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The UN Security Council and Climate Change: From “Cold War” to “Warming War”

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Abstract

The impacts of climate change around the world have become global concern at both national and international level. A broad scheme of international cooperation to mitigate their impacts has been engaged through several international legal frameworks. However, such efforts are considered insufficient to stem the consequences and causes of climate change. It is therefore important to examine a proper legal enforcement mechanism for the climate change issues. This paper thus starts with explaining the scope and definition of climate change and sees whether it has correlation with the security issues. It is followed by examining the authority of the UN Security Council (UNSC) vested in the UN Charter and observes whether it has authorisation in enforcing the climate change issues. Although, as a result of its examination, this article finds that UNSC mechanism widen possible measures in enforcing climate change's issues rather than other existing mechanisms under international law, it still suggests that UNSC mechanism shall only be used as a last resort after the other enforcement mechanisms are exhausted.

Keywords: climate change, threat to international peace and security, UN Security Council.

Dewan Keamanan PBB dan Perubahan Iklim: Dari “Perang Dingin” ke “Perang Hangat”

Abstrak

Dampak perubahan iklim di berbagai belahan dunia telah menjadi perhatian negara-negara tidak saja di tingkat nasional tetapi juga di tingkat internasional. Upaya untuk menanggulangi dampak dari perubahan iklim melalui sejumlah kerja sama internasional telah secara luas dilakukan namun belum mampu mencegah penyebab dan menghentikan dampak dari perubahan iklim tersebut. Dengan demikian, penentuan mekanisme penegakan hukum yang paling tepat dalam memeriksa kasus perubahan iklim ini merupakan hal yang penting. Tulisan ini dimulai dengan penjelasan fenomena perubahan iklim dan hubungannya dengan isu keamanan. Pertama-tama artikel ini membahas ruang lingkup dari perubahan iklim dan kewenangan Dewan Keamanan (DK) PBB. Oleh karena itu, sebagai upaya untuk mencari cara lain dalam penanggulangan dampak dari perubahan iklim, sangatlah penting untuk memahami serangkaian otoritas yang dimiliki DK PBB. Tulisan ini berkesimpulan bahwa mekanisme DK PBB

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ternyata menunjukkan kemungkinan yang lebih luas dalam hal penerapan sanksi yang lebih memaksa dan lebih mengikat dibanding mekanisme lain yang telah ada saat ini sebagai mekanisme untuk menanggulangi perubahan iklim. Meskipun tulisan ini menyimpulkan bahwa Dewan Keamanan PBB mempunyai kewenangan hukum untuk mengatasi masalah perubahan iklim, akan tetapi mekanisme internasional yang lain diluar mekanisme Dewan Keamanan PBB harus tetap menjadi prioritas dan dijalankan terlebih dahulu.

Kata kunci: *perubahan iklim, ancaman terhadap perdamaian dan keamanan internasional, Dewan Keamanan PBB.*

A. Climate Change and International Security: Background and Context

Climate change has been recognized as the most important and challenging international environmental issues of the world in the 21st century.¹ Indeed, this statement was supported by a large body of scientific research which came into a clear statement that climate change threatens virtually every vital aspect of human beings, from the water we drink, the food we eat, and the energy we utilize.² In many low-lying coastal areas, climate change has also become a major threatens to health and the ocean on which all life depends. Climate change potentially threatens our families and future generations.³

Within the United Nations (UN), obviously all the various programs, agencies, affiliates, and primary organs attempt integrating climate change as part of their daily work. For instance, the World Health Organization (WHO) launched a

special initiative on climate change and health in small-island developing states,⁴ while the Department of Peacekeeping Operations (DPO) has sought to “green the blue helmets” by reducing the climate, water, and waste footprints of peacekeeping missions.⁵ The International Labour Organization (ILO) supports “green jobs” programs in more than 30 countries,⁶ and the former Secretary-General (the Secretary) António Guterres, who describes climate change as “the defining issue of our time,” has emphasized that it affects every aspect of the UN’s activities.⁷

On April 2007, the United Nations Security Council (UNSC) conducted the first meeting at the ministerial level in order to examine the linkages between energy, security, and climate. In conclusion, the meeting emphasized the urgency to reflect on the relationship between climate change

¹ United Nations General Assembly (UNGA), “High-Level Panel on Threats, Challenges and Change, A More Secure World: Our Shared Responsibility”, https://www.un.org/en/ga/search/view_doc.asp?symbol=A/59/565, accessed on 22 January 2019.

² UN News, “Climate Change Recognized as ‘threat multiplier’, UN Security Council debates its impact on Peace”, <https://news.un.org/en/story/2019/01/1031322>, accessed on 19th of January 2019.

³ *Ibid.*

⁴ World Health Organization, “Climate Change and Health in Small Island Developing States”, <https://www.who.int/globalchange/publications/small-island-developing-states-WHO-special-initiative/en/>, accessed on 19th of January 2019.

⁵ United Nations Environment Programme, “Greening the Blue Helmets: Environment, Natural Resources and UN Peacekeeping Operations”, https://operationalsupport.un.org/sites/default/files/unep_greening_blue_helmets_0.pdf, accessed at 6th of February 2019.

⁶ International Labour Organization, “The Green Jobs Programme of the ILO” <http://www.ilo.org/greenjobs>, accessed on 19th of January 2019.

⁷ Antonio Guterres, “Secretary-General’s Remarks on Climate Change”, *as delivered on the United Nations General Assembly*, New York, 10 September 2018.

and international security.⁸ Framing climate change in term of security was raised not only global awareness but also provoking several questions. One of that question is concerning the authority of the UNSC to address this issue. Many UN members believe that putting climate change under the purview of the UNSC is inappropriate because this issue is more “sustainable development” question rather than “peace and security” question.⁹ They also argued that because climate change has become a global concern, the solution should redress through a universal representation, which is not the nature of the UNSC.¹⁰ Furthermore, bring climate change under the UNSC will consider as interfere with the responsibilities and role of other UN system, more particular, under the United Nations Framework Convention on Climate Change (UNFCCC).¹¹

Because the division between UN members which agree and disagree that UNSC shall deal with climate change still exists,¹² this paper attempts to examine the theoretical development in the context of climate change as the threat to international peace and security and the crucial role of the UNSC to address this issue.

