

# The UN Security Council and the Nagorno-Karabakh Conflict: Policy of Double Standards and Unexecuted Resolutions

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The Armenia-Azerbaijan Nagorno-Karabakh conflict is undoubtedly the most complex, as well as the most dangerous conflict in the South Caucasus. In 1993, the United Nations Security Council adopted a series of resolutions (822, 853, 874, and 884) demanding the immediate cessation of hostilities and the complete and unconditional withdrawal of all occupying forces from Azerbaijani territories. Despite the legally binding nature of the Security Council resolutions, they still remain unrealized. One of the main reasons for the ineffectiveness of the United Nations, particularly the Security Council, is its inability and in some cases unwillingness to ensure the implementation of its resolutions. The failure of resolutions not only undermines the credibility of the United Nations, but also threatens international peace and security. However, the UN Security Council has the authority to apply sanctions to member states that fail to execute its resolutions. The resolutions of the Council adopted according to Chapter VII of the UN Charter (Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression) contain the legal elements of international responsibility. Measures taken by the UN Security Council in accordance with Article 41 and 42 of the UN Charter are coercive measures intended to encourage the offender to fulfill the obligations arising from its international legal responsibility.



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### *Introduction*

The end of the Cold War and the collapse of totalitarian Soviet rule and the Warsaw Treaty Organization transformed the global political environment, and led to the emergence of a new geopolitical context. After the collapse of the Soviet Union, the new post-Soviet independent states immediately joined the international system and began crafting new foreign policy courses that reflected their own national interests. This resulted in the formation of a new world order.<sup>1</sup>

Once the newly independent states had shaped their foreign policy trajectories, the international organization with which they first established relations was the United Nations, as the key universal international platform for the cooperation of sovereign states.

Since joining the United Nations on 2 March 1992, Azerbaijan has consistently demonstrated its strong commitment to the principles and purposes of the UN Charter, and the internationally recognized norms and principles of international law. From the outset Azerbaijan used the UN platform to draw attention to the Armenia-Azerbaijan Nagorno-Karabakh conflict, to provide the international community with accurate and comprehensive information in order to shape public opinion. Baku's aim was to harness the potential of the United Nations as a mechanism for the peaceful settlement of the conflict<sup>2</sup>.

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Among the conflicts in the South Caucasus, the Armenia-Azerbaijan Nagorno-Karabakh conflict is the most complex, as well as the most dangerous. As Farhad Mammadov notes, “it holds the most serious security and humanitarian implications not only for the South Caucasus, but also for the whole Eurasian region”<sup>3</sup>.

1 Mehdiyev, R. (2012) ‘Foreword’ in Fariz Ismayilzade and Glen E.Howard (eds.) “The South Caucasus 2021: Oil, Democracy and Geopolitics”, Center for Strategic Studies under the President of the Republic of Azerbaijan and The Jamestown Foundation, pp.7-9.

2 Ministry of Foreign Affairs of the Republic of Azerbaijan (2014) ‘Azerbaijan and UN relations.’ Available at: <http://mfa.gov.az/en/content/751> (Accessed: 20 February 2017)

3 Mammadov, F. (2016) ‘The Armenia-Azerbaijan Nagorno-Karabakh Conflict as the Key Threat to Peace and Cooperation in the South Caucasus’, *Caucasus International*, 6(1), pp. 159-160

The conflict started at the end of the 1980s, following Armenia's territorial claims on Nagorno-Karabakh and, in parallel, the systematic expulsion of Azerbaijanis from the Armenian SSR. In fact, the collapse of the Soviet Union empowered the Armenian nationalists. During the 1992-1993 period, a considerable area of Azerbaijan fell under Armenian occupation, including Nagorno-Karabakh and seven adjacent districts. The conflict gradually evolved into a full-scale war between newly independent Armenia and Azerbaijan.

In 1993, the United Nations Security Council adopted four resolutions (822, 853, 874, and 884) in connection with the armed seizure of Azerbaijani territories. The resolutions demand the unconditional and immediate withdrawal of troops from Nagorno-Karabakh and other occupied regions of Azerbaijan. The resolutions also call for the restoration of economic, transport and energy connections in the region, and return of refugees and IDPs. However, Armenia has not adhered to the terms of these resolutions and continues to occupy Azerbaijani territories.

“The active phase of the conflict ended in 1994 with the signing of a ceasefire agreement in Bishkek. The war left the Nagorno-Karabakh and seven other regions – roughly 20 percent of Azerbaijan's internationally recognized territory – under Armenian occupation. It also resulted in over 30,000 military and civilian deaths and made about a million Azerbaijanis IDPs and refugees”<sup>4</sup>.

