

V. The Hague Code of Conduct against Ballistic Missile Proliferation

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The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) is a multilateral transparency and confidence-building measure covering ballistic missile and space-launch vehicle programmes, policies and activities.¹ By subscribing to the HCOC, states commit to curbing the proliferation of ballistic missile systems capable of delivering weapons of mass destruction (WMD) and to exercising ‘maximum possible restraint’ in the development, testing and deployment of ballistic missiles.² The HCOC was developed from discussions within the framework of the Missile Technology Control Regime (MTCR) in 2002, but created as an independent politically binding instrument that is complementary to the MTCR.³ The HCOC is open for subscription by all states and the number of subscribing states has increased from 93 at its inception to 143 today. Since Somalia joined in February 2020, no additional states have subscribed to the HCOC.⁴ Subscribing states commit to several transparency measures, including providing non-public annual declarations on their national ballistic missile and space-launch vehicle programmes and policies, which is done through a restricted website managed by Austria in its role as the HCOC Immediate Central Contact (Executive Secretariat).⁵ Via this website, they also exchange pre-launch notifications on launches and test flights of ballistic missiles and space-launch vehicles.⁶ However, the HCOC does not include a verification mechanism for subscribing states’ declarations and notifications.

Current trends in ballistic missile proliferation

In 2022 at least 27 states possessed ballistic missiles—including all the nuclear weapon possessor states—compared to 34 when the HCOC was created in 2002. However, during the same time period, the number of different types of ballistic missile deployed has increased significantly. This reflects both the

¹ Hague Code of Conduct (HCOC), ‘The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC)’, accessed 22 Feb. 2023.

² HCOC, ‘Text of the HCOC’, accessed 22 Feb. 2023.

³ Van Diepen, V. H., ‘Origins and development of the Hague Code of Conduct’, HCOC Research Paper no. 11, Oct. 2022; and Brockmann, K., ‘Controlling ballistic missile proliferation: Assessing complementarity between the HCOC, MTCR and UNSCR 1540’, HCOC Research Paper no. 7, June 2020.

⁴ HCOC, ‘List of HCOC subscribing states’, accessed 22 Feb. 2023. For a list of subscribing states, also see annex B, section II, in this volume.

⁵ HCOC (note 1).

⁶ HCOC, ‘How to join HCOC’, accessed 22 Feb. 2023.

phasing out of old Soviet-era ballistic missiles by many states and the vertical proliferation of ballistic missiles among a small number of states with significant ballistic missile programmes. In contrast, the number of states possessing cruise missiles—which are outside the scope of the HCOC—has increased sharply since the creation of the HCOC, from 3 in 2002 to at least 25 in 2022.⁷ Proliferation concerns about ballistic missiles remain, especially linked to regional dynamics in the Middle East, Europe and East Asia, and regarding non-state actors.⁸ To circumvent scrutiny or export control mechanisms, an increasing number of states and a few non-state actors have become missile producers. The emergence of new missile technologies, including hypersonic boost-glide vehicles, also pose new challenges in the fight against missile proliferation.⁹

The 21st annual regular meeting

The 21st annual regular meeting (ARM) of the HCOC took place in Vienna on 30–31 May 2022. At the meeting, Nigeria assumed the chair for the 2022–23 period.¹⁰ The significant number of missile tests conducted by North Korea in violation of United Nations Security Council resolutions was identified as a particular source of concern for subscribing states.¹¹ Several states continued to argue for the expansion of the scope of the HCOC to include cruise missiles and to develop definitions of the types of activity that require the issuing of pre-launch notifications, but no agreement was reached.

Like many other multilateral arms control instruments, the meeting was impacted by Russia's invasion of Ukraine in February 2022. Specifically, Western states denounced Russia's actions while Russia levelled accusations against Ukraine, leading to walkouts from the meeting.¹² The meeting ended prematurely on 30 May due to insurmountable differences over the inclusion

⁷ Wright, T., 'Evolution and relevance of the Hague Code of Conduct today', Presentation delivered at the conference 'Marking 20 Years of HCOC', 1 June 2022, Vienna, Austria.

⁸ Iran Project (IP) and the European Leadership Network (ELN), *Ballistic Missiles and Middle East Security: An Alternative Approach* (IP/ELN: Jan. 2022); and Héau, L. and Maitre, E., 'The Hague Code of Conduct and Southeast Asian states', HCOC Issue Brief, Oct. 2021.

⁹ Borrie, J., Dowler, A. and Podvig, P., *Hypersonic Weapons: A Challenge and Opportunity for Strategic Arms Control* (UNIDIR/UNODA: New York, Feb. 2019); and Brockmann, K. and Stefanovich, D., *Hypersonic Boost-glide Systems and Hypersonic Cruise Missiles: Challenges for the Missile Technology Control Regime* (SIPRI: Stockholm, Apr. 2022).

¹⁰ Foundation for Strategic Research (FRS), 'Nigeria is the new HCOC chair for 2022–2023', 30–31 May 2023.

¹¹ Delegation of the European Union to the International Organisations in Vienna, EU statement at the 21st Annual Regular Meeting of the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) as delivered on 30 May 2022, 30 May 2022; and Japanese Ministry of Foreign Affairs, Statement by Japan at the 21st Regular Meeting of the Hague Code of Conduct against Ballistic Missile Proliferation, 30 May 2022.

