



International Civil Aviation Organization

WORKING PAPER

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ASSEMBLY — 41ST SESSION

EXECUTIVE COMMITTEE

Agenda Item 28: Other high-level policy issues to be considered by the Executive Committee

UNANNOUNCED MISSILE LAUNCHES

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

This working paper reports on recurring unannounced missile launches by the Democratic People's Republic of Korea, which the Council considered as constituting an infraction of the *Convention on International Civil Aviation* to be reported to the Assembly under Article 54 k) of the Convention.

Action: The Council invites the Assembly to acknowledge the infraction by the Democratic People's Republic of Korea (DPRK) of its obligations under the Convention, and to consider the adoption of the draft Resolution presented in Appendix B.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives – Safety and Air Navigation Capacity and Efficiency
<i>Financial implications:</i>	This working paper has no direct financial implications
<i>References:</i>	C-DEC 226/5 C-DEC 223/4 C-DEC 212/1 C-WP/15410 C-WP/15026 C-WP/15024 C-WP/14642 Annex 15 — <i>Aeronautical Information Services</i> Annex 11 — <i>Air Traffic Services</i> Doc 10066, <i>Procedures for Air Navigation Services - Aeronautical Information Management</i> United Nations Security Council Resolutions 2371 (2017), 2321 (2016), 2270 (2016), 2087 (2013) and 1718 (2006) ICAO Assembly Resolution A32-6 (1998) Doc 7559, <i>Rules of Procedure for the Council</i> <i>Charter of the United Nations</i> <i>Agreement between the United Nations and the International Civil Aviation Organization</i> Doc 7300, <i>Convention on International Civil Aviation</i>

1. INTRODUCTION

1.1 During its 32nd Session, the ICAO Assembly considered that on 31 August 1998 an object propelled by rockets was launched by a certain Contracting State. The impact area of the object was in the vicinity of an international airway. The Assembly at that time urged all Contracting States to reaffirm that air traffic safety is of paramount importance for the sound development of international civil aviation, and to comply strictly with the provisions of the *Convention on International Civil Aviation* (Chicago, 1944 – hereinafter “the Convention”), its Annexes and its related procedures, in order to prevent a recurrence of such potentially hazardous activities (Resolution A32-6).

1.2 Missile launches without advance notification are inconsistent with the imperative of safety of international civil aviation to be observed by all ICAO Contracting States as per the Convention (see Preamble and Art. 37), and more particularly the requirements of proper coordination with all parties concerned of activities potentially hazardous to civil aircraft (Annex 11 — *Air Traffic Services*, paragraphs 2.18 and 2.19), due promulgation of information when the establishment of prohibited, restricted or danger areas is unavoidable (Annex 15 — *Aeronautical Information Services*, paragraph 6.3.2), and effective implementation of relevant *Procedures for Air Navigation Services — Aeronautical Information Management* (PANS-AIM; Doc 10066).

1.3 Acting under Chapter VII of the *Charter of the United Nations*, the United Nations (UN) Security Council is the political forum addressing launches using ballistic missile technology by the Democratic People’s Republic of Korea (DPRK), including through a regime of sanctions which is under the supervision of the Sanctions Committee established by Resolution 1718 (2006). The ICAO Secretariat regularly exchanges information with the UN Secretariat in its monitoring of the situation, in the spirit of the 1947 *Agreement between the United Nations and the International Civil Aviation Organization*.

1.4 The DPRK has repeatedly launched missiles using ballistic missile technology without advanced prior notice. Such launches are not only in violation of the relevant UN Security Council Resolutions, as well as the Convention, but also represent a serious risk to the safety of international civil aviation. Such action contradicts several applicable ICAO’s Standards and Recommended Practices (SARPs) in the Annexes to the Convention. The Council has repeatedly condemned the continuation of unannounced missile launches and urged the DPRK to act in accordance with and respect for the Convention on International Civil Aviation.

