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Carta de fecha 23 de mayo de 2011 dirigida al Presidente del Consejo de Derechos Humanos por la Misión Permanente de la República de Azerbaiyán ante la Oficina de las Naciones Unidas y otras organizaciones internacionales con sede en Ginebra

Tengo el honor de señalar a su atención la carta de fecha 18 de noviembre de 2010 dirigida al Presidente del Consejo de Derechos Humanos por el Representante Permanente de la República de Armenia ante la Oficina de las Naciones Unidas en Ginebra (A/HRC/15/G/9). Esa carta fue redactada con tal descaro que oculta hábilmente la agresión armada de la República de Armenia a la República de Azerbaiyán, así como la política de limpieza étnica aplicada simultáneamente por las fuerzas armadas armenias contra la población inocente de Azerbaiyán.

El anexo de dicha carta del Representante de Armenia no es más que la sarta de argumentos sin sentido y absurdos que solo puede proceder de la parte armenia en su conjunto.

En este sentido, le agradecería que la presente carta y su anexo* se distribuyeran como documento del Consejo de Derechos Humanos en su 17º período de sesiones, en relación con el tema 6 de su agenda.

(Firmado) Dr. Murad N. **Najafbayli**
Embajador
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* Se reproduce como se recibió, en el idioma en que se presentó únicamente.

Anexo

In the face of continuous attempts by the Republic of Armenia to politicize the Human Rights Council, once again the Republic of Azerbaijan regrets to draw the attention of the Council to provocative, false and baseless claims and statements contained in the letter of the Permanent Representative of the Republic of Armenia dated November 18, 2010. Unfortunately, instead of using the Human Rights Council's UPR sessions as a forum to address the human rights issues, in particularly those in that country, Armenia continues to propagate the illegal puppet regime established in the territories of the Republic of Azerbaijan occupied by Armenia and to disseminate its groundless accusations against Azerbaijan aimed at concealing its aggression.

In reality, this document represents yet another attempt of the Republic of Armenia to mislead the international community by means of blatant falsification of facts and thus to justify its annexationist policy.

Concerned with the politicization of Universal Periodic Review, the Republic of Azerbaijan emphasizes once again that the main purpose of the UPR is to assess information on fulfillment of the human rights obligations and commitments, and also positive developments and challenges faced by the member state under the review. Regrettably the Republic of Armenia through presenting its own biased interpretation of Armenia-Azerbaijan Nagorno Karabakh conflict and also Azerbaijan's human rights obligations, tries to distract working group's attention from the review of Armenia's human rights obligations which is completely contradictory to UPR principles reflected in the Human Rights Council Resolution 5/1 both in terms of procedure and substance. This was the main point in the letter of the Permanent Mission of the Republic of Azerbaijan addressed to the President of the Human Rights Council (A/HRC/15/G/3).

We note that the issues to be covered in national reports as defined in the HRC resolution 5/1 and HRC decision 6/102 are bluntly misused in the letter of Armenian representative by taking certain terms (as 'key national priorities') out of context. According to HRC decision 6/102 ("General Guidelines for the Preparation of Information under the Universal Periodic Review"), national report should cover not 'key national priorities' as such, which go beyond the framework of UPR mechanism, but as noted in para E of part I of the HRC 6/102 decision "Key national priorities, initiatives and commitments that the State concerned intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground". So the report has to cover not general key national priorities, but only those which the State intends to undertake to improve human rights situation.

It is necessary to remind the Republic of Armenia that any alleged violation of the human rights obligations by the Republic of Azerbaijan with regard to its ethnic Armenian minority living in Nagorno Karabakh region of Azerbaijan should have been discussed in the 4th UPR working group session reviewing the national report of the Republic of Azerbaijan which took place on 4th February 2009.

The national report of the Republic of Armenia and the letter of Permanent Representative refer to the misleading information on so-called "war unleashed by Azerbaijan". In fact it is Azerbaijan that is still suffering from the consequences of the Armenian aggression. Armenia which claims the Nagorno Karabakh region of Azerbaijan occupied not only this territory, but also seven adjacent districts of Azerbaijan and still keeps 20 percent of the Azerbaijani territories under its occupation. Over 250 000 Azerbaijanis have been expelled from Armenia. More than 1 million Azerbaijanis have become refugees and internally displaced persons as a result of aggression. While mentioning the relevant United Nations Security Council resolutions (S/RES/822, S/RES/853, S/RES/874, S/RES/884) calling for

urgent humanitarian assistance to the affected civilian population, the Armenian side omits to remind that the same resolutions also demand the immediate, complete, unilateral and unconditional withdrawal of the occupying forces from the occupied territories of Republic of Azerbaijan and also call to assist refugees and displaced persons to return to their homes in security and dignity. These resolutions remain unimplemented by Armenia.