This paper commences with a brief description on the nature and scope of the UNSC as one of the UN’s primary organs and followed by the examination of the concept development on “threat to international peace and security” from time to time

through the UNSC resolutions. This paper also further explains the climate change phenomena and assesses the position of climate change as a threat within the scope of the UNSC. Before ending up with the conclusion, this paper provides legal reasoning concerning the role of the UNSC to address the issue of climate change based on the UN Charter.

B. The Nature and Scope of the UN Security Council

When the UN Charter was being drafted at Dumbarton Oaks in 1944, the Second World War was just ended, with easily discernible winners and losers.¹³ From the earliest conception, the victorious states were intended to make the UN Charter as an all-purpose and security mechanism. They believe that to avoid similar failure of its predecessor, the League of Nations, the UN Charter should be designed with a robust institutional framework which allows organizations to act effectively under urgent circumstances.¹⁴

Historically, the idea about a small group of significant powers should protect world peace and security did not begin with the UN. On several attempts, a coalition of powerful nations had tried before. The Congress of Vienna and the Holy Alliance in the 18th and 19th century, including the League of Nations, had a council of major powers dedicated to preserving the global

⁸ United Nations Security Council, “Letter dated 5 April 2007 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council”, *minutes of the 5663rd meeting of the Council*, New York, 17 April 2007, p.7.

⁹ Francesco Sindico, “Climate Change: A Security (Council) Issue?” *Carbon & Climate Law Review*, Vol. 1, 2007, p. 31-33.

¹⁰ Ian Johnstone, “Legislation and Adjudication in the UN Security Council: Bringing Down the

Deliberative Deficit”, *The American Journal of International Law*, Vol. 102, No. 2, 2008, p. 275-308. *Op.Cit.* Sindico.

¹¹ Ken Conca, Joe Thwaites, and Goueun Lee, “Climate Change and the UN Security Council: Bully Pulpit or Bull in a China Shop?”, *Global Environmental Politics*, Vol. 17, No. 2, 2017, p. 300-310.

¹³ Dimitris Bourantonis, *The History and Politics of UN Security Council Reform*, London: Routledge, 2005, chp. 1.

¹⁴ *Ibid.*

peace.¹⁵ In several document, for instance in "The Tentative Proposals for a General International Organization" presented by the US State Department on 18 July 1944, underlined that the "executive council should be empowered to determine the existence of any threat to the peace or breach of the peace, and to decide upon the action to be recommended or taken to maintain or restore peace."¹⁶ Therefore, despite some states reluctance, that concept endured and adopted in the UN Charter at the San Francisco Conference 1945.¹⁷

With further intention to govern the international system and maintain the international peace and security after the end of the second world war, the victorious states initiated to establish a post-war organization which inaugurated in 1945 called "the United Nations."¹⁸ Hence, the UN Charter was set up the UNSC as its dominant organ with enormous authority and beneath it the UN General Assembly (UNGA) and an array of other bodies dealing with specific issues, such as the UN Economic and Social Council (ECOSOC), the UN Secretary-General (the Secretary) and the International Court of Justice (ICJ).

By virtue of the UN system, the Council is the only primary organ which equipped with the comprehensive forcible enforcement authority in order to address international threats. It is arguably that the Council is the most powerful body within the UN system due to its legal ability to approve sanctions, both economic and

military if it deems this necessary to restore or maintain international peace and security. Under the power vested in the Charter, there are three important features of the Council:¹⁹

1. Limited membership

The Council is a primary organ with narrow membership. From the original eleven members, it was expanded to fifteen at the beginning of 1966, based on the UN Charter amendment adopted in 1963. Five are called permanent members,²⁰ and the other ten are called non-permanent members, which elected by the UNGA for two years period and may not be immediately re-elected. According to UN Charter, in the election of the non-permanent members, the consideration should be specifically paid to the contribution and commitment of the UN members to the maintenance of international peace and security and to the other main purposes of the UN; this consideration is not always given due weight.²¹ This membership limitation enables the Council to operate effectively.

2. A limited but important field of activity

Not only in limited in membership, but also in terms of functions and powers, the Council is also are exclusive, with relatively minor exceptions, to the maintenance of international peace and security. The Article 24 (1) of the UN Charter are

¹⁵ David Bosco, "Uncertain guardians, The UN security council's past and future", *International Journal*, Vol. 66, No. 2, 2010, p. 439.

¹⁶ Edward C. Luck, "A Council for All Seasons: The Creation of the Security Council and its Relevance Today" in *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, compiled by Vaughan Lowe et. al (eds), Oxford: Oxford University Press, 2008, p. 61-85.

¹⁷ *Ibid.*

¹⁸ *Op. Cit.* Bourantonis; See also Loraine Sievers and Sam Daws, *the Procedure of the UN Security Council*, 4th edition, Oxford: Oxford University Press, 2014, chp. 1.

¹⁹ Michael C. Wood, "Security Council Working Methods and Procedure: Recent Developments" *International and Comparative Law Quarterly*, Vol. 45, 1996, p. 150-161.

²⁰ Article 23 paragraph (1) and (2) Charter of the United Nations (UN Charter) 1945.

²¹ *Ibid.*

became central to the UN as a whole and also the heart of the Council’s work:

“In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.”

3. The power to impose legal obligations on all UN Members

Decisions of the Council are capable of being legally binding on all UN Members. By accepting the UN Charter, they have, in the words of Article 25, agreed *“to accept and carry out the decisions of the Security Council in accordance with the present Charter.”*

UNSC may declare decision through several ways, such as resolutions, statements made on its behalf by the President of the Council, letters from the President of the Council (which frequently addressed to the Secretary) and other types of decisions (generally recorded in official documents). Furthermore, there is a distinction between action by “the Council as a whole,” which almost takes place at a formal public meeting of the Council, and statements on behalf of “the members of the Council,” which may issue without a formal meeting.²²

The voting procedure of the Council is regulated by Article 27 of the UN Charter and Rule 40 of the Provisional Rules of Procedure.²³ Article 27 states that decisions of the Council are reached by an affirmative

vote of nine members, whereas each member has one vote.²⁴ However, the Charter distinguishes between votes on “procedural matters” and votes on “all other matters.”²⁵ Article 27 stipulates that the “concurring votes” of the permanent members are needed for the adoption of substantive decisions. For this reason, when voting on procedural matters, a negative vote cast by a permanent member does not nullify a decision. The decision stands if it obtains nine affirmative votes. Conversely, for the substantive decisions on “non-procedural matters,” the Council’s require an affirmative vote of nine members and including the “concurring votes” of the permanent members.²⁶ In other words, as far as no negative vote from the permanent members, the substantive decisions may be taken.²⁷ This provision effectively gives each permanent member a veto mechanism over the Council decision-making procedure. Furthermore, it has been accepted as a practice under the UN system that “concurring vote” also includes abstention.²⁸

Constitutionally, the UN Charter granted the legal authority to the UNSC to implement its primary responsibility, more particular under the Chapter VI, which set numerous of non-binding mechanisms available for the UNSC in order to assist the UN members in the peaceful settlement of disputes when potentially threaten to international peace and security arising. This authority including “recommending appropriate procedures or methods of adjustment.”²⁹ Additionally, in tackling the

²² *Op. Cit.* Wood.

