#### USINDOPACOM J06/SJA TACAID SERIES

# **TOPIC: DPRK Missile and Nuclear Programs**

Reinforcing the Legal Obligation of all Nations - Including PRC - to Uphold UNSCRs

### **BLUF**

- DPRK ballistic missile launches and nuclear tests are flagrant violations of international law as transmitted in multiple unanimously approved United Nations Security Council Resolutions (UNSCRs).
- The UNSCRs related to DPRK's ballistic missile and nuclear programs constitute binding international law that all nations – including PRC – must uphold and enforce.

## WHY THIS MATTERS 🗘

PRC's failure to hold DPRK accountable for its actions erodes the force of international law; compromises the international rules-based order; emboldens further non-compliance with international law and international safety norms; undermines the global nonproliferation regime; destabilizes the security environment across the Indo-Pacific; weakens the authority of the United Nations; and foments risk of miscalculation and escalation.

### **DETAILED DISCUSSION**



- From 2006-2018 the UN Security Council adopted 20 resolutions<sup>i</sup> related to DPRKs ballistic missile and nuclear programs. 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 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 0
  - 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 0
  - Prohibit countries from hosting DPRK financial institutions 0
  - Require countries to terminate joint ventures with DPRK 0
  - Ban scientific and technical cooperation with DPRK 0
  - Ban export DPRK of 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 0
  - Condemn DPRK for prioritizing ballistic missile and nuclear programs over the welfare of its people

#### **UNCLASSIFIED**

- Despite express prohibition in the UNSCRs, DPRK has conducted over 30 unlawful ballistic missile launches in 2022 (more than in any year), including a 3 Oct 22 long-range ballistic missile launch that traveled over the sovereign territory of Japan, causing Japanese citizens to take shelter.<sup>ii</sup>
- Further, DPRK does not announce its ballistic missiles launches in advance or adhere to "international safety norms," such as issuance of notice to airmen / notice to mariners. iii
- Notwithstanding international law and assurances by Kim Jong-un in 2018 that DPRK would destroy its nuclear enrichment facilities, open-source reports indicate that that DPRK may be preparing to conduct a nuclear test.
- The International Atomic Energy Agency (IAEA) has also said that DPRK's nuclear program is going "full steam ahead," with work on plutonium separation, uranium enrichment and other activities.<sup>™</sup>
- PRC approved the UNSCRs cited above, but has taken no action to uphold or enforce their provisions; to the
  contrary, 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.
- In addition, PRC vetoed new DPRK UNSCR sanctions in May 2022 following a series of DPRK missile launches.
- Following DPRK's 3 Oct 22 launch over Japan, 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."
- DPRK passed domestic legislation in Sep 22, which purports to formalize DPRK's nuclear status and permit preemptive use.

## PROPOSED COUNTER-LAWFARE APPROACHVII

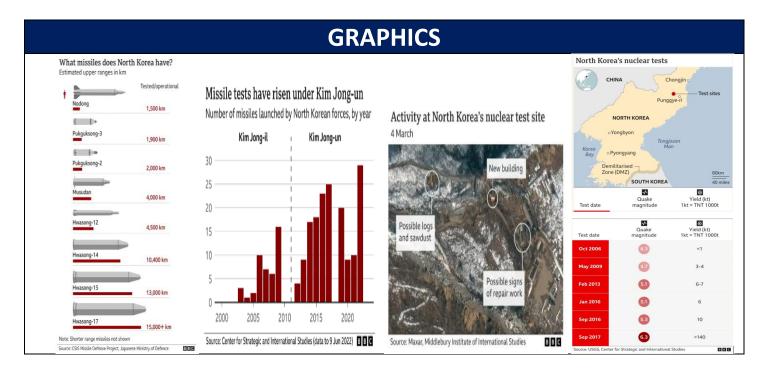


- As a member of the UN Security Council, PRC approved a series of UNSCRs on DPRK's ballistic missile and nuclear
  programs, yet continues to enable DPRK actions by failing to uphold and enforce international law in the face of
  flagrant and repeated violations by DPRK.
- Despite PRC propaganda espousing a "UN-centered international order," PRC weakens the legitimacy and authority of the UN by failing to uphold and enforce unanimously approved UNSCRs.
- PRC's failure to hold DPRK accountable for its ballistic missile and nuclear programs erodes the force of
  international law; compromises the international rules-based order; emboldens further non-compliance with
  international law and international safety norms; undermines the global nonproliferation regime; destabilizes the
  security environment across the Indo-Pacific; weakens the authority of the United Nations; and foments risk of
  miscalculation and escalation.
- The PLA's unsafe intercept of a Canadian CP140 in April 2022 is indicative of attempts by PRC to intimidate the community of nations seeking to enforce UNSCRs and serves to embolden DPRK.
- DPRK's new legislation that purports to formalize its nuclear status and permit preemptive use of nuclear weapons is yet another example of how DPRK's disregard for international law emboldened by PRC's failure to act endangers security across the region.
- By launching missiles over Taiwan in August 2022, PRC set a dangerous precedent whereby acolytes like DPRK are emboldened to threaten the safety and security of neighboring countries, much as the DPRK did on 4 Oct 22 when it sent a missile over Japan, causing Japanese citizens to take shelter.
- Upholding the force of international law inherent in UNSCRs is the responsibility of all nations that desire to maintain international peace and security.

## **ADDITIONAL COMMENTS**

- The US response in the information environment to DPRK ballistic missile and nuclear activities has been largely focused on reactive condemnation of the DPRK's actions.
- Given DPRK's continued violations, however, this TACAID proposes a different approach that focuses instead on the legal responsibility of other nations besides the DPRK specifically PRC to do their part to hold DPRK accountable in the interest of maintaining international peace and security.

#### **UNCLASSIFIED**



<sup>&</sup>lt;sup>1</sup> Unanimously adopted UNSCRs: 1695, 1718, 1874, 1887, 1928, 1985, 2050, 2087, 2094, 2141, 2207, 2270, 2276, 2321, 2345, 2356, 2371, 2375, 2397, 2407

https://www.nytimes.com/2022/10/03/world/asia/japan-north-korea-missile.html

iii A White House statement following the 3 Oct 22 launch called out DPRK's failure to comply with "international safety norms."

iv https://www.bbc.com/news/world-asia-41174689

<sup>&</sup>lt;sup>v</sup> https://www.uscc.gov/sites/default/files/2022-01/China-North\_Korea\_Strategic\_Rift.pdf

vi https://www.reuters.com/world/latest-north-korean-missile-is-unfortunate-uss-top-east-asia-envoy-says-2022-10-03/

vii The purpose of this section is to inform and enable actions across the information environment that uphold the rule of law, subject to approval by appropriate authorities.

viii See e.g. 10 August 2022 Chinese Communist Party White Paper; see also "Summary of Phrases of Concern" by the Language Group.