“As a mark of its deep concern about the deteriorating humanitarian situation in Azerbaijan and the number of refugees and IDPs, the UN General Assembly adopted the resolution ‘Emergency international assistance to refugees and displaced persons in Azerbaijan’ (A/RES/48/114) in 1993”. Furthermore, “during 1992-1996 the UN Secretary-General and the President of the Security Council made several statements on the conflict, confirming the territorial integrity and sovereignty of the Republic of Azerbaijan and supporting the OSCE Minsk Group's efforts towards its peaceful resolution”<sup>5</sup>.

4 Garibov, A. (2015) ‘OSCE and Conflict Resolution in the Post-Soviet Area: The Case of the Armenia-Azerbaijan Nagorno-Karabakh Conflict’, *Caucasus International*, 5(2), p.76.

5 Ministry of Foreign Affairs of the Republic of Azerbaijan (2014) Azerbaijan and UN relations.

The resolution of the UN General Assembly, ‘Cooperation between United Nations and Organization for Security and Cooperation in Europe (OSCE)’, reaffirms the territorial integrity of Azerbaijan (‘the conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan’). The resolution on ‘The situation in the occupied territories of Azerbaijan’, adopted on March 14, 2008 by the UN General Assembly, condemns the resettlement of Armenians in the occupied territories and the setting of fires there. The resolution calls for the implementation of the four Security Council resolutions and the withdrawal of Armenian armed forces from the occupied territories. The resolution confirms the sovereignty and territorial integrity of the Republic of Azerbaijan and demands the return of refugees to their homelands<sup>6</sup>.

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Despite the legally binding nature of Security Council resolutions, they remain unrealized. However, the UN Security Council has the legal authority to apply sanctions to member states that fail to execute its resolutions.

What are the reasons for the apparent failure of the execution of these resolutions and the sanctions mechanism of the United Nations Security Council in this case, and what are the implications of this failure for the subsequent peace process? The article argues that the failure to enforce the legally binding Security Council resolutions, resulting in a policy of double standards, and Armenia’s uncompromising position have led to the failure of the peace process, leaving military measures as the only option for restoring the territorial integrity of Azerbaijan.

The article is divided into two sections. The first section examines the sanctions mechanism of the United Nations Security Council and the failure of the resolutions in the case of Nagorno-Karabakh. This has not only undermined the credibility of the United Nations, but also puts international peace and security at risk. The second part focuses on the threat posed by nuclear fuels and radioactive waste from Armenian

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Available at: <http://mfa.gov.az/en/content/751> (Accessed: 20 February 2017)

6 Ministry of Foreign Affairs of Azerbaijan (2013) ‘Refugees and IDPs.’ Available at: <http://www.mfa.gov.az/en/content/117> (Accessed: 20 February 2017)

Metsamor NPP, and shells containing chemicals such as white phosphorus used by Armenian armed forces during the April 2016 escalation of hostilities. In addition, the author analyzes the UN Security Council's activity in regard to the nuclear talks with Iran and nuclear test by North Korea, in the context of its indifference towards other potential nuclear vulnerabilities such as the nuclear/WMD threat coming from Armenia.

*The sanctions mechanism of the UNSC: The Nagorno-Karabakh case*

In the theory of international relations, sanctions are defined as measures to enforce obligations arising from the responsibility of the legal relationship. The problem of the application of sanctions as coercive measures to enforce international law has been one of the most complex and hotly debated issues in the theory and practice of international law in recent years. For obvious reasons, the problem of coercion has always attracted considerable attention from lawyers. Force and violence play a crucial role in international relations. One of the main functions of international law is to limit the use of force<sup>7</sup>.

The main feature of modern international law is the thorough and robust regulation of coercive measures<sup>8</sup>. In cases where coercion is permitted by international law, it is not violence, but a means of law enforcement. The necessary feature of legal force is legitimacy. The use of force is governed by the principles of necessity and proportionality. Generally, coercion is a necessary component of the decentralized functioning of international law (*Ubi jus, ibi remedia* – where there is a right there is a remedy). One of the main features of international law is the absence of central enforcement machinery authorized to compel the subjects of international law to uphold the principles and norms of applicable international rights and obligations. In this regard, the means of coercion are held by the subjects of international law – states and international or inter-governmental organizations – which apply those means on an individual or collective basis.<sup>9</sup>

7 Лукашук, И. (2004) 'Право международной ответственности.' *Москва*, с. 306.