²³ United Nations, “Chapter IV: Voting”, https://www.un.org/en/sc/repertoire/46-51/46-51_04.pdf accessed on 22nd of February 2019.

²⁴ Article 27 paragraph (1) UN Charter.

²⁵ *Ibid.* Article 27 Paragraph (2) and (3)

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.* See also Bruno Simma, et. al (eds). *The charter of the United Nations: A commentary*, 2nd Edition, Oxford: Oxford University Press, 2002.

²⁹ Article 36 Paragraph (1) UN Charter. *See also* Article 33 Paragraph (2), Article 37 Paragraph (2), and Article 38.

situations referred to it by UN members,³⁰ the UNSC has more specific authority to :

“Investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.”³¹

Even though the UNSC under Chapter VI may exercise its authority to assist the maintenance of international peace and security, it is not a compulsory obligation for the UN members to follow any recommendations from the UNSC.³² Instead, the implementation of Chapter VI measures highly depends on the express of the UN member's consent to the specific proposed the UNSC measure.

On the contrary, Chapter VII provides binding enforcement authority, which allows the UNSC to recommend or require state action to resolve threats to international peace and security, including employs an armed force.³³ The Council enforcement measures under Chapter VII nonetheless rest upon the prior legal consent of all UN members, including the target state, as a legal consequence of their voluntary ratification to the UN Charter. Therefore, once the Council has determined to invoke measures under Chapter VII, there is no further necessity for specific state consent, and UN members are legally bound to comply.³⁴ Article 48 explicitly states that:

“The action required to carry out the decisions of the

Security Council for the maintenance of international peace and security shall be taken by all the Members of the UN or by some of them, as the Security Council may determine.”

In addition to the UN Members acting “directly,” this requirement continues to “their taking action in the appropriate international agencies of which they are members.” Furthermore, UN Charter also establishes a formal legal hierarchy in which are the most important obligations over all other international obligations of UN Members.³⁵ As a matter of law, Article 39 stipulates the substantive threshold for invoking the Council's authority based on Chapter VII. The article provides that:

“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”

Even though the UN Charter assigns such determination within the discretion of the UNSC, but it does not further elaborate the concept of “threat to the peace, breach of the peace, or act of aggression.” Instead, the legal definition this concept referred to collectively as “threats to international peace and security” which has evolved and developed through state and organization practice.

³⁰ *Ibid.*, Article 35 paragraph (1).

³¹ *Ibid.*, Article 34.

³² *Op. Cit.* Simma et al. p 584.

³³ *Ibid.*, Art. 41 & 42.

³⁴ *Ibid.*

³⁵ *Ibid.*, Article 103.

Initially, under the traditional realm of the Council, "threats to the peace and security" are mainly focused on cross-border security issues, or in this matter regarding the inter-state armed conflict. This because the UN Charter drafted soon after the end of the Second World War and based on the intention from the victorious states to provide the Council with unique enforcement authority. However, the exercise of Chapter VII is not only related to international armed conflicts. The UNSC's practices after the cold war have dramatically expanded the requirements under Chapter VII in order to respond to internal conflict. Since 1990, Chapter VII has frequently invoked in order to provide authorization for the UNSC to respond to the internal conflict.³⁶ These actions were not particularly controversial since the UN members agreed that the internal conflict shows clear potential for destabilizing international peace and security, such as refugee flows, cross-border spill over effects or the intervention of the third-party.³⁷

The absence of military conflict and war amongst states does not guarantee the stability of international peace and security. The non-military sources may appear as different forms of instability in the field of humanitarian, social, economic, and

ecological degradation have become new emerging threats to the peace and security.

In a further development, the UNSC has approved a broad range of resolution dealing with multi-spectrum issues outside its traditional realm, of inter-state violence. These issues were including children and armed conflict,³⁸ humanitarian intervention and relief,³⁹ terrorism,⁴⁰ women and girl in armed conflict,⁴¹ certification for diamonds to ensure that they do not originate from the conflict areas,⁴² and the HIV/AIDS epidemic.⁴³ In summary, this new approach has clearly shown the intention of the UNSC to deal with new areas outside the realm of traditional security concerns. The UNSC's paradigm on the threat's definition has shifted from the threats which focused on discrete and geographical restricted situations into eliminating any reference to temporal or geographical restrictions in order to invoke Chapter VII. Moreover, Penny investigated that "interventionism on this basis has been generally accepted by UN Members and appears to gain a solid legal foundation."⁴⁴

C. Climate Change: From Argument to Agreement

Climate change is defined as "a change of climate which is attributed directly or indirectly to human activity that alters the

³⁶ United Nations Security Council (UNSC), "The Congo Question", as presented on the 161st Resolution of the Council [S/4741], New York, 21 February 1961.

³⁷ Other situations where civil wars have formed the basis for a Chapter VII invocation include: the Democratic Republic of the Congo, Security Council Resolution 1493 (July 28, 2003) and, Côte d'Ivoire, Security Council Resolution 1528 (February 27, 2004)

³⁸ UNSC, "Children and Armed Conflict", as presented on the 1460th Resolution of the Council [S/RES/1460], New York, 30 January 2003.

³⁹ UNSC, "Reports of the Secretary-General on the Sudan", as presented on the 1574th Resolution of the Council [S/RES/1574], New York, 19 November 2004.

⁴⁰ UNSC, "Threats to international peace and security caused by terrorist acts", as presented on the 1465th

Resolution of the Council [S/RES/1465], New York, 13 February 2003.

⁴¹ UNSC, "Women and peace and security", as presented on the 4213th meeting of the council [S/RES/1325], New York, 31 October 2000.

