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INTRODUCTION

The development of ballistic missile programs of all types ⁽¹⁾ is considered a great challenge, impeding the achievement of international peace and security. Especially since these missiles are capable of carrying nuclear warheads and reaching far regions of the planet. Therefore, once some countries were involved within the development of ballistic missile programs, such as North Korea and Iran, the international community, represented in the UN Security Council, quickly took a set of decisions that imposed sanctions on these two countries, as they constitute a threat to international peace and security through their actions and Activities to develop nuclear and ballistic missile programs. However, this, of course, does not undermine the peaceful uses of these missiles, which are mainly represented in the exploration of outer space.

In fact, the imposition of international sanctions is usually seen as a quick tool to achieve compliance with international legal rules, but on the other hand, it shows or reveals the weakness of the legal framework or the set of rules regulating a particular issue, as is that the case with ballistic missiles. The review of the legal framework regulating ballistic missile programs clarifies that it is a framework tainted by the ambiguity and the deficiency. The legal framework regulating ballistic

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¹() Ballistic missiles can be classified into five classes based on the range: near range (less than 300 km), short range (300 to 1,000 km), mediate range (1,000 to 3,000 km), intermediate range (3,000 to 5,500 km), and intercontinental range (more than 5500 km).

missile programs is quite incomplete and soft, which in turn leads to the existence of many loopholes that countries are trying to exploit to develop ballistic missile programs, and use them not only for peaceful purposes, but for military purposes as one of the deterrence tools recognized among states. Despite the danger of these missiles to global stability, some countries are still working on developing them, ignoring the extent of their danger, and disregarding the relevant UN Security Council resolutions. This indicates the fragility and weakness of the international legal framework regulating these missiles, and its violation by some countries.

I. THE EMERGENCE AND DEVELOPMENT OF BALLISTIC MISSILE PROGRAMS

The interest in the use of missiles and rockets in warfare goes back to Sir William Congreve since 1800, in the context of his concern to develop the capabilities of the British Army on the battlefield. However, the real development of these weapons did not appear sufficiently until the twentieth century, specifically in the midst of the Second World War. The first ballistic missile manufactured in Nazi Germany during this war was the V-2 missile, which was invented by Walter Dornberger and Werner von Braun, and was first utilized in 1944 to attack the English capital – London ⁽²⁾. During World War II, more than 3,000 V-2 missiles were launched against Allied cities. Since then, the major countries have been interested in this sort of missiles. For example, the Union of Soviet Socialist Republics and the United States of America were able, after a decade, to design intercontinental ballistic missiles (ICBMs), capable of reaching the other side of the world, by counting on the Nazis technology and designs, most notably the V-2 missile design.

In the beginning, the Soviet Union focused on developing a missile system that is capable of attacking European targets, but this tactic changed in 1953, when the trend was to develop an intercontinental ballistic missile capable of carrying hydrogen bombs that had been developed at that point. Indeed, the Soviets succeeded in building the R-7 missile, the first successful test of which was conducted on August 21, 1957. This missile was the world's first ICBM, with a

² - Clayton K. S. Chun. (2006). Thunder over the Horizon: From V-2 Rockets to Ballistic Missile, London, Praeger Security International, pp.41-50.

range of more than 6000 km. While in the United States of America, there was no real priority at first to develop intercontinental ballistic missiles. This matter changed a lot with the Soviet Union testing the first hydrogen bomb on November 22, 1955, as Washington began to be interested in the Atlas D missile program⁽³⁾, which entered military service on September 1, 1959, after undergoing a number of successful tests on November 28, 1958, and July 9, 1959. These missiles and their launchers were used in the development of space exploration programs in both the Soviet Union and the United States of America. For example, it was the R-7 launch pad that contributed to the successful launch of Russia's first satellite into space, Sputnik, on October 4, 1957. The Atlas, Redstone, Titan, and Proton missiles were also the basis of the USA space launch systems.

In the context of the Cold War and the frantic arms race between the two superpowers, the number of intercontinental ballistic missiles and submarine-launched ballistic missiles (SLBMs) was constantly increasing in both the United States and the Soviet Union. For example, in 1967, there have been 1,054 ICBMs and 656 SLBMs in the United States. With the increase in the cost of deploying these missiles, the two powers entered into discussions to limit strategic arms, which resulted in the conclusion of a number of bilateral agreements, such as the SALT and START treaties, which will be mentioned later.

