

North Korea's Missile Launch: The Risks of Overreaction

I. OVERVIEW¹

North Korea says it is preparing to launch an experimental communications satellite using a rocket that is part of its ballistic missile program. This would be in the face of an international outcry, and of what is a strong though not definitive argument that it violates two UN Security Council resolutions. Japan has been most vocally opposed, saying it will shoot down the rocket if it threatens to fall on its territory. But even if the test is successful, it would only slightly increase security risks, while an overblown response would likely jeopardise the Six-Party Talks to end North Korea's nuclear program. What is needed is a calm, coordinated response from the key actors to raise pressure on Pyongyang to return to the talks rather than a divided reaction that only fulfils the North's desire to widen splits among its neighbours.

The prospective launch fits a pattern of North Korean attention-seeking when faced with stresses at home, political changes abroad or failure to get what it wants in negotiations. Unfortunately, it leaves Japan, South Korea and the U.S. with few good options. If the launch does take place, the best outcome for the international

community is simply for it to fail, as an earlier test did. North Korean leader Kim Jong-il will gain considerable domestic credit if the launch is successful. If the rocket is shot down by either Japan or the U.S., the North Koreans would see this as a sign of Tokyo's and Washington's implacable hostility and almost certainly withdraw from the Six-Party Talks. If either state tries but fails to shoot it down, North Korea will be further emboldened.

Taepodong-2 missiles involve an unproven technology and do not represent a significant increase in risk to Japan. North Korea's tested and apparently reliable Nodong missile can already carry a nuclear warhead as far as Tokyo. The Taepodong-2 could possibly reach Alaska but the likelihood of such a strike is negligible, since the North knows it would be devastated in any response. The launch of a Taepodong-2 also takes weeks to prepare; in a time of considerable tensions the missile could be destroyed on the pad.

Two other members of the Six-Party Talks, China and Russia, have shown little public concern about the launch, can be expected to hold that North Korea is entitled, like any other state, to launch satellites and so are unlikely to support strong measures against it. In preparation for the launch, Pyongyang has announced its accession to the Outer Space Treaty that permits the peaceful exploration of space without discrimination.

An overreaction to the test that prompts the North to abandon the Six-Party Talks would strengthen hardliners in Pyongyang. The talks have stalled in recent months over the failure to conclude a verification protocol for North Korea's denuclearisation. Pyongyang was also clearly waiting for President Barack Obama to take office, hoping that his administration might be more willing than its predecessor to compromise. Japan has hardened its position against North Korea, with the decades-ago kidnappings of Japanese citizens re-emerging as a key problem. Tensions have also risen on the Korean peninsula over the tougher line on the North adopted by South Korea's President Lee Myung-bak. Resumption of the talks is still a possibility, but they could be permanently derailed if the missile is shot down.

¹For earlier Crisis Group reporting on North Korea, and its relations with its neighbours involved in the nuclear talks, see Crisis Group Asia Reports N°122, *Perilous Journeys: The Plight of North Koreans in China and Beyond*, 26 October 2006; N°112, *China and North Korea: Comrades Forever?*, 1 February 2006; N°100, *Japan and North Korea: Bones of Contention*, 27 June 2005; N°96, *North Korea: Can the Iron Fist Accept the Invisible Hand?*, 25 April 2005; N°89, *Korea Backgrounder: How the South Views its Brother from Another Planet*, 14 December 2004; N°87, *North Korea: Where Next for the Nuclear Talks?*, 15 November 2004; N°61, *North Korea: A Phased Negotiation Strategy*, 1 August 2003; and Asia Briefings N°71, *North Korea-Russia Relations: A Strained Friendship*, 4 December 2007; N°62, *After the North Korea Nuclear Breakthrough: Compliance or Confrontation?*, 30 April 2007; N°56, *North Korea's Nuclear Test: The Fallout*, 13 November 2006; N°52, *After North Korea's Missile Launch: Are the Nuclear Talks Dead?*, 9 August 2006.

Rather than raising the level of alarm over a launch that is likely to go ahead, the other five members of the Six-Party Talks should agree to a moderate set of measures that maintains their unity in the face of North Korea's provocation. They could do this by:

- issuing a joint statement condemning the launch as provocative in the current tense climate, reaffirming Security Council Resolutions 1695 and 1718, and demanding that North Korea return to the Six-Party Talks;
- seeking to reinvigorate the Security Council committee monitoring the UN sanctions regime, including by calling on member states to report regularly on measures taken to implement the sanctions regime, particularly the ban on transfers of weapons to North Korea, and by taking action against any violators of that ban;
- offering to include discussion on space cooperation in resumed Six-Party Talks;
- reaffirming support for the 2003 Proliferation Security Initiative; and
- South Korea, the United States and Japan agreeing on an overall package deal that can be presented to the North Koreans in exchange for major steps forward in nuclear and missile disarmament. Such a deal should be presented by a high-level U.S. envoy sent to meet Kim Jong-il in Pyongyang. It could then be endorsed in the Six-Party process.

II. SATELLITE LAUNCH OR MISSILE TEST?

In late January 2009, U.S. intelligence detected the deployment of a long-range missile from a factory near Pyongyang to a test site at Musudan-ri on the north-east coast.² On 24 February, a spokesman for the [North] Korean Committee of Space Technology issued a statement declaring North Korea was preparing to put the "Kwangmyŏngsŏng-2", an experimental communications satellite, into orbit with the Unha-2 space launch vehicle, more commonly known as the Taepodong-2 missile.³

²Crisis Group interview, Seoul, 4 February 2009; Sam Kim, "N. Korea moving to launch long-range missile: source", Yonhap News Agency, 3 February 2009; Jin Dae-woong, "N.K. missile at eastern launch site: source", *The Korea Herald*, 5 February 2009.

³"Preparations for launch of experimental communications satellite in full gear", Korean Central News Agency (KCNA), 24 February 2009.

North Korea has successfully flight tested the Hwasŏng-5/6 (Scud-B/C) and the Nodong missiles, but the single flight test of the Taepodong-1 (Paektusan-1) on 31 August 1998 was only partially successful; the third stage failed, apparently exploding before it could place a small satellite, "Kwangmyŏngsŏng-1", into low-earth orbit. The Taepodong-1 program has since been terminated.⁴ The Taepodong-2 also was flight tested only once and failed after about 40 seconds of powered flight, on 5 July 2006.⁵ While the Taepodong-2 could potentially strike a portion of the western United States, the system requires further development and testing to achieve reliability. Because it must be launched from a fixed tower, its preparations are observable.⁶

The Taepodong-2 (Unha-2) is a two- or three-stage ballistic missile or space launch vehicle (SLV) with a new first stage and probably a modified Nodong as the second stage. In a three-stage space launch configuration, the third stage is probably a modified Scud variant or a modified KN-02 (SS-21; Scarab). Little is known about the first stage because the only flight test ended in failure shortly after launch, but it probably has four clustered Nodong engines.⁷ The total diameter is estimated to be 2.25 metres, which is similar to China's first SLV, the Long March-1. The Unha-2 could probably place a 100-kg satellite into orbit at an altitude of about 400km and as a ballistic missile deliver a 500-kg warhead to a range of about 9,000km or a 1,000-kg warhead to a range of about 6,000km.⁸

⁴Crisis Group interview, Seoul, 7 January 2009.