⁴² UNSC, "approving Kimberley Process Certification Scheme to reduce trade in diamonds fuelling conflict in Sierra Leone", as presented on 4694th meeting of the Council [S/RES/1459], New York, 28 January 2003.

⁴³ UNSC, "stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security" as presented on the 55th session, 4172^d meeting of the council [S/RES/1308], New York, 17 July 2000

⁴⁴ Christopher K. Penny, "Greening the security council: climate change as an emerging "threat to international peace and security", *International Environmental Agreements: Politics, Law and Economics*, Vol. 7, Issue 1, 2007, p. 35-71.

composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods".⁴⁵ In conformity with the definition, the Intergovernmental Panel on Climate Change (IPPC) – a scientific body under the auspices of the UN – found that humanity has the potential to affect the climate of the earth by causing the emissions of Greenhouse Gases (GHGs).⁴⁶ The onset of industrialization and the consumption of fossil fuels enabled human activities to alter the global atmosphere via the emission of GHGs substantially.⁴⁷ As an effect, atmospheric levels of GHGs have significantly increased, with carbon dioxide by 40 percent and methane at 140 percent higher levels that existed before the onslaught of industrialization.⁴⁸ The global climate has warmed by 0.85°C, severe weather phenomena have become more frequent and more intense, arctic ice coverage has shrunk, and the effects of global climate change have become a part of the regular news.⁴⁹

Anthropogenic climate change is highly connected with carbon emissions. The relationship is linear; emit more carbon causing surface temperatures increase. The predominant sources of carbon emissions are the combustion events of conventional fossil fuel products such as coal, crude oil, and natural gas.⁵⁰ To prevent harm from climate change, carbon emissions must be handled appropriately. There are

substantial limits to remediation of anthropogenic climate change; once the damage is done, it is likely to persist.⁵¹ Even with proper management of carbon emissions, much of the pre-existing damages and transformations will remain in place for centuries. Thus, there is an urgency to arrest carbon emissions before conditions deteriorate.

A large body of scholarship has attempted to investigate the effect of climate change on conflict and security. At least there were four prior scientific studies which devoted to investigating the link between climate change and security. These studies were carried by difference institution: *The Scientific Advisory Council on Global Environmental Change of the Federal Republic of Germany*, *International Alert*, *The CAN Corporation* and *The Centre for a New American Security*.⁵² Even though these studies conducted by different institutions, remarkably, the authors of all four studies share similar conclusion, that in broad and narrow security conception, climate change is seen as a danger, if not the greatest danger for international peace and security in the 21st century.⁵³ In a broad sense, all four studies outlined that "the hardest hit by climate change will be people living in poverty, in under-developed and unstable states under poor governance... climate change will add to the pressure under which those societies already live."⁵⁴ These studies also predict that climate

⁴⁵ Article 1 Paragraph (2) United Nations Framework Convention. On Climate Change (UNFCCC) 1992.

⁴⁶ Roy Andrew Partain, 'Climate Change, Green Paradox Models and International Trade Rules' in *Research Handbook on Climate Change and Trade Law*, compiled by Panagiotis Delimatsis (eds), The Netherlands: Elgar, 2016, p. 302.

⁴⁷ Thomas F. Stocker and Dahe Qin (eds), "Climate Change 2013: The Physical Science Basis, Summary for Policymakers", in *Ibid.*

⁴⁸ Concentrations of CO₂, CH₄, and N₂O now substantially exceed the highest concentrations recorded in ice cores during the past 800,000 years. The mean rates of increase in atmospheric

concentrations over the past century are, with very high confidence, unprecedented in the last 22,000 years.' In *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Op. Cit.* Partain.

⁵¹ *Ibid.*

⁵² Michael Brzoska, "The securitization of climate change and the power of conception of security" in *Sicherheit und Frieden*, Vo. 27, 2009, p. 137-208.

⁵³ *Ibid.*

⁵⁴ Smith and Vivekananda, *Climate of Conflict. The Links between Climate Change, Peace and War*, in *Ibid.*

change may increase threats to security in the narrow sense, a similar list of dangers are including:⁵⁵

1. An increasing number of violent conflicts, such as interstate wars;
2. Military interventions in developing countries by armed forces of Western states, primarily to prevent humanitarian catastrophes but also further destabilization of states;
3. Massive migration that risks bringing armed conflict to neighbouring countries and terrorism to industrialized countries;
4. New safe havens for terrorists;
5. Deterioration of relations among major powers as a result of a mixture of energy-supply and climate-change issues; and
6. Conflict over changing coastlines and resource exploitation in the Arctic.

The effects of those climate changes are broadly seen as hazardous. After realizing the dangers of climate change, states are trying to establish a global legal framework to address with such phenomena. Climate change legal frameworks are generally intended to intercept and reverse pre-existing trends of GHG emissions. Both international and domestic authorities have developed legal frameworks to control and reduce the threats from anthropogenic climate change.

The First World Climate Conference 1979 in Geneva was the first International Conference, which marked climate change as a serious problem at the global level and calling on world governments to anticipate and concern for the risks.⁵⁶ The leading vocal point organizations at the conference were the World Meteorological Organization (WMO), the United Nations Environment Programme (UNEP), and the International Council for Scientific Unions (ICSU).⁵⁷ In the following years, various intergovernmental conferences on climate change were held. For instance, the Toronto World Conference on the Changing Atmosphere in 1988, warned that changes in the earth’s atmosphere present a significant threat to international security and emphasized the necessity to develop a legal framework in order to protect the atmosphere.⁵⁸

At the Rio Conference in 1992, the UNFCCC was presented and ratified. The UNFCCC specifically governed an action framework to “stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”⁵⁹ Until today, it has been ratified by 197 countries and has become the leading international legal instrument on combating climate change. The UNFCCC has been paving the way for states to work together to prevent global temperature increases and climate change and to cope with their impacts.

Another convention, which considers as a major convention on climate change legal regimes are Kyoto Protocol 1997 and

⁵⁵ *Ibid.*

⁵⁶ World Meteorological Organization, “Proceedings of The World Climate Conference”, presented in *A Conference of Experts on Climate and Mankind*, Geneva, 12-23 February 1979, available at https://library.wmo.int/pmb_ged/wmo_537_en.pdf

⁵⁷ *Ibid.*

⁵⁸ WMO, Conference proceedings - The Changing atmosphere, implications for global security, available at https://library.wmo.int/index.php?lvl=notice_display&id=6014#XO6sTohKiM8, accessed on 12th of January 2019.