In addition, some other countries have developed ICBM capabilities since the 1970s. France began developing and operating some ballistic missiles in 1971, like the M1 underwater missile, and the S2, a strategic surface-to-surface missile. France currently has M45 and M51 ballistic missiles, as well as submarine-launched ballistic missiles. Also, Israel began the process of developing the "Jericho" ballistic missile program in 1963, which resulted in the Jericho 1 missile in 1971, a short-range ballistic missile. The Jericho 2, a long-range solid-fuel ballistic missile system, with an estimated range of 7,800 km, was tested from 1987 to 1992. Finally, the Jericho 3, which has a payload capacity of 1,000 kg and a range of more than 5,000 km.

Moreover, China was able to develop the first intercontinental ballistic missile in 1965 (Dongfeng missile "DF-4"), with an estimated range of 5,500 to 7,000 km. It then replaced it with the DF-31 missile, which was first tested in 1999 and deployed in 2009. Additionally, China has been working on developing the DF-41 missile, which has an estimated range of 12,000-14,000 km, and underwent its first test in 2012. In parallel, China is developing submarine-launched ballistic missiles, called JL-2, which was also tested in

2012. This is beside to the various missile programs of other countries, such as the United Kingdom, India, North Korea, Iran, South Korea, Taiwan, Pakistan, Iraq, Egypt, Germany, Ukraine and Argentina⁽⁴⁾.

Perhaps the foremost important ballistic missile programs at the moment are the Iranian and North Korean missile programs. North Korea began its missile program in 1998, when it announced that it had used a Taepodong-1 missile to launch North Korea's first satellite. This missile was the initial stage for the development of a long-range missile, the Taepodong-2, whose first test was conducted in July 2006. Although the missile failed the test, it is believed that its range could reach 5,900 km, making it the first intercontinental ballistic missile for North Korea. International pressure and trade sanctions have not complimented Pyongyang for developing, improving and diversifying its missile and nuclear fleet, as its nuclear program, announced in 2003, focuses on developing nuclear warheads for short, medium and long-range ballistic missiles. North Korea's arsenal consists mainly of short-range Scud missiles and a number of longer-range Nodong and Taepodong missiles⁽⁵⁾. North Korea has also contributed to the development of ballistic missile programs in a number of countries through the export of this type of missile or the transfer of related technologies. In November 2010, the United Nations Committee of Experts⁽⁶⁾ revealed that there is an exchange of ballistic missile technology between North Korea and Iran, Syria and Myanmar. This cooperation resulted in the transfer of missile components as well as ready-made missiles to Iran, such as the BM-25, Shahab 1, 2, 3 and designing and construction of a thermal reactor in Deir Ezzor⁽⁷⁾.

It goes without saying, that this cooperation helped Iran to develop its ballistic missile program since 1987, by trying to develop the Shahab 1 missile with a range of 1,000 km, which was improved in the Shahab 2 version with a range of up to 2,000 km, and which was first tested in 2006. Also, cooperation has led Between Iran and North Korea to develop the Shahab-3 missile with a range of up to 1,280 km. Among other missiles developed by Tehran: the Kosar missile, which was based on the Russian RD-216 engine and has a range of up to 5,000 km⁽⁸⁾. Currently, Iran possesses an arsenal of short and medium-range ballistic missiles. Short-range ballistic missiles can reach targets in Iraq,

⁴ - Andrew Feickert. (2004). *Missile Survey: Ballistic and Cruise Missiles of Foreign Countries*, CRS Report for Congress, March, p.3.

⁵ - Ibid, p.9.

⁶ - This Committee was established by Security Council resolution 1718 (2006). (S/RES/1718 (2006)), para. 12.

⁷ - Report of the Panel of Experts. (2010). <https://www.undocs.org/S/2010/571>.

⁸ - Daniel Montero Yéboles. (2015). *Analysis and optimization of trajectories for Ballistic Missiles Interception*, "PhD dissertation", Madrid: Universidad Politécnica de Madrid, p.16.

³ - Jacob Neufeld. (1990). *the development of ballistic missiles in the Unites States Air Force (1945- 1960)*, Washington, U.S. government printing office, p.106.

Syria and the Arab Gulf states, with a range of 300 to 750 km. This category includes Fateh, Shehab and Scud missiles, and their launchers reach 100. As for the Iranian medium-range ballistic missile (MRBM), it has a range of 2,000 kilometers, allowing it to reach Israel, Lebanon and parts of Eastern Europe. It is of particular concern if Iran develops nuclear warheads. This category includes the Shahab-3, Sejil and Khorramshahr missiles, and their launchers are estimated at 50 mobile platforms. To fortify its missile program, Iran, since 2008, has built underground buildings and facilities to store, produce, protect and hide ballistic missiles⁽⁹⁾.