We would like also to quote the letter of the President of the Human Rights Council of 29 April 2010 with regard to some incorrect remarks reflected in the national report of Armenia: "The Human Rights Council, as a subsidiary body of the UN General Assembly, shall adhere to the official UN position as reflected in relevant General Assembly and Security Council resolutions. The Council therefore respects the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders".

International obligations referred to in the letter of Armenia (except article 1 of the Covenants) though regrettably not yet fulfilled by Armenia, are not human rights obligations but political in nature and therefore irrelevant to the scope of Universal Periodic Review.

Article 2 (1) of the Charter of the United Nations provides that the Organization itself is based on "the principle of the sovereign equality of all its Members", while article 2 (4) declares that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state…" The latter principle is, of course, one of the core principles of the UN.

The interpretation of self-determination as a principle of collective human rights has been analyzed by the Human Rights Committee in interpreting article 1 of the International Covenant on Civil and Political Rights. In its General Comment on Self-Determination adopted in 1984, the Committee emphasized that the realization of the right was "an essential condition for the effective guarantee and observance of individual human rights". As some scholars mentioned the Committee takes the view that "external self-determination requires a state to take action in its foreign policy consistent with the attainment of self-determination in the remaining areas of colonial or racist occupation. But internal self-determination is directed to their own peoples". Human Rights Committee also stated on the right to self determination of peoples that actions of States to facilitate realization of and respect for the right of peoples to self-determination must be consistent with the States' obligations under the Charter of the United Nations and under international law: in particular, States must refrain from interfering in the internal affairs of other States.

With regard to the article 1 of International Covenant on Economic, Social and Cultural Rights it should be noted that in connection with various case-laws self-determination "is normally fulfilled through internal self-determination – a people's pursuit of its political, economic, social and cultural development within the framework of an existing state".

The international obligation of the Republic of Armenia with regard to population in Nagorno Karabakh region of the Republic of Azerbaijan who had been forced to flee is to ensure the protection of the human rights, including the right to property, the right to heritage, amongst others, of those being of Azerbaijani origin. Both human rights and international humanitarian law determines the responsibility of the occupying power - Armenia for human rights and international humanitarian law violations in the occupied territories of the Republic of Azerbaijan, until these territories are liberated from the occupation and the consequences of such an occupation are eliminated (the schematic map of the occupied territories of the Republic of Azerbaijan is enclosed).

The Government of Azerbaijan has constantly emphasized this fact in its national report for Universal Periodic Review and in its periodic reports to the UN treaty bodies. Thus, the Republic of Armenia bears the responsibility for human rights violations committed in the occupied territories of the Republic of Azerbaijan.

As an occupying power, the Republic of Armenia is fully responsible to ensure human rights and implement norms and principles of international humanitarian law in the occupied territories. In this regard, the Republic of Azerbaijan draws attention to the grave violations of human rights and freedoms and norms of international humanitarian law committed by the Republic of Armenia, manifested also in policy aimed at changing demographic composition, violation of property rights, destruction amongst others of the cultural heritage and sacred-religious sites in the occupied territories and expresses its deep concern for the vacuum existing in the protection of human rights and freedoms in those territories.

For the effective protection of norms and principles of international humanitarian law and human rights in the occupied territories of the Republic of Azerbaijan, firstly the occupation has to be eliminated, and Armenian armed forces have to be withdrawn from the territories of the Republic of Azerbaijan The Republic of Azerbaijan supports a peaceful solution of the Armenia-Azerbaijan Nagorno-Karabakh conflict, based on norms and principles of International Law, including territorial integrity, sovereignty and inviolability of internationally recognized borders of states. Only after this, due condition to ensure human rights and freedoms in the occupied territories of the Republic of Azerbaijan would appear.

It is worthwhile to recall that what Armenia considers "the self-determination of Nagorno-Karabakh people", has been unequivocally qualified by the Security Council and the General Assembly of the UN, as well as, by other authoritative international organizations, as the illegal use of force against the sovereignty and territorial integrity of the Republic of Azerbaijan. Thus, the four UNSC resolutions, resolution 1416 of the Parliamentary Assembly of the Council of Europe adopted on 25 January 2005, resolution 62/243 "The situation in the occupied territories of Azerbaijan" adopted by the United Nations General Assembly on 14 March 2008, European Parliament resolution of 20 May 2010 on the need for an EU strategy for the South Caucasus reaffirm the territorial integrity of the Republic of Azerbaijan, recognize the occupation of the Nagorno Karabakh region of the Republic of Azerbaijan and its surrounding districts and call for an immediate withdrawal of all occupying Armenian forces from these territories and recognition of the rights of Azerbaijani IDPs to return to their homes.