⁵⁹ *Op. Cit.* UNFCCC 1992 Article 2.

Paris Agreement 2015. The Kyoto Protocol (the Protocol) was adopted in December 1997 in Kyoto, Japan and entered into force on February 2005. The Protocol is an international agreement linked to the UNFCCC, which obliged its Parties to comply with the international setting on binding emission reduction.⁶⁰ The Protocol also stipulates a more substantial burden on developed countries under the principle of “common but differentiated responsibilities” since developed countries are primarily responsible for the current high levels of GHG emissions in the atmosphere caused by more than 150 years of their industrial activity.⁶¹ The detailed for the realization of the Protocol were adopted in 2001, at Conference of the Parties (COP) 7 in Marrakesh, Morocco (commonly known as Marrakesh Accords). Moreover, the commitment period of the parties to Marrakesh Accords started in 2008 and ended in 2012.⁶²

On 4 November 2016, the Paris Agreement entered into force. This agreement brings all nations for the first time into a common concern and settles ambitious efforts to combating climate change and its effects, with enhanced support to assist developing countries to participates. The Paris Agreement aims to elevate the global actions to the threat of climate change by maintaining well a global temperature below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1,5°C.⁶³ Additionally, the Paris Agreement also aims to strengthen the ability of countries to deal with the impacts of climate change. To achieve these goals,

fitting financial flows, a new technology framework and an enhanced capacity building framework should be promoted, thus encouraging supporting action by developing countries and the most vulnerable countries based on their national targets.⁶⁴ The Paris Agreement also provides for enhanced transparency of action and support through a more robust transparency framework.⁶⁵

Under the scope of the Council – even though climate change is not an issue that directly related to the authority of the Council – the recognition of climate change as threat to security is relatively not new. In 1992 the Council explicitly recognized ecological instability as a threat to peace and security.⁶⁶ In the following year, the idea of using the Council to address environmental threats was accelerated and gained support from the former Secretary, Kofi Annan. Annan has demanded the attention of the Council to expand its agenda to include “soft threats” of ecological change and environmental degradation

... while some consider these threats as self-evidently the main challenge to world peace and security (new forms of terrorism, and the proliferation of weapons of mass destruction), others feel more immediately menaced by small arms employed in civil conflict, or by so-called “soft threats” such as the persistence of extreme poverty, the disparity of income between and within

⁶⁰ Kyoto Protocol 1997 Article 6.

⁶¹ *Ibid.* Article 10.

⁶² Marrakesh Accords & The Marrakesh Declaration, https://unfccc.int/cop7/documents/accords_draft.pdf accessed at 23rd of February 2019.

⁶³ Paris Agreement 2015, Article 2.

⁶⁴ *Ibid.* Article 7.

⁶⁵ *Ibid.* Article 13.

⁶⁶ UNSC “Overview of Security Council Presidential Statements”, <https://www.securitycouncilreport.org/un-documents/document/pko-s-23500.php> accessed at 23rd of February 2019.

societies, and the spread of infectious diseases, or climate change and environmental degradation.

In truth, we do not have to choose. The United Nations must confront all these threats and challenges – new and old, “hard” and “soft”.

Furthermore, he also believes that these types of threats should be tackled through collective security mechanism under the Council’s authority. Later, in 2003, he assembled a High-Level Panel on Threats, Challenges and Changes with a particular task to examining the Council and recommending changes in order to provide appropriate respond to these new emerging threats. In March 2005, Annan issued a report “In Larger Freedom” to the UNGA which emphasized that environmental degradation poses a threat to security with its potential catastrophic on human life. Clearly, he embraced the broad vision in reorienting the collective security regime to face new threats.

Probably, the Council’s seminal discussion on climate change was held on 17 April 2007, with 55 delegations participated in the first debate regarding the impact of climate change on international peace and security. According to Sindico,⁶⁷ there are three significant factors why climate change being raised in the Council, namely:

1. The UK leadership of the Council

During the G8 meeting in 2005 hosted by the UK at Gleneagles in Scotland,⁶⁸ climate change was a priority agenda on the list. It is no

surprise that UK has been one of the main actors in order the demand the Council attention to accelerate the issue of global warming. The UK’s proposal to conduct an open debate in the Council was approved upon on 3 April 2007, and two days later the Permanent Representative of the UK distributed a concept paper designed to guide the debate. The document clearly outlined the scope of the Council debate, retaining that:⁶⁹

“While the physical effects of climate change and what can be done about them are important issues, it is their potential impact on security that is the proposed focus of this Security Council debate.”

The UK urged the Council to explore the connections between climate change and several potential drivers of conflicts, such as boundary line disputes, migration, the security of energy supplies, other resource shortages, societal stress, and humanitarian crises.

2. The development of the concept of international security

The second reason why climate change reached the UN Council can be traced back to the changes affecting the concept of international security in the last decade. As mention before, from the resolution development regarding the threats, the Council was also considered of non-military threats as international security matters. Thus, not surprising that the High-Level Panel on Threats, Challenges and Change, which was appointed by the Secretary

⁶⁷ *Op. Cit.* Sindico.

⁶⁸ See the Gleneagles Communique, <http://www.g8.utoronto.ca/summit/2005gleneagles/communique.pdf>, accessed at 22nd of February 2019.

⁶⁹ Letter dated 5 April 2007 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN Doc. S/2007/186, 5 April 2007, par. 6. In *Op. Cit.*, Sindico.

in order to redefine the concept of international security, included environmental degradation as a possible threat to international security.⁷⁰ The report also made explicit reference to climate change as one of the serious environmental challenges of the international community.⁷¹

3. Sustainable development and conflict prevention

In 2005, the UN Security Council connected sustainable development to conflict prevention. Resolution 1625 outlined:⁷²

"Reaffirming the need to adopt a broad strategy of conflict prevention, which addresses the root causes of armed conflict and political and social crises in a comprehensive manner, including by promoting sustainable development, ..."

In broad interpretation, this resolution could support the following argument. *First*, conflict prevention is important for the maintenance of international peace and surety. *Second*, promoting sustainable development is an important element of this prevention strategy, and *third*, tackling climate change effectively will be highly beneficial for sustainable development. On the contrary, if climate change is not effectively treated, and the negative environmental impacts resulting from current climate change trends increase, sustainable development will be at risk.