II. THE INTERNATIONAL LEGAL FRAMEWORK REGULATING BALLISTIC MISSILES

It can be said that the international legal framework regulating ballistic missiles is soft and non-binding, because there is no international agreement yet that prohibits or restricts the use of ballistic missiles for military purposes. Even as for the bilateral agreements signed between the United States of America and the former Soviet Union to limit strategic arms, its situation has become bleak in light of the withdrawal of the United States of America from most of them, as well as the termination of some of them.

Anyway, we can talk about the international legal framework regulating ballistic missiles through the following three points:

a) *International Legal Framework*

This framework relates to The Hague Code of Conduct against Ballistic Missile Proliferation (HCoC) or the soft Law. This Code is the only international instrument regulating ballistic missiles. Therefore, the United Nations General Assembly took the initiative to recognize this Code as an important component of the broad international framework of agreements aimed at preventing the proliferation of weapons of mass destruction and contributing to arms control and disarmament, given the growing regional and global security challenges posed by the proliferation of ballistic missiles. This Code came into force on November 25, 2002⁽¹⁰⁾.

The Code aims to contribute to strengthening international peace and security by encouraging global efforts to curb the proliferation of ballistic missiles, as one of the most popular means of transportation for weapons of mass destruction such as nuclear

warheads¹¹. The reason behind the concluded of this Code was the development of ballistic missile programs by the People's Republic of Korea (North Korea) and the Islamic Republic of Iran in the 1990s. This has led members of the Missile Technology Control System to re-evaluate their strategy to limit ballistic missile proliferation, by restricting access to related technologies. The Missile Technology Control System⁽¹²⁾, established in 1987, plays an important role in limiting the proliferation of WMD delivery systems by restricting exports of missiles capable of delivering at least 500 kg payload, and missiles that deliver chemical, biological or nuclear weapons as well as the necessary technologies⁽¹³⁾.

As a means of limiting the proliferation of weapons of mass destruction, the 34 member states of this system, with the support of the European Union, proposed the establishment of a politically binding code to combat ballistic missile proliferation, in order to encourage the international community to be more transparent regarding the development of ballistic missiles and peaceful space programs. In addition, the purpose of concluded this Code was to serve as a warning system before making launching operations of this type of missile. Given the possibility of using ballistic missiles for peaceful purposes such as launching satellites and space exploration, it was agreed to develop this Code in a consensual manner and to be based on the voluntary implementation of states.

Indeed, the Code was concluded and became consist of a set of general principles, modest commitments, and limited confidence-building measures, which aim to try to limit the proliferation of ballistic missiles and increase transparency and confidence among nations in this area. This means that this Code is based on an informal political understanding between countries that seek to limit the proliferation of ballistic missiles and the technological capabilities needed to possess them. Hence, the Code depends primarily on its enforcement on voluntary political compliance rather than on submission to international treaties that bind its parties⁽¹⁴⁾.

¹¹ - Fabio Tronchetti. (2015). "Legal aspects of the military uses of outer space". Frans von der Dunk & Fabio Tronchetti (eds.), Handbook of Space Law, UK and USA: Edward Elgar Publishing Limited, pp. 346- 348.

¹² () The Missile Technology Control System (MTCR), is an informal consortium or coalition of 35 countries including France, the United States of America, Italy, Germany, Canada, Japan and Britain, aims to limit the proliferation of missiles and unmanned aerial systems capable of delivering 500 payloads kg with a minimum distance of 300 km, as well as systems intended for the delivery of weapons of mass destruction. For more, please review the official website of this coalition at the following link: <https://mtcr.info/public-documents/>.

¹³ - Nicolas Kasprzyk et al., (2016). The Hague Code of Conduct against Ballistic Missile Proliferation: Relevance to African states, Institute for Security Studies: Policy brief, pp. 1-2.

¹⁴ - Ibid, p.3.

⁹ - Iran's Missile Program: Past and Present. (2020). Wisconsin Project on Nuclear Arms Control: Weapon Programs, June 29, 2020, accessed on: <https://www.iranwatch.org/our-publications/weapon-program-background-report/history-irans-ballistic-missile>

¹⁰ - Lucia Marta. (2010). The Hague Code of Conduct Against Ballistic Missile Proliferation: "Lessons Learned" for the European Union Draft Code of Conduct for Outer Space Activities, European Space Policy Institute, No. 34, p.2.