Resolution 1416 (2005), adopted on 25 January 2005 by the Parliamentary Assembly of the Council of Europe, noted particularly that "considerable parts of the territory of Azerbaijan are still occupied by Armenian forces" and reiterated that "the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe".

Resolution 62/243 "The situation in the occupied territories of Azerbaijan" adopted by the United Nations General Assembly on 14 March 2008 at its 62nd session reaffirmed its continued strong support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders, demanding the immediate, complete and unconditional withdrawal of all Armenian forces from all occupied territories of the Republic of Azerbaijan. At the same time, the Assembly reaffirmed the inalienable right of the population expelled from the occupied territories to return to their homes. The General Assembly also stated that no State shall recognize as lawful the situation resulting from the occupation of the territories of the Republic of Azerbaijan, nor render aid or assistance in maintaining this situation.

European Parliament in its resolution entitled "The need for an EU strategy for the South Caucasus" adopted on 20 May 2010 "demands the withdrawal of Armenian forces from all occupied territories of Azerbaijan, accompanied by deployment of international forces to be organised with respect of the UN Charter in order to provide the necessary security guarantees in a period of transition, which will ensure the security of the population of

Nagorno-Karabakh and allow the displaced persons to return to their homes and further conflicts caused by homelessness to be prevented"; "believes the position according to which Nagorno-Karabakh includes all occupied Azerbaijani lands surrounding Nagorno-Karabakh should rapidly be abandoned".

It is not for the first time that the Republic of Armenia tries to present "the principle of equal rights and self-determination of peoples" as a pretext to change by the use of force the internationally recognized borders of a sovereign state and impair its sovereignty and territorial integrity through annexing a part of it. It is ironic, in this regard, to observe Armenia's attempt to pass over in silence of the relevant clauses of the documents, including the 1970 Declaration on Principles of International Law Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, which explicitly states, inter alia that, the principle of equal rights and self-determination of peoples cannot be interpreted or applied so that to "dismember of impair, totally or in part, the territorial integrity or political unity of sovereign and independent States".

What we observe in the letter of the Republic of Armenia is nothing but another attempt of deliberate misinterpretation of the principle of self-determination to justify illegal use of force and military occupation. It is essential to point out in this regard that the right to self-determination cannot be interpreted to mean that any group can decide for itself its own political status up to and including secession from an independent State.

This approach is confirmed also in the general comment of the Human Rights Committee 23 (50) of 1994. According to the Committee "the Covenant draws a distinction between the right to self-determination and the rights protected under Article 27. The former is expressed to be a right belonging to peoples and is dealt with in a separate part (Part I) of the Covenant." Article 27 articulates the rights of ethnic, religious or linguistic minorities existing in States parties to the Covenant. Consequently, the ethnic Armenian minority existing in Nagorno Karabakh region of Azerbaijan is entitled to rights under Article 27 of the International Covenant on Civil and Political rights but not those under article 1 which obviously belongs to the whole people and not a minority.

The important factor in addressing the issue of self-determination with regard to the conflict between Armenia and Azerbaijan is that all actions aimed at tearing away a part of the territory of Azerbaijan were unlawful and constituted a violation of the fundamental norm of respect for the territorial integrity of States, as well as a violation of other peremptory norms of general international law. In its advisory opinion of 22 July 2010, the International Court of Justice reaffirmed that the illegality attached to unilateral secessions stems from the fact that "they were or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (jus cogens)".

Through asserting "the self determination of the Nagorno-Karabakh people" the Armenian side confirms once again that Armenia is on the path of achieving the annexation of Azerbaijani territories that it captured using military force and in which it has carried out ethnic cleansing.

The realization of self-determination provided for the independence of colonial territories and could also be applied in the case of foreign occupation. It must be clarified in this regard that the practical realization of the right to self-determination, as stipulated in the relevant international documents, represents a legitimate process carried out in accordance with international and domestic law within precisely identified limits. It is well-established that the principle of self-determination exists in reality as a rule of international law and as such provides for the independence of colonial territories and for the participation of peoples in the governance of their States within the territorial framework of such States.

Besides, this principle also has an application in the case of foreign occupations and acts to sustain the integrity of existing States.