Climate change would then raise serious security implications.

After the ground-breaking meeting in 2007, the UN body has increasingly taken steps and recognize the important linkages between climate change and insecurity. In July 2011, another open debate on the matter was held,⁷³ and furthermore, in March 2017, the Council Resolution 2349 was adopted. In general, the resolution highlighting the need to address climate-related risks to undertake the conflict in the Lake Chad basin.⁷⁴

In the following, several UN members also commenced several efforts to force the conversation of climate change within the Council. After the Netherlands' ascension to an elected Council seat in December 2017, the Dutch foreign ministry held "the Planetary Security Conference," with plenary sessions on climate-conflict risks. In regional level, the European Union hosted a high-level diplomatic gathering on "Climate, Peace and Security: The Time for Action," In June 2018, which emphasized various ways that climate change was multiplying the risks of conflict and instability. The regional meeting identified a "responsibility to prepare" for security impacts and demand for elevating the "climate – security nexus" to the highest political level in both international and national level.⁷⁵ Another effort was conducted by Sweden in July 2018, when they used their turn as Council president to hold a thematic debate on the topic, the third time the Council has done so

⁷⁰ *Op. Cit.* High-Level Panel on Threats, Challenges and Change Part B, Synopsis par. 53.

⁷¹ *Ibid.*

⁷² UNSC, "Prohibition of incitement to commit terrorist acts" as presented on the 55th session, 5261st meeting of the council [S/RES/1624], New York, 14th of September 2005

⁷³ UN News, "Warning of climate change's threat to global security, Ban urges concerted action", accessed at <https://news.un.org/en/story/2011/07/382142> on 21st January 2019.

⁷⁴ See Security Council Resolution 2349; UN SCOR, 72nd sessions, 7911th meeting; UN Doc. S/RES/2349 (31 March 2017) (on the situation in the Lake Chad Basin region).

⁷⁵ European Union, "Climate, Peace and Security: The Time for Action," European Union External Action, 22 June 2018, available at https://eeas.europa.eu/headquarters/headquarter-s-homepage/47165/climate-peace-and-securitytime-action_en, accessed on 27th of January 2019.

in formal session, but the first since 2011. Germany, which take up a Council seat in 2019, has officially announced that “climate fragility” will be a priority.⁷⁶ Furthermore, as Conca investigated that “Bringing the issue to the Council is also backed by small-island nations such as the Maldives – which famously held a 2009 cabinet meeting underwater to highlight the existential threat posed by sea-level rise – and by another small but growing number of non-islands developing countries.”⁷⁷ Twenty-seven UN members have joined a “Group of Friends” on climate and security, established by Germany and Nauru.⁷⁸

D. The UNSC for Greenhouse World

Indeed, the international legal regime does provide several mechanisms for enforcement of environmental norms. These mechanisms are, among others, including diplomacy, internal enforcement measures based on treaty regime, and dispute settlement mechanism through international judicial bodies such as the International Court of Justice (ICJ). However, for some legal environmentalist supporters, these mechanisms have several shortcomings and still inadequate to address grave environmental problems threatening human security caused by climate change.⁷⁹

The first measure through diplomacy in order to address environmental threats

should be the first option before using another legal channel or mechanism. However, relying on diplomacy alone is problematic, because in practice, the negotiation period through diplomacy is often quite lengthy, and it usually takes several years to come into force.⁸⁰ Moreover, in the context of environmental treaties, the entry into negotiations and binding by treaties are completely voluntary. There may be some ecological threats that, by nature, cannot be coped by traditional multiple rounds of negotiation. A treaty regime also would be considered ineffective when countering a threat from an uncooperative state. Therefore, a more speedy and flexible mechanism may be needed in order to combat environmental threats that shows imminent or incurable risks to humankind.⁸¹

Many international environmental treaties equipped with the internal enforcement measures.⁸² The existing internal enforcement measures under respective treaty would always be considered as primary recourse to settlement of environmental threats. Nevertheless, this mechanism has several shortcomings, because there will always be possibilities that state are not compliance since the enforcement regime which protecting against environmental threats not covered by any existing environmental

⁷⁶ S. Dröge, “SWP Comment: Climate and Security Revisited,” Policy Brief, as presented on *Planetary Security Initiative*, August 2018, available at <https://www.swp-berlin.org/en/publication/germany-prioritizes-climate-fragility-in-un-securitycouncil>

⁷⁷ See Ken Conca, ‘Is there a Role for the UN Security Council on Climate Change?’ *Environment: Science and Policy for Sustainable Development* vol. 61, 2019, p. 4-15

⁷⁸ Ibid.

⁷⁹ Alexandra Knight, “Global Environmental Threats: Can the Security Council Protect Our Earth”, *NYU Law Review*, Vol. 80, 2005, p. 1549-1584.

⁸⁰ See Peter Malanczuk, *Akehurst's Modern Introduction to International Law*, 7th revised ed., London: Routledge, 1997, p. 245; see also Mostafa

K. Tolba & Iwona Rummel Bulska, *Global Environmental Diplomacy: Negotiating Environmental Agreements for The World 1973-1992*, Massachusetts: MIT Press, 1998.

⁸¹ *Op. Cit.* Knight.

⁸² For example, the Montreal Protocol 1987, provides that its Implementation Committee may issue cautions or suspend the specific rights and privileges provided for under the treaty, The Kyoto Protocol provides for internal enforcement mechanisms through the establishment of a Facilitative Branch and an Enforcement Branch. Several other treaty regimes also provide for internal compliance and enforcement measures. See Philippe Sands, *Principles of International Environmental Law 4th edition*, Cambridge (2018), p. 206.

treaty.⁸³ Furthermore, the existing treaty regimes cannot implement to non-states parties and who free-ride on the benefits granted by the state's which compliance to the regime under the treaty. Finally, measures under the regime of the treaty may inadequate to force reluctant states in order to comply with the regime under the treaty.⁸⁴ The High-Level Panel has aware about the condition, therefore they mentioned this enforcement problem in the current "governance structures tackling the problems of global environmental degradation," which stating that "regional and global multilateral treaties on the environment are undermined by inadequate implementation and enforcement by the Member States."⁸⁵