In order to achieve the main objective of the Code of promoting confidence-building measures among signatory States, the Code obligates the parties to accede to a number of international conventions and treaties relating to the peaceful use of space, such as the 1967 Outer Space Treaty and the 1996 Declaration on International Cooperation in the Exploration and Use of Space for the benefit and in the interest of all countries, taking into account the needs of developing countries in particular. The Code also urges signatory states to prevent the proliferation of ballistic missiles capable of delivering weapons of mass destruction by implementing prudent export control policies, exercising maximum restraint in their development, testing and deployment, and, where possible, limiting their possession. This is in addition to the voluntary commitment of signatories to submit an annual declaration outlining their policy on ballistic missiles and space launch platforms, announcing their respective launches during the year, and sending pre-launch notifications. Moreover, the Code encourages regular visits to launch sites. As for countries that do not have missile or space programs, the Code urges them to submit an annual declaration stating that they do not possess these programs to the Executive Secretariat⁽¹⁵⁾.

Also, in order to encourage dissemination of the Code, participating countries organize events to promote it during international meetings, such as the NPT Review Conferences and the First Committee of the United Nations General Assembly, which deal with global challenges and threats to international peace and security. It also works to create links between UNHCR and other UN initiatives⁽¹⁶⁾, such as the implementation of UN Security Council Resolution 1540 (2004)⁽¹⁷⁾.

However, one of the criticisms directed at the Code is that it has little impact on the ballistic arms race, especially in Asia and the Middle East, because some of the most active countries in the field of ballistic missiles have not signed it, such as: Brazil, Iran, Israel, North Korea, Pakistan and Syria. In addition, some countries failed to submit their declarations to the executive secretariat, as this is not mandatory. Moreover, the Code does not include restrictions on cruise missile programs that are increasingly being developed to deliver nuclear weapons. However, it remains the only international instrument that aims to delegitimizing, the development of ballistic missiles as it threatens international peace and security, especially with regard to the transfer of weapons of mass destruction. Furthermore, most countries with missile or space

activities provide pre-launch notifications and annual updated announcements of their missile programs.

b) *Regional Legal Framework*

There is no concrete agreement at the regional level regarding ballistic missiles, but in this context, reference can be made to the European Union draft for an international Space Code of Conduct. The European Union developed the draft Code after United Nations General Assembly Resolution 61/75 of 6 December 2006, which called on Member States to submit proposals on Transparency and Confidence Building Measures (TCBM) in the context of preventing an arms race in outer space (PAROS)⁽¹⁸⁾. The draft of this Code states a number of things, including; Emphasizing the principles of the freedom to use outer space for peaceful purposes, maintaining the security and safety of space objects in orbit, as well as giving due consideration to the right of other states to explore and use outer space for peaceful purposes⁽¹⁹⁾.

This Code applies to all outer space activities carried out by States Parties, either alone or jointly with other States not party to the Code, as well as to the activities of non-governmental entities under the jurisdiction of the State Party. Most importantly, the draft of this Code obligated signatory states to comply with and promote treaties, declarations and other international obligations relating to outer space, including The Hague Code of Conduct against Ballistic Missile Proliferation (HCoC), and other relevant General Assembly resolutions⁽²⁰⁾.

c) *International Bilateral Treaties Signed between the United States of America and the Former Soviet Union (The Russian Federation)*

In the 1970s, the United States of America "USA" and the Former Soviet Union entered into bilateral talks to limit the strategic missiles manufacturing capable of carrying nuclear weapons. These talks resulted in the signing of a number of agreements in this regard. The first agreements, known as SALT I and SALT II, were signed by the United States of America and the USSR in 1972 and 1979, respectively, and were intended to curb the arms race related to the production of long-range strategic ballistic missiles or intercontinental ballistic missiles capable of carrying nuclear warheads⁽²¹⁾. These talks also resulted in the

¹⁵ - Peter van Fenema. (2015). "Legal aspects of launch services and space transportation". Frans von der Dunk & Fabio Tronchetti (eds.), Handbook of Space Law, UK and USA: Edward Elgar Publishing Limited, pp. 425- 428.

¹⁶ - Nicolas Kasprzyk et al., op.cit, p.5.

¹⁷ - UN Security Council Resolution. 1540 (2004). S/RES/1540 (2004).

¹⁸ - The United Nations General Assembly has repeated this invitation in subsequent resolutions like: resolution 62/43 (2007), resolution 63/64 (2008), resolution 65/73 (2010) and resolution 67/42 (2012).