⁵Doug Richardson, "Transonic buffeting may have doomed Taepo Dong-2", *Jane's Missiles and Rockets*, 1 August 2006. This was the launch that resulted in Security Council Resolution 1695.

⁶In previous launches, fuel and oxidiser were provided by tanker trucks, and at least two to three weeks were required to erect the missiles and fuel them for launching. However, North Korea reportedly has installed equipment at the Musudan-ri launch facility to fuel the missiles directly, which could partially conceal the launch preparations. "Intelligence: N. Korea to test new missile", *The Donga Ilbo*, 2 October 2008; "北 신형 미사일 시험발사 준비 징후[Signs that the North is preparing to launch a new missile]", *The Chosun Ilbo*, 2 October 2008.

⁷One South Korean report asserts the first stage could have five or six clustered Nodong engines. 유용원 및 임민혁 [Yu Yong-wŏn and Im Min-hyŏk], "韓·美·日 이지스함 5척 동해 집결 [ROK-U.S.-Japan concentrate 5 Aegis ships in the East Sea]", *The Chosun Ilbo*, 26 March 2009.

⁸David Wright, "An Analysis of North Korea's Unha-2 Launch Vehicle", Union of Concerned Scientists, 20 March 2009, www.ucsusa.org/assets/documents/nwgs/Wright-Analysis-of-NK-launcher-3-18-09.pdf.

A. THE LEGAL ISSUE

On 12 March, the Democratic People's Republic of Korea (DPRK, North Korea) declared that it had acceded to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies (Outer Space Treaty) and the Convention on Registration of Objects Launched into Outer Space.⁹ The DPRK also notified the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) that it planned to launch the satellite sometime during the period 4-8 April 2009.¹⁰ The Outer Space Treaty stipulates that all nations have the right to the peaceful exploration of outer space "without discrimination of any kind", and – as noted in the next section below – the DPRK does seem to have a genuine interest in establishing a space-launch capability.

United Nations Security Council Resolution 1695, adopted in 2006 after North Korea launched seven ballistic missiles during a one-day exercise, demanded "that the DPRK suspend all activities related to its ballistic missile programme, and in this context reestablish its pre-existing commitments to a moratorium on missile launching". Later that year, after North Korea conducted a nuclear test, Security Council Resolution 1718 decided "that the DPRK shall suspend all activities related to its ballistic missile programme and in this context reestablish its pre-existing commitments to a moratorium on missile launching". Both resolutions were adopted unanimously and are mandatory upon all UN members, including, of course, North Korea.¹¹

Japanese, South Korean and Western diplomats consider, reasonably enough, that any satellite launch would be a clear violation of the resolutions because of the dual-use nature of space launch vehicles.¹² The two Security Council resolutions, however, specifically refer to missile launches and missile programs and make no

mention of launches relating to peaceful outer space activities covered by the Outer Space Treaty and related instruments. Given the fundamental nature of the prescription against discrimination contained in the latter treaty, China and Russia might argue with at least equal plausibility that the Security Council resolutions, in the absence of clear language to the contrary, only relate to military missile launches and programs and not to peaceful space launches. Such an argument would be based on a longstanding rule of interpretation applicable in both international and domestic law that a pre-existing right can only be overturned or suspended in the clearest possible language.

With the legal issue formally at least inconclusive, and in practice likely to be divisive, the question of how most appropriately to respond to the launch needs to be decided on political grounds, with particular attention to what steps are most likely to advance the priority of producing a non-nuclear, thus less dangerous North Korea, an objective which all five other members of the Six-Party Talks clearly share.

B. NORTH KOREA'S SPACE PROGRAM

Space race dynamics are among the likely Pyongyang motivations for the Taepodong-2 launch. In 2008, the DPRK reportedly had conducted at least one static engine test for the Taepodong-2, and a new long-range missile (space) launch facility was under construction on the west coast.¹³ According to the South Korean (Republic of Korea, ROK) defence minister, Lee Sang-hee, North Korea began building the facility in 2000 and has completed 80 per cent of the construction.¹⁴ A flight test would provide valuable data for future missile development, but politically, Pyongyang could also score significant propaganda points if it placed a satellite into orbit before South Korea, which is planning to do so in summer 2009.

The ROK government in late 2008 did not believe the North would be ready to launch first because it was thought to be dependent on completion of the new facility, which was not considered possible earlier than the

⁹"KCNA report on DPRK's accession to International Space Treaty and Convention", KCNA, 12 March 2009; "N. Korea joins space treaty, convention – Russian ministry source", RIA Novosti, 12 March 2009.

¹⁰Ibid; Na Jeong-ju, "Pyongyang to launch 'satellite' on April 4-8", *The Korea Times*, 12 March 2009.

¹¹Article 1, "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies"; Resolution 1695 (2006), operative paragraph 2, United Nations Security Council, 15 July 2006; Resolution 1718 (2006), operative paragraph 5, United Nations Security Council, 14 October 2006.

¹²Crisis Group interviews, South Korean and U.S. government officials, Seoul and Washington DC, March 2009.

¹³Crisis Group interview, Seoul; "北, 새 미사일기지사 로켓엔진 시험 [North tests rocket engine at new missile base]", *The Chosun Ilbo*, 17 September 2008; 이하원 [Yi Ha-wön], "北 동창리에 새 미사일기지 건설 [North Building New Missile Base at Tongch'ang-ri]", *The Chosun Ilbo*, 12 September 2008. The launch facility under construction is at Tongch'ang-ri, Ch'ölsan-kun, North P'yöng'an Province.