¹² Delegation of the European Union to the International Organisations in Vienna (@euunvie), Twitter, 30 May 2022, <<https://twitter.com/euunvie/status/1531276632853471234>>.

of references to Russia's invasion of Ukraine in the customary public statement. Despite the ongoing conflict, the HCOC's transparency and confidence-building measures remained operational, including for missile test launches.¹³

Outreach activities

In 2022, subscribing states continued to focus their efforts on the universalization of the HCOC by conducting a range of outreach activities targeting non-subscribing states. Argentina, as HCOC chair in 2021–22, participated in the 28th Asian Export Control Seminar on 15–17 February 2022 and presented on the HCOC and the latest efforts to strengthen the code under its chairpersonship. On 16–17 March 2022, Japan and France co-organized a session on strengthening the activities of the HCOC as part of the 17th Asia Senior-Level Talks on Non-Proliferation.¹⁴ In addition, subscribing states, the European Union (EU) and the Foundation for Strategic Research (FRS), as part of its EU-funded project supporting the HCOC, organized an outreach event to mark the 20-year anniversary of the HCOC; and the FRS organized an outreach seminar with member states of the Association of Southeast Asian Nations and an expert mission to the United Arab Emirates.¹⁵ France, in cooperation with the FRS, organized a visit to the Guiana Space Centre in Kourou, French Guiana, on 13–16 December, inviting international observers to the spaceport. France stressed that the visit also served as a transparency measure, as provided for in the HCOC, and involved both subscribing and non-subscribing states.¹⁶

United Nations General Assembly resolutions in support of the HCOC

Subscribing states have submitted biannual resolutions to the UN General Assembly since 2004, both to garner support for the HCOC and to demonstrate the legitimacy of the instrument. The voting record for the resolutions provides a helpful indicator of the success of the HCOC. It also shows trends in political support for missile non-proliferation and for restraint and transparency in activities related to missiles and space-launch

¹³ United States Air Force Space Operations Command, 'Unarmed Minuteman III test launch to showcase readiness of US nuclear force's safe, effective deterrent', 15 Aug. 2022.

¹⁴ Japanese Ministry of Foreign Affairs, 'The 17th Asia Senior-Level Talks on Non-Proliferation (ASTOP)', Press release, 18 Mar. 2022.

¹⁵ See e.g. Foundation for Strategic Research (FRS), '20th anniversary of the HCOC', 1 June 2022; FRS, 'Marking 20 years of the Hague Code of Conduct: FRS side-event in the margins of the UNGA First Committee', 11 Oct. 2022; FRS, 'Virtual seminar dedicated to ASEAN countries', 5–6 Apr. 2022; and FRS, 'Ballistic missile proliferation in the Middle East: What role for CBMs such as the HCOC?', 17 May 2022.

¹⁶ French Ministry for Europe and Foreign Affairs, Directorate for Strategic Affairs, Security and Disarmament (@francediplo_ASD), Twitter, 15 Dec. 2022, <https://twitter.com/francediplo_ASD/status/1603282402742345731>; and FRS, 'Visit of the Guyanese Space Centre (CSG)', 13–16 Dec. 2022.

Table 10.3. The voting record for United Nations General Assembly resolutions in support of the Hague Code of Conduct against Ballistic Missile Proliferation

	Date adopted	Number of states		
		In favour	Against	Abstentions
Resolution 77/58	7 Dec. 2022	167	2	9
Resolution 75/60	7 Dec. 2020	176	1	10
Resolution 73/49	5 Dec. 2018	171	1	12
Resolution 71/33	5 Dec. 2016	166	1	16
Resolution 69/44	2 Dec. 2014	162	1	17
Resolution 67/42	3 Dec. 2012	162	1	20
Resolution 65/73	8 Dec. 2010	162	1	17
Resolution 63/64	2 Dec. 2008	159	1	18
Resolution 60/62	8 Dec. 2005	158	1	11
Resolution 59/91	3 Dec. 2004	161	2	15

Sources: Foundation for Strategic Research (FRS), 'UNGA resolutions', accessed 22 Feb. 2023; and United Nations Digital Library, 'Voting data', accessed 22 Feb. 2023.

vehicles (see table 10.3). On 11 October 2022, Nigeria submitted the biannual resolution to the First Committee of the UN General Assembly.¹⁷ Identical in content to the previous resolution, it was adopted as Resolution 77/58 on 7 December 2022 with 167 votes in favour, 2 against (Iran, Central African Republic) and 9 abstentions. The lower number of votes in favour can largely be attributed to a lower number of states voting on the resolution. The Central African Republic was the first subscribing state to vote against the biannual resolution. Madagascar switched from abstaining to voting in favour of the resolution, bringing the number of states abstaining to a record low.¹⁸

Conclusions

The effectiveness of the HCOC over 20 years in curbing ballistic missile proliferation is difficult to discern. The rate of submission of annual declarations and pre-launch notifications is not public, and the number of ballistic missile possessor states does not in itself provide an adequate metric of success. The rate of support for the biannual UN General Assembly resolution on the HCOC is one limited indicator of the code's political support (including beyond HCOC subscribing states), as is the continuation of the transparency and confidence-building measures despite the war in Ukraine. However, the HCOC's focus on restraining the development and proliferation of ballistic missiles capable of delivering WMD appears increasingly out of step with technological developments and broader missile proliferation trends.

¹⁷ United Nations, General Assembly, 'General and complete disarmament: The Hague Code of Conduct against Ballistic Missile Proliferation', 77th session, First Committee, Agenda item 99 (z), A/C.1/77/L.29, 11 Oct. 2022.

¹⁸ United Nations Digital Library, 'The Hague Code of Conduct against Ballistic Missile Proliferation: Resolution / adopted by the General Assembly', A/77/385, 7 Dec. 2022.