2. ACTIONS BY THE ICAO COUNCIL

2.1 In response to the DPRK’s unannounced launches in 2017 of ballistic missiles which approached international air routes, Japan and the Republic of Korea presented C-WP/14642 (Revised – *Response to significant concern to the safety of international civil aviation caused by the DPRK missile launches*) during the 212th Session of the Council. The Council, on 6 October 2017, “expressed its strong condemnation of the continued launching of ballistic missiles by the [DPRK] over or near international air routes without advance notification, which seriously threatens the safety of international civil aviation” and requested the Secretary General to “continue to monitor developments and the level of compliance with the [Convention] and its Annexes by the [DPRK], as well as to consider other measures by which this situation could be addressed and to inform the Council accordingly” (C-DEC 212/1). The Council remained seized of this matter through Secretary General Oral Reports regarding the significant concern to the safety of international civil aviation caused by the missile launches of the DPRK.

2.2 The Council included this item in its work programme for the 219th Session, to be considered on the basis of C-WP/15024 (*Challenges and concerns of the Democratic People's Republic of Korea in implementing the ICAO SARPs*) presented by the DPRK, and C-WP/15026 (Information Paper – *Update on developments to address risks posed by unannounced missile launches*) issued by the Secretariat. Considering the difficulties to travel and to hold in-presence Council meetings due to the COVID-19 pandemic, consideration of this item was postponed to a subsequent Session. The Council remained seized of this topic on the basis of Secretary General Oral Reports. The Council (C-DEC 223/4) “expressed concern at the recent episodes involving unannounced missiles being launched by the DPRK, which represent a serious risk to international civil aviation and which occurred in defiance of the relevant [UN] Security Council Resolutions (1718, 2270 and 2321)”. Accordingly, the Council “urged the DPRK to act in accordance with the [Convention] and to comply with applicable [SARPs]”. Furthermore, the Council “affirmed that the ICAO Secretariat should avoid all technical activities with the DPRK of a direct or indirect nature”.

2.3 By letter dated 7 December 2021, the President of the Council formally advised the DPRK authorities of the above-mentioned Council’s decisions, underlining the paramount importance of proper coordination of activities potentially hazardous to civil aircraft with all parties concerned (Annex 11 refers), due promulgation of information when the establishment of prohibited, restricted or danger areas is unavoidable (Annex 15 refers), and effective implementation of relevant PANS-AIM (see above paragraph 1.2). In a reply dated 17 December 2021, the DPRK authorities stated that the missile test launch was conducted in full consideration of the safety of civil aircraft in international flights and considered the decision that ICAO should avoid all technical activities with the DPRK as unfair.

2.4 During the 225th Session, the Council further considered this item in view of the most recent episodes of unannounced missiles being launched by the DPRK. The Council recalled its previous decisions on this matter and reiterated its concerns. The Council also requested the Secretariat to update the information previously circulated to the Council, in order to provide a historical compendium of these incidents, actions taken by ICAO in response and an outline of potential options that might be available to the Council. Accordingly, the Council considered this item during its 226th Session on the basis of C-WP/15410 (Information Paper – *Update on developments to address risks posed by unannounced missile launches*), while the DPRK participated in the meeting without a vote in the Council’s consideration thereof, on the grounds of special interest, in accordance with Article 53 of the Convention and Rule 31 of the *Rules of Procedure for the Council* (Doc 7559).

2.5 The Council, on 1 June 2022, recalling its previous decisions, “condemned in the strongest possible terms the recent spate of unannounced missile launches”, “urged the DPRK to act in accordance with and respect for the [Convention], and to comply with applicable ICAO [SARPs]”, and “decided to submit this matter to the 41st Session of the ICAO Assembly (September-October 2022) for its consideration, in accordance with Article 54 k) of the Convention on International Civil Aviation” (C-DEC 226/5). On 5 June 2022, the DPRK conducted another series of eight unannounced missile launches.