¹⁴"S Korea: N Korea building base for bigger missiles", Associated Press, 4 November 2008; "North Korea building base for bigger missiles", Reuters, 4 November 2008.

end of 2009.¹⁵ But in January, the North deployed the Taepodong-2 to its old launch facility on the east coast at Musudan-ri, North Hamgyŏng province and began flight test preparations.¹⁶

Nuclear and ballistic missile technologies are advanced scientific achievements that can be sources of national pride. Domestically, the North Korean government has promoted its nuclear and missile programs as strong pillars of national defence and prominent symbols of scientific nationalism. Specifically, they are representative of the national effort to build a “strong and prosperous country” (*kangsŏngdaeguk*) under Kim Jong-il. The term *kangsŏngdaeguk* first appeared in August 1998 in reference to Kim having provided “on-the-spot guidance” in Chagang province six months earlier, and it is now established state doctrine.¹⁷ It is no coincidence that the term coincides with Kim’s formal rise to power and the DPRK’s attempt to place the “Kwangmyŏngsong-1” into low earth orbit in 1998.¹⁸

While Pyongyang probably has multiple motivations and its exact intentions are never clear, the continued development and investment in new missile launch facilities indicate that the leadership is probably determined to achieve a space launch capability even at a tremendous cost. Once the Tongch’ang-ri facility is completed, North Korea will have strong incentives to continue satellite launches and long-range missile development, unless technical barriers become insur-

mountable or the benefits of restraint through a diplomatic settlement are greater than the domestic costs of abandoning the program. Since the domestic political implications of the missile and space programs are extensive, the regime will demand considerable compensation for restraint.

After investing so much in the new space launch centre, it is unclear why Pyongyang decided to use the old site at Musudan-ri. However, there are a few possibilities, in addition to calculations of inter-Korean competition:

- The new facility was not ready, but Pyongyang decided it must test the Taepodong-2 (Unha-2) to meet technical development timelines.
- Pyongyang decided a test flight should coincide with domestic political events, such as the 8 March 2009 Supreme People’s Assembly elections and possible initiatives surrounding succession plans.
- Pyongyang felt an urgent need to send a political signal internationally, especially to the new Obama administration.
- The Taepodong-2 is ready for another flight test, but Pyongyang lacks confidence in the system, and if an accident were to occur, decision-makers would prefer it to be at Musudan-ri rather than at the new facility.
- Pyongyang wished to gauge the international military and political reactions to the deployment and launch at Musudan-ri, which is more provocative because it is closer to Japan.

C. THE REAL RISKS

U.S. and Japanese policymakers tend to focus on North Korea’s efforts to acquire a long-range missile capability, and Tokyo has led the outcry at the possibility of a new missile launch, even though the Taepodong-2 currently presents a low risk to either country. Its single previous launch failed, although the flight test did provide information useful to improve the technology. As its preparations are easily observed, a launch could be pre-empted in times of serious tension, but not without the serious danger of provoking war on the Korean peninsula.

There are security implications to any long-range launch, but few of them involve imminent threats:

- a successful test would make Pyongyang’s missiles more attractive to potential customers, particularly to possible clients in the Middle East such as Iran and Syria;

¹⁵Crisis Group interview, Seoul, 5 November 2008.

¹⁶Jin Dae-woong, “N.K. missile at eastern launch site: source”, *The Korea Herald*, 5 February 2009; Sam Kim, “N. Korea moving to launch long-range missile: source”, Yonhap News Agency, 3 February 2009. Initially, intelligence analysts believed the missile was being transported to the new space launch facility at Tongch’ang-ri. Crisis Group interview, Seoul, 4 February 2009.

¹⁷The Korean term is 强盛大國. 북한개요 2004 [North Korea Summary 2004], ROK Ministry of Unification, Seoul, December 2003, pp. 34-35.

¹⁸Paektusan (Mount Paektu) is the highest mountain in Korea. Located on the Chinese border, it is a national symbol for both Koreas. Kim Il-sung based his anti-Japanese insurgency around the mountain before fleeing to the Soviet Union in late 1940 or early 1941. North Korea denies Kim escaped to the Soviet Far East, but all North Koreans recognise the revolutionary symbolism of the mountain, and DPRK propaganda claims Kim Jong-il was born there (not near Khabarovsk in the USSR, his true birthplace). According to DPRK propaganda, a “bright lode star” (*kwangmyŏngsŏng*) appeared over Mount Paektu the night Kim Jong-il was born, and all the people knew a new general had been born. In the realm of DPRK propaganda, the Paektusan-1 space launch vehicle and the “Kwangmyŏngsŏng-1” satellite symbolise the link between Kim Il-sung and Kim Jong-il.

- ❑ each advance in missile technology and deployment raises the risks of a regional arms race; and
- ❑ a successful launch would be a major psychological boost for the regime, possibly making it more reluctant to give up its nuclear weapons and missile systems.

However, Pyongyang's inventory of short-range and medium-range road-mobile ballistic missiles poses a more imminent threat. The DPRK possibly has deployed over 600 short-range Scud variants that threaten South Korea and possibly as many as 320 medium-range Nodong missiles that are capable of striking Japan.¹⁹ The so-called Musudan, another road-mobile liquid-fuelled ballistic missile, has not been flight tested (at least in North Korea), but South Korean intelligence believes it was deployed in 2007. This system is thought to be nuclear-capable and could potentially strike Guam. Iran is developing a version of this missile that it reportedly received in "kit form from the DPRK".²⁰

North Korea also has unveiled a new solid-fuelled short-range tactical missile, the "Toksa" or KN-02, but it is unclear whether it has been deployed. The Toksa (viper) is a Korean version of the Soviet/Russian Tochka (SS-21 Scarab), with a range of only about 120km²¹ but much greater accuracy than the North's

other missiles and a capability to strike the Seoul-Inch'ŏn metropolitan area and possibly U.S. military bases in P'yŏngt'aek, south of Seoul.²²

Although North Korea has not demonstrated the capability to assemble a miniaturised nuclear bomb for delivery with a ballistic missile, intelligence sources believe it recently has assembled and deployed nuclear warheads for the Nodong. Its nuclear weapons would likely be launched from the Missile Guidance Bureau's Nodong Missile Division, headquartered in Yongnim-ŭp, Yongnim-kun, Chagang province. There are three Nodong missile regiments in the division. The first is headquartered in Sino-ri, Unjŏn-kun, North P'yŏng'an province (near the west coast and about 100km from the Chinese border); the second is headquartered in Yŏngjŏ-ri, Kimhyŏngjik-kun, Yanggang province (in the centre of the country, about twenty kilometres from the Chinese border); the third is in Yongnim-ŭp (in the centre of the country, about 45-50km from Kanggye city and about 50-60km from Hŭich'ŏn city).²³

The second or third Nodong regiments would likely be tasked with the launch of nuclear bombs because they are close to the suspected warhead storage sites and less susceptible to air strikes or cruise missile attacks than the first regiment in Sino-ri. According to U.S. intelligence, there are indications that North Korea has been building new Nodong bases near the Chinese border to take advantage of a reported 25-mile (40-km) buffer zone next to that border that is "off limits to U.S. bombing". However, an analyst told Crisis Group that Washington probably would shrink the zone significantly if war were to break out on the Korean peninsula.²⁴ North Korea is probably constructing the bases to increase the likelihood of missile survivability, thus making its nuclear deterrent more credible. In March 2008, the new chairman of the South Korean Joint Chiefs of Staff told the ROK National Assembly the military was prepared to carry out pre-emptive strikes

¹⁹B.B. Bell, "Statement of General B.B. Bell, Commander, United Nations Command; Commander, Republic of Korea-United States Combined Forces Command; and Commander, United States Forces Korea, before the House Armed Services Committee", 9 March 2006; B.B. Bell, "Statement before the Senate Armed Services Committee", 24 April 2007; and internal government memorandum made available to Crisis Group.

