

**Statement by Ambassador Munir Akram at the Security Council's Open Debate on
Non-proliferation of Weapons of Mass Destruction
April 22, 2004**

Mr. President,

We endorse the statement to be made by Malaysia on behalf of Non-aligned countries.

2. There is a universal desire to prevent the horror that would result from the use of WMD. Historically, WMD proliferation has occurred when states have sought to acquire these weapons to address perceived threats to their security. Non-state actors have often been the instruments of the proliferation to states seeking WMD. Pakistan has recently detected and dismantled such a proliferation network involving some of our nationals and those of a number of other states.

3. The fear that non-state actors may themselves acquire and use WMD is a recent phenomenon. There is this danger; but it must be viewed in perspective. Terrorist organizations, or non-state actors, could feasibly acquire CW and BW capabilities. The acquisition and use of nuclear weapons by non-state actors is much less likely. The treaty regimes can address most of these threats. Chemical stocks should be eliminated through the OPCW. The BW Verification regime – negotiated over 8 years – should be revived.

4. Pakistan is a nuclear weapon state. We have established effective command and control and physical security of our nuclear assets, sites and materials. We are improving our export controls. We can readily fulfill the action desired in OP-1, 2 & 3.

5. Seen in the historical, legal and political perspective, the resolution initiated by some permanent members of the Security Council, and negotiated for 5 months by the 5 permanent members, raises a number of doubts, questions and concerns.

6. The first question is whether the Security Council should assume the role of prescribing legislative action by member states. The existing treaties – the CWC, BWC and the NPT – already prescribe most of the legislation which would cover proliferation by states and non-state actors. These regimes can be improved, if and when necessary, through negotiations among sovereign and equal states. There are grave implications arising from the effort by the Security Council to impose obligations on states which their governments and sovereign legislatures have not freely accepted, especially when some of these obligations infringe on matters relating to national security and the right to self-defence.

7. Second, there is a discrepancy between the professed objective of the draft resolution and its provisions. Although the resolution is designed to address proliferation by non-state actors, it seeks to impose obligations on states. The Security Council -- where the 5 states which retain nuclear weapons also possess the veto -- is not the most appropriate body to be entrusted with the authority to oversee non-proliferation.

8. Third, there is no justification for the adoption of this resolution under Chapter VII of the Charter. The threat of WMD proliferation by non-state actors may be real, but it is not imminent; it is not a "threat to peace" within the meaning of Article 39 of the UN Charter. A legitimate fear arises that the use of Chapter VII, and provisions such as to "combat (proliferation) by all means" would imply the pre-authorization of the coercive actions envisaged in Articles 40 & 41 of the Charter, including the use of force against states.

9. Fourth, this fear is exacerbated by the "open-ended" nature of the resolution. It provides for "further decisions" (in OP-10). Thus, the scope of the draft resolution could be enlarged beyond non-state actors. Such future decisions – if taken under Chapter VII – could authorize coercive measures against states; and to non-state actors beyond national jurisdiction.

10. Fifth, the creation of a Security Council Committee (in OP-9) is unnecessary. Its functions are unclear and unspecified. It could be utilized, in future, to replace the role of existing treaty regimes. Nor can we ignore a non-paper prepared by one sponsor which projected the Committee being used to harass countries and even to "demand explanations why they were not NPT signatories."

11. Sixth, the "definitions" provided in the footnote of the draft resolution are entirely unclear. Are missiles, rockets and UAVs the only means of delivery of WMD? Who will judge whether or not they are "designed" for this purpose? What is meant by "related materials?" The lists prepared by closed regimes like the MTCR, the NSG, or the Australia Group cannot be automatically accepted or imposed on states which are not parties to these regimes.

12. In the informal consultations held on the resolution, the sponsors have assured that: (a) the scope of the resolution is restricted to stopping proliferation by non-state actors (and that is why it does not encompass disarmament); (b) no enforcement action is envisaged, much less the use of force; (c) implementation will be done by the states themselves through national measures; (d) the Committee will merely collate and submit the reports from member states and is being set up for a temporary period; (e) the draft resolution does not preclude the negotiation of treaties or agreements to address the issue of proliferation by non-state actors. However, in the negotiations held so far, the sponsors have been reluctant to reflect most of these assurances in the text of the draft resolution. Recent remarks appear to retract some of these assurances.

13. Pakistan hopes that this debate will contribute to demonstrating the wide spectrum of concerns arising from the draft resolution and convince the sponsors to be more responsive to these concerns. We continue to hope that through painstaking consultations the Council will be able to adopt this resolution by consensus.