8 Черниченко, С. (1999) 'Теория международного права.' *Москва*, Т. 1, с. 221.

9 Лукашук, И. (2004) 'Право международной ответственности.' *Москва*, с. 306-307.

It should be noted that in international law, the use of sanctions as tools of coercion is widely acknowledged. Tunkin has argued that in “international law, as legal norms inherited in the sanction”<sup>10</sup>. Monaco has noted that, “in any legal system compliance is ensured by sanctions”<sup>11</sup>.

The modern doctrine of international law also stipulates that sanctions should be classified as coercive measures used only by international organizations, endowed by states – the primary actors of international law – with the appropriate rights. This, in turn, fundamentally differentiates between actions by international organizations, and the individual actions of states.

Such a provision was first introduced following the adoption of the Statute of the League of Nations. It was subsequently further developed, receiving its final affirmation after the adoption of the Charter of the United Nations. The Charter laid the foundations for the universal cooperation of states within the framework of a new international platform – the United Nations.

Not only does the UN occupy a central place in the system of international organizations, it also plays a unique role in the international affairs and political development. The primary responsibility for maintaining of international peace and security is assigned to the UN Security Council, which is the main executive body of the Organization, and whose decisions (resolutions) are legally binding<sup>12</sup>.

It should be underscored that the UN has established a procedure whereby even a state that is not a member of the Organization must act in accordance with the principles of the Charter to the extent necessary to maintain international peace and security<sup>13</sup>. The UN Security Council holds the decisive role in regard to the implementation of this norm.

Despite the fact that the Security Council is a body representing

10 Тункин, Г. (1970) ‘Теория международного права.’ *Москва*, с. 470.

11 Monaco, R. (1968) ‘Course generale du droit international public,’ *Recueil des Cours*, Vol. 3, p.313.

12 Mustafayeva, N. (2015) ‘Why do we need strong United Nations’, *The Modern Diplomacy*. Available at: [http://modern diplomacy.eu/index.php?option=com\\_k2&view=item&id=1053:why-do-we-need-strong-united-nations&Itemid=150](http://modern diplomacy.eu/index.php?option=com_k2&view=item&id=1053:why-do-we-need-strong-united-nations&Itemid=150) (Accessed: 21 February 2017)

13 Лукашук, И. (2005) ‘Международное право. Особенная часть.’ *Москва*, с.45.

only a limited number of member states – less than 10% – it is agreed the Council “acts on their behalf” (p. 1, article 24 of the UN Charter). In other words, the Security Council takes unilateral actions that are considered as measures of the UN as a whole<sup>14</sup>.

The Security Council determines “the existence of any threat to the peace, breach of the peace, or act of aggression”. Under this provision, the Council may “permit a state that is threatened or subjected to aggression to act on its right to secure its interests through the United Nations”<sup>15</sup>.

Having identified the existence of a threat to peace and security, the Council may “make a recommendation to stakeholders”, and may “accept decisions on coercive measures against the offender”, “utilizing its sanctions mechanism”, which has been used with varying degrees of success.

The UN Charter authorizes the Security Council to undertake a critical function – the maintenance of international peace and security. As a result, the UN Security Council should play an important role in shaping collective responses to any violation of the rules, as determined by the international community. Violations of these rules are classified as threats or breach of international peace and security<sup>16</sup>.

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The resolutions of the Council adopted according to Chapter VII of the UN Charter (Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression) contain all the legal elements of international responsibility. In accordance with Article 39, the determination of a threat to peace or an act of aggression is a violation of fundamental norms. The resolutions of the Security Council call to end such behavior(s), provide guarantees to avoid similar situations in the future, and to provide reparations. Measures taken in accordance with Article 41 and 42 are coercive measures

14 Лукашук, И. (2005) ‘Международное право. Особенная часть.’ Москва, с. 45.

15 The United Nations (1945) ‘Charter of the United Nations.’ Available at: <http://www.un.org/en/charter-united-nations/index.html> (Accessed: 23 February 2017).

16 Gowland-Debbas, V. (2000) ‘The functions of the United Nations Security Council in the International Legal System’, *The Role of Law in International Politics*. New York.

intended to encourage the offender to fulfill the obligations arising from its international legal responsibility.