²⁰Internal government memorandum made available to Crisis Group; Crisis Group interview, Seoul. The Musudan design is based on the Soviet SS-N-6 submarine-launched ballistic missile (SLBM). Some analysts believe Iran conducted at least one proxy flight test of the Musudan (Shahab-4 or Nodong-B) in Iran in January 2006. See Joseph S. Bermudez, "North Korea Deploys New Missiles", *Jane's Defence Weekly*, 4 August 2004; David C. Isby, "North Korea Has Deployed Intermediate-range Ballistic Missiles", *Jane's Missiles and Rockets*, 1 September 2004; Daniel A. Pinkston, "North Korea Displays Ballistic Missiles During Military Parade, Some for First Time", *WMD Insights*, June 2007, www.wmdinsights.com/116/116_EA1_NKDisplays.htm; and Charles P. Vick, "The Operational Shahab-4/No-dong-B Flight Tested in Iran for Iran & North Korea Confirmed", *Federation of American Scientists*, 10 April 2007, www.globalsecurity.org/wmd/library/report/2006/cpvick-no-dong-b_2006.htm.

²¹The North Korean name of the missile is unknown, but South Korean officials reportedly do not like the American-

coined "Toksa", probably because the name is too flashy and positive from the South Korean perspective, so American analysts use "KN-02" in discussions with ROK officials. Crisis Group interview, Seoul, 30 October 2008.

²²P'yŏngt'aek is about 60km south of Seoul, and about 100-120km south of the demilitarised zone (DMZ). To strike P'yŏngtaek, the Toksa would have to be launched just north of the DMZ, but it has never been deployed to this area. U.S. forces in Korea would view such a deployment as extremely provocative. Crisis Group interview, Seoul. For more on the KN-02, see Pinkston, "North Korea Displays Ballistic Missiles", op. cit.

²³Internal government memorandum made available to Crisis Group.

²⁴Crisis Group interview, Seoul, 30 October 2008.

against DPRK nuclear facilities if necessary, but China would certainly react negatively to any such development.²⁵

Another possibility, although unlikely, is that North Korea would use the untested Musudan as a delivery platform. Its advantage, as noted, is that it could potentially strike Guam, but it cannot be viewed as reliable without flight testing. Also, the North's suspected nuclear weapons storage sites are much closer to the bases of the second and third Nodong regiments. The Musudan missile division has three regiments and is headquartered in Yangdök-kun, South P'yöng'an province, about 80km east of Pyongyang. The first Musudan regiment is believed to be in Pakch'on, Yullyun-kun, South Hwanghae province, on the west coast, about 80km south west of Pyongyang. The second and third are on the east coast, probably at Chünghüng-ri, Hong'wön-kun, South Hamgyöng province; and Sangnam-ri, Höch'ön-kun, South Hamgyöng province.²⁶ The distance and terrain between warhead storage sites and bases make the Musudan an unlikely delivery system at present, but that could change if the Musudan were tested and warheads were redeployed.

III. RESPONSES

A. SHOOTING IT DOWN

Prime Minister Taro Aso has said the Japanese Defence Forces will shoot down the missile if it threatens to land in Japanese territory. Japan has deployed two Aegis destroyers equipped with Standard Missile-3 (SM-3) interceptors in the Sea of Japan (East Sea), and the ROK navy has deployed its Aegis destroyer to the same area, while two U.S. Aegis destroyers have stayed there after participating in a U.S.-ROK combined military exercise that concluded on 20 March.²⁷ However, the sea-based assets off the coast of North Korea may not be close enough to take the missile out in the boost phase shortly after lift-off. SM-3 interceptors are designed for mid-flight interceptions and would probably not be effective.

Any decision to intercept the missile must be made very quickly since it would take only seven to eight minutes for a North Korean missile to strike Japan and

even less to strike South Korea.²⁸ The Taepodong-2 is designed to fly to ranges far beyond South Korean and Japanese territory, and the likelihood of the missile going off course and striking South Korean territory is almost zero. Such an error in flight control would almost certainly result in the missile breaking up before any debris could reach the ROK. Seoul has deployed its Aegis destroyer to the area to monitor the launch, but for political reasons it is inconceivable that the ROK vessel would seek to intercept a missile headed east over the Pacific.

The situation is much more complicated for Japan, because even though the Taepodong-2 is designed to fly beyond its territory, the flight path of the Unha-2 space launch crosses directly overhead. That the missile or parts of the satellite would strike Japanese territory is only a very remote possibility, but if this were to occur, the DPRK would be liable for the damages, even though it has not indicated its accession or intention to accede to the Convention on International Liability for Damage Caused by Space Objects.

Tokyo also has a legitimate security concern with respect to any such projectile, but while it has the right to self-defence, the interception of the missile early in the boost phase would raise a number of political and legal issues. Shooting down a satellite or a missile that was not clearly heading directly towards Japanese territory would appear to clearly violate Japan's constitution and laws that strictly limit military actions to self-defence. Japan is prohibited from participating in collective defence, again by Article 9 of the constitution, with its renunciation of "the use of force as means of settling international disputes"; it would thus appear to be illegal for Japanese forces to intercept a missile launched at or appearing to be headed for a third country such as the U.S.

In case the missile does approach its territory, Japan does have some additional anti-missile capacity through its Patriot Advanced Capability 3 (PAC-3) system, but this covers only a limited area. It can intercept incoming missiles in the terminal phase, but the radius of the area of protection or "footprint" is only tens of kilometres, and the technology is not perfect. There are three PAC-3 batteries deployed in the Tokyo area, one near Nagoya, and one about 80km north of Tokyo. However, the defence ministry says it will deploy two units to Akita and Iwate prefectures in northern Honshu to be closer to the Unha-2's expected flight path.²⁹

²⁵ Kim Min-seok and Jung Ha-won, "North's nukes on attack radar", *The JoongAng Ilbo*, 27 March 2008.