3. HISTORICAL COMPENDIUM OF INCIDENTS

3.1 With reference to the sanctions established by the UN Security Council concerning ballistic missile-related activities, various publicly reported sources refer to launches by the DPRK, having allegedly used ballistic missile technology. While the nature of the systems cannot be confirmed, information on such launches between 28 July 2017 and 5 June 2022 can be found in [Appendix A](#). However, this would not include unannounced non-ballistic missile launches.

4. **ARTICLE 54 K) OF THE CONVENTION**

4.1 By virtue of Article 54 k) of the Convention, the Council shall: “Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction”.

4.2 The Convention does not define the word “infraction” as used in Article 54, although it has been previously interpreted that any action which may be considered as an infraction, breach, violation or infringement of the Convention is potentially open for Council action under Articles 54 j) or k). Without referring specifically to these paragraphs, the Council has previously determined that an infraction, breach, violation or infringement of principles or rules of the Convention has taken place. In this regard, the Council agreed in 1999 that, in continuity of past practice, it may wish to consider taking the action specified in Article 54 (j) and (k) only where important considerations are at issue (158th session). The Council further opined in 2005 (175th Session) that significant compliance shortcomings with respect to safety-related SARPs may constitute an infraction under Article 54 j), which should equally apply to paragraph k).

4.3 In making a determination under either Articles 54 j) or k), the Council must further follow due process and elementary principles of justice. It means that, at a minimum, the States concerned must be given adequate opportunity to be heard by the Council under Article 53 of the Convention and Rule 31 of the *Rules of Procedure for the Council* (Doc 7559/11).

4.4 Consistent with the above, the Council concluded that unannounced missile launches by the DPRK indeed qualify as an infraction of the Convention to be reported to the Assembly for consideration under Article 54, paragraph k), while the DPRK failed to take appropriate action within a reasonable time after notice of the infraction, despite strong condemnations by the Council and its repetitive calls for compliance with the Convention and applicable SARPs (C-DEC 226/5).

5. **CONCLUSIONS AND ACTION BY THE ASSEMBLY**

5.1 The DPRK has repeatedly undertaken unannounced missile launches, in contravention of the Convention, despite widespread international concern. On 1 June 2022, the Council condemned the continuation of unannounced missile launches and urged the DPRK to act in accordance with and respect for the Convention, and to comply with applicable SARPs. In addition, the President of the Council has written to the DPRK authorities on numerous occasions to call upon them to comply with their obligations under the Convention and its Annexes. Consequently, the Council decided, during the Fifth Meeting of its 226th session, to submit this matter to the 41st Session of the ICAO Assembly for its consideration, in accordance with Article 54 k) of the Convention.

5.2 The Council invites the Assembly to acknowledge the infraction by the Democratic People’s Republic of Korea (DPRK) of its obligations under the Convention, as presented in this paper.

5.3 The Assembly is therefore invited to consider the adoption of the draft Resolution presented in Appendix B.

APPENDIX A

**LAUNCHES CARRIED OUT BY THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA
ALLEGED TO HAVE USED BALLISTIC MISSILE TECHNOLOGY
(28 July 2017 to 5 June 2022)**

This table lists launches carried out by the Democratic People’s Republic of Korea alleged to have used ballistic missile technology, between 28 July 2017 and 5 June 2022. The list does not include alleged launches that reportedly failed and for which no range or altitude information is publicly available. The inclusion of items on this list does not imply any conclusions by any entity on the nature of the system. Information on the launch dates, times, range, apogee and locations are based on publicly reported sources.