Another approach to forcing the states to comply with the environmental treaties or to deal with liability for causing ecological damages or degradation is to bring a lawsuit before the ICJ. The ICJ has clearly mandated that a state should bear liability for causing environmental damages on another state.⁸⁶ However, according to Knight, "...there are three limitations of employing the ICJ in order to settle international environmental disputes: *first* is lack of standing for the harm inflicted upon the global commons, *second* is jurisdiction premised on the consent of the states involved, and *the third* is limitations on the remedies available to the ICJ."⁸⁷

1. Lack standing of the ICJ

Global environmental threats cannot be imposed collectively before the ICJ since only individual states who suffer particularized damage can sue.⁸⁸ Role of the international courts to enforce against environmental damages is most appropriate and practicable when a single state is damaging or has damaged some other single state. While the threshold for forcing liability upon a state is not regulated, the measure for acquiring standing before the ICJ is generally considered to be very high.⁸⁹ Besides, for damages which are widely dispersed, or which are inflicted upon the global commons, the ICJ has not established an *actio popularis*,⁹⁰ which could be enforced by a state on behalf of the international community as a whole. Even though there is some evidence that the ICJ may recognize an *actio popularis* for certain *erga omnes* obligations,⁹¹ there is no firmly legal basis for state alone to enforce environmental lawsuit on behalf of the international community.⁹²

2. The limits jurisdictions of the ICJ

Under ICJ mechanism, only states may act as the parties to contentious proceedings.⁹³ Constitutionally, unless all parties have agreed to ICJ jurisdiction

⁸³ *Op. Cit.* Knight.

⁸⁴ *Ibid.*

⁸⁵ *Op. Cit.* High-Level Panel on Threats, Challenges and Change Part B, Synopsis par. 54.

⁸⁶ See e.g. Trail Smelter Case (U.S. v. Can.), 3 R.I.A.A. 1905 (1941), Corfu Channel Case (U.K. v. Alb.), 1949 I.C.J. 4, 22 (April 9).

⁸⁷ *Op. Cit.* Knight.

⁸⁸ See Philippe Sands, 'Compliance with International Environmental Obligations: Existing International Legal Arrangements', in James Cameron et al. (eds), *Improving Compliance with International Environmental Law*, Routledge, 1996 p. 58-59.

⁸⁹ *Ibid.*

⁹⁰ *Actio popularis* is a Latin term that means a lawsuit brought by a third party in the interest of the public as a whole. It derives from Roman penal law. For example, it is sometimes used in the context of genocide and terrorism prosecution under international law.

⁹¹ See Barcelona Traction, Light and Power Co. Ltd. (Belg. v. Spain), 1970 I.C.J. 3, 32 (Feb. 5).

⁹² Philippe Sands does suggest that "particularly egregious violations of environmental obligations relating to the common heritage of mankind or rights protected by treaties might potentially be the basis for an *actio popularis*." *Op. Cit.* Sands p. 189.

⁹³ *Op. Cit.* Malanczuk, p. 282.

concerning the dispute, the ICJ will not *ipso facto* have *ratione materiae* jurisdiction to the particular class of dispute. ICJ provide several mechanisms in order to acquire its jurisdiction. *First*, consent between parties can reach upon accession to a special agreement; *second*, under regime of treaty which give jurisdiction to the ICJ for disputes; and *third* upon an explicit declaration made by the parties to submit to the compulsory jurisdiction of the ICJ. However, because the UN Charter does not provide for general compulsory jurisdiction of the ICJ over the states, in order to acquire ICJ’s jurisdiction, a state should have made an express declaration.⁹⁴ Because jurisdiction of the ICJ is rely on the consent of the parties, this procedural barrier make ICJ potentially could not acquire jurisdiction over an environmental dispute which involving a hostile or reluctant state.⁹⁵

3. Limitations of remedies in the ICJ

Under the ICJ mechanism, the first limitation on remedies would be the ICJ’s incapability to preventing future environmental harms since it is generally limited to actual breaches of an obligation owed to the injured state.⁹⁶ The ICJ has limited capacity to address future threats through its ability to issue advisory opinions,⁹⁷ provisional remedies⁹⁸ and judgment,⁹⁹ because advisory opinions are nonbinding, while judgment and provisional remedies can only bind the parties to the dispute. Another problem is that if multiple states together

causing environmental damage, the ICJ should have jurisdiction over all the states in order to issue a judgment concerning the particular dispute and addresses all the relevant sources of environmental damages. Furthermore, even though the ICJ is not *per se* prohibited from hearing a case of a third party if it might affect its legal interests, the ICJ has interpreted the requirement of consent in strictly manner,¹⁰⁰ declining to rule in one instance where it found that the third party’s obligations and rights constituted the real substance of the dispute. The last problem is, unless the state were found to be violating an *erga omnes* norm, the remedy would aim to eliminate the damage inflicted upon the states bringing the dispute, rather than upon the global commons as a whole.¹⁰¹

The UNSC empowered with the last measures of collective defence against environmental threats where other mechanisms are considered ineffective or failed. Indeed, even though in 1945 climate change was not considered as a threat to international peace and security under Chapter VII, but it is important to understand that this is not the only determining factor in assessing the authority of the UNSC’s authority to address this particular issue. Similar legal argument may apply to climate change as the UNSC addressed to non-traditional threats as mentioned before. UN members have generally accepted the UNSC responses to issues such as terrorism, humanitarian crises, or civil war since it has the potential to trigger inter-state security concern. Climate change may also achieve a similar

⁹⁴ ICJ Statute Article 36.

⁹⁵ *Op. Cit.* Malanczuk, p. 284-286.

⁹⁶ *Op. Cit.* Sands, p. 182-187.

⁹⁷ *Op. Cit.* ICJ Statute Article 65-68.

⁹⁸ *Ibid.* Article 41.

⁹⁹ *Ibid.* Article 54-62.

¹⁰⁰ *Op. Cit.* Malanczuk, p. 286.

¹⁰¹ *Op. Cit.* Knight.

response, gain legitimization based on similar legal consideration and consistent with the manner of the Council to exercise its authority.

Climate change may trigger intra or inter-state armed conflict, for example by contributing to destabilizing resource scarcity through disruption of production cycles, desertification or reduction of water resources, and extreme weather patterns.¹⁰² In turn, these may accelerate resources tension into conflict in regions, which already prone to violence.¹⁰³ According to the UN Charter, the UNSC possesses the legal authority to respond to imminent or ongoing armed conflict. Therefore, in the context of climate change, the UNSC possesses legal authority to take enforcement measures in order to restore international peace and security in the affected territory. These types of conflicts would meet a criteria within the traditional realm of security, because it involves explicit threats to peace, and shows an immediate and direct cross-border implication. The mandatory measures of the UNSC in such circumstances would address specific violent and indirect consequences of climate change, and not necessarily its underlying causes.¹⁰⁴ Furthermore, the exercise of the authority of the UNSC regarding of environmental conflicts, including the authorization for the use of enforcement action by UN members, would not controversial in accordance with the UN system.