The UN Charter gives the Security Council the right to use temporary and coercive measures. Temporary measures are aimed “at preventing the situation from worsening, and should not prejudice the rights, claims or position of the parties concerned”. Such measures may include “requiring the parties to cease hostilities, withdraw troops to certain areas, and/or to resort to a procedure for peaceful resolution, including entry into direct negotiations, recourse to arbitration, and/or the use of regional organizations and bodies”. Temporary measures are not legally binding on the parties, but in accordance with article 40 of the UN Charter, the Security Council “properly takes into account the fact of non-enforcement of these temporary measures”<sup>17</sup>.

Coercive measures are divided into measures that do not involve the use of armed forces, and those that do (articles 41 and 42 of the Charter). Activation of these articles falls under the exclusive competence of the Security Council, and is one of the key pillars of its authority.<sup>18</sup>

According to article 41 of the Charter, enforcement measures that do not involve the use of armed forces may include “complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the diplomatic service, as well as other measures of this nature”. The Council has previously applied of such measures against South Africa, Southern Rhodesia, and North Korea.

In cases when the aforementioned measures are insufficient or ineffective, the Security Council – on the basis of article 42 – has the right to take actions that are necessary for the maintenance of international peace and security via the armed forces of the United Nations. All members of the United Nations make available their armed forces, assistance, and facilities, including the right of transit through the territory, territorial waters and airspace to the Security Council at its request. For

<sup>17</sup> Лукашук, И. (2005) ‘Международное право. Особенная часть’. Москва, с.46.

<sup>18</sup> Ibid. с.47.



this purpose, special agreements are reached.<sup>19</sup>

In terms of historical precedent, the application of sanctions against Iraq can serve as an illustration of the capabilities of the Security Council. When Iraq attacked Kuwait (August 2, 1990), the Council adopted a resolution that determined the fact of breach of the peace (article 39 of the Charter), and further recommended the immediate cessation of aggression (article 40). In the following resolution the Council noted Iraq's failure to comply with the previous resolution, and determined measures to restore the authority of the legitimate government in Kuwait. These were not recommendations, but decisions. Moreover, the resolution not only addressed the UN members, but also the non-member states, as per clause 6, article 2 of the Charter. What followed was the cessation of all economic relations and the refusal to recognize any occupational government. The following resolution (August 25) considered the use of the armed forces. The resolution dated September 25 is particularly interesting from a legal point of view. It determined that all legal acts by Iraq that contradicted the Council resolutions were not legally binding. According to article 103 of the Charter on the primacy of obligations under the Charter, the Council obliged all states regardless of their previous agreements to terminate aviation ties with Iraq. In other words, binding Council resolutions are equated to obligations under the Charter. The resolution also established and the terms of the cessation of hostilities, as well as the procedure for compensation. As a result, not only did the resolution replace the truce agreement; it also functioned as a peace agreement.<sup>20</sup>

A special kind of coercive measure involves the suspension of the exercise of the rights and privileges of any member state against which the Security Council has taken the decision to authorize enforcement action. This measure is also an exclusion from membership of the UN for violation of the Charter (article 6).

Thus, the international community can act through the UN and specifically the Security Council. These institutions have

19 The United Nations (1945) 'Charter of the United Nations.' Available at: <http://www.un.org/en/charter-united-nations/index.html> (Accessed: 23 February 2017).

20 Лукашук, *op.cit.* с.46-47.

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been designed to maintain international peace and security (quite effectively according to the above-mentioned precedents). They oversee responses to violations of the norms and principles of international law, bringing to justice the states which have violated international law.

However, it turns out that the UN Security Council has a kind of policy of 'differentiation' in selection of questions of the 'largest' or 'smallest' importance.

How else can one explain the fact that none of the aforementioned measures have been applied to Armenia as a result of its aggressive policy, whereby it has occupied 20% of Azerbaijani territory (Nagorno-Karabakh and 7 surrounding districts), and repeatedly failed to comply with the legally binding resolutions of the UN Security Council<sup>21</sup>?

The inconsistent execution of resolutions cannot be called anything other than a policy of double standards. Sadly, this policy is prevalent in today's international system, particularly in the activities of international organizations.

Azerbaijani President Ilham Aliyev has repeatedly underlined during numerous speeches before international organizations that certain resolutions adopted by the Security Council on the Nagorno-Karabakh conflict have been ignored for over 20 years, while other resolutions are executed within a matter of hours.

The failure of the Security Council resolutions led the transfer of conflict resolution to the OSCE Minsk group, which has been working for more than two decades without success. The inefficacy of the OSCE Minsk group, along with the non-execution of the UN Security Council resolutions, can be attributed to the lack of international pressure on Armenia. This is the consequence of the lack of political will among the mediating countries – from which, oddly enough, Armenia also receives most of its foreign aid.