The Committee on the Elimination of Racial Discrimination adopted General Recommendation 21 in 1996 in which it similarly divided self-determination an external and an internal aspect. The former "implies that all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation", while the latter referred to the "right of every citizen to take part in the conduct of public affairs at any level. In that respect there exists a link with the right of every citizen to take part in the conduct of public affairs at any level…".

International law is unambiguous in not providing for a right of secession from independent States. Otherwise, such a fundamental norm as the territorial integrity of States would be of little value were a right to secession under international law be recognized as applying to component parts of independent States. International law does not create grounds and conditions for legitimizing unilateral secession in any sense. Consequently, such secession from an existing sovereign State does not involve the exercise of any right conferred in international law and hence has no place within the generally accepted international legal norms and principles which apply within precisely identified limits.

Our approach to the right of self-determination derives from its true value and envisages securing the peaceful coexistence and cooperation of the Azerbaijani and Armenian communities of the Nagorno Karabakh region within the territorial framework of the Republic of Azerbaijan.

The possible attempts of the Armenian side to find recourse in the relevant clauses of the 1970 Declaration of Principles of International Law are sustainable because of the well-known factual circumstances pertaining to the conflict between Armenia and Azerbaijan. These circumstances pertain, first of all, to the historical burden of systematic expulsion of Azerbaijanis from their ancestral lands, extensive rights of the Armenian population in Azerbaijan, including administrative autonomy in Nagorno Karabakh, the contrasting lack of similar rights and privileges guaranteed for the once significantly larger Azerbaijani population of Armenia and finally the tragic consequences of Armenian aggression.

The Committee on the Elimination of Racial Discrimination noted in its Concluding Observations on Azerbaijan on 12 April 2001 that: "After regaining independence in 1991, the State party was engaged in war with Armenia, another State party. Because of the occupation of some 20 percent of its territory, the State party cannot fully implement the Convention" (CERD/C/304/Add.75).

There are also irrefutable facts testifying the active use, by Armenia of mercenaries to attack Azerbaijan ("Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" A/49/362, paras. 69-72).

Thus, Armenia's claims with regard to the "exercise of the self-determination by Nagorno Karabakh" and "secession of Nagorno Karabakh from Azerbaijan" are unsubstantiated in international law, while its actions, up to and including the resort to force, also through the mercenary activity in the course of the aggression against Azerbaijan, constitute a violation of international legal principles, including particularly the principle of the territorial integrity of states.

The Republic of Azerbaijan has always fully guaranteed the rights of minorities and continues to take steps for further realization of these rights to all ethnic, religious and linguistic minorities existing in the territory of Azerbaijan.

While accusing Azerbaijan of the alleged acts of deliberate destruction, the Armenian side disregards the fact that, because of the aggression by Armenia against Azerbaijan no single Azerbaijani historic and cultural monument was left undamaged and no sacred site escaped desecration both in the occupied territories of Azerbaijan and in Armenia.

The ironical feature of the Armenian arguments even goes beyond if one would mention the marble memorial erected in 1978 dedicated to the 150th anniversary of the settlement of Armenians to Nagorno Karabakh and other territories of Azerbaijan, which was destructed by Armenians themselves afterwards. In this regard the document shows the "enviable" ability for denying and blaming techniques of the Armenian side.

The content of the mentioned document pertaining to "the ethnic cleansing of Armenians and unleashing a war against Armenia" represents none other than yet more mere verbiage uselessly rending the air against the background of the facts irrefutably testifying to the opposite.

Today there is not a single Azerbaijani remaining in present-day Armenia of more than half million Azerbaijani people who lived there when Soviet rule was established in the region. At the end of 1980s under instructions from and with the blessing of the Armenian authorities, over 250.000 Azerbaijanis remaining in Armenia were forcibly deported from their homes. This process was accompanied by killings, torture, enforced disappearances, the destruction of property and pillaging throughout Armenia.