Date	Local Time	Range (km)	Apogee (km)	Launch Location
2022				
05-Jun-22	A total of eight launches were reported on this day, occurring between 9:08 and 9:43 from four sites (Hamhung, Tongchang-ri, Kaechon and Sunan), with ranges between 110 km and 670 km and apogees between 25 km and 90 km			
25-May-22	6:42	760	60	Sunan, Pyongyang
25-May-22	6:00	360	540	Sunan, Pyongyang
12-May-22	18:29	360	90	Sunan, Pyongyang
12-May-22	18:29	360	90	Sunan, Pyongyang
12-May-22	18:29	360	90	Sunan, Pyongyang
07-May-22	14:07	60	600	Sinpo (off shore)
04-May-22	12:03	470	780	Sunan, Pyongyang
17-Apr-22	18:00	110	23	(Not reported)
17-Apr-22	18:00	110	25	(Not reported)
24-Mar-22	14:34	1080	6200	Sunan, Pyongyang
05-Mar-22	8:48	270	560	Sunan, Pyongyang
27-Feb-22	7:52	300	620	Sunan, Pyongyang
30-Jan-22	7:52	800	2000	Jagang Province
27-Jan-22	8:00	190	20	Hamhung
27-Jan-22	8:05	190	20	Hamhung
17-Jan-22	8:54	380	42	Pyongyang
17-Jan-22	8:50	380	42	Pyongyang
14-Jan-22	14:52	430	36	Pyongan Province
14-Jan-22	14:41	430	36	Pyongan Province
11-Jan-22	7:27	700	60	Jagang Province

Date	Local Time	Range (km)	Apogee (km)	Launch Location
05-Jan-22	8:10	700	(Not reported)	Jagang Province
2021				
19-Oct-21	10:17	590	60	Sinpo
28-Sep-21	6:40	200	60	Toyang-ri, Jagang Province
15-Sep-21	12:39	800	60	Yangdok, South Pyongan
15-Sep-21	12:34	800	60	Yangdok, South Pyongan
25-Mar-21	7:25	450	60	Hamju, South Hamgyong
25-Mar-21	7:06	450	60	Hamju, South Hamgyong
2020				
29-Mar-20	6:10	230	30	Wonsan
29-Mar-20	6:10	230	30	Wonsan
21-Mar-20	6:50	410	50	Sonchon, North Pyongan
21-Mar-20	6:45	410	50	Sonchon, North Pyongan
09-Mar-20	7:36	200	50	Sondok, South Hamgyong
09-Mar-20	7:36	200	50	Sondok, South Hamgyong
09-Mar-20	7:36	200	50	Sondok, South Hamgyong
02-Mar-20	12:37	240	35	Wonsan
02-Mar-20	12:37	240	35	Wonsan
2019				
28-Nov-19	16:59	380	97	Yeonpo, South Hamgyong
28-Nov-19	16:59	380	97	Yeonpo, South Hamgyong
31-Oct-19	16:38	370	90	Sunchon, South Pyongan
31-Oct-19	16:35	370	90	Sunchon, South Pyongan
02-Oct-19	7:11	450	910	East coast near Wonsan
10-Sep-19	7:12	330	50	Kaechon, South Pyongan
10-Sep-19	6:53	330	50	Kaechon, South Pyongan
24-Aug-19	7:02	380	97	Sondok, South Hamgyong
24-Aug-19	6:45	380	97	Sondok, South Hamgyong
16-Aug-19	8:16	230	30	Tongchon, Kangwon
16-Aug-19	8:01	230	30	Tongchon, Kangwon
10-Aug-19	5:50	400	48	Hamhung
10-Aug-19	5:32	400	48	Hamhung
05-Aug-19	5:36	450	37	Kwail

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Date	Local Time	Range (km)	Apogee (km)	Launch Location
05-Aug-19	5:24	450	37	Kwail
02-Aug-19	3:23	220	25	Yonghung
02-Aug-19	2:59	220	25	Yonghung
31-Jul-19	5:27	250	30	Kalma, Wonsan
31-Jul-19	5:06	250	30	Kalma, Wonsan
25-Jul-19	5:57	600	50	Hodo, Wonsan
25-Jul-19	5:34	600	50	Hodo, Wonsan
09-May-19	4:39	270	50	Kusong
09-May-19	4:29	420	50	Kusong
04-May-19	9:27	240	60	Hodo, Wonsan
2017				
28-Nov-17	3:17	950	4475	Pyongyang
15-Sep-17	7:06	3700	770	Pyongyang
28-Aug-17	5:57	2700	550	Pyongyang
25-Aug-17	6:49	250	(Not reported)	Kangwon
25-Aug-17	6:49	250	(Not reported)	Kangwon
28-Jul-17	22:15	998	3725	Mupyong-ni