21 Мустафаева, Н. (2015) “Санкционный механизм международных организаций: политика двойных стандартов, проблема исполнения решений и необходимость реформы”, *World of Diplomacy, Ministry of Foreign Affairs of the Republic of Azerbaijan*, Vol. 40, pp. 147-159. Available at: [http://www.mfa.gov.az/files/file/Diplomatiya\\_Alemi\\_40.pdf](http://www.mfa.gov.az/files/file/Diplomatiya_Alemi_40.pdf) (Accessed: 21 February 2017).

*Armenian nuclear intimidation as a threat to international peace and security*

Another threat is 'nuclear deterrence', which has been voiced by some of Armenia's current and former officials. After large-scale armed clashes between Armenian and Azerbaijani troops during April 2-5 2016, Armenian politicians made international headlines by declaring 'the presence of nuclear weapons in Armenia'. The former Prime Minister of Armenia, MP Hrant Bagratyan, claimed at a press conference on April 29 2016 that, "We have the capacity to create nuclear weapons [...] we have nuclear weapons [in order] to protect Armenia and Nagorno-Karabakh against further attacks."<sup>22</sup> Armen Rustamyan, the head of the parliamentary faction of the Armenian Revolutionary Federation (Dashnaktsutyun), gave a supporting statement saying, "Hrant Bagratyan has grounds for such a statement as he has been a prime minister, [...] who said that we are banned from producing the weapons."<sup>23</sup>

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Moreover, the nuclear fuels and radioactive wastes from Metsamor, an outdated Chernobyl-type NPP located in an earthquake-sensitive zone, are kept in the occupied territories of Azerbaijan by Armenia. The Nagorno-Karabakh region is also used for the illegal smuggling of nuclear materials<sup>24</sup>. In addition, the NPP uses outdated technology and is failing to comply with safety procedures. It therefore poses serious environmental threats to Armenia and the region, leading to radioactive pollution of water basins and trans-regional rivers.<sup>25</sup>

The United Nations and its specialized agencies, including the International Atomic Energy Agency (IAEA), must strengthen their efforts to suspend the operation of Metsamor NPP, which

22 Euractive.com (May 10, 2016) 'Former Armenian PM says his country has nuclear weapons'. Available at: <http://www.euractiv.com/section/europe-s-east/news/former-armenian-pm-says-his-country-has-nuclear-weapons/> (Accessed: 24 February 2017)

23 ibid

24 Mustafayeva, N. (2017) 'Armenia's dirty bomb a new threat to international peace and security', Turkish Weekly. Available at: <http://www.turkishweekly.net/2016/07/13/op-ed/armenias-dirty-bomb-a-new-threat-to-international-peace-and-security/> (Accessed: 03 August 2016)

25 Azvision.az. (2017). *Metsamor – the only nuclear plant based on Chernobyl technology - Azerbaijani MFA*. Available at: <https://en.azvision.az/news/63920/metsamor-%E2%80%93-the-only-nuclear-plant-based-on-chernobyl-technology-azerbaijani-mfa.html> [Accessed 12 January 2019].

poses a nuclear threat for the whole region. The international organizations should use coercive measures against Armenia, on the grounds that it is violating its agreement with the IAEA (1993) for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, as well as the UN Security Councils 1373 (2001) and 1540 (2004) resolutions on developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems, which were adopted in the Chapter VII of the UN Charter (Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression). The resolutions address, among other things, the threat of nuclear terrorism and nuclear proliferation, calling for national, regional, and international cooperation to strengthen the global response to these challenges to international security.<sup>26</sup>

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Furthermore in recent escalation and offensive actions in April, 2016, there were numerous instances of deliberate shelling of civilians and civilian objects of Azerbaijan by the armed forces of Armenia, using artillery and large-caliber weapons. Armenian forces also used shells containing chemicals such as white phosphorus. As reflected in the statement by the Azerbaijani Ministry of Foreign Affairs, “one of these projectiles was dropped on Askipara village of the Tartar region of Azerbaijan. It missed its prime target and landed on a cultivated cotton field. It was found as an unexploded ordnance by the Azerbaijan National Agency for Mine Action (ANAMA) on May 10. If it had landed on the densely populated part of Askipara village, the projectile would have inflicted serious casualties and injuries among the civilians”. The investigation has revealed that ammunition used by the armed forces of Armenia, is a D-4 type (smoke bomb) 122 mm artillery shell. It weighs 27.07 kg and contains 3.6 kg of P4 (the chemical symbol for white phosphorus).<sup>27</sup>

Under international humanitarian law, “attacks on civilians or civilian objects as well as attacks on forests or other kinds of

<sup>26</sup> Ibid.