The Republic of Armenia tends to "substantiate" its claims alleging that Azerbaijani authorities conducted discriminatory policies towards the Nagorno-Karabakh region aiming at "depopulation of the region from its original Armenian population". In the face of these groundless efforts, the Azerbaijan feels obliged to remind that Armenian minority living in the region enjoyed wide range of rights and privileges stemming from its status as an autonomous region. Thus, in accordance with the Constitution of the Azerbaijan SSR, the legal status of the Nagorno-Karabakh Autonomous Oblast (NKAO) was governed by the Act "On the Nagorno-Karabakh Autonomous Oblast", which was adopted by the Supreme Soviet of the Azerbaijan SSR following its submission by the Soviet of People's Deputies of the NKAO. As a national territorial unit, the region enjoyed a form of administrative autonomy and, accordingly, had a number of rights, which, in practice, ensured that its population's specific needs were met. Under the Constitution of the former USSR (article 110 of the Constitution of the USSR and article 4 of the Act of the Azerbaijan SSR "On the Nagorno-Karabakh Autonomous Oblast"), the region was represented by five deputies in the Council of Nationalities of the Supreme Soviet of the USSR. It was represented by 12 deputies in the Supreme Soviet of the Azerbaijan SSR. Furthermore, under article 113 of the Constitution of the Azerbaijan SSR and article 6 of the Act of the Azerbaijan SSR "On the Nagorno-Karabakh Autonomous Oblast", one of the vice-presidents of the Presidium of the Supreme Soviet of the Azerbaijan SSR was elected from the NKAO. The Soviet of People's Deputies of the NKAO - the government authority in the region - had a wide range of powers. It decided all local issues based on the interests of citizens living in the region and with reference to its national and other specific features. The Soviet of People's Deputies of the NKAO participated in the discussion of issues relating to the Republic as a whole and made suggestions on them, implemented the decisions of higher government authorities and guided the work of subordinate Soviets. Armenian was used in the work of all government, administrative and judicial bodies and the Procurator's Office, as well as in education, reflecting the language requirements of the majority of the region's population.

In fact, the NKAO was developing more rapidly than other regions of Azerbaijan. In the period 1971 to 1985, 483 million roubles of capital investment were channeled into the development of the Nagorno-Karabakh Autonomous Oblast, 2.8 times more than in the previous 15-year period. Over the preceding 20 years, the volume of per capita capital investment had increased nearly fourfold (226 roubles in 1981-1985 against 59 roubles in

1961-1965). There was a more extensive network of institutions providing cultural and information services (more than three times the number of cinemas and clubs and twice as many libraries), and there were 1.6 times more books and magazines per 100 readers. In schools, 7.7 per cent of children in the region attended the second and third sessions, compared with 25 per cent in the Republic as a whole; 37 per cent of children had places in permanent pre-school establishments (against 20 per cent in the Republic). For example, whereas industrial output in the Republic increased threefold between 1970 and 1986, in the Nagorno-Karabakh Autonomous Oblast it grew by a factor of 3.3 (the rate of growth there was 8.3 per cent higher). As far as basic social development indicators were concerned, the NKAO exceeded the average republic-wide standard of living indicators in the Azerbaijan SSR. There was significant progress in the development of cultural establishments, both in the oblast and throughout the republic. Five independent periodicals appeared in the Armenian language. Although it located far from the capital of the Republic in mountainous areas, the region was equipped with technical infrastructure for receiving television and radio programs.

Armenia presents its position avoiding deliberately the relevant documents and resolutions of the United Nations Security Council and General Assembly, which have not been implemented yet by Armenia and, therefore, tries to substantiate its allegations focusing only on some correspondence and documents of the League of Nations. It is important to note that non-membership of the League of Nations at the time is not a ground for claims to states' existing borders and sovereignty. It is worth to note that the Republic of Armenia was not a member of the League of Nations either.

In a similar vein, the claim that "before the establishment of the Soviet rule Azerbaijan did not have a de facto control of the territories it claimed" is misleading. With these claims Armenia tries to convince the international community that the Nagorno-Karabakh region had not been under control of the Republic of Azerbaijan. Yet, as mentioned above, the lack of effective control of the Government of Azerbaijan over part of its territory was due to the invasion of the Bolsheviks, in the result of which, the central Government had been overthrown. It is worthwhile to remind in this regard that in April 1919 the Allied Powers recognized the provisional General-Governorship of Karabakh, which was established by the Democratic Republic of Azerbaijan in January of the same year and included Shusha, Javanshir, Jabrayil and Zangazur uyezds (uyezd - administrative-territorial unit of the Russian Empire, which was applied in the Democratic Republic of Azerbaijan and Azerbaijan SSR until the late 1920s) with the center in Shusha town, to be under Azerbaijani jurisdiction and Khosrov bay Sultanov as its governor. In 1919 the Armenian National Assembly of Nagorno Karabakh officially recognized the authority of Azerbaijan . This fact completely disproves the allegations of the Armenian side that "Nagorno Karabakh has never been part of independent Azerbaijan".

On January 12, 1920 the independence of the Republic of Azerbaijan, along with Armenia's and Georgia's, was de facto recognized by the Supreme Council of the Allied Powers at the Paris Peace Conference with the Nagorno-Karabakh region as a part of it.