²⁶ Internal government memorandum made available to Crisis Group.

²⁷ Yu Yong-wön and Im Min-hyök, op. cit.

²⁸ "Interception of N. Korean rocket could be ordered by defense minister", *Mainichi Shimbun*, 24 March 2009.

²⁹ "Ministry to deploy interceptor missiles in Akita, Iwate", *Asahi Shimbun*, 24 March 2009.

This would offer only limited protection, not least because the missile is only likely to come down on Japan if it breaks up in flight, and the Japanese systems are not capable of destroying falling debris.

Admiral Timothy Keating, the top U.S. commander in the Pacific, told a hearing of the Senate Armed Forces Committee looking at missile defence on 19 March that there was a "high probability" that the U.S. could shoot down the missile.³⁰ General Walter Sharp, the U.S. commander in South Korea, said a launch would be a "very clear" violation of UN Security Council resolutions.³¹ The U.S. could try to intercept it with its Aegis destroyer SM-3 interceptors or with land-based interceptors in Alaska as the missile crossed over the middle of the Pacific Ocean, but many analysts believe the U.S. would likely fail, and there would be serious political implications if the U.S. destroyed a satellite that was not associated with a missile headed towards Japan or U.S. territory.

A spokesman for the general staff of the (North) Korean People's Army has asserted that intercepting the satellite would mean war and bring "prompt counter strikes by the most powerful military means ... a just retaliatory strike operation not only against all the interceptor means involved but against the strongholds of the U.S. and Japanese aggressors and the South Korean puppets who hatched plots to intercept it".³² On 26 March 2009, the DPRK foreign ministry said that even a "presidential statement" or "press statement" by the UN Security Council would be viewed as a hostile act that would contradict the September 2005 Six-Party "Statement of Principles". It added that "ignoring the September Statement" would result in the DPRK taking "strong measures" and the denuclearisation work being reversed.³³

B. BEIJING'S INDIFFERENCE

The Chinese government has demonstrated little concern over the potential missile launch. In contrast to 2006, when the DPRK ignored strong warnings from Beijing and "slapped China in the face" with its missile tests, Beijing believes that this time the North has

communicated its intent, taken into consideration its interests and obtained its nod for a possible move.

Beijing was informed as early as January 2009.³⁴ When the head of the International Department of the Chinese Communist Party, Wang Jiarui, visited Pyongyang two days before Lunar New Year (26 January), Kim Jong-il met him to "strengthen coordination between China and North Korea to work together and push forward the Six Party Talks".³⁵ During the meeting, Pyongyang briefed Beijing on its desire to do "something" at the beginning of the Obama administration to "test the waters". Beijing asked for and obtained an assurance that Pyongyang would exercise restraint and would not let the situation develop into a major crisis that could jeopardize Beijing's core interests.³⁶ In its dealings with Western diplomats, Beijing is playing up its urging to Pyongyang to exercise restraint.³⁷

This helps to explain the Chinese foreign ministry's calm tone and apparent lack of concern over the possible missile launch. On 24 February, the ministry spokesman dismissed a question with a simple sentence: "China has noticed this development and hopes all parties will engage in more action conducive to the peace and stability of the Peninsula and the region".³⁸ One month later, on 24 March, the ministry spokesman toned up slightly by expressing "concern" over the development and hoping all sides will remain calm.³⁹ But the overall consistency of China's message on the issue indicates that it comes from the top.⁴⁰ The sharp contrast with China's exasperation in 2006 reflects that this time China was given advance notice and guarantees. The visit of Prime Minister Kim Yong-il to China

³⁴ Crisis Group interview, 26 March 2009.

³⁵ "Top DPRK leader Kim Jong-Il met with Wang Jiarui", Xinhua News, 23 January 2009, http://news.xinhuanet.com/world/2009-01/23/content_10709454.htm.

³⁶ Crisis Group interview, Beijing, 26 March 2009.

³⁷ Crisis Group interview, Western diplomat, Beijing, 23 March 2009.

³⁸ Chinese ministry of foreign affairs, press conference, 24 February 2009, www.fmprc.gov.cn/chn/xwfw/fyrth/1032/t476119.htm.

³⁹ Chinese ministry of foreign affairs, press conference, 24 March 2009, www.gov.cn/xwfb/2009-03/24/content_1267520.htm.

⁴⁰ Thinking in Beijing's policy circles is not monolithic, however. Zhang Liangui, a researcher at the International Strategic Studies Institute of the Central Party School, is far more alarmist, stating that the missile test will "very possibly" violate the sovereignty of neighbouring countries. "朝鲜火箭危机的四种结局 场意志较量在所难免 [Four possible outcomes of the missile launch crisis: a test of perseverance inevitable]", China News, 24 March 2009, www.chinanews.com.cn/gj/fxpl/news/2009/03-24/1615176.shtml.

³⁰ Foster Klug, "Commanders: U.S. ready for any North Korean missile", Associated Press, 19 March 2009.

³¹ See the Senate Armed Services Committee website for more details of the hearings, http://armed-services.senate.gov/e_witnesslist.cfm?id=3699.

³² "Lee Myung Bak group and U.S. and Japanese aggressors urged to act with discretion", KCNA, 9 March 2009.

³³ "DPRK's stand on satellite launch for peaceful purposes re-clarified", KCNA, 26 March 2009.

during 17-21 March was further used to assure China that a missile launch would not harm its interests.

C. THE UN SECURITY COUNCIL

As described above, the Security Council, in two unanimous and binding resolutions, ordered North Korea in 2006 not to launch any additional ballistic missiles. The second of those resolutions, 1718, also banned the “supply, sale or transfer” to the DPRK of both major military hardware items and “luxury goods”, instituted an asset freeze and a travel ban on those responsible for or assisting the “DPRK’s nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes” and established a committee to monitor those sanctions.⁴¹ As usual, implementation of the sanctions was left to member states, which were asked to report on their activities to the Council’s sanctions committee. That committee was also empowered to name individuals to be subjected to targeted sanctions (asset freeze and travel ban), to determine what additional military items should be on the list of banned commodities and to recommend to the Council “ways to strengthen the effectiveness” of the sanctions regime.