<sup>27</sup> Ministry of Foreign Affairs of the Republic of Azerbaijan (2016) ‘Statement on the use of white phosphorus bomb by the armed forces of Armenia against civilians and civilian objects of Azerbaijan.’ Available at: <http://www.mfa.gov.az/en/news/909/4104> (Accessed: 15 February 2017)

plant cover (such as the cultivated area in Askipara) with white phosphorus shells are prohibited”. The specific prohibition can be found under Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons of the United Nations Convention on Certain Conventional Weapons (CCW or CCWC) of 1980<sup>28</sup>.

Through intentional strikes on civilian objects of Azerbaijan via high-explosive white phosphorous, Armenia is grossly violating its obligations under international humanitarian and human rights law, including the 1949 Geneva Conventions, and in particular the Fourth Geneva Convention<sup>29</sup>. Weapons containing white phosphorus also qualify as “incendiary weapon or device” under the 1997 International Convention for the Suppression of Terrorist Bombings<sup>30</sup> to which Armenia acceded in 2004. The Convention applies to any “explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage”, or a weapon that has these effects through toxic chemicals, biological agents, toxins, or radiation.<sup>31</sup>

“Over the past several years, the world community has tended to focused exclusively on the nuclear talks with Iran, while neglecting other potential nuclear arms spots in the neighborhood. The bellicose rhetoric of Armenian politicians about the possible “utilization of nuclear weapons” is not so different from North Korea’s warnings of a possible nuclear attack in March 2016”<sup>32</sup>. North Korea (DPRK) conducted its fourth nuclear detonation on 6 January 2016. The UN Security Council immediately began working on counter measures. The UN Secretary-General Ban Ki-moon called North Korea’s nuclear test “deeply troubling” and “profoundly destabilizing for

28 International Committee of the Red Cross, Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III). Geneva, 10 October 1980. Available at: <https://ihl-databases.icrc.org/ihl/INTRO/515> (Accessed: 27 February 2017)

29 International Committee of the Red Cross, Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Available at: <https://ihl-databases.icrc.org/ihl/INTRO/380> (Accessed: 26 February 2017)

30 The United Nations (1997), International Convention for the Suppression of Terrorist Bombings, New York. Available at: <https://www.unodc.org/documents/treaties/Special/1997%20International%20Convention%20for%20the%20Suppression%20of%20Terrorist.pdf> (Accessed: 02 March 2017)

31 Azvision.az. *Metsamor – the only nuclear plant.. op.cit.*

32 Gurbanov, I. (2016) ‘Nuclear alarm from Armenia.’ Available at: <http://www.euractiv.com/section/all/opinion/nuclear-alarm-from-armenia/> (Accessed: 27 February 2017)

regional security”<sup>33</sup>. The head of the UN International Atomic Energy Agency said that “if the nuclear test is confirmed, it is in clear violation of UN Security Council resolutions and is deeply regrettable”<sup>34</sup>.

The most recent nuclear test – the fifth – along with a series of missile launches were conducted by North Korea in contravention of UN resolutions on April 16, 2017. US Secretary of State Rex Tillerson took the matter to the Security Council, “urging member states to cut financial ties with Pyongyang and freeze access to funds that could be used to build up that nation’s nuclear arsenal”. Tillerson called on the international community “to fully implement UN sanctions and to suspend or downgrade diplomatic ties as well with North Korea”. The UN Secretary General Antonio Guterres

also “condemned North Korea’s record of violations of Security Council resolutions on nuclear and missile testing and development”<sup>35</sup>.

North Korea conducted its first nuclear test on October 9, 2006. The Security Council responded immediately to the challenge to international peace and security, and on October 14 adopted a resolution demanding that the DPRK refrain from conducting any more nuclear tests or ballistic missile launches. The resolution ensured the introduction of sanctions against North Korea, along with a ban on arms supplies and materials associated with the production of weapons of mass destruction. North Korea conducted two more underground nuclear tests in 2009 and 2013, leading to sanctions from the UN Security Council.