In the Memorandum dated 24 November 1920, the Secretary-General of the League of Nations formulated the following two key issues which would have been considered in regard to the application submitted by Azerbaijan:

> "The territory of Azerbaijan having been originally part of the Empire of Russia, the question arises whether the declaration of the Republic in May 1918 and the recognition accorded by the Allied Powers in January 1920 suffice to constitute Azerbaijan de jure a "full self-governing State" within the meaning of Article 1 of the Covenant of the League of Nations.

> Should the Assembly consider that the international status of Azerbaijan as a "full self-governing State" is established, the further question will arise whether the Delegation by whom the present application is made is held to have the necessary authority to represent the legitimate government of the country for the purpose of making the application, and whether that Government is in a position to undertake the obligations and give the guarantees involved by membership of the League of Nations."

As to the first issue, the most important part of the mentioned Memorandum of the Secretary-General relates to the "Juristic observations", which reminds of the conditions governing the admission of new Members to the Organization contained in Article 1 of the Covenant of the League of Nations, including the requirement to be a fully self-governing state. It is obvious that the state, a considerable part of the territory of which was occupied by the time of consideration of its application in the League of Nations, and yet the Government that submitted this application was overthrown, could not be regarded as fully self-governing in terms of Article 1 of the Covenant of the League of Nations.

The Secretary-General of the League of Nations pointed out in his Memorandum that the mandate of the Azerbaijani delegation attending the Paris Peace Conference derived from the government that had been in power at Baku until April 1920. Thus, attention in the Memorandum is distinctly paid to the fact that at the time of submission by the Azerbaijani delegation of the application (1 November 1920) and the publication date of the Memorandum (24 November 1920) the government of the Democratic Republic of Azerbaijan, which issued the credentials to the delegation, was not actually in power since April 1920. It was further noted in the Memorandum that this Government did not exercise authority over the whole territory of the country.

Therefore, the Fifth Committee of the Assembly of the League of Nations in its resolution on the application of Azerbaijan decided that "it is not desirable, in the present circumstances, that Azerbaijan should be admitted to the League of Nations". It is clear from the text of the said resolution that under "the present circumstances" the Fifth Committee, which made no reference to Nagorno Karabakh at all, understood only that "Azerbaijan does not seem to possess a stable government with jurisdiction over a clearly defined territory". Thus, these were just those reasons, derived from the requirements set forth in Article 1 of the Covenant of the League of Nations, which had prevented Azerbaijan from being admitted to the Organization.

The abovementioned documents of the League of Nations prove that the Armenian side is mistaken, to say the least of it, believing that "the Republic of Azerbaijan was declined admission to the League of Nations, some of the reasons for it being the absence of the effective control over the territories it claimed to be comprised of, and Karabakh, among others".

At the same time, the League of Nations did not consider Armenia itself as a state and proceeded from the fact that this entity had no clear and recognized borders, neither status nor constitution, and its government was unstable. As a result, the admission of Armenia to the League of Nations was voted down on 16 December 1920.

In response to the claim of the Armenian side that "Karabakh was not under the jurisdiction of independent Azerbaijan when it became part of the Soviet Union", the Armenian side should be reminded about the decision of the Caucasian Bureau of the Central Committee of the Russian Communist (Bolsheviks) Party, which owing to the territorial claims of Armenia did take up the problem several times and, at the meeting held on 5 July 1921, decided to retain Nagorno Karabakh within the Azerbaijan SSR: "Taking into consideration the necessity of national peace between the Muslims and the Armenians, the economic relations between upper and lower Karabakh and the permanent relations of upper

Karabakh with Azerbaijan, Nagorno Karabakh shall be retained within the Azerbaijan SSR and broad autonomy shall be given to Nagorno Karabakh with Shusha city as an administrative centre"

Thus, the ancestral land of Azerbaijan – mountainous Garabakh (Nagorno Karabakh) – was given the status of autonomy within the Soviet Socialist Republic of Azerbaijan and its administrative borders were defined in such a way to ensure that a small Armenian population constituted a majority in this autonomy. At the same time, a significantly larger Azerbaijani population residing in the Armenia SSR at that time was refused the same privilege and attempts to so much as mention this were promptly, roughly and savagely suppressed.

Furthermore, during the Soviet period, Armenia succeeded in expanding its territory mostly at the expense of Azerbaijani lands and using every possible means to expel the Azerbaijanis from their places of origin. Thus, the territory of Armenia increased from 8.000-10.000 to 29.800 square kilometers. As a result, the Nakhchivan region of Azerbaijan was cut off from the main body of the country. The increase in the territorial area of Armenia was subsequently followed by the systematic forced expulsion of the native Azerbaijani inhabitants of these regions, which brought the intended process to its logical end - the promotion and establishment of the mono-ethnic cultures in Armenia.

