

Curtailing missile proliferation

Mark Smith

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Subscribing states to the Hague Code of Conduct Against Ballistic Missile Proliferation (HCoC) held their first plenary meeting in New York recently, almost a year after the launch of the initiative in the European city which gave its name to the initiative. The meeting was timed to coincide with the opening of the First Committee of the United Nation's 58th General Assembly.

The HCoC was developed between 1999 and 2001 within the framework of the Missile Technology Control Regime (MTCR), as Regime members became increasingly conscious of the lack of any demand-side norms to fit alongside their supply-side controls. Aware that a Code of Conduct could not contain any measures that MTCR members would not be prepared to sign up to, the drafters settled for a cautious approach based on confidence- building measures (CBMs), in which policy declarations and notification of forthcoming missile test launches were the principal policy measures in the text. The information in the CBMs is submitted to an Immediate Central Contact office in Vienna, which then circulates it to subscribing states.

Widening the HCoC's membership has been a priority since shortly before the 2002 launch, as it became clear that not enough 'missile active' states were prepared to join. China, India and Pakistan all announced shortly before the launch conference that they would not be subscribing, and in addition the DPRK, Egypt, Iran and Israel all declined to join. The only signatory of note outside the MTCR membership was Libya, which has been the subject of recurrent rumours about Nodong missile imports from the DPRK. Paradoxically, therefore, the HCoC now has 109 subscriber states but still can be considered to have a narrow membership.

The implementation of the CBMs contained in the text was discussed at an intersessional meeting held in Vienna earlier this year.[1] The two CBMs required under the HCoC are a declaration of missile policy and pre-launch notification (PLN) on test launches. Of these, the former is only vaguely defined in the text, which contains a number of suggestions about content, but no actual stipulations. This was deliberate, in view of the sensitivity of such information, and the intersessional meeting decided that no prescriptive format was required for the declarations. It should, of course, also be noted that in many, if not most cases, the subscriber states to the HCoC do not have any missiles on which to make a policy declaration.

Specifications on PLNs are more explicit, but still leave a good deal of the format and content to the discretion of the submitting state. Again, this is deliberate and probably necessary, since not all states regard transparency on such matters as a 'Good Thing'. In fact, Israel referred to this in 2001, when it pointed out that some states regarded strategic ambiguity as an integral part of their deterrent strategy. The HCoC intersessional debated the potential format of PLNs in some depth, and the Dutch Chair has prepared a nonprescriptive draft.

In between the intersessional and the New York plenary, three more states (Eritrea, Liechtenstein and Tonga) decided to sign the HCoC, but it is no reflection on those states to say that the list of non-subscribers is of more concern. The problem of how to widen participation in the HCoC formed one of the key issues at the plenary, along with the implementation of its CBMs.

Faced with the difficult choice between widening and deepening, it seems most sensible to opt for widening. Those states that have declined to join through unease at the concept of transparency (such as China) or distrust of the HCoC's motives and provenance (such as India and Pakistan) are not going to become more inclined to join if the Code is deepened before it is widened. Overcoming reservations about transparency will be no simple task, but the lingering mistrust about the Code may be more amenable to action.

One way to do this is to move the HCoC closer to the United Nations, which would simultaneously move it closer to global multilateral non-proliferation and disarmament discussions and also help to break ties with the MTCR. The first of these explains why the HCoC's first plenary was held back-to-back with the UN First Committee, where it was hoped to obtain perhaps some recognition of the HCoC in the debates. The second helps to explain the choice of Chile as the HCoC Chair for 2003-4. Several officials who participated in the meeting applauded the choice: a US State Department official noted the importance of, "the public face of the Code not being an MTCR face." The Chilean Chair is Ambassador Luis Winter.

One reason for holding back on deepening the initiative before developing the HCoC measures further is the need to attract more states with active missile programmes. Another may well be that some current signatories, in particular the United States, will currently be unwilling to countenance further measures, and a third is that the current requirements of the HCoC are experiencing teething problems. Only 20 states have so far submitted the policy declarations to the Immediate Central Contact, and some difficulties have been experienced with PLNs.

Although the low rate of policy declaration is seen as disappointing, it must be borne in mind that many subscriber states to the HCoC do not possess any significant missiles, and only a handful (for example France, Russia, Ukraine, the United Kingdom, the United States) have any kind of long-range capability or development programme. Many subscriber states will therefore be going through the 'Nothing to Declare' door, so to speak.

Ambassador Winter said that several members had delayed their declaration because they were "watching what to do" and waiting to take their cue from other subscribing states. This does suggest that the text of the Code, which leaves most of the content of declarations to the discretion of the submitting state, and the decision at the intercessional to allow multiple formats, may also have had some unintended consequences. Some of the 20 submitted declarations have now been circulated in order to give a clearer idea of what is required, which ought to speed up the process. The deadline for submission has now been extended to 31 January 2004.

Submission of PLNs is not subject to the same uncertainty, since it only applies to states with active missile development programmes, and five states have submitted such notifications. However, this is not to say that PLNs are without problems of their own. The June intercessional discussed the practicalities of PLNs in some detail, but format and content were left flexible. The most sophisticated and established PLN system is that developed over the last thirty years between Russia and the United States, and both states have indicated that they prefer to channel test launch notifications through that medium first before putting it through the HCoC. Other states may have queries still to be answered, particularly on the technical information to be made available on what is after all a highly sensitive area of policy.

To summarise, the HCoC currently has three priorities:

- Developing its links with the United Nations;
- Expanding its membership in ways that give credibility to its status as a missile non-proliferation regime, and;
- Working out the practicalities of its provisions.

The first of these should be achieved in the first place through a UN General Assembly resolution, which is likely to be provisional in the first instance (such as a recognition that the HCoC is now an operative multinational policy instrument). It is unclear whether this will be achieved immediately. The second may in some ways be a corollary of the first, bearing in mind that several non-subscribers still bear suspicions about the HCoC's provenance in the MTCR. The European Union, the Dutch 2002-3 HCoC Chair, and the HCoC Immediate Central Contact have all worked hard during the last twelve months to persuade such states to overcome these suspicions.

Speaking on behalf of the European Union, Ambassador Carlo Trezza (of current EU Chair Italy) recalled the EU statement from the founding meeting in The Hague that established, "fundamental principles" and a multilateral framework where none had previously existed. The EU, he stated, "considers that the Code has already become an asset in the multilateral field of non-proliferation" and "continues to support the universalisation of the Code."

Mark Smith is a Research Fellow at the Mountbatten Centre for International Studies, University of Southampton.

[1] I have discussed the HCoC intersessional in 'Preparing the Ground for Modest Steps: A Progress Report on the Hague Code of Conduct', *Disarmament Diplomacy*, August/September 2003, pp. 30-6.