In evaluating the effectiveness of the sanctions mechanism of the UN Security Council, the following points should be underlined: 1) the deterrent effect on the offenders,

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33 The United Nations News Center (6 January, 2016) ‘UN deplors ‘deeply troubling’ hydrogen bomb test announced by DPR Korea.’ Available at: <http://www.un.org/apps/news/story.asp?NewsID=52945#.WK7qHoVOLIW> (Accessed: 02 March 2017)

34 Ibid.

35 Tillerson presses for economic sanctions on North Korea in special UN meeting. Available at: <http://www.foxnews.com/politics/2017/04/28/tillerson-presses-for-economic-sanctions-on-north-korea-in-special-un-meeting.html> (accessed: 29.04.2017), Korean Peninsula: Conflict prevention 'our collective priority' but onus also on DPRK, says UN chief, United Nations News Centre. Available at: <http://www.un.org/apps/news/story.asp?NewsID=56647#.WQhgdQqmqV> (accessed: 29.04.2017)

limiting the scope of their wrongful conduct; 2) the power to demonstrate the position of the international community and states toward an offence, providing preventive action against potential infringement; 3) limitations on the financial capabilities of the offender. The arms embargo impedes the modernization of the armed forces, and economic sanctions reduce a state's economic potential, which in turn limits expenditure on armaments.<sup>36</sup>

At the same time, we must acknowledge that the effectiveness of international sanctions, particularly ones imposed by the UN and its Security Council, depend first of all on the policies of great powers holding the necessary economic and military resources, plus political leverage, to ensure the effectiveness of sanctions and accountability of states which violate the universally recognized norms and principles of international law.

The inconsistent approaches of international institutions to conflicts clearly indicate that these platforms serve to promote the own interests of member states, as well as the interests of their unions and groups at the global and regional levels. In the current context, when we face a host of with new threats and when our common fate depends on the successful resolution of these challenges, this approach is wholly unacceptable. International organizations are designed to function as universal platforms for cooperation among states. Moreover, the selective applications of sanctions may lead to the emergence of new conflicts<sup>37</sup>.

### *Conclusion*

“The Armenia-Azerbaijan Nagorno-Karabakh conflict is the South Caucasus’ biggest threat to peace and security, and the most significant obstacle to regional cooperation and development. Although the conflict has dominated foreign and security policy in both Azerbaijan and Armenia ever since independence, the international community has largely neglected the conflict, and

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36 Лукашук, И. (2005) ‘Международное право. Особенная часть’. Москва, с.407.

37 Məmmədov, F. (2015) ‘Yaxın gələcəkdə yeni münaqişələrin şahidi ola bilər’, Trend News Agency. Available at: <http://az.trend.az/azerbaijan/politics/2365724.html> (Accessed: 23 February 2017)

furthermore has misleadingly labeled it as 'frozen'".<sup>38</sup>

However, the April escalation of hostilities “has altered the long-held myth about the 'frozen' nature of the conflict”.<sup>39</sup> The “ramifications of the armed clashes between Armenian and Azerbaijani military forces along the line of contact at the beginning of April 2016 also demonstrated that the status quo has already shifted. As a result of the successful counterattack by Azerbaijani armed forces – in response to a provocation by Armenia armed forces – strategic heights were recaptured for the first time since the 1994 ceasefire agreement”.<sup>40</sup>

*Any failure in the renewed peace negotiations risks a new round of escalations, and potentially render resort to military force as the only viable option for Azerbaijan in regard to the restoration of its territorial integrity.*

The new United Nations Secretary General Antonio Guterres in his remarks to the UN Security Council Open Debate on Conflicts in Europe in February 2017, said: “The term 'frozen conflict', which is often used about conflicts in Europe, including the Nagorno-Karabakh conflict, is misleading”. He mentioned that, “until peace agreements are signed and implemented, the risk of renewed violence remains, as we saw last April in Nagorno-Karabakh in the South Caucasus”<sup>41</sup>.

After the April escalation, the line of contact between the armed forces of Armenia and Azerbaijan around Nagorno-Karabakh became the most militarized area in the whole post-Soviet space. After the escalation, Armenia pushed forward with the delivery of new weapons and sophisticated equipment from Russia, based on the \$200 million military loan agreement from July 2015. The Armenian military received Russian-made Iskander-M ballistic missile systems, some of which were demonstrated at the Independence Day military parade in Yerevan on September 21, 2016.<sup>42</sup>

38 Mammadov, ‘The Armenia-Azerbaijan Nagorno-Karabakh Conflict...’, *op.cit.*, pp.162-163.

39 Mammadov, ‘The Armenia-Azerbaijan Nagorno-Karabakh Conflict...’, *op.cit.*, pp.162-163.

40 Pashayeva, G. (2016). The major stumbling block of the Nagorno-Karabakh peace process. *Euractiv*. Available at: <https://www.euractiv.com/section/europe-s-east/opinion/the-major-stumbling-block-of-the-nagorno-karabakh-peace-process/> [Accessed 12 Jan. 2019].