¹⁹ - Wolfgang Rathgeber, Nina-Louisa Remuss, and Kai-Uwe Schrogl. (2009). "Space Security and the European Code of Conduct for Outer Space Activities". Disarmament Forum, No. 4, pp.33-41.

²⁰- DRAFT International Code of Conduct for Outer Space Activities. (2014). https://eeas.europa.eu/archives/docs/non-proliferation-and-disarmament/pdf/space_code_conduct_draft_vers_31-march-2014_en.pdf.

²¹- Paul Doty. (1975). Strategic Arms Limitation after SALT I. Daedalus, Vol. 104, No. 3, p.64.

signing of the Anti-Ballistic Missile (ABM) Agreement, and the Protocol on Limitation of Strategic Offensive Weapons, at a summit meeting between Leonid Brezhnev and Richard Nixon in Moscow on May 26, 1972. The Anti-Ballistic Missile Treaty made provisions to limit anti-ballistic missile systems and obligated the two parties to maintain only two anti-ballistic missile complexes, with a capacity of no more than 100 anti-ballistic missiles. This treaty also aimed to freeze the number of ICBMs and submarine-launched ballistic missiles for five years. However, the United States of America withdrew from this treaty in 2002⁽²²⁾.

In addition to limiting the number the warheads carried by these missiles by no more than 2,400 heads. However, the US Congress did not ratify this treaty due to the Soviet invasion of Afghanistan⁽²³⁾. The two parties also signed the Treaty on the Limitation of Intermediate-Range Nuclear Forces (INF) in 1987. Under this treaty, the two parties pledged not to manufacture, test or deploy any ballistic, winged or medium missiles, and to destroy all missile systems, whose medium ranges range between 1000-5500 km and short ranges between 500- 1000 km. Indeed, in May 1991, the two parties implemented the treaty, as the Soviet Union destroyed 1,792 ballistic and winged missiles launched from the ground, and the United States of America destroyed 859 missiles. However, the United States of America also withdrew from this treaty on August 2, 2019.

Then the START negotiations succeed the Strategic Arms Reduction Talks in the 1970s. These negotiations, which began in 1982, aimed to make drastic reductions in missiles and nuclear warheads for each superpower. START II was signed in 1991. When the collapse of the Soviet Union in 1991 led to the birth of four republics that possess nuclear weapons, namely Russia, Belarus, Ukraine and Kazakhstan. These new countries had to become parties to the First START Treaty. This aim was achieved by the signing of the Lisbon Protocol in May 1992. This Protocol obliged Belarus, Kazakhstan and Ukraine either destroy nuclear and strategic weapons or hand them over to Russia. The first START treaty specified the warheads and ballistic missiles that Washington and Moscow would be allowed to possess, and the treaty included a requirement for on-site investigations and inspections and monitoring of ICBM production⁽²⁴⁾. Because of this treaty, Belarus and Kazakhstan destroyed all their nuclear warheads by 1997, Ukraine destroyed its last ballistic missiles by 1999, and the United States and

Washington reached the levels required for the second stage during 1997. This treaty terminated on December 5, 2009.

After the dissolution of the Former Soviet Union, negotiations continued between the Russian Federation and USA for a further reduction in strategic arms, which resulted in the signing of the START II Treaty in 1993. However, this treaty did not enter into force due to the lack of ratification by the US Senate until 1996, as well as the Russian State Duma's refusal to ratify this treaty after the withdrawal of the USA from the Anti-Ballistic Missile Treaty in June 2002. A new round of negotiations began in 1997 between Bill Clinton and Yeltsin, the START III/SORT negotiations, which aimed to reduce both sides' warheads to 2,000-2,500 by December 31, 2007. This treaty was signed by George W. Bush and Putin on May 24, 2002, and ratified by the US Senate and the Russian State Duma in March and May 2003, respectively.

Another round of negotiations began between Presidents Medvedev and Barack Obama⁽²⁵⁾, after the termination of START I in 2009, to reduce strategic weapons to 500- 1,000 warheads, and 1,500 -1675 transport or delivery systems. Because of these negotiations, the New START Treaty was signed in 2010, which assigned each side 1,550 strategic warheads, with no more than 700 ballistic missile launchers and nuclear projectiles to be deployed. This treaty has been extended until February 4, 2026⁽²⁶⁾.