The sanctions regime has not worked well – in large part because it was downplayed by the key actors as soon as the DPRK rejoined the Six-Party Talks. The sanctions committee – which took a year to adopt its own guidelines and makes decisions on the basis of consensus – has not named any individuals for targeted sanctions. Since the adoption of Resolution 1718, only 73 member states and the European Union have reported on their implementation of it. During 2008, the committee received only two reports – from Luxembourg and Brunei – and its own 2008 annual report stated: “Since 1 January 2008, no information relevant to the implementation of its mandate has been brought to the attention of the Committee”.⁴²

The political rationale for allowing the sanctions regime to slip into a state of hibernation should change following the expected April test launch. Reinvigorating the process might be a way to tighten pressure on North Korea, although China and Russia can be expected to resist any new sanctions. Sanctioning mid-ranking

North Korean officials would be largely symbolic, as these individuals almost never leave the country and generally have no assets abroad, while targeting senior regime figures might well be blocked by China or Russia. The most that might be achievable in New York, therefore, would appear to be an expression of disapproval of a North Korean move that heightens tensions, a reaffirmation of existing resolutions – and that more likely in a Presidential Statement rather than another resolution – and perhaps informal encouragement for increased activity by the sanctions committee.⁴³

IV. THE SIX-PARTY TALKS

A. THE STATE OF PLAY

The Six-Party Talks last convened in Beijing from 8 to 11 December 2008 to discuss implementation of the September 2005 “Statement of Principles”, focusing on three issues: implementation of the second phase of North Korean denuclearisation (disablement) and commitments of the parties, including energy assistance to North Korea; verification of the denuclearisation of the Korean peninsula; and principles on peace and security in North East Asia.

Progress on North Korea’s denuclearisation has been slow. Under the terms of a 3 October 2007 agreement that was structured to supplement the February 2007 agreement on “Initial Actions”, the parties committed to a number of measures to complete the disablement of the nuclear facilities in Yŏngbyŏn by the end of 2007:

⁴³During the adoption of Resolution 1718, then-Chinese Ambassador Wang Guangya said that “sanctions in themselves are not the end” and that “China does not approve of the practice of inspecting cargo to and from the Democratic People’s Republic of Korea. We therefore have reservations about the relevant provisions of the resolution”. Additionally, he urged “the countries concerned to adopt a prudent and responsible attitude in this regard and to refrain from taking any provocative steps that may intensify the tension”. Russian Ambassador Vitaly Churkin said, “we reaffirm our principled position that any sanctions measures introduced by the Security Council should not remain in place indefinitely... It is important that, as a result of the resolution, full implementation by the Democratic People’s Republic of its provisions, including resumption of the Six-Party Talks, leads to a decision by the Council to lift the sanctions regime it has imposed”. See verbatim record of the Council’s 5551st meeting, 14 October 2006, S/PV.5551, available at www.un.org/Depts/dhl/resguide/scact2006.htm.

⁴¹ See the committee’s website at www.un.org/sc/committees/1718/index.shtml. The travel ban also includes family members of the listed individuals.

⁴² See the committee’s annual report at www.un.org/sc/committees/1718/annualreports.shtml. As per resolution 1718, the Committee was expected to report to the Security Council “at least every 90 days”. That has not happened.

- ❑ the DPRK agreed to provide a complete and correct declaration of all its nuclear programs;
- ❑ the DPRK agreed to disable its 5MW(e) nuclear reactor, reprocessing plant and fuel rod fabrication plant;
- ❑ the DPRK committed not to transfer nuclear materials, technology, or know-how;
- ❑ the U.S. reaffirmed its intent to fulfil its commitments to remove its designation of the DPRK as a state sponsor of terrorism and to terminate its application of the Trading with the Enemy Act (TWEA) with respect to the DPRK, but that its actions were dependent on the DPRK's fulfilment of its second-phase commitments to provide a nuclear declaration and disable its nuclear facilities;
- ❑ the DPRK and Japan agreed to make "sincere efforts" to normalise their relations; and
- ❑ the other parties reaffirmed their commitment to provide the DPRK with one million tons of heavy fuel oil (HFO), inclusive of the 100,000 metric tons that already had been delivered.⁴⁴

The 31 December 2007 second-phase deadline was unrealistic, since two difficult obstacles had to be resolved: Pyongyang's submission of its nuclear declaration and Washington's lifting of the Trading with the Enemy Act sanctions and removal of the DPRK from the State Department's terrorism list. The sequencing was contentious, and the actions had to be coordinated with the delivery of HFO to North Korea as well as the disablement measures in Yŏngbyŏn.

On 26 June 2008, North Korea submitted a declaration of its nuclear programs to China, the host of the Six-Party Talks, but Washington insisted that a verification protocol for the declaration was necessary before it would remove North Korea from the terrorism list. Pyongyang disagreed and slowed down the disablement work in protest.

During September, North Korea increased pressure by threatening to reverse the disablement work and reactivate its nuclear reactor. On 22 September, it asked International Atomic Energy Agency (IAEA) monitors to remove surveillance cameras and seals that had been installed in July 2007 under the first phase of denuclearisation.⁴⁵ Around the same time, activities were

also noted at the site of the 2006 nuclear test, although it was unclear whether preparations for another such exercise were under way.⁴⁶

The U.S. envoy, Assistant Secretary of State Christopher Hill, visited Pyongyang on 1-3 October 2008 and reached a vague verification agreement with the DPRK foreign ministry.⁴⁷ U.S. negotiators carried a detailed list of verification measures, but North Korea refused to allow environmental sampling and the removal of samples from the country, in addition to other intrusive activities. The two sides ultimately agreed to ambiguous diplomatic language that included "scientific principles", but they have not been able to agree on what this encompasses, or where the verification activities could be applied. The U.S. claims there was agreement that verification would be applied comprehensively to "the plutonium-based program and any uranium enrichment and proliferation activities". Representatives of the State Department's Bureau of Verification, Compliance and Implementation did not accompany Hill to Pyongyang and take part in the negotiations.⁴⁸

On 11 October 2008, the Bush administration declared it would remove the DPRK from the terrorism list. The following day, the DPRK foreign ministry announced that North Korea would resume disablement work, which has continued in 2009.⁴⁹ The Bush administration attempted to have the bilateral verification understanding converted into a detailed and binding formal protocol by the Six Parties in Beijing in December 2008, but differences remained after conclusion of the talks. The process is now stalled over disagreements on the verification of North Korea's declaration and how energy assistance and disablement should proceed.

North Korea's nuclear declaration has not been made public, but the document reportedly is in English and

⁴⁴"Six Parties October 3, 2007 Agreement on 'Second-Phase Actions for the Implementation of the Joint Statement'", 3 October 2007.

