



**STATEMENT BY MR. V.K. NAMBIAR, PERMANENT REPRESENTATIVE,
ON NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AT
THE SECURITY COUNCIL ON APRIL 22, 2004**

Mr. President,

We appreciate this opportunity to express our views on the vital issue of the non-proliferation of weapons of mass destruction in an open session of the Security Council today. The threat of terror and WMD proliferation coming together is a real one and should clearly be an issue of the highest priority for the international community.

As a victim of terrorism for almost two decades, India understands the dangers that the transfers of such weapons of mass destruction to non-state actors could entail. It is this realization that prompted India to pilot a resolution on "measures to prevent terrorists from acquiring weapons of mass destruction", adopted by consensus by the last two sessions of the General Assembly.

We perceive today's discussion as a logical continuation of the process initiated in the General Assembly. Hence the validity of the focus on 'non-state actors' in the draft resolution. However, this in no way diminishes state accountability on combating terrorism, in eliminating its support infrastructure or linkages with WMD. As in the case of terrorism, state accountability cannot be absolved on grounds that proliferation was the result of private enterprise.

The co-sponsors of this draft resolution have stated that the intention behind their initiative is to fill a gap in the non-proliferation regime, one that, if negotiated through the multilateral framework, could take years. In our view, the issue should ideally have been addressed through existing international instruments and by building on them. The BWC and CWC, the only two non-discriminatory, disarmament treaties, provide for international cooperative efforts for assistance and protection against these mass destruction weapons. We have also supported addressing the issue of radiological weapons at the Conference on Disarmament, in view of the growing concern about radiation dispersal devices.

Our recognition of the time imperative in seeking recourse through the Security Council does not, however, obscure our more basic concerns over the increasing tendency of the Council, in recent years, to assume new and wider powers of legislation on behalf of the international community, and binding on all states. In the present

instance, the Council seeks to both define the non-proliferation regime and monitor its implementation. But who will monitor the monitors? We are concerned that the exercise of legislative functions by the Council, combined with recourse to Chapter VII mandates, could disrupt the balance of power between the General Assembly and the Security Council, as enshrined in the Charter

The issue goes beyond a mere legal consideration of the Council's allocated powers under the Charter. The credibility and even respect that the Security Council can garner would depend on its actions being the product of internal cohesion and universal acceptability. Though resolutions such as 1373 were adopted unanimously, the limitations in their implementation underscore the need for caution on the Security Council being used as a route to short-circuit the process of creating an international consensus. Exhaustive and excessive reporting obligations resulting from UNSC 1267 and 1373 have led to repetitive reporting exercises and burdensome bureaucratic structures without commensurate results on the ground.

In returning to the theme of non-proliferation after 1992 after a over 12 years the Council's credentials are not helped by its track record. Exclusive focus on non-proliferation does disservice to the essential principle of the mutually reinforcing linkage between disarmament and non-proliferation, recognized since SSOD-I. Such approaches erode the collective effort essential for building confidence among states and enabling them to focus on common threats. International treaties or agreements in this field should be multilaterally negotiated not imposed. They should be based on a balance of obligations to ensure universal adherence- the true test of legitimacy and credibility.

To our mind, export controls are not an issue on which the Security Council should prescribe norms. There is tension between ad hoc arrangements on harmonizing export controls among a select few countries on the one hand, and measures being put forward by the Council, on the other hand, intended for universal application. The flip side of export controls is indiscriminate technology - denial, to states with legitimate socio-economic needs. Recent cases have thrown the spotlight once again on the inadequacies of the current regime. They have also shown that far from effectively addressing genuine proliferation concerns, export controls on sensitive technology and materials have served to deny these technologies to responsible nations who play the game by the rules.

India has taken note of the observations of the co-sponsors that the resolution does not prescribe adherence to treaties to which we are not a State party. On our part, we shall not accept any interpretation of the resolution that imposes obligations arising from treaties that India has not signed or ratified, consistent with the fundamental principles of international law and the law of treaties. India will not accept externally prescribed norms or standards, what ever their source, on matters pertaining to domestic jurisdiction of its Parliament, including national legislation, regulations or arrangements which are not consistent with its Constitutional provisions and procedures or contrary to its national interests, or infringe on its sovereignty.

A word of caution on the definitions and terms will be in order. By applying traditionally understood categories of arms control in novel areas in which definitions are not well established we may be creating grounds for differing interpretations. This problem can be compounded by differing national capacities among states to carry out their obligations. A 'one-size-fits-all' approach will not work. The draft makes a reference to "non-state actors" as those identified in the UN list, which may not be exhaustive.

While being under Chapter VII, the resolution ought to steer clear of any coercive or punitive approach or follow-up mechanism, which would defeat its very purpose. We have noted the sponsors' assurance that the use of force is not envisaged or authorized by this resolution. Transparency and inclusiveness in this regard is crucial. Given the far reaching scope of the resolution, it stands to reason that membership of the relevant Committee is not restricted to that of the Council, but also includes member states which have significant capabilities and expertise in related fields.

Having said this, it must also be stated that a resolution which enjoins States to adopt and enforce effective laws to negate transfer of WMD for terrorist purposes and to establish effective domestic controls to prevent WMD proliferation, cannot but be supported by the international community. Most Member States see the undoubted utility of urgent measures to foster cooperative actions at a multilateral level as envisaged in the resolution.

As a matter of national policy, conscious of its responsibilities arising from the possession of advanced technologies, India is committed to an effective and comprehensive system of export controls, to deny unlawful access-whether to states or non-state actors. Our national effort is based on a policy anchored on a conscious decision to prohibit or control export of WMD-usable materials, equipment or technologies or their delivery systems.

Mr. President,

The crisis underlying the non-proliferation order is a matter of deep concern to India since the infirmities of the present order have adversely impacted on our security. It would be a precarious paradox if individual state actions, despite this resolution, condone instances of proliferation or reward proliferant states by other means.

We believe that meeting new proliferation challenges requires fresh approaches, pooling together the efforts and resources of the international community. In the 1992 Security Council Summit on Non-proliferation, in which India participated, we had called for a new international consensus on non-proliferation. We renew that call today, with the hope that our endeavors will spur common efforts for mutual benefit and in the interests of a safe and secure world.

Thank you, Mr. President.

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