In fact, the restrictions imposed by this latter treaty were few compared to the levels set by the SORT agreement in 2002, at a rate of 30%. It also eased the investigation and monitoring procedures of the First START Treaty. However, this treaty tightened inspection procedures for the respective sites⁽²⁷⁾.

III. INTERNATIONAL SANCTIONS IMPOSED ON THE DEVELOPMENT OF BALLISTIC MISSILE PROGRAMS

The international community uses the international sanctions system to force rogue states to stick by a certain international rule, because in reality the use of international sanctions is due to a lack of respect for international legal rules. According to the dangerousness of the production of ballistic missiles for military purposes to international peace and security, the international community has set out to impose a number of sanctions on countries that violate existing obligations under the Treaty on the Non-Proliferation of Nuclear

²² - Editors of Encyclopedia Britannica. Strategic Arms Limitation Talks international negotiations. <https://www.britannica.com/event/Strategic-Arms-Limitation-Talks>.

²³ - A. C. Sjaastad. (1980). SALT II: Consequences for Europe and the Nordic Region. Sage Journals, Vol. xv, p. 237.

²⁴ - Alexei Arbatov. (1993). Implications of the START II Treaty for US-Russian relations. Henry L. Stimson Center, pp. 2- 9.

²⁵ - Fabio Tronchetti. Op.cit, p.348.

²⁶ - New Start Treaty. U.S department of State, accessed on: <https://www.state.gov/new-start/>.

²⁷ - Lawrence D. Freedman. Strategic Arms Reduction Talks: international arms control negotiations. <https://www.britannica.com/event/Strategic-Arms-Reduction-Talks/START-III-SORT>.

Weapons and relevant UN Security Council resolutions, precisely North Korea and Iran ⁽²⁸⁾.

When North Korea announced about ending its suspension of missile tests on July 21, 2006, it tested a Taepodong-2 long-range ballistic missile, which the UN Security Council confronted by adopting Resolution 1695, which demanded that North Korea must suspend all activities related to its missile program ⁽²⁹⁾. It also obligated all states to prohibit the export or purchase of missile-related materials, goods and technology, and to prohibit the transfer of any financial resources related to this program. But this decision did not deter North Korea from carrying out a nuclear test in October 2006, after which the UN Security Council adopted Resolution 1718⁽³⁰⁾, by which it demanded that Pyongyang not conduct any further nuclear test or launch any ballistic missile, and suspend all activities related to its ballistic missile program as well as the irreversible complete abandonment of all nuclear weapons and nuclear programs. The Resolution also imposed a set of sanctions purposed to at forcing North Korea to return to the six-party talks and comply with its denuclearization obligations ⁽³¹⁾, such as: obligating all countries not to sell, supply or transfer a set of materials to North Korea, either directly or indirectly. These materials such as any tanks, combat vehicles, artillery systems, aircraft, warships, missiles, missile systems and other related items. Additionally, the Security Council established under this resolution a committee of experts on the Korean nuclear program. After the collapse of the six-party talks with North Korea on April 5, 2009, and its launch of the Unha-2 spacecraft into space, Western analysts believed that this vehicle was a Taepodong-2 ballistic missile, so the Security Council issued a statement condemning this launch, and described it as a violation of Council resolution 1718 (2006). But North Korea did not take this statement seriously and conducted a second nuclear test on May 25 of the same year, so the UN Security Council adopted Resolution 1874, which repeated the call for North Korea to abandon its nuclear and missile programs, tightened sanctions against it, and called on countries to intercept ships believed to be involved in transporting prohibited goods ⁽³²⁾.

Following Pyongyang's third nuclear test in February 2013, the UN Security Council, in its resolution 2094, expanded the scope of sanctions imposed on

North Korea, especially those imposed on the financial sector, such as prohibiting financial institutions in all countries from opening representative offices or bank accounts in North Korea and placing restrictions on cash transfers to the Republic of North Korea ⁽³³⁾. The Council also imposed another set of sanctions under resolutions 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), 2397 (2017), including, for example, a ban on the supply of crude oil or selling or transferring it to North Korea, as well as all kinds of refined petroleum products.

On the level of unilateral sanctions, the United States of America imposed many of them on some entities or institutions associated with North Korea's nuclear program. For example, the Treasury Department sanctioned eight of these entities on August 30, 2010, such as: Green Pine Associated Corporation, Korea Taesong Trading Company, and the Korea Heungjin Trading Company. The Treasury Department also imposed sanctions on North Korea on February 23, 2020, described as the most severe to force North Korea to stop its nuclear program, and these sanctions affected one person, 27 entities, 28 ships located or recorded in North Korea, China, Singapore, Taiwan, Hong Kong, the Marshall Islands, Tanzania, Panama and Comoros Islands ⁽³⁴⁾.