41 The United Nations (21 February, 2017) ‘Never Take Peace in Europe for Granted, Say Speakers as Security Council Holds Open Debate on Region’s Protracted Conflicts’, *Security Council 7886<sup>th</sup> meeting*(AM), SC/12724. Available at: <https://www.un.org/press/en/2017/sc12724.doc.htm> (Accessed: 25 February 2017)

42 Garibov, A. (2016). Armenia and Azerbaijan Flex Military Muscles While Nagorno-Karabakh Peace Negotiations Stall. The Jamestown Foundation, Eurasia Daily Monitor Volume: 13 Issue: 190.



'The four day war' brought “renewed dynamism to international mediation efforts, underlining the necessity of genuine conflict resolution efforts in order to prevent the resumption of full-scale war. The Presidents of Azerbaijan and Armenia met in Vienna and Saint Petersburg, and the ceasefire has largely held on the line of contact. However, any failure in the renewed peace negotiations risks a new round of escalations, and potentially render resort to military force as the only viable option for Azerbaijan in regard to the restoration of its territorial integrity”.<sup>43</sup> As described above, the violation of the country’s territorial integrity has been affirmed by numerous international documents, including the UN Security Council resolutions.

As argued in this article, one of the main reasons for the ineffectiveness of the United Nations, particularly the Security Council, is its inability and in some cases unwillingness to ensure the implementation of its resolutions. The non-execution of the resolutions not only undermines the credibility of the United Nations, but also threatens international peace and security.

Azerbaijan accorded special attention to the implementation of UN Security Council resolutions during 2012-2013, when the country served as a non-permanent member of the Security Council for the first time in its history. It was awarded the seat following a vote in the UN General Assembly on 24 October 2011. One seat on the 15-member body is made available for the Group of Eastern European states. Guided by the universally accepted principles of international law and supremacy of international norms enshrined in the Charter of the UN, Azerbaijan argued that “it is unacceptable that a resolution of the Security Council containing imperative demands for concrete action should be ignored or interpreted in a way to avoid their implementation”. “Special attention should be given to situations involving regional arrangements referred by the Security Council with a view to encouraging the development of the peaceful settlement of disputes or conflicts. Needless to mention, that the silence of the Security Council concerning the apparent disregard of its resolutions on issues pertaining to

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Available at: <https://jamestown.org/program/armenia-azerbaijan-flex-military-muscles-nagorno-karabakh-peace-negotiations-stall/> [Accessed 12 Jan. 2019].

43 Mammadov, ‘The Armenia-Azerbaijan Nagorno-Karabakh Conflict...’, *op.cit.*, pp.162-163.

international and regional peace and security and attempts to undermine them with ambiguous considerations in dangerous and cannot constitute an accepted practice of the Council's working methods"<sup>44</sup>.

At the beginning of this year the UN Secretary General Antonio Guterres shared his new vision for the organization's work, highlighting that "the United Nations was born from war. Today, we must be here for peace"<sup>45</sup>.

Azerbaijan has stated its preference for resolving the conflict through peaceful efforts and negotiation, based on the principles of international law, and with particular regard to the territorial integrity, sovereignty and internationally recognized borders of Azerbaijan. "But the continued failure of these efforts threatens to leave military means as Azerbaijan's only option for restoring its territorial integrity"<sup>46</sup>.

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44 The Republic of Azerbaijan in the United Nations Security Council: 2012-2013, Permanent Mission of the Republic of Azerbaijan to the United Nations (2014), compiled and edited by Mehdiyev, A. and Musayev, T. New York, p. 375.

45 The United Nations (2017) 'Secretary-General-designate Antonio Guterres' remarks to the General Assembly on taking the oath of office', Available at: <https://www.un.org/sg/en/content/sg/speeches/2016-12-12/secretary-general-designate-ant%C3%B3nio-guterres-oath-office-speech> (Accessed: 02 March 2017)

46 Mammadov, 'The Armenia-Azerbaijan Nagorno-Karabakh Conflict...', *op.cit.*, pp.162-163.