items
- Prohibit countries from hosting DPRK financial institutions
- Require countries to terminate joint ventures with DPRK
- Ban scientific and technical cooperation with DPRK
- Ban export DPRK of coal, iron, food, textiles, natural gas, lead, machinery, and electrical equipment
- Direct countries to expel all DPRK laborers
- Impose sanctions on dozens of individuals tied to DPRK's ballistic missile and nuclear programs
- Condemn DPRK for prioritizing ballistic missile and nuclear programs over the welfare of its people
- The PRC and Russia approved the UNSCRs cited above, but are currently taking no apparent action to uphold or enforce their provisions.^{iv} To the contrary, the PRC and Russia vetoed new UNSCR sanctions in May 2022 following a series of DPRK missile launches and continue to stymie subsequent UNSC action.^v
- Following the DPRK's launch over Japan in October 2022, a State Department official noted: "The failure of the PRC and Russia to fully and completely fulfill their obligations ... has only, we fear, emboldened the DPRK in undermining the UN Security Council, the international rules-based order and global non-proliferation regime."^{vi}
- For additional details, see the following J06 TACAID: [*DPRK Missile and Nuclear Programs: Reinforcing the Legal Obligation of all Nations – Including the PRC – to Uphold UNSCRs.*](#)

2. History of DPRK "Space Launches" with Ballistic Missile Technologies

- Since 1998, the DPRK has conducted seven (7) ballistic missile launches as purported space launches.
- Despite how these launches were characterized by the DPRK, they leveraged the same "means of delivery" as other DPRK ballistic missile launches.^{vii}
- The technologies behind the DPRK's most recent claimed SLV in August 2023^{viii} is reported to have been originally developed for an intercontinental ballistic missile (ICBM).^{ix}
- Of the 7 launches referenced, only two were assessed to successfully reach orbit and neither of those is assessed to be operational.^x The below provides a more detailed history of these launches:
 - **September 1998:** The DPRK's first claimed "space launch" attempt was a likely cover for testing its then-recently developed two-stage Taepo Dong ICBM.^{xi}
 - **UNSCR 1695 (Jul. 2006):** Though separated by approximately eight years, this UNSCR specifically recalled the DPRK's launch in 1998 of a purported SLV. The UNSCR expressed "grave concern" over, and demanded the suspension of all activities related to, the DPRK's ballistic missile program and urged the DPRK to honor its prior pledge to maintain a "moratorium on missile launching."
 - **UNSCR 1718 (Oct. 2006):** Following the DPRK's first nuclear test, the UNSC demanded the DPRK cease and suspend activity related to its ballistic missile program and return to its moratorium on missile launches.
 - **April 2009:** The DPRK's second "space launch" attempt similarly failed when the assessed Taepo Dong malfunctioned, and both the rocket and the claimed "revolutionary" music satellite crashed into the sea.^{xii}
 - **Statement by the UNSC President (S/PRST/2009/7; Apr. 2009):** The UNSC President condemned the DPRK's April 2009 launch as a violation of UNSCR 1718, and demanded the DPRK not conduct any further missile launches.



Image: May 2023 launch
Source: <https://www.theguardian.com/world/2023/may/30/north-korea-fire-scare-launch-vehicle-towards-south>

- **UNSCR 1874 (Jun. 2009):** Written after a May 2009 nuclear test, the UNSC expressed its “gravest concern” over the DPRK’s missile activities and directed the DPRK to “suspend all activities related to its ballistic missile program” and to re-establish the moratorium on missile launches.
- **April 2012:** The DPRK attempted to place a satellite into orbit for a third time, again using a Taepo Dong ICBM, but the rocket suffered a failure midflight.^{xiii}
- **Statement by the UNSC President (S/PRST/2012/13; Apr. 2012):** The UNSC President condemned the DPRK’s Apr. 2012 launch and “underscore[d] that this satellite launch, as well as any launch that uses ballistic missile technology, even if characterized as a satellite launch or space launch vehicle, is a serious violation of” both UNSCR 1718 and 1874.
- **December 2012:** On its fourth attempt, the DPRK successfully placed an object into orbit though the satellite was later assessed to be non-functioning.^{xiv}
- **UNSCR 2087 (Jan. 2013):** The UNSC specifically recognized “the freedom of all states to explore and use outer space,” but also recognized the DPRK’s December 2012 launch as an attempt to mask ballistic missile testing. The UNSC condemned the DPRK’s flagrant violation of both UNSCR 1718 and 1874.
- **UNSCR 2094 (Mar. 2013):** Directed the DPRK to “not conduct any further launches that use ballistic missile technology” and to abandon its ballistic missile program “in a complete, verifiable and irreversible manner.”
- **February 2016:** The DPRK’s fifth purported space-launch, and last before the most recent activity in 2023, claimed to have placed a communications satellite into orbit.^{xv}
- **UNSCR 2270 (Mar. 2016):** Following the DPRK’s fourth nuclear test, the UNSC recognized that all “ballistic missile activities contribute to the DPRK’s development of nuclear weapons delivery systems and increase tension in the region and beyond.” The UNSC specifically cited the February 2016 launch “which used ballistic missile technology” in violation of UNSCR 1718, 1874, 2087, and 2094.
- Following missile testing in 2022, the U.S. predicted future testing of the Hwasong disguised as a SLV.^{xvi}
- **May 31, 2023:** The DPRK’s sixth attempt to place a satellite into orbit failed due to problems in the purported SLV’s engine and fuel system and crashed into the Yellow Sea. The “Chollima-1” rocket was assessed to rely on engines originally developed for the Hwasong ICBM.^{xvii}
- **August 24, 2023:** The DPRK’s seventh effort likewise used the “Chollima-1” rocket to allegedly attempt to place the “Malligyong-1,” a reconnaissance satellite into orbit.^{xviii} The DPRK’s Korean Central News Agency reported that “launch eventually failed due to an error in the emergency blasting system during the third-stage flight.”^{xix} The DPRK also announced its intent to conduct a subsequent launch in October 2023.^{xx}