⁴⁵Mark Heinrich, "ElBaradei says N. Korea asks UN to back off from nuclear site", Reuters, 22 September 2008; 이상민

(Yi Sang-min), "北 핵시설 중단...한반도 핵경고등 1단계 OFF [North's nuclear facilities shut down ... first step of Korean Peninsula nuclear warning is OFF]", *Segye Ilbo*, 16 July 2007.

⁴⁶Jin Dae-woong, "N Korea repairing nuke reactor", *The Korea Herald*, 2 October 2008; Choe Sang-hun and Helene Cooper, "U.S. official prolongs N. Korea talks", *The New York Times*, 2 October 2008.

⁴⁷Glenn Kessler, "U.S. drops North Korea from terrorism list", *The Washington Post*, 12 October 2008.

⁴⁸Lee Chi-dong, "Sampling core part of verification deal with N Korea: U.S. official", Yonhap News Agency, 1 December 2008.

⁴⁹"Foreign ministry spokesman on DPRK's will to cooperate in verification of objects of nuclear disablement", KCNA, 12 October 2008; "IAEA to resume monitoring of N.Korea denuclearization", *The Chosun Ilbo*, 15 October 2008.

about 60 pages.⁵⁰ Crisis Group sources and media have reported that it did not meet expectations and does not include information about nuclear weapons or nuclear weapons facilities.⁵¹ It reportedly does address the plutonium program, and the DPRK is also said to have acknowledged U.S. concerns over uranium enrichment activities and nuclear proliferation in a separate two-page “confidential minute” provided to Washington in April 2008.⁵² In January 2009, North Korean officials said the declaration lists 30.8kg of plutonium, enough for about five to seven bombs, but that the plutonium has now been weaponised.⁵³ The 30.8kg figure is on the lower end of the DPRK’s estimated plutonium inventory but is plausible. North Korea’s total plutonium stockpile depends on the past operation of its nuclear reactor and the efficiency of its reprocessing operations.

Prior to the December 2008 Six-Party Talks in Beijing, representatives from Japan, South Korea, and the U.S. met in Tokyo to draft a unified position on verification of North Korea’s nuclear declaration, including the issue of sampling and the need to establish a clear verification protocol before moving on to the third, dismantlement phase. Their common view has been that verification cannot be partitioned and stretched out into the third phase for further negotiation.⁵⁴ Nevertheless, the talks in Beijing deadlocked over verification, especially the issues of access and environmental sampling.

The North Korean delegation reportedly was unwilling to compromise. Ambassador Kim Sook, the then head of the South Korean delegation, believes there was a serious misunderstanding between Washington and Pyongyang over the interpretation of the written agreement that was reached during the October bilateral negotiations. Kim says several core elements of verification must be resolved, including the meaning of “scientific procedures”, which the U.S. inserted

into the draft in lieu of specific activities that North Korean negotiators found objectionable.⁵⁵

In sum, the talks are now blocked by the following immediate obstacles: completion of a verification protocol; completion of energy assistance for disablement; and the remaining disablement measures. The process needs time for the Obama administration to formulate its North Korea policy and to assemble its negotiating team. Stephen Bosworth, a former ambassador to Seoul and former executive director of the Korean Peninsula Energy Development Organisation (KEDO), was appointed to lead the U.S. Six-Party Talks delegation on 20 February 2009.⁵⁶

On 2 March 2009, South Korea likewise named a new head of delegation, Wi Sung-lak (Wi Söng-nak),⁵⁷ a career diplomat who was on the National Security Council from 2004 to 2007. He has also served as minister for political affairs at the ROK embassy in Washington and as director of the North American Affairs Bureau at the ministry of foreign affairs and trade, and is considered an expert on the U.S. and on the North Korean nuclear issue.⁵⁸

Seoul is eager for the Six-Party process to move forward, and is willing to support effective approaches. Foreign Minister Yu Myung-hwan and other senior officials repeatedly have expressed the government view that any missile launch, even if configured as a satellite booster, would violate Security Council Resolutions 1695 and 1718. The government has suggested it might respond to a DPRK satellite launch by joining the Proliferation Security Initiative (PSI) the U.S. developed in 2003,⁵⁹ but the government is still unde-

⁵⁰“N. Korea destroys nuclear reactor tower”, CNN, 27 June 2008; “Analysis: long-awaited nuclear papers from North Korea answer few questions, raise others”, Associated Press, 27 June 2008.

⁵¹ Ibid; Crisis Group interviews, Seoul.

⁵² Christopher R. Hill, “North Korean Six-Party Talks and Implementation Activities: Statement before the Senate Committee on Armed Services”, 31 July 2008; “Analysis”, Associated Press, op. cit.

⁵³ Chris Buckley, “N.Korea says plutonium ‘weaponised’ and off-limits”, Reuters, 17 January 2009.

⁵⁴ Crisis Group interview, Ambassador Kim Sook, Special Representative for Korean Peninsula Peace and Security Affairs, Seoul, 13 January 2008.

⁵⁵ Ibid.

⁵⁶ Christopher Hill has been nominated to become U.S. ambassador to Iraq and has been replaced as special envoy by Bosworth, who is currently Dean of the Fletcher School of Law and Diplomacy at Tufts University. Jung Sung-ki, “Bosworth appointed as U.S. envoy on N. Korea”, *The Korea Times*, 20 February 2009.

⁵⁷ Wi replaced Kim Sook on 2 March 2009. Kim has been appointed deputy director of the National Intelligence Service. “S. Korea names Wi Sung-lac as new nuclear envoy”, Yonhap News Agency, 2 March 2009.

⁵⁸ 임민혁 [Im Min-hyök], “6자회담 수석대표에 위성락 [Wi Söng-nak to head Six-Party Talks]”, *The Chosun Ilbo*, 3 March 2009; 정상원 [Chöng Sang-wön], “위성락 신임 한반도평화교섭본부장 ‘6자회담에 도움 된다면 北美 양자접촉도 긍정적’ [Wi Söng-nak appointed head of Korean Peninsula peace negotiations ‘yes to North-U.S. bilateral contacts if helpful for Six-Party talks’]”, *The Hankook Ilbo*, 3 March 2009.

⁵⁹ The PSI, which has as its objective “to stop trafficking of weapons of mass destruction (WMD), their delivery systems,

cided and cautious about the possible impact on inter-Korean relations, which are in a deep chill. However, Seoul will support U.S.-DPRK negotiations on ballistic missiles whether inside or outside the Six-Party format.⁶⁰

Tokyo, on the other hand, is unwilling to provide any positive incentives or gestures towards Pyongyang until satisfactory progress is made in resolving the bilateral abduction issue. Domestic politics make it very difficult to modify the current hardline policy towards Pyongyang, and this would be reinforced by a satellite launch. Japan runs the risk of becoming marginalised in the Six-Party process and could come to feel increasingly frustrated if the U.S. begins new initiatives to engage North Korea after the missile launch issue subsides.