The Government of the Republic of Armenia, which has purged both the territory of its own country and the occupied areas of Azerbaijan of all non-Armenians and thus succeeded in creating mono-ethnic cultures there, should be the last one advocating unilateral secessions of ethnic minority groups from sovereign States.

Given these facts, it sounds hypocritical for Armenia to complain about "discrimination against Armenians in Azerbaijan".

The claim that "under the Soviet rule the borders of Azerbaijan SSR were administrative in nature and therefore the principle of territorial integrity has no bearing on the said borders" is also erroneous. On this point, the Armenian side seems to forget about the international legal doctrine of uti possidetis juris. In this regard, the Azerbaijani side feels obliged to remind that according to the doctrine of uti possidetis juris, from the time of attainment by the Republic of Azerbaijan of its independence, the former administrative borders of the Azerbaijan SSR, which also included the Nagorno Karabakh region, are recognized as international and protected by international law. This understanding is also confirmed in the known resolutions of the UN Security Council on the Armenia-Azerbaijan conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan.

Regarding the claim of the Armenian side that by proclaiming the restoration of the state independence of 1918-1920 and thus becoming the successor of the then ADR Azerbaijan allegedly forfeited a right to pretend to the borders of the Soviet period, the attention should be drawn to Article 11 of the Vienna Convention on Succession of States in Respect of Treaties, according to which "[a] succession of States does not as such affect: (a) a boundary established by a treaty….". In other words, though this provision directly applies only to external boundaries of the former USSR established by international treaties, to which it was a party, it actually represents a conceptual international legal approach provided that an existing boundary continues to exist notwithstanding the succession, so that the change of sovereignty cannot be a pretext to undermine such boundaries which achieve permanence.

In the letter of the Permanent Representative of the Republic of Armenia, Armenia accused Azerbaijan of destruction of Armenian historical monuments, however last year while visiting Baku Garegin II Catholicos of all Armenians who participated at World Religious Leaders Summit and Mr Stepan Grigoryan, participant of the III South Caucasus Security Forum from Armenia had an opportunity to see Armenian church safe in the very centre of

Baku city, which once more demonstrates the high level of religious tolerance and respect of Azerbaijani Government and Azerbaijani people towards all religions and nations. But unfortunately, Armenia pursues a policy of destruction and "armenization" of historical-cultural monuments belonging to the Azerbaijani people in Armenia and in the occupied territories of Azerbaijan, which constitutes the gross violation of international humanitarian law, in particular the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

In regard to violations of humanitarian law it is worth to note that Armenia has refused to return the corpses of Mubariz Ibrahimov and Farid Ahmadov, Azerbaijani soldiers killed as a result of violation of ceasefire regime in 2010, once more gravely violating the norms of international humanitarian law and showing its disrespect to international obligations. The body of M.Ibrahimov was later displayed at the internet site, that is also in itself a violation of humanitarian law.

As for the claims of the Republic of Armenia with regard to the cease-fire violations and withdrawal of snipers from the borderline, there is one important issue, which deserves the attention. While on the territories of Azerbaijan occupied by the Armenian forces, there are no Armenian settlements close to the line of contact, on the other side there is civil Azerbaijani population living in close vicinity to the line of contact. More and more we register losses among the Azerbaijani peaceful civilian population caused by the fire from the Armenian side. This is only with sorrow, regret and fury that we react to this fact, especially, to the death of nine-year old child on March 8, 2011 in the Orta Garvand village of the Aghdam region. The nine-year old child from the Azerbaijani village was killed by the deadly bullet of an Armenian sniper. So, we reject the accusations addressed by the Armenian side and urge them to put an end to the barbaric acts of killing innocent civilians, including the children.

Armenia tries to conceal the crimes committed against the Azerbaijani hostages and prisoners of war and misleads the international community about the real situation on the ground. According to many reports, Azerbaijani hostages are illegally detained by Armenia and subjected to systematic tortures and other cruel, inhuman and degrading treatment. These facts are hidden by Armenia from the international organizations, including ICRC. The list of these persons was compiled on the basis of testimonials of the citizens returned from the captivity and of other sources. The results of investigations reveal that, most of those persons were killed or died as result of tortures and diseases, the certain part are still detained in dreadful situation and involved in hard physical labour.