Image: Remnants of August 2023 launch
Source: <https://www.theguardian.com/world/2023/may/30/north-korea-fires-space-launch-vehicle-towards-south>

- Although the UNSC has convened to address recent launches, oppositional stances by the PRC and Russia (UNSC permanent members) preclude consensus or issuance of subsequent UNSCRs.^{xxi}

PROPOSED COUNTER-LAWFARE APPROACH

**** This section offers suggested language for incorporation into communications strategies ****

- The **UNSCRs related to DPRK's ballistic missile and nuclear programs constitute binding international law** that all nations – including the PRC and Russia – must uphold and enforce.
- The DPRK's **characterization of its ballistic missile launches as space launches does not provide a legal justification** for the use of banned ballistic missile technologies. The UNSCRs ban the use of ballistic missile technology irrespective of the payload. The freedom of all states to explore and use outer space should not be used to mask unlawful ballistic missile testing.
- Regardless of purpose or payload, these ballistic missile launches are **brazen violations of multiple UNSCRs**, raise tensions, and risk destabilizing the security situation in the region and beyond.
- Any launch by the DPRK that uses ballistic missile technology, **even if characterized as a satellite launch or space launch vehicle**, is a serious violation of multiple unanimously approved UNSCRs.
- The continued development, testing, and use of ballistic missile technology by the DPRK constitutes a **threat to the peace and security** of the greater international community.
- While **states are free to engage in space activities**, including the launch of satellites, **they are not absolved of obligations imposed by international law**.
- **Failure to condemn** the DPRK and hold the regime and its supporters accountable under international law **may embolden** further testing and advancement of banned ballistic technologies under the guise of SLV activity.
- Together with allies and partners, **USINDOPACOM is committed to upholding the force of international law** inherent in UNSCRs and opposing actions by the DPRK that undermine international safety norms, compromise the global nonproliferation regime, destabilize the security environment across the Indo-Pacific, weaken the authority of the United Nations, and foment risk of miscalculation and escalation.
- **USINDOPACOM stands with allies and partners** who are committed to countering the erosion of international law, rules, and norms caused by the DPRK's destabilizing ballistic missile activities.

ⁱ Song Sang-ho, *N. Korean leader's sister slams UNSC meeting on space rocket launch*, YONHAP NEWS AGENCY (Jun. 4, 2023) <https://en.yna.co.kr/view/AEN20230604000600325>.

ⁱⁱ Press Release, Security Council, Briefing Security Council on Democratic People's Republic of Korea's Failed Launch, Senior Official Stresses Diplomacy 'the Only Way Forward,' U.N. Press Release SC/15304 (Jun. 2, 2023), <https://press.un.org/en/2023/sc15304.doc.htm>.

ⁱⁱⁱ S.C. Res. 1695, ¶ 3 (Jul. 15, 2006). See also, S.C. Res. 1718, ¶ 2 (Oct. 14, 2006), S.C. Res. 1874, ¶ 2 (Jun. 12, 2009), S.C. Res. 1887, ¶ 4 (Sep. 24, 2009), S.C. Res. 1928, ¶ 3 (Jun. 7, 2010), S.C. Res. 1985, ¶ 6 (Jun. 10, 2011), S.C. Res. 2050, ¶ 6 (Jun. 12, 2012), S.C. Res. 2094, ¶ 2 (Mar. 7, 2013), S.C. Res. 2141, ¶ 7 (Mar. 5, 2014), S.C. Res. 2207, ¶ 7 (Mar. 4, 2015), S.C. Res. 2270, ¶ 2 (Mar. 2, 2016), S.C. Res. 2276, ¶ 7 (Mar. 24, 2016), S.C. Res. 2321, ¶ 2 (Nov. 30, 2016), S.C. Res. 2345, ¶ 7 (Mar. 23, 2017), S.C. Res. 2356, ¶ 2 (Jun. 2, 2017), S.C. Res. 2371, ¶ 2 (Aug. 5, 2017), S.C. Res. 2375, ¶ 2 (Sep. 11, 2017), S.C. Res. 2397, ¶ 2 (Dec. 22, 2017), S.C. Res. 2407, ¶ 7 (Mar. 21, 2018), S.C. Res. 2464, ¶ 7 (Apr. 10, 2019), S.C. Res. 2515, ¶ 7 (Mar. 30, 2020), S.C. Res. 2569, ¶ 7 (Mar. 26, 2021), S.C. Res. 2627, ¶ 7 (Mar. 25, 2022), and S.C. Res. 2680, ¶ 8 (Mar. 23, 2023).