APPENDIX B

DRAFT ASSEMBLY RESOLUTION

Resolution A41/xx : Unannounced missile launches by the Democratic People's Republic of Korea

Having considered the item concerning recurring unannounced missile launches by the Democratic People's Republic of Korea;

Recalling Assembly Resolution A32-6 concerning safety of navigation;

Recalling that the United Nations Security Council, acting under Chapter VII of the *Charter of the United Nations*, demanded that the Democratic People's Republic of Korea not conduct any launch using ballistic missile technology and has strongly condemned the Democratic People's Republic of Korea when doing so in violation and flagrant disregard of the Security Council's Resolutions 1718 (2006), 2087 (2013), 2270 (2016), 2321 (2016) and 2371 (2017), *inter alia*;

Bearing in mind the provisions and principles of the *Convention on International Civil Aviation*, while the primary objective of ICAO continues to be that of ensuring the safety of international civil aviation worldwide;

Considering the paramount importance of proper coordination of activities potentially hazardous to civil aircraft with all parties concerned (Annex 11 — *Air Traffic Services*), due promulgation of information when the establishment of prohibited, restricted or danger areas is unavoidable (Annex 15 — *Aeronautical Information Services*), and effective implementation of relevant *Procedures for Air Navigation Services — Aeronautical Information Management* (Doc 10066);

Noting that the ICAO Council, on 6 October 2017, expressed its strong condemnation of the continued launching of ballistic missiles by the Democratic People's Republic of Korea over or near international routes without advance notification, which seriously threatens the safety of international civil aviation;

Considering that the ICAO Council remained seized of the matter, expressing concern at episodes involving unannounced missiles being launched by the Democratic People's Republic of Korea, which represent a serious risk to international civil aviation and which occurred in defiance of the relevant United Nations Security Council Resolutions, and affirmed that the ICAO Secretariat should avoid all technical activities with the Democratic People's Republic of Korea, of a direct or indirect nature;

Noting that the ICAO Council, on 1 June 2022, condemned in the strongest possible terms the recent spate of unannounced missile launches and urged the Democratic People's Republic of Korea to act in accordance with and respect for the *Convention on International Civil Aviation*, and to comply with applicable ICAO Standards and Recommended Practices;

Considering that the ICAO Council further decided to submit this matter to the 41st Session of the ICAO Assembly, in accordance with Article 54 k) of the *Convention on International Civil Aviation*;

The Assembly:

1. *Endorses* the decision of the ICAO Council that, aside from the incompatibility of ballistic missile launches with the applicable United Nations Security Council Resolutions, unannounced missile

launches by the Democratic People's Republic of Korea constitute an infraction to the *Convention on International Civil Aviation*, conforming to its Article 54 k);

2. *Deeply deplores* that, in disregard of the concerns and condemnations expressed by the ICAO Council, the Democratic People's Republic of Korea has continued the unannounced launches of missiles;

3. *Strongly condemns* the Democratic People's Republic of Korea for launching missiles without advance notification, violating the *Convention on International Civil Aviation* and seriously threatening the safety of international civil aviation;

4. *Urgently calls* upon the Democratic People's Republic of Korea to comply strictly with the provisions of the *Convention on International Civil Aviation*, its Annexes and its related Procedures, in order to cease the recurrence of such potentially hazardous activities;

5. *Reaffirms* the intention of ICAO to continue and maintain close and cooperative relationship with the United Nations on this matter, fulfilling the objectives set forth in the *Agreement between the United Nations and the International Civil Aviation Organization*;

6. *Requests* the Council to remain seized of this matter and report back to the Assembly as appropriate; and

7. *Instructs* the Secretary General to immediately draw the attention of all Contracting States to this resolution.

— END —