The UNSC may come forward in order fulfil the gap where diplomatic mechanism have failed in countering severe environmental damages. Considering that the enforcement measures through diplomatic negotiation of treaties may be

lengthy and ineffective against reluctant states, measures through the UNSC can be imposed very quickly and binding upon all UN Members if the measures are taken under Chapter VII of the UN Charter.¹⁰⁵ When time becomes primary consideration, mechanism through the UNSC can respond more effectively against imminent environmental threats. In addition, According to Penny, "where diplomacy has failed, the UNSC could intervene and employ coercive action, such as targeted sanction or suspension of diplomatic ties to push the reluctant state back to the negotiating table."¹⁰⁶

Concerning the enforcement through internal treaty regime, the severe and character of the UNSC could give additional support in order to ensure the enforcement where the internal soft measures under the respective environmental treaty facing deadlock. The UNSC may invoke proportional targeted sanctions, or the freezing of funds as a final measure against reluctant and frequent violators of international environmental law.

The UNSC action under Article 41 of Chapter VII is also can be an alternative solution to address many environmental threats rather than through ICJ mechanism. While establishing lawsuits petition for collective enforcement are burdensome to bring before the ICJ because of standing requirements, the UNGA and the Secretary are authorized under the UN Charter to bring potential threats before the Council.¹⁰⁷ As Penny suggested that "the Council under Article 41 practically can impose binding sanctions against violators states, for exporting products that created or extracted using a particular environmentally harmful practice, rather

¹⁰² *Op. Cit* Penny, p.39.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.* p. 58.

¹⁰⁵ *Op. Cit.* Malanczuk, p. 374.

¹⁰⁶ *Op. Cit* Penny.

¹⁰⁷ *Op. Cit.* UN Charter Article 11 & 99.

than just the one or several states bringing the issue to the forum."¹⁰⁸ While the ICJ requires scientific evidence of particularized environmental damage by the parties to the dispute, the Council under Chapter VII may address future threats to international peace or security. Furthermore, the Council also can address non-state actors,¹⁰⁹ while only states may be parties in contentious proceedings before the ICJ.¹¹⁰

In general, using the UNSC as a mechanism to cope with environmental degradation may also create a deterrent effect among violators state. It is because, according to Article 41, the UNSC can impose restrictive measures with significant impacts, such as sanctions or the freezing of funds. The deterrent effect can draw the attention of the states that they unable to escape from environmental liability by remaining outside the international environmental treaty regimes. Therefore, the UNSC can force states who frequently impose ecological degradation of global or regional scale to reform their practices, join the negotiating table, or abide by existing environmental treaties.

It is important to notice that even though Chapter VII Article 42 empowers the UNSC to take military measures, use of military force to address environmental threats is counterproductive and inappropriate. It is clearly contradictive with the spirit of international environmental law as stated in the Rio Declaration, "warfare is inherently destructive of sustainable development"¹¹¹ and "peace, development and environmental protection

are interdependent and indivisible."¹¹² The spirit of cooperation embodied by international environmental law and the obligation in the Stockholm and Rio Declarations to settle environmental disputes amicably, limit the application of Chapter VII actions by the Council to the Article 41 measures of sanctions, freezing funds, a severing of diplomatic ties, and interruption of communications. Employ military measures under Article 42 will undermine the principles of international environmental law. Besides, the military itself is a major source of pollution. It is scientifically proven that military intervention can cause degradation of land, pollute water systems by toxic chemicals, and increase the carbon emissions.¹¹³

E. Conclusion

It was evident that climate change has been the most important environmental issues, and the global effects are cannot be avoided. Even though the international community has taken important steps to address this issue, but from an environmentalist perspective, the mitigation has remained delay and ineffective. Therefore, it is important to seek another viable and legitimate mechanism in order to avoid environmental deterioration.

In 2000, The former UN Secretary, Kofi Annan outlined that non-traditional security challenges "require us to think creatively, and to adapt our traditional approaches to better meet the needs of our new era."¹¹⁴ Parallels with that, in 2007 the

¹⁰⁸ *Op. Cit* Penny

¹⁰⁹ *Op. Cit.* Malanczuk, p. 122-125.

¹¹⁰ *Ibid.* p. 282.

¹¹¹ Rio Declaration on Environment and Development 1992, Principle 24.

¹¹² *Ibid.* Principle 25.

¹¹³ See the United Nations Environmental Program's Report on environmental degradation in the former Yugoslavia reveals the intense environmental

pressure that warfare inflicts. United Nations Environment Programme & United Nations Centre for Human Settlements (Habitat), The Kosovo Conflict: Consequences for the Environment and Human Settlements (1999), available at <http://www.grid.unep.ch/btf/final/finalreport.pdf>.

¹¹⁴ Annan, K., 'We the Peoples': The Role of the United Nations in the 21st Century, Millennium Report of

UNSC held a ground-breaking debate at the ministerial level on the link between energy, security, and climate. During the meeting, strong statements which asking the Council attention to address climate change issues appear. Delegates from Tuvalu express their concern that "The world has moved from the cold war to the "warming war," in which chimney stacks and exhaust pipes are the weapons, and it is a chemical war of immense proportions"¹¹⁵ while the delegation from Papua New Guinea also shares similar thought, they stated "The impact of climate change on small islands was no less threatening than the dangers guns posed to large nations."¹¹⁶ There is a strong connection between climate change and international security, since climate change potentially poses a long-term international threat with significant global security implications such as exacerbation of existing social conflict, resource depletion, and the disappearance of an entire state.

Within the UN system, only the UNSC empowers with the coercive authority to address international threats. Even though this paper is trying to describe several enforcement shortcomings from the existing international environmental legal regime and provided the legal basis for the Council to address climate change issues, it is not in the intention to advocate their immediate adoption. Another international mechanism outside the UNSC should be attempted first. Engaging the UNSC mechanism against states which inflict severe environmental damages according to Article 41 of the UN Charter shall always be considered as a last resort after the other existing international mechanisms have been exhausted.

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