On the other hand, when Iran refused to abide by restrictions on its activities related to uranium enrichment, ballistic missile development, and weapons transfers to terrorist groups ⁽³⁵⁾, and as concerns grew about the goals of Iran's ballistic missile program, the international community imposed a group of sanctions on Iran. In 2006, the UN Security Council adopted Resolution 1737, which prohibited the supply of materials and technology to Iran that might assist in nuclear activities or the development of nuclear weapons delivery systems, and demanded countries to freeze the assets of certain companies and individuals ⁽³⁶⁾.

The Council also issued a set of subsequent resolutions in this context, namely: Resolutions 1747 (2007), 1803 (2008), 1929 (2010), in which it demanded, in particular Resolution 1929, Iran "not to undertake any activity related to ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology, and that all States take necessary measures to prevent the transfer of technology or the provision of technical assistance to Iran in connection

²⁸- Anne-Marie La Rosa. (2008). Sanctions as a means of obtaining greater respect for humanitarian law: a review of their effectiveness. *International review of the Red Cross*, Vol. 90, No. 870, p.8.

²⁹ - UN Security Council Resolution 1695 (2006). S/RES/1695 (2006). Paras. 2-4.

³⁰ - UN Security Council Resolution 1718 (2006). S/RES/1718 (2006). Paras. 2-8.

³¹ - Matthew McGrath and Daniel Wertz. (2015). North Korea's Ballistic Missile Program. *The National Committee on North Korea*, pp.3-5.

³²- UN Security Council Resolution 1874 (2009). S/RES/1874 (2009). Paras. 1- 14.

³³ - UN Security Council Resolution 2094 (2013). S/RES/2094 (2013). Paras. 12- 15.

³⁴ - Trump announced imposing sanctions on North Korea. (2018). DW. <https://p.dw.com/p/2tFfK>.

³⁵ - Alleged Violations of the 1955 Treaty of Amity. (2019). *Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)- Preliminary objections*, ICJ Reports, pp.11-17.

³⁶ - UN Security Council Resolution 1737 (2006). S/RES/1737 (2006). Paras. 2-8.

with such activities⁽³⁷⁾. The Council also imposed by these previous resolutions a set of sanctions on some companies and individuals involved in Iran's nuclear and missile programs. Among the companies covered by these decisions are: Shahid Hemmat Industrial Group (SHIG), Shahid Bagheri Industrial Group (SBIG), and Fajr Industrial Group (all entities affiliated with the Iranian Aerospace Industries Organization (AIO)). Other sanctions were also imposed on Ya Mahdi Industries Group, Parchin Chemical Industries, which produce solid fuel for rockets, Niru Battery Manufacturing Company, which manufactures power units for Iranian missile systems, Sanam Industrial Group, Electro Sanam Company, and Joza Industrial Company⁽³⁸⁾. Although many governments took these decisions seriously, Iran described them as illegal, and thus refused to abide by them. Tehran has repeatedly violated these decisions and continued to pursue illicit procurement efforts, exported missile equipment and technology to its regional proxies, and conduct nuclear-capable ballistic missile launches⁽³⁹⁾.

In 2015, these previous resolutions were replaced by Security Council Resolution 2231, which co-existed with the Iran nuclear deal, or the Joint Comprehensive Plan of Action (JCPOA). The relevant resolution imposed less severity restrictions on Iran's missile program than its predecessors. As Iran is called upon it "not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons". It also maintained sanctions on several key entities that support Iran's ballistic missile development. However, at the same time, it allowed member states to sell missiles and missile systems to Iran on a case-by-case basis if approved by the Security Council⁽⁴⁰⁾. The main reason for the weakness of the language of this resolution compared to the previous decisions is that it came as a compromise between the desire of the United States of America to impose more restrictions on Iran's ballistic missile programs, and the opposition of Russia and China to that direction.

Despite the obligations imposed by Security Council resolutions on Iran in this regard, it continued to illegal purchase materials used in the manufacture of these missiles, and even continued to conduct various tests of these missiles. Therefore, the United States of America imposed sanctions on a German bank owned by Iran as well as the Export Development Bank of Iran for enabling Iran's ballistic missile program to purchase

more than \$3 million in materials⁽⁴¹⁾. Singapore also announced in March 2011 that it had intercepted a shipment of 18 tons of aluminum powder, which is likely to be used as solid fuel for Iranian ballistic missiles⁽⁴²⁾. In fact, these sanctions did not keep Iran from carrying out a series of ballistic missile launches that occurred on August 20 and 25 2010, in October 2010, February 2011, June 2011, July 2012 and February 2015.