In his letter the Permanent Representative of the Republic of Armenia refers to the situation of Armenians in Azerbaijan. In this regard, Azerbaijan would like to underline the paragraph 129 of the UPR report of Armenia (A/HRC/WG.6/8/ARM/1) which officially indicates that there are no Azerbaijanis among national minorities in Armenia and the paragraph 93 of the UPR report of Azerbaijan (A/HRC/WG.6/4/AZE/1) which officially confirms that Armenians are among other ethnic minorities which currently live in the country. This fact demonstrates that Armenians currently live in Azerbaijan even after the Armenia-Azerbaijan conflict which resulted in the occupation of 20% of the internationally recognized territories of the Republic of Azerbaijan and emergence of the refugees and the IDPs. But unfortunately, as the result of expulsion of Azerbaijanis and ethnic cleansing there are no Azerbaijanis in Armenia.

Currently, about 30.000 ethnic Armenians reside in the territory of the Republic of Azerbaijan and pursuing their normal way of life without being subjected to any kind of discrimination. During the recent discussions with OSCE Office in Baku, the officials of the mentioned organization stated Azerbaijan should take pride in the fact that despite the ethnic Armenians are included in the risk group in Azerbaijan, the Office has not received any information or complaint with regard to the discrimination against them or their

suppression. This once more manifests that Azerbaijan preserved its ethnic diversity to the present day. Instead of accusing Azerbaijan of "discrimination against Armenians in Azerbaijan", we would recommend the Delegation of Armenia to advise its Government to exercise some degree of self-evaluation in the field of human rights.

The illustrative evidence of racial prejudices prevailing in the policy and practice of Armenia is the unconcealed conviction in "ethnic incompatibility" between Armenians and Azerbaijanis. The public comments made by the previous President of the Republic of Armenia, Robert Kocharian, about "ethnic incompatibility between Armenians and Azerbaijanis" have lead to the justifiable indignation within the international community. Thus, the then Secretary-General of the Council of Europe Walter Schwimmer said "Kocharian`s comment was tantamount to warmongering" and manifestation of "bellicose and hate rhetoric", while the then President of the Parliamentary Assembly of the Council of Europe Peter Schieder stated that "since its creation the Council of Europe has never heard the phrase "ethnic incompatibility"" .

These remarks have become yet another solid piece of evidence testifying to the consistency of the official Yerevan line in conveying the odious ideas of racial superiority and hatred laid down in the State policy of the Republic of Armenia.

The Republic of Azerbaijan ensures full enjoyment of human rights for everyone without any discrimination on grounds of race, nationality, religion, language, sex, origin, financial position, occupation, belief, and affiliation to political parties, trade unions and other public organizations. Incitement to national, racial or religious hatred and also violation of the right to equality is prohibited and prosecuted. The state ensures that Azerbaijani population does not associate Azerbaijani citizens of Armenian origin with the actions of the Republic of Armenia, so there has been no case of discrimination against Armenians. General case law of the courts shows that Armenians always succeed in bringing effectively to justice their concerns in any civil or criminal case and their rightful claims always result in favorable judgments. The Public Radio Station broadcasts in the language of minorities as Kurdish, Lezgin, Talysh, Georgian, Russian and Armenian financially supported by the State.

The Republic of Azerbaijan calls on Armenia to refrain from politicizing the UPR sessions of HRC, respect human rights and norms and principles of international humanitarian law, international law and urges this country to respect the relevant decisions and documents of the international organizations and appeal of the international community to withdraw from all the occupied territories of Azerbaijan, recognize and implement the inalienable rights of Azerbaijani internally displaced persons to return to their places of origin.


GEORGIA
RUSSIA
TBILISI
Caspian Sea
AZERBAIJAN
ARMENIA
TURKEY
IRAN
YEREVAN
BAKU
Nakhchivan
Nakhchivan (Azerbaijan)
Balaken
Zagatala
Qakh
Sheki
Oguz
Khachmas
Guba
Shabran
Qabala
Ismayilly
Khizi
Mingechevir
Aghdash
Goychay
Shemakhy
Aghsu
Sumgayit
Absheron
Ganja
Yevlakh
Barda
Ujar
Lyaki
Tovuz
Gedabey
Khanlar
Dashkesan
Goycha (Sevan)
Aghstafa
Gazakh
Shamkir
Kura
Kyurdamir
Zardab
Sabirabad
Hajigabul
Kelbajar
Aghdam
Aghjabedi
Imishli
Saatly
Shirvan
Khankendi
Khojavend
Shusha
Lachin
Fizuli
Araz
Salyan
Bilasuvar
Jalilabad
Gubadly
Jebrayil
Zangilan
Babek
Sharur
42°
40°
46°
48°
50°
- OCCUPIED TERRITORIES
- ADMIN. LINE OF THE FORMER NKAO OR AZ.SSR
- LINE OF OCCUPATION