

Remarks by Tofiq F. Musayev, Deputy Permanent Representative of the Republic of Azerbaijan to the United Nations, at the UN Security Council Open Arrria Formula Meeting “Upholding the collective security system of the UN Charter: the use of force in international law, non-state actors and legitimate self-defense”, 24 February 2021

- The Charter of the United Nations addresses the prohibition of the use of force, in Article 2(4), in terms of inter-State force.
- As one of the two exceptions to this prohibition, the exercise of the right of self-defence is permitted in Article 51 of the Charter in response to an armed attack.
- Undeniably, invasion or attacks by the armed forces of a foreign State, military occupation and bombardment – the highlights of the 1974 Definition of Aggression, including in indirect ways by the use of subordinate irregular forces, – constitute armed attacks, triggering the right of self-defence in accordance with Article 51 and customary international law.
- Article 51, in laying the ground for the right of self-defence, mentions a State only as the potential target of an armed attack. At the same time, the perpetrator of that armed attack is not identified necessarily as a State. By implication, an armed attack can therefore be carried out by non-State actors, including terrorist groups.
- It is for every State to judge for itself, in the first instance, whether a case of necessity in self-defence has arisen. The acting State is the one to determine when, where and how to employ counter-force in response to an armed attack.
- Article 51 requires that the self-defence measures be reported immediately to the Security Council. The Council may adopt a binding decision, either endorsing the invocation of self-defence or rejecting it. Alternatively, the Council may do nothing, either by choice or by force of a political reality. A third option is the adoption by the Council of a non-binding recommendation as to what it thinks should be done.
- Basically, it is for the State acting in self-defence to evaluate whether the Council’s efforts have been crowned with success. Short of an explicit decision by the Council to desist from any further use of force, the State acting in self-defence retains its right to proceed with the forcible measures that it has chosen to pursue in response to the armed attack.
- The duration of the right of self-defence is determined by the armed attack and its continued effects, such as occupation. As long as the attack lasts, the victim State is entitled to react.
- Yet in 1993, the Security Council adopted four resolutions (822, 853, 874 and 884), condemning the use of force against Azerbaijan and the bombardment and occupation of its territories and reaffirming respect for the sovereignty and territorial integrity of Azerbaijan, the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory.
- The attacks against Azerbaijan are imputable to a foreign State, namely, they are attributed to Armenia.

- As a result of the counteroffensive operation undertaken and successfully accomplished by the armed forces of Azerbaijan, in the exercise of the inherent right of self-defence, the territories of Azerbaijan were liberated from occupation, the enemy's military capability in the occupied territories of Azerbaijan was destroyed and Armenia was enforced to peace.
- The end of aggression and occupation has become a triumph of justice and international law and underlined again the necessity of strict compliance by States with their international obligations.