^{iv} See Ben Frohman, et. al., *The China-North Korea Strategic Rift: Background and implications for the United States*, U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION (Jan. 24, 2022), https://www.uscc.gov/sites/default/files/2022-01/China-North_Korea_Strategic_Rift.pdf (noting that PRC accounts for more than 90 percent of DPRK's total reported imports / exports and reportedly facilitates DPRK's efforts to obtain foreign currency used to invest in its ballistic missile and nuclear programs.)

^v Samantha Beech, *China and Russia Veto New UN Sanctions on North Korea for First Time Since 2006*, CNN (May 27, 2022, 3:26 AM EDT), <https://edition.cnn.com/2022/05/26/asia/us-north-korea-united-nations-intl-hnk/index.html>.

^{vi} See David Brunnstrom, *U.S. calls North Korea Launch 'Dangerous'; Pledges to Defend Allies*, REUTERS (Oct 4, 2022 1:40 PM GMT+9), <https://www.reuters.com/world/latest-north-korean-missile-is-unfortunate-uss-top-east-asia-envoy-says-2022-10-03/>

^{vii} Justin McCurry, *North Korea's first spy satellite launch ends in failure and promise to send up another*, THE GUARDIAN (May 31, 2023) <https://www.theguardian.com/world/2023/may/30/north-korea-fires-space-launch-vehicle-towards-south>. See also *Id.*

^{viii} Josh Smith, et al., *North Korea says latest spy satellite launch failed, but will try again*, REUTERS (Aug. 24, 2023), <https://www.reuters.com/world/asia-pacific/japan-govt-issues-emergency-warning-over-j-alert-broadcasting-system-2023-08-23/>.

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- ^{ix} Josh Smith, *New North Korean space rocket features engine from ICBMs, analysts say*, REUTERS (Jun. 1, 2023) <https://www.reuters.com/world/asia-pacific/new-north-korean-space-rocket-features-engine-icbms-analysts-say-2023-06-01/>.
- ^x McCurry, *supra* note vii. See also, *North Korea's space launch program and long-range missile projects*, REUTERS (Aug. 23, 2023), <https://www.reuters.com/world/asia-pacific/north-koreas-space-launch-program-long-range-missile-projects-2023-08-23/>.
- ^{xi} *U.S.: Satellite attempt was part of N. Korea missile launch*, CNN (Sep. 7, 1998), <http://edition.cnn.com/WORLD/asiapcf/9809/07/nkorea.satellite/>.
- ^{xii} Tania Branigan, *North Korea rocket launch 'fails'*, THE GUARDIAN (Apr. 5, 2009), <https://www.theguardian.com/world/2009/apr/05/north-korea-rocket-launch>.
- ^{xiii} Tim Schwarz, *North Korea rocket breaks up in flight*, CNN (Apr. 17, 2012, 11:36 AM EDT), <https://edition.cnn.com/2012/04/12/world/asia/north-korea-launch/index.html>.
- ^{xiv} *A surprisingly successful North Korean rocket launch*, HANKYOREH (Dec. 12, 2012), https://english.hani.co.kr/arti/english_edition/e_northkorea/565008.html; Eric Talmadge, *Crippled NKorean Probe Could Orbit for Years*, ASSOCIATED PRESS (Dec. 17, 2012, 8:01 PM PST), <https://www.sandiegouniontribune.com/sdut-crippled-nkorean-probe-could-orbit-for-years-2012dec17-story.html>.
- ^{xv} *North Korean satellite is in orbit, says South*, BBC NEWS (Feb. 9, 2016), <https://www.bbc.com/news/world-asia-35529588>.
- ^{xvi} *Statement by Pentagon Press Secretary John Kirby on Recent DPRK Missile Tests*, DEPARTMENT OF DEFENSE (Mar. 10, 2022), <https://www.defense.gov/News/Releases/Release/Article/2963053/statement-by-pentagon-press-secretary-john-kirby-on-recent-dprk-missile-tests/>.
- ^{xvii} *Why North Korea's Satellite Launches are so Controversial*, REUTERS (Aug. 22, 2023, 4:50 PM GMT +9), <https://www.reuters.com/world/asia-pacific/why-north-koreas-satellite-launches-are-so-controversial-2023-08-22/>.
- ^{xviii} Associated Press, *North Korea says its 2nd attempt to launch a spy satellite has failed*, NPR (Aug. 24, 2023) <https://www.npr.org/2023/08/24/1195576463/north-korea-says-its-2nd-attempt-to-launch-a-spy-satellite-has-failed>.
- ^{xix} *Id.*
- ^{xx} *Id.*
- ^{xxi} *Id.* See also, U.N. SCOR, 78th Sess., 9336th mtg. at 3, U.N. Doc. S/PV.9336 (Jun. 02, 2023).