With the United States withdrawal from the JCPOA in 2018, due to the nuclear agreement with Iran not adequately addressing missile proliferation and testing, Washington imposed sanctions on large sectors of the Iranian economy as part of a "maximum pressure" campaign that aimed, among other things, to curb Iran's missile program. However, it seems that this campaign did not yield real results, especially since Iran continues to develop its nuclear and ballistic missile program, indifferent to international or even unilateral sanctions.

IV. AN ASSESSMENT OF THE INTERNATIONAL LEGAL FRAMEWORK REGULATING BALLISTIC MISSILES

It is so clear by reviewing the international legal framework regulating ballistic missiles that this framework is tainted by many shortcomings, foremost of which is the absence of an international agreement regulating the use of ballistic missiles for peaceful purposes or restricting or prohibiting their use for military purposes. This is clearly due to the absence of the international will necessary to reach a binding international treaty in this regard, and to the absence of transparency and the ineffectiveness of confidence-building measures between states, especially in light of the double standards at the international level. This appears distinctly in dealing with great sharpness, although Required, with the Iranian and Korean nuclear program, and leniency on the other hand with the nuclear program of Israel as well as its ballistic missile program. Which is shown by the imposition of many sanctions on Iran and Korea, and the failure of the international community to move, even an iota, to impose sanctions on Israel in this regard. Even at the level of bilateral international agreements signed between the United States of America and the Former Soviet Union or its successor, the Russian Federation, most of them have terminated either by their specified deadline, or by the withdrawal of the United States of America, as we have seen. This has serious repercussions for the arms race and for international peace and stability.

³⁷ - UN Security Council Resolution 1929 (2010). S/RES/1929 (2010). Para. 9.

³⁸ - A History of Iran's Ballistic Missile Program. (May 2012). <https://www.wisconsinproject.org/a-history-of-irans-ballistic-missile-program/>.

³⁹ - Robert Einhorn and Vann H. Van Diepen. (March, 2019). Constraining Iran's Missile Capabilities. Foreign Policy at Brookings, p.21.

⁴⁰ - UN Security Council Resolution 2231 (2015). S/RES/2231 (2015). Paras. 1- 12.

⁴¹ - Kenneth Katzman. (2021). Iran Sanctions. Congressional Research Service. p.28. <https://sgp.fas.org/crs/mideast/RS20871.pdf>.

⁴² - Marybeth Davis et al., (2013). China- Iran: a limited partnership. Prepared for the US-China Economic and Security Review Commission, p. 70. <https://www.uscc.gov/sites/default/files/Research/China-Iran--A%20Limited%20Partnership.pdf>.

In addition, one of the shortcomings of this legal framework is that it is mostly based on soft rules that are not binding on states. The Hague Code, which is the only international framework regulating ballistic missiles, not binding on states, but rather depends on mutual understanding and voluntary implementation. Hence, if one of the parties fails to implement the obligations contained therein, it will not bear any international responsibility. Therefore, this Code has not prevented some countries from continuing to develop their own ballistic missile programs. Moreover, If the international sanctions are effective in forcing countries to comply or abide by the international rule, they will remain selective measures - despite their importance - and are controlled by political rather than legal considerations. They also do not often bring tangible results and achieve the required deterrence, as they are subject in the first place to the political understandings of states in the UN Security Council, for fear of disrupting them using the Veto power.

In fact, in order to overcome these shortcomings, the international community should take the initiative to draw up a binding international agreement in this regard that takes into account the peaceful uses of ballistic missiles. In this regard, it will not start out of nowhere, but may build on the steps that have been achieved, especially the Hague Code of Conduct against Ballistic Missile Proliferation, which may constitute the initial step towards establishing that agreement, especially if the Hague Code constitutes some specific relevant customary international rules, which, Therefore, will facilitate the possibility of establishing a specific international agreement. The international community should also be very keen to achieve collective international interests, and put in mind the risks that may result from the use of this type of missiles so that it can put aside its differences, and take decisions that truly reflect the international will away from political understandings. In fact, this will not only come by reforming the decision-making mechanism in the UN Security Council to rationalize the use of the Veto, but also by reforming the membership system in the Security Council as a whole.