B. BREAKING THE DEADLOCK

The September 2005 Statement of Principles is an arrangement that if implemented would leave all the parties better off. However, the final objectives cannot be met simultaneously in a simple transaction; all the deliverables are complex and require years to implement. Naturally, each party wants to receive its benefits up front. If North Korea is bargaining in good faith, it would like to keep its weapons and fissile material for as long as possible, even if it must surrender them after the other parties have delivered on their promises of economic assistance, credible security assurances and normalised political relations. Of course, this is unacceptable to the other parties, particularly Japan, South Korea and the U.S.

On the other hand, North Korea rejected the Bush administration's initial bargaining position, whereby Washington insisted on complete, verifiable and irreversible dismantlement (CVID) of the DPRK nuclear program before it would enter into a discussion of rewards for Pyongyang. The sequencing of obligations and deliverables, or what Pyongyang calls "actions for actions", should be central to implementation.

The first priority is to secure North Korea's nuclear weapons and fissile material. This will be difficult, but reasonable compromises may be able to shorten

the timeline. These might require an earlier discussion of North Korea's desire to acquire light water nuclear power reactors than Washington would desire, but that would force Pyongyang to take steps to rejoin the Nuclear Non-Proliferation Treaty (NPT) and conclude a safeguards agreement with the IAEA. The other parties should insist that the DPRK sign an Additional Protocol agreement with the agency as long as it expresses a desire to invoke the NPT Article IV right to the peaceful use of nuclear technology.

The Six-Party Talks structure should be maintained, but giving it an expanded agenda could increase the opportunity for issue linkages that the DPRK could view as justification for further cooperation on denuclearisation, which is the most critical international security concern. Pyongyang wants direct, high-level contacts with the U.S., in part for prestige but also to sideline Japan and the South. Direct contacts need not necessarily cause tensions among Seoul, Tokyo and Washington, however, as long as these continue to be conducted under the general umbrella of the Six-Party Talks and the three capitals coordinate with Beijing and Moscow to formulate a general package of incentives that can be offered to Pyongyang in the Six-Party process.

Such a package might include diplomatic relations, a formal end to the Korean War and expanded economic development assistance.⁶¹ Since the North Korean satellite launch is likely to go forward, a "cooling off period" – probably a few months – will have to pass before such proposals can avoid the labels of "appeasement" or "rewarding bad behaviour". However, the launch does not mean the Six-Party process or these proposals should be abandoned.

The Bush administration's approach of periodic switches between a hard line and awkward multilateral diplomacy did not produce improvements in regional security; indeed North Korea tested a nuclear weapon, expanded its missile program and sold technology and weapons around the world. President Obama said during the election campaign that he was willing to reach out to nations included in the Bush administration's "axis of evil" and has already done so with Iran.

and related materials to and from states and non-state actors of proliferation concern", claims the support of some 90 states, according to the U.S. State Department. www.state.gov/t/isn/c10390.htm.

⁶⁰Kim Ji-hyun, "[Herald Interview] 'Security Council decision will hold the key'", *The Korea Herald*, 16 March 2009; Kim Ji-hyun, "[Herald Interview] 'Missile launch may lead to PSI review'", *The Korea Herald*, 16 March 2009.

⁶¹See, for example, Leon V. Sigal, "What Obama Should Offer North Korea", *Bulletin of Atomic Scientists*, 28 January 2009 at www.thebulletin.org/web-edition/features/what-obama-should-offer-north-korea; and Peter M. Beck, "Can We Reach a Nuclear Deal with North Korea?", 19 March 2009, *Nautilus.org*, at www.nautilus.org/fora/security/09022Beck.html.

All that said, there appears to be little appetite in Washington for a new level of intensity in engagement with the North, even if it reduces tensions.⁶² Several key figures in the Republican Party, including the recent losing presidential candidate, Senator John McCain, remain particularly sceptical. North Korea has earned a deservedly bad reputation for arms sales, human rights abuses, drug trafficking and refusal to accept many international norms, which makes it politically difficult for many legislators to support engagement, even when it could result in enhanced U.S. security, and a new missile launch will not make that any easier. The administration is burdened with an economic crisis as well as many other foreign policy priorities with greater domestic resonance, but mismanagement or inattentiveness could lead to inadvertent escalation in North East Asia.

V. CONCLUSION

As it has so often in the past, North Korea is presenting the international community with a provocation and an array of unpleasant response options. In preparation for launching its satellite, it joined the Outer Space Treaty and alerted UN maritime and aviation authorities as required by international law. But it has chosen under even the most benign interpretation to circumvent UN Security Council resolutions as well as to defy its interlocutors in the Six-Party Talks.

If the missile launch goes forward, domestic political pressures, particularly in the U.S. and Japan, will push for strong punitive measures. A tough response such as using missile defences against the rocket might please domestic constituencies but history has shown that pressure alone is very unlikely to influence Pyongyang's behaviour in a positive way. It would likely result in the demise of the talks to end North Korea's nuclear program and also worsen tensions on the Korean peninsula and promote hardliners in Pyongyang at a time when the North is facing strains over succession issues. In the worst case, it could risk a war with potentially devastating damage to South Korea, Japan and the world economy.

A more moderate line may appear to appease or accept North Korea's defiance or at least indifference to the international will expressed by the Security Council, but China and Russia are unlikely to allow full implementation of the existing sanctions regime, let alone additional sanctions. Without especially China on board,

the present sanctions are already mostly ineffectual. Divisions at the Security Council and among the Six-Party members only enhance North Korea's position and divert attention from the need to resolve the main security threats – nuclear weapons already in the hands of a weak and potentially unstable state and their possible further proliferation.

What is needed is a measured response followed by a revised approach to negotiations, one that is anchored in the Six-Party Talks but makes greater efforts to structure within it a broader set of interests and more balanced sequencing of actions that can avoid the familiar pattern of stalemate and threatened breakdown that has hitherto characterised the process. Such more consistent and intensive engagement would probably move the process of achieving North Korean denuclearisation forward faster but will be difficult to achieve given political circumstances in Japan, South Korea and the U.S., especially in the wake of a North Korean satellite launch. Without a commitment to such an approach, however, all sides may have to satisfy themselves with a process that is as likely to see as many steps backwards as forwards.

Seoul/Brussels, 31 March 2009

⁶²Crisis Group interviews, U.S. officials and Congressional staffers, March 2009.

APPENDIX A

MAP OF NORTH KOREA

